



ANNO QUINQUAGESIMO PRIMO

GEORGI II. REGIS.

Cap. 147.

An Act for improving the Harbour of *Dumfries*, and
the Navigation of the River *Nith*.

[10th June 1811.]

WHEREAS an Act was made in the Tenth Year of the Reign of His late Majesty King George the Second, intituled, *An Act for continuing an Act passed in the Third Year of the Reign of His late Majesty King George the First, for laying a Duty of Two Pennies Scots, or One-sixth Part of a Penny Sterling, on every Pint of Ale or Beer which shall be vended or sold within the Town of Dumfries, or Privileges thereof, for paying the Debts of the said Town, and for building a Chapel, and making a Harbour there; and for laying a Duty on the Tonnage of Shipping, and a Duty on Goods imported and exported into and out of the Port of the said Town, for the better repairing the said Harbour:* And whereas an Act was passed in the Second Year of the Reign of His present Majesty, intituled, *An Act for continuing and rendering more effectual an Act passed in the Tenth Year of the Reign of His late Majesty King George the Second, intituled, 'An Act for continuing an Act passed in the Third Year of the Reign of His late Majesty King George the First, for laying a Duty of Two Pennies Scots, or One-sixth Part of a Penny Sterling, on every Pint of Ale or Beer which shall be vended or sold within the Town of Dumfries or Privileges thereof, for paying the Debts of the said Town, and for building a Chapel, and making a Harbour there; and for laying a Duty on the Tonnage of Shipping, and a Duty on Goods*

10 G. 2.
c. 7.
2 G. 3.
c. 56.
imported

[Loc. & Per.] 36 G

27 G. 3.
c. 57.

imported and exported into and out of the Port of the said Town, for the better repairing of the said Harbour: And whereas another Act was made in the Twenty-seventh Year of the Reign of His present Majesty, intituled, *An Act for continuing and amending several Acts made in the Third Year of the Reign of King George the First, the Tenth Year of the Reign of King George the Second, and the Second Year of the Reign of His present Majesty, ' for laying a Duty of Two Pennies Scots, or One-sixth Part of a Penny Sterling, on every Pint of Ale or Beer that shall be vendid or sold within the Town of Dumfries and Privileges thereof, for paying the Debts of the said Town, for building a Church, and making a Harbour there, and for laying a Duty on the Tonnage of Shipping, and a Duty on Goods imported and exported into and out of the Port of the said Town, for the better repairing of the said Harbour ;' and for paving, cleansing, lighting, and watching the Streets, and other public Places within the said Town, and widening the Streets where necessary, and removing and preventing Nuisances therein: And whereas the said Harbour of Dumfries stands in need of further Repair, and little has been done towards improving the Navigation of the River, which if cleansed, deepened and straightened, would be of great Advantage to the Trade and Manufactures of the Burgh of Dumfries, the surrounding Country, and the Public in general: And whereas to attain these Purposes, it is necessary and proper to commit the Management thereof to Commissioners appointed by Parliament, with Power to levy certain Duties, and vested with Powers more ample than were given by the said Acts: And as these Purposes cannot be accomplished without the Aid and Authority of Parliament, may it therefore please Your Majesty, That it may be enacted, and be it enacted by the King's Most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That the said recited Acts, and all the Powers thereby given, so far as the same relate to the levying of Duties in the Port of Dumfries, and improving the Harbour thereof, and the Navigation of the River Nith, shall, from and after the passing of this Act, be and the same are hereby repealed.*

Acts of the
10 G. 2. and
2 & 27 G. 3.
repealed.

Commissioners ap-
pointed.

II. And be it further enacted, That the Provost, Three Baillies, the Dean of Guild, and the Deacon Convener of the Trades of the Burgh of Dumfries for the Time being, and the following Persons, who have severally subscribed the Sum of One hundred Pounds or upwards towards accomplishing the Purposes of this Act, that is to say, Sir Alexander Gordon of Culvennan Knight, William Johnstone Hope Esquire, Captain in the Royal Navy, John Murray of Murraythwaite, Alexander Maxwell of Terraughty, Aaron Schulyer Depiester of Mavisgrave, Peter Johnston of Carnsalloch, David Hunter of Killylung, John Murray the Younger of Tundergarth, Frederick Maxwell of Kerricks, Wellwood Maxwell of Barncleugh, James Walker of Crawfordtown, George Johnstone of Cowhill, Charles Granville Stuart Monteath of Gloseburn, James M'Courtie of Nunwood, Edward Boyd of Mertonhall, Archibald M'Murdo of Lochend, Gilbert Young of Youngfield, Lieutenant-Colonel Christopher Ewart, William Gordon of Deebank, Bryce M'Murdo of Netherdown, James Maxwell of Kirkconnell, Douglas Hamilton Craik of Arbigland, Marmaduke Constable Maxwell of Nithsdale, Robert Jardine of Cresswell, William Walker of Woodlands, Samuel Denholm Young of Gullybill, James Connell of Conbeath, William Maxwell of Netherwood Doctor
of

of Physic, *John Gilchrist* of *Speddock*, Doctor of Physic, *Patrick Miller* of *Dalsinton*, *Frederick Colquhoun* at *Newton*, *Thomas Corrie* of *Culloch*, *Robert Threshie* of *Nunholm*, *John Napier* of *Mollance*, *Thomas Goldie* of *Craigmore*, *William Graham* of *Mosknow*, *Samuel Shortridge* of *Keltonhead*, *William Murray* the Elder of *Tundergarth*, *Peter Laurie* of *Eronespie*, *William Boyd* of *Marchbill*, *William Laidlaw* of *Allanton*, *John Maxwell* of *Munches*, and *William Johnstone* of *Corehead* Esquires, *John Walker*, *Thomas Gordon*, *William Herron* of *Duncow*, *James Herron* of *Netherholm*, *James McWhir*, *John Thomson*, *Robert Thomson*, *Robert Nielson*, *Gabriel Richardson*, Merchants in *Dumfries*, *William Barry* Ship-Owner there, *Philip Forsyth* Esquire, Provost of *Maxwelltown*, and all and every other Person or Persons who shall have subscribed the Sum of One hundred Pounds or upwards each towards accomplishing the Purposes thereof, before the Second *Monday* after the passing of this Act, shall be, and they hereby are appointed Commissioners for carrying this Act into Execution, and the said Commissioners (other than the Provost, Three Baillies, the Dean of Guild, and the Deacon Convener of the Trades of the said Burgh of *Dumfries* for the Time being, who shall always remain *ex officio* Commissioners) shall continue in Office till the First Day of *November* One thousand eight hundred and twelve and no longer, unless re-elected in Manner after-mentioned.

III. And be it enacted, That the said Commissioners shall meet at the Court House of *Dumfries* upon the Second *Monday* after the passing of this Act, or as soon after as conveniently may be, and proceed to the Execution of this Act, with Power to chuse a Preses, and adjourn from Time to Time; and in all Cases under this Act, Nine of the said Commissioners or of the Commissioners elected in Manner after mentioned shall be a Quorum, and if at any Meeting less than the said Quorum shall assemble, the Commissioners assembled shall have Power to adjourn, but not to do any Business under this Act.

IV. And be it enacted, That at the Annual Meeting of the Commissioners of the Land-Tax for the County of *Dumfries* and Stewartry of *Kirkcudbright* respectively, held at *Michaelmas* in the Year One thousand eight hundred and twelve, Ten of the said Commissioners of the Land-Tax for the said County, and Ten of the said Commissioners for the said Stewartry, shall be elected Commissioners to act in the Execution of this Act for the Year ensuing the First Day of *November* One thousand eight hundred and twelve, in the Room of the Commissioners who then go out of Office; and in the same Manner at every subsequent *Michaelmas* Meeting of the Commissioners of the Land-Tax for the said County and Stewartry respectively, Commissioners to the Number aforesaid shall be elected to execute this Act during the Subsistence thereof, to remain in Office for a Year subsequent to the First Day of *November* then ensuing.

V. And be it enacted, That within Three Weeks prior to the First Day of *November* One thousand eight hundred and twelve, the Provost of the Burgh of *Dumfries*, or the Clerk to the said Commissioners, shall call a Meeting of the Merchants and Ship Owners of *Dumfries*, to convene at such Time and Place within the Burgh as shall be expressed in Advertisements to be inserted twice in some Newspaper published at *Dumfries*, for the Purpose of electing Six Commissioners from among the Merchants,

Commissioners Meetings.

Commissioners to be annually chosen for Counties of Dumfries and Kirkcudbright.

Mode of electing of Commissioners for the Merchants and Ship Owners of Dumfries.

and

and Six Commissioners from among the Ship Owners ; and the Commissioners elected at the said Meeting shall continue in Office from the Day of their Election until the First Day of *November* in the ensuing Year, and on some Day in the Month of *October* in every succeeding Year during the Continuance of this Act, the Merchants and Ship Owners of the Burgh of *Dumfries* shall regularly meet and elect a like Number of new Commissioners for the Year following, Fourteen Days previous Notice of such Annual Meetings being always published in one of the Newspapers of *Dumfries* by the Provost of the Burgh for the Time being, or by the Clerk to the said Commissioners.

Commissioners may be re-elected.

VI. Provided always, and be it enacted, That at the said Meetings for Election of the said Commissioners for any of the said Classes, the whole of the former Commissioners of any Class, or any One or more of them, may be re-elected for the ensuing Year, and so from Time to Time as the Majority of the Persons assembled for such Annual Election shall determine.

Qualification of Merchants and Ship Owners.

VII. Provided also, and be it enacted, That no Person shall be capable of electing or of being elected a Commissioner to represent the Merchants or Ship Owners who does not pay Ten Pounds Sterling yearly of Freight by Sea on Merchandize imported into or exported from the Port of *Dumfries* within the Year preceding, and resident within the Burgh of *Dumfries*, or who does not hold in his own Right a Vessel or Vessels, or Shares in a Vessel or Vessels, of Twenty Tons or upwards, belonging to the Port of *Dumfries*; and in case any Person or Persons not qualified as aforesaid shall nevertheless vote at any such Election Meetings, he shall forfeit the Sum of Five Pounds Sterling, to be recovered in Manner hereinafter directed; and the Proof of Qualification shall be incumbent on the Person objected to; and it shall be competent to any Person objecting to require the Oath of the Person objected to, which Oath the Preses of the Meeting is hereby empowered to administer; and Ship Owners shall be obliged to produce their Venditions, or the Registry of the Vessel claimed by them as their Property, or Copies thereof, from the Custom-House Books. Provided also, That in the Case of Merchants or Ship Owners being in a joint Concern or Partnership, One Vote only shall be given as for the Partnership, and separate Votes shall not be allowed for each individual Partner, excepting when such Partner shall carry on a separate Trade, and be otherwise qualified.

Extent of the Port of *Dumfries* under this Act.

VIII. And be it enacted and declared, That the Powers and Provisions of this Act shall only be construed and held to extend to the River *Nith*, including both Sides thereof from *Southernness* to the Caul of *Dumfries*.

In case of Death or Resignation of the Commissioners, Vacancies to be supplied.

IX. And be it enacted, That when any of the said Commissioners elected in Manner aforesaid shall die, or being of the Classes of Merchants or Ship Owners, shall retire from Business as Merchants or Ship Owners, or be declared Bankrupt, it shall be lawful to the remaining Commissioners, or any Nine or more of them, from Time to Time, and they are hereby required to elect and appoint One or more proper Person or Persons, qualified as aforesaid, to be a Commissioner or Commissioners, in the Place and Stead of him or them, so dying or retiring from Business, from the Period of such Election until the next Annual Election, Fourteen

Days

Days previous Notice of such Election being given to each Commissioner, by the Collector or Clerk, as after directed, and the Commissioner or Commissioners thus elected shall have the same Power and Authority for executing this Act, as the Commissioners elected at the Annual Meetings aforesaid.

X. Provided always, and be it enacted, That it shall be competent to any Commissioner so elected, by a Writing under his Hand, to appoint a Person to act and vote for him in his Absence in all Cases in the Execution of this Act, the Proxy being a Person qualified in the same Way that the Principal is by this Act required to be qualified, but not being himself a Commissioner, nor Proxy for any other Commissioner. Proxies.

XI. And be it enacted, That it shall be lawful to the said Commissioners and the Collector or other Person or Persons authorised by them, or a Quorum of them, from and after the passing of this Act to levy, or cause to be levied, the following Rates or Duties; that is to say, Harbour Duties to be levied.

For every Ton of Goods, Wares, or Merchandize, including Slate and Foreign Timber, which shall be imported into the said River (except Coals, Lime or Limestone), the Sum of One Shilling and Two-pence Sterling, and so in Proportion for any greater or less Quantity :

For every Ton of Goods, Wares or Merchandize which shall be loaded or shipped, or exported from the said River, (except Coals, Lime or Limestone) the Sum of One Shilling and Two-pence Sterling, and so in Proportion for a greater or less Quantity :

For every Ton of Coals, containing Twenty Hundred Weight, the Sum of Sixpence Sterling :

For every Ton of Lime or Limestone imported into or exported from the said River, the Sum of Sixpence Sterling :

For every Ship or Vessel which shall come into the said River, from any foreign Parts, the Sum of Sixpence Sterling per Ton Register :

And for every Ship or Vessel which shall enter the said River, from any Part of the Coasts of *Great Britain and Ireland*, and *Isle of Man*, the Sum of Two-pence Sterling per Ton Register :

For every Ship or Vessel that shall come to an Anchor at or near to *Carse-thorne*, except such as are chartered to the Port of *Dumfries*, the Sum of One Penny Sterling per Ton Register, as for Lights and Buoys :

All which Duties so to be paid, shall be applied by the said Commissioners, after defraying the Charges of Collection and Management, to the Improvement of the Navigation of the said River, Harbour and Ports thereof, and Roads thereto, and for erecting Light Houses, and affixing Lights on both Sides of the said River where necessary, and for placing Buoys upon the Banks, affixing Cranes upon the Quays, and for performing every other Thing necessary for the Safety of the Shipping and Goods belonging to the said Port, and for no other End or Purpose whatever.

XII. Provided always, and be it enacted, That all Ships and other Vessels belonging to or employed in the Service of His Majesty, his Heirs and Successors, or in the Service of the Customs, Excise or Post-Office, coming into or using the said River within the Bounds mentioned in this Exempting certain Vessels.

[*Loc. & Per.*]

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Act,

Act, and also Vessels driven in by stress of Weather, shall be exempted from the Payment of all and every of the Rates and Duties hereby granted and made payable.

Masters, &c.
of Vessels to
produce their
Registers.

XIII. And be it further enacted, That during the Continuance of this Act, the Masters and Owners of all Ships and Vessels trading to and from the said Port of *Dumfries*; and liable to the Payment of the Rates and Duties by this Act granted shall, when required, be obliged to produce the Register of such Ships or Vessels, or if the said Commissioners, or the Collector to be appointed by them find it necessary, permit and suffer the said Ships and Vessels to be measured by the said Commissioners, or by such Person or Persons as they shall from Time to Time appoint for that Purpose, and shall pay the Rates and Duties by this Act granted, according to such Register or Measurement; and that every Owner or Master aforesaid, who shall refuse to produce such Register, or to have his or their Ship or Vessel so measured shall, for every such Offence respectively, forfeit and pay the Sum of Ten Pounds Sterling, to be recovered in manner hereinafter directed; and every Person importing or exporting Goods shall be obliged, if required, to make Oath to the Amount of the Tonnage of such Goods, which Oath the Collector of the Duties is hereby empowered to administer.

Receipt for
the Duties to
be produced
at the Cust-
om-House.

XIV. And be it further enacted, That there shall be produced to the Collector, or other Officers of His Majesty's Customs, at the Port of *Dumfries*, by the Master or Owner of every Ship or Vessel coming into or sailing out of the said Port, or liable in the Rates and Duties by this Act granted, a Receipt or other sufficient Voucher of the Payment of the said Rates and Duties, and until such Production is made, and the Collector or other Officers aforesaid is satisfied with the same, the said Collector and other Officers shall not take or receive any Entry or Cocquet, or other Discharge or Clearance, or take any Report outward of any such Ship or Vessel liable or subject to the Payment of the said Rates and Duties, under the Penalty of Ten Pounds Sterling: Provided always, that the Masters or Owners of Vessels loaded with Lime, shall pay the Rates and Duties aforesaid, at any Time before the Vessels leave the said Port, under the Penalty aforesaid.

Manner of
enforcing
Payment of
the Duties.

XV. And be it enacted, That it shall and may be lawful for the said Commissioners, and for such Person or Persons as shall be for that Purpose authorized by them, to enter such Ship or Vessel, and to demand, collect and receive from any Master, Owner, or other Person having the Charge of the same, the Rates and Duties by this Act granted, and in case of Delay, or Refusal of Payment, to take, seize and detain, preferable to and notwithstanding of any Attachment, Arrestment, or other Right whatever, claimable by or due to any other Person or Persons, any of the Goods, Merchandize, Tackle, Furniture and Apparel of or belonging to any such Ship or Vessel, and to detain the same until the said Rates and Duties are satisfied and paid, and that in case of any Neglect or Delay in the Payment of the said Rates and Duties, or any of them, for the Space of Three Days, after such taking, seizing and detaining aforesaid, it shall and may then be lawful to and for the said Commissioners,

missioners, and, to and for such Person and Persons authorised by them as aforesaid, to cause the same to be appraised by Two or more sufficient Persons, and afterwards to sell and dispose of the Goods and other Effects so taken and appraised, and therewith to satisfy the Duty or Duties so neglected or delayed to be paid, together with the Charges of such seizing, taking, selling, and detaining (as the same shall be ascertained by the Sellers upon Oath) rendering to the Master or Owner of such Ship or Vessel, or Owners of such Goods, the Overplus (if any be) on Demand.

XVI. And be it enacted, That if any Master, Commander, or other Person taking upon himself the Command, or appearing to be Master or Commander, or any Owner, Factor, or Consignee of any Ship or Vessel, shall, at any Time from the Commencement of this Act, elude or avoid the Payment of any Duties hereby granted, by any Method whatsoever, every such Master, Commander, or other Person aforesaid, shall, for every such Offence, forfeit to the said Commissioners any Sum not exceeding Ten Pounds Sterling, and shall notwithstanding stand charged with and be liable to the Payment of the said Rates and Duties.

Penalty for eluding Payment of Duties.

XVII. And be it further enacted, That no Person shall throw any Ballast, Rubbish, Shingle, Gravel, or Stones, or any other Thing into the said River, either within Tide or Fresh Water Mark, nor take ballast from the Shores or Banks of the said River, so as to render the Place from which they are taken more than Nine Inches lower than the Surface of the adjoining Ground, nor do any other Act or Deed, directly or indirectly, that may injure or impede the Navigation of the River, or endanger the Shipping therein; and the Surface of the Ground within Tide Mark at *Carfethorn* shall not be broken on any Account, under the Penalty of any Sum not exceeding Five Pounds Sterling for every such Offence.

Penalty for throwing Ballast, &c. into the River.

XVIII. Provided always, and be it further enacted, That the Proprietors of Lands bordering on the said River and Navigation shall be at liberty to erect such Weirs or Banks along the Side of the said River, in furtherance of the Improvements intended by this Act, as they may judge necessary, and to repair or erect such Sea Dykes for the Protection of their Property along the said River, or for enclosing such Parts of the Saltmarshes from being flooded by Spring Tides, as they may judge proper: Provided always, that such Works shall not interfere with the Plan aftermentioned.

Proprietors of Lands may erect Weirs.

XIX. And be it enacted, That if any Person or Persons whatsoever shall at any Time wilfully and by Force hinder, obstruct, or oppose, or cause to be hindered, obstructed, or opposed, the said Commissioners, or their Workmen or Servants, in the building, making, erecting, repairing, or using any of the Works upon or alongside of the said River or Quays, or in the doing or performing any Thing which they are by this Act authorized to do, or shall wilfully or by Force do, or cause to be done, any Damage, Hurt, or Mischief to the said Works, all and every the Person or Persons so offending shall be subject and liable to repair, and pay to the said Commissioners the whole Damage occasioned by such forcible Obstruction, or wilful Hurt or Mischief done to any of the said Works, be-

Penalty on injuring or obstructing the Works.

sides

shalls full Costs of Suit, and shall further forfeit and pay to the said Commissioners any Sum not exceeding Ten Pounds Sterling for every such Offence, such Damages, Costs, and Penalties being to be sued for, and recovered in Manner hereinafter directed.

Offenders
may be sent
to Gaol till
Bail is found.

XX. And be it further enacted, That it shall and may be lawful to any Sheriff, or Steward Depute or Substitute, or to any of His Majesty's Justices of the Peace, or the Magistrates of *Dumfries*, upon an Information in Writing, signed by any of the said Commissioners, or by any of their Overseers attending the said Works, against any Person or Persons as guilty of any of the above Offences, to grant Warrant for committing such Offender or Offenders to the nearest public Gaol, therein to remain for a Time not exceeding Three Months, unless he, she, or they shall find sufficient Bail for answering and paying to the said Commissioners the Damages, Costs, and Penalties above mentioned, in case he, she, or they shall be found liable for the same, or be otherwise liberated in due Course of Law.

Masters or
Owners liable
for Damage
done by Boats
or Boatmen,
&c.

XXI. And be it further enacted, That the Master or Owner of any Boat, Barge, Lighter, or other Vessel, rowing, navigating, or plying upon the said River, shall be and are hereby made liable to the said Commissioners for any Damage that shall be done by such Boat, Barge, or Lighter, or other Vessel, or by any of the Boatmen, Bargemen, or Watermen on board the same to any of the said Works, with full Costs of Suit, which Damages and Costs shall be sued for and recovered in the Way and Manner hereinafter directed.

Masters to
recover Da-
mages from
their Ser-
vants.

XXII. And be it further enacted, That in case the Master or Masters, Owner or Owners of any Ship or Vessel as aforesaid, shall be compelled to pay any Penalty, or to make Satisfaction for any Damage or Trespafs by reason of any such Damage or Mischief done or committed by his or their Mariners, Boatmen, Servants, or other Persons employed by them or any of them; such Mariners, Boatmen, Servants, or other Persons, and each and every of them, shall be liable to pay such Penalty or Damage, with the Costs thereof, to such Master or Masters, Owner or Owners; and in case of Non-payment thereof, upon Demand and Oath made by such Master or Masters, Owner or Owners, of the Payment made by him, her, or them of such Penalty or Satisfaction for Damages, and that the same or the Costs thereof have or hath not been repaid to him, her, or them by such Mariners, Boatmen, Servants or other Persons, or any of them, although demanded, (such Oath to be made before any one Justice of the Peace of the County or Stewartry, where such Penalty or Satisfaction shall have been incurred or paid, or where such Mariner, Boatman, Servant, or other Person can be found,) the Amount whereof shall be recovered as any other Penalty is hereby directed to be recovered.

Ordinary
and General
Meetings
who called.

XXIII. And be it further enacted, That the said Commissioners shall never meet on Business unless upon a written Notice from the Collector or Clerk to each Commissioner, at least Three Days previous thereto, and that any Five or more of the Commissioners shall have right at all Times to call a General Meeting, and that no Meeting shall have Power

to proceed to Business unless it consists of at least Nine Commissioners, the Majority of whom shall decide all Questions that may come before them; and every such Meeting shall appoint one of their Number to be Chairman for the Time, and in case of Equality, the Chairman shall have the casting Vote; and the Proceedings of such Meetings, with the Names of the Commissioners present thereat, shall in presence of the Meeting be engrossed in a Sederunt Book, to be kept by the Clerk for the Purpose, and shall be signed by the Chairman and Clerk to the Meeting.

XXIV. And be it enacted, That an accurate State of the Funds collected and of the Expences and other Disbursements, shall be annually made up, examined, and docketed by a Majority of the said Commissioners, and ingrossed in a Book kept by the Clerk for that Purpose, and a Copy of such State shall be annually laid before the Commissioners of the Land-Tax for the County of *Dumfries* and Stewartry of *Kircudbright*, at their *Michaelmas* Meetings, and the Magistrates and Town Council of *Dumfries*, at their First Meeting in *October*, and an Abstract of the said State shall yearly thereafter be published in a *Dumfries* Newspaper; which Book shall at all reasonable Times be open to the Inspection of the said Commissioners, and to all Persons paying Tonnage Duties, without Fee or Reward.

Annual State of the Funds and Disbursements made up and published.

XXV. And be it enacted, That no Person holding any Office or Place of Profit under this Act shall have right to act as a Commissioner under the same; and that no Commissioner shall be entitled to any Consideration for personal Trouble under this Act; and that at all Meetings the Commissioners shall defray their own Expences.

Commissioners not to hold Places of Profit, and to pay their own Charges.

XXVI. And be it enacted, That the Commissioners shall from Time to Time at a General Meeting, consisting of not less than Nine in Number, convened in Manner aforesaid, appoint a Collector, Treasurer, and Clerk, and such other Officers as they shall deem expedient for the due Execution of this Act, with Power to remove them from such Offices at Pleasure; and from the Funds to be collected as aforesaid, such Officers and the Expence of a Place to meet in, and other incidental Expences, shall be paid by Order of the said Commissioners, the Fee for collecting the said Funds, not exceeding Five Pounds *per Centum* of the Sums collected, such Officers being always to find sufficient Security for their Intromissions and Fidelity, and to make Oath to the Truth of their Accounts, if required; and it shall also be in the Power of the said Commissioners, at any General Meeting assembled, from Time to Time, to choose Committees of their own Members consisting of not less than Nine to manage and attend to any of the Works to be executed by and done under this Act.

How to appoint Collector, Clerk and other Officers.

XXVII. And be it enacted, That in the event of the Death or Insolvency of any Person holding the Custody of any Books, Papers, or Writings relating to the Affairs under this Act, the Executors, or Representatives, or the Trustee on his Estate, or other Persons possessing the same, shall be bound within Ten Days after being required to deliver up such Books, Papers, and Writings to the said Commissioners or those appointed by them to receive the same; and if in any Action at Law to be brought the

How to act in case of the Death or Insolvency of Officers.

Commissioners shall be successful, they shall be entitled to receive their full Costs.

Power to license Pilots and Masters of Vessels.

XXVIII. And be it further enacted, That it shall be in the Power of the said Commissioners, and they are hereby authorized and empowered, to license, regulate, and appoint a sufficient Number of proper Persons to act as Pilots upon the said River, and also Meters of Timber and Weighers within and about the said River, and to manage and direct the said Pilots, Meters and Weighers, and to remove and displace them at their Pleasure; and if any Person shall act as a Pilot or Meter of Timber or Weigher within the Limits of the said River as described in this Act without being licensed as aforesaid, every Person so offending shall forfeit and pay a Penalty not exceeding Five Shillings Sterling, and the Measurement of an unlicensed Meter or Weigher shall be deemed illegal.

Bye-Laws to be made for Regulation of the Pilots, Meters, and Weighers;

XXIX. And be it further enacted, That the said Commissioners shall have full Power and Authority, and they are hereby authorized and empowered to make, ordain, and establish such Orders, Rules, and Bye-Laws for the Government and Regulation of the said Pilots, Meters, and Weighers, and for the better executing the other Purposes of this Act, as to them may seem necessary; and also as Occasion shall require, to amend or alter such Rules, Orders, and Bye-Laws, and to fix and appoint reasonable pecuniary Penalties, not exceeding Five Pounds Sterling for Non-observance, or other Breach thereof, to be recovered by such Ways and Means as are directed by this Act, but so as such Rules, Orders, or Bye-Laws shall not be repugnant to the Laws of that Part of the United Kingdom called *Scotland*, or to any Thing in this Act contained.

Which shall be printed.

XXX. And be it further enacted, That the said Commissioners shall cause the said Orders, Rules, or Bye-Laws, and also a List of the Pilots, Meters, and Weighers, so to be licensed as aforesaid, to be from Time to Time printed and distributed, and likewise to be hung up at such conspicuous Places as they shall think fit, and to pay the Expences thereof out of the Money to be collected and raised by virtue of this Act, which Orders, Rules, and Bye-Laws shall be subject to Appeal in manner hereinafter mentioned.

Powers to appoint Carters to ply on the Quay.

XXXI. And be it enacted, That no Carter or other Person who shall ply or work for hire with a Cart or Carts at the Harbours or Quays of the said River, shall, from and after the Commencement of this Act, be allowed to do so, without first entering his Name and Place of Residence in a Book to be kept for that Purpose by the Clerk to the said Commissioners, and without first giving Bond, with sufficient Cautioners, for the faithful and honest Discharge of his Duty, under such a Penalty as to the said Commissioners shall seem proper; and if any Person shall act in such Capacity, without first so registering his Name and Place of Residence, and finding Caution, he shall for every such Offence forfeit a Sum not exceeding Two Pounds Sterling, to be levied and applied in the same Manner as other Penalties under this Act.

Also Power to regulate Tares.

XXXII. And be it enacted, That the said Commissioners shall have full Power and Authority, from Time to Time, to make such Bye-Laws and Regulations

Regulations to be observed by the Carters in *Dumfries*, and to fix and establish the Fares or Rates of Carriage of all Goods or Merchandize between the said Town and Places on the River *Nith* below the said Town, and to enforce such Bye-Laws and Regulations, under a Penalty not exceeding Two Pounds Sterling for each Offence, to be recovered in Manner herein directed, under the Pain of Imprisonment, for no longer Period than Three Months; and the said Commissioners shall have full Authority to order and direct all Coals, Lime, and Slate imported into the said River to be measured or weighed, and from Time to Time to license and appoint proper Persons for weighing or measuring such Coals, Lime, and Slate, and Harbour Masters upon the Quays, with Power to make Bye-Laws, as well as to erect Weighing Machines for weighing all Goods or other Merchandize, imported into or exported from the said River, for which no higher Rate shall be charged than Two Pence Sterling for each Cart-load of such Goods or other Merchandize so weighed or measured; and if any Person shall act as a Meter or Weigher of Coals, Lime, or Slate, within the Limits of the said River before-mentioned, without being licensed as aforesaid; or if any such Meter or Weigher shall ask, demand, take, or receive any higher Rates or Fees than shall be appointed as aforesaid, any Person so offending shall forfeit and pay a Penalty not exceeding Five Pounds Sterling: Provided always, that the said Bye-Laws and Regulations shall be printed and distributed and hung up or affixed in some conspicuous Place, and shall not be repugnant to the Laws of that Part of the United Kingdom called *Scotland*.

Coals to be measured or weighed.

XXXIII. And be it enacted, That in case any Person or Persons whatsoever shall wilfully or maliciously cut, break, or in any Manner destroy any Rope or other Thing, by which any Ship or other Vessel lying in the said Harbour or Port shall be moored or fastened, such Person or Persons shall make good all Damages thereby occasioned, and also shall, for every such Offence, forfeit and pay a Sum not exceeding Ten Pounds Sterling.

Destroying Moorings.

XXXIV. And be it enacted, That it shall and may be lawful to the said Commissioners, or any Collector to be appointed by them, to prosecute for and recover the several Fines, Penalties, Forfeitures, Damages, and Costs of Suit by this Act imposed, by Action, Bill, Complaint, or Information, within Six Months after the Penalties are incurred or the Offence is committed, before the Magistrates of *Dumfries*, or any of them, or any Two or more Justices of the Peace, within whose Jurisdiction the Offender or Offenders shall reside or be apprehended; and that the said Magistrates and Justices shall be and they are hereby empowered and required to proceed to the Trial of such Offence in a summary Way; and, upon Conviction of the Offender or Offenders, by their own Confession or Oath, or by the Oath of one or more credible Witness or Witnesses, to award and give such Orders, Judgments, and Decrees as to them shall seem most agreeable to the true Intent and Meaning of this Act; and that in Default of Payment of the several Fines, Penalties, Forfeitures, Damages, and Costs of Suit hereinbefore enacted, which shall be awarded and ordered by the Magistrates or Justices aforesaid, the Person or Persons who shall be convicted of any of the Offences before described, shall and may

Penalties, how recovered and applied.

may be committed by the said Magistrates or Justices aforesaid to the Prison or House of Correction next to the Place where the Offender or Offenders shall be apprehended, and there kept at hard Labour for such Time, not exceeding Three Months, as such Magistrates or Justices shall direct, in case such Fine, Penalty, Forfeiture, Damages and Costs of Suit shall not be sooner paid; and that the whole Fines, Penalties, Forfeitures, and Costs of Suit aforesaid, which shall be recovered by the said Commissioners, or their Collectors as aforesaid, amounting to Five Pounds or upwards, shall, after Deduction of the necessary Charges of recovering the same, be applied for and towards repairing the Harbour and other Works within or along both Sides of the said River, and for improving the Navigation thereof, and preserving and maintaining the same, and for no other End or Purpose whatsoever.

Penalties,
&c. under
5l. how re-
covered and
applied.

XXXV. And be it enacted, That in all Cases where the said Fines, Penalties, Forfeitures and Costs to be recovered as aforesaid, shall not amount to Five Pounds Sterling, the same shall, after Deduction of the necessary Charges of recovering the same, be applied One-half thereof to the Use of the Informer, and the other Half for the Purposes of this Act.

Balances.

XXXVI. And be it enacted, That whatever Balance shall appear to be in the Hands of the former Trustees or Commissioners after their Accounts have been audited in the Manner prescribed by the said before-recited Acts, shall be paid over to the Collector or Treasurer appointed by the Commissioners under this present Act, to be applied for the Purposes thereof.

Power to
erect Light-
houses and
Buoys.

XXXVII. And be it enacted, That the said Commissioners, and the Agents, Officers, Servants and Workmen employed by them, shall be, and they are hereby authorized and empowered from Time to Time to build or erect a Light House, or Light Houses, and to affix Lights therein, on both Sides of the said River *Nith*, where they shall judge it necessary, and to take Possession of Ground suitable for the Purpose, and also to place Buoys on the Banks of the said River, and to make and keep the said River navigable from *Glencaple* Quay to the Caul of *Dumfries*, so as there may be at least Six Feet Water at Neap Tides in every Part of the said River, within the Limits aforesaid, when the same is practicable, and in case the Funds will admit of the Expence thereof, for Ships, Vessels, Barges and Lighters to come to and go from the said Town, and for that End to alter, direct and make, or cause to be altered, directed and made the Channel of the said River, through any contiguous Land, Soil or Ground, Part of the present Bed of the said River, betwixt *Glencaple* Quay and the Caul of *Dumfries* aforesaid, and to make, set up and erect on both Sides of the said River, such and so many Jetties, Banks, Weirs, Walls, Sluices, Works and Fences for making, securing, continuing and maintaining the Channel of the said River within proper Bounds, for the Use of the said Navigation, as to the said Commissioners shall seem proper, and for that Purpose to cleanse, scour, deepen, enlarge, straighten and confine the said River and Channel thereof, and to alter, direct and make, or cause to be altered, directed and made, the Channel or Parts of the Channel of the said River, through any contiguous Land, Soil or Ground, for the better

Depth of the
River at
Neap Tide.

Power to
make Jetties,
Banks, &c.

Power to
cleanse,
deepen, and
straighten the
River.

better Improvement of the said Navigation, and to dig or cut the Soil, Ground, or Banks of the said River and Soil, Sand and Gravel in the Bed thereof, and to lay the same upon the most convenient Banks of the said River, and to plant the Banks on each Side the said River within the Limits aforesaid, with Willows or other Trees, for the Preservation of the said Banks, and for preventing the same from being hurt, or carried away by the said River, and also to cleanse, scour, open, and to alter and divert the Course of any Streams, Brooks, Gutters, Ditches or Water-Courses, which now fall into the said River, within the Limits aforesaid, and to dig and cut the Banks thereof, and also to dig, cut, remove and carry away and use such Clods, Earth, Soil, Gravel, Stones and other Materials in, upon, or out of the said Land, Soil or Ground adjacent, (Plantations, Wood and Brushwood excepted,) as the said Commissioners shall think fit and necessary, either for making the said River more navigable by Embankment, or for bringing in any other Streams, Brooks, or Water-Courses to the said River, for the better carrying on and improving the Navigation thereof, and from Time to Time to lay upon any convenient Part or Parts of the Grounds adjacent, all such Materials, Utensils and Instruments as shall be necessary for the building, erecting, repairing, maintaining, altering or using the Work or Works aforesaid, or any of them, and to hew, frame, prepare and use these Materials on the Ground as they shall think fit, and to make and use all necessary Ways, Passages and other Conveniencies through or over the Lands adjoining to the said River, Streams or Cuts, not injuring any Plantation Wood or Brush Wood, or for conveying or carrying any Materials for building or making, or for the inclosing or repairing of Sluices, Jetties, Walls, and other Works necessary for completing the Navigation of the said River, and to make, appoint, set out and use Paths and Ways for towing or drawing Rafts, Boats, Barges, Lighters and other Vessels passing in, through and upon the said River, and to cut down Trees and remove whatever may tend to obstruct the drawing or towing of such Vessels on either Side of the said River, within the Limits aforesaid, and to affix mooring Posts on both Sides of the said River where necessary; and upon the said River being, in consequence of such Improvements, made navigable up to, or nearly up to the Town of *Dumfries*, the said Commissioners are hereby authorised and empowered, out of the Funds hereby authorised to be levied, to build sufficient Quays or Harbours in the most convenient and proper Places, at or near to the said Town, and to affix Cranes thereon, and also to do and execute all such other Acts as they shall at any Time deem necessary and expedient for carrying on, improving, supporting and maintaining the Navigation of the said River, and for the Preservation of the Shipping and Goods belonging thereto, Satisfaction being always made to the Owners and Occupiers of the Grounds, Fishings or other Property that shall be thereby damaged or injured, or taken possession of, in the Manner hereinafter mentioned; it being nevertheless declared that the said Commissioners shall not have Power to erect any Quays or Landing Places, between *New Abbey Pow* and *Crooks Pow*, on the West Side of the River.

Power to cut Ground, &c. and lay the same along the Banks.

Power to use Gravel and Stones, &c.

Power to use Ways and Passages, &c.

Power to build Quays and Harbours.

XXXVIII. Provided always, and be it further enacted, That nothing herein contained shall extend, or be construed to extend, to authorise or empower Certain parts of River not to be affected.

[*Loc. & Per.*]

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empower the said Commissioners, or their Agents, Officers, Servants, or Workmen employed by them to deepen the said River, or to alter the Channel thereof, at any Place higher up the said River than the Street of the said Town of *Dumfries* called *Assembly Street*, or to do any Act whatsoever at any Place, whereby the said Caul may be injured, or the usual Cattle Market may be in any Way hindered or obstructed, unless the said Commissioners shall previously have obtained the Consent of the Magistrates and Town Council of *Dumfries* for that Purpose, to be signified under the Common Seal of the Burgh.

Line of Improvements.

XXXIX. And whereas a Survey has been made to ascertain the Practicability of improving the said River, and a Map or Plan thereof, with a Report thereof respectively, signed by *James Holinsworth*, Civil Engineer, describing the Lines of the Improvement thereof between the *Jetty* at *Kirkconnel* Banks, by *Glencaple* Quay, up to the Caul of *Dumfries*, and the Lands through or adjoining to which those Improvements are intended to be carried, together with a Book of Reference, containing a List of the Names of the Owners and Occupiers, or reputed Owners and Occupiers of such Lands, has been deposited in the Offices of the Clerks of the Peace for the County of *Dumfries*, and Stewartry of *Kirkcudbright*; be it therefore enacted, That the said Map or Plan, Report and Book of Reference shall remain in the Custody of the Clerks of the Peace for the said County and Stewartry, and all Persons interested shall have Liberty to inspect and peruse the same, and take Copies thereof, paying to the Clerks of the Peace One Shilling for every such Examination, and Sixpence for every Seventy-two Words of such Copy; and in order to throw the Course of the Channel as close to *Glencaple* Quay as possible, the said Commissioners shall, according to the said *James Holinsworth's* Report, lengthen the Pier at *Kirkconnel* Banks as far as is necessary for effectuating that Purpose, and may be found practicable, regard being had to the State of the Funds; and the Course of the said Improvements or new Channel of the River, shall be from *Glencaple* Quay by *Conbeath* to *Kelton*, and from thence in a straight Line to the Mouth of *Cargenfrew*, and from thence in nearly a straight Line through the East Corner of *Nethertown* Merse to the *New Quay*, and from thence through the West Corner of *Kingholme*, and then through the East Corner of the Lands of *Moat* into the Dock, (which Course is delineated on the said Map or Plan by a Red Line,) and the said Commissioners, in making or causing to be made the said Improvements, shall not deviate more than One hundred Yards from the Course or Direction aforesaid.

Old Bed of the River vested in the Commissioners.

XL. And be it further enacted, That the said Commissioners shall have in full Possession and Property the present or old Bed or Channel of the River between *Kelton* and the Caul of *Dumfries*, which they may acquire from the same being altered by new Cuts being made, for executing the Improvements authorized by this Act; it being nevertheless declared, that the said Bed or Channel so acquired shall not exceed Thirty-five Yards in Width on each Side from the Centre of the Channel, and that the Commissioners shall be bound forthwith to offer the same in Sale to the Proprietors on either Side of the River, to whose Lands the same may be adjoining, at a Value to be fixed by the said Commissioners and Proprietors, if they can agree among themselves; and in case they cannot thereby

thereby adjust such Value, the same shall be settled by a Jury in Manner after directed; but in case the adjacent Proprietors shall refuse or decline to purchase the said acquired Ground, then the said Commissioners shall have full Power and Liberty to sell the same by public Roup to any other Person or Persons, and for such Prices as they may think proper; and an Affidavit to be made and sworn before One of His Majesty's Justices of the Peace for the said County or Stewartry, by a Person or Persons no-ways interested in the said Lands, stating that such Offer was made by or on Behalf of such Commissioners, and that such Offer was not then or thereupon agreed to, or was refused by the Person or Persons to whom the same was so offered, shall in all Courts whatsoever 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 it was made, as the Case may be.

XLI. And be it further enacted, That the said Commissioners shall, and they are hereby authorised to take as much Ground without the present Bed or Channel of the River, as may be necessary for enabling them to execute the aforesaid Improvements, according to the said Map or Plan and Report, at a Value to be adjusted among the Parties themselves, and in case they cannot agree, then the same shall be settled by a Jury in Manner after directed; and whatever Ground, on either Side of the said River may be detached by the new Course thereof above described over and above the new Bed of the River, the said Commissioners shall be bound to purchase the same, at a Price or Value to be adjusted in Manner aforesaid; and the said Commissioners shall be bound, in the first Instance, to offer in Sale the said detached Pieces of Ground to the several Proprietors to whose Ground the same may be adjoining, at a Value to be settled in Manner aforesaid; and in case the said Proprietors shall refuse or decline to purchase the said detached Pieces of Ground, then the said Commissioners shall, (after an Affidavit of such Offer and Refusal being made in Manner aforesaid) have full Power and Liberty to sell the same by public Roup to the best Advantage; the Price arising from such Sale or Sales being always to be applied for the Purposes of this Act.

Taking
Ground for
Improve-
ments.

XLII. And be it further enacted, That it shall and may be lawful to and for the said Commissioners, and their Agents, Officers, and Servants, to open Stone Quarries, and dig, gather, and carry away any Stones or other Materials out of any Waste or Common Ground lying within One Mile of the said Navigation, or where the said Works or any of them are or shall be carried on, erected, or done, without paying any Thing for the same, the said Commissioners filling up and levelling all such Holes or Pits which shall be made in such Common or Waste Ground by reason of taking such Materials as aforesaid; and in case sufficient Materials cannot be found in such Waste or Common Grounds as aforesaid, then it shall and may be lawful to and for the said Commissioners, and their Agents, Workmen, or Servants, to dig and gather such Materials in, and carry the same out of the Grounds of any Person or Persons within One Mile of the said Navigation or Works, (not being the Ground whereon any Houses stand, or Garden, Orchard, Yard, planted Walk or Walks, or Avenue to a House,) where such Materials are or may be found, and from Time to Time to cause the same to be carried off, or so much thereof as the said

Taking Ma-
terials.

Com-

Commissioners shall judge necessary for effecting the Purposes aforesaid, and for keeping the said Works in sufficient Order and Repair, the said Commissioners making such reasonable Satisfaction as hereinafter directed, and filling up and levelling or railing off all Holes, Pits, and Quarries which may be made or opened by them or their Order, in the Course of the said Operations.

Salmon Fish-
ers to have
the same
Rights as at
Present.

XLIII. And be it enacted, That the Proprietors and Occupiers of the Salmon Fishings in the Part of the River *Nith* proposed in this Act to be improved, shall have such and the like Rights and Interests in the River when altered, as they now have and possess in the said River as it now runs, or may run when the said Improvements begin to be made.

Compen-
sation to Sal-
mon Fishers.

XLIV. Provided always, and be it enacted, That whenever the Damage which may be done to Salmon Fishings in the said Part of the said River, by any Operation of this Act, can be ascertained, the Proprietors and Occupiers of every such Fishing shall be satisfied and paid for such Damages in such Manner as may be agreed upon by and between the said Commissioners and such Proprietors or Occupiers, and in case they cannot agree, such Damage shall be ascertained by a Jury in the Manner after-directed by this Act; and all Damages so agreed upon or ascertained, shall be paid and payable out of any Sum or Sums of Money subscribed or borrowed for the Purposes of this Act, or out of the Rates and Duties hereby granted; and no Part of the said Rates and Duties shall be applied to the Re-payment of the Principal Money subscribed, or the Interest thereof, or to the Payment of any Part of the Principal Money so borrowed, until such Damages shall be satisfied and paid.

Power to dig
Wells.

XLV. And be it enacted, That it shall and may be lawful to and for the said Commissioners to cause Wells to be dug, Pipes to be laid, and Pumps to be erected, at such Place or Places within the Limits of the Port as herein limited, most proper and advantageous for obtaining and furnishing a sufficient Supply of fresh Water for the Use of the Vessels resorting thereto; and any Person or Persons convicted of injuring or destroying such Pipes, Wells, or Pumps, or the Springs or Water-courses thereof, shall be liable in a Penalty not exceeding Five Pounds Sterling for each Offence, to be levied and applied in the same Manner as other Penalties under this Act.

Power to Bo-
dies Politic,
&c. to con-
vey.

XLVI. And be it further enacted, That it shall and may be lawful to and for all Bodies Politic, Corporate, or Collegiate, Trustees, Heirs of Entail, Tutors or Curators for Infants, Minors, Ideots, furious or other Persons, and to and for all and every other Person or Persons whomsoever, who are or shall be seised, possessed of, or interested in any Lands, Tenements, or Hereditaments necessary to be taken for the Purposes of this Act, to sell and convey the same, or any Part thereof, and all the Right to and Interest which they, or those for whom they are entitled to act, have in the same, to the said Commissioners, for the Purposes of this Act; and all Contracts, Agreements, Sales or other Conveyances so made, shall be valid to all Intents and Purposes, any Law, Statute, or Usage to the contrary notwithstanding; and all Trustees, Heirs of Entail, Tutors or Curators, Corporations, Proprietors, Incumbrancers, and all
other

other Persons, shall be and are hereby indemnified for what they may do in pursuance of this Act.

XLVII. And be it enacted, That if the Owners and Occupiers of Lands or Heritages taken for or injured by the said Works, shall not come to a voluntary Agreement with the said Commissioners as to the Value thereof, or any Part thereof, and of the Interest any Person may have in the same, or the Damages sustained, it shall be lawful to the said Commissioners, or for the Owners, Occupiers, and others interested, to apply to the Sheriff Depute or Substitute of the County or Shire of *Dumfries*, or to the Steward Depute or Substitute of the Stewartry of *Kirkcudbright* respectively, according to the Situation of the Property; and the said Sheriff Depute or Sheriff Substitute, Steward Depute or Substitute, shall thereupon and in every such Case summon a Jury, to consist of not fewer than Thirty qualified Persons, to enquire into the Value of such Lands, Tenements, and Hereditaments, and the Leases and Occupation thereof, and the Damage to be sustained by the Owner, Occupier, or other Person interested therein, by being deprived thereof, or of any Part of the same, and all other Damages whatsoever, which may or shall be occasioned by any of the Operations authorized by this Act, and the Recompence to be made by the said Commissioners; and the said Thirty Persons shall and hereby are required to appear before the said Sheriff Depute or Steward Depute, or their Substitutes, at such Time and Place as in the Summons or Warrant shall be appointed, and then and there out of the Number of Persons who shall appear, the Sheriff or Steward, Clerk or his Deputy, shall, in the Presence of the Sheriff or Steward Depute, or his Substitute, and of the Parties interested, or their Agents, if they attend (due Notice being given to them), draw the Names of Fifteen of the said Persons who shall form a Jury; and the said Sheriff and Steward Depute, or their Substitutes, are hereby authorized to issue Warrants or Precepts for citing such Person or Persons as shall by either Party be thought necessary to be examined on Oath touching or concerning the Value or Damages claimed under this Act, and for the Production of any Books, Papers, Deeds, or Writings relating thereto, and shall and may authorize the Jury to view the Place or Places connected with the Matters in Question; and the Jury being sworn and impannelled, shall enquire into the Matters submitted to them, and shall thereupon return a Verdict which shall be final, and the said Sheriff's Depute, or Steward Depute, or Substitute, shall adjudge the Value and Recompence thereby awarded to be paid to the Person or Persons having Right thereto, and upon the Sum or Sums awarded being paid by the said Commissioners to the Person or Persons adjudged to be entitled thereto, or in the Case of Disability, or refusing to receive consigning the same in the Hands of the Treasurer of the Bank of *Scotland*, or of the Royal Bank of *Scotland*, in Manner by this Act directed, the said Commissioners shall have Right to remove the Owners and Occupiers of such Land, Tenements and Hereditaments and Premises, and to enter into Possession and Use thereof for the Purposes of this Act, as fully and effectually as if such Owners or Occupiers had executed regular Dispositions of the same, and Infeftment had followed in favour of the Commissioners; and the said Proceedings and Orders of the Sheriff's Depute and Steward's Depute, or their Substitute, shall be final and not removeable or questionable by

[Loc. & Per.]

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Bills

Bills or Letters of Advocation or Suspension to or by any other Court whatsoever, any Law or Usage to the contrary notwithstanding.

Expence of
Jury, by
whom to be
paid.

XLVIII. Provided always, and be it enacted, That in the Event of such Jury awarding a greater Compensation than the Commissioners shall have offered, but less than the Owner or Owners, Occupier or Occupiers shall have required, the Expences of such Jury shall be defrayed and borne by the said Commissioners, and the said Owner or Owners, Occupier or Occupiers equally, but in case the Jury shall award to such Occupier or Occupiers, Owner or Owners, the Sum so required, or any greater Sum, the whole of the said Expence shall be paid by the said Commissioners, and on the other Hand, if the said Jury shall award the Sum offered by the said Commissioners, or a less Sum, the whole of the said Expence shall be paid by the said Owner or Owners, Occupier or Occupiers: Provided always, that in all Cases where any Person or Persons shall by reason of Absence be prevented from treating with the said Commissioners, such Costs and Expences shall be borne and paid by the said Commissioners.

Money pay-
able to Per-
sons under
Entail or
Disability,
how to be
disposed of.
If 200l. or
upwards.

XLIX. And be it enacted, That whatever Money shall be paid by Agreement, or by Award as aforesaid, for Lands, Tenements, or other Subjects, so taken or used by the Commissioners, which were held under Entail, or subject to Life-rent Annuities, or other Incumbrances, or belonging to any Corporation, married Woman, Minor, Lunatic, Idiot, or other Person under legal Disability or Incapacity, such Money, in case the same amount to Two hundred Pounds or upwards, shall be under the Authority and Direction of the Court of Session, and shall, without Delay, be paid into the Bank of *Scotland* or Royal Bank of *Scotland* upon the highest Interest that can be got, in order that it may be applied, with the Approbation and by the Authority of the said Court, in the Purchase of the Land-Tax, or in the Discharge of any Debt or Incumbrance affecting the said Lands or Tenements or other Subjects, or affecting other Lands or Tenements belonging to the same Persons, and settled to the same or like Uses, or under the like Conditions and Limitations; and when such Money cannot be applied to these or like Purposes, then the same shall be laid out in the Purchase, or on the Security of other Lands, Tenements, and Subjects of the like Nature, and the Rights and the Titles thereof shall be devised to the same Person or Persons, or for their Benefit; to the same Series of Heirs for the same Uses and Purposes, and under the same Provisions, Conditions, and Limitations as the Houses and other Subjects taken and used for the Purposes of this Act were devised and settled, or such of them as shall be then existing, and capable of taking Effect; and in the mean Time, until such Purchase or Security can be effected, the Interest of such Money shall be paid, by Authority of the said Court, to the Person or Persons who, for the Time, would have been entitled to the Rents and Profits of the Lands, Tenements, or other Subjects so taken and used by the Commissioners.

If less than
200l. and
above 20l.

L. And be it enacted, That if such Money be less than Two hundred Pounds, but shall exceed Twenty Pounds Sterling, then, at the Option of the Person or Persons who, for the Time being, would have been entitled to the Rents and Profits of the Lands, Tenements, or other Subjects conveyed to or taken by the Commissioners for the Purposes of this Act, to
be

be signified in Writing under their respective Hands, or under the Hands of their Tutors, Curators, or Trustees, in Cases of Minority, Lunacy, or Trust, to be paid into one of the said Banks, under the same Direction and Authority, to be applied in the Manner before directed, or otherwise the same shall be paid at the like Option to Two Trustees to be named by the Person or Persons making such Option, and approved of by the said Commissioners, under this Act, in order that such Money, and the Interest arising thereon, may be applied in the Manner before directed, so far as the Circumstances of the Case shall make it practicable.

LI. And be it enacted, That where such Money shall be less than Twenty Pounds Sterling, then the same shall be applied to the Use of the Person or Persons, who for the Time being would have been entitled to the Rents and Profits of the Lands, Tenements, and other Subjects so taken and conveyed for the Purposes aforesaid, in such Manner as the Commissioners shall think fit; or, in case of Trust, to his or their Trustees; or, in case of Minority or Lunacy, to his, her, or their Tutors or Curators, for the Use and Benefit of such Person or Persons so entitled respectively. If less than 20^l.

LII. And be it further enacted, That in case any Person or Persons, to whom any Sum or Sums of Money shall be awarded for the Purchase of any Lands, Tenements, or other Subjects to be purchased by virtue of this Act, 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 Commissioners; or in case such Person or Persons, to whom 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, Tenements, or other Subjects be not known or discovered; then and in every such Case it shall and may be lawful to and for the said Commissioners to order the said Sum or Sums of Money so awarded as aforesaid to be paid into the Bank of *Scotland*, or Royal Bank of *Scotland*, to the Credit of the Parties interested in the said Houses or other Subjects (describing them), subject to the Order, Control, and Disposition of the Court of Session; which said Court, on the Application of any Person or Persons making Claim to such Sum or Sums of Money, or any Part thereof, by Petition, shall be and is hereby empowered, in a summary Way of Proceeding or otherwise, as to the Court shall seem meet, to order the same to be laid out and vested in the Public Funds, and to order Distribution thereof, or Payment of the Dividends thereof, according to the respective Estate or Estates, Title, or Interest of the Person or Persons making Claims thereunto, and to make such other Order in the Premises as to the said Court shall seem just and reasonable; and the Cashier or Cashiers of the Bank of *Scotland*, 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, mentioning and specifying for what and for whose Use the same is or are received, to such Person or Persons as shall pay such Sum or Sums of Money into the Bank as aforesaid. In case of not making out Titles.
Purchase Money to be paid into Bank.

LIII. And be it further enacted, That where any Question shall arise touching the Title of any Person to any Money to be paid into the said Where any Question shall arise touch-

ing the Right
of such
Money.

faid Banks in pursuance of this Act, for the Purchase of any Lands, Tenements or other Subjects, or of any Estate, Right or Interest in any Lands, Houses or other Subjects to be purchased in pursuance thereof, the Person or Persons who shall have been in Possession of such Lands, Tenements or other Subjects at the Time of such Purchase, and all Persons claiming under such Person or Persons shall be deemed and taken to have been lawfully entitled to such Lands, Tenements or other Subjects, according to such Possession, until the contrary shall be shewn to the Satisfaction of the said Court of Session, and such Money and the Interest thereof shall be paid, applied and disposed of accordingly, unless it shall be made appear to the said Court that such Possession was a wrongful Possession, and that some other Person or Persons was or were lawfully entitled to such Lands, Tenements or other Subjects, or to some Estate or Interest therein.

The Court
may order
reasonable
Expences of
Purchasers to
be paid by the
said Com-
missioners.

LIV. Provided always, and be it further enacted, That where by reason of Disability or Incapacity of the Person or Persons, or Corporation, entitled to any Lands, Tenements, or other Subjects to be purchased under the Authority of this Act, the Purchase Money for the same shall be required to be paid into the said Banks, and to be applied in the Purchase of other Lands, Tenements, or other Subjects, to be settled to the like Uses, in pursuance of this Act; it shall be lawful for the said Court 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 Court shall deem reasonable; together with the necessary Costs and Charges of obtaining such Order, to be paid by the said Commissioners, who shall from Time to Time pay such Sums of Money for such Purposes as the said Court shall direct.

Commission-
ers may bor-
row Money.

LV. And be it enacted, That it shall and may be lawful to and for the said Commissioners to borrow and take up, at a Rate of Interest not exceeding Five Pounds *per Centum per Annum*, any Sum or Sums of Money not exceeding Sixteen thousand Pounds in the whole, and to assign and make over the Rates and Duties authorized by this Act to be taken and levied, as a Security for the Re-payment of the Money so borrowed; and upon the Re-payment of the said Money, or any Part thereof, again to borrow and assign as aforesaid, so that the said Debt does not at any one Time exceed the said Sum of Sixteen thousand Pounds.

Rates may
be lessened.

LVI. And be it enacted, That the said Commissioners may and they are hereby empowered to lessen, reduce, and discontinue the Rates and Duties hereby granted, or any Part thereof, as they shall judge reasonable and expedient, and as the State of the Works will admit; and also to advance or revive the same again in such Manner as to them shall from Time to Time seem meet and expedient, so as the Rates and Duties, when so advanced or revived again, do not exceed the Rates and Duties hereinbefore granted: Provided always, that every such Diminution of the said Rates and Duties shall be approved of by the Persons entitled to Five-sixth Parts of the Money then due and owing on the said Rates and Duties; and the said Rates or Duties so reduced or revived, shall and may be collected, received, and recovered by such Ways and Means as the original Rates
and

and Duties hereby granted are authorized to be collected, received, and recovered.

LVII. Provided always, and be it enacted, That if any Person or Persons ^{Appeal.} shall think himself, herself or themselves aggrieved by any Thing done as in pursuance of this Act, or by any Decision or Warrant under the Hands of any of the said Baillies or Magistrates of the Burgh of *Dumfries*, or any Justice given in the Execution of this Act, or by any Bye-Laws or Regulations made in pursuance hereof, it shall be competent for such Person or Persons to apply for Redress by way of Appeal to the Justices of the Peace at the next General Sessions, providing that such Appeals or Applications for Redress shall be entered within Twenty Days after the Decision of the said Magistrates or Justice shall have been given, or the Bye-Law or Regulations being published, and Security for the Payment of Costs shall be given by the Party appealing or applying for Redress, as the said Justices at their Quarter Sessions may direct; and the said Justices shall in all such Cases proceed and determine summarily, and their Decision shall be final, and not subject to the Review of any Superior Court.

LVIII. And be it enacted, That no Action shall be commenced against the ^{Limitation of} said Commissioners, or any other Person or Persons, for any Thing done in ^{Actions.} the Execution of this Act, after Three Months after the Fact is committed; and the Defender or Defenders in such Action or Process may produce this Act, and plead that the said Things were done by authority and in virtue thereof; and if the Facts alleged shall appear so to have been done, then and in such Case the Defender or Defenders shall be acquitted from such Action or Process, and the Pursuer or Pursuers shall be found liable in the whole Expence of Process: Provided always, that it shall be competent to any Person or Persons interested, to prosecute the Commissioners for embezzling, squandering, or misapplying the Funds hereby vested in them, at any Time within Twelve Months after the Offence shall have been committed.

LIX. And be enacted, That it shall be lawful to the Treasurer ap- ^{Receipt of} pointed by the said Commissioners, and he is hereby empowered and re- ^{Subscriptions.} quired to demand, sue for, recover and receive the Sums of Money subscribed for the Purposes of this Act, from the several Subscribers and their Representatives, to be applied for the several Purposes of this Act so far as may be necessary to accomplish the said Purposes as speedily as possible, and before any Money shall be borrowed upon the Credit of the said Rates and Duties; each Subscriber having a Lien upon the Rates and Duties eviable by virtue of this Act, for the Repayment of the Sum or Sums so subscribed and actually paid, with Interest from the Time of Payment, at the Rate of Five Pounds *per Centum per Annum*, but no Part of the said Rates and Duties shall be applied to the Payment of such Principal or Interest, or to the Payment of the Principal Money to be borrowed under this Act or any Part thereof, until the whole of the Works and Improvements which the said Commissioners are empowered to make and execute under this Act, shall have been fully executed and completed.

Expences of
the Act.

LX. And be it enacted, That the Expences of procuring and passing this Act shall be paid out of the Rates and Duties levied, or the Money borrowed by virtue hereof.

Public Act.

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

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