ANNO PRIMO

VICTORIÆ REGINÆ.

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Cap. xxiii.

An Act to authorize the *Newcastle upon Tyne* and *Carlisle* Railway Company to raise an additional Sum of Money for the Purposes of their Undertaking. [11th *June* 1838.]

WHEREAS by an Act passed in the Tenth Year of the Reign of His Majesty King *George* the Fourth, intituled *An Act for making and maintaining a Railway or Tram-* 10 G. 4. c.72.
road from the Town of Newcastle upon Tyne *in the County of the Town of* Newcastle upon Tyne *to the City of* Carlisle *in the County of* Cumberland, *with a Branch thereout*, certain Persons were incorporated by the Name of " The *Newcastle upon Tyne* and *Carlisle* Railway Company," and were thereby empowered to make, complete, and maintain a Railway or Tramroad, with proper Works and Conveniences adjoining thereto or connected therewith, for the Passage of Waggons, Carts, and other Carriages constructed as therein-after mentioned, commencing at or near the West End of a certain Street called the *Close*, and on the South Side thereof, in the Township of *Saint Nicholas* in that Part of the Parish of *Saint Nicholas* which is situate in the Town and County of *Newcastle upon Tyne*, and extending to or passing through or into or made within the several Parishes in the said Act mentioned, and terminating at or near to the North-west Corner of the Canal Basin in the Township of *Caldewgate* in the Parish of *Saint Mary, Carlisle*, in the County of *Cumber-*

land, together with one Branch Railway or Tramroad from and out of such Railway or Tramroad, with proper Works and Conveniences adjoining thereto or connected therewith, commencing at and passing through and terminating at the several Places mentioned in the said Act: And whereas the said Company were in and by the said Act authorized to raise amongst themselves a competent Sum of Money for making and completing the Railways or Tramroads and other Works thereby authorized to be made, not exceeding in the whole Three hundred thousand Pounds, except as therein mentioned; and it was in and by the said Act further enacted, that in case the Sum of Three hundred thousand Pounds should be insufficient for the making, completing, and maintaining the said Railways, Tramroads, and other Works, it should be lawful for the said Company to borrow and take up at Interest any such further or additional Sum or Sums, not exceeding the Sum of One hundred thousand Pounds, on the Credit of the said Undertaking, as to them should seem meet: And whereas by an Act passed in the Second Year of the Reign of His late Majesty King *William* the Fourth, intituled *An Act to accelerate the raising by the* Newcastle upon Tyne *and* Carlisle *Railway Company of a certain Sum for the more speedy Prosecution of the Undertaking*, after reciting that the said Sum of Three hundred thousand Pounds by the said therein and herein before recited Act authorized to be raised had been wholly subscribed for, but not wholly raised and paid; and also reciting that the said Company had made great Progress in the said Undertaking, but that, in order to proceed therein with greater Dispatch, it was expedient that they should be empowered to borrow Money for the Purposes of the said Act, without waiting to ascertain the Insufficiency of the Sum so subscribed for as aforesaid; it was enacted, that so much of the said therein and herein before recited Act as restrained the said Company from raising any additional Sum of Money until the whole of the said Sum of Three hundred thousand Pounds by the said Act authorized to be raised should have been raised and should have been found to be insufficient, should be and the same was thereby repealed; and it was further enacted, that it should be lawful for the said Company to borrow of the Commissioners for carrying into execution an Act of Parliament passed in the Third Year of the Reign of His Majesty King *George* the Fourth, to authorize the Issue of Exchequer Bills, and the Advance of Money for carrying on Public Works, any Sum or Sums of Money not exceeding in the whole One hundred thousand Pounds: And whereas the said Sum of Three hundred thousand Pounds, by the said firstly herein-before recited Act authorized to be raised, and which was wholly subscribed for as aforesaid, was afterwards wholly raised and paid, and the said Sum of One hundred thousand Pounds, which the said Company were by the said last-recited Act authorized to borrow, was borrowed accordingly of the said Commissioners: And whereas by an Act passed in the Fifth Year of the Reign of His late Majesty King *William* the Fourth, intituled *An Act to authorize the* Newcastle upon Tyne *and* Carlisle *Railway Company to make an additional Branch Railway or Tramroad; and for other Purposes connected with their Undertaking*, after reciting that the Sum of One hundred thousand Pounds, by the said therein

2 & 3 W. 4. c. 92.

5 & 6 W. 4. c. 31.

and

and herein before recited Act authorized to be borrowed by the said Company of the said Commissioners, had been borrowed accordingly; and reciting that it had been ascertained that a further Sum, in addition to the said Two Sums of Three hundred thousand Pounds and One hundred thousand Pounds so authorized to be raised and borrowed by the said Company as aforesaid, would be required for the Purpose of completing and maintaining the Railway or Tramroad and other Works authorized by the said firstly therein and herein before recited Act to be made, and in order to provide such further Sum, and also a sufficient Sum to make, complete, and maintain the Branch Railway and other Works by the now-reciting Act authorized to be made, it was necessary that the said Company should be empowered to create an additional Number of Shares in the said Company, and to raise and borrow forthwith an additional Sum of Money; and also reciting that since the passing of the first therein and herein before recited Act the Objections to the Use of locomotive or moveable Steam Engines had, by the Improvements in Machinery, and by the Use of Coke instead of Coal, been in a great measure if not altogether removed, and it was deemed expedient that so much of the said firstly therein and herein before recited Act as related to the Use of locomotive or moveable Steam Engines should be repealed or altered; it was enacted, that it should be lawful for the said Company, in addition to the said Sum of Three hundred thousand Pounds so subscribed for as aforesaid, and to the said Sum of One hundred thousand Pounds so borrowed by them as aforesaid, to raise, for the Purposes of the said first-recited Act and of the now-reciting Act, or either of them, any further Sum or Sums of Money not exceeding in the whole the Sum of One hundred and fifty thousand Pounds, and that for the Purpose of raising such further Sum or Sums of Money it should be lawful for the said Company to create an additional Number of Shares of One hundred Pounds each in the said Company, and to sell, transfer, or otherwise dispose of the same, and also to borrow and take up at Interest any Sum or Sums of Money on the Credit of the said Undertaking from the Commissioners for the Issue of Exchequer Bills, in manner and subject to the Provisions therein mentioned; and it was further enacted, that so much of the said first therein and herein before recited Act as enacted that no locomotive or moveable Steam Engine should be used on the said Railways or Tramroads should be and the same was thereby repealed; and the said Company were thereby authorized and empowered to provide and use locomotive or moveable Steam Engines, as well as other Power, for the Purposes therein mentioned, upon the said Railways; and the said Company were thereby empowered to make and maintain a Branch Railway commencing at or upon the Line of the Main Railway at or near to the Lead Refinery at *Blaydon* in the Township and Parish of *Winlaton*, and terminating at or near to a Place called the *Hospital*, otherwise the *Spital*, in the Township of *Saint John*, *Newcastle upon Tyne*, with the Works connected therewith: And whereas the said Sum of One hundred and fifty thousand Pounds so authorized to be raised by the said Company as aforesaid hath been raised accordingly, by the Creation and Sale of Nine hundred additional Shares of One hundred Pounds each in the said Company,

Company, and by borrowing from the said Commissioners for the Issue of Exchequer Bills, upon Mortgage of the said Railways and the Works connected therewith, the Sum of Sixty thousand Pounds: And whereas the said Company has made considerable Progress in the Formation of the said Railways and other Works authorized to be constructed by the said recited Acts, and the principal Portion thereof has been opened to the Public: And whereas it has been ascertained that a further Sum, in addition to the Sums authorized to be raised and borrowed by the said Company as aforesaid, will be requisite to complete the said Railway and other Works; and it is therefore expedient that the said Company should be empowered to create an additional Number of Shares, and also to borrow an additional Sum of Money; but this Object 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 it shall be lawful for the *Newcastle upon Tyne* and *Carlisle* Railway Company forthwith, or from Time to Time and at any Time hereafter, to raise, for the Purposes of the said several recited Acts or any or either of them, in addition to the Sums authorized to be raised by the said recited Acts, any further Sum or Sums of Money not exceeding in the whole the Sum of Three hundred thousand Pounds, by creating an additional Number of Shares of One hundred Pounds each in the said Company, and to sell, transfer, or otherwise dispose of the same Shares for such Price or Prices and on such Terms as they shall think proper.

The Company may raise a further Sum not exceeding 300,000*l.*

II. And be it further enacted, That when and as soon as the said Sum of Three hundred thousand Pounds shall have been subscribed, and the Sum of One hundred and fifty thousand Pounds, Part of the said Sum of Three hundred thousand Pounds, shall have been raised and paid by means of the additional Shares herein-before authorized to be created, then and at any Time or Times thereafter it shall be lawful for the said Company, by any Order or Orders of any General or Special General Meeting of the said Company, to borrow and take up at Interest, in addition to the Sums authorized by the said recited Acts to be raised and borrowed as aforesaid, and the Sum herein-before authorized to be raised by the Creation of additional Shares, any Sum or Sums of Money not exceeding in the whole the Sum of One hundred thousand Pounds, on the Credit of the said Undertaking, from any Body or Bodies Politic or Corporate, or other Person or Persons willing to lend the same, upon such Terms as to Priority of ranking amongst the said Commissioners, Bodies Politic or Corporate, or other Person or Persons lending such Sum or Sums of Money, as may be agreed on between them and the said Company; so always, nevertheless, that all Mortgages which shall have been given or made by the said Company before the passing of this Act shall have Priority over and shall precede all Mortgages and other Securities to be given or made by the said Company in the Execution of this Act.

Company empowered to borrow a further Sum of 100,000*l.*

III. And

Powers of the former Acts extended to this Act.

III. And be it further enacted, That all Powers and other Clauses whatsoever contained in the said herein-before recited Acts of Parliament, or any of them, so far as the same are not repugnant to the Provisions of this Act, shall be applicable to the Shares by this Act authorized to be created, and to the Monies subscribed for in respect of such Shares, and to the Monies by this Act authorized to be borrowed, in the same Manner in all respects, as near as may be, as if such Shares had been authorized to be created, and as if such Monies had been authorized to be borrowed, by the said herein-before recited Acts.

Saving the Rights of the Exchequer Bill Commissioners under 1 & 2 W. 4. c. 24.

IV. And whereas the Commissioners nominated and appointed in and by an Act of Parliament passed in the Session held 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, or referred to, did, on or about the Twelfth Day of *July* One thousand eight hundred and thirty-three, consent to advance and lend the said Company of Proprietors a Loan of One hundred thousand Pounds in Exchequer Bills by Four several Instalments of Twenty-five thousand Pounds each: And whereas the said Instalments were respectively advanced to the said Company on the Twelfth Day of *July* One thousand eight hundred and thirty-three, the Seventh Day of *May* One thousand eight hundred and thirty-four, the Twenty-sixth Day of *November* One thousand eight hundred and thirty-four, and the Eighteenth Day of *June* One thousand eight hundred and thirty-five, and were respectively secured to the said Commissioners by Four several Indentures of Mortgage under the Common Seal of the said Company, and bearing Dates respectively the Twelfth Day of *July* One thousand eight hundred and thirty-three, the Seventh Day of *May* One thousand eight hundred and thirty-four, the Twenty-sixth Day of *November* One thousand eight hundred and thirty-four, and the Eighteenth Day of *June* One thousand eight hundred and thirty-five, whereby, for the Considerations therein respectively mentioned, the said Company of Proprietors assigned to *John Strettell Brickwood*, the Secretary of the said Commissioners for the Issue of Exchequer Bills, all the said Railway and Undertaking called "The *Newcastle upon Tyne* and *Carlisle* Railway," and all Works, Lands, and Property, of what Nature or Kind soever, belonging or which might at any Time thereafter belong thereto or be connected therewith, and all Rates, Tolls, Profits, and Receipts whatsoever 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 Two several herein-before recited Acts of the Tenth Year of the Reign of His Majesty King *George* the Fourth and the Second Year of the Reign of His late Majesty, or any subsequent Act or Acts of Parliament relating to the said Railway or otherwise, subject to Redemption upon Payment by the said Company of Proprietors of the said several Sums secured by the said Indentures respectively,

with Interest thereon as therein mentioned, by such Instalments and at such Times as in the said Indentures respectively is particularly set forth: And whereas the said Commissioners did, on or about the Ninth Day of *December* One thousand eight hundred and thirty-five, consent to advance and lend the said Company of Proprietors a further Sum of Sixty thousand Pounds in Exchequer Bills, which was advanced to the said Company accordingly on the said Ninth Day of *December* One thousand eight hundred and thirty-five, and was secured to the said Commissioners by an Indenture of Mortgage under the Common Seal of the said Company, and bearing Date the said Ninth Day of *December* One thousand eight hundred and thirty-five, whereby, for the Considerations therein mentioned, the said Company of Proprietors granted and assigned to the said *John Strettell Brickwood*, the Secretary of the said Commissioners for the Issue of Exchequer Bills, all the said Railway and Undertaking called "The *Newcastle upon Tyne* and *Carlisle* Railway," and any Branch or Branches leading therefrom, and all the Works, Lands, and Property, of what Nature or Kind soever, then belonging or which might at any Time thereafter belong thereto or be connected therewith, and also all the Rates, Tolls, Profits, and Receipts whatsoever 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 Acts of the Tenth Year of the Reign of His Majesty King *George* the Fourth, and of the Second and Fifth Years of the Reign of His late Majesty, or any or either of them, or any subsequent Act or Acts of Parliament relating to the said Railway or otherwise, subject nevertheless and without Prejudice to the before-mentioned Securities to the said Commissioners, and subject to Redemption upon Payment by the said Company of Proprietors of the said Sum of Sixty thousand Pounds, with Interest, at the Time and in Manner in the said Indenture mentioned; be it therefore enacted, That nothing in this Act contained shall extend or be construed to extend to invalidate, defeat, make void, or in any Manner incumber or affect the said several Indentures of Mortgage bearing Date respectively the Twelfth Day of *July* One thousand eight hundred and thirty-three, the Seventh Day of *May* One thousand eight hundred and thirty-four, the Twenty-sixth Day of *November* One thousand eight hundred and thirty-four, the Eighteenth Day of *June* One thousand eight hundred and thirty-five, and the Ninth Day of *December* One thousand eight hundred and thirty-five, or any of the Powers, Privileges, and Remedies now vested in the said Commissioners in respect thereof, or any other Indenture of Mortgage having Reference to the said Sums of One hundred thousand Pounds and Sixty thousand Pounds so advanced as aforesaid.

Not to borrow of Exchequer Loan Commissioners.

V. Provided always, and be it further enacted, That it shall not be lawful for the said Company, under the Authority of the said recited Acts or any of them, to borrow any further Sum or Sums of Money of the said Commissioners.

Power of reducing and

VI. And whereas by the said recited Act of the Tenth Year of the Reign of His said Majesty King *George* the Fourth it was provided

provided and enacted, that it should be lawful for the said Company, from Time to Time and as often as they should think fit, to lessen or reduce all or any of the Rates, Tolls, and Duties therein-before by that Act authorized to be taken for the Use and Benefit of the said Company, and afterwards from Time to Time again to raise, advance, and vary the same or any of them, so as not at any Time to exceed the Amount therein-before set forth and authorized to be collected: And whereas it is expedient that the said Power of reducing and raising the said Rates, Tolls, and Duties should be exercised subject to the Restrictions, Limitations, and Provisions herein-after contained; be it therefore enacted, That previous to any Reduction or Advance in the said Rates, Tolls, and Duties being carried into effect, One Calendar Month's Notice at least shall be given in some One or more of the Newspapers published at *Newcastle upon Tyne* and in the County of *Cumberland*.

raising the Rate of Tolls subjected to Restrictions.

VII. Provided also, and be it further enacted, That, except in Cases where any Articles, Matters, or Things shall be carried along the said Railway by the said recited Act of the Tenth Year of the Reign of His Majesty King *George* the Fourth authorized to be made for so short a Distance that the Tonnage Rates shall not amount to the Sum of Sixpence *per* Ton, and in Cases where any Article, Matter, or Thing shall be carried or conveyed by the said Company along the same Railway for so short a Distance that the Rate or Sum of Money authorized by the same Act to be demanded or received for the Carriage of the same shall not amount to the Sum of Two Shillings *per* Ton, and subject and without Prejudice to the Provisions and Authorities given by the same Act to the said Company to fix and ascertain the Price of small Parcels, and to take and receive Pontage in respect of certain Bridges thereby authorized to be erected, or any of them, the Rates or Tolls and Charges to be taken and made for the Use of the said Railway authorized to be made by the said recited Act of the Tenth Year of the Reign of His Majesty King *George* the Fourth, or for the Carriage of any Passengers, Goods, Animals, or other Matters or Things to be conveyed by the said Company thereon, or for the Use of any Steam Power or Carriage to be supplied by the said Company, shall be at all Times charged equally to all Persons, and after the same Rate *per* Mile or *per* Ton *per* Mile, or after any other Manner in which such Rates and Charges are directed or authorized to be taken by the said recited Act of the Tenth Year of the Reign of His said Majesty King *George* the Fourth, in respect of all Passengers, and of all Goods, Animals, or Carriages of a like Description, and conveyed or propelled by a like Carriage or Engine; and no Reduction or Advance in any of the Rates or Tolls by the said last-mentioned Act allowed, or in any Charge for Conveyance by the said Company, or for the Use of any locomotive Power to be supplied by them, shall be made either directly or indirectly in favour of or against any particular Company or Person, or be confined to any particular Part of the same Railway, but every Reduction or Advance in any Rate, Toll, or Charge to be taken by the said Company in respect of Passengers, or any Description of Goods, Carriages, or Animals, carried on the same Railway, or for the Use of any Carriage or locomotive Power, shall, except as aforesaid, extend to and take place at the same Time throughout the Whole and every Part of the same Railway authorized

Rates to be charged equally.

as

as aforesaid to be made by the said recited Act of the Tenth Year of the Reign of his Majesty King *George* the Fourth, in respect of such Passengers, Goods, Carriages, Animals, or locomotive Power, as the Case may be; and in the said excepted Cases the Tolls, Rates, and Charges shall be made and charged equally and impartially to all Persons and Companies, and no Favour or Partiality shall be shown, either directly or indirectly, towards any particular Company or Person.

Power given by Act of 10 G. 4. to compound for Tolls repealed.

VIII. And whereas by the said recited Act of the Tenth Year of His Majesty King *George* the Fourth it was enacted, that it should be lawful for the said Company at any Time of their General Meetings, from Time to Time, as they should see convenient, to compound and agree, for any Term not exceeding One Year at any Time, with any Person or Persons, for all or any of the said Rates, Tolls, Pontage, and Duties thereby made payable upon the Whole or any Part or Parts of the said Railway or Tramroad, Bridge or Bridges: And whereas it is expedient that the said Clause should be repealed; be it therefore enacted, That from and after the passing of this Act the said Clause and every Part thereof shall be and the same is hereby repealed.

The Certificate of a Justice of the Peace to be conclusive Evidence that the Sum of 150,000*l.* has been raised.

IX. Provided always, and be it further enacted, That a Certificate under the Hand and Seal of any Justice of the Peace for the Counties of *Northumberland*, *Durham*, or *Cumberland*, or the Borough of *Newcastle upon Tyne*, that the said Sum of Three hundred thousand Pounds has been subscribed, and that the Sum of One hundred and fifty thousand Pounds, Part of the said Sum of Three hundred thousand Pounds, has been raised by the Means aforesaid, and paid up, (and which Certificate such Justice is hereby authorized and required to grant to the said Company, or the Directors for the Time being thereof, on such Evidence as he shall deem sufficient, that the said Sum of Three hundred thousand Pounds has been subscribed, and that the said Sum of One hundred and fifty thousand Pounds has been raised and paid up,) shall for all Purposes whatsoever be conclusive Evidence that the said Sum of Three hundred thousand Pounds has been subscribed, and that the said Sum of One hundred and fifty thousand Pounds has been raised by the Means aforesaid, and paid up.

For Payment of the Costs of the Act.

X. And be it further enacted, That all Costs, Charges, and Expences of applying for, obtaining, and passing this Act, and all other Expences incident thereto, shall, in the first place, and in preference to all other Payments whatsoever, be paid by and out of the first Money which shall be raised or received under or by virtue of the said recited Acts and this Act, or any of them.

Public Act.

XI. 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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