



ANNO SECUNDO

# VICTORIÆ REGINÆ.

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## Cap. xl.

An Act for amending and enlarging the Provisions of the several Acts relating to the Great North of *England* Railway Company, and for other Purposes relating thereto. [14th *June* 1839.]

**W**HEREAS 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 a Railway from near the River Tynè to or near the River Tees, to be called "The Great North of England Railway," in the County of Durham*: And whereas another Act was passed in the First Year of the Reign of Her present Majesty, intituled *An Act to enable the Great North of England Railway Company to extend the Line of their Railway, and to make Two Branches therefrom, and for other Purposes relating thereto*: And whereas it is expedient that the Periods granted by the said recited Acts respectively for the Purchase of Lands for the Purposes of the said Railway should be extended and enlarged, and that some of the other Powers and Provisions of the said recited Acts should be explained, altered, amended, and enlarged; but the Purposes aforesaid 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 Parliament assembled, and by the Authority of the same,

6 & 7 W. 4.  
c. 105.

7 W. 4. &  
1 Vict. c. 102.

[*Local.*]

10 B

That

Powers of  
recited Acts  
extended to  
this Act.

That the said recited Acts, and the Powers and Provisions therein respectively contained, (save and except such Parts thereof respectively as heretofore have been or are by this Act or by any General Act varied, altered, or repealed,) shall extend and be construed, deemed, and taken to extend to this Act in as full and ample a Manner to all Intents and Purposes as if the same were respectively repeated and re-enacted in this Act.

Enlarging  
Time for tak-  
ing Lands.

II. And be it further enacted, That the respective Periods limited by the said recited Acts respectively for the compulsory Purchase, taking, or using of Lands for the Purposes of the said Railway and the Works connected therewith shall be and the same is and are hereby respectively continued, extended, and enlarged for the further Term of Two Years, to be computed from the passing of this Act: Provided always, that nothing in this Act contained shall extend to authorize or empower the said Company to take or use, for the Purposes of the said Railway or the Works connected therewith, any Lands belonging to or in the Occupation of the Reverend *Robert Hopper Williamson*, *Lady Ann Simpson*, *John Shepherd*, *William Hardcastle*, *Edward Horseman*, *Thomas Merchant*, *John Hebden*, *John Roper*, *Henry Thompson*, *Rebecca Robinson*, *John Wright*, *William Wilson*, *Ralph Hodgson*, *Matthew Atley*, *John Nicholson*, *William Gray*, the Marquis of *Londonderry*, *George Clerk Dickeson*, *Ann Dunning*, *John Hancock*, *John Usher*, *George Mitchison*, *George Bailes*, *George Mullabar*, *John Johnson*, *Mary Davison*, *Sarah Wake*, *Mary Dobson*, *Robert Manners*, *Thomas Tilly*, *Ann Dowson*, *Matthew Stephenson*, and *Hannah Wright*, or either of them, without the Consent in Writing of such several Persons respectively (or, in the Case of the said *Lady Ann Simpson*, or her Committee) first had and obtained for that Purpose.

Special Jury.

III. And be it further enacted, That in all Cases of Controversy between the said Company and any Person or Persons where by the said first-recited Act a Jury is authorized or directed to be summoned it shall be lawful for the said Company, or for the Person or Persons with whom any such Controversy shall arise, and they are hereby empowered, if they think proper so to do, to require the Sheriff or Under Sheriff of the County in which such Controversy is to be determined to summon the Party with whom such Controversy shall arise, or the said Company to appear, by himself or themselves, or his or their Attorney, before the said Sheriff or Under Sheriff at such convenient Place and Time as such Sheriff or Under Sheriff shall appoint, for the Purpose of nominating a Special Jury between the said Parties, which Requisition to the said Sheriff or Under Sheriff shall be served on such Sheriff or Under Sheriff a reasonable Time before the Time appointed for taking the said Inquiry; and such Sheriff or his Under Sheriff shall and he is hereby required to produce or cause to be produced at the Place and Time so appointed the Jurors Book and Special Jurors List, and the Numbers written on Parchment or Card, as specified and directed in and by the Statute made and passed in the Sixth Year of the Reign of His Majesty King *George the Fourth*; intituled *An Act for consolidating and amending the Laws relative to Jurors and Juries*; and at the Place and Time so appointed the said Sheriff or his Under Sheriff, or some Persons

6 G. 4. c. 50.

duly appointed by them or one of them, shall proceed to nominate or strike a Special Jury in the Manner specified and authorized by the last-mentioned Act to be performed by the proper Officers of Her Majesty's Courts at *Westminster*; and the said Sheriff or Under Sheriff, or some Person duly appointed by them or either of them as aforesaid, shall, at some then future reasonable Time and Place to be appointed by him in that Behalf, proceed to reduce the said Special Jury in the Manner used and accustomed to be performed by the proper Officers of the Superior Courts as aforesaid, of which last-mentioned Time and Place not less than Twenty-four Hours Notice in Writing shall be given by the Party requiring such Special Jury to be summoned to the said other Party; and the Special Jurymen to be summoned, impanelled, and returned by the said Sheriff or Under Sheriff shall be subject to all such and the same Fines and Penalties for Nonattendance, and to all such and the same Provisions, as Jurymen are by the said recited Railway Act rendered subject to: Provided always, that nothing herein contained shall be construed to prevent the same Special Jury from trying any Number of Inquiries, so as the Parties to such Inquiries respectively, or their Attornies, shall have signified their Assent in Writing to the Nomination of such Special Jury for the Trial of their respective Inquiries; nor shall any Special Jurymen be required to attend more than once in the same Year for the Trial of any Inquiries under this or the said recited Acts, or any of them: Provided also, that if a sufficient Number of Special Jurymen shall not attend at the Time and Place appointed for holding the Inquiry, the Sheriff, Under Sheriff, Coroner, or other Person presiding thereat shall, on the Request of either of the Parties to such Inquiry, add to the List of such Special Jury the Names of any By-standers qualified to act as Jurymen for the County in which the Inquiry is held, and all Persons shall have their lawful Challenges against the Jurymen so added; and the said Sheriff, Under Sheriff, Coroner, or other Person shall and may proceed in the said Inquiry with the Jurors so added in like Manner as he might have done if all the Persons summoned to attend as Jurymen on such Inquiry had attended thereat.

IV. Provided always, and be it further enacted, That the Consideration Money to be paid for any Lands to be purchased for the Purposes of this Act from or conveyed by any Corporation, or any Person under any Disability or Incapacity, as in the said first-recited Act mentioned, or not having Power to sell except under the Provisions of the said first-recited Act, shall in no Case be less than such Sum as the same shall be estimated at by the Verdict of a Jury, or by Two Surveyors, one of whom shall be nominated by the said Company, and the other by the Person or Corporation contracting or agreeing to sell the same, and if such Two Surveyors shall not agree in the Valuation thereof, then by such Third Surveyor as any Two Justices acting for the County in which the Lands or any Part thereof shall be situated shall for that Purpose nominate; and each of the said Two Surveyors, if they shall agree in and make their Valuation, or if not then the Surveyor so to be nominated by the Justices as aforesaid, shall annex to their or his Survey, Estimate, or Valuation, when completed, a Declaration of the Correctness thereof.

Lands bought of any Corporation or Person under any Disability to be valued by Two Surveyors or their Umpire.

V. Pro-

Charges of Surveyor by whom to be paid.

V. Provided always, and it is hereby further enacted, That the Costs, Charges, and Expences which shall be incurred, sustained, or paid by such Person or Persons, Corporation or Corporations, in and about the Employment of such Surveyor or Surveyors or their Umpire as aforesaid, and also the Costs, Charges, and Expences of any Award or Order which shall be made by such Surveyors or their Umpire, shall be paid by the said Company to the Person or Persons, Corporation or Corporations, by whom such Costs, Charges, and Expences shall be incurred, sustained, or paid, such Costs, Charges, and Expences being referred to and settled by the Clerk of the Peace for the County or Riding in which any such Lands shall be situated.

Expence of Counsel to be allowed in the Taxation of Costs.

VI. And be it further enacted, That in all Cases where the Verdict of a Jury summoned as by the said first-recited Act directed shall be given for the same or a greater Sum than shall have been previously offered by the said Company for the Purchase of any Lands to be used or taken by them for the Purposes of this Act, or as Compensation for any Damage or Loss which may happen or arise in the Execution of any of the Powers thereof, the reasonable Fees which may have been paid to One Counsel for attending the Inquiry before such Jury by the Party with whom the said Company may be in dispute shall be paid by the said Company; and the Amount of such Fees shall be settled and determined by the Sheriff, Under Sheriff, Coroner, or other Person presiding at the taking of such Inquiry in like Manner as the Costs of summoning such Jury and other Expences payable by the said Company, but upon the same Scale of Allowance as may for the Time being be adopted or allowed by the Taxing Officers of Her Majesty's Courts of Record at *Westminster*.

So much of 6 & 7 W. 4. c. 105. as gives Power to enter Lands, &c. on Payment or Tender of Purchase Money repealed.

VII. And whereas it is by the said first-recited Act enacted, that upon Payment or legal Tender of such Sums of Money as shall have been agreed upon between the Parties, or awarded by a Jury in Manner aforesaid, for the Purchase of any Lands, Rent, or other Charge, or as a Compensation for any Loss or Injury as aforesaid, to the respective Proprietors of such Lands, or other Persons respectively interested therein, and entitled to receive such Money or Compensation respectively, within Ten Days after the same shall have been so agreed upon or awarded, or if the Parties so respectively interested and entitled as aforesaid cannot be found, or shall be absent from *England*, or shall refuse to receive such Money as aforesaid, or shall refuse, neglect, or be unable to make a good Title to such Lands (to the Satisfaction of the said Company), or if any Party entitled unto or to convey such Lands shall not be known, or shall be absent from *England*, or shall refuse, neglect, or be unable to convey the same, then upon Payment of such Money into the Bank of *England* as herein-before directed to the Credit of the Parties interested in such Lands, or in case such Money shall have been agreed or awarded to be paid for the Purchase of any such Lands, or such Compensation as aforesaid, which any Corporation, Trustee, or Person under Disability is hereby capacitated to convey, upon Payment of such Money into the Bank of *England* as herein-before directed to an Account *ex parte* "The Great North of *England* Railway Company," then  
and

and in every of such Cases it shall be lawful for the said Company immediately to enter upon such Lands; and thereupon such Lands, and the Fee Simple and Inheritance thereof, together with the yearly Profits thereof, and all the Estate, Use, Trust, and Interest of all Parties therein, shall thenceforth be vested in and become the sole Property of the said Company to and for the Purposes of this Act; and such Payment or Tender and Conveyance, or such Deposit in the Bank of *England* as aforesaid, shall operate to merge all outstanding or other Terms of Years, and to bar and destroy all Dower and Courtesy, and all Estates Tail and other Estates in Reversion and Remainder, and all Rights, Titles, Limitations, and Trusts whatsoever, of and in the said Lands; provided nevertheless, that before such Payment, Tender, or Deposit in the Bank of *England* as aforesaid it shall not be lawful for the said Company, or for any Person acting under their Authority, to bore under, dig or cut into, or enter upon such Lands for any of the Purposes of this Act, save for the Purposes of ascertaining and setting out the same for the Purposes of this Act, without the previous Consent of the Owners and Occupiers thereof respectively: And whereas it is expedient that the said Enactment should be repealed, and that other Provisions should be enacted in lieu thereof; be it therefore enacted, That the said Enactment shall be and the same is hereby declared to be repealed.

VIII. And be it further enacted, That upon Payment or legal Tender of such Sums of Money as shall have been agreed upon between the Parties, or awarded by a Jury in manner in the said first-recited Act mentioned, for the Purchase of any Lands, Rents, or other Charge for the Purposes of the said Undertaking, to the respective Proprietors of such Lands, or other Persons respectively interested therein and entitled to receive such Money, or if the Parties so respectively interested and entitled as aforesaid cannot be found, or shall be absent from *England*, or shall refuse or be unable from any Cause whatever to receive such Money as aforesaid, or shall refuse, neglect, or be unable to make a good Title to such Lands to the Satisfaction of the said Company, or if any Party entitled unto or to convey such Lands shall not be known, or shall die after such Agreement or Award, or shall be absent from *England*, or shall refuse, neglect, or be unable from any Cause to convey the same, then upon Payment of such Money into the Bank of *England*, as in the said first-recited Act directed, to the Credit of the Parties interested in such Lands, or in case such Money shall have been agreed or awarded to be paid for the Purchase of any such Lands, Rent, or other Charge which any Corporation, Trustee, or Person under any Disability is by the said recited Act capacitated to convey, then upon Payment of the same into the Bank of *England*, as in the said first-recited Act is directed, to an Account *ex parte* "The Great North of *England* Railway Company," then and in every such Case it shall be lawful for the said Company immediately to enter upon such Lands; and thereupon all the Estate, Use, Trust, and Interest of all Parties in respect of whose Rights or Interests such Purchase Money shall have been paid shall thenceforth be vested in and become the sole Property of the said Company to and for the Purposes of the said recited Acts and this Act; and such Payment or Tender and Conveyance, or such Deposit in the Bank of *England* as aforesaid, shall operate to

Power to enter Lands on Payment or Tender of Purchase Money.

[Local.]

10 C.

merge

Company may enter upon Lands for setting out the Line, making Compensation for Damage.

merge all outstanding or other Terms of Years, and to bar and destroy all Dower and Curtesy, and all Estates Tail and other Estates in Reversion and Remainder, and all Rights, Titles, Limitations, and Trusts whatsoever, of and in the said Lands purchased or paid for by means of such Payment, Tender, or Deposit: Provided always, that before such Payment, Tender, or Deposit in the Bank of *England* as aforesaid it shall not be lawful for the said Company, or for any Person acting under their Authority, to bore under, dig or cut into, or enter upon such Lands for any of the Purposes of this or the said recited Acts, except as hereafter mentioned, without the previous Consent of the Persons in Receipt of the Rents, and of the Occupiers thereof respectively: Provided nevertheless, that the said Company shall be at liberty to enter upon the said Lands for the Purpose of setting out and marking by Stakes or otherwise the Line of the said Railway, and ascertaining the precise Direction thereof, and the Quantity and Extent of Land requisite to be taken for the Purpose of the same, but without boring upon, digging, or excavating the said Lands further than may be absolutely necessary for ascertaining the Nature of the Soil thereof, with the Consent of the Occupiers thereof, or without their Consent at such reasonable Times and under such Regulations and Restrictions as shall be authorized and imposed by any Justice of the Peace acting for the County or Place within which such Lands or any Part thereof may be situate, upon Notice to be given to the respective Occupiers of the said Lands, or left at their last known or usual Place of Abode: Provided also, that the said Company shall pay full Compensation for any Damage they may do in setting out or ascertaining their said Line, and the Nature of the Soil thereof, whether by the Destruction of Timber, Boring, Excavation, or otherwise; such Compensation, in case of Dispute about the same, to be settled by any Two Justices of the Peace for the County or Place where the said Lands may be.

Penalty for entering on Lands before Purchase.

IX. And be it further enacted, That so much of the said recited Acts or either of them as imposes any Penalty for the entering upon the Lands of any Person without the previous Payment or Tender of the Sums agreed on or awarded for the Purchase of the same, shall be and the same is accordingly hereby repealed; and in lieu thereof, be it enacted, That, save as herein-after provided, if the said Company or any of their Contractors shall wilfully enter upon and take possession of any Lands, except for the Purposes and according to the Provisions herein-before mentioned, without the Consent of the Persons in Receipt of the Rents or the Occupiers thereof, or without having made or tendered Payment for the same in manner herein-before directed, the said Company shall forfeit and pay to the Party in Possession or in Receipt of the Rents of such Lands, and to the Occupier, the Sum of Ten Pounds, and also the Amount of any Damage done to the said Lands by reason of such Entry and taking possession thereof as aforesaid, such Penalty and Damage respectively to be recovered before any Two Justices of the Peace for the County or Place where the said Lands may be situate, to be divided between the Persons in Possession or Receipt of the Rents and the Occupier in such Shares and Proportions as to such Justice shall seem proper and reasonable; and if the said Company or their Contractors shall, after Conviction in such Penalty as aforesaid, or after Notice to the

said Company from the Party in Possession of such Lands, continue in the unlawful Possession of the said Lands, the said Company shall be liable to forfeit and pay the Sum of Twenty Pounds for every Day they or their Contractors may so remain in Possession as aforesaid, such Penalty to be recoverable by the Party in Possession or in the Receipt of the Rents of the said Lands, with full Costs of Suit, in any of Her Majesty's Courts of Record at *Westminster*: Provided always, that nothing herein contained shall be held to subject the said Company to the Payment of any such Penalties as aforesaid if they shall *bonâ fide* and without Collusion have paid or tendered the Compensation agreed on or awarded to be paid in respect of the said Lands to any Person whom the said Company may have reasonably believed to be entitled to receive the same, although such Person may not have been legally entitled to receive the same, or if the said Company shall have made an incorrect Deposit thereof in the Bank of *England*, nor shall any Decision of any Justices under the Provisions herein-before contained be held conclusive as to the Right of Entry by the said Company; provided also, that in case the said Company shall have given Notice of this Provision to any Contractor or Contractors the said Company shall be entitled to recover from such Contractor or Contractors any Penalty in which they may have been convicted in consequence of the Acts of such Contractor or Contractors, or his or their Servants, Agents, or Workmen, done without the express Authority of the said Company.

X. And be it further enacted, That whenever the said Company shall have occupied or shall occupy, under the Provisions of the said recited Acts or this Act, any Land for temporary Purposes, the said Company shall pay to the Owner and Occupier of the said Lands for the Time being full Compensation for the Occupation of the same, and for any temporary Injury such Owner and Occupier may sustain in consequence of the Occupation of the same; the Amount of which Compensation, whether the same shall exceed or be less than Twenty Pounds, shall be settled from Time to Time, as and when such Compensation shall be claimed, by any Two Justices acting for the District within which such Land may lie, and shall be recovered in the same Manner as Damages to a small Amount are by the said recited Act of the Sixth and Seventh Years of the Reign of King *William* the Fourth directed to be recovered: Provided always, that the permanent Injury or Damage, if any, which may be done to the said Land shall be settled as directed by the said last-mentioned Act.

Compensation to be made for temporary Damage.

XI. And be it further enacted, That all Corporations and Persons by this or the said recited Acts capacitated to treat and agree with the said Company for the Sale and Conveyance of Land required for the said Railway may and they are hereby empowered (if they shall be willing, but not otherwise,) to treat and agree with the said Company for the Sale and Conveyance of any further Land that may hereafter be required for the Purpose of the said Railway, notwithstanding the Period by the said recited Acts limited for the compulsory Purchase of Land may have expired, but subject nevertheless to the Provisions and Restrictions in the said recited Acts and this Act contained.

Corporations, &c. may sell further Lands to the Company.

XII. And

Extending  
the Power of  
purchasing  
Lands  
severed.

XII. And whereas in the Execution of the Powers by the said recited Acts and this Act granted several Pieces of Land have been and may be cut through and divided so that what remains thereof on one Side of the said Railway will exceed One Half of a Statute Acre in Quantity: And whereas by the said recited Acts respectively the said Company are required to make and erect such and so many Bridges, Arches, Hollows, Culverts, and Passages over, under, or by the Side of or leading to or from the said Railway; for the commodious Use of the Land cut through or divided by such Railway, as Two or more Justices of the Peace shall judge necessary or appoint, in case of Dispute about the same: And whereas it often happens that in a short Time after the Formation of a Railway the Proprietors of the Land which has been cut through and divided sell or exchange the smaller Part of such Land left on one Side of the Railway, and not conveniently situated with respect to the Remainder or larger Portion thereof, and the Bridges, Arches, Hollows, Culverts, and Passages which have been erected for the Use and Occupation of the said Lands become not only useless to the Proprietors of Land on either Side of the said Railway, but cause a considerable Expence annually to the said Company in their Maintenance and Repair: And whereas it is expedient that further Powers of purchasing Lands should be given to the said Company for the Purpose of avoiding unnecessary Expence in the Erection of such Bridges, Arches, Hollows, Culverts, and Passages for the Use and Occupation of the Lands cut through or divided by the said Railway; be it therefore further enacted, That where any Land has been or shall be cut through or divided, and the Proprietor thereof shall be willing to sell to the said Company the Part which has been left on one Side of the said Railway, it shall be lawful for any Corporation or Person by the said recited Acts or this Act capacitated to sell or convey Lands to enter into any Agreement with the said Company for the Sale and Conveyance of the Land so left on one Side of the said Railway; and the said Company are hereby authorized and empowered to treat and agree with any Corporation or Person for the Purchase of such Lands, and of any subsisting Leases, Terms, Estates, and Interests therein, and the said Company shall then be discharged from their Liability under the Provisions of the said recited Acts to make any Bridge, Arch, Hollow, Culvert, or Passage for the Purpose of connecting such Land as aforesaid: Provided always, that the said Company shall and they are hereby required to sell and convey all such Land which they shall so purchase, or such Part thereof as may not be necessary for the Purposes of the said Undertaking, within such Time and in such Way and Manner as is directed by the said recited Acts for the Sale of any superfluous Lands not required for the Purposes of such Acts:

Providing  
Remedy in  
case of Pro-  
ceedings  
for Recovery  
of Land pur-  
chased by  
the Com-  
pany.

XIII. And be it further enacted, That if any Proceedings shall at any Time be had or taken against the said Company, or any Person claiming under them, for the Recovery of the Possession of any Land which may have been purchased or taken in pursuance of this or the said recited Acts, for which they shall have *bonâ fide* and without Collusion paid, deposited, or tendered, according to the Provisions of the said recited Acts or this Act, the Purchase Money, Compensation, or Satisfaction agreed or awarded to be paid in respect of the same, then within Two Calendar Months after final Judgment shall



shall be obtained by any Person for the Recovery of the Possession of any such Lands, or the final Determination of any Writ of Error or Appeal from such Judgment, or the final Taxation of the Costs of such Proceedings, there shall be paid or tendered, in lieu of such Lands, to the Person so obtaining such Judgment, or into the Court in which such Proceedings shall be pending; his Costs, Charges, and Expences of any Proceedings for the obtaining such Judgment, together with such Sum of Money as the Jury shall in manner herein-after mentioned find to be the Value of the said Lands at the Time when the same were purchased and conveyed for the Purposes of the said Acts, or when Possession thereof was taken as aforesaid by the said Company, together with such a Sum of Money as the said Jury shall at the Time find to be the Value or an Equivalent for such Mesne Rents and Profits of the said Lands, in case the same had not been taken or used for the said Railway, as the Party obtaining such Judgment would have been entitled to; or in case the Person obtaining such Judgment shall be entitled to any partial or less Interest in the said Land than the absolute Fee Simple thereof in Possession, free from Incumbrances, then the Value of the said Lands, to be ascertained as after mentioned, shall be paid into the Bank of *England*, with the Privity of the Accountant General of the Court of Exchequer, or in such other Manner as directed by the said recited Acts with respect to Lands purchased from such Parties, and upon Payment or Tender of such Sum or Sums of Money as herein-before mentioned the Interest of such Person or Persons in the said Lands shall be and remain absolutely vested in the said Company, their Successors and Assigns.

XIV. And be it further enacted, That the Jury who shall try any Proceedings brought for the Recovery of the Possession of such Lands as aforesaid shall at the same Time ascertain the Value thereof at the Time when they were purchased and conveyed for the Purposes of this Act, or when Possession was taken thereof by the said Company; or in default thereof such Value may be settled and ascertained by a Jury to be summoned and returned as in manner directed by the said recited Acts; and the Value so found shall be certified by the presiding Judge under his Hand, and such Certificate shall be delivered to the Person seeking to recover Possession of the same Lands; and such Value shall be the Amount to be paid in lieu of the said Lands, and shall be paid and applied in manner directed by this and the said recited Acts.

The Jury who shall try such Proceedings shall ascertain the Value to be paid in lieu of the Land.

XV. And be it further enacted, That if at any Time after the said Company shall have entered upon any Lands which shall be permanently required for the Purposes of the said recited Acts, and for which they shall have *bonâ fide* and without Collusion paid, deposited, or tendered, according to the Provisions of the said recited Acts or this Act, the Purchase Money, Compensation, or Satisfaction agreed or awarded to be paid in respect of the same, any Person or Corporation shall appear to be entitled to any Estate, Right, or Interest in, to, or affecting such Lands, which Estate, Right, or Interest the said Company shall have failed or omitted duly to purchase, or to pay Satisfaction or Compensation for, by reason of the said Company not having had express Notice of the Existence thereof, or by reason of

The Company empowered to purchase Interests in Lands the Purchase whereof may have been omitted by Mistake.

any other Accident or Mistake, and such Estate, Right, or Interest shall not have been vested in or barred or extinguished for the Benefit of the said Company by virtue of any of the Provisions in this or the said recited Acts contained, and the said Company shall, within the Period of Six Calendar Months after they shall have had express Notice of the Existence of such Estate, Right, or Interest, purchase or pay Compensation or Satisfaction for the same, then, notwithstanding such Estate, Right, or Interest, and whether the Period limited by the said recited Acts or this Act for the Purchase of Lands shall then have expired or not, the said Company shall remain in the undisturbed Possession of such Lands for the Purposes of this and the said recited Acts; and the Purchase Money, Compensation, or Satisfaction to be paid for such Estate, Right, or Interest shall be agreed on or awarded and paid, and such Estate, Right, or Interest shall be vested in or barred or extinguished for the Benefit of the said Company, in like Manner as, according to the Provisions in this and the said recited Acts contained, the same respectively would have been agreed on or awarded and paid, and vested, barred, or extinguished; in case the said Company had purchased and paid Compensation or Satisfaction for such Estate, Right, or Interest before their Entry upon such Lands, or as near thereto as Circumstances will admit.

Amending  
Clause in  
first-recited  
Act imposing  
Penalty for  
obstructing  
the Construc-  
tion of  
Railway.

XVI. And whereas by the said first-recited Act it is enacted, that if any Person shall obstruct or prevent any Person employed by the said Company in setting out the Line of the said Railway, or engaged in the Construction thereof or of any Part thereof, or shall pull up or remove any Stakes that may have been driven into the Ground for the Purpose of setting out the Line of the said Railway, he shall forfeit and pay any Sum not exceeding Five Pounds nor less than Twenty Shillings for every such Offence, and it is expedient that the said recited Enactment should be repealed; be it therefore further enacted, That the same shall be and is accordingly hereby repealed; and in lieu thereof, be it enacted, That if any Person shall knowingly or wilfully obstruct or prevent any Person lawfully employed by the said Company, or acting under their Authority, in setting out the Line of the said Railway, or any Part thereof, according to the Provisions of this and the said recited Acts, or shall pull up or remove any Stakes or Poles that may have, under the Provisions of the said recited Acts or this Act, been driven into the Ground, or shall deface any Marks made for the Purpose of setting out the Line of the said Railway, such Person shall be liable to a Penalty not exceeding Five Pounds for every such Offence.

For prevent-  
ing Frauds  
on the Com-  
pany.

XVII. And be it further enacted, That if any Person who has (personally or by some other Party) at any Time taken a Place or Seat, or paid the Fare, or been booked, for the Purpose of being carried in, upon, or by any of the said Company's Coaches or Carriages, or any Coaches or Carriages of any other Company, Person or Persons, conveying Passengers along the said Railway, from one Place to another Place, shall neglect to quit such Coach or Carriage on arriving at the Point to which he has paid his Fare, or been booked, or taken his Place or Seat, or shall ride or proceed or attempt to ride or proceed, in the same or in any other Coach or Carriage, to a Place  
more

more distant than that to which he or she shall have so taken a Place or Seat, or paid the Fare, or been booked, without previously paying to the said Company, or such other Company, Person or Persons as aforesaid, the additional Fare or Price of Carriage to such more distant Place, or if any Person or Persons shall at any Time hereafter ride or be in any of the said Company's Coaches or Carriages, or the Coaches or Carriages of such other Company, Person or Persons as aforesaid, without having previously paid to the said Company his Fare or the Charge for his Carriage, every such Person shall forfeit and pay the Sum of Ten Pounds, to be recovered and applied in the same way as any other Penalty or Forfeiture under any of the said recited Acts; and if any Person or Persons shall be discovered in or after the Commission or Attempt to commit any such Offence as aforesaid, it shall be lawful for all Officers and Servants and other Persons on behalf of the said Company, or such other Company, Person or Persons as aforesaid, and for all Constables, Gaolers, and Peace Officers, to apprehend and detain every such Person until he, she, or they can be conveniently taken before some Justice of the Peace, or until he, she, or they be otherwise discharged by due Course of Law.

XVIII. And be it further enacted, That at the first General Half-yearly Meeting to be held after the passing of this Act Two Auditors (being Proprietors of Shares in the said Undertaking) shall be chosen to audit the Accounts of the said Company previous to the next General Half-yearly Meeting, and at every subsequent Half-yearly Meeting Two new Auditors shall be chosen for the Purpose aforesaid; nevertheless the former Auditors whose Office shall then have expired may (if otherwise eligible) be again immediately re-chosen; and in case of the Death, Resignation, or Disqualification of both or either of the Auditors, the Vacancy shall from Time to Time be filled up at a Special General Meeting to be called for that Purpose within Two Calendar Months next after such Vacancy shall happen; and the Person so to be chosen to fill such Vacancy shall (being duly qualified) continue in Office upon the same Terms and only for the same Period as the Person whose Place he shall supply would have continued if his Office had not been vacated before the Time at which he must, according to the Provisions herein-before contained, have gone out of Office.

Appointing  
Auditors.

XIX. And be it further enacted, That all Occupiers of Lands, for the Occupation whereof (either alone or together with other Lands) any Gate or Gates shall have been or shall be erected or put up by the Side of the said Great North of *England* Railway, shall keep such Gates constantly shut and fastened (except only during such Time as must necessarily be from Time to Time occupied in passing through the same for the Occupation of the said Lands); and every Occupier neglecting so to do shall forfeit and pay any Sum not exceeding Twenty Shillings for every such Offence.

Gates to be  
kept shut.

XX. And whereas it is expedient to make further and more effectual Provision for preventing Accidents upon the said Great North of *England* Railway and the Branches thereof; be it therefore further enacted, That if any Person shall wilfully, maliciously, or negligently

Provision for  
the Punish-  
ment of Per-  
sons ob-  
structing the  
Railway, or

guilty of Neg-  
ligence or  
Misconduct  
thereon.

negligently leave, place, throw, scatter, or drop any Engine, Carriage, Waggon, Truck, Iron, Wood, Stones, Gravel, Rubbish, or any other Matter or Thing whatsoever upon any Part of the said Railway, or any of the Branches thereof, whereby the Passage of or upon the said Railway or Branches shall or might be obstructed or impeded, or if any Person shall wilfully, maliciously, or negligently do or omit to do any Act whereby the Life or Limb of any Person passing along or who shall be otherwise upon the said Railway or Branches, or the Works thereof respectively, shall be or might be injured or endangered, every such Person so offending, and every Person counselling, aiding, or assisting therein, shall be deemed guilty of a Misdemeanor, and being convicted thereof, upon the Oath of One or more Witnesses, before any Two or more of Her Majesty's Justices of the Peace for the County, Riding, or Place wherein the said Offence shall be committed, (who are hereby authorized and required, upon Complaint to them made upon Oath, to take cognizance thereof, and to act summarily in the Premises,) shall for every such Offence forfeit and pay a Sum not exceeding Ten Pounds, to be recovered and applied in like Manner as Penalties imposed by the said first-recited Act are directed to be recovered and applied, and in default of Payment, thereof shall, in the Discretion of such Justices, be imprisoned, with or without hard Labour, for any Term not exceeding Three Calendar Months, or, being indicted and convicted of any such Offence as aforesaid before any Court of Quarter Sessions or Court of Assize, shall, at the Discretion of such Court, be imprisoned, with or without hard Labour, for any Period not exceeding Two Years.

Compensa-  
tion in lieu  
of Gates,  
Bridges, &c.

XXI. Provided always, and be it further enacted, That in every Case in which the Owner in Fee Simple or Tenant in Tail of any Lands shall in his Arrangements with the said Company have received or agreed to receive, or shall receive or agree to receive, Compensation for or in lieu of Gates, Bridges, Arches, Roads, Hollows, Culverts, Fences, Ditches, Drains, or Passages, instead of the same being erected or formed by the said Company for the Purpose of facilitating the Passage to, from, over, across, under, or by the Side of the said Railway, or shall have made or shall make any other Arrangement with the said Company touching or concerning the same, every such Arrangement or Agreement shall be and is hereby declared to be lawful and binding not only upon the Person or Persons making the same, but also on all other Persons claiming by, from, through, after, or in Trust for him or them: Provided that no such Arrangement or Agreement shall prevent the future Owners of the Lands from passing or crossing the said Railway (from one Part to the other Part of their Lands severed and divided by the Railway) by means of a Bridge, Arch, or Culvert, to be erected at the Charge of such Owner, and under the Superintendence of the Engineer for the Time being of the said Company (every such Bridge, Arch, or Culvert to be so erected, built, and maintained as not in any way to injure or interfere with the said Railway or Works, or the Use of or Passage upon or along the same).

Authorizing  
Ecclesiastical  
Persons to  
hold Shares.

XXII. And be it further enacted and hereby declared, so as to operate retrospectively as well as prospectively, That any Clerk, Clergyman, or Ecclesiastical Person whatever is and has been and shall

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 or Stock and Profits thereof, in like Manner and subject to the same Conditions as any other 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 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 Ecclesiastical Person was or had been a Shareholder, any Law, Statute, Usage, or Custom to the contrary thereof notwithstanding: Provided always, that no such Clerk, Clergyman, or Ecclesiastical Person shall be capable of acting as a Director or otherwise in the Management of the Affairs of the said Company.

XXIII. And be it further enacted, That the said Company shall and they are hereby required, in each and every Year, to cause an annual Account in abstract to be prepared, showing the total Receipts and Expenditure of all Funds levied under or by virtue of this or the said recited Acts, for the Year ending on the Thirtieth Day of *June*, or some other convenient Day, in each Year, under the several distinct Heads of Receipt and Expenditure, with a Statement of the Balance of such Account duly audited and certified by the Secretary or Clerk for the Time being of the said Company, and shall transmit a Copy of the said Account, free of Charge, to the Clerks of the Peace for the Counties through which the said Railway will pass, on or before the First Day of *January* then next, which Account shall be open to the Inspection of the Public at all seasonable Hours, on Payment of the Sum of One Shilling for every such Inspection: Provided always, that if the said Company shall omit or neglect to prepare and transmit or cause to be prepared and transmitted such Account as aforesaid, they shall forfeit and pay for every such Omission or Neglect the Sum of Twenty Pounds.

Annual Account to be made up, and Copy transmitted to Clerk of the Peace.

XXIV. And for the Purpose of ascertaining the Rates or Tolls to be charged in respect of any Coal, Coke, Culm, or Charcoal carried upon the said Railway, be it further enacted, That a Certificate from the Collector of the Custom House at *Stockton*, or other Officer by him authorized, and which Certificate he is hereby required (with the Consent of the Commissioners of Her Majesty's Customs) to give, on Demand, shall be deemed and taken to be sufficient Proof that the Coal, Coke, Culm, or Charcoal therein mentioned has been exported.

Collectors of Customs to give Certificate that Coals, &c. have been exported.

XXV. And be it further enacted, That no Bye Law which the said Company may have heretofore made under the Authority of the said recited Acts (except such as may relate solely to the Proprietors or Directors of the said Company, or to any of their Officers or Servants,) shall be valid or binding for a longer Period than Six Calendar Months from the passing of this Act, nor shall any Bye Law, except as aforesaid, which shall hereafter be made by the said Company be valid or binding unless the same shall be allowed by some Judge of One of Her Majesty's Courts of Record at *Westminster*, or by the Justices assembled at some General or Quarter Sessions of the

Bye Laws to be confirmed.

[Local.]

10 E

Peace

Peace for some County through which the said Railway is intended to pass, which said Justices are hereby authorized and required, on the Request of the said Company, to examine into the Bye Laws which may be tendered to them for that Purpose by the said Company, and to allow of or disallow the same as to them may seem meet; and all Penalties which may be imposed by virtue of any such Bye Laws shall be so framed as to allow the Justice or Justices before whom the same may be sought to be recovered to order the Whole or any Part of such Penalties to be paid.

Repealing  
Clause as to  
Limitation  
of Actions.

XXVI. And whereas it is by the said first-recited Act enacted, that no Action, Suit, or Information, nor any other Proceeding, of what Nature soever, shall be brought, commenced, or prosecuted against any Person for any thing done or omitted to be done in pursuance of the said Act, or in the Execution of the Powers or Authorities or any of the Orders made, given, or directed in, by, or under the said Act, unless Twenty Days previous Notice in Writing shall be given by the Party intending to commence or prosecute such Action, Suit, Information, or other Proceeding to the intended Defendant, nor unless such Action, Suit, Information, or other Proceeding shall be brought or commenced within Six Calendar Months next after the Act committed, or in case there shall be a Continuation of Damage then within Six Calendar Months next after the doing or committing such Damage shall have ceased, nor unless such Action, Suit, or Information shall be laid and brought in the County or Place where the Matter in Dispute or Cause of Action shall arise; and the Defendant in such Action, Suit, Information, or other Proceeding may plead the General Issue, and give this Act and the special Matter in Evidence, at any Trial to be had thereupon, and that the Acts were done or were omitted to be done in pursuance of or by the Authority of the said Act; and if they shall appear to have been so done or to have been so omitted to be done, or if it shall appear that such Action, Suit, Information, or other Proceeding shall have been otherwise than as therein-before directed, then and in every such Case the Jury shall find for the Defendant; upon which Verdict, or if the Plaintiff shall become nonsuited, or shall suffer a Discontinuance of his Action, Suit, Information, or other Proceeding after the Defendant shall have appeared thereto, or if a Verdict shall pass against the Plaintiff therein, or if upon Demurrer or otherwise Judgment shall be given against the Plaintiff, the Defendant shall have his Costs, and shall have such Remedy for recovering the same as Defendants have for recovering Costs of Suit by Law in other Cases: And whereas it is expedient that the said Provision should be repealed; be it therefore enacted, That the said Provision shall be and the same is hereby declared to be repealed.

Power to  
contract with  
the York and  
North Mid-  
land Railway  
Company for  
a Station, &c.

XXVII. And whereas it would be for the mutual Benefit and Convenience of the said Great North of *England* Railway Company and of the *York* and North Midland Railway Company, and advantageous to the Public, if the said Great North of *England* Railway Company were empowered to contract with the said *York* and North Midland Railway Company for having and maintaining a joint Station for the said Two Companies, or a separate Station for the said Great North of *England* Railway Company, on certain Garden Ground and Premises

Premises belonging to the said *York* and North Midland Railway Company; situate in the Parish of *Saint Martin-cum-Gregory* in the City of *York*, in or near a certain Street called *Tanner Row*, or on some Part of such Garden Ground and Premises; and also for a Road or Way to the said joint or separate Station along that Part of the Line of the said *York* and North Midland Railway which lies between the Point of Junction of the said Two Railways, at or near a certain Highway called *Thief Lane* in the Parish of *Saint Mary Bishophill the Younger* in the County of the City of *York*, and the said Garden Ground and Premises (being the only Road or Way from the Terminus of the said Great North of *England* Railway at the Point of Junction aforesaid to the said Garden Ground and Premises); and also for the Purchase from the said *York* and North Midland Railway Company, for the Purposes of the said Great North of *England* Railway Company, of a Piece of Land belonging to the said *York* and North Midland Railway Company situate in the said Parish of *Saint Mary Bishophill the Younger*, and without the Walls of the said City of *York*; now be it further enacted, That it shall be lawful for the said Great North of *England* Railway Company and the said *York* and North Midland Railway Company, from Time to Time or at any Time or Times hereafter, to make and enter into any Contract or Contracts with each other for or relating to the Sale by the said last-mentioned Company to the said Great North of *England* Railway Company, for an Estate in Fee Simple, of any divided Portion of the said Garden Ground and Premises situate in the Parish of *St. Martin-cum-Gregory* aforesaid, or of any undivided Part or Share or joint Interest of or in the same Garden Ground and Premises, and for or relating to the making and maintaining a joint Station or separate Stations for the said Two Companies on such Garden Ground and Premises, or any Part or Parts thereof, and for or relating to the Use of such Station or Stations, and also the Use, without Payment of Toll, of that Part of the Line of the said *York* and North Midland Railway which lies between the said Point of Junction of the said Two Railways and the said Garden Ground and Premises, as a Road or Way to the said Station or Stations, or for vesting the said Part of the Line of such last-mentioned Railway in the said Two Companies in Joint Tenancy, and also to do and execute, or cause to be done and executed all such Acts, Deeds, Conveyances, and Things as may be necessary or proper for carrying such Contract or Contracts as aforesaid into effect, without Prejudice nevertheless to the Right of the said *York* and North Midland Railway Company to demand and exact from all Persons and Corporations whatsoever such Toll for the Use of any other Part of the said *York* and North Midland Railway as might have been demanded or exacted in case such Contract or Contracts had not been entered into; any thing in the Acts relating to the said *York* and North Midland Railway contained to the contrary notwithstanding.

XXVIII. And whereas the *Croft* Branch of the *Stockton* and *Darlington* Railway mentioned or referred to in the said first-recited Act passes on the Level a Highway or public Carriage Road leading from *Darlington* to *Yarm*, and also to *Hurworth*, *Neasham*, *Dinsdale*, and *Sockburn*, near to or at a certain Place called the *Bank Top* near the Town of *Darlington* aforesaid, and the said Branch also passes on

For Construction of Bridge over the *Stockton* and *Barnard Castle* Turnpike Road and the Road the

from Dar-  
lington to  
Yarm.

the Level a certain Turnpike Road leading from *Stockton* to *Barnard Castle* in the said County of *Durham*; be it enacted, That where such Branch Railway shall cross such Highway or public Carriage Road or Turnpike Road as aforesaid, such Railway shall be carried over the same by means of a Bridge; and the clear Height of the Arch of such Bridge over such Highway or public Carriage Road shall not be less than Sixteen Feet from the Crown of the Soffit of the Arch of such Bridge to the Roadway under the same, and a clear Space shall be left under such Arch of the Width of not less than Twenty Feet, and such Bridge shall be of the like Construction in all other respects as is described in the said first-mentioned Act; and any Bridge to be erected over or under the said Turnpike Road leading from *Stockton* to *Barnard Castle* shall be of like Construction as is described in the said first-recited Act; and all Parapets, Approaches, Gradients, Slopes, and Alterations that may be made over or in such Turnpike Road and Highway or public Carriage Road respectively, or on the Sides thereof, and also the hard Road on or under such Bridge and on the Approaches thereto, shall be made and efficiently completed by and at the Expence of the said Great North of *England* Railway Company within Three Years from the passing of this Act: Provided always, that it shall not be lawful for the said Great North of *England* Railway Company, or any other Company or Person, to draw or propel by means of locomotive Engines any Carriages, Passengers, Goods, Articles, Matters, or Things upon or along the said *Croft* Branch where the same crosses the said Highway or public Carriage Road or Turnpike Road until the said Bridges shall have been completed, nor where the same crosses any other public Carriage Road or Turnpike Road unless such public Carriage Road or Turnpike Road be carried under or over the said *Croft* Branch Railway by means of a Bridge, under the Penalty of forfeiting the Sum of One hundred Pounds for every such Offence.

Expences of  
Act.

XXIX. And be it further enacted, That all the Costs, Charges, and Expences of applying for and of obtaining and passing this Act shall be paid and defrayed by the said Company out of the Money already raised and received or out of the first Money to be raised or received by virtue of the said recited Acts or this Act, in preference to all other Payments whatsoever.

Railway not  
to be exempt  
from Provi-  
sion of any  
General Acts.

XXX. And be it further enacted, That nothing herein contained shall be deemed or construed to exempt the Railway by this or the said 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 of Parliament.

Public Act.

XXXI. 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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