ANNO VICESIMO QUARTO & VICESIMO QUINTO

VICTORIÆ REGINÆ.

****

C A P. LXX.

An Act for regulating the Use of Locomotives on Turnpike and other Roads, and the Tolls to be levied on such Locomotives and on the Waggons and Carriages drawn or propelled by the same.

[1st *August* 1861.]

WHEREAS the Use of Locomotives is likely to become common on Turnpike and other Roads: And whereas the General Turnpike and Highway Acts and many of the Local Turnpike Acts do not contain any Provisions for regulating the Use of Locomotives on the Roads to which they respectively apply, nor do they authorize the levying of Tolls upon or in respect of any Locomotive using the Roads, or upon or in respect of any Waggon or Carriage drawn by Locomotives: And whereas under and by virtue of certain Local Turnpike Acts Tolls may be levied upon Locomotives and other Engines drawing or propelling Waggons or Carriages, or upon the Waggons or Carriages so drawn or propelled, which are or may be prohibitory of the Use of Locomotives on the Roads to which the said Acts respectively apply: And whereas the Weighing Clauses in the General Turnpike Acts have not been framed in anticipation of Traffic by Locomotives, and are in many

respects ill adapted to the profitable carrying of Goods, or to the levying of just and adequate Tolls upon Waggons or Carriages drawn by Locomotives: And whereas it is desirable that the Use of Locomotives on Turnpike and other Roads should be regulated by uniform general Provisions, and that Tolls should be levied upon such Locomotives and the Waggons or Carriages drawn by such Locomotives upon Turnpike Roads: 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, as follows:

Scale of Tolls to be taken after passing of this Act.

1. From and after the passing of this Act, all Trustees, Corporations, Commissioners, and other Persons acting under and in execution of any existing General or Local Turnpike Road Act or Public Bridge Act shall demand and take Tolls not exceeding the Tolls following; that is to say,

For every Locomotive propelled by any Power, containing within itself the Machinery for its own Propulsion, such a Toll for every Two Tons Weight or fractional Part of every Two Tons Weight that such Locomotive shall weigh as shall be equal to the Toll or Tolls by their respective Acts made payable for every Horse drawing any Waggon, Wain, Cart, or Carriage with Wheels of a Width similar to those of such Locomotive; or in the Case of a Toll by any such Act made payable being charged on the Horse or Horses drawing any such Waggon, Wain, Cart, or Carriage, without reference to the Width of the Wheels thereof, then such a Toll for every Two Tons or fractional Part thereof that such Locomotive shall weigh as shall be equal to One Horse drawing such Waggon, Wain, Cart, or Carriage; which Tolls respectively shall be payable so often as Tolls made payable as aforesaid for such Waggon, Wain, Cart, or Carriage shall be payable at the same Gate: Provided always, that if the Wheels of such Locomotive shall rest upon any Shoe or other Bearing the Surface of which shall bear upon the Ground so as to prevent the Wheels coming in contact therewith, such and the same Tolls only shall be demanded and payable as if the Wheels thereof were of a Width similar to such Shoe or Bearing:

For every Waggon, Wain, Cart, or Carriage drawn or propelled by any Locomotive, for each Pair of Wheels thereof such a Toll as shall not exceed the Toll by their respective Acts made payable for Two Horses drawing any Waggon, Wain, Cart, or Carriage with Wheels of a similar Width, and for every additional Wheel thereof One Half Toll in addition to the said Toll;

Toll; or in the Case of a Toll by any such Act made payable being charged on the Horse or Horses drawing any such Waggon, Wain, Cart, or Carriage, without reference to the Width of the Wheels thereof, then such a Toll for each Wheel as shall be equal to One Horse drawing such Waggon, Wain, Cart, or Carriage; which said Toll or Tolls shall be payable so often as the Toll made payable as aforesaid for such Waggon, Wain, Cart, or Carriage drawn by Horses shall be payable at the same Gate:

Provided always, that in every Case where the Wheels of any Waggon, Wain, Cart, or Carriage shall not all be cylindrical, as described in the Act of the Third Year of *George* the Fourth, Chapter One hundred and twenty-six, Section Nine, the Toll payable in respect thereof shall be One Half more.

Repeal of former Enactments as to Tolls to be taken for Locomotives.

2. All Clauses and Provisions in any Local or General Turnpike Road Act or public Bridge Act authorizing Tolls to be demanded or taken upon Locomotives or Carriages drawn by Steam or any other than Animal Power, different to the Tolls herein provided for, shall, so far as the same relate to such Tolls, be and the same are hereby repealed: Provided always, that this Enactment shall not be deemed or construed to extend to any Tolls authorized to be taken in respect of any private Roads or private Bridges, or to the Roads comprised in "The *Commercial* Roads Continuation Act, 1849."

As to the Size and Weight of Locomotives.

3. Every Locomotive propelled by Steam or any other than Animal Power, not drawing any Carriage, and not exceeding in Weight Three Tons, shall have the Tires of the Wheels thereof not less than Three Inches in Width, and for every Ton or fractional Part thereof additional Weight the Tires of the Wheels thereof shall be increased One Inch in Width; and every Locomotive drawing any Waggon or Carriage shall have the Tires of the Wheels thereof not less than Nine Inches in Width; but no Locomotive shall exceed Seven Feet in Width or Twelve Tons in Weight, except as herein-after provided; and the Wheels of every Locomotive shall be cylindrical and smooth soled, or used with Shoes or other bearing Surface of a Width not less than Nine Inches; and the Owner or Owners of any Locomotive used contrary to the foregoing Provisions shall for every such Offence, on summary Conviction, forfeit any Sum not exceeding Five Pounds: Provided always, that whereas it may be desirable that Locomotives of a greater Width than Seven Feet and of a greater Weight than Twelve Tons should be allowed to be used under certain Circumstances, any Person desiring to use any such Locomotive on any Street or public Highway within the City of *London* or the Liberties thereof, or within the Limits of the Metropolis as defined by the Act of the Eighteenth and Nineteenth Years of Her present Majesty, for the better

better Local Management of the Metropolis, or within any other City or Municipal or Parliamentary Borough, or on any Turnpike Road or other public Highway, shall apply within the City of *London* to the Lord Mayor for the Time being, or within any Municipal or Parliamentary Borough in *Scotland* to the Lord Provost or other Chief Magistrate thereof, and in other Places to the Corporation, Commissioner, Trustees, and Surveyors, or other Persons having the Charge of any such Street, Highway, Turnpike, or other Road over which it may be proposed to work such Locomotive, for Permission to use the same; and the said Lord Mayor, the said Lord Provost or Chief Magistrate, or such Corporation, Commissioners, Trustees, Surveyor, and other Persons as aforesaid, shall have Power to authorize such Locomotive to be used on such Road or Roads, or Part of any Road or Roads, and under such Condition or Conditions as to them may appear desirable; but in the Case of the Surveyor or Surveyors of any Highway in *England* no such Permission shall be valid without also it be approved by the Justices acting in Petty Sessions for any Petty Sessional Division within which it is proposed to use such Locomotive.

As to the Weight on each Pair of Wheels.

4. It shall not be lawful for any Waggon, Wain, Cart, or other Carriage so drawn or propelled as aforesaid, not having cylindrical Wheels, to carry any greater Weight than is permitted in such Waggon, Wain, Cart, or Carriage by the General Turnpike Act; and it shall not be lawful for any Waggon, Wain, Cart, or other Carriage having cylindrical Wheels to carry, over or above the Weight of the Waggon, Wain, Cart, or Carriage, any greater Weight than One Ton and a Half for each Pair of Wheels, unless the Fellies, Tires, or Shoes are Four Inches or more in Breadth; nor to carry a greater Weight than Two Tons for each Pair of Wheels, unless the Fellies, Tires, or Shoes are Six Inches or more in Breadth; nor to carry a greater Weight than Three Tons for each Pair of Wheels, unless the Fellies, Tires, or Shoes are Eight Inches or more in Breadth; and for every single Wheel One Half of that permitted to be carried on a Pair of Wheels; nor in any Case to carry a greater Weight than Four Tons on each Pair of Wheels, or Two Tons on each Wheel; but if such Waggons, Wains, or other Carriages are built and constructed with Springs upon each Axle, then they shall be allowed to carry One Sixth more Weight in addition to the above-mentioned Weights upon each Pair of Wheels: Provided always, that the Regulation of Weight herein mentioned and provided shall not extend to any Waggon, Wain, Cart, or other Carriage carrying only One Tree or One Log of Timber, or One Block of Stone, or One Cable or Rope, or One Block, Plate, Roll, or Vessel of Iron or other Metal, or compounded of any Two or more Metals cast, wrought, or united in One Piece.

5. In

Power to Secretary of State to prohibit the Use of Locomotives destructive to Highways or dangerous to the Public.

5. In case it appear to One of Her Majesty's Principal Secretaries of State that the Use of any particular Description of Locomotive causes excessive Wear and Tear of the Highways, or is dangerous or inconvenient to the Public, or that the Use of Locomotives generally or of any particular Description of Locomotive is dangerous or inconvenient to the Public in certain Districts or Places, it shall be lawful for such Secretary of State from Time to Time, by Order under his Hand, to prohibit the Use of any Kind or Description of Locomotive specified in such Order on any Highway whatsoever, or to prohibit the Use of Locomotives, or any specified Kind or Description thereof, on the Highways within any Place, District, or Limit mentioned in such Order, or otherwise to restrict the Use of Locomotives as Circumstances may appear to him to require, and from Time to Time, by Order made as aforesaid, to revoke or alter any such Order previously made; and every Order made under this Enactment shall be published in the *London Gazette*, and any Person using any Locomotive contrary to any such Order shall for every such Offence, on summary Conviction thereof before Two Justices, forfeit any Sum not exceeding Ten Pounds.

Use of Locomotives restricted over Suspension and other Bridges.

6. It shall not be lawful for the Owner or Driver of any Locomotive to drive it over any Suspension Bridge nor over any Bridge on which a conspicuous Notice has been placed, by the Authority of the Surveyor or Persons liable to the Repair of the Bridge, that the Bridge is insufficient to carry Weights beyond the ordinary Traffic of the District, without previously obtaining the Consent of the Surveyor of the Road or Bridgemaster under whose Charge such Bridge shall be for the Time being, or of the Persons liable to the Repair of such Bridge; and in case such Owner of the Locomotive and Surveyor of the Road or Bridge, or Bridgemaster, shall differ in opinion as to the Sufficiency of any Bridge to sustain the Transit of the Locomotive, then the Question shall be determined by an Officer to be appointed, on the Application of either Party, by One of Her Majesty's Principal Secretaries of State, whose Certificate of Sufficiency of such Bridge shall entitle the Owner of the Locomotive to take the same over such Bridge.

Damage caused by Locomotives to Bridges to be made good by Owners.

7. Where any Turnpike or other Roads, upon which Locomotives are or hereafter may be used, pass or are or shall be carried over or across any Stream or Watercourse, navigable River, Canal, or Railway, by means of any Bridge or Arch (whether stationary or moveable), and such Bridge or Arch, or any of the Walls, Buttresses, or Supports thereof, shall be damaged by reason of any Locomotive or any Waggon or Carriage drawn or propelled by or together with a Locomotive passing over the same or coming into Contact therewith,

with, none of the Proprietors, Undertakers, Directors, Conservators, Trustees, Commissioners, or other Person interested in or having the Charge of such navigable River, Canal, or Railway, or the Tolls thereof, or of such Bridge or Arch, shall be liable to repair or make good any Damage so to be occasioned, or to make Compensation to any Person for any Obstruction, Interruption, or Delay which may arise therefrom to the Use of such Bridge or Arch, navigable River, Canal, or Railway, but every such Damage shall be forthwith repaired to the Satisfaction of the Proprietors, Undertakers, Directors, Conservators, Trustees, Commissioners, or other Persons as aforesaid respectively interested in or having the Charge of such River, Canal, or Railway, or the Tolls thereof, or of such Bridge or Arch, by and at the Expense of the Owner or Owners or the Person or Persons having the Charge of such Locomotive at the Time of the happening of such Damage; and all such Owner and Owners, Person and Persons, having the Charge of such Locomotive as aforesaid, shall also be liable, both jointly and severally, to reimburse and make good, as well to the Proprietors, Undertakers, Directors, Conservators, Trustees, Commissioners, and other Persons interested in or having the Charge of any such navigable River, Canal, or Railway, or the Tolls thereof, or of such Bridge or Arch, as to all Persons navigating on or using, or who but for such Obstruction, Interruption, or Delay would have navigated on or used the same, all Losses and Expenses which they or any of them may sustain or incur by reason of any such Obstruction, Interruption, or Delay, such Losses and Expenses to be recoverable by Action at Law, which Action, in case of such Proprietors, Undertakers, Directors, Conservators, Trustees, Commissioners, or other Persons so interested as aforesaid, may be brought in the Name or Names of their Agent or Agents, Clerk or Clerks for the Time being, or by any Person or Persons legally authorized to act in their Behalf.

Locomotives propelled by Steam to consume their own Smoke.

8. Every Locomotive propelled by Steam or any other than Animal Power to be used on any Turnpike Road or public Highway shall be constructed on the Principle of consuming and so as to consume its own Smoke; and any Person using any Locomotive not so consuming its own Smoke shall, on Conviction thereof before any Two of Her Majesty's Justices of the Peace, forfeit any Sum not exceeding Five Pounds for every Day during which such Locomotive shall be used on any such Turnpike Road or public Highway.

As to the Number of Persons in charge of Locomotive and Waggons.

9. It shall not be lawful for any Owner of such Locomotive, either in his own Person or by his Servants, to use any such Locomotive, Waggon, or Carriage on the Turnpike or other Roads, except there be at the least Two Persons to drive or conduct such Locomotive,

Locomotive, and if more than Two such Waggons or Carriages be attached to such Locomotive, One Person to take charge of such Waggons and Carriages; and any Person in charge of such Locomotive shall provide Two efficient Lights, to be affixed conspicuously, One at each Side, on the Front of the same, between the Hours of One Hour after Sunset and One Hour before Sunrise; and any Person acting contrary hereto shall for every such Offence, on summary Conviction thereof before Two Justices, forfeit any Sum not exceeding Five Pounds.

Lights to be used at Night.

10. All Waggons, Wains, Carts, or Carriages, as herein-before described, drawn by any Locomotive, and loaded with any Materials such as are now exempt from Toll under the Provisions of any General or Local Act, shall be entitled to the same Exemption as they would be if drawn by Animal Power.

Exemption from Tolls of Waggons, &c. now exempt under any General or Local Act.

11. It shall not be lawful to drive any Locomotive along any Turnpike Road or public Highway at a greater Speed than Ten Miles an Hour, or through any City, Town, or Village at a greater Speed than Five Miles an Hour; and any Person acting contrary hereto shall for every such Offence, on summary Conviction thereof before Two Justices, if he be not the Owner of such Locomotive, forfeit any Sum not exceeding Five Pounds, and if he be the Owner thereof, shall forfeit any Sum not exceeding Ten Pounds.

Limit of Speed of Locomotives on public Highways, &c.

12. All the Clauses and Provisions of any General or Local Acts relating to Turnpike Roads or Highways shall, so far as the same are not expressly altered or repealed by or are not inconsistent with the Provisions of this Act, apply to all Locomotives propelled by other than Animal Power, and to all Waggons, Wains, Carts, and Carriages of any other Description drawn by such Locomotive, and to the Owners, Drivers, and Attendants thereof, in like Manner as if drawn by Animal Power: Provided always, that the Weight of every Locomotive, and the Name of the Owner or Owners thereof, shall be conspicuously and legibly affixed thereon; and any Owner not having affixed such Weight and such Name shall, upon Conviction thereof before Two Justices, forfeit any Sum not exceeding Five Pounds; and any Owner who shall fraudulently affix thereon any incorrect Weight shall, upon Conviction thereof, forfeit any Sum not exceeding Ten Pounds.

Provisions of General Acts relating to Turnpike Roads to apply to Locomotives.

13. Nothing in this Act contained shall authorize any Person to use upon a Highway a Locomotive Engine which shall be so constructed or used as to cause a public or private Nuisance; and every such Person so using such Engine shall, notwithstanding this Act, be liable

Right of Action in case of Nuisance.

liable to an Indictment or Action, as the Case may be, for such Use, where, but for the passing of this Act, such Indictment or Action could be maintained.

Short Title.

14. This Act may be cited as the "Locomotive Act, 1861."

Extent of Act.

15. This Act shall extend to *Great Britain*.

LONDON:
Printed by GEORGE EDWARD EYRE and WILLIAM SPOTTISWOODE,
Printers to the Queen's most Excellent Majesty. 1861.