

Hon. Mr. Ward.

GOVERNMENT RAILWAYS.

ANALYSIS.

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| <p>Title.</p> <ol style="list-style-type: none"> 1. Short Title. 2. Interpretation. 3. Repeal. Saving. 4. Minister for Railways. 5. Inspection of railways before opening for traffic. 6. Certificate by Minister evidence of certain facts. 7. Minister to control railways and department. 8. Power to protect railway. 9. Gates and cattle-stops. <p style="text-align: center;"><i>Management of Railways.</i></p> <ol style="list-style-type: none"> 10. Power to run locomotive engines. 11. Powers of Minister in respect to railways. Fixing scales of charges. Declaring special goods. Charges for special goods. Imposing conditions. Make by-laws. 12. Provisions as to by-laws. To be laid before Parliament. To be exhibited at stations. Evidence of. General or partial application. Penalties on railway servants. Railway Servants Fund. Other penalties. 13. As to custody, carriage, and delivery of goods. 14. Power to collect and deliver goods outside limits of railway. 15. Railway servants responsible for damage. 16. Penalty for giving false consignment-note or way-bill. Extra charges also payable. 17. Goods may be sold on refusal to pay charges. 18. Application of proceeds of sale. 19. Goods left by unknown owner may be sold. 20. Goods received for conveyance may be retained if subject to unpaid Customs duties. 21. Conveyance of dangerous goods. 22. Subject to Act all persons may use railway. 23. Tables of fares and time-tables to be exhibited at stations. 24. Liabilities and rights of Minister in respect of passengers. 25. Penalties for injuries to railways. | <ol style="list-style-type: none"> 26. Penalties for grave offences on railways. 27. Offences on railways punishable by fine or imprisonment. 28. Offences on railways punishable by fine. 29. Persons committing certain offences may be arrested. 30. Railway servant may impound. Repeal. <p style="text-align: center;"><i>Accounts.</i></p> <ol style="list-style-type: none"> 31. Monthly Railways Working Account. 32. Annual account. 33. Receipts from railways to be Consolidated Fund. <p style="text-align: center;"><i>Leasing Railways.</i></p> <ol style="list-style-type: none"> 34. Governor may lease railways. 35. Unused lands may be leased for stores or other buildings. 36. Buildings and workshops not required for public use may be leased. 37. Sites for refreshment-rooms, bookstalls, &c., may be leased. 38. Conditions of leases to be submitted to Parliament. 39. Powers of Governor as to use of railways, wharves, &c. 40. Powers of Minister as to use of railways, wharves, &c. 41. Grant of easements. <p style="text-align: center;"><i>Branch Lines and Sidings.</i></p> <ol style="list-style-type: none"> 42. Minister may agree to work branch railway or siding in connection with railway. Conditions. 43. Minister may agree with companies for running-powers over lines. <p style="text-align: center;"><i>Miscellaneous Provisions.</i></p> <ol style="list-style-type: none"> 44. Level crossings. 45. Obstruction to traffic. Repeal. 46. No railways to cross Government railways without consent. 47. Validating exercise of certain powers by Minister. <p style="text-align: center;">Schedule.</p> |
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A BILL INTITULED

Title.	AN ACT to consolidate and amend the Law relating to the Maintenance and Management of Government Railways. BE IT ENACTED by the General Assembly of New Zealand, in Parliament assembled, and by the authority of the same, as follows:—	5
Short Title.	1. The Short Title of this Act is "The Government Railways Act, 1900."	
Interpretation.	2. In this Act, if not inconsistent with the context,— "Charges" includes rates and fares : "Department" means that branch of the public service employed in connection with Government railways open for traffic : "Goods" means goods, luggage, or chattels of any description, and includes live or dead animals : "Minister" means the Minister for Railways, and includes any member of the Executive Council, being a responsible Minister of the Crown, who for the time being is acting for him : "Notice" means a statement conveying the general effect of a matter or thing done or intended to be done : "Person" includes a body of persons, whether incorporated or not : "Prescribed" means prescribed by regulations or by-laws under this Act : "Public notice" means a notice published in some newspaper circulating in the locality in which the subject-matter of the notice arises or to which it relates, or posted in some conspicuous place on any railway-station in such locality : "Publicly notified" means notified by public notice : "Railway" or "Government railway" means any railway belonging to Her Majesty in New Zealand, and in the case of each railway includes— (1.) All land belonging to Her Majesty, or forming part of any public reserve within the meaning of "The Public Reserves Act, 1881," upon which the railway is constructed, or which is, or is reputed to be, held or used in connection with or for the purpose of the railway; and also	10 15 20 25 30 35

(2.) All buildings, erections, wharves, jetties, works, rolling-stock, plant, machinery, goods, chattels, and other fixed or movable property of every description or kind belonging to Her Majesty, and situate on such land, or held or used or reputed to be held or used in connection with or for the purposes of the railway.

3. The Acts specified in the Schedule hereto are hereby repealed to the extent therein mentioned, but not further or otherwise: Provided, nevertheless, as follows:—

Repeal.

(1.) Every Proclamation, order, appointment, regulation, or by-law made under the respective powers in that behalf contained in or conferred by any such repealed Act, and subsisting at the time of the commencement of this Act, shall be deemed to have been made under the corresponding powers contained in this Act, and shall so continue until revoked or altered under this Act; and

Saving.

(2.) All proceedings pending under any such repealed Act at the time of the commencement of this Act may be continued and completed in like manner in all respects as if no such repeal had been made.

4. (1.) A Minister of the Crown shall be appointed from time to time by the Governor, to be called "the Minister for Railways," who shall have the general administration of this Act:

Minister for Railways.
1894, No. 35, s. 3.

Provided that the person so appointed shall in every case be a member of the Executive Council, holding one or more of the offices mentioned in the Third Schedule of "The Civil List Act 1863 Amendment Act, 1873," or either of the offices of Minister of Defence or Minister of Education.

(2.) The Minister for Railways in office at the time of the commencement of this Act shall be deemed to have been appointed under this Act.

5. (1.) Neither a Government railway, nor any part of a Government railway, shall be opened for traffic until it has been inspected by a person appointed by the Minister for that purpose, nor until such person has reported to the Minister that he has inspected such railway, or part thereof, and also (except in the case of an extension of a railway then open for traffic) all the rolling-stock to be used thereon, and that the same are in all respects in good and efficient repair, and may safely and conveniently be used for public traffic.

Inspection of railways before opening for traffic.
1894, No. 42, s. 222.

(2.) The requirements of this section shall be deemed to have been duly complied with in the case of every Government railway, or part of a Government railway, which is in fact open for traffic at the commencement of this Act.

6. (1.) A certificate, under the hand of the Minister, that any specified land belonging to Her Majesty or forming part of a public reserve, or any specified fixed or movable property belonging to Her Majesty is, in fact, included as portion of a Government railway, or that any Government railway is, in fact, open for traffic, shall for all purposes be sufficient evidence of the fact.

Certificate by Minister evidence of certain facts

(2.) The land or property to which any such certificate relates may be specified therein by words of general or particular description, as the Minister thinks fit.

(3.) The succeeding provisions of this Act, in so far as they relate to railways, shall apply to all Government railways open for 5 traffic.

Minister to control
railways and depart-
ment.
1894, No. 35, s. 3.

7. (1.) Subject to the provisions of this Act, the Minister shall have the management, maintenance, and control of every railway and of the department.

(2.) The powers and duties conferred and imposed upon the 10 Minister for Public Works by sections twenty-six to eighty-six, one hundred and sixty-nine, and one hundred and seventy-seven to one hundred and seventy-nine of "The Public Works Act, 1894," shall, *mutatis mutandis*, apply and be deemed to have applied to the Minister for Railways from the commencement of the said Act. 15

Power to protect
railway.

8. (1.) Without in any way limiting the powers conferred upon the Minister by section one hundred and sixty-nine of "The Public Works Act, 1894," it is hereby declared that either the Minister for Railways or the Minister for Public Works may from time to time, for the purpose of protecting any railway, or preventing or lessening any 20 risk of damage thereto by overflow or outbreak of any stream or river, or by the abrading of the banks of the same, construct, maintain, alter, or reconstruct any embankment, groin, or other protective work on any land, or on the bank of any river or stream, or divert, impound, or take away any part or the whole of the water of such river or 25 stream, or alter the course of the same; and may also discontinue or abandon any such work as and when he thinks fit.

(2.) It shall not be lawful for any local authority, or for any person other than either of the aforesaid Ministers, to exercise upon any railway-land any of the powers by this section conferred upon 30 such Ministers unless by the written consent of either of them.

Gates and cattle-
stops.

9. Notwithstanding anything to the contrary contained in "The Public Works Act, 1894," or in any other Act, relating to the erection of gates across roads, it is hereby declared that, with respect to every Government railway, the following special provisions shall apply:— 35

(1.) It shall not be lawful to erect or maintain across a road, where such road crosses any line of railway on the level, any gate within five chains of the centre line of such railway:

Provided that the Minister for Railways, if he thinks fit, may, in any case where there are no cattle-stops at 40 such level crossing, agree with the local authority having the control of such road to allow any such gate to be erected or maintained, under such conditions as, in the interests of public safety, he thinks fit to impose.

(2.) At private level crossings where there are cattle-stops it 45 shall not be lawful to erect gates so as to enclose the railway, and where there are gates connected with the fencing which encloses any railway, cattle-stops shall not be allowed in the line of railway.

(3.) If any gate is hereafter erected in breach of this Act, then, 50 irrespective of all other liabilities to which the person or

local authority erecting the same is thereby exposed, the same may at the cost and expense in all things of such person or authority be at any time removed by the Minister for Railways, or by any Manager or Engineer of the railway, without any notice.

- (4.) With respect to every such gate as aforesaid which is in existence at the time of the coming into operation of this Act, it shall be the duty of the person or authority which erected the gate to remove the same within forty-eight hours after notice in writing so to do from the Minister for Railways, or any Manager or Engineer of the railway; and, if default is made in removing the same in terms of such notice, then the gate shall be deemed to be erected in breach of this Act, within the meaning of the *last preceding* subsection hereof, and the provisions of that subsection shall apply accordingly.

Management of Railways.

10. Locomotive engines consuming either anthracite coal, bituminous coal, brown coal, coke, or wood of any kind, and propelled by steam or any other motive power, and whether drawing or not drawing carriages, trucks, wagons, or other vehicles or machines, may from time to time and at any time, as the Minister authorises or directs, be run upon any railway or private siding or wharf connected with a railway.

Power to run locomotive engines.
1894, No. 42, s. 187.

11. The Minister may from time to time, by notice gazetted, do all or any of the following things in respect to railways, or of any specified railway or any part thereof, that is to say:—

Powers of Minister in respect to railways.
Ib., s. 189, altered.

(1.) He may fix scales of charges to be paid for—

- (a.) Persons carried on or using a railway; or for
 (b.) 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
 (c.) Passengers failing to take out tickets at the booking-office of the station whence they started; or for
 (d.) Demurrage on the use of any rolling-stock; or for
 (e.) The use of any cranes, hoists, or other machinery for loading and unloading goods; or for
 (f.) The use by any vessel of any wharf, jetty, mooring, berthage, building, crane, or other appliances in connection with a railway; or for
 (g.) Goods loaded or unloaded from or into lighters, into or from ships lying at or adjacent to any wharf, pier, jetty, berthage, or mooring in connection with a railway; or for
 (h.) Goods received or delivered from or to any vessel lying at or adjacent to any such wharf, pier, jetty, berthage, or mooring:

Fixing scales of charges.

Provided, however, that the Minister, or any officer of the department duly authorised by him, may from

- time to time fix special scales of charges to be paid in lieu of the ordinary ones, upon special occasions, or for such times and in respect of such railways or parts of a railway as he thinks fit ; and if such special charges are publicly notified, it shall not be necessary to publish the same in the *Gazette* : 5
- Declaring special goods. (2.) He may declare certain kinds of goods of a nature liable to injury, or goods over and above a certain value, to be special goods ; all other goods shall be deemed to be ordinary goods : 10
- Charges for special goods. (3.) He 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 :
- (4.) He may limit the liability of the department in respect of the carriage of luggage, and declare that such liability shall only apply to luggage that has been checked in accordance with by-laws made in that behalf : 15
- Imposing conditions. (5.) He may impose such conditions and regulations with respect to any of the preceding matters as he deems advisable : 20
- Make by-laws. (6.) He may from time to time make by-laws upon the following subjects :—
- (i.) Regulating the mode in which, and speed at which, engines and all other rolling-stock on a railway are to be propelled or moved ; 25
- (j.) Making time-tables showing the times of arrival and departure of trains at stations ;
- (k.) Regulating the loading and unloading of carriages and wagons, and the weight they may carry ; 30
- (l.) Regulating the weight to be carried in any sack, box, or other package, and the size thereof, and imposing penal rates of charges for excess in respect of weight or size of package ;
- (m.) Regulating the receipt and delivery of goods, the storing of the same, and the checking of luggage ; 35
- (n.) Preventing the smoking of tobacco or any other substance, and the committing of nuisances on railways ;
- (o.) Keeping accounts of all receipts and expenditure on railways, and conducting the traffic and ticket audit ; 40
- (p.) Regulating the traffic on roads and bridges used both for ordinary and railway traffic ;
- (q.) Regulating the public or private traffic of persons, vehicles, or goods on roads across any railway on the level thereof ; 45
- (r.) Preventing the trespass of persons or animals on any railway or any part thereof ;
- (s.) Regulating the admission of any vessels to any wharf, jetty, berth, or mooring connected with a railway, and their usage of and removal from the same ; 50
- (t.) Regulating the maintenance, usage, opening, and

closing of all gates and slip-panels, cattle-stops, and fences;

5 (u.) 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;

(v.) Regulating the terms on which private sidings may be constructed and used, and the manner in which the same may be worked;

10 (w.) Regulating the hire, use, and detention of any rolling-stock at such sidings, and the liability of persons hiring, using, or detaining the same for damages done thereto, or for the destruction thereof;

15 (x.) Authorising and regulating the disbursement of all moneys appropriated by Parliament for the purposes of controlling, working, and maintaining the railways and conducting the traffic thereon and in connection therewith;

20 (y.) Regulating heavy traffic, as defined by section one hundred and thirty of "The Public Works Act, 1894," on roads and bridges over or on any railway; limiting weight on wheels, width of tires, and width between tires; making special regulations in regard to traction and other engines, and machines; issuing licenses and permits for the passage of such traffic on such terms and conditions as the Minister thinks fit, and charging fees therefor; exercising in respect of such traffic the powers conferred by subsections six and seven of section seven of the last mentioned Act upon the Minister in respect of Government roads; requiring security for payment by any person concerned in such traffic, of compensation for damage thereby done or likely to be done to any such road or bridge; prohibiting the passage of all traffic which does not conform to the regulations, licenses, or permits respecting the same, and prohibiting also the passage of heavy traffic across any bridge over a railway in cases where a level crossing is available within a distance of five miles;

30 (z.) Providing for the grant of licenses to the drivers of vehicles plying for hire within the precincts of any railway; prescribing the conditions of such licenses (including the payment in each instance of a license-fee not exceeding *ten* shillings per annum), and also of the transfer or forfeiture thereof; making similar provision for the licensing of vehicles plying for hire as aforesaid (including the payment in each instance of a license-fee not exceeding *ten* shillings per annum), and the conditions subject to which such licenses shall be held and may be transferred or forfeited; and providing also for the exclusion of any such licensed driver or vehicle from railway premises until there is room for his vehicle, and

for the exclusion of all unlicensed drivers and vehicles plying for hire as aforesaid ;

(aa.) Regulating the admission to railway-platforms of passengers going to or leaving the trains, of friends of passengers, or of persons having business at the station offices ; excluding from stations, offices, or platforms all persons not having business thereat ; imposing such fees or tolls as he deems fit, in order to give effect to this subsection ;

(bb.) Prescribing, subject to the provisions of section fifteen of "The Alcoholic Liquors Sale Control Act Amendment Act, 1895," the terms on which licenses for refreshment-rooms shall be granted, and the hours of opening and closing the same, the fees to be paid for such licenses, and the conditions on which the same may be determined and forfeited ;

(cc.) And generally for regulating the traffic on railways, and the conduct of all persons employed on or about the same or travelling thereon :

Provided that such by-laws may authorise the district railway officer or any other person to do all such things, and to issue all such instructions and regulations, as may be deemed advisable in respect of any such subjects.

12. In respect to by-laws made under the *last preceding* section hereof the following provisions shall apply :—

(1.) All by-laws shall be gazetted, and a copy thereof shall be laid before Parliament within ten days after the publication thereof if Parliament be then sitting, and, if not, then within ten days after the commencement of its first sitting.

(2.) A copy of all by-laws relating to matters affecting the public shall be painted or printed in black letters on a white ground and fixed and maintained in a conspicuous place at every station at which tickets are sold :

Provided that the validity of any by-law, or the liability of any person under any by-law, shall not be affected by any non-compliance with this provision.

(3.) Any by-law published in the *Gazette* shall be evidence in all Courts of the same having been duly made under the authority of this Act.

(4.) Any by-law may apply to railways generally, or to any particular railway or part of a railway.

(5.) Any by-law relating to the conduct of any person employed in or about a railway may impose a penalty, not exceeding *one* pound for any breach thereof, and such penalty may be recovered by deducting the same from any salary or emoluments due or to accrue due to him :

Provided that all penalties recovered under this subsection shall be paid into an account in the Public Trust Fund to be called "The Railway Servants Fund," and may be issued and paid in such manner as the Governor

Provisions as to
by-laws.
1894, No. 42, s. 190.
To be laid before
Parliament.

To be exhibited at
stations.

Evidence of.

General or partial
application.

Penalties on railway
servants.

Railway Servants
Fund.

directs to or for the benefit of any persons employed on railways.

(6.) Any other by-law may impose a penalty not exceeding *ten* pounds for any breach thereof. Other penalties.

5 13. In respect to the receipt, custody, conveyance, and delivery of goods upon or from a railway, the following provisions shall apply:— As to custody, carriage, and delivery of goods.
1894, No. 42, s. 191.

10 (1.) 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 Minister until delivered to the consignee thereof.

15 (2.) Every person, before delivering any special goods at any railway-station, shall give to the officer in charge of such station a statement in writing declaring the nature and value of such special goods, and the officer shall give a receipt for the same, specifying the nature and value so declared. Ib., s. 189 (2), altered.

20 (3.) No person, unless he has first delivered such statement and obtained such receipt, shall be entitled to recover, for any loss of or damage to any special goods, any greater sum than *ten* pounds for the contents of any parcel in which such special goods are packed, *fifteen* pounds for any horse, *eight* pounds for any one head of cattle, *two* pounds for any dog, *fifteen* shillings for any one sheep, goat, pig, or other quadruped not otherwise specified, and *three shillings and sixpence* for any bird.

25 (4.) In respect of all ordinary goods, and to the extent of the value declared in respect of all special goods, but subject in every case to the limitations and provisions of this Act, the Minister shall have the same liabilities, obligations, rights, and protection, as in the case of common carriers.

30 (5.) When any goods have been received for conveyance on any railway, and the time during which the goods may, in accordance with any contract or under any by-law, remain on the railway premises has expired, then, notwithstanding anything contained in this Act, the Minister shall be responsible only as a warehouseman for any loss of or damage to such goods that may occur between the time of such expiry and the time of their removal by the consignee or owner thereof.

35 (6.) The Minister may make special agreements with any person—

(a.) For insuring any goods delivered on a railway against all loss or damage from any cause whatsoever ;

40 (b.) For insuring the Minister against all liability in respect of any such loss or damage ;

And, for the purposes of the premiums in respect of such insurance, may increase or diminish the charges payable on such goods.

50 (7.) Nothing herein contained shall operate or be construed to subject the Minister to any liability in respect of any goods left on the premises of a railway if, by virtue of

- any by-law, they are so left or deemed to be so left at the risk of the person leaving the same.
- (8.) No action shall lie against the Minister for any loss of or damage to any goods unless the action is commenced within six months after such loss or damage occurs. 5
- (9.) No such action shall be commenced until one month after a notice in writing is given to the Minister, stating the cause of action, the Court in which it is intended to be brought, and the name and residence of the parties about to sue. 10
- (10.) In any such action the defendant may plead a general denial, and may also without notice give any special matter of defence in evidence at the trial. 10
14. The Minister may, from time to time,—
- (1.) Cause goods for conveyance by railway to be collected from 15 places outside the limits of a railway;
- (2.) Fix and define the limits within which such collection of goods may be made, and also the rates and charges to be paid therefor;
- (3.) Cause to be delivered, at places outside the limits of a 20 railway, goods carried on a railway;
- (4.) Fix and define the limits within which such delivery of goods may be made, and also the rates and charges to be paid therefor:
- Provided that such rates and charges shall be payable 25 notwithstanding that the person to whom the goods are deliverable shall himself take delivery thereof at any place within the limits of a railway:
- Provided also that this and the *last preceding* sub-section of this section shall apply only to the delivery of 30 goods from stations within or not more than one mile from any borough or town district;
- (5.) Do, execute, enter into and perform all such acts, contracts, and things as he thinks necessary for the purposes of this section: Provided that the term of any such contract 35 shall not exceed five years.
15. Every person employed on or about a railway shall be responsible for any damage caused by his wrong-doing or neglect; and the loss occasioned thereby may be deducted by order of the Minister from any salary or emolument due to such person, or may 40 be recovered in a summary way.
16. (1.) If any person wilfully makes a false statement as to the nature, quantity, weight, measurement, or value of any goods delivered upon a railway, in any consignment-note, way-bill or other document which under this Act he is required to deliver in respect 45 to such goods, that person shall be liable to a penalty not exceeding *fifty* pounds.
- (2.) If in any such document there is any understatement of the quantity, weight, measurement, or value of the goods, or any mis-description of their nature, the effect whereof, if undetected, might 50 lead to their being charged for at less than the proper rate, then in lieu of charges at the ordinary rate, and irrespective of any person's

Power to collect and deliver goods outside limits of railway. 1894, No. 42, s. 192.

Ib., s. 193.

Railway servants responsible for damage. Ib., s. 194.

Penalty for giving false consignment-note or way-bill. Ib., s. 195.

Extra charges also payable. 1895, No. 47, s. 3.

liability under the *last preceding* subsection hereof, and whether the understatement or misdescription is wilful or not, charges at a special rate to be fixed by the Minister, not exceeding double the ordinary rate, shall be payable in respect of the goods.

5 17. If any person, for one month after demand therefor, refuses or fails to pay in respect of any goods any charges imposed under this Act, the Minister may order any such goods to be sold, or, in case such goods have been delivered, then any other goods on the premises of the railway belonging to the same person.

Goods may be sold on refusal to pay charges.
1894, No. 42, s. 196.

10 18. The proceeds of any such sale shall be applied, first in paying the said charges and the expenses of such sale, (including all charges and expenses incurred in or about the storage, warehousing, and handling of the goods or otherwise howsoever,) and the balance, if any, shall be paid over to the person entitled thereto upon his estab-
15 blishing his claim.

Application of proceeds of sale.
Ib., altered.

19. (1.) 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 Minister may cause it to be publicly notified that unless in the meantime they are removed and the charges thereon paid, they
20 will be sold upon a day named in such notice, being not less than one month from the publication thereof.

Goods left by unknown owner may be sold.
Ib., s. 197.

(2.) If the goods are not removed and the charges thereon paid before that day, then they may be sold in terms of the notice.

(3.) The balance of the proceeds of such sale, after paying the
25 charges and expenses as specified in the *last preceding* section, shall be paid into the Public Trust Office, and shall be paid by the Public Trustee to any person establishing a lawful claim thereto.

20. (1.) When any goods have been received for conveyance upon a railway, and the consignee or owner has not complied with
30 all provisions of any law relating to the charge or collection of duties by the Customs, or has not paid all charges incurred by the Minister on account of such goods which have accrued upon or prior to receipt of the goods by the Minister, or if the goods are held awaiting the consignor's order to deliver, then such goods may be held and de-
35 tained by the Minister until all such provisions are complied with, or such charges are paid, or such consignor's order to deliver is given.

Goods received for conveyance may be retained if subject to unpaid Customs duties.

Ib., s. 198.

(2.) During the time such goods are so held and detained, the Minister shall be responsible only as a warehouseman in respect to any loss or damage that may occur thereto.

(3.) The powers by this section conferred upon the Minister
40 shall not affect the powers vested in him by the last-preceding section of this Act.

21. (1.) No person shall have any right to send by a railway any goods of a dangerous nature.

Conveyance of dangerous goods.
Ib., s. 199.

(2.) If any person sends or attempts to send by a railway, or deposits in any premises of a railway, any package containing any such goods, or any goods declared by the by-laws or publicly notified by the Minister to be of a dangerous nature, without distinctly marking the contents on the outside of such package, or
50 giving notice in writing of the contents to the officer in charge of the station at which such package is left, that person shall be liable

to imprisonment with or without hard labour for any term not exceeding *two* years, or to a penalty not exceeding *fifty* pounds.

Subject to Act all persons may use railway.
1894, No. 42, s. 200.
Tables of fares and time-tables to be exhibited at stations.
Ib., s. 201.

22. Subject to the provisions of this Act, all persons shall be entitled to use any railway upon payment of the fares or charges fixed for such use. 5

23. At every station on a railway at which tickets are sold there shall be fixed and maintained in a conspicuous place for inspection by the public a list of the passenger fares authorised to be taken at such station, and also a time-table showing the times of arrival and departure of each train thereat and therefrom. 10

Liabilities and rights of Minister in respect of passengers.

24. In respect of passengers carried on any railway, the Minister shall have the same liabilities, obligations, rights, and protection, as in the case of common carriers of passengers: Provided, nevertheless, as follows, that is to say:—

- (1.) Every claim or demand for damages in respect of loss of 15
life or injury to the person (whether in the case of a
passenger or not), caused by any default, negligence, or
wrongful act of the Department or any person employed
therein, shall be enforced against the Minister as pro-
vided by this section, and not otherwise, and the maxi- 20
mum sum recoverable in the action shall in no case
exceed *two thousand* pounds.
- (2.) No such action shall be maintainable unless it is com-
menced within six months after the cause of action arose,
nor unless at least one month before the action is com- 25
menced the plaintiff gives notice in writing to the Minister
stating the cause of action, the Court in which the action
is to be brought, the amount claimed, and the full name
and address of each plaintiff.
- (3.) In any such action the Minister may plead a general 30
denial, and may also without notice give any special
matter in defence at the trial.
- (4.) The Minister may make special agreements with any per-
son for insuring the Minister against all or any of his
liabilities and obligations under this section. 35

Penalties for injuries to railways.
Ib., s. 202.

25. If any person not having lawful authority, or the written permission of the Minister, does or causes or procures to be done any of the following things:—

- (1.) Encroaches on a railway by making any building, fence, 40
ditch, or other obstacle, or planting any tree or shrub
thereon;
- (2.) Digs up, removes, or alters in any way the soil or surface of
a railway;
- (3.) Fills up, diverts, alters, or obstructs any ditch, drain, or 45
watercourse directly carrying water off a 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;
- (4.) Interferes with or diverts any drain or watercourse so as to
damage or injure a railway; or 50
- (5.) Fells or removes any tree, shrub, or timber growing on a
railway,—

that person shall, in respect of each offence, be liable to a penalty not exceeding *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, ditch, drain, or water-course as aforesaid, or in replacing any such tree, shrub, or timber.

26. If any person does or causes or procures to be done any of the following things,—

Penalties for grave offences on railways. 1894, No. 42, s. 203.

- 10 (1.) Throws stones, gravel, timber, or any rubbish on a railway, or at any engine, carriage, or wagon thereon ;
- (2.) Does any act which obstructs or might obstruct the working of a railway, or endangers or might endanger the lives of persons travelling thereon ;
- 15 (3.) Drives or attempts to drive any vehicle or animal across a level crossing or elsewhere on a railway when an engine or any carriage or wagon on the railway are approaching and within half a mile from such crossing ;
- (4.) Places any rolling-stock on a railway not having lawful authority so to do ;
- 20 (5.) Moves any part of the rolling-stock on a railway, or leaves the same on any part of a railway, not having lawful authority so to do ;
- (6.) Moves any signal, points, or stop-blocks, or shows any signal likely to mislead ;
- 25 (7.) Removes from a railway or the railway premises any rolling-stock, tarpaulins, tools, appliances, or property of any kind, or permits any of such rolling-stock, tarpaulins, tools, appliances, or property to be unlawfully in his possession or on his premises ;
- 30 (8.) Cuts down, breaks, removes, or destroys any fence, building, or bridge in or upon any railway ;
- (9.) Attempts to do, or assists or aids in doing, any of the things mentioned in this section,—

35 that person shall, in respect of each offence, be liable to a penalty not exceeding *fifty* pounds, nevertheless without in any way relieving him from any other liability, civil or criminal, to which he may be subject apart from this section.

27. If any person does or causes or procures to be done any of the following things,—

Offences on railways punishable by fine or imprisonment. *Ib.*, s. 204.

- 40 (1.) Defaces the writing on any board or any notice authorised to be maintained on any railway or railway-carriage, rolling-stock, or railway-station ;
- (2.) Obstructs any officer or servant employed on any railway in the performance of his duty ;
- 45 (3.) Damages any railway, or any engine, carriage, truck, wagon, or any material or rolling-stock used upon or belonging to any railway ;
- (4.) Behaves in a violent or offensive manner to the annoyance of others, or is drunk, on any railway or in any carriage thereon ;
- 50 (5.) Alters any ticket with intent to avoid payment of the proper fare or any part thereof ;

- (6.) Sells, or transfers, or offers for sale or transfer, any free-pass ticket, or permits any person other than the person to whom the same is issued to make use of the same;
- (7.) Uses or attempts to use any ticket the time for the proper use of which has expired, or which has already been used to the full extent to which the holder is entitled to use it; 5
- (8.) Sells or transfers, or offers for sale or transfer, a ticket, or any portion of a ticket, which has been used for the whole or any part of the journey for which the ticket was issued; or travels or attempts to travel with any such ticket, or portion of a ticket, sold or transferred by any person; 10
- (9.) 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,— 15

that person shall, in respect of each offence, be liable to imprisonment with or without hard labour for any period not exceeding *two* months, or to a penalty not exceeding *ten* pounds. 20

Offences on railways punishable by fine. 1894, No. 42, s. 205.

28. If any person does or causes or procures to be done any of the following things,—

- (1.) Travels in a railway-carriage of a class superior to that for which he is provided with a ticket and refuses to pay the fare for the superior class on demand; 25
- (2.) 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 Minister; 30
- (3.) Neglects to shut any gate or slip-panel in any fence forming the boundary of, or upon or adjoining, any railway;
- (4.) 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,— 35

that person shall, in respect of each offence, be liable to a penalty not exceeding *ten* pounds.

Persons committing certain offences may be arrested. *Ib.*, 206.

29. If any person—

- (1.) Trespasses upon a railway, and refuses to leave after being warned by any officer or servant employed thereon; or 40
- (2.) 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
- (3.) 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,— 45

it shall be lawful for any constable, or any person employed on or about the railway, without warrant or other authority, to arrest and detain the person so offending, and to take him 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 such constable or person in giving effect to this section. 50

30. (1.) Any person employed on or about any railway may impound cattle trespassing on such railway; and any act, matter, or thing required under "The Impounding Act, 1884," to be performed or done by the occupier of land as defined in such Act may be performed
5 and done in respect of a railway by any person authorised generally or particularly for that purpose by or on behalf of the Minister or the district railway officer.
- (2.) Section one hundred and eighty-five of "The Public Works Act, 1894," is hereby repealed in so far, but so far only, as relates to
10 Government railways open for traffic.

Railway servant may impound. 1894, No. 42, s. 185, altered.

Repeal.

Accounts.

31. (1.) The Minister shall, in every month, cause to be prepared a monthly Railways Working Account, showing the total gross receipts accruing from each railway during the month covered by the
15 account, and the total expenditure upon the working management and maintenance of the same during the month.
- (2.) Such account shall show the gross cost of construction of the railway, including the cost of rolling-stock and all incidental expenditure: Provided that, for the purpose of these monthly
20 returns, the cost as ascertained at the end of each financial year shall be inserted as the cost during the twelve months next ensuing.
- (3.) And all such accounts shall be gazetted monthly, and shall be laid before Parliament.

Monthly Railways Working Account. Ib., s. 207.

32. (1.) The Minister shall compile from the monthly Railways Working Accounts an annual account of the receipts from and
25 expenditure upon each railway.
- (2.) Such annual account shall show in a separate column the cost of all renewals of the permanent-way, as distinct from the cost of ordinary maintenance.

Annual account. Ib., s. 208.

33. (1.) All moneys received by way of rents, tolls, fares, freights, carriage, fines, or penalties, or otherwise accruing from a railway, shall be paid into the Public Account, and, except as by this Act otherwise provided, form part of the Consolidated Fund.
30
- (2.) All such moneys as aforesaid shall be deemed to be moneys
35 of the Crown, and, without affecting any other mode of recovering the same, may also be recovered by and in the name of the manager of the railway, or of any person duly authorised by the Minister in that behalf, as an ordinary debt, in any Court of competent jurisdiction.

Receipts from railways to be Consolidated Fund. Ib., ss. 209, 210, altered.

40 Leasing Railways.

34. The Governor may from time to time, in the name and on behalf of Her Majesty, let on lease any portion of a railway, with the rolling-stock and other appurtenances thereto belonging, to any person willing to take and work the same, subject to the following
45 conditions:—

Governor may lease railways. Ib., s. 211.

- (1.) The letting shall be by public tender ;
- (2.) The terms and conditions of the lease shall be laid before the General Assembly not less than thirty days before tenders are called for ;
- 50 (3.) The lease shall contain covenants for maintaining the railway, and everything demised or leased therewith, in good and sufficient repair, and so leaving and delivering up at the expiry or prior determination of the lease ;

- (4.) The lessee shall use the railway subject to the provisions of this Act and to the by-laws made thereunder for the management of railways ;
- (5.) The lessee shall find good and sufficient security for the due performance of the conditions of the lease, to such amount as the Governor directs. 5

Unused lands may be leased for stores or other buildings. 1894, No. 42, s. 212.

35. (1.) The Minister may from time to time, in the name and on behalf of Her Majesty, let on lease as sites for storing goods, or erecting buildings thereon, or for such other purposes as may be approved by him, any land not required for railway purposes. 10

(2.) In every case where the value of the land so let exceeds an annual rental of twenty pounds the letting shall be by public tender or by public auction.

(3.) No such lease shall be for a longer period than twenty-one years. 15

(4.) The lease may contain such provisions for the payment of compensation in respect of improvements made by the lessee, or for the renewal of the lease for a further term not exceeding twenty-one years, as the Minister thinks fit :

Provided that the compensation shall be in respect of improvements existing on the land at the time of the expiry of the lease by effluxion of time, and also that the rental and other terms and conditions, subject to which the renewed lease is to be granted, shall be specified in the original lease : Provided further that no lessee shall be entitled to compensation for improvements on the expiry of any renewed lease. 20 25

(5.) In every case where compensation is payable under any such lease as aforesaid, the amount thereof, if not mutually agreed upon, shall be decided by a Compensation Court, to be constituted on the application of the lessee, made within one month after the expiry of the lease, in the manner provided by Part III. of "The Public Works Act, 1894," and the provisions of the said Part III. shall, *mutatis mutandis*, apply to any such application. 30

(6.) Instead of paying direct to the lessee the amount of such compensation, the Minister may, in his discretion, cause the lease of the property for a further period of twenty-one years to be put up to auction, subject to the payment of such compensation by the purchaser, if other than the outgoing lessee, before he is admitted into possession ; and the compensation, when received by the Treasury, shall be paid to the outgoing lessee : 40

Provided that, if the outgoing lessee is the purchaser, the new lease to be then granted to him shall be deemed to be a renewed lease.

(7.) Every lease granted under section two hundred and twelve of "The Public Works Act, 1894," before the coming into operation of this Act, and containing any such provisions as aforesaid for compensation or renewal, is hereby declared to have been validly granted, and the provisions of this section shall apply thereto in like manner as if it had been granted hereunder. 45

Buildings and work-shops not required for public use may be leased. 1894, s. 213.

36. The Minister may also from time to time, in the name and on behalf of Her Majesty, let on lease any buildings, workshops, or other erections used in connection with such railway, not required 50

for public use, on such terms and conditions as he thinks fit: Provided that such letting shall be by public tender or public auction, and that no lease shall be for a longer period than seven years.

5 37. (1.) The Minister may also from time to time, in the name and on behalf of Her Majesty, let on lease, upon such conditions and for such term as he thinks fit, not exceeding seven years, any part of the land or buildings belonging 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
10 advertisements thereon.

Sites for refreshment rooms, bookstalls, &c., may be leased. 1894, No. 42, s. 214.

(2.) The Governor may grant to the tenant of any refreshment-room a license to sell any spirituous and fermented liquors upon such terms and conditions, and subject to such restrictions, as shall be prescribed in by-laws to be made as hereinbefore provided.

1887, No. 37, s. 34, altered.

15 38. (1.) Particulars of the terms and conditions upon which any land or buildings are let or occupied under any of the last *three preceding* sections shall be laid before Parliament within ten days after the commencement of each session.

Conditions of leases to be submitted to Parliament. 1894, No. 42, s. 215.

(2.) No part of any land or buildings belonging to a railway
20 shall be leased or occupied otherwise than in accordance with the aforesaid sections.

39. The Governor may from time to time, in the name and on behalf of Her Majesty, enter into any agreement or contract with any person for all or any of the following things:—

Powers of Governor as to use of railways, wharves, &c. Ib., s. 216.

25 (a.) Providing that such person may, for a period not exceeding twelve months, use any works, buildings, wharves, and jetties constructed and used in connection with a railway;
(b.) Providing that Her Majesty or the Minister, or any person
30 authorised by the Minister, may use any works, buildings, wharves, and jetties belonging to any such person, and constructed and used in connection with any railway.

40 40. The Minister may from time to time, in the name and on behalf of Her Majesty, agree with any person for all or any of the following things:—

Powers of Minister as to use of railways, wharves, &c. Ib., s. 217.

35 (1.) For laying down any tramway or line of rails in or upon any wharf, quay, or dock, or upon any land vested in any such person, for the conveyance of goods, animals, and passengers to and from a railway:

40 (2.) For the use of cranes, hoists, weighing and other machines, weights and measures, conveniences or appliances belonging to any such person:

(3.) For 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 steamers, coaches, or other conveyances of any such person:

45 (4.) For the rates, fares, or charges to be payable for services performed by or on behalf of any person in connection with a railway:

50 (5.) 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 is made:

(6.) As to the payment to be made by the one party to the other party 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 parties :

- (7.) Generally, for the settlement of such terms and conditions as may be necessary to give effect to the foregoing provisions. 5

Grant of easements.
1894, No. 42, s. 33 (1).

41. (1.) The Minister may from time to time, in the name and on behalf of Her Majesty, grant to any person any easement in, upon, through, over, or under any railway-land, subject to such conditions and payments of rent as the Minister shall think fit, and subject to revocation without compensation at any time when the service of the public requires it, and subject also to immediate revocation in case of the breach of any conditions under which such easement was granted. 10

(2.) Subject to such terms as to rental or other payment, and such other terms and conditions as are deemed fit, and subject also in every case to the conditions as to revocation contained in subsection one hereof, the Minister may from time to time, in the name and on behalf of Her Majesty, grant to any person any of the following easements, privileges, or concessions in respect of any railway-land, that is to say,— 20

- (a.) Right-of-way or passage ;
- (b.) Right of access to any railway by gateway or otherwise ;
- (c.) Right to use water ;
- (d.) Right to lay, construct, maintain, and use any tramway, roadway, footway, level crossing, water-race, sludge-channel, culvert, drain, pipe, loading-bank, weighbridge, wharf, stage, timber-slip, booms, crane, protective bank, sluice-gate, fence, or plantation ; 25
- (e.) Right to cut timber, flax, or grass ; 30
- (f.) Right to take away earth, clay, rock, ballast, gravel, or sand ;
- (g.) Any other easement, privilege, or concession of a similar character.

Branch Lines and Sidings.

Minister may agree to work branch railway or siding in connection with railway.
Ib., s. 218.

42. The Minister may agree with any person, desiring to construct a branch railway or siding in connection with any Government railway, for the construction and maintenance of so much of such branch or siding as may be within the limits of the railway, and for the working of such branch or siding in connection with the railway, subject, however, to the following conditions :— 40

- (1.) No such agreement shall have effect for more than ten years from the date thereof. 40
- (2.) The part of such branch or siding within the limits of the railway shall be deemed to be a part of the railway, and shall be worked subject to any regulations for the time being in force in respect to the railway or such part thereof. 45
- (3.) The part of such branch or siding without the limits of the railway shall be worked subject to such regulations as the Minister from time to time thinks fit to impose, whether by by-law or otherwise providing for proper maintenance, with a view to protecting the railway and rolling-stock from injury, and to insuring safety and economy in working. 50

Conditions.

(4.) If default is made in duly paying any moneys payable under such agreement, or in duly observing any of the other terms or conditions thereof, then and in any such case, and so long as such default continues, the Minister may at any time suspend the traffic upon such branch or siding, or close its connection with the railway.

(5.) The Minister may, at any time after giving three months' notice thereof to the owner or manager of such branch or siding, close or remove the connection with the railway.

(6.) No compensation shall be payable to any person whatever for any loss or damage arising from the connection of any branch or siding with the railway being closed or removed under either of the *two last preceding* subsections hereof.

43. (1.) After the completion of any such branch or siding connected with a Government railway, the Minister may agree with the person constructing or owning the branch or siding, that any trains or rolling-stock the property of Her Majesty may be run upon the branch or siding, and that any trains or rolling-stock the property of such person may be run upon any Government railway upon such terms and conditions as are specified in the agreement :

Ministers may agree with companies for running-powers over lines.

1894, No. 42, s. 219.

(2.) No such agreement shall have effect for more than three years from the date thereof :

(3.) Nothing in this Act or in any such agreement shall be deemed to authorise any person to enter upon any Government railway for any purpose whatsoever, except with the written authority of the Minister first obtained in that behalf :

(4.) Such agreement may provide for the payments to be made by the one party to the other party of such rates of charges as are fixed in that behalf, and as to the time and mode of payment of such charges, and the keeping of accounts between the parties :

Ib., s. 220.

(5.) A copy of every such agreement shall be laid before Parliament within twenty days after the making thereof if Parliament is then in session, or, if not, then within ten days after the commencement of the next ensuing session :

(6.) For all purposes of conducting traffic, and for levying rates, fares, and other charges, and for the operation of by-laws and regulations, such branch or siding shall during the subsistence of such agreement be deemed to be a Government railway, and all the provisions of this Act which may be applicable thereto shall be applicable to such branch or siding accordingly, subject to such modifications or alterations as are prescribed by the Minister :

Ib., s. 221.

(7.) Nothing in this section shall give to any such person any power or authority to enter into any agreement which is not within the scope of the powers or authorities possessed by him.

Miscellaneous Provisions.

44. (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 charge of the road or street shall maintain and metal the approaches to such crossing, subject to the approval of the Minister.

Level crossings.

Ib., s. 175.

(2.) Where a road or street crosses over or under any railway by means of a bridge, the structure of such bridge shall be main-

tained 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 road or street.

Obstruction to traffic.
1894, No. 42, s. 182.

45. (1.) If, upon the report of an engineer, the Minister 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 the Minister 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. 5 10

Repeal.

(2.) Section one hundred and eighty-two of "The Public Works Act, 1894," is hereby repealed in so far, but so far only, as relates to Government railways open for traffic.

No railways to cross Government railways without consent.

46. (1.) Notwithstanding anything contained in any Act relating to railways or tramways, no railway or tramway shall cross any Government railway on the level except under an agreement previously entered into in that behalf between the Minister and the owner of such railway or tramway; and the Minister is hereby empowered to enter into such agreements upon such terms and conditions as he thinks fit, and to enforce the same whenever the occasion arises. 15 20

(2.) Every such agreement shall provide that, in case default is made by the owner of such railway or tramway in carrying out the terms of any such agreement as aforesaid, the Minister may, in addition to the exercise of any other remedies prescribed by the agreement, remove the crossing, and all material used in connection therewith, from such Government railway. 25

Validating exercise of certain powers by Minister.

47. Whereas various functions and powers which by "The Public Works Act, 1894," are declared to be exercisable by the Minister for Public Works may before the passing of this Act have been exercised by the Minister for Railways instead of by the Minister for Public Works, and it is expedient that the same should be validated: It is therefore hereby declared that in any case where any such function or power has heretofore been exercised by the Minister for Railways it shall for all purposes be deemed to be and to have been as validly and effectually exercised as if the same had been exercised by the Minister for Public Works. 30 35

Schedule.
Section 3.

SCHEDULE.

REPEAL.

Act repealed.	Extent of repeal.
1887, No. 37.—"The Government Railways Act, 1887"	The whole Act.
1894, No. 35.—"The Government Railways Act, 1894"	The whole Act.
1894, No. 42.—"The Public Works Act, 1894" ...	In part—namely, sections 175, 187 to 221.
1895, No. 47.—"The Public Works and Government Railways Acts Amendment Act, 1895"	In part—namely, subsection (3) and (4) of section 2; sections 3 and 6.