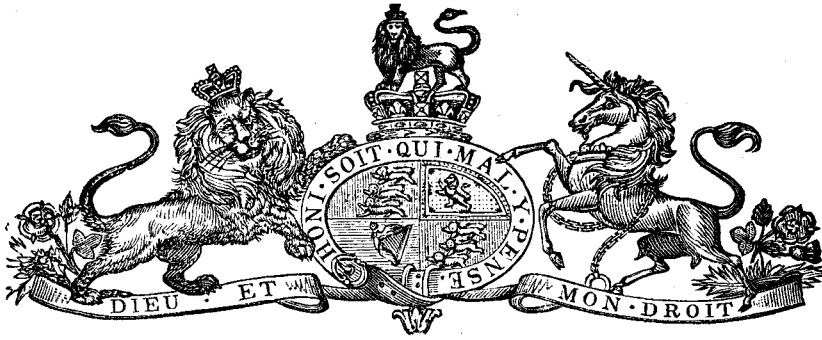


TASMANIA.



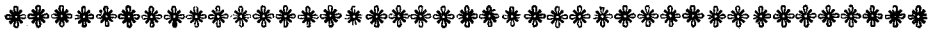
1891.

ANNO QUINQUAGESIMO-QUINTO

VICTORIÆ REGINÆ,

No. 40.

57 16.



AN ACT to consolidate and amend the Law A.D. 1891.
relating to the Control and Management of
the Government Railways of *Tasmania*.
[18 November, 1891.]

WHEREAS it is desirable to consolidate and amend the Laws PREAMBLE.
relating to the control and management of the Government Railways
of *Tasmania* :

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 Railway Management Act, 1891.” Short title.

2 On and after the day on which this Act comes into operation Repeal of existing
the Acts of the Parliament of *Tasmania* set forth in the Schedule Acts.
shall be and are hereby repealed: Provided that such repeal shall Schedule.

- i. Anything duly done under any Act hereby repealed before the date on which this Act comes into operation :
- ii. Any liability accruing under any such repealed Act before the date on which this Act comes into operation :

And, excepting so far as there is anything in this Act inconsistent Application of
therewith, this Act shall apply to all matters and things done under Act to matters
any Act hereby repealed, and of any force or effect on the passing of this and things done.
Act by virtue of any Act hereby repealed, as if made or done hereunder.

Railway Management.

A.D. 1891.

All By-laws
continued.

3 All By-laws made under any Act hereby repealed, and of any force or effect on the day on which this Act comes into operation, shall continue in full force or effect, and shall be deemed to have been made under this Act until the same shall be altered or revoked under the provisions of this Act.

All contracts, &c.,
continued.

4 All contracts, agreements, and leases made or entered into by or with the Minister or any other person in connection with any Railway, and of any force or effect on the day on which this Act comes into operation, shall continue in full force or effect, and shall be deemed to have been made under this Act.

Interpretation.

5 In the interpretation and construction of this Act, unless inconsistent with or repugnant to the context thereof, the following words and terms shall have the respective meanings hereby assigned to them ; that is to say,—

“ Railway.”

“ Railway ” shall mean and include every railway within the Colony of *Tasmania* constructed, purchased, or acquired, or hereafter constructed, purchased, or acquired, by the Government of *Tasmania*, and shall include the land upon which every such railway is made or authorised to be made, or purchased, or acquired therewith, and all buildings and erections of every kind thereon, and all works, wharves, and jetties the property of Her Majesty, whether of a permanent or a temporary nature, used for the purposes of or in connection with such railways, and all materials and things of which such railways, buildings, erections, works, wharves, or jetties is or are composed or which are capable of being used for the purposes thereof, and are erected, placed, or laid upon any such land.

Any land taken, purchased, or acquired for any railway shall be deemed and taken to be part of such railway notwithstanding that such land is situate at a distance from the line of railway :

“ Minister.”

“ Minister ” shall mean the Minister of Lands and Works for the time being, who shall, when administering this Act, be called or styled the “ Minister of Railways ” :

“ General
Manager.”

“ General Manager ” or “ Manager ” shall mean the General Manager of Railways for the time being :

“ Goods.”

“ Goods ” shall mean goods, merchandise, and chattels of every kind, including live or dead animals.

Railways vested
in the Crown.

6 Every railway, together with all the engines, rolling-stock, machinery, buildings, and appurtenances thereof of what kind soever, shall be and is hereby vested in the Minister, who shall hold the same to and for the use of Her Majesty, Her Heirs and Successors.

Governor in
Council may
appoint General
Manager.

7 The Governor in Council may from time to time appoint some fit and proper person as General Manager of Railways, who shall, subject to such directions as he may from time to time receive from the Minister, exercise all or any of the powers, authorities, and privileges conferred by this Act in relation to the railways ; 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. And the person holding the office of General Manager of the

Railway Management.

Tasmanian Government Railways on the day on which this Act comes into operation shall thereafter have and exercise and perform all the powers and duties by this Act vested in or imposed upon the General Manager until a General Manager shall be appointed under this Act. A.D. 1891.

8 Any action, suit, or other proceeding at law or in equity in respect of any claim by or liability of the General Manager arising under this Act may be commenced and prosecuted by or against "The General Manager of Railways" for the time being as the plaintiff or defendant therein, as the case may be, without otherwise naming him; and "The General Manager of Railways" 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. Actions by and against General Manager.

9 No such action, suit, or other proceeding by or against the General Manager shall abate or be affected by reason of the death, resignation, removal, or new appointment of any such General Manager, but the same may be continued in the same manner against the General 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 General Manager shall be sufficient *prima facie* evidence that the person therein mentioned is the General Manager under this Act for the time being. No action to abate by death, &c. of General Manager.

10 No part of any railway shall be open for traffic until the Engineer-in-Chief has reported to the Minister that he has inspected the whole of such part, and all the rolling-stock to be used thereon, and that such railway and rolling-stock are in good and efficient repair, and may be safely and conveniently used for public traffic thereon. No railway to be opened for traffic except on certificate of Engineer-in-Chief.

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

12 It shall be lawful for the General Manager to use and employ upon any railway locomotive engines, or other motive power, and carriages or waggons to be drawn or propelled thereby, and to make such reasonable charges for the carriage and conveyance of passengers and goods upon any railway as may be from time to time determined upon as hereinafter mentioned. Motive power and charges for carriage.

13 Nothing in this Act contained shall extend to charge or make the General Manager liable further or in any other case than where, according to law, stage coach proprietors and common carriers would be liable; and the General 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. Liability of Manager.

14 The General Manager may, with the approval of the Minister, from time to time, do the following things in respect to any railway open for traffic:— Powers of General Manager in respect to railways open for traffic.

1. May fix, alter, or revoke scales of fares, rates, and charges to be paid for—

Railway Management.

A.D. 1891.

- Persons carried on or using any part of a railway or for
 Goods carried on a railway, or received on or into, or stored in or delivered from, any wharf, pier, jetty, store, shed, or yard in connection with a railway; or for
 Passengers failing to take out tickets at the booking-office of the station whence they started; or for
 Demurrage on the use of any rolling-stock; or for
 The use of any cranes, hoists, or other machinery for loading and unloading goods; or for
 Goods loaded or unloaded into or from ships or vessels lying at any wharf, pier, or jetty in connection with any railway by the owners, masters, or agents of such ships or vessels:
 Provided, however, that the General Manager may from time to time fix special fares to be paid in lieu of the ordinary fares, upon special occasions, or for such times and throughout such parts of any railway as he may think fit:
- ii. May from time to time declare certain kinds of goods, of a nature liable to injury, or goods over and above a certain value, to be special goods;
 And every person, before delivering any special goods at any railway station, shall first give to the person in charge of such station a statement in writing declaring the nature and value of such special goods, and the person so in charge shall give a receipt for the same, specifying the nature and value so declared;
 And no person, unless he has first delivered such statement and obtained such receipt, shall be entitled to recover, in respect to any loss or damage of or to any such special goods, any greater sum than Ten Pounds in respect of any parcel in which any such special goods are packed, Fifteen Pounds per head in respect of any horses, Eight Pounds per head in respect of any neat cattle, and Fifteen Shillings per head in respect of any sheep or swine;
- iii. May from time to time determine what additional sum over and above the charges payable in respect of ordinary goods shall be payable in respect of special goods in proportion to the value thereof;
- iv. May determine certain rates for the carriage of certain goods at owner's risk: Provided that such goods shall be carried at the risk of the General Manager upon the owner undertaking to pay an additional rate for the carriage of such goods equal to Ten Pounds per centum upon the rates which are charged for such goods when carried at owner's risk;
- v. May impose such conditions and regulations with respect to any of the preceding matters as he may deem advisable;
- vi. May from time to time make, alter, or revoke by-laws for the management of railways open for traffic upon the following subjects:—

Railway Management.

- (a) Regulating the mode in which, and speed at which, engines and all other rolling-stock on a railway are to be propelled or moved; A.D. 1891.
- (b) Making time-tables showing the times of arrival and departure of trains at stations;
- (c) Regulating the loading and unloading of carriages and wagons, and the weights they may carry;
- (d) Ordering the receipt and delivery of goods, and the storing of the same;
- (e) Declaring certain goods to be dangerous goods;
- (f) Preventing the smoking of tobacco or any other substance, and committing nuisances on railways;
- (g) Keeping accounts of all receipts and expenditure on railways, and conducting the traffic and ticket audit;
- (h) Regulating the traffic on roads and bridges used both for ordinary and railway traffic;
- (i) Regulating the traffic generally on railways, and the conduct of all persons employed on or about the same or travelling thereon;
- (j) Regulating the affairs and management of railways generally;
- (k) Regulating the manner, times, and places in and at which tickets of any kind shall be purchased by, issued to, used by, and delivered up by passengers on railways;
- (l) Regulating the traffic of carriages, cabs, omnibuses, and other vehicles in or about any railway station, or yard, or siding.

15 In respect to all By-laws made under this Act, the following provisions shall apply:—

57. Sec. 16 {
- i. All By-laws shall be gazetted, and a copy thereof shall be laid before Parliament within Fourteen days after its first sitting after the publication thereof. Provisions as to By-laws, &c.
To be laid before Parliament.
- ii. A copy of all By-laws painted or printed in black letters on a white ground shall be fixed and maintained in a conspicuous place at every station at which tickets are sold. To be exhibited at stations.
- iii. Any such By-law, published in the *Gazette*, shall be *prima facie* evidence in all Courts of competent jurisdiction of the same having been duly made under the authority of this Act. Gazette to be evidence.
- iv. Any such By-law may apply to railways generally, or to any particular railway or part of a railway. May have general or only partial application.
- v. Any such By-law may impose a penalty not exceeding Ten Pounds for the breach thereof. May impose penalties.
- vi. Any such By-law may impose a penalty not exceeding One Pound upon any person employed in or about a railway, which may be recovered by deducting the same from any salary, wages, or emoluments due to the person incurring such penalty. Penalties on railway servants.

16 In respect to the receiving, custody, and delivering of goods upon or from a railway, the following provisions shall apply:— As to the custody, carriage, and delivery of goods.

Railway Management.

A.D. 1891.

- i. All goods received upon any railway shall, subject to any By-laws, conditions, or regulations in that behalf, be deemed to be in the custody of the General Manager until delivered to the consignee thereof.
- ii. In respect of all ordinary goods, and, to the extent of the value declared in respect of all special goods, and in respect of all passengers carried upon any railway, the General Manager shall be subject to the same liabilities and obligations, and shall be entitled to the same rights and protection, as common carriers are subject or entitled to by any laws for the time being in force in *Tasmania*.
- iii. The General Manager may make agreements with any persons—
 - (a) For insuring any goods delivered on a railway against all loss or damage from any cause whatsoever;
 - (b) For insuring the General Manager against all liability in respect of any such loss or damage;
 and may increase or diminish the charges payable on such goods.
- iv. Nothing herein contained shall be interpreted to subject the General Manager to any liability in respect of any goods left on the premises of a railway which, by virtue of any By-law, are so left or deemed to be so left at the risk of the person leaving the same.
- v. All claims for loss or damage shall be preferred in writing to the General Manager within Twenty-one days of such loss or damage arising.

Railway servants responsible for damage.

17 Every person employed on or about a railway shall be responsible for any damage caused by the wrong-doing or neglect of such person; and the loss occasioned thereby may be deducted by order of the General Manager from any salary or emolument due to such person, or may be recovered in a summary way.

Penalty for giving false way-bill.

18 If any person knowingly and wilfully makes a false statement as to the nature, quantity, and value of any goods delivered upon a railway, in any way-bill or other document which by this Act, or by any By-law or regulation made thereunder, he is required to deliver in respect to such goods, he shall be liable to a penalty not exceeding Fifty Pounds.

Delivery outside the limits of a railway of goods carried thereon.

19 The General Manager may cause to be delivered, at places outside the limits of a railway, goods carried on a railway, and for such purpose may do, execute, enter into, and perform all acts, deeds, matters, contracts, and things necessary thereto: Provided that no such contract shall be entered into for a longer term than Three years.

And may from time to time, by public notice, fix and define the limits within which such delivery will be made, and also the rates and charges to be paid therefor.

Such rates and charges shall be recoverable in the same manner as fares, rates, and charges made under any By-law are recoverable by this Act.

Railway Management.

20 If any person, for Two months after demand thereof made, by any person duly authorised to collect the same, refuses or fails to pay, in respect of any goods then in the custody of the General Manager any rates or charges for the same imposed under the provisions of this Act, the General Manager may order any such goods to be sold.

A.D. 1891.

Goods may be sold for charges in case of refusal to pay.

The proceeds of any such sale shall be used, first, for paying the said charges and the expenses of such sale, and the balance, if any, shall be paid over to the owner of the goods sold.

A notice in writing that any rates or charges are due in respect of any goods, signed by any person duly authorised to collect such rates and charges, and served upon the consignee or consignor of such goods, or left at the office or last known address of such consignee or consignor, shall be deemed to be a demand within the meaning of this Section.

21 If any goods are left on the premises of a railway, and the owner thereof, or the person liable for the charges thereon, is not known, the General Manager may cause it to be publicly notified that such goods will be sold upon a day named in such notice, not less than One month from the publication thereof; and if such goods are not removed, and the charges thereon paid before such day, the said goods may be sold, and the balance of the proceeds of such sale, after paying the charges upon such goods, shall be paid into and form part of the Revenue of the Railways.

Goods left without owner may be sold.

22 No person shall have any right to send by any railway any goods declared by any By-law to be dangerous goods; and if any person sends or attempts to send by a railway, or deposits in any premises of a railway, any box or package containing any such goods, without distinctly marking the contents on the outside of such box or package, or giving notice in writing of the contents to the officer in charge of the station at which such box or package is left, he shall be liable to a penalty not exceeding Fifty Pounds.

Dangerous goods not to be sent by railways.

23 Subject to the provisions of this Act and of the By-laws made thereunder, all persons shall be entitled to use any railway upon payment of the fares, rates, or charges fixed for such use.

Subject to regulations, all persons may use railways.

24 If any person, not having lawful authority or the written permission of the General Manager, knowingly or wilfully does any of the following things,—

Penalties for injuries to railways.

- i. Encroaches on a railway, by making any building, fence, ditch, or other obstacle, or planting any tree or shrub thereon;
- ii. Digs up, removes, or alters in any way the soil or surface of a railway;
- iii. Fills up, diverts, alters, or obstructs any ditch, drain, or watercourse directly carrying water off the railway, or made to protect the same; or does any act whereby any such ditch, drain, or watercourse is stopped, or the natural flow of water therein is obstructed;
- iv. Interferes with or diverts any drain or watercourse so as to damage or injure any railway;
- v. Fells or removes any tree, shrub, or timber growing on any railway;

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- vi. Interferes with, moves, injures, or damages any pole, stake, mark, or instrument used for the purpose of surveying or marking out any railway or otherwise in connection therewith,—

he shall be liable to a penalty of not more than Ten Pounds for every day upon which such offence is committed or suffered to continue, and a further sum equal to the cost incurred in removing any such encroachment or obstruction, or in repairing any injury done to any railway.

Penalties for
grave offences on
railways.

25 Whosoever knowingly and wilfully does or causes or procures to be done any of the following things,—

- i. Throws stones, gravel, timber, or any rubbish on a railway, or at any engine, carriage, or wagon thereon;
- ii. Drives, causes, or allows any animal to wander on any portion of any railway where such portion is fenced in on both sides, or in any station-yard or premises;
- iii. Does any act which obstructs or might obstruct the working of a railway, or endangers or might endanger the lives of persons travelling thereon;
- iv. Drives or attempts to drive any vehicle or animal across a level crossing or elsewhere on a railway when an engine or any carriages or wagons on the railway are approaching and within a quarter of a mile from such crossing;
- v. Places any rolling-stock on a railway without authority to do so;
- vi. Moves any part of the rolling-stock on any railway, or leaves the same on any part of a railway, not having lawful authority so to do;
- vii. Attempts to do, or assists or aids any other person in doing, any of the things mentioned in this Section,—

shall be liable, on conviction thereof before any Two Justices of the Peace, to a penalty not exceeding Fifty Pounds:

But this Section shall not relieve any person from any other penalty or liability to which he may be subject for doing any of the said things.

Offences on
railways punish-
able by fine or
imprisonment.

26 Whosoever knowingly and wilfully does or causes or procures to be done any of the following things,—

- i. Defaces the writing on any board or any notice authorised to be maintained on any railway, or any railway carriage, or rolling-stock, or any railway station;
- ii. Obstructs or impedes any officer or servant employed on any railway in the performance by such officer or servant of his duty, or uses offensive or abusive language to any such officer or servant;
- iii. Damages any railway, or any engine, carriage, truck, waggon, or any material or rolling-stock used upon any railway;
- iv. Behaves in a violent or offensive manner to the annoyance of others, or is drunk, on any railway or in any carriage thereon;
- v. Alters any ticket with intent to avoid payment of the proper fare or any part thereof;
- vi. Sells or offers for sale or transfers any free-pass ticket, or permits any person other than the person to whom such

Railway Management.

free-pass ticket is issued to make use of any such ticket; A.D. 1891.

- vii. Uses or attempts to use any ticket the time for the proper use of which has expired;
- viii. Sells or transfers to any person a ticket which has been used for the whole or any part of the journey for which such ticket is issued, or travels or attempts to travel with any such ticket sold or transferred by any such person;
- ix. Writes any indecent words or draws any indecent or obscene picture or representation on any part of a railway, or on any railway carriage or rolling-stock, or on any fences or buildings upon or adjoining any railway, or near to and conspicuous from any railway,—

shall be liable, on conviction thereof before any two Justices of the Peace, to be imprisoned for any period not exceeding Two months, or to pay a fine not exceeding Ten Pounds and costs, and in default of payment to be imprisoned for any period not exceeding Two months, unless such fine and costs be sooner paid.

27 Whosoever knowingly and wilfully does or causes or procures to be done any of the following things,—

- i. Travels in a railway carriage of a class superior to that for which he is provided with a ticket;
- ii. Affixes any placard or bill on any part of the buildings or fences upon or connected with any railway, or sells or attempts to sell any articles on any railway, without being thereto authorised by the General Manager;
- iii. Neglects to shut any gate or slip-panel in any fence forming the boundary of, or upon or adjoining, any railway;
- iv. Trespasses upon any part of a railway not being a station, platform, or railway-crossing, or other part to which the public are allowed access by law,—

shall be liable, on conviction thereof before any Two Justices of the Peace, to pay a fine not exceeding Ten Pounds and costs.

Offences on railways punishable by fine.

28 If any person travels or attempts to travel in any carriage on any 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 pay a fine not exceeding Forty Shillings, together with the amount of the fare which he should have paid.

Penalty on passengers practising frauds.

29 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 any 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 of the Peace, or until he is otherwise discharged by due course of law.

Detention of offenders.

Railway Management.

A. D. 1891.

Persons committing certain offences may be arrested.

30 If any person—

Trespasses upon a railway, and refuses to leave after being warned by any officer or servant employed thereon ; or

Is drunk or behaves in a violent or offensive manner to the annoyance of others on the railway or at any station or platform thereof, or in any carriage thereon ; or

Obstructs or impedes any officer or servant employed on the Railway in the performance by such officer or servant of his duty ; or

Does or attempts to do, or counsels, aids, or assists another person to do, anything which may endanger the lives of persons employed on or travelling on the railway,—

it shall be lawful for any constable or any person employed on or about such railway or carriages, without warrant or other authority, to arrest and detain the person so offending, and to take such person as speedily as conveniently may be before a Justice of the Peace to be dealt with as the Law directs ; and all persons present shall, when called upon, assist in making such arrest.

Penalties in respect of gates.

31 Every person employed to open and shut any gate placed across any public road crossed by any 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 any 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.

Punishment of person employed upon Railway guilty of misconduct.

32 It shall be lawful for any constable to apprehend and detain any engine-driver, guard, porter, or other person employed upon any Railway who is found drunk whilst employed upon such 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 such 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.

Railway Management.

- 33** The Minister, on behalf of and in the name of Her Majesty, may let any land not required for railway purposes as sites for storing goods, or erecting buildings thereon, or for such other purposes as may be approved by him. A.D. 1891.
- In every case where the value of the land so let exceeds an annual rental of Twenty Pounds, such letting shall be by public tender or public auction.
- No lease shall be for a longer period than Seven years.
- 34** The Minister, in the name and on behalf of Her Majesty, may also let any buildings, workshops, or other erections used in connection with such railway, not required for public use, on such terms and conditions as he shall think fit: Provided that such letting shall be by public tender or public auction, and that no lease shall be for a longer period than Five years. Unused lands may be let for stores or other buildings.
- 35** The General Manager may let by public tender, upon such conditions and for such term as he thinks fit, not exceeding Three years, any part of the land or buildings attached to a railway for the sale of refreshments, books, or other articles, or the use of the walls of any such buildings or of any part of the rolling-stock for the display of advertisements thereon. Buildings, workshops, &c., not required for public use, may be let.
- 36** The General Manager may from time to time lease by tender, upon such conditions and for such term as he thinks fit, not exceeding One year, the right to any person or persons to ply for hire with cabs, omnibuses, or other vehicles in or about any railway station or yard, or may issue permits upon such conditions as he thinks fit to the proprietors of licensed cabs, omnibuses, or other vehicles to ply for hire in or about any railway station or yard. Sites for refreshment-rooms, book-stalls, &c., may be let.
- 37** It shall be lawful for the Minister, with the consent of the Governor in Council, to enter into an agreement with any person or Company to hire or let, upon such terms and conditions as may be agreed upon, any locomotives, carriages, waggons, or other rolling stock. Right to ply for hire with cabs, &c. may be let.
- 38** It shall be lawful for the Minister, with the consent of the Governor in Council, to agree with any person or Company to grant to the Minister running powers over, along, and upon any railway belonging to such person or Company, upon such terms and conditions and for such periods as may be agreed upon. Minister may agree to hire or let rolling-stock.
- 39** It shall be lawful for the Minister, with the consent of Parliament, from time to time to grant to any person or Company, upon such terms and conditions and for such periods as Parliament shall think fit, running powers over, along, and upon any railway. Minister may agree to take running powers.
- 40** It shall be lawful for the Minister, subject to the approval of Parliament, from time to time to enter into an agreement with any person or Company, upon such terms and conditions as may be agreed upon, to rent any railway belonging to such person or Company, or either to maintain and work such railway, or to maintain or work the same, and to provide all locomotives, carriages, waggons, and other rolling stock necessary for that purpose, together with the requisite staff of men. Minister may grant running powers.
- Minister may agree to rent or maintain and work railwa

Railway Management.

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General Manager
may agree with
persons to convey
passengers, &c.

41 The General Manager may from time to time agree with any person for any of the following things :—

- i. For the conveying wholly or partly, as may be agreed upon, or booking through to their destination on a railway, the passengers or luggage carried or conveyed by the railway, steamers, coaches, and other conveyances of any such person :
- ii. For the rates, fares, or charges to be payable for services performed by or on behalf of any person in connection with a railway of any kind, and for altering the same :
- iii. For the collection of the dues, tolls, charges, and fares, and for the payment of the same, or any part thereof, collected as aforesaid, to or on behalf of any person with whom any agreement as aforesaid shall have been made :
- iv. As to the payment to be made the one to the other of such rates and charges as may be fixed in that behalf, and as to the time and mode of payment thereof, and the keeping of accounts between the General Manager and such person, in respect thereto :
- v. Generally, for the settlement of such terms and conditions as may be necessary to give effect to the foregoing provisions.

Powers of
Minister.

42 The Minister may do the following things in respect of any railway :—

- i. May make or extend any railway upon, over, or under any land necessary for the construction thereof, and for this purpose may construct works of every description and of every material necessary to the making thereof :
- ii. May direct that any part of such line of railway may be constructed on and along any part of any road ; and no person or body shall be entitled to any compensation for any road or land so used or occupied, or for or in respect of any inconvenience or damage arising out of the execution of such works to any lands fronting or adjoining any such road :
- iii. May make the railway upon, over, or under any road, street, railway, tramway, or public reserve along such line, and may alter the level of any road, street, railway, tramway, or public reserve for such purpose :
- iv. May make the railway across any arm of the sea, river, stream, or navigable water, but so as not to impede the navigation upon any navigable water, except as provided by a special Act :
- v. May alter the course or the level of any river not navigable, or of any stream, watercourse, ditch, or drain :
- vi. May make drains or conduits on or under any land adjacent to and for the purpose of carrying water from off the railway ; and may at all times maintain the same in good repair :
- vii. May remove or alter any drain or sewer, or any pipes or other material for the supply of water or of gas belonging to any company or person within or beyond the limits of the railway :

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- VIII. May make or construct all such buildings, stations, engines, machinery, piers, wharves, roads, approaches, and other works in connection with the railway as may be thought necessary : **A.D. 1891.**
- IX. May do all acts necessary for making, maintaining, altering, repairing, and using the railway.
- 43** 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.**
- 44** It shall be lawful for the Minister to exchange any land purchased, acquired, or taken for or belonging to or forming part of any railway for any other land required for such railway : Provided that the value of such land so exchanged by the Minister does not exceed the value of One hundred Pounds. **Minister may exchange land.**
- 45** 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.**
- 46** *The Lands Clauses Act* shall, except as hereby expressly varied, be incorporated with this Act, but— **21 Vict. No. 11 incorporated.**
- I. 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 :
- II. 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."
- 47** No deed or other instrument made by, to, or with the Minister, Her Majesty the Queen, or the General Manager, for the purposes of this Act, shall be subject to any Stamp Duty now or hereafter imposed by any Act. **Deed not liable to Stamp Duty.**
- 48** 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.**
- 49** 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 Crown lands occupied by any person under any lease or licence, not being **Materials from Crown lands.**

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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.

50 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.

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

51 Notwithstanding anything to the contrary contained in any 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.

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.

52 It shall be lawful for the Judges of the Supreme Court, or any one of them, to frame and make Rules determining the nature of the proceedings which shall be taken for carrying out the provisions of the immediately preceding Section, but such Rules shall have no force or effect until the same are published in the *Gazette*.

Right of way at railway crossings.

53 Where any part of a road, except where it crosses a railway on a level, is taken for a railway, such part of the road shall thereafter cease to be a highway.

Where a road crosses a railway on a level, the public right of way at such crossing shall cease whenever any engine or carriages on the railway are approaching and within a distance of a mile from such crossing; and shall at all other times extend only to the right of crossing the line of railway with all convenient speed, but not to stopping or continuing thereon.

Right of way on joint railway and traffic bridges.

54 Where a bridge is used for railway and ordinary traffic jointly, the public right of way on such bridge shall extend only so far as shall be defined in any By-law made under this Act.

Maintenance of public roads at railway crossings. On the level.

55—(1.) Where a road or street crosses a railway on the level, the Minister shall maintain and metal the road and crossing on the railway, and for a distance on each side of Thirty-three feet outside the centre-line of any line of rails so crossed; and the local authority having

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charge of the roads or streets in the district shall maintain and metal the approaches to such crossing subject to the approval of the Minister. A.D. 1891.

(2.) Where a road or street crosses over or under any railway by means of a bridge, the structure of such bridge shall be maintained by the Minister; but the road or street on or under such structure shall be maintained and metalled by the local authority having charge of the roads or streets in the district. Over or under railway.

56 Where any Crown lands or any lands reserved for public purposes are taken for a railway, such land shall cease to be Crown lands or public reserve within the meaning of any laws in relation to such lands, but shall be deemed to be land reserved for the use of the railway, and no compensation shall be payable in respect of any such land, except for improvements made thereon. Where railway made on public reserves, no compensation payable.

57 Where it is found necessary for the construction of a railway to alter any road, street, tramway, watercourse, or drain, or any other public work, or any water-pipe or gas-pipe for the supply of water or gas belonging to a private person or company, such alterations shall be made in such manner as to interfere as little as possible with the work so altered, and so as to afford to the public and to every person entitled to use the same an equal use and convenience as before such alteration. Alterations in roads, drains, &c. to be made without detriment to the public or to owners.

Before commencing any such alteration, the Minister shall cause a plan thereof to be prepared, and to be submitted to the local authority under whose control the work proposed to be altered is, or to the owner of such sewer, water-pipe or gas-pipe, or other work as the case may be. Plans of such alterations to be agreed on with owners.

If such local authority or owner object to the proposed alteration, the Minister shall appoint a competent engineer to confer with such authority or owner, and to agree with them or him as to the manner in which such alteration shall be made; and if no agreement can be come to between the parties, the matter shall be referred to Two Justices of the Peace, who shall make such order therein as they think fit, and the alteration shall be made in accordance with such order. Two Justices to settle disputes.

58 Except as and subject to the conditions hereinafter provided, the Minister may temporarily occupy and use any land for the purpose of constructing or repairing a railway, and may do the following things thereon:— Land may be occupied temporarily.

- i. May take therefrom stone, gravel, earth, and other materials:
- ii. May deposit thereon any such material:
- iii. May form and use temporary roads thereon:
- iv. May manufacture bricks or other materials thereon:
- v. May erect workshops, sheds, and other buildings of a temporary nature thereon:

The General Manager or other person having the charge of the railway shall, before occupying or using any land as herein provided, and except in the case of accident to the railway requiring immediate repair, give to the owner or occupier thereof not less than Seven days' notice in writing, and shall state in such notice the use proposed to be made of such land. Seven days' notice of occupation to be given.

The said owner or occupier may, within Ten days after receiving such notice, and after giving notice to the said General Manager of his intention so to do, apply to any Justice of the Peace, who may Justices to decide if occupation necessary, and to settle conditions.

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thereupon summon such General Manager to appear before two Justices of the Peace at a time and place to be named in such summons.

If it appears to the said Justices that the use proposed to be made of the said lands is unreasonable and unnecessary, or that other neighbouring lands are more fitting to be used for the purpose proposed, the said Justices may, by writing under their hands, order that the lands in question shall not be occupied or used in the manner proposed; or the said Justices may in such order direct that the said lands may be occupied and used, or material taken therefrom, in such manner, and to such extent only, and subject to such limitations and restrictions, as they think fit; and all persons concerned shall be bound by any such order.

Owner may require land to be permanently taken.

Provided that the owner of any land temporarily occupied for the purposes of a railway may, at any time during such occupation, give notice in writing to the Minister that he requires the said land to be taken for the purpose of the railway; and such lands shall thereupon be taken for the railway in the manner herein provided.

Tree dangerous to railway to be removed.

59 If, upon the report of an engineer, the General Manager is of opinion that any tree on land adjacent to a railway is likely by falling or otherwise to obstruct the traffic or endanger the travellers thereon, he may cause notice to be given to the owner or occupier of such land to remove such tree; and in default of such removal he may cause the tree to be removed; but such owner or occupier may recover the amount of any cost or damage incurred or suffered by such removal.

Penalties for trespassing on railway in course of construction.

60 Any person trespassing upon any railway in the course of construction, or upon any land occupied or temporarily occupied for the purpose of such construction under the powers hereby given, shall be liable to a penalty not exceeding Two Pounds.

Any person riding or driving any animal or vehicle upon such railway or land without lawful authority shall be liable to a penalty not exceeding Five Pounds.

Any such person refusing to leave such railway or land, or to remove such animal or vehicle therefrom, when warned so to do by the overseer, contractor, or any other person in charge of or employed upon such railway, may be seized and detained by such overseer or other person until he can be conveniently taken before some Justice of the Peace to be dealt with according to law.

Railway buildings exempted from local building regulations.

61 No building or other erection upon a railway shall be subject to any Act, or any by-laws or regulations made under the same, by which any local authority is empowered to regulate the erection, construction, or use of any buildings or erections within the jurisdiction of such local authority.

Railway Reward Fund to be established.

62—(1.) Out of the moneys or penalties received or recovered under or by virtue of any By-law made under this Act there shall be created and established a fund to be called "The Railway Reward Fund," which moneys, and all accumulations thereof, shall be vested in the Minister, the General Manager, and the Auditor-General for the time being, as Commissioners.

(2.) Such Fund shall be managed and invested by the Commissioners, and shall be disbursed by them in such manner as they shall

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think fit as rewards for special services and meritorious conduct rendered by any person in connection with any Railway. **A.D. 1891.**

63 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 General Manager in a summary way before any two Justices of the Peace. **Recovery of charges.**

64 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*. **Offences to be dealt with summarily.**

65—(1.) All moneys received by any person by virtue of this Act, and all penalties and sums of money imposed or made payable by this Act, except as herein otherwise provided, shall be paid into the Treasury and form part of the Consolidated Revenue Fund. **Appropriation of moneys.**

(2.) All moneys or penalties received or recovered by any person under or by virtue of any By-law made under this Act shall be paid into and form part of "The Railway Reward Fund" hereinbefore created.

66 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>	<i>Extent of Repeal.</i>
37 Vict. No. 20.	"The Launceston and Western Railway Act, 1873."	The whole Act, except the Preamble and Sections 23 and 24.
46 Vict. No. 22.	"The Mersey and Deloraine Rail-Act, 1882."	The whole Act.
47 Vict. No. 36.	"The Launceston and Western Railway Act, 1883."	The whole Act.
47 Vict. No. 39.	An Act to authorise the construction of a line of Railway from Parattah to Oatlands.	The whole Act.
47 Vict. No. 46.	"The Railway Construction Act, 1883."	The whole Act.
49 Vict. No. 40.	An Act to amend "The Railway Construction Act, 1883."	The whole Act.
49 Vict. No. 41.	The Railway Construction Act, 1885.	Sections 34 to 57, inclusive.
51 Vict. No. 14.	An Act to amend the Law relating to Railways.	The whole Act.
52 Vict. No. 39.	An Act to provide for the Appointment of a General Manager of the Tasmanian Government Railways.	The whole Act.
52 Vict. No. 56.	"The Zeehan Railway Construction Act, 1889."	The following words in Section Five—"and in Sections Thirty-eight to Fifty-seven, both inclusive," and all the words after "Provided" to the end of the Section.
33 Vict. No. 1.	"The Main Line of Railway Act."	The whole Act.
34 Vict. No. 13.	"The Main Line of Railway Amendment Act."	The whole Act.
36 Vict. No. 19.	"The Main Line of Railway Amendment Act, No. 2."	The whole Act.
44 Vict. No. 8.	"The Main Line of Railway Act, 1880."	The whole Act.
46 Vict. No. 43.	An Act to provide for the Settlement of certain Disputes with the Tasmanian Main Line Railway Company, Limited.	The whole Act.
48 Vict. No. 52.	An Act to authorise the Payment to the Tasmanian Main Line Railway Company, Limited, of the sum of Five hundred Pounds per annum, in lieu of the right to import certain Goods free of Customs Duties.	The whole Act.