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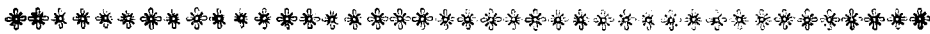


1882.

ANNO QUADRAGESIMO-SEXTO

VICTORIÆ REGINÆ,

No. 22.



AN ACT to enable the Governor in Council A.D. 1882.
to purchase the *Mersey* and *Deloraine* Tram-
road, and to extend the *Launceston* and
Western Railway. [9 October, 1882.]

WHEREAS it is desirable and expedient to enable the Governor in PREAMBLE.
Council to purchase the *Mersey* and *Deloraine* Tramroad, and to connect
the same with the *Launceston* and *Western* Railway :

Be it therefore enacted by His Excellency the Governor of *Tasmania*,
by and with the advice and consent of the Legislative Council and
House of Assembly, in Parliament assembled, as follows:—

1 This Act may be cited as “The *Mersey* and *Deloraine* Railway Short title.
Act, 1882.”

2 The Acts set forth in the Schedule are hereby repealed, save as to Repeal.
all things lawfully done thereunder before the commencement hereof.

3 In this Act, unless the context otherwise requires, Interpretation.

“The Minister” means the Minister of Lands and Works for the
time being, and includes any contractor or other person
appointed or employed by or under him :

“The Company” means “The *Mersey* and *Deloraine* Tramway
Company, Limited,” and any person or persons claiming by,
through, or under the Company :

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“The Railway” includes the Tramroad constructed by the Company, the extension and junction of the same as hereinafter mentioned, and all works, buildings, stations, and erections now or hereafter erected or built on or connected with the said Tramroad and the extension and junction of the same as aforesaid, the land upon which the same are or may be respectively erected or built, and all lands used in connection therewith, and all plant, rolling stock, steam engines, machinery, and carriages used with the same :

“The purposes of this Act” means the extension and junction of the Tramroad as hereinafter mentioned by the construction of all necessary works incidental thereto and connected therewith, the execution of all works necessary to repair, uphold, and maintain the Railway :

“Justice” and “Justices” means a Justice or Justices of the Peace for the Colony ; and where any matter is authorised and required to be done by “Two Justices,” the same shall mean two such Justices assembled and acting together.

Minister may purchase Tramroad.

4 It shall be lawful for the Minister, with the approval of the Governor in Council, to purchase for and on behalf of Her Majesty, for any sum not exceeding Six thousand Pounds,—

First. All the Tramroad heretofore constructed by the said Company, and all works, buildings, stations, and erections connected therewith, and the land upon which the same are respectively erected and built or used in connection therewith :

Secondly. So much of any land heretofore purchased, or acquired, or held, or used, by the said Company for the purposes of the said Tramroad, as extends to a width of Fifty links on each side of the said Tramroad, measuring from the centre of the same :

Thirdly. All land vested in the said Company by the Act of the Parliament of *Tasmania* of the 33rd *Victoria*, No. 33 :

Fourthly. All plant, permanent way, rolling stock, machinery and steam engines used in connection with the said Tramroad :

Fifthly. All rights, privileges, powers, and advantages whatsoever affecting or appurtenant to the said Tramroad and land which are vested in, held, enjoyed, or possessed by, or conferred on the said Company, or any person claiming by, through, or under the same.

Power to extend and connect Tramroad.

5 It shall be lawful for the Minister, with the approval of the Governor in Council,—

1. To convert the Tramroad constructed by the Company into a Railway and to extend and connect the same to and with the *Deloraine* Station of the *Launceston* and *Western* Railway :

2. To extend the Railway from the Terminus thereof at Latrobe to such place as the Governor in Council sees fit at Formby.

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6 The purchase money of the said Tramroad and land, and all moneys to be expended under and for the purposes of this Act, shall be defrayed out of moneys to be hereafter provided by Parliament for the purposes of this Act.

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Defrayment of cost of purchase and works.

7 The Tramroad constructed by the Company, and all the right, title, and interest of the Company, and of any person or persons claiming by, through, or under the Company in and to the same, and the land hereinbefore mentioned or referred to, and all the rights, privileges, powers, and advantages whatsoever affecting or appurtenant to the said Tramroad and land which are vested in, held, enjoyed, or possessed by or conferred on the said Company or such person or persons, shall, upon payment of the purchase money thereof by the Minister, without the necessity of any transfer or connecting title other than this Act, be transferred to, and become vested in and be held, enjoyed, possessed, used, and exercised by Her Majesty the Queen, freed and discharged from all claims and demands by or on the part of the shareholders in the said Company or any other persons whomsoever, in all respects in the same manner as the said Company or such person or persons could have held, possessed, enjoyed, used, and exercised the same if this Act had not been passed.

The undertaking of the Company vested in Her Majesty.

8 All land purchased by the Minister under this Act, except such part thereof as may be required for the purposes of this Act, shall be and become Waste Lands of the Crown, and shall be disposable by the Commissioner of Crown Lands under any Act now or hereafter to be in force relating to the sale and disposal of the Waste Lands of the Crown in this Colony: Provided that the said land shall not be available for selection under the Twenty-fourth Section of *The Waste Lands Act*.

Land not required for Railway may be disposed of as Waste Lands.

34 Vict. No. 10.

9 The Minister may, if the Governor in Council approves, out of any moneys provided by Parliament for that object, purchase, acquire, and take such land as may be necessary for the purposes of this Act.

Power to Minister to purchase lands.

10 All contracts and other instruments for the purchase, conveyance, or transfer of any land for the purposes of this Act shall be made by, to, and with the Minister, who shall be described in such cases by the name of "The Minister of Lands and Works for the time being" without otherwise naming him; and he shall hold all such land to and for the use of Her Majesty, Her Heirs and Successors; and every such contract and other instrument shall be valid and effectual notwithstanding any change in the person who is the Minister, and may be enforced against the Minister for the time being.

Contracts for purchase of land to be made by Minister, who shall hold same for Her Majesty.

11 *The Lands Clauses Act* shall, except as hereby expressly varied, be incorporated with this Act, but—

21 Vict. No. 11 incorporated.

1. There shall not be incorporated with this Act the Sections and provisions of the said Act hereinafter mentioned; that is to say,—Section Eight, whereby it is provided that the capital is to be subscribed before the compulsory powers are to be put in force; Section Nine, whereby it is provided that the certificate of the Justices shall be evidence that the capital has been subscribed:

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2. In the construction of this Act and the said incorporated Act this Act shall be deemed to be the Special Act, and the Minister shall be deemed to be "the Promoter of the undertaking."

Deed not liable to Stamp Duty.

12 No deed or other instrument made by, to, or with the Minister or Her Majesty the Queen for the purposes of this Act, shall be subject to any Stamp Duty now or hereafter imposed by any Act.

Notices.

13 Any notice required to be given by or on behalf of the Queen or the Governor in Council by virtue of the provisions of *The Lands Clauses Act* or this Act shall be sufficient if signed by the Minister.

Materials from Crown lands.

14 The Minister may from time to time, for the purposes of this Act, fell timber and carry away the same, and dig and use clay, stone, and other material upon and from any convenient part of the Waste Lands of the Crown occupied by any person under any lease or licence not being public highways; and may place and deposit upon any convenient part of the said lands any timber, clay, stone, rubbish, waste, spoil, and ballasting as the Minister may think proper.

Materials from private land.

15 The Minister may, for the purposes of this Act, after Fourteen days' notice to the owner or occupier, enter upon any uncultivated land, and fell, carry away, and use indigenous timber, except where the same is used for ornament or shelter to any dwelling-house, and may also dig, quarry, carry away, and use clay, stone, or other material, and may place and deposit upon any land any materials, waste, or spoil; provided that full compensation for taking any of such materials, or for depositing any such materials, waste, or spoil, as in this Section mentioned, shall be made to all parties interested for the damage thereby sustained.

Construction of works.

16 Subject to the provisions of this Act, it shall be lawful for the Minister, for the purposes of this Act, to execute any of the following works; (that is to say,)—

To enter upon any lands without notice to survey and take the levels of the same:

To make or construct upon, across, under, or over any lands, streets, roads, rivers, creeks, or other waters such temporary or permanent inclined planes, tunnels, embankments, aqueducts, bridges, roads, ways, culverts, drains, arches, cuttings, fences, and other works as the Minister may think proper;

To divert or alter, as well temporarily as permanently, the course of any streams of water, roads, streets, or ways, or raise or sink the level of any such roads, streets, or ways, in order the more conveniently to carry the same over or under or by the side of the Railway, as the Minister may think proper:

To make drains or conduits into, through, or under any lands adjoining the said Railway, for the purpose of conveying water from or to the said Railway:

To erect and construct such houses, warehouses, goods-sheds, offices, and other buildings, yards, stations, wharfs, engines, machinery, and apparatus, and other works and conveniences, as the Minister may think proper:

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From time to time to alter, repair, or discontinue the before-mentioned works, or any of them, and substitute others in their stead :

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To do all other acts necessary for making, maintaining, altering, or repairing and working the said Railway :

provided that in the exercise of the above-mentioned powers the Minister shall do as little damage as can be, and shall make full compensation in manner hereinafter, and in any Act incorporated herewith, provided to all parties interested for all damage by them sustained by reason of the exercise of such powers.

17 Before the Minister uses any such lands for any of the purposes aforesaid, he 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 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 or other animals 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 Minister as to the necessity for such fences and gates, such fences and gates as any Two Justices deem necessary for the purposes aforesaid, on application being made to them by either party.

Minister to separate lands before using them.

18 The said Railway shall as far as possible be so made as not to impede, injure, prevent, or interrupt any ordinary or rightful traffic upon the said public highways or streets respectively, and so as not to increase the cost of making, maintaining, repairing, and upholding the same.

Railway not to interrupt traffic over roads and streets.

If at any time the District Surveyor of any Municipality or Chairman of any Road Trust makes complaint to a Justice of the Peace that the provisions in this Section are being infringed, or not properly carried into effect, it shall be lawful for any Two Justices, at any time before the completion of the portion of the Works so complained of, to make such order for securing due compliance with these provisions as to such Justices shall seem just ; and in default of complying with such order the person making default shall be liable to a penalty not exceeding Five Pounds for each such default, to be recovered in a summary way ; and shall also be liable to the cost of remedying every such impediment, injury, prevention, or interruption as in this Section is mentioned, such cost to be assessed by Two Justices, and recovered in a summary way.

Penalty for non-compliance.

19 The Minister shall, from time to time, make good, repair, and amend all damage done by him to or upon any highway or street in, through, over, or along which the said Railway is constructed ; and in case of neglect or refusal so to do after having received Seven days' notice to make such repairs and amendment as may be requisite from the District Surveyor of any Municipality or Chairman of any Road Trust, such Surveyor or Chairman shall have power to effect such repairs and amendments, and shall recover the expenses incurred in so doing from the person neglecting or refusing as aforesaid, in a summary way upon complaint before Two Justices of the Peace.

Minister to repair damage to streets, &c.

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Provision in cases
where roads are
crossed on a level.

20 Where the Railway crosses any public road or street on a level, the Minister shall erect, and at all times maintain, good and sufficient gates across such road or street on each side of the Railway where the same communicates therewith, and shall employ proper persons to open and shut such gates; and such gates shall be kept constantly closed across such road or street on each side of the Railway where the same communicates therewith, and shall employ proper persons to open and shut such gates, and such gates shall be kept constantly closed across such road or street on both sides of the Railway except during the time when horses, cattle, carts, or carriages passing along the same 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 other animals passing along the road from entering upon the Railway, and the persons entrusted with the care of such gates shall cause the same to be closed as soon as such horses, cattle, carts, or carriages have passed through the same, under a penalty of Forty Shillings for every default therein.

It shall be lawful for the Governor in Council, if satisfied that it will be more conducive to the public safety that the gates on any level crossing over any such road or street should be kept closed across the Railway, to order that such gates shall be kept so closed instead of across the road or street, and in such case such gates shall be kept constantly closed across the Railway, except when engines or carriages passing along the Railway have occasion to cross such road or street, in the same manner and under the like penalty as above directed with respect to the gates being kept closed across the roads or streets.

Crossing of
private roads.

21 Where the Railway crosses any private or occupation road on a level, the Minister shall allow Twelve feet of the Railway for the same; and the Minister may from time to time make and maintain other private level crossings or occupation roads when and at such places as he may think fit, and shall allow Twelve feet of the Railway for all such roads; and shall in all such cases erect and maintain good and sufficient field gates, set and placed in the line of the fence on each side of the Railway, and all such field gates shall also be opened and shut by the person and persons using and passing through the same as soon as he and the carriage, cattle, or other animals under his care have passed through the same under the penalty aforesaid.

Gates, bridges,
&c.

22 The Minister 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,)

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;

Fences.

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

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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 so require, and the said other works as soon as conveniently may be; A.D. 1882.

Also all necessary arches, tunnels, culverts, drains, or other passages, either over or under or by the sides of the Railway, of such dimensions as will 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 Minister shall make all necessary water-courses and drains for the purpose of conveying water to the said watering places: Watering places.

provided always, that the Minister 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 land have agreed to receive, and have been paid, compensation instead of the making them.

23 If any difference arises 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. Differences as to accommodation works to be settled by Justices.

24 If any of the owners or occupiers of lands affected by the Railway consider the accommodation works made by the Minister, or directed by such Justices to be made by the Minister, 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 Minister, or in case of difference as shall be authorised by Two Justices. Power to owners of land to make additional accommodation works.

25 If for Twenty-eight days next after the time appointed by such Justices for the commencement of any such works the Minister fails to commence such works, or having commenced fails 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 to the party by whom the same have been executed; and if there be any dispute about such expenses, the same shall be settled by Two Justices: provided always, that no such owner or occupier or other person shall obstruct or injure Execution of works by owners on default by the Minister.

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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.

Such works to be constructed under an Engineer.

26 If the Minister so desires, all such last-mentioned accommodation works shall be constructed under the superintendence of an Engineer to be appointed by him, and according to plans and specifications to be submitted to and approved by such Engineer.

Accommodation works not to be required after Two years.

27 The Minister 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 Two years from the completion of the works and the opening of the Railway for public use.

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

28 Until the Minister has made the bridges or other proper communications which he shall, under the provisions herein contained, be 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 their 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 has, in his arrangements with the Minister, 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.

Penalty on persons omitting to fasten gates.

29 If any person omits 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 Ten Pounds.

Compensation how determined.

30 Whenever by this Act compensation is directed to be made to any persons whose interests are affected by the exercise of the powers hereby conferred, such compensation shall be settled by arbitration in the mode prescribed by *The Lands Clauses Act* in cases of disputed compensation.

In estimating compensation to be paid for land taken for Railway, benefit to owner to be considered.

31 In estimating the amount of compensation for severance or otherwise to be paid to any person for or in respect of land or material taken or used for the purposes of this Act, the arbitrators or umpire shall take into consideration the benefit that is likely to accrue to the person to whom such land or material belongs by reason of the construction of the Railway through the land affected, and the arbitrators or umpire, in awarding compensation to be paid for or in respect of such land or material, shall make such deduction for such benefit as shall be deemed just; and in case it appears to the arbitrators or umpire that the benefit likely to accrue to the person through whose land such Railway is about to be taken is equal to or greater than the

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loss he will sustain by reason of the taking or using of his land or material for the Railway, the arbitrators or umpire shall award that no compensation is to be paid, and thereupon the same rights shall accrue as if compensation had been awarded and duly paid.

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estate of proprietor
of resumed land
into a claim.

32 In any case where land or material is required for the purposes of this Act, if the Minister, before any steps are taken under *The Lands Clauses Act*, tenders to the person entitled to receive the same, compensation for severance and otherwise for such land or material, then if such person refuses to accept the same and to convey the land so required, or permit the same to be used or material taken as the case may be, and a reference to arbitration takes place under *The Lands Clauses Act*, and the arbitrators or umpire award a sum not exceeding the amount of compensation so tendered, all the costs of the reference, arbitration, and award shall be paid by such person, and such payment may be enforced by action in any Court of competent jurisdiction on a count for money paid at the request of such person.

Costs of arbitra-
tion, how to be
borne.

33 Notwithstanding anything to the contrary contained herein or in any other Act, if either party is dissatisfied with the award of the arbitrators where the sum awarded for compensation exceeds the sum of One hundred Pounds, and either party desires to have the compensation settled by a Judge of the Supreme Court, and shall, within Ten days after the making of such award and notice thereof, signify such desire by notice in writing to the other party, then the amount of such compensation shall be ascertained by a Judge of the Supreme Court in such manner as he deems advisable, and subject to such conditions as such Judge sees fit to impose; and such Judge may also in his discretion make any order as to the person by whom the costs of such proceedings shall be borne.

If either party to
an award is dis-
satisfied therewith
a Judge of the
Supreme Court
may decide there-
on.

Where the party dissatisfied with the award gives notice to the other party as aforesaid, then such award shall not be made a Rule of Court until such Judge by an order in writing under his hand determines the matter in dispute.

34 Notwithstanding anything to the contrary contained herein or in any other Act, if the Minister, or any person for whose accommodation the Minister is required to execute any work herein mentioned, is dissatisfied with the order or determination of any Justice or Justices with reference to any such work, where the value of such work ordered to be done exceeds the sum of One hundred Pounds, then the matter in dispute shall be settled by a Judge of the Supreme Court, in manner hereinbefore provided for settling the amount of compensation to be paid.

If either party
dissatisfied with
order of Justices
as to accommo-
dation works, a
Judge may decide
thereon.

35 It shall be lawful for the Judges of the Supreme Court to frame and make rules determining the nature of the proceedings which shall be taken for carrying out any of the provisions of the Thirty-second and Thirty-third Sections of this Act, but such rules shall have no force or effect until the same are published in the *Gazette*.

Judges may
make rules.

36 If any person wilfully interferes with, moves, injures, or damages any poles, stakes, marks, or instruments used by the Minister for the purpose of surveying or marking out the Line of the Railway or other-

Penalty for
damage to instru-
ments, Railway,
&c.

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wise in connection therewith; or if any person wilfully does or commits any damage, injury, or spoil, or any nuisance to or upon the said Railway or other roads or ways, or to or upon any other works of or belonging to or connected therewith, every person so offending shall for every such offence forfeit and pay a sum not exceeding Twenty Pounds over and above the damages occasioned thereto.

Appointment of person to execute powers conferred upon Her Majesty, &c.

37 The Governor in Council may from time to time appoint some fit and proper person as Manager of the said Railway, who shall, subject to such directions as he may from time to time receive from the Minister or the Governor in Council, exercise all or any of the powers, authorities, and privileges in relation to the Railway by this Act, or any Act incorporated herewith, conferred upon Her Majesty the Queen or upon the Governor or the Minister; and the Governor in Council may at any time remove such person and appoint another in his place, and give to such person all or any of the powers aforesaid.

Actions by and against Manager.

38 Any action, suit, or other proceeding at law or in equity in respect of any claim by or liability of the Manager arising under this Act may be commenced and prosecuted by or against "The Manager of the *Mersey and Deloraine Railway*" for the time being as the plaintiff or defendant therein, as the case may be, without otherwise naming him; and "The Manager of the *Mersey and Deloraine Railway*" for the time being shall recover or be liable to, as the case may be, the damages and costs of any such action, suit, or other proceeding.

No action to abate by death, &c. of any Manager.

39 No such action, suit or other proceeding by or against the Manager shall abate or be affected by reason of the death, resignation, removal, or new appointment of any such Manager, but the same may be continued in the same manner against the Manager for the time being as if no such change had taken place; and the production of the *Gazette* containing the notification of the appointment of any person as Manager shall be sufficient *prima facie* evidence that the person therein mentioned is the Manager under this Act for the time being.

Carriage of passengers and goods.

40 Over and along the Railway, or upon any part thereof the Manager may, from time to time, and at all times, carry and convey passengers, goods, and merchandise, and may do all such other things as may by him be deemed requisite in such manner as to him may be most convenient.

Motive power and charges for carriage.

41 It shall be lawful for the Manager to use and employ locomotive engines or other motive power, and carriages or waggons to be drawn or propelled, and to make such reasonable charges for the carriage and conveyance of passengers, goods, and merchandise as may be from time to time determined upon by any Bye-laws to be passed as hereinafter mentioned.

Recovery of charges.

42 In case default is made in payment of any money due and payable in respect of the carriage or conveyance of any passenger or any goods or merchandise under the authority of this Act, the same may be recovered by the Manager in a summary way before any Justice of the Peace; and it shall be lawful to detain the goods and merchandise in respect of which such money is payable until the money payable in respect thereof has been fully paid and satisfied.

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43 Nothing in this Act contained shall extend to charge or make the Manager liable further or in any other case than where, according to Law, stage coach proprietors and common carriers would be liable; and the Manager shall at all times be entitled to the benefit of every protection and privilege which may be possessed or enjoyed by such proprietors and carriers.

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Liability of
Manager.

44 If any person travels or attempts to travel in any carriage on the said 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 proceeds 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 refuses or neglects, 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 a sum not exceeding Forty Shillings.

Penalty on pas-
sengers practising
frauds.

45 If any person is discovered either in or after committing, or attempting to commit, any such offence as in the preceding Section mentioned, all persons employed upon the said Railway, and all Constables and Gaolers, may, if the name and address of such person cannot then be reasonably ascertained, lawfully apprehend and detain such person until he can conveniently be taken before some Justice, or until he is otherwise discharged by due course of law.

Detention of
offenders.

46 No person shall be entitled to carry, or to require to be carried, upon the Railway any aquafortis, oil of vitriol, gunpowder, lucifer matches, or any other goods which, in the judgment of any person employed on the Railway, may be of a dangerous nature; and if any person sends 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 person employed as aforesaid with whom the same are left, at the time of so sending, he shall forfeit a sum of not less than Two Pounds nor more than Twenty Pounds for every such offence; and it shall be lawful for the person to whom the same is tendered to refuse to take any parcel suspected to contain goods of a dangerous nature, or he may require the same to be opened to ascertain the fact.

Penalty for bring-
ing dangerous
goods on the
Railway.

47 Every person employed to open and shut any gate placed across any public road crossed by the said Railway, who fails or neglects to open such gate so soon as the trains have passed; every person using and passing through any gate placed across any other public road who fails or neglects to close the same so soon as he and the carriage, cattle, or other animals under his care have passed through the same; every person using and passing through any field-gate who fails or neglects to close such gate so soon as he and the carriage, cattle, or other animals under his care have passed through the same; and every person who omits 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 so soon as he and the carriage, cattle, or other animals under his care have passed through the same, shall, upon conviction, forfeit and pay for every such offence any sum not exceeding Ten Pounds.

Penalties in
respect of gates.

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Penalty for leaving trucks, &c. on public ways.

48 If any person leaves any truck, carriage, or waggon used upon the said Railway upon any public road or street at any time between sunset and sunrise, such person shall, for every such offence, forfeit and pay any sum not exceeding Five Pounds.

Punishment of person employed upon Railway, guilty of misconduct.

49 It shall be lawful for any constable to apprehend and detain any engine-driver, guard, porter, or other person employed upon the Railway, who is found drunk whilst employed upon the Railway, or who commits any offence against any Bye-law, or who wilfully, maliciously, or negligently does or omits to do any act whereby the life or limb of any person passing along or being upon the Railway is or might be injured or endangered, or whereby the passage of any of the engines, carriages, or trains is or might be obstructed or impeded, and to convey every person so offending, and any person counselling, aiding, or assisting in such offence with all convenient speed before some Justice without any other warrant or authority than this Act; and every person so offending, and every person counselling, aiding, or assisting therein as aforesaid, shall, upon conviction before such Justice in a summary way, without information in writing, be liable to be imprisoned for any term not exceeding Two months, or else shall forfeit and pay any sum not exceeding Ten Pounds as to the said Justice shall seem meet.

Punishment of persons obstructing officers or trespassing on Railway.

50 If any person wilfully obstructs or impedes any officer or person employed upon the Railway in the execution of his duty thereon or upon or in any of the Stations or other works or premises connected therewith, and if any person wilfully trespasses upon the Railway, or any of the Stations or other works or premises connected therewith, and refuses to quit the same upon request made to him by any officer or person employed upon the Railway, every such person so offending, and all others aiding or assisting therein, may be apprehended and detained by any constable, officer, or person employed upon the said Railway, and any person whom he may call to his assistance, until such offender can be conveniently taken before some Justice of the Peace; and every person so offending shall, upon conviction before such Justice, be liable either to forfeit and pay a penalty not exceeding Five Pounds or else to be imprisoned for any term not exceeding Two months as to the said Justice shall seem meet.

Bye-laws.

51 It shall be lawful for the Governor in Council, from time to time, to make such Bye-laws as he thinks fit for regulating the affairs and the management of the Railway, and for fixing the charges for the conveyance of passengers, goods, and other things thereon, and to repeal or alter any such Bye-laws, provided that such Bye-laws are not repugnant to the provisions of this Act.

The Governor in Council may by such Bye-laws impose such reasonable penalties, not exceeding Ten Pounds, for each breach of such Bye-laws or any of them as he sees fit.

Bye-laws to be published.

52 All such Bye-laws relating to other persons than the Servants and Officers employed upon the Railway, not being tables of the charges for the conveyance of passengers, goods, and other things thereon, shall be published in the *Gazette*, and all such Bye-laws shall be printed in legible letters and exhibited in some conspicuous place in

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the principal office of the Railway, and at every Station on the Railway, and be open to inspection without fee or reward; and in case any person wilfully obliterates any of the letters or figures thereon or wilfully prevents the same being inspected at any reasonable time, he shall for every such offence be liable to a penalty not exceeding Five Pounds. A.D. 1882.

53 All such Bye-laws, when published and exhibited as aforesaid, shall be binding upon and observed by all parties, and shall be sufficient warrant for all persons acting under the same. Bye-laws to be binding on all persons.

54 All moneys received by any person on account of the Railway, and all penalties received by virtue of this Act, shall be paid into the Treasury, and form part of "The Consolidated Revenue Fund." Appropriation of moneys.

55 All offences against this Act or any Bye-law, and all penalties and sums of money imposed or made payable by this Act or any Bye-law, shall, where no other proceeding is by law provided, be heard, determined, and recovered in a summary way by and before any Justice of the Peace in the mode prescribed by *The Magistrates Summary Procedure Act*. Offences to be dealt with summarily.

56 Any person who thinks himself aggrieved by any penalty imposed under the authority of this Act or of any such Bye-law as aforesaid, which is recoverable in a summary manner, may, unless otherwise expressly provided, appeal against the same in the mode prescribed by *The Appeals Regulation Act*. Appeal.

57 No plaintiff shall recover in any action commenced against any person for anything done in pursuance of this Act unless such action is commenced within Three months after the cause of action has accrued, and unless notice in writing has been given to the Defendant, One month at least before such action is commenced, of such intended action, signed by the attorney of the plaintiff, specifying the cause of action: nor shall the plaintiff recover in any such action if tender of sufficient amends has been made to him or his attorney by or on behalf of the defendant before such action brought; and in case no such tender is made, it shall be lawful for the defendant in any such action, at any time before issue joined, to pay into Court such sum of money as he thinks proper; and the defendant in every such action may plead the general issue, and give the special matter in evidence, and that the same was done in pursuance and under the authority of this Act; and if the same appears to have been so done, or if such action or suit has been brought before the expiration of one month next after such notice has been given as aforesaid, or after sufficient satisfaction made or tender as aforesaid, or after the time limited for bringing the same as aforesaid, then and in every such case the jury shall find a verdict for the defendant; and upon such verdict, or if the plaintiff is nonsuited or discontinues his action, or if upon demurrer or otherwise judgment is given against the plaintiff, then and in every such case the defendant shall have double costs, and shall have the same remedy for recovering the same as any defendant has for his costs in any other cases by law. Limitation of actions.

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SCHEDULE.

ACTS TO BE REPEALED.

<i>Date and Number of Act.</i>	<i>Title of Act.</i>
28 Vict. <i>Private.</i>	<i>"The Mersey and Deloraine Tramroad Act."</i>
33 Vict. No. 33.	An Act to amend and declare the Terms upon which certain Waste Lands of the Crown shall vest in "The Mersey and Deloraine Tramway Company, Limited."