



ANNO OCTAVO & NONO

VICTORIÆ REGINÆ.

C A P. XLII.

An Act to enable Canal Companies to become Carriers of Goods upon their Canals.

[21st July 1845.]

WHEREAS by divers Acts of Parliament Railway Companies have been empowered to convey upon their Railways all such Goods, Wares, Merchandize, Articles, Matters, and Things as may be offered to them for that Purpose, and to make such reasonable Charges for such Conveyance as they may from Time to Time determine upon: And whereas greater Competition for the public Advantage would be obtained if similar Powers were granted to Canal and Navigation Companies which have from Time to Time been incorporated or established under the Authority of Parliament; but such beneficial Purpose cannot be effected without the Authority of Parliament: 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 from and after the passing of this Act it shall be lawful for the Company of Proprietors, Trustees, or the Undertakers of any Canal, River, or Navigation, or their respective Committees, Directors, or Managers, or their Superintendents or other Agents by them duly authorized, to carry as Common Carriers for their own Profit upon their respective

Enabling Canal Companies to carry Goods on their Canals, or Canals communicating therewith.

Canals, Rivers, or Navigations, or upon any Railways or Tramways belonging thereto, and constructed under the Powers of their respective Acts of Parliament, or upon any other Canals, Rivers, or Navigations communicating therewith, either directly or by means of any intermediate Canal, River, or Navigation, all such Goods, Wares, Merchandize, Articles, Matters, and Things as may be intrusted to them for that Purpose, and for the better enabling them so to do to purchase, hire, and construct, and to use and employ, any Number of Boats, Barges, Vessels, Rafts, Carts, Waggons, Carriages, and other Conveniences, and also to establish and furnish such Haulage, Trackage, or other Means of drawing or propelling the same, either by Steam, Animal, or other Power, or for the Purpose of collecting, carrying, conveying, warehousing, and delivering such Goods, Wares, Merchandize, Articles, Matters, and Things, as to any such Company or Undertakers shall seem fit, and to make such reasonable Charges for such Conveyance, warehousing, Collection, and Delivery as they may respectively from Time to Time determine upon, in addition to the several Tolls or Dues which any such Company or Undertakers are now authorized to take for the Use of their said Canals, Navigations, or Railways.

Company to be subject to the Bye Laws of any other Company upon whose Canal they may act as Carriers.

II. Provided always, and be it enacted, That any such Company, Commissioners, Trustees, or Undertakers using or employing any Steam Power for propelling by means of Paddle Wheels, Boats, Barges, Vessels, or Rafts, upon any Canal, River, or Navigation, (other than their respective Canals, Rivers, and Navigations,) shall use and employ the same, subject to such Bye Laws, Rules, and Regulations touching the Construction, Dimensions, Power, Rate of Speed, and otherwise, of such Boats, Barges, Vessels, or Rafts so propelled by Steam as aforesaid as the Directors, Commissioners, or Undertakers of the Canals, Rivers, and Navigations respectively on which such last-mentioned Boats, Barges, Vessels, or Rafts shall be used and employed shall see fit to make and publish in that Behalf, and they are hereby authorized and empowered to make and publish such Bye Laws, Rules, and Regulations, and from Time to Time to add to or amend the same, as Need may require; but it is hereby expressly provided and enacted that any Bye Laws, Rules, and Regulations so to be made and published shall be made equally applicable to and binding on all Companies and Persons so using such last-mentioned Boats, Barges, or other Vessels.

Canal Companies may provide Boats and Power for hauling and tracking Vessels of other Persons.

III. And be it enacted, That it shall also be lawful for any such Company, Trustees, or Undertakers to purchase and provide and use Boats and other Vessels, and also Horses, Steam or other Power, and Machinery, for hauling, tracking, and towing, upon their own Canals, Rivers, or Navigations, or upon any other Canals, Rivers, or Navigations communicating therewith, either directly or by means of any intermediate Canal, River, or Navigation, and to employ a sufficient Number of competent Persons for those Purposes, and to demand and receive for the Use of such Boats, and for such hauling, tracking, or towing, such reasonable Hire or Remuneration as shall be fixed by the respective Committees, Directors, or Managers of such Canals or Navigations, or as shall be agreed upon between them and any Person desiring

desiring the Use of any such Boats or Vessels, or requiring such hauling, tracking, or towing.

IV. Provided always, and be it enacted, That all Charges to be made by any such Company for the Carriage of any such Goods, Wares, Merchandize, Articles, or Things, or for the Use of their Boats and other Vessels, or for the Supply of Haulage, Trackage, or other Power, shall be at all Times charged equally to all Persons, and after the same Rate, whether *per Mile*, or *per Ton per Mile*, or otherwise, in respect of all Goods, Wares, Merchandize, Articles, and Things of a like Description, and conveyed or propelled in a like Boat or Vessel at the same Rate of Speed, and passing along the same Portion of any such Canal or Navigation under the like Circumstances, and no Reduction or Advance in any of such Charges shall be made, either directly or indirectly, in favour of or against any particular Company or Person passing along or using, or sending Goods, Wares, Merchandize, Articles, or Things along the same Portion of any such Canal or Navigation under the like Circumstances.

Tolls, &c.
to be charged
equally to
all Persons.

V. And be it enacted, That any Canal or Navigation Company exercising the Powers by this Act granted shall have all the same Powers and Remedies for recovering any Sum or Sums of Money which shall or may become due and owing to such Company as Carriers, or for the Use of any Boats or Vessels, or for the Supply of any Haulage, Trackage, or other Power, by virtue of this Act, as are given to them respectively by their said several Acts of Parliament in reference to the Tolls and Duties thereby made payable, or they may, at their Option, sue for and recover such Charges, or any Part thereof, in any of the Superior Courts; and such Company may in like Manner be sued for any Loss sustained by any Person or Persons employing the said Company as Carriers, or for any Neglect or Misconduct of such Company or their Servants in respect of their Conduct as Carriers by virtue of this Act; and such Company may prosecute any Indictment or other Proceeding at Law in respect of any Offence arising or being committed in the course of such carrying or other Proceeding under this Act; and it shall be sufficient if any Goods or other Things which are set out in any Indictment shall be described and laid to be the Property of the said Company.

Company
may sue and
be sued as
Carriers, and
may prefer
Indictments.

VI. Provided always, and be it enacted, That nothing herein contained shall in any Case extend to charge or make liable any such Company further or in any other Case than where, according to the Laws of this Realm for the Time being, Common Carriers would be liable; nor shall any thing herein contained extend to deprive such Company of any Protection or Privilege which either now or at any Time hereafter Common Carriers have or may be entitled to, but such Company shall from Time to Time and at all Times have and be entitled to the Benefit of every such Protection and Privilege.

Provisions in
force relating
to Common
Carriers to
apply to such
Companies.

VII. And whereas, in order to facilitate the Conveyance of Goods and Merchandize and other Matters and Things in manner aforesaid, it is expedient that Canal and Navigation Companies should be empowered

Companies
empowered
to contract
with other
empowered

Canal Companies.

empowered to enter into Arrangements with each other in the way that Railway Companies are authorized, so as to avoid the Necessity for a Change of Boats and other Delays arising from a Diversity of Interest; be it enacted, That, notwithstanding any thing in this Act or in any of the said Acts for establishing or incorporating the said Companies contained, it shall be lawful for any such Canal or Navigation Company as aforesaid and they are hereby empowered from Time to Time to make and enter into any Contract or Agreement with any other Canal or Navigation Company, or the Commissioners or Undertakers thereof respectively, (and which Contract or Agreement such other Company is hereby authorized to enter into,) either for the Division or Apportionment of Tolls, Dues, and Charges, or for the Passage over or along their respective Canals or Navigations, or any Branches thereof, or any Railways or Tramways connected therewith and belonging thereto as aforesaid, of any Boats, Barges, or other Vessels, or of any Carriages or Trucks drawn or propelled by Steam, Animal, or other Power, of or belonging to any other Company, or which shall pass along any other Line of Canal, Navigation, or Railway, or for the Passage over or along any other Line of Canal, Navigation, or Railway of any such Boats, Barges, or other Vessels, Carriages, or Trucks drawn or propelled as aforesaid, which shall belong to any such Company, or which shall pass along their Line of Canal, Navigation, or Railway, upon the Payment of such Tolls and Duties, and under such Conditions and Restrictions, as may be deemed advisable and may be mutually agreed upon, and also to enter into any other Contract with any other Canal or Navigation Company that may be deemed advisable; and any such Contract may contain such Covenants, Clauses, Conditions, and Agreements as the contracting Parties may think advisable and mutually agree upon.

Canal Companies empowered to lease their Tolls.

VIII. And be it enacted, That it shall be lawful for any such Canal or Navigation Company, from Time to Time, by Lease, to take effect in possession within Six Months from the letting thereof, to let the Tolls and Duties or any Part thereof, upon the whole or any Part of any such Canal or Navigation, or of any such Railways or Tramways, to any other Canal or Navigation Company, (and which Lease such other Canal or Navigation Company is hereby authorized to accept and enter into,) for any Period not exceeding Twenty-one Years from the Commencement of any such Lease: Provided always, that no such letting shall take place unless public Notice of the Intention to let such Tolls, or the Part thereof intended to be let, shall have been given by the Company proposing to let the same, by Advertisement, at least Fourteen Days prior to the Meeting of the Directors or Managers at which it shall be intended to let such Tolls.

Lessees to be deemed Collectors.

IX. And be it enacted, That during the Continuance of any such Lease the respective Lessees named therein, and also all Persons appointed by them to collect the Tolls so let, shall be deemed Collectors of the Tolls so let, and they shall have the same Powers to collect and recover such Tolls, and be subject to the same Rules, Duties, and Penalties in reference thereto, as if they had been appointed for that Purpose by the Company demising the same.

X. And be it enacted, That if any such Lease shall become void or voidable, according to any Stipulations therein contained for that Purpose, by reason of the Failure on the Part of the Lessee to comply with any of the Terms of such Lease, or if all or any Part of the Rent thereby reserved shall be in arrear or unpaid for Twenty-one Days after the same shall become payable, then, upon Application made by the Company who shall have demised the same, to a Justice, it shall be lawful for such Justice to order any Constable, with proper Assistance, to enter upon any Toll House, Dwelling House, Office, Weighing Machine, or other Building, with the Appurtenances, belonging to the Lessors, and remove from the same the Lessee or Collector or other Person found therein, together with his Goods, and take possession thereof and of all Property found therein belonging to the Lessors, and deliver the same to them or any Person appointed by them for that Purpose.

Lessee making default to be removed.

XI. And be it enacted, That upon such Possession being obtained it shall be lawful for the Company having made such Demise to determine the Lease (if any) previously subsisting, and the same shall accordingly be utterly void, except as to the Remedies of the Lessors for Payment of the Rent due, or in respect of any unperformed or broken Obligations or Conditions on the Lessee's Part, all which Remedies shall remain in full Force; and in every such Case, either during such Proceedings or on the Termination thereof, the Company may again let the Tolls to the same or any other Person, or cause them to be collected in the same Manner as if no such former Lease had been made relative thereto.

Power to re-let Tolls.

XII. Provided always, and be it enacted, That this Act shall not apply to any Canal or Navigation the Property wherein is vested in Shareholders, nor shall the Powers of leasing herein-before contained be exercised by any such Canal or Navigation Company, until a Meeting of the Shareholders thereof shall have been duly convened in such Manner as Meetings are by their respective Acts of Incorporation or Settlement required to be called or are usually called, and it shall have been determined by a Majority of Two Thirds of the Votes of the Shareholders in such Meeting assembled, either in Person or by Proxy, where by such Acts of Incorporation or Settlement voting by Proxy is allowed, to adopt the Powers and Provisions hereby granted, or such and so many of them as it shall at such Meeting be determined shall be adopted, or to grant or accept any such Lease, nor to any Canal or Navigation the Property wherein is vested in One or more Owner or Owners, Proprietor or Proprietors, unless the Owner or Owners, Proprietor or Proprietors thereof shall determine to adopt the Powers and Provisions hereby granted, nor in either Case until public Notice of any such Determination and Intention shall have been inserted in the *London Gazette* in respect of Canals or Navigations in *England* or *Wales*, in the *Edinburgh Gazette* in respect of Canals or Navigations in *Scotland*, and in the *Dublin Gazette* in respect of Canals or Navigations in *Ireland*, and in some Newspaper circulating in the County or Counties wherein such Canal or Navigation, or some Part thereof, shall pass, One Month at the least previously to the Exercise of any such Powers, whereupon,

Act not to apply to Canals vested in Shareholders, until approved of at a Meeting, or in other Cases by Proprietors, and Notices inserted in Gazettes, &c.

whereupon, or immediately after the Expiration of such Notice, every such Company, or their respective Committees, Directors, or Managers, or their Agents by them duly authorized in manner aforesaid, may from Time to Time put in force and exercise the said Powers or any of them, in the Manner by this Act authorized.

Act not to
exempt
Canal Com-
panies from
any general
Act.

XIII. And be it enacted, That nothing herein contained shall be construed to exempt any Canal or Navigation Company who shall adopt the Powers of this Act from the Operation of any general Act regulating the Manner of charging Tolls and other Charges upon Canals or Navigations in respect of Passengers, Goods, Animals, Articles, and Things of a like Description, which may be passed in the course of any future Session of Parliament.

Alteration of
Act.

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

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