

## New Zealand.



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## 1887, No. 37.

Title.

AN ACT to make better Provision for the Maintenance and Management of the Government Railways in New Zealand, and for the construction of such Railways in certain cases.

[23rd December, 1887.

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

Short Title.

1. The Short Title of this Act is "The Government Railways Act, 1887."

Interpretation.

2. In this Act, unless inconsistent with the context,—

"Commissioners" means the Railway Commissioners appointed under this Act, and "Commissioner" means one of such Commissioners, and includes a Deputy-Commissioner when in office:

"Employé" means and includes any person appointed to or employed in the railway service as hereinafter defined:

"Minister" means the Minister for Public Works appointed from time to time under "The Public Works Act, 1882:"

"Prescribed" means prescribed by regulations or by-laws made or in force under this Act:

"Railway" and "railways" means any railway or railways by this Act vested in the Commissioners, and includes any addition to or reconstruction of any such railway or any new railway which may hereafter be vested in or constructed by the Commissioners under this Act:

"Railway service" means any appointment or employment, permanent or temporary, under the Commissioners by virtue of this Act, in respect of the railways or any railway, or in any branch of such service:

“Resident Magistrate” includes two or more Justices of the Peace.

3. So much only of this Act as empowers the Governor in Council to appoint Railway Commissioners, declares their tenure of office, and provides their salaries shall come into force on the passing of the Act. When Act comes into force.

The whole Act shall be and come into force on a day to be proclaimed by the Governor and published in the *Gazette*, which day shall, except as before provided, for all purposes be deemed to be “the commencement of this Act.”

4. The remaining provisions of this Act are arranged in the following order, namely,— Divisions of Act.

PART I.—The Railway Commissioners.

PART II.—Powers, Duties, &c., of Commissioners.

PART III.—The Railway Service.

PART IV.—Investigation of Accidents, and General.

## PART I.

### THE RAILWAY COMMISSIONERS.

5. There shall be three Commissioners to carry this Act into effect, who shall be a body corporate by the name “The New Zealand Railway Commissioners,” and by that name shall have perpetual succession and a common seal, and be capable in law of suing and being sued, and, subject to the provisions hereinafter contained, shall have power to take, purchase, sell, lease, and hold lands, tenements, and hereditaments, goods, chattels, and other property for the purposes of this Act. Constitution of Commissioners.

All Courts, Judges, and persons acting judicially shall take judicial notice of the common seal of the Commissioners affixed to any document or notice, and shall presume that such seal was duly affixed.

6. (1.) The Governor in Council shall, as soon as conveniently may be after the passing of this Act, appoint three persons to be Commissioners for the purposes of this Act, who, subject to the provisions hereinafter contained, shall each hold office for a term of five years. Appointment of Commissioners.

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

All persons appointed under the authority of this section shall, at the expiration of their respective terms of office, be eligible for reappointment for a term to be then fixed by the Governor in Council not exceeding five years.

(3.) In case of the illness, suspension, or absence of any Commissioner, the Governor in Council may appoint some person to act as the deputy of such Commissioner during such illness, suspension, or absence; and every person so appointed shall, while so acting, have all the powers and perform all the duties of such Commissioner, and shall be paid such salary, not exceeding that paid to the Commissioner to whom he is such deputy, as shall be fixed by the Governor in Council at the time of his appointment.

Tenure of office of  
Commissioners.

7. Every Commissioner shall hold his office during good behaviour.

(1.) A Commissioner may be removed for misbehaviour:—

(a.) When the General Assembly is sitting,—

By a recommendation of the Governor to that effect, which shall first have been laid before both Houses of the General Assembly, and have been affirmed by a resolution of each House: Provided that, if such recommendation shall be laid before the General Assembly and no action shall have been taken thereon by each House, such recommendation shall remain in abeyance till the next session; and, in the meantime, shall be deemed a suspension under the next succeeding paragraph (b) of this subsection:

(b.) When the General Assembly is not sitting,—

By a writing under the hand of the Governor addressed to the Minister and suspending such Commissioner from his office for misbehaviour: Provided that a full statement of the cause of such suspension shall be laid by the Minister before both Houses of the General Assembly within seven days after the commencement of the next session thereof. And, if an address of both Houses shall not, within forty days from the commencement of such session, be presented to the Governor praying for the restoration of such Commissioner to his office, the Governor may confirm such suspension and declare the office of such Commissioner vacant as from the date of such suspension, and such Commissioner shall have no claim to any salary after the date of such suspension; but if such address be so presented, such Commissioner shall be restored accordingly, and he shall receive his salary for the period of such suspension.

(2.) A Commissioner shall be deemed to have vacated his office,—

(a.) If he shall engage, during his term of office, in any employment outside the duties of his office:

(b.) If he shall become bankrupt, or apply to take the benefit of any Act now or hereafter to be in force for the relief of bankrupts, or shall compound with his creditors, or make an assignment of his salary for their benefit:

(c.) If he shall absent himself from duty for a period of fourteen consecutive days, except on leave granted by the Governor (which leave he is hereby authorised to grant), or shall become incapable of performing his duties:

(d.) If he shall become in any way concerned or interested in any contract or agreement made by or on behalf of the Commissioners; or shall in anywise participate or claim to be entitled to participate in the profit thereof, or in any benefit or emolument arising therefrom.

Chief Commissioner.

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

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

(1.) The Chief Commissioner, a salary not exceeding two thousand five hundred pounds per annum :

(2.) Each of the other Commissioners, a salary not exceeding one thousand pounds per annum.

Salaries and allowances of Commissioners.

All such salaries, and the salary of any Deputy Commissioner during the term of his office, shall without further appropriation be paid out of the Consolidated Fund.

Each Commissioner shall be allowed such reasonable travelling expenses as shall be actually incurred by him in the discharge of his official duties.

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

Quorum.

11. (1.) The Chief Commissioner shall be Chairman at meetings of the Commissioners; but if he be not present at any meeting, the Commissioner who is with respect to date of appointment the senior shall take the chair and preside at such meeting.

Conduct of meetings.

(2.) The Commissioner presiding at a meeting of the Commissioners shall, in the event of an equal division of votes at such meeting, have a second or casting vote.

(3.) If the Chief Commissioner differ from the other two Commissioners with respect to any matter before the Commissioners for their decision and determination, such matter shall be deferred for not less than twenty-four hours, when it shall be again brought forward; and, in the event of the Chief Commissioner again differing from the other two Commissioners, such matter of difference shall be determined according to the deliberate judgment of the Chief Commissioner irrespective of the opinion of the other two Commissioners; and he shall in all such cases enter upon the minutes of the proceedings of the Commissioners his reasons, at length, for deciding such matter in opposition to the other two Commissioners, and shall forward to the Minister a true copy of such minute.

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

Acts of Commissioners not invalidated by vacancy.

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

Minutes of proceedings.

14. If any Commissioner shall become in any way concerned or interested in any contract or agreement made by or on behalf of the Commissioners, or shall in anywise participate or claim to be entitled to participate in the profit thereof or in any benefit or emolument arising therefrom, he shall be guilty of a misdemeanour, and be liable, at the discretion of the Court, to a penalty not exceeding five hundred pounds, or to imprisonment for any term not exceeding three years, or to both such punishments; and he shall also be deemed to have vacated his office as such Commissioner.

Penalty on Commissioner being interested in contracts.

## PART II.

## POWERS, DUTIES, ETC., OF THE COMMISSIONERS.

General powers and duties of Commissioners.

15. The general powers and duties of the Commissioners for the purposes of this Part of this Act shall be,—

- (1.) The management, working, and maintenance of all railways in New Zealand now vested in or worked by or on behalf of Her Majesty, and also the management, working, and maintenance of all such railways as may hereafter be constructed or purchased by or on behalf of Her Majesty in New Zealand or by the Commissioners, and the construction of all works and the doing of all things necessary for the purpose of managing, working, and maintaining such railways, or any of them, as provided by this Act;
- (2.) The making and construction of all such railways, and the several works in connection therewith, which shall from time to time be devolved upon or vested in the Commissioners by the Governor in Council under the powers contained in this Act.

Government railways, &c., vested in Commissioners.

16. For the purpose of giving effect to this Act in the management, working, and maintenance of the said railways, there shall be vested absolutely in the Commissioners, and, in respect of land, for an estate in fee simple—

- (1.) All railways within the meaning of "The Public Works Act, 1882," heretofore constructed, purchased, or acquired by or on behalf of Her Majesty the Queen pursuant to any Act now or heretofore in force for the time being authorising the construction, purchase, or acquisition of any such railway, and which are now worked by or on behalf of Her Majesty, and all railways which may hereafter be constructed by or on behalf of Her Majesty as aforesaid or by the Commissioners; and all rolling-stock, machinery, and appliances, goods, chattels, and effects of every kind used upon or in respect of any such railway and being the property of Her Majesty;
- (2.) All piers, wharves, jetties, stations, yards, buildings, and sidings connected or used in connection with such railways and rolling-stock, or reputed to belong thereto, respectively, and being the property of Her Majesty;
- (3.) The land over or upon which such piers, wharves, jetties, stations, yards, and buildings have been or may hereafter be constructed or erected;
- (4.) The land included within the boundary-fences of all such railways, and all other land whether fenced or not, taken, purchased, or acquired by or on behalf of Her Majesty for railway purposes, or for any roads or other works in connection with railways under any Act authorising the taking or acquiring of land for railway purposes;
- (5.) All Crown and other lands taken, purchased, acquired or occupied for railway purposes, or for roads or other works in connection with railways, under the authority of any Act authorising the taking, purchase, or acquisition of land for railway purposes;

- (6.) Such part of any such public reserves as may be used or occupied by any railway or the works thereof, although the same may not have been formally taken by or vested in Her Majesty;
- (7.) All telegraph posts erected on any lands by this Act vested in the Commissioners which at the passing of this Act belonged to Her Majesty and were under the control of the railway department, and all wires, instruments, and other telegraphic or telephonic apparatus used in connection with the railways so vested as aforesaid.

17. (1.) Where out of any Crown lands or public reserve upon which any railway has been or may hereafter be constructed no definite area or part of such lands or reserve has been or may be taken by Proclamation for railway purposes it shall, in any such case, be deemed that a width of two chains of such lands or reserve (one chain to each side of the centre line of the railway) has been taken for the purposes of such railway, and shall be included within the limits thereof, and for all purposes be deemed to be part of such railway, and shall vest in the Commissioners accordingly.

Reservation of portion of Crown lands or public reserves for railway purposes

(2.) If at any time it is desired that any such lands or portion of a reserve so deemed to be part of any railway, or any part thereof respectively, shall cease to be part of such railway, the Commissioners may, by an instrument to be executed by them in accordance with this Act, surrender or otherwise transfer and convey the same to Her Majesty, or as the Governor on her behalf may direct; and all land so surrendered or otherwise transferred and conveyed as aforesaid shall return to its original *status* as Crown land or public reserve as the case may be, unless the Governor otherwise directs.

(3.) Nothing herein shall interfere with any public road or street on any such lands or reserve within the area so included in the railway and lying along, adjacent to, or crossed by any such railway, except under and subject to the provisions of "The Public Works Act, 1882," and its amendments; nor shall anything herein affect any sale, lease, or other disposition of any such lands or reserve heretofore made and which may be at variance with this enactment.

(4.) For the purposes of this enactment the expressions "Crown lands" and "public reserve" have the same meanings as are attached thereto respectively by "The Land Act, 1885," and "The Public Reserves Act, 1881."

18. For the purpose of completing the title of the Commissioners to any land included within the terms of the two last-preceding sections, the District Land Registrar in any district constituted under "The Land Transfer Act, 1885," shall, upon the production of a statutory declaration by any two of the Commissioners and countersigned by the Minister, to the effect that the land described therein is subject to the provisions of this Act, cause such land to be registered in the corporate name of the Commissioners, and may make and issue all instruments for that purpose.

Title to lands to be registered in names of Commissioners.

19. All purchases, sales, grants, conveyances, assurances, deeds, securities, contracts, bonds, and agreements entered into, made, or given before the commencement of this Act by or to Her Majesty or the Minister, or any person on her or his behalf, in connection with

All conveyances, agreements, &c., made between the Queen and any person to be binding on the Commissioners.

the railways, or with the piers, wharves, jetties, stations, yards, buildings, lands, or rolling-stock, by this Act vested in the Commissioners and which are operative or capable of taking effect, shall be as binding and of as full force and effect respectively against or in favour of the Commissioners, and may be enforced as fully and effectually as if, instead of Her Majesty or the Minister as aforesaid, the Commissioners had been parties thereto.

Commissioners' powers under "The Public Works Act, 1882."

20. All powers conferred upon Her Majesty, or the Governor in Council, or the Governor or the Minister under or by virtue of "The Public Works Act, 1882," or its amendments, or under any other Act in force prior to the passing of "The Public Works Act, 1882," or under any special Act so far as any such Act respectively relates to the management, working, and maintenance of railways, and all matters or things done or to be done, and all rights and privileges accrued or accruing under or by virtue of any such Act, shall be exercised, enforced, and enjoyed by the Commissioners in the same way as Her Majesty, or the Governor in Council, or the Governor or the Minister might have exercised, enforced, or enjoyed the same but for the passing of this Act, and with respect thereto the Commissioners shall be substituted for Her Majesty, the Governor in Council, or the Governor or the Minister, as the case may be: Provided that in carrying out the powers conferred upon them by this clause, under section one hundred and forty-four of "The Public Works Act, 1882," the Commissioners shall, in fixing the scale of rates and charges, give due consideration to the promotion of settlement and the encouragement of industries in the vicinity of such railways.

Saving of right to recover penalties for breach of by-laws.

21. Any penalty, forfeiture, or other punishment incurred or to be incurred for any offence committed against any Act, or by-law or regulation made thereunder, and in force at the commencement of this Act, in respect of any of the railways, or in respect of any such piers, wharves, jetties, stations, yards, buildings, lands, or rolling-stock before the passing of this Act, may be enforced and recovered by or on behalf of the Commissioners in the same way as such penalty, forfeiture, or other punishment might have been enforced and recovered if this Act had not been passed.

Provision as to legal proceedings already commenced.

22. (1.) No action or other proceeding whatsoever commenced before the commencement of this Act by or against Her Majesty or the Minister shall abate or be discontinued or be prejudicially affected by this Act, but the same shall continue and take effect in favour of or against the Commissioners, as the case may be.

(2.) All judgments, decrees, or orders made in favour of or against Her Majesty or the Minister, and all fines and penalties imposed or incurred under "The Public Works Act, 1882," or under any other Act in respect of any matter or thing by this Act vested in the Commissioners and unsatisfied or unperformed, or that have not been recovered or enforced at the commencement of this Act, shall be respectively enforced, levied, proceeded for, and recovered by, against, with reference to, and in the name of the Commissioners in the same manner as they might have been enforced, levied, proceeded for, and recovered by, against, with reference to, and in the name of Her Majesty or the Minister if this Act had not been passed.

23. "The Public Works Act, 1882," except Parts V., VII., VIII., and IX. thereof, and the several amendments of such Act, now or that may hereafter be in force, are hereby incorporated with this Act; and, subject to the special provisions of this Act, shall, *mutatis mutandis*, extend and apply to the Commissioners appointed under this Act, and who for the purposes thereof shall have and may exercise all such powers, rights, and authorities, and be subject to all such liabilities as under "The Public Works Act, 1882," or its amendments as aforesaid, Her Majesty the Queen, the Governor in Council, or the Governor, or the Minister, or any person on her or their behalf would respectively have and be subject to thereunder.

Incorporation of  
"The Public Works  
Act, 1882."

24. Where it may be necessary for the purposes of "The Public Works Act, 1882," or any amendment thereof, and this Act, to make any Order in Council, Proclamation, or other instrument, it shall be sufficient if the Commissioners shall make, issue, or execute such instrument in such manner as they deem necessary, and, when required by law, shall notify the same in the *Gazette*; and any instrument authorised under "The Public Works Act, 1882," or any amendment thereof, to be made, executed, or issued by the Governor in Council, the Governor, or the Minister for all or any of the purposes aforesaid may be made, executed, or issued by the Commissioners in such manner as may be necessary to give effect to "The Public Works Act, 1882," or any such amendment, and this Act.

Power of Commis-  
sioners in matters  
heretofore exercised  
by Order in Council,  
Proclamation, &c.

25. (1.) The Governor in Council may from time to time empower the Commissioners to undertake and carry out the making and construction of any railway at present or at any time hereafter in course of construction by or on behalf of Her Majesty, or authorised to be constructed under any special Act by or on behalf of Her Majesty, and the works connected therewith or any part of any such railway.

Governor may  
empower Commis-  
sioners to construct  
railways.

(2.) And the publication of what purports to be such Order in Council in the *Gazette* shall be sufficient authority to the Commissioners to proceed with and carry out the construction and completion of such railway, or any part thereof, as aforesaid; and for that purpose, and in addition to any other powers and authorities vested in them by this Act, the Commissioners shall have and may exercise all such powers and authorities as by "The Public Works Act, 1882," or its amendments, are vested in or could be exercised by the Governor in Council or the Governor or the Minister, and shall be subject to all such liabilities as would attach to Her Majesty or the Governor or the Minister in respect of the construction of such railway or in relation thereto.

26. When the Commissioners shall have constructed and completed any such railway under the authority of any such Order in Council, the same shall be deemed to be vested in the Commissioners as if it had been one of the railways vested in the Commissioners by this Act, and all the provisions of this Act applicable to the management, working, and maintenance of railways shall extend and apply thereto accordingly.

Railways con-  
structed by Commis-  
sioners to be  
deemed vested in  
them.

27. Nothing in Part VII. of "The Public Works Act, 1882," contained shall be deemed or taken to authorise or entitle the Governor or the Minister, or any person acting on behalf of the said Governor or Minister, to inspect or examine, or to exercise in any

Governor or Minis-  
ter to have no con-  
trol over railways.

manner supervision, superintendence, or control over, any of the railways vested in or that may be vested in the Commissioners under this Act, and it shall not in any case be necessary to appoint any General Manager for any such railway.

Governor may delegate powers to Commissioners.

28. In any case where any power or authority is vested in Her Majesty or the Governor in Council, or the Governor, or the Minister, under any Act, for any object or purpose which, in order to carry out this Act ought to be vested in the Commissioners, and is not so vested, the Governor in Council may delegate any such power or authority to the Commissioners, either wholly or subject to such restrictions as shall be expressed in the Order in Council, and so that this Act may have full effect.

Duties of the Commissioners in respect of maintenance of railways.

29. It shall be the duty of the Commissioners to insure that the railways and all works in connection therewith are maintained in a state of efficiency, and that persons, animals, and goods travelling or carried upon such railways are carried without negligence or delay, and they shall at all times insure a careful inspection of the condition of the railways under their control.

Commissioners may reconstruct or add to railways.

30. (1.) Whenever it shall appear to the Commissioners that a reconstruction or partial reconstruction, or a duplication or other addition to or extension of the roadway of any existing railway or any part thereof, or of any bridge, viaduct, or other work in connection with such railway, or that the laying of new rails, or that any other repair or alteration of any line or work vested in them is necessary for the continuance or renewal of the traffic, they shall without delay undertake, execute, and carry out such reconstruction, duplication, extension, repair, or alteration :

Provided that the Commissioners shall not incur any liabilities or expend any moneys for all of the purposes aforesaid to a greater extent than Parliament has appropriated moneys for all or any such purposes unless in cases of emergency, and then only with the consent in writing of the Minister.

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

Commissioners to decide as to sites for stations, &c.

31. The Commissioners shall be the authority to decide on the position, character, and suitability of all stations, station platforms, gate-houses, station-yards, sheds, piers, wharves, jetties, buildings, sidings, or other works or accommodation for any purpose of the railway or the convenience of passengers or goods to be carried thereon, and required for or in connection with any railway hereby vested in the Commissioners or hereafter to be vested in the Commissioners, and whether such railway may be constructed by or on behalf of Her Majesty or by the Commissioners.

Commissioners may require additional rolling-stock, &c.

32. The Commissioners may apply in writing to the Minister for such sums of money to be issued on imprest as may be necessary to provide additional stores, plant, material, rolling-stock, stations, sheds, and other accommodation which, in the opinion of the Commissioners, may be required to enable them to meet the traffic requirements or insure the efficient working of the railways, and the Minister may comply with such request on such terms as he thinks fit.

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

Commissioners may lease refreshment-rooms, &c.

34. (1.) The Commissioners may grant to the tenant of any refreshment-room a license to sell any spirits, wine, ale, porter, cider, perry, or other fermented, distilled, or spirituous liquor of an intoxicating nature, upon such terms and conditions, and subject to such restrictions, as shall be prescribed in by-laws to be made as hereinafter provided.

Commissioners may grant licenses to sell liquor.

(2.) All licenses in respect of such refreshment-rooms in existence at the commencement of this Act shall, subject to the conditions affecting the same, continue to exist upon the terms upon which they were granted, as though this Act had not been passed; but, at the expiry or other ceasing thereof, shall be renewed or otherwise dealt with only under this Act.

35. All fees and moneys received for any such license shall form part of the revenue and funds of the Commissioners for the purposes of this Act.

How license-fees dealt with.

*By-laws, &c.*

36. The Commissioners may, in addition to any other powers for like purposes vested in them by or under this Act, from time to time make, alter, or revoke by-laws for any of the objects following:—

Commissioners may make, alter, and revoke by-laws.

- (a.) To regulate the conduct at a railway of porters, cab-drivers, carters, carmen, and others carrying goods or driving horses, cabs, carriages, wagons, carts, drays, trucks, or other vehicles for the carriage of passengers or goods:
- (b.) To exclude from any part of a railway (in addition to any other penalty incurred by such breach) any porter, cab-driver, carter, carman, or other person waiting or plying for hire who has been guilty of any breach of the by-laws of the railway:
- (c.) To regulate the granting of licenses for vehicles of every sort plying for hire at a railway, and to prevent the plying for hire at a railway of any vehicle not so licensed:
- (d.) To provide for and regulate standing-places for vehicles of different classes at a railway, and the number of vehicles to be allowed to remain at each such place:
- (e.) To regulate the mode of ingress and egress of vehicles of all descriptions to or from a railway:
- (f.) To exclude from any particular part of a railway any person not being a railway employé:
- (g.) To grant permits for itinerant vendors of newspapers, periodicals, books, fruit, or any other kind of articles whatever on a railway, and for the exclusion of all others not so permitted:
- (h.) To forbid any person whomsoever bringing upon a railway, or depositing in any part of a railway, or having in his possession or keeping whilst on any part of a railway any loaded firearm:

- (i.) To prescribe the terms on which licenses for refreshment-rooms shall be granted, and the hours of opening and closing the same, the fees to be paid for such licenses, and the conditions on which the same may be determined or forfeited :
- (j.) For regulating the terms and conditions on which special trains will be run :
- (k.) For fixing the charges for warehousing goods, and the charges to be paid in respect of parcels and luggage left for transit or for care or custody, and the conditions on which they respectively will be received :
- (l.) For imposing conditions on which passengers' luggage will be carried :
- (m.) For imposing differential rates and charges for the carriage of passengers or goods upon any railway, and the circumstances and conditions under which the Commissioners will make special rates for the carriage of goods in quantities :
- (n.) For the issue, and prevention of the abuse of free passes on the railways or any of them :

Provided that every member of the General Assembly shall be entitled to receive from the Commissioners, and to hold and use so long as he shall continue a member, a free pass authorising him (but no other person) to travel free on all railways vested in the Commissioners.

Existing by-laws to remain in force till repealed.

37. All regulations and by-laws made or purporting to have been made under "The Public Works Act, 1882," and its amendments with regard to railways, whether within the powers conferred by that Act or any Act in force prior to that Act, or in excess of them, and in force or purporting to be in force at the commencement of this Act, shall be deemed to have been duly made under this Act, and shall be and continue to be in full force and effect until altered or repealed by by-laws made under the authority of this Act.

Summary interference in certain cases of breach of by-law.

38. When the breach of any by-law would be attended with danger or annoyance to the public, or hindrance to any person or number of persons in the employment of the Commissioners in the performance of their duties, such persons or any of them may summarily interfere to obviate or remove such danger, annoyance, or hindrance, and that without prejudice to any penalty incurred by the breach of such by-law.

#### *Telegraphs and Postal.*

Working of the telegraph lines vested in the Commissioners.

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

(1.) For the transmission of messages in relation to the working of the railways ;

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

(3.) All such messages as last aforesaid shall be transmitted by employés, on behalf of the Commissioners, as agents of the Post-

master-General, and there shall be demanded and received, in respect of such last-mentioned messages, such fees, rates, and dues as may for the time being be lawfully demanded or received by the Postmaster-General in respect of lines of telegraphic communication under his control; and, save as aforesaid, the Commissioners shall not transmit or permit the transmission of messages on behalf of the public through their wires.

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

40. The Commissioners and the Postmaster-General may enter into, alter, and rescind contracts and agreements with respect to the receipt, carriage, and conveyance of letters, newspapers, and parcels, and with respect to any other matter or thing in relation to the postal service; also with respect to the working of any of the lines of telegraphic communication of the Postmaster-General by the Commissioners, and generally with respect to telegraphs and the transmission of telegraphic messages.

Power to Commissioners and Postmaster-General to make contracts.

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

How differences to be determined.

#### *Contracts.*

42. (1.) The Commissioners in their corporate name may contract for the purchase of any land, or any estate or interest therein, or for the execution of any work authorised by or under this or any other Act to be executed by them, or for furnishing stores, materials, or labour, or for providing locomotive engines or other motive or tractive power, or for any other matters and things whatsoever necessary for enabling them to carry the purposes of this or any other Act into full effect, in such manner and upon such terms, for such sum, and under such stipulations, conditions, and restrictions, as the Commissioners think proper.

Commissioners may make contracts.

(2.) Every such contract, when in writing, shall specify the work to be done, the materials to be furnished, and the price to be paid for the same, and the time within which the work is to be completed, and the materials to be furnished, and the penalties to be suffered in case of non-performance thereof.

Form of contracts.

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

(4.) The powers hereby granted to the Commissioners to make contracts may lawfully be exercised as follows:—

Any contract which, if made between private persons,—

Firstly, must be in writing under seal;

Secondly, must be in writing signed by the parties thereto;

Thirdly, may be made verbally, without writing ;  
 when made with the Commissioners,  
 In the first case shall be in writing under their seal ;  
 In the second case shall be signed by two Commissioners ;  
 In the third case may be made verbally, without writing, by  
 any two Commissioners, or by any person by their direction  
 on their behalf.

Contracts to be  
 binding on the Com-  
 missioners and their  
 successors.

43. All contracts made according to the provisions herein contained shall be effectual in law, and shall be binding on the Commissioners and all other parties thereto, their successors, heirs, executors, or administrators, as the case may be ; and on any default in the execution of any such contract, either by the Commissioners or by any other party thereto, such actions may be brought thereon, and damages and costs recovered either by or against the Commissioners or the party failing in the execution thereof, as might be brought and recovered had the same contract been made between private persons only.

No contracts over  
 £20 to be entered  
 into except by public  
 tender.

44. No contract, the amount whereof exceeds twenty pounds, shall, except in cases of urgent necessity, be made except after public tender, of which due public notice shall be given ; but the Commissioners shall not be compelled to accept the lowest or any tender.

Commissioners may  
 compound for  
 breach of contracts.

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

#### *Expenditure and Control of Money.*

Expenditure of  
 money appropriated  
 by Parliament.

46. All moneys appropriated by Parliament for the maintenance, working, or management of the railways by this Act vested in the Commissioners, or for any reconstruction or partial reconstruction thereof, or duplication, or other addition to or extension of such railways, or any of them, or any part thereof, or for any purpose in connection therewith, shall be expended under the control and management of the Commissioners. The provisions of this section shall extend to any case in which the Governor in Council exercises the powers conferred by section twenty-five of this Act.

"The Public  
 Revenues Act, 1878,"  
 to apply to Com-  
 missioners.

47. All moneys payable to or received by the Commissioners under this or any other Act shall be collected and received by them on account of, and shall be paid into, the public account, and shall be deemed to be public moneys within the meaning of "The Public Revenues Act, 1878," and its amendments ; and the provisions of "The Public Revenues Act, 1878," and of its amendments, shall apply to the Commissioners and to all employés, and to all other persons to whom the provisions of the last-mentioned Acts or any of them are or can be applied in respect of all or any such moneys or any part thereof, and the powers given under this Act shall be in addition to those conferred under such last-mentioned Acts : Pro-

vided that nothing herein shall be deemed to affect the operation of any Order in Council now or hereafter in force under the provisions of the sixth section of "The Public Revenues Act, 1885."

48. Before any person, intrusted with the custody and control of moneys as an employé of the Commissioners, enters upon his employment the Commissioners shall take such security from him for the faithful execution of his employment as they shall think necessary; and such security may be that of any incorporated company or guarantee society carrying on business in New Zealand and approved by the Commissioners.

Commissioners to take security from officers intrusted with money.

49. If any employé be discharged or suspended from his employment, or die, abscond, or absent himself, and if such employé, or the wife, widow, or any of the family or representatives of any such employé, refuse or neglect, after seven days' notice in writing for that purpose, to deliver up to the Commissioners, or to any person appointed by them for that purpose, any station, dwelling-house, office, or other building, with its appurtenances, or any books, papers, or other matters belonging to the Commissioners in the possession or custody of any such employé at the occurrence of any such event as aforesaid, then, upon application being made by the Commissioners to any Justice of the Peace, such Justice may order any constable, with proper assistance, to enter upon such station or other building and remove any person found therein, and take possession thereof, and of any such books, papers, or other matters, and to deliver the same to the Commissioners or to any person appointed by such Justice for that purpose.

Delivery of matters in possession or custody of employé.

50. Every employé shall from time to time, when required by the Commissioners, make out and deliver to them, or to any person appointed by them for that purpose, a true and perfect account, in writing under his hand, of all moneys received by him on behalf of the Commissioners or by virtue of his employment; and such account shall state how, and to whom, and for what purpose such moneys shall have been disposed of; and, together with such account, such employé shall deliver the vouchers and receipts for such payments; and every such employé shall pay to the Commissioners, or to any person appointed by them to receive the same, all moneys which shall appear to be owing from him upon the balance of any such account.

Employés to account on demand

#### *Offences.*

51. If any such employé as last aforesaid fail—

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

Summary remedy against parties failing to account.

then, on complaint thereof being made to a Justice of the Peace, such Justice shall summon such employé to appear before a Resident Magis-

trate, at a time and place to be set forth in such summons, to answer such charge; and upon the appearance of such employé, or, in his absence, upon proof that such summons was personally served upon him or left at his last-known place of abode, such Magistrate may hear and determine in the matter in a summary way, and may adjust and declare the balance owing by such employé.

Punishments of defaulting employé.

52. If it appear, either upon confession of such employé, or upon evidence, or upon inspection of the account, that any public moneys which should be paid over to the Commissioners are in the hands of such employé or owing by him, such Magistrate may order such employé to pay the same; and if he fail to pay the amount it shall be lawful for such Magistrate to grant a warrant to levy the same by distress, or, if he think fit, to commit the offender to prison for a period not exceeding three months.

Employé refusing to deliver up documents, &c., to be imprisoned.

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

Where employé about to abscond warrant may issue.

54. If the Commissioners or any person authorised by them shall make oath before a Justice of the Peace that they or he have or has good reason to believe, upon grounds to be stated in the deposition, and do or does believe, that it is the intention of any such employé as aforesaid to abscond, or that he has absconded, the Justice before whom the complaint is made may, if he think fit, issue a warrant, in the first instance, for the bringing such employé before any Resident Magistrate; but no person executing such warrant shall keep such employé in custody longer than twenty-four hours (or such longer period as may be rendered necessary by the distance of the place of apprehension from the residence of the nearest or most convenient Justice) without bringing him before some Justice of the Peace.

Treatment of absconding employé.

55. The Justice before whom such employé may be brought may either discharge him, if he think there is no sufficient ground for his detention, or order him to be detained in custody so as to be brought before such Resident Magistrate at a time and place to be named in such order, unless such employé gives bail to the satisfaction of such Justice for his appearance before such Magistrate to answer the complaint of the Commissioners; but no such proceeding against or dealing with any such employé as aforesaid shall deprive the Commissioners of any remedy which they might otherwise have against him, or his surety, or security of any kind given by him or on his behalf.

Sureties not to be discharged.

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

56. If any employé of the Commissioners—

(1.) Exact or take or accept, on account of anything done by virtue of his office or employment or in relation to the

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

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

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

57. If any engine-driver, wagon-driver, guard, porter, servant, or other person employed upon any railway, or in repairing and maintaining the works of the said railway, shall—

Punishment of persons employed on railway guilty of misconduct.

- (1.) Be found drunk whilst so employed upon any railway; or  
 (2.) Commit any offence against any of the regulations or by-laws of the Commissioners; or  
 (3.) Wilfully, maliciously, or negligently do any act or be guilty of any omission of duty whereby the life or limb of any person passing along or being upon such railway or the works thereof respectively shall be or might be injured or endangered, or whereby the passage of any engine, carriage, or trains shall be or might be obstructed or impeded,

it shall be lawful for any employé, or any special constable duly appointed, and all such persons as any of them they may call to his assistance, to seize and detain such engine-driver, guard, porter, servant, or other person so offending, or any person counselling, aiding, or assisting in such offence, and to convey him with all convenient despatch before any Resident Magistrate, without any other warrant or authority than this Act, to be dealt with according to law.

58. And every person so offending as aforesaid, and every person counselling, aiding, or assisting any person in the commission of any offence punishable under the last-preceding section, shall, upon conviction before such Magistrate upon a complaint in writing, be imprisoned, with or without hard labour, for any term not exceeding six months, or shall forfeit any sum not exceeding fifty pounds, and in default of payment thereof shall be imprisoned, with or without hard labour, for such period, not exceeding six months, as such Magistrate shall appoint.

Penalty on aider and abettor.

59. It shall be lawful for any employé, and all persons called by him to his assistance, to seize and detain any person who shall have committed an offence against the provisions of this Act, or any regulations or by-laws in force thereunder, and whose name and residence shall be unknown to such employé, and to convey him with all convenient despatch before some Justice of the Peace, without any warrant or other authority than this Act; and such Justice shall cause the offender to be remanded for the purpose of being taken before a Resident Magistrate, and such Resident Magistrate shall proceed with all convenient despatch to the hearing and determining of the complaint against such offender.

Transient offenders.

Power of Audit  
Office or prosecu-  
tions not affected.

60. Nothing in this Act shall interfere with any power or authority vested in the Audit Office under "The Public Revenues Act, 1878," or its amendments, nor shall anything in this Act prevent any proceeding, whether civil or criminal, being taken and prosecuted against any person in respect of any act, matter, or thing for which he is liable, or may be called upon to answer under any law or statute.

#### *Annual Report.*

Commissioners to  
prepare annual  
report.

61. The Commissioners shall from time to time prepare—
- (1.) An annual report of their proceedings, and an account of all moneys received and expended during the preceding year, and in such account shall keep distinct the matters relating to working railways from those relating to new construction - works executed by the Commissioners: such annual report shall be made up to the thirty-first day of March in each year, and shall be laid before both Houses of Parliament in the month of May in such year if Parliament be then sitting, otherwise within one month after the commencement of the session next ensuing;
  - (2.) Estimates, in such form as the Governor may direct, of receipts and expenditure for each period of twelve months ending on the thirty-first day of March in each and every year.

### PART III.

#### THE RAILWAY SERVICE.

Commissioners may  
appoint and remove  
employés.

62. (1.) The Commissioners shall appoint or employ such employés to assist in the execution of this Act and to carry on the railway service as they think necessary; and every person so appointed shall hold office during pleasure only.

(2.) The Commissioners may remove such employés; and may discontinue the offices of, or appoint other persons in the room of, such persons as may be removed, or may die, or resign, or become convicted of any felony, or become bankrupt, or apply to take the benefit of any Act now or hereafter to be in force for the relief of bankrupts, or compound with their creditors, or make assignments of their salaries or wages for the benefit of their creditors.

(3.) The Commissioners shall pay such salaries, wages, and allowances to employés as they shall from time to time determine out of such moneys as the General Assembly shall appropriate for that purpose from time to time.

(4.) All persons in the employment of the Government in the railway service at the time of the passing of this Act shall, subject to the provisions of this Act, be deemed to have been appointed or employed by the Commissioners under this Act, and such of them as shall then be in the Civil Service of the colony shall cease to be in such service.

(5.) No person appointed or employed, or whose appointment or employment has been confirmed, under this section shall engage in any employment outside the duties of his office.

(6.) All rules and regulations in force at the commencement of this Act respecting all or any persons or classes of persons employed

in the railway service shall respectively remain in force until new or altered regulations in respect of employés are made under this Act.

*Regulations.*

63. The Commissioners shall make, and may from time to time alter or repeal, regulations not inconsistent with this Act— Regulations in respect of employés.

- (1.) For determining into what branches the railway service shall be divided, and for organizing and classifying the same;
- (2.) For determining which of the employés in the railway service shall be permanent and which shall be temporary, and which of them shall be required to give security for the performance of their duties;
- (3.) For prescribing the qualifications required of all candidates for permanent employment, and the ages at which they shall be admitted to each of the various branches of the railway service, and, if necessary, in each grade of such branches;
- (4.) For determining the nature or character and extent of qualifications, examinations, or tests, according to the requirements of each of the higher grades in the railway service, which employés in the lower grades desiring to compete for and to be promoted to such higher grades shall possess or undergo;
- (5.) For determining the rate of salaries, wages, or other allowances to be paid or made to the employés in the permanent employ of the Commissioners, and also in the case of temporary employments;
- (6.) For regulating the relative rank, position, grade, or class in the duties and conduct of the employés in each of the various branches of the railway service; and for determining which of such grades shall be deemed the higher and lower grades respectively in such railway service;
- (7.) For regulating the duties to be performed by employés in the several branches of the railway service, and the discipline to be observed in the performance of such duties, the granting of leave of absence from time to time, and arranging for the performance of duties during holidays;
- (8.) For fixing the ages at which employés shall retire in the different branches of the railway service;
- (9.) For affixing to breaches of such regulations, according to the nature of the offences, such penalties as by or under this Act are authorised;
- (10.) For regulating and determining the scale on which the permanent employés in the various grades of the railway service shall insure their lives, or what deduction shall be made from salaries or wages of such employés as an insurance or superannuation fund, or to be repaid to the employés, with interest, on leaving the service from any cause except the commission of a crime;
- (11.) For the establishment of a system of mutual guarantee by all the employés of the Commissioners (with such exceptions as they shall from time to time determine) of

the fidelity of each other, and to provide for making calls from time to time upon such employés and for deducting the amount of such calls from the salary or wages of such employés, and for the application of the moneys so deducted to making good the whole or part, as the case may be, of any loss sustained by the Commissioners by the dishonesty or want of integrity of any such employé to whom the regulations may apply.

- (12.) For conducting and making inquiries into charges made against any employé, and the persons by and before whom the same shall be made and heard, and for the hearing and determining of appeals made to the Commissioners from any such inquiry, and the mode of procedure in any such inquiry or appeal.

#### *Appointments.*

Appointments, how to be made.

64. All appointments shall be made to the lowest grade in each of the various branches of the railway service for a period not exceeding twelve months in each case, and such appointments shall be on probation only.

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

Commissioners may appoint without examination persons possessed of special qualifications.

65. The Commissioners shall, notwithstanding, have the power to appoint to any position or grade, if they think fit, without examination as aforesaid, any person of known ability or possessing special qualifications not engaged in the railway service.

No such appointment shall be made unless the Commissioners shall have previously certified under their seal to the Governor that there is no person in the railway service fit and qualified to be promoted to such appointment, and shall have obtained his sanction to such appointment.

Appointee to effect insurance on his life or agree to deduction.

66. No probationer's appointment shall be confirmed until he has complied with the first subsection hereof, or agreed, in such manner as shall be satisfactory to the Commissioners, to comply with the second subsection hereof:—

- (1.) Has effected, in some life-insurance company carrying on business in this colony, an insurance on his life providing for the payment of a sum of money at his death, should it occur before the age of retirement from the railway service; or, if he survive until that age, of a sum of money or annuity on the date of such retirement.

Such insurance shall be continued, and the amount thereof fixed and increased, from time to time in the prescribed manner; and no policy of insurance so effected shall, during the time such person remains in the railway service, be assignable either at law or in equity.

- (2.) From the salary or wages of every officer, clerk, or employé, there shall be deducted such percentage as shall be pre-

scribed, which percentage shall be paid to the Public Trustee, to be by him paid into the investment account of the Public Trust Office, and interest on such percentages shall be allowed and credited at the same rate as is allowed to other moneys in such investment account.

On retirement from the railway service, from whatever cause except for the commission of a crime, there shall be paid to such person the amount to his credit in the Public Trust Office; or, in case of his death, the amount shall be paid as directed in his will; and, if there shall be no will, then according to the law for the time being in force regulating the distribution of the estates of persons dying intestate:

Provided that, in case such person shall be convicted of a crime, the amount to his credit may, after paying any defalcations he may have made, be paid to his wife, and, in the event of there being no wife, then to any child or children of such person, in such manner as the Commissioners think fit. If there shall be no wife, child, or children, such amount shall be disposed of as the Commissioners think fit.

67. When any vacancy occurs in any branch of the railway service it shall be filled, if possible, by the promotion of some officer next in rank, position, or grade to the vacant office; and no such officer shall be passed over unless the head of his branch, in writing, so advise the Commissioners. How promotions made.

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

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

69. The provisions of the last-preceding five sections of this Act shall only extend to persons being permanent employés of the Commissioners. Provisions of last-preceding sections to extend only to permanent employés.

#### *Discipline.*

70. The officer at the head of each branch of the railway service shall, in the prescribed manner, have the power, with respect to any employé in his branch who has been guilty of misconduct or of breaking any rule, by-law, or regulation of the railway service,— Power to fine or reduce in rank any employé.

(1.) To suspend him;

(2.) To fine him in a sum not exceeding five pounds;

(3.) To reduce him in rank, position, or grade, and pay.

But every such employé shall have the right of appeal to the Commissioners.

71. Any officer in charge of a railway-station may temporarily suspend at such station any employé of inferior rank, position, or grade to his own, until the officer at the head of such employé's branch has dealt with the suspension of such employé. Employés guilty of misconduct, how dealt with.

Any charge brought against any employé for the breach of any by-law, or regulation, or for misconduct, may be investigated and dealt with by the Commissioners, who may suspend such employé; or, if he have been already suspended, may further suspend him for a period not exceeding six months, without salary or wages, or may inflict a fine, to be deducted from his pay, or may dismiss him; and their decision shall be final.

Commissioners to hear appeal.

72. The three Commissioners shall hear, and a majority of such Commissioners shall determine, any appeal made by an employé against the adoption or confirmation of the advice or decision of the officer at the head of his branch with regard to his right to promotion, or with respect to any charge made against such employé, or with respect to any penalty imposed by such officer; and may confirm or modify such decision, or make such order as they think fit; and their decision shall be final.

Every such appeal shall be heard within a reasonable time from the date of the appeal being lodged with the Commissioners, not exceeding sixty days from that date: Provided always that no such appeal shall be entertained or heard unless it shall have been lodged in writing within fourteen days next following the decision from which the appeal is being made.

Forfeiture of office in certain cases.

73. If any employé be convicted of any felony or infamous offence, or become bankrupt, or apply to take the benefit of any Act now or hereafter to be in force for the relief of bankrupts, or, by any deed or other writing, compound with his creditors, or make an assignment of his salary or wages for their benefit, he shall be deemed to have vacated his office.

Commissioners may reinstate bankrupt officer in the absence of fraud.

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

Record of particulars of railway service to be kept.

75. The Commissioners shall—

- (1.) Keep a record of all persons in the railway service, and shall record therein the rank, position, grade, or class, the length of service, salaries, and such other particulars with regard to such persons as they think fit;
- (2.) Cause entries to be made in such record of deaths, dismissals, resignations, promotions, and reductions;
- (3.) On the application of the Minister from time to time, shall transmit to him a full and true copy of any such record, or the entries therein, or of any part thereof respectively.

#### *Saving of Existing Rights.*

Saving of existing rights of Civil servants.

76. (1.) The rights of all persons, whether absolute or contingent, who at the commencement of this Act were in the Civil Service of the colony, and who by virtue of this Act shall be deemed to be in the service of the Commissioners, shall, as regards claims for compensation for loss of office, or otherwise in respect thereof, or for superannuation allowance, be and the same are hereby preserved up to the time when they enter the service of the Commissioners;

and all such persons shall thereafter be subject to this Act and all regulations made thereunder in respect of their classification, promotion, salaries or pay, discipline, and otherwise howsoever.

(2.) The compensation for loss of office or the superannuation allowance to be made to any such person as aforesaid shall be paid or granted upon his leaving or retiring from the service of the Commissioners, but shall be calculated only on the basis of his employment in the Civil Service of the colony prior to his entering the service of the Commissioners under this Act :

Provided that if any such person shall be unwilling to be or continue in the service of the Commissioners, he may, on giving them written notice, retire from such service, and shall then receive such compensation or be granted such retiring allowance as he may be entitled to under any Act in force giving or securing such rights.

(3.) The Commissioners may also allow to any such person or to his widow or family such compassionate allowance or gratuity as might have been allowed under any Act in force relating to the Civil Service, but only in respect of that portion of his service as may have been rendered prior to the commencement of this Act.

(4.) All moneys to be applied in payment of any such compensation or superannuation allowance, or other allowance or gratuity, shall be paid out of the Consolidated Fund ; and, subject to this Act, all such moneys shall be paid and allowed on the same terms and subject to the same conditions as if the person affected had remained or been in the Civil Service of the colony.

(5.) The provisions of this section shall, *mutatis mutandis*, extend and apply to any person who may be appointed to be a Commissioner, and who at the time of his appointment is in the Civil Service of the colony, and has any such rights as are hereinbefore respectively provided for.

#### PART IV.

##### INVESTIGATION OF ACCIDENTS AND GENERAL.

##### *Investigation of Accidents.*

77. Whenever, upon or about any railway, or any works, building, or place of any kind whatsoever used or connected with any railway, any such accident as hereinafter specified takes place, namely,—

Certain accidents to be reported to the Minister.

(a.) Any accident attended with loss of human life or with serious injury to any person ;

(b.) Any collision where one of the trains is a passenger train ;

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

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

the Commissioners shall—

(1.) Cause the earliest information, by telegraph, post, or otherwise, to be forwarded to the Minister ;

(2.) Appoint such officer or officers as they may think fit to hold an inquiry into the matter ;

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

Governor may direct formal investigation.

78. Where it appears to the Minister, either before or after the commencement of any such inquiry, that a more formal investigation of the accident, and of the causes thereof, and of the circumstances attending the same, is expedient, he shall notify the same to the Governor; and the Governor may direct such investigation to be held. And with respect to such investigation the following provisions shall have effect:—

- (1.) The Governor may, by the same or any subsequent order, direct a Resident Magistrate, or other person or persons named in the same or any subsequent order, to hold such investigation with the assistance of assessors to be named in the order, or without such assessors.
- (2.) The person or persons holding any such formal investigation (hereinafter referred to as "the Court") shall hold the same in open Court, in such manner and under such conditions as he or they may think most effectual for ascertaining the causes and circumstances of the accident, and enabling him or them to make the report in this section mentioned.
- (3.) The Court shall, for the purposes of such investigation, have all the powers of a Resident Magistrate acting in the exercise of his ordinary civil jurisdiction; and
  - (a.) May enter and inspect any place or building the entry and inspection whereof appears to such Court requisite for the said purpose;
  - (b.) May, by summons under their or his hand, require the attendance of all such persons as the Court thinks fit to call, and examine the same, and may require answers or returns to such inquiries as the Court thinks fit to make;
  - (c.) May require and enforce the production of all books, papers, and documents which the Court considers important;
  - (d.) May administer an oath, and require any person examined to make and sign a declaration of the truth of the statements made by him in his examination;
  - (e.) Every person so summoned, not being a person engaged in the railway service, or otherwise connected with it, shall be allowed such expenses as would be allowed to a witness attending on subpoena before the Supreme Court in a criminal case; and, in case of dispute as to the amount to be allowed, the same shall be referred by the Court to the Registrar of the Supreme Court nearest to the place where such inquiry may be held, who, on request by the Court, shall ascertain and certify the proper amount of such expenses;
- (4.) The Court, after holding an investigation concerning any accident, shall make a report to the Governor stating the causes of the accident, and all the circumstances attending the same, and any observations thereon, or on the evidence,

or on any matters arising out of the investigation, which the Court thinks right to make.

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

Penalty on witness for failure to attend investigation.

(1.) Having been summoned, and having had the expenses (if any) to which he is entitled tendered to him, fails to attend as a witness before a Court holding an investigation under this Act, or fails when required by such Court to make any answer, or give any return, or to produce any document, or to make or sign any declaration; or

(2.) Prevents, impedes, or obstructs such Court in the performance or exercise of any duty or power imposed on it;

he shall for every such offence incur a penalty not exceeding ten pounds, and, in case of a refusal to make any return or produce any document, the penalty shall be one not exceeding ten pounds during every day that such failure continues.

80. Nothing in this Act shall be deemed to interfere with or prevent an inquest being held before a Coroner, or other authority empowered to hold an inquest, in case any such accident shall have resulted in loss of human life.

Inquest may be held before Coroner.

#### *General.*

81. No rates, taxes, or assessments shall be made, charged, or levied upon any railway, or upon any pier, wharf, jetty, station, yard, building, works, or other property vested in the Commissioners.

Railway property not subject to rates, &c.

82. Every penalty or forfeiture imposed by this Act or by any by-law made in pursuance thereof the recovery of which is not otherwise provided for may be recovered in a summary way before any two or more Justices of the Peace or a Resident Magistrate.

Penalties, how recovered.

83. If through any act, neglect, or default whereby any person shall have incurred any penalty imposed by this Act, any damage to any railway or other property vested in the Commissioners shall have been committed by such person, he shall be liable to make good such damage, as well as to pay such penalty; and the amount of such damages shall, in case of dispute, be determined by the Justices or Resident Magistrate, by whom the party incurring such penalty shall have been convicted; and on non-payment of such damages on demand the same shall be levied by distress, and such Justices or Resident Magistrate shall issue their or his warrant accordingly.

Damage to be made good by persons causing the same.

84. (1.) All actions to be brought against the Commissioners or against any person for anything done or purporting to have been done under this Act shall be commenced within six months after the act complained of was committed.

Actions against Commissioners, how brought.

(2.) No writ shall be sued out against nor any copy of any process served upon the Commissioners or any person for anything done or purporting to have been done by them or him under this Act until notice in writing of such intended writ or process has been delivered to them or him, or left at the office of the Commissioners, at least one month before the suing out or serving of the same.

(3.) Such notice shall clearly and explicitly set forth the nature of the intended action and cause thereof, and on such notice shall be indorsed the name and place of abode of the party intending to bring

such action, and the name and place of business of his solicitor or agent.

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

Tender of amends.

85. If any person shall have committed any irregularity, trespass, or other wrongful proceeding in the execution of this Act, or by virtue of any power or authority hereby given, and if before action brought in respect thereof such person make tender of sufficient amends to the person injured, such last-mentioned person shall not recover in any such action; and if no such tender shall have been made the defendant may, by leave of the Court where such action shall be pending, at any time before issue joined, pay into Court such sum of money as he shall think fit, and thereupon such proceedings shall be had as in other cases where defendants are allowed to pay money into Court.

Act may be pleaded in bar.

86. If the matter or thing complained of appear to have been done under the authority and in execution of this Act, or if any such action be brought after the time limited for bringing the same, or such notice have not been given as aforesaid, then the jury shall find or judgment shall be given for the defendant.