



ANNO QUINTO & SEXTO

VICTORIÆ REGINÆ.

C A P. LV.

An Act for the better Regulation of Railways,
and for the Conveyance of Troops.

[30th July 1842.]

WHEREAS by an Act passed in the Third and Fourth Years of the Reign of Her present Majesty, intituled *An Act for regulating Railways*, Provision was made for the Supervision of Railways: And whereas it is expedient for the Safety of the Public to make further Provision for that Purpose; 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 this Act shall come into operation on the passing thereof.

3 & 4 Vict.
c. 97.

Commence-
ment of Act.

II. And be it enacted, That the Provisions of the said recited Act and of this Act shall be construed together as One Act, except so far as the Provisions of the said recited Act are hereby repealed, or shall be inconsistent with the Provisions of this Act.

Recited Act
and this Act
to be con-
strued to-
gether.

III. And whereas by the said recited Act it is enacted, that after Two Months from the passing of the said recited Act no Railway, or

Notice be-
fore opening
Railway
repealed.

Portion of any Railway, shall be opened for the public Conveyance of Passengers or Goods until One Calendar Month after Notice in Writing of the Intention of opening the same shall have been given, by the Company to whom such Railway shall belong, to the Lords of the Committee of Her Majesty's Privy Council appointed for Trade and Foreign Plantations : And whereas by the said recited Act it is also enacted, that if any Railway or Portion of any Railway shall be opened without due Notice as aforesaid, the Company to whom such Railway shall belong shall forfeit to Her Majesty the Sum of Twenty Pounds for every Day during which the same shall continue open, until the Expiration of One Calendar Month after the Company shall have given the like Notice as is herein-before required before the opening of the Railway, and any such Penalty may be recovered in any of Her Majesty's Courts of Record ; be it enacted, That the said recited Provisions of the said Act shall be and they are hereby repealed.

Notice of intended opening of Railway.

IV. And be it enacted, That no Railway or Portion of any Railway shall be opened for the public Conveyance of Passengers until One Calendar Month after Notice in writing of the Intention of opening the same shall have been given, by the Company to whom such Railway shall belong, to the Lords of the Committee of Her Majesty's Privy Council appointed for Trade and Foreign Plantations, and until Ten Days after Notice in Writing shall have been given by the said Company to the Lords of the said Committee of the Time when the said Railway or Portion of Railway will be, in their Opinion, sufficiently completed for the safe Conveyance of Passengers, and ready for Inspection.

If Railway opened without Notice, Company to forfeit 20*l*.

V. And be it enacted, That if any Railway or Portion of any Railway shall be opened without such Notice as aforesaid, the Company to whom such Railway shall belong shall forfeit to Her Majesty the Sum of Twenty Pounds for every Day during which the same shall continue open until the said Notices shall have been duly given and shall have expired ; and every such Penalty may be recovered in any of Her Majesty's Courts of Record, or in the Court of Session or in any of the Sheriffs Courts in *Scotland*.

Board of Trade empowered to postpone the opening.

VI. And be it enacted, That if the Officer or Officers appointed by the Lords of the said Committee to inspect any such Railway or Portion of Railway shall, after Inspection thereof, report in Writing to the Lords of the said Committee that, in his or their Opinion, the opening of the same would be attended with Danger to the Public using the same, by reason of the Incompleteness of the Works or permanent Way, or the Insufficiency of the Establishment for working such Railway, together with the Grounds of such Opinion, it shall be lawful for the Lords of the said Committee, and so from Time to Time, as often as such Officers shall after further Inspection thereof

thereof so report, to order and direct the Company to whom such Railway shall belong to postpone such opening for any Period not exceeding One Calendar Month at any One Time, until it shall appear to the Lords of the said Committee that such opening may take place without Danger to the Public; and if any such Railway, or any Portion thereof, shall be opened contrary to any such Order and Direction of the Lords of the said Committee, the Company to whom such Railway shall belong shall forfeit to Her Majesty the Sum of Twenty Pounds for every Day during which the same shall continue open contrary to such Order and Direction; and any such Penalty may be recovered in any of Her Majesty's Courts of Record, or in the Court of Session or in any of the Sheriffs Courts in *Scotland*: Provided always, that no such Order as aforesaid shall be binding upon any Railway Company unless therewith shall be delivered to the said Company a Copy of the Report of the Officer or Officers on which such Order shall be founded.

VII. And be it enacted, That every Railway Company shall, within Forty-eight Hours after the Occurrence upon the Railway belonging to such Company of any Accident attended with serious personal Injury to the Public using the same, give Notice thereof to the Lords of the said Committee; and if any Company shall wilfully omit to give such Notice every such Company shall forfeit to Her Majesty the Sum of Five Pounds for every Day during which the Omission to give the same shall continue; and every such Penalty may be recovered in any of Her Majesty's Courts of Record, or in the Court of Session or in any of the Sheriffs Courts in *Scotland*.

Notice of Accidents to be given to the Board of Trade.

VIII. And be it enacted, That the Lords of the said Committee may order and direct any Railway Company to make up and deliver to them Returns of serious Accidents occurring in the course of the public Traffic upon the Railway belonging to such Company, whether attended with personal Injury or not, in such Form and Manner as the Lords of the said Committee shall deem necessary and require for their Information with a view to the public Safety; and if any such Returns shall not be so delivered within Fourteen Days after the same shall have been required, every such Company shall forfeit to Her Majesty the Sum of Five Pounds for every Day during which the said Company shall neglect to deliver the same; and every such Penalty may be recovered in any of Her Majesty's Courts of Record or in the Courts of Session or in any of the Sheriffs Courts in *Scotland*: Provided always, that all such Returns shall be privileged Communications, and shall not be Evidence in any Court whatsoever.

Board of Trade empowered to direct Returns.

IX. And whereas by an Act passed in the Second and Third Years of Her present Majesty, and intituled *An Act to amend an Act of the Fifth and Sixth Years of His late Majesty King William the Fourth relating to Highways*, it was enacted, that whenever a Railway crosses or shall hereafter cross any Turnpike Road, or any other Highway or

Gates at level Crossings to be kept closed across the Road.
2 & 3 Vict. c. 45.

Statute Labour Road for Carts or Carriages in *Great Britain*, the Proprietors or Directors of the said Railway shall make and maintain good and sufficient Gates across each End of such Turnpike or other Road at each End of the said Crossings, and shall employ good and proper Persons to open and shut such Gates, so that the Persons, Carts, or Carriages passing along such Turnpike or other Road shall not be exposed to any Danger or Damage by the passing of any Carriages or Engines along the said Railway: And whereas by the Acts relating to certain Railways it is provided that such Gates shall be kept constantly closed across the Railway, except during the Time when Carriages or Engines passing along the Railway shall have to cross such Turnpike or other Road: And whereas Experience has shown that it is more conducive to Safety that such Gates should be kept closed across the Turnpike or other Road instead of across the Railway; be it therefore enacted, That, notwithstanding any thing to the contrary contained in any Act of Parliament heretofore passed, such Gates shall be kept constantly closed across each End of such Turnpike or other Roads, in lieu of across the Railway, except during the Time when Horses, Cattle, Carts, or Carriages passing along such Turnpike or other Road shall have to cross such Railway; and such Gates shall be of such Dimensions and so constructed as, when closed across the Ends of such Turnpike or other Roads, to fence in the Railway, and prevent Cattle or Horses passing along the Road from entering upon the Railway while the Gates are closed: Provided always, that it shall be lawful for the Lords of the said Committee, in any Case in which they are satisfied that it will be more conducive for the public Safety that the Gates at any level Crossing over any such Turnpike or other Road should be kept closed across the Railway, to order and direct that such Gates shall be kept so closed, instead of across the Road; and such Order of the Lords of the said Committee shall be a sufficient Authority for the Directors or Proprietors of any Railway Company to whom such Order is addressed for keeping such Gates closed, in the Manner directed by the Lords of the said Committee.

Proviso.

Railway Companies to erect and maintain Fences.

X. And whereas it is expedient that further Provision be made for the Safety of the Public in respect of the Fences of Railways; be it enacted, That all Railway Companies shall be under the same Liability of Obligation to erect, and to maintain and repair, good and sufficient Fences throughout the whole of their respective Lines, as they would have been if every Part of such Fences had been originally ordered to be made under an Order of Justices by virtue of the Provisions to that Effect in the Acts of Parliament relating to such Railways respectively.

Disputes between connecting Railways to be decided by the Board of Trade.

XI. And be it enacted, That where Two or more Railway Companies whose Railways have a common Terminus or a Portion of the same Line of Rails in common, or which form separate Portions of One continued Line of Railway Communication, shall not be able to agree

agree upon Arrangements for conducting at such common Terminus, or at the Point of Junction between them, their joint Traffic with Safety to the Public, it shall be lawful for the Lords of the said Committee, upon the Application of either of the Parties, to decide the Questions in dispute between them, so far as the same relate to the Safety of the Public, and to order and determine whether the whole or what Proportion of the Expences attending on such Arrangements shall be borne by either of the Parties respectively; and if any Railway Company shall refuse or wilfully neglect to obey any such Order made upon or against such Company by the Lords of the said Committee pursuant to this Provision, such Company shall forfeit to Her Majesty the Sum of Twenty Pounds *per Day* for every Day during which such Refusal or Neglect shall continue; and every such Penalty may be recovered in any of Her Majesty's Courts of Record, or in the Court of Session or in any of the Sheriffs Courts in *Scotland*.

XII. And whereas Powers of laying down Branch Lines opening into the Ledges or Flanches of Main Lines of Railway, and of entering upon and passing along such Main Lines with Carriages and Waggons drawn by locomotive Engines, or by other mechanical or animal Power, and also Powers to form Roads or Railways across existing Railways on a Level, have been given by various Acts relative to Railways to the Owners or Occupiers of Lands adjoining the Railway, and to other Persons with their Consent: And whereas Experience has shown that the Exercise of such Powers without Limitation would in many Cases be attended with Danger to the Public using such Railway; be it therefore enacted, That if, in the Case of any Railway on which Passengers are conveyed by Steam or other mechanical Power, it shall appear to the Lords of the said Committee that such Power as aforesaid cannot be so exercised without seriously endangering the public Safety, and that an Arrangement may be made with a due Regard to existing Rights of Property, it shall be lawful for the Lords of the said Committee to order and direct that such Powers shall only be exercised subject to such Conditions as the Lords of the said Committee shall direct: Provided always, that no Railway shall be considered a Passenger Railway if Two Thirds or more of the gross annual Revenue of such Railway shall be derived from the Carriage thereon of Coals, Ironstone, or other Metals or Minerals.

Powers of making Branch Communication with Railways, and of entering upon them with locomotive Engines, to be regulated by the Board of Trade.

Defining a Passenger Railway.

XIII. And whereas in many Cases Railways have been made to cross Turnpike Roads, Highways, and private Roads and Tramways on the Level, and the Companies to whom such Railways belong would in some Cases be willing, at their own Expence, to carry such Roads and Tramways over or under such Railways by means of a Bridge or Archway for the greater Safety of the Public, but have no Authority so to do: And whereas it would promote the public Safety if Railway Companies were enabled, under the Sanction and Authority of the Lords of the said Committee, to substitute Bridges

Alteration of dangerous level Crossings.

or Archways for such level Crossings as aforesaid; be it therefore enacted, That in all Cases where any Railway Company shall be willing, at their own Expence, to carry any Turnpike Road, Highway, or private Road or Tramway over or under their Railway by means of a Bridge or Arch in lieu of crossing the same on the Level, it shall be lawful for the Lords of the said Committee, on the Application of the said Company, and after hearing the several Parties interested, if it shall appear to the Lords of the said Committee that such level Crossing endangers the public Safety, and that the Proposal of the Company does not involve any Violation of existing Rights or Interests without adequate Compensation, to give the said Company full Power and Authority for removing the Danger at their own Expence, either by building a Bridge, or by such other Arrangement as the Nature of the Case shall require, subject to such Conditions as the Lords of the said Committee shall direct.

Power for
Railway
Companies
to enter
upon adjoining
Lands
to repair
Accidents.

XIV. And whereas it is essential for the public Safety, and also for the proper Maintenance of Railways in a State of Efficiency for the public Service, that Railway Companies should have the Power, in Case of Accidents or Slips happening or being apprehended to their Cuttings and Embankments or other Works, to enter upon the Lands adjoining their respective Railways, for the Purpose of repairing or renewing the same, and to do such Works as may be necessary for the Purpose; be it therefore enacted, That it shall be lawful for the Lords of the said Committee to empower any Railway Company, in case of any Accident or Slip happening or being apprehended to any Cutting, Embankment, or other Work belonging to them, to enter upon any Lands adjoining their Railway for the Purpose of repairing or preventing such Accident, and to do such Works as may be necessary for the Purpose: Provided always, that in case of Necessity it shall be lawful for any Railway Company to enter upon such Lands and do such Works as aforesaid, without having obtained the previous Sanction of the Lords of the said Committee; but in every such Case such Railway Company shall, within Forty-eight Hours after such Entry, make a Report to the Lords of the said Committee, specifying the Nature of such Accident or apprehended Accident, and of the Works necessary to be done, and such Powers shall cease and determine if the Lords of the said Committee shall, after considering the said Report, certify that their Exercise is not necessary for the public Safety: Provided also that such Works shall be as little injurious to the said adjoining Lands as the Nature of the Accident or apprehended Accident will admit of, and shall be executed with all possible Despatch; and full Compensation shall be made to the Owners and Occupiers of such Lands for the Loss or Injury or Inconvenience sustained by them respectively by reason of such Works, the Amount of which Compensation, in case of any Dispute about the same, shall be settled in the same Manner as Cases of disputed Compensation are directed to be settled by the Acts relating to the Railway on which such Works may become
necessary:

necessary : Provided always, that no Land shall be taken permanently by any Railway Company for such Works without a Certificate from the Lords of the said Committee as herein-after described.

XV. And whereas by various Acts relating to Railways compulsory Powers are given to Railway Companies of purchasing and taking Lands for the Construction of such Railways, and it is provided that such compulsory Powers shall not be exercised after the Expiration of certain limited Periods from the passing of the said Acts : And whereas it is sometimes found necessary for the public Safety that additional Land should be taken after the Expiration of such Periods for the Purpose of giving increased Width to the Embankments and Inclination to the Slopes of Railways, or for making Approaches to Bridges or Archways, or for doing such Works for the Repair or Prevention of Accidents as are herein-before described ; be it therefore enacted, That, in every Case in which the Lords of the said Committee shall certify that the public Safety requires additional Land to be taken by any Railway Company for such Purposes as aforesaid, the compulsory Powers of purchasing and taking Land contained in the Act or Acts of such Railway Company, together with all the Clauses and Provisions relative thereto, shall, as regards such Portion or Portions of Land as are mentioned in the Certificate of the Lords of the said Committee, revive and be in full Force for such further Period as shall be mentioned in such Certificate : Provided always, that any Railway Company applying to the Lords of the said Committee for any such Certificate shall give Fourteen Days Notice in writing, in the Manner prescribed by the Act or Acts of such Company for serving Notices on Land Owners, of their Intention to make such Application to all the Parties interested in such Lands, or such of them as shall be known to the Company, and shall state in such Notice the Particulars of the Lands required ; and if any of such Parties interested shall apply within the said Period of Fourteen Days to the Lords of the said Committee, such Party shall be heard by them before any such Certificate is given : Provided also, that where any such Application shall have been made by any Railway Company to the Lords of the said Committee, upon which Application any such Certificate shall have been refused, the Directors of such Railway Company shall, if required by the Lords of the said Committee, repay to the Party resisting such Application any Expences which he or they may have incurred in resisting such Application.

Compulsory Powers of taking Land for the Purposes of Railways extended, where thought necessary for Safety by the Board of Trade.

XVI. And whereas by various Acts relating to Railways it is enacted, that no Carriage or Waggon shall carry or bear at any One Time upon the Railway (including the Weight of such Carriage) more than Four Tons, and Experience has shown that it is in many Cases more conducive to Safety to use a heavier Description of Carriage or Waggon upon Railways than was originally contemplated ; be it

Carriages of greater Weight than Four Tons may be used on Railways.

therefore

therefore enacted, That every Provision contained in any such Act or Acts respectively limiting the Weight to be carried or borne at any One Time in any Carriage or Waggon upon any Railway (including the Weight of such Carriage or Waggon) to Four Tons shall be and the same is hereby repealed, and that, notwithstanding any thing in any Act contained, it shall be lawful for any Railway Company to use and to permit to be used upon any Railway Carriages or Waggons carrying or bearing (including the Weight of such Carriage) a greater Weight than Four Tons, subject to such Regulations as may from Time to Time be made and be in force pursuant to any Act or Acts of Parliament already or hereafter to be passed in that Behalf.

Punishment
of Persons
employed on
Railways
guilty of Mis-
conduct.

XVII. And whereas by the said recited Act for regulating Railways Provision is made for the Punishment of Servants of Railway Companies guilty of Misconduct, and it is expedient to extend such Provision; be it enacted, That it shall be lawful for any Officer or Agent of any Railway Company, or for any Special Constable duly appointed, and all such Persons as they may call to their Assistance, to seize and detain any Engine Driver, Waggon Driver, Guard, Porter, Servant, or other Person employed by the said or by any other Railway Company, or by any other Company or Person, in conducting Traffic upon the Railway belonging to the said Company, or in repairing and maintaining the Works of the said Railway, who shall be found drunk while so employed upon the said Railway, who shall commit any Offence against any of the Bye Laws, Rules, or Regulations of the said Company, or who shall wilfully, maliciously, or negligently do or omit to do any Act whereby the Life or Limb of any Person passing along or being upon such Railway or the Works thereof respectively shall be or might be injured or endangered, or whereby the Passage of any Engines, Carriages, or Trains shall be or might be obstructed or impeded, and to convey such Engine Driver, Guard, Porter, Servant, or other Person so offending, or any Person counselling, aiding, or assisting in such Offence, with all convenient Despatch before some Justice of the Peace for the Place within which such Offence shall be committed, without any other Warrant or Authority than this Act; and every such Person so offending, and every Person counselling, aiding, or assisting therein, as aforesaid, shall, when convicted upon the Oath of One or more credible Witness or Witnesses before such Justice as aforesaid (who is hereby authorized and required, upon Complaint to him made upon Oath, without Information in Writing, to take cognizance thereof, and to act summarily in the Premises), in the Discretion of such Justice, be imprisoned, with or without hard Labour, for any Term not exceeding Two Calendar Months, or, in the like Discretion of such Justice, shall for every such Offence forfeit to Her Majesty any Sum not exceeding Ten Pounds, and in default of Payment thereof shall be imprisoned, with or without hard Labour, as aforesaid, for such Period, not exceeding Two Calendar Months, as such Justice shall appoint, such

such Commitment to be determined on Payment of the Amount of the Penalty; and every such Penalty shall be returned to the next ensuing Court of Quarter Sessions in the usual Manner.

XVIII. And be it enacted, That in all Cases in which by the present or the said recited Act for regulating Railways it is provided that Offenders shall be taken before One or more Justices of the Peace for the Place within which the Offence was committed, it shall be lawful, in case the Offence is committed in *Scotland*, to take such Offenders before the Sheriff of the County, or other Magistrate acting for the District within which such Offence shall be committed, or where such Offender shall be apprehended, without any Warrant or Authority other than this Act; and such Sheriff or Magistrate is hereby empowered and required, on the Application of the Railway Company, to proceed in all respects as if the Words "Sheriff or Magistrate" had been substituted for the Word "Justice" in the said Acts, and shall be entitled summarily, and without a Jury, to execute the Powers thereby and hereby committed to him.

Sheriffs to have Jurisdiction in Scotland.

XIX. And be it enacted, That all Notices, Returns, and other Documents required by this Act or by the said recited Act to be given to or laid before the Lords of the said Committee shall be delivered at or sent by the Post to the Office of the Lords of the said Committee; and all Notices, Requisitions, Orders, Regulations, Appointments, Certificates, certified Copies, and other Documents in Writing, signed by One of the Secretaries of the said Committee, or by some Officer appointed for that Purpose by the Lords of the said Committee, and purporting to be made by the Lords of the said Committee, shall, for the Purposes of this and of the said recited Act, be deemed to have been made by the Lords of the said Committee, and that in the Absence of Evidence to the contrary, without Proof of the Authority of the Person signing the same or of the Signature thereto; and Service of the same at One of the terminal Offices of any Railway Company on the Secretary or Clerk of the said Company, or by sending the same by Post addressed to him at such Office, shall be deemed good Service upon the said Company.

Communications to and from the Board of Trade, and Service of Notices, &c. on Railway Company.

XX. And be it enacted, That whenever it shall be necessary to move any of the Officers or Soldiers of Her Majesty's Forces of the Line, Ordnance Corps, Marines, Militia, or the Police Force, by any Railway, the Directors thereof shall and are hereby required to permit such Forces respectively, with their Baggage, Stores, Arms, Ammunition, and other Necessaries and Things, to be conveyed at the usual Hours of starting, at such Prices or upon such Conditions as may from Time to Time be contracted for between the Secretary at War and such Railway Companies for the Conveyance of such Forces, on the Production of a Route or Order for their Conveyance signed by the proper Authorities.

Railway Companies shall convey Military and Police Forces at Prices to be settled.

Meaning of
the Words
"Railway"
and "Com-
pany."

XXI. And be it enacted, That whenever the Word "Railway" is used in this or in the said recited Act it shall be construed to apply to all Railways used or intended to be used for the Conveyance of Passengers in or upon Carriages drawn or impelled by the Power of Steam or by any other mechanical Power; and whenever the Word "Company" is used in this or in the said recited Act it shall be construed to extend to and include the Proprietors for the Time being of any such Railway, whether a Body Corporate or Individuals, and their Lessees, Executors, Administrators, and Assigns, unless in either of the above Cases the Subject or Context be repugnant to such Construction.

Application
of Penalties.

XXII. And be it enacted, That all Penalties under this Act, for the Application of which no special Provision is made, shall be recovered in the Name and for the Use of Her Majesty, in the Manner provided by the said recited Act for regulating Railways.

Act may be
repealed this
Session.

XXIII. And be it enacted, That this Act may be amended or repealed by any Act to be passed in the present Session of Parliament.

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