



ANNO SEXTO & SEPTIMO

VICTORIÆ REGINÆ.

Cap. lxxxii.

An Act to enable the *Great North of England, Clarence, and Hartlepool Junction* Railway Company to make a Branch Railway, and to explain and amend the Acts relating to the said Railway ;
and for other Purposes. [28th July 1843.]

WHEREAS an Act was passed in the First Year of the Reign of Her present Majesty Queen *Victoria*, intituled *An Act for making and maintaining a Railway to connect the Great North of England, Clarence, and Hartlepool Railways in the County of Durham*: And whereas another Act was passed in the Fifth Year of the Reign of Her said Majesty, intituled *An Act to alter, amend, extend, and enlarge the Powers and Provisions of an Act relating to the Great North of England, Clarence, and Hartlepool Junction Railway in the County of Durham*: And whereas the Company incorporated by the said first-mentioned Act have proceeded in the Execution thereof, and have made considerable Progress in the Construction of the Railway and Works by the said recited Acts authorized to be made: And whereas it is expedient that the

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7 W. 4. & 1 Vict. c. 95.
5 & 6 Vict. c. 17.

Powers of
recited Acts
extended to
this Act.

said Company should be authorized to make the Branch Railway herein-after mentioned, and that further and more effectual Powers should be granted to them for the carrying into execution the Purposes of the said recited Acts and this Act, and that some of the Powers and Provisions of the said recited Acts should be explained, altered, amended, and enlarged; but the Purposes aforesaid cannot be effected without the Authority of Parliament: May it therefore please Your Majesty that it may be enacted; and be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That all the Provisions, Matters, and Things contained in the said recited Acts, (except such of them as are by this Act or by any Statute of the Realm repealed, altered, or otherwise provided for,) shall operate and be in force in respect of the Purposes of this Act as effectually as if the same Provisions, Matters, and Things were re-enacted in this Act in reference to such Purposes.

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

II. And be it enacted, That it shall be lawful for the said Company to raise, by creating new Shares, in addition to the Sum of Money which they have raised or are authorized to raise by virtue of the said first-recited Act, any further Sum of Money not exceeding in the whole the Sum of One thousand four hundred Pounds.

New Shares
to be con-
sidered same
as original
Shares.

III. And be it enacted, That the Money so to be raised by the Creation of new Shares shall be considered as Part of the general Capital, and shall be subject to the same Provisions in all respects, whether with reference to the Payment of Calls, or the Forfeiture of Shares on the Nonpayment of Calls, or the Transfer of Shares, or otherwise, as if it had been Part of the original Capital, except as to the nominal Amount or Value of such Shares, and the proportionate Dividends thereon respectively, and except as to the Amount and Time of Payment of Calls on such new Shares, which the Directors of the Company shall fix from Time to Time as they think fit.

If existing
Shares at a
Premium, or
of greater
than nominal
Value, new
Shares to be
offered to
Shareholders.

IV. And be it enacted, That if at the Time of the Creation of such new Shares the then existing Shares of the Capital Stock of the Company be at a Premium, or of greater actual Value than the nominal Value thereof, then the Sum so to be raised shall be offered to the then Shareholders, in proportion as nearly as can be conveniently done to the then existing Shares held by them respectively.

Directing
how Offer to
be made.

V. And be it enacted, That such Offer shall be made by Letter, under the Hand of the Clerk or Secretary, given to or sent by the Post to each Shareholder, or left at his usual or last Place of Abode,

or addressed to his last Address appearing in the Register Book of Shareholders, of which Letter having been so given or sent the Certificate of such Clerk or Secretary shall be conclusive Evidence.

VI. And be it enacted, That the new Shares shall vest in and belong to the Shareholders who shall accept the same, and pay to the Company the Price at which the same were allotted to them, at the Times and by the Instalments which shall be fixed by the Directors; and if any Shareholder fail for One Month after such Offer of new Shares to accept the same, or to pay any of the Instalments called for in respect thereof, it shall be lawful for the Company to dispose of such Shares to any Party willing to become the Purchaser thereof for such Sum as the Company can obtain for the same, or otherwise as they think proper.

New Shares to vest in Shareholders who accept and pay for same.

VII. And be it enacted, That if at the Time of the Creation of such new Shares the existing Shares of the Capital Stock of the Company be not at a Premium, then such new Shares may be of such nominal Amount or Value, and may be issued in such Manner and at such Price, and with such Preference or Priority in the Payment of Dividends over the other Shares in the Company, or with such other Advantages as the Company shall think fit.

If not at a Premium, to be issued as Company think fit.

VIII. Provided always, and be it enacted, That no Proprietor of any additional Capital hereby authorized to be created shall be entitled to vote at any Meeting of the Company in respect of a less nominal Amount of such Capital than Twenty-five Pounds, into whatever Number of Shares the same may be distributed, and that every such last-mentioned Amount of Twenty-five Pounds of the said new Capital, into whatever Number of Shares the same may be distributed, shall for the Purpose of determining the Right of voting, or the Number of Votes to which the Holder thereof shall be entitled, be accounted as One original Share of the said Undertaking.

As to voting in respect of new Shares.

IX. And be it enacted, That it shall be lawful for the *Great North of England, Clarence, and Hartlepool Junction* Railway Company (subject to the Provisions of the said recited Act and of this Act) to make the Branch Railway herein-after mentioned; (that is to say,) a Branch Railway, with all proper Works and Conveniences connected therewith, to commence on the West Side of the *Sherburne* Branch of the *Clarence* Railway, in a Field belonging to the Reverend *Robert Hopper Williamson* in the Township of *Thrislington* in the Parish of *Bishop Middleham* in the County of *Durham*, numbered Three on the Plan of the said Railway mentioned and referred to in the said first-recited Act, and deposited with the Clerk of the Peace of the County of *Durham* as therein mentioned, thence to pass from, through, or into the said Township of *Thrislington*, and the Township of *Ferryhill*, and the said Parishes of *Bishop Middleham* and *Merrington* in the said County, and to terminate at or near to and by

Power to make Branch Railway.

by a Junction with a certain other Railway called or known by the Name of the *Byer's Green* Branch of the *Clarence* Railway, in or near to certain other Fields in the Occupation of *Robert Parker*, which are respectively situate in the said Township of *Ferryhill* in the said Parish of *Merrington*.

Company to carry Railway over Newcastle and Darlington Junction Railway by a Bridge.

X. And be it enacted, That for the Purpose of carrying the said Branch Railway across the intended Line of the *Newcastle and Darlington Junction* Railway in the Township of *Ferryhill* in the Parish of *Merrington* the Company shall, at their own Expence, make and maintain a good and substantial Bridge over such last-mentioned Railway, and that the Width of the said Bridge between the Abutments thereof shall not be less than Twenty-six Feet, and that no Part of the under Side of the Soffit of the said Bridge shall come within Fifteen Feet Six Inches of the Surface of the Rails of such last-mentioned Railway; and all such Works shall be done to the Satisfaction of the Engineer for the Time being of the *Newcastle and Darlington Junction* Railway Company.

Maps or Plans, &c. to remain with the Clerk of the Peace, and be open to Inspection.

XI. And whereas Plans and Sections of a new Branch Railway showing the Lines and Levels thereof, and also Books of Reference containing the Names of the Owners or reputed Owners, Lessees or reputed Lessees, and Occupiers of the Lands through which the same is intended to pass, have been deposited with the Clerk of the Peace for the County of *Durham*; be it therefore enacted, That all Persons interested may at all seasonable Times inspect such Plans, Sections, and Books of Reference, and may require to be furnished by such Clerk of the Peace with Extracts therefrom, or Copies thereof, and such Clerk of the Peace shall give Access to such Documents, and, if required, furnish Copies thereof, or Extracts therefrom, and certify the same to be true Copies or Extracts, and in respect thereof he shall be entitled to One Shilling for every Inspection of such Document, and One Shilling for every Hour such Inspection shall continue beyond the first Hour, and Sixpence for every Hundred Words copied or extracted therefrom; and if such Clerk of the Peace shall fail to comply with any of the Provisions aforesaid he shall forfeit for every such Offence a Sum not exceeding Five Pounds.

Errors and Omissions to be corrected.

XII. And for the Purpose of making Provision for correcting any Omission or Mis-statement or erroneous Description of any Lands, or of the Owners, Lessees, or Occupiers of any Lands, described in the said Plans, or in the said Books of Reference, or in the Plans, Sections, and Book of Reference herein-after mentioned, be it enacted, That the Correction of any such Matter may be referred by the Company to the Determination of Two Justices; and if it shall appear to such Justices that such Omissions, Mis-statements, or erroneous Descriptions arose from Mistake, they shall certify the same accordingly, and they shall in such Certificate state the Particulars

ticulars of any such Omission, and in what respect any such Matter shall have been mis-stated or erroneously described, and such Certificate shall be deposited with the Clerk of the Peace of the said County of *Durham*, and Copies or Extracts thereof with the Clerks of the several Parishes in which the Lands affected thereby shall be situate; and such Certificate, or such Copies or Extracts respectively, shall be kept by such Clerk of the Peace and Clerks of the Parishes respectively along with the Documents to which they relate, and thereupon such Documents shall be deemed to be corrected according to such Certificate, and it shall be lawful for the Company to make the Railway in accordance with such Certificate.

XIII. And be it enacted, That true Copies of all or any of such Plans and Sections and Books of Reference, or of any Correction thereof, or Extracts therefrom, certified by the said Clerk of the Peace, shall be received in all Courts of Justice, or elsewhere, as Evidence of the Contents thereof. Copies of Plans, &c. to be Evidence.

XIV. And whereas since the depositing of the said Plans and Sections as herein-before mentioned an Alteration of the Line of the said new Branch Railway, as laid down and defined upon such Plans and Sections, has been agreed upon and determined with the Concurrence of the Owners and Occupiers of the Land through which such Alteration is to be made; be it therefore enacted, That it shall not be lawful for the Company to proceed in the Execution of the Branch Line of Railway herein-before authorized to be made unless the said Company shall have, previously to the Commencement of such Work, deposited with the Clerk of the Peace of the County of *Durham* a Plan and Section of such Alteration from the original Plan and Section as shall have been approved of by Parliament, on the same Scale, and containing the same Particulars, as the original Plan and Section of the said Branch, and authenticated by the Signature of the Right Honourable the Speaker of the House of Commons, and also with the Clerks of the several Parishes in or through which such Alterations shall have been authorized to be made, Copies or Extracts of or from such Plans and Sections as shall relate to such Parishes respectively; and all Persons interested shall have Liberty to inspect and make Extracts from or Copies of the said Plans and Sections, or of the Extracts or Copies thereof, paying to the Officer having the Custody of such Plan and Section, or of such Extract or Copy, the Sum of One Shilling for every such Inspection; and after the Rate of Sixpence for every One hundred Words copied therefrom. Railway not to be proceeded with until certain Plans, &c. deposited.

XV. And be it enacted, That the Company in making the said Branch Railway shall have Power to deviate from the Line delineated on the Plans so deposited, provided that no such Deviation shall Company empowered to deviate to the Extent defined upon the Plan.

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extend

extend to a greater Distance than One hundred Yards from the Line so delineated on the said Plans, nor shall such Deviation extend into the Lands or Property of any Person whose Name is not mentioned in the said Book of Reference, without the previous Consent in Writing of such Person, unless the Name of such Person shall have been omitted by Mistake, and the Fact that such Omission proceeded from Mistake shall have been certified in manner hereinbefore provided for in Cases of unintentional Errors in the said Book of Reference.

Limiting De-
viation from
Datum Line.

XVI. And be it enacted, That in making the said Branch Railway it shall not be lawful for the *Great North of England, Clarence, and Hartlepool Junction* Railway Company to deviate from the Level thereof, as referred to the common Datum Line described in the Sections so deposited as aforesaid, and as marked on the same, to any Extent in any Place exceeding Five Feet, or in passing through Towns Two Feet, without the Consent of the Owners, Lessees, and Occupiers of the Lands in, through, or over which such Deviation is intended to be made; or in case any Street or public Carriage Road shall be affected by such Deviation, then the same shall not be made without the Consent of the Trustees or Commissioners, or if there be no such Trustees or Commissioners, without the Consent of Two or more Justices of the Peace in Petty Sessions assembled for that Purpose, and acting for the District in which such Street or public Carriage Road may be situate, or without the Consent of the Commissioners for any public Sewers, or the Proprietors of any Canal or Navigation affected by any such Deviation; and that no Increase in the Inclination or Gradients of the said Branch Railway, as denoted by the said Section, shall be made in any Place to any Extent exceeding the Rate of Three Feet *per* Mile; and where in any Place it is intended to carry the said Branch Railway on an Arch or Arches, as marked on the said Plan or Section, the same shall be made accordingly, and where a Tunnel is marked on the said Plan or Section as intended to be made at any Place the same shall be made accordingly, unless the Owners, Lessees, and Occupiers of the Land in or through which such Tunnel is intended to be made shall consent that the same shall not be so made: Provided nevertheless, that it shall be lawful for the Company with such Consent as aforesaid, and not otherwise, to make a Tunnel or an Arch or Arches as aforesaid, not marked on the said Plan or Section, so that no such Tunnel shall be of greater Length than Two hundred Yards, and that no Two Tunnels be at less Distance from each other than One hundred Yards, measured on the Line of the Railway: Provided always, that Notice of every Petty Sessions to be holden for the Purpose of obtaining such Consent as aforesaid shall, Fourteen Days previous to the holding of such Petty Sessions, be given in some Newspaper circulating in the County, and also be fixed on the Church Door of the Parish in which such Deviation or Alteration is intended to be made, or

if there be no Church, on some other Place to which Notices are usually fixed: Provided also, that for the Purpose of consenting to any such Deviation from the said Section, and to any tunnelling or arching as aforesaid, the Word "Owners" shall be deemed and taken to mean such Persons as are by the said first-recited Act capacitated to agree for the Sale of and to convey Land for the Purposes of the said Railway; and the Consent of such Persons, with or without the Consent of any other Persons interested as Owners in the said Lands, shall be deemed and taken to be sufficient for such Purposes.

XVII. And be it enacted, That in making the said Branch Railway it shall not be lawful to diminish the Radius of any Curve, as described on the Plan so deposited with the Clerk of the Peace as aforesaid, unless such Radius exceeds One Mile, nor to diminish it in any such Case so that it shall become less than One Mile, nor to diminish any greater Radius by more than a Quarter of a Mile unless where it exceeds Two Miles, or by more than Half a Mile unless where it exceeds Three Miles, on the Plan. Limiting Alterations in Curves.

XVIII. And be it enacted, That no Part of the said Branch Railway hereby authorized to be made shall pass across any Street or Highway on which Carriages or Carts shall pass on the Level, and that in case the Levels of any Turnpike Road or public Carriage Road shall be altered by the Means of such Railway the Ascent or Descent of such Turnpike Road shall not be more than One Foot in Thirty Feet, or of such public Carriage Road than One Foot in Twenty Feet. As to crossing Roads on the Level.

XIX. And be it enacted, That every Bridge erected for carrying any Road over the said Branch Railway shall be built in conformity with the following Regulations; (that is to say,) Bridges over Railway.

There shall be a good and sufficient Fence on each Side of the Bridge of not less than Four Feet:

The Road over the Bridge shall have a clear Space between the Fences thereof of Thirty-five Feet if the Road be a Turnpike Road, and Twenty-five Feet if a public Carriage Road, and Twelve Feet if a private Road.

The Ascent shall not be more than One Foot in Thirty Feet if the Road be a Turnpike Road, One Foot in Twenty Feet if it be a public Carriage Road, and One Foot in Sixteen if it be a private Carriage Road.

XX. And whereas the said *Great North of England, Clarence, and Hartlepool Junction* Railway Company were authorized by the said first-recited Act to carry their said Railway across the Line of the *Clarence* Railway upon the Level, provided the Consent in Writing of the Company of Proprietors of the said *Clarence* Railway could have Authorizing Communications with and Crossings of other Railways without the Consent

of the Owners
thereof.

have been for that Purpose first had and obtained by the said *Great North of England, Clarence, and Hartlepool Junction* Railway Company, and thence to communicate or form a Junction with the intended Line of the *Great North of England* or *Newcastle and Darlington Junction* Railway as described in the Plans and Sections of the said Railway in the said Act mentioned and referred to : And whereas the Branch Railway by this Act authorized to be made is intended to be carried across the said Line of the *Great North of England* or *Newcastle and Darlington Junction* Railway, and to communicate or form a Junction with the *Byer's Green* Branch of the *Clarence* Railway, as defined upon the Plans and Sections thereof in this Act mentioned and referred to : And whereas Plans and Sections upon which the intended Line or Course and Levels of the said herein-before mentioned Portion of the Railway by the said recited Act authorized to be made in manner aforesaid are defined were deposited with the Clerk of the Peace of the County of *Durham* in the Month of *November* last : And whereas it is expedient that the said herein-before mentioned Portion of the said Railway should be carried over the Line of the said *Clarence* Railway by means of a Bridge, instead of on the Level as contemplated by the said first-recited Act ; be it therefore enacted, That notwithstanding any thing in the said first-recited Act or this Act contained it shall be lawful for the said *Great North of England, Clarence, and Hartlepool Junction* Railway Company to construct and carry the said herein-before mentioned Portion of the said Railway, by the said Act authorized to be made, across the said *Clarence* Railway by means of a Bridge, as herein-after mentioned, in the Line or Course defined upon the Plans thereof so deposited with the said Clerk of the Peace as lastly herein-before mentioned, and also to carry and construct the Branch Railway, by this Act authorized to be made, across the said intended Line of the *Great North of England* or *Newcastle and Darlington Junction* Railway, and to make the said Communication and to form the said Junction with the said Line of the *Byer's Green* Branch of the *Clarence* Railway, in the Line or Course and in the Manner defined upon the Plans and Sections thereof referred to in this Act, or within the Limits of Deviation by this Act authorized, without its being necessary for the said *Great North of England, Clarence, and Hartlepool Junction* Railway Company to obtain the Consent, in Writing or otherwise, of the Owners of the said *Clarence* Railway, and of the said Line of the *Great North of England* or *Newcastle and Darlington Junction* Railway, for that Purpose : Provided always, that such Crossings and Communications or Junctions respectively shall be made and executed under such Powers, Authorities, Regulations, and Control respectively as in the said first-recited Act are contained, except as regards the prior Consent of the Owners of such Railways respectively as herein-before mentioned, and except as herein-after provided with respect to the said intended Bridge across the said *Clarence* Railway.

XXI. And

XXI. And be it enacted, That for the Purpose of carrying the said Railway over the said *Clarence* Railway the said *Great North of England, Clarence, and Hartlepool Junction* Railway Company shall and they are hereby required to construct, and for ever thereafter maintain, a good and sufficient Bridge over the said *Clarence* Railway, and that the Width of the said Bridge between the Abutments thereof shall not be less than Twenty-six Feet, measuring the same in a Line at Right Angles, as near as may be, with the Line of Direction of the said *Clarence* Railway, and that no Part of the under Side of the Soffit of the said Bridge shall come within Sixteen Feet of the Surface of the Rails of the said *Sherburne* Branch of the *Clarence* Railway: Provided always, that the said Bridge shall be constructed of such Materials and in such Manner as shall be agreed upon between the Engineer for the Time being of the *Great North of England, Clarence, and Hartlepool Junction* Railway Company and the Engineer for the Time being of the said *Clarence* Railway Company; and in case the Engineer for the Time being of the *Clarence* Railway Company shall not, within Three Weeks after the Engineer of the said *Great North of England, Clarence, and Hartlepool Junction* Railway Company shall have submitted to him a Plan of the proposed Bridge, signify in Writing his Assent thereto, then the Materials of which, and the Manner in which, the said Bridge shall be constructed shall be referred to the Surveyor of Bridges for the County of *Durham* for the Time being, whose Decision shall be binding and conclusive upon all Parties.

The Great North of England, Clarence, and Hartlepool Junction Railway Company to carry Railway across Sherburne Branch of Clarence Railway by a Bridge.

XXII. And whereas by an Act of Parliament passed in the Fourth Year of the Reign of Her present Majesty, intituled *An Act for the better Regulation of Railways*, and by another Act passed in the Sixth Year of the Reign of Her present Majesty, intituled *An Act for the better Regulation of Railways, and for the Conveyance of Troops*, certain Provisions were enacted for the Supervision of Railways and other Purposes; be it enacted, That the Provisions of the said recited Acts, except such of the same as shall be inapplicable to the Railway to be made by virtue of this Act, shall be in force in respect to the said Railway in the same Manner as if such Provisions were repeated and re-enacted in this Act in reference to the same.

Provisions of 3 & 4 Vict. c. 97. and 5 & 6 Vict. c. 95. to be applicable to the Railway to be made under this Act.

XXIII. And to prevent Injury being occasioned to the Woods, Plantations, and Property of Persons adjoining the said Railway by Fire, caused by the locomotive Engines used on the said Railway, be it enacted, That the said Company shall be liable and accountable for all Damage done by Fire which may be occasioned by any locomotive Engine used on the said Railway to the Lands, Woods, Plantations, and other Property of any Person adjoining the said Railway; and the Amount of all such Loss, Damage, and Expence which may be so sustained as aforesaid shall, in case the same shall not exceed the

Company liable for Injury caused by locomotive Engines.

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Sum of Fifty Pounds, be ascertained by the Justices of the Peace for the said County assembled at Petty Sessions in the City of *Durham*, who, on the Complaint of any such Person as aforesaid, or his Agent, may summon the said Company 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, and determine the Amount of Injury which such Person may have so sustained, either by the Confession of the Party who may have committed any such Injury, or upon the Oath of any credible Witness (which Oath any Justice is hereby authorized to administer), and the said Justices may thereupon direct the said Company to pay to such Person as aforesaid the Amount of any such Injury, not exceeding the Sum of Fifty Pounds, together with all Costs and Expences attending such Proceedings, and in case of Refusal by the said Company to pay the same the said Justices are hereby authorized to issue a Warrant of Distress against the said Company; and in case the Amount of such Damage which may be so sustained by any such Person as aforesaid shall amount to or exceed the Sum of Fifty Pounds, the Person who may sustain such Damage as last aforesaid may sue for the same, by Action or Suit, with full Costs, 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 who may sustain any Injury as aforesaid until the Person sustaining such Damage shall have delivered at the Office of the said Company Twenty-one Days Notice of his Intention to proceed under the Powers aforesaid; and the said Notice so to be delivered as aforesaid shall state the Particulars and the Amount of Damage which he may have so sustained as aforesaid, and for which he shall claim to be compensated.

Expences of
the Act.

XXIV. And be it enacted, That all the Costs, Charges, and Expences of obtaining and passing this Act, and of the Arrangements preparatory thereto, and of making the Surveys, Plans, and Estimates, and all other Costs, Charges, and Expences in any way incident thereto, shall be paid and defrayed by the said *Great North of England, Clarence, and Hartlepool Junction* Railway 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, or either of them, in preference to any other Payment whatsoever.

Public Act.

XXV. And be it enacted, That this Act shall be a Public Act, and shall be judicially taken notice of as such.

LONDON: Printed by GEORGE E. EYRE and ANDREW SPOTTISWOODE,
Printers to the Queen's most Excellent Majesty. 1843.