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THE INDIAN RAILWAYS ACT, 1890.
(ACT IX OF 1890)

AS MODIFIED UP TO 1st JUNE, 1909.



BOMBAY
KAISER-I-HIND ELECTRIC PRINTING PRESS,
1912.

ERRATA.



On page 15 read Section 3 for 4
" 16 " " 3 " 4
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" X " " 54 " 51

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ACT IX OF 1890 HAS BEEN REPEALED IN PART AND AMENDED BY
ACTS IX OF 1896 AND XIII OF 1898.

IT IS SUPPLEMENTED BY THE RAILWAY BOARD ACT, 1905 (4 OF 1905)

The following changes have been made in reprinting
the Act :—

- (1) repealed matter has been omitted, explanatory notes being inserted
- (2) amendments have been inserted in their proper places, with explanatory foot-notes
- (3) some foot-notes have been added for convenience of reference :
and
- (4) an index has been added

ACT NO. IX OF 1890.

[21st March, 1890.]

An Act to consolidate, amend and add to the law relating to Railways in India.

[As modified up to 1st June, 1909.]

WHEREAS it is expedient to consolidate, amend and add to the law relating to railways in India; it is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Title, extent and commencement.

1. (1) This Act may be called the Indian Railways Act, 1890.

(2) It extends to the whole of British India, inclusive †
* * * (in so far as it has been or may be

* For Statement of Objects and Reasons, see Gazette of India, 1888, Pt. V, p. 133; for Report of the Select Committee, see *ibid*, 1890, Pt. V, p. 23; and for Debates in Council, see *ibid*, 1888, Pt. VI, pp. 124 & 137, and *ibid*, 1890, Pt. VI, pp. 15 and 48.

Act IX of 1890 has been declared in force by notification under s. 3 (a) of the Scheduled Districts Act, 1874 (14 of 1874) Genl. Acts, Vol. II, in the following Scheduled Districts, namely:—

Tara Parganas, Province of Agra, see Gazette of India, 1890, Pt. I, p. 596, the Districts of Hazaribagh, Lohardaga (including at this time the present District of Palnau which was separated in 1894) and Manbhum, and Pargana Dhalbhum and the Kolhan in the District of Singhbhum, see *ibid*, p. 859.

The District of Lohardaga is now called the Ranchi District, see Calcutta Gazette, 1899, Pt. I, p. 44.

It has been applied to the Santhal Parganas by the Santhal Parganas Settlement Regulation, 1872 (3 of 1872), s. 3, as amended by the Santhal Parganas Justice and Laws Regulation, 1899 (3 of 1899). See Pt. II of the Schedule to the last-named Regulation as modified up to 1st March, 1909.

It has been declared in force in Upper Burma (except the Shan States) by the Burma Laws Act, 1898 (13 of 1898), Bur. Code.

It was previously in force there *proprio vigore*.

It has been extended under s. 3, sub-sections (2) and (3) of the Sindh-Pishin Railway Act, 1887 (11 of 1887), to that part of the Sindh-Pishin section of the North-Western railway which lies beyond the province of Sindh, subject to certain modifications, see in Appendix to the Bal. Code, p. 156.

The Railway Board Act, 1905, (4 of 1905), is to be read with, and taken as part of, this Act, see s. 1 (2) of that Act, Genl. Acts, Vol. VI.

As to payment of interest out of capital during construction in the case of Railway Companies registered under the Indian Companies Act, 1882 (6 of 1882) see the Indian Railway Companies Act, 1895 (10 of 1895), Genl. Acts Vol IV.

† The words "of Upper Burma and" were repealed by the Burma Laws Act, 1898 (13 of 1898), Bur. Code.

(Chapter I.—Preliminary.—Sections 2-3.)

extended under the provisions of the *Sindh-Pishin Railway XI of 1887. Act, 1887), of British Baluchistan, and applies also to all subjects of Her Majesty within the dominions of Princes and States in India in alliance with Her Majesty, and to all Native subjects of Her Majesty, without and beyond British India and those dominions; and

(3) It shall come into force on the first day of May, 1890.

Repeal. **2**† (1) On and from that day the enactments specified in the first schedule are repealed to the extent mentioned in the third column thereof.

(2) But all rules, declarations and appointments made, sanctions and directions given, forms approved, powers conferred and notifications published under any of those enactments, or under any enactment repealed by any of them, shall, so far as they are consistent with this Act, be deemed to have been respectively made, given, approved, conferred and published under this Act.

(3) Any enactment or document referring to any of those enactments or to any enactment repealed by any of them, shall, so far as may be, be construed to refer to this Act or to the corresponding portion thereof.

Definitions. **3.** In this Act, unless there is something repugnant in the subject or context,—

(1) “tramway” means a tramway constructed under

* Bal. Code.

† So much of this section as relates to the repeal of part of the Upper Burma Laws Act, 1886 (20 of 1886), has been repealed by the Burma Laws Act, 1898, (13 of 1898), Bur. Code

1890.]

Railways.

(Chapter I.—Preliminary.—Section 3.)

XI of 1886. the † Indian Tramways Act, 1886, or any special Act relating to tramways :

(2) “ferry” includes a bridge of boats, pontoons or rafts, a swing-bridge, a flying bridge and a temporary bridge, and the approaches to, and landing-places of, a ferry :

(3) “inland water” means any canal, river, lake or navigable water in British India :

(4) “railway” means a railway, or any portion of a railway, for the public carriage of passengers, animals or goods, and includes :—

- (a) all land within the fences or other boundary-marks indicating the limits of the land appurtenant to a railway ;
- (b) all lines of rails, sidings or branches worked over for the purposes of, or in connection with, a railway ;
- (c) all stations, offices, warehouses, wharves, work-shops, manufactories, fixed plant and machinery and other works constructed for the purposes of, or in connection with, a railway ; and
- (d) all ferries, ships, boats and rafts which are used on inland waters for the purposes of the traffic of railway and belong to or are hired or worked by the authority administering the railway :

† Genl. Acts, Vol. III.

(Chapter I.—Inspection of Railways.—Section 4.)

(5) * “railway company” includes any persons, whether incorporated or not, who are owners or lessees of a railway or parties to an agreement for working a railway :

(6) “railway administration” or “administration” in the case of a railway administered by the Government or a Native State, means the manager of the railway and includes the Government or the Native State, and, in the case of a railway administered by a railway company, means the railway company :

(7) “railway servant” means any persons employed by a railway administration in connection with the service of a railway :

(8) “Inspector” means an Inspector of Railways appointed under this Act :

(9) † “goods” includes inanimate things of every kind :

(10) ‡ “rolling-stock” includes locomotive engines, tenders, carriages, wagons, trucks and trollies of all kinds :

(11) § “traffic” includes rolling-stock of every description, as well as passengers, animals and goods :

(12) “through traffic” means traffic which is carried over the railways of two or more railway administrations :

* Cf. the regulation of Railways Act, 1871 (34 & 35 Vict., c. 78), s. 2.

† Cf. the Railways Clauses Act, 1845 (8 & 9 Vict., c. 20), s. 3.

‡ Cf. the Railway Rolling-Stock Protection Act, 1872 (35 & 36 Vict., c. 50), s. 2.

§ Cf. the Railway and Canal Traffic Act, 1854 (17 & 18 Vict., c. 31), s. 3.

(Chapter I.—*Inspection of Railways.*—Section 4.)

(13) † “rate” includes any fare, charge or other payment for the carriage of any passenger, animal or goods :

(14) ‡ “terminals” includes charges in respect of stations, sidings, wharves, depôts, warehouses, cranes and other similar matters, and of any services rendered thereat :

(15) “pass” means an authority given by a railway administration, or by an officer appointed by a railway administration in this behalf, and authorizing the person to whom it is given to travel as a passenger on a railway gratuitously :

(16) “ticket” includes a single ticket, a return ticket and a season ticket :

(17) “maund” means a weight of three thousand two hundred tolas, each tola being a weight of one hundred and eighty grains Troy : and

(18) § “Collector” means the chief officer in charge of the land-revenue administration of a district, and includes any officer specially appointed by the Local Government to discharge the functions of a Collector under this Act.

† Cf the Railways Clauses Act, 1845 (8 & 9 Vict., c. 20), s. 3.

‡ Cf the Railway and Canal Traffic Act, 1888 (51 & 52 Vict., c. 25), s. 55.

§ See also the definition in s. 3 (10) of the general Clauses Act, 1897 (10 of 1897), genl. Acts, Vol. IV.

(Chapter II.—*Inspection of Railways.*—Section 5.)

CHAPTER II.

INSPECTION OF RAILWAYS.

4. ¶ (1) The Governor General in Council may appoint persons by name or by virtue of their office, to be * * Inspectors of Railways.

Appointment and duties of Inspectors.

(2) The duties of an Inspector of Railways shall be :—

- (a) to inspect railways with a view to determine whether they are fit to be opened for the public carriage of passengers, and to report thereon to the Governor General in Council as required by this Act ;
- (b) to make such periodical or other inspections of any railway or of any rolling-stock used thereon as the Governor General in Council may direct ;
- (c) to make inquiry under this Act into the cause of any accident on a railway ;
- (d) to perform such other duties as are imposed on him by this Act, or any other enactment for the time being in force relating to railways.

5. * An Inspector shall, for the purpose of any of the duties which he is required or authorized to perform under this Act, be deemed to be a public servant within the meaning of the † Indian

Powers of Inspectors.

¶ Cf. the Regulation of Railways Act, 1871 (34 & 35 Vict., c. 78), s. 3.

** For persons appointed to be Inspectors of Railways under this section, see Government of India (Railway) Circular No. XV, dated 4th December, 1888.

* Cf. the Regulation of Railways Act (34 & 35 Vict., c. 78), s. 4.

† Genl. Acts Vol. 1.

1890.]

Railways.

(Chapter II.—*Inspection of Railways.*—Section 6.)

Penal Code, and, subject to the control of the Governor

General in Council, shall for that purpose
XLV of 1860. have the following powers, namely :—

- (a) to enter upon and inspect any railway or any rolling-stock used thereon ;
- (b) by an order in writing under his hand addressed to the railway administration, to require the attendance before him of any railway servant, and to require answers or returns to such inquiries as he thinks fit to make from such railway servant or from the railway administration ;
- (c) to require the production of any book or document belonging to or in the possession or control of any railway administration (except a communication between a railway company and its legal advisers) which it appears to him to be necessary to inspect.

6. A railway administration shall afford to the Inspector

Facilities to be
afforded to In-
spectors.

all reasonable facilities for performing the duties and exercising the powers imposed and conferred upon him by this Act.

(Chapter III.—Construction and Maintenance of Works.—Section 7.)

CHAPTER III.

CONSTRUCTION AND MAINTENANCE OF WORKS.

7* (1) Subject to the provisions of this Act, and, in the case of immoveable property not belonging to the railway administration, to the provisions of any enactment for the time being in force for the acquisition of land for public purposes and for companies, and subject, also, in the case of a railway company, to the provisions of any contract between the company and the Government, a railway administration may for the purpose of constructing a railway or the accommodation or other works connected therewith, and notwithstanding anything in any other enactment for the time being in force,—

Authority of railway administrations to execute all necessary works.

- (a) make or construct in, upon, across, under or over any lands, or any streets, hills, valleys, roads, railways, or tramways, or any rivers, canals, brooks, streams or others waters, or any drains, water-pipes, gas-pipes or telegraph lines, such temporary or permanent inclined planes, arches, tunnels, culverts, embankments, aqueducts, bridges, roads, † [lines of railway], ways, passages, conduits, drains, piers, cuttings and fence as the railway administration thinks proper;

* Cf. the Railways Clauses Act, 1845 (8 and 9 Vict., c. 20), s. 16.

† These words were added by the Indian Railways Act (1899) Amendment Act, 1896 (9 of 1896), s. 1, Genl. Acts, Vol. IV.

(Chapter III.—Construction and Maintenance of
Works.—Section 7.)

- (b) alter the course of any rivers, brooks, streams, or water-courses, for the purpose of constructing and maintaining tunnels, bridges, passages, or other works over or under them, and divert or alter, as well temporarily as permanently, the course of any rivers, brooks, streams or water-courses or any roads, streets or ways, or raise or sink the level thereof, in order the more conveniently to carry them over or under or by the side of the railway, as the railway administration thinks proper ;
 - (c) make drains or conduits into, through or under any lands adjoining the railway for the purpose of conveying water from or to the railway ;
 - (d) erect and construct such houses, warehouses, offices and other buildings, and such yards, stations, wharves, engines, machinery, apparatus and other works and conveniences as the railway administration thinks proper ;
 - (e) alter, repair or discontinue such buildings, works and conveniences as aforesaid or any of them, and substitute others in their stead ; and
 - (f) do all other acts necessary for making, maintaining, altering or repairing and using the railway.
- (2) The exercise of the powers conferred on a railway administration by sub-section (1) shall be subject to the control of the Governor General in Council.

(Chapter III.—Construction and Maintenance of
Works.—Section 8.)

8. A railway administration may, for the purpose of exercising the powers conferred upon it by this Act, alter the position of any pipe for the supply of gas, water or compressed air or the position of any electric wire or of any drain not being a main drain :

Provided that—

- (a) when the railway administration desires to alter the position of any such pipe, wire or drain, it shall give reasonable notice of its intention to do so, and of the time at which it will begin to do so, to the * local authority or company having control over the pipe, wire or drain, or, when the pipe, wire or drain is not under the control of a local authority or company, to the person under whose control the pipe, wire or drain is ;
- (b) a local authority, company or person receiving notice under proviso (a) may send a person to superintend the work, and the railway administration shall execute the work to the reasonable satisfaction of the person so sent, and shall make arrangements for continuing during the execution of the work the supply of gas, water, compressed air or electricity or the maintenance of the drainage, as the case may be.

* For definition of, "local authority," see s. 135 (5), *infra*, p. 75, and the General Clauses Act, 1897 (10 of 1897), s. 3 (28), Genl. Acts, Vol. IV.

(Chapter III.—Construction and Maintenance of Works.—Section 9.)

9. * (1) The Governor General in Council may authorize any railway administration, in case of any slip or other accident happening or being apprehended to any cutting, embankment or other work under the control of the railway administration, to enter upon any lands adjoining its railway for the purpose of repairing or preventing the accident, and to do all such works as may be necessary for the purpose.

Temporary entry upon land for repairing or preventing accident.

(2) In case of necessity the railway administration may enter upon the lands and do the works aforesaid without having obtained the previous sanction of the Governor General in Council, but in such a case shall, within seventy-two hours after such entry, make a report to the Governor General in Council, specifying the nature of the accident or apprehended accident, and of the works necessary to be done, and the power conferred on the railway administration by this sub-section shall cease and determine if the Governor General in Council, after considering the report, considers that the exercise of the power is not necessary for the public safety.

* Cf. the Railway Regulation Act, 1842 (5 & 6 Vict., c. 55), s. 14.

(Chapter III.—Construction and Maintenance of Works.—Sections 10-11.)

Payment of compensation for damage caused by lawful exercise of powers under section 7, 8, or 9.

10. (1) A railway administration shall do as little damage as possible in the exercise of the powers conferred by any of the three last foregoing sections, and compensation shall be paid for any damage caused by the exercise thereof.

(2) A suit shall not lie to recover such compensation, but in case of dispute the amount thereof shall, on application to the Collector, be determined and paid in accordance, so far as may be, * [with the provisions of sections 11 to 15, both inclusive, sections 18 to 34, both inclusive and sections 1 of 1894. 53 and 54 of the land Acquisition Act, 1894, and the provisions of sections 51 and 52 of that Act shall apply to the award of compensation.]

11. † (1) A railway administration shall make and maintain the following works for the accommodation of the owners and occupiers of lands adjoining the railway, namely :—

(a) such and so many convenient crossings, bridges, arches, culverts and passages over, under or by the sides of, or leading to or from, the railway as

* These words and figures were substituted for the words and figures "with the provisions of sections 11 to 15, both inclusive, and sections 18 to 42, both inclusive, of the Land Acquisition Act, 1870, and the provisions of sections 57 and 58 of that Act shall apply to the award of compensation," by the Indian Railways Act (1890, Amendment Act, 1896 (9 of 1896), s. 2, Genl. Acts. Vol. IV.

† Cf. the Railways Clauses Act, 1845 (8 & 9 Vict., c. 20), s. 68.

*(Chapter III.—Construction and Maintenance of
Works.—Section 11.)*

may, in the opinion of the Governor General in Council, be necessary for the purpose of making good any interruptions caused by the railway to the use of the lands through which the railway is made, and

- (b) all necessary arches, tunnels, culverts, drains, water-courses or other passages, over or under or by the sides of the railway, of such dimensions as will, in the opinion of the Governor General in Council, be sufficient at all times to convey water as freely from or to the lands lying near or affected by the railway as before the making of the railway, or as nearly so as may be.

(2) Subject to the other provisions of this Act, the works specified in clauses (a) and (b) of sub-section (1) shall be made during or immediately after the laying out or formation of the railway over the lands traversed thereby and in such manner as to cause as little damage or inconvenience as possible to persons interested in the lands or affected by the works.

(3) The foregoing provisions of this section are subject to the following provisos, namely :—

- (a) a railway administration shall not be required to make any accommodation works in such a manner as would prevent or obstruct the working or using of the railway, or to make any ac-

(Chapter III.—Construction and Maintenance of
Works.—Section II.)

accommodation works with respect to which the owners and occupiers of the lands have agreed to receive and have been paid compensation in consideration of their not requiring the works to be made ;

(b) * save as hereinafter in this Chapter provided, a railway administration shall not, except on the requisition of the Governor General in Council, be compelled to defray the cost of executing any further or additional accommodation works for the use of the owners or occupiers of the lands after the expiration of ten years from the date on which the railway passing through the lands was first opened for public traffic ;

(c) where a railway administration was provided suitable accommodation for the crossing of a road or stream, and the road or stream is afterwards diverted by the act or neglect of the person having the control thereof, the administration shall not be compelled to provide other accommodation for the crossing of the road or stream.

(4) † The Governor General in Council may appoint a time for the commencement of any work to be executed under sub-section (1), and if for fourteen days next after, that

* Cf. the Railways Clauses Act, 1845 (8 & 9 Vict., c. 20), s. 78.

† Cf. *ibid.*, s. 70.

(Chapter III.—Construction and Maintenance of
Works.—Sections 12-13.)

time the railway administration fails to commence the work or, having commenced it, fails to proceed diligently to execute it in a sufficient manner, the Governor General in Council may execute it and recover from the railway administration the cost incurred by him in the execution thereof

12. * If an owner or occupier of any land affected by a railway considers the works made under the last foregoing section to be insufficient for the commodious use of the land, or if the Local Government or a local authority desires to construct a public road or other work across, under or over a railway, he or it, as the case may be, may at any time require the railway administration to make at his or its expense such further accommodation works as he or it thinks necessary and are agreed to by the railway administration or as, in case of difference of opinion, may be authorised by the Governor General in Council.

13. † The Governor General in Council may require Fences, screens, gates and bars. that, within a time to be specified in the requisition, or within such further time as he may appoint in this behalf,—

(a) boundary-marks or fences be provided or renewed

* Cf. the Railways Clauses Act, 1845 (8 & 9 Vict., c. 20), s. 71.

† Cf. the Railway Regulation Act, 1842 (5 & 6 Vict., c. 55), s. 10.

(Chapter III.—Construction and Maintenance of
Works.—Section 14.)

by a railway administration for a railway or any part thereof and for roads constructed in connection therewith ;

- (b) ‡ any works in the nature of a screen near to or adjoining the side of any public road constructed before the making of a railway be provided or renewed by a railway administration for the purpose of preventing danger to passengers on the road by reason of horses or other animals being frightened by the sight or noise of the rolling-stock moving on the railway ;
- (c) ¶ suitable gates, chains, bars, stiles or handrails be erected or renewed by a railway administration at places where a railway crosses a public road on the level ;
- (d) * persons be employed by a railway administration to open and shut such gates, chains and bars.

14 † (r) Where a railway administration has constructed a railway across a public road on the level, the Governor General in Council may at any time, if it appears to him necessary for the public safety, require the railway administra-

Over and under bridges.

‡ Cf. the Railways Clauses Act, 1845 (8 & 9 Vict., c. 20), s. 63.

¶ Cf. the Railway Regulation Act, 1842 (5 & 6 Vict., c. 55), s. 9.

* Cf. the Railways Clauses Act, 1845 (8 and 9 Vict., c. 20), s. 48.

† Cf. the Railways Clauses Act, 1863 (26 and 27 Vict., c. 92) s. 7.

(Chapter III.—Construction and Maintenance of
Works.—Section 15.)

tion, within such time as he thinks fit, to carry the road either under or over the railway by means of a bridge or arch, with convenient ascents and descents and other convenient approaches, instead of crossing the road on the level, or to execute such other works as, in the circumstances of the case, may appear to the Governor General in Council to be best adapted for removing or diminishing the danger arising from the level-crossing.

(2) The Governor General in Council may require as a condition of making a requisition under sub-section (1), that the local authority, if any, which maintains the road, shall undertake to pay the whole of the cost to the railway administration of complying with the requisition or such portion of the cost as the Governor General in Council thinks just.

Removal of
trees danger-
ous to or ob-
structing the
working of a
railway.

15. † (1) In either of the following cases,
namely :—

(a) where there is danger that a tree stand-
ing near a railway may fall on
the railway so as to obstruct traffic,

(b) when a tree obstructs the view of any fixed
signal,

1 Cf. the Railways Clauses Act, 1845 (8 and 9 Vict., c. 20), s. 46, and the Railway and Canal Traffic Act, 1888 (51 and 52 Vict., c. 25), s. 16.

† Cf. the Regulation of Railways Act, 1868 (31 and 32 Vict., c. 119), s. 24.

*(Chapter III.—Construction and Maintenance of
Works.—Section 15.)*

the railway administration may, with the permission of any Magistrate, fell the tree or deal with it in such other manner as will in the opinion of the railway administration avert the danger or remove the obstruction, as the case may be.

(2) In case of emergency the power mentioned in sub-section (1) may be exercised by a railway administration without the permission of a Magistrate.

(3) Where a tree felled or otherwise dealt with under sub-section (1) or sub-section (2) was in existence before the railway was constructed or the signal was fixed, any Magistrate may, upon the application of the persons interested in the tree, award to those persons such compensation as he thinks reasonable.

(4) Such an award, subject, where made in a presidency-town by any Magistrate other than the Chief Presidency Magistrate or, where made elsewhere by any Magistrate or other than the District Magistrate, to revision by the Chief Presidency Magistrate, or the District Magistrate, as the case may be, shall be final.

(5) A Civil Court shall not entertain a suit to recover compensation for any tree felled or otherwise dealt with under this section.

(Chapter IV.—Opening of Railways.—Section 16.)

CHAPTER IV.

OPENING OF RAILWAYS.

16. * (1) A railway administration may, with the previous sanction of the Governor General in Council, use upon a railway locomotive engines or other motive power, and rolling-stock to be drawn or propelled thereby.†

(2) But rolling-stock shall not be moved upon a railway by steam or other motive power until such general rules for the railway as may be deemed to be necessary have been made, sanctioned and published under this Act.

* Cf. the Railways Clauses Act, 1845 (8 & 9 Vict., c. 20), s. 86.

† For notifications sanctioning the use of motive power and rolling stock on railways in—

- (1) Assam, see Gazette of India, 1883, Pt. I, p. 21; *ibid*, 1885, Pt. I, p. 588; *ibid*, 1893, Pt. I, p. 178;
- (2) Bengal, including the districts now under Eastern Bengal and Assam, see Gazette of India, 1879, Pt. I, p. 428; *ibid*, 1880, Pt. I, p. 30; *ibid*, 1883, Pt. I, p. 21; *ibid*, 1884, Pt. I, p. 322; *ibid*, 1885, Pt. I, p. 580; *ibid*, 1888, Pt. I, p. 148, and others too numerous to be included in this note;
- (3) Bombay, see Bom. R. and O., Vol. I;
- (4) Burma, see Bur. R. M., Vol. I;
- (5) Central Provinces, see Gazette of India, 1885, Pt. I, p. 683, etc.;
- (6) Madras, see Mad. R. and O., Vol. I;
- (7) Punjab, see Gazette of India, 1879, Pt. I, p. 428; *ibid*, 1884, Pt. I, p. 322; *ibid*, 1885, Pt. I, p. 588, etc., and Punj. R. and O.;
- (8) United Provinces of Agra and Oudh, see Gazette of India, 1879, Pt. I, p. 428; *ibid*, 1884, Pt. I, p. 322; and *ibid*, 1895, Pt. I, p. 396, etc.

(Chapter IV.—Opening of Railways.—Sections 17-19.)

17. (1) Subject to the provisions of sub-section (2), a railway administration shall, one month at least before it intends to open any railway for the public carriage of passengers, give to the Governor General in Council notice in writing of its intention.

(2) The Governor General in Council may, in any case, if he thinks fit, reduce the period of, or dispense with, the notice mentioned in sub-section (1).

Sanction of the Government a condition precedent to the opening of a railway.

18. A railway shall not be opened for the public carriage of passengers until the Governor General in Council, or an Inspector empowered by the Governor General in Council in this behalf, has by order sanctioned the opening thereof for that purpose.

19. (1) The sanction of the Governor General in Council under the last foregoing section shall not be given until an Inspector has, after inspection of the railway, reported in writing to the Governor General in Council—

- (a) that he has made a careful inspection of the railway and rolling-stock ;
- (b) that the moving and fixed dimensions prescribed by the Governor General in Council have not been infringed ;

(Chapter IV.—Opening of Railways.—Section 19.)

- (c) that the weight of rails, strength of bridges, general structural character of the works, and the size of and maximum gross load upon the axles of any rolling-stock, are such as have been prescribed by the Governor General in Council;
- (d) that the railway is sufficiently supplied with rolling-stock ;
- (e) that general rules for the working of the railway when opened for the public carriage of passengers have been made, sanctioned and published under this Act ; and
- (f) that, in his opinion, the railway can be opened for the public carriage of passengers without danger to the public using it.

(2) † If in the opinion of the Inspector the railway cannot be so opened without danger to the public using it, he shall state that opinion, together with the grounds therefor, to the Governor General in Council, and the Governor General in Council may thereupon order the railway administration to postpone the opening of the railway.

(3) An order under the last foregoing sub-section must set forth the requirements to be complied with as a condition precedent to the opening of the railway being sanctioned, and shall direct the postponement* of the opening of the railway until those requirements have been com-

* Cf. the Railway Regulation Act, 1842 (5 & 6 Vict., c. 55), s. 16.

† Cf. *ibid.*, s. 6.

(Chapter IV.—Opening of Railways.—Section 20.)

plied with or the Governor General in Council is otherwise satisfied that the railway can be opened without danger to the public using it.

(4) The sanction given under this section may be either absolute or subject to such conditions as the Governor General in Council thinks necessary for the safety of the public.

(5) When sanction for the opening of a railway is given subject to conditions, and the railway administration fails to fulfil those conditions, the sanction shall be deemed to be void and the railway shall not be worked or used until the conditions are fulfilled to the satisfaction of the Governor General in Council.

20. * (1) The provisions of sections 17, 18 and 19 with respect to the opening of a railway shall extend to the opening of the works mentioned in sub-section (2) when those works form part of, or are directly connected with, a railway used for the public carriage of passengers and have been constructed after the inspection which preceded the first opening of the railway.

(2) The works referred to in sub-section (1) are additional lines of railway, deviation lines, stations, junctions and crossings on the level, and any alteration or reconstruction materially affecting the structural character of any work to which the provisions of sections 17, 18 and 19 apply or are extended by this section.

* Cf. the Regulation of Railways Act, 1871 (34 & 35 Vict., c. 78), s. 5.

(Chapter IV.—Opening of Railways.—Sections 21-22.)

21. When an accident has occurred resulting in a temporary suspension of traffic, and either the original line and works have been rapidly restored to their original standard, or a temporary diversion has been laid for the purpose of restoring communication, the original line and works so restored, or the temporary diversion, as the case may be, may, in the absence of the Inspector, be opened for the public carriage of passengers, subject to the following conditions, namely:—

- (a) that the railway servant in charge of the works undertaken by reason of the accident has certified in writing that the opening of the restored line and works, or of the temporary diversion, will not in his opinion be attended with danger to the public using the line and works or the diversion; and
- (b) that notice by telegraph of the opening of the line and works or the diversion shall be sent, as soon as may be, to the Inspector appointed for the railway.

22. The Governor General in Council may make rules* defining the cases in which, and in those cases the extent to which, the procedure prescribed in sections 17 to 20 (both inclusive) may be dispensed with.

Power to make rules with respect to the opening of railways.

* For rules see Genl. Stat. R. & O., Vol. III, p. 1278.

(Chapter IV.—Opening of Railways.—Sections 23-24.)

23. (1) When, after inspecting any open railway used for the public carriage of passengers, or any rolling stock used thereon, an Inspector is of opinion that the use of the railway or of any specified rolling-stock will be attended with danger to the public using it, he shall state that opinion, together with the grounds therefor, to the Governor General in Council ; and the Governor General in Council may thereupon order that the railway be closed for the public carriage of passengers or that the use of the rolling-stock so specified be discontinued, or that the railway or the rolling-stock so specified be used for the public carriage of passengers on such conditions only as the Governor General in Council may consider necessary for the safety of the public.

(2) † An order under sub-section (1) must set forth the grounds on which it is founded.

24. (1) When a railway has been closed under the last foregoing section, it shall not be re-opened for the public carriage of passengers until it has been inspected and its re-opening sanctioned, in accordance with the provisions of this Act.

(2) When the Governor General in Council has ordered under the last foregoing section that the use of any specified rolling-stock be discontinued, that rolling-stock shall not be used until an Inspector has reported that it is fit for use and the Governor General in Council has sanctioned its use.

† Cf. the Railway Regulation Act, 1842 (5 & 6 Vict., c. 55), s. 16.

1890.]

Railways.

(Chapter IV.—Opening of Railways.—Section 25.

Chapter V.—Railway Commissions and Traffic Facilities.—Section 26.)

(3) When the Governor General in Council has imposed under the last foregoing section any conditions with respect to the use of any railway or rolling-stock those conditions shall be observed until they are withdrawn by the Governor General in Council.

25. (1) The Governor General in Council may, by general or special order, authorize the discharge of Delegation of powers under this Chapter to Inspectors. any of his functions under this Chapter by an Inspector, and may cancel any sanction or order given by an Inspector, discharging any such function or attach thereto any condition which the Governor General in Council might have imposed if the sanction or order had been given by himself.

(2) A condition imposed under sub-section (1) shall for all the purposes of this Act have the same effect as if it were attached to a sanction or order given by the Governor General in Council.

CHAPTER V.

RAILWAY COMMISSIONS AND TRAFFIC FACILITIES.

Railway Commissions.

26. * (1) For the purposes of this Chapter the Governor General in Council shall, as occasion may in his opinion require, appoint a Commission, styled a Railway Commission (in this Act

* Cf. the Railway and Canal Traffic Act, 1854 (17 & 18 Vict., c. 31); the Regulation of Railways Act, 1873 (36 & 37 Vict., c. 48); and the Railway and Canal Traffic Act, 1888 (51 & 52 Vict., c. 25).

(Chapter V.—Railway Commissions and Traffic
Facilities.—Section 26.)

referred to as the Commissioners), and consisting of one Law Commissioner and two Lay Commissioners.

(2) The Commissioners shall sit at such times and in such places as the Governor General in Council appoints.

(3) The Law Commissioner shall be such Judge of the High Court having jurisdiction in reference to European X of 1882. British subjects under the *Code of Criminal Procedure, 1882, in the place where the Commissioners are to sit as, in the case of a High Court established under the †Statute 24 and 25 Victoria, Chapter 104, the Chief Justice or, in the case of the Chief Court of the Punjab, the Senior Judge or, in the case of the ‡Court of the Recorder of Rangoon the Chief Commissioner of Burma may, on the request of the Governor General in Council, assign by writing under his hand.

(4) The Lay Commissioners shall be appointed by the Governor General in Council, and one at least of them shall be of experience in railway business.

* See now Act V of 1898, Genl. Acts, Vol. V.

† The Indian High Courts Act, 1861, Coll. Stats. Ind., Vol. I.

‡ There is now no longer a "Court of the Recorder of Rangoon," a Chief Court having been established for Lower Burma in place of that Court, see the Lower Burma Courts Act, 1900 (6 of 1900). The Chief Commissioner is now the Lieutenant-Governor of Burma, see Proclamation of 9th April, 1897, Gazette of India, 1897, Pt. I, p. 261.

(Chapter V.—Railway Commissions and Traffic Facilities.—Sections 27-28.)

27. The Commissioners shall take cognizance of such cases only as are referred to them by the Governor General in Council.

Restriction of jurisdiction of Railway Commission to cases specially referred.

28. In any of the following circumstances, namely :—

Reference of cases to Railway Commission.

- (a) where complaint is made to the Governor General in Council of anything done or any omission made by a railway administration in violation or contravention of any provision of this Chapter ;
- (b) where any difference which is under the provisions of any agreement required or authorized to be referred to arbitration arises between railway administrations, and the railway administrations apply to the Governor General in Council to have it referred to the Commissioners ;
- (c) * where any other difference, being a difference between railway administrations or one to

* Cf. the Regulation of Railways Act, 1873, (36 & 37 Vict., c. 48) s. 9.

(Chapter V.—Railway Commissions and Traffic Facilities.—Sections 29-30.)

which a railway administration is a party, arises, and the parties thereto apply to the Governor General in Council to have it referred to the Commissioners ;

the Governor General in Council may, if he thinks fit, refer the case to the Commissioners for decision.

29. The three Commissioners shall attend at the hearing of any case referred to them for decision under this Chapter, and the Law Commissioner shall preside at the hearing.

Constitution of Railway Commission in session.

30. (1) In hearing any such case the Commissioners shall have the powers which may be exercised in the hearing of an original civil suit by a High Court.

Powers of Railway Commission.

(2) The decision shall, if the Commissioners differ in opinion, be in accordance with the opinion of the majority, and the final order in the case shall be by way of injunction and not otherwise.

(3) †At the hearing the Commissioners may permit any party to appear before them either by himself or by any legal practitioner entitled to practise in any High Court.

† Cf. the Railway and Canal Traffic Act, 1888 (51 & 52 Vict., c. 25) s. 50.

(Chapter V.—Railway Commissions and Traffic
Facilities.—Section 31.)

31. (1) An appeal shall not lie from any order of the Commissioners upon any question of fact on which two of the Commissioners are agreed.

Appeals from orders of Railway Commission.

(2) Subject to the provisions of sub-section (1), an appeal shall lie from an order of the Commissioners—

- (a) where the Law Commissioner was the Recorder or Additional Recorder of Rangoon, to the High Court of Judicature at Fort William in Bengal, and
- (b) in any other case, to the High Court of which the Law Commissioner was a member.

(3) Such an appeal must be presented within six months from the date of the order appealed from, and shall be heard by a bench of as many Judges, not being fewer than three, as the High Court may by rule prescribe.

(4) In the hearing of the appeal the High Court shall, subject to the other provisions of this Chapter, have all the powers which it has as an Appellate Court under the XIV of 1882. *Code of Civil Procedure, and may make any order which the Commissioners could have made.

* See now Act V of 1908, Genl. Acts, Vol. VI.

(Chapter V.—Railway Commissions and Traffic
Facilities.—Sections 32-34.)

32. Notwithstanding any appeal to the High Court from an order of the Commissioners, the order shall, unless the Commissioners or the majority of them see fit to suspend it, continue in operation until it is reversed or varied by that Court.

Operation of orders of Railway Commission.

33. (1) The Commissioners, in the exercise of their jurisdiction under this Chapter, may, from time to time, with the general or special sanction of the Governor General in Council, call in one or more persons of engineering or other technical knowledge to act as assessors.

Assessor.

(2) There shall be paid to such persons such remuneration as the Governor General in Council upon the recommendation of the Commissioners may direct.

34. The Governor General in Council may make * rules regulating proceedings before the Commissioners and enabling the Commissioners to carry into effect the provisions of this Chapter, and prescribing fees to be taken in relation to proceedings before the Commissioners.

Power of the Governor General in Council to make rules for the purposes of this Chapter.

* For such rules, see Genl. Stat. R. & O., Vol. III, p. 1280.

1890.]

Railways.

(Chapter V.—*Railway Commissions and Traffic Facilities*.—Sections 35-36.)

35. The costs of and incidental to any proceedings before the Commissioners or the High Court under this Chapter shall be in the discretion of the Commissioners or the High Court, as the case may be, and the payment of costs awarded by the Commissioners may be enforced by the Court of which the Law Commissioner was a Judge as if the payment had been ordered by a decree of a High Court.

Costs of proceedings under this Chapter.

36.† (1) The Court of which the Law Commissioner was a Judge may, if it appears on the application of any person who was a party to the proceedings before the Commissioners or on appeal before the High Court, or of the representative of any such person that an injunction made under this Chapter by the Commissioners or by a High Court has not been obeyed by the party enjoined, order such party to pay a sum not exceeding one thousand rupees for every day during which the injunction is disobeyed after the date of the order directing such payment.

(2) The payment of such sum may be enforced by the Court which made the order as if that Court had given a decree for the same, and the Court may direct that the whole or any part of the sum shall be paid to the person making the application under sub-section (1) or to the Government.

† Cf. the Railway and Canal Traffic Act, 1854 (17 & 18 Vict., c. 31), s. 8.

(Chapter V.—Railway Commissions and Traffic

Facilities.—Sections 37-39.)

37. A document purporting to be signed by the
Evidence of Commission-
documents. ers, or any of them, shall be
received in evidence without proof of the
signature, and shall, until the contrary is proved, be deemed
to have been so signed and to have been duly executed or
issued by the Commissioners.

38. The Commissioners shall, as soon as may be
after the disposal of each case referred to
Submission them, submit to the Governor General in
to the Govern- Council a special report on the case, and the
or General Governor General in Council shall cause the
in Council report to be published in such manner as he
of special re- thinks fit for the information of persons in-
ports by Rail- terested in the subject-matter thereof.
way Commis-
sion.

39. Except for the purpose of the last foregoing sec-
tion, a Railway Commission shall be deemed
Dissolution of Railway Commission. to be dissolved at the close of the last of the
sittings of the Commissioners for the decision
of the cases referred to them :

Provided that, on the application of any person who
was a party to the proceedings before the Commissioners,
or of the representative of any such person, the Governor
General in Council may, if he thinks fit, in any case in
which the order passed by the Commissioners is not open

(Chapter V.—Railway Commissions and Traffic Facilities.—Sections 40-41.)

to appeal, re-appoint the Commissioners for the purpose of hearing an application for a review of their decision and of granting the same and re-hearing the case if they think that the case should be re-heard.

40. Subject to the foregoing provisions of this Chapter and to any direction of her Majesty in Council, an order of the Commissioners shall be final and shall not be questioned in or restrained by any Court.

Finality of orders of Railway Commission subject to the foregoing provisions of this Chapter.

41.* Except as provided in this Act, no suit shall be instituted or proceeding taken for anything done or any omission made by a railway administration in violation or contravention of any provision of this Chapter or of any order made thereunder by the Commissioners or by a High Court.

Bar of jurisdiction of ordinary Courts in certain matters cognizable by Railway Commission.

* *Cf.* the Railway and Canal Traffic Act, 1854 (17 & 18 Vict., c. 31) s. 6.

*(Chapter V.—Railway Commissions and Traffic
Facilities.—Section 42.)*

Traffic Facilities.

42.* (1) Every Railway administration shall, according to its powers, afford all 'reasonable facilities for the receiving, forwarding and delivering of traffic upon and from the several railways belonging to or worked by it and for the return of rolling-stock.

Duty of
Railway ad-
ministrations
to arrange for
receiving and
forwarding
traffic without
unreasonable
delay and
without
partiality.

(2) A railway administration shall not make or give any undue or unreasonable preference or advantage to or in favour of any particular person or railway administration, or any particular description of traffic, in any respect whatsoever, or subject any particular person or railway administration or any particular description of traffic to any undue or unreasonable prejudice or disadvantage in any respect whatsoever.

(3) A railway administration having or working railways which form part of a continuous line of railway communication, or having its terminus or station within one mile of the terminus or station of another railway

* Cf. the Railways Clauses Act, 1845 (8 & 9 Vict., c. 20), s. 90; the Railway and Canal Traffic Act, 1854 (17 & 18 Vict., c. 31), s. 2; and the Railway and Canal Traffic Act, 1868 (31 & 32 Vict., c. 25), s. 25.

*(Chapter V.—Railway Commissions and Traffic
Facilities.—Section 42.)*

administration, * shall afford all due and reasonable facilities for receiving and forwarding by one of such railways all the traffic arriving by the other at such terminus or station, without any unreasonable delay, and without any such preference or advantage or prejudice or disadvantage as aforesaid, and so that no obstruction may be offered to the public desirous of using such railways as a continuous line of communication, and so that all reasonable accommodation may by means of such railways be at all times afforded to the public in that behalf.

(4) The facilities to be afforded under this section shall include the due and reasonable receiving, forwarding and delivering by every railway administration, at the request of any other railway administration, of through traffic to and from the railway of any other railway administration at through rates :

Provided as follows :—

- (a) the railway administration requiring the traffic to be forwarded shall give written notice of the proposed through rate to each forwarding railway administration, stating both its amount and its apportionment and the route by which the traffic is proposed to be forwarded. The proposed through rate for animals or goods may be per truck or per maund ;

* Cf. the Railway and Canal Traffic Act, 1854 (17 & 18 Vict., c. 31), s. 1.

(Chapter V.—Railway Commissions and Traffic Facilities.—Section 42.)

- (b) each forwarding railway administration shall, within the prescribed period after the receipt of such notice, by written notice inform the railway administration requiring the traffic to be forwarded whether it agrees to the rate, apportionment and route, and, if it has any objection, what the grounds of the objection are ;
- (c) if at the expiration of the prescribed period no such objection has been sent by any forwarding railway administration, the rate shall come into operation at the expiration of that period ;
- (d) if an objection to the rate, apportionment or route has been sent within the prescribed period, the Governor General in Council may, if he thinks fit, on the request of any of the railway administrations, refer the case to the Commissioners for their decision ;
- (e) if the objection is to the granting of the rate or to the route, the Commissioners shall consider whether the granting of the rate is a due and reasonable facility in the interests of the public, and whether, regard being had to the circumstances, the route proposed is a reasonable route, and shall allow or refuse the rate accordingly or fix such other rate as may seem to the Commissioners to be just and reasonable;

(Chapter V.—*Railway Commissions and Traffic Facilities.*—Section. 42.)

- .(f) if the objection is only to the apportionment of the rate, and the case has been referred to the Commissioners, the rate shall come into operation at the expiration of the prescribed period, but the decision of the Commissioners as to its apportionment shall be retrospective : in the case of any other objection the operation of the rate shall be suspended until the Commissioners make their order in the case ;
- (g) the Commissioners in apportioning the through rate shall take into consideration all the circumstances of the case, including any special expense incurred in respect of the construction, maintenance or working of the route or any part of the route, as well as any special charges which any railway administration is entitled to make in respect thereof ;
- (h) the Commissioners shall not in any case compel any railway administration to accept lower mileage rates than the mileage rates which the administration may for the time being legally be charging for like traffic carried by a like mode of transit on any other line of communication between the same points, being the points of departure and arrival of the through route ;

(Chapter V.—Railway Commissions and Traffic Facilities.—Section 43.)

- (i)* subject to the foregoing provisions of this subsection, the Commissioners shall have full power to decide that any proposed through rate is due and reasonable notwithstanding that a less amount may be allotted to any forwarding railway administration out of the through rate than the maximum rate which the railway administration is entitled to charge, and to allow and apportion the through rate accordingly ;
- (j) the prescribed period mentioned in this sub-section shall be one month, or such longer period as the Governor General in Council may by general or special order prescribe.

43.† (1.) Whenever it is shown that a railway administration charges one trader or class of traders or the traders in any local area lower rates for the same or similar animals or goods, or lower rates for the same or similar services, than it charges to other traders or classes of traders, or to the traders in another local area, the burden of proving that such lower charge does not amount to an undue preference shall lie on the railway administration.

Undue preference
in case of
unequal rates for
like traffic or
services.

* Cf. the Regulation of Railways Act, 1873 (36 & 37 Vict., c. 48), s 12.

† Cf. the Railway and Canal Traffic Act, 1888 (51 & 52 Vict., c. 25), s. 27.

(Chapter V.—*Railway Commissions and Traffic Facilities.*—Sections 44-45.)

(2) In deciding whether a lower charge does or does not amount to an undue preference, the Commissioners may, so far as they think reasonable, in addition to any other considerations affecting the case, take into consideration whether such lower charge is necessary for the purpose of securing, in the interests of the public, the traffic in respect of which it is made.

44.* Where a railway administration is a party to an agreement for procuring the traffic of the railway to be carried on any inland water by any ferry, ship, boat or raft which does not belong to or is not hired or worked by the railway administration, the provisions of the two last foregoing sections applicable to a railway shall extend to the ferry, ship, boat or raft in so far as it is used for the purposes of the traffic of the railway.

Provision for facilities and equal treatment where ships or boats are used which are not part of a railway.

45. A railway administration may charge reasonable Terminal. terminals.

* Cf. the Railway and Canal Traffic Act, 1888 (51 & 52 Vict., c. 25), s. 25.

(Chapter V.—Railway Commissions and Traffic
Facilities.—Section 46. Chapter VI.—
Working of Railways.—Section 47.)

Power of
Railway
Commission
to fix
terminals.

46.* (1) The Governor General in Council may, if he thinks fit, refer to the Commissioners for decision any question or dispute which may arise with respect to the terminals charged by a railway administration, and the Commissioners may thereupon decide what is a reasonable sum to be paid to the railway administration in respect of terminals.

(2) † In deciding the question or dispute, the Commissioners shall have regard only to the expenditure reasonably necessary to provide the accommodation in respect of which the terminals are charged, irrespective of the outlay which may have been actually incurred by the railway administration in providing that accommodation.

CHAPTER VI.

WORKING OF RAILWAYS.

General.

General rules

47. ‡ (1) Every railway company and, in the case of a railway administered by the Government, an officer to be appointed by the

* Cf. the Regulation of Railways Act, 1873 (36 & 37 Vict., c. 48), s. 15.

† Cf. the Railway and Canal Traffic Act, 1888 (51 & 52 Vict., c. 25), s. 24 (1.)

‡ Cf. the Railways Regulation Act, 1840 (3 & 4 Vict., c. 97), ss. 7 to 9, and the Railways Clauses Act 1845 (8 & 9 Vict., c. 20), s. 10.

(Chapter VI.—Working of Railways.—Section 47.)

Governor General in Council in this behalf, shall make general rules consistent with this Act for the following purposes, namely :—

- (a) for regulating the mode in which, and the speed at which, rolling-stock used on the railway is to be moved or propelled ;
- (b) * for providing for the accommodation and convenience of passengers and regulating the carriage of their luggage ;
- (c) * for declaring what shall be deemed to be, for the purposes of this Act, dangerous or offensive goods, and for regulating the carriage of such goods ;
- (d) for regulating the conditions on which the railway administration will carry passengers suffering from infectious or contagious disorders, and providing for the disinfection of carriages which have been used by such passengers ;
- (e) * for regulating the conduct of the railway servants ;

* For general rules as to working, conduct of Railway servants, and the carriage of passengers and dangerous goods, for all open lines of railway in British India administered by the Government, see Genl. Stat. R. & O., Vol. III, p. 1350

(Chapter VI.—Working of Railways.—Section 47.)

(f) † for regulating the terms and conditions on which the railway administration will warehouse or retain goods at any station on behalf of the consignee or owner ; and

(g) *generally, for regulating the travelling upon, and the use, working and management of, the railway.‡

(2) The rules may provide that any person committing a breach of any of them shall be punished with fine which may extend to any sum not exceeding fifty rupees,§ and that in the case of a rule made under clause (c) of sub-section (1), the railway servants shall forfeit a sum not exceeding one month's pay, which sum may be deducted by the railway administration from his pay.

(3) A rule made under this section shall not take effect until it has received the sanction of the Governor General in Council and been published in the Gazette of India :

* See note page 52.

† For rules applicable to all railways in British India regulating the terms and conditions on which railway administrations will warehouse or retain goods at any station or depot on behalf of the consignee or owner, see Genl. Stat. R. & O., Vol. III, p. 1345.

‡ Cf. the Railways Clauses Act, 1863 (26 & 27 Vict., c. 92), s. 32.

§ Cf. the Canadian Railway Act, 1886 (49 Vict., c. 109), s. 86.

(Chapter VI.—Working of Railways.—Section 47.)

Provided that, where the rule is in the terms of a rule which has already been published at length in the Gazette of India, a notification in that Gazette, referring to the rule already published and announcing the adoption thereof, shall be deemed a publication of a rule in the Gazette of India within the meaning of this sub-section.

(4) The Governor General in Council may cancel any rule made under this section, and the authority required by sub-section (1) to make rules thereunder may at any time, with the previous sanction of the Governor General in Council, rescind or vary any such rule.*

(5) Every rule purporting to have been made for any railway under section 8 of the †Indian Railways Act, 1879, and appearing from the Gazette of India to be intended to apply to the railway at the commencement of this Act, shall, notwithstanding any irregularity in the making or publication of the rule be deemed to have been made and to have taken effect under this section.

(6) Every railway administration shall keep at each station on its railway a copy of the general rules for the time being in force under this section on the railway, and shall allow any person to inspect it free of charge at all reasonable times.

* For amendments in the general rules for all open lines administered by the Government, as to dangerous goods, see Gazette of India, 1907, Pt. I, pp. 639 and 861.

† Repealed by this Act.

(Chapter VI.—Working of Railways.—Sections 48-49.)

48.† Where two or more railway administrations whose railways have a common terminus or a portion of the same line of rails in common, or form separate portions of one continued line of railway communication, are not able to agree upon arrangements for conducting at such common terminus, or at the point of junction between them, their joint traffic with safety to the public, the Governor General in council, upon the application of either or any of the administrations, may decide the matters in dispute between them, so far as those matters relate to the safety of the public, and may determine whether the whole or what portion of the expenses attending on such arrangements shall be borne by either or any of the administrations respectively.

Disposal of differences between railways regarding conduct of joint traffic.

49.* Any railway company, not being a company for which the †Statute 42 and 43 Victoria, Chapter 41, provides, may from time to time make and carry into effect agreements with the Governor General in Council for the construction of rolling-stock, plant or machinery used on, or in connection with railways, or for leasing or taking on lease any rolling-

Agreements with the Governor General in Council for construction or lease of rolling stock.

‡ Cf. the Railway Regulation Act, 1842 (5 & 6 Vict., c. 55) s. 11, and the Railways Clauses Act, 1863 (26 & 27 Vict., c. 92), s. 9.

* Cf. the Indian Guaranteed Railways Act, 1879 (42 & 43 Vict., c. 4), s. 4 (d).

† The Indian Guaranteed Railways Act, 1879, Coll. Stats., Vol. II.

(Chapter VI.— Working of Railways.—Section 50.)

stock, plant, machinery or equipments required for use on a railway, or for the maintenance of rolling-stock.

50.† Any railway company, not being a company for which the †Statute 42 and 43 Victoria, Chapter 41, provides, may from time to time make with the Governor General in Council, and carry into effect or, with the sanction of the §Governor General in Council make with any other railway administration, and carry into effect, any agreement with respect to any of the following purposes, namely :—

- (a) the working, use, management and maintenance of any railway ;
- (b) the supply of rolling-stock and machinery necessary for any of the purposes mentioned in clause (a) and of officers and servants for the conduct of the traffic of the railway ;
- (c) the payments to be made and the conditions to be performed with respect to such working, use, management and maintenance ;

† Cf. the Indian Guaranteed Railways Act, 1879 (42 & 43 Vict., c. 41), s. 2; the Railways Clauses Act, 1845 (8 & 9 Vict., c. 20), s. 87; the Railways (Sales and Leases) Act, 1845 (8 & 9 Vict., c. 96); and the Railways Clauses Act, 1863 (26 & 27 Vict., c. 92), s. 22.

‡ The Indian Guaranteed Railways Act, 1879, Coll. Stats., Vol. II.

§ The powers of the Governor General in Council have been delegated to the Railway Board subject to their being exercised in accordance with the general rules and orders on the subject issued by the Government of India, see Gazette of India, 1906, Pt. I, p. 536.

(Chapter VI.—Working of Railways.—Section 51.)

- (d) the interchange, accommodation and conveyance of traffic being on, coming from or intended for, the respective railways of the contracting parties, and the fixing, collecting, apportionment and appropriation of the revenues arising from that traffic ;
- (e) generally, the giving effect to any such provisions or stipulations with respect to any of the purposes hereinbefore in this section mentioned as the contracting parties may think fit and mutually agree on :

Provided that the agreement shall not affect any of the rates which the railway administrations, parties thereto, are, from time to time, respectively authorized to demand and receive from any person, and that every person shall, notwithstanding the agreement, be entitled to the use and benefit of the railways of any railway administrations, parties to the agreement, on the same terms and conditions, and on payment of the same rates, as he would be if the agreement had not been entered into.

51.* Any railway company, not being a company for which the † Statute 42 and 43 Victoria, Chapter 41, provides, may from time to time exercise with the

Establishment of ferries and roadways for accommodation of traffic.

* Cf. the Indian Guaranteed Railways Act, 1879 (42 & 43 Vict., c. 41), s. 4.

† The Indian Guaranteed Railways Act, 1879 (42 & 43 Vict., c. 41), Coll. Stats., Ind., Vol. II.

(Chapter VI.—Working of Railways.—Section 51.)

sanction of the Governor General in Council all or any of the following powers, namely :—

- (a) it may establish, for the accommodation of the traffic of its railway, any ferry equipped with machinery and plant of good quality and adequate in quantity to work the ferry ;
- (b) it may work for purposes other than the accommodation of the traffic of the railway any ferry established by it under this section ;
- (c) it may provide and maintain on any of its bridges, roadways for foot-passengers, cattle, carriages, carts or other traffic ;
- (d) it may construct and maintain roads for the accommodation of traffic passing to or from its railway ;
- (e) it may provide and maintain any means of transport which may be required for the reasonable convenience of passengers, animals or goods carried or to be carried on its railway ;
- (f) it may charge tolls on the traffic using such ferries, roadways, roads or means of transport as it may provide under this section, according to tariffs to be arranged from time to time with the sanction of the Governor General in Council.

(Chapter VI.—Working of Railways.—Sections 52-53.)

52.* Every railway administration shall, in forms to be prescribed by the Governor General in Council prepare, half-yearly or at such intervals as the Governor General in Council may prescribe, such returns of its capital and revenue transactions and of its traffic as the Governor General in Council may require, and shall forward a copy of such returns to the Governor General in Council at such times as he may direct.

Returns.

Carriage of Property.

53.† (1) Every railway administration shall determine the maximum load for every wagon or truck in its possession, and shall exhibit the words or figures representing the load so determined in a conspicuous manner on the outside of every such wagon or truck.

Maximum load for wagons.

(2) Every person owning a wagon or truck which passes over a railway shall similarly determine and exhibit the maximum load for the wagon or truck.

(3) The gross weight of any such wagon or truck bearing on the axles when the wagon or truck is loaded to such maximum load shall not exceed such limit as may be fixed by the Governor General in Council for the class of axle under the wagon or truck.

* Cf. the Railway Regulation Act, 1840 (3 & 4 Vict., c. 97), s. 3; the Regulation of Railways Act, 1868 (31 & 32 Vict., c. 119), ss. 3 and 4; and the Regulation of Railways Act, 1871 (34 & 35 Vict., c. 78), ss. 9 and 10.

† Cf. the Railway Regulation Act, 1842 (5 & 6 Vict., c. 55), s. 16.

(Chapter VI.—Working of Railways.—Sections 54-55.)

54. (1) Subject to the control of the Governor General in Council, a railway administration may impose conditions, not inconsistent with this Act or with any general rule thereunder, with respect to the receiving, forwarding or delivering of any animals or goods.

Power for Railway administrations to impose conditions for working traffic.

(2) The railway administration shall keep at each station on its railway a copy of the conditions for the time being in force under sub-section (1) at the station, and shall allow any person to inspect it free of charge at all reasonable times.

(3) A railway administration shall not be bound to carry any animal suffering from any infectious or contagious disorder.

55.* (1) If a person fails to pay on demand made by or on behalf of a railway administration any rate, terminal or other charge due from him in respect of any animals or goods, the railway administration may detain the whole or any of the animals or goods or if, they have been removed from the railway, any other animals or goods of such person then being in or thereafter coming into its possession.

Lien for rates, terminals and other charges.

(2) When any animals or goods have been detained under sub-section (1), the railway administration may

* Cf. the Railways Clauses Act, 1845 (8 & 9 Vict., c. 20), s. 97.

(Chapter VI.—Working of Railways.—section 55.)

sell by public auction, in the case of perishable goods at once, and in the case of other goods or of animals on the expiration of at least fifteen days' notice of the intended auction, published in one or more of the local newspapers, or, where there are no such newspapers, in such manner as the Governor General in Council may prescribe, sufficient of such animals or goods to produce a sum equal to the charge, and all expenses of such detention, notice and sale, including, in the case of animals, the expenses of the feeding, watering and tending thereof.

(3) Out of the proceeds of the sale the railway administration may retain a sum equal to the charge and the expenses aforesaid, rendering the surplus, if any, of the proceeds, and such of the animals or goods (if any) as remain unsold, to the person entitled thereto.

(4) If a person on whom a demand for any rate, terminal or other charge due from him has been made fails to remove from the railway within a reasonable time any animals or goods which have been detained under sub-section (1) or any animals or goods which have remained unsold after a sale under sub-section (2), the railway administration may sell the whole of them and dispose of the proceeds of the sale as nearly as may be under the provisions of sub-section (3).

(5) Notwithstanding anything in the foregoing sub-sections, the railway administration may recover by suit any such rate, terminal or other charge as aforesaid or balance thereof.

(Chapter VI.—Working of Railways—Sections 56-57.)

56. (1) When any animals or goods have come into the possession of a railway administration for carriage or otherwise and are not claimed by the owner or other person appearing to the railway administration to be entitled thereto, the railway administration shall, if such owner or person is known, cause a notice to be served upon him, requiring him to remove the animals or goods.

If such owner or person is not known, or the notice cannot be served upon him, or he does not comply with the requisition in the notice, the railway administration may, within a reasonable time, subject to the provisions of any other enactment for the time being in force, sell the animals or goods as nearly as may be under the provisions of the last foregoing section, rendering the surplus, if any, of the proceeds of the sale to any person entitled thereto.

57. Where any animals, goods or sale-proceeds in the possession of a railway administration are claimed by two or more persons, or the ticket or receipt given for the animals or goods is not forthcoming, the railway administration may withhold delivery of the animals, goods or sale-proceeds until the person entitled in its opinion to receive them has given an indemnity, to the satisfaction of the

Disposal of unclaimed things on a railway.

Power for railway administrations to require indemnity on delivery of goods in certain cases.

(Chapter VI.—Working of Railways.—Section 58.)

railway administration against the claims of any other person with respect to the animals, goods or sale-proceeds.

58. (1) The owner or person having charge of any goods which are brought upon a railway for the purpose of being carried thereon, and the consignee of any goods which have been carried on a railway, shall, on the request of any railway servant appointed in this behalf by the railway administration, deliver to such servant an account in writing signed by such owner or person, or by such consignee, as the case may be, and containing such a description of the goods as may be sufficient to determine the rate which the railway administration is entitled to charge in respect thereof.

Requisitions for written accounts of description of goods.

(2) If such owner, person or consignee refuses or neglects to give such an account, and refuses to open the parcel or package containing the goods in order that their description may be ascertained, the railway administration may, (a) in respect of goods which have been brought for the purpose of being carried on the railway, refuse to carry the goods unless in respect thereof a rate is paid not exceeding the highest rate which may be in force at the time on the railway for any class of goods or, (b) in respect of goods which have been carried on the railway, charge a rate not exceeding such highest rate.

(Chapter VI.—Working of Railways.—Section 58.)

(3) If an account delivered under sub-section (1) is materially false with respect to the description of any goods to which it purports to relate, and which have been carried on the railway, the railway administration may charge in respect of the carriage of the goods a rate not exceeding double the highest rate which may be in force at the time on the railway for any class of goods.

(4) If any difference arises between a railway servant and the owner or person having charge, or the consignee, of any goods which have been brought to be carried or have been carried on a railway, respecting the description of goods of which an account has been delivered under this section, the railway servant may detain and examine the goods.

(5) If it appears from the examination that the description of the goods is different from that stated in an account delivered under sub-section (1), the person who delivered the account, or, if that person is not the owner of the goods, then that person and the owner jointly and severally, shall be liable to pay to the railway administration the cost of the detention and examination of the goods, and the railway administration shall be exonerated from all responsibility for any loss which may have been caused by the detention or examination thereof.

1 Cf. the Railways Clauses Act, 1845 (8 & 9 Vict., c. 20), s. 101.

(Chapter VI.—Working of Railways.—Section 59.)

(6) If it appears that the description of the goods is not different from that stated in an account delivered under sub-section (1), the railway administration shall pay the cost of the detention and examination, and be responsible to the owner of the goods for any such loss as aforesaid.

59. (1) No person shall be entitled to take with him, or to require a railway administration to carry any dangerous or offensive goods upon a railway.

Dangerous
or offensive
goods.

(2) No person shall take any such goods with him upon a railway without giving notice of their nature to the station-master or other railway servant in charge of the place where he brings the goods upon the railway, or shall tender or deliver any such goods for carriage upon a railway without distinctly marking their nature on the outside of the package containing them or otherwise giving notice in writing of their nature to the railway servant to whom he tenders or delivers them.

(3) Any railway servant may refuse to receive such goods for carriage and, when such goods have been so received without such notice as is mentioned in * [sub-section (2)] having to his knowledge been given, may refuse to carry them or may stop their transit.

* The words and figure "sub-section (2)" were substituted for the words and figure "sub-section (1)" by the Indian Railways Act (1890), Amendment Act, 1896 (9 of 1896), s. 3, Genl. Acts, Vol. IV.

(Chapter VI.—Working of Railways.—Section 60.)

(4) If any railway servant has reason to believe any such goods to be contained in a package with respect to the contents whereof such notice as is mentioned in sub-section (2) has not to his knowledge been given, he may cause the package to be opened for the purpose of ascertaining its contents.

(5) Nothing in this section shall be construed to derogate from the † Indian Explosives Act, V of 1884, 1884, or any rule under that Act, and nothing in sub-sections (1), (3) and (4) shall be construed to apply to any goods tendered or delivered for carriage by order or on behalf of the Government or to any goods which an officer, soldier, sailor or police-officer or a person enrolled as a volunteer under the ‡ Indian Volunteers Act, 1869, may take with him upon a railway in the course of his employment or duty as such.

60. * At every station at which a railway administration quotes a rate to any other station for the carriage of traffic other than passengers and their luggage, the railway servant appointed by the administration to quote the rate shall, at the request of any person, show to him at all reasonable times, and without payment of any fee,

Exhibition to the public of authority for quoted rates.

† Genl. Acts, Vol. III.

‡ Genl. Acts, Vol. II.

* Cf. the Regulation of Railways Act, 1873 (36 & 37 Vict., c. 48), s. 14, and the Railway and Canal Traffic Act, 1888 (51 & 52 Vict., c. 25), s. 33.

(Chapter VI.—Working of Railways—Section 61.)

the rate books or other documents in which the rate is authorized by the administration or administrations, concerned.

61. †(1) Where any charge is made by and paid to a railway administration in respect of the carriage of goods over its railway, the administration shall, on the application of the person by whom or on whose behalf the charge has been paid, render to the applicant an account showing how much of the charge comes under each of the following heads, namely:—

Requisitions
on railway
administra-
tions for details
of gross
charges.

- (a) the carriage of the goods on the railway ;
- (b) terminals ;
- (c) demurrage ; and
- (d) ‡ collection, delivery and other expenses ;

but without particularizing the several items of which the charge under each head consists.

(2) The application under sub-section (1) must be in writing and be made to the railway administration within one month after the date of the payment of the charge by or on behalf of the applicant, and the account must be rendered by the administration within two months after the receipt of the application.

† Cf. the Regulation of Railways Act, 1868 (31 & 32 Vict., c. 119), s. 17.

‡ Cf. the Regulation of Railways Act, 1873 (36 & 37 Vict., c. 48), s. 14.

(Chapter VI.—*Working of Railways.*—Sections 62-64.)
Carriage of Passengers.

62. § The Governor General in Council may require any railway administration to provide and maintain in proper order, in any train worked by it which carries passengers, such efficient means of communication between the passengers and the railway servants in charge of the train as the Governor General in Council has approved.

63. Every railway administration shall fix, subject to the approval of the Governor General in Council, the maximum number of passengers which may be carried in each compartment of every description of carriage, and shall exhibit the number so fixed in a conspicuous manner inside or outside each compartment, in English or in one or more of the vernacular languages in common use in the territory traversed by the railway, or both in English and in one or more of such vernacular languages as the Governor General in Council, after consultation with the railway administration, may determine.

64. (1) On and after the first day of January, 1891, every railway administration shall, in every train carrying passengers, reserve for the exclusive use of females one compartment

Reservations of compartments for females.

§ Cf. the Regulation of Railways Act, 1868 (31 & 32 Vict., c. 119), s. 22.

(Chapter VI.—Working of Railways.—Sections 65-66.)

at least of the lowest class of carriage forming part of the train.

(2) One such compartment so reserved shall, if the train is to run for a distance exceeding fifty miles, be provided with a closet.

65. Every railway administration shall cause to be posted in a conspicuous and accessible place at every station on its railway, in English and in a vernacular language in common use in the territory where the station is situate, a copy of the time-tables for the time being in force on the railway, and lists of the fares chargeable for travelling from the station where the lists are posted to every place for which card-tickets are ordinarily issued to passengers at that station.

66. (1) Every person desirous of travelling on a railway shall, upon payment of his fare, be supplied with a ticket, specifying the class of carriage for which, and the place from and the place to which, the fare has been paid, and the amount of the fare.

(2) The matters required by sub-section (1) to be specified on a ticket shall be set forth—

(a) if the class of carriage to be specified thereon is the lowest class, then in a vernacular language in common use in the territory traversed by the railway, and

(*Chapter VI.—Working of Railways.—Sections 67-68.*)

(*b*) if the class of carriage to be so specified is any other than the lowest class, then in English.

67. (*r*) Fares shall be deemed to be accepted, and tickets to be issued, subject to the condition of there being room available in the train for which the tickets are issued.

Provision for case in which tickets have been issued for trains not having room available for additional passengers.

(*2*) A person to whom a ticket has been issued and for whom there is not room available in the train for which the ticket was issued shall, on returning the ticket within three hours after the departure of the train, be entitled to have his fare at once refunded.

(*3*) A person for whom there is not room available in the class of carriage for which he has purchased a ticket and who is obliged to travel in a carriage of a lower class shall be entitled on delivering up his ticket to a refund of the difference between the fare paid by him and the fare payable for the class of carriage in which he travelled.

68. No person shall, without the permission of a railway servant, enter any carriage on a railway for the purpose of travelling therein as a passenger unless he has with him a proper pass or ticket.

Prohibition against travelling without pass or ticket.

(Chapter VI.—Working of Railways.—Sections 69-71.)

69. Every passenger by railway shall, on the requisition of any railway servant appointed by the railway administration in this behalf, present his pass or ticket to the railway servant for examination, and at or near the end of the journey for which the pass or ticket was issued, or, in the case of a season pass or ticket, at the expiration of the period for which it is current, deliver up the pass or ticket to the railway servant.

Exhibition and surrender of passes and tickets.

70. A return ticket or season ticket shall not be transferable and may be used only by the person for whose journey to and from the places specified thereon it was issued.

Return and season tickets.

71. (1) A railway administration may refuse to carry, except in accordance with the conditions prescribed under section 47, sub-section (1), clause (d), a person suffering from any infectious or contagious disorder.

Power to refuse to carry person suffering from infectious or contagious disorder.

(2) A person suffering from such a disorder shall not enter or travel upon a railway without the special permission of the station-master or other railway servant in charge of the place where he enters upon the railway.

(3) A railway servant giving such permission as is mentioned in sub-section (2) must arrange for the separation of the person suffering from the disorder from other persons being or travelling upon the railway.

1890.]

Railways.

*Chapter VII.—Responsibility of Railway Administrations
as Carriers.—Section 72.)*

CHAPTER VII.

RESPONSIBILITY OF RAILWAY ADMINISTRATIONS AS
CARRIERS.

72. (1) The responsibility of a railway administration for the loss, destruction or deterioration of animals or goods delivered to the administration to be carried by railway shall, subject to the other provisions of this Act, be that of a bailee under sections 151, 152 and 161 of the* Indian Contract Act, 1872.

Measure of the general responsibility of a railway administration as a carrier of animals and goods.
IX of 1872.

(2) An agreement purporting to limit that responsibility shall, in so far as it purports to effect such limitation, be void, unless it—

(a) is in writing signed by or on behalf of the person sending or delivering to the railway administration the animals or goods, and

(b) is otherwise in a† form approved by the Governor General in Council.

* Genl. Acts, Vol. II.

† For risk-note forms prescribed under this clause, see Genl. Stat. R. & O., Vol. III, p. 1492, and Gazette of India, 1907, Pt. I, p. 180 and *ib.*, 1909, Pt. I, p. 232.

(Chapter VII.—Responsibility of Railway Administrations as Carriers.—Section 73.)

(3) Nothing in the common law of England or in the † Carriers Act, 1865, regarding the responsibility of common carriers with respect to the carriage of animals or goods, shall affect the responsibility as in this section defined of a railway administration.

III of 1865.

73. ‡ (1) The responsibility of a railway administration under the last foregoing section for the loss, destruction or deterioration of animals delivered to the administration to be carried on a railway shall not in any case exceed, in the case of elephants or horses, five hundred rupees a head or, in the case of § [mules], camels or horned cattle, fifty rupees a head or, in the case of § [donkeys], sheep, goats, dogs or other animals, ten rupees a head, unless the person sending or delivering them to the administration caused them to be declared or declared them, at the time of their delivery for carriage by railway, to be respectively of higher value than five hundred, fifty or ten rupees a head, as the case may be.

(2) Where such higher value has been declared the railway administration may charge, in respect of

† Genl. Acts, Vol. 1.

‡ Cf the Railway and Canal Traffic Act, 1854 (17 & 18 Vict., c. 31), s. 7.

§ The words "mules" and "donkeys" were added by the Indian Railways Act, (1890) Amendment Act, 1896 (9 of 1896), s. 4, Genl. Acts, Vol. IV.

(Chapter VII.—Responsibility of Railway Administrations as Carriers.—Sections 74-75.)

the increased risk, a percentage upon the excess of the value so declared over the respective sums aforesaid.

(3) In every proceeding against a railway administration for the recovery of compensation for the loss, destruction or deterioration of any animal, the burden of proving the value of the animal, and, where the animal has been injured, the extent of the injury, shall lie upon the person claiming the compensation.

74. A railway administration shall not be responsible for the loss, destruction or deterioration of any luggage belonging to or in charge of a passenger unless a railway servant has booked and given a receipt therefor.

Further provision with respect to the liability of a railway administration as a carrier of luggage.

75. * (1) When any articles mentioned in the second schedule are contained in any parcel or package delivered to a railway administration for carriage by railway, and the value of such articles in the parcel or package exceeds one hundred rupees, the railway administration shall not be responsible for the loss, destruction or deterioration of the parcel or package unless the person sending

Further provision with respect to the liability of a railway administration as a carrier of articles of special value.

* Cf. the Carriers Act, 1830 (11 Geo. 4 & 1 Will. 4, c. 69), s. 1.

(Chapter VII.—Responsibility of Railway Administrations as Carriers.—Section 76.)

or delivering the parcel or package to the administration caused its value and contents to be declared or declared them at the time of the delivery of the parcel or package for carriage by railway, and, if so required by the administration, paid or engaged to pay a percentage on the value so declared by way of compensation for increased risk.

(2) When any parcel or package of which the value has been declared under sub-section (1) has been lost or destroyed or has deteriorated, the compensation recoverable in respect of such loss, destruction or deterioration shall not exceed the value so declared and the burden of proving the value so declared to have been the true value shall, notwithstanding anything in the declaration, lie on the person claiming the compensation.

(3) A railway administration may make it a condition of carrying a parcel declared to contain any article mentioned in the second schedule that a railway servant authorized in this behalf has been satisfied by examination or otherwise that the parcel actually contains the article declared to be therein.

76. In any suit against a railway administration for compensation for loss, destruction or deterioration of animals or goods delivered to a railway administration for carriage by railway, it shall not be necessary for the plaintiff to prove how the loss, destruction or deterioration was caused.

Burden of proof in suits in respect of loss of animals or goods.

(Chapter VII.—Responsibility of Railway Administrations as Carriers.—Sections 77-78.)

77. A person shall not be entitled to a refund of an over charge in respect of animals or goods carried by railway or to compensation for the loss, destruction or deterioration of animals or goods delivered to be so carried, unless his claim to the refund or compensation has been preferred in writing by him or on his behalf to the railway administration within six months from the date of the delivery of the animals or goods for carriage by railway.

Notification of claims to refunds of overcharges and to compensation for losses.

78. Notwithstanding anything in the foregoing provisions of this chapter, a railway administration shall not be responsible for the loss, destruction or deterioration of any goods with respect to the description of which an account materially false has been delivered under sub-section (1) of section 58 if the loss, destruction or deterioration is in any way brought about by the false account, nor in any case for an amount exceeding the value of the goods if such value were calculated in accordance with the description contained in the false account.

Exoneration from responsibility in case of goods falsely described.

(Chapter VII.—Responsibility of Railway Administrations as Carriers.—Sections 79-80.)

79. Where an officer, soldier or follower, while being or travelling as such on duty upon a railway belonging to, and worked by, the Government, loses his life or receives any personal injury in such circumstances that, if he were not an officer, soldier or follower being or travelling as such on duty upon the railway, compensation would be payable under* Act No. XIII of 1855 or to him, as the case may be, the form and amount of the compensation to be made in respect of the loss of his life or his injury shall, where there is any provision in this behalf in the military regulations to which he was immediately before his death, or is, subject, be determined in accordance with those regulations, and not otherwise.

Settlement of compensation for injuries to officers, soldiers and followers on duty.

80. Notwithstanding anything in any agreement purporting to limit the liability of a railway administration with respect to traffic while on the railway of another administration, a suit for compensation for loss of the life of, or personal injury to, a passenger, or for loss, destruction or deterioration of animals or goods where the passenger was or the animals or goods were booked through over the railways of two or more railway

Suits for compensation for injury to through-booked traffic.

* The Indian Fatal Accidents Act, 1855, Genl. Acts, Vol. I.

(Chapter VII.—Responsibility of Railway Administrations as Carriers.—Sections 81-82.)

administrations, may be brought either against the railway administration from which the passenger obtained his pass or purchased his ticket, or to which the animals or goods were delivered by the consignor thereof, as the case may be, or against the railway administration on whose railway the loss, injury, destruction or deterioration occurred.

81. [*Limitation of liability of railway administration in respect of traffic on inland waters by vessel not being part of railway.*] *Rep. by the Indian Railways Act (1890) Amendment Act, 1896 (IX of 1896), section 5.*

82.† (1) When a railway administration contracts to carry passengers, animals or goods partly by railway and partly by sea, a condition exempting the railway administration from responsibility for any loss of life, personal injury or loss of or damage to animals or goods which may happen during the carriage by sea from the act of God, the King's enemies, fire, accidents from machinery, boilers and steam and all and every other dangers and accidents of the seas, rivers and navigation of whatever nature and kind soever shall, without being expressed, be deemed to be part of the

† Cf. the Regulation of Railways Act, 1868 (31 & 32 Vict., c. 119), s. 14, and the Regulation of Railways Act, 1871 (34 & 35 Vict., c. 78), s. 12.

(Chapter VIII.—Accidents.—Section 83.)

contract, and, subject to that condition, the railway administration shall, irrespective of the nationality or ownership of the ship used for the carriage by sea, be responsible for any loss of life, personal injury or loss of or damage to animals or goods which may happen during the carriage by sea, to the extent to which it would be responsible under the* Merchant Shipping Act, 1854, and the *Merchant Shipping Act Amendment Act, 1862, if the ship were registered under the former of those Acts and the railway administration were owner of the ship, and not to any greater extent.

(2) The burden of proving that any such loss, injury or damage as is mentioned in sub-section (1) happened during the carriage by sea shall lie on the railway administration.

 CHAPTER VIII.

ACCIDENTS.

83.† When any of the following accidents occur in the course of working a railway, namely :—
 Report of rail- way accidents.

* See now the Merchant Shipping Act, 1894 (57 & 58 Vict., c. 60), Coll. Stats. Ind., Vol. II.

† Cf. the Regulation of Railways Act, 1871 (34 & 35 Vict., c. 78), s. 6.

(Chapter VIII.—Accidents.—Section 83.)

- (a) any accident attended with loss of human life, or
 with grievous hurt as defined in
 the † Indian Penal Code, or with
 serious injury to property ;
- (b) any collision between trains of which one is a
 train carrying passengers ;
- (c) the derailment of any train carrying passengers
 or of any part of such a train ;
- (d) any accident of a description usually attended
 with loss of human life or with such grievous
 hurt as aforesaid or with serious injury to
 property ;
- (e) any accident of any other description which the
 Governor General in Council may notify in
 this behalf in the Gazette of India ;

the railway administration working the railway and,
 if the accident happens to a train belonging to any other
 railway administration, the other railway administration
 also shall, without unnecessary delay, send notice of the
 accident to the Local Government and to the Inspector
 appointed for the railway ; and the station-master nearest
 to the place at which the accident occurred or, where

† Genl. Acts, Vol. 1.

(Chapter VIII.—Accidents.—Section 84.)

there is no station-master, the railway servant in charge of the section of the railway on which the accident occurred shall, without unnecessary delay, give notice of the accident to the Magistrate of the district in which the accident occurred, and to the officer in charge of the police-station within the local limits of which it occurred, or to such other Magistrate and police-officer as the Governor General in Council appoints in this behalf.

84. The Governor General in Council may make
 Power to make rules regarding notices of, and inquiries into, accidents
 * rules, consistent with this Act and any other enactment for the time being in force for all or any of the following purposes, namely :—

- (a) for prescribing the forms of the notices mentioned in the last foregoing section, and the particulars of the accident which those notices are to contain ;
- (b) for prescribing the class of accidents of which notice is to be sent by telegraph immediately after the accident has occurred ;

* For rules under the section as to notices of accidents occurring in the course of working a railway, *see* Genl. Stat. R. & O., Vol. III, p. 1509.

(Chapter VIII.—Accidents.—Sections '85-86.)

- (c) for prescribing the duties of railway servants, police-officers, Inspectors and Magistrates on the occurrence of an accident.

85. Every railway administration shall send to the Governor General in Council a return of accidents occurring upon its railway, whether attended with personal injury or not, in such form and manner and at such intervals of time as the Governor General in Council directs.

Submission of return of accidents.

86.† Whenever any person injured by an accident on a railway claims compensation on account of the injury, any Court or person having by law or consent of parties authority to determine the claim may order that the person injured be examined by some duly qualified medical practitioner named in the order and not being a witness on either side, and may make such order with respect to the cost of the examination as it or he thinks fit.

Provision for compulsory medical examination of person injured in railway accident.

* For rules as to returns of accidents to be submitted by railway administrations to Government, see Genl. Stat. R. & O., Vol. III, p. 1518.

† Cf. the Regulation of Railways Act, 1868 (31 & 32 Vict., c. 119), s. 26.

CHAPTER IX.

PENALTIES AND OFFENCES.

Forfeitures by Railway Companies.

87. If a railway company fails to comply with any requisition made under section 13, it shall forfeit to the Government the sum of two hundred rupees for the default and a further sum of fifty rupees for every day after the first during which the default continues.

Penalty for default in compliance with requisition under section 13.

88. If a railway company moves any rolling-stock upon a railway by steam or other motive power in contravention of section 16, sub-section (2), or opens or uses any railway or work in contravention of section 18, section 19, section 20 or section 21, or re-opens any railway or uses any rolling-stock in contravention of section 24, it shall forfeit to the Government the sum of two hundred rupees for every day during which the motive power, railway, work or rolling-stock is used in contravention of any of those sections.

Penalty for contravention of section 16 18, 19, 20, 21, or 24.

89. If a railway company fails to comply with the provisions of section 47, sub-section (6), section 54, sub-section (2), or section 65, with respect to the books or other documents to be kept open to inspection or conspicuously posted at stations on its railway, it shall forfeit to the Government the sum of fifty rupees for every day during which the default continues.

Penalty for not having certain documents kept or exhibited at stations under section 47, 54 or 65.

(Chapter IX.—Penalties and Offences.—Sections 90-93.)

90. If the railway company fails to comply with the provisions of section 47 with respect to the making of general rules, it shall forfeit to the Government the sum of fifty rupees for every day during which the default continues.

Penalty for not making rules as required by section 47.

91.* If a railway company refuses or neglects to comply with any decision of the Governor General in Council under section 48, it shall forfeit to the Government the sum of two hundred rupees for every day during which the refusal or neglect continues.

Penalty for failure to comply with decision under section 48.

92. If a railway company fails to comply with the provisions of section 52 or section 85 with respect to the submission of any return, it shall forfeit to the Government the sum of fifty rupees for every day during which the default continues after the fourteenth day from the date prescribed for the submission of the return.

Penalty for delay in submitting returns under section 52 or 85.

93. If a railway company contravenes the provisions of section 53 or section 63, with respect to the maximum load to be carried in any wagon or truck, or the maximum number of passengers to be carried in any compartment, or the exhibition of such load on the wagon or truck or of such number in or on the compartment, or knowingly

Penalty for neglect of provisions of section 53 or 63 with respect to carrying capacity of rolling-stock.

¹ Cf. the Railway Regulation Act, 1842 (5 & 6 Vict., c. 55), s. 11.

(Chapter IX.—Penalties and Offences.—Sections 94-95.)

suffers any person owning a wagon or truck passing over its railway to contravene the provisions of the former of those sections, it shall forfeit to the Government the sum of twenty rupees for every day during which either section is contravened.

94.* If a railway company fails to comply with any requisition of the Governor General in Council under section 62 for the provision and maintenance in proper order, in any train worked by it, which carries passengers, of such efficient means of communication as the Governor General in Council has approved, it shall forfeit to the Government the sum of twenty rupees for each train run in disregard of the requisition.

Penalty for failure to comply with requisition under section 62 for maintenance of means of communication between passengers and railway servants.

95. If a railway company fails to comply with the requirements of section 64 with respect to the reservation of compartments for females or the provision of closets therein, it shall forfeit to the Government the sum of twenty rupees for every train in respect of which the default occurs.

Penalty for failure to reserve compartments for females under section 64.

* Cf. the Regulation of Railways Act, 1868 (31 & 32 Vict., c. 119), s. 22.

(Chapter IX.—Penalties and Offences.—Sections 96-98.)

96. If a railway company omits to give such notice of an accident as is required by section 83 and the rules for the time being in force under section 84, it shall forfeit to the Government the sum of one hundred rupees for every day during which the omission continues.

Penalty for omitting to give the notices of accidents required by section 83 & under section 84.

97. (1) When a railway company has through any act or omission forfeited any sum to the Government under the foregoing provisions of this Chapter, the sum shall be recoverable by suit in the District Court having jurisdiction in the place where the act or omission or any part thereof occurred.

Recovery of penalties.

(2) The suit must be instituted with the previous sanction of the Governor General in Council, and the plaintiff therein shall be the Secretary of State for India in Council.

(3) The Governor General in Council may remit the whole or any part of any sum forfeited by a railway company to the Government under the foregoing provisions of this Chapter.

98. Nothing in those provisions shall be construed to preclude the Government from resorting to any other mode of proceedings instead of, or in addition to, such a suit as is mentioned in the last foregoing section, for the

Alternative or supplementary character of remedies afforded by

(Chapter IX.—Penalties and Offences.—Sections 99-101.)

the foregoing provisions of this Chapter.

purpose of compelling a railway company to discharge any obligation imposed upon it by this Act.

Offences by Railway Servants.

99.* If a railway servant whose duty it is to comply with the provisions of section 60 negligently or wilfully omits to comply therewith, he shall be punished with fine which may extend to twenty rupees.

100. If a railway servant is in a state of intoxication while on duty, he shall be punished with fine which may extend to fifty rupees, or, where the improper performance of the duty would be likely to endanger the safety of any person travelling or being upon a railway, with imprisonment for a term which may extend to one year, or with fine or with both.

101.† If a railway servant, when on duty, endangers the safety of any person—

(a) by disobeying any general rule made, sanctioned, published and notified under this Act, or

* Cf. the Railway Regulation Act, 1842 (5 & 6 Vict., c. 55), s. 17.

† Cf. the Railway Regulation Act, 1840 (3 & 4 Vict., c. 97), ss. 13 and 14, and the Railway Regulation Act, 1842 (5 & 6 Vict., c. 55), s. 17.

For rules made by the Government of Bengal under s. 46 (2) of the Police Act, 1861 (5 of 1861), for the guidance of the Railway Police as to arrest and prosecution for offences under this section, see Calcutta Gazette, 1904, Pt. I, p. 884.

(Chapter IX.—*Penalties and Offences.*—Sections 102-103.)

(b) by disobeying any rule or order which is not inconsistent with any such general rule, and which such servant was bound by the terms of his employment to obey, and of which he had notice, or

(c) by any rash or negligent act or omission, he shall be punished with imprisonment for a term which may extend to two years, or with fine which may extend to five hundred rupees, or with both.

102. If a railway servant compels or attempts to compel, or causes, any passenger to enter a compartment which already contains the maximum number of passengers exhibited therein or thereon under section 63, he shall be punished with fine which may extend to twenty rupees.

103. If a station-master or a railway servant in charge of a section of a railway omits to give such notice of an accident as is required by section 83 and the rules for the time being in force under section 84, he shall be punished with fine which may extend to fifty rupees.

(Chapter IX.—Penalties and Offences.—Sections 104-106.)

Obstructing
level-crossings.

104.* If a railway servant unnecessarily—

(a) allows any rolling-stock to stand across a place where the railway crosses a public road on the level, or

(b) keeps a level-crossing closed against the public, he shall be punished with fine which may extend to twenty rupees.

105. If any return which is required by this Act is false in any particular to the knowledge of any person who signs it, that person shall be punished with fine which may extend to five hundred rupees, or with imprisonment which may extend to one year, or with both.

False returns.†

Other Offences.

106.‡ If a person requested under section 58 to give an account with respect to any goods gives an account which is materially false, he and, if he is not the owner of the goods, the owner also shall be punished with fine which may extend to ten rupees for every maund or part of a maund of the goods, and the fine shall be in addition to any rate or other charge to which the goods may be liable.

Giving false
account of
goods.

* Cf. the Railways Clauses Act, 1863 (26 & 27 Vict., c. 92), s. 5.

† Cf. the Regulation of Railways Act, 1871 (34 & 35 Vict., c. 78), s. 10.

‡ Cf. the Railways Clauses Act, 1845 (8 & 9 Vict., c. 20), ss. 99 and 152, respectively.

1890.]

Railways.

(Chapter IX.—Penalties and Offences.—Sections 107-109.)

107.* If in contravention of section 59 a person takes with him any dangerous or offensive goods upon a railway, or tenders or delivers any such goods for carriage upon a railway, he shall be punished with fine which may extend to five hundred rupees, and shall also be responsible for any loss, injury, or damage which may be caused by reason of such goods having been so brought upon the railway.

Unlawfully bringing dangerous or offensive goods upon a railway.

108. § If a passenger, without reasonable and sufficient cause, makes use of or interferes with any means provided by a railway administration for communication between passengers and the railway servants in charge of a train, he shall be punished with fine which may extend to fifty rupees.

Needlessly interfering with means of communication in a train.

109. (1) If a passenger, having entered a compartment which is reserved by a railway administration for the use of another passenger, or which already contains the maximum number of passengers exhibited therein or thereon under section 63, refuses to leave it when required to do so by any railway servant, he shall be punished with fine which may extend to twenty rupees.

Entering compartment reserved or already full or resisting entry into a compartment not full.

* Cf. the Railways Clauses Act, 1845 (8 & 9 Vict., c. 20), ss. 99 and 152, respectively.

§ Cf. the Regulation of Railways Act, 1868 (31 & 32 Vict., c. 119) s. 22.

(Chapter IX.—Penalties and Offences.—Sections 110-111.)

(2) If a passenger resists the lawful entry of another passenger into a compartment not reserved by the railway administration for the use of the passenger resisting or not already containing the maximum number of passengers exhibited therein or thereon under section 63, he shall be punished with fine which may extend to twenty rupees.

110. (1) If a person, without the consent of his fellow passengers, if any, in the same compartment smokes in any compartment except a compartment specially provided for the purpose, he shall be punished with fine which may extend to twenty rupees.

(2) If any person persists in so smoking after being warned by any railway servant to desist, he may, in addition to incurring the liability mentioned in sub-section (1), be removed by any railway servant from the carriage in which he is travelling.

111.* If a person, without authority in this behalf, pulls down or wilfully injures any board or document set up or posted by order of a railway administration on a railway or any rolling-stock, or obliterates or alters any of the letters or figures upon any such board or document, he shall be punished with fine which may extend to fifty rupees.

* Cf. the Companies Clauses Act, 1845 (8 & 9 Vict, c. 16), s. 146.

(Chapter IX.—Penalties and Offences.—Sections 112-113.)

112. If a person, with intent to defraud a railway administration,—
 Fraudulently travelling or attempting to travel without proper pass or ticket.

- (a) enters in contravention of section 68 any carriage on a railway, or
- (b) uses or attempts to use a single pass or single ticket which has already been used on a previous journey or, in the case of a return ticket, a half thereof which has already been so used,

he shall be punished with fine which may extend to one hundred rupees in addition to the amount of the single fare for any distance which he may have travelled.

113. † (1) If a passenger travels in a train without having a proper pass or a proper ticket with him or, being in or having alighted from a train, fails or refuses to present for examination or to deliver up his pass or ticket immediately on requisition being made therefor under section 69, he shall be liable to pay, on the demand of any railway

Travelling without pass or ticket or with insufficient pass or ticket or beyond authorized distance.

† *Of.* the French and German Railway law.

(Chapter IX.—Penalties and Offences.—Section 113.)

servant appointed by the railway administration in this behalf, the excess charge hereinafter in this section mentioned, in addition to the ordinary single fare for the distance which he has travelled or, where there is any doubt as to the station from which he started, the ordinary single fare from the station from which the train originally started, or if the tickets or passengers travelling in the train have been examined since the original starting of the train, the ordinary single fare from the place where the tickets were examined or, in case of their having been examined more than once, were last examined.

(2) If a passenger travels or attempts to travel in or on a carriage, or by a train, of a higher class than that for which he has obtained a pass or purchased a ticket, or travels in or on a carriage beyond the place authorized by his pass or ticket, he shall be liable to pay, on the demand of any railway servant appointed by the railway administration in this behalf, excess charge hereinafter in this section mentioned, in addition to any difference between any fare paid by him and the fare payable in respect of such journey as he has made.

(3) The excess charge referred to in sub-section (1) and sub-section (2) shall,—

(Chapter IX.—Penalties and Offences.—Section 113.)

- (a) where the passenger has immediately after incurring the charge and before being detected by a railway servant notified to the railway servant on duty with the train the fact of the charge having been incurred, be one rupee, two annas or eight annas, and
- (b) in any other case, be six rupees, one rupee or three rupees,
- according as the passenger is travelling or has travelled or has attempted to travel in a carriage of the highest class or in a carriage of the lowest class or in a carriage of any other class or kind :

Provided that such excess charge shall in no case exceed,—

- (a) where the liability to pay it arises under sub-section (1), the amount of the ordinary single fare which the passenger incurring the charge is liable to pay under that sub-section, or
- (b) where such liability arises under sub-section (2), the amount of the difference between the fare paid by the passenger incurring the charge and the fare payable in respect of such journey as he has made.
- (4) If a passenger liable to pay the excess charge and fare mentioned in sub-section (1), or the excess charge and any difference of fare mentioned in sub-section (2), fails

(Chapter IX.—Penalties and Offences.—Section 114.)

or refuses to pay the same on demand being made therefor under one or other of those sub-sections, as the case may be, the sum payable by him shall, on application made to any Magistrate by any railway servant appointed by the railway administration in this behalf, be recovered by the Magistrate from the passenger as if it were a * fine imposed on the passenger by the Magistrate and shall, as it is recovered, be paid to the railway administration.

114. If a person sells or attempts to sell, or parts or attempts to part with the possession of † any half of a return ticket in order to enable any other person to travel therewith, or purchase such half of a return ticket, he shall be punished with fine which may extend to fifty rupees, and, if the purchaser of such half of a return ticket travels or attempts to travel therewith, he shall be punished with an additional fine which may extend to the amount of the single fare for ‡ [the journey] authorized by the ticket.

* As to procedure for recovery of fines, see ss. 386 to 389 of the Code of Criminal Procedure, 1898 (Act 5 of 1898), Genl. Acts, Vol. V.

† The words "any half" were substituted for the words "the return half" by s. 6 of the Indian Railways Act (1890) Amendment Act, 1896 (9 of 1896), Genl. Acts, Vol. IV.

‡ The words "the journey" were substituted for the words "the return journey" by s. 6 of the Indian Railways Act (1890) Amendment Act, 1896 (9 of 1896), Genl. Acts, Vol. IV.

(Chapter IX.—Penalties and Offences.—Sections 115-117.)

115. That portion of any fine imposed under section 112 or the last foregoing section which represents the single fare therein mentioned shall, as the fine is recovered, be paid to the railway administration before any portion of the fine is credited to the Government.

Disposal of fines under the two last foregoing sections.

116. If a passenger wilfully alters or defaces his pass or ticket so as to render the date, number or any material portion thereof illegible, he shall be punished with fine which may extend to fifty rupees.

Altering or defacing pass or ticket.

117. (1) If a person suffering from an infectious or contagious disorder enters or travels upon a railway in contravention of section 71, sub-section (2), he, and any person having charge of him upon the railway when he so entered or travelled thereon, shall be punished with fine which may extend to twenty rupees, in addition to the forfeiture of any fare which either of them may have paid, and of any pass or ticket which either of them may have obtained or purchased, and may be removed from the railway by any railway servant.

Being or suffering person to travel on railway with infectious or contagious disorder.

(2) If any such railway servant as is referred to in section 71, sub-section (2), knowing that a person is suffering from any infectious or contagious disorder, wilfully permits the person to travel upon a railway

(Chapter IX.—Penalties and Offences.—Sections 118-119.)

without arranging for his separation from other passengers, he shall be punished with fine which may extend to one hundred rupees.

118. (1) If a passenger enters or leaves, or attempts to enter or leave, any carriage while the train is in motion, or elsewhere than at the side of the carriage adjoining the platform or other place appointed by the railway administration for passengers to enter or leave the carriage, or opens the side-door of any carriage while the train is in motion, he shall be punished with fine which may extend to twenty rupees.

Entering carriage in motion, or otherwise improperly travelling on a railway.

(2) If a passenger, after being warned by a railway servant to desist, persists in travelling on the roof, steps or footboard of any carriage or on an engine, or in any other part of a train not intended for the use of passengers, he shall be punished with fine which may extend to fifty rupees and may be removed from the railway by any railway servant.

119. If a male person, knowing a carriage, compartment, room or other place to be reserved by a railway administration for the exclusive use of females, enters the place without lawful excuse, or, having entered it, remains therein after having been desired by any railway servant to leave it, he shall be punished with fine which may extend to one hundred rupees, in addition to

Entering carriage on other place reserved for females.

(Chapter IX.—Penalties and Offences.—Sections 120-122.)

the forfeiture of any fare which he may have paid and of any pass or ticket which he may have obtained or purchased, and may be removed from the railway by any railway servant.

Drunkenness
or nuisance on
a railway.

120. If a person in any railway carriage or upon any part of a railway—

- (a) is in a state of intoxication, or
- (b) commits any nuisance or act of indecency, or uses obscene or abusive language, or
- (c) wilfully and without lawful excuse interferes with the comfort of any passenger or extinguishes any lamp,

he shall be punished with fine which may extend to fifty rupees, in addition to the forfeiture of any fare which he may have paid and of any pass or ticket which he may have obtained or purchased, and may be removed from the railway by any railway servant.

121.* If a person wilfully obstructs or impedes any railway servant in the discharge of his duty, he shall be punished with fine which may extend to one hundred rupees.

122.* (1) If a person unlawfully enters upon a railway, he shall be punished with fine which may extend to twenty rupees.

Trespass and refusal to desist from trespass.

* Cf. the Railway Regulation Act, 1840 (3 & 4 Vict., c. 97), s. 16.

(Chapter IX.—Penalties and Offences.—Sections 123-124.)

(2) If a person so entering refuses to leave the railway on being requested to do so by any railway servant, or by any other person on behalf of the railway administration, he shall be punished with fine which may extend to fifty rupees, and may be removed from the railway by such servant or other person.

123. If a driver or conductor of a tramcar, omnibus, carriage or other vehicle while upon the premises of a railway disobeys the reasonable directions of any railway servant or police-officer, he shall be punished with fine which may extend to twenty rupees.

Disobedience of omnibus drivers to directions of railway servants.

124.† In either of the following cases, namely:—

Opening or not properly shutting gates.

(a) if a person knowing or having reason to believe that an engine or train is approaching along a railway, opens any gate set up on either side of the railway across a road, or passes or attempts to pass, or drives or takes or attempts to drive or take, any animal, vehicle or other thing across the railway,

† Cf. the Railways Clauses Act, 1845 (8 & 9 Vict., c. 20), s. 75.

1890.]

Railways.

(Chapter IX.—Penalties and Offences.—Section 125.)

(b) if, in the absence of a gate-keeper, a person omits to shut and fasten such a gate as aforesaid as soon as he and any animal, vehicle or other thing under his charge have passed through the gate, the person shall be punished with fine which may extend to fifty rupees.

125. (1) The owner or person in charge of any cattle straying on a railway provided with fences suitable for the exclusion of cattle shall be punished with fine which may extend to five rupees for each head of cattle, in addition to any amount which may have been recovered or may be recoverable under the *Cattle-trespass Act, 1871.

(2) If any cattle are wilfully driven, or knowingly permitted to be, on any railway otherwise than for the purpose of lawfully crossing the railway or for any other lawful purpose, the person in charge of the cattle or, at the option of the railway administration, the owner of the cattle shall be punished with fine which may extend to ten rupees for each head of cattle, in addition to any amount which may have been recovered or may be recoverable under the *Cattle-trespass Act, 1871.

(3) Any fine imposed under this section may, if the Court so directs, be recovered in manner provided by section 25 of the *Cattle-trespass Act, 1871.

(Chapter IX.—Penalties and Offences.—Section 126.)

(4) The expression “public road” in sections 11 and 26 of the * Cattle-trespass Act, 1871, shall I of 1871. be deemed to include a railway, and any railway servant may exercise the powers conferred on officers of police by the former of those sections.

(5) The word “cattle” has the same meaning in this section as in the * Cattle-trespass Act, I of 1871. 1871.

Maliciously
wrecking or
attempting to
wreck a train.

126.† If a person unlawfully—

- (a) puts or throws upon or across any railway any wood, stone or other matter or thing, or
- (b) takes up, removes, loosens or displaces any rail, sleeper or other matter or thing belonging to any railway, or
- (c) turns, moves, unlocks or diverts any points or other machinery belonging to any railway, or
- (d) makes or shows, or hides or removes, any signal or light upon or near to any railway, or
- (e) does or causes to be done or attempts to do any other act or thing in relation to any railway,

* Genl. Acts, Vol. II.

† Cf. the Malicious Damage Act, 1861 (24 & 25 Vict., c. 97), s. 35, and the Offences against the Person Act, 1861 (24 & 25 Vict., c. 100), s. 32.

(Chapter IX.—Penalties and Offences.—Sections 127-128.)

with intent, or with knowledge that he is likely, to endanger the safety of any person travelling or being upon the railway, he shall be punished with transportation for life or with imprisonment for a term which may extend to ten years.

127.* If a person unlawfully throws or causes to fall or strike at, against, into or upon any rolling-stock forming part of a train any wood, stone or other matter or thing with intent, or with knowledge that he is likely, to endanger the safety of any person being in or upon such rolling-stock or in or upon any other rolling-stock forming part of the same train, he shall be punished with transportation for life or with imprisonment for a term which may extend to ten years.

128.† If a person, by any unlawful act or by any wilful omission or neglect, endangers or causes to be endangered the safety of any person travelling or being upon any railway, or obstructs or causes to be obstructed or attempts to obstruct any rolling-stock upon any railway, he shall be punished with imprisonment for a term which may extend to two years.

* *Cf.* the Offences against the Person Act, 1861 (24 & 25 Vict., c. 100), s. 33.

† *Cf.* the Offences against the Person Act, 1861 (24 & 25 Vict., c. 100), s. 34, and the Malicious Damage Act, 1861 (24 & 25 Vict., c. 97), s. 36.

(Chapter IX.—Penalties and Offences.—Sections 129-130.)

129. If a person rashly or negligently does any act, or omits to do what he is legally bound to do, and the act or omission is likely to endanger the safety of any person travelling or being upon a railway, he shall be punished with imprisonment for a term which may extend to one year, or with fine, or with both.

Endangering safety of persons travelling by railway by rash or negligent act or omission.

130. (1) If a minor under the age of twelve years is with respect to any railway guilty of any of the acts or omissions mentioned or referred to in any of the four last foregoing sections, he shall be deemed, notwithstanding anything in section 82 or section 83 of the *Indian Penal Code, to have committed an offence, and the Court convicting him may, if it thinks fit, direct that the minor, if a male, shall be punished with whipping, or may require that father or guardian of the minor to execute, within such time as the Court may fix, a bond binding himself, in such penalty

Special provision with respect to the commission by children of acts endangering safety of persons travelling by railway.

XLV of 1860.

*Genl. Acts Vol. 1.

(Chapter IX.—Penalties and Offences.—Section 131.)

as the Court directs, to prevent the minor from being again guilty of any of those acts or omissions.

(2) The amount of the bond, if forfeited, shall be recoverable by the Court as if it were a fine imposed by itself.‡

(3) If a father or guardian fails to execute a bond under sub-section (1) within the time fixed by the Court, he shall be punished with fine which may extend to fifty rupees.

Procedure.

131. (1) If a person commits any offence mentioned in section 100, 101, 119, 120, 121, 126, 127, 128 or 129 or in section 130, sub-section (1), he may be arrested without warrant or other written authority by any railway servant or police-officer, or by any other person whom such servant or officer may call to his aid.

(2) A person so arrested shall, with the least possible delay, be taken before a Magistrate having authority to try him or commit him for trial.

‡See ss. 386 to 389 of the Code of Criminal Procedure, 1898 (Act 5 of 1898), Genl. Acts, Vol. V.

(Chapter IX.—Penalties and Offences.—Section 132.)

132.* (1) If a person commits any offence under this Act other than an offence mentioned in the last foregoing section, or fails or refuses to pay any excess charge or other sum demanded under section 113, and there is reason to believe that he will abscond, or his name and address are unknown, and he refuses on demand to give his name and address, or there is reason to believe that the name or address given by him is incorrect, any railway servant or police-officer, or any other person whom such railway servant or police-officer may call to his aid, may, without warrant or other written authority, arrest him.

(2) The person arrested shall be released on his giving bail, or, if his true name and address are ascertained, on his executing a bond without sureties, for his appearance before a Magistrate when required.

(3) If the person cannot give bail and his true name and address are not ascertained, he shall, with the least possible delay, be taken before the nearest Magistrate having jurisdiction.

(4) The provisions of Chapters XXXIX and XLII of the †Code of Criminal Procedure, 1882, shall, so far as may be, apply to bail given and bonds executed under this section.

* Cf. the Companies Clauses Act, 1845 (8 & 9 Vict., c. 16), s. 156.

† See now the Code of Criminal Procedure, 1898 (Act 5 of 1898), Genl. Acts, Vol. V.

(Chapter X.—Supplemental Provisions.—Sections 133-135.)

133. No Magistrate other than a Presidency Magistrate
Magistrates
having juris-
diction under
Act. or than a Magistrate whose powers are not
less than those of a Magistrate of the second
class shall try any offence under this Act.

134. (1) Any person committing any offence against
Place of trial. this Act or any rule thereunder shall be
triable for such offence in any place in which
he may be or which the † Local Government may notify
in this behalf, as well as in any other place in which he
might be tried under any law for the time being in force,

(2) Every notification under sub-section (1) shall be
published in the local official Gazette, and a copy thereof
shall be exhibited for the information of the public in
some conspicuous place at each of such railway stations
as the Local Government may direct.

CHAPTER X.

SUPPLEMENTAL PROVISIONS.

135. Notwithstanding anything to the contrary in
any enactment, or in any agreement or
award based on any enactment, the following
rules shall regulate the levy of taxes in
respect of railways and front railway admi-
Taxation of
railways by
local autho-
rities.

† For instances of notifications issued under this power, see Assam Gazette, 1898, Pt. II, p. 134, and *ibid*, 1901, Pt. II, p. 482, Gazette of India, 1899, Pt. 1, p. 255, United Provinces Gazette, 1906, Pt. I, p. 983, and Calcutta Gazette, 1907, Pt. I, p. 202.

(Chapter X.—Supplemental Provisions.—Section 135.)

nistrations in aid of the funds of local authorities, namely:—

(1) A railway administration shall not be liable to pay any tax in aid of the funds of any* local authority unless the Governor General in Council has, by notification in the official Gazette, declared the railway administration to be liable to pay the tax.†

(2) While a notification of the Governor General in Council under clause (1) of this section is in force, the railway administration shall be liable to pay to the local authority either the tax mentioned in the notification or, in lieu thereof, such sum, if any, as an

* For definition of "local authority," see sub-section (5), *infra*, p. 75, and the General Clauses Act, 1897 (10 of 1897), s. 3 (28), Genl. Acts, Vol. IV.

† (1) For notification under this section declaring every railway administration to be liable to pay every tax which it is lawfully required to pay by or on behalf of any local authority in aid of the funds of such authority, see Gazette of India, 1907, Pt. I, p. 1075.

(2) For notification imposing water-rates on the East Indian Railway in respect of certain Municipalities, see Gazette of India, 1893 and 1894, Pt. I, pp. 358 and 438, respectively.

(3) For notification declaring that the Madras Railway Company shall pay a water and drainage tax to the Coconada Municipalities, see Gazette of India, 1902, Pt. I, p. 95.

(4) For notification declaring that the administration of the Burma Railways shall be liable to tax in respect of its property within the Rangoon Municipality, see Gazette of India, 1906, Pt. I, p. 811.

(Chapter X.—Supplemental Provisions.—Section 135.)

officer *appointed in this behalf by the Governor General in Council may, having regard to all the circumstances of the case, from time to time determine to be fair and reasonable.

(3) The Governor General in Council may at any time revoke or vary a notification under clause (1) of this section.

(4) Nothing in this section is to be construed as debarring any railway administration from entering into a contract with any local authority for the supply of water or light, or for the scavenging of railway premises, or for any other service which the local authority may be rendering or be prepared to render within any part of the local area under its control.

(5) "Local authority" in this section means a local authority as defined in the †General Clauses Act, 1887, and includes any authority legally I of 1887. entitled to or entrusted with the control or management of any fund for the maintenance of watchmen or for the conservancy of a river. •

* For such appointment, see Genl. Stat. R. & O., Vol. III.

† See now the General Clauses Act, 1897 (10 of 1897), s. 3 (28), Genl. Acts, Vol. IV.

(Chapter X.—Supplemental Provisions.—Sections 136-137.)

136.† (r) None of the rolling-stock, machinery, plant, tools, fittings, materials or effects used or provided by a railway administration for the purpose of the traffic on its railway, or of its stations or workshops, shall be liable to be taken in execution of any decree or order of any Court ¶ [or of any local authority or person having by law power to attach or distrain property or otherwise to cause property to be taken in execution] without the previous sanction of the Governor General in Council.

Restriction on execution against railway property.

(a) Nothing in sub-section (r) is to be construed as affecting the authority of any Court to attach the earnings of a railway in execution of a decree or order.

137. (r) Every railway servant shall be deemed to be a public servant for the purposes of Chapter IX of the Indian Penal Code.*

Railway servants to be public servants for the purposes of Chapter IX of the Indian Penal Code.

XLV of 1860.

† Cf. the Railway Companies Act, 1867 (30 & 31 Vict., c. 127), s. 4.

¶ These words were added by the Indian Railways Act (1890) Amendment Act, 1896 (9 of 1896), s. 7, Genl. Acts, Vol. IV.

* Genl. Acts, Vol. I.

(Chapter X.—Supplemental Provisions.—Section 138.)

(2) In the definition of “legal remuneration” in section 161 of that Code,* the word “Government” shall, for the purposes of sub-section (1), be deemed to include any employer of a railway servant as such.

(3) A railway servant shall not—

(a) purchase or bid for, either in person or by agent, in his own name or in that of another, or jointly or in shares with others, any property put up to auction under section 55 or section 56, or,

(b) in contravention of any direction of the railway administration in this behalf, engage in trade.

(4) Notwithstanding anything in section 21 of the Indian Penal Code,* a railway servant shall not be deemed to be a public servant for any of the purposes of that Code except those mentioned in sub-section (1).

138.† If a railway servant is discharged or suspended from his office, or dies, absconds or absents himself, and he or his wife or widow, or any of his family or representatives, refuses or neglects, after notice in writing for that purpose, to deliver up to the railway administration, or to a person appointed by the railway administration in this behalf, any station, dwelling-house, office or other

Procedure
for summary
delivery to
railway ad-
ministration
of property
detained by
railway
servant.

* Genl. Acts, Vol. I.

† Cf. the Railways Clauses Act, 1845 (8 & 9 Vict., c. 20), s. 106.

(Chapter X.—Supplemental Provisions.—Section 139.)

building with its appurtenances, or any books, papers or other matters, belonging to the railway administration and in the possession or custody of such railway servant at the occurrence of any such event as aforesaid, any Magistrate of the first class may, on application made by or on behalf of the railway administration, order any police-officer, with proper assistance, to enter upon the building and remove any person found therein and take possession thereof, or to take possession of the books, papers or other matters, and to deliver the same to the railway administration or a person appointed by the railway administration in that behalf.

139.* Any notice, determination, direction, requisition, appointment, expression of opinion, approval or sanction to be given or signified on the part of the Governor General in Council, for any of the purposes of, or in relation to, this Act, or any of the powers or provisions therein contained, shall be sufficient and binding if in writing signed by a Secretary, Deputy Secretary, Under-Secretary or Assistant Secretary to the Government of India, or by any other officer or servant† authorized to act on behalf of the Governor General in Council in respect of the matters

Mode of signifying communications from the Governor General in Council.

* Cf. the Railway and Canal Traffic Act, 1888 (51 & 52 Vict., c. 25),

4-53.

† For notification authorizing the Secretary to the Railway Board to sign these documents, see Genl. Stat. R. and Q., Vol. III, p. 1525..

(Chapter X.—Supplemental Provisions.—Sections 140-141.)

to which the same may relate, and the Governor General in Council shall not in any case be bound in respect of any of the matters aforesaid unless by some writing signed in manner aforesaid.

140. Any notice or other document required or authorized by this Act to be served on a railway administration may be served, in the case of a railway administered by the Government or a Native State, on the Manager and, in the case of a railway administered by a railway company, on the Agent in India of the railway company—

- (a) by delivering the notice or other document to the Manager or Agent; or
- (b) by leaving it at his office; or
- (c) by forwarding it by post in a prepaid letter addressed to the Manager or Agent at his office and registered under Part III of the * Indian Post Office Act, 1866.

141.† Any notice or other document required or authorized by this Act to be served on any person by a railway administration may be served—

* See now the Indian Post Office Act, 1898 (6 of 1898), Genl. Acts, Vol. V.

† *Of* the Companies Clauses Act, 1845 (8 & 9 Vict., c. 16), s. 136, and the Railways Clauses Act, 1845 (8 & 9 Vict., c. 20), s. 34.

(Chapter X.—Supplemental Provisions.—Sections 142-143.)

- (a) by delivering it to the person ; or
- (b) by leaving it at the usual or last known place of abode of the person ; or
- (c) by forwarding it by post in a prepaid letter addressed to the person at his usual or last known place of abode and registered under Part III of the * Indian Post Office Act, 1866.

142. Where a notice or other document is served by post, it shall be deemed to have been served at the time when the letter containing it would be delivered in the ordinary course of post, and in proving such service it shall be sufficient to prove that the letter containing the notice or other document was properly addressed and registered.

Presumption where notice is served by post.

143. (1) A rule under section 22, section 34 or section 84, or the cancellation, rescission or variation of a rule under any of those sections or under section 47, sub-section (4), shall not take effect until it has been published in the Gazette of India.

Provisions with respect to rules.

(2) Where any rule made under this Act, or the cancellation, rescission or variation of any such rule, is required by this Act to be published in the Gazette of

* See now the Indian Post Office Act, 1898 (6 of 1898), Genl. Acts, Vol. V.

(Chapter X.—*Supplemental Provisions.*—Section 144.)

India, it shall, besides being so published, be further notified to persons affected thereby in such manner as the Governor General in Council, by general or special order, directs.

(3) The Governor General in Council may cancel or vary any rule made by him under this Act.

144. (1) The Governor General in Council may, by notification in the Gazette of India, invest, absolutely or subject to conditions, any Local Government with any of the powers or functions of the Governor General in Council under this Act with respect to any railway, and may, by that or a like notification, declare what Local Government shall, for the purposes of the exercise of powers or functions so conferred, be deemed to be the Local Government in respect of the railway.*

(2) The provisions of section 139 with respect to proceedings of the Governor General in Council shall, so far as they can be made applicable, apply to proceedings of a Local Government exercising the powers or discharging the functions of the Governor General in Council in pursuance of a notification under sub-section (1).

* For notification delegating certain powers and functions vested in the Governor General in Council to Local Governments, see Genl. Stat. R. & O., Vol. III, p. 1525.

(Chapter X.—Supplemental Provisions.—Sections 145-146.)

145. (1) The Manager of a railway administered by the Government or a Native State, and the Agent in India of a railway administered by a railway company, may, by instrument in writing, authorize any railway servant or other person to act for or represent him in any proceeding before any Civil, Criminal or other Court.

Representa-
tion of
Managers and
Agents of
Railways in
Court.

(2) A person authorized by a Manager or Agent to conduct prosecutions on behalf of a railway administration shall, notwithstanding anything in section 495 of the Code of Criminal Procedure, 1882, be entitled to conduct such prosecutions without the permission of the Magistrate.

of 1882.

146. The Governor General in Council may, by notification in the Gazette of India, extend this Act or any portion thereof to any tramway worked by steam or other mechanical power. †

Power to
extend Act
to steam-
tramways.

† See now the Code of Criminal Procedure, 1898 (Act 5 of 1898), Genl. Acts, Vol. V.

† For notifications extending the Act to certain steam-tramways, see, Gazette of India, 1896, Pt. I, p. 408; and *ibid*, 1898, Pt. I, p. 467; *ibid*, 1903, Pt. I, p. 797; *ibid*, 1904, Pt. I, p. 744; and Fort St. George Gazette, 1901, Pt. I, p. 992.

(Chapter X.—Supplemental Provisions.—Sections 147-148.)

147. The Governor General in Council may, by a like notification, exempt any railway from any of the provisions of this Act.*

Power to exempt railways from Act.

148. (1) For the purposes of section 3, clauses (5), (6) and (7), and sections 4 to 19 (both inclusive), 47 to 52 (both inclusive), 59, 79, 83 to 92 (both inclusive), 96, 97, 98, 100, 101, 103, 104, 107, 111, 122, 124 to 132 (both inclusive), 134 to 138 (both inclusive), 140, 141, 144, 145 and 147, the word "railway," whether it occurs alone or as a prefix to another word, has reference to a railway or portion of a railway under construction and to a railway or portion of a railway not used for the public carriage of passengers, animals or goods as well as to a railway falling within the definition of that word in section 3, clause (4).

(2) For the purposes of sections 5, 21, 83, 100, 101, 103, 104, 121, 122, 125 and 137, sub-sections (1), (2), and (4), and section 138, the expression "railway servant" includes a person employed upon a railway in connection with the service thereof by a person fulfilling a contract with the railway administration.

* For notification exempting the Barsi Light Railway Company from the provisions of s. 85 of the Act, see Gazette of India, 1896, Pt. I, p. 303.

(Chapter X.—Supplemental Provisions.—Sections 149-150.)

149. In sections 194 and 195 of the † Indian Penal Code, for the words “by this Code or the law of England” the words “by the law of British India or England” shall be substituted.

Amendment of the Indian Penal Code.
XLV of 1860.

150. For that portion of the preamble to the ‡ Sindh-Pishin Railway Act, 1887, which begins with the words “so far as it applies” and ends with the words “in its entirety,” the words “should apply in its entirety to that part of the Sindh-Pishin section of the North-Western Railway which lies beyond the Province of Sindh” shall be substituted.

Amendment of the Sindh-Pishin Railway Act, 1887.
XI of 1887.

† Genl. Acts, Vol. I.

‡ Bal. Code.

1890.]

*Railways.**(The First Schedule.—Enactments repealed.)*

THE FIRST SCHEDULE.

ENACTMENTS REPEALED.

(See section 2.)

Number and year.	Title.	Extent of repeal.
<i>Acts of the Governor General in Council.</i>		
*III of 1865 ...	Carriers Act, 1865 ...	Section 7 (so far as it relates to railways) and section 10.
IV of 1879 ...	Indian Railways Act, 1879 ...	The whole.
IV of 1883 ...	Indian Railways Act, 1883 ...	The whole.
† XI of 1886 ...	Indian Tramways Act, 1886 ...	Section 49.
¶	¶	¶

Acts of the Lieutenant-Governor of Bengal in Council.

‡ II of 1882 ...	Bengal Embankment Act, 1882	Section 16, and in section 17 the proviso to the first paragraph of that section, the words "or under the section last preceding" and the words "or railroad" wherever they occur.
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* Genl. Acts, Vol. I.

† Genl. Acts, Vol. III.

¶ The entry relating to the Upper Burma Laws Act, 1886 (20 of 1886), was repealed by the Burma Laws Act, 1898 (13 of 1898), see Bur. Code.

‡ Ben. Code; Vol. I.

(*The Second Schedule.—Articles to be declared and insured.*)

THE SECOND SCHEDULE.

ARTICLES TO BE DECLARED AND INSURED.

(See section 75.)

- (a) gold and silver, coined or uncoined, manufactured or unmanufactured ;
- (b) plated articles ;
- (c) cloths and tissue and lace of which gold or silver forms part, not being the uniform or part of the uniform of an officer, soldier, sailor, police-officer or person enrolled as a volunteer under the XX of 1869. Indian Volunteers Act, 1869, or of any public officer, British or foreign, entitled to wear uniform ;
- (a) pearls, precious stones, jewellery and trinkets ;
- (e) watches, clocks and timepieces of any description ;
- (f) Government securities ;
- (g) Government stamps ;
- (h) bills of exchange, hundis, promissory-notes, bank-notes and orders or other securities for payment of money ;
- (i) maps, writing and title deeds ;

* Genl. Acts, Vol. II.

(*The Second Schedule.—Articles to be declared and insured.*)

- (j) paintings, engravings, lithographs, [photographs carvings, sculpture and other works of art ;
- (k) art pottery and all articles made of glass, china or marble ;
- (l) silks in a manufactured or unmanufactured state, and whether wrought up or not wrought up with other materials ;
- (m) shawls ;
- (n) lace and furs ;
- (o) opium ;
- (p) ivory, ebony, coral and sandalwood ;
- (q) musk, sandalwood-oil and other essential oils used in the preparation of *itr* or other perfume ;
- (r) musical and scientific instruments ;
- (s) any article of special value which the Governor General in Council may, by notification in the Gazette of India, add to this schedule. †

† For articles added to this schedule by notification, see Genl. Stat R. & O., Vol. III, p. 1525.

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