



ANNO QUINQUAGESIMO PRIMO

GEORGI III. REGIS.

Cap. 133.

An Act for making and maintaining a Railway from or near *Spittal* in the County of *Durham*, to *Kelfo* in the County of *Roxburgh*; and for erecting and maintaining a Bridge over the River *Tweed* from the Parish of *Norham* in the County of *Durham*, to the Parish of *Coldstream* in the County of *Berwick*.

[31st May 1811.]

WHEREAS the making and maintaining a Railway or Tram Road from or near the Town of *Spittal*, in the County of *Durham* near *Berwick-upon-Tweed*, to the Town of *Kelfo* in the County of *Roxburgh*, with Inclined Planes and Wharfs where the same may be necessary, such Railway to pass the River *Tweed*, by a Bridge from a certain Place in the Parish of *Norham* in the said County of *Durham*, to a certain Place in the Parish of *Coldstream*, in the County of *Berwick*; and the erecting and maintaining a Bridge over the said River *Tweed* at the Place before mentioned, will be of great Benefit and Advantage to the Public: And whereas the several Persons herein-after named, are desirous at their own Costs and Charges to make and maintain the said intended Railway, and to erect and maintain the said intended Bridge; but inasmuch as the same cannot be effected without the Authority of Parliament; May it therefore please Your Majesty that it may be enacted; and be it enacted by the King's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority

[Loc. & Per.]

For appoint-
ing a Com-
pany to carry
this Act into
Execution.

rity of the same, That Sir *John Buchanan Riddell* of Riddell, Baronet, Sir *Alexander Don* of Newton, Baronet, Sir *George Douglas* of Springwood Park, Baronet, Sir *John Pringle* of Stichel, Baronet, *James Amos*, *Edmund Antrabus*, *J. Atkinson*, *George Baillie*, *James Ballantyne*, *Alexander Ballantyne*, *John Bell*, *G. Blackadore*, *Alexander Blackie*, *J. M. Burnie*, *Thomas Charters*, *David Christy*, *John Clay*, *James Cockburn*, *James Cunningham*, *Charles Cuthbertson*, *John Dalton*, *W. S. Davie*, *William Dawson*, *James Dickson*, *J. M. Dickson*, *Doctor James Douglas*, *James Douglas*, *Andrew Douglas*, *James Dunsmure*, *William Elliot*, *Joseph Emerson*, *Charles Erskine*, *John Fair*, *Edward Forster*, *Anthony Forster*, *James Frier*, *Thomas Gilchrist*, *Nisbet Glen*, *William Gracie*, *John Gray*, *William Guthrie*, *James Haldane*, *David Haliburton*, *Robert Hardie*, *David Hogarth*, *Alexander Hogg*, *Joseph Hubback*, *George Jerdan*, *Henry Johnston*, *Thomas Kyle*, *Charles Lambert*, *Stephen Lancaster*, *James Landells*, *John Landells*, *J. Langhorn*, *James Leadbetter*, *George Leyburn*, *James Lindores*, *Andrew Lockie*, *Thomas Lumley*, the Reverend *Robert Lundie*, *John Majoribanks*, *Robert Marshall*, *David Makdougall*, *Patrick Mole*, *John Morrison*, *James Morrison*, *Thomas Nisbet*, *David Nisbet*, *William Paxton*, *John Paxton*, *George Prickett*, *Mark Pringle*, *William Rayley*, *John Reid*, *Henry Richardson*, *Henry Richardson*, *William Riddell*, *Thomas Riddell*, *Charles Riddell*, *John Robertson* for himself and the other Partners of *John Robertson* and Company, *Margaret Robertson*, *Margaret Robertson*, *Janet Robertson*, *Elizabeth Robertson*, *William Robertson*, *John Robertson*, *Janet Robertson*, *Peter Robertson*, *Peter Robertson*, *David Robertson*, *Andrew Robertson*, *John Robertson*, *Ramsay Robinson*, *Charles Robson*, *John Ruddiman Ker*, *James Rutherford*, *Charles Rutherford*, *John Rutherford*, *Richard Salter*, *Hugh Scott*, *Thomas Scott*, *William Scott*, *Alexander Scott*, *James Seaton*, *Prideaux John Selby*, *Adam Sibbit*, *John Smith*, *William Smith*, *Archibald Spens*, *John Spottiswoode*, *William Stodart*, *Henry Stokes*, *Charles Stokes*, *Archibald Stuart*, *Alexander Stuart*, *John Taylor*, *John Thomas*, *Thomas Tulloh*, *John Turner*, *Charles Waldie*, *Robert Walker*, *Adam Walker*, *Robert Walker*, *John Walker*, *George Watt*, *George Watts*, *Robert Weatherhead*, *Robert Weatherhead*, *Edward Winstanly*, *Thomas Willet*, *Charles Williamson*, *Doctor Andrew Wilson*, *Charles Wilson*, *Isabel Wilson*, *Ann Wilson*, *Robert Wood*, *George Yule*, *James Yule*; and all and every other Persons and Person who shall hereafter become Subscribers to the said Undertaking, and their several and respective Successors, Executors, Administrators, and Assigns, shall be and hereby are united into a Company for making, completing, and maintaining the said Railway and other Works, according to the Rules, Orders, and Directions herein-after mentioned, and for erecting and maintaining the said Bridge, and shall for that Purpose be one Body Corporate by the Name and Stile of "The Berwick and Kelso Railway Company," and by that Name shall have perpetual Succession and shall have a Common Seal, and by that Name shall and may sue and be sued; and that the said Company of Proprietors shall have Power and Authority at all Times from and after the passing of this Act, to purchase and hold Lands and Hereditaments or Heritages to them and their Successors and Assigns, for the Use of the said Undertaking and Works, and also to sell or dispose of the said Lands and Hereditaments or Heritages again, without incurring any of the Penalties or Forfeitures of the Statutes of Mortmain, in force in that Part of the United Kingdom of Great Britain and Ireland called England, or any other Penalties, Forfeitures, or Disabilities; and the said Company shall be and are hereby authorized and empowered by themselves, their Deputies, Agents, Officers,

Officers, Workmen, and Servants, to make, complete, and maintain a Railway or Tram Road to be called *The Berwick and Kelfo Railway*, passable for Waggons and other Carriages, from or near the Town of *Spittal* in the County of *Durham*, near *Berwick-upon-Tweed*, to the Town of *Kelfo* in the County of *Roxburgh*, with Inclined Planes and Wharfs where the same may appear to be necessary, such Railway to pass the River *Tweed* by a Bridge from a certain Place in the Parish of *Norham* in the said County of *Durham*, to a certain Place in the Parish of *Coldstream* in the County of *Berwick*, and to erect, complete, and maintain a Bridge over the said River *Tweed* at the Places before mentioned; and for the Purposes aforesaid, the said Company of Proprietors, their Deputies, Servants, Agents, Surveyors, and Workmen, are hereby authorised and empowered to enter into and upon the Lands and Grounds of or belonging to any Person or Persons, Bodies Politick, Corporate, or Collegiate whatsoever, and to survey and take Levels of the same, or any Part thereof, and to set out, ascertain, and appropriate for the Purposes hereinbefore and hereinafter mentioned, such Parts thereof as they shall think necessary and proper for making the said Railway and Bridge, and all other Works, Matters and Conveniencies hereby authorised to be made; and also to bore, dig, cut, trench, fough, get, remove, take, carry away, lay, use, and manufacture any Earth, Clay, Stone, Soil, Rubbish, Trees, (leaving such Trees for the Owner or Owners thereof) Roots of Trees, Beds of Gravel or Sand, or any other Matters or Things, which may be dug or got in making the said Railway and Bridge, or other Works, out of the Lands or Grounds of or belonging to any Person or Persons, Bodies Politick, Corporate or Collegiate, adjoining or being convenient or contiguous thereto, and which may be proper, requisite, or necessary for making, carrying on, continuing, maintaining, or repairing the said Railway and Bridge, or other Works, or which may hinder, prevent, or obstruct the making, using or completing, extending or maintaining the same respectively, according to the Intent and Meaning of this Act; also to make, build, erect, and set up, in, over, under, or upon the said Railway and other Works, such and so many Bridges, Piers, Arches, Tunnels, Posts, Ropes, and Chains, and Toll Houses where and in such Manner as the said Company of Proprietors shall think necessary and convenient for the Purposes of the said Undertaking; and also to make, maintain, repair and alter any Fences or Passages over, under, or through the said Railway; and also to make and set out proper Places for Waggons, and other Carriages to turn, lie, or pass each other, as they the said Company of Proprietors shall think convenient; and to construct, erect, and keep in repair any Piers, Arches, and other Works, in, upon, and across any Rivers or Brooks for the making, effecting, preserving, improving, completing, using, maintaining and repairing of the said Railway and other Works; and to construct, erect, make and do all other Matters and Things which they shall think convenient or necessary for the making, effecting, preserving, improving, completing and using of the said Railway and other Works to be made or constructed in pursuance of and according to the true Intent and Meaning of this Act; they the said Company of Proprietors, their Deputies, Agents, Servants and Workmen, doing as little Damage as may be in the Execution of the several Powers to them hereby granted, and making full Satisfaction in Manner hereinafter mentioned, to the Owners or Proprietors of, and all Persons interested in, any Lands and other Hereditaments or Heritages which shall be taken, used, removed, diverted or prejudiced, for all Damages to be by them sustained, in or by the Execution of all

Their
Powers.

all or any of the Powers of this Act; and this Act shall be sufficient to indemnify the said Company of Proprietors, and their Deputies, Servants, Agents and Workmen, and all other Persons whomsoever, for what they or any of them shall do by virtue of the Powers hereby granted, subject nevertheless to such Proviso's and Restrictions as hereinafter mentioned and contained.

Where Railways cross Roads the Flanch of the Rail not to exceed One Inch in Height.

II. Provided always, and be it enacted, That where the said Railway shall cross or pass along any Turnpike Roads, or public Paths, or Highways, the Ledge or Flanch of such Railway for the Purpose of guiding the Wheels of the Carriages shall not exceed One Inch in Height above the Level of the Road.

Houses and Gardens not to be injured except such as are mentioned, &c.

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

Consent of the Earl of Home to be obtained.

IV. Provided always, and be it enacted, That in making the said Railway the Line thereof shall not be carried between the Mansion House of *Hirsel* and the Hill called *Hirsel Law*, without the special Consent in Writing of the Right Honourable *Alexander* Earl of *Home*, or of his Heirs or Successors, in the Estate of *Hirsel*, first had and obtained for that Purpose; any Thing in this Act contained to the contrary notwithstanding.

Consent of Sir Francis Blake Baronet to be obtained.

V. Provided also, and be it enacted, That in making the said Railway through the Property of Sir *Francis Blake* of *Twisel*, Baronet, the Line thereof shall not be carried to the Westward of the Western Boundary of his Farm of *Riffington*, without the special Consent in Writing of the said Sir *Francis Blake*, his Heirs or Assigns, or the Person or Persons who for the Time being shall be entitled to the Estate of *Twisel*, first had and obtained for that Purpose; any Thing in this Act contained to the contrary notwithstanding.

Consent of the Proprietors of *Kersfield* to be obtained.

VI. And be it enacted, That in carrying the said intended Railway through the Lands and Estate of *Kersfield*, belonging to *Grace Seymer Ker*, and *Mary Louisa Ker*, the Line and Direction thereof shall be settled and adjusted with the Consent and Approbation of the said Proprietors of *Kersfield*, or the Proprietors thereof for the Time being, by whom a practicable Line of Railway through the said Estates shall be granted: Provided always, that without the Consent of the said Proprietors, the Line of Railway shall not pass on the South Side of the Road, leading from *Hirsel* Toll Bar by *Todhillrig*, past *Kersfield West Mains*, and past the North End of *Kersfield* Avenue towards *Upsettlington*, after it enters the said Property of *Kersfield*; but shall keep as near the North March of the said Estate of *Kersfield* with the Estates of *Simprin*, *Sbiels*, and *Lady Kirk*, as shall be practicable; nor shall it, without such Consent as aforesaid,

aforesaid, pass Southward on the West Side of the Farm Steading of *Sunnyside* to any Bridge to be built over the *Tweed*; and that the Line of Railway where the same enters upon or crosses such Bridge, shall be made as much for the Accommodation of the Proprietors of *Kersfield*, as the Nature of the Ground will permit: And provided also, that no Wharfs or Places for the Deposit of any Articles carried on the Railway, or any Buildings to be erected under this Act, shall be situated or erected on the said Estate and Lands of *Kersfield*, by the said Company of Proprietors, without such Consent as aforesaid; any Thing in this Act contained to the contrary in anyway notwithstanding.

VII. And be it further enacted, That the said Company of Proprietors in making the said Railway or building the said Bridge, shall not deviate more than shall be necessary for that Purpose, nor in any Instance more than One hundred Yards from the Course or Direction delineated in the Map or Plan, and set forth in the Book of Reference, nor cut, carry or convey the same Railway or Bridge into, through, across, under, or over any Part or Parts of the several Lands or Grounds now or late belonging to or reputed to belong to the several and respective Persons named or described in the said Book of Reference, other than such Part or Parts of such Lands or Grounds as are delineated in the said Plan, in that Respect without the Approbation and Consent in Writing of the Person or Persons to whom such Lands and Grounds do or shall respectively belong; but nothing herein contained shall extend to restrain or prevent the said Company of Proprietors from making any Deviation from the Course or Direction of the said Railway or Bridge, or Alteration of the same, in case all the Persons to whom the Lands or Grounds to be made use of for the Purposes of such Deviation or Alteration, shall belong, shall consent thereto.

Not to deviate more than 100 Yards from the Line laid down in Plan, without the Consent of Land Owners.

VIII. Provided always, and be it further enacted, That a Map or Plan of the intended Railway, together with a Book of Reference thereto, shall be deposited with the Clerk of the Parliaments, and that the said Company of Proprietors may make the said Railway, Bridge, and other Works, into, through, across, or over the Lands or Grounds of any Person or Persons who is, or are, or may be the Owner or Owners of Land, over which the same is set out, and described in the said Map or Plan as aforesaid, although the Name or Names of such Person or Persons may happen to be omitted in the said Book of Reference, in case it shall appear to any Two or more Justices of the Peace for the said Counties of *Durham*, *Berwick*, and *Roxburgh* respectively, and be certified by Writing under their Hands, that such Error or Omission proceeded from Mistake.

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

IX. And be it further enacted, That the Lands and Grounds to be taken or used for the Purposes of this Act, shall not exceed Seven Yards in Breadth, except in such Places where it shall be judged necessary for Waggon's or other Carriages to turn, lie, or pass each other, or for raising Embankments for crossing the Valleys, or in deep Cuttings, or in the Avenues to the said Bridge, and in those Places only such Breadth of Land as shall be absolutely necessary, or where any Warehouses, Cranes, or Weighbeams may be erected, or where any Places may be set out or appropriated for the Reception or Delivery of Goods, Wares, and Merchandize, which shall be conveyed on the said Railways, and not above

Breadth of the Land to be taken.

Sixty Yards in Breadth in any Place, without the Consent in Writing of the Owners of the Lands, Hereditaments, or Heritages adjoining to the said Railway or Bridge.

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

X. And be it further enacted, That after any Lands, Grounds, Hereditaments, or Heritages, shall be set out and ascertained for making the said Railway or Bridge and other Works, or any Part or Parts thereof, and for providing and constructing the Wharfs and other Works and Conveniencies herein-before authorized to be made, or any of them, it shall be lawful for all Bodies Politic, Corporate, or Collegiate, Corporations Aggregate or Sole, Tenants in Tail or for Life, Husbands, Guardians, Trustees, and Feoffees in Trust for charitable and other Purposes, Committees, Executors, and Administrators, and all other Trustees and Persons whomsoever, not only for and on Behalf of themselves, their Heirs and Successors, but also for and on Behalf of their *Cestuique* Trusts or Wards, whether Infants, Minors, Issue unborn, Lunatics, Idiots, married Women, or other Person or Persons, and to and for all married Women who are or shall be seised, possessed of, or interested in their own Right, or entitled to Dower or other Interest therein, and to and for all and every other Person or Persons whomsoever who is or are or shall be seised, possessed of, or interested in any such Lands, Grounds, Hereditaments, or Heritages as last aforesaid, which shall be so set out and ascertained for the Purposes aforesaid, to contract for, sell, and convey the same, and every Part thereof, unto the said Company of Proprietors; and that all such Contracts, Agreements, Sales, Conveyances, and Assurances, shall be valid and effectual in the Law to all Intents and Purposes whatsoever, and any Law, Statute, Usage, or Custom, to the contrary in anywise notwithstanding; and all Bodies Politic, Corporate, or Collegiate, and all other Persons whomsoever so conveying as aforesaid, are hereby indemnified for what they shall respectively do by virtue or in pursuance of this Act; and all such Contracts, Agreements, Sales, Conveyances, and Assurances (other than those which concern any Purchase or Exchange between any such respective Land Owners) so to be made as aforesaid, shall be made at the Expence of the said Company of Proprietors, and shall be made according to the following Form; (*videlicet*),

Form of Conveyance to the Company.

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

And which said Conveyances shall be kept by the Clerk or Clerks to the said Company of Proprietors, who shall from Time to Time, when requested, deliver attested Copies thereof to any Person or Persons requiring the same, and shall have and receive the Sum of Sixpence *per* Sheet for every such attested Copy, reckoning Seventy-two Words for every Sheet.

XI. And

XI. And be it further enacted, That in all cases where, in making the said Railway, Bridge, or other Works hereby authorized to be made in the said County of *Durham*, there shall be Occasion to cut through, take, or use any Part of any Commons or Wastes, the Conveyance of such Parts of such Commons or Wastes by the Lord or Lords, Lady or Ladies, for the Time being of the Manor or Manors in which the same are situated, to the said Company of Proprietors, shall be a good and sufficient Conveyance thereof, (without the Commoners or other Persons interested therein joining in such Conveyances); and the Lord or Lords, Lady or Ladies, of such Manor or Manors respectively, are hereby authorized and required to make and execute such Conveyances accordingly, on the Receipt of his, her, or their Proportion or Proportions of the Purchase Money, as hereinafter mentioned, or on the same being tendered to him, her, or them, subject to all the Rules, Regulations, and Provisions herein contained, with respect to the Payment of other Monies for other Lands taken or used by the said Company of Proprietors, and a Jury summoned and returned in the Manner herein directed, shall ascertain what Proportion of the Purchase Money shall be due to the said Lord or Lords, Lady or Ladies, Copyholders, or other Persons interested in such Commons or Wastes, for his, her, or their Interest in such Lands, and such Proportion shall be thereupon paid to him, her, or them, for his, her, or their own Use, or deposited in the Bank of *England*, in Manner by this Act directed as the Case may require.

The Commons or Waste Lands in the County of *Durham*, to be conveyed by the Lords of the Manor.

XII. And be it further enacted, That if by the Erection of the said Bridge over the said River *Tweed*, any Fishery or Fisheries in the said River shall be thereby damaged or prejudiced, the said Company of Proprietors shall be and they are hereby required to make Satisfaction and Recompence for such Damage and Prejudice to the Owner or Owners, and Occupier or Occupiers of such Fishery or Fisheries.

Satisfaction to be made for any Damage done to Fisheries.

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

Satisfaction to be made.

XIV. And whereas Differences may arise between the said Company of Proprietors, and the several Persons, Owners of or interested in the Lands, Fisheries, Hereditaments, and Heritages, which shall or may be affected or prejudiced by the Execution of the Powers hereby granted, touching the Purchase Money to be paid or Recompence to be made to them respectively; be it therefore enacted, That in case of any Difference in Opinion between the said Company of Proprietors or their Agents, and any Bodies Politick, Corporate,

For settling Differences in case of Disagreement as to Price of Lands, &c.

Corporate, or Collegiate, Trustees, or other Person or Persons interested in or entitled to any Lands, Fisheries, Hereditaments, or Heritages, relative to the Price or Value, Damages or Recompence to be given for any Lands, Fisheries, Hereditaments, or Heritages to be taken or used for the Purposes of this Act, and in case such Price or Value, Damages or Recompence cannot be settled, adjusted and agreed for by and between the said Company of Proprietors or their Agents, and such Proprietors of and Persons interested in the said Lands, Fisheries, Hereditaments, or Heritages as aforesaid, or if any such Bodies Politick, Corporate, or Collegiate, Trustee or Trustees, or any other Person or Persons interested or entitled as aforesaid, shall refuse to receive upon due Tender thereof made, such Purchase Money or such Recompence as shall be offered to be paid by such Company of Proprietors, or shall upon Notice in Writing given to the principal Officer or Officers of such Bodies Politick, Corporate, or Collegiate, or to such Trustee or Trustees, Person or Persons respectively, or left at the last or usual Place or Places of his, her, or their Abode, or with the Tenant or Tenants, Occupier or Occupiers of such Lands, Fisheries, Hereditaments, or Heritages, for the Space of Fourteen Days next after such Notice, neglect or refuse to treat, or shall not agree with the said Company of Proprietors, or by reason of Absence shall be prevented from treating, or through Disability cannot treat for themselves or make such Agreement as shall be convenient for promoting the said Undertaking, or shall not produce and evince a clear Title to the Premises which they are or shall be in Possession of, or to the Interest which they claim therein, then and in every such Case the said Company of Proprietors or the said Bodies Politick, Corporate, or Collegiate, Trustees, or other Person or Persons interested in or entitled to such Lands, Fisheries, Tenements, Hereditaments, or Heritages, shall be and they are hereby respectively empowered and required from Time to Time to make Application in Writing to the Sheriff of the said County of *Durham*, or any of his Under Sheriffs, or to the Sheriffs Depute or Substitute of the said Shires of *Berwick* or *Roxburgh*, where the Lands or other Subjects in question shall lie, to proceed therein as herein-after mentioned; and the said Sheriff or Under Sheriffs, or Sheriffs Depute or Substitute, are thereupon accordingly hereby required to impanel, summon, and return a Jury of Twenty-four sufficient and indifferent Men, qualified, if in *England*, according to the Laws thereof, to be returned for the Trials of Issues in His Majesty's Courts of Record at *Westminster*, or if in *Scotland*, to be returned upon Justiciary Trials in *Scotland*, to meet at such Time and Place as in such Warrant or Warrants shall be appointed, not being less than Nine nor more than Twenty Days after such Application or Applications shall be served upon the said Sheriff or Under Sheriffs, or Sheriffs Depute or Substitute; and in case a sufficient Number of Jurymen shall not appear at the Time and Place so to be appointed as aforesaid, the said Sheriff or Under Sheriffs, or Sheriffs Depute or Substitute, respectively, shall return other honest and indifferent Men of the Standers-by, or that can speedily be procured, to attend that Service (being so qualified as aforesaid) to make up the said Jury to the Number of Twelve, and all Parties concerned may have their lawful Challenges or Exceptions against any of the said Jurymen; and the said Sheriff or Under Sheriffs, or Sheriffs Depute or Substitute, are hereby empowered to summon and call before them all and every Person and Persons who shall be thought necessary to be examined as a Witness or Witnesses touching the Matter in question, by or before any Jury or Juries as aforesaid; and the said Sheriff or Under Sheriffs, or Sheriffs Depute or Substitute

Jury to be
Summoned by
Sheriffs, &c.

Sheriffs may
Summon Wit-
nesses and
examine them
upon Oath.

Substitute, may order and authorise the said Jury, or any Three or more of them, to view the Place or Places, or Matters in Controversy; which Jury upon their Oaths (which Oaths as well as the Oaths to such Person or Persons as shall be called upon to give Evidence, the said Sheriff or Under Sheriffs, or Sheriffs Depute or Substitute, are hereby empowered to administer) shall enquire of, assess, and ascertain the Sum of Money to be paid for the Purchase of such Lands, Hereditaments, or Heritages, or the Recompence to be made for the Damages that may or shall be sustained as aforesaid, and shall assess separate Damages for the same; and the said Sheriff or Under Sheriff, or Sheriffs Depute or Substitute, shall give Judgement for such Purchase Monies or Recompence to be assessed by such Juries, which said Verdict and the Judgement thereupon pronounced as aforesaid, shall be signed by the said Sheriff or Under Sheriffs, or Sheriffs Depute or Substitute, and shall be binding and conclusive to all Intents and Purposes against all Bodies Politick, Corporate or Collegiate, and all other Persons whomsoever; and if any such Sheriff or Under Sheriffs, or Sheriffs Depute or Substitute, shall make Default in the Premises, every such Person shall for every such Offence, forfeit and pay any Sum not exceeding Twenty Pounds; and if any Person so summoned and returned as aforesaid upon such Jury shall not appear, or appearing shall refuse to give his Verdict, or in any other Manner wilfully neglect his Duty contrary to the true Intent and Meaning of this Act; or if any Person so summoned to give Evidence shall not appear, or appearing shall refuse to be sworn and examined or give Evidence, every Person so offending, having no reasonable Excuse to be allowed by the said Sheriff or Under Sheriffs, or Sheriffs Depute or Substitute, shall, for every such Offence, forfeit and pay any Sum not exceeding Five Pounds for the Benefit of the Jury in whose Behalf such Person was so summoned.

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

Expences of
Jury, &c.

and Forfeitures: Provided always, that whenever any Person or Persons shall by Reason of Absence or otherwise have been prevented from treating with the said Company of Proprietors, such Costs, Charges, and Expences shall be borne and defrayed by the said Company of Proprietors in Manner aforesaid.

Persons requesting a Jury to enter into a Bond to prosecute.

XVI. And be it further enacted, That all and every Person or Persons making Application for or requesting such Jury shall enter into a Bond with sufficient Sureties to the Treasurer for the Time being of the said Company of Proprietors, in the Penalty of One hundred Pounds, or in such other Penalty as the said Company of Proprietors shall appoint, not exceeding the Sum of One hundred Pounds, to prosecute such his, her, or their Application, and to bear and pay the Costs and Expences of summoning such Jury, and taking such Inquest, in the Proportion and Manner herein-before mentioned.

Notice of Injury to be given to the Proprietors before Application to the Sheriffs, &c.

XVII. Provided always, That the said Sheriff or Under Sheriffs, or Sheriffs Depute or Substitute, or any of them, shall not be obliged by virtue of this Act to receive or take Notice of any Application or Applications to be made by any Person or Persons whomsoever, for any Damage or Injury by him, her, or them sustained, or supposed to be sustained, in consequence of the Execution of any of the Powers of this Act, unless Notice in Writing hath been or shall be given in relation thereto by or on Behalf of such Person or Persons, to the said Company of Proprietors, or to their Clerk, within the Space of Six Calendar Months next after the Time such supposed Injury or Damage shall have been sustained, or the doing or committing thereof shall have ceased.

Verdict of Value of Lands and Damages to be ascertained separately.

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

Jury to be under the same Regulations as in the Courts of Law, and Persons guilty of Perjury may be prosecuted.

XIX. And be it further enacted, That every such Jury and Juryman as aforesaid, if in the said County of *Durham*, shall be under and subject to the same Regulations, Pains, and Penalties, as if such Jury or Juryman had been returned for the Trial of any Issue, joined in any of His Majesty's Courts of Record at *Westminster* or Courts of Record at *Durham*; and if in the said County of *Berwick* or *Roxburgh*, shall be under and subject to the same Regulations, Pains, and Penalties, as if such Jury or Juryman had been returned to pass upon any Justiciary Trial in *Scotland*; and that all and every Person and Persons who, in any Examination to be taken by virtue of this Act, shall wilfully and corruptly give false Evidence before any such Jury as aforesaid, shall and may be prosecuted for the same, and upon Conviction thereof shall be subject to such Punishments and Disqualifications as any Person or Persons can or may be subject to for wilful and corrupt Perjury

Perjury by the Laws or Statutes of that Part of the Realm within which the Offence shall be tried.

XX. And be it further enacted, That all the Verdicts of the Juries, and the Judgements of the said Sheriff or Under Sheriffs, or Sheriffs Depute or Substitute, thereon as aforesaid, shall be transmitted to and be kept by the Clerk of the Peace for the said Counties of *Durham*, *Berwick*, or *Roxburgh* respectively, where the Question shall arise, and shall be deemed Records to all Intents and Purposes, 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, paying for each Inspection the Sum of Two Shillings and Sixpence and no more, and to take Copies thereof or Extracts therefrom, paying for every Copy or Extract after the Rate of Sixpence for every Seventy-two Words.

Verdict to be recorded.

XXI. And, in order that the said Company of Proprietors may not be impeded in the Prosecution of their said Undertaking by means of any such Proceedings before the said Jury; be it further enacted, That either upon Payment or legal Tender of such Sum or Sums of Money by the said Company of Proprietors, or upon Payment of the said Sum or Sums of Money into the Bank of *England*, if the Lands, Fisheries, Hereditaments, or Heritages shall be situated in the said County of *Durham*; or into the Bank of *Scotland*, or Royal Bank of *Scotland*, if such Lands, Fisheries, Hereditaments, or Heritages shall be situated in the said Counties of *Berwick* and *Roxburgh*, in Manner by this Act directed, as the Case may be; or in case of an annual Rent to be paid, upon the said Company of Proprietors giving Security for the future Payment of such Money as shall be fixed by the said Jury as aforesaid; and in all or any of the said Cases as often as the same shall happen, it shall be lawful for the said Company of Proprietors and their Agents, Workmen, and Servants, immediately to enter upon the Lands, Fisheries, Tenements, and Hereditaments or Heritages respectively (or even before such Payment or Security given by leave of the Owners and Occupiers thereof), and immediately upon or after such Payment or Security shall be made or given as aforesaid, for the Lands, Tenements, and other Hereditaments and Heritages to be purchased for the Purposes of this Act, such Lands, Tenements, and other Hereditaments or Heritages, together with the yearly Profits thereof, and all the Estate, Use, Trust, and Interest of any Person or Persons therein, shall from thenceforth be vested in and become the sole Property of the said Company of Proprietors and their Successors, to and for the Purposes of this Act, for ever; and such Payment or the giving of such Security for the same as aforesaid, shall not only bar all Right, Title, Claim, Interest, and Demand of the Person or Persons to whom the same shall or ought to have been made, but also shall extend to and be deemed and construed to bar the Dower of the Wife of every such Person or *Terce* of his Widow, and all Estates Tail, and other Estates of every other Person whatsoever therein: Provided nevertheless, that before such Payment or Security as aforesaid shall have been made, it shall not be lawful for the said Company of Proprietors, or any Persons acting under their Authority, to dig or cut the Lands or Grounds of the Person or Persons entitled to such Payment, or Security for the Purpose of making the said Railway or other Works, without the Consent in Writing of such Person or Persons respectively.

Upon Payment, Tender, &c. the Works not to be impeded.

XXII. And

Application
of Compen-
sation Money
where ex-
ceeding 200l.

XXII. And be it further enacted, That if any Money shall be agreed or awarded to be paid for any Lands, Tenements, Hereditaments, or Heritages purchased, taken, or used for the Purposes of this Act, which shall belong to any Corporation, married Woman, Infant, Lunatic, or Person or Persons under any other Disability or Incapacity, such Money shall, in case the same shall amount to or exceed the Sum of Two hundred Pounds, with all convenient Speed, be paid, if such Lands, Tenements, or Hereditaments, are situated in the said County of *Durham*, into the Bank of *England*, in the Name and with the Privity of the Accountant General of the High Court of Chancery, to be placed to his Account *ex parte* the *Berwick and Kelfo* Railway Company, together with the Name or Names of such Person or Persons, as the said Company of Proprietors shall direct and appoint, pursuant to the Method prescribed by the Act of the Twelfth Year of King *George* the First, Chapter Thirty-two, and the General Orders of the said Court; and if such Lands, Hereditaments, or Heritages, are situated in the said Counties of *Berwick* or *Roxburgh*, the same shall be paid under the Direction and by the Authority of the Court of Session into the Bank of *Scotland*, or Royal Bank of *Scotland*, and without Fee or Reward; to the Intent that such Money shall be applied under the Direction and with the Approbation of the said Court of Chancery or Court of Session, as the Case may be, to be signified by an Order made upon a Petition to be preferred in a summary Way, by the Person or Persons who would have been entitled to the Rents and Profits of the said Lands, Hereditaments, or Heritages, in the Purchase of the Land Tax, or towards the Discharge of any Debt or Debts, or such other Incumbrance, or Part thereof, as the said Court shall authorize to be paid affecting the same Lands, Hereditaments, or Heritages, or affecting other Lands, Hereditaments, or Heritages, standing settled therewith, to the same or the like Uses, Intents, or Purposes; or where such Money shall not be so applied, then the same shall be laid out and invested under the like Direction and Approbation of the said Courts respectively, in the Purchase of other Lands, Hereditaments, or Heritages, which shall be conveyed and settled to, for, and upon such and the like Uses, Trusts, Intents, and Purposes, and in the same Manner as the Lands, Hereditaments, or Heritages which shall be so purchased, taken, or used as aforesaid, stood settled or limited, or such of them as at the Time of making such Conveyance and Settlement shall be existing undetermined and capable of taking Effect; and in the mean Time, and until such Purchase shall be made, the said Money, in regard to Lands, Tenements, Hereditaments, or Heritages in *England*, shall, by Order of the Court of Chancery, upon Application thereto, be invested by the said Accountant General, in his Name, in the Purchase of Three Pounds *per Centum* Consolidated or Three Pounds *per Centum* Reduced Bank Annuities; and in the mean Time, and until the said Bank Annuities shall be ordered by the said Court to be sold for the Purposes aforesaid, the Dividends and annual Produce of the said Consolidated or Reduced Bank Annuities shall from Time to Time be paid by Order of the same Court, to the Person or Persons who would for the Time being have been entitled to the Rents and Profits of the said Lands, Hereditaments, or Heritages, hereby directed to be purchased, in case such Purchase or Settlement were actually made; and in regard to Lands, Tenements, Hereditaments, or Heritages in *Scotland*, the Interest or annual Produce of such Money shall from Time to Time be paid by Order of the said Court of Session, to the Person or Persons who would for the

Time

Time being have been entitled to the Rents and Profits of the Lands, Tenements, and Heritages so hereby directed to be purchased in case such Purchase or Settlement were made.

XXIII. Provided always, and be it further enacted, That if any Money so agreed or awarded to be paid for any Lands, Hereditaments, or Heritages purchased, taken, or used for the Purposes aforesaid, and belonging to any Corporation, or to any Person or Persons under Disability or Incapacity as aforesaid, shall be less than the Sum of Two hundred Pounds, and shall amount to or exceed the Sum of Twenty Pounds, then and in all such Cases the same shall (at the Option of the Person or Persons for the Time being entitled to the Rents and Profits of the Lands, Hereditaments, or Heritages so purchased, taken, or used, or of his, her, or their Guardian or Guardians, Committee or Committees, in case of Infancy or Lunacy, to be signified in Writing under their respective Hands) be paid into the said Banks respectively, and shall be ordered 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 the said Company of Proprietors, (such Nomination and Approbation to be signified in Writing under the Hands of the nominating and approving Parties), in order that such Principal Money, and the Dividends arising thereon, may be applied in any Manner herein-before directed, so far as the Case be applicable, without obtaining or being required to obtain the Direction or Approbation of the said Court of Chancery or Court of Session respectively.

Application where less than 200l.

XXIV. Provided also, and be it further enacted, That where such Money so agreed or awarded to be paid as last before-mentioned shall be less than 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 Lands, Hereditaments or Heritages so purchased, taken or used for the Purposes of this Act, in such Manner as the said Company of Proprietors shall think fit; or in case of Infancy or Lunacy, then to his, her, or their Guardian or Guardians, Committee or Committees, to and for the Use and Benefit of such Person or Persons so entitled respectively.

Application where less than 20l.

XXV. And be it further enacted, That in case the Person or Persons to whom any Sum or Sums of Money shall be awarded for the Purchase of any Lands, Hereditaments or Heritages to be purchased by virtue of this Act, for the Purposes aforesaid, shall refuse to accept the same, or shall not be able to make a good Title to the Premises to the Satisfaction of the said Company of Proprietors, or in case the Person or Persons to whom any such Sum or Sums of Money shall be so awarded as aforesaid, cannot be found, or if the Person or Persons entitled to such Lands or Hereditaments be not known or discovered; then and in every such Case it shall and may be lawful to and for the said Company of Proprietors, or any Three or more of them, to order the Sum and Sums of Money so awarded as aforesaid, to be paid into the Bank of *England*, or Bank of *Scotland*, or Royal Bank of *Scotland* respectively, as the Case may be, in Manner as respectively before directed, to the Credit of the Parties interested in the said Lands, Hereditaments or Heritages (describing them if they are known, and if they are not known, then generally to the Credit of the Parties interested in the said

In case of not making out Titles;

or if Persons cannot be found the Purchase Money to be paid into the Bank, subject to the Order of the Court of Chancery,

or Court
of Session
on Motion or
Petition.

Lands or Hereditaments; without any Description of them), subject to the Order, Controul, and Disposition of the said Court of Chancery, or Court of Session respectively, which said Courts on the Application of any Person or Persons making Claim to such Sum or Sums of Money, or any Part thereof, by Motion or Petition, shall be, and are hereby empowered in a summary Way of proceeding or otherwise, as to the same Courts shall seem meet, to order the same to be laid out and invested in the Public Funds, if in *England*, and to order Distribution thereof, or Payment of the Interest, Dividends or Produce thereof, according to the respective Estate or Estates, Title or Interest of such Person or Persons making Claim thereunto, and to make such other Order in the Premises as to the said Courts shall seem just and reasonable, and the Cashier or Cashiers of the Bank of *England*, or Bank of *Scotland*, or Royal Bank of *Scotland* respectively, who shall receive such Sum or Sums of Money, is and are hereby required to give a Receipt or Receipts for such Sum or Sums of Money, mentioning and specifying for what, and for whose Use the same is or are received, to such Person or Persons as shall pay any such Sum or Sums of Money into such Banks as aforesaid.

Where any
Question shall
arise touching
the Title to
the Money to
be paid, the
Person in
Possession of
the Land, &c.
at the Time
of such Pur-
chase shall be
deemed en-
titled thereto
according to
such Posses-
sion.

XXVI. And be it further enacted, That where any Question shall arise touching the Title of any Person to any Money to be paid into any of such Banks as aforesaid, in pursuance of this Act, for the Purchase of any Lands, Hereditaments or Heritages, or of any Estate, Right or Interest in any Lands, Hereditaments or Heritages to be purchased in pursuance thereof, or to any Bank Annuities to be purchased with any such Money, or to the Dividends or Interest of any such Bank Annuities, or Interest of Money, the Person or Persons who shall have been in Possession of the Lands, Hereditaments or Heritages at the Time of such Purchase, and all Persons claiming under such Person or Persons, or under the Possession of such Person or Persons, shall be deemed and taken to have been lawfully entitled to such Lands, Hereditaments or Heritages, according to such Possession, until the contrary shall be shewn to the Satisfaction of the said Courts of Chancery or Session respectively, and the Dividends or Interest of the Bank Annuities to be purchased with such Money and also the Capital of such Bank Annuities, or the Dividends and Produce of such Money, and the principal Sums shall be paid, applied and disposed of accordingly, unless it shall be made appear to the said Courts that such Possession was a wrongful one, and that some other Person or Persons was or were lawfully entitled to such Lands, Hereditaments or Heritages, or to some Estate or Interest therein.

The Court
may order
reasonable
Expences of
Purchase to
be paid.

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

XXVIII. And be it further enacted, That full Recompence and Satisfaction shall be made by the said Company of Proprietors for all Tithes in the said County of *Durham*, both Great and Small, which would have been issuing from or out of any the Lands which shall be taken or made use of for the Purposes of this Act, to the several Persons who now are or at any Time hereafter, might have been entitled to such Tithes according to their respective Interests therein, such Tithes to be estimated at the average Value of the last Four Years, commencing at *Michaelmas Day* One thousand eight hundred and seven, and ending at *Michaelmas Day* One thousand eight hundred and eleven; such Value to be ascertained (in case of any Difference concerning the same) in like Manner as the Value of any Lands, or other Hereditaments or Heritages, is herein-before directed to be ascertained: Provided always, that such Recompence and Satisfaction shall be made to Spiritual Persons by an annual Rent.

Compen-
sation to be
made in lieu
of Tithes.

XXIX. And be it further enacted, That in case any Lands, Hereditaments, or Heritages to be used for the Purposes of this Act, shall happen to be in Mortgage, or burdened with a heritable Debt to any Person or Persons, it shall be lawful for the said Company of Proprietors, upon Application being made to them by such Mortgagee or Mortgagees, his, her, or their Executors or Administrators, or by such heritable Creditors, and the said Company of Proprietors are hereby authorized and required to pay such Sum or Sums of Money after the same shall have been so agreed for and adjusted or assessed in Manner aforesaid, for such Lands in Mortgage, or burdened with heritable Debts in Part of the Principal Money that shall be due on such Mortgage or heritable Debts, unto such Mortgagee or Mortgagees, his, her, or their Executors or Administrators, or unto such heritable Creditor respectively: Provided always, that upon Receipt of such Sum or Sums, such Mortgagee or Mortgagees, his, her, or their Executors or Administrators, or such heritable Creditors respectively, shall acknowledge the Receipt of such Sum or Sums of Money by an Indorsement to be made upon the Back of such Mortgages or heritable Debts, and signed by such Mortgagee or Mortgagees, his, her or their Executors or Administrators, or by such heritable Creditors respectively, in the Presence of one or more credible Witness or Witnesses in Satisfaction of so much of the Principal Money due upon such Mortgage or Mortgages, or heritable Debts respectively.

For paying off
Mortgages,
&c. on Lands
used by the
Company.

XXX. And whereas by the Means of Purchases which the said Company of Proprietors are empowered and required to make by virtue of this Act, they may happen to be seized of more Land or Ground than will be necessary for effecting the Purposes of this Act; be it therefore enacted, That it shall be lawful for the said Company of Proprietors to sell and dispose of any Piece or Pieces of such Land or Ground, either together or in Parcels, as they shall find most convenient and advantageous to such Person or Persons as shall be willing to contract for and purchase the same: Provided always, that the said Company of Proprietors before they shall sell and dispose of any such Piece or Pieces of Land or Ground, shall first offer to resell the same to the Person or Persons from whom they shall have purchased such Piece or Pieces of Land or Ground; and in case such Person or Persons respectively shall not then and thereupon agree, or shall refuse to purchase or re-purchase the same respectively, an Affidavit or Deposition

Requiring
the Company
of Proprietors
to give the
first Offer of
Land not
wanted for
the Purposes
of the Act to
the Persons
from whom
it was pur-
chased.

tion to be made and sworn before One of His Majesty's Justices of the Peace for the Counties of *Durham, Berwick, or Roxburgh*, where the Land may lie, by some Person or Persons not interested in the said Piece or Pieces of Land or Ground, stating that such Offer was made by or on the Behalf of the said Company of Proprietors, and that such Offer was not then and thereupon agreed to, or was refused by the Person or Persons to whom the same was so offered, shall in all Courts whatever be sufficient Evidence and Proof that such Offer was made and was not agreed to, or was refused by the Person or Persons to whom such Offer was made (as the Case may be) and in case such Person or Persons shall be desirous of purchasing or re-purchasing the same, and he, she, or they, and the said Company of Proprietors shall differ and not agree with respect to the Price thereof, in such Case the Price or Prices thereof shall be ascertained by a Jury, in Manner herein-before directed, with respect to the disputed Value of Premises to be purchased by the said Company of Proprietors in pursuance of this Act, and the Expence of hearing and determining such Difference shall be borne and paid in like Manner as herein before directed, with respect to such Purchase made by the said Company of Proprietors *mutatis mutandis*, and the Money to arise by the Sale or Sales which may be made by the said Company of Proprietors of such Piece or Pieces of Land or Ground as aforesaid, shall be applied to the Purposes of this Act, and the Purchaser or Purchasers thereof shall not be answerable or accountable for the Misapplication or Non-application of such Money.

Proprietors to raise Money amongst themselves for making the Railway and other Works.

XXXI. And be it further enacted, That it shall be lawful for the said Company of Proprietors in the first Place to raise and contribute amongst themselves, in such Proportions as they shall think proper for making and completing the said Railway, and the Ways, Wharfs, and other Works and Conveniences belonging or requisite thereto, the Sum of One hundred thousand Pounds; and the same shall be divided into One thousand Shares of One hundred Pounds each, and that such respective Shares shall be numbered in regular Progression, and every such Share shall always be distinguished by the Number to be applied to the same; and that no Person subscribing thereto or becoming a Proprietor in such Undertaking do become a Proprietor of less than One Share; and that the said Shares shall be and are hereby vested in the several Persons so raising and contributing the same, and their several and respective Executors, Administrators, Successors, and Assigns, to their and every of their proper Use and Benefit, proportionably to the Sums they shall severally raise and contribute; and all Bodies Politick, Corporate, and Collegiate, and all other Person or Persons; their several and respective Successors, Executors, Administrators, and Assigns, who shall severally subscribe for One or more Share or Shares, or such Sum or Sums as shall be demanded in lieu thereof, towards carrying on and completing the said Undertaking, and other the Purposes of the said Subscription, shall be entitled to and receive at such Time and Times as the said Company of Proprietors shall, at a General or Special Meeting to be convened for that Purpose as directed on other Occasions, direct and appoint, the entire and net Distribution of an equal proportionable Part, according to the Money so by them respectively paid, of the Profits and Advantages that shall and may arise and accrue by the Rates and other Sums of Money to be raised, recovered, or received by the said Company of Proprietors by the Authority of this Act; and every Body Politick,
Corporate

Corporate and Collegiate, Person or Persons having such Property in the said Undertaking as aforesaid, shall bear and pay a proportionable Sum towards carrying on the same in Manner herein directed and appointed; and all and every the Shares and Proportions of all Bodies Politic, Corporate, or Collegiate, and all other Person or Persons of and in the Undertaking, or the Joint Stock Fund of the said Company of Proprietors, shall be deemed Personal Estate, and transmissible as such, and not of the Nature of Real Property.

XXXII. And be it further enacted, That all the Money to be raised by the said Company of Proprietors by virtue of this Act, is hereby directed and appointed to be laid out and applied, in the first Place, for and towards the Payment, Discharge, and Satisfaction of all Costs, Charges, and Expences, in applying for, obtaining and passing this Act, and all the necessary Expences preparatory and relating thereto, and all the Residue and Remainder of such Money for and towards making, completing, and maintaining the said Railway, Ways, Wharfs, and other Works, and other the Purposes of this Act, and to no other Use, Intent, or Purpose whatsoever.

Application of Money to be raised.

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

Names of Proprietors to be entered and Tickets of their Shares delivered to them.

The Berwick and Kelfo Railway Company.

Number

Form of Ticket.

THESE are to certify, That _____ of _____ is a Proprietor of _____ the Share or Number _____ being One Share of the *Berwick and Kelfo* Railway, subject to the Rules, Regulations, and Orders of the said Company of Proprietors, and that the said his, (or her) Executors, Administrators, (or Successors) and Assigns, is and are entitled to the Profits and Advantages of such Share. Given under the Common Seal of the said Company, the _____ Day of _____ in the Year of our Lord _____

[Loc. & Per.]

31 H

XXXIV. And

Subscribers to
be deemed
Proprietors,
and have a
Vote for every
Share.

XXXIV. And be it further enacted, That all and every Body, or Bodies Politick or Corporate, or other Person or Persons, and his, her, or their Successors, Executors, Administrators and Assigns, who shall have subscribed for, or shall become entitled to and be in the actual Possession of One or more Share or Shares in the said Undertaking, shall be deemed a Proprietor for every such Share, and shall have a Vote for and in respect of every such Share, subject to the Restrictions hereinafter mentioned, in the General and Special Assemblies of the said Company of Proprietors, to be held as herein directed for carrying on the said Undertaking or relative thereto, which Vote shall and may be given by him, her or them, or by his, her, or their Proxy or Proxies, (such Proxy or Proxies being a Proprietor or Proprietors of One or more Share or Shares in the said Undertaking), duly constituted under his, her, or their Hand or Hands, or Common Seal if a Corporation, or in cases of Infancy, under the Hand or Hands of his, her, or their Guardian or Guardians; and that every such Vote by Proxy shall be as good and valid to all Intents and Purposes as if such Principal or Principals had voted in Person, and being an Infant had been of full Age, the Appointment of which Proxy shall and may be made in the Words or to the Effect following, (varying the same so as to meet each particular Case) *videlicet* :

Form of the
Appointment
of a Proxy.

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

All Questions
to be decided
by the Ma-
jority of
Votes.

And that every Election of Committees and Officers, and every Question, Matter, and Thing whatsoever, which shall be proposed, discussed, or considered in any General or Special Assembly of the said Company of Proprietors to be held by virtue of this Act, shall be finally determined by the Majority of Votes and Proxies then present, computing One Vote to every Share as aforesaid; and that at every such Assembly, One of the Proprietors present shall be appointed President or Chairman, who shall not only have such Vote or Votes as a Proprietor as aforesaid, but shall also, in case of an equal Division, have the decisive or casting Vote: Provided always nevertheless, that no Person shall have more than Ten Votes in his or her own Right, nor more than Ten other Votes in Right of any Proxy or Proxies.

Proprietors
may raise ad-
ditional Sum
of 50,000 l.
if necessary.

XXXV. And be it further enacted, That in case the said Sum of One hundred thousand Pounds herein-before authorized to be raised, shall be found insufficient for making, completing, and maintaining the said Railway and other Works hereby authorized to be made, and defraying all necessary Charges and Expences relating thereto, then and in such Case it shall be lawful for the said Company of Proprietors, to raise and contribute

tribute among themselves, in Manner and Form aforesaid, and in such Shares and Proportions as to them shall seem meet, or by the Admission of new Subscribers, any further or other Sum of Money, for completing and perfecting the said Undertaking, not exceeding the Sum of Fifty thousand Pounds; and every such Subscriber towards raising such further or other Sum of Money, shall be a Proprietor in the said Undertaking, and shall have a like Vote by himself or herself, or his or her Proxy, in respect of every Share in the said additional Sum so to be raised, and shall also be liable to such Forfeitures, and stand interested in all the Profits and Powers of the said Undertaking, in Proportion to the Sum he, she, or they shall or may subscribe thereunto, as generally and extensively, to all Intents and Purposes, as if such further or other Sum hereby allowed to be subscribed for and raised had originally been Part of the said Sum of One hundred thousand Pounds; any Thing herein contained to the contrary thereof in anywise notwithstanding.

XXXVI. Provided always, and be it further enacted, That it shall and may be lawful to and for the said Company of Proprietors, in case they shall think it meet and expedient, to borrow the Whole of the said Sum of Fifty thousand Pounds, or any Part or Parts thereof, upon Promissory Notes, under the Common Seal of the said Company of Proprietors; and all such Notes shall be made payable in such Manner, and at such Time or Times, and with such legal Rate of Interest, as the said Company of Proprietors shall think proper; and all such Notes shall be made either with or without a Power in the respective Holders thereof, to have an Option of becoming Proprietor of one Share of One hundred Pounds in the said Undertaking, in lieu of the Principal Money by such several Promissory Notes to be secured, or so much or such Part thereof as the said Company of Proprietors, or their Committee for the Time being, and the Person or Persons advancing such Money on the Security of the said Notes, shall jointly agree upon: Provided always, that no Person shall in any Case be admitted to be a Proprietor of any Share in the said Undertaking, in lieu of a less Principal Sum of Money than One hundred Pounds, advanced on the Security of such Notes, and unless the Terms and Particulars upon which the respective Holders of such Notes shall be entitled to such Option of becoming a Proprietor or Proprietors in the said Undertaking, shall be fully expressed and set forth in the said several and respective Notes.

Company
may raise the
said 50,000 l.
by Promissory
Notes.

XXXVII. And be it further enacted, That the several Rates authorized to be demanded and taken by virtue of this Act, shall be a Security for each and every Sum and Sums of Money so to be borrowed as aforesaid, with Interest to the Person or Persons who shall from Time to Time be entitled to such Securities; and all Persons to whom any such Securities as aforesaid shall be given, shall be equally entitled to a Claim or Lien on the said Rates, in Proportion to the respective Sums of Money advanced and lent by them respectively on the Credit of the said Rates, without any Preference by Reason of the Priority of the Date of any such Notes.

Rates to be
Security for
the Money
borrowed.

XXXVIII. Provided always, That in case the said Company of Proprietors shall be desirous of raising the said Sum of Fifty thousand Pounds hereinbefore authorized to be raised, or any Part thereof, on the Credit of the said Undertaking, it shall be lawful for the said Company of Proprietors,

Power to
raise Money
by Mortgage.

tors, by an Order of any General Assembly of the said Company of Proprietors, to borrow and take up at Interest all or any Part of the said Sum of Fifty thousand Pounds on the Credit of the said Undertaking, as to them shall seem meet and convenient; and the said Company of Proprietors or the Committee of the said Company of Proprietors, after an Order of any General Assembly, are hereby authorized and empowered to assign the Property of the said Undertaking, and the Rates arising or to arise by virtue of this Act or any Part thereof (the Costs and Charges of assigning the same to be paid out of such Rates) as a Security for any such Sum or Sums of Money to be borrowed as aforesaid, with Interest to such Person or Persons, or to his, her or their Trustee or Trustees who shall advance the same, all which said Securities or Assignments shall be made under the Common Seal of the said Company of Proprietors, in the Words or to the Effect following; (that is to say),

Form of
Mortgage.

‘ Number.
 ‘ BY virtue of this Act made in the Year of the
 ‘ Reign of King *George* the Third, intituled, [*here set forth*
 ‘ *the Title of this Act*] We the *Berwick and Kelfo Railway Company*, in-
 ‘ corporated by and under the said Act, in Consideration of the Sum of
 ‘ to us in Hand paid by
 ‘ of do assign unto the said
 ‘ his (*or her*) Executors, Administrators
 ‘ and Assigns, the said Undertaking and all and singular the Rates arising
 ‘ by virtue of this Act, and all the Estate, Right, Title and Interest of and
 ‘ in the same, to hold unto the said his
 ‘ (*or her*) Executors, Administrators and Assigns, until the said Sum of
 ‘ together with Interest for the same, after
 ‘ the Rate of for every
 ‘ for a Year, shall be fully paid and satisfied. Given under our Common
 ‘ Seal this Day of in the Year of
 ‘ our Lord

And all and every Person or Persons to whom such Security or Assignment shall be made, shall be equally entitled one with the other, to his, her or their Proportion or Proportions of; the said Rates and Premises according to the respective Sums in such Assignments mentioned, to be advanced without any Preference by reason of Priority of any such Assignments, or on any other Account whatsoever; and a Memorial of every such Assignment, containing the Date, Name or Names of the Person or Persons to whom made, the Sum of Money borrowed, and the Rate of Interest, shall be entered in a Book or Books to be kept by the Clerk to the said Company of Proprietors, which said Book or Books shall and may be perused at all reasonable Times by any of the Proprietors or Creditors of the said Undertaking, or other Persons interested therein, without Fee or Reward; and all and every Person or Persons to whom any such Security or Securities, Assignment or Assignments shall be made as aforesaid, or who shall be entitled to the Money due thereon, shall and may from Time to Time transfer his, her or their Right or Interest therein to any Person or Persons whomsoever, which Transfer shall and may be in the Words, or to the Effect following; that is to say,

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

Form of
 Transfer.

And every such Transfer shall within Twenty-eight Days after the Date thereof be produced to the Clerk to the said Company of Proprietors, who shall cause a Memorial to be made thereof in like Manner as of the original Mortgages or Assignments, for which the said Clerk shall be paid such Sum as the said Company of Proprietors shall appoint, not exceeding Two Shillings and Sixpence; and after such Entry made, every Transfer shall intitle such Assignee or Assignees, his, her and their Executors, Administrators and Assigns to the full Benefit thereof, and Payment thereon; and it shall not be in the Power of any Person or Persons who shall have made such Transfer, to make void, release or discharge the same, or any Sum or Sums of Money thereon due or thereby secured, or any Part thereof.

XXXIX. And be it further enacted, That the Interest of the Money which shall be borrowed as aforesaid, shall be paid Half-yearly to the Persons severally entitled thereto in Preference to any Interest or Dividends due and payable by virtue of this Act, to the said Company of Proprietors, or any of them, and shall from Time to Time be fully paid and discharged, or provided for before the Yearly or other Interest or Dividends due to the same Company of Proprietors, or any of them, shall be paid, made, or divided; and in case the same or any Part thereof shall be behind and unpaid by the Space of Thirty Days next after the same shall become due and payable as aforesaid, and after Demand made, the same shall and may be sued for and recovered with Costs, from the said Company of Proprietors, by Action of Debt in any of His Majesty's Courts of Record at *Westminster*, or by Action in the Court of Session in *Scotland*.

Interest of
 Money bor-
 rowed to be
 paid in Pre-
 ference to the
 Dividends,
 and may be
 sued for at
 Law.

XL. Provided always, That no Person to whom any such Security or Assignment shall be made or transferred as aforesaid, shall be deemed a Proprietor of any Share, or shall be capable of acting or voting as such, either as Principal or by Proxy at any Meeting of the said Company of Proprietors, for or on Account of his or her having lent or advanced any Sum or Sums on the Credit of such Security or Assignment.

Mortgagees
 not to vote on
 account of
 having lent
 Money.

XLI. And be it further enacted, That the First General Meeting of the said Company of Proprietors, for putting this Act in Execution, shall be held at *Coldstream* on the Fourth *Monday* next after the passing of this Act, at the Hour of Eleven in the Forenoon; and the Second and every other General Meeting shall be held on such Day and at such Place as the said Proprietors at the next preceding General Meeting shall appoint, all such Meetings being at the Hour of Eleven in the Forenoon; and the said Company of Proprietors

First and other
 General
 Assemblies.

[Loc. & Per.]

Committee to
 be elected.
 at

at such respective General Meetings, together with such Proxies as shall be then present, shall choose and elect, out of such of the said Proprietors as at the Time of such Election shall respectively be possessed in their own Right of Stock to the Amount of Five hundred Pounds at the least in the said Undertaking, one Committee to manage the Affairs of the said Company of Proprietors as herein directed, and to consist of Nine or more Persons, Three of whom shall at all Meetings of the Committee be a Quorum; and the said Company of Proprietors shall have Power and Authority at any such General Meeting to remove and displace any Person or Persons who shall have been chosen a Member or Members of the said Committee, or any Officer or Officers under them, and to choose and elect others in case of Death or other Vacancy, and to revoke, alter, amend, or change any of the Rules or Directions which may have been prescribed and laid down by virtue of this Act, with Regard to their Proceedings amongst themselves, as they shall think proper (the Method of calling General or Special Meetings, and their Time and Place of Meeting, and voting and appointing Committees only excepted), and shall also have Power and Authority to make such new Rules, Bye Laws, and Orders for the good Government of the said Company of Proprietors, their Agents, and Workmen, for making, maintaining, and using the said Railway or other Works, and all other Conveniences, Matters, and Things, that shall be made for the same, and also for and concerning all such Goods and Commodities as shall be conveyed thereon, and also for the well governing of all Persons who shall be employed in the conveying of any Goods, Wares, and Merchandize, and other Articles and Things upon any Part of the said Railway or other Works, and from Time to Time to alter and repeal, and again to renew the said Bye Laws, Orders, and Regulations, and to impose and inflict such reasonable Fines and Forfeitures upon all Persons offending against the same, as to the major Part of such General Meetings shall seem meet, not exceeding the Sum of Five Pounds for any one Offence, such Fines and Forfeitures to be levied and recovered by such Ways and Means as herein-after mentioned, which said Rules, Bye Laws, and Orders, being reduced into Writing under the Common Seal of the said Company of Proprietors, shall be printed and affixed upon the several Toll Houses to be erected on the said Railway and Wharfs, and shall be binding upon and observed by all Parties, and shall be sufficient in any Court of Law and Equity, to justify all Persons who shall act under the same, provided they be not repugnant to the Laws of *Great Britain*, or any Directions in this Act contained; and every such General Meeting shall have Power to call for, audit, and settle all Accounts of Money received, laid out, and disbursed, on Account of the said Undertaking by the Treasurers, Receivers, or Collectors of the Rates, and other Officers by them appointed, or by any other Person or Persons whomsoever employed by or concerned for or under them, in and about the said Railway and the Works thereto belonging; but no Vote or Votes by Proxy shall be given, or have any Power in or as to the Audit and Settlement of Accounts; and the said Company of Proprietors shall have Power to adjourn themselves from Time to Time to such Place or Places, as shall at any such General Meetings be thought proper and convenient.

General
Meetings for
choosing

XLII. Provided always, and be it further enacted, That if at any such General Meeting there shall not be Persons present who shall be possessed of

or entitled unto at least Fifty Shares or Subscriptions of One hundred Pounds or upwards in the said Undertaking, either as Principals or Proxies, no Choice of a Committee, nor any Removal or Appointment of a Person or Persons in the Room of such of the Members of the said Committee who shall die or decline, or become incapable to act, shall be made at that Time; but in such Case there shall be another Meeting of the said Company of Proprietors at the same Place upon that Day Three Weeks; and if a sufficient Number of Proprietors as Principals or by Proxies, shall not then attend, the said General Meeting shall stand adjourned to the same Place on the *Monday* Three Weeks next following, and such Choice, Removal or new Appointment of any Member of any such Committee shall then take place, and not before; and such Committee so to be appointed shall continue to act, and have the same Powers as they had and were possessed of, until a new Committee shall be appointed as aforesaid; and in case of Failure of the assembling of a sufficient Number of Proprietors having such Shares or Subscriptions, as Principals or Proxies at such First General Meeting, every Proprietor who shall not attend such Second Meeting in Person or by Proxy, shall forfeit to the said Company of Proprietors for every Share or Subscription of One Hundred Pounds, which he or she shall possess in the said Undertaking, the Sum of Two Shillings and Sixpence to be deducted out of his or her next succeeding Payment of Interest or Dividends of the Profits of the said Undertaking, as the Case may happen; and in case no Interest or Dividends shall be payable to such Person or Persons making Default as aforesaid, within Three Months next after the making of such Default, then the Payment of the said Forfeiture of Two Shillings and Sixpence may be recovered and enforced by the Ways and Means hereinafter appointed for the Recovery of any other of the Penalties or Forfeitures imposed by this Act.

Committees to consist of Persons having Fifty Shares.

XLIII. And be it further enacted, That if it shall at any Time appear that, for the more effectually putting this Act in Execution, a Special General Meeting of the said Company of Proprietors is necessary to be held, it shall be lawful for any Five or more of the said Proprietors, who may each of them be possessed of or entitled unto Five Shares or Subscriptions of One hundred Pounds or upwards at the least in the said Undertaking, to cause Fourteen Days Notice at the least to be given thereof, in some Newspaper or Newspapers usually circulating in the said Counties of *Durham, Berwick and Roxburgh*, or by giving to each Proprietor, or leaving at his or her usual Place of Abode a Notice in Writing, signed by such Proprietors, or by the Clerk to the said Company of Proprietors for the Time being, or in such other Manner as the said Company of Proprietors shall at any General Meeting direct or appoint, specifying in such Notice the Reason and Intention of requesting such Special General Meeting, and the Time when, and Place where the same shall be held, and the said Proprietors are hereby authorized to meet pursuant thereto, and such of them as shall be present shall proceed to the Execution of the Powers by this Act given to the said Company of Proprietors with respect to the Matters so specified only; and all such Acts of the Proprietors, or the major Part of them met together at every such Special General Meeting, shall be as valid with respect to the Matters specified in such Notice, as if the same had been done at a General Meeting at the Time hereinbefore appointed for holding the same.

Meetings of Proprietors may be specially convened.

XLIV. And

Officers to
the Company
to be ap-
pointed.

XLIV. And be it further enacted, That it shall be lawful for the said Company of Proprietors at any General Meeting assembled, and they are hereby required from Time to Time to nominate and appoint a Treasurer and Clerk, and such other Officers as they shall think proper, and shall take sufficient Security from every such Treasurer and other Officer having the Care or Custody of any Money to be raised or received by virtue of this Act, for the due Execution of his Office, as the said Company of Proprietors shall think proper, and from Time to Time to remove, and again to replace any such Treasurer, Clerk, and other Officers, or any of them; and such Clerk shall attend the General Meetings and Assemblies of the said Company of Proprietors, and the Meetings of the said Committee, and shall, in a proper Book or Books to be provided for that Purpose, enter and keep a true and perfect Account of the Names and Places of Abode of the several Proprietors of the said Undertaking, and of the several Persons who shall from Time to Time become Owners and Proprietors, or entitled to any Share or Shares therein, and of all the Acts, Proceedings, and Transactions of the said Company of Proprietors, and of the said Committee, by virtue of and under the Authority of this Act; and that every Proprietor of the said Undertaking shall and may at all convenient Times, have Recourse to and peruse and inspect the same, and also the Book or Books to be kept by the Clerk of the said Commissioners *gratis*, and may demand and have Copies thereof, or any Part thereof, paying Sixpence for every Seventy-two Words so to be copied; and if any such Clerk shall refuse to permit any of the said Proprietors to inspect or peruse any such Books at all convenient Times and Seasons, or refuse to make any such Copy or Copies in a reasonable Time at the Rate aforesaid, he shall for every such Offence forfeit and pay any Sum not exceeding Forty Shillings for the Benefit of the said Undertaking; and whenever any such Treasurer or Clerk shall die, or be removed from or quit the Service of the said Company of Proprietors, it shall be lawful for the Committee of such Proprietors for the Time being, or a Majority of them, to appoint some other fit Person or Persons to be Treasurer or Clerk in the Place of him or them so dying, being removed or quitting the said Service, until the then next General Meeting of the said Company of Proprietors, when such Appointments shall be confirmed, or another Treasurer or Clerk shall be nominated and appointed in his or their Stead.

Powers of
the Commit-
tee for mak-
ing Calls.

XLV. And be it further enacted, That the Committee for the Time being of the said Company of Proprietors, shall have Power from Time to Time to make such Call or Calls for Money from the Proprietors of the said Undertaking, to defray the Expences of and to carry on the same, as they shall from Time to Time find necessary for those Purposes, so that no such Call do exceed the Sum of Five Pounds upon each Share, and so as no Calls be made but at the Distance of Two Calendar Months at the least from each other; which Monies so called for; shall be paid to such Person or Persons, and in such Manner as the said Committee shall from Time to Time appoint and direct for the Use of the said Undertaking; and such Committee shall, until the next General Assembly to be holden in Manner as aforesaid, meet at such Times and at such Places, and from Time to Time adjourn themselves to such other Time or Times as they shall think fit; and at all Meetings of the said Committee, One of the Members present shall be appointed President or Chairman, and all Questions, Matters, and Things, which shall be proposed, discussed, or considered at such Meet-
ings,

ings, shall be finally determined by a Majority of Votes; but no Member of such Committee, although he may be a Proprietor of many Shares in the said Undertaking, shall have more than one Vote in the said Committee, except the President or Chairman, who in case of an equal Division shall always have a second or casting Vote; and in order to defray the Expence of the Meetings of the said Committee, it shall be lawful for the said Committees respectively, and they are hereby allowed to expend or retain to themselves a reasonable Sum of Money out of the Capital Stock of the said Proprietors, for their Expences in attending such Meeting, not exceeding Five Shillings for each Member of the said Committee; and the said Committee shall have Power and Authority to direct and manage all the Affairs of the said Company, as well in buying and purchasing Lands and Hereditaments and Materials for the Use of the said Undertaking and Works, as in employing, ordering, and directing the Works and Workmen, and in placing and displacing under Officers, Clerks, Servants, Agents, and Workmen; and in making all Contracts and Bargains touching the said Undertaking, so that no Purchase, Bargain, or other Matter, be done or transacted without the Concurrence of a Majority of the said Committee as aforesaid then assembled; and every Owner or Owners of One or more Share or Shares in the said Undertaking, shall pay his, her, or their Shares and Proportions of the Monies to be called for as aforesaid, not exceeding the Sum aforesaid for every Share, at such Time and Place as aforesaid, of which One Calendar Month's Notice at the least shall be given, by publishing the same in some one such Newspaper as aforesaid; or by giving Notice in Writing to such Proprietor, or leaving the same at his or her usual or last Place of Abode, or in such other Manner as the said Company of Proprietors shall at any General Assembly direct or appoint; and if any Person or Persons shall neglect or refuse to pay his, her, or their rateable or proportionable Part or Share of the said Money to be called for, at the Time and Place appointed as aforesaid, it shall be lawful for the said Company of Proprietors, if such Person or Persons shall reside within *England*, to sue for and recover the same in any of His Majesty's Courts of Record at *Westminster*, by Action of Debt or on the Case, or by Bill, Suit, or Information, wherein no Essoign, Protection, or Wager of Law, or more than One Impar lance shall be allowed; and if such Person or Persons shall reside within *Scotland*, by Action in the Court of Session or any other competent Court; and if any Person or Persons shall neglect or refuse to pay his, her, or their rateable or proportionable Part or Share of the said Money to be called for after the First Call as aforesaid, at the Time and Place so appointed as aforesaid, he, she, or they so neglecting or refusing, shall forfeit any Sum not exceeding Two Pounds Ten Shillings for every One hundred Pounds of his, her, or their respective Share or Shares in the said Undertaking; and in case such Person or Persons shall neglect or refuse to pay his, her, or their rateable or proportionable Part or Share of the said Money to be called for as aforesaid, for the Space of Three Calendar Months after the Time appointed for Payment thereof as aforesaid, and at the Place so to be appointed for Payment thereof as aforesaid, then he, she, or they so neglecting or refusing, shall forfeit his, her or their respective Share or Shares in the said Undertaking, and all the Profit and Benefit 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 Public Sale by the said Company of Proprietors, for the most Money that they can get for the same, and the Produce shall be

[Loc. & Per.]

31 K

equally

Subscribers
to have No-
tice before
their Shares
are forfeited.

equally divided amongst the Rest of the said Company of Proprietors, in proportion to their respective Shares and Interests in the said Undertaking: Provided always, that no Advantage shall be taken of the Forfeiture of any Share or Shares in the said Undertaking, until Notice shall be given by the Clerk or Treasurer of the said Company of Proprietors to the Owner or Owners thereof; or Notice in Writing left at his, her, or their usual or last Place of Abode, nor unless the same shall be declared to be forfeited, at some General Assembly of the said Company of Proprietors, which shall be held after the End of Two Calendar Months after the Forfeiture shall happen to be made, and every such Forfeiture shall be an Indemnification and Discharge to and for every Proprietor or Proprietors so forfeiting after such Share or Shares shall have been deemed to be forfeited by a General Assembly, but not before, against all Actions, Suits, or Prosecutions whatsoever, to be commenced or prosecuted for any Breach of Contract or other Agreement between such Proprietor or Proprietors so forfeiting, and the Rest of the Proprietors, with regard to carrying on the said Undertaking: Provided always, that it shall be lawful to and in the Power of the said Company of Proprietors at such General Assembly as aforesaid, instead of declaring any Share or Shares to be forfeited, to sue for and recover the Sum or Sums of Money subscribed by any Person or Persons, and called for as aforesaid, in any Court of Law or Equity.

Directing the
Proceedings
in the Actions
for Calls.

XLVI. And be it further enacted, That in any Action brought by the said Company of Proprietors against any Owner or Owners of any Share or Shares in the said Undertaking, to recover any Sum or Sums of Money due or payable to the said Company of Proprietors, for or by Reason of any Call or Calls made by virtue of this Act, it shall be sufficient for the said Company of Proprietors to declare and alledge that the Defendant or Defendants, or Defender or Defenders, being a Proprietor or Proprietors of such and so many Share or Shares in the said Undertaking, is or are indebted to the said Company of Proprietors in such Sum or Sums of Money as the Call or Calls in Arrear shall amount unto, for such or so many Call or Calls of such or so many Sum or Sums of Money upon such and so many Share or Shares belonging to the said Defendant or Defendants, or Defender or Defenders (as the Case may happen to be) whereby an Action hath accrued to the said Company of Proprietors, by virtue of this Act, without setting forth the Special Matter; and on the Trial of such Action it shall only be necessary to prove that the Defendant or Defendants, Defender or Defenders at the Time of making such Call or Calls, was or were a Proprietor or Proprietors of some Share or Shares in the said Undertaking, and that such Call or Calls was or were in fact made, and that such Notice thereof was given as is directed by this Act, without proving the Appointment of the Committee who made such Call or Calls, or any other Matter whatsoever; and the said Company of Proprietors shall thereupon be entitled to recover what shall appear due, unless it shall appear that any such Call exceeded the Sum of Five Pounds for every Sum of One hundred Pounds, or was made within the Distance of Two Calendar Months from the last preceding Call, or without Notice given as aforesaid.

Committee
may appoint
Sub-Commit-
tees with

XLVII. And be it further enacted, That it shall be lawful for the said Committee to nominate and appoint out of their own Body one or more Sub-Committee or Sub-Committees (every such Sub-Committee

to consist of Three or more Persons) who shall have full Power and Authority to enter into and make any such Contracts or Agreements on Behalf of the said Company of Proprietors as aforesaid, and to hire and employ any Agents, Workmen or Servants in and about the said Undertaking, and to do, execute and perform, all other Matters and Things whatsoever in and about the said Undertaking, which the said Committee are themselves hereinbefore authorized to do, or such of them as the said Committee shall think proper to entrust to the Care and Management of any such Sub-Committee or Sub-Committees, save and except, nevertheless, the appointing of Clerks, Collectors, Engineers, Surveyors and other principal Officers, and the auditing and settling of the Accounts of the Treasurer or Treasurers, Clerks, Collectors, Engineers, Surveyors and other principal Officers, and making of Calls for Money upon the Proprietors of the said Undertaking, and that it shall be lawful for the said Committee for the Time being, to order and direct such Compensation or Recompence to be made to the Sub-Committee or Sub-Committees from Time to Time as they shall think reasonable; and it shall be lawful for the said Committee by an Order or Resolution for that Purpose, to break up and dissolve any such Sub-Committee or Sub-Committees, or to remove and displace any Member or Members thereof, and to appoint some other or others in his or their Place and Stead; when and as often as such Committee shall think proper and expedient, and such Sub-Committees shall have full Power and Authority to meet from Time to Time, and adjourn from Place to Place as they shall think proper, and as Occasion shall require, for effectuating the Purposes aforesaid; and all Powers and Authorities hereby vested, or which shall by the said Committee be vested in any such Sub-Committee or Sub-Committees within the Intent and Meaning of this Act, shall and may be exercised by the major Part of the Members present at their respective Meetings, the whole Number present not being less than Three; and at all Meetings of such Sub-Committees respectively, One of the Members present shall be appointed President or Chairman, and all Questions shall be decided by the Majority of Votes, and the President or Chairman shall have the casting Vote in case of an equal Division, although he may have given One Vote before.

Power to
make Con-
tracts, &c.

And Com-
mittee may
dissolve Sub-
Committees.

Powers of
Sub-Com-
mittee may
be exercised
by a Ma-
jority.

At Meetings
of Sub-Com-
mittees Chair-
man to be
appointed.

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

Committee to
be under
Controul of
General
Assemblies.

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

Books of Ac-
count to be
kept.

L. And

On the Death
of Subscribers
before Shares
completed,
Executors
may com-
plete the
same.

L. And be it further enacted, That if the Owner or Owners of any Share or Shares in the said Undertaking shall happen to die before such Call or Calls shall have been made for the full Sum to be advanced on any Share or Shares which he, she or they shall have been possessed of, or entitled to, without having made Provision by Will or otherwise, how and in what Manner such Share or Shares shall be disposed of, and how or by what Means the future Calls in respect thereof shall be paid to the said Company of Proprietors for the Purpose of the said Undertaking; then, and in such Case, the Executors or Administrators of any such Owner so dying, or the Trustee or Trustees, Committee or Committees of any Lunatic or Lunatics, Guardian or Guardians of any Infant or Infants, or of any other Person or Persons entitled to the Estate and Effects of such deceased Owner, shall be indemnified against all and every such Infant or Infants, and against all and every Person or Persons whomsoever, for or on account of his, her or their having paid any Sum or Sums of Money when called for as aforesaid, to complete every such Subscription; and if such deceased Owner or Owners shall not have left Assets sufficient, or in case the Executors or Administrators, Trustee or Trustees, Committee or Committees, Guardian or Guardians shall refuse or neglect to answer such Calls, the said Company of Proprietors shall be, and they 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 Owner or Owners, 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 Owner or Owners, or to the Trustee or Trustees, Guardian or Guardians of any Infant or Infants, or to any other Person or Persons who shall or may be entitled to his, her or their Effects, the full Sum or Sums of Money which shall have been paid by such Owner or Owners in his, her or their Lifetime, by virtue of any Call or Calls, or otherwise, upon such Share or Shares, or such other Sum or Sums of Money as the same can be sold for; and in case no Person or Persons shall be found who is or are willing to be admitted on such Condition as aforesaid, then and in such Case such Share or Shares shall be forfeited to, and become vested in the rest of the said Company of Proprietors in Trust for, and for the equal Benefit of all the rest of the said Proprietors, in Proportion to their respective Interests in the said Undertaking, and shall be subject to be sold and disposed of in like Manner as other forfeited Shares may be sold and disposed of by virtue of this Act.

Shares may
be sold.

LI. And be it further enacted, That it shall be lawful for the several Proprietors of the said Undertaking, and his, her, or their respective Executors or Administrators, from and after Payment made of the Sum of Twenty-five *per Centum* by him, her or them, upon his, her, or their Share or Shares in the said Subscription but not before, to sell and dispose of any Share or Shares to which he, she, or they may be entitled therein, subject to the Rules and Conditions herein mentioned; and provided that the Form of Conveyance for such Sales shall be in the following Words, or to the like Effect, (varying the Names and Descriptions of the Contracting Parties, as the Case may require):

Form of
Conveyance.

I in Consideration of paid to me by
do hereby bargain, sell, and transfer unto the said Share [or Shares, as the Case may be] of the Undertaking
called *The Berwick and Kelfo Railway*, to hold to him the said his

his Executors, Administrators and Assigns, subject to the same Rules, Orders, and Restrictions, and on the same Conditions, as I held the same immediately before the Execution hereof; and I the said do hereby agree to take and accept the said Share or Shares, subject to the same Rules, Orders, Restrictions, and Conditions. As Witness our Hands and Seals the Day of

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

LII. And be it further enacted, That after any Call of such Money shall have been made by such Committee as aforesaid, no Person or Persons shall sell or transfer any Share or Shares which he, she, or they shall possess in the said Undertaking, although Twenty-five Pounds *per Centum* shall have been paid thereon, upon the Penalty of forfeiting his, her, or their respective Share or Shares therein to the said Company of Proprietors, in Trust for the Benefit of all the said Proprietors, unless he, she, or they, at the Time of such Sale or Transfer, shall have paid and discharged to the Treasurer of the said Company of Proprietors the whole and entire Sum of Money which shall have been called for upon each Share so sold or transferred; such Forfeiture nevertheless to be notified and declared at a General Assembly in Manner before directed.

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

LIII. And be it further enacted, That if any of the Deeds for or respecting the Shares of the Company of Proprietors aforesaid shall be worn out or damaged, then, upon the same being brought and shewn at some General Assembly of the said Company of Proprietors, such Deeds may be cancelled and destroyed, and other similar Deeds given under the Seal of the said Company of Proprietors, to the Person or Persons in whom the Property of such Deeds, and the Shares therein mentioned, shall be at that Time vested; or in case such Deeds shall be burnt or totally destroyed, then, upon due Proof thereof, like Deeds shall be given to the Person or Persons who was or were the Owner or Owners of or entitled to such Deed so burnt or destroyed, and a due Entry of the Transfer of such Deed or Deeds, (if any such have been made), shall be entered by the Clerk to the said Company of Proprietors in Manner herein directed.

For granting new Deeds when old ones are destroyed or worn out.

LIV. And whereas much Inconvenience may arise by the frequent Transfer of Shares in the said Undertaking, by the Marriage and Death of Proprietors, and it may be difficult to ascertain to whom the Dividends arising

Proof to be given of Title to Shares as

[*Loc. & Per.*]

31 L

or

quired by
Marriage, or
by Will, or
Letters of
Administra-
tion.

or becoming due upon such Shares; ought to be paid and do belong; be it therefore further enacted, That before any Person or Persons who shall claim any Part or Share of the Profits of the said Undertaking by virtue of his, her, or their Marriage or Marriages, shall be entitled to receive the same, if such Person or Persons shall reside in *England*, an Affidavit containing a Copy of the Register of such Marriage shall be made, and sworn to by some credible Person before a Judge in one of His Majesty's Courts, of Record at *Westminster*, or before a Master or Master Extraordinary in Chancery, or one of His Majesty's Justices of the Peace; or if such Person or Persons shall reside in *Scotland*, a Deposition shall be made, as to the Fact of such Marriage before one of His Majesty's Justices of the Peace by some credible Person upon a Certificate of such Marriage, given by the Minister officiating thereat, or other Person competent to certify the same; and such Affidavit and Deposition respectively shall be transmitted to the Clerk of the said Company of Proprietors for the Time being, who shall file the same, and make an Entry thereof in a Book or Books, which shall be kept by him, for the entering of Transfers of Shares in the said Undertaking, and that before any Person or Persons who shall claim any Part or Share of the Profits of the said Undertaking by virtue of any Bequest or Will, or of any Letters of Administration, or confirmed Testament in *Scotland*, shall be entitled to receive the same, the said Will or the Probate Copy thereof, or such Letters of Administration, or confirmed Testament, shall be produced and shewn to the Clerk of the said Company of Proprietors, or an Affidavit containing a Copy of so much of such Will as shall relate to the Share or Shares of the Testator or Testatrix, or a Copy of the said Letters of Administration, or confirmed Testament, shall be made and sworn by the Executor or Executors of such Will, or by the Administrator or Administrators of the Estate and Effects of the Proprietors deceased, or to whom Administration or Confirmation shall be granted, before a Judge of one of His Majesty's Courts of Record at *Westminster*, a Master or Master Extraordinary in Chancery, or one of His Majesty's Justices of the Peace in *England*, or before one of His Majesty's Justices of the Peace in *Scotland*, and shall be transmitted to the Clerk of the said Company of Proprietors, who shall file and enter the same in Manner aforesaid.

Rates of
Tonnage.

LV. And, in Consideration of the great Charge and Expence which the Company of Proprietors for executing this Act must incur and sustain in making and maintaining the said Railway, and other Works hereby authorized to be made and maintained; be it further enacted, That it shall and may be lawful for the said Company of Proprietors from Time to Time, and at all Times hereafter, to ask, demand, take, recover, and receive to and for the Use and Benefit of the said Company of Proprietors, for the Tonnage and Conveyance of all Goods, Wares, Merchandize, and other Things, which shall be carried or conveyed upon the said Railway, or upon any Part or Parcel thereof, the Rates and Duties herein-after mentioned; that is to say,

For all Stone for the Repairs of any Turnpike Roads or other public Streets, Roads, or Highways, such Sum as the said Company of Proprietors shall from Time to Time direct and appoint, not exceeding the Sum of Two-pence per Ton per Mile:

For all Coal, Coke, Culm, and for all Stone, Coal, Cinders, Chalk, Marle, Sand, Lime, Clay, Ashes, Peat, Lime Stone, Pitching and Paving Stone, (not being for the Repair of any Turnpike Roads, or other Public Streets, Roads, or Highways,) Iron Stone or other Ore and other Minerals, and Bricks, and for all Sorts of Manure, and all Sorts of Grain, Flour, Meal, Potatoes, Hay, and Straw, which shall be borne or carried along the said Railway, such Sum and Sums of Money respectively as the said Company of Proprietors shall from Time to Time direct and appoint to be taken for the Tonnage of any or either of the said Kind of Goods, not exceeding Three-pence *per Ton per Mile* :

For every Carriage conveying Passengers, or light Goods or Parcels, not exceeding Five hundred Weight, such Sum and Sums of Money respectively as the said Company of Proprietors shall from Time to Time direct and appoint to be taken, not exceeding Two-pence *per Mile* :

And for all other Goods, Commodities, Wares, and Merchandizes whatsoever carried on the said Railway, such Sum or Sums as the said Company of Proprietors shall from Time to Time direct or appoint, not exceeding Four-pence *per Ton per Mile*.

And in all Cases where there shall be a Fraction of a Ton, a Proportion of the said Rates shall be demanded and taken for such Fraction, according to the Number of Quarters of a Ton contained in such Fraction; and where there shall be a Fraction of a Quarter of a Ton, such Fraction shall be deemed and considered as a whole Quarter of a Ton; and in all Cases where there shall be a Fraction of a Quarter of a Mile in the Distance which any Waggon, Cart, or other Carriage shall pass upon the said Railway, such Fraction shall, in ascertaining the said Rates, be deemed and considered as One Fourth of a Mile; and in order to ascertain such Distances the said Company of Proprietors shall cause the said Railway to be measured and Stones or Posts with proper Inscriptions to be erected and for ever maintained on the Sides of the same at the Distance of One Fourth of a Mile from each other, or at such other Distance as the said Company of Proprietors or their Committee shall think fit.

LVI. And whereas a considerable Expence will be incurred by the said Company of Proprietors in building the said Bridge over the River *Tweed*, and in making Compensation to the Proprietors of the Ferries near the said Bridge; be it enacted, That the said Trustees, or any Person or Persons whom they shall appoint for that Purpose, shall be and they are hereby authorized and empowered to demand and take the Pontage Duties following, before and as often as any Foot Passenger, Coach, Chaise, or other such Carriage, Waggon, Wain, or Cart, Horse, Mule, Ass, or other Cattle, shall be permitted to pass the said Bridge; that is to say,

Pontage at the Bridge over the River *Tweed*.

For every Foot Passenger, One Penny :

For every Coach, Berlin, Landau, Chariot, Chaise, Hearse, Calash, Chair, or other such Carriage, drawn by One Horse or Beast of Draught, Sixpence :

Coaches, &c.

And drawn by Two Horses or Beasts of Draught, One Shilling :

And drawn by Three Horses or Beasts of Draught, One Shilling and Sixpence :

And drawn by Four or Five Horses or Beasts of Draught, Two Shillings :

And drawn by Six or more Horses or Beasts of Draught, Three Shillings :

For

Waggons,
&c.

For every Waggon, Wain, Cart, or other such Carriage, with more than Two Wheels, drawn by One Horse, Ox, or Beast of Draught, Sixpence :

And drawn by Two Horses, Oxen, or Beasts of Draught, Ten-pence :

And drawn by Three Horses, Oxen, or Beasts of Draught, One Shilling and Sixpence :

And drawn by Four Horses, Oxen, or Beasts of Draught, Two Shillings :

And drawn by Five Horses, Oxen, or Beasts of Draught, Two Shillings and Sixpence :

And drawn by Six Horses, Oxen, or Beasts of Draught, Three Shillings :

And drawn by Seven Horses, Oxen, or Beasts of Draught Three Shillings and Sixpence :

And drawn by Eight or more Horses, Oxen, or Beasts of Draught, Four Shillings.

For every Cart, Wain, or other such Carriage, with only Two Wheels, drawn by One Horse, Ox, or Beast of Draught, Sixpence :

If drawn by Two or more Horses, Oxen, or Beasts of Draught, One Shilling :

Horses, &c.

For every Saddle Horse, Mare, Gelding, or Mule, with or without a Rider Two-pence :

For every other Horse, Mare, Gelding, or Mule, laden or unladen, and not drawing, One Penny Halfpenny :

For every Ass loaded or unloaded, One-penny :

For every Score of Oxen or Neat Cattle, Ten-pence ; and so in Proportion for any greater or lesser Number :

For every Score of Calves, Hogs, Sheep, Lambs, or Goats, Five-pence, and so in Proportion for any greater or lesser Number ; and that on every *Sunday* after the passing of this Act there shall be demanded and taken at the said Bridge in Addition to the Tolls herein before mentioned, before Passage be permitted, Double the Tolls before directed to be taken on any other Day of the Week.

To prevent
Evasion of
the Pontage
Duty.

LVII. And be it enacted, That all Persons passing over the said Bridge, shall be liable in Payment of the Pontage Duties hereby granted, notwithstanding such Persons may be carried in or upon any Waggon, Wain, Cart or other such Carriage, or on Horseback, or otherwise riding, and that over and above and besides the Pontage Duties for every such Waggon, Wain, Cart, or other such Carriage, and for every Horse, Mare, Gelding, Mule, or Ass, excepting always the proper Driver or Drivers of every such Waggon, Wain, Cart or other such Carriage, and the Person or Persons for whose proper Use every such Waggon, Wain, Cart, or other such Carriage, may be *bona fide* employed when so passing, and excepting also one Rider upon every Horse, Mare, Gelding, Mule, or Ass, not drawing, and if any Person shall claim Exemption from the Payment of the said Pontage Duties, not being entitled thereto, every such Person shall forfeit and pay any Sum not exceeding Ten Shillings for every such Offence.

After the
Bridge is
built, no Ford

LVIII. And be it enacted, That as soon as the said Bridge, and the Roads and Avenues leading to and from the same are completed and opened for Passengers,

Passengers, the two several Fords across the River *Tweed*, known by the Names of *Gourlays Ford* and the *Dam Ford*, shall be shut up, and the Passage over the said Bridge shall be the only public Road or Passage across the said River *Tweed*, within One Mile above and below the said Bridge; and it shall not be lawful for any Person or Persons to pass the said River, or to use any Ferry for the conveying any Person, Cattle, or Carriage across the said River, within the Space above mentioned; and in case any Person or Persons shall pass the said River, or cause any Cattle or Carriage to pass within the said Space, at any Ford or over such Ferry, he, she, or they shall forfeit the Sum of Twenty Shillings Sterling for every Person, Beast, or Carriage passing or ferried, or conveyed across the said River: Provided always, that the said Company of Proprietors shall make Compensation to the Proprietors of such Ferries, for the Damage thereby occasioned, where such Compensation shall be demanded by such Proprietors, and in case of any Difference, such Compensation shall be settled and ascertained in Manner as herein before mentioned, with regard to the ascertaining and ordering Payment of the Value of the Lands and Houses to be taken for the Purposes of this Act; and it shall be lawful to the Justices of the Peace of any of the said Counties of *Durham*, *Berwick*, and *Roxburgh*, within which any Road or Roads, Footpath or Footpaths leading to any Ford or Fords, Ferry or Ferries, that may be shut up in consequence of the Powers by this Act given, or any Five or more of them, to shut up such Road or Roads, Footpath or Footpaths, or such Part or Parts thereof as may have thereby become unnecessary.

or Ferry to be used within One Mile of the same.

LIX. And be it further enacted, That the Money arising from the Toll or Pontage on the said Bridge shall be applied to and for the upholding the said Bridge and Toll House thereon, for making Compensation to the Proprietors of such Ferries as aforesaid, and for paying the Interest of the Money to be borrowed relative to the same, and the Surplus of the said Toll or Pontage shall be applied to pay off the Money so borrowed, and afterwards in such Manner towards the Purposes of this Act as the said Company of Proprietors shall think proper and direct.

Application of Money.

LX. Provided also, and it is hereby further enacted, That no Person or Persons shall be liable to pay any Pontage at the said Bridge, for any Railway Carriage, nor for any Carriage laden with or going empty for or returning empty after having been laden with Stones, or other Materials for repairing any public Roads, or the Bridges and the Causeways belonging to the same, nor for any Carriage or Cattle passing from one Part of a Farm to another, nor for any Carts, Wains, Waggon, or other Carriages carrying any Hay, Corn in the Straw, or any Produce of a Farm, or going empty for or returning empty after having carried the same to be laid up in the Houses, Outhouses, Barns, or Yards belonging to such Farm, (without Prejudice nevertheless to the said Pontage being paid for Hay, Corn in the Straw, or any other Produce of a Farm, when carried for Sale, or for Delivery after being sold), nor for Horses or Cattle going to or returning from Pasture, or to or from Watering Places, being within the Farm to which they respectively belong, or going to be shod or farried, or returning therefrom; nor shall any Pontage be demanded from any Person or Persons who shall pass over the Bridge to Church or Chapel, or any other Place of Religious Worship in the Parish within which the Person resides, upon *Sunday*, or on any

Exemption from Pontage.

other Day on which Divine Service is ordered by Authority to be celebrated; nor for Persons attending the Funeral of any Person or Persons who shall die and be buried within the Parish in which such Person resides; nor from any Clergyman going to or returning from visiting any sick Person, or upon other his parochial or ministerial Duty; nor for any Horses or Carriages employed in carrying or conveying the Mails of Letters or Expresses under the Authority of His Majesty's Postmaster General, either when employed in conveying the same, or in returning after having conveyed the same; nor for any Waggon, Wain, Cart, or other Carriage whatsoever, or the Horse or Horses or other Cattle drawing the same, which shall be employed in conveying any Ordnance, Barrack or Commissariat or other Public Stores, of or belonging to His Majesty, or for the Use of His Majesty's Forces; nor for the Horses or Carriages of Officers or Soldiers upon their March, or upon Duty; nor any Horses, Cattle, or Carriages employed in carrying and conveying the Arms or Baggage of any such Officers or Soldiers, or in carrying any sick, wounded, or disabled Officers or Soldiers, or in returning from carrying the same; nor for any Horse, Mare, or Gelding, furnished by or for any Persons belonging to any Corps of Yeomanry or Volunteer Cavalry or Infantry, and rode by them in going to or returning from the Place appointed for and on the Days of Exercise; provided always, that such Person shall be dressed in the Uniform of their respective Corps, and have their Arms, Furniture, and Accoutrements, according to the Regulations appointed for each Corps respectively; nor for Carts, Carriages, or Waggons, travelling with and conveying Vagrants or Criminals, sent with legal Passes, or returning from conveying the same; and if any Person shall claim and take the Benefit of any of the said Exemptions, not being legally entitled to the same, every such Person shall for every such Offence forfeit and pay a Sum not exceeding Forty Shillings.

Penalty of claiming Exemption where not entitled.

Exempting Carriages with Stores.

LXI. And be it further enacted, That no Person owning or driving, or causing to be driven, any Waggon, Wain, Cart, or other Carriage, provided for the Service of His Majesty's Forces, or conveying any Ordnance, Barrack, or Commissariat or other Public Stores, of or belonging to His Majesty, or for the Use of His Majesty's Forces, shall be subject to any Penalty or Forfeiture for Overweight; nor shall any such Waggon, Wain, Cart, or other Carriage, be stopped or detained by Reason of any Weight in any such Waggon, Wain, Cart, or other Carriage, or of being drawn by any Number of Horses or Oxen; but it shall be lawful for any Owner or Driver of any such Waggon, Wain, Cart, or other Carriage, to put any Number of Horses or Oxen to such Waggon, Wain, Cart, or other Carriage; any Thing in any Act or Acts of Parliament relating to Highways or Turnpike Roads or in this Act contained to the contrary notwithstanding.

Penalty on fraudulent Claim of Exemption from Rates.

LXII. Provided also, and be it further enacted, That if any Person or Persons shall claim a Right to carry or convey any Articles on the said Railway, or over the said Bridge, exempt from or on Payment of the lower Rates, Tolls, Duties, or Pontage, before mentioned, who shall not be entitled thereto, or shall use or dispose of any of the Articles liable to Exemption or only to the Payment of such Lower Rates, Tolls, Duties, or Pontage for any other Purpose, than those in respect of which such Articles are hereby exempted or made liable only to such Lower Rates, Tolls, Duties,

Duties, or Pontage, and shall be thereof convicted before any Justice of the Peace, every Person so offending shall, for every such Offence, forfeit and pay to the said Company of Proprietors or their Successors, any Sum not exceeding Five Pounds, to be levied by Distress and Sale of his and their Goods and Chattels.

LXIII. And be it further enacted, That the Rates and Pontage herein authorized to be demanded and taken, shall be paid to such Person or Persons at such Place or Places at or near the said Railway and Bridge, in such Manner and under such Regulations as the said Company of Proprietors, at some General or Special Assembly or Assemblies shall direct or appoint; and in case of Denial or Neglect of Payment of any such Rates or Pontage, or any Part thereof, on Demand to the Person or Persons 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 of His Majesty's Courts of Record at *Westminster*, or by Action in any Court competent in *Scotland*, or the Person or Persons to whom the Rates and Pontage ought to have been paid, may, and he or they is and are hereby authorized to seize the Goods, Beasts, or other Things, for or in respect whereof any such Rates or Pontage ought to have been paid, or any Part thereof, and the Waggon or other Carriage laden with such Goods or other Things, and retain the same until such Payment shall be made, and also until Payment of all Arrears of any Rate or Pontage which may be due from the Owner or Owners of such Waggon or other Carriage, as the Case may be, to the said Company of Proprietors, together with the reasonable Charges for such Seizure and Detention; and if such Beasts or Goods shall not be redeemed within Five Days next after the taking thereof, the same shall be appraised and sold, returning the Overplus (if any there be) upon Demand to the Owners thereof after such Rates and Pontage, and the reasonable Charges of distraining, keeping, and selling the same, shall be deducted and paid; and the said Company of Proprietors shall have full Power from Time to Time at any General Assembly to lower or reduce all or any of the said Rates and the said Pontage, and again to raise the same, as they shall think proper, not exceeding the Rates and Pontage before mentioned, as often as shall be deemed necessary.

Recovery of Rates.

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

Company empowered to lease the Rates.

or the Clerk to the said Company of Proprietors, by Advertisement published in such Newspaper, or by Notice to such Proprietors as aforesaid, at least Twenty-one Days prior to any such General Assembly at which the said Rates or any Part thereof, or the said Pontage are proposed to be let as aforesaid.

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

LXV. And, for the better ascertaining and more easily collecting the said Rates and Pontage, be it further enacted, That the Owner or Owners, Person or Persons having the Care of any Waggon or other Carriage passing upon the said Railway, or any Part thereof respectively, or over the said Bridge, shall give an exact and true Account in Writing signed by him or them to the Collectors of the said Rates and Pontage, at the Place or Places where they shall attend for that Purpose, of what Quantity of Goods or other Things as aforesaid shall be in such Waggon or other Carriage, and from whence brought, and where the same are intended to be unloaded or left; and in case any Person shall neglect or refuse to give such Account or to produce his Bill of Lading to any such Collector demanding the same, or shall give a false Account, or shall deliver any Part of his Lading or Goods at any other Place or Places than what is or are mentioned in such Account, with Intent to avoid the Payment of the said Rates, or any Part of them, or the said Pontage, he shall forfeit and pay any Sum not exceeding Twenty Shillings for every Ton of Goods and other Things and so in proportion for any less Quantity than a Ton which shall be in any such Waggon or other Carriage, of which such Account shall be so refused to be given, or which shall be fraudulently delivered out as aforesaid, as the Case shall happen to be, over and above the respective Rates directed by this Act to be paid for the same.

Weight of Tonnage, &c. ascertained.

LXVI. And, for the better ascertaining the Tonnage of Goods and other Things to be charged with the Payment of such Rates as aforesaid, be it further enacted and declared, That One hundred and twelve Pounds Avoirdupois shall for the Purposes of this Act be deemed, rated, or estimated as and for One hundred Weight, any Usage to the contrary notwithstanding.

If any Difference concerning Weight, Collectors may weigh or measure Waggon.

LXVII. And be it further enacted, That if any Difference shall arise between any Collector of the said Rates and Pontage and the Owner or Person having the Charge of any Waggon or other Carriage, or the Owner of any Goods or other Things, it shall be lawful for any such Collector to stop and detain any such Waggon or other Carriage, and to weigh, measure, or gauge, such Waggon or other Carriage, and all such Goods and other Things as shall be therein contained respectively; and in case the same shall upon such weighing, measuring, or gauging, appear to be of greater Weight or Quantity than what is set forth and contained in the Account given thereof as aforesaid, then the Owner or Person giving in such Account shall pay the Costs and Charges of such weighing, measuring, and gauging, all which said Costs and Charges, upon Refusal of Payment thereof upon Demand, shall and may be recovered and levied by such Ways and Means and in such Manner as the said Rates and Pontage are hereby appointed to be recovered and levied; 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, and gauging, and also pay to

to such Owner or Person, or to the Owner or Owners of such Goods or other Things, such Damages as shall appear to have arisen from such Detention; and in Default of immediate Payment thereof by the Collector, the same shall be recovered from the said Company of Proprietors by Action of Debt in any of His Majesty's Courts of Record at *Westminster*, or by Action in any Court competent in *Scotland*, or in such other Manner as any of the Penalties or Forfeitures hereby imposed upon the said Company of Proprietors, their Agents, Servants, or Workmen, may be recovered and levied by virtue of this Act.

LXVIII. And be it further enacted, That all Persons whatsoever shall have free Liberty to pass upon and use the said Railway with Waggon or other Carriages properly constructed as herein-after mentioned, and to use the Wharfs hereby authorized to be made, upon Payment only of such Rates as are authorized to be received by this Act; and all Persons whatsoever, Carriages, and Cattle, shall have free Liberty to pass over and use the said Bridge upon Payment of such Pontage as is authorized to be taken by this Act, and subject to the Rules and Regulations which shall be from Time to Time made by the said Company of Proprietors by virtue of the Powers herein granted, except as after mentioned.

Passage on the Railway and Bridge, to be free upon Payment of Rates and Pontage.

LXIX. And be it further enacted, That if any Person or Persons save and except the Committee of the said Company of Proprietors, their Agents or Servants, or others in company with them, or the Owners and Occupiers of the respective Lands or Grounds, through which the said Railway shall be made, and his and their Servants and Workmen, shall ride, lead, or drive, or cause to be rode, led, or driven upon such Railway, or any Part thereof, any Horse, Mare, or Gelding, Mule, or Ass, or shall lead or drive, or cause to be led or driven thereon, any Cow or other Neat Cattle, Sheep, Swine, or any other Beast or Animal (except only in crossing the same at Places to be appointed for that Purpose, and for the necessary Occupation of the respective Farms through which the same Railway may be laid), he, she, or they shall forfeit and pay to the said Company of Proprietors any Sum not exceeding Forty Shillings.

Strangers not to travel on Horseback, &c. on Railways.

LXX. And be it further enacted, That no Person shall pass upon any Part of the said Railway with any Waggon or other Carriage whatsoever, unless the same shall be constructed according to the Orders and Regulations of the said Company of Proprietors, which Orders and Regulations shall be affixed upon a conspicuous Part of every Toll House erected on such Railway, for collecting the Rates of Tonnage by this Act imposed, (except in crossing the same for the convenient Occupation of the adjacent Grounds, and in passing any public or private Carriage Road, which may happen to cross the said Railway); and that if any Person or Persons shall pass upon any Part of the said Railway with any Cart, Waggon, or Carriage, not constructed in Manner by this Act directed, (except as before excepted) he, she, or they so offending, shall for every such Offence forfeit and pay any Sum not exceeding Ten Pounds to the said Company of Proprietors.

No Waggon to pass on the Railway except properly constructed.

LXXI. And, for the better Regulation of the Owners of Waggon and other Carriages, and others employed by or under them respectively, and for the more easy Detection of any Thing by them done con-

[Los. & Per.]

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Owners to put their Names on outside their Waggon.

trary to the Directions of this Act; be it further enacted, That every Owner of any Waggon or other Carriage passing along the said Railway, shall cause his or her Name and Place of Abode, and the Number of his or her Waggon or other Carriage, to be printed in large White Capital Letters and Figures on a Black Ground, Two Inches high at the least, and of a proportional Breadth, on some conspicuous Part of the Outside of every such Waggon or other Carriage, and shall permit and suffer every such Waggon or other Carriage to be gauged or measured at the Expence of the said Company of Proprietors, whenever it shall be required by them, or any Person or Persons appointed for that Purpose, provided that no such Waggon or other Carriage shall be gauged or measured more than Four Times in any One Year; and every Owner of any Waggon or other Carriage which shall pass on any Part of the said Railway, without having such Name and Figures thereon as herein-before directed; and every Person who shall alter, erase, deface, or destroy the same, or any Part thereof, or who shall refuse to permit and suffer the same to be gauged and measured, shall for every such Offence forfeit and pay any Sum not exceeding Five Pounds.

Owners of
Waggons
answerable
for Damages.

LXXII. And be it further enacted, That the Owner or Owners of every Waggon or other Carriage passing upon the said Railway, or over the said Bridge, shall be, and is and are hereby made answerable for any Damage, Spoil or Mischief that shall be done by his, her or their Waggon, or other Carriage, or any of his, her or their Waggons, or other Persons belonging to, or employed by him, her, or them, in or about the same respectively, unto the Railway, Bridge, or other Works to be made by virtue of this Act, or by loading or unloading any Waggon or other Carriage, and for any Trespass or Damage that shall or may be done to the Owners or Occupiers of any Buildings, Lands, Tenements or other Property, adjoining or lying near to the same or any of them, or any other Trespass whatsoever, and the said Owner or Owners of such Waggon or other Carriage, shall for every such Damage, upon Conviction of such Person or Persons before any Justice of the Peace, either by the Confession of the Party or Parties offending, or upon the Oath of one or more credible Witness or Witnesses (which Oath or Oaths such Justice is hereby empowered and required to administer) pay to the Person or Persons injured the Damages, to be ascertained by such Justice, provided that such Damages do not exceed the Sum of Five Pounds, and also shall, over and above such Damages, forfeit and pay to the Informer any Sum not exceeding Forty Shillings, and all Costs, Charges and Expences attending such Conviction, which Damages, Penalties and Costs shall be levied by Distress and Sale of the Goods and Chattels of the Owner or Owners of such Waggon or other Carriage, by Warrant or Warrants under the Hand and Seal of such Justice if in *England*, or under his Hand if in *Scotland*, and the Overplus (if any) after such Penalty, Damages, and the Costs and Charges of such Distress and Sale are deducted, shall be returned upon Demand to the Owner or Owners of such Goods and Chattels; or if the said Damages shall exceed the Sum of Five Pounds, then and in such Case the Owner or Owners of such Waggon or other Carriage shall and may be prosecuted for the same in any Court of Record at *Westminster*, or in any Court competent in *Scotland*; and if a Verdict pass against him or her, or Judgment be given against him or her, the Plaintiff or Pursuer in such Case shall recover his Damages thereby sustained, with full Costs of Suit.

LXXIII. Provided

LXXIII. Provided always, That in case the Owner or Owners of any Waggon or other Carriage as aforesaid, shall be compelled to pay any Penalty, or to make Satisfaction for any Damage by reason of any wilful Neglect or Default done or committed by his, her or their Servant or Servants, such Servant or Servants shall be liable, to repay such Penalty or Satisfaction to such Owner or Owners, and in case of Non payment upon Demand thereof, and Oath made by such Owner or Owners of the Payment by him, her or them of such Penalty or Satisfaction, and that the same hath not been paid to her or them by such Servant or Servants although demanded, (such Oath to be made before one Justice of the Peace) the same Penalty and Satisfaction shall be levied by Warrant of such Justice by Distress and Sale of the Goods and Chattels of such Servant, together with all Costs and Charges attending such Distress and Sale, and the said Penalty and Satisfaction when recovered, shall be paid to such Owner or Owners in Discharge of such Penalty and Satisfaction so by him paid for the wilful Act or Default of such Servant or Servants as aforesaid; and in case no sufficient Distress can be had, such Justice of the Peace shall, and is hereby required to commit such Servant to the Common Gaol or House of Correction for the County where the Offence may be committed, there to remain without Bail or Mainprize for any Time not exceeding Six Months.

Owners to recover back from their Servants any Sums paid for their Neglect or Default.

LXXIV. And be it further enacted, That if any Waggon or other Carriage shall be placed or suffered to remain on any Part of the said Railway, Bridge, or other Works, so as to obstruct the Passage thereof, and the Person having the Care of such Waggon or other Carriage, shall not immediately upon Request made, remove such Waggon or other Carriage, he shall forfeit for every such Offence any Sum not exceeding Five Shillings for every Hour such Obstruction shall continue after the making of such Request; and it shall be lawful for any Agent or Officer to the said Company of Proprietors to cause any such Waggon or other Carriage to be unloaded if necessary, and to be removed in such Manner as shall be proper for preventing such Obstruction, and detain such Waggon or other Carriage, and the Loading thereof, until the Charges occasioned by such Removal shall be paid, and if such Payment shall not be made within the Space of One Week, then it shall be lawful for the said Company of Proprietors to sell and dispose of such Waggon or other Carriage, with the Loading thereof, in such Manner as before directed with regard to Distress, rendering to the former Owner of such Waggon or other Carriage the Overplus, after such Expences and the Charges of such Sale shall be deducted.

Penalty on leaving Waggon, &c.

LXXV. And be it further enacted, That if any Person shall suffer the Loading of any Waggon or Carriage using the said Railway or Bridge to lie over the Sides of such Waggon or other Carriage, or shall overload any such Waggon or other Carriage so as to obstruct the passing of any other Waggon or other Carriage, and shall not immediately upon Notice to him given for that Purpose remove such Obstruction, or if any Person shall throw any Gravel, Stones, Rubbish, or other Matter or Thing into or upon any Part of the said Railway, Bridge, or other Works to be made by virtue of this Act, every Person so offending shall forfeit and pay for every such Offence any Sum not exceeding Five Pounds.

Penalty on Persons obstructing the using of the Works.

LXXVI. And

On damaging
Railway, &c.

LXXVI. And be it further enacted, That if any Person shall wilfully, maliciously, and to the Prejudice of the said Undertaking, break, throw down, destroy, steal, or take away any Part of the said Railway, Bridge, or other Works to be erected and made by virtue of this Act, every Person so offending, and being thereof lawfully convicted, shall forfeit and pay for every such Offence any Sum not exceeding Fifty Pounds.

Company
empowered
to make and
erect Gates,

LXXVII. And be it further enacted, That the said Company of Proprietors shall at their own proper Costs and Charges within One Month next after any Part of the said Railway shall be laid out and formed, at their own Costs and Charges make, erect, and set up, and from Time to Time maintain and support such and so many convenient Gates in and upon the said Railway, and also all Bridges, Arches, Culverts, Ditches, Drains, and Passages over and by the Side of the said Railway, of such Dimensions and in such Manner as the said Company of Proprietors shall at any of their Meetings from Time to Time judge necessary and appoint for the Use of the Owners and Occupiers of the Lands and Grounds through which such Railway shall be made, or for protecting the said Lands and Grounds from Trespass, or the Cattle or other Property of the Owners or Occupiers thereof from straying or escaping thereout by Reason of such Railway, or any other Matter or Thing to be done in pursuance of this Act; and all such Gates, Bridges, Arches, Ditches, Drains, and Passages so to be made as aforesaid, shall from Time to Time and at all Times thereafter be supported, maintained, and kept in sufficient Repair and Condition by the said Company of Proprietors; and in case the said Company of Proprietors shall refuse or neglect to make, erect, and set up such Gates, Bridges, Arches, Ditches, Drains, and Passages as herein-before directed, or to maintain and support the same, or any of them, when erected, set up, and made, in Manner as aforesaid, for the Space of Six Calendar Months next after being thereto required by the Owners or Occupiers of the contiguous Lands and Grounds, then and in every such Case it shall be lawful for every or any of the Owners or Occupiers of the said Lands or Hereditaments who shall find himself, herself, or themselves aggrieved by such Neglect or Refusal to make, erect, and set up all such Gates, Bridges, Arches, Culverts, Ditches, Drains, and Passages; and to maintain, repair, and support the same from Time to Time, as Occasion shall require, so that in making and maintaining such Gates, Bridges, Arches, Culverts, Ditches, Drains, and Passages as aforesaid, the said Railway and other Things hereby authorized to be made or erected by the said Company of Proprietors, shall not be obstructed or injured for any longer Space of Time, or in any other Manner, than shall be necessary for the doing thereof; and all the reasonable Costs and Charges thereof shall be repaid to the respective Owners or Occupiers of the said Lands, Hereditaments, or Heritages, who shall have so erected and made, repaired or maintained, such Gates, Bridges, Arches, Culverts, Ditches, Drains, and Passages as aforesaid, by the said Company of Proprietors, within the Space of Two Calendar Months next after the same shall have been so completed or repaired, and an Account and Demand in Writing shall have been delivered and made thereof to and from the said Company of Proprietors by Delivery of such Account on Demand to the Treasurer or Clerk of the said Company of Proprietors for the Time being, and in Default of Payment of the said Costs and Charges within the Time aforesaid, any One Justice of the Peace for the said Counties of *Durham,*

ham, Berwick, or Roxburgh shall be and he is hereby required upon the Application of such Owners or Occupiers, by Warrant under his Hand and Seal if in *England*, or under his Hand if in *Scotland*, to levy the said Costs and Charges by Distress and Sale of any of the Goods and Chattels of the said Company of Proprietors for the Use of such Person or Persons who shall have so incurred such Costs and Charges, rendering to the said Company of Proprietors the Overplus (if any) after deducting the reasonable Charges of making such Distress and Sale, to be settled by such Justice; and every or any of the said Owners or Occupiers, upon Refusal or Neglect of the said Company of Proprietors to pay the said Costs and Charges as aforesaid, shall and may also have such and the like Remedy against them or any of them for the Recovery thereof, by Action at Law, to be commenced and prosecuted in such Manner as in other Cases is by this Act directed.

LXXVIII. Provided always, and be it further enacted, That if the Owners or Occupiers of any Lands, Hereditaments, or Heritages through which the said Railway shall be made, in the Case aforesaid, do or shall at any Time or Times hereafter, apprehend that any of the Gates, Arches, Culverts, Ditches, Drains, and Passages respectively made by the said Company of Proprietors, are insufficient either in their Number or Situation, for the commodious Use and Occupation of the respective Lands, Hereditaments, or Heritages through which the said Railway shall pass, then and so often, or in any such Case, it shall be lawful for any such Owners, or Occupiers, with the Consent and Approbation of the said Company of Proprietors upon Request made to them, or their Clerk or Treasurer for the Time being, or in case of their Refusal for the Space of One Calendar Month next after such Request made, then to make, fix, and erect at their own Costs and Charges any such other Gates, Bridges, Arches, Culverts, Ditches, Drains, or Passages in, upon, or near to the said Railway, in such Places as shall be found and adjudged most necessary and convenient for the better Use, Cultivation, Improvement, or Occupation of such Lands, Hereditaments, or Heritages, and to repair and support the same at their own like Costs and Charges as Occasion shall require, so that the Passage through or along the said Railway be not prevented or obstructed thereby, for any longer Space of Time, or in any other Manner than the same would necessarily have been if such Gates, Bridges, Arches, Culverts, Ditches, Drains, and Passages, had been made or erected by the said Company of Proprietors.

Owners of Lands empowered to erect Gates, &c. on Insufficiency of those erected by the Company.

LXXIX. Provided always, That it shall be lawful for the Owners and Occupiers of the respective Lands or Grounds through which the said Railway shall be made, and his and their Servants and Workmen, Cattle and Carriages, at all Times to pass and repass over, upon, and across such Part of the said Railway as shall be made in and upon or immediately adjoining to their said Lands or Grounds respectively, not damaging or obstructing the same or the Passage thereof, nor using Railway Carriages thereon.

Owners and Occupiers to pass along Railways.

LXXX. Provided always, nevertheless, and be it further enacted, That the said Company of Proprietors shall, and they are hereby empowered and

For fencing off Railways through private Lands.

[Loc. & Per.]

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required,

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

Fences not to be made on the Space allowed for the Breadth of the Railway.

LXXXI. Provided always, and be it enacted, That where Fences shall be made by the said Company of Proprietors, the same shall be made on the Lands of the adjacent Owners of Land, and not upon the Space allowed for the Breadth of the said Railway and other Works.

Power to Owners of enclosed Lands to require the Expence of making new Fences to be paid to them.

LXXXII. And be it enacted, That if the Owners of enclosed Lands or Grounds taken for the Use of the said Railway shall so require it, the said Company of Proprietors are hereby required, over and above the Value of the Land occupied by the said Railway, to pay to the respective Owners of such enclosed Lands as aforesaid, such Sums of Money as the said Company of Proprietors shall judge reasonable, for the Purpose of making and erecting proper and sufficient Fences on the Sides of the said Railway, for the whole Length of the enclosed Land or Grounds of such Owners, over and along which the said Railway shall be made; and if the Sum offered by the said Company of Proprietors shall not be deemed sufficient, or be refused to be accepted by such Owner or Owners of enclosed Lands or Grounds, then and in that Case the Amount of the Sum or Sums to be paid to such Owner or Owners shall be ascertained by a Jury in the same Manner and with the like Effect as is herein-before directed, in the Case of the Disagreement of the said Company of Proprietors and the Owners of Lands taken for the Purposes of this Act, touching the Price or Value of such Land: Provided also, that in the Case of Money so paid for erecting Fences to such Owners of enclosed Lands or Grounds, such Owners shall and they are hereby required to make and erect such Fences in a good and sufficient Manner within Twelve Months after such Money shall have been paid to them by the said Company of Proprietors; and if such Fences shall not be so made within such Time, it shall and may be lawful for the said Company of Proprietors to make and erect such Fences, at the Expence of such Owner or Owners to whom such Money shall have been so paid,

paid, to be levied and recovered from such Owner or Owners in the same Manner as is herein-after directed, with regard to the Recovery of Penalties or Forfeitures; and in every such Case the Powers, Provisions, Directions, and Regulations herein-before contained with respect to the Gates and other Works as aforesaid, shall extend and apply, and be applicable to the making and maintaining of such Fences, as fully and effectually to all Intents and Purposes as if the said Powers, Provisions, Directions, and Regulations were herein repeated and re-enacted with respect to such Fences.

LXXXIII. And be it further enacted, That all and every Person or Persons opening any Gate set up across the said Railway, or if more than One Person shall closely and immediately follow each other, then the last of such Persons shall, and he and they is and are hereby directed and required, so soon as he or they, and the Waggon or other Carriage, shall have passed through the same, to shut and fasten the same; and every Person neglecting so to do, shall forfeit and pay for every such Offence a Sum not exceeding Five Pounds, to be levied and recovered as herein-after mentioned; and the Money arising by such Forfeiture or Forfeitures, shall be applied in the Manner following; (that is to say), One Half thereof shall be paid to the Informer, and the other Half to the Poor of the Township or Parish where such Offence shall be committed; any Thing herein contained to the contrary notwithstanding.

Gates to be shut and fastened after Waggons shall have passed through, on Penalty of Five Pounds.

LXXXIV. And be it further enacted, That if any Wharfinger, or other Servant belonging to the said Company of Proprietors, shall give any Preference, or shew any Partiality to any Person or Persons in loading or unloading any Goods, Wares, or Merchandizes, at any of the Wharfs, Warehouses, Weighbeams, Cranes, and other Machines belonging to the said Company of Proprietors, and shall be thereof convicted before One or more of His Majesty's Justices of the Peace, every Person so offending shall forfeit and pay for every Offence any Sum not exceeding the Sum of Twenty Shillings.

To prevent Wharfingers giving any Preference.

LXXXV. And be it further enacted, That it shall be lawful for the Lord or Lords, Lady or Ladies, of any Manor or Manors, and the Owner or Owners of any Lands or Grounds near to, through, or by which the said Railway shall be made, to erect and use any Wharfs, Cranes, Weighbeams, or Warehouses, in or upon his, her, or their respective Lands or Grounds adjoining or near to the said Railway, and to unload any Goods or other Things upon such Wharfs, or upon the Banks and Grounds lying between the same and the said Railway, and also to make and use proper and convenient Places for Waggons, Carts, and other Carriages, to lie and turn in and pass each other, so that the making or using thereof do not obstruct or prejudice the Passage of the said Railway; and that all Rates or Tolls which shall be paid for the Use of such Wharfs, Cranes, Weighbeams, and Warehouses respectively, shall be, and the same are hereby accordingly vested in the Lord or Lords, Lady or Ladies, of such Manor or Manors, or the Owner or Owners of such Lands or Grounds who shall make and erect the same as aforesaid, and his, her, and their Representatives,

Lords of Manors may erect Wharfs on their own Lands.

sentatives, so that the Rates and Powers herein granted to the said Company of Proprietors be not thereby reduced, altered, or infringed.

But if they refuse when required by the Company of Proprietors, the Company of Proprietors may erect the same.

LXXXVI. And be it further enacted, That if any such Lord or Lords, Lady or Ladies, Owner or Owners, shall not within the Space of Six Calendar Months next after the Notice given in Writing to him, her, or them, or left at his, her, or their usual Place or Places of Abode, by or on Behalf of the said Company of Proprietors, that any Part of such Lands or Grounds is necessary or proper to be used by them for the Purpose of erecting and making Wharfs, Warehouses, and Buildings, for the Use of the said Railway, make, erect, and lay out, and from Time to Time maintain and keep in good and substantial Repair, such proper and sufficient Wharfs, Warehouses, and Buildings, for the Use of the said Railway, on the respective Part or Parts of the Lands and Grounds described in such Notice, then and in every or any such Case the said Company of Proprietors shall have full Power and Authority, without any Hindrance or Restraint whatsoever, to make use of such Lands or Grounds, (not being the Ground whereon any House or other Building stands, or any Garden, Orchard, Yard, Park, Paddock, Planted Walk, or an Avenue to any House), for erecting and building proper and sufficient Wharfs, Warehouses, and Buildings respectively, agreeably to such Notice as aforesaid, they the said Company of Proprietors first making Satisfaction for the same, in such Manner as is herein-before directed with respect to any other Lands or Grounds which shall be taken or used by the said Company of Proprietors for the Purposes of this Act, and then and in such Case all Rates or Tolls which shall be paid for the Use and Benefit of such last mentioned Wharfs, Cranes, Weighbeams, and Warehouses respectively, shall be and the same are hereby accordingly vested in the said Company of Proprietors, and their Successors.

Penalty on Persons taking in or unloading Goods unless at a public Wharf.

LXXXVII. And be it further enacted, That if any Person or Persons working or employed in working any Waggon or other Carriage upon the said Railway, shall load, unload, or take into any such Waggon or other Carriage, any Goods, Wares, Merchandizes, or Commodities whatsoever, liable to pay any of the Tolls, Rates, or Duties herein-before mentioned, for the Purpose of evading the said Tolls, Rates, or Duties, or any of them, at any other Place or Places than at the Wharfs or Quays hereby authorized to be made, such Person or Persons shall forfeit a Sum not exceeding Forty Shillings.

Rates of Wharfage.

LXXXVIII. And be it further enacted, That no more than the Sum of One Penny *per* Ton shall be demanded or taken by any such Lord or Lords, Lady or Ladies, Land Owner or Owners, who shall make, erect, or build any such Wharfs in pursuance of the Notice to be given by or on behalf of the said Company of Proprietors to such Lord or Lords, Lady or Ladies, Owner or Owners for that Purpose as aforesaid, or by the said Company of Proprietors under the Power herein-before for that Purpose contained (as the Case may be), for the Wharfage of any Coals, Culm, Lime, Limestone, Clay, Iron, Tin Plates, Iron Stone, Lead Ore, or any other Ores, Timber, Stone, Bricks, Tiles, Slates, Gravel, Hay, Straw, Corn in the Straw, or Manure, nor more than Three-pence *per* Ton for the Wharfage of

of any other Goods, Wares, Merchandizes, or Things whatsoever, where the same shall be respectively placed and remain upon any such Wharf and shall not continue thereupon for a longer Space of Time than Six Days, except Coals, Culm, Lime, Limestone, Clay, Iron, Tin Plates, Iron Stone, Lead Ore, or other Ore, Timber, Stone, Bricks, Tiles, Slates, Gravel, Hay, Straw, Corn in the Straw, and Manure, which may remain thereupon for One Calendar Month, upon Payment of Three-pence *per* Ton: Provided nevertheless, that in case any of the said Articles shall be left and remain in and upon any such Wharfs for the Space of Ten Days over and above the Time hereby limited for the same respectively, then the Owner or Owners of such Articles shall pay the Proprietors of such Wharfs One Penny *per* Ton for such Ten Days, and One Penny *per* Ton for every further Day which such Articles shall remain upon such Wharfs after the Expiration of the said Ten Days: Provided always, that it shall be lawful for the said Company of Proprietors to erect, repair, and use any Cranes or Weighing Machines upon any such Wharfs last mentioned, for the more convenient loading and unloading and weighing of any such Minerals or other Goods, Wares, Merchandizes, or Commodities, in case the Proprietors of such Wharfs shall neglect or refuse to make and erect the same for the Space of Three Calendar Months after they shall have received 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 in this Act contained to the contrary thereof notwithstanding.

LXXXIX. 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 Wharfs, Cranes, Weighbeams, or Warehouses which shall be set out, erected, or made by the Lord or Lords, Lady or Ladies of any Manor, or the Owner or Owners of any Lands or Grounds adjoining or near to the said Railway, for his, her, or their own private Use only, or to set up, erect, or use any Cranes, or Weighing Machines in or upon any such Wharfs, without the Consent of such Lord or Lords, Lady or Ladies, Owner or Owners, unless such private Wharfs shall be by the said Company of Proprietors deemed necessary for the Purposes of the said Undertaking, in which Case the same shall or may be used in the same Manner as if the same had been set out, erected, or made in pursuance and for the general Purposes of this Act.

Regulations
respecting
private
Wharfs.

XC. And be it further enacted, That if at any Time or Times hereafter any Person or Persons shall sustain any Damage in his, her, or their Lands, Tenements, Hereditaments, Heritages, or Property, by reason of the Execution of any of the Powers hereby given, and for which no Remedy is herein-before provided, then and in every such Case, the Recompence or Satisfaction for such Damage shall from Time to Time be settled and ascertained in such Manner as herein-before directed, in respect to any other Recompence or Satisfaction herein-before mentioned.

For making
Recompence
for Damages
not herein-
before parti-
cularly pro-
vided for.

XCI. And be it further enacted, That all Penalties or Forfeitures for Offences against this Act, or any Rule, Bye Law, or Order to be made by

Recovery of
Forfeitures.

[*Loc. & Per.*]

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the Company of Proprietors or Committee as aforesaid, shall upon Proof of the Offences respectively before any Justice of the Peace for the said Counties of *Durham*, *Berwick*, or *Roxburgh*, where the Matter of Complaint may arise, either by the Confession of the Party or Parties, or by the Oath of any credible Witness, be levied and recovered by Distress and Sale of the Goods and Chattels of the Party or Parties offending, by Warrant under the Hand and Seal of such Justice, if in *England*, or under his Hand if in *Scotland* (which Warrant such Justice is hereby empowered and required to grant), and the Overplus, after such Penalties or Forfeitures, and the Charges of such Distress and Sale, are recovered and deducted, shall be returned upon Demand, to the Owner or Owners of such Goods and Chattels; and in case sufficient Distress cannot be found, or such Penalties or Forfeitures shall not be forthwith paid, it shall be lawful for such Justice, by Warrant under his Hand and Seal, if in *England*, or under his Hand if in *Scotland*, to cause such Offender or Offenders to be committed to the Common Gaol or House of Correction for the said Counties respectively where the Matter of Complaint may arise, there to remain without Bail or Mainprize for such Time as such Justice shall direct, not exceeding Two Calendar Months, unless such Penalties or Forfeitures, and all reasonable Charges attending the Recovery thereof, shall be sooner paid and satisfied; and such Penalties and Forfeitures, the Application whereof is not hereinbefore particularly directed, shall go and belong to the said Company of Proprietors, and be applied for the Purposes of this Act.

That Distress shall not be deemed unlawful for want of Form.

XCII. And be it further enacted, That where any Distress shall be made for any Money to be levied by virtue of this Act, the Distress itself shall not be deemed unlawful, nor the Party or Parties making the same be deemed a Trespasser or Trespassers, on account of any Defect or Want of Form in the Summons, Conviction, Warrant of Distress, or other Proceeding relating thereto, nor shall the Party or Parties distraining be deemed a Trespasser or Trespassers *ab initio* on account of any Irregularity which shall be afterwards committed by the Party or Parties distraining; but the Person or Persons aggrieved by such Irregularity shall and may recover full Satisfaction for the Special Damages in an Action to be brought for that Special Purpose.

Proceedings not to be quashed for want of Form.

XCIII. And be it further enacted, That no Proceedings to be had and taken in pursuance of this Act shall be quashed or vacated for Want of Form, or be removed by *Certiorari*, or any other Writ or Process whatsoever, into any of His Majesty's Courts of Record at *Westminster* or elsewhere, or by Suspension or Advocation into any of the Courts in *Scotland*, any Law or Statute to the contrary notwithstanding.

Form of Conviction.

XCIV. And, for the more easy and speedy Conviction of Offenders against this Act, be it further enacted, That all and every Justice or Justices of the Peace, before whom any Person or Persons shall be convicted of any Offence against this Act, shall and may cause the Conviction to be drawn up in the following Form of Words, or in any other Form to the same Effect, as the Case shall happen; (*videlicet*),

Durham County,
Berwickshire, or
Roxburghshire,
[as the Case may
be], to wit.

BE it remembered, That on the _____ Day of _____, in the Year of our Lord _____, _____ is convicted before me _____, One of His Majesty's Justices of the Peace for the said County, _____ [where the Matter of Complaint may arise, specifying the Offence, and Time and Place when and where the same was committed]. Given under my Hand and Seal, [or, under my Hand, if in Scotland,] the Day and Year aforesaid.

XCV. And be it further enacted, That any Person or Persons thinking himself, herself, or themselves aggrieved by any Order or Judgment made or given in pursuance of any Rule, Bye Law, or Order of the said Company of Proprietors, or by the Order or Determination of any Justice or Justices of the Peace, may within Two Calendar Months after such Order or Determination shall have been made or given, appeal to the Justices of the Peace at any General Quarter Sessions to be held for the County, or Place where such Cause of Appeal shall happen or arise, first giving Fourteen Days Notice, at the least, in Writing, of such Intention to Appeal, to the Parties interested in such Complaint; and the said Justices shall, in a summary Way, hear and determine the said Appeal at such Sessions, or if they think proper, may adjourn the hearing thereof to the next General Court of Quarter Sessions of the Peace to be held for the said County or Place, and if they see Cause, may mitigate any Penalty or Forfeiture, and may order any Money to be returned which shall have been levied in pursuance of such Rule, Bye Law, Order or Determination, and may also order any such further Satisfaction to be made to the Party injured as they shall judge reasonable; and may also order such Costs to be paid to the Party aggrieved, by the Party aggressing, as they in their Judgment shall think just and reasonable.

Appeal.

XCV. And be it further enacted, That no Action, Suit, or Information shall be brought, commenced, or prosecuted against any Person or Persons for any Thing done or to be done in pursuance of this Act, or in Execution of any of the Powers or Authorities, or any of the Orders made, given, or directed in, by, or under this Act, unless One Calendar Month's previous Notice in Writing shall be given by the Person or Persons intending to commence and prosecute such Action, Suit, or Information, to the said Company of Proprietors, or to their Clerk or Treasurer for the Time being, nor unless such Action, Suit, or Information shall be brought or commenced within Three Calendar Months next after the Fact committed; or in case there shall be a Continuation of Damage, then within Three Calendar Months next after the doing or committing such Damages shall cease, and not afterwards, and shall be laid or brought in the County where the Question may arise, and not elsewhere; and the Defendant or Defendants, Defender or Defenders in such Action, Suit, or Information, shall and may give this Act and the special Matter in Evidence at any Trial to be had thereupon, and that the same was done in pursuance and by the Authority of this Act; and if it shall appear to have been so done, or if such Action, Suit or Information shall have been brought or commenced before or after the respective Times so limited for bringing or commencing the same, or shall be brought in any other County than

Limitation of Actions.

than as aforesaid, then and in every such Case the Jury shall find for the Defendant or Defendants, or Judgment shall be given for the Defender or Defenders; and upon such Verdict, or if the Plaintiff or Plaintiffs shall become nonsuit, or suffer a Discontinuance of his, her or their Action, Suit or Information, after the Defendant or Defendants shall have appeared, or if a Verdict shall pass against the Plaintiff or Plaintiffs, or if Judgment shall be given against the Plaintiff or Plaintiffs, Pursuer or Pursuers, the Defendant or Defendants, Defender or Defenders, shall have Treble Costs, and shall have such Remedy for the same as any Defendant or Defender hath for Costs of Suit in any other Case by Law.

To be a Publick Act.

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

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