ANNO DECIMO & UNDECIMO

VICTORIÆ REGINÆ.

****

Cap. cxvii.

An Act for the Enlargement of the *Wearmouth* Dock, and the Construction of new Works in connexion therewith; and for other Purposes relating thereto. [2d *July* 1847.]

WHEREAS an Act was passed in the Session of Parliament held in the Fifth and Sixth Years of the Reign of Her present Majesty Queen *Victoria*, intituled *An Act* (5 & 6 Vict. c. 80.) *for completing the Railway Communication between the Towns of* Newcastle-upon-Tyne *and* Darlington, *by a Railway to be called* "*The* Newcastle and Darlington Junction *Railway,*" *with a Branch to the City of* Durham, whereby several Persons were incorporated by the Name of "The *Newcastle and Darlington Junction* Railway Company," which Name has since been altered to "The *York and Newcastle* Railway Company:" And whereas the Powers and Provisions of the said Act have been amended and extended or altered by several Acts relating to the said Company, passed respectively in the Sessions of Parliament held in the Sixth and Seventh, the Seventh

and Eighth, the Eighth and Ninth, and the Ninth and Tenth Years of the Reign of Her said present Majesty: And whereas an Act was passed in the last Session of Parliament, intituled *An Act for enabling the* Newcastle and Darlington Junction *Railway Company to purchase the* Durham and Sunderland *Railway and the* Wearmouth *Dock*, under and by virtue of which Act the said *York and Newcastle* Railway Company have agreed to purchase the said *Wearmouth* Docks and the Works belonging thereto: And whereas it is expedient that the said *York and Newcastle* Railway Company should be authorized to enlarge the present tidal Basins and Entrances to the said *Wearmouth* Dock and the other Works belonging thereto, and to construct other necessary and convenient Works in connexion therewith, all within the Townships of *Monk Wearmouth* and *Monk Wearmouth Shore*, or one of them: And whereas it is also expedient that some of the Powers and Provisions of the said recited Acts should be altered, amended, extended, 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, so far as the same are now unrepealed and in force and are applicable to the Purposes of this Act, and except such of them or such Parts thereof as are by this Act repealed, altered, or otherwise provided for, shall extend to this Act, and to the several Purposes and Things hereby authorized to be done, as fully and effectually as if the same Provisions, Matters, and Things were repeated and re-enacted in this Act in reference to such Purposes and Things.

9 & 10 Vict. c. 235.

Provisions of recited Acts extended to this Act.

8 & 9 Vict. c. 18. extended to this Act.

II. And be it enacted, That the Lands Clauses Consolidation Act, 1845, shall be incorporated with and form Part of this Act.

Power to borrow Money on Mortgage.

III. And be it enacted, That after Shares for the whole of the Capital, in Shares by the recited Acts limited or authorized to be raised, shall have been taken, and One Half of such Capital shall have been paid up, it shall be lawful for the Company to borrow on Mortgage or Bond, for the Purposes of this Act, such Sum or Sums of Money as shall from Time to Time be authorized to be borrowed by Order of a General Meeting of the Company, not exceeding (in addition to the Sums which the Company are authorized to borrow by virtue of the said recited Acts, or may be authorized to borrow by any Act to be passed in the present Session of Parliament, and the Power to borrow which it is declared shall not be prejudiced by this Act,) the Sum of Ten thousand Pounds, and to secure the Repayment of the Money so borrowed, with Interest, by Mortgage of their Undertaking, or by Bond, in manner provided by the Companies Clauses Consolidation Act, 1845: Provided always, that it shall not be

be lawful for the Company to borrow on Mortgage or Bond any Sum or Sums of Money which, together with such Sums as may be due and owing by the said Company on Mortgage of their Undertaking, or on Bond, at the Time of the borrowing of such Sum or Sums of Money, would amount to more than One Third of the Capital for the Time being of the Company in Shares or Stock; provided further, that it shall not be obligatory on the said Company, before exercising the Power for raising Money hereby given to capitalize the Money which they have Power to capitalize under the Provisions of any Acts relating to the same Company or any Part thereof.

Certain Provisions of 8 & 9 Vict. c. 16. extended to this Act.

IV. And be it enacted, That the Clauses and Provisions of the Companies Clauses Consolidation Act, 1845, with respect to the borrowing of Money, and to the Conversion of the borrowed Money into Capital, shall extend to and be incorporated with this Act for the Purposes hereof.

Provisions of 8 & 9 Vict. c. 16. as to Consolidation of Shares into Stock extended to this Act.

V. And be it enacted, That the Companies Clauses Consolidation Act, 1845, with regard to the Consolidation of Shares into Stock shall extend to and be incorporated with this Act; and the Company shall have full Power to convert or consolidate all Shares in its Capital created under the said recited Acts, or this Act, or any of them, or any other Act already passed or to be passed relating to the *York and Newcastle* Railway Company, and in respect whereof the whole Money subscribed shall have been paid up, into a general Capital Stock, to be divided amongst the Shareholders according to their respective Interests therein, in the Manner directed, and with the same Powers and Advantages, and subject to the like Provisions in all respects as in the said Companies Clauses Consolidation Act contained, except that as regards the original £25 Shares of the Company, and the *Brandling* £25 Shares of the Company (as to the Conversion whereof into Stock the Company has already agreed at a public Meeting held for that Purpose), it shall not be necessary to hold any further Meeting, or come to any further Resolution of the Company.

Former Mortgages to have Priority.

VI. Provided always, and be it enacted, That the Mortgages or Bonds granted under the Authority of the said recited Acts, before the passing of this Act, shall, during the Continuance thereof, have Priority over any Mortgage or Bond to be created by virtue of this Act.

Deposits for future Bills not to be paid out of the Company's Capital.

VII. And be it enacted, That it shall not be lawful for the said Company, out of any Money by this Act or any other Act relating to the said Railway Company authorized to be raised for the Purposes of such Act or Acts, to pay or deposit any Sum of Money which by any Standing Order of either House of Parliament now in force or hereafter to be in force may be required to be deposited in respect

respect of any Application to Parliament for the Purpose of obtaining an Act authorizing the said Company to construct any other Railway or execute any other Work or Undertaking.

Company to enlarge Dock, &c.

VIII. And be it enacted, That it shall be lawful for the Company, upon the Lands described in the Plans and Books of Reference deposited with the Clerk of the Peace for the County of *Durham*, and according to the Provisions herein contained, to enlarge and maintain the present Tidal Basins and Entrances to the *Wearmouth* Dock, and the other Works belonging thereto, and also to lay out, build, make, alter, repair, and maintain such Quays, Wharfs, Approaches, and Bridges, and other Works and Conveniences, for the Purposes of the Dock and Works as they may deem expedient, and for such Purposes to enter upon, take, and use the Lands described in the said Plan and Book of Reference.

Deposit of Plans.

IX. And be it enacted, That it shall be lawful for all Persons interested, at all seasonable Times, to inspect such Plans, Sections, and Books of Reference, and such Persons may require to be furnished by the said Clerk of the Peace with Copies thereof, or Extracts therefrom, and such Clerk of the Peace shall give access to such Documents, and if required shall furnish Copies thereof or Extracts therefrom respectively, in the like Manner and upon the same Terms and under the like Penalty for Default as is provided by an Act passed in the First Year of the Reign of Her present Majesty, intituled *An Act to compel Clerks of the Peace for Counties, and other Persons, to take the Custody of such Documents as shall be directed to be deposited with them under the Standing Orders of either House of Parliament.*

7 W. 4. & 1 Vict. c. 83.

Errors and Omissions to be corrected by Justices, who shall certify the same.

X. And for the Purpose of making Provision for correcting any Omission, Mis-statement, or erroneous Description of any Lands, or of the Owners, Lessees, or Occupiers of any Lands, described on the said Plans or in the said Books of Reference, be it enacted, That after Ten Days Notice given to the Parties whose Lands are affected by such Omission, Mis-statement, or erroneous Description, 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 Omission, Mis-statement, or erroneous Description arose from Mistake, they shall certify the same accordingly, and they shall in such Certificate state the Particulars 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 said Clerk of the Peace, and Copies or Extracts thereof with the Clerks of the several Parishes in which the Lands affected thereby shall be situate, and such Certificate and such Extracts or Copies 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 Document shall be deemed to be corrected according

according to such Certificate, and it shall be lawful for the Company to execute the Works in accordance with such Certificate.

Copies to be Evidence.

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

Works to be approved of by the Admiralty before commenced.

XII. Provided always, and be it enacted, That it shall not be lawful for the Company, or any Person acting under their Authority or on their Behalf, to make, construct, or carry on any Work below the Line of High-water Mark at ordinary Spring Tides, without the previous Consent of the Lord High Admiral of the United Kingdom of *Great Britain* and *Ireland*, or the Commissioners for executing the Office of Lord High Admiral aforesaid for the Time being, to be signified in Writing under the Hand of the Secretary of the Admiralty, and of the Commissioners for the Conservancy of the River *Mersey* for the Time being signified in Writing under the Hand of the acting Conservator of the River *Mersey* for the Time being.

For preventing Obstructions in the River Wear.

XIII. And for preserving the Navigation of the River *Wear*, and for preventing Obstructions therein, be it enacted, That the Company shall, so far as the Powers hereby conferred on them will admit of, do all Acts necessary for preventing any Interference with the Facilities which at present are afforded to Ships passing up or down the River; and that when the Company shall deem it expedient to clear the Tidal Basin from Sand or other Substances, they shall do so by dredging, and not (except with Sanction of the Lords Commissioners of the Admiralty) by sluicing, or by any other Means which shall have the Effect of carrying the Sand or other Substances into the River; and nothing in this Act contained shall empower the Company to diminish the Depth of Water or Tideway in the River.

Company before taking down Piers to pay the Value of Materials.

XIV. And be it enacted, That before the Company shall proceed to take down any existing Pier or Quays the Property of the said Commissioners the Value of the Materials of all such Piers and Quays as shall be required by them for the Purposes of their intended Works shall be paid or tendered by them to the said Commissioners, and in case of Dispute respecting such Value the same shall be estimated by Two indifferent Persons, one to be appointed by the Company and the other by the said Commissioners, or by an Umpire to be appointed by the said Two Arbitrators in case they cannot agree in their Award; and the Amount thereof shall be paid within Fourteen Days after the same shall be determined as aforesaid, or otherwise shall and may be recoverable by the said Commissioners by Action at Law against the said Company in any of Her Majesty's Courts of Record at *Westminster*; provided that if any such Pier or Quay shall be pulled down or altered for the Purpose only of Reconstruction in the same or another Situation, such new Pier or Quay

shall be the Property of the Commissioners, to be used as and for a public Quay, and no Payment shall be made or recoverable for the Materials of the Pier or Quay so pulled down.

Company to make good Damages done to Commissioners Works.

XV. And be it enacted, That if in the Construction of the Works by this Act authorized the Company shall destroy or injure any Pier, Quay, Building, or other Work belonging to the said Commissioners, which shall not be purchased by them under the Powers herein-before contained, the said Company shall and they are hereby required, with all convenient Speed, to rebuild, restore, and make good, at their own Costs, all such Piers, Quays, Buildings, and other Works, to the Satisfaction of the said Commissioners, as shall be so destroyed or injured by them; and if they shall not commence rebuilding or repairing any such Pier, Quay, Building, or other Work, within Fourteen Days after they shall have received a Notice in Writing, signed by the Clerk for the Time being of the said Commissioners, requiring them so to do, or if, having commenced, they shall not afterwards proceed with reasonable Diligence with such rebuilding or repair, or shall rebuild and repair the same in any Manner not satisfactory to the said Commissioners, it shall be lawful for the said Commissioners to commence or proceed with and complete the same, and to recover the Amount of all the Expences which they shall incur in and about such Works by Action of Debt in any of Her Majesty's Courts of Record at *Westminster*.

Sand and Materials excavated from the Tidal Basin to be removed before any Part of the Quay or Pier Walls taken down.

XVI. Provided always, and be it enacted, That before any Part of the West Quay or Pier of the present Tidal Basin shall be removed or taken down, the Sand, Gravel, Stones, and other Rubbish necessary to be removed or excavated from or out of the Portion of Ground or Space intended to form the increased Tidal Basin, shall be removed and taken away (as far as can be done), and shall not be permitted to be washed into the Tideway of the River *Wear*, and shall be deposited on some convenient Place above High-water Mark.

To slope the Surface on the West Side of the Tidal Basin.

XVII. And whereas it is intended to enclose the Western Side of the said Tidal Basin by a Jetty of open Timber Framework, with a Wall of solid Masonry, to be erected to the Level of Neap Tide Low-water Mark, which is about Four Feet below the Surface of the present Bed or Soil of the said River, and it is necessary to prevent the Gravel and other Rubbish outside of the said intended Wall from being acted upon by the Tidal Waters of the said River; be it therefore enacted, That the said Company shall and they are hereby required to excavate and remove the Gravel, Stones, and other Rubbish outside of such intended Wall for the Distance of One hundred and fifty Feet, in order to form a Slope from the Coping of such Wall to the Surface of the Bed or Soil of the said River, at such last-mentioned Distance, and afterwards to keep the same in the same State and Condition, and to deposit all Rubbish and Materials to be excavated and removed therefrom, in manner as herein-before directed; and if the said Company shall

shall make any Neglect in so doing, the said Commissioners may excavate and remove such Gravel, Stones, and other Rubbish, and all subsequent Accumulations, and recover the Expences thereof from the Company: Provided always, that if the said Company shall carry the West Wall of the said Basin to the Level of the Potato Garth adjoining thereto, it shall not be necessary for the Company to make the Excavations, and remove the Gravel and other Materials for forming such Slope, and keep the same in Condition, and deposit all Rubbish and Materials in manner herein-before required, and in such Case the said Commissioners shall have no Power to do any of such Acts at the Expence of the Company.

For removing Obstructions to the Navigation of the River and Port arising from the Company's Works.

XVIII. And be it enacted, That if at any Time or Times during the Construction or after the Completion of any of the Works by this Act authorized the resident Engineer for the Time being to the said Commissioners shall report that the same or any of them, or any of the Proceedings of the Company in reference thereto, are prejudicial or injurious to the free Navigation of the River *Wear*, or the Port or Haven of *Sunderland*, it shall be lawful for the said Commissioners, if upon Examination of the Matter they shall think fit, to transmit such Report to the said Company, and to require them, by Writing under their Hands or under the Hands of any Five of them, to remove the Work or discontinue the Proceedings complained of, or to reconstruct such Work in a Manner to be approved of by the said Commissioners, and so as to cause no Obstruction or Injury to the free Navigation of the said River, Port, or Haven, or to the Shipping using the same; and if the Company shall be dissatisfied with the Report of the said Commissioners Engineer, or if they and the said Commissioners shall disagree as to the Mode in which the Work complained of shall be reconstructed, the said Report, and the Requisition of the Commissioners, and the Proposal of the Company for remedying the Obstruction or Grievance complained of, or the Grounds of their Objection to the said Report, shall be transmitted to the Commissioners of the Admiralty, who shall refer the same to some competent Engineer for his Opinion, Determination, and Award thereon, and such last-mentioned Engineer shall make full Inquiry into the Matter, and shall make such Award as shall seem to him just and proper; and in case he shall be of opinion that the Work complained of should be reconstructed, but in a Manner different from that proposed by the Company, he shall define specifically the Mode in which, in his Opinion, the said Work ought to be reconstructed, and his Award and Determination thereon shall be final and conclusive between the said Parties, and the Cost of such Reference and Inquiry shall be borne and paid by the said Commissioners, in case the said Engineer, so to be appointed by the Admiralty as aforesaid, shall decide that the Work or Proceedings complained of by them has caused no Obstruction or Injury to the Navigation of the said River, Port, or Haven otherwise by the said Dock Company.

XIX. And

Company to remove such Obstructions, and in case of default Commissioners may do so at their Expence.

XIX. And be it enacted, That the said Dock Company shall within Twenty-eight Days next after they shall have received the Report of the said Commissioners Engineer, and the Requisition of the Commissioners for removing or reconstructing such Work as aforesaid, or, as the Case may be, next after they shall have received the Award of the Engineer to whom the Matter shall have been referred by the Lords Commissioners of the Admiralty, requiring them to remove or reconstruct the said Work, commence and proceed with removing or reconstructing the said Work in the Manner approved of by the said Commissioners of the River *Wear*, or as the Case may be, approved of or directed by the Award of the said Engineer; and in case the said Company shall neglect or refuse, during the Period aforesaid, to commence or diligently proceed with the said Work in manner aforesaid, it shall be lawful for the said Commissioners of the River *Wear* to commence and execute and complete the same in manner aforesaid; and all the Costs, Charges, and Expences incurred by them in and about such Work shall be borne and paid by the said Company, and shall be recoverable from them by the said Commissioners by Action at Law in any of Her Majesty's Courts of Record at *Westminster*.

Reserving Rights of Commissioners.

XX. And be it enacted, That nothing in this Act contained shall extend to prejudice or derogate from any of the Rights and Privileges of the Commissioners of the River *Wear*, except so far as by this Act is expressly provided.

Explaining Provision of last-recited Act.

XXI. And whereas by the *Durham and Sunderland* Railway and *Wearmouth* Dock Purchases Act, 1846, it was amongst other things provided, that on Payment of the Purchase Monies for the said *Durham and Sunderland* Railway and the said *Wearmouth* Dock, and upon the Execution of a Deed of Conveyance as therein-after mentioned, and upon Publication of a Notice or Notices thereof respectively in the *London Gazette* and some Newspaper of the County of *Durham*, (of which Payment or Payments such Receipt or Receipts as therein provided should be sufficient Evidence,) the Powers of the said several recited Acts and Charter or Letters Patent respectively relating to the said *Durham and Sunderland* Railway and to the said *Wearmouth* Dock, or either of them, (as the Case might be,) should cease and determine: And whereas it was not intended to repeal the Powers relating to the said *Wearmouth* Dock, and such Notice in the *London Gazette* and a Newspaper of the County of *Durham* (as is required by the last above-recited Act) has not, as to the said *Wearmouth* Dock Purchase, yet been given, and such Powers are still in force, and Doubts may arise whether, under the Provisions of the same Act, after the giving of such Notice, and complying with the other Requisitions in the same Act contained, such Powers may not cease: Be it therefore enacted, That nothing in the said Act contained shall be held to repeal the said Provisions, but that from and after the Completion of the Purchase of the said *Wearmouth* Dock by having

having such Deed of Conveyance executed, and giving such Notice as aforesaid, all the Powers, Rights, Remedies, and Authorities given or granted to the said *Wearmouth* Dock Company in and by the said Charter or Letters Patent, and the said Act of Parliament relating to the said *Wearmouth* Dock recited in the said *Durham and Sunderland* and *Wearmouth* Dock Purchases Act, 1846, shall continue in as full Force and be exercised and enjoyed by the said *York and Newcastle* Railway Company in as full and ample a Manner to all Intents and Purposes as the same could have been at any Time before the Completion of such Purchase by the said *Wearmouth* Dock Company.

Railway to be subject to the Provisions of 1 & 2 Vict. c. 98., 3 & 4 Vict. c. 97., 5 & 6 Vict. c. 55., 7 & 8 Vict. c. 85., and 9 & 10 Vict. cc. 57. & 105.

XXII. And whereas an Act was passed in the Second Year of the Reign of Her present Majesty, intituled *An Act to provide for the Conveyance of the Mails by Railway;* and another Act was passed in the Fourth Year of the Reign of Her said Majesty, intituled *An Act for regulating Railways;* and another Act was passed in the Sixth Year of the Reign of Her said Majesty, intituled *An Act for the better Regulation of Railways, and for the Conveyance of Troops;* and another Act was passed in the Eighth Year of the Reign of Her said Majesty, intituled *An Act to attach certain Conditions to the Construction of future Railways authorized or to be authorized by any Act of the present or succeeding Sessions of Parliament, and for other Purposes in relation to Railways;* and another Act was passed in the last Session of Parliament, intituled *An Act for regulating the Gauge of Railways;* and another Act was passed in the said last Session of Parliament, intituled *An Act for constituting Commissioners of Railways;* be it enacted, That nothing in this Act contained shall be held to exempt the said *York and Newcastle* Railway Company from the Provisions of the said several Acts respectively, but that such Provisions shall be in force in respect of the said Company, so far as the same shall be applicable thereto.

Railway to be subject to Provisions of any future general Act.

XXIII. And be it enacted, That nothing herein contained shall be deemed or construed to exempt the *York and Newcastle* Railway Company from the Provisions of any general Act relating to Railways, now in force or which may hereafter pass during this or any future Session of Parliament, or from any future Revision or Alteration, under the Authority of Parliament, of the maximum Rates of Fares and Charges authorized by the said recited Acts or this Act.

Expences Act.

XXIV. And be it enacted, That the Expences of applying for and obtaining this Act and incident thereto shall be paid by the *York and Newcastle* Railway Company, *pari passu* with the Costs, Charges, and Expences of any other Act of Parliament passed in the present Session to which they may be liable, out of the first Monies that shall come to their Hands after the passing thereof.

Short Title. XXV. And be it enacted, That in citing this Act in other Acts of Parliament, and in legal Instruments and other Proceedings, it shall be sufficient to refer to and describe it by the Title of "The *York and Newcastle* Railway (*Wearmouth* Dock Enlargement Act), 1847."

Public Act. XXVI. 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 WILLIAM SPOTTISWOODE, Printers to the Queen's most Excellent Majesty. 1847.