



ANNO TERTIO & QUARTO

VICTORIÆ REGINÆ.

Cap. cix.

An Act to enable the *Hartlepool* Dock and Railway Company to raise a further Sum of Money for completing their Undertaking ; and enlarging the Time for completing the same ; and for amending the Acts relating thereto. [23d July 1840.]

WHEREAS by an Act passed in the Second Year of the Reign of His late Majesty King *William* the Fourth, intituled *An Act for making and maintaining Wet Docks* 2 & 3 W. 4.
in the Port of Hartlepool, and a Railway from the said Docks into the Township of Moorsley, with certain Branches therefrom, all in the County of Durham, certain Persons were incorporated by the Name and Style of "The *Hartlepool* Dock and Railway Company," c. 67.
 for the Purpose of making and maintaining the Docks, Railways, and other Works thereby authorized : And whereas it was by the said recited Act enacted, that it should be lawful for the said Company of Proprietors to raise and contribute amongst themselves, in such Proportions as they should think proper, a competent Sum of Money for making and completing the Docks, Railway, and other Works and Conveniences by the said Act authorized to be made, not exceeding in the whole the Sum of Two hundred and nine thousand Pounds, the same to be divided into Shares of One hundred Pounds each : And whereas it was by the said recited Act further enacted, that in case the Money thereby authorized to be raised as aforesaid should be found insufficient for the making,
[Local.] 27 Y completing,

4 & 5 W. 4.
c. 56.

completing, and maintaining of the said Docks, Railways, and other Works thereby authorized to be made, and for defraying all necessary Charges and Expences relating thereto, then and in such Case it should be lawful for the said Company to raise any further Sum of Money for completing and perfecting the said Undertaking, not exceeding the Sum of Seventy thousand Pounds, by Mortgage of the said Undertaking: And whereas by an Act passed in the Fourth Year of the Reign of His said late Majesty King *William* the Fourth, intituled *An Act to enable the Hartlepool Dock and Railway Company to make a new Branch of Railway to the City of Durham, and for amending an Act of the Second Year of His present Majesty relative to the Hartlepool Railway*, the said Company were empowered, in addition to the Sums of Two hundred and nine thousand Pounds, and Seventy thousand Pounds authorized to be raised by the said therein and herein before recited Act (and by all or any of the Ways and Means in the said Acts mentioned), to raise any Sum or Sums of Money not exceeding in the whole the Sum of Sixty thousand Pounds: And whereas the said several Sums of Two hundred and nine thousand Pounds, Seventy thousand Pounds, and Sixty thousand Pounds, respectively authorized to be raised as aforesaid, have been accordingly raised and expended, pursuant to the said recited Acts, but the same have been found insufficient for the Completion of the said Works, and in consequence thereof, and from other unforeseen Causes, the said Company have been prevented from completing the same: And whereas a further Sum of Money will be required to enable the said Company to complete and maintain the said Docks, Railways, and other Works by the said recited Acts authorized, but the same cannot be obtained unless some of the Powers and Provisions of the said recited Acts are explained, altered, and amended, and further Powers and Provisions granted and made for that Purpose; and it is expedient that the Time limited by the said Acts for completing the said Works should be enlarged; but the same cannot be effected without the Aid and Authority of Parliament: May it therefore please Your Majesty that it may be enacted; and be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That it shall be lawful for the said Company, and they are hereby authorized and empowered, in addition to the Three several Sums of Money authorized to be raised by the said recited Acts, to raise such further Sum of Money, not exceeding Seventy thousand Pounds, as may be deemed necessary for the Completion of the Works by the said Acts authorized to be made.

Company
empowered
to raise a
further Sum.Power to
raise Money
by the Crea-
tion of new
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 amongst themselves, or by the Admission of other Persons as Subscribers to the said Undertaking, such Sum or Sums of Money as they shall from Time to Time think expedient (not exceeding in the whole the Sum of Seventy thousand Pounds) in addition to the several Monies authorized to be raised or borrowed by the said recited Acts, and for that Purpose to issue such
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and so many distinct and integral Shares of such Value and Amount as the said Company shall think convenient, and as will allow a proper Proportion thereof to be appropriated to the then Proprietors of Shares in the said Undertaking respectively, according to their respective Interests in the Joint Stock of the said Company; 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 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 and Amount thereof to the said Company at such Times, by such Instalments, 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 Shares in the said Undertaking shall refuse or neglect, within the Space of One Calendar Month next after an Offer of the same in Writing, signed by the Clerk or Treasurer 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 Shares so to be appropriated to them, or their Consent to pay the full Value or Amount thereof respectively to the said Company when called for as aforesaid, 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 as aforesaid unto such Corporations or Persons as may be willing to become Purchasers thereof for such Sum of Money as the said Company or Directors may be able to obtain for the same.

III. And be it further enacted, That every new Share in the said Undertaking which shall from Time to Time be created in pursuance of the Powers of this Act shall be deemed Personal Estate, and shall be transmissible and transferrable as such; and all Corporations and Persons who shall become entitled thereto, and the several and respective Successors, Executors, Administrators, and Assigns of such Corporations and Persons respectively as aforesaid, 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 any other Shares in the said Undertaking, but in the Proportion nevertheless which the Amount or nominal Value of the Shares so to be from Time to Time created as aforesaid may have and bear to the Value and Amount of the other Shares respectively by the said recited Acts created, and shall be entitled to a Share of all the general Profits and Dividends of the said Company in the like Proportion; and all such Corporations and Persons as aforesaid shall be deemed to be and are hereby declared to be thenceforth united to and incorporated with the said 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 Company, and be under and subject to the same Powers, Provisions, Remedies, Penalties, Forfeitures, 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 Company (except as to the Times of making
Calls

New Shares
to become
Personal
Estate.

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 shall think fit): Provided always, that all the Regulations, Provisoos, and Authorities contained in the said recited Act for enforcing the Calls for the Capital Stock of the said Company, and for the Recovery thereof, or of any Arrears thereof, and relating to the Forfeitures 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 as aforesaid, and to the Refusal or Neglect to comply with such last-mentioned Calls.

Directing how Proprietors of new Shares shall vote.

IV. And be it further enacted, That every Person or Corporation who shall by virtue of this Act have subscribed for and become entitled to Shares in the said Undertaking shall be allowed to vote in respect of such Shares, either in Person or by Proxy, at the several Meetings of the said Company, and who shall have One Vote for every Hundred Pounds Capital Stock which may be created by virtue of this Act, and which may be held by him in the same Manner, to the same Extent, and subject to the same Stipulations, Provisoos, Restrictions, and Limitations, as is or are mentioned or contained in the said first-recited Act with respect to the Right of voting by the Proprietors of original Shares of One hundred Pounds in the said Undertaking.

Authorizing Ecclesiastical Persons to hold Shares.

V. 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 Consequences 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 in the said Undertaking, any Law, Statute, Usage, or Custom to the contrary thereof notwithstanding: Provided always, that no such Clerk, Clergyman, or Ecclesiastical Person shall hereafter be capable of being elected or acting as a Director or otherwise in the Management of the Affairs of the said Company.

Power to raise 23,000*l.*, Part of the 70,000*l.*, on Mortgage.

VI. And be it further enacted, That (subject and without Prejudice to the several Mortgages made and executed by the said Company to any Person or Persons under the Powers of the said 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 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 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
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at Interest, on the Credit of the said Undertaking, (over and above the several Sums of Money which the said Company are already authorized to raise, whether by Contribution among themselves, or upon Loans or Interest, as mentioned in the said recited Acts, and the Sum authorized to be raised by Shares by virtue of this Act from any Bodies or Persons whomsoever,) such further or additional Sum or Sums of Money, not exceeding in the whole the further Sum of Twenty-three thousand Pounds, as to the said Company shall seem expedient for the Purposes of this Act and of the said recited Acts; and the said 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 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 either of them, or any Part or Parts thereof, under the Common Seal of the said 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 Bodies Politic or Corporate respectively, or to his, her, or their Trustees 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 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 either 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 Persons and Person, Bodies Politic and Corporate, 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.

VII. And be it further enacted, That it shall be lawful for the said Company and they are hereby empowered, by an Order of any General or Special General Meeting of the said Company as aforesaid, to raise, by Contribution amongst themselves, or by the Admission of other Persons as Subscribers to the Undertaking, not only the Whole or such Part of the said Sum of Seventy thousand Pounds herein-before mentioned as to them shall seem expedient, but also any further or additional Sum of Money, to enable the said Company to pay off the Sums already borrowed or hereafter to be borrowed under the Powers of the said recited Acts, or any Part of such Monies, not exceeding in the whole the Amount which shall at such Time or Times remain unpaid of the several Sums so borrowed or to be borrowed as aforesaid; and the Amount of the Money so to be raised from Time to Time shall be divided into distinct and integral Shares of such Value and Amount as will allow a proper Proportion thereof to be appropriated to the then Pro-

Power to create new Shares for paying off the Debt either under this Act or the recited Acts.

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prietors

prietors of Shares in the said Undertaking, and the same shall be offered to the then Proprietors of Shares in the said Undertaking, or to such Persons as may be willing to become and shall become Subscribers to and Proprietors of the same, in such Manner in every respect as is herein-before provided with respect to the Shares to be created for raising the said Sum of Seventy thousand Pounds or any Part thereof.

Provisions of recited Acts relating to Shares thereby authorized to be raised, to extend to Money hereby authorized to be raised.

VIII. And be it further enacted, That all the Powers, Authorities, Provisions, Directions, Remedies, Regulations, Matters, and Things in the said recited Acts or either of them contained relating to the Shares thereby authorized to be created, and to the Mode and Manner of creating the same, shall remain in full Force, and shall extend and be applicable to the said Sum of Seventy thousand Pounds hereby authorized to be raised as aforesaid, and to the Shares hereby authorized to be created, in as full and ample Manner, to all Intents and Purposes, as if the same had been repeated and re-enacted in and by this Act with reference thereto.

Five of the Committee to go out of Office annually by Rotation.

IX. And whereas by the said first-recited Act it is enacted, that the said Company of Proprietors, at their First General Meeting, or some Adjournment thereof, shall nominate and appoint Fifteen Persons out of such of the said Proprietors as at the Time of such Election shall respectively be possessed in their own Right of Five Shares at the least in the said Undertaking, who shall be and constitute a Committee for managing and conducting the Affairs and Business of the said Company of Proprietors: And whereas it is expedient that the said Provision should be altered and amended; be it therefore enacted, That a General Meeting of the said Company of Proprietors shall be held at *Hartlepool* or at the City of *Durham* in the Month of *July* or *August* next, and in the Month of *July* and *August* in each and every subsequent Year, of which Meetings not less than Seven Days clear Notice shall be given by public Advertisement in some Newspaper or Newspapers usually circulated in the County of *Durham*; and at the General Meeting to be held in the Months of *July* or *August* next Five of the Proprietors (to be determined by Ballot among themselves) who shall be then upon the Committee shall go out of Office and cease to be on the Committee of the said Company, and an equal Number of Persons (each of whom shall be a Proprietor in his own Right of Five Shares at the least in the said Undertaking) shall be elected by the said Company to be on the Committee in their Place or Stead; and at the General Meeting to be held in the Month of *July* or *August* which will be in the Year of our Lord One thousand eight hundred and forty-one Five of the Proprietors remaining who shall have been upon the Committee previous to the General Meeting in the said Month of *July* or *August* next (to be determined as aforesaid) shall go out of Office and cease to be on the Committee of the said Company, and their Places shall be supplied in like Manner; and at the General Meeting to be held in the Month of *July* or *August* which will be in the Year of our Lord One thousand eight hundred and forty-two the remaining Five of the Proprietors who shall have been so upon the Committee previous to the General Meeting

Meeting in the said Month of *July* or *August* next shall go out of Office and cease to be on the Committee of the said Company, and their Places shall be supplied in like Manner; and at the General Meeting to be held in the Month of *July* or *August* in every subsequent Year Five of the Committee who shall have been longest in Office shall go out of Office and cease to be on the Committee of the said Company, and their Places shall be supplied in like Manner.

X. Provided always, and be it further enacted, That every Proprietor of the said Company who shall have been on the Committee, and go out of Office on any annual Day of Election, may be immediately or at any future Time re-elected on the Committee of the said Company, and after such Re-election he shall, with reference to the going out by Rotation, be considered as one of the new Committee.

Members of the Committee going out of Office re-eligible.

XI. Provided always, and be it further enacted, That no more than Five Persons, being Members of the Pier and Port Commission of *Hartlepool*, shall at any Time during the Time of their continuing such Members of the said Pier and Port Commission be Members of the said Committee of the *Hartlepool* Dock and Railway Company.

No more than Five of the Pier Commissioners to be on the Committee.

XII. And be it further enacted, That it shall not be lawful for any Person who shall hold any Situation or Employment under the said Company, during the Continuance of any such Employment or Agency, to make or to have any Interest whatever in any Contract for supplying or furnishing any Article, Matter, or Thing for the Use of the said Company, any thing in the said recited Acts or either of them, or in this Act, to the contrary thereof in anywise notwithstanding.

Persons holding Situations under the Company not to be concerned in any Contract.

XIII. And be it further enacted, That the Powers granted to the said Company by the said recited Acts or either of them, to take or use Lands for the Purposes of the said Acts, without the Consent in Writing of the Owners thereof, shall, from and after the passing of this Act, wholly cease and determine, save and except as to such Land as may have been paid for by them before the passing hereof.

Power to take Lands to cease.

XIV. And be it further enacted, That in all Cases wherein, in the Exercise of any of the Powers granted by the said recited Acts or this Act, any Part of any Carriage or Horse Road, Railway or Tramroad, either public or private, shall be found necessary to be cut through, raised, sunk, taken, or so much injured as to be impassable or inconvenient for Passengers or Carriages, or the Persons entitled to the Use thereof, the said Company shall, at their own Expence, before any such Road shall be so cut through, raised, sunk, taken, or injured as aforesaid, cause another good and sufficient Road (as the Case may require) to be set out and made instead thereof, as convenient for Passengers and Carriages as the said Road so to be cut through, raised, sunk, taken, or injured as aforesaid, or as nearly so as may be; and where the Road cut through, raised, sunk, or injured shall be a Turnpike Road or public Carriage Road, the principal Road shall be restored within Six Calendar Months after

Providing for Injury to Roads.

after the Commencement of the Operation : Provided always, that if the said Company shall not, in manner aforesaid, cause a good and sufficient Road to be set out and made before any such Road shall be injured or prejudiced as aforesaid, or in case any Turnpike Road shall not be restored within Six Calendar Months after the Commencement of the Operation herein-before mentioned, then and in either of such Cases the said Company shall forfeit, for each and every Day during which such good and sufficient Road shall be neglected to be made as herein-before directed, or during which such Turnpike Road shall not be restored, after the Expiration of the said Six Calendar Months, the Sum of Twenty Pounds, which Penalty shall be recoverable from the said Company in such and the same Manner as any other Penalty incurred by the said Company for which no special Provision is made by the said recited Acts or this Act, and shall be paid to the Trustees, Surveyors, or other Persons having the Management of the said Road, and shall be applied by them in the Repair or Restoration or for the Purposes of the said Road.

Railway not
to cross
Turnpike
Roads on a
Level.

XV. And be it further enacted, That where the said Railway shall cross any Turnpike Road, or where the Site of any other Railway or Railways across any Turnpike Road shall be altered or used for the Purposes of this Act, either such Turnpike Road shall be carried over the said Railway, or the said Railway shall be carried over the said Turnpike Road, at the Expence of the said Company, by means of a Bridge of such Construction as is herein-after mentioned; and where the said Railway shall cross any public Highway, either the same shall be carried over the said Railway, or the said Railway shall be carried over the said public Highway, at the Expence of the said Company, by means of a Bridge.

Where the
Railway
crosses pub-
lic Highways
on a Level,
Company to
erect Gates
on each Side.

XVI. And be it further enacted, That in all Cases wherein the said Railway shall cross any public Highway on a Level, the said Company shall erect and at all Times maintain good and sufficient Gates across every public Highway where the said Railway shall communicate therewith, all which Gates shall be constantly kept shut by some Person to be appointed by the said Company, and which Person the said Company are hereby required to appoint under a Penalty of Five Pounds for each Default, except during the Times when it shall be necessary to open the same for Passage along the public Highway, and then the same shall be opened for the Purpose only of allowing such Passage, and the Person entrusted with the Care of such Gate shall cause every such Gate to be shut as soon as such Carriages shall have passed through the same, under a Penalty not exceeding Forty Shillings for every Default therein; and in case the said Company shall fail in causing the said Gates to be erected, or in appointing some Person to take care of the same (as herein-before directed), they shall forfeit and pay for each and every Day such Gate shall not be erected, or such Person shall not be so appointed, the Sum of Five Pounds.

Regulating
Bridges for
carrying Rail-

XVII. And be it further enacted, That hereafter where any Bridge shall be erected by the said Company for the Purpose of

carrying the said Railway over or across any Turnpike Road, the Span of the Arch of such Bridge shall be formed, and shall at all Times be and be continued, of such Width as to leave a clear and open Space under every Arch of not less than Twenty-four Feet, and of a Height from the Surface of such Turnpike Road to the Centre of such Arch of not less than Sixteen Feet, and the Descent under any such Bridge shall not exceed One Foot in Thirty Feet; and where any Bridge shall be erected by the said Company for the Purpose of carrying the said Railway over or across any public Carriage Road, not being a Turnpike Road, the Span of the Arch of such last-mentioned Bridge shall be formed and shall at all Times be and be continued of such Width as to leave a clear and open Space under every such last-mentioned Arch of not less than Fifteen Feet, and of a Height from the Surface of such public Carriage Road, not being a Turnpike Road, to the Centre of such Arch, of not less than Sixteen Feet, and the Descent under any such last-mentioned Bridge shall not exceed One Foot in Twenty Feet; and where any Bridge shall be erected by the said Company for the Purpose of carrying the said Railway over or across any private Carriage Road or Occupation Way, the Span of the Arch of such last-mentioned Bridge shall be formed and shall at all Times be and be continued of such Width as to leave a clear and open Space under every such Arch of not less than Fifteen Feet, and of a Height from the Surface of such private Carriage Road or Occupation Way to the Centre of such Arch of not less than Sixteen Feet, and the Descent under any such last-mentioned Bridge shall not exceed One Foot in Fifteen Feet; and a good and sufficient Parapet Wall or Fence shall be made on each Side of every such Bridge, which Wall or Fence shall not be less than Four Feet above the Surface of such Bridge.

way over
Turnpike and
other Roads.

XVIII. And be it further enacted, That in case the said intended Railway shall at any Time or Times hereafter, from its near Approach to any Turnpike Road, occasion Danger to the Travellers on such Road in consequence of Horses being frightened by the Sight of the Engines and Carriages travelling upon the said Railway, it shall be lawful for any Person to make Complaint thereof to any Two of the Justices of the Peace acting for the Limit in which such Turnpike Road shall lie, who shall summon the Clerk or Treasurer for the Time being of the said Company, or one of the Committee of Management of the said Company, before them, to answer such Complaint; and if it shall appear to such Justices that the said Complaint is reasonable, then the said Company shall, within such reasonable Time as shall be ordered by the said Justices in that Behalf, and after Notice of such Order served upon them, or their principal Engineer, Clerk, or other Officer, within such Time as shall be appointed by the said Justices, commence, and within such reasonable Time as shall be appointed by such Justices complete, such Works in the Nature of a Screen near to or adjoining the Sides of the said Turnpike Road or of the said intended Railway as shall be directed by the said Justices, so as to prevent such Danger to Travellers upon the said Turnpike Road; and in case the said Company shall neglect, within the Time appointed in that Behalf, to commence, or shall not continue to execute such Works

Company to
erect a Screen
on each Side
of the Rail-
way in case
of Danger to
Passengers
on Turnpike
Road.

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until the Completion thereof, or shall not complete the same within the Time in that Behalf appointed, the said Company shall forfeit and pay for every Day during which the said Company shall not commence or shall not proceed in the Completion of such Works, or during which the said Works shall not be completed after the Time appointed for the Completion thereof, the Sum of Twenty-five Pounds, to be recoverable by the Commissioners or Trustees of the said Turnpike Road from the said Company in such and the same Manner as any other Penalties incurred by the said Company, for which no special Provision is made by the said first-recited Act or this Act, are directed to be recovered.

Rates of Carriage to be charged equally.

XIX. And be it further enacted, That the Charges by the said recited Acts authorized to be made, either for the Use of the Railway, or 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 said Railway; 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.

Dock Tolls to be charged equally.

XX. And be it further enacted, That the Rates, Tolls, and Duties by the said recited Acts authorized to be taken for or in respect of the Tonnage of any Ship or Vessel, or for or in respect of any Wharf, Staith, Drop, Spout, Crane, or other similar Works of the said Company, shall be at all Times charged equally to all Persons and Companies in respect of Goods, Wares, Merchandize, and Articles of a like Description, and after the same Rate, and no Reduction or Advance shall, as regards such Rates, Tolls, and Duties, or any of them, be made, either directly or indirectly, in favour of or against any particular Company or Person whomsoever.

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

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

each Year; and if the said Company shall neglect or refuse to keep such Accounts, or to permit such Inspection thereof as aforesaid, they shall forfeit and pay for every such Neglect or Refusal the Sum of Three hundred Pounds, and the further Sum of Fifty Pounds for every Day during which such Neglect or Refusal shall continue; and such Penalty shall be recoverable by Action of Debt or on the Case in any of Her Majesty's Courts of Record at *Westminster*, by the Overseers of the Parish in respect of which such Neglect or Refusal shall take place, and shall be applied by them for the Benefit of the Poor of such Parish.

XXII. 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 the said recited Acts for the Year ending on the Thirty-first Day of *August*, 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 Clerk of the Peace for the County of *Durham*, 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 a Copy transmitted to the Clerk of the Peace.

XXIII. And be it further enacted, That if at any Time after the said Company shall have entered upon any Lands which, under the Provisions of the said recited Acts or either of them, they were authorized to purchase, and which shall be permanently required for the Purpose of the said Railway, any Person or Corporation shall appear to be entitled to any Estate, Right, or Interest in or Charge affecting such Lands, which Estate, Right, or Charge the said Company shall have failed or omitted duly to purchase or to pay Satisfaction or Compensation for, then, and whether the Period granted for the Purchase of Land shall have expired or not, the said Company shall remain in the undisturbed Possession of such Lands, provided the said Company shall, within Six Calendar Months after Notice of such Estate, Interest, or Charge, in case the same shall not be disputed by the said Company, or in case the same shall be disputed, then within Six Calendar Months after the Right to such Estate, Interest, or Charge shall have been finally established by Law in favour of the Party claiming the same, purchase or pay Compensation or Satisfaction for the same, and shall also pay to such Party, or to any other Party who may establish a Right thereto, full Compensation for the Mesne Profits or Interest on any Purchase Money which would have accrued to such Parties respectively in respect of such Lands during the Interval between the Entry of the Company thereon and the Establishment of such Claim or Right as aforesaid,

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

or

or Payment of any such Purchase Money if the said Company had not entered on such Lands, so far as such Mesne Profits may be recoverable in Law or Equity, as the Case may be, such Purchase Money, Compensation, or Satisfaction to be agreed on or awarded and paid in like Manner as, according to the Provisions in the said first-recited Act contained, the same respectively would have been agreed on or awarded and paid in case the said Company had purchased such Estate, Right, or Interest before their entering upon such Lands, or as near thereto as Circumstances will admit.

Company to
sell Lands
not wanted
for the Pur-
poses of the
Act.

XXIV. And whereas the said Company may happen to be seised or possessed of more Land or Ground than will be necessary for effecting the Purposes of the said Acts and this Act; be it therefore enacted, That it shall be lawful for the said Company and they are hereby required to sell and dispose of any such Land or Ground, or any Estate or Interest therein, either together or in Parcels, by public Auction or private Contract, as they shall find most convenient and advantageous, to such Person as shall be willing to contract for the Purchase of the same, and convey the same accordingly; and such Conveyances from the said Company shall be valid and effectual, any thing in the said recited Acts or this Act contained, or any other Law, Statute, or Custom, to the contrary notwithstanding: Provided always, that the said Company, before they shall sell and dispose of any such Land or Ground, shall first offer to resell the same to the Person from whom such Land or Ground was purchased by the said Company, or his Heirs, Assigns, or Successors, in case he or they shall be Owners of any Land or Ground adjoining thereto; and in case such Person cannot be found, or shall refuse or neglect or fail to agree with the said Company to purchase such Land or Ground, then the Offer to sell the same shall be made to the Owners of any adjoining Land or Ground; and a Declaration pursuant to the Act of the Fifth and Sixth Year of the Reign of His late Majesty King *William* the Fourth, for the Abolition of unnecessary Oaths, made before a Master or Master Extraordinary in the High Court of Chancery, or before any Justice of the Peace for the said County of *Durham*, by some Person not interested in the said Land or Ground, stating that at the Time such Lands shall have been sold the Person entitled to such Right of Pre-emption was not to be found, or that such Offer was made by or on behalf of the said Company, and that such Offer was then and thereupon not agreed to or was refused by the Person to whom the same was offered, as the Case may be, shall in all Courts whatever be sufficient Evidence and Proof of the Facts therein stated; and the Money produced by the Sale which may be made by the Company of such Land as aforesaid shall be applied to the Purposes of this Act, but the Purchaser thereof shall not be answerable or accountable for any Misapplication or Nonapplication of such Money or of any Part thereof: Provided always, that every such Sale as aforesaid shall be made within the Period of Ten Years from the Time that such Land shall cease to be so wanted, and in case such Sale shall not be made within the said Period of Ten Years such Land shall go and belong to the Owners of the next adjoining Land, not being the said Company, in proportion to the Extent of their Lands respectively adjoining the same.

XXV. And be it further enacted, That it shall be lawful for the said Company and they are hereby required, within Ten Years after the passing of this Act, to sell all such Lands as shall have been purchased by the said Company and shall be found unnecessary for effecting the Purposes of the said recited Acts and this Act, or be inapplicable to the Purposes thereof, for such Prices and in such Manner as they shall think proper, with such Right of Pre-emption in favour of adjoining Proprietors, and under such Provisions and Restrictions, as are limited, expressed, and declared in and by the said recited Acts and this Act in respect of Lands purchased and taken under the said Acts or either of them; and if the said Company shall not, within the Time herein-before limited, have sold such Parts of the Lands purchased by them as shall not be wanted for the Purposes of the said Acts, then and in such Case such last-mentioned Lands shall vest in the Owners for the Time being of the Land adjoining that which shall not have been then sold, according to the Extent of their Land respectively adjoining the same.

Company to sell Land not wanted within Ten Years after passing of this Act, otherwise the same to vest in the Owners of the Land adjoining.

XXVI. And be it further enacted, That if any Question or Dispute shall arise between the said Company and any Person or Persons as to which are the Lands, Tenements, or Hereditaments (if any) they the said Company are by the said recited Acts or this Act required to sell as unnecessary for effecting the Purposes or inapplicable to the Purposes of the same, then and in every such Case such Question or Dispute shall be determined by Three of Her Majesty's Justices of the Peace for the County of *Durham*, one of whom shall be Chairman for the Time being of the Quarter Sessions, another of whom, not personally interested, shall be nominated under the Common Seal of the said Company, and the other of whom, also not personally interested, shall be nominated in Writing by the Party in dispute with the said Company; and such Three Magistrates shall and they are hereby empowered and required to meet, when and where the Chairman of the Quarter Sessions shall appoint, to hear such Evidence on Oath as shall be offered to them by either Party, and they, or Two of them, are thereupon to determine whether the Lands, Tenements, or Hereditaments, the Subject of Dispute, are or are not unnecessary for the Purposes of the said recited Acts and this Act.

All Disputes as to the Lands so to be sold by the Company shall be referred to Three Justices.

XXVII. And whereas great Injury is frequently occasioned to the Woods, Plantations, and Property of Persons whose Lands and Hereditaments adjoin the said Railway, by Fires caused by the locomotive Engines on the said Railway, and it is expedient to provide an effectual and speedy Remedy to the Persons who may sustain such Injury; be it therefore enacted, That the said Company of Proprietors shall be and they are hereby made liable, answerable, and accountable for all Loss, Damage, Mischief, and Casualties which may from Time to Time and at any Time hereafter arise, be done, committed, or occasioned by any locomotive Engine or Engines on the said Railway, to the Lands, Woods, Plantations, and other Property of any such Persons as aforesaid adjoining to the Line of the said Railway; and the Amount of all and every such Loss, Damages, and Expences which may be so sustained and suffered

Company liable for Injury caused by locomotive Engines.

as aforesaid shall, in case the same shall not amount to Twenty-five Pounds, be ascertained and settled by any Justices of the Peace for the said County of *Durham*, assembled at Petty Sessions in the City of *Durham*, who, on the Complaint of any such Person or Persons as aforesaid, or his or their Agent, may summon the said Company of Proprietors or their Treasurer to appear before them at such Petty Sessions as aforesaid; and upon the Return of such Summons the said Justices shall proceed to hear the Complaint aforesaid, and determine and adjudicate the Amount of Injury which such Person or Persons may have sustained, either by Confession of the Party or Parties who may commit any such Injury, or upon the Oath or Oaths of any One or more credible Witness or Witnesses (which Oath or Oaths any such Justice of the Peace is hereby authorized to administer); and the said Justices of the Peace so assembled as aforesaid may thereupon and they are hereby authorized and empowered to order and direct the said Company of Proprietors to pay to such Person or Persons as aforesaid the Amount of any such Injury, not exceeding the said Sum of Twenty-five Pounds, as may be so sustained by him or them, together with all Costs, Charges, and Expences attending any such Proceedings and the Recovery thereof; and in case of Refusal by the said Company of Proprietors to pay the Amount of such Damage as aforesaid the said Justices may and they are hereby authorized and empowered to levy the same by Warrant for Distress and Sale of any Property or Effects of the said Company of Proprietors; and in case the Amount of any such Injuries or Damages which may be so suffered or sustained by any such Person or Persons as aforesaid shall amount to or exceed the Sum of Twenty-five Pounds in Value, the Person or Persons who may suffer or sustain any such Injury or Damage as last aforesaid may sue for and recover the Amount thereof from the said Company of Proprietors, by Action or Suit, together with full Costs of Suit, in any of Her Majesty's Courts of Record at *Westminster*: Provided always, that no such Proceedings as are herein-before authorized shall be taken by any such Person or Persons who may sustain such Injury as aforesaid until the Person or Persons sustaining such Loss, Damage, Mischief, and Casualties shall have delivered at the Office of the said Company of Proprietors Twenty-one Days Notice of his or their Intention to proceed under the Powers aforesaid; and the said Notice so to be delivered as aforesaid to the said Company of Proprietors shall state the Particulars, and the Amount of Damage which he or they may have so sustained as aforesaid, and for which he or they shall claim to be compensated.

Company may recover Damages paid by them for Injuries by locomotive Engines from the Owners thereof.

XXVIII. And be it further enacted, That in case the said Company of Proprietors shall be compelled to pay and make Satisfaction for any such Injury, Loss, Damages, and Expences as aforesaid, then and in such Case the Owners or Owner of such Engine or Engines as aforesaid which may have so caused the same shall be liable to repay such Loss and Damages, with the Costs and Expences attending the same, to the said Company of Proprietors, as they may have so paid or be liable to pay as aforesaid; and in case of Nonpayment thereof, on Demand, Oath being made of such Demand by any One or more of the Committee, or the Clerk for the Time being

being of the said Company of Proprietors, of the Payments made by the said Company, of such Satisfaction for such Loss, Damages, and Expences, and that the same, and the Costs thereof, have not been repaid to the said Company of Proprietors, although demanded, (such Oath to be made before any One or more Justices of the Peace,) then and in every such Case the same shall be recoverable and recovered from the said Owner or Owners of any such locomotive Engine in like Manner as such Satisfaction for Damage can or may by virtue of this Act be recovered from the said Company of Proprietors: Provided always, that in every Case where the said Company of Proprietors shall seek to make other Parties or Party liable for any Damages and Expences as aforesaid, they shall give, on Discovery of such Party or Parties whom they shall so seek to make liable, Notice of the Time of hearing such Complaint at Petty Sessions, and the said Party or Parties shall be entitled to appear to answer the Complaint mentioned in such Summons so to be issued as aforesaid.

XXIX. And whereas a certain public Highway leading unto and towards the Town of *Hartlepool* now passes along and upon the Mound which encloses the Tide Harbour of the said *Hartlepool* Dock and Railway Company: And whereas also a certain temporary Railway is now carried in, along, and upon the said Mound: And whereas also the said Company have agreed and are about to make a certain other Railway, which is intended to pass in, along, and upon the said Mound: And whereas great Danger might and would arise to the Public passing and repassing in, along, and upon the said Highway, if the temporary Railway was continued to be used on that Part of the said Mound which is used or is to be used as a public Highway, and also from the Proximity of the said Highway to the said Railways, unless the said Highway be properly fenced off and protected: Be it further enacted, That the said Company of Proprietors shall, within Six Months after the passing of this Act, take up and remove the said temporary Railway from such Part of the said Mound as is now used or is to be used for the said public Highway, and also shall, at their own proper Costs and Charges, within the said Six Months, and before the said Railway so agreed to be made, or any other Railway or Railways, be made or used in, along, or upon the said Mound, make, erect, set up, and build, and from Time to Time maintain and support, a good and sufficient Wall of Nine Feet in Height at the least between the said public Highway and the said Railway or Railways, or any other Railway or Railways which are or may be carried in, along, or upon the said Mound, as far as the said Railway or Railways and the said public Highway pass in, along, or upon the said Mound; and also shall, at their own proper Costs and Charges, make, set out, and form the said public Highway, wherever the same passes in, along, or upon the said Mound, Thirty Feet wide at the least; and also shall, at their own proper Costs and Charges, make and set up, and from Time to Time maintain and support, a good and sufficient Fence between the said Highway and the Edge of the said Mound; and shall, at their like Costs and Charges, make and form, and from Time to Time support and maintain, a good and sufficient Bridge, Twenty Feet wide at the least,

The Com-
pany to do
certain
Works for
the Safety of
the Public.

least, where the said Highway crosses the Slake Lock at the Head of the said Tide Harbour, for the Use of the Public passing and repassing in, along, and upon the said public Highway.

The Com-
pany liable to
be indicted
for any Injury
sustained by
reason of
their Works.

XXX. Provided always, and be it further enacted, That nothing in this Act contained shall extend or be construed to extend to prevent any Person or Persons from proceeding, by Indictment or otherwise, against the said Company, or against any of their Officers, Servants, or Workmen, in respect of any Works of the said Company, as a public or private Nuisance, or from bringing any Action or Actions against the said Company, or any of their Officers, Servants, or Workmen, for any Injury sustained by reason of any such Works.

Repealing
Provision in
first-recited
Act as to
Limitation of
Actions.

XXXI. And be it further enacted, That so much of the said first-recited Act as enacts, "that if any Action, Suit, or Information shall be brought or commenced by any Person or Persons for any thing done or to be done in pursuance of this Act, or in the Execution of the Powers or Authorities or of the Orders and Directions hereinbefore given or granted, every such Action, Suit, or Information shall be brought or commenced within Six Calendar Months next after the Fact shall have been committed, or in case there shall be a Continuation of Damages, then within Six Calendar Months next after the doing or committing such Damage shall have ceased, and not afterwards; and the Defendant or Defendants in such Action, Suit, or Information shall and 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 same was done in pursuance and by the Authority of this Act; and if it shall appear to have been so done, or if any such Action, Suit, or Information shall be brought after the Time so limited for bringing the same, or shall be brought in any other County than that in which such Cause of Action shall arise, then and in every such Case the Jury shall find for the Defendant or Defendants," shall be and the same is hereby repealed.

Repealing
Provision in
second reci-
ted Act as to
Limitation of
Actions.

XXXII. And be it further enacted, That so much of the said second-recited Act as enacts, "that no Action, Suit, or Information, nor any Proceeding, of what Nature soever, shall be commenced or prosecuted against any Person or Persons, for any thing done or omitted to be done in pursuance of the said recited Act or of this Act, or in the Execution of the Powers or Authorities or any of the Orders made or given in, by, or under the said recited Act or this Act, unless Thirty Days previous Notice in Writing shall have been given by the Party intending to commence and prosecute such Action, Suit, Information, or other Proceeding, to the intended Defendant or Defendants, nor unless such Action, Suit, Information, or other Proceeding shall be commenced within Six 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, Information, or Proceeding shall be laid and brought in the County, Division, or Place within which the Matter in dispute or Cause of Action shall have arisen; and the Defendant or Defendants in such

Action, Suit, Information, or 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 omitted to be done, (as the Case may be,) in pursuance or by the Authority of this Act; and if it shall appear to have been so done, or to have been omitted to have been done, or that such Action, Suit, Information, or Proceeding shall have been brought otherwise than as herein-before directed, then and in every such Case the Jury shall find for the Defendant or Defendants; upon which Verdict, or if the Plaintiff or Plaintiffs shall become nonsuited, or suffer a Discontinuance of his, her, or their Action, Suit, Information, or Proceeding after the Defendant or Defendants shall have appeared thereto, or if a Verdict shall pass against the Plaintiff or Plaintiffs therein, or if, upon Demurrer or otherwise, Judgment shall be given against the Plaintiff or Plaintiffs, the Defendant or Defendants shall have Double Costs, and shall have such Remedy for recovering the same as Defendants have for recovering Costs of Suit by Law in any other Cases," shall be and the same is hereby repealed.

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

Railways not to be exempt from the Provisions of any general Law.

XXXIV. And be it further enacted, That the Time limited by the said recited Acts for Completion of the said Undertaking shall be and the same is hereby respectively extended and enlarged for the Term of Three Years, to be computed from the Sixteenth Day of *June* last.

Enlargement of Period for Completion of Works.

XXXV. Provided always, and be it further enacted, That nothing in this Act contained shall, on the one hand, give to the said Company any new Toll Rate, Due, or Duty whatsoever, or restore or revive any Toll, Rate, Due, or Duty which, by the said recited Acts passed in the Second and Fourth Years of the Reign of His said late Majesty King *William* the Fourth, or either of them, was given to the said Company, or authorized by them to be taken, and which had, at or before the passing of this Act, from any Cause whatsoever, ceased, or restore or revive any Power or Authority to levy, take, or impose any Toll, Rate, Due, or Duty whatsoever, which Power or Authority had, at or before the passing of this Act, from any Cause whatsoever, ceased; nor, on the other hand, prejudice or prevent the said Company from taking, levying, or imposing any Toll, Rate, Due, or Duty whatsoever which, under the said Acts or either of them, the said Company would have been entitled to take, levy, or impose in case this Act had not been passed.

This Act not to authorize or affect the taking of Tolls.

XXXVI. And be it further enacted, That all the Costs, Charges, and Expences of applying for, obtaining, and passing this Act, and all other Expences incident thereto, shall, in the first place, and in preference to all other Payments whatsoever, be paid by and out of

Expences of this Act.

[*Local.*]

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the

the first Money which shall be raised or received under or by virtue of the said recited Acts and this Act, or any of them.

Act not to affect the Right of the Duke of Cleveland, &c.

XXXVII. And be it enacted, That nothing in this Act contained shall extend or be construed to extend to take away, impeach, abridge, restrain, alter, prejudice, or affect any Right or Title which the Most Noble *William Harry Duke of Cleveland*, or his Heirs, or any Person, may have to any Right, Title, Interest, Franchise, Royalty, or Jurisdiction claimed by Her Majesty, Her Heirs or Successors, in any Manner whatsoever.

Act not to affect the Rights of the Crown and the Admiralty.

XXXVIII. Provided always, and be it declared and enacted, That nothing contained in this Act, or in any of the Acts herein recited or referred to, shall be deemed, taken, or construed to impeach, limit, prejudice, defeat, or derogate from any Estate, Right, Title, Interest, Franchise, or Royalty now or heretofore appertaining or belonging to the Palatine Jurisdiction of the County of *Durham*, formerly annexed to the Bishopric of *Durham*, and now vested in Her Majesty, Her Heirs and Successors, as a Franchise and Royalty separate from the Crown, or to impeach, limit, prejudice, defeat, or abrogate any Estate, Right, Title, Interest, Franchise, Royalty, or Jurisdiction by Law vested in Her Majesty, Her Heirs and Successors, in right of Her Crown; nor shall any thing in this Act, or in the several Acts before mentioned or referred to, contained, extend or be construed to extend to impeach, limit, prejudice, defeat, or in any way affect the Rights and Jurisdiction vested by Law in the Lord High Admiral of the United Kingdom of *Great Britain and Ireland* over the Sea, Sea Shores, Ports, Harbours, and Navigable Rivers of the said Kingdom, so far as the Tide flows at ordinary Spring Tides.

Public Act.

XXXIX. 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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