ANNO PRIMO

VICTORIÆ REGINÆ.

****

Cap. ciii.

An Act to alter, amend, explain, and enlarge the Powers of the several Acts for making and maintaining the *Clarence* Railway. [12th *July* 1837.]

WHEREAS an Act was passed in the Ninth Year of the Reign of His late Majesty King *George* the Fourth, intituled *An Act for making and maintaining a Railway from the River* Tees, *near* Haverton Hill *in the Parish of* Billingham, *to a Place called* Sim Pasture Farm, *in the Parish of* Heighington, *all in the County of* Durham, *with certain Branches therefrom:* And whereas an Act was passed in the Tenth Year of the Reign of His said late Majesty King *George* the Fourth, intituled *An Act to enable the* Clarence *Railway Company to vary and alter the Line of their Railway, to abandon some of the Branches thereof, and to make other Branches therefrom; and for altering, amending, and enlarging the Powers of the Act passed for making and maintaining the said Railway:* And whereas an Act was passed in the Second Year of the Reign of His late Majesty, intituled *An Act to alter, amend, enlarge, and extend the Powers of several Acts passed in the Ninth and Tenth Years of the Reign of Hislate Majesty King* George *the Fourth for making and maintaining the* Clarence *Railway:* And whereas an Act was passed in the Third Year of the Reign of His late Majesty, intituled *An Act to enable the* Clarence *Railway Company to make certain additional Branch Railways, and to amend and enlarge the Powers of the several Acts for making and maintaining the said Railway:* And whereas another Act was passed in the

9 G. 4. c. 61.

10 G. 4. c. 106.

2 W. 4. c. 25.

3 W. 4. c. 4.

3 W. 4. c. 95. Third Year of the Reign of His late Majesty, intituled *An Act to enable the* Clarence *Railway Company to make an Extension of the Line of their Railway:* And whereas the said Company of Proprietors have proceeded in the Execution of the said several Acts, and have made considerable Progress in the making and laying down the said Railways or Tramroads and other Works by the said Acts authorized to be made: And whereas it is expedient that the said Company should be empowered to raise a further Sum of Money in addition to the Sums they are by the said recited Acts authorized to raise, and that the Powers and Provisions of the said recited Acts should be altered, amended, explained, and enlarged in manner herein-after mentioned; but the same 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 the said several recited Acts, and all and every the Powers and Provisions, Restrictions, Limitations, Penalties, Forfeitures, Tolls, Rates, Duties, Payments, Exemptions, Remedies, Matters, and Things therein respectively contained, shall (so far as the same are applicable to this Act, and not hereby repealed, varied, altered, or otherwise provided for,) apply to and be as good, valid, and effectual for carrying this Act into execution as if the same had been repeated or re-enacted in this Act: Provided always, that the Powers contained in the said recited Acts of purchasing the Lands and Hereditaments of any Persons or Body Corporate shall not by any thing contained in this Act be enlarged or extended.

Provisions of recited Acts extended to this Act.

Power to raise additional Capital.

II. And be it further enacted, That it shall be lawful for the said Company and they are hereby authorized and empowered (in addition to the Sums authorized to be raised by the said recited Acts) to raise any Sum or Sums of Money, not exceeding in the whole the Sum of Sixty thousand Pounds, by all or any of the Ways and Means by which the said Company could previously to the passing of this Act raise any Sum or Sums of Money.

Power to raise the Amount again in case the Mortgages are paid off.

III. And be it further enacted, That in case the said Company shall raise the Whole or any Part of the Money herein-before or by any of the said recited Acts authorized to be raised by Mortgage, Bond, Assignment, or Charge, as in the said recited Acts is mentioned, and shall afterwards pay off all or any Part of the Principal Money so secured upon Mortgage, Bond, Assignment, or Charge as aforesaid, then and in every such Case, after Payment and Satisfaction of all Principal Money and Interest which may be due for the Time being to the Commissioners for the Issue of Exchequer Bills under the several Indentures of Mortgage herein-after mentioned, it shall be lawful for the said Company again to raise, in lieu of the Principal Money so paid off by them, such Sum of Money as they shall from Time to Time have paid off, or any Part thereof, and so from Time to Time as often as the same shall happen, but so nevertheless that the said Company shall not in any event borrow upon Mortgage, Bond, Assignment, or Charge as aforesaid in such Manner or to such Extent as that the Monies which shall be owing at any one Time on Mortgage or Assignment of or as a Charge upon the said Undertaking, together with the Monies (if any) which shall have been raised by

by way of additional Capital, as by the said recited Acts and this Act is authorized, shall amount in the whole to more than the total Amount of the Sums by the said recited Acts and by this Act authorized to be raised by Mortgage, Bond, Assignment, or Charge, or by way of additional Capital as aforesaid.

Repeal of the Provision of 10 G. 4. c. 106. respecting the taking Tolls for Coaches andCarriages.

IV. And whereas by the said recited Act of the Tenth Year of the Reign of His Majesty King *George* the Fourth it is enacted, that it should be lawful for the said Company of Proprietors from Time to Time and at all Times thereafter to ask, demand, take, recover, and receive, or cause to be asked, demanded, taken, recovered, and received, to and for the Use and Benefit of the said Company of Proprietors, for every Coach, Chariot, Chaise, Car, Gig, Landau, Waggon, Cart, and other Carriage which should be drawn or used on the Railway or Tramroad and Branch Railways or Tramroads which the said Company were then authorized to make, or any of them, for the Conveyance of Passengers or small Packages or Parcels, such Sum for each and every Mile as the said Company of Proprietors should think proper, not exceeding Sixpence: And whereas it is expedient that the said Provision of the said recited Act of the Tenth Year of the Reign of His said Majesty should be repealed; be it therefore enacted, That the said last-mentioned Provision shall be and the same is hereby repealed.

Power to take Tolls for Passengers or Cattle conveyed upon the Railway.

V. And be it further enacted, That it shall be lawful for the said Company to demand, receive, and recover, to and for the Use and Benefit of the said Company, for or in respect of Passengers, Beasts, Cattle, and Animals conveyed in Carriages upon the said Railways or Tramroads and Branches, any Tolls not exceeding the following; (that is to say,)

For every Person conveyed in or upon any such Carriage, the Sum of Three-pence *per* Mile:

For every Horse, Mule, Ass, or other Beast of Draught or Burthen, and for every Ox, Cow, Bull, or Neat Cattle conveyed in or upon any such Carriage, the Sum of Three-pence *per* Mile:

For every Calf or Pig conveyed in or upon such Carriage, the Sum of One Penny *per* Mile:

And for every Sheep, Lamb, or other small Animal conveyed in or upon any such Carriage, the Sum of One Penny *per* Mile:

And that it shall be lawful for the said Company to demand, receive, and recover in like Manner, 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 Toll not exceeding the Sum of Sixpence *per* Mile.

Power to provide and charge for locomotive Engines and other moving Power.

VI. And be it further enacted, That it shall be lawful for the said Company and they are hereby empowered to provide locomotive Engines and other Power for the drawing or propelling of any Articles, Matters, or Things, Persons, Cattle, or Animals, upon the said Railways or Tramroads and Branches, and also upon and along any other Railway communicating therewith; and to receive, demand, and recover such Sums of Money for the Use of such Engines or other Power as the said Company shall think proper, in addition to the several other Rates, Tolls, or Sums by the said recited Acts or any or either of them or by this Act authorized to be taken: Provided always, that nothing in this Act contained shall

shall extend to take away or interfere with the Rights of the Proprietors of any other Railway upon which the said *Clarence* Railway Company may carry by virtue thereof.

Power to carry Passengers, and charge for the same.

VII. And be it further enacted, That it shall be lawful for the said Company and they are hereby authorized to use locomotive Engines and other moving Power, and, in Carriages drawn or propelled thereby, to convey upon the said Railways or Tramroads and Branches, and also upon any other Railway communicating therewith, all such Passengers, Cattle, and other Animals, Goods, Wares, and Merchandize, Articles, Matters, and Things as shall be offered to them for that Purpose, and to make such reasonable Charges for such Conveyance as they may from Time to Time determine upon, in addition to the several Rates, Tolls, or Sums by this Act and by the said recited Acts or any or either of them authorized to be taken.

Act not to prevent the Company from hiring locomotive Engines.

VIII. Provided always, and be it further enacted, That nothing in this Act contained shall be construed to prevent the said Company from making any Agreement with any Person for the Hire or Use of any locomotive Engine or of any Carriage, or from paying for the same such reasonable Sum as may be agreed on between the said Company and such Person; any thing herein contained to the contrary thereof notwithstanding.

Provisions of the former Acts as to Tolls to extend to this Act.

IX. And be it further enacted, That all and every the Powers and Provisions, Regulations, Matters, and Things in the said recited Acts or any or either of them contained, with reference to the Rates, Tolls, and Duties by the said recited Acts or any or either of them authorized to be levied, and to the Ascertainment of the Amount thereof and the Receipt and Recovery of the same, or in any other respect relating thereto, shall apply and extend to the Rates, Tolls, and Sums hereby authorized to be levied and charged in the same Manner as if the same had been repeated and re-enacted in this Act.

Packages containing Goods of a dangerous Quality to be marked.

X. And for the better preventing of Accidents or Injury which might arise on the said Railway and Works from the unsafe and improper Carriage of certain Goods and Merchandize upon the same; be it further enacted, That every Person who shall send or cause to be sent by the said Railway any Aquafortis, Oil of Vitriol, Gunpowder, or other Goods of a dangerous Quality, shall distinctly mark or state the Nature of such Goods on the Outside of the Package containing the same, or shall otherwise give Notice in Writing to the Book-keeper or other Servant of the said Company with whom the same shall be left at the Time of so sending the said Goods or causing the same to be sent, on pain of forfeiting for every Default herein any Sum not exceeding Ten Pounds: Provided always, that the said Company shall not be compelled or compellable to carry upon the said Railway any Gunpowder or other Goods which in the Judgment of the said Company shall be of a dangerous Character; and it shall be lawful also for the said Company to restrain any other Persons from carrying thereon Gunpowder or such other Goods as aforesaid.

Company authorized to fix the Charge

XI. And be it further enacted, That it shall be lawful for the said Company from Time to Time to make such Orders for fixing the Sum to

be charged by the said Company in respect of small Parcels not exceeding Five hundred Pounds Weight each as to them shall seem proper: Provided always, that the Provision last herein-before contained shall not extend to Articles, Matters, or Things sent in large aggregate Quantities, although made up of separate and distinct Parcels, such as Bags of Sugar, Coffee, Meal, and the like, but only to single Parcels unconnected with Parcels of a like Nature which may be sent upon the said Railway at the same Time. for small Parcels.

XII. And whereas it would 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 Interest; be it therefore enacted, That, notwithstanding any thing in this Act or in the said recited Acts or any or either of them contained, it shall be lawful for the said Company and they are hereby empowered from Time to Time to make and enter into any Contract or Agreement with any other Railway Company or any other Person (and which Contract or Agreement all other Railway Companies and other Persons are hereby authorized and empowered to make and enter into), either for the Division or Apportionment of Tolls, Rates, and Duties, or for the Passage over or along the Railways or Tramroads and Branches by this and the said recited Acts authorized to be made of any Engines, Coaches, Waggons, or other Carriages of or belonging to any other Railway Company or other Person, or which shall pass over or along any other Line of Railway, or for the Passage over or along any other Line of Railway of any Engines, Coaches, Waggons, or other Carriages which shall belong to the said Company, or which shall pass over or along their Line of Railway, upon the Payment of such Tolls, Rates, and Duties, and under such Conditions and Restrictions, as may be deemed advisable and be mutually agreed upon, and also to make and enter into any other Contract with any other Railway Company or other Person that may be deemed advisable; and any such Contract may contain such Covenants, Clauses, Provisions, Conditions, and Agreements as the contracting Parties may respectively think advisable and mutually agree upon: Provided always, that no such Contract shall be made so long as any Money shall be due and owing to the said Commissioners for the Issue of Exchequer Bills under the said several Indentures of Mortgage, unless with the Consent in Writing of the said Commissioners in the Name of their Secretary for the Time being, nor shall such Contract in any Manner alter, affect, increase, or diminish any of the Rates, Tolls, or Duties which the respective Companies or other Persons Parties to such Contracts shall for the Time being be respectively authorized and entitled to have, demand, recover, or receive of or from any other Person or 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 on Payment of the same Tolls, Rates, and Duties 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 Tolls, Rates, or Duties as shall from Time to Time be charged to other Companies or Persons not being Parties to such Contracts; and no Person or Party using the said Railway shall be liable to pay any greater Amount Power to contract with other Companies.

of Toll, Rate, or Duty for or in respect of any Carriage, Passenger, Goods, Articles, Matters, or Things carried or conveyed upon or along or using the said Railway than any of such Railway Companies.

Weights allowed to be carried on the Railway.

XIII. And be it further enacted, That no Carriage shall carry at any one Time upon the said Railways or Tramroads and Branches, including the Weight of such Carriage, more than Four Tons Weight, except in any One Piece of Timber, Block or Stone, Boiler, Cylinder, Bob or single Piece of Machinery, or other single Article, which shall nevertheless not exceed the Weight of Eight Tons, including the Weight of the Carriage, and for the Tonnage of which the said Company are hereby authorized to demand, receive, and recover such Rates as they may from Time to Time direct or appoint, not exceeding One Shilling *per* Ton *per* Mile; and no Piece of Timber, Stone, Machinery, or other Article exceeding the Weight of Eight Tons, including the Weight of the said Carriage, shall be carried upon any Part of the said Railway without the special Licence of the said Company or their Agents, and for the Tonnage of which the said Company are hereby authorized to demand, receive, and recover such Sum as they may deem proper.

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

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

Enabling the Company to

XV. And whereas by means of the Purchases which the said Company are empowered or are required to make by virtue of the said recited Acts they

they may happen to be seised or possessed of more Lands than will be necessary for effecting the Purposes of the said recited Acts and this Act, or of Lands not applicable to the Purposes thereof; be it therefore enacted, That it shall be lawful for the said Company to contract for and to sell to any Person or Persons, Body Politic or Corporate, whether incapacitated or not, 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, or any Estate or Interest purchased by the said Company in such Lands or any Part thereof, in such Manner as they shall deem most advantageous, and such Contracts and Sales 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 Persons, Body Politic or Corporate, whose Lands or Premises shall immediately adjoin the Lands so proposed to be sold, such Persons or Bodies being when such Lands shall be sold in *England* and conveniently to be found; and such respective Persons or Bodies as aforesaid, in case they shall be desirous of purchasing the same, shall signify their Desire and Intention in that Behalf to the said Company within Three Calendar Months after such Offer of Sale shall have been made; and in case such Persons or Bodies as aforesaid shall decline to avail themselves of such Offer, or shall neglect to signify their Desire and Intention to purchase such Lands for the Space of Three Calendar Months, the Right of Pre-emption of every such Person or Bodies as aforesaid so declining or neglecting in respect of the Lands included in such Offer of Sale shall cease; and a Declaration, pursuant to an Act passed in the Sixth Year of the Reign of His late Majesty, intituled *An Act to repeal an Act of the present Session of Parliament, intituled 'An Act for the more effectual Abolition of Oaths and Affirmations taken and made in various Departments of the State, and to substitute Declarations in lieu thereof, and for the more entire Suppression of voluntary and extra-judicial Oaths and Affidavits;' and to make other Provisions for the Abolition of unnecessary Oaths*, made before a Master or Master Extraordinary in the High Court of Chancery, or before any Justice of the Peace for the County, City, or Place where such Lands may be situate, by some Person not interested in such Lands, stating that at the Time when such Lands shall have been sold the Person or Bodies aforesaid entitled to such Right of Pre-emption was not in *England*, or was not to be 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 or Bodies aforesaid to whom the same was made within the Space of Three Calendar Months from the Time of making the same, shall in all Courts whatsoever be sufficient Evidence and Proof of the Fact or Facts therein stated; and in case any such Person or Body as last aforesaid shall be desirous of purchasing any such Lands, and such Person or Body 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 of the Ninth Year of the Reign of His Majesty King *George* the Fourth directed with respect to the disputed Value of Lands to be taken or used by the said Company, and the Expence of hearing and determining such Difference shall be borne and paid in like Manner as in the said Act is directed with respect to the disputed Value of Lands to be taken or used by the said Company,

sell Lands not wanted.

5 & 6 W. 4. c. 62.

Company, *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 the said recited Acts and this Act; and all Contracts which shall be made by the said Company pursuant to the Authority by the said recited Acts and this Act in them reposed shall be adjudged sufficient to vest in the Purchaser such Estate as shall have been agreed for, or shall be expressed or meant and intended to be granted by any such Contract: Provided nevertheless, that all and every Sale or Sales by this Act or the said recited Act authorized to be made by the said Company, and made so long as the said Mortgages given to the said Commissioners for the Issue of Exchequer Bills shall remain in force, shall not be made except with the Concurrence of the said Commissioners in Writing, in the Name of their Secretary for the Time being, and upon such Terms and Conditions as the said Commissioners shall from Time to Time direct and appoint.

This Act not to invalidate Mortgages given to the Exchequer Loan Commissioners. 1 & 2 W. 4. c. 24.

XVI. And whereas the Commissioners acting in the Execution of an Act passed in the First and Second Years of the Reign of His late Majesty King *William* the Fourth, intituled *An Act to amend several Acts passed for authorizing the Issue of Exchequer Bills and the Advance of Money for carrying on Public Works and Fisheries and Employment of the Poor; and to authorize a further Issue of Exchequer Bills for the Purposes of the said Acts*, and the several Acts therein recited, mentioned, and referred to, did, on or about the Twentieth Day of *June* One thousand eight hundred and thirty-two, on the Application of the said Company of Proprietors, advance to them the Sum of Fifty thousand Pounds in Exchequer Bills, being the first Instalment of a Loan of One hundred thousand Pounds applied for by the said Company of Proprietors; and upon such Advance the said Company of Proprietors did, by an Indenture bearing Date the said Twentieth Day of *June* One thousand eight hundred and thirty-two, assign to *John Strettell Brickwood*, the Secretary of the said Commissioners, all that the said Railway and Undertaking called "The *Clarence* Railway," and all Works then belonging or which might at any Time thereafter belong thereto or be connected therewith, and all Lands, Tenements, Hereditaments, and Property of what Nature or Kind soever then belonging or which might at any Time thereafter belong to the said Company, and also all Tolls, Receipts, and Profits whatsoever then accruing or which should or might thereafter accrue, arise, be taken, collected, or received by or for the Use of the said Company, under or by virtue of the said Three several first therein and herein-before recited Acts, or any other Acts of Parliament relating to the said Railway, to secure the Repayment of the said Advance, by annual Instalments, with Interest, as in the said Indenture is particularly expressed: And whereas the Commissioners acting in the Execution of the said Act of the First and Second Years of the Reign of His late Majesty did on or about the Thirty-first of *July* One thousand eight hundred and thirty-three, on the Application of the said Company, advance and lend to them the further Sum of Fifty thousand Pounds in Exchequer Bills, being the second Instalment of the said Loan of One hundred thousand Pounds applied for by the said Company of Proprietors; and upon such last-mentioned Advance the said Company of Proprietors did, by an Indenture bearing Date the Thirty-first Day of *July* One thousand eight hundred and thirty-three, and made between the Company of Proprietors of the one Part and the said *John Strettell Brickwood* of the

the other Part, make a similar Mortgage to the said *John Strettell Brickwood* of the said Railway and Undertaking and Works for securing the Repayment of the said last-mentioned Advance, by annual Instalments, with Interest, as in the said last-mentioned Indenture is particularly expressed: And whereas the said Commissioners did, on or about the Sixteenth Day of *June* One thousand eight hundred and thirty-five, on the Application of the said Company of Proprietors, advance to them the further Sum of Eleven thousand Pounds in Exchequer Bills, being a further Loan applied for by the said Company of Proprietors; and upon such last-mentioned Advances the said Company did, by an Indenture bearing Date the Sixteenth Day of *June* One thousand eight hundred and thirty-five, and made between the said Company of Proprietors of the one Part and the said *John Strettell Brickwood* of the other Part, make another Mortage unto the said *John Strettell Brickwood* of the said Railway and Undertaking and Works for securing the Repayment of the said last-mentioned Advance, by annual Instalments, with Interest, as in the said last-mentioned Indenture is particularly expressed: And whereas the whole of the Principal Monies advanced by the said Commissioners and secured by the said several herein-before recited Indentures of Mortgage, together with an Arrear of Interest thereon, still remains due and owing to the said Commissioners; be it therefore enacted, That nothing in this Act contained shall extend to invalidate, annul, abridge, or affect the said in part recited Indentures of Mortgage of the Twentieth Day of *June* One thousand eight hundred and thirty-two, the Thirty-first Day of *July* One thousand eight hundred and thirty-three, the Sixteenth Day of *June* One thousand eight hundred and thirty-five, or any of the Powers, Rights, and Remedies upon or in respect of the same, and all Powers and Authorities, Rights and Privileges, Lands and Tenements, Works and Property whatsoever which shall hereafter be conveyed to or become vested in the said Company under and by virtue of this Act, are hereby enacted and declared to form Part of, and to be comprised in and among the Premises, Authorities, and Interests conveyed and assigned by the said Indentures of Mortgage respectively; and that the said respective Indentures of Mortgage shall have Priority over and shall precede any Mortgage, Bond, or other Security whatsoever already granted or entered into by the said Company, or which shall or may hereafter be granted or entered into by the said Company under or by virtue of the said several recited Acts or any of them or this Act, or any other Act or Acts relating to the said Railway and Undertaking, and also shall have Priority over and shall precede all other Liabilities, Claims, and Securities whatever chargeable on the Property in the said Indentures under the Provisions of the said recited Acts or this Act, or any or either of them, or any subsequent Act or Acts of Parliament relating to the said Railway, or any Works which shall now or at any Time hereafter be connected therewith; and all Dividends and Divisions of Profits or Interest upon any Sum or Sums advanced or contributed, or which shall or may hereafter be advanced or contributed for the carrying on or completing the said Railway and Undertaking, or otherwise howsoever, until the Principal Money and Interest secured under the said Indentures respectively shall be fully paid and satisfied, compounded, liquidated, or otherwise discharged; any thing contained in the Acts herein-before recited or referred to or this Act or any of them to the contrary thereof notwithstanding.

Lands already purchased and taken by the Company to vest in the Company without any Conveyance.

XVII. And whereas under and by virtue of the Powers and Authorities of the said several recited Acts the said Company have contracted for and purchased and taken Possession of divers Lands, Grounds, and Hereditaments for the Purpose of the said several Acts, and have paid the Purchase Money or Compensation for the Value of all or the greater Part of such Lands, Grounds, and Hereditaments, and for the Damages occasioned by the making of the said Railways or Tramroads, to the several Bodies Politic or Corporate and Persons by the said recited Acts authorized and empowered to sell the said Lands, Grounds, and Hereditaments, and to receive the Purchase Money or Compensation for the same, in the Manner by the said several Acts directed and provided with regard thereto, but no Conveyances or Conveyance have or hath been made to the said Company of the said Lands, Grounds, and Hereditaments, or any Part thereof; be it enacted, That, notwithstanding any thing in the said several recited Acts or any of them contained, all Lands, Grounds, and Hereditaments which shall have been contracted for, purchased, or taken by the said Company of Proprietors by the Authority and for the Purposes of the several recited Acts or any of them, in respect whereof the said Company of Proprietors shall have paid the Purchase Money, or Compensation for the Value thereof, and for the Damages occasioned by the making of the Railways or Tramroads by the said Acts authorized, either to the Party or Parties by the said Acts empowered to sell the same and entitled to receive such Monies, or into the Bank of *England* (as the Case may have required), in the Manner in the said several Acts respectively directed with regard thereto, shall, upon the Contract for such Purchase or Purchases being duly stamped for denoting the Payment of the *ad valorem* and all other Stamp Duties which would have been payable upon or in respect of such Contracts, and the Conveyances of the said Lands, Grounds, and Hereditaments to the said Company, in case the said Conveyances had been duly made and executed, from thenceforth absolutely vest in the said Company of Proprietors and their Successors; subject nevertheless to the several Indentures of Mortgage granted to the Commissioners for the Issue of Exchequer Bills, so long as any Principal Money or Interest shall be due to them under the said Indentures; and they shall from henceforth be deemed to be in the actual Possession thereof, freed and discharged from all Estates Tail, and all Titles to Dower, and all other Estates, Remainders, Reversions, Rights, Titles, Limitations, Trusts, Interests, Claims, and Demands whatsoever of and to the same; and all Terms of Years attendant by express Declaration or by Conclusion of Law on the Estate or Interest therein shall be merged; but although the Terms shall be merged they shall in Equity afford the same or the like Protection and Priority as if they were assigned and kept on foot in Trust for the Company, and to attend the Reversion and Inheritance: Provided always, that nothing herein contained shall alter, defeat, or prejudice the Right and Interest of any Person or Persons or Body Corporate whomsoever to any Estate, Lands, or Hereditaments belonging to such Person or Persons or Body Corporate, either in Possession or Reversion, save and except the Person or Body Corporate with whom the said Company shall have contracted for the Purchase of such Land and Hereditaments, and to whom the said Company shall have paid the Purchase Money for the same.

Repeal of the Provision of the Act

XVIII. And whereas by the said secondly herein-before recited Act of the Third Year of the Reign of His late Majesty King *William* the Fourth

it is enacted, that in case the intended Railway or Tramroad by that Act authorized to be made called the *Saltholme* Branch or Extension should not be made and completed so that Waggons and other Carriages might pass along the whole respective Lines thereof within Five Years, to be computed from the passing of that Act, then from and immediately after the Expiration of the said Term of Five Years all the Powers and Authorities given by the said Act should cease and determine, save only and except as to so much of the said Railway or Tramroad and Works as should have been declared and certified to have been completed within the said Term by the Justices of the Peace of the said County of *Durham* assembled at any Quarter Sessions of the Peace to be holden in and for the said County at any Time before the Expiration of the said Term of Five Years, or within Six Calendar Months next after the Expiration thereof, upon the Evidence of One or more Witness or Witnesses upon Oath to be produced before them for that Purpose: And whereas it is expedient to grant further Time for completing the said Railway or Tramroad and Works which the said Company are by the said Act authorized to make; be it enacted, That the said Provision of the said recited Act shall be and the same is hereby repealed.

3 W. 4. c. 95. limiting the Time for completing the Saltholme Branch.

XIX. Provided always, and be it further enacted, That in case the said Railway or Tramroad which the said Company are by the said last-recited Act now authorized to make shall not have been completed and made so that Waggons and other Carriages may pass along the whole Lines thereof within the Space of Five Years, to be computed from the passing of this Act, then from and immediately after the Expiration of the said Term of Five Years all the Powers, Authorities, and Privileges given by the said last-recited Act or this Act shall cease and determine, save only and except as to so much of the said Railway or Tramroad as shall have been declared and certified to have been completed within the said Term by the Justices of the Peace of the said County of *Durham*, assembled at any Quarter Sessions of the Peace to be holden in and for the said County, at any Time before the Expiration of the said Term of Five Years, or within Six Calendar Months next after the Expiration thereof, upon the Evidence of One or more Witness or Witnesses upon Oath to be produced before them for that Purpose.

If Railway and Works are not completed within Five Years, the Powers to cease.

XX. Provided always, and it is hereby enacted, That the said Company shall and they are hereby directed to make and complete the Branch of the said Railway called the *Saltholme* Branch, mentioned in and authorized to be made by the last herein-before recited Act of the Third Year of the Reign of His late Majesty, and that the said Branch of the said Railway shall be made and completed within the Term of Five Years from the passing of this Act.

The Saltholme Branch to be completed in Five Years.

XXI. And be it further enacted, That if the said Railway or any of the Branches thereof, or any Part thereof authorized to be made by any of the said recited Acts, shall have been abandoned or given up or shall at any Time hereafter be abandoned or given up by the said Company, or after the same shall have been completed shall for the Space of Three Years cease to be used and employed as a Railway, then and in such Cases the Lands so taken by the said Company for the Purposes of this or any of the said recited Acts, or otherwise the Part or Parts thereof which shall have

If the Railway or Branches are abandoned or given up, the Lands taken to revert to the Owners of adjoining Lands, &c.

have been abandoned or given up by the said Company, or at any Time hereafter shall be abandoned or given up by the said Company, shall, subject to any Mortgage which may have been granted by the said Company affecting the said Lands, and to any Powers vested in the Mortgagees for the Recovery of the Money thereby secured, in case such Mortgagees shall have any legal Charge on the said Lands, revert to and vest in the Owners for the Time being of the Land adjoining that which shall have been abandoned or given up, or shall at any Time hereafter be abandoned or given up, in manner following; that is to say, One Moiety thereof in the Owners of the Land on the one Side, and the Remainder thereof in the Owners of the Land on the other Side thereof.

For Recovery of Penalties under this Act.

XXII. And be it further enacted, That all Penalties and Forfeitures to be inflicted or imposed under or by virtue of this Act shall and may be recovered, received, and applied in like Manner as is by the said recited Act of the Ninth Year of the Reign of His late Majesty King *George* the Fourth directed with regard to the Penalties and Forfeitures to be inflicted or imposed under or by virtue thereof.

Expences of the Act how to be paid.

XXIII. And be it further enacted, That all the Costs, Charges, and Expences of and incident to the obtaining and passing of this Act, and all other Costs, Charges, and Expences relating to and concerning the same, or in any Manner incidental thereto, shall be borne and defrayed by the said Company out of the first Money to be received by virtue of this Act in preference to all other Payments whatsoever.

Company to keep a separate Account of the Tolls for the Use of the Railway.

XXIV. And be it further enacted, That in all Cases in which the said Company shall carry for their own Profit upon the said Railway any Passengers, Cattle, or other Animals, Goods, Wares, or Merchandize, Articles, Matters, or Things, a separate Account shall be duly kept, showing the Amount of Rates or Tolls received by the said Company and of the Tolls which would have been received by them for the Use of the said Railway in respect of such Passengers, Cattle, or other Animals, Goods, Wares, or Merchandize, Articles, Matters, or Things, if carried by any other Party or Parties; and the Overseers of the Poor of the several Parishes and Townships through which the said Railway shall pass shall have free Access to and Liberty to inspect the same at any Times during the first Fourteen Days in the Months of *February* and *August* in each Year.

Limiting Deviations from Datum Line described on the Section, &c.

XXV. And be it further enacted, That in making the said Railway it shall not be lawful for the said Company to deviate from the Levels of the said Railway, as referred to the common Datum Line described in the Section so approved of by Parliament and as marked on the same, to any Extent exceeding in any Place Five Feet, or in passing through Towns Two Feet, without the Consent of the Owners, Lessees, and Occupiers of the Land in, through, or over which such Deviation is intended to be made; or in case any Street or public Carriage Road shall be affected by such Deviation, then the same shall not be made without the Consent of the Trustees or Commissioners, or, if there be no such Trustees or Commissioners, without the Consent of Two or more Justices of the Peace in Petty Sessions assembled for that Purpose, and acting for the District in which such Street or public Carriage Road may be situate,

or

or without the Consent of the Commissioners for any public Sewers, or of the Proprietors of any Canal or Navigation affected by such Deviation; and that no Increase in the Inclination or Gradients of the said Railway, as denoted by the said Section, shall be made in any Place to an Extent exceeding the Rate of Three Feet *per* Mile; and where in any Place it is intended to carry the Railway on an Arch or Arches as marked on the said Plan or Section the same shall be made accordingly, and where a Tunnel is marked on the said Plan or Section as intended to be made at any Place the same shall be made accordingly, unless the Owners, Lessees, and Occupiers of the Land in or through which such Tunnel is intended to be made shall consent that the same shall not be so made: Provided nevertheless, that it shall be lawful for the said Company, with such Consent as aforesaid, and not otherwise, to make a Tunnel or an Arch or Arches as aforesaid not marked on the said Plan or Section, so that no such Tunnel shall be of a greater Length than Two hundred Yards, and that no Two Tunnels be at a less Distance from each other than One hundred Yards, measured on the Line of the Railway: Provided always, that Notice of every Petty Session to be holden for the Purpose of obtaining such Consent as aforesaid shall, Fourteen Days previous to the holding of such Petty Sessions, be given in some Newspaper circulating in the County, and also be affixed upon the Church Door of the Parish in which such Deviation or Alteration is intended to be made, or, if there be no Church, some other Place to which Notices are usually affixed: Provided also, that for the Purpose of consenting to any such Deviation from the said Sections, and to any Tunnelling or Arching as aforesaid, the Word "Owners" shall be deemed and taken to mean such Persons as are herein capacitated to agree for the Sale of and to convey Land for the making of the said Railway; and the Consent of such Persons, with or without the Consent of any other Persons interested as Owners in the said Lands, shall be deemed and taken to be sufficient for such Purposes.

Restricting the Alteration of Curves.

XXVI. And be it further enacted, That it shall not be lawful to diminish the Radius of any Curve from what it is shown to be on the Plan deposited with the Clerk of the Peace unless such Radius exceed One Mile, nor to diminish it in any such Case so that it shall become less than One Mile, nor to diminish any greater Radius by more than a Quarter of a Mile unless where it exceeds Two Miles, or by more than Half a Mile unless where it exceeds Three Miles on the said Plan.

Saving the Rights of the Bishop of Durham.

XXVII. And whereas the Bishop of *Durham* and his Lessees claim to be entitled to the Land already formed, if any such there be, or hereafter to be formed by Accretion or Deposit of the River *Tees* between the said Railway and the Low-water Mark of the said River *Tees*, upon a Portion of which the said Company have erected Staiths and other Works; be it therefore enacted, That nothing in this Act contained shall extend or be construed to extend to take away, impeach, abridge, restrain, alter, or prejudice any Claim, Estate, Right, or Interest of the said Bishop of *Durham* and his Lessees in or to such Land.

Saving the Rights of Robert Appleby, Esq.

XXVIII. Provided always, and be it further enacted, That nothing in this Act contained shall extend or be construed to extend to take away, prejudice, diminish, alter, or in any Manner affect any of the Powers and

and Provisions, Covenants, Clauses, or Stipulations contained in Two several Agreements bearing Date respectively the Eighth Day of *March* One thousand eight hundred and thirty-one and the First Day of *June* One thousand eight hundred and thirty-three, made or expressed to be made between the said Company and *Robert Appleby* Esquire, of *Wolviston* in the County of *Durham*, or in an Award bearing Date the Seventh Day of *December* One thousand eight hundred and thirty-three, and made in pursuance of the said last-mentioned Agreement.

Public Act.

XXIX. And be it further 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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