



• ANNO TERTIO & QUARTO

# VICTORIÆ REGINÆ.

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C A P. XCVII.

An Act for regulating Railways.

[10th August 1840.]

**W**HEREAS it is expedient for the Safety of the Public to provide for the due Supervision of Railways: Be it therefore 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, after Two Months from the passing of this Act, no Railway, or 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.

No Railway to be opened without Notice to the Board of Trade.

II. And be it 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

Penalty for opening Railways without Notice.

such Penalty may be recovered in any of Her Majesty's Courts of Record.

Returns to be made by Railway Companies.

III. And be it enacted, That the Lords of the said Committee may order and direct every Railway Company to make up and deliver to them Returns, according to a Form to be provided by the Lords of the said Committee, of the aggregate Traffic in Passengers, according to the several Classes, and of the aggregate Traffic in Cattle and Goods respectively, on the said Railway, as well as of all Accidents which shall have occurred thereon attended with personal Injury, and also a Table of all Tolls, Rates, and Charges from Time to Time levied on each Class Passengers, and on Cattle and Goods, conveyed on the said Railway; and if the Returns herein specified shall not be delivered within Thirty Days after the same shall have been required, every such Company shall forfeit to Her Majesty the Sum of Twenty Pounds for every Day during which the said Company shall wilfully neglect to deliver the same; and every such Penalty may be recovered in any of Her Majesty's Courts of Record: Provided always, that such Returns shall be required, in like Manner and at the same Time, from all the said Companies, unless the Lords of the said Committee shall specially exempt any of the said Companies, and shall enter the Grounds of such Exemption in the Minutes of their Proceedings.

Penalty for making false Returns.

IV. And be it enacted, That every Officer of any Company who shall wilfully make any false Return to the Lords of the said Committee shall be deemed guilty of a Misdemeanor.

Board of Trade may appoint Persons to inspect Railways.

V. And be it enacted, That it shall be lawful for the Lords of the said Committee, if and when they shall think fit, to authorize any proper Person or Persons to inspect any Railway; and it shall be lawful for every Person so authorized, at all reasonable Times, upon producing his Authority, if required, to enter upon and examine the said Railway, and the Stations, Works, and Buildings, and the Engines and Carriages belonging thereto: Provided always, that no Person shall be eligible to the Appointment as Inspector as aforesaid who shall within One Year of his Appointment have been a Director or have held any Office of Trust or Profit under any Railway Company.

Penalty on Persons obstructing Inspector.

VI. And be it enacted, That every Person wilfully obstructing any Person, duly authorized as aforesaid, in the Execution of his Duty, shall, on Conviction before a Justice of the Peace having Jurisdiction in the Place where the Offence shall have been committed, forfeit and pay for every such Offence any Sum not exceeding Ten Pounds; and on default of Payment of any Penalty so adjudged, immediately or within such Time as the said Justice of the Peace shall appoint, the same Justice, or any other Justice having Jurisdiction in the Place where the Offender shall be or reside, may commit the Offender to Prison for any Period not exceeding Three Calendar Months; 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.

VII. And

VII. And whereas many Railway Companies are or may hereafter be empowered by Act of Parliament to make Bye Laws, Orders, Rules, or Regulations, and to impose Penalties for the Enforcement thereof, upon Persons other than the Servants of the said Companies, and it is expedient that such Powers should be under proper Control ; be it enacted, That true Copies of all such Bye Laws, Orders, Rules, and Regulations made under any such Powers by every such Company before the passing of this Act, certified in such Manner as the Lords of the said Committee shall from Time to Time direct, shall, within Two Calendar Months after the passing of this Act, be laid before the Lords of the said Committee ; and that every such Bye Law, Order, Rule, or Regulation, not so laid before the Lords of the said Committee within the aforesaid Period, shall, from and after that Period, cease to have any Force or Effect, saving in so far as any Penalty may have been then already incurred under the same.

Copies of existing Bye Laws to be laid before the Board of Trade ;

otherwise to be void.

VIII. And be it enacted, That no such Bye Law, Order, Rule, or Regulation made under any such Power, and which shall not be in force at the Time of the passing of this Act, and no Order, Rule, or Regulation annulling any such existing Bye Law, Rule, Order, or Regulation which shall be made after the passing of this Act, shall have any Force or Effect until Two Calendar Months after a true Copy of such Bye Law, Order, Rule, or Regulation, certified as aforesaid, shall have been laid before the Lords of the said Committee, unless the Lords of the said Committee shall, before such Period, signify their Approbation thereof.

No future Bye Laws to be valid till Two Calendar Months after they have been laid before the Board of Trade.

IX. And be it enacted, That it shall be lawful for the Lords of the said Committee, at any Time either before or after any Bye Law, Order, Rule, or Regulation shall have been laid before them as aforesaid shall have come into operation, to notify to the Company who shall have made the same their Disallowance thereof, and, in case the same shall be in force at the Time of such Disallowance, the Time at which the same shall cease to be in force ; and no Bye Law, Order, Rule, or Regulation which shall be so disallowed shall have any Force or Effect whatsoever, or, if it shall be in force at the Time of such Disallowance, it shall cease to have any Force or Effect at the Time limited in the Notice of such Disallowance, saving in so far as any Penalty may have been then already incurred under the same.

Board of Trade may disallow Bye Laws.

X. And be it enacted, That so much of every Clause, Provision, and Enactment in any Act of Parliament heretofore passed as may require the Approval or Concurrence of any Justice of the Peace, Court of Quarter Sessions, or other Person or Persons, other than Members of the said Companies, to give Validity to any Bye Laws, Orders, Rules, or Regulations made by any such Company, shall be repealed.

Provisions of Railway Acts requiring Confirmation of Bye Laws repealed.

XI. And be it enacted, That whenever it shall appear to the Lords of the said Committee that any of the Provisions of the several Acts of Parliament regulating any of the said Companies, or the Provisions of this Act, have not been complied with on the Part of any of the

Board of Trade may direct Prosecutions to enforce Pro-said

visions of  
Railway  
Acts.

said Companies, or any of their Officers, and that it would be for the public Advantage that the due Performance of the same should be enforced, the Lords of the said Committee shall certify the same to Her Majesty's Attorney General for *England* or *Ireland*, or to the Lord Advocate for *Scotland*, as the Case may require; and thereupon the said Attorney General or Lord Advocate shall, by Information, or by Action, Bill, Complaint, Suit at Law or in Equity, or other legal Proceeding, as the Case may require, proceed to recover such Penalties and Forfeitures, or otherwise to enforce the due Performance of the said Provisions, by such Means as any Person aggrieved by such Non-compliance, or otherwise authorized to sue for such Penalties, might employ under the Provisions of the said Acts: Provided always, that no such Certificate as aforesaid shall be given by the Lords of the said Committee until Twenty-one Days after they shall have given Notice of their Intention to give the same to the Company against or in relation to whom they shall intend to give the same.

Notice to  
be given to  
the Com-  
pany.

Prosecutions  
to be under  
Sanction of  
Board of  
Trade, and  
within One  
Year after  
the Offence.

XII. And be it enacted, That no legal Proceedings shall be commenced under the Authority of the Lords of the said Committee against any Railway Company for any Offence against this Act, or any of the several Acts of Parliament relating to Railways, except upon such Certificate of the Lords of the said Committee as aforesaid, and within One Year after such Offence shall have been committed.

Punishment  
of Servants  
of Railway  
Companies  
guilty of  
Misconduct.

XIII. And 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, Guard, Porter, or other Servant in the Employ of such Company who shall be found drunk while employed upon the Railway, or commit any Offence against any of the Bye Laws, Rules, or Regulations of such Company, or 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 the Railway belonging to such Company, or the Works thereof respectively, shall be or might be injured or endangered, or whereby the Passage of any of the Engines, Carriages, or Trains shall be or might be obstructed or impeded, and to convey such Engine Driver, Guard, Porter, or other Servant 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 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 exceed-

ing Two Calendar Months, as such Justice shall appoint; 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.

XIV. Provided always, and be it enacted, That (if upon the Hearing of any such Complaint he shall think fit) it shall be lawful for such Justice, instead of deciding upon the Matter of Complaint summarily, to commit the Person or Persons charged with such Offence for Trial for the same at the Quarter Sessions for the County or Place wherein such Offence shall have been committed, and to order that any such Person so committed shall be imprisoned and detained in any of Her Majesty's Gaols or Houses of Correction in the said County or Place in the meantime, or to take Bail for his Appearance, with or without Sureties, in his Discretion; and every such Person so offending, and convicted before such Court of Quarter Sessions as aforesaid (which said Court is hereby required to take cognizance of and hear and determine such Complaint), shall be liable, in the Discretion of such Court, to be imprisoned, with or without hard Labour, for any Term not exceeding Two Years.

Justice of the Peace empowered to send any Case to be tried by the Quarter Sessions.

XV. And be it enacted, That from and after the passing of this Act every Person who shall wilfully do or cause to be done any thing in such Manner as to obstruct any Engine or Carriage using any Railway, or to endanger the Safety of Persons conveyed in or upon the same, or shall aid or assist therein, shall be guilty of a Misdemeanor, and being convicted thereof shall be liable, at the Discretion of the Court before which he shall have been convicted, to be imprisoned, with or without hard Labour, for any Term not exceeding Two Years.

Punishment of Persons obstructing Railway.

XVI. And be it enacted, That if any Person shall wilfully obstruct or impede any Officer or Agent of any Railway Company in the Execution of his Duty upon any Railway, or upon or in any of the Stations or other Works or Premises connected therewith, or if any Person shall wilfully trespass upon any Railway, or any of the Stations or other Works or Premises connected therewith, and shall refuse to quit the same upon Request to him made by any Officer or Agent of the said Company, every such Person so offending, and all others aiding or assisting therein, shall and may be seized and detained by any such Officer or Agent, or any Person whom he may call to his Assistance, until such Offender or Offenders can be conveniently taken before some Justice of the Peace for the County or Place wherein such Offence shall be committed, and when convicted before such Justice as aforesaid (who is hereby authorized and required, upon Complaint to him upon Oath, to take cognizance thereof, and to act summarily in the Premises,) shall, in the Discretion of such Justice, forfeit to Her Majesty any Sum not exceeding Five Pounds, and in default of Payment thereof shall or may be imprisoned for any Term not exceeding Two Calendar Months, such Imprisonment to be determined on Payment of the Amount of the Penalty.

For Punishment of Persons obstructing the Officers of any Railway Company, or trespassing upon any Railway.

XVII. And be it enacted, That no Proceeding to be had and taken in pursuance of this Act shall be quashed or vacated for Want of Form,

Proceedings not to be quashed for

Want of Form, or removed into the Superior Courts.

Form, or be removed by Certiorari, or by any other Writ or Process whatsoever, into any of Her Majesty's Courts of Record at *Westminster* or elsewhere, any Law or Statute to the contrary notwithstanding.

Repeal of all Provisions in Railway Acts that empower Two Justices to decide Disputes respecting the proper Places for Openings in the Ledges or Flanches of Railways.

XVIII. And whereas many Railway Companies are bound, by the Provisions of the Acts of Parliament by which they are incorporated or regulated, to make, at the Expence of the Owner or Occupier of Lands adjoining the Railway, Openings in the Ledges or Flanches thereof (except at certain Places on such Railway in the said Acts specified), for effecting Communications between such Railway and any Collateral or Branch Railway to be laid down over such Lands, and any Disagreement or Difference which shall arise as to the proper Places for making any such Openings in the Ledges or Flanches is by such Acts directed to be referred to the Decision of any Two Justices of the Peace within their respective Jurisdictions: And whereas it is expedient that so much of every Clause, Provision, and Enactment in any Act of Parliament heretofore passed, as gives to any Justice or Justices the Power of hearing or deciding upon any such Disagreement or Difference as to the proper Places for any such Openings in the Ledges or Flanches of any Railway, should be repealed; be it therefore enacted, That so much of every such Clause, Provision, and Enactment as aforesaid shall be repealed.

Board of Trade to determine such Disputes in future.

XIX. And be it enacted, That in case any Disagreement or Difference shall arise between any such Owner or Occupier, or other Persons, and any Railway Company, as to the proper Places for any such Openings in the Ledges or Flanches of any Railway (except at such Places as aforesaid), for the Purpose of such Communication, then the same shall be left to the Decision of the Lords of the said Committee, who are hereby empowered to hear and determine the same in such Way as they shall think fit, and their Determination shall be binding on all Parties.

Communications to the Board to be left at their Office.

Communications by the Board how to be authenticated.

What shall be deemed good Service on Railway Company.

XX. And be it enacted, That all Notices, Returns, and other Documents required by this 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, Appointments, Requisitions, Certificates, or 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 Act, be deemed to have been made by the Lords of the said Committee; and Service of the same upon any One or more of the Directors of any Railway Company, or on the Secretary or Clerk of the said Company, or by leaving the same with the Clerk or Officer at one of the Stations belonging to the said Company, shall be deemed good Service upon the said Company.

Meaning of the Words "Railway"

XXI. And be it enacted, That wherever the Word "Railway" is used in this Act it shall be construed to extend to all Railways constructed

constructed under the Powers of any Act of Parliament, and intended for the Conveyance of Passengers in or upon Carriages drawn or impelled by the Power of Steam or by any other mechanical Power; and wherever the Word "Company" is used in this 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 the Subject or Context be repugnant to such Construction.

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

Act may be  
repealed this  
Session.

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