ANNO TERTIO

# VICTORIÆ REGINÆ.

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## *Cap.* xlviii.

## An Act to amend the Act relating to the *Newcastle-upon-Tyne* and *North Shields* Railway, and to raise a further Sum of Money for the Purposes of the said Undertaking. [19th *May* 1840.]

WHEREAS an Act was passed in the Sixth and Seventh Years of the Reign of His late Majesty King *William* the Fourth, intituled *An Act for making and maintaining a* 6 & 7 W. 4. c. 76. *Railway from the Town of* Newcastle-upon-Tyne *in the County of the Town of* Newcastle-upon-Tyne *to* North Shields *in the County of* Northumberland, *with a Branch thereout in the County of* Northumberland, and by the said Act several Persons were incorporated, by the Name and Style of "The *Newcastle-upon-Tyne* and *North Shields* Railway Company," for the Purpose of carrying into execution the said Undertaking: And whereas the Capital of the said Company consists at present of One hundred and twenty thousand Pounds, divided into Two thousand four hundred Shares of Fifty Pounds each: And whereas the said Company have nearly completed the said Railway and Works by the said Act authorized, and have contributed amongst themselves, under the Powers thereof, the said Capital of One hundred and twenty thousand Pounds, and have also raised the Sum of Forty thousand Pounds, which by the said Act they are authorized to borrow on the Credit of the said Under-

taking, which said Sums have not been sufficient to complete all the Works, and fully to carry into effect the Purposes of the said Act; and it is therefore expedient that the said Company should be authorized to raise a further Sum of Money to complete the said Railway and Works, and for other the Purposes connected with the same, and that some of the Powers and Provisions contained in the said recited Act should be altered, amended, and enlarged; but the Purposes aforesaid cannot be effected without the Authority of Parliament: May it therefore please Your Majesty that it may be enacted; and be it enacted by the 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, Directions, Penalties, Forfeitures, Payments, Exemptions, Remedies, Regulations, Clauses, Matters, and Things contained in the said recited Act (except such of them or such Parts thereof respectively as are by this Act repealed, altered, or otherwise provided for) shall extend and be construed to extend to this Act, and shall operate and be in force in respect to the Objects and Purposes of this Act, as fully and effectually, to all Intents and Purposes whatsoever, as if the same Powers, Authorities, Provisions, Directions, Penalties, Forfeitures, Payments, Exemptions, Remedies, Regulations, Clauses, Matters, and Things were repeated and re-enacted in this Act.

Extending Provisions of former Act to this Act, except as hereby altered.

Power to raise 120,000*l.* by creating new Shares, to be first offered to Proprietors of original Shares.

II. And be it further enacted, That it shall be lawful for the said Company, and they are hereby empowered, from Time to Time, by an Order of any General or Special General Meeting of the said Company, to raise by Contribution among themselves, or by the Admission of other Persons as Subscribers to the said Undertaking, or in part by each of those Means, such Sum or Sums of Money as they shall from Time to Time think expedient, not exceeding in the whole the Sum of One hundred and twenty thousand Pounds, in addition to the Monies authorized to be raised and borrowed by the said recited Act; and for that Purpose to create and issue such and so many distinct and integral Shares, of such Value and Amount, as the said Company, or the Directors of the said Company, shall think convenient, and as will allow a proper Portion thereof to be appropriated to the then Proprietors of original Shares in the said Undertaking, according to their respective Interests in the said Company, or as near thereto as can conveniently be effected, and the same shall be offered to the then Proprietors of Shares in the said Undertaking in equal Proportions according to the Amount of original Shares then held by them respectively therein; and the same shall vest in and belong to such of the then Proprietors of original Shares as shall accept the same in manner herein-after mentioned; and such Proprietors so accepting such new Shares, their Successors, Executors, Administrators, or Assigns, shall pay the Value and Amount thereof to the said Company at such Times and in such Manner as the same shall be called for by the Directors for the Time being of the said Company; and in case any of the Proprietors of original Shares in the said Undertaking shall refuse or neglect, for the Space of One Calendar Month next after an Offer of the same

in Writing, signed by the Law Clerk or Secretary of the said Company, shall have been given or sent by the Post to them, or shall have been left at their last or usual known Places of Abode respectively, to signify their Acceptance of the new Shares so to be appropriated to them (such Acceptance being signed by them or their Agent, and transmitted or delivered to or at the Office of the Secretary of the said Company), or in case any such original Proprietors shall be incapacitated, under Age, or under any legal Disability, or shall not hold such a Number of original Shares as will entitle them to One of such new Shares, then and in every such Case it shall be lawful for the said Company, or for the Directors thereof, and they are hereby empowered, to sell and dispose of such Shares as shall not be accepted and appropriated as aforesaid unto such Corporations or Persons as may be willing to become Purchasers thereof, by public Auction or by private Treaty, and for such Sums of Money as the said Company or Directors may be able to obtain for the same.

New Shares to be Personal Estate, and to be considered as Part of the general Capital.

III. And be it further enacted, That all such new Shares to be created as aforesaid shall be deemed Personal Estate, and shall be transmissible as such in the Manner provided and directed by the said recited Act in respect of the original Shares in the said Undertaking; and all Corporations and Persons who shall become entitled to any such new Share or Shares, whether in right of original Shares or by Purchase from the said Company as aforesaid, and their several and respective Successors, Executors, Administrators, and Assigns, shall be and they are hereby declared to be Owners and Proprietors of Stock in the said Undertaking, and to be interested therein, and entitled to Dividends and Profits, and to vote in respect thereof, in proportion to the Amount of such new Share or Shares, as beneficially to all Intents and Purposes as the Proprietors of original Shares in the said Undertaking; and to such new Shares and the Proprietors thereof shall be applicable all the Directions and Provisions in regard to Entry on the Register or List of Proprietors, and all the Powers to make Calls, and charge Interest thereon, to sue for Calls and Interest, to declare forfeited and to sell Shares in case of Nonpayment of Calls, and all other the Powers, Provisoes, Indemnities, Remedies, Clauses, Matters, and Things contained in the said recited Act, with reference to the original Shares in the said Undertaking, and the Proprietors thereof, except as to the Time of making Calls for the said new Shares, and the Amount of such Calls (which Calls the Directors of the said Company are hereby empowered to appoint to be of such Amount and payable at such Times as they may think fit), and save so far as any other of such Powers, Provisoes, Indemnities, Remedies, Clauses, Matters, or Things are by this Act expressly varied or altered; and the several Proprietors of such new Shares shall be and they are hereby united to and incorporated with the said *Newcastle-upon-Tyne* and *North Shields* Railway Company: Provided nevertheless, that the Proprietors of such new Shares shall only be entitled to Dividends or Profits in respect thereof in proportion to the Amount which shall have been actually paid upon such Shares at the Time of declaring such Dividends respectively, unless otherwise directed from Time to Time by an Order of any General

General or Special General Meeting of the said Company: Provided also, that the Proprietors of such new Shares shall be entitled only to such Number of Votes in respect thereof as the Amount of Stock represented by such Shares would have entitled them to had they been original Shareholders in the said Undertaking; and no Proprietor shall be entitled to any Vote unless possessed of some new Share or Shares representing One hundred Pounds at least of the Capital Stock of the said Company.

Power to raise the Money on Mortgage.

IV. And be it further enacted, That it shall be lawful for the said Company, and they are hereby authorized and empowered, after the said Sum of One hundred and twenty thousand Pounds herein-before authorized to be raised by Shares shall have been subscribed for, and One Half thereof shall have been paid up, to borrow and take up at Interest any Sum of Money not exceeding in the whole the Sum of Forty thousand Pounds, in such Proportions as they shall think reasonable, either in anticipation or in addition to the said Sum of One hundred and twenty thousand Pounds hereby authorized to be raised by Shares as aforesaid; and the said Company, or the Directors of the said Company, (after such Order shall have been made as aforesaid,) are hereby empowered to mortgage, assign, and charge the Property of the said Undertaking, and the Rates, Tolls, and Duties arising or to arise therefrom, by Bond under the Common Seal of the Company, as a Security for any Money so to be borrowed, with Interest thereon at such legal Rate as may be agreed upon, to such Person, or to his Trustee, as shall advance the same, in a like Manner and Form, and with, under, and subject to the like Powers, Provisions, and Directions for transferring any such Mortgage, and for registering every such Mortgage and every Transfer thereof, and to the like Powers, Remedies, Regulations, and Provisions as are in the said recited Act contained concerning the borrowing of Money, or the securing or recovering of the same, or the Interest thereof; and that all and every Persons and Person to whom any Security shall be granted under this Act shall be equally entitled one with another to the Rates, Tolls, and Property thereby assigned or to be assigned, in proportion to the Sum or Sums for which such Security or Securities respectively shall have been or shall be granted, without any Preference by reason of any Priority in the Date or Time of Payment of any such Security, or otherwise howsoever: Provided always, that any Mortgage already made by the said Company under and in pursuance of the said recited Act, or any Assignment thereof, shall have Priority over all Mortgages or Securities granted or to be granted under the Provisions of this Act.

Power to create additional Shares for paying off Money borrowed under recited Act and this Act.

V. And be it further enacted, That it shall be lawful for the said Company, if they shall think fit, and they are hereby empowered, by Order of any General or Special General Meeting of the said Company, from Time to Time (in addition to the Powers herein-before granted with regard to raising the said Sum of One hundred and twenty thousand Pounds) to raise, by Contribution among themselves, or by the Admission of other Persons as Subscribers to the Undertaking, or in part by each of those Means, such further Sum or Sums of Money as shall be sufficient to enable the said Company

pany to pay off the Whole or any Part of the Sum of Forty thousand Pounds already borrowed under the Powers of the said recited Act, and also the Whole or such Part of the said Sum of Forty thousand Pounds as may have been or may be borrowed on Mortgage under the Powers herein-before in this Act contained; and the Money so to be raised by Subscription as last aforesaid shall from Time to Time be divided into distinct and integral Shares of such Value as will admit of a proper Proportion being appropriated to the then Proprietors of Shares in the said Undertaking; and the same shall be offered in every respect as is herein-before directed and provided in reference to the new Shares herein-before authorized to be created for raising the said Sum of One hundred and twenty thousand Pounds, or any Part thereof.

Any new Shares remaining unappropriated may be sold.

VI. And whereas it may happen that, after the Creation of so many new or additional Shares by virtue of this Act as can be divided in equal Proportions amongst the then Proprietors of Shares in the said Undertaking, there may remain a Number of such new or additional Shares which cannot conveniently be so divided and appropriated; be it therefore enacted, That in such Case it shall be lawful for the said Company or for the Directors thereof, and they are hereby empowered, to sell, appropriate, or otherwise dispose of such remaining additional Shares as cannot conveniently be so divided as aforesaid, to any Corporations or Persons whatsoever, by public Auction or private Treaty, for the best Price which they may be able to obtain for the same, without first offering the same in manner herein-before mentioned to Proprietors of original Shares in the said Undertaking.

Authorizing Ecclesiastical Persons to hold Shares.

VII. And be it further enacted, so as to operate retrospectively as well as prospectively, That any Clerk, Clergyman, or Ecclesiastical Person whatever is and has been and shall be legally competent to and can or may purchase, hold, or enjoy, and dispose of, any Share or Shares already or hereafter to be created in the said Company or the Capital Stock and Profits thereof, in like Manner and subject to the same Conditions as any other Body or Person is by this or the said recited Act authorized, and without being liable to any Penalty or Forfeiture or other Consequence by reason thereof; and the said Company may sue and be sued, and shall enjoy the same Privileges and Immunities, as they are or would be entitled to if no such Clerk, Clergyman, or Ecclesiastical Person was or had been a Shareholder in the said Undertaking, any Law, Statute, Usage, or Custom to the contrary thereof notwithstanding.

Application of Money.

VIII. And be it further enacted, That the Money, when raised by virtue of this Act, shall be laid out and applied, in the first place, in paying and discharging all Costs and Expences incurred in applying for, obtaining, and passing this Act, with Interest for any Sums which may have been advanced for that Purpose, and that the Residue of such Money shall be laid out and applied for the Purpose of completing and maintaining the said Railway and Works authorized to be made by the said recited Act, and for other the Purposes connected with the same.

Company to prepare an annual Account of Receipts, &c. and send a Copy thereof to the Clerk of the Peace.

IX. And be it enacted, That the said Company shall and they are hereby required to prepare an annual Account in Abstract of the total Receipts and Expenditure of all Funds levied under the Provisions of this or the said recited Act for the past Year, distinguishing the Receipts from the Expenditure, together with a Statement of the Balance of the said Account duly audited and certified by the Directors or Auditor of the said Company; and the said Company are hereby required to transmit, free of Expence, a Copy of such annual Account to the Clerk of the Peace for the County of *Northumberland* on or before the First Day of *January* in each Year; and in case they shall refuse or neglect to transmit the said Account as aforesaid they shall forfeit and pay the Sum of Five Pounds for each Offence; which Account, when so transmitted to the said Clerk of the Peace for the County of *Northumberland*, shall be open to the Inspection of any Person interested therein upon the Payment of the Sum of Two Shillings and Sixpence, upon Application at the Office of the said Clerk of the Peace at any reasonable Hour of the Day.

For the Indemnity of Directors.

X. And be it further enacted, That the Directors of the said Company, their Heirs, Executors, and Administrators, shall be indemnified and saved harmless, by and out of the Funds of the said Company, from and against all Payments made and Liabilities incurred by them, and from all Acts, Matters, and Things by them done, executed, or ordered, and from all Payments, Expences, Liabilities, Acts, and Things which they may *bonâ fide*, and in consequence of their being Directors, incur or be called upon to pay in the Execution of the Powers and Authorities by the said recited Act or this Act granted, and they shall be so indemnified out of the Assets of the said Company; and the Directors for the Time being shall apply the then existing or any future Funds and Assets of the said Company for the Purpose of such Indemnity and Reimbursement.

Rates for Carriages and locomotive Power to be charged equally.

XI. And be it further enacted, That the Charges by the said recited Act authorized to be made for the Carriage of any Passengers, Goods, Animals, or other Matters or Things to be conveyed by the said Company, 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, 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, passing on the same Portion of the Line; and no Charge, or Reduction or Advance 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 travelling upon or using the same Portion of the said Railway.

Provisions of recited Act respecting Limitation of Actions repealed.

XII. And whereas it is by the said recited Act enacted, that no Plaintiff or Plaintiffs shall recover in any Action or other Proceedings commenced against any Corporation or Person or Persons for any thing done in pursuance of the said recited Act, unless Notice in Writing

Writing shall have been given to the Defendant Seven Days before such Action be commenced, of such intended Action or other Proceeding, signed by the Attorney for the Plaintiff or Plaintiffs, specifying the Cause of such Action; nor shall the Plaintiff or Plaintiffs recover in such Action or other Proceeding if Tender of sufficient Amends hath been made to him, her, or them, or to his, her, or their Attorney, by or on behalf of the Defendant, before such Action brought, nor unless such Action or other Proceeding shall be brought or commenced within Three Calendar Months next after the Fact committed, or in case there shall be a Continuation of Damages then within Three Calendar Months next after the doing or committing such Damage shall have ceased, and not afterwards, and shall be laid and brought in the County where the Matter in Dispute or Cause of Action shall arise; and the Defendant or Defendants in such Action, Suit, or Information shall and may plead the General Issue, and give the said recited Act and the special Matter in Evidence, at any Trial to be had thereupon, and that the same was done in pursuance and by the Authority of the said Act; and if it shall appear to have been so done, or if any such Action, Suit, or Information shall have been brought before Fourteen Days Notice shall have been given, or after Satisfaction made or tendered as aforesaid, or after the Time so limited for bringing the same, or in any other County or Place than as aforesaid, then and in every such Case the Jury shall find for the Defendant or Defendants; and upon such Verdict, or if the Plaintiff or Plaintiffs shall become nonsuited, or suffer a Discontinuance of his, her, or their Action or other Proceeding after the Defendant or Defendants shall have appeared, or if a Verdict shall pass against the Plaintiff or Plaintiffs, or if upon Demurrer or otherwise Judgment shall be given against the Plaintiff or Plaintiffs, the Defendant or Defendants shall have his, her, or their Costs, and shall have such Remedy for recovering the same as any Defendant hath for recovering Costs of Suit in any other Case by Law: And whereas it is expedient that the said Provisions, so far as the same confer any special Privilege or Advantage on the said Company which without such Provisions they would not enjoy, should be repealed; be it therefore enacted, That the said Provisions shall be and the same are hereby declared to be repealed.

Penalty on Passengers fraudulently travelling without Tickets.

XIII. And be it further enacted, That if any Person shall, with Intent to defraud the said Company, travel on the said Railway, or take his Seat in or on any Carriage with an Intention to travel on the said Railway, without having first paid the Fare, and obtained a Ticket for the particular Class of Carriage in which he shall so travel or take his Seat, or shall not produce and deliver up his Ticket when requested by the Servants of the said Company, or shall wilfully, and with Intent to defraud the said Company, present or ride with a false or fictitious Ticket, every Person so offending shall for every such Offence forfeit and pay a Penalty not exceeding Forty Shillings.

Penalty on Persons smoking on

XIV. And be it further enacted, That if any Person shall smoke Tobacco upon the said Railway or Station, or in any Carriage thereon,

the Railway and otherwise misbehaving.

thereon, or shall make a Disturbance on such Railway or Station, or in such Carriage, or shall cut or damage any such Carriage, or the Lining or Cushions thereof, or shall obstruct or resist any Officer or Servant of the said Company in the Exercise of his Duty, every Person so offending shall for every such Offence forfeit and pay a Penalty not exceeding Forty Shillings.

Railway not to be exempt from any general Act as to Railways.

XV. And be it enacted, That nothing herein contained shall be deemed or construed to exempt the Railway by this Act or the said herein-before recited Act authorized to be made from the Provisions of any general Act relating to Railways which may pass during the present or any future Session of Parliament.

Public Act.

XVI. 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.

LONDON: Printed by GEORGE E. EYRE and ANDREW SPOTTISWOODE,
Printers to the Queen's most Excellent Majesty. 1840.