

## Legal and medico-legal aspects of the Tay Bridge

### L12. Relevant legislation

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#### A. General (public) legislation for application throughout Britain

With the growth of the railways there was a need for relevant legislation of general application across all railway companies and their works. One such major legislative provision included accidents and the authority established inquiries into accidents, and formal investigation in serious cases. It was an enabling power that has since been repealed in the modern era. The authority in law for the Court of Inquiry after the Tay Bridge disaster of 1879 was contained in the following Act:

1. Railway Regulation Amendment Act 1871 (34 & 35 Vict. c. 78).

‘Section 7

Inquiry into accidents, and formal investigation in serious cases.

The Board of Trade may direct an inquiry to be made by an inspector into the cause of any accident, of which notice is for the time being required by or in pursuance of this Act to be sent to the Board of Trade; and where it appears to the Board of Trade, either before or after the commencement of any such inquiry, that a more formal investigation of the accident, and of the causes thereof, and of the circumstances attending the same, is expedient, the Board of Trade may, by order, direct such investigation to be held, and with respect to such investigation the following provisions shall have effect:

(1) The Board of Trade may, by the same or any subsequent order, appoint any person or persons possessing legal or special knowledge to assist an inspector in holding the same, or may direct the county court judge, stipendiary magistrate, metropolitan police magistrate, or other person or persons named in the same or any subsequent order, to hold the same with the assistance of an inspector or any other assessor or assessors named in the order :

(2) The persons holding any such formal investigation (hereinafter referred to as the court) shall hold the same in open court in such manner and under such conditions as they may think most effectual for ascertaining the causes and circumstances of the accident, and enabling them to make the report in this section mentioned :

(3) The court shall have for the purpose of such investigation all the powers of a court of summary jurisdiction when acting as a court in the exercise of its ordinary jurisdiction, and all the powers of an inspector under this Act, and in addition the following powers; namely,

- (a) They may enter and inspect any place or building the entry or inspection whereof appears to them requisite for the said purpose :
- (b) They may by summons under their hands require the attendance of all such persons as they think fit to call before them and examine for the said purpose, and may for such purpose require answers or returns to such inquiries as they think fit to make ;
- (c) They may require and enforce the production of all books, papers, and documents which they consider important for the said purpose :
- (d) They may administer an oath, and require any person examined to make and sign a declaration of the truth of the statements made by him in his examination.
- (e) Every person so summoned not being a person engaged in the management, service, or employment of a company, or otherwise connected with a company, shall be allowed such expenses as would be allowed to a witness attending on subpoena before a court of record; and in case of dispute as to the amount to be allowed, the same shall be referred by the court to a master of one of the superior courts, who, on request under the hands of the members of the court, shall ascertain and certify the proper amount of such expenses :

(4) The inspector making an inquiry into any accident and the court holding an investigation of any accident shall make a report to the Board of Trade stating the causes of the accident and all the circumstances attending the same, and any observations thereon or on the evidence or on any matters arising out of the investigation which they think right to make to the Board of Trade, and the Board of Trade shall cause every such report to be made public in such manner as they think expedient.'

The same Act by s.16 makes a few alterations to section 7 in so far as they affect its application to Scotland. These are essentially matters of terminology and had no application to the inquiry that sat to consider the Tay Bridge disaster of 1879. That is because, apart from a viewing of the locus immediately after the disaster, the inquiry sat in London.

The whole Act, with its amendments over time, may be found on the government website at [legislation.gov.uk](https://www.legislation.gov.uk) and the precise location there is: [Regulation of Railways Act 1871](https://www.legislation.gov.uk/ukpga/1871/10/section/7)

#### **B. Specific (private) enabling legislation for the construction of the Tay Bridges.**

The North British Railway Company as principal promoters of the Tay Bridge project were required to obtain parliamentary authority for their work. The private legislation at their expense was put before the United Kingdom Parliament, scrutinised in due course passed.

The formulation of a policy for the company, the identification of the local matters requiring to fall within the legislation and the drafting of the Bill that led to the Act were all matters for which the company had to bear the cost.

## **FIRST SOURCE**

Rosemary Devine (Compiler), *Index to Local and Personal Acts 1850-1995*: volume 3 [letters] M-R (London: HMSO, 1996). On pages 1538-1542 there are listed 79 individual private Acts of Parliament related to the business of the North British Railway in the period 1851 to 1921. For example:

1. North British Railway (Dundee Branch) Act 1866 (c. ccciv); and
2. North British Railway (Dundee and Arbroath Joint Line) Act 1879 (c. clv).

## **SECOND SOURCE**

Rosemary Devine (Compiler), *Index to Local and Personal Acts 1850-1995*: volume 4 [letters] S-Y (London: HMSO, 1996). On page 2027 under the heading of 'Tay Bridge (Dundee)' are listed:

### **First bridge**

1. North British Railway (Tay Bridge and Railways) Act 1870 (c. cxxxv);
2. North British Railway Act 1875 (c. c);
3. North British Railway (Additional Works and Powers) Act 1877 (c. lviii);
4. North British Railway (General Powers) Act 1879 (c. xlviii).

### **Second bridge**

1. The North British Railway (New Tay Viaduct) Act 1881 (c. cxxxvii);
2. The North British Railway Act 1883 (c. lxviii);

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