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PART VI.

BILLS OF THE GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following preliminary Report of the Select Committee, together with the Bill as amended by them, was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 1st August 1878 :—

We, the undersigned Members of the Select Committee to which the Bill to consolidate and amend

Office memorandum from Public Works Department, No. 1711R., dated 18th May 1876.

Despatch from Secretary of State, No. 87, dated 14th September 1876.

Letter from District Magistrate, South Arcot, to Honourable Sir Andrew Clarke, R.E., dated 13th October 1876.

Letter from Secretary to Chief Commissioner, Assam, No. 3821, dated 19th October 1876.

Letter from Officiating Secretary to Chief Commissioner, Mysore, No. 7339—6, dated 25th October 1876.

Letter from Second Assistant Resident, Haidarabad, No. 11, dated 6th November 1876.

Letter from Chief Secretary to Government, Fort St. George, No. 2261, dated 2nd November 1876, and enclosure.

Letter from Junior Secretary to Chief Commissioner, British Burma, No. 2752—432, dated 22nd November 1876.

Letter from Officiating Secretary to Government, Panjab, No. 3788, dated 14th November 1876.

Letter from Officiating Secretary to Government, Panjab, to Officiating Secretary to Government of India, Home Department, No. 2577, dated 31st July 1876, and enclosures.

Letter from Officiating Secretary to Government, North-Western Provinces, to Officiating Secretary to Government, Panjab, No. 475A., dated 5th July 1876, and enclosures.

Letter from Officiating Secretary to Chief Commissioner, Central Provinces, No. 4610—217, dated 7th December 1876.

Letter from Officiating Chief Commissioner, Ajmer and Meirwara, No. 759, dated 13th December 1876, and enclosure.

Office memorandum from Public Works Department, No. 3486R., dated 20th December 1876, forwarding copy of—

Letter from Officiating Master of Mint, No. 993, dated 23rd October 1876.

Memorandum by Major C. H. Luard, R.E., dated 3rd October 1876.

Letter from Junior Secretary to Chief Commissioner, Oudh, No. 434, dated 1st February 1877.

Letter from Officiating Secretary to Government of Bengal, No. 149, dated 18th January 1877, and enclosures.

Letter from Chief Secretary to Government, Fort St. George, No. 564, dated 2nd March 1877, and enclosures.

Despatches from Secretary of State for India, dated 6th August 1876 and 15th February 1877.

Letter from Chief Secretary to Government, Bombay, dated 26th March 1877.

Memorial of the Managing Committee of the Bombay Association, dated 21st April 1877.

Letter from Secretary to Government, North-Western Provinces and Oudh, No. 1146A—901, dated 4th June 1877, and enclosures.

the law relating to Railways in India was referred, have the honour to report that we have considered the Bill and the papers noted in the margin.

2. We have saved not only rules, &c., made under the Acts which the Bill proposes to repeal, but also rules made under the enactments which those Acts replaced.

3. We have extended the definition of "Railway" so as to include ferry-boats used for the purpose of, or in connection with, a Railway

4. It has been held both in England (*Jones v. Festiniog Railway Company*, L. R., 3 Q.B. 733) and in India (*Jowahir v. Oudh and Rohilkhand Railway Company*, unreported, and see *Halford v. E. I. Ry. Company*, 14 Beng. 1), that if a Railway Company has no statutory power authorizing it to use locomotives, it will be liable for damage caused by sparks, even though all reasonable precautions have been taken to prevent them. Our present Railway Act (XVIII. of 1854), unlike the English Railway Clauses Consolidation Act, confers no such power. We have therefore, in accordance with a suggestion of the

Secretary of State, expressly declared that locomotives may be used on every Indian Railway. The result will be that the Railway Administration will not be liable for such damage without proof of negligence.

5. When a passenger's luggage is at his request placed in the same carriage in which he is to travel and is lost or injured, we have declared, in accordance with the recent decision in *Bergheim v. Great Eastern Railway Company*, 3 C. P. Div. 221, that the Company is not liable, unless the loss or injury has been caused by the neglect or default of their servants.

6. As the law stands in India, when certain specified articles are contained in parcels delivered to a Railway Company, the Company is not liable for loss of or injury to those articles, whatever may be their value, unless they have been formally declared and insured. One or other of these articles is found in the luggage of most first and second class passengers, and the result is that many people, as a rule, travel without declaring their property and run the risk of losing it altogether from accidents to the train or carelessness and misconduct on the part of the Company's servants. In England the Railway Companies are relieved from responsibility only when the value of undeclared articles exceeds £10, and we think that in India Rs. 100 would be a reasonable limit. We have therefore assimilated section 6 (now section 7) of the Bill to section 1 of the Carriers Act, 11 George IV & 1 Wm. IV, chapter 68. Where any article declared and insured under this section is lost or damaged, the owner will, as a rule, be entitled to recover, in the former case, the value of the article lost, and in the latter, the difference between its value before and after the accident. But where he understates the value, he should be concluded by his statement; and we have therefore (in accordance with the decision in *McCance v. London and N. W. Railway Company*, 3 H. & C. 343) provided that the amount so recoverable shall in no case exceed the declared value.

7. We have also amended section 7 (now section 8) so as to express the substance of the English Railway and Canal Traffic Act, 1854, section 7. The Bill now provides that Railway Companies shall, notwithstanding any notice, condition or declaration, be liable for loss or injury to any articles not specially provided for by the preceding section when such loss or injury is occasioned by a Railway officer's neglect or default. But this is not to invalidate special contracts as to receiving, forwarding or delivering such articles, provided such contracts are reasonable, and in writing signed by the parties.

8. In the case of accidents attended with serious personal injury, we have required (section 12) the nearest Station-Master to give notice to the nearest Magistrate and the Officer in charge of the Police-station in the jurisdiction of which the accident occurred.

9. We have expressly empowered (section 14) the Railway Administration to make rules regulating the maximum number of passengers to be contained in each Railway carriage, and the mode in which such number shall be denoted thereon. And we have provided (sections 26, 37) penalties for Railway-officers compelling passengers to enter carriages already full and for passengers wilfully entering such carriages.

10. We have required (section 16) that the amount of the fare shall be specified on the tickets. In the absence of such a provision, we are informed that Native passengers are constantly cheated either by the issuers of tickets or by touts hanging about the stations.

11. We have declared (section 17) that any passengers to whom a ticket has been furnished and for whom there is no room shall be entitled to have his fare at once refunded.

12. We have provided (section 28) penalties for a person travelling by a train of a class superior to that for which his ticket was issued, using or attempting to use a ticket on a day for which it is not available, or wilfully altering or defacing a ticket so as to render the date, number or other material portion thereof illegible.

13. We have declared (section 34) that the fine for not giving an account of goods, or for giving a false account, shall be in addition to the toll to which such goods may be liable. This is in accordance with 8 and 9 Vic., c. 20, section 99.

14. We have added to the offences for which a person may be arrested without warrant those of evading payment of the proper fare (section 28), being intoxicated or committing nuisance (section 32) and entering rooms or carriages reserved for females (section 33). We have increased the fine for being intoxicated or committing nuisance from Rs. 20 to Rs. 50.

15. We have provided (section 38) a penalty for unlawfully making, showing, hiding or removing signals or lights upon or near Railways.

16. The present law (Act XXV. of 1871, section 2) provides a penalty for wilfully driving cattle on a fenced Railway, but does not prohibit such driving on unfenced lines. We have, in section 40, made such driving penal whether the line is fenced or unfenced.

17. In some parts of India young Native boys are in the habit of throwing stones at trains and placing obstructions on the rails. When they are under seven years of age the law cannot touch them; when they are above seven and under twelve, they are punishable only when proved by the prosecution to have attained sufficient maturity of understanding to judge of the nature and consequences of their conduct—a proof which, in most instances, is not easily given. Considering the serious risk to life and property caused by such acts, we think the general law should be modified in this respect; and we have accordingly provided, by section 42, that the convicting Magistrate may

direct either that such children be punished with whipping, or that their fathers and guardians be punished with fine not exceeding Rs. 20.

18. We have required (section 45) drivers and conductors of omnibuses and other vehicles, while in a station-yard, to obey the reasonable directions of duly authorised Railway-officers. One of the bye-laws framed by the Board of Trade for regulating travelling by railway in England is to the like effect.

19. We have struck out sections 43 and 44 of the Bill as introduced. The latter section is obsolete, as there are now no Heads of District Police and Amins in the Madras Presidency. The former conflicts with the Code of Criminal Procedure, section 72. We have also omitted the provisions as to tramways contained in section 23 of the Bill as introduced.

20. We have made some changes in wording and arrangement.

21. The publication ordered by the Council has been made; we recommend that the Bill as now amended be re-published, and that its further consideration be stayed till the Council re-assembles in Calcutta.

ANDREW CLARKE.
WHITLEY STOKES.
F. R. COCKERELL.

SIMLA :
The 30th July 1878. }

No. II.

THE INDIAN RAILWAY BILL, 1878.

CONTENTS.

PREAMBLE.

CHAPTER I.

PRELIMINARY.

SECTIONS.

1. Short title.
- Local extent.
- Commencement.
2. Repeal of Acts.
3. Interpretation-clause.
4. All opened Railways presumed within the Act.

CHAPTER II.

ENACTMENTS RELATING TO RAILWAY COMPANIES.

5. Right to use locomotives.
6. No liability for unbooked luggage.
Luggage placed in compartment with passenger.
7. No liability for loss of gold, silver, &c., unless in case of special engagement.
8. Liability for neglect in carriage of goods notwithstanding notice.
Saving of special contract.
9. Lien for money due for carriage of goods.
10. Written account of goods to be given on demand.
11. Carriage of dangerous goods.
12. Accident to be reported.
13. Returns of accidents in course of traffic.
14. Power to make general rules for working Railway.
Penalty for breach of rules.
Publication of rules.
Power to cancel rules.
15. Copy and translation of Act, &c., to be shown at stations.

CHAPTER III.

ENACTMENTS RELATING TO PASSENGERS.

16. Passengers on payment of fares to be furnished with tickets.
Tickets to be shown and given up on demand.

SECTIONS.

17. Fares and tickets at intermediate stations.
Preferential right to tickets.
Proviso.
18. Fares to be prepaid.
19. Passengers not to carry dangerous goods.

CHAPTER IV.

PENALTIES.

(A).—As to Companies.

20. For omitting to report accident.
21. For not sending return of accidents.

(B).—As to Railway-officers.

22. For omitting to give notice of accident.
23. For drunkenness or breach of duty.
24. For endangering the safety of persons.
25. For receiving bribes.
Amendment of Penal Code, section 161.
26. For compelling passengers to enter carriages already full.

(C).—As to the Public.

27. For not producing or delivering ticket.
28. For evading payment of proper fare.
For altering tickets.
29. For entering carriage in motion.
For riding on the steps.
30. For riding on engine, tender or luggage-van.
31. For smoking.
32. For intoxication or nuisance.
33. For entering carriage or room reserved for females.
34. For not giving account of goods or giving false account.
35. For carrying dangerous goods.
For delivering such goods without notice.
36. For obstructing Railway-officer in his duty.
37. For entering carriage already full.
38. For extinguishing lamps, removing signals or injuring carriage, &c.
39. For trespass.
For refusing to leave on request.
40. For cattle-trespass within Railway fences.
For wilfully driving cattle on fenced Railway.
Amendment of Act I of 1871, sections 11 and 26.
41. For opening or not properly shutting gates.

SECTIONS.

42. For boys obstructing line or throwing stones at train.

(D.)—As to Railway-officers and the Public.

43. For wilful act or omission endangering passenger.

44. For rash or negligent act.

45. Disobedience of omnibus, &c., drivers to Railway-officers.

46. Prosecutions under other laws.

Arrest of Offenders.

47. Arrest for offences punishable by fine.

48. Arrest for offences against certain sections.

Jurisdiction.

49. Jurisdiction of Magistrate, &c., to fine.

CHAPTER V.

MISCELLANEOUS.

50. Power of Government to make rules as to fences, gates and bars.

51. Power to declare Local Government in respect of any Railway.

SCHEDULES.

A Bill to consolidate and amend the Law relating to Railways in India.

Whereas it is expedient to consolidate and amend the law relating to Railways in India; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title.

1. This Act may be called "The Indian Railway Act, 1878."

It extends to the whole of British India and, so far as regards subjects of Her Majesty the Empress of India, to the dominions of Princes and States in India in alliance with Her said Majesty:

Local extent.

and it shall come into force on the first day of March 1879.

Commencement.

2. On and from that day, the Acts specified in the second schedule hereto annexed shall be repealed.

Repeal of Acts.

All rules made, notifications published, and powers conferred under any of such Acts, or any enactment thereby repealed, shall (so far as they are consistent herewith) be deemed to have been respectively made, published and conferred under this Act.

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

Interpretation-clause.

"Railway."

"Railway" includes—

(a) Railways belonging to and worked by Companies;

(b) Railways belonging to Government but worked by Companies;

(c) Railways worked by Government;

(d) land within the fences or other boundary-marks prescribed under section fifty;

(e) all lines of rail, sidings or branches worked over for the purpose of, or in connection with, a Railway;

(f) all stations, offices, warehouses, fixed machinery and other works constructed or being constructed for the purposes of, or in connection with a Railway;

(g) all ferry-boats used for the purposes of, or in connection with, a Railway.

And in the following sections (namely), twelve, fourteen, nineteen, twenty-three, twenty-four, twenty-nine, thirty and thirty-five to forty-four (both inclusive), "Railway" includes a Railway under construction or not used for the public conveyance of passengers or goods.

"Railway Administration" means in the case of a Railway worked by Government, the Manager of such Railway, and in the case of a Railway worked by a Company, the Company.

"Railway-officer" means any person employed by a Railway Administration to perform any function in connection with a Railway

"Railway officer."

"Passenger" means a passenger by Railway.

"Passenger."

"Magistrate" means any person lawfully exercising the powers of a Magistrate and includes a Presidency Magistrate.

"Magistrate."

4. Every Railway used for the public conveyance of passengers or goods shall, until the contrary be proved, be presumed to be a Railway within the meaning of this Act,

and every Company to or by whom any such Railway belongs or is worked shall, until the contrary be proved, be presumed to be a Railway Company within the meaning of this Act.

CHAPTER II.

ENACTMENTS RELATING TO RAILWAY COMPANIES.

5. It shall be lawful to use on every Railway locomotive engines or other motive power, and carriages and wagons to be drawn or propelled thereby.

6. A Railway Company and (in the case of a Railway worked by Government) the Government shall in no case be answerable for loss of injury to any passenger's luggage, unless a Railway-officer has booked and given a receipt for the same; and when a passenger's luggage has, at his request or with his consent, been placed in the same carriage in which he is to travel, and is

No liability for unbooked luggage.

Luggage placed in compartment with passengers.

lost or injured, the Company or the Government shall not be liable for such loss or injury unless it has been caused by the neglect or default of a Railway-officer.

7. When any of the articles mentioned in the first schedule hereto annexed is contained in any parcel or package delivered to a Railway-officer, and the value of such article exceeds one hundred rupees, the Company or (in the case of a Railway worked by Government) the Government shall not be liable for loss or damage to such article, unless at the time of delivery, the value and nature thereof have been declared by the person sending or delivering the same and an increased charge for the safe conveyance of the same, or an engagement to pay such charge, has been accepted by some person specially authorized in this behalf.

When any article of which the value and nature have been declared under this section has been lost or damaged and such loss or damage has been occasioned by a Railway-officer, the owner thereof is entitled to recover, in case of loss, its value, and in case of damage, the difference between its value immediately before, and its value immediately after the damage has been so occasioned: Provided that the amount recoverable under this section shall not exceed the value so declared.

8. Notwithstanding any notice, condition or declaration given or made by the Railway Administration, the Railway Company or (in the case of a Railway worked by Government) the Government shall be liable for loss or injury to any animals, articles or goods (other than those specially provided for by section seven) in the receiving, forwarding or delivering thereof, when such loss or injury is occasioned by the neglect or default of a Railway-officer

Nothing herein contained shall be deemed to prevent the Railway Administration from making a special contract as to the receiving, forwarding or delivery of such animals, articles or goods: Provided that—

(a) such contract is in writing signed by, or on behalf of, the parties thereto, and

(b) the Court before which any question relating thereto is tried considers it to be just and reasonable.

9. If any person fail to pay on demand any Lien for money due for sum due for conveyance carriage of goods. of any goods by Railway, the Railway Administration may detain all or any part of such goods, or, if the same have been removed from the Railway, any other goods of such person then on such Railway or thereafter coming into the possession of the Railway Administration;

and may also sell by public auction, on the expiration of at least fifteen days' notice thereof in one or more of the newspapers published at the place of sale, sufficient of such goods to realize the sum payable as aforesaid, and all charges and expenses of such detention and sale;

and may, out of the proceeds of the sale, retain the sum so payable, together with the charges and

expenses aforesaid, rendering the surplus, if any, of such proceeds, and so much of the goods as remains unsold, to the person entitled thereto:

or it shall be lawful for the Railway Administration to recover any such sum by suit.

10. The owner or person having the care of any goods which have been carried upon any Railway, or are brought into any station or warehouse for the purpose of being carried on a Railway, shall, on demand by any Railway-officer appointed to receive goods to be carried on that part of the Railway on which such goods have been carried, or are about to be carried, deliver to such officer an exact account in writing signed by him of the number or quantity and description of such goods.

11. Any Railway-officer may refuse to carry upon a Railway any luggage or parcel which he suspects to contain dangerous goods, and may require the same to be opened to ascertain the fact previously to carrying the same;

and in case any such luggage or parcel is received for the purpose of being carried upon a Railway, any Railway-officer may stop the transit thereof until he is satisfied as to the nature of the contents of the luggage or parcel.

12. Every Railway Administration shall, within twelve hours after the occurrence upon the Railway of any accident attended with serious personal injury, give notice thereof to the Local Government.

and the Station-Master nearest to the place at which the accident occurs, or such other officer as the Railway Administration may appoint in this behalf, shall at once give notice of such accident to the nearest Magistrate and to the officer in charge of the Police-station in the jurisdiction of which the accident occurred.

13. The Local Government may direct any Railway Administration to make up and deliver to the Local Government a return of serious accidents occurring in the course of the public traffic upon the Railway, whether attended with personal injury or not, in such form and manner as the Local Government deems necessary and requires for information, with a view to the public safety.

14. Every Railway Administration may, from time to time, with the previous sanction of the Governor General in Council, make general rules consistent with this Act for the following purposes (that is to say):—

(a) for regulating the mode by which, and the speed at which, carriages and wagons used on the Railway are to be moved or propelled;

(b) for regulating the times of the arrival and departure of any such carriages and wagons;

(c) for regulating the loading and unloading of such wagons, the weights they may respectively carry and the mode in which such weights shall be denoted thereon;

(l) for regulating the receipt and delivery of goods and other things which are to be conveyed upon the Railway ;

(e) for regulating the maximum number of passengers which each carriage and compartment may carry, and the mode in which such number shall be denoted thereon ;

(f) for declaring what shall be deemed to be, for the purposes of this Act, dangerous goods, and

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

Any such rule may contain a provision that any Penalty for breach of person committing a breach of it shall be liable to a fine which may extend to fifty rupees or, in default of payment of such fine, to imprisonment for a term which may extend to two months.

All rules made under this section shall be published in the *Gazette of India*, and shall be otherwise notified to the Railway-officers and the public in such manner as the Governor General in Council, from time to time, directs.

The Governor General in Council may at any time cancel any such rule.

15. A copy of this Act, and of the General Rules, Time-Tables and Tariff of charges which may, from time to time, be published for any Railway by any Railway Administration shall be exhibited in some conspicuous place at each station of such Railway, so that they may be easily seen and read.

All such documents shall be so exhibited in English and in the vernacular language of the district in which the station is situate, and in such other language, if any, as the Local Government may direct.

CHAPTER III.

ENACTMENTS RELATING TO PASSENGERS.

16. Every person desirous of travelling on a Railway shall, upon payment of his fare, be furnished with a ticket specifying the class of carriage, the place from and place to which the fare has been paid, and the amount of such fare ; and every passenger shall, when required, show his ticket to any Railway-officer duly authorized to examine the same, and shall deliver up such ticket, upon demand to any Railway-officer duly authorized to collect tickets.

17. At the intermediate stations, the fares shall be deemed to be accepted and the tickets furnished only upon condition that there be room in the train for which the tickets are furnished.

In case there is not room for all the passengers to whom tickets have been furnished, those who have obtained tickets the longest distance shall have the preference ; and

those who have obtained tickets for the same distance shall have the preference according to the order in which they have received their tickets :

Provided that all officers and troops of Her Majesty on duty, and all other persons on the business of the Government who, by virtue of any contract with the Government or, in the case of a Railway worked by Government, of any direction of the Governor General in Council, are entitled to be conveyed on a Railway in preference to or in priority over, the public, shall be entitled to such preference and priority without reference to the distance for which, or the order in which, they have received their tickets.

Any passenger to whom a ticket has been furnished at any station and for whom there is no room shall, on returning the ticket, be entitled to have his fare at once refunded.

18. Except with the permission of the Station-Master, no person shall enter any carriage used on any Railway for the purpose of travelling therein without having first paid his fare and obtained a ticket.

19. No person shall carry upon any Railway any dangerous goods, or shall be entitled to require to be carried upon any Railway any luggage or goods which in the judgment of any Railway-officer is or are of a dangerous nature.

CHAPTER IV.

PENALTIES.

(A).—As to Companies.

20. Any Railway Administration omitting to give notice as required by section twelve, clause one, shall forfeit the sum of five hundred rupees for every day during which such omission continues.

21. Any Railway Administration failing to deliver any return mentioned in section thirteen within fourteen days after the same has been required, or to exhibit the copy mentioned in section fifteen in manner required by that section, shall forfeit the sum of fifty rupees for every day during which such failure continues.

(B).—As to Railway-officers.

22. Any Station-Master omitting to give notice as required by section twelve, clause two, shall be punished with fine which may extend to fifty rupees.

23. Any Railway-officer who is in a state of intoxication whilst actually employed upon a Railway in the discharge of any duty,

or who negligently omits to perform his duty, or who performs the same in an improper manner,

shall be punished with fine which may extend to fifty rupees ;

and if the duty in any of the cases aforesaid be such that the omission or negligent performance thereof would be likely to endanger the safety of any person travelling or being upon such Railway, such officer shall be punished with imprisonment for a term which may extend to one year, or with fine, or with both.

For endangering the safety of persons. 24. If any Railway-officer endangers the safety of any person—

(a) by disobeying any rule sanctioned and published and notified in the manner prescribed by section fourteen ; or

(b) by disobeying any rule or order not inconsistent with the general rules aforesaid, and which he was bound by the terms of his service 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 three years, or with fine which may extend to five hundred rupees, or with both.

25. Every Railway-officer, and every other person employed by or on behalf of a Railway Company to do any act upon the Railway, shall be deemed a " public servant " within the meaning of sections 161, 162, 163, 164, and 165 of the Indian Penal Code.

In the definition of legal remuneration contained in the said section 161, the word " Government " shall, for the purposes of this section, be deemed to include—

(a) a Railway Company, its lessees, representatives and assigns ;

(b) the lessees, representatives and assigns of such Company.

26. Any Railway-officer who compels or attempts to compel any passenger to enter a carriage or compartment containing the maximum number of passengers denoted thereon in accordance with a rule made and published under section fourteen, shall be punished with fine which may extend to one hundred rupees.

(C).—As to the Public.

27. Any passenger not producing or delivering up his ticket when so required by a Railway-officer authorized in this behalf shall be liable to pay the fare from the place whence the train originally started, unless he can prove that he has travelled a less distance only, in which case he shall be liable to pay the fare only from the place whence he has travelled.

Every such fare shall, on application by a Railway-officer to a Magistrate, and on proof of the passenger's liability, be recoverable from such passenger as if it was a fine.

28. Any person who defrauds, or attempts to defraud, any Railway Company or the Government—

For evading payment of fare.

(a) by travelling, or attempting to travel, upon any Railway without having previously paid his fare ;

(b) by riding in or upon a carriage, or by a train, of a higher class than that for which he has paid his fare ;

(c) by using or attempting to use a ticket on any day for which such ticket is not available ;

(d) by continuing his journey in or upon any Railway-carriage beyond the place to which he has paid his fare without previously paying the fare for the additional distance, and with intent to avoid payment thereof ;

(e) by knowingly and wilfully refusing or neglecting, on arriving at the place to which he has paid his fare, to quit such carriage ;

or who, in any other manner whatever, attempts to evade the payment of his fare,

or who wilfully alters or defaces his ticket so as to render the date, number or other material portion thereof illegible,

shall for every such offence be punished with fine which may extend to fifty rupees.

29. Any passenger who gets into or upon, or attempts to get into or upon, or quits, or attempts to quit, any carriage, upon any Railway, while such carriage is in motion ;

or who rides or attempts to ride upon any Railway, on the steps, or any other part of a carriage, except on those parts which are intended for the accommodation of passengers,

shall for every such offence be punished with fine which may extend to twenty rupees.

30. Any person other than the engine-man, fire-man and assistant fire-man who, without the special license of such officer as the Railway Administration appoints in this behalf, rides or attempts to ride upon any locomotive engine or tender upon any Railway ;

and any person other than the guard or brakesman who, without such license as aforesaid, rides or attempts to ride upon any Railway, in or upon any luggage-van or goods-wagon, or other vehicle not appropriated to the carriage of passengers

shall for every such offence be punished with fine which may extend to twenty rupees.

31. Whoever smokes, either in a Railway-station, or in or upon any Railway-carriage, except in places or carriages specially provided for the purpose, shall be punished with fine which may extend to twenty rupees for each offence ;

and whoever persists in so smoking (except as aforesaid) after being warned to desist by any Railway-officer may, in addition to incurring the liability abovementioned, be removed by any Railway-officer from any such carriage, and from the premises of the Railway, and shall forfeit his fare.

For smoking.

32. Any person who is in a state of intoxication, or who commits any nuisance or act of indecency in any Railway-carriage, or upon any part of any Railway ;

For intoxication or nuisance. or who wilfully and without lawful excuse interferes with the comfort of any passenger,

shall be punished with fine which may extend to fifty rupees ; and, in addition to such liability, the offender may be removed by any Railway-officer from any such carriage, and also from the premises of the Railway, and shall forfeit his fare.

33. If any carriage, compartment or room be reserved by the Railway Administration for the exclusive use of females, any

For entering carriage or room reserved for females. male person who without lawful excuse enters such carriage, compartment or room, knowing the same to be reserved as aforesaid, or remains therein after having been informed of its having been so reserved, shall be punished with fine which may extend to one hundred rupees,

and may be removed therefrom, and also from the premises of the Railway, by any Railway-officer,

and shall forfeit his fare.

34. Any owner or person referred to in section ten, who wilfully fails to give on demand to any Railway-officer appointed as therein mentioned an exact account of the number or quantity and description of the goods therein referred to,

For not giving account of goods or giving false account. or who wilfully gives to such Railway-officer a false account thereof,

shall, for every such offence, be punished with fine which may extend to one hundred rupees for every ton of such goods, or for any parcel exceeding one hundredweight, and with fine which may extend to fifty rupees for any quantity of such goods less than a ton or for any parcel less than one hundredweight ; and such fine shall be in addition to the toll to which such goods may be liable.

For carrying dangerous goods. 35. Whoever carries upon a Railway any dangerous goods, or delivers to a Railway-officer any such goods for the purpose of being carried upon a Railway without distinctly marking their nature on the outside of the package containing the same, or otherwise giving notice in writing of the nature thereof to such officer, shall for every such offence be punished with fine which may extend to two hundred rupees.

For delivering such goods without notice. 36. Whoever wilfully obstructs or impedes any Railway-officer in the discharge of his duty on a Railway, or any of the works, stations or premises connected therewith, shall be punished with fine which may extend to fifty rupees.

For obstructing Railway-officer in his duty. 37. Any passenger wilfully entering a carriage or compartment containing the maximum number of passengers which has been denoted thereon in accordance with a rule made and

published under section fourteen, shall be punished with fine which may extend to a hundred rupees.

38. Whoever without authority extinguishes any lamp in or on any Railway-carriage or engine, or makes, shows, hides or removes any signal or light upon or near any Railway,

For extinguishing lamps, removing signals or injuring carriage, &c. and whoever negligently damages or injures any carriage, engine, wagon, truck, warehouse, building, machine, fence or any other thing belonging to a Railway,

shall be punished with fine which may extend to fifty rupees.

39. Whoever unlawfully enters upon a Railway shall be punished with fine which may extend to twenty rupees ; and if any person so entering refuses to leave such Railway on being requested to do so by any

For trespass. For refusing to leave on request. Railway-officer, 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 immediately removed from such Railway by such officer or other person as aforesaid.

40. The owner or person in charge or any cattle unlawfully driven or straying on any Railway provided with fences suitable for the exclusion of such cattle shall be punished with fine which may extend to ten rupees for each animal, in addition to any amount that may be recovered under the Cattle Trespass Act, 1871.

Whenever cattle are wilfully driven or knowingly permitted to be on any Railway provided with fences suitable for the exclusion of such cattle, otherwise than for the purpose of crossing the Railway at a gate or bar provided for public use,

For wilfully driving cattle on Railway. and whenever cattle are wilfully driven or knowingly permitted to be on any Railway not so provided, otherwise than for the purpose of lawfully crossing the Railway,

the person in charge of such cattle, or if he cannot be identified, then the owner of the said cattle shall be punished with fine which may extend to fifty rupees for each animal, in addition to any amount that may be recovered under the same Act.

All fines imposed under this section may be recovered in manner provided by section twenty-five of the same Act, and may be appropriated in whole or in part in compensation for loss or damage proved to the satisfaction of the convicting Magistrate.

The expression " public road " in sections eleven and twenty-six of the same Act shall be deemed to include a Railway.

Amendment of Act 1 of 1871, ss. 11 and 26. And any Railway-officer may exercise the powers of seizure provided by the said section eleven.

Explanation.—In this section the word " cattle " includes also elephants, camels, buffaloes, horses, mares, geldings, ponies, colts, fillies, mules, asses, pigs, rams, ewes, sheep, lambs, goats, and kids.

41. Whoever, when any engine or train approaching along a Railway is in sight, or is otherwise known to be approaching, opens any gate which has been set up across any road for the use or accommodation of any person by the Railway Administration on either side of the Railway, or passes or attempts to pass, or drives or attempts to drive any carriage, cattle or other animal or thing, across the Railway;

and whoever at any time, in the absence of a gate-keeper, omits to shut and fasten such gate as soon as he and any carriage, cattle or other thing under his charge have passed through the same,

shall be punished with fine which may extend to fifty rupees.

42. Whenever any male minor under the age of twelve years unlawfully—

For boys obstructing line or throwing stones at train. (a) places or throws upon or across a Railway any wood, stone or other thing, or

(b) removes or displaces any rail, sleeper, spike, key or other thing belonging to the permanent way of a Railway, or

(c) throws or causes to fall against, into or upon any engine, tender, carriage or other vehicle used upon a Railway, any wood, stone or other thing,

such minor shall be deemed guilty of an offence, and the convicting Magistrate may in his discretion direct either that the minor shall be punished with whipping, or that his father or guardian shall be punished with fine which may extend to twenty rupees.

(D).—As to Railway-officers and the Public.

43. Whoever, whether a Railway-officer or not, wilfully does any act or wilfully omits to do what he is legally bound to do, intending by such act or omission to endanger, or knowing that he is thereby likely to endanger, the safety of any person travelling or being upon any Railway, may be sentenced to transportation (or in the case of an European or American, penal servitude) for life or with imprisonment for a term which may extend to seven years.

44. Whoever, whether a Railway-officer or not, rashly or negligently, and without lawful excuse, does any act likely to endanger the safety of any person travelling or being upon a Railway shall be punished with imprisonment for a term which may extend to one year, or with fine, or with both.

45. Every driver or conductor of an omnibus, carriage or other vehicle shall, while in or upon any station-yard or other premises forming part of a Railway, obey the reasonable directions of any Railway-officer duly authorized in this behalf; and every person offending against this section shall be punished with fine which may extend to twenty rupees.

46. Nothing herein contained shall be deemed to prevent any person from being prosecuted and punished under any other law for any act or omission which constitutes an offence under this Act or the rules made hereunder:

Provided that no person shall be punished twice for the same act or omission.

Arrest of offenders.

47. If any person commits any offence hereby made punishable by fine, and the name and address of such person are unknown, or there is reason to believe that he will abscond, any Railway-officer or any Police-officer or other person whom such Railway-officer or Police-officer may call to his aid, may, without any warrant or written authority, arrest and detain such offender until he can be taken before a Magistrate or give sufficient security for his appearance before such Magistrate, or is otherwise discharged by due course of law.

48. Every person committing any offence mentioned in sections fourteen, twenty-three, twenty-four, thirty-two, thirty-three, forty-two, forty-three and forty-four may be arrested without any warrant or written authority by any Railway-officer, or by any other person whom such officer may call to his aid, or by any Police-officer;

and every person so arrested shall, with all convenient despatch, be taken before a Magistrate authorized to punish the offender or to commit him for trial.

Jurisdiction.

49. Any person committing any offence for which under this Act he is liable to a fine only shall be punishable for such offence in any place in which he may be found as well as in any other place in which he may be punishable under any law for the time being in force.

CHAPTER V.

MISCELLANEOUS.

50. The Governor General in Council, or the Power of Government to Local Government with make rules as to fences, the sanction of the Governor General in Council, may, from time to time, make rules for providing—

(a) boundary-marks or fences for any Railway or any part thereof, and for roads constructed in connection therewith;

(b) gates or bars at places where any Railway crosses a road on the level; and

(c) persons to open and shut, such gates or bars;

and may by such rules determine what kind of fences shall, for the purpose of section forty, be deemed to be suitable for the exclusion of cattle,

51 The Governor General in Council may Power to declare Local from time to time, by Government in respect of any Railway. notification in the *Gazette of India*, declare what Government or other Authority shall be deemed to be, for the purposes of this Act, the Local Government in respect of the whole or any part of a Railway.

THE FIRST SCHEDULE.

- (a) Gold or silver, coined or uncoined, manufactured or unmanufactured ;
- (b) plated articles ;
- (c) clothes and tissue and lace of which gold or silver forms part ;
- (d) precious stones, jewellery, trinkets ;
- (e) watches, clocks or time-pieces of any description ;
- (f) Government securities ;
- (g) Government stamp-paper, postage-stamps, telegraph-stamps ;
- (h) bills of exchange, hundís, promissory notes, bank-notes, orders or other securities for payment of money ;
- (i) maps, writings, title-deeds ;
- (j) paintings, engravings, lithographs, photographs, carvings, sculpture ;

- (k) glass, china ;
- (l) silks in a manufactured or unmanufactured state, and whether wrought up or not wrought up with other materials ;
- (m) shawls ;
- (n) lace ;
- (o) opium ;
- (p) ivory, ebony, sandalwood ;
- (q) musical instruments.

THE SECOND SCHEDULE. ACTS REPEALED.

Number and year.	Title.
XVIII of 1854 ...	An Act relating to Railways in India.
XXXI of 1867 ...	An Act to render penal certain offences committed by servants of Railway Companies.
XIII of 1870 ...	An Act to apply the provisions of Act No. XVIII of 1854 to Railways belonging to, or worked by Government
XXV of 1871 ...	An Act to amend the Railway Act.

D. FITZPATRICK,
Secy. to the Govt. of India,
Legislative Department.

[Published with the "Bombay Government Gazette" on the 15th August 1878.]

PART VI.

BILLS OF THE GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following preliminary Report of the Select Committee, together with the Bill as amended by them, was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 1st August 1878 :—

We, the undersigned Members of the Select Committee to which the Bill to consolidate and amend

the law relating to Railways in India was referred, have the honour to report that we have considered the Bill and the papers noted in the margin.

Office memorandum from Public Works Department, No. 1711R., dated 18th May 1876.

Despatch from Secretary of State, No. 87, dated 14th September 1876.

Letter from District Magistrate, South Arcot, to Honourable Sir Andrew Clarke, R. E., dated 13th October 1876.

Letter from Secretary to Chief Commissioner, Assam, No. 3821, dated 19th October 1876.

Letter from Officiating Secretary to Chief Commissioner, Mysore, No. 7339—6, dated 25th October 1876.

Letter from Second Assistant Resident, Haidarâbâd, No. 11, dated 6th November 1876.

Letter from Chief Secretary to Government, Fort St. George, No. 2261, dated 2nd November 1876, and enclosure.

Letter from Junior Secretary to Chief Commissioner, British Burma, No. 2752—432, dated 22nd November 1876.

Letter from Officiating Secretary to Government, Panjâb, No. 3788, dated 14th November 1876.

Letter from Officiating Secretary to Government, Panjâb, to Officiating Secretary to Government of India, Home Department, No. 2577, dated 31st July 1876, and enclosures.

Letter from Officiating Secretary to Government, North-Western Provinces, to Officiating Secretary to Government, Panjâb, No. 475A., dated 5th July 1876, and enclosures.

Letter from Officiating Secretary to Chief Commissioner, Central Provinces, No. 4610—217, dated 7th December 1876.

Letter from Officiating Chief Commissioner, Ajmer and Meirwâra, No. 759, dated 13th December 1876, and enclosure.

Office memorandum from Public Works Department, No. 3486R., dated 20th December 1876, forwarding copy of—

Letter from Officiating Master of Mint, No. 993, dated 23rd October 1876.

Memorandum by Major C. H. Luard, R.E., dated 3rd October 1876.

Letter from Junior Secretary to Chief Commissioner, Oudh, No. 434, dated 1st February 1877.

Letter from Officiating Secretary to Government of Bengal, No. 149, dated 18th January 1877, and enclosures.

Letter from Chief Secretary to Government, Fort St. George, No. 564, dated 2nd March 1877, and enclosures.

Despatches from Secretary of State for India, dated 6th August 1876 and 15th February 1877.

Letter from Chief Secretary to Government, Bombay, dated 26th March 1877.

Memorial of the Managing Committee of the Bombay Association, dated 21st April 1877.

Letter from Secretary to Government, North-Western Provinces and Oudh, No. 1146A—90 I., dated 4th June 1877, and enclosures.

Secretary of State, expressly declared that locomotives may be used on every Indian Railway. The result will be that the Railway Administration will not be liable for such damage without proof of negligence.

5. When a passenger's luggage is at his request placed in the same carriage in which he is to travel and is lost or injured, we have declared, in accordance with the recent decision in *Bergheim v. Great Eastern Railway Company*, 3 C. P. Div. 221, that the Company is not liable, unless the loss or injury has been caused by the neglect or default of their servants.

6. As the law stands in India, when certain specified articles are contained in parcels delivered to a Railway Company, the Company is not liable for loss of or injury to those articles, whatever may be their value, unless they have been formally declared and insured. One or other of these articles is found in the luggage of most first and second class passengers, and the result is that many people, as a rule, travel without declaring their property and run the risk of losing it altogether from accidents to the train or carelessness and misconduct on the part of the Company's servants. In England the Railway Companies are relieved from responsibility only when the value of undeclared articles exceeds £10, and we think that in India Rs. 100 would be a reasonable limit. We have therefore assimilated section 6 (now section 7) of the Bill to section 1 of the Carriers Act, 11 George IV & 1 Wm. IV, chapter 68. Where any article declared and insured under this section is lost or damaged, the owner will, as a rule, be entitled to recover, in the former case, the value of the article lost, and in the latter, the difference between its value before and after the accident. But where he understates the value, he should be concluded by his statement; and we have therefore (in accordance with the decision in *McCunne v. London and N. W. Railway Company*, 3 H. & C. 343) provided that the amount so recoverable shall in no case exceed the declared value.

7. We have also amended section 7 (now section 8) so as to express the substance of the English Railway and Canal Traffic Act, 1854, section 7. The Bill now provides that Railway Companies shall, notwithstanding any notice, condition or declaration, be liable for loss or injury to any articles not specially provided for by the preceding section when such loss or injury is occasioned by a Railway officer's neglect or default. But this is not to invalidate special contracts as to receiving, forwarding or delivering such articles, provided such contracts are reasonable, and in writing signed by the parties.

8. In the case of accidents attended with serious personal injury, we have required (section 12) the nearest Station-master to give notice to the nearest Magistrate and the Officer in charge of the Police-station in the jurisdiction of which the accident occurred.

9. We have expressly empowered (section 14) the Railway Administration to make rules regulating the maximum number of passengers to be contained in each Railway carriage, and the mode in which such number shall be denoted thereon. And we have provided (sections 26, 37) penalties for Railway-officers compelling passengers to enter carriages already full and for passengers wilfully entering such carriages.

10. We have required (section 16) that the amount of the fare shall be specified on the tickets. In the absence of such a provision, we are informed that Native passengers are constantly cheated either by the issuers of tickets or by touts hanging about the stations.

11. We have declared (section 17) that any passenger to whom a ticket has been furnished and for whom there is no room shall be entitled to have his fare at once refunded.

12. We have provided (section 28) penalties for a person travelling by a train of a class superior to that for which his ticket was issued, using or attempting to use a ticket on a day for which it is not available, or wilfully altering or defacing a ticket so as to render the date, number or other material portion thereof illegible.

13. We have declared (section 34) that the fine for not giving an account of goods, or for giving a false account, shall be in addition to the toll to which such goods may be liable. This is in accordance with 8 and 9 Vic., c. 20, section 99.

14. We have added to the offences for which a person may be arrested without warrant those of evading payment of the proper fare (section 28), being intoxicated or committing nuisance (section 32) and entering rooms or carriages reserved for females (section 33). We have increased the fine for being intoxicated or committing nuisance from Rs. 20 to Rs. 50.

15. We have provided (section 38) a penalty for unlawfully making, showing, hiding or removing signals or lights upon or near Railways.

16. The present law (Act XXV. of 1871, section 2) provides a penalty for wilfully driving cattle on a fenced Railway, but does not prohibit such driving on unfenced lines. We have, in section 40, made such driving penal whether the line is fenced or unfenced.

17. In some parts of India young Native boys are in the habit of throwing stones at trains and placing obstructions on the rails. When they are under seven years of age the law cannot touch them: when they are above seven and under twelve, they are punishable only when proved by the prosecution to have attained sufficient maturity of understanding to judge of the nature and consequences of their conduct—a proof which, in most instances, is not easily given. Considering the serious risk to life and property caused by such acts, we think the general law should be modified in this respect; and we have accordingly provided, by section 42, that the convicting Magistrate may direct either that such children be punished with whipping, or that their fathers and guardians be punished with fine not exceeding Rs. 20.

18. We have required (section 45) drivers and conductors of omnibuses and other vehicles, while in a station-yard, to obey the reasonable directions of duly authorised Railway-officers. One of the bye-laws framed by the Board of Trade for regulating travelling by railway in England is to the like effect.

19. We have struck out sections 43 and 44 of the Bill as introduced. The latter section is obsolete, as there are now no Heads of District Police and Amins in the Madras Presidency. The former conflicts with the Code of Criminal Procedure, section 72. We have also omitted the provisions as to tramways contained in section 23 of the Bill as introduced.

20. We have made some changes in wording and arrangement.

21. The publication ordered by the Council has been made; we recommend that the Bill as now amended be re-published, and that its further consideration be stayed till the Council re-assembles in Calcutta.

ANDREW CLARKE.
WHITLEY STOKES.
F. R. COCKERELL.

SIMLA :
The 30th July 1878. }

No. II.

THE INDIAN RAILWAY BILL, 1878.

CONTENTS.

PREAMBLE.

CHAPTER I.

PRELIMINARY.

SECTION.

1. Short title.
Local extent.
Commencement.
2. Repeal of Acts.
3. Interpretation-clause.
4. All opened Railways presumed within the Act.

CHAPTER II.

ENACTMENTS RELATING TO RAILWAY COMPANIES.

5. Right to use locomotives.
6. No liability for unbooked luggage.
Luggage placed in compartment with passenger.
7. No liability for loss of gold, silver, &c., unless in case of special engagement.
8. Liability for neglect in carriage of goods notwithstanding notice.
Saving of special contract.
9. Lien for money due for carriage of goods.
10. Written account of goods to be given on demand.
11. Carriage of dangerous goods.
12. Accident to be reported.
13. Returns of accidents in course of traffic.
14. Power to make general rules for working Railway.
Penalty for breach of rules.
Publication of rules.
Power to cancel rules.
15. Copy and translation of Act, &c., to be shown at stations.

CHAPTER III.

ENACTMENTS RELATING TO PASSENGERS.

16. Passengers on payment of fares to be furnished with tickets.
Tickets to be shown and given up on demand.

SECTION.

17. Fares and tickets at intermediate stations.
Preferential right to tickets.
Proviso.
18. Fares to be prepaid.
19. Passengers not to carry dangerous goods.

CHAPTER IV.

PENALTIES.

(A).—As to Companies.

20. For omitting to report accident.
21. For not sending return of accidents.

(B).—As to Railway-officers.

22. For omitting to give notice of accident.
23. For drunkenness or breach of duty.
24. For endangering the safety of persons.
25. For receiving bribes.
Amendment of Penal Code, section 161.
26. For compelling passengers to enter carriages already full.

(C).—As to the Public.

27. For not producing or delivering ticket.
28. For evading payment of proper fare.
For altering tickets.
29. For entering carriage in motion.
For riding on the steps.
30. For riding on engine, tender or luggage-van.
31. For smoking.
32. For intoxication or nuisance.
33. For entering carriage or room reserved for females.
34. For not giving account of goods or giving false account.
35. For carrying dangerous goods.
For delivering such goods without notice.
36. For obstructing Railway-officer in his duty.
37. For entering carriage already full.
38. For extinguishing lamps, removing signals or injuring carriage, &c.
39. For trespass.
For refusing to leave on request.
40. For cattle-trespass within Railway fences.
For wilfully driving cattle on fenced Railway.
Amendment of Act I of 1871, sections 11 and 26.
41. For opening or not properly shutting gates.

SECTION:

42. For boys obstructing line or throwing stones at train.

(D.)—As to Railway-officers and the Public.

43. For wilful act or omission endangering passenger.

44. For rash or negligent act.

45. Disobedience of omnibus, &c., drivers to Railway-officers.

46. Prosecutions under other laws.

Arrest of Offenders.

47. Arrest for offences punishable by fine.

48. Arrest for offences against certain sections.

Jurisdiction.

49. Jurisdiction of Magistrate, &c., to fine.

CHAPTER V.

MISCELLANEOUS.

50. Power of Government to make rules as to fences, gates and bars.

51. Power to declare Local Government in respect of any Railway.

SCHEDULES.

A Bill to consolidate and amend the Law relating to Railways in India.

Whereas it is expedient to consolidate and amend the law relating to Railways in India; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title.

1. This Act may be called "The Indian Railway Act, 1878."

It extends to the whole of British India and, so far as regards subjects of Her Majesty the Empress of India, to the dominions of Princes and States in India in alliance with Her said Majesty:

Local extent.

Commencement.

and it shall come into force on the first day of March 1879.

2. On and from that day, the Acts specified in the second schedule hereto annexed shall be repealed.

Repeal of Acts.

All rules made, notifications published, and powers conferred under any of such Acts, or any enactment thereby repealed, shall (so far as they are consistent herewith) be deemed to have been respectively made, published and conferred under this Act.

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

Interpretation-clause.

"Railway."

"Railway" includes—

(a) Railways belonging to and worked by companies;

(b) Railways belonging to Government but worked by Companies;

(c) Railways worked by Government;

(d) land within the fences or other boundary-marks prescribed under section fifty;

(e) all lines of rail, sidings or branches worked over for the purposes of, or in connection with, a Railway;

(f) all stations, offices, warehouses, fixed machinery and other works constructed or being constructed for the purposes of, or in connection with, a Railway;

(g) all ferry-boats used for the purposes of, or in connection with, a Railway.

And in the following sections (namely), twelve, fourteen, nineteen, twenty-three, twenty-four, twenty-nine, thirty and thirty-five to forty-four (both inclusive), "Railway" includes a Railway under construction or not used for the public conveyance of passengers or goods.

"Railway Administration" means in the case

"Railway Administration." of a Railway worked by Government, the Manager of such Railway, and in the case of a Railway worked by a Company, the Company.

"Railway-officer" means any person employed

"Railway-officer." by a Railway Administration to perform any function in connection with a Railway.

"Passenger."

"Passenger" means a passenger by Railway.

"Magistrate" means any person lawfully exercising the powers of a

"Magistrate." Magistrate and includes a Presidency Magistrate.

4. Every Railway used for the public conveyance of passengers or

All opened Railways presumed within the Act. goods shall, until the contrary be proved, be presumed to be a Railway within the meaning of this Act,

and every Company to or by whom any such Railway belongs or is worked shall, until the contrary be proved, be presumed to be a Railway Company within the meaning of this Act.

CHAPTER II.

ENACTMENTS RELATING TO RAILWAY COMPANIES.

5. It shall be lawful to use on every Railway locomotive engines or other motive power, and carriages and wagons to be drawn or propelled thereby.

6. A Railway Company and (in the case of a Railway worked by Government) the Government shall in no case be answerable for loss or injury to any passenger's luggage, unless a Railway-officer has booked and given a receipt for the same; and when a passenger's luggage has, at his request or with his consent, been placed in the same carriage in which he is to travel, and is

No liability for unbooked luggage. Luggage placed in compartment with passenger.

lost or injured, the Company or the Government shall not be liable for such loss or injury unless it has been caused by the neglect or default of a Railway-officer.

7. When any of the articles mentioned in the

No liability for loss of gold, silver, &c., unless in case of special engagement.

first schedule hereto annexed is contained in any parcel or package delivered to a Railway-officer, and the value of such article exceeds one hundred rupees, the Company or (in the case of a Railway worked by Government) the Government shall not be liable for loss or for damage to such article, unless, at the time of delivery, the value and nature thereof have been declared by the person sending or delivering the same, and an increased charge for the safe conveyance of the same, or an engagement to pay such charge, has been accepted by some person specially authorized in this behalf.

When any article of which the value and nature have been declared under this section has been lost or damaged and such loss or damage has been occasioned by a Railway-officer, the owner thereof is entitled to recover, in case of loss, its value, and in case of damage, the difference between its value immediately before, and its value immediately after, the damage has been so occasioned: Provided that the amount recoverable under this section shall not exceed the value so declared.

8. Notwithstanding any notice, condition or

Liability for neglect in carriage of goods, notwithstanding notice.

declaration given or made by the Railway Administration, the Railway Company or (in the case of a Railway worked by Government) the Government shall be liable for loss of or injury to any animals, articles or goods (other than those specially provided for by section seven) in the receiving, forwarding or delivering thereof, when such loss or injury is occasioned by the neglect or default of a Railway-officer.

Nothing herein contained shall be deemed to prevent the Railway Administration from making a special contract as to the receiving, forwarding or delivering of such animals, articles or goods: Provided that—

(a) such contract is in writing signed by, or on behalf of, the parties thereto, and

(b) the Court before which any question relating thereto is tried considers it to be just and reasonable.

9. If any person fail to pay on demand any

Lien for money due for carriage of goods.

sum due for conveyance of any goods by Railway, the Railway Administration may detain all or any part of such goods, or, if the same have been removed from the Railway, any other goods of such person then on such Railway or thereafter coming into the possession of the Railway Administration;

and may also sell by public auction, on the expiration of at least fifteen days' notice thereof in one or more of the newspapers published at the place of sale, sufficient of such goods to realize the sum payable as aforesaid, and all charges and expenses of such detention and sale;

and may, out of the proceeds of the sale, retain the sum so payable, together with the charges and

expenses aforesaid, rendering the surplus, if any, of such proceeds, and so much of the goods as remains unsold, to the person entitled thereto:

or it shall be lawful for the Railway Administration to recover any such sum by suit.

10. The owner or person having the care of

Written account of goods to be given on demand.

any goods which have been carried upon any Railway, or are brought into any station or warehouse for the purpose of being carried on a Railway, shall, on demand by any Railway-officer appointed to receive goods to be carried on that part of the Railway on which such goods have been carried, or are about to be carried, deliver to such officer an exact account in writing signed by him of the number or quantity and description of such goods.

11. Any Railway-officer may refuse to carry

Carriage of dangerous goods.

upon a Railway any luggage or parcel which he suspects to contain dangerous goods, and may require the same to be opened to ascertain the fact previously to carrying the same;

and in case any such luggage or parcel is received for the purpose of being carried upon a Railway, any Railway-officer may stop the transit thereof until he is satisfied as to the nature of the contents of the luggage or parcel.

12. Every Railway Administration shall,

Accident to be reported.

within twelve hours after the occurrence upon the Railway of any accident attended with serious personal injury, give notice thereof to the Local Government.

and the Station-Master nearest to the place at which the accident occurs, or such other officer as the Railway Administration may appoint in this behalf, shall at once give notice of such accident to the nearest Magistrate and to the officer in charge of the Police-station in the jurisdiction of which the accident occurred.

13. The Local Government may direct any

Returns of accidents in course of traffic.

Railway Administration to make up and deliver to the Local Government

a return of serious accidents occurring in the course of the public traffic upon the Railway, whether attended with personal injury or not, in such form and manner as the Local Government deems necessary and requires for information, with a view to the public safety.

14. Every Railway Administration may, from

Power to make general rules for working Railway.

time to time, with the previous sanction of the Governor General in Council, make general rules consistent with this Act for the following purposes (that is to say):—

(a) for regulating the mode by which, and the speed at which, carriages and wagons used on the Railway are to be moved or propelled;

(b) for regulating the times of the arrival and departure of any such carriages and wagons;

(c) for regulating the loading and unloading of such wagons, the weights they may respectively carry and the mode in which such weights shall be denoted thereon;

(d) for regulating the receipt and delivery of goods and other things which are to be conveyed upon the Railway ;

(e) for regulating the maximum number of passengers which each carriage and compartment may carry, and the mode in which such number shall be denoted thereon ;

(f) for declaring what shall be deemed to be, for the purposes of this Act, dangerous goods, and

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

Any such rule may contain a provision that any person committing a breach of it shall be liable to a fine which may extend to fifty rupees or, in default of payment of such fine, to imprisonment for a term which may extend to two months.

All rules made under this section shall be published in the *Gazette of India*, and shall be otherwise notified to the Railway-officers and the public in such manner as the Governor General in Council, from time to time, directs.

The Governor General in Council may at any time cancel any such rule.

15. A copy of this Act, and of the General Rules, Time-Tables and Tariff of charges which may, from time to time, be published for any Railway by any Railway Administration shall be exhibited in some conspicuous place at each station of such Railway, so that they may be easily seen and read.

All such documents shall be so exhibited in English and in the vernacular language of the district in which the station is situate, and in such other language, if any, as the Local Government may direct.

CHAPTER III.

ENACTMENTS RELATING TO PASSENGERS.

16. Every person desirous of travelling on a Railway shall, upon payment of his fare, be furnished with a ticket specifying the class of carriage, the place from and place to which the fare has been paid, and the amount of such fare ; and every passenger shall, when required, show his ticket to any Railway-officer duly authorized to examine the same, and shall deliver up such ticket upon demand to any Railway-officer duly authorized to collect tickets.

17. At the intermediate stations, the fares and tickets accepted and the tickets furnished only upon condition that there be room in the train for which the tickets are furnished.

In case there is not room for all the passengers to whom tickets have been furnished, those who have obtained tickets for the longest distance shall have the preference ; and

those who have obtained tickets for the same distance shall have the preference according to the order in which they have received their tickets :

Provided that all officers and troops of Her Majesty on duty, and all other person on the business of the Government who, by virtue of any contract with the Government or, in the case of a Railway worked by Government, of any direction of the Governor General in Council, are entitled to be conveyed on a Railway in preference to, or in priority over, the public, shall be entitled to such preference and priority without reference to the distance for which, or the order in which, they have received their tickets.

Any passenger to whom a ticket has been furnished at any station and for whom there is no room shall, on returning the ticket, be entitled to have his fare at once refunded.

18. Except with the permission of the Station-master, no person shall enter any carriage used on any Railway for the purpose of travelling therein without having first paid his fare and obtained a ticket.

19. No person shall carry upon any Railway any dangerous goods, or shall be entitled to require to be carried upon any Railway any luggage or goods which in the judgment of any Railway-officer is or are of a dangerous nature.

CHAPTER IV.

PENALTIES.

(A).—As to Companies.

20. Any Railway Administration omitting to give notice as required by section twelve, clause one, shall forfeit the sum of five hundred rupees for every day during which such omission continues.

21. Any Railway Administration failing to deliver any return mentioned in section thirteen within fourteen days after the same has been required, or to exhibit the copy mentioned in section fifteen in manner required by that section, shall forfeit the sum of fifty rupees for every day during which such failure continues.

(B).—As to Railway-officers.

22. Any Station-master or other officer omitting to give notice as required by section twelve, clause two, shall be punished with fine which may extend to fifty rupees.

23. Any Railway-officer who is in a state of intoxication whilst actually employed upon a Railway in the discharge of any duty,

or who negligently omits to perform his duty, or who performs the same in an improper manner,

shall be punished with fine which may extend to fifty rupees ;

and if the duty in any of the cases aforesaid be such that the omission or negligent performance thereof would be likely to endanger the safety of any person travelling or being upon such Railway, such officer shall be punished with imprisonment for a term which may extend to one year, or with fine, or with both.

24. If any Railway-officer endangers the safety of any person—

(a) by disobeying any rule sanctioned and published and notified in the manner prescribed by section fourteen ; or

(b) by disobeying any rule or order not inconsistent with the general rules aforesaid, and which he was bound by the terms of his service 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 three years, or with fine which may extend to five hundred rupees, or with both.

25. Every Railway-officer, and every other person employed by or on behalf of a Railway Company to do any act upon the Railway, shall be deemed a "public servant" within the meaning of sections 161, 162, 163, 164, and 165 of the Indian Penal Code.

In the definition of legal remuneration contained in the said section 161, the word "Government" shall, for the purposes of this section, be deemed to include—

(a) a Railway Company, its lessees, representatives and assigns ;

(b) the lessees, representatives and assigns of such Company.

26. Any Railway-officer who compels or attempts to compel any passenger to enter a carriage or compartment containing the maximum number of passengers denoted thereon in accordance with a rule made and published under section fourteen, shall be punished with fine which may extend to one hundred rupees.

(C).—As to the Public.

27. Any passenger not producing or delivering up his ticket when so required by a Railway-officer authorized in this behalf shall be liable to pay the fare from the place whence the train originally started, unless he can prove that he has travelled a less distance only, in which case he shall be liable to pay the fare only from the place whence he has travelled.

Every such fare shall, on application by a Railway-officer to a Magistrate, and on proof of the passenger's liability, be recoverable from such passenger as if it was a fine.

28. Any person who defrauds, or attempts to defraud, any Railway Company or the Government—

(a) by travelling, or attempting to travel, upon any Railway without having previously paid his fare ;

(b) by riding in or upon a carriage, or by a train, of a higher class than that for which he has paid his fare ;

(c) by using or attempting to use a ticket on any day for which such ticket is not available ;

(d) by continuing his journey in or upon any Railway-carriage beyond the place to which he has paid his fare without previously paying the fare for the additional distance, and with intent to avoid payment thereof ;

(e) by knowingly and wilfully refusing or neglecting, on arriving at the place to which he has paid his fare, to quit such carriage ;

or who, in any other manner whatever, attempts to evade the payment of his fare,

or who wilfully alters or defaces his ticket so as to render the date, number or other material portion thereof illegible

shall for every such offence be punished with fine which may extend to fifty rupees.

29. Any passenger who gets into or upon, or attempts to get into or upon, or quits, or attempts to quit, any carriage, upon any Railway, while such carriage is in motion ;

or who rides or attempts to ride upon any Railway, on the steps, or any other part of a carriage except on those parts which are intended for the accommodation of passengers,

shall for every such offence be punished with fine which may extend to twenty rupees.

30. Any person other than the engine-man, fire-man and assistant fire-man who, without the special license of such officer as the Railway Administration appoints in this behalf, rides or attempts to ride upon any locomotive engine or tender upon any Railway ;

and any person other than the guard or brakesman who, without such license as aforesaid, rides or attempts to ride upon any Railway, in or upon any luggage-van or goods-wagon, or other vehicle not appropriated to the carriage of passengers,

shall for every such offence be punished with fine which may extend to twenty rupees.

31. Whoever smokes, either in a Railway-station, or in or upon any Railway-carriage, except in places or carriages specially provided for the purpose, shall be punished with fine which may extend to twenty rupees for each offence ;

and whoever persists in so smoking (except as aforesaid) after being warned to desist by any Railway-officer may, in addition to incurring the liability abovementioned, be removed by any Railway-officer from any such carriage, and from the premises of the Railway, and shall forfeit his fare.

32. Any person who is in a state of intoxication, or who commits any nuisance or act of indecency in any Railway-carriage, or upon any part of any Railway ;

For intoxication or nuisance.

or who wilfully and without lawful excuse interferes with the comfort of any passenger,

shall be punished with fine which may extend to fifty rupees ; and, in addition to such liability, the offender may be removed by any Railway-officer from any such carriage, and also from the premises of the Railway, and shall forfeit his fare.

33. If any carriage, compartment or room be reserved by the Railway Administration for the exclusive use of females, any male person who without lawful excuse enters such carriage, compartment or room, knowing the same to be reserved as aforesaid, or remains therein after having been informed of its having been so reserved, shall be punished with fine which may extend to one hundred rupees,

For entering carriage or room reserved for females.

and may be removed therefrom, and also from the premises of the Railway, by any Railway-officer, and shall forfeit his fare.

34. Any owner or person referred to in section

For not giving account of goods or giving false account.

ten who wilfully fails to give on demand to any Railway-officer appointed as therein mentioned an exact account of the number or quantity and description of the goods therein referred to,

or who wilfully gives to such Railway-officer a false account thereof,

shall, for every such offence, be punished with fine which may extend to one hundred rupees for every ton of such goods, or for any parcel exceeding one hundredweight, and with fine which may extend to fifty rupees for any quantity of such goods less than a ton or for any parcel less than one hundredweight ; and such fine shall be in addition to the toll to which such goods may be liable.

For carrying dangerous goods.

35. Whoever carries upon a Railway any dangerous goods, or delivers to a Railway-officer any such goods for the purpose of being carried upon a Railway, without distinctly marking their nature on the outside of the package containing the same, or otherwise giving notice in writing of the nature thereof to such officer, shall for every such offence be punished with fine which may extend to two hundred rupees.

For delivering such goods without notice.

36. Whoever wilfully obstructs or impedes any Railway-officer in the discharge of his duty on a Railway, or any of the works, stations or premises connected therewith, shall be punished with fine which may extend to fifty rupees.

For obstructing Railway-officer in his duty.

37. Any passenger wilfully entering a carriage or compartment containing the maximum number of passengers which has been denoted thereon in accordance with a rule made and

For entering carriage already full.

published under section fourteen, shall be punished with fine which may extend to a hundred rupees.

38. Whoever without authority extinguishes any lamp in or on any Railway-carriage or engine, or makes, shows, hides or removes any signal or light upon or near any Railway, and whoever negligently damages or injures any carriage, engine, wagon, truck, warehouse, building, machine, fence or any other thing belonging to a Railway, shall be punished with fine which may extend to fifty rupees.

For extinguishing lamps, removing signals or injuring carriage, &c.

39. Whoever unlawfully enters upon a Railway shall be punished with fine which may extend to twenty rupees ; and if any person so entering refuses to leave such Railway on being requested to do so by any Railway-officer, 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 immediately removed from such Railway by such officer or other person as aforesaid.

For trespass.

For refusing to leave on request.

40. The owner or person in charge of any cattle unlawfully driven or straying on any Railway provided with fences suitable for the exclusion of such cattle shall be punished with fine which may extend to ten rupees for each animal, in addition to any amount that may be recovered under the Cattle Trespass Act, 1871.

Whenever cattle are wilfully driven or knowingly permitted to be on any Railway provided with fences suitable for the exclusion of such cattle, otherwise than for the purpose of crossing the Railway at a gate or bar provided for public use,

and whenever cattle are wilfully driven or knowingly permitted to be on any Railway not so provided, otherwise than for the purpose of lawfully crossing the Railway,

the person in charge of such cattle, or if he cannot be identified, then the owner of the said cattle shall be punished with fine which may extend to fifty rupees for each animal, in addition to any amount that may be recovered under the same Act.

All fines imposed under this section may be recovered in manner provided by section twenty-five of the same Act, and may be appropriated in whole or in part in compensation for loss or damage proved to the satisfaction of the convicting Magistrate.

The expression "public road" in sections eleven and twenty-six of the same Act shall be deemed to include a Railway.

And any Railway-officer may exercise the powers of seizure provided by the said section eleven.

Explanation.—In this section the word "cattle" includes also elephants, camels, buffaloes, horses, mares, geldings, ponies, colts, fillies, mules, asses, pigs, rams, ewes, sheep, lambs, goats and kids.

Amendment of Act 1 of 1871, ss. 11 and 26.

41. Whoever, when any engine or train approaching along a Railway is in sight, or is otherwise known to be approaching, opens any gate which has been set up across any road for the use or accommodation of any person by the Railway Administration on either side of the Railway, or passes or attempts to pass, or drives or attempts to drive any carriage, cattle or other animal or thing, across the Railway;

and whoever at any time, in the absence of a gate-keeper, omits to shut and fasten such gate as soon as he and any carriage, cattle or other thing under his charge have passed through the same,

shall be punished with fine which may extend to fifty rupees.

42. Whenever any male minor under the age of twelve years unlawfully—

(a) places or throws upon or across a Railway any wood, stone or other thing, or

(b) removes or displaces any rail, sleeper, spike, key or other thing belonging to the permanent way of a Railway, or

(c) throws or causes to fall against, into or upon any engine, tender, carriage or other vehicle used upon a Railway, any wood, stone or other thing,

such minor shall be deemed guilty of an offence, and the convicting Magistrate may in his discretion direct either that the minor shall be punished with whipping, or that his father or guardian shall be punished with fine which may extend to twenty rupees.

(D).—As to Railway-officers and the Public.

43. Whoever, whether a Railway-officer or not, wilfully does any act, or wilfully omits to do what he is legally bound to

do, intending by such act or omission to endanger, or knowing that he is thereby likely to endanger, the safety of any person travelling or being upon any Railway, may be sentenced to transportation (or in the case of an European or American, penal servitude) for life or with imprisonment for a term which may extend to seven years.

44. Whoever, whether a Railway-officer or not, rashly or negligently, and without lawful excuse, does any act likely to endanger the safety of any person travelling or being upon a Railway, shall be punished with imprisonment for a term which may extend to one year, or with fine, or with both.

45. Every driver or conductor of an omnibus, carriage or other vehicle shall, while in or upon any station-yard or other premises forming part of a Railway, obey the reasonable directions of any Railway-officer duly authorized in this behalf; and every person offending against this section shall be punished with fine which may extend to twenty rupees.

VI.—18 c

46. Nothing herein contained shall be deemed to prevent any person from being prosecuted and punished under any other law for any act or omission which constitutes an offence under this Act or the rules made hereunder:

Provided that no person shall be punished twice for the same act or omission.

Arrest of Offenders.

47. If any person commits any offence hereby made punishable by fine, and the name and address of such person are unknown, or there is reason to believe that he will abscond, any Railway-officer or any Police-officer, or other person whom such Railway-officer or Police-officer may call to his aid, may, without any warrant or written authority, arrest and detain such offender until he can be taken before a Magistrate or give sufficient security for his appearance before such Magistrate, or is otherwise discharged by due course of law.

48. Every person committing any offence mentioned in sections fourteen, twenty-three, twenty-four, thirty-two, thirty-three, forty-two, forty-three and forty-four may be arrested without any warrant or written authority by any Railway-officer, or by any other person whom such officer may call to his aid, or by any Police-officer;

and every person so arrested shall, with all convenient despatch, be taken before a Magistrate authorized to punish the offender or to commit him for trial.

Jurisdiction.

49. Any person committing any offence for which under this Act he is liable to a fine only shall be punishable for such offence in any place in which he may be found as well as in any other place in which he may be punishable under any law for the time being in force.

CHAPTER V.

MISCELLANEOUS.

50. The Governor General in Council, or the Power of Government to Local Government with make rules as to fences, gates and bars. the sanction of the Governor-General in Council, may, from time to time, make rules for providing—

(a) boundary-marks or fences for any Railway or any part thereof, and for roads constructed in connection therewith;

(b) gates or bars at places where any Railway crosses a road on the level; and

(c) persons to open and shut such gates or bars;

and may by such rules determine what kind of fences shall, for the purpose of section forty, be deemed to be suitable for the exclusion of cattle.

51 The Governor General in Council may Power to declare Local from time to time, by Government in respect of notification in the *Gazette* any Railway. of *India*, declare what Government or other Authority shall be deemed to be, for the purposes of this Act, the Local Government in respect of the whole or any part of a Railway.

THE FIRST SCHEDULE.

- (a) Gold or silver, coined or uncoined, manufactured or unmanufactured ;
- (b) plated articles ;
- (c) cloths and tissue and lace of which gold or silver forms part ;
- (d) precious stones, jewellery, trinkets ;
- (e) watches, clocks or time-pieces of any description ;
- (f) Government securities ;
- (g) Government stamp-paper, postage-stamps, telegraph-stamps ;
- (h) bills of exchange, hundis, promissory notes, bank-notes, orders or other securities for payment of money ;
- (i) maps, writings, title-deeds ;
- (j) printings, engravings, lithographs, photographs, carvings, sculpture ;

- (k) glass, china ;
- (l) silks in a manufactured or unmanufactured state, and whether wrought up or not wrought up with other materials ;
- (m) shawls ;
- (n) lace ;
- (o) opium ;
- (p) ivory, ebony, sandalwood ;
- (q) musical instruments.

THE SECOND SCHEDULE. ACTS REPEALED.

Number and year.	Title.
XVIII of 1854 ...	An Act relating to Railways in India.
XXXI of 1867 ...	An Act to render penal certain offences committed by servants of Railway Companies.
XIII of 1870 ...	An Act to apply the provisions of Act No. XVIII of 1854 to Railways belonging to, or worked by, Government.
XXV of 1871 ...	An Act to amend the Railway Act.

D. FITZPATRICK,
Secy. to the Govt. of India,
Legislative Department.

[Published with the "Bombay Government Gazette" on the 22nd August 1878.]

PART VI.

BILLS OF THE GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following preliminary Report of the Select Committee, together with the Bill as amended by them, was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 1st August 1878 :—

We, the undersigned Members of the Select Committee to which the Bill to consolidate and amend

the law relating to Railways in India was referred, have the honour to report that we have considered the Bill and the papers noted in the margin.

Office memorandum from Public Works Department, No. 1711R., dated 18th May 1876.

Despatch from Secretary of State, No. 87, dated 14th September 1876.

Letter from District Magistrate, South Arcot, to Honourable Sir Andrew Clarke, R.E., dated 13th October 1876.

Letter from Secretary to Chief Commissioner, Assam, No. 3821, dated 19th October 1876.

Letter from Officiating Secretary to Chief Commissioner, Mysore, No. 7339—6, dated 25th October 1876.

Letter from Second Assistant Resident, Haidarābād, No. 11, dated 6th November 1876.

Letter from Chief Secretary to Government, Fort St. George, No. 2261, dated 2nd November 1876, and enclosure.

Letter from Junior Secretary to Chief Commissioner, British Burma, No. 2752—432, dated 22nd November 1876.

Letter from Officiating Secretary to Government, Panjāb, No. 3788, dated 14th November 1876.

Letter from Officiating Secretary to Government, Panjāb, to Officiating Secretary to Government of India, Home Department, No. 2577, dated 31st July 1876, and enclosures.

Letter from Officiating Secretary to Government, North-Western Provinces, to Officiating Secretary to Government, Panjāb, No. 475A., dated 5th July 1876, and enclosures.

Letter from Officiating Secretary to Chief Commissioner, Central Provinces, No. 4610—217, dated 7th December 1876.

Letter from Officiating Chief Commissioner, Ajmer and Meirwāra, No. 759, dated 13th December 1876, and enclosure.

Office memorandum from Public Works Department, No. 3486R., dated 20th December 1876, forwarding copy of—

Letter from Officiating Master of Mint, No. 993, dated 23rd October 1876.

Memorandum by Major C. H. Luard, R.E., dated 3rd October 1876.

Letter from Junior Secretary to Chief Commissioner, Oudh, No. 434, dated 1st February 1877.

Letter from Officiating Secretary to Government of Bengal, No. 149, dated 18th January 1877, and enclosures.

Letter from Chief Secretary to Government, Fort St. George, No. 564, dated 2nd March 1877, and enclosures.

Despatches from Secretary of State for India, dated 6th August 1876 and 15th February 1877.

Letter from Chief Secretary to Government, Bombay, dated 26th March 1877.

Memorial of the Managing Committee of the Bombay Association, dated 21st April 1877.

Letter from Secretary to Government, North-Western Provinces and Oudh, No. 1146A—90 L., dated 4th June 1877, and enclosures.

Secretary of State, expressly declared that locomotives may be used on every Indian Railway. The result will be that the Railway Administration will not be liable for such damage without proof of negligence.

5. When a passenger's luggage is at his request placed in the same carriage in which he is to travel and is lost or injured, we have declared, in accordance with the recent decision in *Berghelm v. Great Eastern Railway Company*, 3 C. P. Div. 221, that the Company is not liable, unless the loss or injury has been caused by the neglect or default of their servants.

6. As the law stands in India, when certain specified articles are contained in parcels delivered to a Railway Company, the Company is not liable for loss of or injury to those articles, whatever may be their value, unless they have been formally declared and insured. One or other of these articles is found in the luggage of most first and second class passengers, and the result is that many people, as a rule, travel without declaring their property and run the risk of losing it altogether from accidents to the train or carelessness and misconduct on the part of the Company's servants. In England the Railway Companies are relieved from responsibility only when the value of undeclared articles exceeds £10, and we think that in India Rs. 100 would be a reasonable limit. We have therefore assimilated section 6 (now section 7) of the Bill to section 1 of the Carriers Act, 11 George IV & 1 Wm. IV, chapter 68. Where any article declared and insured under this section is lost or damaged, the owner will, as a rule, be entitled to recover, in the former case, the value of the article lost, and in the latter, the difference between its value before and after the accident. But where he understates the value, he should be concluded by his statement; and we have therefore (in accordance with the decision in *McCance v. London and N. W. Railway Company*, 3 H. & C. 343) provided that the amount so recoverable shall in no case exceed the declared value.

7. We have also amended section 7 (now section 8) so as to express the substance of the English Railway and Canal Traffic Act, 1854, section 7. The Bill now provides that Railway Companies shall, notwithstanding any notice, condition or declaration, be liable for loss or injury to any articles not specially provided for by the preceding section when such loss or injury is occasioned by a Railway officer's neglect or default. But this is not to invalidate special contracts as to receiving, forwarding or delivering such articles, provided such contracts are reasonable, and in writing signed by the parties.

8. In the case of accidents attended with serious personal injury, we have required (section 12) the nearest Station-master to give notice to the nearest Magistrate and the Officer in charge of the Police-station in the jurisdiction of which the accident occurred.

9. We have expressly empowered (section 14) the Railway Administration to make rules regulating the maximum number of passengers to be contained in each Railway carriage, and the mode in which such number shall be denoted thereon. And we have provided (sections 26, 37) penalties for Railway-officers compelling passengers to enter carriages already full and for passengers wilfully entering such carriages.

10. We have required (section 16) that the amount of the fare shall be specified on the tickets. In the absence of such a provision, we are informed that Native passengers are constantly cheated either by the issuers of tickets or by touts hanging about the stations.

11. We have declared (section 17) that any passenger to whom a ticket has been furnished and for whom there is no room shall be entitled to have his fare at once refunded.

12. We have provided (section 28) penalties for a person travelling by a train of a class superior to that for which his ticket was issued, using or attempting to use a ticket on a day for which it is not available, or wilfully altering or defacing a ticket so as to render the date, number or other material portion thereof illegible.

13. We have declared (section 34) that the fine for not giving an account of goods, or for giving a false account, shall be in addition to the toll to which such goods may be liable. This is in accordance with 8 and 9 Vic., c. 20, section 99.

14. We have added to the offences for which a person may be arrested without warrant those of evading payment of the proper fare (section 28), being intoxicated or committing nuisance (section 32) and entering rooms or carriages reserved for females (section 33). We have increased the fine for being intoxicated or committing nuisance from Rs. 20 to Rs. 50.

15. We have provided (section 38) a penalty for unlawfully making, showing, hiding or removing signals or lights upon or near Railways.

16. The present law (Act XXV. of 1871, section 2) provides a penalty for wilfully driving cattle on a fenced Railway, but does not prohibit such driving on unfenced lines. We have, in section 40, made such driving penal whether the line is fenced or unfenced.

17. In some parts of India young Native boys are in the habit of throwing stones at trains and placing obstructions on the rails. When they are under seven years of age the law cannot touch them: when they are above seven and under twelve, they are punishable only when proved by the prosecution to have attained sufficient maturity of understanding to judge of the nature and consequences of their conduct—a proof which, in most instances, is not easily given. Considering the serious risk to life and property caused by such acts, we think the general law should be modified in this respect; and we have accordingly provided, by section 42, that the convicting Magistrate may direct either that such children be punished with whipping, or that their fathers and guardians be punished with fine not exceeding Rs. 20.

18. We have required (section 45) drivers and conductors of omnibuses and other vehicles, while in a station-yard, to obey the reasonable directions of duly authorised Railway-officers. One of the bye-laws framed by the Board of Trade for regulating travelling by railway in England is to the like effect.

19. We have struck out sections 43 and 44 of the Bill as introduced. The latter section is obsolete, as there are now no Heads of District Police and Amins in the Madras Presidency. The former conflicts with the Code of Criminal Procedure, section 72. We have also omitted the provisions as to tramways contained in section 23 of the Bill as introduced.

20. We have made some changes in wording and arrangement.

21. The publication ordered by the Council has been made; we recommend that the Bill as now amended be re-published, and that its further consideration be stayed till the Council re-assembles in Calcutta.

ANDREW CLARKE.
WHITLEY STOKES.
F. R. COCKERELL.

SIMLA :
The 30th July 1878. }

No. II.

THE INDIAN RAILWAY BILL, 1878.

CONTENTS.

PREAMBLE.

CHAPTER I.

PRELIMINARY.

SECTION.

1. Short title.
Local extent.
Commencement.
2. Repeal of Acts.
3. Interpretation-clause.
4. All opened Railways presumed within the Act.

CHAPTER II.

ENACTMENTS RELATING TO RAILWAY COMPANIES.

5. Right to use locomotives.
6. No liability for unbooked luggage.
Luggage placed in compartment with passenger.
7. No liability for loss of gold, silver, &c., unless in case of special engagement.
8. Liability for neglect in carriage of goods notwithstanding notice.
Saving of special contract.
9. Lien for money due for carriage of goods.
10. Written account of goods to be given on demand.
11. Carriage of dangerous goods.
12. Accident to be reported.
13. Returns of accidents in course of traffic.
14. Power to make general rules for working Railway.
Penalty for breach of rules.
Publication of rules.
Power to cancel rules.
15. Copy and translation of Act, &c., to be shown at stations.

CHAPTER III.

ENACTMENTS RELATING TO PASSENGERS.

16. Passengers on payment of fares to be furnished with tickets.
Tickets to be shown and given up on demand.

SECTION.

17. Fares and tickets at intermediate stations.
Preferential right to tickets.
Proviso.
18. Fares to be prepaid.
19. Passengers not to carry dangerous goods.

CHAPTER IV.

PENALTIES.

(A).—As to Companies.

20. For omitting to report accident.
21. For not sending return of accidents.

(B).—As to Railway-officers.

22. For omitting to give notice of accident.
23. For drunkenness or breach of duty.
24. For endangering the safety of persons.
25. For receiving bribes.
Amendment of Penal Code, section 161.
26. For compelling passengers to enter carriages already full.

(C).—As to the Public.

27. For not producing or delivering ticket.
28. For evading payment of proper fare.
For altering tickets.
29. For entering carriage in motion.
For riding on the steps.
30. For riding on engine, tender or luggage-van.
31. For smoking.
32. For intoxication or nuisance.
33. For entering carriage or room reserved for females.
34. For not giving account of goods or giving false account.
35. For carrying dangerous goods.
For delivering such goods without notice.
36. For obstructing Railway-officer in his duty.
37. For entering carriage already full.
38. For extinguishing lamps, removing signals or injuring carriage, &c.
39. For trespass.
For refusing to leave on request.
40. For cattle-trespass within Railway fences.
For wilfully driving cattle on fenced Railway.
Amendment of Act I of 1871, sections 11 and 26.
41. For opening or not properly shutting gates.

SECTION.

42. For boys obstructing line or throwing stones at train.

(D.)—As to Railway-officers and the Public.

43. For wilful act or omission endangering passenger.

44. For rash or negligent act.

45. Disobedience of omnibus, &c., drivers to Railway-officers.

46. Prosecutions under other laws.

Arrest of Offenders.

47. Arrest for offences punishable by fine.

48. Arrest for offences against certain sections.

Jurisdiction.

49. Jurisdiction of Magistrate, &c., to fine.

CHAPTER V.

MISCELLANEOUS.

50. Power of Government to make rules as to fences, gates and bars.

51. Power to declare Local Government in respect of any Railway.

SCHEDULES.

A Bill to consolidate and amend the Law relating to Railways in India.

Whereas it is expedient to consolidate and amend the law relating to Railways in India; It

is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title. 1. This Act may be called "The Indian Railway Act, 1878."

Local extent. It extends to the whole of British India and, so far as regards subjects of Her Majesty the Empress of India, to the dominions of Princes and States in India in alliance with Her said Majesty:

Commencement. and it shall come into force on the first day of March 1879.

2. On and from that day, the Acts specified in the second schedule hereto annexed shall be repealed.

Repeal of Acts.

All rules made, notifications published, and powers conferred under any of such Acts, or any enactment thereby repealed, shall (so far as they are consistent herewith) be deemed to have been respectively made, published and conferred under this Act.

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

Interpretation-clause.

"Railway."

"Railway" includes—

(a) Railways belonging to and worked by companies;

(b) Railways belonging to Government but worked by Companies;

(c) Railways worked by Government;

(d) land within the fences or other boundary-marks prescribed under section fifty;

(e) all lines of rail, sidings or branches worked over for the purposes of, or in connection with, a Railway;

(f) all stations, offices, warehouses, fixed machinery and other works constructed or being constructed for the purposes of, or in connection with, a Railway;

(g) all ferry-boats used for the purposes of, or in connection with, a Railway.

And in the following sections (namely), twelve, fourteen, nineteen, twenty-three, twenty-four, twenty-nine, thirty and thirty-five to forty-four (both inclusive), "Railway" includes a Railway under construction or not used for the public conveyance of passengers or goods,

"Railway Administration" means in the case of a Railway worked by Government, the Manager of such Railway, and in the case of a Railway worked by a Company, the Company.

"Railway-officer" means any person employed by a Railway Administration to perform any function in connection with a Railway.

"Passenger." "Passenger" means a passenger by Railway.

"Magistrate" means any person lawfully exercising the powers of a Magistrate and includes a Presidency Magistrate.

"Magistrate."

4. Every Railway used for the public conveyance of passengers or goods shall, until the contrary be proved, be presumed to be a Railway within the meaning of this Act,

and every Company to or by whom any such Railway belongs or is worked shall, until the contrary be proved, be presumed to be a Railway Company within the meaning of this Act.

CHAPTER II.

ENACTMENTS RELATING TO RAILWAY COMPANIES.

5. It shall be lawful to use on every Railway locomotive engines or other motive power, and carriages and wagons to be drawn or propelled thereby.

6. A Railway Company and (in the case of a Railway worked by Government) the Government shall in no case be answerable for loss or injury to any passenger's luggage, unless a Railway-officer has booked and given a receipt for the same; and when a passenger's luggage has, at his request or with his consent, been placed in the same carriage in which he is to travel, and is

No liability for unbooked luggage.

Luggage placed in compartment with passenger.

lost or injured, the Company or the Government shall not be liable for such loss or injury unless it has been caused by the neglect or default of a Railway-officer.

7. When any of the articles mentioned in the first schedule hereto annexed is contained in any parcel or package delivered to a Railway-officer, and the value of such article exceeds one hundred rupees, the Company or (in the case of a Railway worked by Government) the Government shall not be liable for loss of or damage to such article, unless, at the time of delivery, the value and nature thereof have been declared by the person sending or delivering the same, and an increased charge for the safe conveyance of the same, or an engagement to pay such charge, has been accepted by some person specially authorized in this behalf.

When any article of which the value and nature have been declared under this section has been lost or damaged and such loss or damage has been occasioned by a Railway-officer, the owner thereof is entitled to recover, in case of loss, its value, and in case of damage, the difference between its value immediately before, and its value immediately after, the damage has been so occasioned: Provided that the amount recoverable under this section shall not exceed the value so declared.

8. Notwithstanding any notice, condition or declaration given or made by the Railway Administration, the Railway Company or (in the case of a Railway worked by Government) the Government shall be liable for loss of or injury to any animals, articles or goods (other than those specially provided for by section seven) in the receiving, forwarding or delivering thereof, when such loss or injury is occasioned by the neglect or default of a Railway-officer.

Nothing herein contained shall be deemed to prevent the Railway Administration from making a special contract as to the receiving, forwarding or delivering of such animals, articles or goods: Provided that—

(a) such contract is in writing signed by, or on behalf of, the parties thereto, and

(b) the Court before which any question relating thereto is tried considers it to be just and reasonable.

9. If any person fail to pay on demand any sum due for conveyance of any goods by Railway, the Railway Administration may detain all or any part of such goods, or, if the same have been removed from the Railway, any other goods of such person then on such Railway or thereafter coming into the possession of the Railway Administration;

and may also sell by public auction, on the expiration of at least fifteen days' notice thereof in one or more of the newspapers published at the place of sale, sufficient of such goods to realize the sum payable as aforesaid, and all charges and expenses of such detention and sale;

and may, out of the proceeds of the sale, retain the sum so payable, together with the charges and

expenses aforesaid, rendering the surplus, if any, of such proceeds, and so much of the goods as remains unsold, to the person entitled thereto:

or it shall be lawful for the Railway Administration to recover any such sum by suit.

10. The owner or person having the care of any goods which have been carried upon any Railway, or are brought into any station or warehouse for the purpose of being carried on a Railway, shall, on demand by any Railway-officer appointed to receive goods to be carried on that part of the Railway on which such goods have been carried, or are about to be carried, deliver to such officer an exact account in writing signed by him of the number or quantity and description of such goods.

11. Any Railway-officer may refuse to carry upon a Railway any luggage or parcel which he suspects to contain dangerous goods, and may require the same to be opened to ascertain the fact previously to carrying the same;

and in case any such luggage or parcel is received for the purpose of being carried upon a Railway, any Railway-officer may stop the transit thereof until he is satisfied as to the nature of the contents of the luggage or parcel.

12. Every Railway Administration shall, within twelve hours after the occurrence upon the Railway of any accident attended with serious personal injury, give notice thereof to the Local Government,

and the Station-master nearest to the place at which the accident occurs, or such other officer as the Railway Administration may appoint in this behalf, shall at once give notice of such accident to the nearest Magistrate and to the officer in charge of the Police-station in the jurisdiction of which the accident occurred.

13. The Local Government may direct any Railway Administration to make up and deliver to the Local Government a return of serious accidents occurring in the course of the public traffic upon the Railway, whether attended with personal injury or not, in such form and manner as the Local Government deems necessary and requires for information, with a view to the public safety.

14. Every Railway Administration may, from time to time, with the previous sanction of the Governor General in Council, make general rules consistent with this Act for the following purposes (that is to say):—

(a) for regulating the mode by which, and the speed at which, carriages and wagons used on the Railway are to be moved or propelled;

(b) for regulating the times of the arrival and departure of any such carriages and wagons;

(c) for regulating the loading and unloading of such wagons, the weights they may respectively carry and the mode in which such weights shall be denoted thereon;

(d) for regulating the receipt and delivery of goods and other things which are to be conveyed upon the Railway;

(e) for regulating the maximum number of passengers which each carriage and compartment may carry, and the mode in which such number shall be denoted thereon;

(f) for declaring what shall be deemed to be, for the purposes of this Act, dangerous goods, and

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

Any such rule may contain a provision that any person committing a breach of it shall be liable to a fine which may extend to fifty rupees or, in default of payment of such fine, to imprisonment for a term which may extend to two months.

All rules made under this section shall be published in the *Gazette of India*, and shall be otherwise notified to the Railway-officers and the public in such manner as the Governor General in Council, from time to time, directs.

The Governor General in Council may at any time cancel any such rule.

15. A copy of this Act, and of the General Rules, Time-Tables and Tariff of Charges which may, from time to time, be published for any Railway by any Railway Administration shall be exhibited in some conspicuous place at each station of such Railway, so that they may be easily seen and read.

All such documents shall be so exhibited in English and in the vernacular language of the district in which the station is situate, and in such other language, if any, as the Local Government may direct.

CHAPTER III.

ENACTMENTS RELATING TO PASSENGERS.

16. Every person desirous of travelling on a Railway shall, upon payment of his fare, be furnished with a ticket specifying the class of carriage, the place from and place to which the fare has been paid, and the amount of such fare; and every passenger shall, when required, show his ticket to any Railway-officer duly authorized to examine the same, and shall deliver up such ticket upon demand to any Railway-officer duly authorized to collect tickets.

17. At the intermediate stations, the fares shall be deemed to be accepted and the tickets furnished only upon condition that there be room in the train for which the tickets are furnished.

In case there is not room for all the passengers to whom tickets have been furnished, those who have obtained tickets for the longest distance shall have the preference; and

those who have obtained tickets for the same distance shall have the preference according to the order in which they have received their tickets:

Provided that all officers and troops of Her Majesty on duty, and all other persons on the business of the Government who, by virtue of any contract with the Government or, in the case of a Railway worked by Government, of any direction of the Governor General in Council, are entitled to be conveyed on a Railway in preference to, or in priority over, the public, shall be entitled to such preference and priority without reference to the distance for which, or the order in which, they have received their tickets.

Any passenger to whom a ticket has been furnished at any station and for whom there is no room shall, on returning the ticket, be entitled to have his fare at once refunded.

18. Except with the permission of the Station-master, no person shall enter any carriage used on any Railway for the purpose of travelling therein without having first paid his fare and obtained a ticket.

19. No person shall carry upon any Railway any dangerous goods, or shall be entitled to require to be carried upon any Railway any luggage or goods which in the judgment of any Railway-officer is or are of a dangerous nature.

CHAPTER IV.

PENALTIES.

(A).—As to Companies.

20. Any Railway Administration omitting to give notice as required by section twelve, clause one, shall forfeit the sum of five hundred rupees for every day during which such omission continues.

21. Any Railway Administration failing to deliver any return mentioned in section thirteen within fourteen days after the same has been required, or to exhibit the copy mentioned in section fifteen in manner required by that section, shall forfeit the sum of fifty rupees for every day during which such failure continues.

(B).—As to Railway-officers.

22. Any Station-master or other officer omitting to give notice of accident, shall be punished with fine which may extend to fifty rupees.

23. Any Railway-officer who is in a state of intoxication whilst actually employed upon a Railway in the discharge of any duty,

or who negligently omits to perform his duty, or who performs the same in an improper manner,

shall be punished with fine which may extend to fifty rupees ;

and if the duty in any of the cases aforesaid be such that the omission or negligent performance thereof would be likely to endanger the safety of any person travelling or being upon such Railway, such officer shall be punished with imprisonment for a term which may extend to one year, or with fine, or with both.

For endangering the safety of persons. 24. If any Railway-officer endangers the safety of any person—

(a) by disobeying any rule sanctioned and published and notified in the manner prescribed by section fourteen ; or

(b) by disobeying any rule or order not inconsistent with the general rules aforesaid, and which he was bound by the terms of his service 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 three years, or with fine which may extend to five hundred rupees, or with both.

25. Every Railway-officer, and every other person employed by or on behalf of a Railway Company to do any act upon the Railway, shall be deemed a "public servant" within the meaning of sections 161, 162, 163, 164 and 165 of the Indian Penal Code.

In the definition of legal remuneration contained in the said section 161, the word "Government" shall, for the purposes of this section, be deemed to include—

(a) a Railway Company, its lessees, representatives and assigns ;

(b) the lessees, representatives and assigns of such Company.

26. Any Railway-officer who compels or attempts to compel any passenger to enter a carriage or compartment containing the maximum number of passengers denoted thereon in accordance with a rule made and published under section fourteen, shall be punished with fine which may extend to one hundred rupees.

(C).—As to the Public.

27. Any passenger not producing or delivering up his ticket when so required by a Railway-officer authorized in this behalf shall be liable to pay the fare from the place whence the train originally started, unless he can prove that he has travelled a less distance only, in which case he shall be liable to pay the fare only from the place whence he has travelled.

Every such fare shall, on application by a Railway-officer to a Magistrate, and on proof of the passenger's liability, be recoverable from such passenger as if it was a fine.

28. Any person who defrauds, or attempts to defraud, any Railway Company or the Government—

(a) by travelling, or attempting to travel, upon any Railway without having previously paid his fare ;

(b) by riding in or upon a carriage, or by a train, of a higher class than that for which he has paid his fare ;

(c) by using or attempting to use a ticket on any day for which such ticket is not available ;

(d) by continuing his journey in or upon any Railway-carriage beyond the place to which he has paid his fare without previously paying the fare for the additional distance, and with intent to avoid payment thereof ;

(e) by knowingly and wilfully refusing or neglecting, on arriving at the place to which he has paid his fare, to quit such carriage ;

or who, in any other manner whatever, attempts to evade the payment of his fare,

or who wilfully alters or defaces his ticket so as to render the date, number or other material portion thereof illegible,

shall for every such offence be punished with fine which may extend to fifty rupees.

29. Any passenger who gets into or upon, or attempts to get into or upon, or quits, or attempts to quit, any carriage, upon any Railway, while such carriage is in motion ;

or who rides or attempts to ride upon any Railway, on the steps, or any other part of a carriage except on those parts which are intended for the accommodation of passengers,

shall for every such offence be punished with fine which may extend to twenty rupees.

30. Any person other than the engine-man, fire-man and assistant fire-man who, without the special license of such officer as the Railway Administration appoints in this behalf, rides or attempts to ride upon any locomotive engine or tender upon any Railway ;

and any person other than the guard or brakesman who, without such license as aforesaid, rides or attempts to ride upon any Railway, in or upon any luggage-van or goods-wagon, or other vehicle not appropriated to the carriage of passengers,

shall for every such offence be punished with fine which may extend to twenty rupees.

31. Whoever smokes, either in a Railway-station, or in or upon any Railway-carriage, except in places or carriages specially provided for the purpose, shall be punished with fine which may extend to twenty rupees for each offence ;

and whoever persists in so smoking (except as aforesaid) after being warned to desist by any Railway-officer may, in addition to incurring the liability abovementioned, be removed by any Railway-officer from any such carriage, and from the premises of the Railway, and shall forfeit his fare.

32. Any person who is in a state of intoxication, or who commits any nuisance or act of indecency in any Railway-carriage, or upon any part of any Railway ;

For intoxication or nuisance. or who wilfully and without lawful excuse interferes with the comfort of any passenger,

shall be punished with fine which may extend to fifty rupees ; and, in addition to such liability, the offender may be removed by any Railway-officer from any such carriage, and also from the premises of the Railway, and shall forfeit his fare.

33. If any carriage, compartment or room be reserved by the Railway Administration for the exclusive use of females,

For entering carriage reserved by the Railway or room reserved for females. any male person who without lawful excuse enters such carriage, compartment or room, knowing the same to be reserved as aforesaid, or remains therein after having been informed of its having been so reserved, shall be punished with fine which may extend to one hundred rupees,

and may be removed therefrom, and also from the premises of the Railway, by any Railway-officer,

and shall forfeit his fare.

34. Any owner or person referred to in section

For not giving account of goods or giving false account. ten who wilfully fails to give on demand to any Railway-officer appointed

as therein mentioned an exact account of the number or quantity and description of the goods therein referred to,

or who wilfully gives to such Railway-officer a false account thereof,

shall, for every such offence, be punished with fine which may extend to one hundred rupees for every ton of such goods, or for any parcel exceeding one hundredweight, and with fine which may extend to fifty rupees for any quantity of such goods less than a ton or for any parcel less than one hundredweight ; and such fine shall be in addition to the toll to which such goods may be liable.

For carrying dangerous goods. 35. Whoever carries upon a Railway any dangerous goods, or delivers to a Railway-officer any

For delivering such goods without notice. such goods for the purpose of being carried upon a Railway, without distinctly marking their nature on the outside of the package containing the same, or otherwise giving notice in writing of the nature thereof to such officer, shall for every such offence be punished with fine which may extend to two hundred rupees.

36. Whoever wilfully obstructs or impedes

For obstructing Railway-officer in his duty. any Railway-officer in the discharge of his duty on a Railway, or any of

the works, stations or premises connected therewith, shall be punished with fine which may extend to fifty rupees.

37. Any passenger wilfully entering a car-

For entering carriage already full. riage or compartment containing the maximum number of passengers which has been denoted thereon in accordance with a rule made and

published under section fourteen, shall be punished with fine which may extend to a hundred rupees.

38. Whoever without authority extinguishes any lamp in or on any Railway-carriage or engine, or makes, shows, hides or removes any signal or light upon or near any Railway,

For extinguishing lamps, removing signals or injuring carriage, &c. and whoever negligently damages or injures any carriage, engine, wagon, truck, warehouse, building, machine, fence or any other thing belonging to a Railway,

shall be punished with fine which may extend to fifty rupees.

39. Whoever unlawfully enters upon a Railway shall be punished

For trespass. with fine which may extend to twenty rupees ; and if any person so

For refusing to leave on request. entering refuses to leave such Railway on being requested to do so by any

Railway-officer, 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 immediately removed from such Railway by such officer or other person as aforesaid.

40. The owner or person in charge of any cattle unlawfully driven or straying on any Railway

For cattle-trespass with Railway-fences. provided with fences suitable for the exclusion of such cattle shall be punished with fine which may extend to ten rupees for each animal, in addition to any amount that may be recovered under the Cattle Trespass Act, 1871.

Whenever cattle are wilfully driven or knowingly permitted to be on any Railway provided

For wilfully driving cattle on Railway. with fences suitable for the exclusion of such cattle, otherwise than for the purpose of crossing the Railway at a gate or bar provided for public use,

and whenever cattle are wilfully driven or knowingly permitted to be on any Railway not so provided, otherwise than for the purpose of lawfully crossing the Railway,

the person in charge of such cattle, or if he cannot be identified, then the owner of the said cattle shall be punished with fine which may extend to fifty rupees for each animal, in addition to any amount that may be recovered under the same Act.

All fines imposed under this section may be recovered in manner provided by section twenty-five of the same Act, and may be appropriated in whole or in part in compensation for loss or damage proved to the satisfaction of the convicting Magistrate.

The expression "public road" in sections eleven and twenty-six of the same Act shall be deemed to include a Railway.

Amendment of Act I of 1871, ss. 11 and 26. And any Railway-officer may exercise the powers of seizure provided by the said section eleven.

Explanation.—In this section the word "cattle" includes also elephants, camels, buffaloes, horses, mares, geldings, ponies, colts, fillies, mules, asses, pigs, rams, ewes, sheep, lambs, goats and kids.

41. Whoever, when any engine or train approaching along a Railway is in sight, or is otherwise known to be approaching, opens any gate which has been set up across any road for the use or accommodation of any person by the Railway Administration on either side of the Railway, or passes or attempts to pass, or drives or attempts to drive any carriage, cattle or other animal or thing, across the Railway;

and whoever at any time, in the absence of a gate-keeper, omits to shut and fasten such gate as soon as he and any carriage, cattle or other thing under his charge have passed through the same,

shall be punished with fine which may extend to fifty rupees.

42. Whenever any male minor under the age of twelve years unlawfully—

For boys obstructing line or throwing stones at train. (a) places or throws upon or across a Railway any wood, stone or other thing, or

(b) removes or displaces any rail, sleeper, spike, key or other thing belonging to the permanent way of a Railway, or

(c) throws or causes to fall against, into or upon any engine, tender, carriage or other vehicle used upon a Railway, any wood, stone or other thing,

such minor shall be deemed guilty of an offence, and the convicting Magistrate may in his discretion direct either that the minor shall be punished with whipping, or that his father or guardian shall be punished with fine which may extend to twenty rupees.

(D).—As to Railway-officers and the Public.

43. Whoever, whether a Railway-officer or not, wilfully does any act, or wilfully omits to do what he is legally bound to

For wilful act or omission endangering passenger. do, intending by such act or omission to endanger, or knowing that he is thereby likely to endanger, the safety of any person travelling or being upon any Railway, may be sentenced to transportation (or in the case of an European or American, penal servitude) for life or with imprisonment for a term which may extend to seven years.

44. Whoever, whether a Railway-officer or not, rashly or negligently, and without lawful excuse, does any act likely to endanger the safety of any person travelling or being upon a Railway, shall be punished with imprisonment for a term which may extend to one year, or with fine, or with both.

45. Every driver or conductor of an omnibus, carriage or other vehicle shall, while in or upon any station-yard or other premises forming part of

Disobedience of omnibus, &c., drivers to Railway-officers. a Railway, obey the reasonable directions of any Railway-officer duly authorized in this behalf; and every person offending against this section shall be punished with fine which may extend to twenty rupees.

46. Nothing herein contained shall be deemed to prevent any person from being prosecuted and punished under any other law for any act or omission which constitutes an offence under this Act or the rules made hereunder:

Provided that no person shall be punished twice for the same act or omission.

Arrest of Offenders.

47. If any person commits any offence hereby made punishable by fine, and the name and address of such person are unknown, or there is reason to believe that he will abscond, any Railway-officer or any Police-officer, or other person whom such Railway-officer or Police-officer may call to his aid, may, without any warrant or written authority, arrest and detain such offender until he can be taken before a Magistrate or give sufficient security for his appearance before such Magistrate, or is otherwise discharged by due course of law.

48. Every person committing any offence mentioned in sections fourteen, twenty-three, twenty-four, thirty-two, thirty-three, forty-two, forty-three and forty-four may be arrested without any warrant or written authority by any Railway-officer, or by any other person whom such officer may call to his aid, or by any Police-officer;

and every person so arrested shall, with all convenient despatch, be taken before a Magistrate authorized to punish the offender or to commit him for trial.

Jurisdiction.

49. Any person committing any offence for which under this Act he is liable to a fine only shall be punishable for such offence in any place in which he may be found as well as in any other place in which he may be punishable under any law for the time being in force.

CHAPTER V.

MISCELLANEOUS.

50. The Governor General in Council, or the Power of Government to Local Government with make rules as to fences, the sanction of the Governor General in Council, gates and bars. may, from time to time, make rules for providing—

(a) boundary-marks or fences for any Railway or any part thereof, and for roads constructed in connection therewith;

(b) gates or bars at places where any Railway crosses a road on the level; and

(c) persons to open and shut such gates or bars;

and may by such rules determine what kind of fences shall, for the purpose of section forty, be deemed to be suitable for the exclusion of cattle.

51 The Governor General in Council may Power to declare Local from time to time, by Government in respect of notification in the *Gazette of India*, declare what any Railway. Government or other Authority shall be deemed to be, for the purposes of this Act, the Local Government in respect of the whole or any part of a Railway.

THE FIRST SCHEDULE.

- (a) Gold or silver, coined or uncoined, manufactured or unmanufactured ;
- (b) plated articles ;
- (c) cloths and tissue and lace of which gold or silver forms part ;
- (d) precious stones, jewellery, trinkets ;
- (e) watches, clocks or time-pieces of any description ;
- (f) Government securities ;
- (g) Government stamp-paper, postage-stamps, telegraph-stamps ;
- (h) bills of exchange, hundis, promissory notes, bank-notes, orders or other securities for payment of money ;
- (i) maps, writings, title-deeds ;
- (j) paintings, engravings, lithographs, photographs, carvings, sculpture ;

- (k) glass, china ;
- (l) silks in a manufactured or unmanufactured state, and whether wrought up or not wrought up with other materials ;
- (m) shawls ;
- (n) lace ;
- (o) opium
- (p) ivory, ebony, sandalwood ;
- (q) musical instruments.

THE SECOND SCHEDULE.

ACTS REPEALED.

Number and year.	Title.
XVIII of 1854 ...	An Act relating to Railways in India.
XXXI of 1867 ...	An Act to render penal certain offences committed by servants of Railway Companies.
XIII of 1870 ...	An Act to apply the provisions of Act No. XVIII of 1854 to Railways belonging to, or worked by, Government.
XXV of 1871 ...	An Act to amend the Railway Act.

D. FITZPATRICK,
Secy. to the Govt. of India,
Legislative Department.