



ANNO PRIMO

VICTORIÆ REGINÆ.

Cap. cv.

An Act to enable the *Kilmarnock* and *Troon* Railway Company to raise a farther Sum of Money; to alter and amend the Line of the said Railway; and for other Purposes relating thereto. [12th July 1837.]

WHEREAS an Act was passed in the Forty-eighth Year of the Reign of His late Majesty King *George* the Third, intituled *An Act for making a Railway from or near to the Town of Kilmarnock in the County of Ayr to a Place called the Troon in the said County*, whereby certain Persons were incorporated by the Name and Title of "The Company of Proprietors of the *Kilmarnock* and *Troon* Railway," with Powers to make and maintain a Railway from the Town of *Kilmarnock* to the Place called the *Troon*, and to raise and borrow certain Sums of Money for that Purpose; and the said Railway was accordingly made soon after the passing of the said Act, and the same is still in use: And whereas the said Company were by the said Act authorized to raise the Sum of Fifty-five thousand Pounds for the Purpose of the said Railway, and they have accordingly raised Forty-five thousand Pounds of the said Sum: And whereas it would be of Advantage to the said Company and to the Public if the Line or Course of the said Railway were altered in certain Places, and if the said Railway were made throughout suitable for being used by locomotive Steam Engines for the Conveyance of Passengers and Goods, and if for these Purposes, and for supplying the necessary locomotive
[Local.] 43 M Engines, 48 G.3. c. 46.

Engines, the said Company were authorized to raise a farther Sum of Money, and if the aforesaid Act were in some respects altered and amended; but as these Purposes cannot be effected without the Aid and Authority of Parliament, May it therefore please Your Majesty that it may be enacted; and be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That all the Powers, Authorities, Provisions, Regulations, Directions, Privileges, Penalties, Forfeitures, Clauses, Restrictions, Matters, and Things whatsoever contained in the said recited Act, except in so far as the same are altered, varied, or repealed, shall extend and be construed to extend to, and to operate and be in force for the Purposes of this Act, as fully and effectually, to all Intents and Purposes, as if the same and every Part thereof were repeated and re-enacted in this Act, and were made Part thereof; and the said recited Act and this Act shall, as to all Matters and Things whatsoever, except as aforesaid, be construed as one Act.

Recited Act
and this Act
to be taken
as one Act.

Power to in-
crease the
Capital.

II. And be it enacted, That it shall and may be lawful for the said Company, for the Purpose of completing the Alterations on the said *Kilmarnock* and *Troon* Railway hereby authorized to be made, and of adapting the said Railway for the Use of locomotive Engines, and for the Purchase of Engines, to raise and contribute among themselves, or by the Admission of new Subscribers, in addition to the aforesaid Sum of Fifty-five thousand Pounds authorized by the above recited Act to be raised, a farther Sum, not exceeding Forty thousand Pounds, which said farther Sum, and every or any Part thereof, when raised, shall be laid out, in the first place, in paying the Expences of applying for and obtaining this Act, and thereafter in making and completing the Alterations and Improvements hereby authorized to be made on the said Railway, and in order to fit or adapt the same for being used by locomotive Engines, and in the Purchase of the necessary locomotive Engines; and such farther Sum shall be divided into Shares of Five hundred Pounds each; and such new or additional Shares so to be created by virtue of this Act, and the several Shares made or created by virtue of the said recited Act, shall to all Intents and Purposes be and they are hereby declared to be consolidated, and to be one and the same Joint Stock and Property, and all Persons, Bodies Politic, Corporate, and Collegiate, and Parties whatsoever, and their several and respective Successors, Executors, Administrators, and Assigns, who shall have severally subscribed for One or more Shares, and have paid such Sum or Sums of Money as have been called for or demanded under and by virtue of the said recited Act, or who shall severally subscribe for One or more additional Shares, and pay such Sum or Sums of Money as shall be called for or demanded under and by virtue of this Act, shall respectively be entitled to and receive the entire and net Distribution of a proportional Part of the Profits or Advantages that shall or may arise or accrue by virtue of the said recited Act and of this Act, or either of them, from the said Undertaking, corresponding to such Shares of Five hundred Pounds each; and all Persons, and Bodies Politic, Corporate, and Collegiate, and Parties whatsoever, who shall subscribe for, hold, or be entitled to

Whole Stock
to be con-
solidated.

any

any such new or additional Share or Shares, shall be subject to the Provisions and Regulations of the said recited Act respecting the Payment of Subscriptions in such and the same Manner in all respects as if they were or had been respectively Subscribers or Holders of original Shares under the said recited Act.

III. And be it enacted, That the Holders of Shares in the said Undertaking created by the said recited Act shall be entitled, in the first place, to subscribe for the new Shares to be created in virtue of this Act in preference according to the Amount of the Shares which they shall respectively hold in the said Undertaking at the Time of the passing of this Act; but if all or any of such new Shares shall not be taken and subscribed for by such Holders of Shares as before mentioned within the Space of Twelve Months after the passing of this Act, the said Company shall be at liberty to receive Subscriptions for the same from any Person or Persons, Bodies Politic, Corporate, or Collegiate, or Parties whatsoever.

Present Proprietors to have a Preference in acquiring the new Stock.

IV. And be it enacted, That in case any Banking Company or Person shall agree to allow to the said Company a Credit to the Extent of the Sum of Thirteen thousand three hundred and thirty-three Pounds Six Shillings and Eight-pence, or any Part of such Sum, on a Cash Account, according to the Usage of Bankers in *Scotland*, upon the Security of the said Railway and Works as aforesaid, it shall be lawful for the said Company, by an Order to be made at any Meeting of the said Company, to accept of such Credit, and authorize the Committee or the Treasurer, or any other Officer of the Company, to borrow and take up at Interest any Sum not exceeding the said Sum of Thirteen thousand three hundred and thirty-three Pounds Six Shillings and Eight-pence; and the said Company or Committee, upon an Order to be made at any Meeting of the said Company to that Effect, are hereby authorized and empowered to assign the Property of the said Company, and the Tolls and Rates arising or to arise by virtue of the said recited Act and this Act, or any Part thereof, as a Security for such Sums so to be borrowed and received as aforesaid, and the Interest thereof, to such Banking Company or Person who shall agree to advance the said Sum of Thirteen thousand three hundred and thirty-three Pounds Six Shillings and Eight-pence, or any Part thereof: Provided always, that the total Sum due and owing by the said Company at any One Time for Money borrowed as aforesaid, and upon such Cash Account, shall never together exceed the Sum of Thirteen thousand three hundred and thirty-three Pounds Six Shillings and Eight-pence, and that it shall not be lawful for the said Company to borrow any Part thereof until they shall have raised and contributed Twenty thousand Pounds of the additional Capital hereby authorized to be raised.

Power to establish a Cash Credit.

V. And be it enacted, That the said Company shall be and are hereby authorized and empowered, by themselves, their Deputies, Agents, Officers, Workmen, and Servants, to alter the existing Line of the said Railway between the Places called *East Gatehead* and *Milton Bridge* in the Parish of *Kilmaurs* and Shire of *Ayr*, also at a

Power to make certain Alterations on the Line of the Railway.

Place

Place near to the said Bridge in the Parish of *Dundonald* and Shire aforesaid, and also at a Place near to *Drybridge* in the said Parish of *Dundonald*, or some of them, and as specified and described in the Plan and Book of Reference herein-after mentioned; and for the Purposes aforesaid the said Company, their Deputies, Agents, Officers, Workmen, and Servants, are hereby authorized and empowered to enter into and upon the Lands and other Premises of or belonging to any Person whomsoever, and also all Roads, Rivers, and other Places whatsoever, and to survey and take Levels of the same or any Part thereof, and to set out, ascertain, and appropriate such Parts thereof as they shall think necessary and proper for making and maintaining the said Railway, and all necessary Roads of Communication and other Conveniences; and also to bore, dig, cut, trench, sough, get, remove, take, carry away, lay, use, and manufacture any Earth, Clay, Stone, Soil, Rubbish, Trees (leaving such Trees for the 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 Works, or out of the Lands or other Premises of or belonging to any Person whomsoever adjoining thereto, and which may be proper or necessary for making, carrying on, continuing, diverting, maintaining, or repairing the said Railway and Works, or which may hinder, prevent, or obstruct the making, using, or completing, extending, diverting, or maintaining the same, according to the Intent and Meaning of this Act, and also to make, maintain, repair, and alter any Bridges, Aqueducts, Tunnels, Passages, or Fences over, under, or through the said Railway and Works; and also to make and set out and appoint such Roads or Passing Places for Waggons and other Carriages to turn, lie, or pass each other, as the said Company shall think fit; to alter the Course of such Roads, Rivulets, and Communications as may run in or near the said Railway and Works, and also to construct, make, and do all other Matters and Things which the said Company shall think convenient or necessary for the making, effecting, altering, completing, maintaining, and using the said Railway and Works to be made and constructed by the said Company; they the said Company, their Deputies, Agents, Workmen, and Servants, doing as little Damage as may be in the Execution of the several Powers to them hereby granted, and making full Satisfaction to the Owners or Proprietors of and all Persons interested in any Lands or Heritages which shall be taken, used, removed, or injured, for all Losses and Damages to be by them sustained in or by the Execution of all or any of the Powers of this Act, as required by the said recited Act, and in manner therein set forth, in the like Way as if the Directions thereby given, and the Indemnities thereby prescribed and afforded, were herein specially set forth; and this Act shall be sufficient to indemnify the said Company, their Deputies, Agents, Workmen, and Servants, for what they or any of them shall do by virtue of the Powers hereby granted, subject nevertheless to the Provisions and Restrictions set forth in the said recited Act, and herein-after mentioned and contained.

Map and
Book of
Reference

VI. And whereas a Map or Plan of the said Railway, showing the Alterations hereby authorized to be made, with a Book of Reference relating

relating thereto, has been lodged with the Clerk of the Peace of the County of *Ayr*; be it enacted, That the said Map or Plan and Book of Reference shall remain with the Clerk of the Peace for the said County, to which Map or Plan and Book of Reference all Persons shall have Liberty to resort at all seasonable Times, and to examine and make Extracts from or Copies of the same, paying to the said Clerk for every Inspection the Sum of Two Shillings and Sixpence, and for Copies or Extracts from the said Book of Reference after the Rate of Sixpence for every Seventy-two Words; and the said Map or Plan and Book of Reference, or true Copies thereof, shall be and are hereby declared to be good Evidence in all Courts of Law or elsewhere.

to remain with the Clerk of the Peace, and be open to Inspection.

VII. And be it enacted, That the said Company, in making the Alterations hereby authorized to be made, shall not deviate more than shall be necessary for that Purpose, in passing through Towns and Villages not more than Ten Yards, nor in any Instance more than One hundred Yards from the Course or Direction delineated in the said Map or Plan and set forth in the said Book of Reference: Provided always, that no Deviation from the Line laid down on the said Plan shall be made after the Lapse of Two Years from and after the passing of this Act.

Limiting Deviations.

VIII. Provided always, and be it enacted, That the said Company may make the said Railway 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 or inaccurately described in the said Book of Reference, in case it shall appear to any Two or more Justices of the Peace for the County of *Ayr*, and be certified by Writing under their Hands, that such Error or Omission proceeded from Mistake.

Omissions in Book of Reference not to prevent the Completion of the Works.

IX. And be it enacted, That the Land to be taken or used by virtue of this Act shall not exceed Twenty Yards in Breadth, except where it shall be judged necessary to appropriate a Space for Waggon or Carriages to turn, remain, or pass each other, or for raising Embankments, or in deep Cuttings, or in the Avenues to Bridges; and in no Place shall more than Seventy-five Yards in Breadth be taken or used without the Consent in Writing of the Owners of the Land or Heritages so to be taken or used.

Company empowered to widen the existing Line.

X. And be it enacted, That it shall be lawful for the said Company and they are hereby empowered to contract with any Person or Corporation (who shall be willing to sell the same) for the Purchase of any Lands not exceeding in the Whole Ten Acres, in addition to the Lands herein-before authorized to be taken and used, in such Places as shall be deemed eligible for the Purpose of making and providing additional Stations, Yards, Wharfs, waiting, loading, and unloading Places, Weighing Machines, Toll Houses, Offices, Warehouses, and other Buildings and Conveniences, for the Accommodation of Passengers, or for receiving, depositing, loading, or

Empowering Company to purchase Ten Acres of Land for the Purpose of additional Stations.

keeping any Cattle, or any Goods, Articles, Matters, or Things conveyed or intended to be conveyed upon the said Railway, or for making convenient Roads or Ways thereto, or to the said Railway, or for any other Purposes whatsoever connected with the Undertaking by this Act authorized, which the said Company shall judge requisite; and it shall be lawful for all Persons and Corporations, including especially such Persons and Corporations as are by this Act capacitated to sell and convey Lands, and to release and discharge all real Burdens and Incumbrances for the Purposes of this Act, to sell and convey to the said Company and their Successors any Lands whatsoever for the Purposes herein mentioned or any of them, and to release and discharge all real Burdens and Incumbrances thereon, in the same Manner as is herein directed concerning the Lands to be taken for the Purpose of improving the Line of the said Railway and Works.

Incapacitated Persons authorized to convey.

XI. And be enacted, That after any Lands or other Heritages shall be set out for making, amending, or altering the said Railway and Works it shall be lawful for all Bodies Politic, Corporate, or Collegiate, Heirs of Entail, Liferenters, Husbands, Tutors, Curators, Guardians, Trustees for charitable or other Purposes, Executors or Administrators, and all Persons whomsoever, not only for and on behalf of themselves, their Heirs and Successors, but also for and on behalf of those for whom they are Tutors, Curators, or Trustees, whether Infants, Minors, Issue unborn, Lunatics, Idiots, Married Women, or other Persons whomsoever, and to and for all Married Women or other Persons whomsoever, and to and for all Married Women who are or shall be seised, possessed of, or interested in their own Right, or entitled to Terce or other Interest therein, and to and for all and every other Person whomsoever who is or shall be seised, possessed of, or interested in any such Lands or Heritages as last aforesaid, which shall be so set out for the Purpose aforesaid, to contract for, sell, or convey the same to the said Company, and that in manner and according to the Forms set forth in the said recited Act, any Law, Statute, Deed of Entail, Usage, or Custom to the contrary notwithstanding; and all Persons so conveying as aforesaid are hereby indemnified for what they shall respectively do by virtue of this Act.

Satisfaction to be made.

XII. And be it enacted, That the said Company, for all Lands and Heritages to be acquired, shall make Satisfaction and Payment in manner directed by the said recited Act.

Expences of Jury how to be paid in certain Cases.

XIII. And be it enacted, That in every Case in which the Verdict of a Jury summoned in manner provided by the said recited Act shall be given for the same or a greater Sum than shall have been previously offered by the said Company for the Purchase of any Lands to be used or taken by them for the Purposes of this Act, or as Compensation for any Damage or Loss which may happen or arise in the Execution of any of the Powers hereby granted, all the Costs, Charges, and Expences of and attending the Inquisition, Verdict, and Judgment of such Jury, and the Expences of Witnesses, and of the Bond to be given by the Party requiring such Jury

Jury to be summoned, shall be defrayed by the said Company, and such Costs, Charges, and Expences shall be taxed and decerned for by the Sheriff who may have summoned such Jury; but if the Verdict of the Jury shall be given for a less Sum than shall have been previously offered by the said Company, one Moiety of the said Costs, Charges, and Expences shall be defrayed by the Party with whom the said Company shall have such Dispute, and the Remainder shall be defrayed by the said Company, and, having been taxed and decerned for in manner herein-before mentioned, shall and may be deducted out of the Money decerned to be paid to such other Party as so much Money advanced to and for his Use, and the Payment or Tender of the Remainder of the Money so decerned for shall be deemed and taken to all Intents and Purposes to be a good Payment or Tender in satisfaction of the whole thereof: Provided always, that in Cases in which by reason of Absence in Foreign Parts, or from any other Cause or Disability not herein or in the said recited Act provided for, any Person shall have been prevented from treating and agreeing as aforesaid, the whole of such Costs, Charges, and Expences shall be borne and paid by the said Company: Provided also, that in Cases in which no Sum shall be given by the Verdict of such Jury the whole of the aforesaid Costs, Charges, and Expences shall be borne and paid by the Claimant.

XIV. And whereas by means of Purchases which the said Company are hereby empowered or required to make the said Company may happen to be possessed of more Lands than will be necessary for effecting the Purposes of this Act, or of Lands not applicable to the Purposes thereof; be it therefore enacted, That it shall be lawful for the said Company and they are hereby required, within Ten Years from the passing of this Act, to contract for and sell, and by any Deed under their Common Seal, and for such Considerations as they may deem reasonable, to convey to the Purchasers thereof any Part of such superfluous Lands as shall not be required for the Purposes of this Act, or any Estate or Interest purchased by or belonging to the said Company in such Lands or any Part thereof, in such Manner as they shall deem most advantageous; and such Contracts, Sales, and Conveyances from the said Company shall be valid and effectual to all Intents and Purposes: Provided always, that the said Company, before they shall dispose of any such superfluous Lands, shall first offer to sell the same to the Person or several Persons from whom the said Company purchased the same, or who would have been entitled thereto had the same not been purchased, so as for them to become entitled to their old Interest therein, in case such Person or Persons shall then continue the Owner or Owners of any Part of the adjoining Lands or Estate from which the same may have been taken, such Persons being in *Scotland*, and conveniently to be found, and being capable of entering into a Contract for the Purchase of such Lands; and such respective Persons, in case they shall be desirous of purchasing the same, shall signify such their Desire and Intention in that Behalf to the said Company within Fifteen Days after such Offer of Sale shall have been made; and in case such Persons shall decline to avail themselves of such Offer, or shall neglect to signify their Desire and Intention to purchase such Lands
for

Enabling
the Com-
pany to sell
Lands
not wanted.

for the Space of Fifteen Days, the Right of Pre-emption of every such Person so declining or neglecting in respect of the Lands included in such Offer of Sale shall cease, and a Declaration in Writing, made before any Justice of the Peace acting within his Jurisdiction, who is hereby authorized to take or receive the same, by some Person not interested in such Lands, stating that the Person entitled to such Right of Pre-emption was not in *Scotland*, or was not found, or was not capable of entering into a Contract for the Purchase of such Lands, or that such Offer was made by or on behalf of the said Company, and that such Offer was refused or was not accepted by the Person to whom the same was made within the Space of Fifteen Days from the Time of making the same, shall in all Courts whatsoever be sufficient Evidence and Proof that such Offer was made, and was refused, or was not accepted within the Time aforesaid, and of such other Matters as are required to be and are stated in such Declaration so to be made as aforesaid (as the Case may be); and in case any such Person as aforesaid shall be desirous of purchasing any such Lands, and such Person and the said Company shall not agree with respect to the Price thereof, then the Price thereof shall be ascertained by a Jury in the Manner by the said recited Act and this Act directed with respect to the disputed Value of Lands to be taken or used by the said Company for the Purposes of this Act, and the Expence of hearing and determining such Difference shall be borne and paid in like Manner as by the said recited Act and this Act is directed with respect to such Lands as aforesaid, *mutatis mutandis*, and the Money produced by the Sale which may be made by the said Company of such Lands as aforesaid shall be applied to the Purposes of this Act; and all Conveyances which shall be made by the said Company, pursuant to the Authority by this Act in them reposed, shall be adjudged sufficient to vest such Estate in the Purchaser as shall have been agreed for, or shall be expressed or meant and intended to be conveyed and granted by any such Conveyance.

Company
to erect
Bridges, and
not to cross
Turnpike
Roads on a
Level.

XV. And be it enacted, That in order to authorize the Use of locomotive Engines on the said Railway, and before any such Machine or Engine shall be used on the said Railway, the said Company shall be obliged, where the said Railway crosses any Turnpike Road or public Highway, either to carry such Turnpike Road or Highway, at the Expence of the said Company, over the said Railway, or to carry the said Railway over such Turnpike Road or Highway, by means of a Bridge: Provided always, that where any Bridge shall be erected by the said Company for the Purpose of carrying the said Railway over any Turnpike Road the Span of the Arch of such Bridge shall be formed and shall at all Times be continued of such Width as to leave a clear and open Space under every such Arch of not less than Twenty-five Feet, and of a Height from the Surface of such Road to the Centre of such Arch of not less than Eighteen Feet; and where any Bridge shall be erected by the said Company for the Purpose of carrying the said Railway over or across any existing public Carriage Road not being a Turnpike Road, the Span of the Arch of such last-mentioned Bridge shall be formed and shall at all Times be and be continued of such Width as to leave a clear and
open

open Space under every such last-mentioned Arch of not less than Twenty Feet, and of a Height from the Surface of such public Carriage Road to the Centre of such Arch of not less than Sixteen Feet ; and where the Level of any Turnpike Road or public Carriage Road shall be altered in improving the Line of the said Railway the Ascent of any such Turnpike Road shall not be more than One Foot in Thirty Feet, and of every such public Carriage Road not more than One Foot in Twenty Feet.

XVI. And be it enacted, That in all Places where it may be necessary to erect or build any Bridge on or to communicate with any public Carriage Road, or to cut or bank, in order to allow the Passage of the said Railway under, above, across, or along such Road, the Ascent of the Road over or Descent under any such Bridge, Cut, or Bank shall not, if Turnpike, be more than One Foot in Thirty Feet, or in case of any other public Carriage Road more than One Foot in Twenty Feet, and a good and sufficient Fence shall be made on each Side of every such Bridge, which Fence shall not be less than Four Feet above the Surface of such Bridge.

Ascent to Bridge and Height of Fences.

XVII. And be it enacted, That where in making the said Alterations any Bridge shall be erected for carrying any public Carriage Road over the said Railway the Road over such Bridge shall be formed and shall at all Times be continued of such Width as to leave a clear and open Space between the Fences of such Road of not less than Thirty Feet in the Case of a Turnpike Road, and of not less than Twenty Feet in all other Cases, and the Ascent of every such Bridge for the Purpose of such public Carriage Road shall not in the Case of a Turnpike Road exceed One Foot in Thirty Feet, and in the Case of any other public Carriage Road shall not exceed One Foot in Twenty Feet, and in the Case of any private Carriage Road shall not exceed One Foot in Sixteen Feet ; and a good and sufficient Fence shall be made on each Side of every such Bridge, which Fence shall not be less than Four Feet above the Surface of such Bridge.

Regulating Ascent of Bridges for carrying public Roads over Railway.

XVIII. And be it enacted, That in case the said Railway shall at any Time hereafter, from its near Approach to any Turnpike Road, occasion Danger to the Travellers on such Road, in consequence of Horses being frightened by the Sight of the Engines and Carriages travelling upon the said Railway, it shall be lawful for any Person or Persons to make Complaint thereof to any Two Justices of the Peace acting for the Limit where such Turnpike Road shall be, who shall summon the Clerk or Secretary for the Time being of the said Company, or one of the Directors thereof, before them, to answer such Complaint, and if it shall appear to such Justices that the said Complaint is reasonable, then the said Company shall, within such Time as shall be ordered by the said Justices in that Behalf, and after Notice of such Order served upon them, or their principal Engineer, Clerk, or other Officer, within such Time as shall be appointed by the said Justices commence, and within such Time as shall be appointed by the said Justices complete, such Works in the Nature of a Screen, near to or adjoining the Sides of the said Turnpike Road or of the said Railway as shall be directed by the said Justices, so as to prevent

Company to erect Screen on the Side of Railway in case of Danger to Passengers on Turnpike Roads.

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such

such Danger to Travellers upon the said Turnpike Road ; and in case such Company shall neglect within the Time appointed in that Behalf to commence, or shall not continue to execute such Works until the due Completion thereof, or shall not complete the same within the Time in that Behalf appointed, the said Company shall forfeit and pay, for every Day during which the said Company shall not commence or shall not proceed in the Completion of such Works, or during which the said Works shall not be completed after the Time appointed for Completion thereof, the Sum of Twenty-five Pounds, to be recoverable by the Commissioners or Trustees of the said Turnpike Road from the said Company in such and the same Manner as any other Penalties incurred by the said Company for which no special Provision is made by the said recited Act or this Act.

Gates to be erected where Railway crosses public Carriage Road on a Level.

XIX. And be it enacted, That in all Cases where the said Railway shall cross any public Carriage Road on a Level the said Company, if required by any Meeting of the Trustees for public Roads for the District or Parish, shall erect and at all Times maintain good and sufficient Gates across the said Railway at the Point where the same shall cross such public Carriage Road, all which Gates shall be constantly kept shut by some Person to be appointed by the said Company, and which Person the said Company is hereby required to appoint, under a Penalty of Five Pounds for each Default, except during the Time when Waggons or Carriages passing along the said Railway shall have to cross such public Road, and then such Gates shall be open for the Purpose only of letting such Waggons or Carriages pass through ; and the Person intrusted with the Care of the said Gates shall shut or cause every such Gate to be shut as soon as such Waggons or Carriages shall have passed through the same, under the Penalty of Forty Shillings for every Default therein.

As to Railway crossing Bridleways and Footpaths.

XX. And be it enacted, That the said Alterations shall not be made across any Bridleway or public Footpath on the Level unless it shall be certified under the Hands of Two Justices of the Peace of the County of *Ayr* that such Bridleway or Footpath may be so crossed without Danger to the Public ; and where the Line of such Alterations shall cross any public Bridleway or Footpath the said Company shall make and maintain convenient Ascents and Descents, as the Case may be, to such Bridleway or Footpath.

Ledges of Rails not to project above Levels of Roads.

XXI. And be it enacted, That where the said Railway shall cross or pass along any public Carriage Road the Ledges or Flanches shall be so constructed as not to project above the Surface of such Carriage Road, nor shall any such Ledge or Flanch be more than Three Quarters of an Inch below the Level of the same.

As to Diversion of Turnpike Roads.

XXII. And be it enacted, That previous to the Diversion of any Turnpike Road for the Purposes of the said Railway the said Company, before they shall appropriate to themselves any such Turnpike Road, shall at their own Expence make and maintain a good and sufficient temporary Road until a new permanent Road shall

shall be completed, and shall also at their own Expence make and construct a good and sufficient new permanent Road of the Breadth of Thirty Feet at least, and complete the same so as to be fit and suitable for travelling upon; which new permanent Road, when opened, shall be vested in and be entirely under the Control of the Trustees of the Turnpike Road so diverted, and thereupon the said Company shall and may take and use the Site of the old Road for the Purposes of the said Railway.

XXIII. Provided always, and be it enacted, That in case the said Company shall neglect to set out and make such good and sufficient temporary Road as herein-before mentioned, or shall not restore and make good the permanent Road within the Period prescribed by this Act, then and in such Case the said Company shall forfeit and pay for every Day beyond the prescribed Period the Sum of Thirty Pounds, to be levied, recovered, and applied in the same Manner as other Penalties are by the said recited Act or this Act directed to be recovered, levied, and applied.

Penalty on Company making Default in reinstating Turnpike Roads.

XXIV. And be it enacted, That it shall not be lawful for the said Company to continue or appoint the Person who has been or may be appointed their Clerk in the Execution of this Act, or the Partner of any such Clerk, or the Clerk or other Person in the Service or Employ of any such Clerk or of his Partner, the Treasurer for the Purposes of this Act, or to continue or appoint any Person who has been or may be appointed Treasurer, or the Partner of any such Treasurer, or the Clerk or other Person in the Service or Employ of any such Treasurer or of his Partner, the Clerk for the Purposes of this Act; and if any Person shall accept both the Offices of Clerk and Treasurer for the Purposes of this Act, or if any Person being the Partner of any such Clerk, or the Clerk or other Person in the Service or Employ of any such Clerk or of his Partner, shall accept the Office of Treasurer, or shall act as Deputy of the Treasurer, or in any Manner officiate for the Treasurer, or being the Partner of any such Treasurer, or the Clerk or other Person in the Service or Employ of any such Treasurer or of his Partner, shall accept the Office of Clerk in the Execution of this Act, or shall act as the Deputy of such Clerk, or in any Manner officiate for such Clerk, or if any such Treasurer shall hold any Place of Profit or Trust under the said Company other than that of Treasurer, every such Person so offending shall for every such Offence forfeit and pay the Sum of One hundred Pounds to any Person who shall sue for the same, to be recovered, with full Costs, in the same Way in which any of the Penalties by the said recited Act or this Act imposed may be sued for and recovered.

Clerk and Treasurer not to be the same Person.

XXV. And be it enacted, That it shall be lawful to and for the said Company and they are hereby authorized to erect, provide, establish, and keep up, or to authorize and permit any other Person to erect, provide, establish, and keep up, all such Waggon and Carriages, and locomotive or moveable Engines, as they shall think proper, and to use and employ the same for the Purpose of carrying and conveying upon the said Railway all such Passengers and Goods

Company authorized to convey Passengers, &c.

and

and other Matters as shall be offered to them for that Purpose, and to make Charges for such Conveyance.

Rates of
Conveyance.

XXVI. And be it enacted, That it shall and may be lawful to and for the said Company to demand, receive, and recover, to and for the Use and Benefit of the said Company, for and in respect of Passengers, and Cattle and other Animals, conveyed in Waggon or Carriages along the said Railway,

For every Person conveyed in or upon any such Waggon or Carriage, any Sum not exceeding Three-pence *per* Mile :

For every Horse, Mule, Ass, or other Beast of Draught or Burden, and for every Ox, Cow, Bull, or Neat Cattle, conveyed in or upon any such Waggon or Carriage, any Sum not exceeding Two-pence *per* Mile :

For every Calf, Pig, Sheep, Lamb, Dog, or other small Animal conveyed in or upon any such Waggon or Carriage, any Sum not exceeding One Penny *per* Mile :

For every Carriage, of whatever Description, not being a Carriage adapted and used for travelling on a Railway, and not weighing more than One Ton, carried or conveyed on a Truck or Platform, any Sum not exceeding Five-pence *per* Mile :

For all Goods loaded or unloaded by the Company's Servants into or from any Waggon or Carriages, Two Shillings and Sixpence *per* Ton for the Labourage, over and above the Tolls or Rates before specified; or if the Quantity loaded or unloaded be less than One Ton in Weight, then Sixpence for each Barrel Bulk of Cubic Feet.

Rates may
be reduced
and again
increased.

XXVII. And be it enacted, That it shall and may be lawful for the said Company from Time to Time to lessen or reduce, or advance and increase, all or any of the Tolls or Rates herein or by the said recited Act granted, but so as not at any Time to exceed the Amount in the said Act or herein-before set forth and authorized to be collected: Provided always, that the Tolls, Rates, and Duties herein and by the said recited Act granted shall, except as herein-after provided, be charged equally and at the same Rate *per* Mile in respect of Persons conveyed on the said Railway or any Part thereof, and at the same Rate *per* Ton *per* Mile in respect of the same Description of Goods and Commodities, throughout the whole of the said Railway or any Part thereof.

Tables of
Rates to be
put up.

XXVIII. And be it enacted, That the said Company shall and they are hereby required to put or fix up, and afterwards to continue so fixed, at or near the Places where such Tolls or Rates are collected, a Table whereon shall be painted in distinct and legible Letters and Figures a List of all the Tolls or Rates payable by virtue of this Act, and to renew the same whenever any of such Letters or Figures shall be worn out, defaced, or obliterated.

Penalty on
defacing
such Tables,
&c.

XXIX. And be it enacted, That if any Person shall wilfully, negligently, or maliciously pull down, deface, or destroy any Board whereon any Rules, Bye Laws, Orders, Tolls, or Rates shall be painted,

painted, such Person shall, on Conviction, forfeit and pay to the said Company for every such Offence a Sum not exceeding Five Pounds.

XXX. And be it enacted, That it shall be lawful for the said Company, and they are hereby authorized and empowered, at any Meeting of the said Company, by Writing under the Common Seal of the Company, at any Time to let to farm the Tolls or Rates by this Act or by the said recited Act, or either of them, made payable, or any Part thereof, upon the Whole or any Part of the said Railway, unto any Person for any Term or Time they shall think proper, not exceeding Five Years from the Commencement of any Lease; and every such Lease shall be valid and effectual, and the Lessee thereof, and also such Person as such Lessee shall appoint to collect and receive the Tolls or Rates so let, shall during the Continuance of every such Lease be deemed the Collector of the Tolls or Rates so let, but for the proper Use of such Lessee, and shall have the same Power and Authority for collecting and recovering the same as if he had been appointed for that Purpose by the said Company: Provided always, that public Notice of the Intention to let the said Tolls or Rates, or any Part thereof, shall be given in Writing by the Company, or the Clerk of the said Company, by Advertisement published in such Newspaper at least Twenty-one Days prior to any Meeting at which the said Tolls or Rates, or any Part thereof, are proposed to be let; and it shall also be lawful for the said Company or Committee to lease to any Person the Right of establishing and using any Waggon or Carriage, or any locomotive Engine or other Power, and to grant Licences to any Person willing to establish the same for the Conveyance and Transport of Passengers and Goods or other Matters upon and along the said Railway, at such Sum or Rent as may be mutually agreed on by the said Company and such Person: Provided always, that such Waggon, Carriage, locomotive Engine, or other Power be constructed agreeably to the Rules and Regulations to be made touching such Matters by the said Company.

Power to
lease Rates.

XXXI. And whereas a Bill is now depending in Parliament, intituled "A Bill for making a Railway from *Glasgow* to *Paisley* and *Ayr*, and from a Point on the said Railway near *Blairland* to *Kilmarnock*, to be called the *Glasgow, Paisley, Kilmarnock, and Ayr* Railway, with Branches," the Main Line of which Railway will pass over and join the said *Kilmarnock* and *Troon* Railway at or near a Place called *Barassie Mill*, and a Branch will be carried from the said Point of Junction to the Town and Harbour of *Troon* by the said Company, in the Event of the said *Kilmarnock* and *Troon* Railway Company not converting that Part thereof from *Barassie Mill* to *Troon* into an Edge Railway, and adapting the same to the use of locomotive Engines, and there is also a Branch projected from the said Main Line at or near a Place called *Fullarton* to a Point on the said *Kilmarnock* and *Troon* Railway at or near *Drybridge*: And whereas if the said Bill shall pass into a Law, and if the said Railway and the said Branches to be thereby authorized shall be made, a Traffic to a considerable Amount in Goods and Passengers is expected to pass along the said *Kilmarnock* and *Troon* Railway,

Provision as
to Rates on
Branch from
Barassie Mill
to *Troon*.

[*Local.*]

43 P

to

to and from the said *Glasgow, Paisley, Kilmarnock* and *Ayr* Railway and Branches: And whereas it is expedient, and would be convenient and for the Interest of the Public, that the Rates to be charged for all such Goods, except Coals, and for Passengers, should be assimilated and regulated; be it therefore enacted, That notwithstanding any thing in this Act contained the said *Kilmarnock* and *Troon* Railway Company shall not exact any higher Rate or Charge *per Mile* on Goods or other Articles, except Coals, or on Passengers, passing along their Railway to or from the said *Glasgow, Paisley, Kilmarnock*, and *Ayr* Railway or Branches, than shall for the Time being be charged on Goods or other Articles of the same Description, and on Passengers, carried by the said *Glasgow, Paisley, Kilmarnock*, and *Ayr* Railway Company for any Distance exceeding Seven Miles upon the said *Glasgow, Paisley, Kilmarnock*, and *Ayr* Railway: Provided always, that the Rates or Tolls to be charged as before mentioned shall not affect the Rates or Tolls to be charged by the said *Kilmarnock* and *Troon* Railway Company on Goods or other Articles, and on Passengers, not passing from or to the said *Glasgow, Paisley, Kilmarnock*, and *Ayr* Railway and Branches.

Company
may enter
into Con-
tracts.

XXXII. And be it enacted, That it shall and may be lawful for the said Company or Committee from Time to Time to enter into Contracts with any Person willing to contract for the driving or dragging of the Waggon and Carriages laden or not laden on the said Railway or any Part thereof, or for the providing or maintaining of Horses, or of all or any other Matters and Things connected with the said Railway and Works, and the Couveyance of Goods and other Matters along or upon the said Railway, as the said Company shall think proper; provided that no such Contract shall endure for longer Time than Five Years.

Carriages
must be
approved of
by the Com-
pany.

XXXIII. And be it enacted, That no Person shall pass upon any Part of the said Railway with any Waggon or Carriage unless the same shall be constructed according to the Orders and Regulations of the said Company for adapting and fitting the same to the Railway, and preventing any Damage being done thereto by such Waggon or Carriage, or by the Contents or Lading thereof; and if any Person shall pass upon any Part of the said Railway with any Waggon or Carriage not constructed in the Manner directed by the said Orders and Regulations, he shall for every such Offence forfeit and pay any Sum not exceeding Five Pounds to the said Company, together with the Expence of repairing any Damage done by using any such Waggon or Carriage so improperly constructed; and the said Company and their Officers and Servants shall be entitled to stop such Waggon or Carriage from passing along the said Railway; and no Person or Persons, excepting the said *Kilmarnock* and *Troon* Railway Company, or such as may be authorized by them, shall be entitled to use any Waggon or Waggon for the Carriage of Passengers or Animals along any Part of the said Railway.

Penalties
in Cases of
Obstruction.

XXXIV. And be it enacted, That if any Waggon or Carriage, Horse or other Beast, shall be placed or suffered to remain on any Part of the said Railway or Works, so as to obstruct the Passage thereof,
and

and the Person having the Care of such Waggon or Carriage, Horse or Beast, shall not immediately upon Request made remove the same, he shall forfeit and pay for every such Offence any Sum not exceeding Forty Shillings; and it shall be lawful for any Officer of the said Company to cause any such Waggon or Carriage to be unloaded, if necessary, and to be removed in such Manner as shall be proper for preventing such Obstruction, and to detain such Waggon or Carriage, and Horse or other Beast, 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 Twenty Days, then and in every such Case it shall be lawful for the said Company to sell and dispose of such Waggon or Carriage, with the Loading thereof, rendering to the former Owner of the same the Overplus, after such Expences, and the Charges of such Sale, shall be deducted.

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

Loading
Waggons,
&c.

XXXVI. And be it enacted, That, notwithstanding any thing to the contrary contained in the before-recited Act, it shall not be lawful to any Person (save and except the Workmen and Servants employed by the said Company, or other Persons having their Authority,) to lead, ride, or drive, or cause to be ridden, led, or driven, along or across the said Railway, any Horse, Cow, or other Neat Cattle, Sheep, Swine, or other Beast or Animal, except only in directly crossing the same at Places to be appointed by the said Company or Committee for that Purpose; and if any Person shall act in the contrary he or she shall forfeit and pay to the said Company any Sum not exceeding Forty Shillings; or if any Person shall travel or pass on Foot along or across the said Railway without the Leave and Consent of the said Company (except for the Purpose of attending any Waggon or Carriage under his Care), every Person so offending shall forfeit and pay to the said Company any Sum not exceeding Twenty Shillings for every such Offence; and so much of the said recited Act as authorizes Justices of the Peace to cause Gates to be erected across the said Railway is hereby repealed, saving when the said Railway crosses any public Carriage Road on a Level.

Railway not
to be used
as a Passage
for Horses
or Cattle.

XXXVII. And be it enacted, That the said Company shall be obliged, in Cases where the same Person is Proprietor of Lands on both Sides of the said Railway, to afford such Person a safe and convenient Access under or over the said Railway for Cattle, Horses, and Carriages.

Proprietors
of Land on
both Sides of
Railway to
have con-
venient Ac-
cess.

XXXVIII. And

Company
empowered
to contract
with other
Railway
Companies.

XXXVIII. And whereas it may tend much to the Convenience of the Public if Railway Companies were empowered to enter into mutual Arrangements, so as to avoid the Necessity of a Change of Carriages and other Delays arising from a Diversity of Interests; be it therefore enacted, That it shall be lawful for the said *Kilmarnock* and *Troon* Railway Company and they are hereby empowered from Time to Time to make and enter into any Contract or Agreement with any other Railway Company (and which Contracts or Agreements all other Railway Companies are hereby empowered to make and enter into) either for the Division or Apportionment of the Rates, Tolls, and Duties, or for the Passage over or along the Railway by the said recited Act and this Act authorized to be made of any Engines, Coaches, Waggons, or other Carriages of or belonging to any other Railway Company, or which shall pass over or along any other Line of Railway, of any Engines, Coaches, Waggons, or other Carriages which shall belong to the Company hereby empowered, or which shall pass over or along their Line of Railway, upon the Payment of such Rates, Tolls, or Duties, and under such Conditions and Restrictions, as may be mutually agreed upon, and also to make and enter into any other Contract with any other Railway Company that may be deemed advisable; and every such Contract may contain such Clauses, Conditions, Provisions, and Agreements as the contracting Parties may respectively think advisable and mutually agree upon: Provided always, that no such Contract shall in any Manner alter, affect, increase, or diminish any of the Rates, Tolls, or Sums which the respective Companies, Parties to such Contracts, shall for the Time being be respectively authorized to take, demand, receive, or recover of or from any Person or any other Company; but that all other Persons and Companies shall, notwithstanding any such Contract, be entitled to the Use and Benefit of any of the said Railways upon the same Terms and Conditions, and upon Payment of the same Rates, Tolls, and Sums as they would have been in case no such Contract had been entered into; nor shall any such Contract give any Preference or Advantage to any Company or Person, Party thereto, over any other Company or Person, but all such Companies and Persons so contracting shall, notwithstanding such Contract, pay the same Amount of Rates, Tolls, or Duties as shall from Time to Time be charged to other Companies or Persons not being Parties to such Contracts.

Company to
regulate the
Passage on
Railway.

XXXIX. And be it enacted, That it shall be lawful for the said Company from Time to Time to make such Orders and Regulations as they shall think proper for regulating the travelling upon and Use of the said Railway, and the Times when the same shall be open for Use, and for or relating to Travellers and Carriages passing upon the said Railway, and for or relating to the Mode or Means by which and the Speed at which such Carriages shall from Time to Time be moved or propelled, and the Times of their Departure and Arrival, and the loading or unloading thereof respectively, and the Weights which they shall respectively carry, and the Delivery of Goods and other Things which shall be conveyed in or upon such Carriages, and also for preventing the smoking of Tobacco and the Commission of any other Nuisance in or upon any such Carriages, or in any of the
Stations

Stations or Premises occupied by or belonging to the said Company, and generally for regulating the passing upon, using, or working the said Railway and other Works by this Act authorized, or in anywise relating thereto respectively; and all such Orders and Regulations shall, when published and affixed in the Manner herein provided with respect to Bye Laws, be binding upon and be conformed to by the said Company, and by all Owners of and Persons having the Care or Conduct of such Carriages, and by all Persons using or working the said Railway and other Works, and by all Travellers and Passengers passing upon the said Railway, upon pain of forfeiting and paying a Sum not exceeding Five Pounds which the said Company may attach to any such Default: Provided always, that in every case of Infraction or Non-observance of any such Rules or Regulations which shall be attended with Danger to the Public or Annoyance to Travellers, or which shall obstruct or hinder the said Company in their due and lawful Use and working of the said Railway and Works, it shall be lawful for the said Company and their Agents summarily to interfere to obviate such Danger, or to remove or prevent such Obstruction, Nuisance, or Hindrance.

XL. And whereas for the greater Security of Passengers and other Persons travelling upon and using the said Railway it is expedient that the moving Powers to be from Time to Time used in drawing or propelling Carriages upon or along the said Railway should be under the Control of the said Company; be it therefore enacted, That no locomotive or other Engine, or other Description of moving Power, shall at any Time be brought upon or used on the said Railway, unless the same shall first have been approved of by the said Company; and it shall be lawful for the said Company and they are hereby required, within Twenty-one Days after Notice given to them by any Person desirous of bringing any such Engine on the said Railway, to cause their Engineer or other Agent to inspect and examine such Engine at any Place within Five Miles of the said Railway, and to report thereon to the said Company, who shall within Seven Days after such Report, in case such Engine shall be fit and proper to be used on the said Railway, give a Certificate to the Party requiring the same of their Approval of every such Engine, and it shall then be lawful for such Party to whom the Certificate shall be granted to use the said Engine on the said Railway; and it shall be lawful for the said Company from Time to Time, upon any Engine used upon the said Railway being out of repair or unfit to be used upon the said Railway, to order the same to be taken off, or to forbid the same to be used upon the said Railway; and in case any Person shall bring or use upon the said Railway any locomotive or other Engine, or any other moving Power, without having first obtained such Certificate of Approval as aforesaid, or in case, after Notice given by the said Company to remove from or not to use upon the said Railway any such unfit or improper Engine as aforesaid, the Person to whom the Engine shall belong shall not forthwith remove the same, or shall use any such unfit or improper Engine upon the said Railway without having first repaired the same to the Satisfaction of the said Company or their Engineer, and obtained such Certificate of Approval as aforesaid, every such Person shall forfeit and pay any Sum not exceeding

Engines used on the Railway to be approved of by the Company.

ceeding Twenty Pounds for every such Offence, and the said Company are hereby authorized to remove such Engine from the said Railway.

If Land not contracted for within Three Years the Power to take Property on Compulsion to cease.

XLI. And be it enacted, That unless the said Company shall within the Space of Three Years, to be computed from the passing of this Act, agree for or cause to be valued and paid for, in the Manner as in the said recited Act is mentioned, the Lands which they are by this Act empowered to take or use, or otherwise so much thereof as shall be by them deemed necessary and proper for the Purpose of improving the Line of the said Railway or other Works hereby authorized, then and from thenceforth the Powers which are hereby granted to them for taking or using such Lands shall cease and be utterly void, save and except with the Consent in Writing of the Owners and Occupiers thereof respectively.

If Railway not completed in Seven Years, the Powers of the Act to cease.

XLII. And be it enacted, That if the said Railway and Works shall not have been completed so as to answer the Objects of this Act within the Space of Seven Years from and after the passing of this Act, all the Powers, Authorities, and Privileges given by this Act shall from thenceforth cease and become void, save only as to so much of the said Railway and Works as shall have been completed within the said Space of Seven Years.

Public Act.

XLIII. And be it enacted, That this Act shall be deemed and taken to be a Public Act, and shall be judicially taken notice of as such by all Judges, Justices, and others.

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