



1847.

No. 7.

*ORDINANCE enacted by the Governor of South Australia, with the advice and consent of the Legislative Council thereof.*

*To consolidate in one Ordinance certain provisions usually inserted in Acts authorising the making of Railways.*

[26th March, 1847.]

**W**HEREAS it is expedient to comprise in one general Act or Preamble. Ordinance sundry provisions usually inserted in Acts authorizing the construction of Railways, and that as well for the purpose of avoiding the necessity of repeating such provisions in each of the several Ordinances relating to such undertakings, as for ensuring greater uniformity in the provisions themselves: And whereas an Ordinance is now pending for consolidating certain provisions usually inserted in Acts authorizing the taking of lands for undertakings of a public nature, and which is intended to be called "The Lands Clauses Consolidation Ordinance:"

Be it therefore Enacted, by the Governor of South Australia, with the advice and consent of the Legislative Council thereof: That this Ordinance shall apply to every railway which shall, by any Ordinance hereafter to be passed, be authorized to be constructed, and this Ordinance shall be incorporated therewith; and all the clauses and provisions hereof, save so far as they shall be expressly varied or excepted by any such Ordinance, shall apply to the undertaking authorized thereby, so far as the same shall be applicable to such undertaking, and shall, as well as the clauses and provisions of every other Ordinance which shall be incorporated therewith, form part of such Ordinance, and be construed together therewith, as forming one Act:

Ordinance to apply to all Railway undertakings.

## Interpretations.

And with respect to the construction hereof, and of other Ordinances to be incorporated therewith—Be it Enacted as follows :

II. The expression " Act " used herein shall be construed to mean Ordinance enacted by the Governor of South Australia, with the advice and consent of the Legislative Council thereof ; the expression " the Special Act " used in this Act, shall be construed to mean any Act which shall be hereafter passed authorizing the construction of a Railway, and with which this Act shall be so incorporated as aforesaid ; and the word " prescribed " used in this Act in reference to any matter herein stated, shall be construed to refer to such matter as the same shall be prescribed or provided for in the Special Act ; and the sentence in which such word shall occur shall be construed as if, instead of the word " prescribed," the expression " prescribed for that purpose in the Special Act " had been used ; and the expression " the lands " shall mean the lands which shall by the Special Act be authorized to be taken or used for the purposes thereof ; and the expression " the undertaking " shall mean the Railway and works of whatever description, by the Special Act authorized to be executed.

## Interpretations in this and the Special Acts.

III. The following words and expressions, both in this and the Special Act, shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction, that is to say—

Words importing the singular number only shall include the plural number ; and words importing the plural number only shall include also the singular number.

Words importing the masculine gender only shall include females.

The word " Lands " shall include messuages, lands, tenements, and hereditaments of any tenure.

The word " Lease " shall include an agreement for a lease.

The word " Toll " shall include any rate or charge or other payment payable under the Special Act for any passenger, animal, carriage, goods, merchandize, articles, matters, or things conveyed on the Railway.

The word " Goods " shall include things of every kind conveyed upon the Railway.

The word " Month " shall mean calendar month.

The expression " Superior Courts " shall mean the Supreme or Superior Courts of Record in the Province.

The word " Oath " shall include affirmation in the case of Quakers, or other declaration lawfully substituted for an oath in the case of any other persons exempted by law from the necessity of taking an oath.

Where

Where, under the provisions of this or the Special Act, any notice shall be required to be given to the owner of any lands, or where any Act shall be authorised or required to be done with the consent of any such owner, the word "Owner" shall be understood to mean any person or corporation who, under the provisions of this or the Special Act, or any Act incorporated therewith, would be enabled to sell and convey lands to the Company.

The expression "the Company" shall mean the company or party which shall be authorized by the Special Act to construct the Railway.

The expression "the Railway" shall mean the Railway and works by the Special Act authorized to be constructed.

The expression "the Bank" shall mean any Chartered Bank.

The expression "Turnpike Road" shall include all main lines of communication, and all ways which the Surveyor-General shall consider to be public roads.

IV. And be it Enacted, That in citing this Act in other Acts of Council, and in legal instruments, it shall be sufficient to use the expression "The Railways Clauses Consolidation Act." Short title of the Act.

V. And whereas it may be convenient, in some cases, to incorporate with Acts hereafter to be passed some portion only of the provisions of this Act: Be it therefore Enacted, That, for the purpose of making any such incorporation, it shall be sufficient in any such Act to enact that the clauses of this Act with respect to the matter so proposed to be incorporated (describing such matter as it is described in this Act, in the words introductory to the enactment with respect to such matter), shall be incorporated with such Act; and thereupon all the clauses and provisions of this Act with respect to the matter so incorporated shall, save so far as they shall be expressly varied or excepted by such Act, form part of such Act, and such Act shall be construed as if the substance of such clauses and provisions were set forth therein with reference to the matter to which such Act shall relate. Form in which portions of this Act may be incorporated in other Acts.

And with respect to the construction of the Railway and the works connected therewith—Be it Enacted as follows: Construction of Railway.

VI. That in exercising the power given to the Company by the Special Act to construct the Railway, and to take lands for that purpose, the Company shall be subject to the provisions and restrictions contained in this Act and in the said Lands Clauses Consolidation Act; and the Company shall make to the owners and occupiers of and all other parties interested in any lands taken or used for the purposes of the Railway, or injuriously affected by the construction thereof, full compensation for the value of the lands so taken or used, The construction of the Railway to be subject to the provisions of this Act and the Lands Clauses Consolidation Act.

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used, and for all damage sustained by such owners, occupiers, and other parties, by reason of the exercise, as regards such lands, of the powers of this or the Special Act, or any Act incorporated therewith, vested in the Company; and, except where otherwise provided by this or the Special Act, the amount of such compensation shall be ascertained and determined in the manner provided by the said Lands Clauses Consolidation Act for determining questions of compensation with regard to lands purchased or taken under the provisions thereof; and all the provisions of the said last-mentioned Act shall be applicable to determining the amount of any such compensation, and to enforcing the payment or other satisfaction thereof.

Errors and omissions  
in plans to be cor-  
rected.

VII. That if any omission, mis-statement, or erroneous description shall have been made of any lands, or of the owners, lessees, or occupiers of any lands, described on the plans or books of reference mentioned in the Special Act, or in the schedule to the Special Act, it shall be lawful for the Company, after giving ten days' notice to the owners of the lands affected by such proposed correction, to apply to two Justices for the correction thereof; and if it shall appear to such Justices that such omission, mis-statement, or erroneous description arose from mistake, they shall certify the same accordingly, and they shall in such certificate state the particulars of any such omission, and in what respect any such matter shall have been mis-stated or erroneously described; and such certificate shall be deposited in the office of the Surveyor-General along with the other documents to which they relate; and thereupon such plan, book of reference, or schedule, shall be deemed to be corrected according to such certificate; and it shall be lawful for the Company to make the works in accordance with such certificate.

Works not to be pro-  
ceeded with until  
plans of all alterations  
authorized by the  
Legislature have been  
deposited.

VIII. That it shall not be lawful for the Company to proceed in the execution of the Railway, unless they shall have, previously to the commencement of such work, deposited in the office of the Surveyor-General a plan and section of all such alterations from the original plan and section as shall have been approved of by the Legislature, on the same scale and containing the same particulars as the original plan and section of the Railway, and shall also have deposited in the office of the Surveyor-General, copies or extracts of or from such plans and sections.

Surveyor-General to  
receive plans of  
alterations, and allow  
inspection.

IX. That the Surveyor-General shall receive the said plans and sections of alterations, and copies and extracts thereof respectively, and shall retain the same, as well as the said original plans and sections, and shall permit all persons interested to inspect any of the documents aforesaid, and to make copies and extracts of and from the same.

Copies of plans, &c.,  
to be evidence.

X. That true copies of the said plans and books of reference, or of any alteration or correction thereof, or extract therefrom, certified by any such Surveyor-General, which certificate such Surveyor-General shall give to all parties interested when required, shall be received

received in all Courts of Justice or elsewhere as evidence of the contents thereof.

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Limiting deviation from datum line described on sections, &c.

XI. That in making the Railway, it shall not be lawful for the Company to deviate from the levels of the Railway, as referred to the common datum line described in the section approved of by the Governor, with the advice and consent of the Legislative Council, and as marked on the same, to any extent exceeding in any place five feet, or, in passing through a town, village, street, or land continuously built upon, two feet, without the previous consent in writing of the owners and occupiers of the land in which such deviation is intended to be made; or in case any street or public highway shall be affected by such deviation, then the same shall not be made without the like consent of the Trustees or Commissioners having the control of such street or public highway; or, if there be no such Trustees or Commissioners, without the like consent of two or more Justices of the Peace in Quarter Sessions assembled for that purpose, and acting for the district in which such street or public highway may be situated; or without the like consent of the Commissioners for any public sewers, or the proprietors of any canal, navigation, gas works, or water works affected by such deviation: Provided always, that it shall be lawful for the Company to deviate from the said levels to a further extent without such consent as aforesaid, by lowering solid embankments or viaducts, provided that the requisite height of headway as prescribed by the Legislature be left for roads, streets, or canals passing under the same: Provided also, that notice of every Quarter Sessions to be holden for the purpose of obtaining such consent of two Justices as is hereinbefore required, shall, fourteen days previous to the holding of such Quarter Sessions, be given in some newspaper circulating in the Province, and also to be affixed upon the door of the Post Office nearest to the place where such deviation or alteration is intended to be made; or if there be no Post Office, some other place to which notices are usually affixed.

Proviso.

Proviso.

XII. That before it shall be lawful for the Company to make any greater deviation from the level than five feet, or in any town, village, street, or land continuously built upon, two feet, after having obtained such consent as aforesaid, it shall be incumbent on the Company to give notice of such intended deviation by public advertisement, inserted once at least in two newspapers, or twice at least in one newspaper circulating in the Province, three weeks at least before commencing to make such deviation; and it shall be lawful for the owner of any lands prejudicially affected thereby, at any time before the commencement of the making of such deviation, to apply to the Governor, after giving ten days' notice to the Company, to decide whether, having regard to the interests of such applicants, such proposed deviation is proper to be made; and it shall be lawful for the Governor, if he think fit, to decide such question accordingly, and by his certificate in writing either to disallow the making of such deviation, or to authorize the making thereof,

Public notice to be given previous to making greater deviations.

Power to the owner of adjoining lands to appeal to the Governor against such deviations.

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thereof, either simply or with any such modification as shall seem proper to the Governor; and after any such certificate shall have been given by the Governor, it shall not be lawful for the Company to make such deviation, except in conformity with such certificate.

Arches, tunnels, &c.,  
to be made as marked  
on deposited plans.

XIII. That where in any place it is intended to carry the Railway on an arch or arches, or other viaduct, as marked on the said plan or section, the same shall be made accordingly; and where a tunnel is marked on the said plan or section as intended to be made at any place, the same shall be made accordingly, unless the owners, lessees, and occupiers of the land in which such tunnel is intended to be made shall consent that the same shall not be so made.

Limiting deviations  
from gradients,  
curves, &c.

XIV. That it shall not be lawful for the Company to deviate from or alter the gradients, curves, tunnels, or other engineering works described in the said plan or section, except within the following limits and under the following conditions, that is to say—

Subject to the above provisions in regard to altering levels, it shall be lawful for the Company to diminish the inclination or gradients of the Railway to any extent, and to increase the said inclination or gradients as follows, that is to say—in gradients of an inclination not exceeding one in a hundred, to any extent not exceeding ten feet per mile, or to any further extent which shall be certified by the Governor to be consistent with the public safety, and not prejudicial to the public interest; and in gradients of or exceeding the inclination of one in a hundred to any extent not exceeding three feet per mile, or to any further extent which shall be so certified by the Governor as aforesaid.

It shall be lawful for the Company to diminish the radius of any curve described in the said plan to any extent which shall leave a radius of not less than half a mile, or to any further extent authorised by such certificate as aforesaid from the Governor.

It shall be lawful for the Company to make a tunnel, not marked on the said plan or section, instead of a cutting; or a viaduct, instead of a solid embankment, if authorized by such certificate as aforesaid from the Governor.

Lateral deviations.

XV. That it shall be lawful for the Company to deviate from the line delineated on the plans so deposited, provided that no such deviation shall extend to a greater distance than the limits of deviation delineated upon the said plans, nor to a greater extent in passing through a town, village, or lands continuously built upon, than ten yards, or elsewhere to a greater extent than one hundred yards from the said line; and that the Railway, by means of such deviation, be not made to extend into the lands of any person, whether owner, lessee, or occupier, whose name is not mentioned in the books of reference, without the previous consent in writing

of such person, unless the name of such person shall have been omitted by mistake, and the fact that such omission proceeded from mistake shall have been certified in manner herein or in the Special Act provided for in cases of unintentional errors in the said books of reference.

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XVI. That subject to the provisions and restrictions in this and the Special Act, and any Act incorporated therewith, it shall be lawful for the Company, for the purpose of constructing the Railway, or the accommodation works connected therewith, hereinafter mentioned, to execute any of the following works, that is to say—

Works to be executed.

They may make or construct in, upon, across, under, or over any lands, or any streets, hills, valleys, roads, railroads, or tramroads, rivers, canals, brooks, streams, or other waters, within the lands described in the said plans, or mentioned in the said books of reference, or any correction thereof, such temporary or permanent inclined planes, tunnels, embankments, aqueducts, bridges, roads, ways, passages, conduits, drains, piers, arches, cuttings, and fences, as they think proper ;

Inclined plains, &c.

They may alter the course of any rivers not navigable, brooks, streams, or watercourses, and of any branches of navigable rivers, such branches not being themselves navigable, within such lands, for the purpose of constructing and maintaining tunnels, bridges, passages, or other works over or under the same, and divert or alter, as well temporarily as permanently, the course of any such rivers or streams of water, roads, streets, or ways, or raise or sink the level of any such rivers or streams, roads, streets, or ways, in order the more conveniently to carry the same over, or under, or by the side of the Railway, as they may think proper ;

Alteration of course  
of rivers, &c.

They may make drains or conduits into, through, or under any lands adjoining the Railway, for the purpose of conveying water from or to the Railway ;

Drains, &c.

They may erect and construct such houses, warehouses, offices, and other buildings, yards, stations, wharfs, engines, machinery, apparatus, and other works and conveniences as they think proper ;

Warehouses, &c.

They may from time to time alter, repair or discontinue the before-mentioned works, or any of them, and substitute others in their stead ; and

Alterations and re-  
pairs.

They may do all other acts necessary for making, maintaining, altering, or repairing, and using the Railway :

General power.

Provided always, that in exercise of the powers by this or the Special Act granted, the Company shall do as little damage as can be, and shall make full satisfaction, in manner herein and in the

Proviso as to damages.

Special

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Special Act, and any Act incorporate therewith provided, to all parties interested, for all damage by them sustained by reason of the exercise of such powers.

Works below high-water mark not to be executed without the consent of the Governor.

XVII. That it shall not be lawful for the Company to construct on the shore of the sea, or of any creek, bay, arm of the sea, or navigable river communicating therewith, where and so far up the same as the tide flows and re-flows, any work, or to construct any railway or bridge across any creek, bay, arm of the sea, or navigable river, where and so far up the same as the tide flows and re-flows, without the previous consent of Her Majesty, Her heirs and successors, to be signified in writing under the hand of the Governor, and then only according to such plan and under such restrictions and regulations as the said Governor may approve of, such approval being signified as last aforesaid; and where any such work, railway, or bridge shall have been constructed, it shall not be lawful for the Company at any time to alter or extend the same without obtaining, previously to making any such alteration or extension, the like consents or approvals; and if any such work, railway, or bridge shall be commenced or completed contrary to the provisions of this Act, it shall be lawful for the said Governor to abate and remove the same, and to restore the site thereof to its former condition, at the cost and charge of the Company; and the amount thereof may be recovered in the same manner as a penalty is recoverable against the Company.

Alteration of water and gas-pipes.

XVIII. That it shall be lawful for the Company, for the purpose of constructing the Railway, to raise, sink, or otherwise alter the position of any of the watercourses, water-pipes, or gas-pipes belonging to any of the houses adjoining or near to the Railway, and also the mains and other pipes laid down by any Company or Society who may furnish the inhabitants of such houses or places with water or gas, and also to remove all other obstructions to such construction, so as the same respectively be done with as little detriment and inconvenience to such Company, Society, or inhabitants as the circumstances will admit, and be done under the superintendence of the Company to which such water-pipes or gas-pipes belong, and of the several Commissioners or Trustees or persons having control of the pavements, sewers, roads, streets, highways, lanes, and other public passages and places within the district where such mains, pipes, or obstructions shall be situate, or of their Surveyor, if they or he think fit to attend after receiving not less than forty-eight hours' notice for that purpose.

Company not to disturb pipes until they have laid down others.

XIX. Provided always, That it shall not be lawful for the Company to remove or displace any of the mains or pipes (other than private service pipes), syphons, plugs, or other works belonging to any such Company or Society, or to do anything to impede the passage of water or gas into or through such mains or pipes, until good and sufficient mains or pipes, syphons, plugs, and all other works necessary or proper for continuing the supply of water or gas as sufficiently

ciently as the same was supplied by the mains or pipes proposed to be removed or displaced, shall, at the expense of the Company, have been first made and laid down in lieu thereof, and be ready for use, in a position as little varying from that of the pipes or mains proposed to be removed or displaced as may be consistent with the construction of the Railway, and to the satisfaction of the Surveyor or Engineer of such Water or Gas Company or Society, or in case of disagreement between such Surveyor or Engineer and the Company, as a Justice shall direct.

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XX. That it shall not be lawful for the Company to lay down any such pipes contrary to the regulations of any Ordinance relating to such Water or Gas Company or Society, or to cause any road to be lowered for the purposes of the Railway, without leaving a covering of not less than eighteen inches from the surface of the road over such mains or pipes.

Pipes not to be laid down contrary to any Ordinance, and eighteen inches surface road to be retained.

XXI. That the Company shall make good all damage done to the property of the Water or Gas Company or Society, by the disturbance thereof, and shall make full compensation to all parties for any loss or damage which they may sustain by reason of any interference with the mains, pipes, or works of such Water or Gas Company or Society, or with the private service pipes of any person supplied by them with water.

Company to make good all damage.

XXII. That if it shall be necessary to construct the Railway or any of the works over any mains or pipes of any such Water or Gas Company or Society, the Company shall, at their own expense, construct and maintain a good and sufficient culvert over such main or pipe, so as to leave the same accessible for the purpose of repairs.

When Railway crosses pipes, Company to make a culvert.

XXIII. That if by any such operations as aforesaid, the Company shall interrupt the supply of any water or gas, they shall forfeit Twenty Pounds for every day that such supply shall be so interrupted.

Penalty for obstructing supply of gas or water.

XXIV. That if any person wilfully obstruct any person acting under the authority of the Company in the lawful exercise of their power, in setting out the line of the Railway, or pull up or remove any poles or stakes driven into the ground for the purpose of so setting out the line of the Railway, or deface or destroy any marks made for the same purpose, he shall forfeit a sum not exceeding Five Pounds for every such offence.

Penalty for obstructing construction of Railway.

And with respect to the temporary occupation of lands near the Railway during the construction thereof—Be it Enacted as follows:

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XXV. That, subject to the provisions herein and in the Special Act contained, it shall be lawful for the Company, at any time before the expiration of the period by the Special Act limited for the

Company may occupy temporarily private roads within five hundred yards of the Railway.

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the completion of the Railway, to enter upon and use any existing private road, being a road gravelled or formed with stones or other hard materials, and not being an avenue or a planted or ornamental road, or an approach to any mansion-house within the prescribed limits, if any; or, if no limits be prescribed, not being more than five hundred yards distant from the centre of the Railway as delineated on the plans; but before the Company shall enter upon or use any such existing road, they shall give three weeks' notice of their intention to the owners and occupiers of such road, and of the lands over which the same shall pass, and shall in such notice state the time during which, and the purposes for which, they intend to occupy such road, and shall pay to the owners and occupiers of such road, and of the lands through which the same shall pass, such compensation for the use and occupation of such road, either in a gross sum of money, or by half-yearly instalments, as shall be agreed upon between such owners and occupiers respectively and the Company; or in case they differ about the compensation, the same shall be settled by two Justices, in the same manner as any compensation not exceeding Fifty Pounds is directed to be settled by the said Lands Clauses Consolidation Act.

Power to owners and occupiers of road and land to object that other roads should be taken.

XXVI. That it shall be lawful for the owners and occupiers of any such road, and of the lands over which the same passes, within ten days after the service of the aforesaid notice, by notice in writing to the Company, to object to the Company making use of such road, on the ground that other roads, such as the Company are hereinbefore authorized to use for the purposes aforesaid, or that some public road, would be more fitting to be used for the same; and, upon the objection being so made, such proceedings may be had as are hereinafter mentioned with respect to lands temporarily occupied by the Company, in respect of which three weeks' notice is hereinafter required to be given, and in the same manner as if in the provisions relative to such proceedings the word road or roads, or the words road and the land over which the same passes, as the case may require, had been substituted in such provisions for the word lands.

Power to take temporary possession of land without previous payment of price.

XXVII. That subject to the provisions herein and in the Special Act contained, it shall be lawful for the Company, at any time before the expiration of the period by the Special Act limited for the completion of the Railway, without making any previous payment, tender, or deposit, to enter upon any lands within the prescribed limits; or if no limits be prescribed, not being more than two hundred yards distant from the centre of the Railway as delineated in the plans, and not being a garden, orchard, or plantation attached or belonging to a house, nor a park, planted walk, avenue, or ground ornamentally planted, and not being nearer to the mansion-house of the owner of any such lands than the prescribed distance; or if no distance be prescribed, then not nearer than five hundred yards therefrom, and to occupy the said lands so long as may be necessary for the construction or repair of that  
portion

portion of the Railway, or of the accommodation-works connected therewith, hereinafter mentioned, and to use the same for any of the following purposes, that is to say—

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For the purpose of taking earth or soil by side cuttings therefrom;

For the purpose of depositing spoil thereon;

For the purpose of obtaining materials therefrom for the construction and repair of the Railway, or such accommodation-works as aforesaid; or

For the purpose of forming roads thereon to, or from, or by the side of the Railway:

And in exercise of the powers aforesaid, it shall be lawful for the Company to deposit, and also to manufacture and work upon such lands, materials of every kind used in constructing the Railway, and also to dig and take from out of any such lands any clay, stone, gravel, sand, or other things that may be found therein useful or proper for constructing the Railway or any such roads as aforesaid; and for the purposes aforesaid to erect thereon workshops, sheds, and other buildings of a temporary nature: Provided always, that nothing in this Act contained shall exempt the Company from an action for nuisance or other injury, if any done, in the exercise of the powers hereinbefore given, to the lands or habitations of any party other than the party whose lands shall be so taken or used for any of the purposes aforesaid: Provided also, that no stone or slate-quarry, brick-field, or other like place which, at the time of the passing of the Special Act, shall be commonly worked or used for getting materials therefrom for the purpose of selling or disposing of the same, shall be taken or used by the Company, either wholly or in part, for any of the purposes lastly hereinbefore mentioned.

Proviso.

Proviso.

XXVIII. That in case any such lands shall be required for spoil banks or for side cuttings, or for obtaining materials for the construction or repair of the Railway, the Company shall, before entering thereon (except in the case of accident to the Railway requiring immediate reparation) give three weeks' notice in writing to the owners and occupiers of such lands of their intention to enter upon the same for such purposes; and in case the said lands are required for any of the other purposes hereinbefore mentioned, the Company shall (except in the cases aforesaid) give ten days' like notice thereof, and the Company shall in such notices respectively state the substance of the provisions hereinafter contained respecting the right of such owner or occupier to require the Company to purchase any such lands, or to receive compensation for the temporary occupation thereof, as the case may be.

Company to give notice previous to such temporary possession.

XXIX. That the said notice shall either be served personally on such owners and occupiers, or left at their last usual place of abode, if any such can, after diligent enquiry, be found; and in case any such

Service of notices on owners and occupiers of lands.

owner

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owner shall be absent from the Province, or cannot be found after diligent enquiry, shall also be left with the occupier of such lands ; or if there be no such occupier, shall be affixed upon some conspicuous part of such lands.

Power to owner to  
object that other lands  
ought to be taken.

XXX. That in any case in which a notice of three weeks is hereinafter required to be given, it shall be lawful for the owner or occupier of the lands therein referred to, within ten days after the service of such notice, by notice in writing to the Company, to object to the Company making use of such lands, either on the ground that the lands proposed to be taken for the purposes aforesaid, or some part thereof, or of the materials contained therein, are essential to be retained by such owner, in order to the beneficial enjoyment of other neighboring lands belonging to him, or on the ground that other lands lying contiguous or near to those proposed to be taken would be more fitting to be used for such purpose by the Company ; and upon objection being so made, such proceedings may be had as hereinafter mentioned.

Power to two Justices  
to order that the  
lands and materials  
shall not be taken.

XXXI. That if the objection so made be on the ground that the lands proposed to be taken, or some part thereof, or of the materials contained therein, are essential to be retained by the owner in order to the beneficial enjoyment of other neighboring lands belonging to him, it shall be lawful for any Justice, on the application of such owner, to summon the Company to appear before two Justices at a time and place to be named in the summons, such time not being later than the expiration of the said twenty-one days' notice ; and on the appearance of the Company, or, in their absence, upon proof of due service of the summons, it shall be lawful for such Justices to enquire into the truth of such ground of objection ; and if it appear to such Justices that for some special reason, to be stated in the order aftermentioned, the lands so proposed to be taken, or any part thereof, or of the materials contained therein, are essential to be retained by the owner of such lands in order to the beneficial enjoyment of other neighboring lands belonging to him, and ought not therefore to be taken or used by the Company, it shall be lawful for such Justices, by writing under their hands, to order that the lands so proposed to be taken, or some part thereof, or of the materials contained therein, to be specified in such order, shall not be taken or used by the Company ; and after service of such order on the Company, it shall not be lawful for them to take or use, without the previous consent in writing of the owner thereof, any of the lands or materials which by such order they are ordered not to take or use.

Power to Justices to  
order other lands  
to be taken.

XXXII. That if the objection so made as aforesaid be on the ground that other lands lying contiguous to those proposed to be taken, and being sufficient in quantity and such as the Company are hereinbefore authorized to use for the purposes aforesaid, would be more fitting to be used by the Company ; and if in such case the Company shall refuse to occupy such other lands in lieu of those mentioned in the notice, it shall be lawful for any Justice, on the application

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application of such owner or occupier, to summon the Company and the owners and occupiers of such other lands to appear before two Justices at a time and place to be named in such summons, such time not being more than fourteen days after such application, nor less than seven days from the service of such summons; and on the appearance of the parties, or, in the absence of any of them, on proof of due service of the summons, it shall be lawful for such Justices to determine summarily which of the said lands shall be used by the Company for the purposes aforesaid, and to authorize the Company to occupy and use the same accordingly.

XXXIII. That if in the case last-mentioned it shall appear to such Justices, upon the enquiry before them, that the lands of any other party not summoned before them, being sufficient in quantity, and such as the Company are hereinbefore authorized to take or use for the purposes aforesaid, would be more fitting to be used by the Company than the lands of the person who shall have been so summoned as aforesaid, it shall be lawful for the said Justices to adjourn such enquiry, and to summon such other person to appear before them at any time, not being more than fourteen days from such enquiry, nor less than seven days from the service of such summons; and on the appearance of the parties, or, in the absence of any of them, on proof of due service of the summons, it shall be lawful for such Justices to determine finally which lands shall be used for the purposes aforesaid, and to authorize the Company to occupy and use the same accordingly.

Power to the Justices to summon other owners before them.

XXXIV. That, before entering, under the provisions hereinbefore contained, upon any such lands as shall be required for spoil banks or for side-cuttings, or for obtaining materials or for forming roads as aforesaid, the Company shall, if required by the owner or occupier thereof, seven days at least before the expiration of the notice to take such lands as hereinbefore mentioned, find two sufficient persons to be approved of by a Justice, in case the parties differ, who shall enter into a bond to such owner or occupier, in a penalty of such amount as shall be approved of by such Justice, in case the parties differ, conditioned for the payment of such compensation as may become payable in respect of the same in manner herein mentioned.

The Company to give sureties, if required.

XXXV. That before the Company shall use any such lands for any of the purposes aforesaid, they shall, if required so to do by the owner or occupier thereof, separate the same by a sufficient fence from the lands adjoining thereto, with such gates as may be required by the said owner or occupier for the convenient occupation of such lands, and shall also, to all private roads used by them as aforesaid, put up fences and gates in like manner, in all cases where the same may be necessary to prevent the straying of cattle from or upon the lands traversed by such roads; and in case of any difference between the owners or occupiers of such roads and lands and the Company as to the necessity for such fences and gates, such fences and gates

Company to separate the lands before using them.

as

Temporary use of  
Lands.

as any two Magistrates shall deem necessary for the purposes aforesaid, on application being made to them in like manner as hereinbefore is provided in respect to the use of such roads.

Lands taken for getting materials, &c., to be worked as the Surveyor of owner may direct.

XXXVI. That if any land shall be taken or used by the Company, under the provisions of this or the Special Act, for the purpose of getting materials therefrom for the construction or repair of the Railway, or the accommodation works connected therewith, they shall work the same in such manner as the Surveyor or Agent of the owner of such land shall direct; or, in case of disagreement between such Surveyor or Agent and the Company, in such manner as any Justice shall direct, on the application of either party, after notice of the hearing the application shall have been given to the other party.

Owners of lands may compel Company to purchase lands so temporarily occupied.

XXXVII. That in all cases in which the Company shall, in exercise of the powers aforesaid, enter upon any lands for the purpose of making spoil banks or side-cuttings thereon, or for obtaining therefrom materials for the construction or repair of the Railway, it shall be lawful for the owners or occupiers of such lands, or parties having such estates or interests therein as, under the provisions in the said Lands Clauses Consolidation Act mentioned, would enable them to sell or convey lands to the Company, at any time during the possession of any such lands by the Company, and before such owners or occupiers shall have accepted compensation from the Company in respect of such temporary occupation, to serve a notice in writing on the Company, requiring them to purchase the said lands, or the estates and interests therein capable of being sold and conveyed by them respectively; and in such notice such owners or occupiers shall set forth the particulars of such their estate or interest in such lands, and the amount of their claim in respect thereof; and the Company shall thereupon be bound to purchase the said lands, or the estate and interest therein capable of being sold and conveyed by the parties serving such notice.

Compensation to be made for temporary occupation.

XXXVIII. That in any of the cases aforesaid, where the Company shall not be required to purchase such lands, and in all other cases where they shall take temporary possession of lands by virtue of the powers herein or in the Special Act granted, it shall be incumbent on the Company, within one month after their entry upon such lands, upon being required so to do, to pay to the occupier of the said lands the value of any crop or dressing that may be thereon, as well as full compensation for any other damage of a temporary nature which he may sustain by reason of their so taking possession of his lands; and shall also, from time to time, during their occupation of the said lands, pay half-yearly to such occupier, or to the owner of the lands, as the case may require, a rent, to be fixed by two Justices in case the parties differ, and shall also within six months after they shall have ceased to occupy the said lands, and not later than six months after the expiration of the time by the Special Act limited for the completion of the Railway, pay to such owner or occupier, or deposit in the Bank for the benefit of all parties interested, as the case

case may require, compensation for all permanent or other loss, damage, or injury that may have been sustained by them by reason of the exercise, as regards the said lands, of the powers therein or in the Special Act granted, including the full value of all clay, stone, gravel, sand, and other things taken from such lands.

*Temporary use of  
Lands.*

XXXIX. That the amount and application of the purchase-money, and other compensation payable by the Company in any of the cases aforesaid, shall be determined in the manner provided by the said Lands Clauses Consolidation Act, for determining the amount and application of the compensation to be paid for lands taken under the provisions thereof

Compensation to be  
ascertained under the  
Lands Clauses Act.

XL. And be it Enacted, That it shall be lawful for the Company, in addition to the lands authorized to be compulsorily taken by them under the powers of this or the Special Act, to contract with any party willing to sell the same, for the purchase of any land adjoining or near to the Railway, not exceeding in the whole the prescribed number of acres for extraordinary purposes, that is to say—

*Lands for addi-  
tional Stations.*

Land to be taken for  
additional stations.

For the purpose of making and providing additional stations, yards, wharfs, and places for the accommodation of passengers, and for receiving, depositing, and loading or unloading goods or cattle to be conveyed upon the Railway, and for the erection of weighing-machines, toll-houses, offices, warehouses, and other buildings and conveniencies;

For the purpose of making roads or ways to the Railway, or any other purpose which may be requisite or convenient for the formation or use of the Railway.

And with respect to the crossing of roads or other interference therewith—Be it Enacted as follows:

*Crossing of Roads  
and construction  
of Bridges.*

XLI. That if the line of the Railway cross any turnpike road or public highway, then (except where otherwise provided by the Special Act) either such road shall be carried over the Railway, or the Railway shall be carried over such road, by means of a bridge, of the height and width, and with the ascent or descent by this or the Special Act in that behalf provided; and such bridge, with the immediate approaches, and all other necessary works connected therewith, shall be executed and at all times thereafter maintained at the expense of the Company: Provided always, that, with the consent of two or more Justices in General Quarter Sessions, as after mentioned, it shall be lawful for the Company to carry the Railway across any highway, other than a public carriage road, on the level.

Crossing of roads.

XLII. That if the Railway cross any turnpike road or public carriage road on a level, the Company shall erect, and at all times maintain good and sufficient gates across such road, on each side of the Railway where the same shall communicate therewith, and shall employ proper persons to open and shut such gates; and such gates

Provision in cases  
where roads are  
crossed on a level.

*Crossing of Roads  
and Construction  
of Bridges.*

gates shall be kept constantly closed across such road on both sides of the Railway, except during the time when horses, cattle, carts, or carriages, passing along the same, shall have to cross such Railway; and such gates shall be of such dimensions and so constructed as when closed to fence in the Railway, and prevent cattle or horses passing along the road from entering upon the Railway; and the person entrusted with the care of such gates shall cause the same to be closed as soon as such horses, cattle, carts, or carriages shall have passed through the same, under a penalty of Forty Shillings for every default therein: Provided always, that it shall be lawful for the Governor, in any case in which he is satisfied that it will be more conducive to the public safety that the gates on any level crossing over any such road should be kept closed across the Railway, to order that such gates shall be kept so closed across the Railway, instead of across the road, and in such case such gates shall be kept constantly closed across the Railway, except where engines or carriages passing along the Railway shall have occasion to cross such road, in the same manner and under the like penalty as above directed with respect to the gates being kept closed across the road

*As to crossing of  
turnpike roads ad-  
joining stations.*

XLIII. That where the Railway crosses any turnpike road on a level adjoining to a station, all trains on the Railway shall be made to slacken their speed before arriving at such turnpike road, and shall not cross the same at any greater rate of speed than four miles an hour; and the Company shall be subject to all such rules and regulations, with regard to such crossings, as may from time to time be made by the Governor.

*Construction of  
bridges over roads.*

XLIV. That every bridge to be erected for the purpose of carrying the Railway over any road shall (except where otherwise provided for by the Special Act), be built in conformity with the following regulations, that is to say—

The width of the arch shall be such as to leave thereunder a clear space of not less than thirty-five feet, if the arch be over a turnpike road, and of twenty-five feet, if over a public carriage road, and of twelve feet, if over a private road.

The clear height of the arch from the surface of the road shall not be less than sixteen feet for a space of twelve feet, if the arch be over a turnpike road, and fifteen feet for a space of ten feet, if over a public carriage road; and in each of such cases the clear height at the springing of the arch shall not be less than twelve feet.

The clear height of the arch for a space of nine feet shall not be less than fourteen feet over a private carriage road.

The descent made in the road, in order to carry the same under the bridge, shall not be more than one foot in thirty feet if the bridge be over a turnpike road, one foot in twenty feet

feet if over a public carriage road, and one foot in sixteen feet if over a private carriage road, not being a tramroad or railroad; or if the same be a tramroad or railroad, the descent shall not be greater than the prescribed rate of inclination; and if no rate be prescribed, the same shall not be greater than as it existed at the passing of the Special Act.

*Crossing of Roads  
and Construction  
of Bridges.*

XLV. That every bridge erected for carrying any road over the Railway shall (except as otherwise provided by the Special Act) be built in conformity with the following regulations, that is to say—

*Construction of  
bridges over Railway*

There shall be a good and sufficient fence on each side of the bridge of not less height than four feet, and on each side of the immediate approaches of such bridge of not less than three feet.

The road over the bridge shall have a clear space between the fences thereof of thirty-five feet if the road be a turnpike road, and twenty-five feet if a public carriage road, and twelve feet if a private road.

The ascent shall not be more than one foot in thirty feet if the road be a turnpike road, one foot in twenty feet if a public carriage road, and one foot in sixteen feet if a private carriage road, not being a tramroad or railroad; or if the same be a tramroad or railroad, the ascent shall not be greater than the prescribed rate of inclination; and if no rate be prescribed, the same shall not be greater than as it existed at the passing of the Special Act.

XLVI. Provided always, That in all cases where the average available width for the passage of carriages of any existing roads within fifty yards of the points of crossing the same is less than the width hereinbefore prescribed for bridges over or under the Railway, the width of such bridges need not be greater than such average available width of such roads, but so nevertheless that such bridges be not of less width, in the case of a turnpike road, or public carriage road, than twenty feet: Provided also, that if at any time after the construction of a Railway the average available width of any such road shall be increased beyond the width of such bridge on either side thereof, the Company shall be bound, at their own expense, to increase the width of the said bridge to such extent as they may be required by the Trustees or Surveyors of such road, not exceeding the width of such road as so widened, or the maximum width herein or in the Special Act prescribed for a bridge in the like case over or under the Railway.

*The width of the  
bridges need not  
exceed the width of  
the road in certain  
cases.*

XLVII. Provided also, That if the mesne inclination of any road within two hundred and fifty yards of the point of crossing the same, or the inclination of such portion of any road as may require to be altered, or for which another road shall be substituted, shall

*Existing inclination  
of roads crossed or  
diverted need not be  
imported.*

*Crossing of Roads  
and Construction  
of Bridges.*

be steeper than the inclination hereinbefore required to be preserved by the Company, then the Company may carry any such road over or under the Railway, or may construct such altered or substituted road at an inclination not steeper than the said mesne inclination of the road so to be crossed, or of the road so requiring to be altered, or for which another road shall be substituted.

Before roads inter-  
fered with, others to  
be substituted.

XLVIII. That if, in the exercise of the powers of this or the Special Act granted, it be found necessary to cross, cut through, raise, sink, or use any part of any road, whether carriage road, horse road, tramroad, or railway, either public or private, so as to render it impassable for, or dangerous, or extraordinarily inconvenient to passengers or carriages, or to the persons entitled to the use thereof, the Company shall, before the commencement of any such operations, cause a sufficient road to be made instead of the road to be interfered with, and shall, at their own expense, maintain such substituted road in a state as convenient for passengers and carriages as the road so interfered with, or as nearly so as may be.

Penalty for not sub-  
stituting a road.

XLIX. That if the Company do not cause another sufficient road to be so made before they interfere with any such existing road as aforesaid, they shall forfeit Twenty Pounds for every day during which such substituted road shall not be made after the existing road shall have been interrupted; and such penalty shall be paid to the Trustees, Commissioners, Surveyor, or other person having the management of such road, if a public road, and shall be applied to the purposes thereof; or in the case of a private road, the same shall be paid to the owner thereof, and every such penalty shall be recoverable with costs by action in any of the Superior Courts.

Party suffering da-  
mage from interrup-  
tion of road to recover  
in an action on the  
case.

L. That if any party entitled to a right of way over any road so interfered with by the Company shall suffer any special damage by reason that the Company shall fail to cause another sufficient road to be made before they interfere with the existing road, it shall be lawful for such party to recover the amount of such special damage from the Company, with costs, by action on the case, in any of the Superior Courts, and that whether any party shall have sued for such penalty as aforesaid or not, and without prejudice to the right of any party to sue for the same.

Period for restoration  
of roads interfered  
with.

LI. That if the road so interfered with can be restored compatibly with the formation and use of the Railway, the same shall be restored to as good a condition as the same was in at the time when the same was first interfered with by the Company, or as near thereto as may be; and if such road cannot be restored compatibly with the formation and use of the Railway, the Company shall cause the new or substituted road, or some other sufficient substituted road, to be put into a permanently substantial condition, equally convenient as the former road, or as near thereto as circumstances will allow; and the former road shall be restored, or the substituted road put into such condition as aforesaid, as the case may be, within the following periods

periods after the first operation on the former road shall have been commenced, unless the Trustees or parties having the management of the road to be restored, by writing under their hands, consent to an extension of the period; and in such case within such extended period, that is to say—if the road be a turnpike road, within six months, and if the road be not a turnpike road, within twelve months.

*Crossing of Roads  
and Construction  
of Bridges.*

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LII. That if any such road be not so restored, or the substituted road so completed as aforesaid, within the periods herein or in the Special Act fixed for that purpose, the Company shall forfeit to the Trustees, Commissioners, Surveyor, or other person having the management of the road interfered with by the Company, if a public road, or if a private road to the owner thereof, Five Pounds for every day after the expiration of such periods respectively during which such road shall not be so restored, or the substituted road completed; and it shall be lawful for the Justices by whom any such penalty is imposed to order the whole or any part thereof to be laid out in executing the work in respect whereof such penalty was incurred.

Penalty for failing to  
restore road.

LIII. That if in the course of making the Railway, the Company shall use or interfere with any road, they shall from time to time make good all damage done by them to such road; and if any question shall arise as to the damage done to any such road by the Company, or as to the repair thereof by them, such question shall be referred to the determination of two Justices; and such Justices may direct such repairs to be made in the state of such road, in respect of the damage done by the Company, and within such period as they think reasonable, and may impose on the Company, for not carrying into effect such repairs, any penalty not exceeding Five Pounds per day, as to such Justices shall seem just; and such penalty shall be paid to the Surveyor or other person having the management of the road interfered with by the Company, if a public road, and be applied for the purposes of such road; or if a private road, the same shall be paid to the owner thereof: Provided always, that in determining any such question with regard to a turnpike road, the said Justices shall have regard to and shall make full allowance for any tolls that may have been paid by the Company on such road in the course of the using thereof.

Company to repair  
roads used by them.

LIV. That when the Company shall intend to apply for the consent of two Justices, as hereinbefore provided, so as to authorize them to carry the Railway across any highway other than a public carriage road on the level, they shall, fourteen days at least previous to the holding of the General Quarter Sessions at which such application is intended to be made, cause notice of such intended application to be given in some newspaper circulating in the Province, and also to be affixed upon the door of the Post Office nearest to the place in which such crossing is intended to be made; or if there be no such Post Office, some other place to which notices are usually affixed; and if it appear to any two or more Justices acting for the district in which such highway at the proposed crossing thereof is situate, and assembled

Proceedings on appli-  
cations to Justices to  
consent to level cross-  
ings of bridleways  
and footways.

*Crossing of Roads  
and Construction  
of Bridges.*

sembled in General Quarter Sessions, after such notice as aforesaid, that the Railway can, consistently with a due regard to the public safety and convenience, be carried across such highway on the level, it shall be lawful for such Justices to consent that the same may be so carried accordingly.

*Appeal against the  
determination of  
Justices.*

LV. That if either party shall feel aggrieved by the determination of such Justices upon any such application as aforesaid, it shall be lawful for such party, in like manner and subject to the like conditions as are hereinafter provided in the case of appeals in respect of penalties and forfeitures, to appeal to the Quarter Sessions; and it shall be lawful for the Justices in such Quarter Sessions, upon the hearing of such appeal, either to confirm or quash the determination, or to make such other order in regard to the method of carrying the Railway across such highway as aforesaid, as to them shall seem fit, and to make such order concerning the costs, both of the original application and of the appeal, as to them shall seem reasonable.

*Company to make  
sufficient approaches  
and fences to bridle-  
ways and footways  
crossing on the level.*

LVI. That if the Railway shall cross any highway other than a public carriage way on the level, the Company shall at their own expense make and at all times maintain convenient ascents and descents and other convenient approaches, with handrails and other fences, and shall, if such highway be a bridleway, erect and at all times maintain good and sufficient gates; and if the same shall be a footway, good and sufficient gates or stiles, on each side of the Railway where the highway shall communicate therewith.

*Justices to have power  
to order approaches  
and fences to be made  
to highways crossing  
on the level.*

LVII. That if, where the Railway shall cross any highway on the level, the Company fail to make convenient ascents and descents or other convenient approaches, and such handrails, fences, gates and stiles as they are hereinbefore required to make, it shall be lawful for two Justices, on the application of the Surveyor of Roads, or of any two householders within the district or place where such crossing shall be situate, after not less than ten days' notice to the Company, to order the Company to make such ascent and descent or other approach, or such handrails, fences, gates, or stiles as aforesaid, within a period to be limited for that purpose by such Justices; and if the Company fail to comply with such order, they shall forfeit Five Pounds for every day that they fail so to do; and it shall be lawful for the Justices by whom any such penalty is imposed to order the whole or any part thereof to be applied in such manner and by such person as they think fit, in executing the work in respect whereof such penalty was incurred.

*Screens for Turn-  
pike Roads.*

Screens for roads to be made, if required by the Governor.

LVIII. That if the Commissioners or Trustees of any turnpike road or the Surveyor of any highway, apprehend danger to the passengers on such road in consequence of horses being frightened by the sight of the engines or carriages travelling upon the Railway, it shall be lawful for such Commissioners, or Trustees, or Surveyor, after giving fourteen days' notice to the Company, to apply to the  
Governor

Governor with respect thereto; and if it shall appear to the said Governor that such danger might be obviated or lessened by the construction of any works in the nature of a screen near to or adjoining the side of such road, it shall be lawful for them, if they shall think fit, to certify the works necessary or proper to be executed by the Company for the purpose of obviating or lessening such danger, and by such certificate to require the Company to execute such works within a certain time after the service of such certificate, to be appointed by the Governor.

*Screens for Turnpike Roads.*

LIX. That where by any such certificate as aforesaid the Company shall have been required to execute any such work in the nature of a screen, they shall execute and complete the same within the period appointed for that purpose in such certificate; and if they fail so to do they shall forfeit to the said Commissioners, or Trustees, or Surveyor, Five Pounds for every day during which such works shall remain uncompleted beyond the period so appointed for their completion; and it shall be lawful for the Justices by whom any such penalty is imposed to order the whole or any part thereof to be laid out in executing the work in respect whereof such penalty was incurred.

Penalty for failing to construct.

LX. That where, under the provisions of this or the Special Act, or any Act incorporated therewith, the Company are required to maintain or keep in repair any bridge, fence, approach, gate, or other work executed by them, it shall be lawful for two Justices, on the application of the Surveyor of Roads, or of any two householders where such work may be situate, complaining that any such work is out of repair, after not less than ten days' notice to the Company, to order the Company to put such work into complete repair within a period to be limited for that purpose by such Justices; and if the Company fail to comply with such order, they shall forfeit Five Pounds for every day that they fail so to do; and it shall be lawful for the Justices by whom any such penalty is imposed to order the whole or any part thereof to be applied, in such manner and by such persons as they think fit, in putting such work into repair.

*Construction of Bridges.*

Justices to have power to order repair of bridges, &c.

LXI. And whereas expense might frequently be avoided, and public convenience promoted, by a reference to the Governor upon the construction of public works of an engineering nature connected with the Railway, where a strict compliance with the provisions of this or the Special Act might be impossible, or attended with inconvenience to the Company, and without adequate advantage to the public: Be it Enacted, That in case any difference in regard to the construction, alteration, or restoration of any road or bridge, or other public work of an engineering nature, required by the provisions of this or the Special Act, shall arise between the Company and any Trustees, Commissioners, Surveyors, or other persons having the control of or being authorized by law to enforce the construction of such road, bridge, or work, it shall be lawful for  
either

Governor empowered to modify the construction of certain roads, bridges, &c., where a strict compliance with the Act is impossible or inconvenient.

Construction of  
Bridges.

either party, after giving fourteen days' notice in writing of their intention so to do to the other party, to apply to the Governor to decide upon the proper manner of constructing, altering, or restoring such road, bridge, or other work; and it shall be lawful for the Governor, if he shall think fit, to decide the same accordingly, and to authorize, by certificate in writing, any arrangement or mode of construction in regard to any such road, bridge, or other work which shall appear to him either to be in substantial compliance with the provisions of this and the Special Act, or to be calculated to afford equal or greater accommodation to the public using such road, bridge, or other work; and after any such certificate shall have been given by the Governor, the road, bridge, or other work therein mentioned shall be constructed by the Company in conformity with the terms of such certificate; and being so constructed, shall be deemed to be constructed in conformity with the provisions of this and the Special Act: Provided always, that no such certificate shall be granted by the Governor unless he shall be satisfied that existing private rights or interests will not be injuriously affected thereby.

Authentication of  
certificates of the  
Governor, service of  
notices, &c.

LXII. And be it Enacted, That all regulations, certificates, notices, and other documents in writing purporting to be made or issued by or by the authority of the Governor, and signed by some officer appointed for that purpose by the Governor, shall, for the purposes of this and the Special Act, and any Act incorporated therewith, be deemed to have been so made and issued, and that without proof of the authority of the person signing the same, or of the signature thereto, which matters shall be presumed until the contrary be proved; and service of any such document, by leaving the same at one of the principal offices of the Railway Company, or by sending the same by post addressed to the Secretary at such office, shall be deemed good service upon the Company; and all notices and other documents required by this or the Special Act to be given to or laid before the Governor, shall for that purpose be delivered at the office of, or sent by post addressed to, the Colonial Secretary.

Works for the pro-  
tection and accom-  
modation of Lands.

And with respect to works for the accommodation of lands adjoining the Railway—Be it Enacted as follows:

LXIII. That the Company shall make and at all times thereafter maintain the following works for the accommodation of the owners and occupiers of lands adjoining the Railway, that is to say—

Gates, bridges, &c.

Such and so many convenient gates, bridges, arches, culverts, and passages over, under, or by the sides of or leading to or from the Railway, as shall be necessary for the purpose of making good any interruptions caused by the Railway to the use of the lands through which the Railway shall be made; and such works shall be made forthwith after the part of the Railway passing over such lands shall have been laid out or formed, or during the formation thereof:

Also

Also sufficient posts, rails, hedges, ditches, mounds, or other fences for separating the land taken for the use of the Railway from the adjoining lands not taken, and protecting such lands from trespass, or the cattle of the owners or occupiers thereof from straying thereout, by reason of the Railway, together with all necessary gates made to open towards such adjoining lands, and not towards the Railway, and all necessary stiles; and such posts, rails, and other fences shall be made forthwith after the taking of any such lands, if the owners thereof shall so require, and the said other works as soon as conveniently may be:

*Works for the protection and accommodation of Lands.*

Fences.

Also all necessary arches, tunnels, culverts, drains, or other passages, either over or under or by the side of the Railway, of such dimensions as shall be sufficient at all times to convey the water as clearly from the lands lying near or affected by the Railway, as before the making of the Railway, or as nearly so as may be; and such works shall be made from time to time as the Railway works proceed:

Drains.

Also proper watering places for cattle, where by reason of the Railway the cattle of any person occupying any lands lying near thereto shall be deprived of access to their former watering places; and such watering places shall be so made as to be at all times as sufficiently supplied with water as theretofore, and as if the Railway had not been made, or as nearly so as may be; and the Company shall make all necessary watercourses and drains for the purpose of conveying water to the said watering places:

Watering places.

Provided always, that the Company shall not be required to make such accommodation works in such a manner as would prevent or obstruct the working or using of the Railway, nor to make any accommodation works with respect to which the owners and occupiers of the lands shall have agreed to receive, and shall have been paid compensation instead of the making them.

LXIV. That if any difference arise respecting the kind or number of any such accommodation works, or the dimensions or sufficiency thereof, or respecting the maintaining thereof, the same shall be determined by two Justices; and such Justices shall also appoint the time within which such works shall be commenced and executed by the Company.

Differences as to accommodation works to be settled by Justices.

LXV. That if for fourteen days next after the time appointed by such Justices for the commencement of any such works the Company shall fail to commence such works, or having commenced shall fail to proceed diligently to execute the same in a sufficient manner, it shall be lawful for the party aggrieved by such failure himself to execute such works or repairs, and the reasonable expenses thereof shall be repaid by the Company to the party by whom the same shall so have been executed; and if there be any dispute about such expenses

Execution of works by owners, on default by the Company.

Works for the protection and accommodation of Lands.

Power to owners of land to make additional accommodation works.

Such works to be constructed under the superintendence of the Company's Engineer.

Accommodation works not to be required after five years.

Owners to be allowed to cross until accommodation works are made.

expenses the same shall be settled by two Justices: Provided always, that no such owner or occupier or other person shall obstruct or injure the Railway, or any of the works connected therewith, for a longer time nor use them in any other manner than is unavoidably necessary for the execution or repair of such accommodation works.

LXVI. That if any of the owners or occupiers of lands affected by such Railway shall consider the accommodation works made by the Company, or directed by such Justices to be made by the Company, insufficient for the commodious use of their respective lands, it shall be lawful for any such owner or occupier, at any time, at his own expense, to make such further works for that purpose as he shall think necessary, and as shall be agreed to by the Company, or, in case of difference, as shall be authorized by two Justices.

LXVII. That if the Company so desire, all such last-mentioned accommodation works shall be constructed under the superintendence of their Engineer, and according to plans and specifications to be submitted to and approved by such Engineer: Nevertheless, the Company shall not be entitled to require either that plans should be adopted which would involve a greater expense than that incurred in the execution of similar works by the Company, or that the plans selected should be executed in a more expensive manner than that adopted in similar cases by the Company.

LXVIII. That the Company shall not be compelled to make any further or additional accommodation works for the use of owners and occupiers of land adjoining the Railway after the expiration of the prescribed period; or, if no period be prescribed, after five years from the completion of the works and the opening of the Railway for public use.

LXIX. That until the Company shall have made the bridges or other proper communications which they shall, under the provisions herein, or in the Special Act, or any Act incorporated therewith, contained, have been required to make between lands intersected by the Railway, and no longer, the owners and occupiers of such lands, and any other persons whose right of way shall be affected by the want of such communication, and the respective servants may at all times freely pass and repass with carriages, horses, and other animals, directly (but not otherwise) across the part of the Railway made in or through their respective lands, solely for the purpose of occupying the same lands, or for the exercise of such right of way, and so as not to obstruct the passage along the Railway, or to damage the same: Nevertheless, if the owner or occupier of any such lands have, in his arrangements with the Company, received or agreed to receive compensation for or on account of any such communications, instead of the same being formed, such owner or occupier, or those claiming under him shall not be entitled so to cross the Railway.

LXX. That

LXX. That if any person omit to shut and fasten any gate set up at either side of the Railway for the accommodation of the owners or occupiers of the adjoining lands, as soon as he and the carriage, cattle, or other animals under his care, have passed through the same, he shall forfeit for every such offence any sum not exceeding Forty Shillings.

*Works for the protection and accommodation of Lands.*

Penalty on persons omitting to fasten gates.

LXXI. And be it Enacted, That this or the Special Act shall not prevent the owners or occupiers of lands adjoining to the Railway, or any other persons, from laying down, either upon their own lands or upon the lands of other persons with the consent of such persons, any collateral branches of Railway to communicate with the Railway, for the purpose of bringing carriages to or from or upon the Railway, but under and subject to such regulations as shall be approved by the Governor: And the Company shall, if required, at the expense of such owners and occupiers and other persons, and subject also to such regulations as aforesaid, make openings in the rails, and such additional lines of rail as may be necessary for effecting such communication in places where the communication can be made with safety to the public, and without injury to the Railway, and without inconvenience to the traffic thereon; and the Company shall not take any rate or toll or other moneys for the passing of any passengers, goods, or other things along any branch so to be made by any such owner or occupier or other person; but this enactment shall be subject to the following restrictions and conditions, that is to say—

*Branch Railways.*

Power to parties to make private Branch Railways communicating with the Railway.

Restrictions and conditions.

No such branch Railway shall run parallel to the Railway.

The Company shall not be bound to make any such openings in any place which they shall have set apart for any specific purpose, with which such communication would interfere, nor upon any inclined plane or bridge, nor in any tunnel.

The persons making or using such branch Railways shall be subject to all by-laws and regulations of the Company from time to time made with respect to passing upon or crossing the Railway and otherwise; and the persons making or using such branch Railways shall be bound to construct, and from time to time, as need may require, to renew the offset-plates and switches according to the most approved plan adopted by the Company, and under the direction of their Engineer.

And with respect to mines lying under or near the Railway---Be it Enacted as follows: *Working of Mines.*

LXXII. That the Company shall not be entitled to any mines of coal, ironstone, slate, or other minerals under any land purchased by them, except only such parts thereof as shall be necessary to be dug or carried away or used in the construction of the works, unless the same shall have been expressly purchased; and all such mines, excepting as aforesaid, shall be deemed to be excepted out of the conveyance

Company not to be entitled to minerals.

Working of Mines.

veyance of such lands, unless they shall have been expressly named therein and conveyed thereby.

Mines lying near the Railway not to be worked if the Company willing to purchase them.

LXXIII. That if the owner, lessee, or occupier of any mines or minerals lying under the Railway, or any of the works connected therewith, or within the prescribed distance, or where no distance shall be prescribed, forty yards therefrom, be desirous of working the same, such owner, lessee, or occupier shall give to the Company notice in writing of his intention so to do thirty days before the commencement of working; and upon the receipt of such notice it shall be lawful for the Company to cause such mines to be inspected by any person appointed by them for the purpose; and if it appear to the Company that the working of such mines or minerals is likely to damage the works of the Railway, and if the Company be willing to make compensation for such mines or any part thereof to such owner, lessee, or occupier thereof, then he shall not work or get the same; and if the Company and such owner, lessee, or occupier do not agree as to the amount of such compensation, the same shall be settled as in other cases of disputed compensation.

f Company unwilling to purchase, owner may work the mines.

LXXIV. That if, before the expiration of such thirty days, the Company do not state their willingness to treat with such owner, lessee, or occupier for the payment of such compensation, it shall be lawful for him to work the said mines or any part thereof for which the Company shall not have agreed to pay compensation, so that the same be done in a manner proper and necessary for the beneficial working thereof, and according to the usual manner of working such mines in the district where the same shall be situate; and if any damage or obstruction be occasioned to the Railway or works by improper working of such mines, the same shall be forthwith repaid or removed, as the case may require, and such damage made good by the owner, lessee, or occupier of such mines or minerals, and at his own expense; and if such repair or removal be not forthwith done, or if the Company shall so think fit, without waiting for the same to be done by such owner, lessee, or occupier, it shall be lawful for the Company to execute the same, and recover from such owner, lessee, or occupier, the expense occasioned thereby, by action in any of the Superior Courts.

Damage to Railway by improper working of mines to be made good by owners.

Mining communications.

LXXV. That if the working of any such mines under the Railway or works, or within the above-mentioned distance therefrom, be prevented as aforesaid by reason of apprehended injury to the Railway, it shall be lawful for the respective owners, lessees, and occupiers of such mines, and whose mines shall extend so as to lie on both sides of the Railway, to cut and make such and so many airways, headways, gateways, or water-levels through the mines, measures, or strata, the working whereof shall be so prevented, as may be requisite to enable them to ventilate, drain, and work the said mines; but no such airway, headway, gateway, or water-level shall be of greater dimensions or section than the prescribed dimensions and sections, and where no dimensions shall be described, not greater than

than eight feet wide and eight feet high, nor shall the same be cut or made upon any part of the Railway or works, or so as to injure the same, or to impede the passage thereon. *Working of Mines.*

LXXVI. That the Company shall from time to time pay to the owner, lessee, or occupier of any such mines extending so as to lie on both sides of the Railway, all such additional expenses and losses as shall be incurred by such owner, lessee, or occupier by reason of the severance of the lands lying over such mines by the Railway, or of the continuous working of such mines being interrupted as aforesaid, or by reason of the same being worked in such manner and under such restrictions as not to prejudice or injure the Railway, and for any minerals not purchased by the Company which cannot be obtained by reason of making and maintaining the Railway; and if any dispute or question shall arise between the Company and such owner, lessee, or occupier as aforesaid, touching the amount of such losses or expenses, the same shall be settled by arbitration. *Company to make compensation for injury done to mines.*

LXXVII. That if any loss or damage be sustained by the owner or occupier of the lands lying over any such mines, the working whereof shall have been so prevented as aforesaid (and not being the owner, lessee, or occupier of such mines), by reason of the making of any such airway or other work as aforesaid, which or any like work would not have been necessary to be made but for the working of such mines having been so prevented as aforesaid, the Company shall make full compensation to such owner or occupier of the surface lands for the loss or damage so sustained by him. *And also for any airway or other work made necessary by the Railway.*

LXXVIII. That for better ascertaining whether any such mines are being worked or have been worked so as to damage the Railway or works, it shall be lawful for the Company after giving twenty-four hours' notice in writing, to enter upon any lands through or near which the Railway passes wherein any such mines are being worked or are supposed so to be, and to enter into and return from any such mines or the works connected therewith; and for that purpose it shall be lawful for them to make use of any apparatus or machinery belonging to the owner, lessee, or occupier of such mines, and to use all necessary means for discovering the distance from the Railway to the parts of such mines which are being worked or about so to be. *Power to Company to enter and inspect the working of mines.*

LXXIX. That if any such owner, lessee, or occupier of any such mine shall refuse to allow any person appointed by the Company for that purpose to enter into and inspect any such mines or works in manner aforesaid, every person so offending shall, for every such refusal, forfeit to the Company a sum not exceeding Twenty Pounds. *Penalty for refusal to inspect.*

LXXX. That if it appear that any such mines have been worked contrary to the provisions of this or the Special Act, the Company may, if they think fit, give notice to the owner, lessee, or occupier thereof to construct such works and to adopt such means as may be necessary or proper for making safe the Railway, and preventing injury *If mines improperly worked, the Company may require means to be adopted for the safety of the Railway.*

injury thereto ; and if after such notice any such owner, lessee, or occupier do not forthwith proceed to construct the works necessary for making safe the Railway, the Company may themselves construct such works, and recover the expense thereof from such owner, lessee, or occupier, by action in any of the Superior Courts.

Passengers and Goods on Railway.

And with respect to the carrying of Passengers and Goods upon the Railway, and the Tolls to be taken thereon—Be it Enacted as follows :

Company to employ locomotive power, carriages, &c.

LXXXI. That it shall be lawful for the Company to use and employ locomotive engines or other moving power, and carriages and waggons to be drawn or propelled thereby, and to carry and convey upon the Railway all such passengers and goods as shall be offered to them for that purpose, and to make such reasonable charges in respect thereof as they may from time to time determine upon, not exceeding the tolls by the Special Act authorized to be taken by them.

Company empowered to contract with other Companies.

LXXXII. That it shall be lawful for the Company from time to time to enter into any contract with any other Company, being the owners or lessees or in possession of any other Railway, for the passage over or along the Railway by the Special Act authorized to be made, of any engines, coaches, waggons, or other carriages of any other Company, or which shall pass over any other line of Railway, or for the passage over any other line of Railway of any engines, coaches, waggons, or other carriages of the Company, or which shall pass over their line of Railway, upon the payment of such tolls and under such conditions and restrictions as may be mutually agreed upon ; and for the purpose aforesaid it shall be lawful for the respective parties to enter into any contract for the division or apportionment of the tolls to be taken upon their respective Railways.

Contracts not to affect persons not parties thereto.

LXXXIII. Provided always that no such contract as aforesaid shall in any manner alter, affect, increase, or diminish any of the tolls which the respective Companies, parties to such contracts, shall for the time being be respectively authorized and entitled to demand or receive from any person or any other Company, but that all other persons and Companies shall, notwithstanding any such contract, be entitled to the use and benefit of any of the said Railways, upon the same terms and conditions, and on payment of the same tolls, as they would have been in case no such contract had been entered into.

Company not to be liable to a greater extent than common carriers.

LXXXIV. That nothing in this or the Special Act contained shall extend to charge or make liable the Company further or in any other case than where, according to the laws of the Province, stage-coach proprietors and common carriers would be liable, nor shall extend in any degree to deprive the Company of any protection or privilege which common carriers or stage-coach proprietors may be entitled to ; but, on the contrary, the Company shall at all times be entitled to the benefit of every such protection and privilege.

LXXXV. And

LXXXV. And whereas it is expedient that the Company should be enabled to vary the tolls upon the Railway so as to accommodate them to the circumstances of the traffic, but that such power of varying should not be used for the purpose of prejudicing or favoring particular parties, or for the purpose of collusively and unfairly creating a monopoly, either in the hands of the Company or of particular parties; it shall be lawful, therefore, for the Company, subject to the provisions and limitations herein and in the Special Act contained, from time to time to alter or vary the tolls by the Special Act authorized to be taken, either upon the whole or upon any particular portions of the Railway, as they shall think fit: Provided that all such tolls be at all times charged equally to all persons, and after the same rate, whether per ton, per mile, or otherwise, in respect of all passengers, and of all goods or carriages of the same description, and conveyed or propelled by a like carriage or engine, passing only over the same portion of the line of Railway under the same circumstances; and no reduction or advance in any such tolls shall be made either directly or indirectly in favor of or against any particular Company or person travelling upon or using the Railway.

*Passengers and Goods on Railway.*

Power to vary tolls.

Tolls to be charged equally under like circumstances.

LXXXVI. And whereas authority may be given to Railway Companies to demand tolls for the conveyance of passengers and goods, and for other services, over the fraction of a mile, equal to the toll which they are authorized to demand for one mile: Therefore, in cases in which any Railway shall be amalgamated with any other adjoining Railway or Railways, such tolls shall be calculated and imposed at such rates as if such amalgamated Railways had originally formed one line of Railway.

How tolls to be calculated where Railways amalgamated.

LXXXVII. That it shall not be lawful for the Company at any time to demand or take a greater amount of toll or make any greater charge for the carriage of passengers or goods than they are by this and the Special Act authorized to demand; and upon payment of the tolls from time to time demandable, all Companies and persons shall be entitled to use the Railway with engines and carriages properly constructed as by this and the Special Act directed: Subject, nevertheless, to such regulations as shall be approved by the Governor, and to the regulations to be from time to time made by the Company by virtue of the powers in that behalf hereby and by the Special Act conferred upon them.

Railway to be free on payment of tolls.

LXXXVIII. That a list of all the tolls authorized by the Special Act to be taken, and which shall be exacted by the Company, shall be published by the same being painted upon one toll board or more, in distinct black letters on a white ground, or white letters on a black ground, or by the same being printed in legible characters on paper affixed to such board, and by such board being exhibited in some conspicuous place on the stations or places where such tolls shall be made payable.

List of tolls to be exhibited on a board.

LXXXIX. That

*Passengers and  
Goods on Railway.*

Milestones.

LXXXIX. That the Company shall cause the length of the Railway to be measured, and milestones, posts, or other conspicuous objects to be set up and maintained along the whole line thereof, at the distance of one quarter of a mile from each other, with numbers or marks inscribed thereon denoting such distances.

Tolls to be taken only  
whilst board exhibited  
and milestones set up.

XC. That no tolls shall be demanded or taken by the Company for the use of the Railway during any time at which the boards hereinbefore directed to be exhibited shall not be so exhibited, or at which the milestones hereinbefore directed to be set up and maintained shall not be so set up and maintained; and if any person wilfully pull down, deface, or destroy any such board or milestone, he shall forfeit a sum not exceeding Five Pounds for every such offence.

Tolls to be paid as  
directed by the Com-  
pany.

XCI. That the tolls shall be paid to such persons, and at such places upon or near to the Railway, and in such manner and under such regulations as the Company shall, by notice to be annexed to the list of tolls, appoint.

In default of payment  
of tolls, goods, &c.,  
may be detained and  
sold.

XCII. That if, on demand, any person fail to pay the tolls due in respect of any carriage or goods, it shall be lawful for the Company to detain and sell such carriage, or all or any part of such goods, or if the same shall have been removed from the premises of the Company, to detain and sell any other carriages or goods within such premises belonging to the party liable to pay such tolls, and out of the moneys arising from such sale to retain the tolls payable as aforesaid, and all charges and expenses of such detention and sale, rendering the overplus, if any, of the moneys arising from such sale, and such of the carriages or goods as shall remain unsold, to the person entitled thereto; or it shall be lawful for the Company to recover any such tolls by action-at-law.

Account of lading,  
&c., to be given.

XCIII. That every person being the owner or having the care of any carriage or goods passing or being upon the Railway shall, on demand, give to the Collector of Tolls at the places where he attends for the purpose of receiving goods or of collecting tolls for the part of the Railway on which such carriage or goods may have travelled or be about to travel, an exact account in writing signed by him of the number or quantity of goods conveyed by any such carriage, and of the point on the Railway from which such carriage or goods have set out or are about to set out, and at what point the same are intended to be unloaded or taken off the Railway; and if the goods conveyed by any such carriage, or brought for conveyance as aforesaid, be liable to the payment of different tolls, then such owner or other person shall specify the respective numbers or quantities thereof liable to each or any of such tolls.

Penalty for not giving  
account of lading.

XCIV. That if any such owner or other such person fail to give such account, or to produce his way-bill or bill of lading to such Collector or other officer or servant of the Company demand-  
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ing the same, or if he give a false account, or if he unload or take off any part of his lading or goods at any other place than shall be mentioned in such account, with intent to avoid the payment of any tolls payable in respect thereof, he shall for every such offence forfeit to the Company a sum not exceeding Ten Pounds for every ton of goods, or for any parcel not exceeding one hundredweight, and so in proportion for any less quantity of goods than one ton, or for any parcel exceeding one hundredweight (as the case may be), which shall be upon any such carriage; and such penalty shall be in addition to the toll to which such goods may be liable.

*Passengers and  
Goods on Railway.*

XCV. That if any dispute arise concerning the amount of the tolls due to the Company, or concerning the charges occasioned by any detention or sale thereof under the provisions herein or in the Special Act contained, the same shall be settled by a Justice; and it shall be lawful for the Company in the meanwhile to detain the goods, or (if the case so require) the proceeds of the sale thereof.

Disputes as to amount  
of tolls chargeable.

XCVI. That if any difference arise between any Toll Collector or other officer or servant of the Company and any owner of or person having the charge of any carriage passing or being upon the Railway, or of any goods conveyed or to be conveyed by such carriage, respecting the weight, quantity, quality, or nature of such goods, such Collector or other officer may lawfully detain such carriage or goods, and examine, weigh, gauge, or otherwise measure the same; and if upon such measuring or examination such goods appear to be of greater weight or quantity or of other nature than shall have been stated in the account given thereof, then the person who shall have given such account shall pay, and the owner of such carriage, or the respective owners of such goods, shall also, at the option of the Company, be liable to pay the costs of such measuring and examining; but if such goods appear to be of the same or less weight or quantity than and of the same nature as shall have been stated in such account, then the Company shall pay such costs; and they shall also pay to such owner of or person having charge of such carriage, and to the respective owners of such goods, such damage (if any) as shall appear to any Justice, on a summary application to him for that purpose, to have arisen from such detention.

Difference as to  
weights, &c.

XCVII. That if at any time it be made to appear to any Justice, upon the complaint of the Company, that any such detention, measuring, or examining of any carriage or goods, as hereinbefore mentioned, was without reasonable ground, or that it was vexatious on the part of such Collector or other officer, then the Collector or other officer shall himself pay the costs of such detention and measuring, and the damage occasioned thereby; and in default of immediate payment of any such costs or damage, the same may be recovered by distress of the goods of such Collector, and such Justice shall issue his warrant accordingly.

Toll Collector to be  
liable for wrongful  
detention of goods.

XCVIII. That if any person travel or attempt to travel in any carriage

Penalty on passengers  
practising frauds on  
the Company.

Passengers and Goods on Railway.

carriage of the Company, or of any other Company or party using the Railway, without having previously paid his fare, and with intent to avoid payment thereof, or if any person, having paid his fare for a certain distance, knowingly and wilfully proceed in any such carriage beyond such distance, without previously paying the additional fare for the additional distance, and with intent to avoid payment thereof, or if any person knowingly and wilfully refuse or neglect, on arriving at the point to which he has paid his fare, to quit such carriage, every such person shall, for every such offence, forfeit to the Company a sum not exceeding Forty Shillings.

## Detention of offenders.

XCIX. That if any person be discovered either in or after committing or attempting to commit any such offence as in the preceding enactment mentioned, all officers and servants and other persons on behalf of the Company, or such other Company or party as aforesaid, and all Constables, Gaolers, and Peace Officers, may lawfully apprehend and detain such person until he can conveniently be taken before some Justice, or until he be otherwise discharged by due course of law.

## Penalty for bringing dangerous goods on the Railway.

C. That no person shall be entitled to carry, or to require the Company to carry upon the Railway, any aquafortis, oil of vitriol, gunpowder, lucifer matches, or any other goods which, in the judgment of the Company may be of a dangerous nature; and if any person send by the Railway any such goods without distinctly marking their nature on the outside of the package containing the same, or otherwise giving notice in writing to the book-keeper or other servant of the Company with whom the same are left, at the time of so sending, he shall forfeit to the Company Twenty Pounds for every such offence; and it shall be lawful for the Company to refuse to take any parcel that they may suspect to contain any goods of a dangerous nature, or require the same to be opened to ascertain the fact.

## Delivery of matters in possession or custody of Toll Collector at removal.

CI. That if any Collector of Tolls or other officer employed by the Company be discharged or suspended from his office, or die, abscond, or absent himself, and if such Collector or other officer, or the wife, widow, or any of the family or representatives of any such Collector or other officer, refuse or neglect, after seven days' notice in writing for that purpose, to deliver up to the Company, or to any person appointed by them for that purpose, any station, dwelling-house, office, or other building, with its appurtenances, or any books, papers, or other matters belonging to the Company in the possession or custody of any such Collector or officer at the occurrence of any such event as aforesaid, then, upon application being made by the Company to any Justice, it shall be lawful for such Justice to order any Constable, with proper assistance, to enter upon such station or other building, and to remove any person found therein, and to take possession thereof, and of any such books, papers, or other matters, and to deliver the same to the Company, or any person appointed by them for that purpose.

CII. That

CII. That the Company shall every year cause an annual account in abstract to be prepared, showing the total receipts and expenditure of all funds levied by virtue of this or the Special Act for the year ending on the thirty-first day of *December*, or some other convenient day in each year, under the several distinct heads of receipt and expenditure, with a statement of the balance of such account, duly audited and certified by the Directors, or some of them, and by the Auditors, and shall, if required, transmit a copy of the said account, free of charge, to the Colonial Secretary, on or before the thirty-first day of *January* then next; which last-mentioned account shall be open to the inspection of the public at all seasonable hours, on payment of the sum of One Shilling for every such inspection: Provided always, that if the said Company shall omit to prepare or transmit such account as aforesaid, if required so to do by such Colonial Secretary, they shall forfeit for every such omission the sum of Twenty Pounds.

*Passengers and Goods on Railway.*

Annual account to be made up, and a copy transmitted to the Colonial Secretary.

And with respect to the regulating of the use of the Railway—  
Be it Enacted as follows:

*By-Laws.*

CIII. That it shall be lawful for the Company, from time to time, subject to the provisions and restrictions in this and the Special Act contained, to make regulations for the following purposes, that is to say—

Company to regulate the use of the Railway.

For regulating the mode by which, and the speed at which, carriages using the Railway are to be moved or propelled:

For regulating the times of the arrival and departure of any such carriages:

For regulating the loading or unloading of such carriages, and the weights which they are respectively to carry:

For regulating the receipt and delivery of goods and other things which are to be conveyed upon such carriages:

For preventing the smoking of tobacco, and the commission of any other nuisance in or upon such carriages, or in any of the stations or premises occupied by the Company:

And, generally, for regulating the travelling upon, or using and working of, the Railway:

But no such regulation shall authorize the closing of the Railway, or prevent the passage of engines or carriages on the Railway, at reasonable times, except at any time when, in consequence of any of the works being out of repair, or from any other sufficient cause, it shall be necessary to close the Railway, or any part thereof.

CIV. That for better enforcing the observance of all or any of such regulations, it shall be lawful for the Company, as hereafter mentioned, to make by-laws, and from time to time to repeal or alter

Power to make regulations by by-laws.

By-Laws.

alter such by-laws, and make others, provided that such by-laws be not repugnant to the laws of the Province, or to the provisions of this or the Special Act; and such by-laws shall be reduced into writing, and shall have affixed thereto the common seal of the Company; and every person offending against such by-laws shall forfeit for every such offence any sum not exceeding Five Pounds, to be imposed by the Company in such by-laws as a penalty for any such offence; and if the infraction or non-observance of any such by-law or other such regulation as aforesaid be attended with danger or annoyance to the public, or hindrance to the Company in the lawful use of the Railway, it shall be lawful for the Company summarily to interfere to obviate or remove such danger, annoyance or hindrance, and that without prejudice to any penalty incurred by the infraction of any such by-law.

Publication of such by-laws.

CV. That the substance of such last-mentioned by-laws shall be painted on boards, or printed on paper and pasted on boards, and hung up and affixed and continued on the front or other conspicuous part of every wharf or station belonging to the Company, according to the nature or subject matter of such by-laws respectively, and so as to give public notice thereof to the parties interested therein or affected thereby; and such boards shall from time to time be renewed as often as the by-laws thereon, or any part thereof, shall be obliterated or destroyed; and no penalty imposed by any such by-law shall be recoverable unless the same shall have been published and kept published in manner aforesaid.

Such by-laws to be binding on all parties.

CVI. That such by-laws, when so published and affixed, shall be binding upon and be observed by all parties, and shall be sufficient to justify all persons acting under the same; and for proof of the publication of any such by-laws, it shall be sufficient to prove that a printed paper or painted board, containing a copy of such by-laws, was affixed and continued in manner by this Act directed; and in case of its being afterwards displaced or damaged, then that such paper or board was replaced as soon as conveniently might be.

No by-laws to be valid till two calendar months after they have been laid before the Governor.

CVII. That no such by-law, order, rule, or regulation, and no order, rule, or regulation annulling any such by-law, rule, order, or regulation, shall have any force or effect until two calendar months after a true copy of such by-law, order, rule, or regulation, certified as aforesaid, shall have been laid before the Governor, unless the Governor shall, before such period, signify his approbation thereof.

Governor may disallow by-laws.

CVIII. That it shall be lawful for the Governor at any time, either before or after any by-law, order, rule, or regulation shall have been laid before him as aforesaid shall have come into operation, to notify to the Company who shall have made the same, his 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 such by-law, order, rule, or regulation which shall be so disallowed shall have any force or effect whatsoever; or if it shall be  
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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 already incurred under the same.

And with respect to Leasing the Railway—Be it Enacted as follows:

*Leasing of Railway.*

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CIX. That where the Company shall be authorized by the Special Act to lease the Railway, or any part thereof, to any Company or person, the lease to be executed in pursuance of such authority shall contain all usual and proper covenants on the part of the lessee for maintaining the Railway, or the portion thereof comprised in such lease, in good and efficient repair and working condition during the continuance thereof, and for so leaving the same at the expiration of the term thereby granted, and such other provisions, conditions, covenants, and agreements as are usually inserted in leases of a like nature.

Exercise of power to lease the Railway.

CX. That such lease shall entitle the Company or person to whom the same shall be granted to the free use of the Railway or portion of Railway comprised therein, and during the continuance of any such lease all the powers and privileges granted to and which might otherwise be exercised and enjoyed by the Company, or the Directors thereof, or their officers, agents, or servants, by virtue of this or the Special Act, with regard to the possession, enjoyment, and management of the Railway, or of the part thereof comprised in such lease, and the tolls to be taken thereon, shall be exercised and enjoyed by the lessee, and the officers and servants of such lessee, under the same regulations and restrictions as are by this or the Special Act imposed on the Company, and their Directors, officers, and servants; and such lessee shall, with respect to the Railway comprised in such lease, be subject to all the obligations by this or the Special Act imposed on the Company.

Powers vested in the Company may be exercised by the lessees.

And with respect to the engines and carriages to be brought on the Railway—Be it Enacted as follows:

*Carriages and Engines.*

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CXI. That every locomotive steam-engine to be used on the Railway shall, if it use coal or other similar fuel emitting smoke, be constructed on the principle of consuming and so as to consume its own smoke; and if any engine be not so constructed, the Company or party using such engine shall forfeit Five Pounds for every day during which such engine shall be used on the Railway.

Engines to consume their smoke.

CXII. That no locomotive or other engine, or other description of moving power, shall at any time be brought upon or used on the Railway unless the same have first been approved of by the Company; and within fourteen days after notice given to the Company by any party desirous of bringing any such engine on the Railway, the Company shall cause their engineer or other agent to examine

Engines to be approved by the Company, and certificate of approval given.

*Carriages and  
Engines.*

Unfit engines to be removed.

examine such engine at any place within three miles distance from the Railway to be appointed by the owner thereof, and to report thereon to the Company; and within seven days after such report, if such engine be proper to be used on the Railway, the Company shall give a certificate to the party requiring the same of their approval of such engine; and if at the time the Engineer or other agent of the Company report that any engine used upon the Railway is out of repair, or unfit to be used upon the Railway, the Company may require the same to be taken off, or may forbid its use upon the Railway until the same shall have been repaired to the satisfaction of the Company; and upon the engine being so repaired, the Company shall give a certificate to the party requiring the same of their approval of such engine; and if any difference of opinion arise between the Company and the owner of any such engine as to the fitness or unfitness thereof for the purpose of being used on the Railway, such difference shall be settled by arbitration.

Penalty for using improper engines.

CXIII. That if any person, whether the owner or other person having the care thereof, bring or use upon the Railway any locomotive or other engine, or any moving power, without having first obtained such certificate of approval as aforesaid, or if, after notice given by the Company to remove any such engine from the Railway, such person do not forthwith remove the same, or if, after notice given by the Company not to use any such engine on the Railway, such person do so use such engine, without having first repaired the same to the satisfaction of the Company, and obtained such certificate of approval, every such person shall, in any of the cases aforesaid, forfeit to the Company a sum not exceeding Twenty Pounds; and in any such case it shall be lawful for the Company to remove such engine from the Railway.

Carriages to be constructed according to Company's regulations.

CXIV. That no carriage shall pass along or be upon the Railway (except in directly crossing the same, as herein or by the Special Act authorized), unless such carriage be at all times, so long as it shall be used or shall remain on the Railway, of the construction and in the condition which the regulations of the Company for the time being shall require; and if any dispute arise between the Company and the owner of any such carriage as to the construction or condition thereof, in reference to the then existing regulations of the Company, such dispute shall be settled by arbitration.

Regulations to apply also to Company's carriages.

CXV. That the regulations from time to time to be made by the Company respecting the carriages to be used on the Railway shall be drawn up in writing, and be authenticated by the common seal of the Company, and shall be applicable alike to the carriages of the Company and to the carriages of other Companies or persons using the Railway; and a copy of such regulations shall, on demand, be furnished by the Secretary of the Company to any person applying for the same.

Penalty for using improper carriages.

CXVI. That if any carriage, not being of such construction or in such condition as the regulations of the Company for the time being

being require, be made to pass or be upon any part of the Railway (except as aforesaid), the owner thereof, or any person having for the time being the charge of such carriage, shall forfeit to the Company a sum not exceeding Ten Pounds for every such offence; and it shall be lawful for the Company to remove any such carriage from the Railway.

*Carriages and  
Engines.*

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CXVII. That the respective owners of carriages using the Railway shall cause to be entered with the Secretary or other officer of the Company appointed for that purpose, the names and places of abode of the owners of such carriages respectively, and the numbers, weights, and gauges of their respective carriages; and such owners shall also, if so required by the Company, cause the same particulars to be painted in legible characters on some conspicuous part of the outside of every such carriage, so as to be always open to view; and every such owner shall, whenever required by the Company, permit his carriage to be weighed, measured, or gauged, at the expense of the Company.

Owner's name, &c.,  
to be registered and  
exhibited on carriages.

CXVIII. That if the owners of any carriage fail to comply with the requisitions contained in the preceding enactment, it shall be lawful for the Company to refuse to allow such carriage to be brought upon the Railway, or to remove the same therefrom until such compliance.

On non-compliance,  
carriage may be re-  
moved.

CXIX. That if the loading of any carriage using the Railway be such as to be liable to collision with other carriages properly loaded, to be otherwise dangerous, or if the person having the care of any carriage or goods upon the Railway suffer the same or any part thereof to remain on the Railway so as to obstruct the passage or working thereof, it shall be lawful for the Company to cause such carriage or goods to be unloaded and removed in any manner proper for preventing such collision or obstruction, and to detain such carriage or goods, or any part thereof, until the expenses occasioned by such unloading, removal, or detention, be paid.

Carriages improperly  
loaded or suffered to  
obstruct the road may  
be unloaded or re-  
moved.

CXX. That the Company shall not be liable for any damage or loss occasioned by any such unloading, removal, or detention as aforesaid, except for damage wilfully or negligently done to any carriage or goods so unloaded, removed, or detained; nor shall they be liable for the safe custody of any such carriage or goods so detained, unless the same be wrongfully detained by them, and then only for so long a time as the same shall have been so wrongfully detained.

Company not to be  
liable for damage by  
such unloading, &c.

CXXI. That the respective owners of engines and carriages passing or being upon the Railway shall be answerable for any trespass or damage done by their engines or carriages, or by any of the servants or persons employed by them to or upon the Railway, or the machinery or works belonging thereto, or to or upon the property of any other person; and every such servant or other person  
may

Owners liable for  
damages by their  
servants.

*Carriages and  
Engines.*

may lawfully be convicted of such trespass or damage before any two Justices of the Peace, either by the confession of the party offending or upon the oath of some credible witness; and, upon such conviction, every such owner shall pay to the Company, or to the person injured, as the case may be, the damage to be ascertained by such Justices, so that the same do not exceed Fifty Pounds.

Owners may recover  
from servants.

CXXII. That it shall be lawful for any owner of an engine or carriage who shall pay the amount of any damage caused by the misfeasance or negligence of any servant or other person employed by him, to recover the amount so paid by him from such servant or other person, by the same means as the Company are enabled to recover the amount of such damage from the owner of any engine or carriage.

*Conveyance of  
Mails.*

And with respect to the conveyance of Mails by Railways—Be it Enacted as follows :

Postmaster-General  
may require Railway  
Companies to convey  
the Mails.

CXXIII. That in all cases of Railways to be made within the Province, by which passengers or goods shall be conveyed in or upon carriages drawn or impelled by the power of steam or by any locomotive or stationary engines, or animal or other power whatever. it shall be lawful for the Postmaster-General by notice in writing under his hand delivered to the Company of Proprietors of any such Railway, to require that the Mails or post letter bags shall, from and after the day to be named in any such notice (being not less than twenty-eight days from the delivery thereof), be conveyed and forwarded by such Company on their Railway, either by the ordinary trains of carriages or by special trains, as need may be, at such hours or times in the day or night as the Postmaster-General shall direct, together with the Guards appointed and employed by the Postmaster-General in charge thereof, and any other officer of the Post Office; and thereupon the said Company shall, from and after the day to be named in such notice, at their own cost, provide sufficient carriages, drawn or impelled as aforesaid on such Railways, for the conveyance of such Mails and post letter bags, to the satisfaction of the Postmaster-General, and receive, take up, carry, and convey, by such ordinary or special trains of carriages, or otherwise, as need may be, all such Mails or post letter bags as shall for that purpose be tendered to them, or any of their officers, servants, or agents, by any officer of the Post Office; and also receive, take up, carry, and convey in and upon the carriages carrying such Mails or post letter bags, the Guards in charge thereof, and any other officers of the Post Office, and shall receive, take up, deliver, and leave such Mails or post letter bags, Guards, and officers, at such places in the line of such Railway, on such days, at such hours or times in the day or night, and subject to all such reasonable regulations and restrictions as to places, times, and duration of stoppages, and times of arrival, as the Postmaster-General shall in that behalf from time to time order or direct.

CXXIV. That

CXXIV. That in case the Postmaster-General shall at any time be desirous of sending by any such Railway any of Her Majesty's mail coaches or mail carts with the Mails or post letter bags, and Guards thereof, with any officers of the Post Office therein, instead of sending the said Mails or post letter bags, Guards, and officers of the Post Office by carriages to be provided by such Railway Company as aforesaid, then and in any such case such Railway Company shall, at the request of the Postmaster-General, signified by such notice as aforesaid, cause such mail coaches or mail carts, with the Mails or post letter bags, and Guards thereof, with any officers of the Post Office therein, to be conveyed by the usual or proper trucks or frames on their said Railway, subject to such regulations and restrictions of the Postmaster-General as hereinbefore mentioned.

*Conveyance of  
Mails.*

Postmaster-General may direct Mails to be carried on Railways in mail coaches in lieu of Company's carriages.

CXXV. That for the greater security of the Mails or post letter bags so to be carried or conveyed by Railways, the Company of Proprietors of such respective Railways, along with such Mails or post letter bags, mail coaches, or carts, shall be so required by the Postmaster-General to be conveyed, and their respective officers, servants, and agents shall obey, observe, and perform all such reasonable regulations respecting the conveyance, delivering, and leaving of such Mails and post letter bags, Guards, and officers of the Post Office, mail coaches, or carts, on any such Railway, or on the line thereof, as the Postmaster-General or such officer of the Post Office as he shall nominate in that behalf, shall, in his discretion, from time to time, give or make: Provided always, that it shall not be lawful for any officer or servant of the Post Office to interfere with or give orders to the Engineer or other person having the charge of any engine upon any Railway along with Mails or post letter bags shall be conveyed; but if any cause of complaint shall arise, the same shall be stated to the Conductor or other officer of the Railway Company having the charge of the train, or to the Chief Officer at any station upon the Railway; and in case of any default or neglect on the part of any officers or servants of the Railway Company to comply with any of the regulations of the Postmaster-General or other officer of the Post Office so to be nominated as aforesaid, the Railway Company shall be wholly responsible for the same.

Railway Companies to be subject to directions of Post Office respecting conveyance of Mails.

Proviso.

CXXVI. That every Company of Proprietors of any Railway along which such Mails or post letter bags, mail coaches, carts, or carriages shall be so required by the Postmaster-General to be conveyed shall be entitled to such reasonable remuneration, to be paid by the Postmaster-General to any such Company of Proprietors for the conveyance of such Mails, post letter bags, Mail Guards, and other officers of the Post Office, mail coaches, carts, and carriages, in manner required by such Postmaster-General or by such officer of the Post Office as he shall in that behalf nominate as aforesaid, as shall (either prior to or after the commencement of such service) be fixed and agreed on between the Postmaster-General and such  
Company

Remuneration to Railway Companies for conveyance of Mails.

*Conveyance of  
Mails.*

Company of Proprietors; or in case of difference of opinion between them, then as shall be determined by arbitration as herein provided, but so that the services which may be required by the Postmaster-General, or by such officer of the Post Office as he in that behalf shall nominate as aforesaid, to be performed by any such Company of Proprietors, be not suspended, postponed, or deferred by reason of such remuneration not having been then fixed or agreed on between the said Postmaster-General and such Company of Proprietors, or by reason of the award on any reference to arbitration to determine the remuneration not having been then made.

Agreements between Postmaster-General and Railway Companies as to amount of remuneration may be altered.

CXXVII. That notwithstanding any agreement entered into between the Postmaster-General and any such Company, or any award to be made on any such reference as aforesaid fixing the amount of remuneration to be paid to such Company for any services to be rendered by them as aforesaid, it shall be lawful and competent to and for the Postmaster-General, by notice in writing, to require, from and after the day to be named in any such notice, not being less than twenty-eight days from the delivery thereof, any addition to be made to the services in respect of which such agreement shall be entered into or award made; and in any such case, and also in case of a discontinuance of any part of such services as hereinafter provided, a fresh agreement shall be entered into between the Postmaster-General and such Company, regulating the future amount of remuneration to be paid by the Postmaster-General to such Company for such increased or diminished services, as the case may be; or if the parties cannot agree on such amount, the same shall be referred to arbitration in like manner as any original agreement; and such arbitrators shall have power to award any compensation they may consider reasonable to be paid to any Railway Company for any loss that may have been occasioned to them by the discontinuance or alteration of the services previously agreed to be performed by them by any train or carriage specially required by the Postmaster-General to be forwarded for the conveyance of the Mails; but so that, nevertheless, such increased or diminished services shall not be suspended, postponed, or deferred, by reason of the amount of such increased or diminished remuneration not having been then fixed or agreed on between the Postmaster-General and such Company of Proprietors, or by reason of the award or any reference to arbitration to determine the amount of such increased or diminished remuneration not having been then made.

Postmaster-General may terminate services of Railway Companies on notice.

CXXVIII. That it shall be lawful for the Postmaster-General, and he is hereby authorized, at any time during the continuance of the services of any Company of Proprietors as aforesaid, to give to such Company, by writing under his hand, six calendar months' previous notice that such services, or any part thereof, shall cease and determine; and thereupon, at the expiration of such six calendar months' notice, the said services, or such part thereof as aforesaid, and the remuneration for the same, shall cease and determine.

CXXIX. That

CXXIX. That it shall be lawful for the Postmaster-General, at any time during the continuance of the services of any Company of Proprietors as aforesaid, by writing under his hand, absolutely to determine and put an end to the same or any part thereof without giving any previous notice, or in giving any notice less than six calendar months in respect thereof; and thereupon the said services shall cease and determine accordingly: Provided, nevertheless, that in case the Postmaster-General shall, without giving six calendar months' notice as aforesaid, at any time determine the services to be required by the Postmaster-General of any Company, or any part of such services, without any cause whatever, or for any cause other than the default by such Company in the performance of any of the services to be required of them by the Postmaster-General, or the breach by such Company of any of their engagements with the Postmaster-General, then and in any such case the Postmaster-General shall make to such Company a full and fair compensation for all loss thereby occasioned; the amount whereof, in case the parties differ about the same, shall be ascertained by arbitration as herein provided.

*Conveyance of  
Mails.*

Or may terminate such services without notice, subject to certain conditions.

Proviso.

CXXX. That it shall be lawful for the Postmaster-General to require, in the manner and subject to the conditions as to payment for service performed herein prescribed, that the mails be forwarded upon any Railway at any rate of speed which the Governor shall certify to be safe, not exceeding twenty-seven miles in the hour including stoppages; and it shall be also lawful for the Postmaster-General to send any Mail Guard with bags, not exceeding the weight of luggage allowed to any other passenger (or subject to the general rules of the Company for any excess of that weight), by any trains other than a mail train, upon the same conditions as any other passenger: Provided, that in such last-mentioned case nothing herein contained shall be construed to authorise the Postmaster-General to require the conversion of a regular mail train into an ordinary train, or to exercise any control over the Company in respect of any ordinary train, nor shall the Company be responsible for the safe custody or delivery of any mail bags so sent.

Rate of speed.

Mails by trains other than a mail train.

Proviso.

CXXXI. That if the Company or any of their officers, servants, or agents, shall refuse or neglect to carry or convey any Mails or post letter bags when tendered to them for such purpose by the Postmaster-General or any officer of the Post Office, or shall refuse to carry on their Railway any mail coaches, carts, or carriages as herein provided when so required by the Postmaster-General, or shall refuse or neglect to receive, take up, deliver, and leave any such Mails or post letter bags, Mail Guards, or other officers of the Post Office, mail coaches, carts, or carriages, at such places, at such times, on such days, and subject to such regulations and restrictions as to speed of travelling, places, times, and duration of stoppages, as hereinbefore provided, or shall not obey, observe, and perform all such regulations respecting the conveyance of the Mails and post letter bags, mail coaches, carts, and carriages on any such Railways

Penalty for refusing or neglecting to take Mails.

Conveyance of  
Mails.

Proviso.

as the Postmaster-General or such officer of the Post Office as he shall nominate in that behalf, shall make for the purposes aforesaid; then and in any such case the Company who, or whose officer, servant, or agent shall so offend shall, for every such offence, forfeit and pay a sum not exceeding Twenty Pounds: Provided, nevertheless, that the payment of or liability to such penalty shall not in any manner lessen or affect the liability of any such Company under any bond which may have been given by them as hereinafter provided.

Postmaster-General  
may require Railway  
Companies to give  
security by bond.

CXXXII. That it shall be lawful for the Postmaster-General, if he shall so think fit, to require the Company to give security by bond to Her Majesty, Her Heirs, and Successors, conditioned to be void if such Company shall from time to time carry or convey, or cause to be carried or conveyed, all such Mails or post letter bags, Mail Guards, and other officers of the Post Office, mail coaches, carts, and carriages, in manner hereinbefore mentioned, when thereunto required by the Postmaster-General or any officer of the Post Office duly authorised for that purpose, and shall receive, take up, deliver, and leave all such Mails or post letter bags, Guards, and officers, mail coaches, carts, and carriages, at such places, at such times, on such days, and subject to such regulations and restrictions as to speed of travelling, places, times, and duration of stoppages, as hereinbefore mentioned, and shall obey, observe, and perform all such regulations respecting the same as the Postmaster-General shall reasonably make, and shall well and truly do and perform, and cause to be done and performed, all such other acts, matters, and things as are hereby required or directed to be done or performed by or on the part and behalf of such Company, their officers, servants, and agents; and every such bond shall be taken in such sum and in such form as the Postmaster-General shall think proper; and every such security shall be renewed from time to time whenever and so often as such bond shall be forfeited, and also whenever and so often as the Postmaster-General shall, in his discretion, require the same to be renewed; and if any Company shall, when so required, refuse or neglect, for the space of one calendar month next after the delivery of any notice for such purpose to them given by or from the Postmaster-General, to execute to Her Majesty, Her Heirs, and Successors, such bond to the effect and in manner aforesaid, or shall at any time refuse or neglect to renew such bond whenever and so often as the same shall, by or in pursuance of this Act require to be renewed, such Company shall forfeit One Hundred Pounds for every day during the period for which there shall be any refusal, neglect, or default to give or renew such security as aforesaid, after the expiration of the said one calendar month.

Conveyance of  
Military.

And with respect to the Conveyance of Military and other Forces on Railways—Be it Enacted as follows:

Companies to convey  
Military and Police  
Forces at certain  
charges.

CXXXIII. That all Railway Companies shall be bound to provide conveyance for the Military, Marine, and Police Forces at fares not exceeding Twopence per mile for each Commissioned Officer proceeding

proceeding on duty, such officer being entitled to conveyance in a first-class carriage, and not exceeding One Penny for each mile for each Soldier, Marine, or Private of the Militia or Police Force, and also for each wife, widow, or child above twelve years of age of a soldier, entitled by competent authority to be sent to their destination at the public expense, children under three years of age so entitled being taken free of charge; and children of three years of age or upwards, but under twelve years of age, so entitled, being taken at half the price of an adult; and such Soldiers, Marines, and Privates of the Militia or Police Force, and their wives, widows, and children so entitled being conveyed in carriages which shall be provided with seats, with sufficient space for the reasonable accommodation of the persons conveyed, and which shall be protected against the weather: Provided that every Officer conveyed shall be entitled to take with him one hundredweight of personal luggage without extra charge; and every Soldier, Marine, Private, wife, or widow, shall be entitled to take with him or her half a hundredweight of personal luggage without extra charge, all excess of the above weights of personal luggage being paid for at the rate of not more than One Halfpenny per pound; and all public baggage, stores, arms, ammunition, and other necessaries and things (except gunpowder and other combustible matters, which the Company shall only be bound to convey at such prices and upon such conditions as may be from time to time contracted for between the Governor and the Company) shall be conveyed at charges not exceeding Twopence per ton per mile, the assistance of the Military or other forces being given in loading and unloading such goods.

*Conveyance of  
Military.*

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Proviso.

And with respect to certain general Regulations not hereinbefore provided—Be it Enacted as follows:

*General Regu-  
lations.*

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CXXXIV. 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 Colonial Secretary for the information of Government, and until ten days after notice in writing shall have been given by the said Company to the Colonial Secretary 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.

Notice of intended opening of Railway.

CXXXV. 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 Court of Record having jurisdiction.

If Railway opened without notice, Company to forfeit £20.

CXXXVI. That if the officer or officers appointed by the Governor

Governor empowered to postpone the opening.

General Regulations.

Governor to inspect any such Railway or portion of Railway shall, after inspection thereof, report in writing to the Governor 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 Governor, from time to time, as often as such officers shall, after further inspection 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 Governor 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 Governor, 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 Court of Record having jurisdiction: Provided always, that no such order as aforesaid shall be binding on 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.

Proviso.

Notice of accidents to be given to Government.

CXXXVII. 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 Colonial Secretary for the information of Government; 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 Court of Record having jurisdiction.

Governor empowered to direct returns.

CXXXVIII. That the Governor may order and direct any Railway Company to make up and deliver to the Colonial Secretary 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 Governor shall deem necessary and require for his 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 Court of Record having jurisdiction: Provided always, that all such returns shall be privileged communications, and shall not be evidence in any Court whatsoever.

Proviso.

Penalty for making false returns.

CXXXIX. That every officer of any Company who shall wilfully make any false return to the Governor shall be deemed guilty of a misdemeanor.

CXL. That

CXL. That if at any time after the end of twenty-one years from and after the first day of January next after the passing of any Act for the construction of any new line of passenger Railway, whether such new line be a trunk, branch, or junction line, and whether such new line be constructed by a new Company incorporated for the purpose, or by any existing Company, the clear annual profits divisible upon the subscribed and paid-up capital stock of the said Railway upon the average of the seven then last preceding years shall equal or exceed the rate of Fifteen Pounds for every Hundred Pounds of such paid-up capital stock, it shall be lawful for the Governor, subject to the provisions hereinafter contained, upon giving to the said Company three calendar months' notice in writing of his intention so to do, to revise the scale of tolls, fares, and charges limited by the Act or Acts relating to the said Railway, and to fix such new scale of tolls, fares, and charges applicable to such different classes and kinds of passengers, goods, and other traffic on such Railway, as, in the judgment of the said Governor, assuming the same quantities and kinds of traffic to continue, shall be likely to reduce the said divisible profits to the said rate of Fifteen Pounds in the Hundred: Provided always that no such revised scale shall take effect unless accompanied by a guarantee, to subsist as long as any such revised scale of tolls, fares, and charges shall be in force, that the said divisible profits, in case of any deficiency therein, shall be annually made good to the said rate of Fifteen Pounds for every Hundred Pounds of such capital stock: Provided also, that such revised scale shall not be again revised, or such guarantee withdrawn, otherwise than with the consent of the Company, for the further period of twenty-one years.

*General Regulations.*

If after twenty-one years from the passing of the Act for the construction of any Railway, the profits shall exceed fifteen per cent., Governor may revise the scale of tolls and fix a new scale.

Proviso.

Proviso.

CXLI. That whatever may be the rate of divisible profits on any such Railway, it shall be lawful for the Governor, if he shall think fit, subject to the provisions hereinafter contained, at any time after the expiration of the said term of twenty-one years, to purchase any such Railway, with all its hereditaments, stock, and appurtenances, in the name and on behalf of Her Majesty, upon giving to the said Company three calendar months' notice in writing of his intention, and upon payment of a sum equal to twenty-five years' purchase of the said divisible profits, estimated at the average of the seven then next preceding years: Provided that if the average rate of profits for the said seven years shall be less than the rate of Fifteen Pounds in the Hundred, it shall be lawful for the Company, if they shall be of opinion that the said rate of twenty-five years' purchase of the said average profits is an inadequate rate of purchase of such Railway, reference being had to the prospects thereof, to require that it shall be left to arbitration, in case of difference, to determine what (if any) additional amount of purchase-money should be paid to the said Company: Provided also, that such option of purchase shall not be exercised except with the consent of the Company, while any such revised scale of tolls, fares, and charges shall be in force.

Option of purchase of Railways.

Proviso.

Proviso.

CXLII. And whereas it is not the intention of this Ordinance that, under the said powers of revision or purchase, if called into use,

Reservation to Legislature of the consideration of future policy in regard to options.

General Regulations.

use, the public resources should be employed to sustain an undue competition against any independent Company or Companies: Be it Enacted, That no such notice as hereinbefore mentioned, whether of revision or purchase, shall be given until provision shall have been made by an Ordinance or Ordinances to be passed in that behalf for authorizing the guarantee or the levy of the purchase-money hereinbefore mentioned, as the case may be, and for determining, subject to the conditions hereinbefore mentioned, the manner in which the said options, or either of them shall be exercised; and that no Bill for giving powers to exercise the said options, or either of them, shall be laid before the Legislature unless it be recited in the preamble to such Bill that three months' notice has been given by the said Governor to the Company or Companies to be affected thereby.

Accounts to be kept,  
and to be open to  
inspection.

CXLIII. That from and after the commencement of the period of seven years next preceding the period at which the option of revision or purchase becomes available, full and true accounts shall be kept of all sums of money received and paid on account of any Railway within the provisions hereinbefore contained (distinguishing, if the said Railway shall be a Branch Railway or one worked in common with other Railways, the receipts, and giving an estimate of the expenses on account of the said Railway from those on account of the trunk line or other Railways) by the Directors of the Company to whom such Railway belongs, or by whom the same may be worked; and every such Railway Company shall, once in every half-year during the said period of seven years, cause a half-yearly account in abstract to be prepared, showing the total receipt and expenditure on account of the said Railway, for the half-year ending the thirtieth day of June and the thirty-first day of December respectively, or such other convenient days as shall in each case be directed by the Governor, under distinct heads of receipt and expenditure, with a statement of the balance of such account, duly audited and certified under the hands of two or more Directors of the said Railway Company, and shall send a copy of the said account to the Colonial Secretary on or before the last days of August and February respectively, or such other days as shall in each case be directed by the Governor in each year; and it shall be lawful for the said Governor, if and when he shall think fit, to appoint any proper person or persons to inspect the accounts and books of the said Company during the said period of seven years; and it shall be lawful for any person so authorized, at all reasonable times, upon producing his authority, to examine the books, accounts, vouchers, and other documents of the Company, at the principal office or place of business of the Company, and to take copies or extracts therefrom.

Companies to provide  
one cheap train each  
way daily.

CXLIV. And whereas it is expedient to secure to the poorer class of travellers the means of travelling by Railway at moderate fares and in carriages in which they may be protected from the weather: Be it Enacted, That on and after the several days hereinafter specified, all passenger Railway Companies shall, by means of one train at the least, to travel along their Railway from one end to the other of each

each trunk, branch, or junction line belonging to or leased by them, so long as they shall continue to carry other passengers over such trunk, branch, or junction line, once at the least each way on every week day except Christmas Day and Good Friday, provide for the conveyance of third-class passengers to and from the terminal and other ordinary passenger stations of the Railway, under the obligations contained in their several Acts of Council, and with the immunities applicable by law to carriers of passengers by Railway, and also under the following conditions, that is to say—

Such train shall start at an hour to be from time to time fixed by the Directors, subject to the approval of the Governor.

Such train shall travel at any average rate of speed not less than twelve miles an hour for the whole distance travelled on the Railway, including stoppages.

Such train shall, if required, take up and set down passengers at every passenger station which it shall pass on the line.

The carriages in which passengers shall be conveyed by such train shall be provided with seats, and shall be protected from the weather in a manner satisfactory to the Governor.

The fare or charge for each third-class passenger by such train shall not exceed One Penny for each mile travelled.

Each passenger by such train shall be allowed to take with him half a hundredweight of luggage, not being merchandise or other articles carried for hire or profit, without extra charge; and any excess of luggage shall be charged by weight, at a rate not exceeding the lowest rate of charge for passengers' luggage by other trains.

Children under three years of age accompanying passengers by such train shall be taken without any charge; and children of three years and upwards, but under twelve years of age, at half the charge for an adult passenger.

And these obligations shall come into force on the day of the opening of the Railway.

CXLV. That if any Railway Company shall refuse or wilfully neglect to comply with the provisions of this Ordinance as to the said cheap trains within a reasonable time, or shall attempt to evade the operation of such order, such Company shall forfeit to Her Majesty a sum not exceeding Twenty Pounds for every day during which such refusal, neglect, or evasion shall continue.

Penalty for non-compliance.

CXLVI. Provided always, and be it Enacted, that except as to the amount of fare or charge for each passenger by such cheap trains, which shall in no case exceed the rates hereinbefore in such case provided, the Governor shall have a discretionary power, upon the

Governor to have a discretionary power of allowing alternative arrangements.

General Regulations.

the application of any Railway Company, of dispensing with any of the conditions hereinbefore required in regard to the conveyance of passengers by such cheap trains as aforesaid, in consideration of such other arrangements either in regard to speed, covering from the weather, seats, or other particulars, as to the Governor shall appear more beneficial and convenient for the passengers by such cheap trains under the circumstances of the case, and shall be sanctioned by him accordingly; and any Railway Company which shall conform to such other conditions as shall be so sanctioned by the Governor shall not be liable to any penalty for not observing the conditions which shall have been so dispensed with by the Governor in regard to the said cheap trains and the passengers conveyed thereby.

Companies to allow lines of Electrical Telegraph to be established.

CXLVII. That every Railway Company, on being required so to do by the Governor, shall be bound to allow any person or persons authorised by the said Governor, with servants and workmen, at all reasonable times, to enter into or upon their lands, and to establish and lay down upon such lands adjoining the line of such Railway a line of Electrical Telegraph for Her Majesty's Service, and to give to him and them every reasonable facility for laying down the same, and for using the same for the purpose of receiving and sending messages on Her Majesty's Service, subject to such reasonable remuneration to the Company as may be agreed upon between the Company and the Governor; or in case of disagreement, as may be settled by arbitration: Provided always, that, subject to a prior right of use thereof for the purposes of Her Majesty, such Telegraph may be used by the Company for the purposes of the Railway, upon such terms as may be agreed upon between the parties; or in the event of difference, as may be settled by arbitration.

Proviso.

Electrical Telegraph established by private parties to be open to the public.

CXLVIII. That where a line of Electrical Telegraph shall have been established upon any Railway by the Company to whom such Railway belongs, or by any company, partnership, person, or persons, otherwise than exclusively for Her Majesty's Service, or exclusively for the purposes of the Railway, or jointly for both, the use of such Electrical Telegraph, for the purpose of receiving and sending messages, shall, subject to the prior right of use thereof for the service of Her Majesty and for the purposes of the Company, and subject also to such equal charges and to such reasonable regulations as may be from time to time made by the said Railway Company, be open for the sending and receiving of messages by all persons alike without favor or preference.

Governor may appoint persons to inspect Railways.

CXLIX. That it shall be lawful for the Governor, if and when he shall think fit, to authorise any proper person or persons to inspect any Railway, and to see that the provisions of this and of the Special Act are carried into execution; and it shall be lawful for every person so authorised, at all reasonable times, upon producing his authority if required, to enter upon and examine the said

said Railway, and the stations, works and buildings, and the engines and carriages belonging thereto: Provided always, that no person appointed as Inspector as aforesaid shall exercise any powers of interference in the affairs of the Company.

*General Regulations.*

Proviso.

CL. 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.

Penalty for obstructing Inspectors.

CLI. 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 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 Governor, 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 expenses 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 Governor 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 Court of Record having jurisdiction.

Disputes between connecting Railways to be decided by the Governor.

CLII. That it shall be lawful for the Governor 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 to do such works as aforesaid without having obtained the previous sanction of the Governor; but in every such case such Railway Company shall, within forty-eight hours after such entry, make a report to the Governor, 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 Governor 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 dispatch; 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,

Power for Railway Companies to enter upon adjoining lands to repair accidents.

Proviso.

Proviso.

*General Regula-  
tions.*

Proviso.

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: Provided always, that no land shall be taken permanently by any Railway Company for such works except in conformity with the provisions of Law in that behalf.

Governor may direct prosecutions to enforce provisions of Railway Acts.

CLIII. That whenever it shall appear to the Governor that any of the provisions of the Acts regulating any of the said Companies, or of this Ordinance, or any other General Ordinance relating to Railways, have not been complied with on the part of any of the said Companies, or any of their officers, or that any Company has acted or is acting in a manner unauthorized by the provisions of the Acts in that behalf, or in excess of the powers given and objects defined by the said Acts, and that it would be for the public advantage that the due performance of the same should be enforced, or that the Company should be restrained from acting unduly, the Governor shall certify the same to Her Majesty's Attorney or Advocate-General, who shall thereupon, in case such default shall consist of non-compliance with any such Act as aforesaid, by information, or by action, bill, plaint, suit at Law or in Equity, or other legal proceedings 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 noncompliance, or otherwise authorized to sue for such penalties, might employ under the provisions of such Acts: And in case the default of the Company shall consist in the commission of some act unauthorized by Law, then the said Attorney or Advocate-General, upon receiving such certificate as aforesaid, shall proceed by suit in Equity, or such other legal proceeding as the nature of the case may require, to obtain an injunction or order (which the Judge in Equity, or other Judge to whom the application is made, shall be authorized and required to grant, if he shall be of opinion that the act of the Company complained of is not authorized by Law), to restrain the Company from acting in such illegal manner, or to give such other relief as the nature of the case may require.

Notice to be given to the Company.

Prosecutions to be under sanction of Governor, and within one year after the offence.

CLIV. Provided always and be it Enacted, That no such certificate as aforesaid shall be made until twenty-one days after the Company shall have received notice thereof; and that no legal proceedings shall be commenced under the authority of the Governor against any Railway Company for any offence against this Ordinance or any other Ordinance relating to Railways except upon such certificate as aforesaid, and within one year after such offence shall have been committed.

Punishment of persons employed on Railways guilty of misconduct.

CLV. 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 conducting traffic on the  
Railway

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 on the said Railway; who shall commit any offence against any of the by-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 impeded or obstructed; 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 dispatch, before some Justice of the Peace for the place within which such offence shall be committed without any other warrant or authority than this Ordinance; 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 labor, 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 labor as aforesaid, for such period not exceeding two calendar months as such Justice shall appoint, such commitment to be determined on payment of the amount of the penalty; and every such conviction shall be returned to the next ensuing Court of General Quarter Sessions in the usual manner.

CLVI. That every person who shall wilfully do or cause to be done anything 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 labor, for any term not exceeding two years.

Punishment of persons obstructing Railway.

CLVII. 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 can be conveniently taken before some Justice of the

Punishment of persons obstructing the officers of any Railway Company, or trespassing upon any Railway.

General Regulations.

the Peace; 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.

Governor to determine disputes respecting the proper places for opening in the ledges or flanches of Railways.

CLVIII. That in case any disagreement or difference shall arise between any owner or occupier of lands adjoining any Railway, or other persons and any Railway Company, as to the proper places for any openings in the ledges or flanches of any Railway (except at such places as by the Special Act shall be specified) for the purpose of communication between such Railway and any Collateral or Branch Railway to be laid down over such lands, then the same shall be left to the decision of the Governor, who is hereby empowered to hear and determine the same in such way as he shall think fit, and his determination shall be binding on all parties.

Arbitration.

And with respect to the Settlement of Disputes by Arbitration—  
Be it Enacted as follows:

Appointment of arbitrators when questions are to be determined by arbitration.

CLIX. That when any dispute authorized or directed by this or the Special Act, or any Act incorporated therewith, to be settled by arbitration, shall have arisen, then, unless both parties shall concur in the appointment of a single arbitrator, each party, on the request of the other party, shall nominate and appoint an arbitrator, to whom such dispute shall be referred; and every appointment of an arbitrator shall be made on the part of the Company under the hand of the Secretary or any two of the Directors of the Company, and on the part of any other party under the hand of such party; or if such party be a Corporation aggregate, under the common Seal of such Corporation; and such appointment shall be delivered to the arbitrators, and shall be deemed a submission to arbitration on the part of the party by whom the same shall be made; and after any such appointment shall have been made, neither party shall have power to revoke the same without the consent of the other, nor shall the death of either party operate as a revocation; and if for the space of fourteen days after any such dispute shall have arisen, and after a request in writing, in which shall be stated the matters so required to be referred to arbitration shall have been served by the one party on the other party to appoint an arbitrator, such last-mentioned party fail to appoint such arbitrator, then upon such failure the party making the request, and having himself appointed an arbitrator, may appoint such arbitrator to act on behalf of both parties; and such arbitrator may proceed to hear and determine the matters which shall be in dispute; and in such case the award or determination of such single arbitrator shall be final.

Vacancy of arbitrator to be supplied.

CLX. That if before the matter so referred shall be determined, any arbitrator appointed by either party die or become incapable to act,

act, the party by whom such arbitrator was appointed may nominate and appoint in writing some other person to act in his place ; and if for the space of seven days after notice in writing from the other party for that purpose he fail to do so, the remaining or other arbitrator may proceed *ex parte* ; and every arbitrator so to be substituted as aforesaid shall have the same powers and authorities as were vested in the former arbitrator at the time of such his death or incapacity as aforesaid.

CLXI. That where more than one arbitrator shall have been appointed, such arbitrators shall, before they enter upon the matters referred to them, nominate and appoint, by writing under their hands, an umpire, to decide on any such matters on which they shall differ, or which shall be referred to them under this or the Special Act ; and if such umpire shall die or become incapable to act, they shall forthwith, after such death or incapacity, appoint another umpire in his place ; and the decision of every such umpire on the matters so referred to him shall be final.

Appointment of umpire.

CLXII. That if, in either of the cases aforesaid the said arbitrators shall refuse, or shall for seven days after request of either party to such arbitration neglect to appoint an umpire, the Governor shall, on the application of either party to such arbitration, appoint an umpire ; and the decision of such umpire on the matters on which the arbitrators shall differ, or which shall be referred to him under this or the Special Act, shall be final.

Governor empowered to appoint an umpire, on neglect of the arbitrators.

CXLIII. That if, where a single arbitrator shall have been appointed, such arbitrator shall die or become incapable to act before he shall have made his award, the matters referred to him shall be determined by arbitration under the provisions of this or the Special Act, in the same manner as if such arbitrator had not been appointed.

In case of death of single arbitrator, the matter to begin *de novo*.

CLXIV. That if where more than one arbitrator shall have been appointed, either of the arbitrators refuse, or for seven days neglect to act, the other arbitrator may proceed *ex parte*, and the decision of such other arbitrator shall be as effectual as if he had been the single arbitrator appointed by both parties.

If either arbitrator refuse to act, the other to proceed *ex parte*.

CLXV. That if where more than one arbitrator shall have been appointed, and where neither of them shall refuse or neglect to act as aforesaid, such arbitrators shall fail to make their award within twenty-one days after the day on which the last of such arbitrators shall have been appointed, or within such extended time, if any, as shall have been appointed for that purpose by both such arbitrators under their hands, the matter referred to them shall be determined by the umpire to be appointed as aforesaid.

If arbitrators fail to make their award within twenty-one days, the matter to go to the umpire.

CLXVI. That the said arbitrators or their umpire may call for the production of any documents in the possession or power of either party

Power for arbitrators to call for books, &c.



And with respect to the recovery of damages not specially provided for, and of penalties, and to the determination of any other matter referred to Justices—Be it Enacted as follows:

*Recovery of Damages and Penalties.*

CLXXIII. That in all cases where any damages, costs, or expenses are by this or the Special Act, or any Act incorporated therewith, directed to be paid, and the method of ascertaining the amount or enforcing the payment thereof, is not provided for, such amount in case of dispute, shall be ascertained and determined by two Justices; and if the amount so ascertained be not paid by the Company or other party liable to pay the same within seven days after demand, the amount may be recovered by distress of the goods of the Company or other party liable as aforesaid; and the Justices by whom the same shall have been ordered to be paid, or either of them, or any other Justice, on application, shall issue their or his warrant accordingly.

Provision for damages not otherwise provided for.

CLXXIV. That if sufficient goods of the Company cannot be found whereon to levy any such damages, costs, and expenses payable by the Company, the same may, if the amount thereof do not exceed Twenty Pounds, be recovered by distress of the goods of the Treasurer of the Company; and the Justices aforesaid, or either of them, on application, shall issue their or his warrant accordingly; but no such distress shall issue against the goods of such Treasurer unless seven days' previous notice in writing, stating the amount so due and demanding payment thereof, have been given to such Treasurer, or left at his residence; and if such Treasurer pay any money under such distress as aforesaid, he may retain the amount so paid by him, and all costs and expenses occasioned thereby, out of any money belonging to the Company coming into his custody or control, or he may sue the Company for the same.

Distress against the Treasurer.

CLXXV. That where in this or the Special Act any question of compensation, expenses, charges, or damages, or other matter, is referred to the determination of any one Justice or more, it shall be lawful for any Justice, upon the application of either party, to summon the other party to appear before one Justice, or before two Justices, as the case may require, at a time and place to be named in such summons; and upon the appearance of such parties, or in the absence of any of them, upon proof of due service of the summons, it shall be lawful for such one Justice, or such two Justices, as the case may be, to hear and determine such question, and for that purpose to examine such parties, or any of them, and their witnesses, on oath; and the cost of every such enquiry shall be in the discretion of such Justices, and they shall determine the amount thereof.

Method of proceeding before Justices in questions of damages, &c.

CLXXVI. That the Company shall publish the short particulars of the several offences for which any penalty is imposed by this or the Special Act, or by any by-law of the Company affecting other persons than the shareholders, officers, or servants of the Company, and of the amount of every such penalty, and shall cause such particulars

Publication of penalties.

*Recovery of  
Damages and  
Penalties.*

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particulars to be painted on a board, or printed upon paper and pasted thereon, and shall cause such board to be hung up or affixed on some conspicuous part of the principal place of business of the Company; and where any such penalties are of local application, shall cause such boards to be affixed in some conspicuous place in the immediate neighborhood to which such penalties are applicable or have reference; and such particulars shall be renewed as often as the same or any part thereof is obliterated or destroyed; and no such penalty shall be recoverable unless it shall have been published and kept published in the manner hereinbefore required.

*Penalty for defacing  
boards used for such  
publication.*

CLXXVII. That if any person pull down or injure any board put up or affixed as required by this or the Special Act, for the purpose of publishing any by-law or penalty, or shall obliterate any of the letters or figures thereon, he shall forfeit for every such offence a sum not exceeding Five Pounds, and shall defray the expenses attending the restoration of such board.

*Penalties to be sum-  
marily recovered  
before two Justices.*

CLXXVIII. That every penalty or forfeiture imposed by this or the Special Act, or by any by-law made in pursuance thereof, the recovery of which is not otherwise provided for, may be recovered by summary proceedings before two Justices; and on complaint being made to any Justice, he shall issue a summons, requiring the party complained against to appear before two Justices at a time and place to be named in such summons; and every such summons shall be served on the party offending either in person or by leaving the same with some inmate at his usual place of abode; and upon the appearance of the party complained against, or in his absence, after proof of the due service of such summons, it shall be lawful for any two Justices to proceed to the hearing of the complaint, and that although no information in writing or in print shall have been exhibited before them; and upon proof of the offence, either by the confession of the party complained against, or upon the oath of one credible witness or more, it shall be lawful for such Justices to convict the offender; and upon such conviction, to adjudge the offender to pay the penalty or forfeiture incurred, as well as such costs attending the conviction as such Justices shall think fit.

*Penalties to be levied  
by distress.*

CLXXIX. That if forthwith upon any such adjudication as aforesaid the amount of the penalty or forfeiture, and of such costs as aforesaid, be not paid, the amount of such penalty and costs shall be levied by distress; and such Justices, or either of them, shall issue their or his warrant of distress accordingly.

*Imprisonment in de-  
fault of distress.*

CLXXX. That it shall be lawful for any such Justice to order any offender so convicted as aforesaid to be detained and kept in safe custody until return can be conveniently made to the warrant of distress to be issued for levying such penalty or forfeiture and costs, unless the offender give sufficient security by way of recognizance or otherwise, to the satisfaction of the Justice, for his appearance before him on the day appointed for such return, such day not being more than

than eight days from the time of taking such security; but if before issuing such warrant of distress it shall appear to the Justice, by the admission of the offender or otherwise, that no sufficient distress can be had within the jurisdiction of such Justice whereon to levy such penalty or forfeiture and costs, he may, if he thinks fit, refrain from issuing such warrant of distress; and in such case, or if such warrant shall have been issued, and upon the return thereof such insufficiency as aforesaid shall be made to appear to the Justice, then such Justice shall, by warrant, cause such offender to be committed to gaol, there to remain without bail for any term not exceeding three months, unless such penalty or forfeiture and costs be sooner paid and satisfied.

*Recovery of  
Damages and  
Penalties.*

CLXXXI. That where in this or the Special Act, or any Act incorporated therewith, any sum of money, whether in the nature of penalty or otherwise, is directed to be levied by distress, such sum of money shall be levied by distress and sale of the goods and chattels of the party liable to pay the same; and the overplus arising from the sale of such goods and chattels, after satisfying such sum of money and the expenses of the distress and sale, shall be returned, on demand, to the party whose goods shall have been distrained.

Distress, how to be levied.

CLXXXII. That no distress levied by virtue of this or the Special Act, or any Act incorporated therewith, shall be deemed unlawful, nor shall any party making the same be deemed a trespasser on account of any defect or want of form in the summons, conviction, warrant of distress, or other proceeding relating thereto, nor shall such party be deemed a trespasser *ab initio* on account of any irregularity afterwards committed by him; but all persons aggrieved by such defect or irregularity may recover full satisfaction for the special damage in an action on the case.

Distress not unlawful for want of form.

CLXXXIII. That the Justices by whom any such penalty or forfeiture shall be imposed may, where the application thereof is not otherwise provided for, award not more than one-half thereof to the informer, and shall award the remainder to the Colonial Treasurer, to be paid to "The Relief Fund," and to be applied under the provisions of the Ordinance passed on the second day of September, one thousand eight hundred and forty-four (No. 16).

Application of penalties.

CLXXXIV. That no person shall be liable to the payment of any penalty or forfeiture imposed by virtue of this or the Special Act, or any Act incorporated therewith, for any offence made cognizable before a Justice, unless the complaint respecting such offence shall have been made before such Justice within six months next after the commission of such offence.

Penalties to be sued for within six months.

CLXXXV. That if through any act, neglect, or default on account whereof any person shall have incurred any penalty imposed by this or the Special Act, any damage to the property of the Company shall have been committed by such person, he shall be liable

Damage to be made good in addition to penalty.

*Recovery of  
Damages and  
Penalties.*

to make good such damage as well as to pay such penalty; and the amount of such damages shall, in case of dispute, be determined by the Justice by whom the party incurring such penalty shall have been convicted; and on non-payment of such damages on demand, the same shall be levied by distress, and such Justices, or one of them, shall issue their or his warrant accordingly.

Penalty on witnesses  
making default.

CLXXXVI. That it shall be lawful for any Justice to summon any person to appear before him as a witness in any matter in which such Justice shall have jurisdiction under the provisions of this or the Special Act, at a time and place mentioned in such summons, and to administer to him an oath to testify the truth in such matter; and if any person so summoned shall, without reasonable excuse, refuse or neglect to appear at the time and place appointed for that purpose, having been paid or tendered a reasonable sum for his expenses; or if any person appearing shall refuse to be examined upon oath, or to give evidence before such Justice, every such person shall forfeit a sum not exceeding Five Pounds for every such offence.

Transient offenders.

CLXXXVII. That it shall be lawful for any officer or agent of the Company, and all persons called by him to his assistance, to seize and detain any person who shall have committed any offence against the provisions of this or the Special Act, and whose name and residence shall be unknown to such officer or agent, and convey him with all convenient dispatch before some Justice without any warrant or other authority than this or the Special Act; and such Justice shall proceed with all convenient dispatch to the hearing and determining of the complaint against such offender.

Form of conviction.

CLXXXVIII. That the Justice before whom any person shall be convicted of any offence against this or the Special Act, or any Act incorporated therewith, may cause the conviction to be drawn up according to the form in the Schedule to this Act annexed.

Proceedings not to be  
quashed for want of  
form.

CLXXXIX. That no proceeding in pursuance of this or the Special Act, or any Act incorporated therewith, shall be quashed or vacated for want of form, nor shall the same be removed by *certiorari* or otherwise into any Superior Court.

Parties allowed to  
appeal to Quarter  
Sessions on giving  
security.

CXC. That if any party shall feel aggrieved by any determination or adjudication of any Justice with respect to any penalty or forfeiture under the provisions of this or the Special Act, or any Act incorporated therewith, such party may appeal to the General Quarter Sessions nearest to the place in which the cause of appeal shall have arisen; but no such appeal shall be entertained unless it be made within four months next after the making of such determination or adjudication, nor unless ten days' notice in writing of such appeal, stating the nature and grounds thereof, be given to the party against whom the appeal shall be brought, nor unless the appellant forthwith after such notice enter into recognizances, with two sufficient sureties, before a Justice, conditioned duly to prosecute such appeal, and to abide the order of the Court thereon.

CXCI. That

CXCI. That at the Quarter Sessions for which such notice shall be given, the Court shall proceed to hear and determine the appeal in a summary way; or they may, if they think fit, adjourn it to the following Sessions; and upon the hearing of such appeal the Court may, if they think fit, mitigate any penalty or forfeiture, or they may confirm or quash the adjudication, and order any money paid by the appellant, or levied by distress on his goods, to be returned to him, and may also order such further satisfaction to be made to the party injured as they may judge reasonable, and they may make such order concerning the costs both of the adjudication and of the appeal as they may think reasonable.

*Recovery of Damages and Penalties.*

Court to make such order as they think reasonable.

CXCII. That every person who, upon any examination upon oath under the provisions of this or the Special Act, or any Act incorporated therewith, shall wilfully and corruptly give false evidence, shall be liable to the penalties of wilful and corrupt perjury.

Persons giving false evidence liable to penalties of perjury.

And with respect to the provisions to be made for affording access to the Special Act to all parties interested—Be it Enacted as follows:

*Access to Special Act.*

CXCIII. That the Company shall at all times after the expiration of six months after the passing of the Special Act, keep in their principal office of business a copy of the Special Act printed by authority of the Government, and shall also, within the space of such six months deposit in the General Registry Office of the Province a copy of such Act so printed as aforesaid; and the Registrar-General of the said Province shall receive, and he and the Company respectively shall retain the said copies of the said Act, and shall permit all persons interested to inspect the same, and make extracts or copies therefrom.

Copies of Special Act to be kept and deposited, and allowed to be inspected.

CXCIV. That if the Company shall fail to keep or deposit, as hereinbefore mentioned, any of the said copies of the Special Act, they shall forfeit Twenty Pounds for every such offence, and also Five Pounds for every day afterwards during which such copy shall be not so kept or deposited.

Penalty on Company failing to keep or deposit such copies.

FREDK. H. ROBE,  
Lieutenant-Governor.

*Passed the Legislative Council this twenty-sixth day of March, one thousand eight hundred and forty-seven.*

W. L. O'HALLOBAN,  
Clerk of Council.

SCHEDULE REFERRED TO BY THE FOREGOING ACT.  

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\_\_\_\_\_ To Wit.

Be it remembered, that on the \_\_\_\_\_ day of \_\_\_\_\_  
in the year of our Lord  
A. B. is convicted before us, C.D., two of Her Majesty's Justices of the Peace for  
the Province of South Australia [*here describe the offence generally, and the time  
and place when and where committed*] contrary to the [*here name the Special Act*].

Given under our hands and seals the day and year first above written.

C. (L.S.)

D. (L.S.)