

I Certify that this PUBLIC BILL, which originated in the LEGISLATIVE COUNCIL, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

*Legislative Council Chamber,
Sydney, 26th September, 1901. }*

JOHN J. CALVERT,
Clerk of the Parliaments.

New South Wales.



ANNO PRIMO

EDWARDI VII REGIS.

Act No. 6, 1901.

An Act to consolidate the Acts relating to Government Railways and Tramways. [Assented to, 3rd October, 1901.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

PART I.

Repeal and interpretation.

1. This Act may be cited as the "Government Railways Act, 1901," and is divided into Parts, as follows:—

Short title and
division.

PART I.—*Repeal and interpretation.*—ss. 1-3.

PART II.—*The Railway Commissioners*—

DIVISION 1.—*Constitution, appointment, and tenure of office.*—
ss. 4-9.

DIVISION 2.—*Conduct of business.*—ss. 10-13.

DIVISION

*Government Railways.*DIVISION 3.—*Property*.—ss. 14-17.DIVISION 4.—*Powers of Commissioners*—(i) *Certain special powers*.—ss. 18-23.(ii) *Contractual powers*.—ss. 24-27.(iii) *Tolls*.—ss. 28-36.DIVISION 5.—*Duties of Commissioners*—(i) *Certain special duties*.—ss. 37-41.(ii) *Statements and reports*.—ss. 42-45.PART III.—*Construction of tramways*.—ss. 46-51.PART IV.—*Traction*.—ss. 55-59.PART V.—*Free passes*.—ss. 60-62.PART VI.—*Investigation of accidents*.—ss. 63-65.PART VII.—*By-laws*.—ss. 66-70.PART VIII.—*Appointment, promotion, discipline in and regulation of the railway service*—DIVISION 1.—*Examiners*.—ss. 71.DIVISION 2.—*Appointment*.—ss. 72-78.DIVISION 3.—*Promotion*.—ss. 79, 80.DIVISION 4.—*Suspension and dismissal*.—ss. 81-87.DIVISION 5.—*Appeals*.—ss. 88-95.DIVISION 6.—*Officers in position of trust*.—ss. 96-101.DIVISION 7.—*Miscellaneous provisions*.—ss. 102-109.PART IX.—*Penalties and procedure*.—ss. 110-126.Repeal
First Schedule.

2. (1) The Acts mentioned in the First Schedule to this Act are, to the extent therein expressed, hereby repealed.

Persons appointed.

(2) All persons appointed or retained under the Acts hereby repealed and holding office at the time of the passing of this Act shall continue in office as if this Act had been in force when they were appointed, and they had been appointed hereunder, and this Act shall apply to them accordingly.

By-laws, &c.

51 Vic. No. 35, s. 56

(3) All rules, regulations, by-laws, and scales of tolls or of charges made or continued under the authority of any Act hereby repealed and being in force at the time of the passing of this Act shall be deemed to have been made under the authority of this Act.

Free passes.

(4) All free passes granted under the authority of any Act hereby repealed and being current at the time of the passing of this Act shall be deemed to have been granted hereunder.

Interpretation.

Ibid. s. 1.

60 Vic. No. 22, s. 1.

3. In this part of this Act, unless the context or subject-matter otherwise indicates or requires—

“Commissioners,” means the Railway Commissioners appointed under this Act, or any Act hereby repealed, and “Commissioner” means one of such Commissioners;

“justice”

Government Railways.

- “justice” means any justice of the peace;
 “magistrate” means any justice who is a police or stipendiary magistrate or any justice lawfully acting as his deputy, or in his place;
 “officer” means any officer, clerk, servant, or other person employed by the Commissioners to assist in the execution of this Act;
 “prescribed” means prescribed by regulations or by-laws made under this Act;
 “railway” means any railway by this Act vested in the Commissioners, and includes any tramway vested in or under the control of the Commissioners;
 “vessel” includes any ship, barge, lighter, and boat howsoever propelled.

PART II.

The Railway Commissioners.

DIVISION 1.—*Constitution, appointment, and tenure of office.*

4. (1) The Authority to carry out this Act shall be three Commissioners who shall be a body corporate by the name “The Railway Commissioners of New South Wales;” and, by that name, shall have perpetual succession and a common seal, and be capable in law of suing and being sued, and, subject to the provisions hereinafter contained, shall have power to take, purchase, sell, lease, and hold lands, tenements, and hereditaments, goods, chattels, and other property for the purposes of this Act. But no sale or lease of any such lands, except as provided in section twenty-one, shall have any force or effect unless the same has been approved by the Governor.

Constitution of
Commissioners.
51 Vic. No. 35, s. 6.

(2) All courts, judges, and persons acting judicially shall take judicial notice of the common seal of the Commissioners affixed to any document or notice, and shall presume that such seal was duly affixed.

Seal of
Commissioners.

5. (1) The Governor shall appoint three persons to be Commissioners, who, subject to the provisions hereinafter contained, shall each hold office for a term of seven years.

Appointment of
Commissioners.
Ibid. s. 7.

(2) On the occurrence of any vacancy in the office of a Commissioner the Governor shall appoint a person to the vacant office, whose term of office shall be for his predecessor’s unexpired term of office.

Vacancies.

(3) All persons appointed under the authority of this section shall, at the expiration of their respective terms of office, be eligible for reappointment for a like term of seven years.

Appointees eligible
for reappointment.

(4)

Government Railways.

Deputy
Commissioners.

(4) In case of the illness, suspension, or absence of any Commissioner, the Governor may appoint some person to act as the deputy of such Commissioner during such illness, suspension or absence; and every person so appointed shall, while so acting, have all the powers and perform all the duties of such Commissioner.

Removal of
Commissioner
51 Vic. No. 35, s. 8.

6. A Commissioner may be removed from office in manner following:—

(a) A Commissioner may be suspended from his office by the Governor for misbehaviour or incompetence, but shall not be removed from office except as hereinafter provided. The Minister shall cause to be laid before Parliament a full statement of the grounds of suspension within seven days after such suspension if Parliament is in Session and actually sitting, and when Parliament is not in Session or not actually sitting within seven days after the commencement of the next Session or sitting.

(b) A Commissioner suspended under this section shall be restored to office unless each House of Parliament within twenty-one days from the time when such statement has been laid before it declares by resolution that the said Commissioner ought to be removed from office, and if each House of Parliament within the said time so declares, the said Commissioner shall be removed by the Governor accordingly.

Vacation of office by
Commissioner.
Ibid. s. 8.

7. (1) A Commissioner shall be deemed to have vacated his office—

- (a) if he engages, during his term of office, in any employment outside the duties of his office; or
- (b) if he becomes insolvent, or applies to take the benefit of any Act for the relief of insolvent debtors, or compounds with his creditors, or makes an assignment of his salary for their benefit; or
- (c) if he absents himself from duty for a period of fourteen consecutive days except on leave granted by the Governor (which leave he is hereby authorised to grant), or becomes incapable of performing his duties; or
- (d) if he becomes in any way concerned or interested in any contract or agreement made by or on behalf of the Commissioners; or in anywise participates or claims to be entitled to participate in the profit thereof, or in any benefit or emolument arising therefrom.

Penalty.
Ibid. s. 95.

(2) If any Commissioner becomes in any way concerned or interested in any such contract or agreement, or in anywise participates or claims as aforesaid, he shall be guilty of a misdemeanour, and be liable to a penalty not exceeding five hundred pounds, or to imprisonment for any term not exceeding three years, or to both such punishments.

Government Railways.

8. One of such three Commissioners shall be appointed by the Governor as Chief Commissioner, and, on the occurrence of any vacancy in the office of Chief Commissioner, the Governor shall appoint a person to fill that office.

9. The Commissioners shall receive the following salaries, viz.:—

- (a) the Chief Commissioner three thousand pounds per annum;
- (b) each of the other Commissioners one thousand five hundred pounds per annum.

Salaries of
Commissioners.
Ibid. s. 10.
52 Vic. No. 5, s. 2.

All such salaries are hereby charged on the consolidated revenue fund; and such fund, to the extent required for the payment of such salaries, is hereby permanently appropriated.

DIVISION 2.—Conduct of business.

10. For the conduct of business any two Commissioners shall be a quorum, and, subject to the next following section, shall have all the powers and authorities by this Act vested in the Commissioners.

Quorum.
51 Vic. No. 35, s. 11.

11. If at any meeting at which two Commissioners only are present such Commissioners differ in opinion upon any matter, the determination of such matter shall be postponed until all the Commissioners are present.

Procedure on
difference of opinion.
Ibid. s. 12.

12. No act or proceeding of the Commissioners shall be invalidated or prejudiced by reason only of the fact that at the time when such proceeding or act was taken, done, or commenced, there was a vacancy in the office of any one Commissioner.

Acts of Commis-
sioners not
invalidated by
vacancy.
Ibid. s. 13.

13. The Commissioners shall keep minutes of their proceedings in such manner and form as the Governor shall direct.

Minutes of
proceedings.
Ibid. s. 14.

DIVISION 3.—Property.

14. For the purposes of this Act there shall be vested absolutely in the Commissioners, and, in respect of land, for an estate in fee simple—

Government
railways, &c., vested
in Commissioners.
Ibid. s. 16.

- (a) all railways and tramways, and all rolling-stock heretofore constructed or acquired by or on behalf of His Majesty, pursuant to any Act in force for the time being authorising the construction of railways, rolling stock, or tramways, and all railways and tramways hereafter to be so constructed or acquired, upon transfer of the same to such Commissioners in the prescribed manner;
- (b) all piers, wharfs, jetties, stations, yards, and buildings connected or used in connection with such railways, tramways and rolling-stock, being on Crown land or land acquired for or on behalf of His Majesty;
- (c) the land, being Crown land or land acquired or which may be acquired for or on behalf of His Majesty over or upon which

Government Railways.

which such piers, wharfs, jetties, stations, yards, and buildings have been, or may hereafter be constructed or erected;

- (d) the Crown land or land acquired for or on behalf of His Majesty included within the boundary fences of all such railways or tramways;
- (e) all land outside such fences acquired by or on behalf of His Majesty, under any Act authorising the taking or acquiring of land for railway or tramway purposes;
- (f) all Crown and other lands taken under the authority of any Act authorising the taking of land for railway or tramway purposes;
- (g) all wires, instruments, and other telegraphic or telephonic apparatus used in connection with the railways or tramways vested in the Commissioners by this Act or any Act hereby repealed.

Railway property not
subject to rates, &c.
51 Vic. No. 35, s. 17.

15. No rates, tax, or assessment shall be made, charged, or levied upon any railway, or upon any pier, wharf, jetty, station, yard, building, works, or other property vested in the Commissioners, unless the contrary is expressly provided in any Act.

Expenditure of
money appropriated
by Parliament.
Ibid. s. 19.

16. All moneys appropriated by Parliament for the maintenance or management of the railways by this Act vested in the Commissioners, and for all purposes in connection therewith, shall be expended under the control and management of the Commissioners.

Audit Act to apply
to Commissioners.
Ibid. s. 20.

17. All moneys payable to the Commissioners, under this or any other Act, shall be collected and received by them on account of, and shall be paid into, the Consolidated Revenue; and the provisions of the Audit Act, 1898, and of any other Act relating to the collection and payment of public moneys and the audit of the public account, shall, save as in this Act otherwise expressly provided, apply to the Commissioners and to all officers.

DIVISION 4.—*Powers of Commissioners.*

(i) *Certain special powers.*

Powers of
Commissioners over
lines in construction.
Ibid. s. 28.

18. The Commissioners shall be the authority to decide on the position, character, and suitability of all stations, station platforms, gate-houses, station-yards, sheds, piers, wharfs, jetties required for or in connection with any railway hereafter to be constructed, and although such railway may not be constructed by them, or of any other building, siding, platform, or work for the accommodation of the passengers, stock, or goods to be carried on such railway.

Government Railways.

19. The Commissioners may—

- (a) appoint places as depôts for the receipt and delivery of parcels or passengers' luggage to be forwarded to or received from any railway ;
- (b) contract with any person for the carriage of such parcels, or of passengers' luggage to and from any railway station or depôt ;
- (c) instead of loading or unloading goods on or from any truck, shed, or vessel by temporary day labour, invite public tenders on such terms and conditions as they think fit for the performance of such work, for a period not exceeding one year ; and may accept the lowest eligible tender, or invite fresh tenders, and may make a contract with the person whose tender is accepted.

Powers of Commissioners respecting depôts and contracts for loading or unloading goods.

51 Vic. No. 35, s. 41.

20. The Commissioners may apply in writing to the Minister for additional stores, plant, material, rolling-stock, stations, sheds, and other accommodation which, in their opinion, may be required to enable them to meet the traffic requirements, or ensure the efficient working of the railways.

Commissioners may requisition for rolling-stock, &c.

Ibid. s. 42.

21. The Commissioners may lease any refreshment-room, shed, office, shop, stall, coal gears, sites for storage or for erecting sheds, right of entrance into any station by any public vehicle, right of advertising, or other convenience or appurtenance to any of the railways, for any term not exceeding five years on such conditions and at such rent as they may determine.

Commissioners may lease refreshment-rooms, &c.

Ibid. s. 43.

22. (1) No person shall be entitled to carry, or to require the Commissioners to carry, upon any railway, any aqua-fortis, oil of vitriol, gunpowder, lucifer matches, or any goods whatsoever which, in the judgment of the Commissioners or their officers, may be of a dangerous nature.

Bringing dangerous goods on the railway.

Ibid. s. 40.

(2) The Commissioners may refuse to take any parcel which they may suspect to contain goods of a dangerous nature, or may require any parcel to be opened, so that the nature of the contents may be ascertained.

Commissioners may require parcels to be opened.

23. (1) The several lines of telegraphic communication belonging to the Commissioners, or which are worked under the direction, or on behalf of the Commissioners, may be used by them—

Working of telegraphs.

Ibid. s. 46.

(a) for the transmission of messages in relation to the working of the railways ; and

(b) so far as is consistent with the due and efficient working of the railways, for the transmission of messages by the public.

Transmission of messages.

(2) All such messages as last aforesaid shall be transmitted by the officers on behalf of the Commissioners, as agents of the Post-master-General ; and there shall be demanded and received, in respect of such last-mentioned messages, such fees, rates, and dues as may for

Government Railways.

for the time being be lawfully demanded or received by the Postmaster-General, in respect of lines of telegraphic communication under his control.

Messages for the public.

(3) Save as aforesaid, the Commissioners shall not transmit or permit the transmission of messages on behalf of the public through their wires.

Payment by Postmaster-General.

(4) The sum to be paid by the Postmaster-General to the Commissioners for the transmission of messages as aforesaid, may be either a lump sum or a percentage on the gross sum received by the Postmaster-General from the Commissioners, in respect of such transmission, or may be determined in such other way as may be agreed upon between the Postmaster-General and the Commissioners.

(ii) Contractual powers.

General contractual powers of Commissioners.

51 Vic. No. 35, s. 47.

24. (1) The Commissioners in their corporate name may contract—

- (a) for the execution of any work authorised by this or any other Act to be executed by them; or
- (b) for furnishing materials or labour; or
- (c) for providing locomotive engines or other motive or tractive power; or
- (d) for any other matters and things whatsoever, necessary for enabling them to carry the purposes of such Act into full effect, in such manner and upon such terms for such sum and under such stipulations, conditions, and restrictions as the Commissioners think proper.

Contracts to be in writing.

(2) Every such contract shall be in writing, and shall specify—

- (a) the work to be done;
- (b) the materials to be furnished;
- (c) the price to be paid for the same;
- (d) the time within which the work is to be completed, and the materials to be furnished; and
- (e) the penalties to be suffered in case of non-performance thereof.

Every such contract may, if the Commissioners think fit, comprise several works, and may in every case specify the person to whose satisfaction the work or works is or are to be completed or the material furnished, and the mode of determining any dispute which may arise concerning, or in consequence of, such contract.

Proviso.

55 Vic. No. 28, s. 1.

(3) Provided that the Commissioners shall not without the consent of the Governor enter into any contract in any case where—

- (a) the contract is for the supply either directly or indirectly from places outside New South Wales of materials, locomotive engines, or other motive or tractive power; and
- (b) the contract exceeds the sum of twenty thousand pounds.

Government Railways.

25. The Commissioners and the Postmaster-General may enter into, alter, and rescind contracts and agreements, with respect to—

(a) the receipt, carriage, and conveyance of letters, newspapers, and parcels; and

(b) any other matter or thing in relation to the postal service;

(c) the working of any of the lines of telegraphic communication of the Postmaster-General by the Commissioners; and

(d) generally with respect to telegraphs and the transmission of telegraphic messages.

Power for Commissioners and Postmaster-General to make contracts.
51 Vic. No. 35, s. 48.

26. In case any difference arises between the Commissioners and the Postmaster-General, with regard to the terms and conditions on which any contract or agreement should be made or otherwise in relation thereto, the same shall be determined by the Governor.

How differences to be determined.
Ibid. s. 49.

27. The Commissioners, at a meeting specially called for that purpose, may compound and agree with any person who has entered into any contract in pursuance of or under the authority of this Act, or against whom any action or suit is brought for any penalty contained in any such contract, or in any bond, or other security for the performance thereof, or for or on account of any breach or non-performance of any such contract, bond, or security, for such sum of money or other consideration as the Commissioners think proper.

Commissioners may compound for breach of contracts.
Ibid. s. 50.

(iii) *Tolls.*

28. (1) The Commissioners may carry and convey upon the railways all such passengers and goods as are offered for that purpose, and may demand reasonable tolls and charges in respect thereof.

Commissioners may demand tolls.
Ibid. s. 30.

(2) Subject to the provisions of this Act, all such tolls shall, at all times, be charged equally to all persons, and after the same rate, whether per ton, per mile or otherwise, in respect of all passengers and of all goods or carriages of the same description, and conveyed or propelled by a like carriage or engine passing over the same portion of the line of railway and under the same circumstances; and no reduction or advance in any such tolls shall be made, either directly or indirectly, in favour of or against any particular company or person travelling upon or using the railway.

Tolls to be charged equally under like circumstances.

29. The tolls shall be paid to such persons, and at such places, upon or near to the railways, and in such manner, and under such regulations as the Commissioners shall appoint.

Tolls to be paid as directed.
Ibid. s. 31.

30. If, on demand, any person fails to pay the tolls due in respect of any carriage or goods, the Commissioners may—

(a) detain and sell such carriage, or all or any part of such goods;

(b) if the same have been removed from the railway premises, detain and sell any other carriages or goods within such premises belonging to the person liable to pay such tolls;

and,

In default of payment of tolls, goods, &c., may be detained and sold.
Ibid. s. 32.

Government Railways.

and, in either case, out of the moneys arising from the sale, retain the tolls payable as aforesaid, and all charges and expenses of such detention and sale, rendering the surplus (if any), of the moneys arising by such sale, and such of the carriages or goods as shall remain unsold, to the person entitled thereto; or

(c) recover any such tolls by action at law.

Account of lading,
&c., to be given.
51 Vic. No. 35, s. 33.

31. Every person being the owner or having the care of any carriage or goods passing or being upon any railway, shall on demand, give to the collector of tolls, at the places where he attends, for the purpose of receiving goods or of collecting tolls, for the part of the railway on which such carriage or goods may have travelled or be about to travel, an exact account in writing signed by him of—

- (a) the number or quantity of goods conveyed by any such carriage;
- (b) the point on the railway from which such carriage or goods have set out or are about to set out;
- (c) the point where the same are intended to be unloaded or taken off the railway.

If such goods are liable to the payment of different tolls, then such owner or other person shall specify the respective numbers or quantities thereof liable to each or any of such tolls.

Penalty for not
giving account, &c.
Ibid. s. 34.

32. If any such owner, or person as in the last preceding section mentioned in contravention of the requirements thereof—

- (a) fails to give an account; or
- (b) fails to produce his way-bill or bill of lading to such collector, or other officer of the Commissioners, demanding the same; or
- (c) gives a false account; or
- (d) unloads or takes off any part of his lading or goods at any other place than is mentioned in such account, with intent to avoid the payment of any tolls payable in respect thereof;

he shall for every such offence forfeit to the Commissioners a sum not exceeding ten pounds for every ton of goods, or for any parcel not exceeding one hundredweight, and so in proportion for any less quantity of goods than one ton, or for any parcel exceeding one hundredweight (as the case may be) upon any such carriage; and such penalty shall be in addition to the toll to which such goods may be liable.

Disputes.
Ibid. s. 35.

33. If any dispute arises—

- (a) concerning the amount of the tolls due to the Commissioners; or
- (b) concerning the charges, occasioned by any detention or sale under the provisions herein contained,

the same shall be settled by a magistrate or two justices, and the Commissioners may, in the meanwhile, detain the goods or retain the proceeds of the sale thereof.

Government Railways.

34. (1) If any difference arises between any toll collector or other officer of the Commissioners and any owner of or person having the charge of any carriage passing or being upon any railway, or any goods conveyed or to be conveyed by such carriage, respecting the weight, quantity, quality, or nature of such goods, such collector or other officer may lawfully detain such carriage or goods, and examine, weigh, gauge, or otherwise measure the same. Differences as to weights, &c.
51 Vic. No. 35, s. 36

(2) Upon such measuring or examination—

- (a) if such goods appear to be of greater weight or quantity, or of other nature than was stated in the account given thereof, the person who gave such account shall pay, and the owner of such carriage or the respective owners of such goods shall also, at the option of the Commissioners, be liable to pay the costs of such measuring and examining;
- (b) if such goods appear to be of the same or less weight or quantity than, but of the same nature as was stated in such account, the Commissioners shall pay such costs, and they shall also pay to such owner of or person having charge of such carriage, and to the respective owners of such goods such damage (if any) as appears to any magistrate or two justices, on a summary application to him or them for that purpose, to have arisen from such detention.

Payment of costs.

35. If at any time it is made to appear to any magistrate or two justices, upon the complaint of the Commissioners, that any such detention, measuring, or examining of any carriage or goods as hereinbefore mentioned was without reasonable ground, or was vexatious on the part of such collector or other officer, such magistrate or justices shall assess the costs of such detention and measuring, and the damage occasioned thereby, and shall order the collector or other officer to pay the same. Vexatious detentions.
Ibid. s. 37.

36. Notwithstanding anything in this Act contained, the Commissioners may frame a special scale of tolls or charges for the conveyance of specific classes of produce or merchandise. Special tolls, &c.
Ibid. s. 25.

Provided that the same charges shall apply alike to all persons using the railways.

DIVISION 5.—Duties of Commissioners.

(i) *Certain special duties.*

37. The Commissioners shall maintain the railways and all works in connection therewith in a state of efficiency, and shall carry persons, animals, and goods without negligence or delay; and in respect of the carriage of persons, animals, and goods, the Commissioners shall be common carriers. Duties of Commissioners in respect to the railways, &c.
Ibid. s. 22.

38.

Government Railways.

Commissioners to
make inspections of
railways.

51 Vic. No. 35, s. 23.

Repairs and
alterations.

38. (1) The Commissioners shall at all times cause to be made a careful inspection of the condition of the railways under their control.

(2) Whenever it appears to the Commissioners that for the purpose of maintaining the traffic on any existing line—

(a) a partial reconstruction, or a partial duplication, or any other addition to, or extension of, the roadway of any existing line, or part of any such line, or any bridge, viaduct, or other work; or

(b) the laying of new rails; or

(c) any other repair or alteration of any line or work vested in them

is necessary, they shall undertake, execute, and carry out any of the works aforesaid so far as may be required for such purpose.

Traffic during
repairs.

(3) During any reconstruction, repair, or alteration, the passenger and goods traffic may be conducted along temporary roadways, or otherwise, as the Commissioners may deem best for the public interest and safety.

Commissioners not to
give undue
preferences, &c.

Ibid. s. 24.

39. The Commissioners shall not afford or give any undue or unreasonable preference or advantage to any particular person, or to any particular description of traffic, in any respect whatsoever; nor shall they subject any particular person, or any particular description of traffic to any undue or unreasonable prejudice or disadvantage in any respect whatsoever.

Commissioners to
afford all reasonable
facilities for inter-
change of traffic, &c.

Ibid. s. 26.

40. Subject to the provisions of this Act the Commissioners shall afford all reasonable, proper, and equal facilities for the interchange of traffic between the respective lines of railway vested in them; and for the receiving, forwarding, and delivery of passengers and goods to and from such lines.

Adjustment of
weights and
measures on
railways.

Ibid. s. 81.

41. The Commissioners shall cause all weights, measures, scales, balances, steelyards, beams and other weighing machines in use upon any of the railways, or on any of the stations, piers, wharfs, or jetties vested in the Commissioners, to be from time to time adjusted by some officer appointed by the Commissioners, either on comparison with authorised copies of the standard weights and measures made under the Act in force for the time being relating to weights and measures, or otherwise as the case may be; but, save as aforesaid, nothing in the said Act contained shall apply to the railways or to any station, pier, wharf, or jetty vested in the Commissioners.

(ii) *Statements and reports.*

Commissioners to
prepare estimate of
traffic.

Ibid. s. 29.

42. Before the second reading in the Legislative Assembly of any bill authorising the construction of new lines of railway, the Commissioners shall transmit to the Minister a statement under their seal showing

Government Railways.

showing their estimate of the traffic on each proposed new line, and any other returns likely to be derived therefrom, and the Minister shall before such second reading lay the same upon the table of the Assembly.

43. (1) In the first month in each quarter of every year the Commissioners shall report in writing to the Minister— Commissioners' quarterly report to Minister.
51 Vic. No. 35, s. 44.

- (a) the state of the traffic returns, with the approximate cost and earnings of trains per ton, per train mile, in respect of goods and passengers respectively, carried during the past quarter; and
- (b) the general condition of the lines and accommodation for the traffic; and
- (c) the special rates, if any, which have been made, and the reasons for making such rates; and
- (d) the appointments and removals of officers with the circumstances attending each case.

(2) Such reports shall be laid before Parliament, if Parliament is in Session, and if not, then within seven days after the commencement of the next ensuing Session. Reports to be laid before Parliament.

44. The Commissioners shall prepare—

- (a) an annual report of their proceedings, and an account of all moneys received and expended during the preceding year. Commissioners' annual report to Parliament.
Ibid. s. 45.

Such annual report shall be laid before both Houses of Parliament in the month of January in each year if Parliament is then sitting, otherwise, within one month after the commencement of the next ensuing Session.

- (b) estimates, in such form as the Governor may direct, of receipts and expenditure for each period of twelve months ending on the thirtieth day of June in each and every year.

45. The Commissioners shall in each annual report include a list of all officers admitted to the Service since the date of the former annual report, and likewise a list of all officers who may have left the Service during the like period, giving date of appointment, positions and rates of pay to which appointed, and date and cause of leaving in each case. List of officers.
Ibid. s. 79.

Government Railways.

PART III.

Construction of tramways.

Commissioners may
construct certain
lines of tramways.
43 Vic. No. 25,
ss. 2, 5.

46. Subject to the provisions of the Public Works Act, 1900, the Commissioners may construct tramways for conveying passengers and their luggage along any route within the city of Sydney and the suburbs thereof which may be approved by the Governor, notwithstanding anything to the contrary contained in or implied by the Sydney Corporation Act of 1879, the Municipalities Act, 1897, or any other Act whatsoever.

Other tramways.
Ibid. s. 4.

47. Subject as aforesaid the Commissioners may construct tramways for the purposes aforesaid from points along the line of any railway to places distant not more than fifty miles therefrom, or from any other point or place whatsoever to any quarry or other workings, for the purpose of procuring materials for the construction or maintenance of any tramway authorised by this Part of this Act, or for any other purpose whatsoever, whenever the Governor determines to construct the same.

Plans to be laid
before Parliament.

In every such case copies of the plans and books of reference of the route which such tramway is intended to follow shall be from time to time prepared and laid before Parliament, and whenever such plans and books of reference have been approved by a resolution of both Houses, the Commissioners, subject to the determination of the Governor, may commence and complete such tramway with all proper works and conveniences connected therewith in accordance with such resolutions.

Entry upon streets
and other
thoroughfares.
Ibid. s. 6.

48. The Commissioners for the purposes of this Part of this Act shall have all necessary rights of ingress and egress in, to, and over the surface of any street, road, highway, or thoroughfare, proclaimed, reserved, or dedicated for the use of the public, or subject to any public easement, over which any such tramway passes as are required for the construction, repair, completion, and use thereof.

Provided that nothing herein contained shall impair or be held to impair the lawful authority of the municipal council of the city of Sydney, or of the council of any municipality, or of any other corporation, company, or person to make all entries, and exercise all other powers necessary for the construction, maintenance, and preservation of gas-works, water-works, sewerage-works, and other works lawfully constructed underground in such streets, roads, highways, or thoroughfares along which any such tramway passes.

Resumption of lands.
Ibid. s. 7.

49. Subject to the provisions of the next following section the Commissioners for the purposes of this Part of this Act shall have all necessary rights to enter upon and resume the lands and grounds of any person whomsoever subject to the same conditions in respect of compensation

Government Railways.

compensation and to all other provisions and regulations as under the provisions of the Public Works Act, 1900, are applicable to the resumption of land for railway purposes.

50. The gauge of any tramway constructed under this part of Gauge.
this Act shall not exceed four feet eight and one half inches. 43 Vic. No. 25, s. 9.

51. The tramways shall in every case and throughout their Levels.
course be laid at or about the general level of the streets and high- Ibid. s. 10.
ways along which they are to be constructed, but the Commissioners may with the consent of or by mutual agreement with the Municipal Council in which is vested the control and management of any street or highway alter and improve the levels thereof.

Provided that all reasonable expenses incurred in the reformation of the said streets or roads so altered and improved shall be borne by the Commissioners unless otherwise agreed upon.

52. The Commissioners shall maintain in perfect order and Maintenance of
repair the said tramways and the pavements of the same between the roads.
rails of the said tramways, and for the space of one foot and six inches Ibid. s. 11.
on either side of such rails.

53. The Commissioners shall immediately repair any damage Commissioners to
which may during or by reason of the construction of the said tram- repair damages.
ways be occasioned to any sewer, or drain, or gas or water main, and Ibid. s. 12.
shall also repair all damages which may be occasioned by the working of the said tramways.

54. The Commissioners may erect buildings or other structures Commissioners may
for the purposes of the said tramways, and may construct lines of erect buildings.
approach thereto. Ibid. s. 13.

PART IV.

Traction.

55. The Commissioners may use locomotive engines and other Motive power.
motive or tractive power, and may draw or propel thereby carriages 51 Vic. No. 35, s. 30.
and waggons upon the railways.

56. The Commissioners may use either in addition to or in Commissioners may
substitution for any existing system of traction on tramways any use electric traction.
system of electric traction of which they may approve, and may con- 60 Vic. No. 22, s. 2.
struct, maintain, repair, and use all works necessary for such system of electric traction.

Government Railways.

Commissioners may
construct works on
roads.

60 Vic. No. 22, s. 3.

57. The Commissioners for the purposes of the next preceding section—

- (a) shall have all such rights of ingress and egress to, from, and over the surface of any road on which any tramway is now or may hereafter be laid, as are required for the construction, maintenance, repair, and use of any such works; and
- (b) may from time to time open up the surface of any road for the purpose of constructing, maintaining, and repairing works beneath the level of such road, and may erect, support, and maintain above the level of, and across any such road, such wires and other electric apparatus as are, in their opinion, necessary for the efficient use and maintenance of electric traction on such tramways.

Provided always that the powers given by this and the next preceding section shall be used so as to interfere as little as may be reasonably possible with traffic and public convenience, that all works commenced shall be expeditiously carried out, and that adequate provision shall be made at all times for the public safety during the construction, maintenance, and repair of any works authorised by this and the said section.

Persons damaging
works.

Ibid. s. 4.

58. Every person who wilfully cuts or otherwise severs any wire or cable, or so damages any part of the works connected with any such system of electric traction as to break the electric circuit or cause leakage or loss of the current shall be deemed guilty of a misdemeanour.

Interpretation.

Ibid. s. 1.

59. In the last three preceding sections:—

“Road” means any public or private road, highway, street, square, lane, court, or passage.

“Works” includes any stations, posts, pillars, brackets, excavations, wires, cables, or other things in any way used in connection with electric traction on tramways.

Government Railways.

PART V.

Free Passes.

60. Each of the persons hereinafter mentioned shall be entitled to receive from the Commissioners, and to hold and use, a free pass which shall authorise the holder to travel free on all railways, but which shall in no case be transferable, viz.:—

Persons entitled to free passes.
51 Vic. No. 35, s. 27.

- (a) every Member of the Legislative Council ;
 - (i) every pass issued to a Member of such Council shall be issued in the name of the person entitled to the same ;
 - (ii) every such pass shall be forthwith returned to the Commissioners by the holder thereof or his agent or personal representative on his ceasing to be a Member of such Council ;
- (b) every Member of the Legislative Assembly ;
 - (i) the free pass to be issued to such Member shall be issued to him in the name of the electorate which he has been elected to represent ;
 - (ii) every such pass shall be returned to the Commissioners by the Member holding the same if the seat of such Member shall have been rendered vacant by his resignation or other act having the effect of vacating his seat in the Legislative Assembly under the law in force for the time being so soon as his successor shall have been elected ;
 - (iii) the passes issued by the Governments of other States or colonies to Members of the respective Parliaments of those States or colonies shall be recognised and held to admit the holders thereof to travel upon the railways of New South Wales ;
 - (iv) any free pass for life or for any fixed period granted prior to the passing of the Government Railways Act of 1888, shall not be affected by these provisions ;
- (c) officers of Parliament ;
 - the Commissioners may, with the approval of the Governor, issue from time to time, on application, passes, available for a period not exceeding one month to such officers of Parliament as have been heretofore accorded that privilege ;
- (d) every person who has held any of the offices enumerated in the Second Schedule hereto, and whether before or after, or partly before and partly after the commencement of this Act ;
 - every such pass shall be issued in the name of the person entitled, and shall be available during the term of his life, and shall bear on the face of it the name in full of the person to whom it is granted ;

(e)

Government Railways.

(e) any person of distinction visiting the State, or officially engaged in some public duty which renders it necessary for him to travel by railway, or who may have rendered some important public service to the State ;

no such pass shall be issued for a period exceeding one month.

Rights and liabilities
under free passes.

51 Vic. No. 35, s. 27.

61. Every free pass issued under the last preceding section shall, in respect to the holder of such pass and his personal representatives, be accompanied by and entail the like rights, remedies, obligations, and liabilities (except in respect of the payment of money therefor) as if the said pass had been a ticket issued to such holder for a money consideration.

Fraudulent use of
free passes.
Ibid. s. 96.

62. If any person, not being one of the persons entitled under the provisions of this Act to claim, hold, and use a free pass on the railways—

(a) travels, or attempts to travel, by virtue of any such free pass ;
or

(b) at any time exhibits, or shows, or carries any such free pass, pretending to be the rightful possessor thereof,

he shall be guilty of a misdemeanour.

PART VI.

Investigation of accidents.

Accidents to be
reported to the
Minister.
Ibid. s. 51.

63. Whenever, upon or about any railway, or any works, building, or place of any kind whatsoever, used or connected with any railway, any such accident as hereinafter specified takes place in the course of working such railway, viz.—

(a) any accident attended with loss of life or personal injury to any person ; or

(b) any collision where one of the trains is a passenger train ; or

(c) any passenger train or portion thereof accidentally leaving the rails ; or

(d) any accident of a kind not comprised in the foregoing descriptions, but which has caused or might have caused loss of life or personal injury,

the Commissioners shall

(e) cause the earliest information by telegraph, post, or otherwise to be forwarded to the Minister ; and

(f) appoint such officer or officers as they may think fit to hold an inquiry into the matter ; and

(g) as soon as practicable after such inquiry send to the Minister full information of the accident and the report of such officers.

Government Railways.

64. Where it appears to the Minister, either before or after the commencement of any such inquiry, that a more formal investigation of the accident, and of the causes thereof, and of the circumstances attending the same, is expedient, he shall notify the same to the Governor, and the Governor may, by order, direct such investigation to be held.

Governor may direct formal investigation.
51 Vic. No. 35, s. 52.

65. With respect to such investigation the following provisions shall have effect—

Provisions with respect to investigation.
ibid.

- (a) the Governor may, by the same or any subsequent order, direct a District Court judge, magistrate, or other person or persons, named in the same or any subsequent order, to hold such investigation with the assistance of the assessors named in the order;
- (b) the person or persons holding any such formal investigation (hereinafter referred to as the Court) shall hold the same in open Court, in such manner, and under such conditions as he or they think most effectual for ascertaining the causes and circumstances of the accident, and enabling him or them to make the report in this section mentioned;
- (c) the Court shall, for the purposes of such investigation, have all the powers of a Court of Petty Sessions acting in the exercise of its ordinary jurisdiction, and,
 - (i) may enter and inspect any place or building, the entry and inspection whereof appears to such Court requisite for the said purpose;
 - (ii) may by summons under their hand require the attendance of all such persons as the Court thinks fit to call, and examine the same, and may require answers or returns to such inquiries as the Court thinks fit to make;
 - (iii) may require and enforce the production of all books, papers, and documents which the Court considers important;
 - (iv) may administer an oath, and require any person examined to make and sign a declaration of the truth of the statements made by him in his examination;
- (d) every person so summoned, not being a person engaged in the Railway service or otherwise connected with it, shall be allowed such expenses as would be allowed to a witness attending on subpoena before the Supreme Court; and in case of dispute as to the amount to be allowed, the same shall be referred by the Court to the Prothonotary of the Supreme Court, who, on request by the Court, shall ascertain and certify the proper amount of such expenses;
- (e) no answers or declarations of any person examined under this section shall be admissible in evidence in any proceeding against such person other than a prosecution for perjury, or for giving or making false answers or declarations;

(f)

Government Railways.

- (f) the Court, after holding an investigation concerning any accident, shall make a report to the Governor stating the causes of the accident, and all the circumstances attending the same, and any observations thereon, or on the evidence, or on any matters arising out of the investigation, which the Court thinks right to make.
-

PART VII.

By-laws.

By-laws.

51 Vic. No. 35, s. 53. **66.** The Commissioners may make by-laws for all or any of the subjects or matters hereinafter mentioned, and may impose penalties not exceeding twenty pounds, upon any person committing a breach of any of such by-laws—

- (1) for fixing the amount of fares for the conveyance of passengers, and the charges for the carriage of animals, goods, and parcels, and the circumstances and conditions under which the Commissioners will make special rates for the carriage of goods in quantities ;
- (2) for preventing the commission of any nuisance in or upon the carriages, or in any of the stations, buildings, piers, wharfs, or jetties vested in the Commissioners ;
- (3) for preventing the emptying of sewage or drainage on to any of the railways, or on to any lands, stations, building, piers, wharfs, or jetties vested in the Commissioners ;
- (4) for regulating the exercise of the several powers vested in any pier-master, wharfinger, or berthing master ;
- (5) for regulating the admission of vessels to any pier, wharf, or jetty hereinbefore mentioned, and their removal from the same, and for the good order and government of such vessels, whilst at such pier, wharf, or jetty ;
- (6) for regulating the use of any such pier, wharf, or jetty ;
- (7) for regulating the shipping, unshipping, landing, warehousing, stowing, depositing, and removing of all goods from or at any such station, building, pier, wharf, or jetty ;
- (8) for regulating the conduct of all persons (not being any officer of the Marine Board, or of the Department of Harbours and Rivers, or of the Customs), while upon or in any such station, building, pier, wharf, or jetty, or while employed at or near the same ;
- (9) for regulating, subject to the approval of the Marine Board, the use of fires and lights within or on board any vessel being at any such pier, wharf, or jetty ;

(10)

Government Railways.

- (10) for preventing damage or injury to any vessel or goods at any such station, building, pier, wharf, or jetty ;
- (11) for regulating the duties and conduct of porters, cabmen, carmen, draymen, and carriers (not being officers of the Commissioners) employed at any such station, building, pier, wharf, or jetty, and fixing the charges to be paid to them for carrying any passengers, goods, articles, or things from or to the same ;
- (12) for fixing the amount of tolls to be paid by any vessel using any such pier, wharf, or jetty, or any crane, the property of the Commissioners ; and for fixing the amount of tolls to be paid on goods brought to or taken from any vessel using any such pier, wharf, or jetty, by lighter or other vessel ;
- (13) for fixing the amount of tolls upon animals and goods received or delivered upon or from any such pier, wharf, or jetty ;
- (14) for regulating generally the travelling or traffic upon, or using or working of the railways, and of the stations, buildings, piers, wharfs, and jetties hereinbefore mentioned ; and for the good government and maintenance of order thereon ;
- (15) for specially regulating the conduct of the traffic during any reconstruction or repair of any railway or tramway ;
- (16) for regulating the terms and conditions upon which special trains will be run ;
- (17) for regulating the admission of the public to any of the railways, and to any of the stations, buildings, piers, wharfs, or jetties, hereinbefore mentioned ; and for fixing a charge therefor, or for dispensing with the same on certain days or for certain times ;
- (18) for regulating the use of stamps as prepayment upon parcels ;
- (19) for regulating the sale of tickets at places, other than railway stations, and the conditions under which such tickets shall be sold ;
- (20) for fixing demurrage charges, where goods are to be loaded into or discharged from trucks by owners, consignors, or consignees ;
- (21) for fixing the charges for warehousing goods, and the charges to be paid in respect of parcels and luggage left for transit or for care or custody, and the conditions upon which they respectively will be received ;
- (22) for regulating the disposal of unclaimed goods ;
- (23) for imposing conditions upon which passengers luggage will be carried ;

(24)

Government Railways.

- (24) for preventing or regulating bathing or fishing in, or shooting over or upon, any reservoir or tank connected with any of the railways ;
- (25) for regulating the carriage of corpses, and for prohibiting the carriage or conveyance of the bodies of persons who have died from any contagious disease ;
- (26) for prohibiting the carriage or conveyance of diseased animals, and preventing them from coming upon any station or premises ;
- (27) for preventing damage or injury to railway stations, buildings, piers, wharfs, jetties, premises, carriages, gates, fences, or any property whatever ;
- (28) for the issue of free passes on the railways ;
- (29) for regulating public or private traffic across any of the said railways, on the level thereof, and for preventing animals from trespassing on any of the railways ;
- (30) for altering or repealing any by-laws made heretofore with regard to the railways ;
- (31) for regulating the manner in which public notices shall be advertised, and generally with regard to advertising in newspapers and elsewhere ;
- (32) for facilitating and regulating the insurance of persons, travelling on the lines of railway, by any Accident Insurance Company now or hereafter to be formed.

By-laws to be approved and published.

51 Vic. No. 35, s. 54.

Publication of by-laws.

Ibid. s. 54.

67. No such by-law shall have any force or effect unless it has been approved by the Governor, and has been published for at least three clear days in the Gazette.

68. The Commissioners shall cause the substance of such by-laws, and a list of any tolls, fares, and charges from time to time imposed thereby, to be painted upon or to be printed and affixed to boards in large and legible characters, and shall cause such boards to be exhibited in some conspicuous place in or on every station, pier, jetty, wharf, or other place where such tolls, fares, or charges, or any of them are payable, and according to the nature and character of such by-laws respectively, so as to give public notice thereof ; and shall cause every such board from time to time to be renewed, if destroyed or defaced.

Evidence of publication.

Ibid. s. 55.

69. (1) The exhibiting on boards of the substance of such by-laws, and lists of tolls, fares, and charges, shall be deemed to have been complied with, if it is proved that, at the time of any alleged breach, a board was exhibited in accordance with the provisions of the next preceding section, at the station, pier, wharf, jetty, or other place where tolls, fares, or charges were payable, nearest to the place where such breach took place.

Government Railways.

(2) The production of the Gazette, containing such by-law shall be evidence that such by-law has been duly made and confirmed, and that it is still in force. Production of Gazette.

70. When the breach of any by-law would be attended with danger or annoyance to the public, or hindrance to any of the officers in the lawful use of any of the railways, or of any pier, wharf, jetty, station, yard, or building, such officers or any of them may summarily interfere to obviate or remove such danger, annoyance, or hindrance, and that without prejudice to any penalty incurred by the breach of such by-law. Summary interference in certain cases of breach of by-law. 51 Vic. No. 35, s. 57.

PART VIII.

Appointment, promotion, discipline in and regulation of the railway service.

DIVISION 1.—*Examiners.*

71. The Governor may appoint for each branch of the railway service competent persons, to be examiners of candidates for permanent employment in such branch and of officers who are candidates for promotion to the higher grades in such service. Governor to appoint examiners. Ibid. s. 58.

Provided that such examiners shall not hold office longer than three years from the date of appointment, but shall be eligible for reappointment.

DIVISION 2.—*Appointment.*

72. (1) The Commissioners shall appoint or employ such officers, to assist in the execution of this Act as they think necessary, and every officer so appointed shall hold office during pleasure only. Commissioners to appoint staff. Ibid. s. 15.

(2) The Commissioners shall pay such salaries, wages, and allowances to officers as Parliament appropriates for that purpose. Salaries.

(3) No officer appointed under this section shall engage in any employment outside the duties of his office. Staff not to engage in other duties.

73. (1) Whenever the Commissioners require additional permanent officers they shall give public notice thereof three times in a Sydney daily paper. Notice of examination for permanent employment. Ibid. s. 59.

(2) Such notice shall state the qualifications required and the branches for which such additional officers are required, and shall also state the time and place of examination. Terms of notice.

Government Railways.

Arrangements with
respect to country
candidates.

(3) The Commissioners shall so arrange the times and places when and where candidates are to comply with the conditions of employment provided in this Act, and to undergo examination, that persons residing in country districts shall have reasonable facilities for being examined in the district in which they reside.

Permanent
employment.
51 Vic. No. 35, s. 60.
Supernumerary
employment.

74. (1) All persons employed in the railway service, except supernumeraries, shall be deemed to be employed in a permanent office.

(2) No person shall be employed in the railway service as a supernumerary for a longer period in all than six months in any one year, except persons employed as day labourers; and no person who has been so employed shall be again employed as a supernumerary until a period of six months has elapsed from the termination of the period during which he was so employed.

Record of employ-
ments.

(3) The Commissioners shall cause to be kept a special record of all appointments of supernumeraries, and of the circumstances under which their services were deemed necessary, of the periods during which they were respectively employed, and of the payments received by them respectively; and a copy of such record shall be sent to the Minister at the end of every three months.

Certificate.
Ibid. s. 61.

75. No person shall be appointed as an additional permanent officer who has not obtained from the examiners a certificate of fitness, which they are hereby empowered to issue.

Order of precedence
for appointment how
determined.
Ibid. s. 62.

76. (1) If a greater number of candidates than are required by the Commissioners for appointment obtain certificates from the examiners, the Commissioners shall appoint as many persons as are required, in such grades and to such situation as they may consider best.

Excess certificated
candidates.

(2) The persons in excess of the number required by the Commissioners shall be eligible for appointment for a period of twelve months then next ensuing from the date of such determination without further examination.

Nature of appoint-
ments.
Ibid. s. 63.

77. (1) All appointments shall be made to the lowest grade in each of the various branches of the railway service, and on probation only, for a period of six months.

Confirmation of
appointments.

(2) After the period of such probation, and upon production of a certificate of fitness from the officer at the head of the branch in which such probationer was employed, and upon proof to the satisfaction of the Commissioners that all the provisions of this Act have been complied with, such appointments may be confirmed by the Commissioners.

Appointments
without examination.

(3) The Commissioners shall, notwithstanding, have the power to appoint to any position or grade, if they think fit, without examination as aforesaid, persons of known ability not engaged in the railway service; but no such appointment shall be made unless the Commissioners have previously certified under their seal to the Governor that

Government Railways.

that there is no person in the railway service fit and qualified to be promoted to such appointment, and shall have obtained his sanction to such appointment.

78. (1) No probationer's appointment shall be confirmed until he has effected, in some life insurance society or company carrying on business in New South Wales, an insurance on his life providing for the payment of a sum of money at his death, should it occur before the age of retirement from the railway service; or, if he survives until that age, of a sum of money or annuity on the date of such retirement. Such insurance shall be continued, and the amount thereof fixed and increased, from time to time, in the prescribed manner.

Appointee to insure his life.
51 Vic. No. 35, s. 64.

(2) No policy of insurance so effected shall, during the time such person remains in the railway service, be assignable either at law or in equity.

Policy not to be assignable.

DIVISION 3.—Promotion.

79. (1) When any vacancy occurs in any branch of the railway service not open for competitive examination as hereinafter provided, it shall be filled, if possible, by the promotion of some officer next in rank, position, or grade, to the vacant office; and no such officer shall be passed over unless the head of his branch, in writing, so advises the Commissioners.

Promotions.
Ibid. s. 65.

(2) No officer shall be passed over without being allowed to show cause, in the prescribed manner, to the Commissioners, whose decision upon the matter shall be final.

Cause to be shown.

80. (1) Whenever promotions to the higher grades of the railway service are to be made, the Commissioners shall cause competitive examinations to be held by the examiners.

Competitive examination.
Ibid. s. 66.

(2) The names of the candidates who have satisfied the examiners that they possess the necessary qualifications shall be registered by the Commissioners, in a book kept for that purpose, in the order of their merit.

Successful candidates to be registered.

(3) No promotions to the offices open to competitive examination shall be made except from the persons whose names are so registered, and in the order of such registration, taking the name first registered and following in regular order.

Promotions.

DIVISION 4.—Suspension and dismissal.

81. The Commissioners may remove any officer.

Removal of officers.
Ibid. s. 15 (ii).

82. If any person employed by the Commissioners—

(a) exacts, or takes, or accepts on account of anything done by virtue of his office or in relation to the functions of the

Officer taking fees to lose his office and to be guilty of a misdemeanour.

Commissioners, *Ibid.* s. 91.

Government Railways.

Commissioners, any fee or reward whatsoever other than the salary, rewards, or allowances allowed or sanctioned by Parliament; or

- (b) is in anywise concerned or interested in any bargain or contract made by or on the behalf of the Commissioners, otherwise than as a member only, but not as a director or officer, of any registered, incorporated or joint stock company with whom any such bargain or contract may be made,

he shall be removed from office, and shall be incapable of being afterwards employed by the Commissioners, and shall also be guilty of a misdemeanour.

Forfeiture of office
in certain cases.
51 Vic. No. 35, s. 72.

83. If any officer is convicted of any felony or infamous offence, or becomes bankrupt, or applies to take the benefit of any Act for the relief of insolvent debtors, or, by any deed or other writing, compounds with his creditors, or makes an assignment of his salary for their benefit, he shall be deemed to have vacated his office.

Powers of
Commissioners on
vacation of offices.
Ibid. s. 15 (II).

84. The Commissioners may discontinue the offices of or appoint other persons in the room of such officers as are removed, or die, or resign, or vacate their offices under the provisions of the last preceding section.

Proviso.
Ibid. s. 73.

Provided that when any officer has vacated his office by reason of any such pecuniary embarrassment as aforesaid, if he proves to the satisfaction of the Commissioners that such embarrassment has not been caused or attended by any fraud, extravagance, or dishonourable conduct, they may reinstate such officer in his former or any other inferior position in the railway service.

Officers guilty of
misconduct.
Ibid. s. 68.
Act No. 72, 1900,
ss. 1, 2.

85. Whenever any officer in any branch of the railway service is guilty of misconduct or of breaking any rule, by-law, or regulation of the railway service, the officer at the head of such branch may in the prescribed manner—

- (a) dismiss or suspend him;
- (b) fine him in a sum not exceeding five pounds;
- (c) reduce him in rank, position, or grade, and pay.

But every such officer so dealt with may appeal in the manner hereinafter provided.

Officers guilty of
misconduct how
dealt with.
51 Vic. No. 35, s. 63.
Act No. 72, 1900, s. 1.

86. (1) Any officer in charge of a railway station may temporarily suspend at such station any officer of inferior rank, position, or grade to his own, until the officer at the head of such suspended officer's branch has dealt with such suspension.

(2) The board constituted in the next Division of this Part may investigate and deal with any charge brought against any officer for the breach of any rule, by-law, or regulation, or for misconduct, and may suspend such officer; or, if he has been already suspended, may

Government Railways.

may further suspend him for a period not exceeding six months, without salary or wages, or may inflict a fine to be deducted from his pay, or may dismiss him.

87. (1) No officer shall be liable to dismissal or any disability for refusing, on conscientious grounds, to work on any Sunday except in cases of necessity. Officers not subject to dismissal for refusing to work on Sunday.

(2) Such officer shall be subject to a proportionate reduction in his salary or wages on account of such refusal. 51 Vic. No. 35, s. 70.

Provided that this provision shall not apply to any officer whose duties do not require him to work on Sunday.

DIVISION 5.—*Appeals.*

88. (1) The three Commissioners shall hear, and a majority of such Commissioners shall determine, any appeal made by an officer against the adoption or confirmation of the advice or decision of the officer at the head of his branch, with regard to his right to promotion; and may confirm or modify such decision, or make such order as they think fit; and their decision shall be final. Commissioners to hear appeals. Ibid. s. 71. Act No. 72, 1900, s. 1.

(2) Every such appeal shall be heard within thirty days from the date of the appeal being lodged with the Commissioners.

89. (1) Every other appeal which may be made by an officer under this Part of this Act shall be made to a board, which shall consist of the Secretary to the Commissioners, the Chief Accountant, the Chief Mechanical Engineer, the Engineer-in-Chief for Existing Lines, the Chief Traffic Manager, and one officer to be appointed by the Governor. Board for hearing appeals. Ibid.

(2) Such last-mentioned officer shall be elected by ballot of the officers, and his name shall be submitted to the Governor for appointment as aforesaid, and he shall hold office on the said board for a term of three years. Elective member of board.

90. (1) Three members of the said board shall form a quorum. Quorum. Ibid.

(2) All powers of the board may be exercised by a majority of the members present at any meeting, and in case of an equality of votes the chairman of the meeting shall have a second or casting vote. Exercise of powers.

(3) The members present at each meeting of the board shall appoint one of their number to act as chairman at such meeting. Chairman.

91. No member of the board shall take part in the hearing of any appeal by, or charge against, any officer in the branch of which such member is the head. Disqualification. Ibid.

92. It shall be the duty of the Secretary to the Commissioners to convene all meetings of the board, and to keep a record of all proceedings thereof and decisions arrived at. Records. Ibid.

Government Railways.

Time for lodging and
hearing appeals.
Act No. 72, 1900, s. 1.

93. Every appeal to the board shall be lodged with the said secretary within seven days of the date of the decision appealed against, and shall be heard by the board within thirty days from the date of it being so lodged.

Members of board
may administer oaths.
Ibid.

94. (1) At the hearing of an appeal by, or charge against any officer, any member of the board may administer an oath to every witness at such hearing.

Persons may be
represented.

(2) The appellant or person charged shall be entitled to have all witnesses examined on oath, and also to be represented by a barrister, solicitor, or agent, who may examine witnesses and address the board on his behalf.

Powers of board.

(3) The board may confirm or modify any decision appealed against, or make any such order thereon as they think fit.

Effect of decision
of board.
Ibid.

95. (1) Every decision of the board shall be final and conclusive unless punishment is thereby imposed involving dismissal, or reduction of rank, position, grade, or pay, in which event the accused may, within seven days after being informed of such decision, appeal therefrom to the Commissioners.

Appeal from board
to Commissioners.

(2) Thereupon the Commissioners may hear, and may confirm, modify, or otherwise determine such appeal, and such determination shall be final and conclusive. In the hearing of such appeals the appellant shall have the like rights and privileges as he had before the board, and the Commissioners may administer an oath to every witness at such hearing.

DIVISION 6.—*Officers in positions of trust.*

Commissioners to
take security from
officers entrusted
with money.
51 Vic. No. 35, s. 85.

96. (1) Before any person entrusted with the custody and control of moneys, whether as collector, or other officer of the Commissioners, enters upon his office, the Commissioners shall take sufficient security from him for the faithful execution of his office.

(2) Such security may be that of any incorporated company or guarantee society approved by the Commissioners in the prescribed manner.

Delivery of matters
in possession or
custody of officers.
Ibid. s. 86.

97. If—

- (a) any collector of tolls or other officer employed by the Commissioners is discharged or suspended from his office, or dies, absconds, or absents himself; and
- (b) such collector or other officer, or the wife, widow, or any of the family or representatives of any such collector or other officer, refuses or neglects, after seven days' notice in writing for that purpose, to deliver up to the Commissioners or to any person appointed by them for that purpose, any station, dwelling-house,

Government Railways.

dwelling-house, office, or other buildings with its appurtenances, or any books, papers, or other matters belonging to the Commissioners, in the possession or custody of any such collector or officer at the occurrence of any such event as aforesaid,

then, upon application being made by the Commissioners to any justice, such justice may order any constable, with proper assistance, to enter upon such station or other building, and remove any person found therein, and take possession thereof, and of any such books, papers, or other matters, and to deliver the same to the Commissioners or to any person appointed by such justice for that purpose.

98. (1) Every officer shall, from time to time, when required by the Commissioners, make out and deliver to them or to any person appointed by them for that purpose, a true and perfect account in writing, under his hand, of all moneys received by him on behalf of the Commissioners, or by virtue of his employment. Officers to account on demand.
51 Vic. No. 35, s. 87

(2) Such account shall state how, and to whom, and for what purpose, such moneys have been disposed of; and, together with such account, such officer shall deliver the vouchers and receipts for such payments. Terms of account.

(3) Every such officer shall pay to the Commissioners, or to any person appointed by them to receive the same, all moneys which appear to be owing from him upon the balance of any such account. Payment.

99. (1) If any such officer fails—

- (a) to render such account; or
- (b) to produce and deliver up all the vouchers and receipts relating to the same in his possession or power; or
- (c) to pay the balance thereof when required; or
- (d) within three days after being thereunto required, to deliver up to the Commissioners, or to any person appointed by them to receive the same, all papers and writings, property, effects, matters, and things in his possession or power relating to the execution of this Act or belonging to the Commissioners,

Officers failing to account.
Ibid. s 88.

then, on complaint thereof being made to a justice, such justice shall summon such officer to appear before a magistrate, at a time and place to be set forth in such summons to answer such charge.

(2) Upon the appearance of such officer, or in his absence, upon proof that such summons was personally served upon him or left at his last known place of abode, such magistrate may hear and determine the matter in a summary way, and may adjust and declare the balance owing by such officer. Procedure.

(3) If it appears, either upon confession of such officer, or upon evidence, or upon inspection of the account, that any public moneys Order may be made.

Government Railways.

moneys which should be paid over to the Commissioners are in the hands of such officer or owing by him, such magistrate may order such officer to pay the same.

Officers refusing to account or deliver up books, &c.

51 Vic. No. 35, s. 89.

100. If any such officer, on being so brought before such magistrate and being required so to do, refuses to make out such account in writing, or to produce and deliver to the magistrate the several vouchers and receipts relating thereto, or to deliver up any books, papers, or writings, property, effects, matters, or things in his possession or power belonging to the Commissioners, such magistrate may commit such offender to gaol, there to remain until he delivers up all the vouchers and receipts (if any) in his possession or power relating to such accounts, and all books, papers, writings, property, effects, matters, and things (if any) in his possession or power belonging to the Commissioners, or which should be delivered up by such officer.

Where officer about to abscond a warrant may be issued in the first instance.

Ibid. s. 90.

101. (1) If a Commissioner or any person authorised by a Commissioner makes oath before a justice that he has good reason to believe, upon grounds to be stated in the deposition, and does believe that it is the intention of any such officer as aforesaid, to abscond, or that he has absconded, such justice may issue a warrant in the first instance for the apprehension of such officer to be brought before any magistrate.

Detention of officer.

(2) No person executing such warrant shall keep such officer in custody longer than twenty-four hours, or such longer period as may be rendered necessary by the distance of the place of apprehension from the residence of the nearest or most convenient justice, without bringing him before some justice, who shall either discharge such officer, if he thinks there is no sufficient ground for his detention, or order him to be detained in custody so as to be brought before a magistrate, at a time and place to be named in such order, unless such officer gives bail to the satisfaction of such justice for his appearance before such magistrate to answer the said complaint.

Sureties not to be discharged.

(3) No such proceeding against, or dealing with, any such officer shall deprive the Commissioners of any remedy which they might otherwise have against such officer or any surety of such officer.

DIVISION 7.—*Miscellaneous provisions.*

Gratuities and overtime payments.
Ibid. s. 67.

102. The officer at the head of any branch of the railway service may, if he thinks fit, certify that in his opinion any officer in his branch is entitled to a gratuity or to a payment for overtime work; but no gratuity or payment for overtime work shall be paid upon such certificate without the authority of the Commissioners.

*Government Railways.***103.** The Commissioners shall—

- (a) keep a record of all officers in the railway service, and shall record therein the rank, position, or grade, the length of service, salaries, and such other particulars with regard to such officers as they think fit;
- (b) cause entries to be made in such record of deaths, dismissals, resignations, promotions, and reductions;
- (c) in the month of June, in each and every third year, from the year one thousand nine hundred, publish in the Gazette a list of persons employed in the railway service up to the thirty-first day of December of the preceding year.

Record of particulars
of railway service
to be kept.
51 Vic. No. 35, s. 74.

104. The Commissioners shall make regulations—

- (a) for prescribing the qualifications required of all candidates for permanent employment in each of the various branches of the railway service, and, if necessary, in each grade of such branches;
- (b) for the examination of candidates and the granting of certificates to them;
- (c) for determining the nature or character and extent of examinations or tests, according to the requirements of each of the higher grades in the railway service, which officers in the lower grades, desiring to compete for and to be promoted to such higher grades, shall undergo;
- (d) for regulating the relative rank, position, or grade in the duties and conduct of the officers in each of the various branches of the railway service; and for determining which of such grades shall be deemed the higher and lower grades, respectively, in such railway service;
- (e) for regulating the duties to be performed by officers in the railway service, and the discipline to be observed in the performance of such duties, the granting of leave of absence from time to time, and arranging for the performance of duties during holidays, and for affixing to breaches of such regulations according to the nature of the offences, such penalties as by this Act are authorised;
- (f) for regulating and determining the scale on which officers in the various grades of the railway service shall insure their lives;
- (g) for the hearing and determining of appeals;
- (h) for altering or repealing any rules or regulations made before the passing of this Act with regard to railways or tramways;
- (i) for fixing the ages at which officers shall retire in the different branches of the railway service.

Regulations.
Ibid. s. 75.

All such regulations, when confirmed by the Governor, shall have the same force and effect as if they had been contained in this Act:

Provided

Government Railways.

Certain regulations
to be confirmed.

51 Vic. No. 35, s. 77.

Provided that no such regulation which in any way alters or annuls any privileges or immunities which officers have previously enjoyed, or dealing in any way with hours of work or wages, shall have any force or effect until the same has been published in the Gazette one week.

Right to sue.

Ibid. s. 76.

105. Nothing in this Act shall be held to in any way interfere with the right of any officer to sue the Commissioners in any court of law, and this Act expressly reserves to every officer the right so to sue should he so desire.

Contractual limits.

Ibid.

106. The Commissioners shall not have power to agree with officers to contract themselves out of the provisions of any Act of Parliament, or to compel them to forego any civil rights to which any Act of Parliament entitles them.

Employer's Liability
Act of 1897.

Ibid. s. 78.

107. The Commissioners shall not be deemed to be exempt from liability to any action which might be brought against an employer under the Employer's Liability Act of 1897.

Officers may be
represented.

Ibid. s. 80.

108. In all public inquiries and investigations into the cause of any accident the officers shall have the right to be represented by one of their number, or by any person whom they may select to represent their interests at such inquiry.

Saving of rights.

Ibid. s. 106.

109. Nothing in this Act shall prejudice or affect any officer in the railway or tramway service who has been a contributor to the Superannuation Account, in respect of his right to any compensation or retiring allowance under the provisions of the Civil Service or any other Act, or to any other rights, privileges, and immunities thereunder.

PART IX.

Penalties and procedure.

Fraudulent
travelling.

Ibid. s. 38.

110. (1) Whosoever—

- (a) travels or attempts to travel in any carriage employed on any railway without having previously paid his fare, and with intent to avoid payment thereof; or
- (b) 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
- (c) knowingly and wilfully refuses or neglects, on arriving at the point to which he has paid his fare, to quit such carriage; or
- (d)

Government Railways.

(d) knowingly and wilfully travels or attempts to travel in any carriage, of a superior class to that which his ticket entitles him to use, with intent to avoid payment of the additional fare, shall, for every such offence, forfeit to the Commissioners a sum not exceeding forty shillings.

(2) If any person is discovered either in the act of or after committing or attempting to commit any such offence, all officers and other persons on behalf of the Commissioners, and all constables, and gaolers may lawfully apprehend and detain such person until he can conveniently be taken before some justice, or until he is otherwise discharged in due course of law.

Detention of offenders.
51 Vic. No. 35, s. 39.

111. If any person sends by any railway any aqua fortis, oil of vitriol, gunpowder, lucifer matches, or any goods whatsoever which in the judgment of the Commissioners or their officers may be of a dangerous nature, without distinctly marking the nature of such goods on the outside of the package containing the same, or otherwise giving notice in writing at the time of sending the same to the bookkeeper or other officer of the Commissioners, with whom the same are left, he shall forfeit to the Commissioners a sum not exceeding fifty pounds for every such offence.

Dangerous goods.
Ibid. s. 40 (11).

112. (1) If any person without reasonable excuse, proof whereof shall lie on him, does any of the following things, namely—

Disobedience of person summoned as witness.

(a) having been summoned and having had the expenses (if any) to which he is entitled tendered to him, fails to attend as a witness before a court holding an investigation under this Act; or

Ibid. s. 84.

(b) fails, when required by such court, in pursuance of this Act so to do, to make any answer or to give any return, or to produce any document, or to make or sign any declaration; or

(c) prevents or impedes such court in the execution of its duty, he shall, for every such offence, incur a penalty not exceeding ten pounds.

Provided that, in the case of a failure to give any return or produce any document, the said penalty shall not exceed ten pounds for every day that such failure continues.

(2) Where the offence consists of preventing or impeding as aforesaid, any member of such court, or any person called by him to his assistance, may seize and detain the offender, until he can be conveniently taken before a magistrate or two justices to be dealt with according to law.

Arrest.

113. (1) If any person employed upon the railway or in repairing and maintaining the works of the said railway—

Persons employed on railway guilty of misconduct.

(a) is found drunk whilst so employed upon the said railway; or

Ibid. s. 92.

(b) commits any offence against any of the regulations or by-laws of the Commissioners; or

(c)

Government Railways.

(c) wilfully, maliciously, or negligently does any act, or is guilty of any omission of duty, whereby the life or limb of any person passing along or being upon such railway or the works thereof, respectively, is or might be injured or endangered, or whereby the passage of any engine, carriage, or trains is or might be obstructed or impeded, any railway officer or agent or any special constable duly appointed, and all such persons as any of them may call to his assistance, may seize and detain such person so offending, or any person counselling, aiding, or assisting in such offence, and convey him with all convenient despatch before any magistrate, without any other warrant or authority than this Act, to be dealt with according to law.

Penalty.

(2) Every person so offending as aforesaid, and every person counselling, aiding, or assisting therein, shall, upon conviction before such magistrate, upon a complaint in writing, be imprisoned, with or without hard labour, for any term not exceeding six months, or shall forfeit any sum not exceeding fifty pounds.

Obstructions and trespasses.

51 Vic. No. 35, s. 93

114. If any person—

- (a) wilfully obstructs any person acting under the authority of the Commissioners in the lawful exercise of his power; or
 - (b) pulls up or removes any poles or stakes driven into the ground, for the purpose of setting out any line of railway, or defaces or destroys any marks made for the same purpose; or
 - (c) wilfully obstructs or impedes any officer or agent of the Government or of the Commissioners in the execution of his duty upon any railway, or upon or in any of the stations or other works or premises connected therewith; or
 - (d) wilfully trespasses upon any such railway or any of the stations or other works or premises connected therewith,
- such person and all others aiding or assisting in the commission of any such offence, shall forfeit to the Commissioners a sum not exceeding twenty pounds for every such offence.

Other obstructions.

Ibid. s. 94.**115.** (1) If any person—

- (a) throws away gravel, stones, or rubbish, or any matter or thing upon any part of a railway; or
 - (b) drives or permits to wander, stray, or be driven upon any such railway or the approaches thereto, any horse, ass, sheep, swine, or other beasts or cattle of any kind; or
 - (c) does any other act, matter, or thing to obstruct the free passage of any such railway or any part thereof;
- such person and all others aiding or assisting in the commission of any such offence, shall forfeit and pay for every such offence any sum not exceeding fifty pounds.

Procedure.

(2) The penalty for every such offence may be recovered before any magistrate on complaint to him for that purpose exhibited by any person on behalf of the Commissioners.

116.

Government Railways.

116. (1) The Commissioners shall publish the short particulars of the several offences, for which any penalty is imposed by this Act or by any by-law of the Commissioners, affecting other persons than officers, and of the amount of every such penalty; and shall cause such particulars to be painted on a board, or printed upon paper and pasted thereon, and shall cause such board to be hung up or affixed in some conspicuous part of the principal place of business of the Commissioners.

Publication of penalties.
51 Vic. No. 35, s. 82.

(2) When any such penalties are of local application the Commissioners shall cause such boards to be affixed in some conspicuous place in the neighbourhood to which such penalties are applicable or have reference.

Local penalties.

(3) Such particulars shall be renewed as often as the same or any part thereof are obliterated or destroyed.

Particulars to be renewed.

(4) No such penalty shall be recoverable unless the requirements of this section have been complied with.

117. If any person pulls down or injures any board put up or affixed, as required by this Act, for the purpose of publishing any by-law or penalty, or obliterated any of the letters or figures thereon, he shall forfeit, for every such offence, a sum not exceeding five pounds, and shall defray the expenses attending the restoration of such board.

Penalty for defacing boards used for publication.
Ibid. s. 83.

118. Any railway officer or agent, and all persons called by him to his assistance, may seize and detain any person who has committed any offence against the provisions of this Act, and whose name and residence are unknown to such officer or agent, and may convey him with all convenient despatch before some magistrate, without any warrant or other authority than this Act; and such magistrate shall proceed with all convenient despatch to the hearing and determining of the complaint against such offender.

Arrest of offenders.
Ibid. s. 97.

119. Every penalty or forfeiture imposed by this Act or by any by-law made in pursuance thereof, the recovery of which is not otherwise provided for, may be recovered in a summary manner before any magistrate according to the Acts in force for the time being regulating summary proceedings before justices.

Penalties to be summarily recovered.
Ibid. s. 99.

120. If any person inflicts, through any act, neglect, or default whereby he has incurred any penalty imposed by this Act, any damage upon any railway or other property vested in the Commissioners, he shall be liable to pay such damage in addition to such penalty, and the amount of such damage shall be determined by the magistrate or justices.

Damage to be made good in addition to penalty.
Ibid. s. 100.

121. (1) Where in this Act any question of compensation, expenses, charges, damages, or other matter is referred to the determination of a magistrate or two justices, any justice may, upon the application of either party, summon the other party to appear before a magistrate or two justices at a time and place to be named in such summons.

Method of proceeding before justices in question of damages, &c.
Ibid. s. 98.

(2)

Government Railways.

Proceedings on
appearance.

(2) Upon the appearance of such parties, or, in the absence of any of them, upon proof of due service of the summons, such magistrate or justices may hear and determine such question.

Costs.

(3) The costs of every such inquiry shall be in the discretion of such magistrate or justices, and he or they shall determine the amount thereof.

Service upon
Commissioners.
51 Vic. No. 35, s. 103.

122. Any summons, notice, writ, process, or document required to be served on the Commissioners pursuant to any Act, by-law, or regulation, may be served upon the solicitor to the Commissioners.

Limitation of actions
against the
Commissioners.
Ibid. s. 104.

123. All actions against the Commissioners or against any person for anything done or purporting to have been done under this Act shall be commenced within one year after the act complained of was committed.

Notice of action.
Ibid.

124. (1) No action shall be commenced against the Commissioners or any person for anything done or purporting to have been done by them or him under this Act, until one month, at least, after a notice in writing of such intended action has been delivered to them or him, or left at their or his usual place of business, or at the office of the solicitor for railways, by the party intending to commence such action, or by his attorney or agent.

Terms of notice.

(2) Such notice shall clearly and explicitly state the cause of action and the Court in which the same is intended to be brought, and upon the back thereof shall be indorsed the name and place of abode of the party so intending to sue, and also the name and place of abode or of business of the attorney or agent, if such notice was served by such attorney or agent.

Defects in notice.

(3) A notice under this section shall not be deemed invalid by reason of any defect or inaccuracy therein, unless the Judge before whom the action is tried is of opinion that the defendant in the action has been prejudiced in his defence by such defect or inaccuracy.

General issue.

(4) The defendant in every such action may plead the general issue, and at the trial thereof give this Act and the special matter in evidence.

Limitation of
compensation in
respect of personal
injuries.
60 Vic. No. 21, s. 2.

125. In any action, either under the Compensation to Relatives Act of 1897 or otherwise, against the Commissioners, as carriers of passengers, in respect of injuries sustained after the twenty-second day of October, one thousand eight hundred and ninety-six, by any person while being carried upon any railway vested in the Commissioners, or while being in or upon or about any station, yard, land, or premises vested in or used by them, no larger sum than two thousand pounds shall be recoverable.

Tender of amends.
51 Vic. No. 35, s. 105.

126. (1) If any person has committed any irregularity, trespass, or other wrongful proceeding in the execution of this Act, or by virtue of any power or authority hereby given, and if before action brought in respect thereof such person makes tender of sufficient amends to the person injured, such last-mentioned person shall not recover in any such action.

(2)

Government Railways.

(2) If no such tender has been made, the defendant may, *Payment into Court.* by leave of the Court where such action is pending, at any time before issue joined, pay into Court such sum of money as he thinks fit, and thereupon such proceedings shall be had as in other cases where defendants are allowed to pay money into Court.

SCHEDULES.

FIRST SCHEDULE.

Section 2.

Reference to Act.	Title or short title.	Extent of repeal.
43 Vic. No. 25 ...	Tramways Extension Act, 1880	The whole.
46 Vic. No. 26 ...	Tramways Declaratory Act, 1883	The whole.
51 Vic. No. 35 ...	Government Railways Act of 1888	The whole.
52 Vic. No. 5 ...	Government Railways Act Amendment Act ...	The whole.
55 Vic. No. 28 ...	Government Railways (Contracts) Amendment Act of 1892	The whole.
60 Vic. No. 21 ...	Government Railways (Compensation Limitation) Act, 1896	The whole.
60 Vic. No. 22 ...	Electric Traction Act, 1896	The whole.
Act No. 72, 1900	Government Railways (Employees' Appeal) Act, 1900	The whole.

SECOND SCHEDULE.

Section 61.

Offices entitling persons to free passes for life—

1. The position of—
 - (a) head of an administration or of Prime Minister, held for two years consecutively or in the aggregate;
 - (b) member of the Executive Council, so held for four years.
2. The office of—
 - (a) Chief Justice, held for three years;
 - (b) Lieutenant-Governor, held for one year;
 - (c) President of the Legislative Council, held for one year;
 - (d) Speaker of the Legislative Assembly, held for one year.

In the name and on the behalf of His Majesty I assent to this Act.

State Government House,
Sydney, 3rd October, 1901.

FREDK. M. DARLEY,
Lieutenant-Governor.

ERBOLD, H. DAVID.

Memo. and Certificate to accompany the Government Railways and Tramways Bill.

THIS Bill consolidates the following Statutes:—

43 Vic. No. 25 ;
46 Vic. No. 26 ;
51 Vic. No. 35 ;
52 Vic. No. 5 ;
55 Vic. No. 28 ;
60 Vic. No. 21 ;
60 Vic. No. 22 ;
Act No. 72, 1900.

Clause 14 (g). The words in the original section, referring to telegraph posts, are omitted as no longer necessary.

Clauses 46 and 47. Words have been added to save the operation of the Public Works Act, 1900.

46 Vic. No. 26, sec. 1. Omitted as superseded by later provisions, and unnecessary since the decision of the Privy Council.

Clause 78 (1). The word "society" has been added after the words "life insurance."

Clause 124 (4). This is preserved because it is of later date than sec. 9 of the Acts Shortening Act, 22 Vic. No. 12.

In several clauses slight changes have been made to make sure that advantage is taken of the beneficial provisions of the Act No. 71, 1900.

The sections relating to the Postmaster-General have been left as they stood, though there is, of course, now no State Postmaster-General. To define the word as meaning Federal Postmaster-General might alter the law in some not unimportant particulars.

I certify that, save in the before-mentioned particulars, this Bill solely consolidates and in no way alters, adds to, or amends the law as contained in the statutes thereby consolidated.

CHAS. G. HEYDON,
Commissioner for the Consolidation of the Statute Law.

Government Railways Bill.

TABLE showing how the sections of Acts consolidated have been dealt with.

Section of Repealed Acts.	Section of Consolidated Act.	Remarks.
43 VICTORIA No. 25.		
1	.....	Operation exhausted.
2	46	
3	.....	Superseded by 51 Vic. No. 35, s. 16.
4	47	
5	.....	Part superseded by 51 Vic. No. 35.
6	48	
7	49	
8	.....	Operation exhausted.
9	50	
10	51	
11	52	
12	53	
13	54	
14	.....	Short title and incorporated Act 22 Vic. No. 19.
46 VICTORIA No. 26.		
1	.....	Operation exhausted, and superseded by 51 Vic. No. 35, s. 30.
2	.....	Unnecessary by reason of decision of Privy Council in Toohy v. Commissioner for Railways.
3	.....	Short title.
51 VICTORIA No. 35.		
1	3	
2	.....	Operation exhausted.
3	.....	Operation exhausted.
4	.....	Operation exhausted.
5	.....	Arrangement of Act.
6	4	
7	5	
8	6, 7	
9	8	
10	9	
11	10	
12	11	
13	12	
14	13	
15	72, 84	
16	14	
17	15	
18	.....	Unnecessary.
19	16	
20	17	
21	.....	Unnecessary
22	37	

Section of Repealed Acts.	Section of Consolidated Act.	Remarks.
51 VICTORIA No. 35— <i>continued</i> .		
23	38	
24	39	
25	36	
26	40	
27	60, 61	
28	18	
29	42	
30	28, 55	
31	29	
32	30	
33	31	
34	32	
35	33	
36	34	
37	35	
38	110	
39	110	
40	22, 111	
41	19	
42	20	
43	21	
44	43	
45	44	
46	23	
47	24	
48	25	
49	26	
50	27	
51	63	
52	64, 65	
53	66	
54	67, 68	
55	69	
56	2	
57	70	
58	71	
59	73	
60	74	
61	75	
62	76	
63	77	
64	78	
65	79	
66	80	
67	102	
68	85	
69	86	
70	87	
71	88	
72	83	
73	84	
74	103	
75	104	

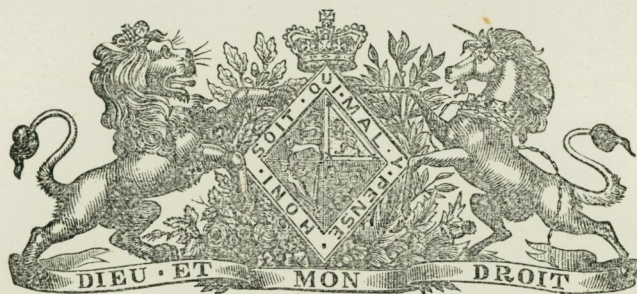
Section of Repealed Acts.	Section of Consolidated Act.	Remarks.
51 VICTORIA No. 35— <i>continued</i> .		
76	105, 106	
77	104	
78	107	
79	45	
80	108	
81	41	
82	116	
83	117	
84	112	
85	96	
86	97	
87	98	
88	99	
89	100	
90	101	
91	82	
92	113	
93	114	
94	115	
95	7	
96	62	
97	118	
98	121	
99	119	
100	120	
101	.....	} Unnecessary ; Act No. 71, 1900, s. 9.
102	.....
103	122	
104	123, 124	
105	126	
106	109	
107	.....	Operation exhausted.
52 VICTORIA No. 5.		
1	.....	Short title.
2	9	
55 VICTORIA No. 28.		
1	24	
60 VICTORIA No. 21.		
1	.....	Short title.
2	125	
60 VICTORIA No. 22.		
1	3, 59	
2	56	
3	57	
4	58	
5	.....	Short title.
Act No. 72, 1900.		
1	85, 86, 88-94	
2	85	
3	.....	Short title.

This PUBLIC BILL originated in the LEGISLATIVE COUNCIL, and, having this day passed, is now ready for presentation to the LEGISLATIVE ASSEMBLY for its concurrence.

*Legislative Council Chamber,
Sydney, 4th September, 1901. }*

JOHN J. CALVERT,
Clerk of the Parliaments.

New South Wales.



ANNO PRIMO

EDWARDI VII REGIS.

Act No. , 1901.

An Act to consolidate the Acts relating to Government
Railways and Tramways.

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

PART I.

Repeal and interpretation.

1. This Act may be cited as the "Government Railways Act, Short title and division. 1901," and is divided into Parts, as follows:—

PART I.—*Repeal and interpretation.*—ss. 1–3.

PART II.—*The Railway Commissioners.*—

DIVISION 1.—*Constitution, appointment, and tenure of office.*—
ss. 4–9.

DIVISION 2.—*Conduct of business.*—ss. 10–13.

C 52—A

DIVISION

Government Railways.

- DIVISION 3.—*Property*.—ss. 14–17.
- DIVISION 4.—*Powers of Commissioners*—
- (i) *Certain special powers*.—ss. 18–23.
 - (ii) *Contractual powers*.—ss. 24–27.
 - (iii) *Tolls*.—ss. 28–36.
- DIVISION 5.—*Duties of Commissioners*.—
- (i) *Certain special duties*.—ss. 37–41.
 - (ii) *Statements and reports*.—ss. 42–45.
- PART III.—*Construction of tramways*.—ss. 46–54.
- PART IV.—*Traction*.—ss. 55–59.
- PART V.—*Free passes*.—ss. 60–62.
- PART VI.—*Investigation of accidents*.—ss. 63–65.
- PART VII.—*By-laws*.—ss. 66–70.
- PART VIII.—*Appointment, promotion, discipline in and regulation of the railway service*—
- DIVISION 1.—*Examiners*.—ss. 71.
 - DIVISION 2.—*Appointment*.—ss. 72–78.
 - DIVISION 3.—*Promotion*.—ss. 79, 80.
 - DIVISION 4.—*Suspension and dismissal*.—ss. 81–87.
 - DIVISION 5.—*Appeals*.—ss. 88–95.
 - DIVISION 6.—*Officers in position of trust*.—ss. 96–101.
 - DIVISION 7.—*Miscellaneous provisions*.—ss. 102–109.
- PART IX.—*Penalties and procedure*.—ss. 110–126.

2. (1) The Acts mentioned in the First Schedule to this Act ^{Repeal} are, to the extent therein expressed, hereby repealed. ^{First Schedule,}

(2) All persons appointed or retained under the Acts hereby repealed and holding office at the time of the passing of this Act shall ^{Persons appointed,} continue in office as if this Act had been in force when they were appointed, and they had been appointed hereunder, and this Act shall apply to them accordingly.

(3) All rules, regulations, by-laws, and scales of tolls or of ^{By-laws, &c.} charges made or continued under the authority of any Act hereby repealed and being in force at the time of the passing of this Act shall ^{51 Vic. No. 35, s. 56} be deemed to have been made under the authority of this Act.

(4) All free passes granted under the authority of any Act ^{Free passes.} hereby repealed and being current at the time of the passing of this Act shall be deemed to have been granted hereunder.

3. In this part of this Act, unless the context or subject-matter ^{Interpretation.} otherwise indicates or requires— ^{Ibid. s. 1.}

“Commissioners,” means the Railway Commissioners appointed ^{60 Vic. No. 22, s. 1.} under this Act, or any Act hereby repealed, and “Commissioner” means one of such Commissioners;

“justice”

Government Railways.

- “justice” means any justice of the peace;
 “magistrate” means any justice who is a police or stipendiary magistrate or any justice lawfully acting as his deputy, or in his place;
 “officer” means any officer, clerk, servant, or other person employed by the Commissioners to assist in the execution of this Act;
 “prescribed” means prescribed by regulations or by-laws made under this Act;
 “railway” means any railway by this Act vested in the Commissioners, and includes any tramway vested in or under the control of the Commissioners;
 “vessel” includes any ship, barge, lighter, and boat howsoever propelled.

PART II.

The Railway Commissioners.

DIVISION 1.—*Constitution, appointment, and tenure of office.*

4. (1) The Authority to carry out this Act shall be three Commissioners who shall be a body corporate by the name “The Railway Commissioners of New South Wales;” and, by that name, shall have perpetual succession and a common seal, and be capable in law of suing and being sued, and, subject to the provisions hereinafter contained, shall have power to take, purchase, sell, lease, and hold lands, tenements, and hereditaments, goods, chattels, and other property for the purposes of this Act. But no sale or lease of any such lands, except as provided in section twenty-one, shall have any force or effect unless the same has been approved by the Governor.

Constitution of
Commissioners.
51 Vic. No. 35, s. 6.

(2) All courts, judges, and persons acting judicially shall take judicial notice of the common seal of the Commissioners affixed to any document or notice, and shall presume that such seal was duly affixed.

Seal of
Commissioners.

5. (1) The Governor shall appoint three persons to be Commissioners, who, subject to the provisions hereinafter contained, shall each hold office for a term of seven years.

Appointment of
Commissioners.
Ibid. s. 7.

(2) On the occurrence of any vacancy in the office of a Commissioner the Governor shall appoint a person to the vacant office, whose term of office shall be for his predecessor’s unexpired term of office.

Vacancies.

(3) All persons appointed under the authority of this section shall, at the expiration of their respective terms of office, be eligible for reappointment for a like term of seven years.

Appointees eligible
for reappointment.

(1)

Government Railways.

(4) In case of the illness, suspension, or absence of any Deputy Commissioner, the Governor may appoint some person to act as the deputy of such Commissioner during such illness, suspension or absence; and every person so appointed shall, while so acting, have all the powers and perform all the duties of such Commissioner.

6. A Commissioner may be removed from office in manner following:— Removal of Commissioner.
51 Vic. No. 35, s. 8.

(a) A Commissioner may be suspended from his office by the Governor for misbehaviour or incompetence, but shall not be removed from office except as hereinafter provided. The Minister shall cause to be laid before Parliament a full statement of the grounds of suspension within seven days after such suspension if Parliament is in Session and actually sitting, and when Parliament is not in Session or not actually sitting within seven days after the commencement of the next Session or sitting.

(b) A Commissioner suspended under this section shall be restored to office unless each House of Parliament within twenty-one days from the time when such statement has been laid before it declares by resolution that the said Commissioner ought to be removed from office, and if each House of Parliament within the said time so declares, the said Commissioner shall be removed by the Governor accordingly.

7. (1) A Commissioner shall be deemed to have vacated his office— Vacation of office by Commissioner.
Ibid. s. 8.

- (a) if he engages, during his term of office, in any employment outside the duties of his office; or
- (b) if he becomes insolvent, or applies to take the benefit of any Act for the relief of insolvent debtors, or compounds with his creditors, or makes an assignment of his salary for their benefit; or
- (c) if he absents himself from duty for a period of fourteen consecutive days except on leave granted by the Governor (which leave he is hereby authorised to grant), or becomes incapable of performing his duties; or
- (d) if he becomes in anyway concerned or interested in any contract or agreement made by or on behalf of the Commissioners; or in anywise participates or claims to be entitled to participate in the profit thereof, or in any benefit or emolument arising therefrom.

(2) If any Commissioner becomes in any way concerned or interested in any such contract or agreement, or in anywise participates or claims as aforesaid, he shall be guilty of a misdemeanour, and be liable to a penalty not exceeding five hundred pounds, or to imprisonment for any term not exceeding three years, or to both such punishments. Penalty.
Ibid. s. 95.

Government Railways.

8. One of such three Commissioners shall be appointed by the Governor as Chief Commissioner, and, on the occurrence of any vacancy in the office of Chief Commissioner, the Governor shall appoint a person to fill that office.

Chief Commissioner.
51 Vic. No. 35, s. 9.

9. The Commissioners shall receive the following salaries, viz.:—
- (a) the Chief Commissioner three thousand pounds per annum;
 - (b) each of the other Commissioners one thousand five hundred pounds per annum.

Salaries of
Commissioners.
Ibid. s. 10.
52 Vic. No. 5, s. 2.

All such salaries are hereby charged on the consolidated revenue fund; and such fund, to the extent required for the payment of such salaries, is hereby permanently appropriated.

DIVISION 2.—*Conduct of business.*

10. For the conduct of business any two Commissioners shall be a quorum, and, subject to the next following section, shall have all the powers and authorities by this Act vested in the Commissioners.

Quorum.
51 Vic. No. 35, s. 11.

11. If at any meeting at which two Commissioners only are present such Commissioners differ in opinion upon any matter, the determination of such matter shall be postponed until all the Commissioners are present.

Procedure on
difference of opinion.
Ibid. s. 12.

12. No act or proceeding of the Commissioners shall be invalidated or prejudiced by reason only of the fact that at the time when such proceeding or act was taken, done, or commenced, there was a vacancy in the office of any one Commissioner.

Acts of Commis-
sioners not
invalidated by
vacancy.
Ibid. s. 13.

13. The Commissioners shall keep minutes of their proceedings in such manner and form as the Governor shall direct.

Minutes of
proceedings.
Ibid. s. 14.

DIVISION 3.—*Property.*

14. For the purposes of this Act there shall be vested absolutely in the Commissioners, and, in respect of land, for an estate in fee simple—

Government
railways, &c., vested
in Commissioners.
Ibid. s. 16.

- (a) all railways and tramways, and all rolling-stock heretofore constructed or acquired by or on behalf of His Majesty, pursuant to any Act in force for the time being authorising the construction of railways, rolling stock, or tramways, and all railways and tramways hereafter to be so constructed or acquired, upon transfer of the same to such Commissioners in the prescribed manner;
- (b) all piers, wharfs, jetties, stations, yards, and buildings connected or used in connection with such railways, tramways and rolling-stock, being on Crown land or land acquired for or on behalf of His Majesty;
- (c) the land, being Crown land or land acquired or which may be acquired for or on behalf of His Majesty over or upon which

Government Railways.

which such piers, wharfs, jetties, stations, yards, and buildings have been, or may hereafter be constructed or erected;

- (d) the Crown land or land acquired for or on behalf of His Majesty included within the boundary fences of all such railways or tramways;
- (e) all land outside such fences acquired by or on behalf of His Majesty, under any Act authorising the taking or acquiring of land for railway or tramway purposes;
- (f) all Crown and other lands taken under the authority of any Act authorising the taking of land for railway or tramway purposes;
- (g) all wires, instruments, and other telegraphic or telephonic apparatus used in connection with the railways or tramways vested in the Commissioners by this Act or any Act hereby repealed.

15. No rates, tax, or assessment shall be made, charged, or levied upon any railway, or upon any pier, wharf, jetty, station, yard, building, works, or other property vested in the Commissioners, unless the contrary is expressly provided in any Act. Railway property not subject to rates, &c. 51 Vic. No. 35, s. 17.

16. All moneys appropriated by Parliament for the maintenance or management of the railways by this Act vested in the Commissioners, and for all purposes in connection therewith, shall be expended under the control and management of the Commissioners. Expenditure of money appropriated by Parliament. Ibid. s. 19.

17. All moneys payable to the Commissioners, under this or any other Act, shall be collected and received by them on account of, and shall be paid into, the Consolidated Revenue; and the provisions of the Audit Act, 1898, and of any other Act relating to the collection and payment of public moneys and the audit of the public account, shall, save as in this Act otherwise expressly provided, apply to the Commissioners and to all officers. Audit Act to apply to Commissioners. Ibid. s. 20.

DIVISION 4.—*Powers of Commissioners.*

(i) *Certain special powers.*

18. The Commissioners shall be the authority to decide on the position, character, and suitability of all stations, station platforms, gate-houses, station-yards, sheds, piers, wharfs, jetties required for or in connection with any railway hereafter to be constructed, and although such railway may not be constructed by them, or of any other building, siding, platform, or work for the accommodation of the passengers, stock, or goods to be carried on such railway. Powers of Commissioners over lines in construction. Ibid. s. 28.

Government Railways.

19. The Commissioners may—

- (a) appoint places as depôts for the receipt and delivery of parcels or passengers' luggage to be forwarded to or received from any railway;
- (b) contract with any person for the carriage of such parcels, or of passengers' luggage to and from any railway station or depôt;
- (c) instead of loading or unloading goods on or from any truck, shed, or vessel by temporary day labour, invite public tenders on such terms and conditions as they think fit for the performance of such work, for a period not exceeding one year; and may accept the lowest eligible tender, or invite fresh tenders, and may make a contract with the person whose tender is accepted.

Powers of Commissioners respecting depôts and contracts for loading or unloading goods.
51 Vic. No. 35, s. 41.

20. The Commissioners may apply in writing to the Minister for additional stores, plant, material, rolling-stock, stations, sheds, and other accommodation which, in their opinion, may be required to enable them to meet the traffic requirements, or ensure the efficient working of the railways.

Commissioners may requisition for rolling-stock, &c.
Ibid. s. 42.

21. The Commissioners may lease any refreshment-room, shed, office, shop, stall, coal gears, sites for storage or for erecting sheds, right of entrance into any station by any public vehicle, right of advertising, or other convenience or appurtenance to any of the railways, for any term not exceeding five years on such conditions and at such rent as they may determine.

Commissioners may lease refreshment-rooms, &c.
Ibid. s. 43.

22. (1) No person shall be entitled to carry, or to require the Commissioners to carry, upon any railway, any aqua-fortis, oil of vitriol, gunpowder, lucifer matches, or any goods whatsoever which, in the judgment of the Commissioners or their officers, may be of a dangerous nature.

Bringing dangerous goods on the railway.
Ibid. s. 40.

(2) The Commissioners may refuse to take any parcel which they may suspect to contain goods of a dangerous nature, or may require any parcel to be opened, so that the nature of the contents may be ascertained.

Commissioners may require parcels to be opened.

23. (1) The severallines of telegraphic communication belonging to the Commissioners, or which are worked under the direction, or on behalf of the Commissioners, may be used by them—

Working of telegraphs.
Ibid. s. 46.

- (a) for the transmission of messages in relation to the working of the railways; and
- (b) so far as is consistent with the due and efficient working of the railways, for the transmission of messages by the public.

Transmission of messages.

(2) All such messages as last aforesaid shall be transmitted by the officers on behalf of the Commissioners, as agents of the Post-master-General; and there shall be demanded and received, in respect of such last-mentioned messages, such fees, rates, and dues as may for

Government Railways.

for the time being be lawfully demanded or received by the Postmaster-General, in respect of lines of telegraphic communication under his control.

(3) Save as aforesaid, the Commissioners shall not transmit Messages for the public. or permit the transmission of messages on behalf of the public through their wires.

(4) The sum to be paid by the Postmaster-General to the Commissioners for the transmission of messages as aforesaid, may be either a lump sum or a percentage on the gross sum received by the Postmaster-General from the Commissioners, in respect of such transmission, or may be determined in such other way as may be agreed upon between the Postmaster-General and the Commissioners. Payment by Postmaster-General.

(ii) Contractual powers.

24. (1) The Commissioners in their corporate name may contract— General contractual powers of Commissioners.

- (a) for the execution of any work authorised by this or any other Act to be executed by them; or
- (b) for furnishing materials or labour; or
- (c) for providing locomotive engines or other motive or tractive power; or
- (d) for any other matters and things whatsoever, necessary for enabling them to carry the purposes of such Act into full effect, in such manner and upon such terms for such sum and under such stipulations, conditions, and restrictions as the Commissioners think proper.

(2) Every such contract shall be in writing, and shall specify— Contracts to be in writing.

- (a) the work to be done;
- (b) the materials to be furnished;
- (c) the price to be paid for the same;
- (d) the time within which the work is to be completed, and the materials to be furnished; and
- (e) the penalties to be suffered in case of non-performance thereof.

Every such contract may, if the Commissioners think fit, comprise several works, and may in every case specify the person to whose satisfaction the work or works is or are to be completed or the material furnished, and the mode of determining any dispute which may arise concerning, or in consequence of, such contract.

(3) Provided that the Commissioners shall not without the consent of the Governor enter into any contract in any case where— Proviso. 55 Vic. No. 28, s. 1.

- (a) the contract is for the supply either directly or indirectly from places outside New South Wales of materials, locomotive engines, or other motive or tractive power; and
- (b) the contract exceeds the sum of twenty thousand pounds.

Government Railways.

- 25.** The Commissioners and the Postmaster-General may enter into, alter, and rescind contracts and agreements, with respect to—
- (a) the receipt, carriage, and conveyance of letters, newspapers, and parcels; and
 - (b) any other matter or thing in relation to the postal service;
 - (c) the working of any of the lines of telegraphic communication of the Postmaster-General by the Commissioners; and
 - (d) generally with respect to telegraphs and the transmission of telegraphic messages.
- 26.** In case any difference arises between the Commissioners and the Postmaster-General, with regard to the terms and conditions on which any contract or agreement should be made or otherwise in relation thereto, the same shall be determined by the Governor.
- 27.** The Commissioners, at a meeting specially called for that purpose, may compound and agree with any person who has entered into any contract in pursuance of or under the authority of this Act, or against whom any action or suit is brought for any penalty contained in any such contract, or in any bond, or other security for the performance thereof, or for or on account of any breach or non-performance of any such contract, bond, or security, for such sum of money or other consideration as the Commissioners think proper.

Power for Commissioners and Postmaster-General to make contracts.
51 Vic. No. 35, s. 48.

How differences to be determined.
Ibid. s. 49.

Commissioners may compound for breach of contracts.
Ibid. s. 50.

(iii) *Tolls.*

- 28.** (1) The Commissioners may carry and convey upon the railways all such passengers and goods as are offered for that purpose, and may demand reasonable tolls and charges in respect thereof.
- (2) Subject to the provisions of this Act, all such tolls shall, at all times, be charged equally to all persons, and after the same rate, whether per ton, per mile or otherwise, in respect of all passengers and of all goods or carriages of the same description, and conveyed or propelled by a like carriage or engine passing over the same portion of the line of railway and under the same circumstances; and no reduction or advance in any such tolls shall be made, either directly or indirectly, in favour of or against any particular company or person travelling upon or using the railway.
- 29.** The tolls shall be paid to such persons, and at such places, upon or near to the railways, and in such manner, and under such regulations as the Commissioners shall appoint.
- 30.** If, on demand, any person fails to pay the tolls due in respect of any carriage or goods, the Commissioners may—
- (a) detain and sell such carriage, or all or any part of such goods;
 - (b) if the same have been removed from the railway premises, detain and sell any other carriages or goods within such premises belonging to the person liable to pay such tolls;
- and,

Commissioners may demand tolls.
Ibid. s. 30.

Tolls to be charged equally under like circumstances.

Tolls to be paid as directed.
Ibid. s. 31.

In default of payment of tolls, goods, &c., may be detained and sold.
Ibid. s. 32.

Government Railways.

and, in either case, out of the moneys arising from the sale, retain the tolls payable as aforesaid, and all charges and expenses of such detention and sale, rendering the surplus (if any), of the moneys arising by such sale, and such of the carriages or goods as shall remain unsold, to the person entitled thereto; or

(c) recover any such tolls by action at law.

31. Every person being the owner or having the care of any carriage or goods passing or being upon any railway, shall on demand, give to the collector of tolls, at the places where he attends, for the purpose of receiving goods or of collecting tolls, for the part of the railway on which such carriage or goods may have travelled or be about to travel, an exact account in writing signed by him of—

- (a) the number or quantity of goods conveyed by any such carriage;
- (b) the point on the railway from which such carriage or goods have set out or are about to set out;
- (c) the point where the same are intended to be unloaded or taken off the railway.

If such goods are liable to the payment of different tolls, then such owner or other person shall specify the respective numbers or quantities thereof liable to each or any of such tolls.

32. If any such owner, or person as in the last preceding section mentioned in contravention of the requirements thereof—

- (a) fails to give an account; or
- (b) fails to produce his way-bill or bill of lading to such collector, or other officer of the Commissioners, demanding the same; or
- (c) gives a false account; or
- (d) unloads or takes off any part of his lading or goods at any other place than is mentioned in such account, with intent to avoid the payment of any tolls payable in respect thereof;

he shall for every such offence forfeit to the Commissioners a sum not exceeding ten pounds for every ton of goods, or for any parcel not exceeding one hundredweight, and so in proportion for any less quantity of goods than one ton, or for any parcel exceeding one hundredweight (as the case may be) upon any such carriage; and such penalty shall be in addition to the toll to which such goods may be liable.

33. If any dispute arises—

- (a) concerning the amount of the tolls due to the Commissioners; or

- (b) concerning the charges, occasioned by any detention or sale under the provisions herein contained,

the same shall be settled by a magistrate or two justices, and the Commissioners may, in the meanwhile, detain the goods or retain the proceeds of the sale thereof.

Government Railways.

34. (1) If any difference arises between any toll collector or other officer of the Commissioners and any owner of or person having the charge of any carriage passing or being upon any railway, or any goods conveyed or to be conveyed by such carriage, respecting the weight, quantity, quality, or nature of such goods, such collector or other officer may lawfully detain such carriage or goods, and examine, weigh, gauge, or otherwise measure the same.

Differences as to weights, &c.
51 Vic. No. 35, s. 36.

(2) Upon such measuring or examination—

Payment of costs.

- (a) if such goods appear to be of greater weight or quantity, or of other nature than was stated in the account given thereof, the person who gave such account shall pay, and the owner of such carriage or the respective owners of such goods shall also, at the option of the Commissioners, be liable to pay the costs of such measuring and examining;
- (b) if such goods appear to be of the same or less weight or quantity than, but of the same nature as was stated in such account, the Commissioners shall pay such costs, and they shall also pay to such owner of or person having charge of such carriage, and to the respective owners of such goods such damage (if any) as appears to any magistrate or two justices, on a summary application to him or them for that purpose, to have arisen from such detention.

35. If at any time it is made to appear to any magistrate or two justices, upon the complaint of the Commissioners, that any such detention, measuring, or examining of any carriage or goods as herein-before mentioned was without reasonable ground, or was vexatious on the part of such collector or other officer, such magistrate or justices shall assess the costs of such detention and measuring, and the damage occasioned thereby, and shall order the collector or other officer to pay the same.

Vexatious detentions.
Ibid. s. 37.

36. Notwithstanding anything in this Act contained, the Commissioners may frame a special scale of tolls or charges for the conveyance of specific classes of produce or merchandise.

Special tolls, &c.
Ibid. s. 25.

Provided that the same charges shall apply alike to all persons using the railways.

DIVISION 5.—*Duties of Commissioners.*

(i) *Certain special duties.*

37. The Commissioners shall maintain the railways and all works in connection therewith in a state of efficiency, and shall carry persons, animals, and goods without negligence or delay; and in respect of the carriage of persons, animals, and goods, the Commissioners shall be common carriers.

Duties of Commissioners in respect to the railways, &c.
Ibid. s. 22.

Government Railways.

38. (1) The Commissioners shall at all times cause to be made a careful inspection of the condition of the railways under their control.

Commissioners to make inspections of railways.

51 Vic. No. 35, s. 23.

(2) Whenever it appears to the Commissioners that for the purpose of maintaining the traffic on any existing line—

Repairs and alterations.

(a) a partial reconstruction, or a partial duplication, or any other addition to, or extension of, the roadway of any existing line, or part of any such line, or any bridge, viaduct, or other work; or

(b) the laying of new rails; or

(c) any other repair or alteration of any line or work vested in them

is necessary, they shall undertake, execute, and carry out any of the works aforesaid so far as may be required for such purpose.

(3) During any reconstruction, repair, or alteration, the passenger and goods traffic may be conducted along temporary roadways, or otherwise, as the Commissioners may deem best for the public interest and safety.

Traffic during repairs.

39. The Commissioners shall not afford or give any undue or unreasonable preference or advantage to any particular person, or to any particular description of traffic, in any respect whatsoever; nor shall they subject any particular person, or any particular description of traffic to any undue or unreasonable prejudice or disadvantage in any respect whatsoever.

Commissioners not to give undue preferences, &c.

Ibid. s. 24.

40. Subject to the provisions of this Act the Commissioners shall afford all reasonable, proper, and equal facilities for the interchange of traffic between the respective lines of railway vested in them; and for the receiving, forwarding, and delivery of passengers and goods to and from such lines.

Commissioners to afford all reasonable facilities for interchange of traffic, &c.

Ibid. s. 26.

41. The Commissioners shall cause all weights, measures, scales, balances, steelyards, beams and other weighing machines in use upon any of the railways, or on any of the stations, piers, wharfs, or jetties vested in the Commissioners, to be from time to time adjusted by some officer appointed by the Commissioners, either on comparison with authorised copies of the standard weights and measures made under the Act in force for the time being relating to weights and measures, or otherwise as the case may be; but, save as aforesaid, nothing in the said Act contained shall apply to the railways or to any station, pier, wharf, or jetty vested in the Commissioners.

Adjustment of weights and measures on railways.

Ibid. s. 81.

(ii) *Statements and reports.*

42. Before the second reading in the Legislative Assembly of any bill authorising the construction of new lines of railway, the Commissioners shall transmit to the Minister a statement under their seal showing

Commissioners to prepare estimate of traffic.

Ibid. s. 29.

Government Railways.

showing their estimate of the traffic on each proposed new line, and any other returns likely to be derived therefrom, and the Minister shall before such second reading lay the same upon the table of the Assembly.

43. (1) In the first month in each quarter of every year the Commissioners shall report in writing to the Minister—

Commissioners' quarterly report to Minister.

- (a) the state of the traffic returns, with the approximate cost and earnings of trains per ton, per train mile, in respect of goods and passengers respectively, carried during the past quarter; and
- (b) the general condition of the lines and accommodation for the traffic; and
- (c) the special rates, if any, which have been made, and the reasons for making such rates; and
- (d) the appointments and removals of officers with the circumstances attending each case.

51 Vic. No. 35, s. 44.

(2) Such reports shall be laid before Parliament, if Parliament is in Session, and if not, then within seven days after the commencement of the next ensuing Session.

Reports to be laid before Parliament.

44. The Commissioners shall prepare—

- (a) an annual report of their proceedings, and an account of all moneys received and expended during the preceding year.

Commissioners' annual report to Parliament.

Ibid. s. 45.

Such annual report shall be laid before both Houses of Parliament in the month of January in each year if Parliament is then sitting, otherwise, within one month after the commencement of the next ensuing Session.

- (b) estimates, in such form as the Governor may direct, of receipts and expenditure for each period of twelve months ending on the thirtieth day of June in each and every year.

45. The Commissioners shall in each annual report include a list of all officers admitted to the Service since the date of the former annual report, and likewise a list of all officers who may have left the Service during the like period, giving date of appointment, positions and rates of pay to which appointed, and date and cause of leaving in each case.

List of officers.

Ibid. s. 79.

Government Railways.

PART III.

Construction of tramways.

46. Subject to the provisions of the Public Works Act, 1900, the Commissioners may construct tramways for conveying passengers and their luggage along any route within the city of Sydney and the suburbs thereof which may be approved by the Governor, notwithstanding anything to the contrary contained in or implied by the Sydney Corporation Act of 1879, the Municipalities Act, 1897, or any other Act whatsoever. Commissioners may construct certain lines of tramways. 43 Vic. No. 25, ss. 2, 5.

47. Subject as aforesaid the Commissioners may construct tramways for the purposes aforesaid from points along the line of any railway to places distant not more than fifty miles therefrom, or from any other point or place whatsoever to any quarry or other workings, for the purpose of procuring materials for the construction or maintenance of any tramway authorised by this Part of this Act, or for any other purpose whatsoever, whenever the Governor determines to construct the same. Other tramways. Ibid. s. 4.

In every such case copies of the plans and books of reference of the route which such tramway is intended to follow shall be from time to time prepared and laid before Parliament, and whenever such plans and books of reference have been approved by a resolution of both Houses, the Commissioners, subject to the determination of the Governor, may commence and complete such tramway with all proper works and conveniences connected therewith in accordance with such resolutions. Plans to be laid before Parliament.

48. The Commissioners for the purposes of this Part of this Act shall have all necessary rights of ingress and egress in, to, and over the surface of any street, road, highway, or thoroughfare, proclaimed, reserved, or dedicated for the use of the public, or subject to any public easement, over which any such tramway passes as are required for the construction, repair, completion, and use thereof. Entry upon streets and other thoroughfares. Ibid. s. 6.

Provided that nothing herein contained shall impair or be held to impair the lawful authority of the municipal council of the city of Sydney, or of the council of any municipality, or of any other corporation, company, or person to make all entries, and exercise all other powers necessary for the construction, maintenance, and preservation of gas-works, water-works, sewerage-works, and other works lawfully constructed underground in such streets, roads, highways, or thoroughfares along which any such tramway passes.

49. Subject to the provisions of the next following section the Commissioners for the purposes of this Part of this Act shall have all necessary rights to enter upon and resume the lands and grounds of any person whomsoever subject to the same conditions in respect of compensation. Resumption of lands. Ibid. s. 7.

Government Railways.

compensation and to all other provisions and regulations as under the provisions of the Public Works Act, 1900, are applicable to the resumption of land for railway purposes.

50. The gauge of any tramway constructed under this part of Gauge.
this Act shall not exceed four feet eight and one half inches. 43 Vic. No. 25, s. 9.

51. The tramways shall in every case and throughout their Levels,
course be laid at or about the general level of the streets and high- Ibid. s. 10.
ways along which they are to be constructed, but the Commissioners
may with the consent of or by mutual agreement with the Municipal
Council in which is vested the control and management of any street
or highway alter and improve the levels thereof.

Provided that all reasonable expenses incurred in the reformation of the said streets or roads so altered and improved shall be borne by the Commissioners unless otherwise agreed upon.

52. The Commissioners shall maintain in perfect order and Maintenance of
repair the said tramways and the pavements of the same between the roads.
rails of the said tramways, and for the space of one foot and six inches Ibid. s. 11.
on either side of such rails.

53. The Commissioners shall immediately repair any damage Commissioners to
which may during or by reason of the construction of the said tram- repair damages.
ways be occasioned to any sewer, or drain, or gas or water main, and Ibid. s. 12.
shall also repair all damages which may be occasioned by the working
of the said tramways.

54. The Commissioners may erect buildings or other structures Commissioners may
for the purposes of the said tramways, and may construct lines of erect buildings.
approach thereto. Ibid. s. 13.

PART IV.

Traction.

55. The Commissioners may use locomotive engines and other Motive power.
motive or tractive power, and may draw or propel thereby carriages 51 Vic. No. 35, s. 30.
and waggons upon the railways.

56. The Commissioners may use either in addition to or in Commissioners may
substitution for any existing system of traction on tramways any use electric traction.
system of electric traction of which they may approve, and may con- 60 Vic. No. 22, s. 2.
struct, maintain, repair, and use all works necessary for such system of
electric traction.

Government Railways.

57. The Commissioners for the purposes of the next preceding section—

- (a) shall have all such rights of ingress and egress to, from, and over the surface of any road on which any tramway is now or may hereafter be laid, as are required for the construction, maintenance, repair, and use of any such works; and
- (b) may from time to time open up the surface of any road for the purpose of constructing, maintaining, and repairing works beneath the level of such road, and may erect, support, and maintain above the level of, and across any such road, such wires and other electric apparatus as are, in their opinion, necessary for the efficient use and maintenance of electric traction on such tramways.

Provided always that the powers given by this and the next preceding section shall be used so as to interfere as little as may be reasonably possible with traffic and public convenience, that all works commenced shall be expeditiously carried out, and that adequate provision shall be made at all times for the public safety during the construction, maintenance, and repair of any works authorised by this and the said section.

58. Every person who wilfully cuts or otherwise severs any wire or cable, or so damages any part of the works connected with any such system of electric traction as to break the electric circuit or cause leakage or loss of the current shall be deemed guilty of a misdemeanour.

59. In the last three preceding sections:—

“Road” means any public or private road, highway, street, square, lane, court, or passage.

“Works” includes any stations, posts, pillars, brackets, excavations, wires, cables, or other things in any way used in connection with electric traction on tramways.

Commissioners may construct works on roads.

60 Vic. No. 22, s. 3.

Persons damaging works.

Ibid. s. 4.

Interpretation.

Ibid. s. 1.

Government Railways.

PART V.

Free Passes.

60. Each of the persons hereinafter mentioned shall be entitled to receive from the Commissioners, and to hold and use, a free pass which shall authorise the holder to travel free on all railways, but which shall in no case be transferable, viz.:—

Persons entitled to free passes.
51 Vic. No. 35, s. 27.

- (a) every Member of the Legislative Council ;
 - (i) every pass issued to a Member of such Council shall be issued in the name of the person entitled to the same ;
 - (ii) every such pass shall be forthwith returned to the Commissioners by the holder thereof or his agent or personal representative on his ceasing to be a Member of such Council ;
- (b) every Member of the Legislative Assembly ;
 - (i) the free pass to be issued to such Member shall be issued to him in the name of the electorate which he has been elected to represent ;
 - (ii) every such pass shall be returned to the Commissioners by the Member holding the same if the seat of such Member shall have been rendered vacant by his resignation or other act having the effect of vacating his seat in the Legislative Assembly under the law in force for the time being so soon as his successor shall have been elected ;
 - (iii) the passes issued by the Governments of other States or colonies to Members of the respective Parliaments of those States or colonies shall be recognised and held to admit the holders thereof to travel upon the railways of New South Wales ;
 - (iv) any free pass for life or for any fixed period granted prior to the passing of the Government Railways Act of 1888, shall not be affected by these provisions ;
- (c) officers of Parliament ;

the Commissioners may, with the approval of the Governor, issue from time to time, on application, passes, available for a period not exceeding one month to such officers of Parliament as have been heretofore accorded that privilege ;
- (d) every person who has held any of the offices enumerated in the Second Schedule hereto, and whether before or after, or partly before and partly after the commencement of this Act ;

every such pass shall be issued in the name of the person entitled, and shall be available during the term of his life, and shall bear on the face of it the name in full of the person to whom it is granted ;

Government Railways.

- (e) any person of distinction visiting the State, or officially engaged in some public duty which renders it necessary for him to travel by railway, or who may have rendered some important public service to the State ;

no such pass shall be issued for a period exceeding one month.

61. Every free pass issued under the last preceding section shall, in respect to the holder of such pass and his personal representatives, be accompanied by and entail the like rights, remedies, obligations, and liabilities (except in respect of the payment of money therefor) as if the said pass had been a ticket issued to such holder for a money consideration.

Rights and liabilities under free passes.
51 Vic. No. 35, s. 27

62. If any person, not being one of the persons entitled under the provisions of this Act to claim, hold, and use a free pass on the railways—

Fraudulent use of free passes.
Ibid. s. 96.

- (a) travels, or attempts to travel, by virtue of any such free pass ;
or
(b) at any time exhibits, or shows, or carries any such free pass, pretending to be the rightful possessor thereof,
he shall be guilty of a misdemeanour.

PART VI.

Investigation of accidents.

63. Whenever, upon or about any railway, or any works, building, or place of any kind whatsoever, used or connected with any railway, any such accident as hereinafter specified takes place in the course of working such railway, viz.—

Accidents to be reported to the Minister.
Ibid. s. 51.

- (a) any accident attended with loss of life or personal injury to any person ; or
(b) any collision where one of the trains is a passenger train ; or
(c) any passenger train or portion thereof accidentally leaving the rails ; or
(d) any accident of a kind not comprised in the foregoing descriptions, but which has caused or might have caused loss of life or personal injury,

the Commissioners shall

- (e) cause the earliest information by telegraph, post, or otherwise to be forwarded to the Minister ; and
(f) appoint such officer or officers as they may think fit to hold an inquiry into the matter ; and
(g) as soon as practicable after such inquiry send to the Minister full information of the accident and the report of such officers.

Government Railways.

64. Where it appears to the Minister, either before or after the commencement of any such inquiry, that a more formal investigation of the accident, and of the causes thereof, and of the circumstances attending the same, is expedient, he shall notify the same to the Governor, and the Governor may, by order, direct such investigation to be held.

Governor may direct formal investigation.
51 Vic. No. 35, s. 52.

65. With respect to such investigation the following provisions shall have effect—

Provisions with respect to investigation.

- (a) the Governor may, by the same or any subsequent order, direct a District Court judge, magistrate, or other person or persons, named in the same or any subsequent order, to hold such investigation with the assistance of the assessors named in the order ;
- (b) the person or persons holding any such formal investigation (hereinafter referred to as the Court) shall hold the same in open Court, in such manner, and under such conditions as he or they think most effectual for ascertaining the causes and circumstances of the accident, and enabling him or them to make the report in this section mentioned ;
- (c) the Court shall, for the purposes of such investigation, have all the powers of a Court of Petty Sessions acting in the exercise of its ordinary jurisdiction, and,
 - (i) may enter and inspect any place or building, the entry and inspection whereof appears to such Court requisite for the said purpose ;
 - (ii) may by summons under their hand require the attendance of all such persons as the Court thinks fit to call, and examine the same, and may require answers or returns to such inquiries as the Court thinks fit to make ;
 - (iii) may require and enforce the production of all books, papers, and documents which the Court considers important ;
 - (iv) may administer an oath, and require any person examined to make and sign a declaration of the truth of the statements made by him in his examination ;
- (d) every person so summoned, not being a person engaged in the Railway service or otherwise connected with it, shall be allowed such expenses as would be allowed to a witness attending on subpœna before the Supreme Court ; and in case of dispute as to the amount to be allowed, the same shall be referred by the Court to the Prothonotary of the Supreme Court, who, on request by the Court, shall ascertain and certify the proper amount of such expenses ;
- (e) no answers or declarations of any person examined under this section shall be admissible in evidence in any proceeding against such person other than a prosecution for perjury, or for giving or making false answers or declarations ;

ibid.

(f)

Government Railways.

- (f) the Court, after holding an investigation concerning any accident, shall make a report to the Governor stating the causes of the accident, and all the circumstances attending the same, and any observations thereon, or on the evidence, or on any matters arising out of the investigation, which the Court thinks right to make.

PART VII.

By-laws.

66. The Commissioners may make by-laws for all or any of the ^{By-laws.} subjects or matters hereinafter mentioned, and may impose penalties ^{51 Vic. No. 35, s. 53.} not exceeding twenty pounds, upon any person committing a breach of any of such by-laws—

- (1) for fixing the amount of fares for the conveyance of passengers, and the charges for the carriage of animals, goods, and parcels, and the circumstances and conditions under which the Commissioners will make special rates for the carriage of goods in quantities ;
- (2) for preventing the commission of any nuisance in or upon the carriages, or in any of the stations, buildings, piers, wharfs, or jetties vested in the Commissioners ;
- (3) for preventing the emptying of sewage or drainage on to any of the railways, or on to any lands, stations, building, piers, wharfs, or jetties vested in the Commissioners ;
- (4) for regulating the exercise of the several powers vested in any pier-master, wharfinger, or berthing master ;
- (5) for regulating the admission of vessels to any pier, wharf, or jetty hereinbefore mentioned, and their removal from the same, and for the good order and government of such vessels, whilst at such pier, wharf, or jetty ;
- (6) for regulating the use of any such pier, wharf, or jetty ;
- (7) for regulating the shipping, unshipping, landing, warehousing, stowing, depositing, and removing of all goods from or at any such station, building, pier, wharf, or jetty ;
- (8) for regulating the conduct of all persons (not being any officer of the Marine Board, or of the Department of Harbours and Rivers, or of the Customs), while upon or in any such station, building, pier, wharf, or jetty, or while employed at or near the same ;
- (9) for regulating, subject to the approval of the Marine Board, the use of fires and lights within or on board any vessel being at any such pier, wharf, or jetty ;

(10)

Government Railways.

- (10) for preventing damage or injury to any vessel or goods at any such station, building, pier, wharf, or jetty ;
- (11) for regulating the duties and conduct of porters, cabmen, carmen, draymen, and carriers (not being officers of the Commissioners) employed at any such station, building, pier, wharf, or jetty, and fixing the charges to be paid to them for carrying any passengers, goods, articles, or things from or to the same ;
- (12) for fixing the amount of tolls to be paid by any vessel using any such pier, wharf, or jetty, or any crane, the property of the Commissioners ; and for fixing the amount of tolls to be paid on goods brought to or taken from any vessel using any such pier, wharf, or jetty, by lighter or other vessel ;
- (13) for fixing the amount of tolls upon animals and goods received or delivered upon or from any such pier, wharf, or jetty ;
- (14) for regulating generally the travelling or traffic upon, or using or working of the railways, and of the stations, buildings, piers, wharfs, and jetties hereinbefore mentioned ; and for the good government and maintenance of order thereon ;
- (15) for specially regulating the conduct of the traffic during any reconstruction or repair of any railway or tramway ;
- (16) for regulating the terms and conditions upon which special trains will be run ;
- (17) for regulating the admission of the public to any of the railways, and to any of the stations, buildings, piers, wharfs, or jetties, hereinbefore mentioned ; and for fixing a charge therefor, or for dispensing with the same on certain days or for certain times ;
- (18) for regulating the use of stamps as prepayment upon parcels ;
- (19) for regulating the sale of tickets at places, other than railway stations, and the conditions under which such tickets shall be sold ;
- (20) for fixing demurrage charges, where goods are to be loaded into or discharged from trucks by owners, consignors, or consignees ;
- (21) for fixing the charges for warehousing goods, and the charges to be paid in respect of parcels and luggage left for transit or for care or custody, and the conditions upon which they respectively will be received ;
- (22) for regulating the disposal of unclaimed goods ;
- (23) for imposing conditions upon which passengers luggage will be carried ;

(24)

Government Railways.

- (24) for preventing or regulating bathing or fishing in, or shooting over or upon, any reservoir or tank connected with any of the railways ;
- (25) for regulating the carriage of corpses, and for prohibiting the carriage or conveyance of the bodies of persons who have died from any contagious disease ;
- (26) for prohibiting the carriage or conveyance of diseased animals, and preventing them from coming upon any station or premises ;
- (27) for preventing damage or injury to railway stations, buildings, piers, wharfs, jetties, premises, carriages, gates, fences, or any property whatever ;
- (28) for the issue of free passes on the railways ;
- (29) for regulating public or private traffic across any of the said railways, on the level thereof, and for preventing animals from trespassing on any of the railways ;
- (30) for altering or repealing any by-laws made heretofore with regard to the railways ;
- (31) for regulating the manner in which public notices shall be advertised, and generally with regard to advertising in newspapers and elsewhere ;
- (32) for facilitating and regulating the insurance of persons, travelling on the lines of railway, by any Accident Insurance Company now or hereafter to be formed.

67. No such by-law shall have any force or effect unless it has been approved by the Governor, and has been published for at least three clear days in the Gazette.

By-laws to be approved and published.
51 Vic. No. 35, s. 51.

68. The Commissioners shall cause the substance of such by-laws, and a list of any tolls, fares, and charges from time to time imposed thereby, to be painted upon or to be printed and affixed to boards in large and legible characters, and shall cause such boards to be exhibited in some conspicuous place in or on every station, pier, jetty, wharf, or other place where such tolls, fares, or charges, or any of them are payable, and according to the nature and character of such by-laws respectively, so as to give public notice thereof ; and shall cause every such board from time to time to be renewed, if destroyed or defaced.

Publication of by-laws.
Ibid. s. 51.

69. (1) The exhibiting on boards of the substance of such by-laws, and lists of tolls, fares, and charges, shall be deemed to have been complied with, if it is proved that, at the time of any alleged breach, a board was exhibited in accordance with the provisions of the next preceding section, at the station, pier, wharf, jetty, or other place where tolls, fares, or charges were payable, nearest to the place where such breach took place.

Evidence of publication.
Ibid. s. 55.

Government Railways.

(2) The production of the Gazette, containing such by-law shall be evidence that such by-law has been duly made and confirmed, and that it is still in force. Production of Gazette.

70. When the breach of any by-law would be attended with danger or annoyance to the public, or hindrance to any of the officers in the lawful use of any of the railways, or of any pier, wharf, jetty, station, yard, or building, such officers or any of them may summarily interfere to obviate or remove such danger, annoyance, or hindrance, and that without prejudice to any penalty incurred by the breach of such by-law. Summary interference in certain cases of breach of by-law. 51 Vic. No. 35, s. 57.

PART VIII.

Appointment, promotion, discipline in and regulation of the railway service.

DIVISION 1.—*Examiners.*

71. The Governor may appoint for each branch of the railway service competent persons, to be examiners of candidates for permanent employment in such branch and of officers who are candidates for promotion to the higher grades in such service. Governor to appoint examiners. Ibid. s. 58.

Provided that such examiners shall not hold office longer than three years from the date of appointment, but shall be eligible for reappointment.

DIVISION 2.—*Appointment.*

72. (1) The Commissioners shall appoint or employ such officers, to assist in the execution of this Act as they think necessary, and every officer so appointed shall hold office during pleasure only. Commissioners to appoint staff. Ibid. s. 15.

(2) The Commissioners shall pay such salaries, wages, and allowances to officers as Parliament appropriates for that purpose. Salaries.

(3) No officer appointed under this section shall engage in any employment outside the duties of his office. Staff not to engage in other duties.

73. (1) Whenever the Commissioners require additional permanent officers they shall give public notice thereof three times in a Sydney daily paper. Notice of examination for permanent employment. Ibid. s. 59.

(2) Such notice shall state the qualifications required and the branches for which such additional officers are required, and shall also state the time and place of examination. Terms of notice.

(3)

Government Railways.

(3) The Commissioners shall so arrange the times and places when and where candidates are to comply with the conditions of employment provided in this Act, and to undergo examination, that persons residing in country districts shall have reasonable facilities for being examined in the district in which they reside.

Arrangements with respect to country candidates.

74. (1) All persons employed in the railway service, except supernumeraries, shall be deemed to be employed in a permanent office.

Permanent employment.
51 Vic. No. 35, s. 60.
Supernumerary employment.

(2) No person shall be employed in the railway service as a supernumerary for a longer period in all than six months in any one year, except persons employed as day labourers; and no person who has been so employed shall be again employed as a supernumerary until a period of six months has elapsed from the termination of the period during which he was so employed.

(3) The Commissioners shall cause to be kept a special record of all appointments of supernumeraries, and of the circumstances under which their services were deemed necessary, of the periods during which they were respectively employed, and of the payments received by them respectively; and a copy of such record shall be sent to the Minister at the end of every three months.

Record of employments.

75. No person shall be appointed as an additional permanent officer who has not obtained from the examiners a certificate of fitness, which they are hereby empowered to issue.

Certificate.
Ibid. s. 61.

76. (1) If a greater number of candidates than are required by the Commissioners for appointment obtain certificates from the examiners, the Commissioners shall appoint as many persons as are required, in such grades and to such situation as they may consider best.

Order of precedence for appointment how determined.
Ibid. s. 62.

(2) The persons in excess of the number required by the Commissioners shall be eligible for appointment for a period of twelve months then next ensuing from the date of such determination without further examination.

Excess certificated candidates.

77. (1) All appointments shall be made to the lowest grade in each of the various branches of the railway service, and on probation only, for a period of six months.

Nature of appointments.
Ibid. s. 63.

(2) After the period of such probation, and upon production of a certificate of fitness from the officer at the head of the branch in which such probationer was employed, and upon proof to the satisfaction of the Commissioners that all the provisions of this Act have been complied with, such appointments may be confirmed by the Commissioners.

Confirmation of appointments.

(3) The Commissioners shall, notwithstanding, have the power to appoint to any position or grade, if they think fit, without examination as aforesaid, persons of known ability not engaged in the railway service; but no such appointment shall be made unless the Commissioners have previously certified under their seal to the Governor that

Appointments without examination.

Government Railways.

that there is no person in the railway service fit and qualified to be promoted to such appointment, and shall have obtained his sanction to such appointment.

78. (1) No probationer's appointment shall be confirmed until he has effected, in some life insurance society or company carrying on business in New South Wales, an insurance on his life providing for the payment of a sum of money at his death, should it occur before the age of retirement from the railway service; or, if he survives until that age, of a sum of money or annuity on the date of such retirement. Such insurance shall be continued, and the amount thereof fixed and increased, from time to time, in the prescribed manner.

Appointee to insure his life.
51 Vic. No. 35, s. 64.

(2) No policy of insurance so effected shall, during the time such person remains in the railway service, be assignable either at law or in equity.

Policy not to be assignable.

DIVISION 3.—Promotion.

79. (1) When any vacancy occurs in any branch of the railway service not open for competitive examination as hereinafter provided, it shall be filled, if possible, by the promotion of some officer next in rank, position, or grade, to the vacant office; and no such officer shall be passed over unless the head of his branch, in writing, so advises the Commissioners.

Promotions.
Ibid. s. 65.

(2) No officer shall be passed over without being allowed to show cause, in the prescribed manner, to the Commissioners, whose decision upon the matter shall be final.

Cause to be shown.

80. (1) Whenever promotions to the higher grades of the railway service are to be made, the Commissioners shall cause competitive examinations to be held by the examiners.

Competitive examination.
Ibid. s. 66.

(2) The names of the candidates who have satisfied the examiners that they possess the necessary qualifications shall be registered by the Commissioners, in a book kept for that purpose, in the order of their merit.

Successful candidates to be registered.

(3) No promotions to the offices open to competitive examination shall be made except from the persons whose names are so registered, and in the order of such registration, taking the name first registered and following in regular order.

Promotions.

DIVISION 4.—Suspension and dismissal.

81. The Commissioners may remove any officer.

Removal of officers.
Ibid. s. 15 (ii).

82. If any person employed by the Commissioners—

(a) exacts, or takes, or accepts on account of anything done by virtue of his office or in relation to the functions of the

Officer taking fees to lose his office and to be guilty of a misdemeanour.

Commissioners, *Ibid.* s. 91.

Government Railways.

Commissioners, any fee or reward whatsoever other than the salary, rewards, or allowances allowed or sanctioned by Parliament; or

- (b) is in anywise concerned or interested in any bargain or contract made by or on the behalf of the Commissioners, otherwise than as a member only, but not as a director or officer, of any registered, incorporated or joint stock company with whom any such bargain or contract may be made,

he shall be removed from office, and shall be incapable of being afterwards employed by the Commissioners, and shall also be guilty of a misdemeanour.

83. If any officer is convicted of any felony or infamous offence, or becomes bankrupt, or applies to take the benefit of any Act for the relief of insolvent debtors, or, by any deed or other writing, compounds with his creditors, or makes an assignment of his salary for their benefit, he shall be deemed to have vacated his office. Forfeiture of office in certain cases. 51 Vic. No. 35, s. 72.

84. The Commissioners may discontinue the offices of or appoint other persons in the room of such officers as are removed, or die, or resign, or vacate their offices under the provisions of the last preceding section. Powers of Commissioners on vacation of offices. Ibid. s. 15 (11).

Provided that when any officer has vacated his office by reason of any such pecuniary embarrassment as aforesaid, if he proves to the satisfaction of the Commissioners that such embarrassment has not been caused or attended by any fraud, extravagance, or dishonourable conduct, they may reinstate such officer in his former or any other inferior position in the railway service. Proviso. Ibid. s. 73.

85. Whenever any officer in any branch of the railway service is guilty of misconduct or of breaking any rule, by-law, or regulation of the railway service, the officer at the head of such branch may in the prescribed manner— Officers guilty of misconduct. Ibid. s. 68. Act No. 72, 1900, ss. 1, 2.

- (a) dismiss or suspend him;
- (b) fine him in a sum not exceeding five pounds;
- (c) reduce him in rank, position, or grade, and pay.

But every such officer so dealt with may appeal in the manner hereinafter provided.

86. (1) Any officer in charge of a railway station may temporarily suspend at such station any officer of inferior rank, position, or grade to his own, until the officer at the head of such suspended officer's branch has dealt with such suspension. Officers guilty of misconduct how dealt with. 51 Vic. No. 35, s. 69. Act No. 72, 1900, s. 1.

(2) The board constituted in the next Division of this Part may investigate and deal with any charge brought against any officer for the breach of any rule, by-law, or regulation, or for misconduct, and may suspend such officer; or, if he has been already suspended, may

Government Railways.

may further suspend him for a period not exceeding six months, without salary or wages, or may inflict a fine to be deducted from his pay, or may dismiss him.

87. (1) No officer shall be liable to dismissal or any disability for refusing, on conscientious grounds, to work on any Sunday except in cases of necessity. Officers not subject to dismissal for refusing to work on Sunday.

(2) Such officer shall be subject to a proportionate reduction in his salary or wages on account of such refusal. 51 Vic. No. 35, s. 70.

Provided that this provision shall not apply to any officer whose duties do not require him to work on Sunday.

DIVISION 5.—*Appeals.*

88. (1) The three Commissioners shall hear, and a majority of such Commissioners shall determine, any appeal made by an officer against the adoption or confirmation of the advice or decision of the officer at the head of his branch, with regard to his right to promotion; and may confirm or modify such decision, or make such order as they think fit; and their decision shall be final. Commissioners to hear appeals. Ibid. s. 71. Act No. 72, 1900, s. 1.

(2) Every such appeal shall be heard within thirty days from the date of the appeal being lodged with the Commissioners.

89. (1) Every other appeal which may be made by an officer under this Part of this Act shall be made to a board, which shall consist of the Secretary to the Commissioners, the Chief Accountant, the Chief Mechanical Engineer, the Engineer-in-Chief for Existing Lines, the Chief Traffic Manager, and one officer to be appointed by the Governor. Board for hearing appeals. Ibid.

(2) Such last-mentioned officer shall be elected by ballot of the officers, and his name shall be submitted to the Governor for appointment as aforesaid, and he shall hold office on the said board for a term of three years. Elective member of board.

90. (1) Three members of the said board shall form a quorum. Quorum. Ibid.

(2) All powers of the board may be exercised by a majority of the members present at any meeting, and in case of an equality of votes the chairman of the meeting shall have a second or casting vote. Exercise of powers.

(3) The members present at each meeting of the board shall appoint one of their number to act as chairman at such meeting. Chairman.

91. No member of the board shall take part in the hearing of any appeal by, or charge against, any officer in the branch of which such member is the head. Disqualification. Ibid.

92. It shall be the duty of the Secretary to the Commissioners to convene all meetings of the board, and to keep a record of all proceedings thereof and decisions arrived at. Records. Ibid.

Government Railways.

93. Every appeal to the board shall be lodged with the said secretary within seven days of the date of the decision appealed against, and shall be heard by the board within thirty days from the date of it being so lodged.

Time for lodging and hearing appeals.
Act No. 72, 1900, s. 1.

94. (1) At the hearing of an appeal by, or charge against any officer, any member of the board may administer an oath to every witness at such hearing.

Members of board may administer oaths.
Ibid.

(2) The appellant or person charged shall be entitled to have all witnesses examined on oath, and also to be represented by a barrister, solicitor, or agent, who may examine witnesses and address the board on his behalf.

Persons may be represented.

(3) The board may confirm or modify any decision appealed against, or make any such order thereon as they think fit.

Powers of board.

95. (1) Every decision of the board shall be final and conclusive unless punishment is thereby imposed involving dismissal, or reduction of rank, position, grade, or pay, in which event the accused may, within seven days after being informed of such decision, appeal therefrom to the Commissioners.

Effect of decision of board.
Ibid.

(2) Thereupon the Commissioners may hear, and may confirm, modify, or otherwise determine such appeal, and such determination shall be final and conclusive. In the hearing of such appeals the appellant shall have the like rights and privileges as he had before the board, and the Commissioners may administer an oath to every witness at such hearing.

Appeal from board to Commissioners.

DIVISION 6.—*Officers in positions of trust.*

96. (1) Before any person entrusted with the custody and control of moneys, whether as collector, or other officer of the Commissioners, enters upon his office, the Commissioners shall take sufficient security from him for the faithful execution of his office.

Commissioners to take security from officers entrusted with money.
51 Vic. No. 35, s. 85.

(2) Such security may be that of any incorporated company or guarantee society approved by the Commissioners in the prescribed manner.

97. If—

(a) any collector of tolls or other officer employed by the Commissioners is discharged or suspended from his office, or dies, absconds, or absents himself; and

Delivery of matters in possession or custody of officers.
Ibid. s. 86.

(b) such collector or other officer, or the wife, widow, or any of the family or representatives of any such collector or other officer, refuses or neglects, after seven days' notice in writing for that purpose, to deliver up to the Commissioners or to any person appointed by them for that purpose, any station, dwelling-house,

Government Railways.

dwelling-house, office, or other buildings with its appurtenances, or any books, papers, or other matters belonging to the Commissioners, in the possession or custody of any such collector or officer at the occurrence of any such event as aforesaid,

then, upon application being made by the Commissioners to any justice, such justice may order any constable, with proper assistance, to enter upon such station or other building, and remove any person found therein, and take possession thereof, and of any such books, papers, or other matters, and to deliver the same to the Commissioners or to any person appointed by such justice for that purpose.

98. (1) Every officer shall, from time to time, when required by the Commissioners, make out and deliver to them or to any person appointed by them for that purpose, a true and perfect account in writing, under his hand, of all moneys received by him on behalf of the Commissioners, or by virtue of his employment. Officers to account on demand. 51 Vic. No. 35, s. 87

(2) Such account shall state how, and to whom, and for what purpose, such moneys have been disposed of; and, together with such account, such officer shall deliver the vouchers and receipts for such payments. Terms of account.

(3) Every such officer shall pay to the Commissioners, or to any person appointed by them to receive the same, all moneys which appear to be owing from him upon the balance of any such account. Payment.

99. (1) If any such officer fails —

- (a) to render such account; or
- (b) to produce and deliver up all the vouchers and receipts relating to the same in his possession or power; or
- (c) to pay the balance thereof when required; or
- (d) within three days after being thereunto required, to deliver up to the Commissioners, or to any person appointed by them to receive the same, all papers and writings, property, effects, matters, and things in his possession or power relating to the execution of this Act or belonging to the Commissioners,

Officers failing to account.

Ibid. s 88.

then, on complaint thereof being made to a justice, such justice shall summon such officer to appear before a magistrate, at a time and place to be set forth in such summons to answer such charge.

(2) Upon the appearance of such officer, or in his absence, upon proof that such summons was personally served upon him or left at his last known place of abode, such magistrate may hear and determine the matter in a summary way, and may adjust and declare the balance owing by such officer. Procedure.

(3) If it appears, either upon confession of such officer, or upon evidence, or upon inspection of the account, that any public money is owing by such officer, an order may be made. Order may be made.

moneys

Government Railways.

moneys which should be paid over to the Commissioners are in the hands of such officer or owing by him, such magistrate may order such officer to pay the same.

100. If any such officer, on being so brought before such magistrate and being required so to do, refuses to make out such account in writing, or to produce and deliver to the magistrate the several vouchers and receipts relating thereto, or to deliver up any books, papers, or writings, property, effects, matters, or things in his possession or power belonging to the Commissioners, such magistrate may commit such offender to gaol, there to remain until he delivers up all the vouchers and receipts (if any) in his possession or power relating to such accounts, and all books, papers, writings, property, effects, matters, and things (if any) in his possession or power belonging to the Commissioners, or which should be delivered up by such officer.

Officers refusing to account or deliver up books, &c.
51 Vic. No. 35, s. 89.

101. (1) If a Commissioner or any person authorised by a Commissioner makes oath before a justice that he has good reason to believe, upon grounds to be stated in the deposition, and does believe that it is the intention of any such officer as aforesaid, to abscond, or that he has absconded, such justice may issue a warrant in the first instance for the apprehension of such officer to be brought before any magistrate.

Where officer about to abscond a warrant may be issued in the first instance.
Ibid. s. 90.

(2) No person executing such warrant shall keep such officer in custody longer than twenty-four hours, or such longer period as may be rendered necessary by the distance of the place of apprehension from the residence of the nearest or most convenient justice, without bringing him before some justice, who shall either discharge such officer, if he thinks there is no sufficient ground for his detention, or order him to be detained in custody so as to be brought before a magistrate, at a time and place to be named in such order, unless such officer gives bail to the satisfaction of such justice for his appearance before such magistrate to answer the said complaint.

Detention of officer.

(3) No such proceeding against, or dealing with, any such officer shall deprive the Commissioners of any remedy which they might otherwise have against such officer or any surety of such officer.

Sureties not to be discharged.

DIVISION 7.—Miscellaneous provisions.

102. The officer at the head of any branch of the railway service may, if he thinks fit, certify that in his opinion any officer in his branch is entitled to a gratuity or to a payment for overtime work; but no gratuity or payment for overtime work shall be paid upon such certificate without the authority of the Commissioners.

Gratuities and overtime payments.
Ibid. s. 67.

Government Railways.

103. The Commissioners shall—

- (a) keep a record of all officers in the railway service, and shall record therein the rank, position, or grade, the length of service, salaries, and such other particulars with regard to such officers as they think fit ;
- (b) cause entries to be made in such record of deaths, dismissals, resignations, promotions, and reductions ;
- (c) in the month of June, in each and every third year, from the year one thousand nine hundred, publish in the Gazette a list of persons employed in the railway service up to the thirty-first day of December of the preceding year.

Record of particulars
of railway service
to be kept.
51 Vic. No. 35, s. 74.

104. The Commissioners shall make regulations—

- (a) for prescribing the qualifications required of all candidates for permanent employment in each of the various branches of the railway service, and, if necessary, in each grade of such branches ;
- (b) for the examination of candidates and the granting of certificates to them ;
- (c) for determining the nature or character and extent of examinations or tests, according to the requirements of each of the higher grades in the railway service, which officers in the lower grades, desiring to compete for and to be promoted to such higher grades, shall undergo ;
- (d) for regulating the relative rank, position, or grade in the duties and conduct of the officers in each of the various branches of the railway service ; and for determining which of such grades shall be deemed the higher and lower grades, respectively, in such railway service ;
- (e) for regulating the duties to be performed by officers in the railway service, and the discipline to be observed in the performance of such duties, the granting of leave of absence from time to time, and arranging for the performance of duties during holidays, and for affixing to breaches of such regulations according to the nature of the offences, such penalties as by this Act are authorised ;
- (f) for regulating and determining the scale on which officers in the various grades of the railway service shall insure their lives ;
- (g) for the hearing and determining of appeals ;
- (h) for altering or repealing any rules or regulations made before the passing of this Act with regard to railways or tramways ;
- (i) for fixing the ages at which officers shall retire in the different branches of the railway service.

Regulations.
Ibid. s. 75.

All such regulations, when confirmed by the Governor, shall have the same force and effect as if they had been contained in this Act :

Provided

Government Railways.

Provided that no such regulation which in any way alters or annuls any privileges or immunities which officers have previously enjoyed, or dealing in any way with hours of work or wages, shall have any force or effect until the same has been published in the Gazette one week.

Certain regulations to be confirmed.
51 Vic. No. 35, s. 77.

105. Nothing in this Act shall be held to in any way interfere with the right of any officer to sue the Commissioners in any court of law, and this Act expressly reserves to every officer the right so to sue should he so desire.

Right to sue.
Ibid. s. 76.

106. The Commissioners shall not have power to agree with officers to contract themselves out of the provisions of any Act of Parliament, or to compel them to forego any civil rights to which any Act of Parliament entitles them.

Contractual limits.
Ibid.

107. The Commissioners shall not be deemed to be exempt from liability to any action which might be brought against an employer under the Employer's Liability Act of 1897.

Employer's Liability Act of 1897.
Ibid. s. 78.

108. In all public inquiries and investigations into the cause of any accident the officers shall have the right to be represented by one of their number, or by any person whom they may select to represent their interests at such inquiry.

Officers may be represented.
Ibid. s. 80.

109. Nothing in this Act shall prejudice or affect any officer in the railway or tramway service who has been a contributor to the Superannuation Account, in respect of his right to any compensation or retiring allowance under the provisions of the Civil Service or any other Act, or to any other rights, privileges, and immunities thereunder.

Saving of rights.
Ibid. s. 106.

PART IX.

Penalties and procedure.

110. (1) Whosoever—

- (a) travels or attempts to travel in any carriage employed on any railway without having previously paid his fare, and with intent to avoid payment thereof; or
- (b) 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
- (c) knowingly and wilfully refuses or neglects, on arriving at the point to which he has paid his fare, to quit such carriage; or
- (d)

Fraudulent travelling.
Ibid. s. 38.

Government Railways.

(d) knowingly and wilfully travels or attempts to travel in any carriage, of a superior class to that which his ticket entitles him to use, with intent to avoid payment of the additional fare, shall, for every such offence, forfeit to the Commissioners a sum not exceeding forty shillings.

(2) If any person is discovered either in the act of or after committing or attempting to commit any such offence, all officers and other persons on behalf of the Commissioners, and all constables, and gaolers may lawfully apprehend and detain such person until he can conveniently be taken before some justice, or until he is otherwise discharged in due course of law.

Detention of offenders.
51 Vic. No. 35, s. 39.

111. If any person sends by any railway any aqua fortis, oil of vitriol, gunpowder, lucifer matches, or any goods whatsoever which in the judgment of the Commissioners or their officers may be of a dangerous nature, without distinctly marking the nature of such goods on the outside of the package containing the same, or otherwise giving notice in writing at the time of sending the same to the bookkeeper or other officer of the Commissioners, with whom the same are left, he shall forfeit to the Commissioners a sum not exceeding fifty pounds for every such offence.

Dangerous goods.
Ibid. s. 40 (11).

112. (1) If any person without reasonable excuse, proof whereof shall lie on him, does any of the following things, namely—

Disobedience of person summoned as witness.

(a) having been summoned and having had the expenses (if any) to which he is entitled tendered to him, fails to attend as a witness before a court holding an investigation under this Act; or

Ibid. s. 84.

(b) fails, when required by such court, in pursuance of this Act so to do, to make any answer or to give any return, or to produce any document, or to make or sign any declaration; or

(c) prevents or impedes such court in the execution of its duty, he shall, for every such offence, incur a penalty not exceeding ten pounds.

Provided that, in the case of a failure to give any return or produce any document, the said penalty shall not exceed ten pounds for every day that such failure continues.

(2) Where the offence consists of preventing or impeding as aforesaid, any member of such court, or any person called by him to his assistance, may seize and detain the offender, until he can be conveniently taken before a magistrate or two justices to be dealt with according to law.

Arrest.

113. (1) If any person employed upon the railway or in repairing and maintaining the works of the said railway—

Persons employed on railway guilty of misconduct.

(a) is found drunk whilst so employed upon the said railway; or

Ibid. s. 92.

(b) commits any offence against any of the regulations or by-laws of the Commissioners; or

c 52—C

(c)

Government Railways.

(c) wilfully, maliciously, or negligently does any act, or is guilty of any omission of duty, whereby the life or limb of any person passing along or being upon such railway or the works thereof, respectively, is or might be injured or endangered, or whereby the passage of any engine, carriage, or trains is or might be obstructed or impeded, any railway officer or agent or any special constable duly appointed, and all such persons as any of them may call to his assistance, may seize and detain such person so offending, or any person counselling, aiding, or assisting in such offence, and convey him with all convenient despatch before any magistrate, without any other warrant or authority than this Act, to be dealt with according to law.

(2) Every person so offending as aforesaid, and every person counselling, aiding, or assisting therein, shall, upon conviction before such magistrate, upon a complaint in writing, be imprisoned, with or without hard labour, for any term not exceeding six months, or shall forfeit any sum not exceeding fifty pounds.

114. If any person—

- (a) wilfully obstructs any person acting under the authority of the Commissioners in the lawful exercise of his power ; or
- (b) pulls up or removes any poles or stakes driven into the ground, for the purpose of setting out any line of railway, or defaces or destroys any marks made for the same purpose; or
- (c) wilfully obstructs or impedes any officer or agent of the Government or of the Commissioners in the execution of his duty upon any railway, or upon or in any of the stations or other works or premises connected therewith; or
- (d) wilfully trespasses upon any such railway or any of the stations or other works or premises connected therewith,

such person and all others aiding or assisting in the commission of any such offence, shall forfeit to the Commissioners a sum not exceeding twenty pounds for every such offence.

115. (1) If any person—

- (a) throws away gravel, stones, or rubbish, or any matter or thing upon any part of a railway ; or
- (b) drives or permits to wander, stray, or be driven upon any such railway or the approaches thereto, any horse, ass, sheep, swine, or other beasts or cattle of any kind ; or
- (c) does any other act, matter, or thing to obstruct the free passage of any such railway or any part thereof ;

such person and all others aiding or assisting in the commission of any such offence, shall forfeit and pay for every such offence any sum not exceeding fifty pounds.

(2) The penalty for every such offence may be recovered before any magistrate on complaint to him for that purpose exhibited by any person on behalf of the Commissioners.

Obstructions and
trespasses.
51 Vic. No. 35, s. 93

Other obstructions.
Ibid. s. 94.

116.

Procedure.

Government Railways.

116. (1) The Commissioners shall publish the short particulars of the several offences, for which any penalty is imposed by this Act or by any by-law of the Commissioners, affecting other persons than officers, and of the amount of every such penalty; and shall cause such particulars to be painted on a board, or printed upon paper and pasted thereon, and shall cause such board to be hung up or affixed in some conspicuous part of the principal place of business of the Commissioners.

Publication of penalties.
51 Vic. No. 35, s. 82.

(2) When any such penalties are of local application the Commissioners shall cause such boards to be affixed in some conspicuous place in the neighbourhood to which such penalties are applicable or have reference.

Local penalties.

(3) Such particulars shall be renewed as often as the same or any part thereof are obliterated or destroyed.

Particulars to be renewed.

(4) No such penalty shall be recoverable unless the requirements of this section have been complied with.

117. If any person pulls down or injures any board put up or affixed, as required by this Act, for the purpose of publishing any by-law or penalty, or obliterates any of the letters or figures thereon, he shall forfeit, for every such offence, a sum not exceeding five pounds, and shall defray the expenses attending the restoration of such board.

Penalty for defacing boards used for publication.
Ibid. s. 83.

118. Any railway officer or agent, and all persons called by him to his assistance, may seize and detain any person who has committed any offence against the provisions of this Act, and whose name and residence are unknown to such officer or agent, and may convey him with all convenient despatch before some magistrate, without any warrant or other authority than this Act; and such magistrate shall proceed with all convenient despatch to the hearing and determining of the complaint against such offender.

Arrest of offenders.
Ibid. s. 97.

119. Every penalty or forfeiture imposed by this Act or by any by-law made in pursuance thereof, the recovery of which is not otherwise provided for, may be recovered in a summary manner before any magistrate according to the Acts in force for the time being regulating summary proceedings before justices.

Penalties to be summarily recovered.
Ibid. s. 99.

120. If any person inflicts, through any act, neglect, or default whereby he has incurred any penalty imposed by this Act, any damage upon any railway or other property vested in the Commissioners, he shall be liable to pay such damage in addition to such penalty, and the amount of such damage shall be determined by the magistrate or justices.

Damage to be made good in addition to penalty.
Ibid. s. 100.

121. (1) Where in this Act any question of compensation, expenses, charges, damages, or other matter is referred to the determination of a magistrate or two justices, any justice may, upon the application of either party, summon the other party to appear before a magistrate or two justices at a time and place to be named in such summons.

Method of proceeding before justices in question of damages, &c.
Ibid. s. 98.

Government Railways.

(2) Upon the appearance of such parties, or, in the absence of any of them, upon proof of due service of the summons, such magistrate or justices may hear and determine such question. Proceedings on appearance.

(3) The costs of every such inquiry shall be in the discretion of such magistrate or justices, and he or they shall determine the amount thereof. Costs.

122. Any summons, notice, writ, process, or document required to be served on the Commissioners pursuant to any Act, by-law, or regulation, may be served upon the solicitor to the Commissioners. Service upon Commissioners. 51 Vic. No. 35, s. 103.

123. All actions against the Commissioners or against any person for anything done or purporting to have been done under this Act shall be commenced within one year after the act complained of was committed. Limitation of actions against the Commissioners. Ibid. s. 104.

124. (1) No action shall be commenced against the Commissioners or any person for anything done or purporting to have been done by them or him under this Act, until one month, at least, after a notice in writing of such intended action has been delivered to them or him, or left at their or his usual place of business, or at the office of the solicitor for railways, by the party intending to commence such action, or by his attorney or agent. Notice of action. Ibid.

(2) Such notice shall clearly and explicitly state the cause of action and the Court in which the same is intended to be brought, and upon the back thereof shall be indorsed the name and place of abode of the party so intending to sue, and also the name and place of abode or of business of the attorney or agent, if such notice was served by such attorney or agent. Terms of notice.

(3) A notice under this section shall not be deemed invalid by reason of any defect or inaccuracy therein, unless the Judge before whom the action is tried is of opinion that the defendant in the action has been prejudiced in his defence by such defect or inaccuracy. Defects in notice.

(4) The defendant in every such action may plead the general issue, and at the trial thereof give this Act and the special matter in evidence. General issue.

125. In any action, either under the Compensation to Relatives Act of 1897 or otherwise, against the Commissioners, as carriers of passengers, in respect of injuries sustained after the twenty-second day of October, one thousand eight hundred and ninety-six, by any person while being carried upon any railway vested in the Commissioners, or while being in or upon or about any station, yard, land, or premises vested in or used by them, no larger sum than two thousand pounds shall be recoverable. Limitation of compensation in respect of personal injuries. 60 Vic. No. 21, s. 2.

126. (1) If any person has committed any irregularity, trespass, or other wrongful proceeding in the execution of this Act, or by virtue of any power or authority hereby given, and if before action brought in respect thereof such person makes tender of sufficient amends to the person injured, such last-mentioned person shall not recover in any such action. Tender of amends. 51 Vic. No. 35, s. 105.

(2)

Government Railways.

(2) If no such tender has been made, the defendant may, ^{Payment into Court.} by leave of the Court where such action is pending, at any time before issue joined, pay into Court such sum of money as he thinks fit, and thereupon such proceedings shall be had as in other cases where defendants are allowed to pay money into Court.

SCHEDULES.

FIRST SCHEDULE.

Section 2.

Reference to Act.	Title or short title.	Extent of repeal.
43 Vic. No. 25 ...	Tramways Extension Act, 1880	The whole.
46 Vic. No. 26 ...	Tramways Declaratory Act, 1883	The whole.
51 Vic. No. 35 ...	Government Railways Act of 1888	The whole.
52 Vic. No. 5 ...	Government Railways Act Amendment Act ...	The whole.
55 Vic. No. 28 ...	Government Railways (Contracts) Amendment Act of 1892	The whole.
60 Vic. No. 21 ..	Government Railways (Compensation Limitation) Act, 1896	The whole.
60 Vic. No. 22 ...	Electric Traction Act, 1896	The whole.
Act No. 72, 1900	Government Railways (Employees' Appeal) Act, 1900	The whole.

SECOND SCHEDULE.

Section 61.

Offices entitling persons to free passes for life—

1. The position of—
 - (a) head of an administration or of Prime Minister, held for two years consecutively or in the aggregate;
 - (b) member of the Executive Council, so held for four years.
2. The office of—
 - (a) Chief Justice, held for three years;
 - (b) Lieutenant-Governor, held for one year;
 - (c) President of the Legislative Council, held for one year;
 - (d) Speaker of the Legislative Assembly, held for one year.

Sydney: William Applegate Gullick, Government Printer. -- 1901

[1s. 9d.]

Memo. and Certificate to accompany the Government Railways and Tramways Bill.

THIS Bill consolidates the following Statutes :—

43 Vic. No. 25 ;
46 Vic. No. 26 ;
51 Vic. No. 35 ;
52 Vic. No. 5 ;
55 Vic. No. 28 ;
60 Vic. No. 21 ;
60 Vic. No. 22 ;
Act No. 72, 1900.

Clause 14 (g). The words in the original section, referring to telegraph posts, are omitted as no longer necessary.

Clauses 46 and 47. Words have been added to save the operation of the Public Works Act, 1900.

46 Vic. No. 26, sec. 1. Omitted as superseded by later provisions, and unnecessary since the decision of the Privy Council.

Clause 78 (1). The word "society" has been added after the words "life insurance."

Clause 124 (4). This is preserved because it is of later date than sec. 9 of the Acts Shortening Act, 22 Vic. No. 12.

In several clauses slight changes have been made to make sure that advantage is taken of the beneficial provisions of the Act No. 71, 1900.

The sections relating to the Postmaster-General have been left as they stood, though there is, of course, now no State Postmaster-General. To define the word as meaning Federal Postmaster-General might alter the law in some not unimportant particulars.

I certify that, save in the before-mentioned particulars, this Bill solely consolidates and in no way alters, adds to, or amends the law as contained in the statutes thereby consolidated.

CHAS. G. HEYDON,
Commissioner for the Consolidation of the Statute Law

Government Railways Bill.

TABLE showing how the sections of Acts consolidated have been dealt with.

Section of Repealed Acts.	Section of Consolidated Act.	Remarks.
43 VICTORIA No. 25.		
1	.....	Operation exhausted.
2	46	
3	.....	Superseded by 51 Vic. No. 35, s. 16.
4	47	
5	.....	Part superseded by 51 Vic. No. 35.
6	48	
7	49	
8	.....	Operation exhausted.
9	50	
10	51	
11	52	
12	53	
13	54	
14	.....	Short title and incorporated Act 22 Vic. No. 19.
46 VICTORIA No. 26.		
1	.....	Operation exhausted, and superseded by 51 Vic. No. 35, s. 30.
2	.....	Unnecessary by reason of decision of Privy Council in Toohey v. Commissioner for Railways.
3	.....	Short title.
51 VICTORIA No. 35.		
1	3	
2	.....	Operation exhausted.
3	.....	Operation exhausted.
4	.....	Operation exhausted.
5	.....	Arrangement of Act.
6	4	
7	5	
8	6, 7	
9	8	
10	9	
11	10	
12	11	
13	12	
14	13	
15	72, 84	
16	14	
17	15	
18	.....	Unnecessary.
19	16	
20	17	
21	.....	Unnecessary
22	37	

Section of Repealed Acts.	Section of Consolidated Act.	Remarks.
51 VICTORIA No. 35— <i>continued</i> .		
23	38	
24	39	
25	36	
26	40	
27	60, 61	
28	18	
29	42	
30	28, 55	
31	29	
32	30	
33	31	
34	32	
35	33	
36	34	
37	35	
38	110	
39	110	
40	22, 111	
41	19	
42	20	
43	21	
44	43	
45	44	
46	23	
47	24	
48	25	
49	26	
50	27	
51	63	
52	64, 65	
53	66	
54	67, 68	
55	69	
56	2	
57	70	
58	71	
59	73	
60	74	
61	75	
62	76	
63	77	
64	78	
65	79	
66	80	
67	102	
68	85	
69	86	
70	87	
71	88	
72	83	
73	84	
74	103	
75	104	

Section of Repealed Acts.	Section of Consolidated Act.	Remarks.
51 VICTORIA No. 35— <i>continued</i> .		
76	105, 106	
77	104	
78	107	
79	45	
80	108	
81	41	
82	116	
83	117	
84	112	
85	96	
86	97	
87	98	
88	99	
89	100	
90	101	
91	82	
92	113	
93	114	
94	115	
95	7	
96	62	
97	118	
98	121	
99	119	
100	120	
101	.....	} Unnecessary ; Act No. 71, 1900, s. 9.
102	.....
103	122	
104	123, 124	
105	126	
106	109	
107	.....	Operation exhausted.
52 VICTORIA No. 5.		
1	.....	Short title.
2	9	
55 VICTORIA No. 28.		
1	24	
60 VICTORIA No. 21.		
1	.....	Short title.
2	125	
60 VICTORIA No. 22.		
1	3, 59	
2	56	
3	57	
4	58	
5	.....	Short title.
Act No. 72, 1900.		
1	85, 86, 88-94	
2	85	
3	.....	Short title.

Station	Distance	Time
Station 1	100	10
Station 2	100	10
Station 3	100	10
Station 4	100	10
Station 5	100	10
Station 6	100	10
Station 7	100	10
Station 8	100	10
Station 9	100	10
Station 10	100	10
Station 11	100	10
Station 12	100	10
Station 13	100	10
Station 14	100	10
Station 15	100	10
Station 16	100	10
Station 17	100	10
Station 18	100	10
Station 19	100	10
Station 20	100	10
Station 21	100	10
Station 22	100	10
Station 23	100	10
Station 24	100	10
Station 25	100	10
Station 26	100	10
Station 27	100	10
Station 28	100	10
Station 29	100	10
Station 30	100	10
Station 31	100	10
Station 32	100	10
Station 33	100	10
Station 34	100	10
Station 35	100	10
Station 36	100	10
Station 37	100	10
Station 38	100	10
Station 39	100	10
Station 40	100	10
Station 41	100	10
Station 42	100	10
Station 43	100	10
Station 44	100	10
Station 45	100	10
Station 46	100	10
Station 47	100	10
Station 48	100	10
Station 49	100	10
Station 50	100	10
Station 51	100	10
Station 52	100	10
Station 53	100	10
Station 54	100	10
Station 55	100	10
Station 56	100	10
Station 57	100	10
Station 58	100	10
Station 59	100	10
Station 60	100	10
Station 61	100	10
Station 62	100	10
Station 63	100	10
Station 64	100	10
Station 65	100	10
Station 66	100	10
Station 67	100	10
Station 68	100	10
Station 69	100	10
Station 70	100	10
Station 71	100	10
Station 72	100	10
Station 73	100	10
Station 74	100	10
Station 75	100	10
Station 76	100	10
Station 77	100	10
Station 78	100	10
Station 79	100	10
Station 80	100	10
Station 81	100	10
Station 82	100	10
Station 83	100	10
Station 84	100	10
Station 85	100	10
Station 86	100	10
Station 87	100	10
Station 88	100	10
Station 89	100	10
Station 90	100	10
Station 91	100	10
Station 92	100	10
Station 93	100	10
Station 94	100	10
Station 95	100	10
Station 96	100	10
Station 97	100	10
Station 98	100	10
Station 99	100	10
Station 100	100	10

Legislative Council.

No. , 1901.

A BILL

To consolidate the Acts relating to Government Railways and Tramways.

[MR. WISE ;—21 August, 1901.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

PART I.

Repeal and interpretation.

1. This Act may be cited as the "Government Railways Act, 1901," and is divided into Parts, as follows:—

PART I.—*Repeal and interpretation.*—ss. 1-3.

PART II.—*The Railway Commissioners*—

DIVISION 1.—*Constitution, appointment, and tenure of office.*—
ss. 4-9.

DIVISION 2.—*Conduct of business.*—ss. 10-13.

C 52—A

DIVISION

DIVISION 3.—*Property*.—ss. 14–17.

DIVISION 4.—*Powers of Commissioners*—

(i) *Certain special powers*.—ss. 18–23.

(ii) *Contractual powers*.—ss. 24–27.

(iii) *Tolls*.—ss. 28–36.

DIVISION 5.—*Duties of Commissioners*.—

(i) *Certain special duties*.—ss. 37–41.

(ii) *Statements and reports*.—ss. 42–45.

PART III.—*Construction of tramways*.—ss. 46–54.

PART IV.—*Traction*.—ss. 55–59.

PART V.—*Free passes*.—ss. 60–62.

PART VI.—*Investigation of accidents*.—ss. 63–65.

PART VII.—*By-laws*.—ss. 66–70.

PART VIII.—*Appointment, promotion, discipline in and regulation of the railway service*—

DIVISION 1.—*Examiners*.—ss. 71.

DIVISION 2.—*Appointment*.—ss. 72–78.

DIVISION 3.—*Promotion*.—ss. 79, 80.

DIVISION 4.—*Suspension and dismissal*.—ss. 81–87.

DIVISION 5.—*Appeals*.—ss. 88–95.

DIVISION 6.—*Officers in position of trust*.—ss. 96–101.

DIVISION 7.—*Miscellaneous provisions*.—ss. 102–109.

PART IX.—*Penalties and procedure*.—ss. 110–126.

Repeal
First Schedule.

2. (1) The Acts mentioned in the First Schedule to this Act are, to the extent therein expressed, hereby repealed.

Persons appointed.

(2) All persons appointed or retained under the Acts hereby repealed and holding office at the time of the passing of this Act shall continue in office as if this Act had been in force when they were appointed, and they had been appointed hereunder, and this Act shall apply to them accordingly.

By-laws, &c.

51 Vic. No. 35, s. 56.

(3) All rules, regulations, by-laws, and scales of tolls or of charges made or continued under the authority of any Act hereby repealed and being in force at the time of the passing of this Act shall be deemed to have been made under the authority of this Act.

Free passes.

(4) All free passes granted under the authority of any Act hereby repealed and being current at the time of the passing of this Act shall be deemed to have been granted hereunder.

Interpretation.

Ibid. s. 1.

60 Vic. No. 22, s. 1.

3. In this part of this Act, unless the context or subject-matter otherwise indicates or requires—

“Commissioners,” means the Railway Commissioners appointed under this Act, or any Act hereby repealed, and “Commissioner” means one of such Commissioners;

“justice”

- “justice” means any justice of the peace;
 “magistrate” means any justice who is a police or stipendiary magistrate or any justice lawfully acting as his deputy, or in his place;
 “officer” means any officer, clerk, servant, or other person employed by the Commissioners to assist in the execution of this Act;
 “prescribed” means prescribed by regulations or by-laws made under this Act;
 “railway” means any railway by this Act vested in the Commissioners, and includes any tramway vested in or under the control of the Commissioners;
 “vessel” includes any ship, barge, lighter, and boat howsoever propelled.

PART II.

The Railway Commissioners.

DIVISION 1.—*Constitution, appointment, and tenure of office.*

4. (1) The Authority to carry out this Act shall be three Commissioners who shall be a body corporate by the name “The Railway Commissioners of New South Wales;” and, by that name, shall have perpetual succession and a common seal, and be capable in law of suing and being sued, and, subject to the provisions hereinafter contained, shall have power to take, purchase, sell, lease, and hold lands, tenements, and hereditaments, goods, chattels, and other property for the purposes of this Act. But no sale or lease of any such lands, except as provided in section twenty-one, shall have any force or effect unless the same has been approved by the Governor.

Constitution of
Commissioners.
51 Vic. No. 35, s. 6.

(2) All courts, judges, and persons acting judicially shall take judicial notice of the common seal of the Commissioners affixed to any document or notice, and shall presume that such seal was duly affixed.

Seal of
Commissioners.

5. (1) The Governor shall appoint three persons to be Commissioners, who, subject to the provisions hereinafter contained, shall each hold office for a term of seven years.

Appointment of
Commissioners.
Ibid. s. 7.

(2) On the occurrence of any vacancy in the office of a Commissioner the Governor shall appoint a person to the vacant office, whose term of office shall be for his predecessor’s unexpired term of office.

Vacancies.

(3) All persons appointed under the authority of this section shall, at the expiration of their respective terms of office, be eligible for reappointment for a like term of seven years.

Appointees eligible
for reappointment.

(1)

Deputy
Commissioners.

(4) In case of the illness, suspension, or absence of any Commissioner, the Governor may appoint some person to act as the deputy of such Commissioner during such illness, suspension or absence; and every person so appointed shall, while so acting, have all the powers and perform all the duties of such Commissioner.

Removal of
Commissioner
51 Vic. No. 35, s. 8.

6. A Commissioner may be removed from office in manner following:—

- (a) A Commissioner may be suspended from his office by the Governor for misbehaviour or incompetence, but shall not be removed from office except as hereinafter provided. The Minister shall cause to be laid before Parliament a full statement of the grounds of suspension within seven days after such suspension if Parliament is in Session and actually sitting, and when Parliament is not in Session or not actually sitting within seven days after the commencement of the next Session or sitting.
- (b) A Commissioner suspended under this section shall be restored to office unless each House of Parliament within twenty-one days from the time when such statement has been laid before it declares by resolution that the said Commissioner ought to be removed from office, and if each House of Parliament within the said time so declares, the said Commissioner shall be removed by the Governor accordingly.

Vacation of office by
Commissioner.
Ibid. s. 8.

7. (1) A Commissioner shall be deemed to have vacated his office—

- (a) if he engages, during his term of office, in any employment outside the duties of his office; or
- (b) if he becomes insolvent, or applies to take the benefit of any Act for the relief of insolvent debtors, or compounds with his creditors, or makes an assignment of his salary for their benefit; or
- (c) if he absents himself from duty for a period of fourteen consecutive days except on leave granted by the Governor (which leave he is hereby authorised to grant), or becomes incapable of performing his duties; or
- (d) if he becomes in anyway concerned or interested in any contract or agreement made by or on behalf of the Commissioners; or in anywise participates or claims to be entitled to participate in the profit thereof, or in any benefit or emolument arising therefrom.

Penalty.
Ibid. s. 95.

(2) If any Commissioner becomes in any way concerned or interested in any such contract or agreement, or in anywise participates or claims as aforesaid, he shall be guilty of a misdemeanour, and be liable to a penalty not exceeding five hundred pounds, or to imprisonment for any term not exceeding three years, or to both such punishments.

8. One of such three Commissioners shall be appointed by the Governor as Chief Commissioner, and, on the occurrence of any vacancy in the office of Chief Commissioner, the Governor shall appoint a person to fill that office.

9. The Commissioners shall receive the following salaries, viz.:—
- (a) the Chief Commissioner three thousand pounds per annum;
 - (b) each of the other Commissioners one thousand five hundred pounds per annum.

Salaries of Commissioners.
Ibid. s. 10.
 52 Vic. No. 5, s. 2.

All such salaries are hereby charged on the consolidated revenue fund; and such fund, to the extent required for the payment of such salaries, is hereby permanently appropriated.

DIVISION 2.—*Conduct of business.*

10. For the conduct of business any two Commissioners shall be a quorum, and, subject to the next following section, shall have all the powers and authorities by this Act vested in the Commissioners.

Quorum.
 51 Vic. No. 35, s. 11.

11. If at any meeting at which two Commissioners only are present such Commissioners differ in opinion upon any matter, the determination of such matter shall be postponed until all the Commissioners are present.

Procedure on difference of opinion.
Ibid. s. 12.

12. No act or proceeding of the Commissioners shall be invalidated or prejudiced by reason only of the fact that at the time when such proceeding or act was taken, done, or commenced, there was a vacancy in the office of any one Commissioner.

Acts of Commissioners not invalidated by vacancy.
Ibid. s. 13.

13. The Commissioners shall keep minutes of their proceedings in such manner and form as the Governor shall direct.

Minutes of proceedings.
Ibid. s. 14.

DIVISION 3.—*Property.*

14. For the purposes of this Act there shall be vested absolutely in the Commissioners, and, in respect of land, for an estate in fee simple—

Government railways, &c., vested in Commissioners.
Ibid. s. 16.

- (a) all railways and tramways, and all rolling-stock heretofore constructed or acquired by or on behalf of His Majesty, pursuant to any Act in force for the time being authorising the construction of railways, rolling stock, or tramways, and all railways and tramways hereafter to be so constructed or acquired, upon transfer of the same to such Commissioners in the prescribed manner;
- (b) all piers, wharfs, jetties, stations, yards, and buildings connected or used in connection with such railways, tramways and rolling-stock, being on Crown land or land acquired for or on behalf of His Majesty;
- (c) the land, being Crown land or land acquired or which may be acquired for or on behalf of His Majesty over or upon which

which such piers, wharfs, jetties, stations, yards, and buildings have been, or may hereafter be constructed or erected ;

- (d) the Crown land or land acquired for or on behalf of His Majesty included within the boundary fences of all such railways or tramways ;
- (e) all land outside such fences acquired by or on behalf of His Majesty, under any Act authorising the taking or acquiring of land for railway or tramway purposes ;
- (f) all Crown and other lands taken under the authority of any Act authorising the taking of land for railway or tramway purposes ;
- (g) all wires, instruments, and other telegraphic or telephonic apparatus used in connection with the railways or tramways vested in the Commissioners by this Act or any Act hereby repealed.

Railway property not subject to rates, &c.

51 Vic. No. 35, s. 17.

15. No rates, tax, or assessment shall be made, charged, or levied upon any railway, or upon any pier, wharf, jetty, station, yard, building, works, or other property vested in the Commissioners, unless the contrary is expressly provided in any Act.

Expenditure of money appropriated by Parliament.

Ibid. s. 19.

16. All moneys appropriated by Parliament for the maintenance or management of the railways by this Act vested in the Commissioners, and for all purposes in connection therewith, shall be expended under the control and management of the Commissioners.

Audit Act to apply to Commissioners.

Ibid. s. 20.

17. All moneys payable to the Commissioners, under this or any other Act, shall be collected and received by them on account of, and shall be paid into, the Consolidated Revenue ; and the provisions of the Audit Act, 1898, and of any other Act relating to the collection and payment of public moneys and the audit of the public account, shall, save as in this Act otherwise expressly provided, apply to the Commissioners and to all officers.

DIVISION 4.—*Powers of Commissioners.*

(i) *Certain special powers.*

Powers of Commissioners over lines in construction.

Ibid. s. 28.

18. The Commissioners shall be the authority to decide on the position, character, and suitability of all stations, station platforms, gate-houses, station-yards, sheds, piers, wharfs, jetties required for or in connection with any railway hereafter to be constructed, and although such railway may not be constructed by them, or of any other building, siding, platform, or work for the accommodation of the passengers, stock, or goods to be carried on such railway.

19.

19. The Commissioners may—

- (a) appoint places as depôts for the receipt and delivery of parcels or passengers' luggage to be forwarded to or received from any railway;
- (b) contract with any person for the carriage of such parcels, or of passengers' luggage to and from any railway station or depôt;
- (c) instead of loading or unloading goods on or from any truck, shed, or vessel by temporary day labour, invite public tenders on such terms and conditions as they think fit for the performance of such work, for a period not exceeding one year; and may accept the lowest eligible tender, or invite fresh tenders, and may make a contract with the person whose tender is accepted.

Powers of Commissioners respecting depôts and contracts for loading or unloading goods.

51 Vic. No. 35, s. 41.

20. The Commissioners may apply in writing to the Minister for additional stores, plant, material, rolling-stock, stations, sheds, and other accommodation which, in their opinion, may be required to enable them to meet the traffic requirements, or ensure the efficient working of the railways.

Commissioners may requisition for rolling-stock, &c.

Ibid. s. 42.

21. The Commissioners may lease any refreshment-room, shed, office, shop, stall, coal gears, sites for storage or for erecting sheds, right of entrance into any station by any public vehicle, right of advertising, or other convenience or appurtenance to any of the railways, for any term not exceeding five years on such conditions and at such rent as they may determine.

Commissioners may lease refreshment-rooms, &c.

Ibid. s. 43.

22. (1) No person shall be entitled to carry, or to require the Commissioners to carry, upon any railway, any aqua-fortis, oil of vitriol, gunpowder, lucifer matches, or any goods whatsoever which, in the judgment of the Commissioners or their officers, may be of a dangerous nature.

Bringing dangerous goods on the railway.

Ibid. s. 40.

(2) The Commissioners may refuse to take any parcel which they may suspect to contain goods of a dangerous nature, or may require any parcel to be opened, so that the nature of the contents may be ascertained.

Commissioners may require parcels to be opened.

23. (1) The several lines of telegraphic communication belonging to the Commissioners, or which are worked under the direction, or on behalf of the Commissioners, may be used by them—

Working of telegraphs.

Ibid. s. 46.

- (a) for the transmission of messages in relation to the working of the railways; and

- (b) so far as is consistent with the due and efficient working of the railways, for the transmission of messages by the public.

Transmission of messages.

(2) All such messages as last aforesaid shall be transmitted by the officers on behalf of the Commissioners, as agents of the Post-master-General; and there shall be demanded and received, in respect of such last-mentioned messages, such fees, rates, and dues as may for

for the time being be lawfully demanded or received by the Postmaster-General, in respect of lines of telegraphic communication under his control.

Messages for the public.

(3) Save as aforesaid, the Commissioners shall not transmit or permit the transmission of messages on behalf of the public through their wires.

Payment by Postmaster-General.

(4) The sum to be paid by the Postmaster-General to the Commissioners for the transmission of messages as aforesaid, may be either a lump sum or a percentage on the gross sum received by the Postmaster-General from the Commissioners, in respect of such transmission, or may be determined in such other way as may be agreed upon between the Postmaster-General and the Commissioners.

(ii) *Contractual powers.*

General contractual powers of Commissioners.
51 Vic. No. 35, s. 47.

24. (1) The Commissioners in their corporate name may contract—

- (a) for the execution of any work authorised by this or any other Act to be executed by them; or
- (b) for furnishing materials or labour; or
- (c) for providing locomotive engines or other motive or tractive power; or
- (d) for any other matters and things whatsoever, necessary for enabling them to carry the purposes of such Act into full effect,

in such manner and upon such terms for such sum and under such stipulations, conditions, and restrictions as the Commissioners think proper.

Contracts to be in writing.

(2) Every such contract shall be in writing, and shall specify—

- (a) the work to be done;
- (b) the materials to be furnished;
- (c) the price to be paid for the same;
- (d) the time within which the work is to be completed, and the materials to be furnished; and
- (e) the penalties to be suffered in case of non-performance thereof.

Every such contract may, if the Commissioners think fit, comprise several works, and may in every case specify the person to whose satisfaction the work or works is or are to be completed or the material furnished, and the mode of determining any dispute which may arise concerning, or in consequence of, such contract.

Proviso.

55 Vic. No. 28, s. 1.

(3) Provided that the Commissioners shall not without the consent of the Governor enter into any contract in any case where—

- (a) the contract is for the supply either directly or indirectly from places outside New South Wales of materials, locomotive engines, or other motive or tractive power; and
- (b)

(b) the contract exceeds the sum of twenty thousand pounds.

25. The Commissioners and the Postmaster-General may enter into, alter, and rescind contracts and agreements, with respect to—

- (a) the receipt, carriage, and conveyance of letters, newspapers, and parcels; and
- (b) any other matter or thing in relation to the postal service;
- (c) the working of any of the lines of telegraphic communication of the Postmaster-General by the Commissioners; and
- (d) generally with respect to telegraphs and the transmission of telegraphic messages.

Power for Commissioners and Postmaster-General to make contracts.

51 Vic. No. 35, s. 48.

26. In case any difference arises between the Commissioners and the Postmaster-General, with regard to the terms and conditions on which any contract or agreement should be made or otherwise in relation thereto, the same shall be determined by the Governor.

How differences to be determined.

Ibid. s. 49.

27. The Commissioners, at a meeting specially called for that purpose, may compound and agree with any person who has entered into any contract in pursuance of or under the authority of this Act, or against whom any action or suit is brought for any penalty contained in any such contract, or in any bond, or other security for the performance thereof, or for or on account of any breach or non-performance of any such contract, bond, or security, for such sum of money or other consideration as the Commissioners think proper.

Commissioners may compound for breach of contracts.

Ibid. s. 50.

(iii) Tolls.

28. (1) The Commissioners may carry and convey upon the railways all such passengers and goods as are offered for that purpose, and may demand reasonable tolls and charges in respect thereof.

Commissioners may demand tolls.

Ibid. s. 30.

(2) Subject to the provisions of this Act, all such tolls shall, at all times, be charged equally to all persons, and after the same rate, whether per ton, per mile or otherwise, in respect of all passengers and of all goods or carriages of the same description, and conveyed or propelled by a like carriage or engine passing over the same portion of the line of railway and under the same circumstances; and no reduction or advance in any such tolls shall be made, either directly or indirectly, in favour of or against any particular company or person travelling upon or using the railway.

Tolls to be charged equally under like circumstances.

29. The tolls shall be paid to such persons, and at such places, upon or near to the railways, and in such manner, and under such regulations as the Commissioners shall appoint.

Tolls to be paid as directed.

Ibid. s. 31.

30. If, on demand, any person fails to pay the tolls due in respect of any carriage or goods, the Commissioners may—

- (a) detain and sell such carriage, or all or any part of such goods;
- (b) if the same have been removed from the railway premises, detain and sell any other carriages or goods within such premises belonging to the person liable to pay such tolls;

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

Ibid. s. 32.

and,

and, in either case, out of the moneys arising from the sale, retain the tolls payable as aforesaid, and all charges and expenses of such detention and sale, rendering the surplus (if any), of the moneys arising by such sale, and such of the carriages or goods as shall remain unsold, to the person entitled thereto; or

(c) recover any such tolls by action at law.

Account of lading,
&c., to be given.
51 Vic. No. 35, s. 33.

31. Every person being the owner or having the care of any carriage or goods passing or being upon any railway, shall on demand, give to the collector of tolls, at the places where he attends, for the purpose of receiving goods or of collecting tolls, for the part of the railway on which such carriage or goods may have travelled or be about to travel, an exact account in writing signed by him of—

- (a) the number or quantity of goods conveyed by any such carriage;
- (b) the point on the railway from which such carriage or goods have set out or are about to set out;
- (c) the point where the same are intended to be unloaded or taken off the railway.

If such goods are liable to the payment of different tolls, then such owner or other person shall specify the respective numbers or quantities thereof liable to each or any of such tolls.

Penalty for not
giving account, &c.
Ibid. s. 34.

32. If any such owner, or person as in the last preceding section mentioned in contravention of the requirements thereof—

- (a) fails to give an account; or
- (b) fails to produce his way-bill or bill of lading to such collector, or other officer of the Commissioners, demanding the same; or
- (c) gives a false account; or
- (d) unloads or takes off any part of his lading or goods at any other place than is mentioned in such account, with intent to avoid the payment of any tolls payable in respect thereof;

he shall for every such offence forfeit to the Commissioners a sum not exceeding ten pounds for every ton of goods, or for any parcel not exceeding one hundredweight, and so in proportion for any less quantity of goods than one ton, or for any parcel exceeding one hundredweight (as the case may be) upon any such carriage; and such penalty shall be in addition to the toll to which such goods may be liable.

Disputes.
Ibid. s. 35.

33. If any dispute arises—

- (a) concerning the amount of the tolls due to the Commissioners;
or
- (b) concerning the charges, occasioned by any detention or sale under the provisions herein contained,

the same shall be settled by a magistrate or two justices, and the Commissioners may, in the meanwhile, detain the goods or retain the proceeds of the sale thereof.

34. (1) If any difference arises between any toll collector or other officer of the Commissioners and any owner of or person having the charge of any carriage passing or being upon any railway, or any goods conveyed or to be conveyed by such carriage, respecting the weight, quantity, quality, or nature of such goods, such collector or other officer may lawfully detain such carriage or goods, and examine, weigh, gauge, or otherwise measure the same. Differences as to weights, &c.
51 Vic. No. 35, s. 36

(2) Upon such measuring or examination—

Payment of costs.

- (a) if such goods appear to be of greater weight or quantity, or of other nature than was stated in the account given thereof, the person who gave such account shall pay, and the owner of such carriage or the respective owners of such goods shall also, at the option of the Commissioners, be liable to pay the costs of such measuring and examining;
- (b) if such goods appear to be of the same or less weight or quantity than, but of the same nature as was stated in such account, the Commissioners shall pay such costs, and they shall also pay to such owner of or person having charge of such carriage, and to the respective owners of such goods such damage (if any) as appears to any magistrate or two justices, on a summary application to him or them for that purpose, to have arisen from such detention.

35. If at any time it is made to appear to any magistrate or two justices, upon the complaint of the Commissioners, that any such detention, measuring, or examining of any carriage or goods as hereinbefore mentioned was without reasonable ground, or was vexatious on the part of such collector or other officer, such magistrate or justices shall assess the costs of such detention and measuring, and the damage occasioned thereby, and shall order the collector or other officer to pay the same. Vexatious detentions.
Ibid. s. 37.

36. Notwithstanding anything in this Act contained, the Commissioners may frame a special scale of tolls or charges for the conveyance of specific classes of produce or merchandise. Special tolls, &c.
Ibid. s. 25.

Provided that the same charges shall apply alike to all persons using the railways.

DIVISION 5.—*Duties of Commissioners.*

(i) *Certain special duties.*

37. The Commissioners shall maintain the railways and all works in connection therewith in a state of efficiency, and shall carry persons, animals, and goods without negligence or delay; and in respect of the carriage of persons, animals, and goods, the Commissioners shall be common carriers. Duties of Commissioners in respect to the railways, &c.
Ibid. s. 22.

Commissioners to
make inspections of
railways.

51 Vic. No. 35, s. 23.

Repairs and
alterations.

Traffic during
repairs.

Commissioners not to
give undue
preferences, &c.

Ibid. s. 24.

Commissioners to
afford all reasonable
facilities for inter-
change of traffic, &c.

Ibid. s. 26.

Adjustment of
weights and
measures on
railways.

Ibid. s. 81.

Commissioners to
prepare estimate of
traffic.

Ibid. s. 29.

38. (1) The Commissioners shall at all times cause to be made a careful inspection of the condition of the railways under their control.

(2) Whenever it appears to the Commissioners that for the purpose of maintaining the traffic on any existing line—

(a) a partial reconstruction, or a partial duplication, or any other addition to, or extension of, the roadway of any existing line, or part of any such line, or any bridge, viaduct, or other work; or

(b) the laying of new rails; or

(c) any other repair or alteration of any line or work vested in them

is necessary, they shall undertake, execute, and carry out any of the works aforesaid so far as may be required for such purpose.

(3) During any reconstruction, repair, or alteration, the passenger and goods traffic may be conducted along temporary roadways, or otherwise, as the Commissioners may deem best for the public interest and safety.

39. The Commissioners shall not afford or give any undue or unreasonable preference or advantage to any particular person, or to any particular description of traffic, in any respect whatsoever; nor shall they subject any particular person, or any particular description of traffic to any undue or unreasonable prejudice or disadvantage in any respect whatsoever.

40. Subject to the provisions of this Act the Commissioners shall afford all reasonable, proper, and equal facilities for the interchange of traffic between the respective lines of railway vested in them; and for the receiving, forwarding, and delivery of passengers and goods to and from such lines.

41. The Commissioners shall cause all weights, measures, scales, balances, steelyards, beams and other weighing machines in use upon any of the railways, or on any of the stations, piers, wharfs, or jetties vested in the Commissioners, to be from time to time adjusted by some officer appointed by the Commissioners, either on comparison with authorised copies of the standard weights and measures made under the Act in force for the time being relating to weights and measures, or otherwise as the case may be; but, save as aforesaid, nothing in the said Act contained shall apply to the railways or to any station, pier, wharf, or jetty vested in the Commissioners.

(ii) *Statements and reports.*

42. Before the second reading in the Legislative Assembly of any bill authorising the construction of new lines of railway, the Commissioners shall transmit to the Minister a statement under their seal showing

showing their estimate of the traffic on each proposed new line, and any other returns likely to be derived therefrom, and the Minister shall before such second reading lay the same upon the table of the Assembly.

43. (1) In the first month in each quarter of every year the Commissioners shall report in writing to the Minister—

Commissioners' quarterly report to Minister.

51 Vic. No. 35, s. 44.

- (a) the state of the traffic returns, with the approximate cost and earnings of trains per ton, per train mile, in respect of goods and passengers respectively, carried during the past quarter; and
- (b) the general condition of the lines and accommodation for the traffic; and
- (c) the special rates, if any, which have been made, and the reasons for making such rates; and
- (d) the appointments and removals of officers with the circumstances attending each case.

(2) Such reports shall be laid before Parliament, if Parliament is in Session, and if not, then within seven days after the commencement of the next ensuing Session.

Reports to be laid before Parliament.

44. The Commissioners shall prepare—

Commissioners' annual report to Parliament.

Ibid. s. 45.

- (a) an annual report of their proceedings, and an account of all moneys received and expended during the preceding year.

Such annual report shall be laid before both Houses of Parliament in the month of January in each year if Parliament is then sitting, otherwise, within one month after the commencement of the next ensuing Session.

- (b) estimates, in such form as the Governor may direct, of receipts and expenditure for each period of twelve months ending on the thirtieth day of June in each and every year.

45. The Commissioners shall in each annual report include a list of all officers admitted to the Service since the date of the former annual report, and likewise a list of all officers who may have left the Service during the like period, giving date of appointment, positions and rates of pay to which appointed, and date and cause of leaving in each case.

List of officers.

Ibid. s. 79.

PART III.

Construction of tramways.

Commissioners may
construct certain
lines of tramways.
43 Vic. No. 25,
ss. 2, 5.

46. Subject to the provisions of the Public Works Act, 1900, the Commissioners may construct tramways for conveying passengers and their luggage along any route within the city of Sydney and the suburbs thereof which may be approved by the Governor, notwithstanding anything to the contrary contained in or implied by the Sydney Corporation Act of 1879, the Municipalities Act, 1897, or any other Act whatsoever.

Other tramways.
Ibid. s. 4.

47. Subject as aforesaid the Commissioners may construct tramways for the purposes aforesaid from points along the line of any railway to places distant not more than fifty miles therefrom, or from any other point or place whatsoever to any quarry or other workings, for the purpose of procuring materials for the construction or maintenance of any tramway authorised by this Part of this Act, or for any other purpose whatsoever, whenever the Governor determines to construct the same.

Plans to be laid
before Parliament.

In every such case copies of the plans and books of reference of the route which such tramway is intended to follow shall be from time to time prepared and laid before Parliament, and whenever such plans and books of reference have been approved by a resolution of both Houses, the Commissioners, subject to the determination of the Governor, may commence and complete such tramway with all proper works and conveniences connected therewith in accordance with such resolutions.

Entry upon streets
and other
thoroughfares.
Ibid. s. 6.

48. The Commissioners for the purposes of this Part of this Act shall have all necessary rights of ingress and egress in, to, and over the surface of any street, road, highway, or thoroughfare, proclaimed, reserved, or dedicated for the use of the public, or subject to any public easement, over which any such tramway passes as are required for the construction, repair, completion, and use thereof.

Provided that nothing herein contained shall impair or be held to impair the lawful authority of the municipal council of the city of Sydney, or of the council of any municipality, or of any other corporation, company, or person to make all entries, and exercise all other powers necessary for the construction, maintenance, and preservation of gas-works, water-works, sewerage-works, and other works lawfully constructed underground in such streets, roads, highways, or thoroughfares along which any such tramway passes.

Resumption of lands.
Ibid. s. 7.

49. Subject to the provisions of the next following section the Commissioners for the purposes of this Part of this Act shall have all necessary rights to enter upon and resume the lands and grounds of any person whomsoever subject to the same conditions in respect of compensation

compensation and to all other provisions and regulations as under the provisions of the Public Works Act, 1900, are applicable to the resumption of land for railway purposes.

50. The gauge of any tramway constructed under this part of this Act shall not exceed four feet eight and one half inches. Gauge. 43 Vic. No. 25, s. 9.

51. The tramways shall in every case and throughout their course be laid at or about the general level of the streets and highways along which they are to be constructed, but the Commissioners may with the consent of or by mutual agreement with the Municipal Council in which is vested the control and management of any street or highway alter and improve the levels thereof. Levels. Ibid. s. 10.

Provided that all reasonable expenses incurred in the reformation of the said streets or roads so altered and improved shall be borne by the Commissioners unless otherwise agreed upon.

52. The Commissioners shall maintain in perfect order and repair the said tramways and the pavements of the same between the rails of the said tramways, and for the space of one foot and six inches on either side of such rails. Maintenance of roads. Ibid. s. 11.

53. The Commissioners shall immediately repair any damage which may during or by reason of the construction of the said tramways be occasioned to any sewer, or drain, or gas or water main, and shall also repair all damages which may be occasioned by the working of the said tramways. Commissioners to repair damages. Ibid. s. 12.

54. The Commissioners may erect buildings or other structures for the purposes of the said tramways, and may construct lines of approach thereto. Commissioners may erect buildings. Ibid. s. 13.

PART IV.

Traction.

55. The Commissioners may use locomotive engines and other motive or tractive power, and may draw or propel thereby carriages and waggons upon the railways. Motive power. 51 Vic. No. 35, s. 30.

56. The Commissioners may use either in addition to or in substitution for any existing system of traction on tramways any system of electric traction of which they may approve, and may construct, maintain, repair, and use all works necessary for such system of electric traction. Commissioners may use electric traction. 60 Vic. No. 22, s. 2.

Commissioners may
construct works on
roads.
60 Vic. No. 22, s. 3.

57. The Commissioners for the purposes of the next preceding section—

- (a) shall have all such rights of ingress and egress to, from, and over the surface of any road on which any tramway is now or may hereafter be laid, as are required for the construction, maintenance, repair, and use of any such works; and
- (b) may from time to time open up the surface of any road for the purpose of constructing, maintaining, and repairing works beneath the level of such road, and may erect, support, and maintain above the level of, and across any such road, such wires and other electric apparatus as are, in their opinion, necessary for the efficient use and maintenance of electric traction on such tramways.

Provided always that the powers given by this and the next preceding section shall be used so as to interfere as little as may be reasonably possible with traffic and public convenience, that all works commenced shall be expeditiously carried out, and that adequate provision shall be made at all times for the public safety during the construction, maintenance, and repair of any works authorised by this and the said section.

Persons damaging
works.
Ibid. s. 4.

58. Every person who wilfully cuts or otherwise severs any wire or cable, or so damages any part of the works connected with any such system of electric traction as to break the electric circuit or cause leakage or loss of the current shall be deemed guilty of a misdemeanour.

Interpretation.
Ibid. s. 1.

59. In the last three preceding sections :—

“Road” means any public or private road, highway, street, square, lane, court, or passage.

“Works” includes any stations, posts, pillars, brackets, excavations, wires, cables, or other things in any way used in connection with electric traction on tramways.

PART V.

Free Passes.

60. Each of the persons hereinafter mentioned shall be entitled to receive from the Commissioners, and to hold and use, a free pass which shall authorise the holder to travel free on all railways, but which shall in no case be transferable, viz.:—

Persons entitled to
free passes.
51 Vic. No. 35, s. 27.

- (a) every Member of the Legislative Council ;
 - (i) every pass issued to a Member of such Council shall be issued in the name of the person entitled to the same ;
 - (ii) every such pass shall be forthwith returned to the Commissioners by the holder thereof or his agent or personal representative on his ceasing to be a Member of such Council ;
- (b) every Member of the Legislative Assembly ;
 - (i) the free pass to be issued to such Member shall be issued to him in the name of the electorate which he has been elected to represent ;
 - (ii) every such pass shall be returned to the Commissioners by the Member holding the same if the seat of such Member shall have been rendered vacant by his resignation or other act having the effect of vacating his seat in the Legislative Assembly under the law in force for the time being so soon as his successor shall have been elected ;
 - (iii) the passes issued by the Governments of other States or colonies to Members of the respective Parliaments of those States or colonies shall be recognised and held to admit the holders thereof to travel upon the railways of New South Wales ;
 - (iv) any free pass for life or for any fixed period granted prior to the passing of the Government Railways Act of 1888, shall not be affected by these provisions ;
- (c) officers of Parliament ;

the Commissioners may, with the approval of the Governor, issue from time to time, on application, passes, available for a period not exceeding one month to such officers of Parliament as have been heretofore accorded that privilege ;
- (d) every person who has held any of the offices enumerated in the Second Schedule hereto, and whether before or after, or partly before and partly after the commencement of this Act ;

every such pass shall be issued in the name of the person entitled, and shall be available during the term of his life, and shall bear on the face of it the name in full of the person to whom it is granted ;

Second Schedule.

- (e) any person of distinction visiting the State, or officially engaged in some public duty which renders it necessary for him to travel by railway, or who may have rendered some important public service to the State ;

no such pass shall be issued for a period exceeding one month.

Rights and liabilities
under free passes.

51 Vic. No. 35, s. 27.

61. Every free pass issued under the last preceding section shall, in respect to the holder of such pass and his personal representatives, be accompanied by and entail the like rights, remedies, obligations, and liabilities (except in respect of the payment of money therefor) as if the said pass had been a ticket issued to such holder for a money consideration.

Fraudulent use of
free passes.
Ibid. s. 96.

62. If any person, not being one of the persons entitled under the provisions of this Act to claim, hold, and use a free pass on the railways—

- (a) travels, or attempts to travel, by virtue of any such free pass ;
or
 - (b) at any time exhibits, or shows, or carries any such free pass, pretending to be the rightful possessor thereof,
- he shall be guilty of a misdemeanour.

PART VI.

Investigation of accidents.

Accidents to be
reported to the
Minister.
Ibid. s. 51.

63. Whenever, upon or about any railway, or any works, building, or place of any kind whatsoever, used or connected with any railway, any such accident as hereinafter specified takes place in the course of working such railway, viz.—

- (a) any accident attended with loss of life or personal injury to any person ; or
- (b) any collision where one of the trains is a passenger train ; or
- (c) any passenger train or portion thereof accidentally leaving the rails ; or
- (d) any accident of a kind not comprised in the foregoing descriptions, but which has caused or might have caused loss of life or personal injury,

the Commissioners shall

- (e) cause the earliest information by telegraph, post, or otherwise to be forwarded to the Minister ; and
- (f) appoint such officer or officers as they may think fit to hold an inquiry into the matter ; and
- (g) as soon as practicable after such inquiry send to the Minister full information of the accident and the report of such officers.

64. Where it appears to the Minister, either before or after the commencement of any such inquiry, that a more formal investigation of the accident, and of the causes thereof, and of the circumstances attending the same, is expedient, he shall notify the same to the Governor, and the Governor may, by order, direct such investigation to be held.

Governor may direct formal investigation.
51 Vic. No. 35, s. 52.

65. With respect to such investigation the following provisions shall have effect—

Provisions with respect to investigation.
Ibid.

- (a) the Governor may, by the same or any subsequent order, direct a District Court judge, magistrate, or other person or persons, named in the same or any subsequent order, to hold such investigation with the assistance of the assessors named in the order ;
- (b) the person or persons holding any such formal investigation (hereinafter referred to as the Court) shall hold the same in open Court, in such manner, and under such conditions as he or they think most effectual for ascertaining the causes and circumstances of the accident, and enabling him or them to make the report in this section mentioned ;
- (c) the Court shall, for the purposes of such investigation, have all the powers of a Court of Petty Sessions acting in the exercise of its ordinary jurisdiction, and,
 - (i) may enter and inspect any place or building, the entry and inspection whereof appears to such Court requisite for the said purpose ;
 - (ii) may by summons under their hand require the attendance of all such persons as the Court thinks fit to call, and examine the same, and may require answers or returns to such inquiries as the Court thinks fit to make ;
 - (iii) may require and enforce the production of all books, papers, and documents which the Court considers important ;
 - (iv) may administer an oath, and require any person examined to make and sign a declaration of the truth of the statements made by him in his examination ;
- (d) every person so summoned, not being a person engaged in the Railway service or otherwise connected with it, shall be allowed such expenses as would be allowed to a witness attending on subpoena before the Supreme Court ; and in case of dispute as to the amount to be allowed, the same shall be referred by the Court to the Prothonotary of the Supreme Court, who, on request by the Court, shall ascertain and certify the proper amount of such expenses ;
- (e) no answers or declarations of any person examined under this section shall be admissible in evidence in any proceeding against such person other than a prosecution for perjury, or for giving or making false answers or declarations ;

(f)

- (f) the Court, after holding an investigation concerning any accident, shall make a report to the Governor stating the causes of the accident, and all the circumstances attending the same, and any observations thereon, or on the evidence, or on any matters arising out of the investigation, which the Court thinks right to make.

PART VII.

By-laws.

By-laws.

51 Vic. No. 35, s. 53.

66. The Commissioners may make by-laws for all or any of the subjects or matters hereinafter mentioned, and may impose penalties not exceeding twenty pounds, upon any person committing a breach of any of such by-laws—

- (1) for fixing the amount of fares for the conveyance of passengers, and the charges for the carriage of animals, goods, and parcels, and the circumstances and conditions under which the Commissioners will make special rates for the carriage of goods in quantities ;
- (2) for preventing the commission of any nuisance in or upon the carriages, or in any of the stations, buildings, piers, wharfs, or jetties vested in the Commissioners ;
- (3) for preventing the emptying of sewage or drainage on to any of the railways, or on to any lands, stations, building, piers, wharfs, or jetties vested in the Commissioners ;
- (4) for regulating the exercise of the several powers vested in any pier-master, wharfinger, or berthing master ;
- (5) for regulating the admission of vessels to any pier, wharf, or jetty hereinbefore mentioned, and their removal from the same, and for the good order and government of such vessels, whilst at such pier, wharf, or jetty ;
- (6) for regulating the use of any such pier, wharf, or jetty ;
- (7) for regulating the shipping, unshipping, landing, warehousing, stowing, depositing, and removing of all goods from or at any such station, building, pier, wharf, or jetty ;
- (8) for regulating the conduct of all persons (not being any officer of the Marine Board, or of the Department of Harbours and Rivers, or of the Customs), while upon or in any such station, building, pier, wharf, or jetty, or while employed at or near the same ;
- (9) for regulating, subject to the approval of the Marine Board, the use of fires and lights within or on board any vessel being at any such pier, wharf, or jetty ;

(10)

- (10) for preventing damage or injury to any vessel or goods at any such station, building, pier, wharf, or jetty ;
- (11) for regulating the duties and conduct of porters, cabmen, carmen, draymen, and carriers (not being officers of the Commissioners) employed at any such station, building, pier, wharf, or jetty, and fixing the charges to be paid to them for carrying any passengers, goods, articles, or things from or to the same ;
- (12) for fixing the amount of tolls to be paid by any vessel using any such pier, wharf, or jetty, or any crane, the property of the Commissioners ; and for fixing the amount of tolls to be paid on goods brought to or taken from any vessel using any such pier, wharf, or jetty, by lighter or other vessel ;
- (13) for fixing the amount of tolls upon animals and goods received or delivered upon or from any such pier, wharf, or jetty ;
- (14) for regulating generally the travelling or traffic upon, or using or working of the railways, and of the stations, buildings, piers, wharfs, and jetties hereinbefore mentioned ; and for the good government and maintenance of order thereon ;
- (15) for specially regulating the conduct of the traffic during any reconstruction or repair of any railway or tramway ;
- (16) for regulating the terms and conditions upon which special trains will be run ;
- (17) for regulating the admission of the public to any of the railways, and to any of the stations, buildings, piers, wharfs, or jetties, hereinbefore mentioned ; and for fixing a charge therefor, or for dispensing with the same on certain days or for certain times ;
- (18) for regulating the use of stamps as prepayment upon parcels ;
- (19) for regulating the sale of tickets at places, other than railway stations, and the conditions under which such tickets shall be sold ;
- (20) for fixing demurrage charges, where goods are to be loaded into or discharged from trucks by owners, consignors, or consignees ;
- (21) for fixing the charges for warehousing goods, and the charges to be paid in respect of parcels and luggage left for transit or for care or custody, and the conditions upon which they respectively will be received ;
- (22) for regulating the disposal of unclaimed goods ;
- (23) for imposing conditions upon which passengers luggage will be carried ;

- (24) for preventing or regulating bathing or fishing in, or shooting over or upon, any reservoir or tank connected with any of the railways ;
- (25) for regulating the carriage of corpses, and for prohibiting the carriage or conveyance of the bodies of persons who have died from any contagious disease ;
- (26) for prohibiting the carriage or conveyance of diseased animals, and preventing them from coming upon any station or premises ;
- (27) for preventing damage or injury to railway stations, buildings, piers, wharfs, jetties, premises, carriages, gates, fences, or any property whatever ;
- (28) for the issue of free passes on the railways ;
- (29) for regulating public or private traffic across any of the said railways, on the level thereof, and for preventing animals from trespassing on any of the railways ;
- (30) for altering or repealing any by-laws made heretofore with regard to the railways ;
- (31) for regulating the manner in which public notices shall be advertised, and generally with regard to advertising in newspapers and elsewhere ;
- (32) for facilitating and regulating the insurance of persons, travelling on the lines of railway, by any Accident Insurance Company now or hereafter to be formed.

By-laws to be approved and published.

51 Vic. No. 35, s. 54.

Publication of by-laws.

Ibid. s. 54.

67. No such by-law shall have any force or effect unless it has been approved by the Governor, and has been published for at least three clear days in the Gazette.

68. The Commissioners shall cause the substance of such by-laws, and a list of any tolls, fares, and charges from time to time imposed thereby, to be painted upon or to be printed and affixed to boards in large and legible characters, and shall cause such boards to be exhibited in some conspicuous place in or on every station, pier, jetty, wharf, or other place where such tolls, fares, or charges, or any of them are payable, and according to the nature and character of such by-laws respectively, so as to give public notice thereof ; and shall cause every such board from time to time to be renewed, if destroyed or defaced.

Evidence of publication.
Ibid. s. 55.

69. (1) The exhibiting on boards of the substance of such by-laws, and lists of tolls, fares, and charges, shall be deemed to have been complied with, if it is proved that, at the time of any alleged breach, a board was exhibited in accordance with the provisions of the next preceding section, at the station, pier, wharf, jetty, or other place where tolls, fares, or charges were payable, nearest to the place where such breach took place.

(2)

(2) The production of the Gazette, containing such by-law shall be evidence that such by-law has been duly made and confirmed, and that it is still in force. Production of Gazette.

70. When the breach of any by-law would be attended with danger or annoyance to the public, or hindrance to any of the officers in the lawful use of any of the railways, or of any pier, wharf, jetty, station, yard, or building, such officers or any of them may summarily interfere to obviate or remove such danger, annoyance, or hindrance, and that without prejudice to any penalty incurred by the breach of such by-law. Summary interference in certain cases of breach of by-law. 51 Vic. No. 35, s. 57.

PART VIII.

Appointment, promotion, discipline in and regulation of the railway service.

DIVISION 1.—*Examiners.*

71. The Governor may appoint for each branch of the railway service competent persons, to be examiners of candidates for permanent employment in such branch and of officers who are candidates for promotion to the higher grades in such service. Governor to appoint examiners. Ibid. s. 58.

Provided that such examiners shall not hold office longer than three years from the date of appointment, but shall be eligible for reappointment.

DIVISION 2.—*Appointment.*

72. (1) The Commissioners shall appoint or employ such officers, to assist in the execution of this Act as they think necessary, and every officer so appointed shall hold office during pleasure only. Commissioners to appoint staff. Ibid. s. 15.

(2) The Commissioners shall pay such salaries, wages, and allowances to officers as Parliament appropriates for that purpose. Salaries.

(3) No officer appointed under this section shall engage in any employment outside the duties of his office. Staff not to engage in other duties.

73. (1) Whenever the Commissioners require additional permanent officers they shall give public notice thereof three times in a Sydney daily paper. Notice of examination for permanent employment. Ibid. s. 59.

(2) Such notice shall state the qualifications required and the branches for which such additional officers are required, and shall also state the time and place of examination. Terms of notice.

(3)

Arrangements with
respect to country
candidates.

(3) The Commissioners shall so arrange the times and places when and where candidates are to comply with the conditions of employment provided in this Act, and to undergo examination, that persons residing in country districts shall have reasonable facilities for being examined in the district in which they reside.

Permanent
employment.
51 Vic. No. 35, s. 60.
Supernumerary
employment.

74. (1) All persons employed in the railway service, except supernumeraries, shall be deemed to be employed in a permanent office.

(2) No person shall be employed in the railway service as a supernumerary for a longer period in all than six months in any one year, except persons employed as day labourers; and no person who has been so employed shall be again employed as a supernumerary until a period of six months has elapsed from the termination of the period during which he was so employed.

Record of employ-
ments.

(3) The Commissioners shall cause to be kept a special record of all appointments of supernumeraries, and of the circumstances under which their services were deemed necessary, of the periods during which they were respectively employed, and of the payments received by them respectively; and a copy of such record shall be sent to the Minister at the end of every three months.

Certificate.
Ibid. s. 61.

75. No person shall be appointed as an additional permanent officer who has not obtained from the examiners a certificate of fitness, which they are hereby empowered to issue.

Order of precedence
for appointment how
determined.
Ibid. s. 62.

76. (1) If a greater number of candidates than are required by the Commissioners for appointment obtain certificates from the examiners, the Commissioners shall appoint as many persons as are required, in such grades and to such situation as they may consider best.

Excess certificated
candidates.

(2) The persons in excess of the number required by the Commissioners shall be eligible for appointment for a period of twelve months then next ensuing from the date of such determination without further examination.

Nature of appoint-
ments.
Ibid. s. 63.

77. (1) All appointments shall be made to the lowest grade in each of the various branches of the railway service, and on probation only, for a period of six months.

Confirmation of
appointments.

(2) After the period of such probation, and upon production of a certificate of fitness from the officer at the head of the branch in which such probationer was employed, and upon proof to the satisfaction of the Commissioners that all the provisions of this Act have been complied with, such appointments may be confirmed by the Commissioners.

Appointments
without examination.

(3) The Commissioners shall, notwithstanding, have the power to appoint to any position or grade, if they think fit, without examination as aforesaid, persons of known ability not engaged in the railway service; but no such appointment shall be made unless the Commissioners have previously certified under their seal to the Governor that

that there is no person in the railway service fit and qualified to be promoted to such appointment, and shall have obtained his sanction to such appointment.

78. (1) No probationer's appointment shall be confirmed until he has effected, in some life insurance society or company carrying on business in New South Wales, an insurance on his life providing for the payment of a sum of money at his death, should it occur before the age of retirement from the railway service; or, if he survives until that age, of a sum of money or annuity on the date of such retirement. Such insurance shall be continued, and the amount thereof fixed and increased, from time to time, in the prescribed manner.

Appointee to insure his life.
51 Vic. No. 35, s. 64.

(2) No policy of insurance so effected shall, during the time such person remains in the railway service, be assignable either at law or in equity.

Policy not to be assignable.

DIVISION 3.—*Promotion.*

79. (1) When any vacancy occurs in any branch of the railway service not open for competitive examination as hereinafter provided, it shall be filled, if possible, by the promotion of some officer next in rank, position, or grade, to the vacant office; and no such officer shall be passed over unless the head of his branch, in writing, so advises the Commissioners.

Promotions.
Ibid. s. 65.

(2) No officer shall be passed over without being allowed to show cause, in the prescribed manner, to the Commissioners, whose decision upon the matter shall be final.

Cause to be shown.

80. (1) Whenever promotions to the higher grades of the railway service are to be made, the Commissioners shall cause competitive examinations to be held by the examiners.

Competitive examination.
Ibid. s. 66.

(2) The names of the candidates who have satisfied the examiners that they possess the necessary qualifications shall be registered by the Commissioners, in a book kept for that purpose, in the order of their merit.

Successful candidates to be registered.

(3) No promotions to the offices open to competitive examination shall be made except from the persons whose names are so registered, and in the order of such registration, taking the name first registered and following in regular order.

Promotions.

DIVISION 4.—*Suspension and dismissal.*

81. The Commissioners may remove any officer.

Removal of officers.
Ibid. s. 15 (ii).

82. If any person employed by the Commissioners—

(a) exacts, or takes, or accepts on account of anything done by virtue of his office or in relation to the functions of the

Officer taking fees to lose his office and to be guilty of a misdemeanour.

Commissioners, *Ibid.* s. 91.

Commissioners, any fee or reward whatsoever other than the salary, rewards, or allowances allowed or sanctioned by Parliament; or

- (b) is in anywise concerned or interested in any bargain or contract made by or on the behalf of the Commissioners, otherwise than as a member only, but not as a director or officer, of any registered, incorporated or joint stock company with whom any such bargain or contract may be made,

he shall be removed from office, and shall be incapable of being afterwards employed by the Commissioners, and shall also be guilty of a misdemeanour.

Forfeiture of office
in certain cases.
51 Vic. No. 35, s. 72.

83. If any officer is convicted of any felony or infamous offence, or becomes bankrupt, or applies to take the benefit of any Act for the relief of insolvent debtors, or, by any deed or other writing, compounds with his creditors, or makes an assignment of his salary for their benefit, he shall be deemed to have vacated his office.

Powers of
Commissioners on
vacation of offices.
Ibid. s. 15 (11).

84. The Commissioners may discontinue the offices of or appoint other persons in the room of such officers as are removed, or die, or resign, or vacate their offices under the provisions of the last preceding section.

Proviso.
Ibid. s. 73.

Provided that when any officer has vacated his office by reason of any such pecuniary embarrassment as aforesaid, if he proves to the satisfaction of the Commissioners that such embarrassment has not been caused or attended by any fraud, extravagance, or dishonourable conduct, they may reinstate such officer in his former or any other inferior position in the railway service.

Officers guilty of
misconduct.
Ibid. s. 68.
Act No. 72, 1900,
ss. 1, 2.

85. Whenever any officer in any branch of the railway service is guilty of misconduct or of breaking any rule, by-law, or regulation of the railway service, the officer at the head of such branch may in the prescribed manner—

- (a) dismiss or suspend him;
- (b) fine him in a sum not exceeding five pounds;
- (c) reduce him in rank, position, or grade, and pay.

But every such officer so dealt with may appeal in the manner hereinafter provided.

Officers guilty of
misconduct how
dealt with.
51 Vic. No. 35, s. 63.
Act No. 72, 1900, s. 1.

86. (1) Any officer in charge of a railway station may temporarily suspend at such station any officer of inferior rank, position, or grade to his own, until the officer at the head of such suspended officer's branch has dealt with such suspension.

(2) The board constituted in the next Division of this Part may investigate and deal with any charge brought against any officer for the breach of any rule, by-law, or regulation, or for misconduct, and may suspend such officer; or, if he has been already suspended, may

may further suspend him for a period not exceeding six months, without salary or wages, or may inflict a fine to be deducted from his pay, or may dismiss him.

87. (1) No officer shall be liable to dismissal or any disability for refusing, on conscientious grounds, to work on any Sunday except in cases of necessity. Officers not subject to dismissal for refusing to work on Sunday.

(2) Such officer shall be subject to a proportionate reduction in his salary or wages on account of such refusal. 51 Vic. No. 35, s. 70.

Provided that this provision shall not apply to any officer whose duties do not require him to work on Sunday.

DIVISION 5.—*Appeals.*

88. (1) The three Commissioners shall hear, and a majority of such Commissioners shall determine, any appeal made by an officer against the adoption or confirmation of the advice or decision of the officer at the head of his branch, with regard to his right to promotion; and may confirm or modify such decision, or make such order as they think fit; and their decision shall be final. Commissioners to hear appeals. Ibid. s. 71. Act No. 72, 1900, s. 1.

(2) Every such appeal shall be heard within thirty days from the date of the appeal being lodged with the Commissioners.

89. (1) Every other appeal which may be made by an officer under this Part of this Act shall be made to a board, which shall consist of the Secretary to the Commissioners, the Chief Accountant, the Chief Mechanical Engineer, the Engineer-in-Chief for Existing Lines, the Chief Traffic Manager, and one officer to be appointed by the Governor. Board for hearing appeals. Ibid.

(2) Such last-mentioned officer shall be elected by ballot of the officers, and his name shall be submitted to the Governor for appointment as aforesaid, and he shall hold office on the said board for a term of three years. Elective member of board.

90. (1) Three members of the said board shall form a quorum. Quorum. Ibid.

(2) All powers of the board may be exercised by a majority of the members present at any meeting, and in case of an equality of votes the chairman of the meeting shall have a second or casting vote. Exercise of powers.

(3) The members present at each meeting of the board shall appoint one of their number to act as chairman at such meeting. Chairman.

91. No member of the board shall take part in the hearing of any appeal by, or charge against, any officer in the branch of which such member is the head. Disqualification. Ibid.

92. It shall be the duty of the Secretary to the Commissioners to convene all meetings of the board, and to keep a record of all proceedings thereof and decisions arrived at. Records. Ibid.

Time for lodging and hearing appeals.
Act No. 72, 1900, s. 1.

93. Every appeal to the board shall be lodged with the said secretary within seven days of the date of the decision appealed against, and shall be heard by the board within thirty days from the date of it being so lodged.

Members of board may administer oaths.
Ibid.

94. (1) At the hearing of an appeal by, or charge against any officer, any member of the board may administer an oath to every witness at such hearing.

Persons may be represented.

(2) The appellant or person charged shall be entitled to have all witnesses examined on oath, and also to be represented by a barrister, solicitor, or agent, who may examine witnesses and address the board on his behalf.

Powers of board.

(3) The board may confirm or modify any decision appealed against, or make any such order thereon as they think fit.

Effect of decision of board.
Ibid.

95. (1) Every decision of the board shall be final and conclusive unless punishment is thereby imposed involving dismissal, or reduction of rank, position, grade, or pay, in which event the accused may, within seven days after being informed of such decision, appeal therefrom to the Commissioners.

Appeal from board to Commissioners.

(2) Thereupon the Commissioners may hear, and may confirm, modify, or otherwise determine such appeal, and such determination shall be final and conclusive. In the hearing of such appeals the appellant shall have the like rights and privileges as he had before the board, and the Commissioners may administer an oath to every witness at such hearing.

DIVISION 6.—*Officers in positions of trust.*

Commissioners to take security from officers entrusted with money.

51 Vic. No. 35, s. 85.

96. (1) Before any person entrusted with the custody and control of moneys, whether as collector, or other officer of the Commissioners, enters upon his office, the Commissioners shall take sufficient security from him for the faithful execution of his office.

(2) Such security may be that of any incorporated company or guarantee society approved by the Commissioners in the prescribed manner.

Delivery of matters in possession or custody of officers.
Ibid. s. 86.

97. If—

- (a) any collector of tolls or other officer employed by the Commissioners is discharged or suspended from his office, or dies, absconds, or absents himself; and
- (b) such collector or other officer, or the wife, widow, or any of the family or representatives of any such collector or other officer, refuses or neglects, after seven days' notice in writing for that purpose, to deliver up to the Commissioners or to any person appointed by them for that purpose, any station, dwelling-house,

dwelling-house, office, or other buildings with its appurtenances, or any books, papers, or other matters belonging to the Commissioners, in the possession or custody of any such collector or officer at the occurrence of any such event as aforesaid,

then, upon application being made by the Commissioners to any justice, such justice may order any constable, with proper assistance, to enter upon such station or other building, and remove any person found therein, and take possession thereof, and of any such books, papers, or other matters, and to deliver the same to the Commissioners or to any person appointed by such justice for that purpose.

98. (1) Every officer shall, from time to time, when required by the Commissioners, make out and deliver to them or to any person appointed by them for that purpose, a true and perfect account in writing, under his hand, of all moneys received by him on behalf of the Commissioners, or by virtue of his employment.

Officers to account
on demand.
51 Vic. No. 35, s. 87

(2) Such account shall state how, and to whom, and for what purpose, such moneys have been disposed of; and, together with such account, such officer shall deliver the vouchers and receipts for such payments.

Terms of account.

(3) Every such officer shall pay to the Commissioners, or to any person appointed by them to receive the same, all moneys which appear to be owing from him upon the balance of any such account.

Payment.

99. (1) If any such officer fails—

- (a) to render such account; or
- (b) to produce and deliver up all the vouchers and receipts relating to the same in his possession or power; or
- (c) to pay the balance thereof when required; or
- (d) within three days after being thereunto required, to deliver up to the Commissioners, or to any person appointed by them to receive the same, all papers and writings, property, effects, matters, and things in his possession or power relating to the execution of this Act or belonging to the Commissioners,

Officers failing to
account.
Ibid. s 88.

then, on complaint thereof being made to a justice, such justice shall summon such officer to appear before a magistrate, at a time and place to be set forth in such summons to answer such charge.

(2) Upon the appearance of such officer, or in his absence, upon proof that such summons was personally served upon him or left at his last known place of abode, such magistrate may hear and determine the matter in a summary way, and may adjust and declare the balance owing by such officer.

Procedure.

(3) If it appears, either upon confession of such officer, or upon evidence, or upon inspection of the account, that any public moneys

Order may be made.

moneys which should be paid over to the Commissioners are in the hands of such officer or owing by him, such magistrate may order such officer to pay the same.

Officers refusing to account or deliver up books, &c.

51 Vic. No. 35, s. 89.

100. If any such officer, on being so brought before such magistrate and being required so to do, refuses to make out such account in writing, or to produce and deliver to the magistrate the several vouchers and receipts relating thereto, or to deliver up any books, papers, or writings, property, effects, matters, or things in his possession or power belonging to the Commissioners, such magistrate may commit such offender to gaol, there to remain until he delivers up all the vouchers and receipts (if any) in his possession or power relating to such accounts, and all books, papers, writings, property, effects, matters, and things (if any) in his possession or power belonging to the Commissioners, or which should be delivered up by such officer.

Where officer about to abscond a warrant may be issued in the first instance.

Ibid. s. 90.

101. (1) If a Commissioner or any person authorised by a Commissioner makes oath before a justice that he has good reason to believe, upon grounds to be stated in the deposition, and does believe that it is the intention of any such officer as aforesaid, to abscond, or that he has absconded, such justice may issue a warrant in the first instance for the apprehension of such officer to be brought before any magistrate.

Detention of officer.

(2) No person executing such warrant shall keep such officer in custody longer than twenty-four hours, or such longer period as may be rendered necessary by the distance of the place of apprehension from the residence of the nearest or most convenient justice, without bringing him before some justice, who shall either discharge such officer, if he thinks there is no sufficient ground for his detention, or order him to be detained in custody so as to be brought before a magistrate, at a time and place to be named in such order, unless such officer gives bail to the satisfaction of such justice for his appearance before such magistrate to answer the said complaint.

Sureties not to be discharged.

(3) No such proceeding against, or dealing with, any such officer shall deprive the Commissioners of any remedy which they might otherwise have against such officer or any surety of such officer.

DIVISION 7.—*Miscellaneous provisions.*

Gratuities and overtime payments.
Ibid. s. 67.

102. The officer at the head of any branch of the railway service may, if he thinks fit, certify that in his opinion any officer in his branch is entitled to a gratuity or to a payment for overtime work; but no gratuity or payment for overtime work shall be paid upon such certificate without the authority of the Commissioners.

103. The Commissioners shall—

- (a) keep a record of all officers in the railway service, and shall record therein the rank, position, or grade, the length of service, salaries, and such other particulars with regard to such officers as they think fit ;
- (b) cause entries to be made in such record of deaths, dismissals, resignations, promotions, and reductions ;
- (c) in the month of June, in each and every third year, from the year one thousand nine hundred, publish in the Gazette a list of persons employed in the railway service up to the thirty-first day of December of the preceding year.

Record of particulars
of railway service
to be kept.

51 Vic. No. 35, s. 74.

104. The Commissioners shall make regulations—

Regulations.

Ibid. s. 75.

- (a) for prescribing the qualifications required of all candidates for permanent employment in each of the various branches of the railway service, and, if necessary, in each grade of such branches ;
- (b) for the examination of candidates and the granting of certificates to them ;
- (c) for determining the nature or character and extent of examinations or tests, according to the requirements of each of the higher grades in the railway service, which officers in the lower grades, desiring to compete for and to be promoted to such higher grades, shall undergo ;
- (d) for regulating the relative rank, position, or grade in the duties and conduct of the officers in each of the various branches of the railway service ; and for determining which of such grades shall be deemed the higher and lower grades, respectively, in such railway service ;
- (e) for regulating the duties to be performed by officers in the railway service, and the discipline to be observed in the performance of such duties, the granting of leave of absence from time to time, and arranging for the performance of duties during holidays, and for affixing to breaches of such regulations according to the nature of the offences, such penalties as by this Act are authorised ;
- (f) for regulating and determining the scale on which officers in the various grades of the railway service shall insure their lives ;
- (g) for the hearing and determining of appeals ;
- (h) for altering or repealing any rules or regulations made before the passing of this Act with regard to railways or tramways ;
- (i) for fixing the ages at which officers shall retire in the different branches of the railway service.

All such regulations, when confirmed by the Governor, shall have the same force and effect as if they had been contained in this Act :

Provided

Certain regulations
to be confirmed.
51 Vic. No. 35, s. 77.

Provided that no such regulation which in any way alters or annuls any privileges or immunities which officers have previously enjoyed, or dealing in any way with hours of work or wages, shall have any force or effect until the same has been published in the Gazette one week.

Right to sue.
Ibid. s. 76.

105. Nothing in this Act shall be held to in any way interfere with the right of any officer to sue the Commissioners in any court of law, and this Act expressly reserves to every officer the right so to sue should he so desire.

Contractual limits.
Ibid.

106. The Commissioners shall not have power to agree with officers to contract themselves out of the provisions of any Act of Parliament, or to compel them to forego any civil rights to which any Act of Parliament entitles them.

Employer's Liability
Act of 1897.
Ibid. s. 78.

107. The Commissioners shall not be deemed to be exempt from liability to any action which might be brought against an employer under the Employer's Liability Act of 1897.

Officers may be
represented.
Ibid. s. 80.

108. In all public inquiries and investigations into the cause of any accident the officers shall have the right to be represented by one of their number, or by any person whom they may select to represent their interests at such inquiry.

Saving of rights.
Ibid. s. 106.

109. Nothing in this Act shall prejudice or affect any officer in the railway or tramway service who has been a contributor to the Superannuation Account, in respect of his right to any compensation or retiring allowance under the provisions of the Civil Service or any other Act, or to any other rights, privileges, and immunities thereunder.

PART IX.

Penalties and procedure.

Fraudulent
travelling.
Ibid. s. 38.

110. (1) Whosoever—

- (a) travels or attempts to travel in any carriage employed on any railway without having previously paid his fare, and with intent to avoid payment thereof; or
- (b) 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
- (c) knowingly and wilfully refuses or neglects, on arriving at the point to which he has paid his fare, to quit such carriage; or
- (d)

(d) knowingly and wilfully travels or attempts to travel in any carriage, of a superior class to that which his ticket entitles him to use, with intent to avoid payment of the additional fare, shall, for every such offence, forfeit to the Commissioners a sum not exceeding forty shillings.

(2) If any person is discovered either in the act of or after committing or attempting to commit any such offence, all officers and other persons on behalf of the Commissioners, and all constables, and gaolers may lawfully apprehend and detain such person until he can conveniently be taken before some justice, or until he is otherwise discharged in due course of law.

Detention of offenders.

51 Vic. No. 35, s. 39.

111. If any person sends by any railway any aqua fortis, oil of vitriol, gunpowder, lucifer matches, or any goods whatsoever which in the judgment of the Commissioners or their officers may be of a dangerous nature, without distinctly marking the nature of such goods on the outside of the package containing the same, or otherwise giving notice in writing at the time of sending the same to the bookkeeper or other officer of the Commissioners, with whom the same are left, he shall forfeit to the Commissioners a sum not exceeding fifty pounds for every such offence.

Dangerous goods.
Ibid. s. 40 (11).

112. (1) If any person without reasonable excuse, proof whereof shall lie on him, does any of the following things, namely—

Disobedience of person summoned as witness.

Ibid. s. 84.

(a) having been summoned and having had the expenses (if any) to which he is entitled tendered to him, fails to attend as a witness before a court holding an investigation under this Act; or

(b) fails, when required by such court, in pursuance of this Act so to do, to make any answer or to give any return, or to produce any document, or to make or sign any declaration; or

(c) prevents or impedes such court in the execution of its duty, he shall, for every such offence, incur a penalty not exceeding ten pounds.

Provided that, in the case of a failure to give any return or produce any document, the said penalty shall not exceed ten pounds for every day that such failure continues.

(2) Where the offence consists of preventing or impeding as aforesaid, any member of such court, or any person called by him to his assistance, may seize and detain the offender, until he can be conveniently taken before a magistrate or two justices to be dealt with according to law.

Arrest.

113. (1) If any person employed upon the railway or in repairing and maintaining the works of the said railway—

Persons employed on railway guilty of misconduct.

Ibid. s. 92.

(a) is found drunk whilst so employed upon the said railway; or
(b) commits any offence against any of the regulations or by-laws of the Commissioners; or

c 52—C

(c)

- (c) wilfully, maliciously, or negligently does any act, or is guilty of any omission of duty, whereby the life or limb of any person passing along or being upon such railway or the works thereof, respectively, is or might be injured or endangered, or whereby the passage of any engine, carriage, or trains is or might be obstructed or impeded,

any railway officer or agent or any special constable duly appointed, and all such persons as any of them may call to his assistance, may seize and detain such person so offending, or any person counselling, aiding, or assisting in such offence, and convey him with all convenient despatch before any magistrate, without any other warrant or authority than this Act, to be dealt with according to law.

Penalty.

(2) Every person so offending as aforesaid, and every person counselling, aiding, or assisting therein, shall, upon conviction before such magistrate, upon a complaint in writing, be imprisoned, with or without hard labour, for any term not exceeding six months, or shall forfeit any sum not exceeding fifty pounds.

Obstructions and trespasses.

51 Vic. No. 35, s. 93

114. If any person—

- (a) wilfully obstructs any person acting under the authority of the Commissioners in the lawful exercise of his power; or
- (b) pulls up or removes any poles or stakes driven into the ground, for the purpose of setting out any line of railway, or defaces or destroys any marks made for the same purpose; or
- (c) wilfully obstructs or impedes any officer or agent of the Government or of the Commissioners in the execution of his duty upon any railway, or upon or in any of the stations or other works or premises connected therewith; or
- (d) wilfully trespasses upon any such railway or any of the stations or other works or premises connected therewith,

such person and all others aiding or assisting in the commission of any such offence, shall forfeit to the Commissioners a sum not exceeding twenty pounds for every such offence.

Other obstructions.

Ibid. s. 94.

115. (1) If any person—

- (a) throws away gravel, stones, or rubbish, or any matter or thing upon any part of a railway; or
- (b) drives or permits to wander, stray, or be driven upon any such railway or the approaches thereto, any horse, ass, sheep, swine, or other beasts or cattle of any kind; or
- (c) does any other act, matter, or thing to obstruct the free passage of any such railway or any part thereof;

such person and all others aiding or assisting in the commission of any such offence, shall forfeit and pay for every such offence any sum not exceeding fifty pounds.

Procedure.

(2) The penalty for every such offence may be recovered before any magistrate on complaint to him for that purpose exhibited by any person on behalf of the Commissioners.

116.

116. (1) The Commissioners shall publish the short particulars of the several offences, for which any penalty is imposed by this Act or by any by-law of the Commissioners, affecting other persons than officers, and of the amount of every such penalty; and shall cause such particulars to be painted on a board, or printed upon paper and pasted thereon, and shall cause such board to be hung up or affixed in some conspicuous part of the principal place of business of the Commissioners.

Publication of penalties.
51 Vic. No. 35, s. 82.

(2) When any such penalties are of local application the Commissioners shall cause such boards to be affixed in some conspicuous place in the neighbourhood to which such penalties are applicable or have reference.

Local penalties.

(3) Such particulars shall be renewed as often as the same or any part thereof are obliterated or destroyed.

Particulars to be renewed.

(4) No such penalty shall be recoverable unless the requirements of this section have been complied with.

117. If any person pulls down or injures any board put up or affixed, as required by this Act, for the purpose of publishing any by-law or penalty, or obliterates any of the letters or figures thereon, he shall forfeit, for every such offence, a sum not exceeding five pounds, and shall defray the expenses attending the restoration of such board.

Penalty for defacing boards used for publication.
Ibid. s. 83.

118. Any railway officer or agent, and all persons called by him to his assistance, may seize and detain any person who has committed any offence against the provisions of this Act, and whose name and residence are unknown to such officer or agent, and may convey him with all convenient despatch before some magistrate, without any warrant or other authority than this Act; and such magistrate shall proceed with all convenient despatch to the hearing and determining of the complaint against such offender.

Arrest of offenders.
Ibid. s. 97.

119. Every penalty or forfeiture imposed by this Act or by any by-law made in pursuance thereof, the recovery of which is not otherwise provided for, may be recovered in a summary manner before any magistrate according to the Acts in force for the time being regulating summary proceedings before justices.

Penalties to be summarily recovered.
Ibid. s. 99.

120. If any person inflicts, through any act, neglect, or default whereby he has incurred any penalty imposed by this Act, any damage upon any railway or other property vested in the Commissioners, he shall be liable to pay such damage in addition to such penalty, and the amount of such damage shall be determined by the magistrate or justices.

Damage to be made good in addition to penalty.
Ibid. s. 100.

121. (1) Where in this Act any question of compensation, expenses, charges, damages, or other matter is referred to the determination of a magistrate or two justices, any justice may, upon the application of either party, summon the other party to appear before a magistrate or two justices at a time and place to be named in such summons.

Method of proceeding before justices in question of damages, &c.
Ibid. s. 98.

(2)

Proceedings on
appearance.

(2) Upon the appearance of such parties, or, in the absence of any of them, upon proof of due service of the summons, such magistrate or justices may hear and determine such question.

Costs.

(3) The costs of every such inquiry shall be in the discretion of such magistrate or justices, and he or they shall determine the amount thereof.

Service upon
Commissioners.
51 Vic. No. 35, s. 103.

122. Any summons, notice, writ, process, or document required to be served on the Commissioners pursuant to any Act, by-law, or regulation, may be served upon the solicitor to the Commissioners.

Limitation of actions
against the
Commissioners.
Ibid. s. 104.

123. All actions against the Commissioners or against any person for anything done or purporting to have been done under this Act shall be commenced within one year after the act complained of was committed.

Notice of action.
Ibid.

124. (1) No action shall be commenced against the Commissioners or any person for anything done or purporting to have been done by them or him under this Act, until one month, at least, after a notice in writing of such intended action has been delivered to them or him, or left at their or his usual place of business, or at the office of the solicitor for railways, by the party intending to commence such action, or by his attorney or agent.

Terms of notice.

(2) Such notice shall clearly and explicitly state the cause of action and the Court in which the same is intended to be brought, and upon the back thereof shall be indorsed the name and place of abode of the party so intending to sue, and also the name and place of abode or of business of the attorney or agent, if such notice was served by such attorney or agent.

Defects in notice.

(3) A notice under this section shall not be deemed invalid by reason of any defect or inaccuracy therein, unless the Judge before whom the action is tried is of opinion that the defendant in the action has been prejudiced in his defence by such defect or inaccuracy.

General issue.

(4) The defendant in every such action may plead the general issue, and at the trial thereof give this Act and the special matter in evidence.

Limitation of
compensation in
respect of personal
injuries.
60 Vic. No. 21, s. 2.

125. In any action, either under the Compensation to Relatives Act of 1897 or otherwise, against the Commissioners, as carriers of passengers, in respect of injuries sustained after the twenty-second day of October, one thousand eight hundred and ninety-six, by any person while being carried upon any railway vested in the Commissioners, or while being in or upon or about any station, yard, land, or premises vested in or used by them, no larger sum than two thousand pounds shall be recoverable.

Tender of amends.
51 Vic. No. 35, s. 105.

126. (1) If any person has committed any irregularity, trespass, or other wrongful proceeding in the execution of this Act, or by virtue of any power or authority hereby given, and if before action brought in respect thereof such person makes tender of sufficient amends to the person injured, such last-mentioned person shall not recover in any such action.

(2)

(2) If no such tender has been made, the defendant may, *Payment into Court.* by leave of the Court where such action is pending, at any time before issue joined, pay into Court such sum of money as he thinks fit, and thereupon such proceedings shall be had as in other cases where defendants are allowed to pay money into Court.

SCHEDULES.

FIRST SCHEDULE.

Section 2.

Reference to Act.	Title or short title.	Extent of repeal.
43 Vic. No. 25 ...	Tramways Extension Act, 1880	The whole.
46 Vic. No. 26 ...	Tramways Declaratory Act, 1883	The whole.
51 Vic. No. 35 ...	Government Railways Act of 1888	The whole.
52 Vic. No. 5 ...	Government Railways Act Amendment Act ...	The whole.
55 Vic. No. 28 ...	Government Railways (Contracts) Amendment Act of 1892	The whole.
60 Vic. No. 21 ..	Government Railways (Compensation Limitation) Act, 1896	The whole.
60 Vic. No. 22 ...	Electric Traction Act, 1896	The whole.
Act No. 72, 1900	Government Railways (Employees' Appeal) Act, 1900	The whole.

SECOND SCHEDULE.

Section 61.

Offices entitling persons to free passes for life—

1. The position of—
 - (a) head of an administration or of Prime Minister, held for two years consecutively or in the aggregate;
 - (b) member of the Executive Council, so held for four years.
2. The office of—
 - (a) Chief Justice, held for three years;
 - (b) Lieutenant-Governor, held for one year;
 - (c) President of the Legislative Council, held for one year;
 - (d) Speaker of the Legislative Assembly, held for one year.

Sydney: William Applegate Gullick, Government Printer.—1901.

[1s. 9d.]

