

ANNO TERTIO

VICTORIÆ REGINÆ.

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Cap. v.

An Act to enable "The North Union Railway Company" to raise a further Sum of Money.

[23d *March* 1840.]

WHEREAS an Act was passed in the Eleventh Year of the Reign of His late Majesty King *George* the Fourth, intituled *An Act for making and maintaining a Railway* 11 G. 4. &
from the Borough of Wigan *to the* Liverpool *and* Manchester *Railway* 1 W. 4. c. 56.
in the Borough of Newton *in the County Palatine of* Lancaster, *and collateral Branches to communicate therewith*, whereby certain Persons were united and made One Body Corporate by the Name and Style of "The *Wigan* Branch Railway Company," and were authorized to make and maintain such Railway and Branches, and for the Purposes therein mentioned were empowered to raise among themselves any Sum of Money not exceeding in the whole the Sum of Seventy thousand Pounds, and by Mortgage any additional Sum not exceeding Seventeen thousand five hundred Pounds: And whereas another Act was passed in the First Year of the Reign of His late Majesty King *William* the Fourth, intituled *An Act for making and* 1 W. 4. c. 56.
maintaining a Railway from the Borough of Wigan *to the Borough of* Preston, *both in the County Palatine of* Lancaster, *and collateral Branches to communicate therewith*, whereby certain Persons were united and made One Body Corporate by the Name and Style of "The *Preston* and *Wigan* Railway Company," and were authorized to make and maintain such last-mentioned Railway and Branches; and

and for the Purposes therein mentioned were empowered to raise among themselves any Sum of Money not exceeding Two hundred and fifty thousand Pounds, and by Mortgage any additional Sum not exceeding Eighty-three thousand Pounds: And whereas another Act was passed in the Fourth Year of the Reign of His late Majesty King *William* the Fourth, intituled *An Act for uniting the* Wigan *Branch Railway Company and the* Preston *and* Wigan *Railway Company; for authorizing an Alteration to be made in the Line of the last-mentioned Railway, and for repealing, altering, and amending the Acts relating to the said Railways*, whereby the said Two first-recited Acts were repealed, and the said North Union Railway Company authorized to make an Alteration in the Line of the said *Preston* and *Wigan* Railway, and to continue the making of, and to make and complete, and maintain, a continuous Line of Railway, with proper Works and conveniences, extending from the *Liverpool* and *Manchester* Railway at *Parkside Lane Bridge*, in the Borough of *Newton* aforesaid, through *Wigan*, to *Preston* aforesaid, and collateral Branches to communicate therewith; and for the Purposes of their said Act and Undertaking the said North Union Railway Company were empowered to raise among themselves any Sum of Money, which, together with the Sums then raised or authorized to be raised by virtue of the Two first-recited Acts, should not exceed in the whole the Sum of Three hundred and twenty thousand Pounds; and in case the same should be found insufficient for the making, completing, and maintaining the said Railway and other Works, and for defraying all necessary Charges and Expences relating thereto, the said North Union Railway Company were empowered from Time to Time, by an Order of any General or Special General Meeting of the said Company, to borrow and take up at Interest on Mortgage and Assignment of the Property of the said Undertaking, and of the Rates or Sums arising or to arise by virtue of that or the said recited Acts, and to raise by creating new or additional Shares in the said Undertaking, or by either or both of those Means, to borrow or raise any further or additional Sum not exceeding One hundred and sixty thousand Pounds: And whereas the whole of the said Sum of Three hundred and twenty thousand Pounds, which the said North Union Railway Company were empowered to raise among themselves, has been raised and paid: And whereas of the said Sum of One hundred and sixty thousand Pounds, which the said North Union Railway Company were empowered to borrow or raise by Mortgage, or by the Creation of new Shares, the Sum of One hundred and fifty-six thousand four hundred and fifty Pounds (less the Sum of Five hundred and ten Pounds now due and in arrear in respect thereof) has been raised by the Creation of new or additional Shares, and the Sum of Three thousand five hundred and fifty Pounds, the Residue thereof, has been raised by Mortgage: And whereas the said Railway has been opened to the Public, but the Works are in some respects incomplete, and many additional Buildings, Wharfs, Landing Places, and other Works and Conveniences for the Completion of the said Undertaking, and for the Accommodation of the Public, are required; but the Monies which the said North Union Railway Company are authorized to raise by the said recited Acts are insufficient fully to carry into effect the Purposes of the said recited Acts,

4 & 5 W. 4. c. 25.

and

and it is necessary that the said North Union Railway Company should be authorized to raise a further Sum of Money: And whereas the Objects aforesaid cannot be carried into effect 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 the said several Acts herein-before recited or mentioned, and all Powers, Authorities, Penalties, Forfeitures, Rules, Remedies, Directions, Articles, Matters, and Things therein respectively contained, shall (except so far as the same or any of them have heretofore been or by this Act is or are varied, altered, or repealed;) be good, valid, applicable, and effectual for carrying this Act into execution, in as full, ample, and beneficial a Manner, to all Intents and Purposes whatsoever, as if the same had been repeated and re-enacted expressly and at length in the Body of this present Act.

Powers of former Acts extended to this Act, except as hereby altered.

II. And be it further enacted, That, subject and without Prejudice to the several Mortgages made and executed by the said North Union Railway Company to any Person or Persons under the Powers of the said several herein-before recited Acts, and now subsisting or remaining undischarged, whether wholly or in part, and to all the Powers, Rights, and Remedies given by the said Acts respectively to or for the Benefit of such Mortgagees respectively, until such Mortgages shall have been fully paid and satisfied, it shall be lawful for the said North Union Railway Company, and they are hereby empowered, by any Order or Orders from Time to Time of any General or Special General Meeting or Meetings of the said Company, to borrow and take up at Interest on the Credit of the said Undertaking (over and above the said Sum of Three thousand five hundred and fifty Pounds so raised as aforesaid), or from any Person or Persons, or Body or Bodies Politic, Corporate, or Collegiate, or from all or any or either of them, such further or additional Sum or Sums of Money, not exceeding in the whole the further Sum of Two hundred and fifty thousand Pounds, as to the said North Union Railway Company shall seem expedient for the Purposes of this Act and of the said recited Acts; and the said North Union Railway Company, or the Directors thereof (after any such Order or Orders shall have been made for any such Purpose from Time to Time by any General or Special General Meeting of the said North Union Railway Company), are hereby empowered from Time to Time to assign the Property of the said Undertaking, and the Rates and Tolls arising or to arise therefrom by virtue of the said recited Acts or of this Act, or of any or either of them, or any Part or Parts thereof, under the Common Seal of the said North Union Railway Company, as a Security or Securities for any Sum or Sums of Money so to be borrowed, with Interest thereon at such legal Rate or Rates as may from Time to Time be agreed upon, to such Person or Persons, or Body or Bodies Politic, Corporate, or Collegiate respectively, or to his, her, or their Trustees or Officers respectively, as shall advance the same, by Mortgage or Mortgages, or by Bond or Bonds respectively, in a like Manner and Form, and with, under, and

Power to the Company to borrow the further Sum of 250,000*l.* on the Credit of the Undertaking

and subject to the like Powers, Provisions, and Directions for transferring and registering every such Mortgage or Bond, and every Transfer thereof, and to the like Powers, Remedies, Regulations, and Provisions as are in the said recited Acts or any of them contained concerning the borrowing of Money, or the securing or recovering of the same, or the Interest thereof; and that all and every Person and Persons, Body and Bodies Politic, Corporate, and Collegiate, 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 of Money 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.

In case such Sums are paid off, the Company may raise the Amount again on Loan.

III. And be it further enacted, That when and so often as the said North Union Railway Company shall be required or shall desire to pay off all or any Part of the Monies hereby authorized to be borrowed from Time to Time, it shall be lawful for the said North Union Railway Company, or the Directors thereof, and they are hereby empowered, again to raise, in lieu of the Monies so paid off or to be paid off by them, so much and such Sum or Sums of Money as they shall from Time to Time have paid off, or be required or desired to pay off, or any Part or Parts thereof, from such Person or Persons, Body or Bodies, as may be willing to lend the same, on Security of the said Undertaking, or the Rates or Tolls thereof, and at such Rates of legal Interest as the said North Union Railway Company, or the Directors thereof, may deem expedient, and so from Time so Time as often as the same shall happen, but so nevertheless that the said North Union Railway Company shall not in any Event borrow upon Mortgage or Bond under the Authority of this Act at any one Time more than the said Sum of Two hundred and fifty thousand Pounds, or so much or such Part or Parts thereof as by the Order of such General or Special General Meeting shall have been or be authorized or ordered to be borrowed from Time to Time.

Power to create new Shares for the Purposes of this Act.

IV. And be it further enacted, That it shall be lawful for the said North Union Railway Company and they are hereby empowered, by an Order or Orders of any General or Special General Meeting or Meetings of the said Company, to raise, by Contribution amongst 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 said Sum of Two hundred and fifty thousand Pounds hereby authorized to be raised, in addition to the several Monies authorized to be raised by the said recited Acts, or any Part or Parts thereof, either in the first instance or at any Time or Times hereafter, for enabling the said Company to pay off and discharge the several Sums of Money which they may borrow under the Authority of this Act, or any Part or Parts of such Monies; and the Amount of the Money so to be raised from Time to Time shall be divided into such and so many

many distinct and integral Shares, of such Value and Amount as the said North Union Railway Company shall think convenient, as will allow a proper Proportion thereof to be appropriated to the then Proprietors of Shares in the said Undertaking, in equal Proportions according to the Amount of Capital Stock held by them respectively therein, and the same shall vest in and belong to such of the then Proprietors of Shares as shall accept the same, and shall pay the Value or Amount thereof to the said North Union Railway 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 North Union Railway Company; and in case any of the then Proprietors of Shares shall refuse or neglect, for the Space of One Calendar Month next after an Offer for the same in Writing, signed by the Clerk or Secretary of the said North Union Railway Company, shall have been given or sent by the Post to them, directed to, or shall have been left at, his, her, or their usual or last known Place of Abode in *England*, to signify his, her, or their Acceptance of the Shares so to be appropriated to him, her, or them respectively, and his, her, or their Consent to pay the full Value or Amount thereof respectively to the said North Union Railway Company when called for as aforesaid, or in case such Proprietor or Proprietors shall be incapacitated, or under any legal Disability to hold such Shares, or in case any such Proprietor shall not hold such a Number of the then existing Shares in the said Undertaking as will entitle him to One of the new Shares so to be created under the Authority of this Act, then and in every or any such Case it shall be lawful for the said North Union Railway Company, or for the Directors thereof, and they are hereby empowered, to sell, appropriate, or otherwise dispose of all and every or any of such Shares as shall not be accepted, or shall not be appropriated as aforesaid, unto such Person or Persons, Body or Bodies Politic, Corporate, or Collegiate, Ecclesiastical or Lay, as may be willing to become and shall become Subscribers for and Proprietors of the same, for such Sum or Sums of Money as the Directors for the Time being of the said North Union Railway Company may be able to obtain for the same.

If any Portion of the Money remain to be raised after such Creation of Shares, the Company may create additional Shares.

V. And whereas it may happen that, after the Creation of so many additional Shares as can be divided in equal Proportions amongst the then Proprietors of Shares in the said Undertaking who may accept the same, there may remain a Portion of the Money hereby authorized to be raised which cannot be so divided and appropriated; be it therefore enacted, That in such Case it shall be lawful for the said North Union Railway Company, and they are hereby empowered, by any Order or Orders of such General or Special General Meeting or Meetings to be held as last aforesaid, or to be called for that Purpose, to raise from Time to Time such Sum or Sums of Money as shall be equal to such remaining Portion, by creating additional new Shares to an adequate Amount and of such Value or Amount *per* Share as may be requisite, and to sell and dispose of such last-mentioned Shares, for such Prices or Sums of Money *per* Share as the said North Union Railway Company, or the Directors thereof, may be able to obtain for the same, unto such Bodies Politic, Corporate, or Col-

legiate, or other Person or Persons, Ecclesiatical or Lay, as may be willing to become and shall become Subscribers for and Proprietors of the same.

New Shares to be considered as Part of the general Capital.

VI. And be it further enacted, That every new Share to be created in pursuance of the Powers of this Act shall be deemed Personal Estate, and shall be transmissible and transferable as such, and shall not be of the Nature of Real Estate; and all such Corporations and Persons as shall become entitled thereto, and their several and respective Successors, Executors, Administrators, and Assigns, shall be and they are hereby declared to be Owners and Proprietors of Shares in the said Undertaking to the Amount or nominal Value of such Shares so by them possessed, as beneficially as the Proprietors of Shares of One hundred Pounds in the said Undertaking, but in the Proportion nevertheless which the Amount or nominal Value of such Shares respectively so to be created as aforesaid may bear to the Sum of One hundred Pounds, and shall be entitled to a Share of all the general Profits and Dividends of the said North Union Railway Company in the like Proportions; and all such Corporations and Persons aforesaid shall be deemed to be and are hereby declared to be thenceforth united to and incorporated with the said North Union Railway Company; and all such new Shares so to be created as aforesaid shall be considered as Part of the general Capital Stock of the said North Union Railway Company, and be under and subject to the same Provisions, Regulations, Directions, and Management, in all respects, and to all Intents and Purposes, as if the same had been Part of the original Capital Stock of the said North Union Railway Company, except as to the Times of making Calls for the said new Shares, and the Amount of such Calls, which Calls the said North Union Railway Company is hereby empowered to appoint to be of such Amount and payable at such Times as they shall think fit: Provided always, that all the Regulations, Provisions, and Authorities contained in the said recited Acts or any of them for enforcing the Calls for the Capital Stock of the said North Union Railway Company, and for the Recovery thereof, or of any Arrears thereof, and relating to the Forfeiture of any Sums advanced by reason of any Neglect or Refusal to comply with such Calls, shall be applicable to the Calls which shall be made for the said new Shares hereby authorized to be created as aforesaid, and to the Refusal or Neglect to comply with such last-mentioned Calls.

Directing how Proprietors of new Shares shall vote.

VII. And be it further enacted, That every Corporation and Person who shall by virtue of this Act have subscribed for and become entitled to such a Number of the new Shares so to be created as aforesaid as that the aggregate Sum of the Amounts or nominal Values of such new Shares shall be One hundred Pounds shall be allowed to vote in respect of such Number of Shares, either in Person or by Proxy, at the several Meetings of the said Company, in the same Manner, to the same Extent, and subject to the same Stipulations, Provisions, Restrictions, and Limitations as are mentioned or contained in the said recited Acts with respect to the

Right

Right of voting by the Proprietors of original Shares of One hundred Pounds.

Authorizing Ecclesiastical Persons to hold Shares.

VIII. And be it further enacted, and it is hereby declared, so as to operate retrospectively as well as prospectively, That any Clerk, Clergyman, or Ecclesiastical Person or Body 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 North Union Railway 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 Acts authorized, and without being liable to any Penalty or Forfeiture or other Consequence by reason thereof; and the said North Union Railway Company may sue and be sued, and enjoy the same Privileges and Immunities, as they are or would be entitled to if no such Clerk, Clergyman, or Ecclesiatical Person or Body was or had been a Shareholder in the said Undertaking; any Law, Statute, Usage, or Custom to the contrary thereof notwithstanding.

Provision of recited Act respecting the Service of Notices on the Company repealed, and other Provision made.

IX. And whereas it is by the said recited Act enacted, that in all Cases in which it may be necessary for any Person or Corporation to serve any Summons or Demand, or any Notice, or any Writ, or other Proceeding at Law or in Equity, upon the said North Union Railway Company, personal Service thereof upon the Clerk or Secretary of the said North Union Railway Company, or leaving the same at any Office of the said Company, or of such Clerk or Secretary, or delivering the same to some Inmate at such Office of the said North Union Railway Company, or at the last or usual Place of Abode of such Clerk or Secretary, or in case the same respectively shall not be found or known, then personal Service thereof upon any other Agent or Officer employed by the said North Union Railway Company, or on any One Director of the said Company, or delivering the same to some Inmate of the last or usual Place of Abode of such Agent or Officer or Director, shall be deemed good and sufficient Service of the same respectively on the said North Union Railway Company: And whereas it is expedient that such Provision should be repealed; be it therefore enacted, That the same shall be and is hereby repealed; and in lieu thereof be it further enacted, that in all Cases in which it may be necessary to give or serve any Summons or Demand, Writ or other Proceeding at Law or in Equity, or otherwise howsoever, upon the said North Union Railway Company, the same shall be given to or served upon or left at the usual Place of Abode of the Clerk or Secretary of the said North Union Railway Company, or in case there shall be no such Clerk or Secretary, then the same shall be given to or served upon or left at the usual Place of Abode of some one of the Directors of the said North Union Railway Company, and such Service shall be deemed good and sufficient Service on the said Company.

Nothingherein to exempt Railway from

X. And be it further enacted, That nothing herein contained shall be deemed or construed to exempt the Railway by this Act or

the Provisions of any general Act.

or the herein-before recited Acts authorized to be made from the Provisions of any general Act relating to Railways which may pass during the present or any future Session or Parliament.

Repeal of so much of recited Act as enacts a Limitation of Action.

XI. And be it further enacted, That so much of the said herein-before in part recited Act of the Fourth Year of the Reign of His late Majesty as enacted that no Action, Suit, or Information, nor any other Proceedings, of what Nature soever, shall be brought, commenced, or prosecuted against any Person or Corporation for any thing done or omitted to be done in pursuance of this or either of the said recited Acts, or in the Execution of the Powers or Authorities, or any of the Orders made, given, or directed in or by any or either of such Acts, unless Twenty-eight Days previous Notice in Writing shall be given by the Party intending to commence and prosecute such Action, Suit, Information, or other Proceedings, to the intended Defendant, nor unless such Action, Suit, Information, or other Proceeding shall be brought or commenced within Three Calendar Months next after the Cause of Action shall arise, or in case there shall be a Continuation of Damage then within Three Calendar Months next after such Cause of Action shall have ceased, nor unless such Action, Suit, or Information shall be laid and brought in the County or Place where such Cause of Action shall arise, shall be and the same is hereby repealed.

For equalizing Tolls.

XII. Provided always, and be it further enacted, That the Rates and Tolls to be taken by virtue of the said recited Acts or any of them, save and except the Rates and Tolls to be taken or payable for or in respect of Passengers, and of Goods, Wares, Merchandize, Articles, Matters, and Things, or any of them, which shall have previously passed upon or along, or which shall afterwards pass upon or along, the *Bolton* and *Preston* Railway, or any Part thereof, shall at all Times be charged equally and after the same Rate *per* Ton *per* Mile throughout the whole of the said Railway in respect of the same Description of Articles, Matters, or Things, and that no Reduction or Advance in the said Rates and Tolls, save and except the Rates and Tolls herein-before saved and excepted, shall either directly or indirectly be made partially or in favour of or against any particular Person or Company, or be confined to any particular Part of the said Railway, but that every such Reduction or Advance of Rates and Tolls, save and except the Rates and Tolls herein-before saved and excepted upon any particular Kind or Description of Articles, Matters, or Things, shall extend to and take place throughout the Whole and every Part of the said Railway for and in respect of the same Description of Articles, Matters, and Things so reduced or advanced, and shall extend to all Persons whomsoever using the same, or carrying the same Description of Articles, Matters, and Things thereon; and also that the Pontages, or Rates, Tolls, and Duties, to be taken by virtue of the said recited Acts or any of them, shall at all Times be charged equally in respect of the same Description of Coaches, Chariots, Chaises, Cars, Landaus, Gigs, Waggons, Carts, and other Carriages, Cattle and

other Animals, which shall neither previously have passed nor shall afterwards pass upon or along the *Bolton* and *Preston* Railway, and that no Reduction or Advance in such last-mentioned Pontages, or Rates, Tolls, and Duties, shall either directly or indirectly be made partially or in favour of or against any particular Person or Company, but that every such Reduction or Advance of such last-mentioned Pontages, Rates, Tolls, or Duties upon any particular Kind or Description of Coaches, Chariots, Chaises, Cars, Landaus, Gigs, Waggons, Carts, and other Carriages, Cattle and other Animals, which shall neither previously have passed nor afterwards pass upon or along the *Bolton* and *Preston* Railway, shall extend to all Persons whomsoever using the same or carrying the same respectively, any thing herein-before contained to the contrary in anywise notwithstanding: Provided nevertheless, and be it further enacted, that previous to the Nineteenth Day of *August* One thousand eight hundred and forty-two nothing in this Act contained shall prejudice or in any Manner affect any Agreement or Arrangement which the said North Union Railway Company had previous to the First Day of *February* One thousand eight hundred and forty made or entered into in respect of such Rates or Tolls, or in respect of such Pontages, or Rates, Tolls, or Duties, or any of them.

Penalty for attempting to defraud the Company in travelling on the Railway.

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.

To prevent Annoyances and Injuries.

XIV. And be it further enacted, That if any Person shall smoke Tobacco upon the said Railway or in any Carriage thereon, or shall make a Disturbance on such Railway or in such Carriage, or shall cut or damage any such Carriage, or the Lining or Cushions thereof, or shall break the Windows thereof, every Person so offending shall for every such Offence forfeit and pay a Penalty not exceeding Forty Shillings.

Rules for the Interpretation of this Act.

XV. And be it further enacted, That whenever in this Act any Word or Words is or are used importing the Singular Number only the same shall be understood to include several Matters as well as one Matter, and several Persons as well one Person; and the Word "Corporation" shall be understood to include a Body or Bodies Politic, Corporate, or Collegiate, Civil or Ecclesiastical, Aggregate or Sole; and any Word or Words importing the Masculine Gender only shall be understood to include Females as well as Males; and the Word "Lands" shall be understood to include Messuages, Tenements, and Hereditaments, as well as

Lands; unless in any of the Cases aforesaid it be otherwise specially provided, or there be something in the Subject or Context repugnant to such Construction.

Expences of this Act.

XVI. And be it further enacted, That all the Costs, Charges, and Expences of and incident to the obtaining and passing of this Act, and of carrying the same into effect, shall be defrayed and paid by the said North Union Railway Company out of the Monies received by them under the Authority of the said recited Acts and of this Act, or any of them, in preference to any other Payment.

Public Act.

XVII. And be it further enacted, That this Act shall be deemed a Public Act, and shal lbe judicially noticed as such by all Judges, Justices, and others.

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