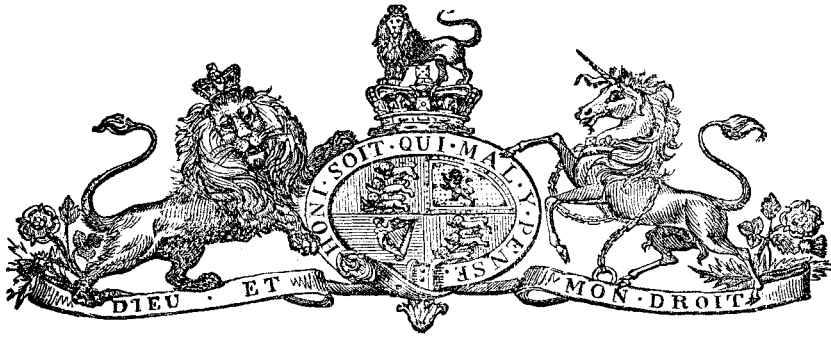


T A S M A N I A



1885.

ANNO QUADRAGESIMO-NONO

VICTORIÆ REGINÆ,

No. 41.

AN ACT to authorise the Construction of A.D. 1885.
certain Lines of Railway.
[5 December, 1885.]

BE it 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 for all purposes as “The Railway Construc- Short title.
tion Act, 1885.”

2 In this Act, unless the context otherwise determines—

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 him :

“The Railway” and “the said Railway” includes all works, buildings, stations, and erections erected or built on or connected with any Railway to be constructed under this Act, the land upon which the same are or may be respectively erected or built, all land used in connection therewith, and all plant, rolling-stock, steam engines, machinery, and carriages used with the same :

“Main Line Railway” means the Railway constructed by “The *Tasmanian* Main Line Railway Company, Limited,” between *Hobart* and *Launceston* :

“The Company” means “The *Tasmanian* Main Line Railway Company, Limited” :

Railway Construction.

A.D. 1885.

“The purposes of this Act” means the execution of all works necessary to construct, uphold, and maintain any of the Railways to be constructed under this Act.

Minister to cause Railways to be constructed.

3 It shall be lawful for the Minister to cause to be constructed and completed the Lines of Railway following ; that is to say—

- i. A Line of Railway from *North Bridgewater*, or from the *Brighton* Station of the Main Line Railway to *Apsley*, to be called the *Green Ponds* Railway :
- ii. A Line of Railway from *Bellerive* to *Sorell*, to be called the *Sorell* Railway :
- iii. A Line of Railway from the *Chudleigh* Road Station of the *North-Western* Railway to *Mole Creek*, to be called the *Chudleigh* Railway :
- iv. A Line of Railway from *Formby* to *Ulverstone*, being an extension of the *Mersey* and *Deloraine* Railway, which last-mentioned Railway, together with the *Launceston* and *Deloraine* Railway, the said extension to *Ulverstone*, and any extension thereof to be hereafter made, shall be called the *North-Western* Railway.

Limit of expenditure, and defrayment of cost.

4 The expenditure for the construction and completion of the said Lines of Railway shall not exceed—

- i. In the case of the *Green Ponds* Railway the sum of One hundred and thirteen thousand Pounds :
- ii. In the case of the *Sorell* Railway the sum of Fifty-eight thousand seven hundred Pounds :
- iii. In the case of the *Chudleigh* Railway the sum of Thirty-six thousand three hundred Pounds.
- iv. In the case of the extension of the *North-Western* Railway from *Formby* to *Ulverstone* the sum of Seventy-two thousand Pounds :

And the whole of the moneys to be expended under and for the purposes of this Act shall be defrayed out of funds provided by Parliament for the said purposes.

Power to Minister to purchase lands.

5 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.

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

6 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.

21 Vict. No. 11 incorporated.

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

Railway Construction.

Section Fifty-three, whereby it is provided that previous to entry upon lands, payment of the price thereof is to be made; Section Fifty-four, whereby it is provided that any such entry, without payment of purchase money of the land and without consent, shall render the promoter of the undertaking liable to penalties; and Section Fifty-five, whereby it is provided that decisions of Justices are not to be conclusive of certain rights.

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."

8 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. A.D. 1885.
Deed not liable to Stamp Duty.

9 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. Notices.

10 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 Crown lands.

11 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. Materials from private land.

12 Subject to the provisions of this Act, it shall be lawful for the Minister, for the purposes of this Act,— Construction of works.

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

Without making any previous payment or having the previous consent of the owner or occupier, to enter in and upon, after Seven days' notice in writing to such owner or occupier, the lands and grounds, except gardens or orchards, of any person whomsoever, and stake or set out, take possession of, and appropriate such parts thereof, except as aforesaid, as may be necessary and proper for the laying out, making, and using each of the said Railways, and all other works, matters, and conveniences connected therewith:

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

Railway Construction.

A.D. 1885.

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 :

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

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

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.

No interest payable until Six months after land taken.

13 No person, whose land shall be purchased, acquired, or taken for the purposes of this Act, shall be entitled to claim any sum or sums of money by way of interest on the purchase-money of any land so purchased, acquired, or taken until the expiration of Six months from the date of service on the owner or occupier of notice of intention to enter in and upon the land under the provisions of the last preceding Section.

Minister to separate lands before using them.

14 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, and shall also to all private roads used as aforesaid put up fences 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, such fences as any Two Justices deem necessary for the purposes aforesaid, on application being made to them by either party.

Railway not to interrupt traffic over roads and streets.

15 The 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.

Penalty for non-compliance.

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.

Railway Construction.

16 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.

A.D. 1885.

Minister to repair damage to streets, &c.

17 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 a penalty not exceeding Forty Shillings for every default therein.

Crossing of private roads.

18 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,)

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 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 so require, and the said other works as soon as conveniently may be;

Fences.

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

Watering places.

Railway Construction.

A.D. 1885.

as if the Railway had not been made, or as nearly 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:

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.

Differences as to accommodation works to be settled by Justices.

19 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.

Power to owners of land to make additional accommodation works.

20 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.

Execution of works by owners on default by the Minister.

21 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 by the Minister 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 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.

22 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.

23 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.

24 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

Railway Construction.

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. A.D. 1885.

25 If any person omits to shut and fasten any gate set up at either side of the Railway for the accommodation of the owner 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. Penalty on persons omitting to fasten gates.

26 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. Compensation how determined.

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

28 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 arbitration, how to be borne.

29 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 If either party to an award is dissatisfied therewith a Judge of the Supreme Court may decide thereon.

Railway Construction.

A.D. 1885.

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.

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.

Judges may
make rules.

30 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 last Two preceding Sections of this Act, but such rules shall have no force or effect until the same are published in the *Gazette*.

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

31 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.

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

32 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 otherwise 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.

48 Vict. No. 3 to
apply.

33 All the provisions of "The Cattle-guards Act, 1884," shall be applicable to each of the Lines of Railway to be constructed under the provisions of this Act.

Power to pass
over Main Line
Railway.

34 It shall be lawful for the Governor in Council to authorise all engines, carriages, waggons, or other vehicles of the *Green Ponds* Railway to pass over and along and to use any part of the Main Line Railway, and the works, buildings, stations, and erections erected or built on or connected with such last-mentioned Railway, upon payment to the Company of reasonable tolls and compensation for so doing; and the amount of such tolls and compensation shall, in case of difference, be settled by arbitration in the mode prescribed by *The Lands Clauses Act* in cases of disputed compensation.

21 Vict. No. 11.

Power to connect
Railway with
Main Line.

35 It shall be lawful for the Governor in Council to authorise the execution of such works as may be necessary in order to connect the *Green Ponds* Railway with the Main Line Railway, subjecting such last-mentioned Railway to as little damage or inconvenience as possible; and the Company shall be entitled to compensation for any such damage, and such compensation shall, in case of difference, be settled in manner last aforesaid.

Railway Construction.

- 36** In lieu of exercising such running powers over the Main Line Railway, it shall be lawful for the Minister, with the consent of the Governor in Council, from time to time to enter into any contract with the Company for the passage over or along the Main Line Railway of any engines, carriages, waggons, or other vehicles of the *Green Ponds* Railway, and for the passage over or along the said Railway of any engines, carriages, waggons, or other vehicles of the Company, or for the haulage of such engines, carriages, waggons, and vehicles respectively, or for the conveyance of goods and passengers over the Main Line Railway, or over the *Green Ponds* Railway, upon payment of such tolls and compensation and under such conditions and restrictions as may be mutually agreed upon; and for the purposes aforesaid, it shall be lawful for the Minister and the Company to enter into any Contract for the division or apportionment of the fares or charges to be taken by them respectively: Provided always that no Contract to be entered into under this Section shall be for any greater period than Five years from the date thereof.
- 37** Nothing hereinbefore contained shall in any wise affect or abridge the operation of the contract between His Excellency *Charles Du Cane* Esquire, Governor of *Tasmania*, by and with the advice and consent of his Executive Council, and the Company, dated 15th day of *August*, 1871, for the construction and maintenance of the Main Line Railway.
- 38** The Governor in Council may from time to time appoint some fit and proper person as Manager of the said Railways, 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 Railways 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.
- 39** 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 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 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.
- 40** 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.
- 41** 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

A.D. 1885.

Minister empowered to contract with *Tasmanian Main Line Railway Company, Limited.*

Main Line Railway Contract not to be affected.

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

Actions by and against Manager.

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

Carriage of passengers and goods.

Railway Construction.

A.D. 1885.

as may by him be deemed requisite in such manner as to him may be most convenient.

Motive power and charges for carriage.

42 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 By-laws to be passed as hereinafter mentioned.

Recovery of charges.

43 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.

Liability of Manager.

44 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.

Penalty on passengers practising frauds.

45 If any person travels or attempts to travel in any carriage on any of the said Railways 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.

Detention of offenders.

46 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 Railways, 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.

Penalty for bringing dangerous goods on the Railway.

47 No person shall be entitled to carry, or to require to be carried upon the said Railways 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

Railway Construction.

suspected to contain goods of a dangerous nature, or he may require the same to be opened to ascertain the fact. A.D. 1885.

48 If any person leaves any truck, carriage, or waggon used upon any of the said Railways 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. Penalty for leaving trucks, &c. on public ways.

49 It shall be lawful for any constable to apprehend and detain any engine-driver, guard, porter, or other person employed upon any of the Railways, who is found drunk whilst employed upon the Railway, or who commits any offence against any By-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 employed upon Railway guilty of misconduct.

50 If any person wilfully obstructs or impedes any officer or person employed upon any of the said Railways 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 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. Punishment of persons obstructing officers or trespassing on Railway.

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

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

52 All such By-laws relating to other persons than the Servants and Officers employed upon the Railways 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 By-laws shall By-laws to be published.

Railway Construction.

A.D. 1885.

be printed in legible letters and exhibited in some conspicuous place in the principal office of the Railways and at every Station on the Railways, 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.

By-laws to be binding on all persons.

53 All such By-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.

Appropriation of moneys.

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

Offences to be dealt with summarily.

55 All offences against this Act or any By-law, and all penalties and sums of money imposed or made payable by this Act or any By-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*.

19 Vict. No. 8.

Appeal.

56 Any person who thinks himself aggrieved by any penalty imposed under the authority of this Act or of any such By-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*.

19 Vict. No. 10.

Limitation of actions.

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.