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THE
RAILWAY AND CANAL TRAFFIC ACTS,
1854, 1873, 1888, AND 1894,
AND OTHER STATUTES ;
WITH THE
GENERAL RULES
OF THE
RAILWAY AND CANAL COMMISSION.

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[17 & 18 VICT. CAP. 31.]

An Act for the better Regulation of the Traffic on Railways and Canals. [10th July 1854.]

1. In the construction of this Act—

The word “traffic” shall include not only passengers, and their luggage, and goods, animals, and other things conveyed by any railway company or canal company, or railway and canal company, but also carriages, waggons, trucks, boats, and vehicles of every description adapted for running or passing on the railway or canal of any such company; Traffic.

The word “railway” shall include every station of or belonging to such railway used for the purposes of public traffic; and Railway.

The word “canal” shall include any navigation whereon tolls are levied by the authority of Parliament, and also the wharves and landing places of and belonging to such canal or navigation, and used for the purposes of public traffic; Canal.

The expression “railway company,” “canal company,” or “railway and canal company,” shall include any person being the owner or lessee of or any contractor working any railway or canal or navigation constructed or carried on under the powers of any Act of Parliament: Company.

A station, terminus, or wharf shall be deemed to be near another station, terminus, or wharf when the distance between such stations, termini, or wharves shall not exceed one mile, such stations not being situate within five miles from St. Paul’s Church, in London. Stations.

2. Every railway company, canal company, and railway and canal company, shall, according to their respective powers, afford all reasonable facilities for the receiving and forwarding, and delivering of traffic upon and from the several railways and canals belonging to or worked by such companies respectively, and for the return of carriages, trucks, boats, and other vehicles, and no such company shall make or give any undue or unreasonable preference or advantage to or in favour of any particular person or company, or any particular description of traffic, in any respect whatsoever, nor shall any such company subject any particular person or company, or any particular Duty of Railway Companies to make arrangements for receiving and forwarding traffic without unreasonable delay, and without partiality.

(17248—4.) Wt. 14208—700. 500. 8/10. D & S.

description of traffic, to any undue or unreasonable prejudice or disadvantage in any respect whatsoever; and every railway company and canal company and railway and canal company having or working railways or canals which form part of a continuous line of railway or canal or railway and canal communication, or which have the terminus, station, or wharf of the one near the terminus, station, or wharf of the other, shall afford all due and reasonable facilities for receiving and forwarding all the traffic arriving by one of such railways or canals by the other, without any unreasonable delay, and without any such preference or advantage, or prejudice or disadvantage, as aforesaid, and so that no obstruction may be offered to the public desirous of using such railways or canals or railways and canals as a continuous line of communication, and so that all reasonable accommodation may, by means of the railways and canals of the several companies, be at all times afforded to the public in that behalf.

Parties complaining that reasonable facilities for forwarding traffic, &c. are withheld, may apply by motion or summons to the superior courts.

3. It shall be lawful for any company or person complaining against any such companies or company of anything done, or of any omission made in violation or contravention of this Act, to apply in a summary way, by motion or summons, in England, to Her Majesty's Court of Common Pleas at Westminster, or, in Ireland, to any of Her Majesty's Superior Courts in Dublin, or, in Scotland, to the Court of Session in Scotland, as the case may be, or to any judge of any such court; and, upon the certificate to Her Majesty's Attorney-General in England or Ireland, or Her Majesty's Lord Advocate in Scotland, of the Board of Trade alleging any such violation or contravention of this Act by any such companies or company, it shall also be lawful for the said Attorney-General or Lord Advocate to apply in like manner to any such court or judge, and in either of such cases it shall be lawful for such court or judge to hear and determine the matter of such complaint; and for that purpose, if such court or judge shall think fit, to direct and prosecute, in such mode and by such engineers, barristers, or other persons as they shall think proper, all such enquiries as may be deemed necessary to enable such court or judge to form a just judgment on the matter of such complaint; and if it be made to appear to such court or judge on such hearing, or on the report of any such person, that anything has been done or omission made, in violation or contravention of this Act, by such company or companies, it shall be lawful for such court or judge to issue a writ of injunction or interdict, restraining such company or companies from further continuing such violation or contravention of this Act, and enjoining obedience to the same; and in case of disobedience of any such writ of injunction or interdict it shall be lawful for such court or judge to order that a writ or writs of attachment, or any other process of such court incident or applicable to writs of injunction or interdict, shall issue against any one or more of the directors of any company, or

Writ of injunction may be issued.

against any owner or lessee, contractor, or other person failing to obey such a writ of injunction or interdict; and such court or judge may also, if they or he shall think fit, make an order directing the payment by any one or more of such companies of such sum of money as such court or judge shall determine, not exceeding for each company the sum of two hundred pounds for every day, after a day to be named in the order, that such company or companies shall fail to obey such injunction or interdict; and such monies shall be payable as the court or judge may direct, either to the party complaining, or into court to abide the ultimate decision of the court, or to Her Majesty, and payment thereof may, without prejudice to any other mode of recovering the same, be enforced by attachment or order in the nature of a writ of execution, in like manner as if the same had been recovered by decree or judgment in any Superior Court at Westminster or Dublin, in England or Ireland, and in Scotland by such diligence as is competent on an extracted decree of the Court of Session; and in any such proceeding as aforesaid such court or judge may order and determine that all or any costs thereof or thereon incurred shall and may be paid by or to the one party or the other, as such court or judge shall think fit; and it shall be lawful for any such engineer, barrister, or other person, if directed so to do by such court or judge, to receive evidence on oath relating to the matter of any such inquiry, and to administer such oath.

Penalty.

Costs.

* * * * *

No proceeding shall be taken for any violation or contravention of the above enactments, except in the manner herein provided; but nothing herein contained shall take away or diminish any rights, remedies, or privileges of any person or company against any railway or canal or railway and canal company under the existing law.

Mode of proceeding under this Act.

* * * * *

This Act may be cited for all purposes as "The Railway and Canal Traffic Act, 1854."

Short title.



[26 & 27 VICT. CAP. 92.]

AN Act for consolidating in one Act certain provisions frequently inserted in Acts relating to Railways.
[28th July, 1863.]

PART III.—WORKING AGREEMENTS.

Restrictions
on agree-
ments
between
Companies.

22. Where two or more companies are authorised by a special Act hereafter passed and incorporating this part of this Act, to agree among themselves with respect to all or any of the following purposes; namely—

The maintenance and management of the railways of the companies respectively, or any one or more of them, or any part thereof respectively, and of the works connected therewith respectively, or any of them;

The use and working of the railways or railway, or of any part thereof, and the conveyance of traffic thereon;

The fixing, collecting, and apportionment of the tolls, rates, charges, receipts, and revenues levied, taken, or arising in respect of traffic;—

then and in every such case the authority so to agree, or the agreement when entered into, shall not in any manner affect any of the tolls, rates, or charges which the companies parties thereto are from time to time respectively authorised to demand, and receive from any person or from any other company; but all such persons and companies shall, notwithstanding the agreement, be entitled to the use and benefit of the railways of the several companies, parties to the agreement, on the same terms and conditions, and on payment of the same tolls, rates, and charges, as they would be if such authority had not been given or the agreement had not been entered into.

Sanction of
shareholders
to agree-
ments.

23. The agreement shall not, save so far as its terms and conditions are authorised by the Railways Clauses Consolidation Act, 1845, or by the Railways Clauses Consolidation (Scotland) Act, 1845, as the case may require, or by any other general statute or law from time to time in force with respect to the companies parties to the agreement, have any operation unless and until it is sanctioned by such proportion of the votes of the shareholders and stockholders entitled to vote in

that behalf at meetings of the several companies parties thereto, present (personally or by proxy) at a general meeting of each company specially convened for the purpose (in manner herein-after mentioned), as is prescribed in the special Act, and if no proportion is prescribed, then by three-fifths of such votes.

Every such meeting shall be convened by circular addressed to each such shareholder and stockholder, and served in the manner prescribed by the Companies Clauses Consolidation Act, 1845, or the Companies Clauses Consolidation (Scotland) Act, 1845, as the case may require, with respect to notices requiring to be served by the company upon the shareholders, and also by advertisement inserted once at least in each of two consecutive weeks in some newspaper published or circulating in the country prescribed in the special Act, and if no county is prescribed, then in the county in which the head office of the company is situate, the last of such advertisements to be published not less than seven days before the meeting.

8 Vict. c. 16
s. 136.
8 Vict. c. 17.
s. 138.

24. Before the companies enter into the agreement notice of their intention to do so shall be given by them, or one of them, in a form to be approved by the Board of Trade, inserted once at least in each of three successive weeks in some newspaper published or circulating in the county prescribed in the special Act, and if no county is prescribed, then in the county or one of the counties in which each railway to the maintenance, management, use, or working whereof the proposed agreement relates, or some portion of that railway, is situate; and the notice shall set forth within what time and in what manner any company or person aggrieved by the proposed agreement, and desiring to object thereto, may bring the objection before the Board of Trade.

Public notice
of intention
to enter into
such agree-
ment.

25. The agreement shall not have any operation until it is approved by the Board of Trade; and the Board of Trade shall not approve the agreement without being satisfied of its having received such sanction of meetings of the respective companies as aforesaid.

Approval of
Board of
Trade.

26. The companies parties to the agreement may, in accordance therewith and for the purposes thereof, appoint a joint committee, composed of such number of the directors of each company as the companies think proper, and from time to time may vary and renew the joint committee as occasion requires, and may regulate the proceedings of the joint committee, and may delegate to the joint committee all such of the powers of the companies as the companies think necessary for carrying into effect the purposes of the agreement; and the joint committee shall have and may exercise the powers so from time to time delegated to them in like manner as the same powers might be had and exercised by the companies respectively or their respective directors.

Joint com-
mittee for
purposes of
agreements.

Agreements between companies may be modified by Board of Trade.

27. At the expiration of the first or any subsequent period of ten years after the making of the agreement, the Board of Trade may, if they are of opinion that the interests of the public are prejudicially affected thereby, cause the same to be revised; and the Board of Trade may require the companies parties thereto to publish such notices of any intended revision of the agreement as the Board of Trade may direct; and the Board of Trade may modify the agreement in such manner as may seem expedient for the protection of the interests of the public, and may declare the modification to be part of the agreement, and the same shall be read and take effect accordingly.

Working agreements between a company and an individual.

28. Where a company is authorised by a special Act hereafter passed, and incorporating this part of this Act, to agree with a person being the proprietor of a railway with respect to all or any of the purposes specified in this part of this Act, then and in every such case the provisions of this part of this Act shall apply, *mutatis mutandis*, to the company in relation to such authority and to the agreement entered into by virtue thereof.

Alteration of agreement.

29. For the purposes of this part of this Act, any alteration of an agreement by the parties thereto shall be deemed an agreement.

PART IV.—STEAM VESSELS.

Provision for securing equality of treatment.

30. Where a railway company incorporated either before or after the passing of this Act is authorised by a special Act, hereafter passed and incorporating this part of this Act, to build, or buy, or hire, and to use, maintain, and work, or to enter into arrangements for using, maintaining, or working steam vessels for the purpose of carrying on a communication between any towns or ports, and to take tolls in respect of such steam vessels,—then and in every such case tolls shall be at all times charged to all persons equally, and after the same rate in respect of passengers conveyed in a like vessel passing between the same places under like circumstances; and no reduction or advance in the tolls shall be made in favour of or against any person using the steam vessels in consequence of his having travelled or being about to travel on the whole or any part of the company's railway, or not having travelled or not being about to travel on any part thereof; or in favour of or against any person using the railway in consequence of his having used or being about to use or his not having used or not being about to use the steam vessel; and where an aggregate sum is charged by the company for conveyance of a passenger by a steam vessel and on the railway, the ticket shall have the amount of toll charged for conveyance by the steam vessel distinguished from the amount charged for conveyance on the railway.



31. The provisions of the Railway and Canal Traffic Act, 1854, so far as the same are applicable, shall extend to the steam vessels and to the traffic carried on thereby.

Application of 17 & 18 Vict. c. 31.

35. In every seventh year after the passing of the special Act, reckoned from the first day of January next after its passing, the Board of Trade, if they are of opinion that the interests of the public are prejudicially affected by the exercise of the powers of the company relative to steam vessels, may give to the company notice in writing thereof, and of the reasons on which that opinion is founded, and if the company does not before the beginning of the then next session of Parliament make provision to the satisfaction of the Board of Trade for protection of the interest of the public, or if the injury done to the interests of the public is in the opinion of the Board of Trade incapable of being remedied by the company, then the Board of Trade, at the beginning of the session of Parliament then next following, shall report to both Houses of Parliament such their opinion, and the reasons on which that opinion is founded, and at the expiration of twelve calendar months after the presentation to the Houses of Parliament of that report, the powers of the company relative to steam vessels, or such of them as are specified in the report, shall, unless Parliament in the meantime otherwise provides, cease to be exercised.

Provision for cessor of powers as to steam vessels, on report from Board of Trade.



[36 & 37 VICT. c. 48.]

AN Act to make better provision for carrying into effect the Railway and Canal Traffic Act, 1854, and for other purposes connected therewith. [21st July 1873.]

Preliminary.

1. This Act may be cited as the Regulation of Railways Act, 1873.

Definitions.

3. In this Act—

The term “railway company” includes any person being the owner or lessee of or working any railway in the United Kingdom constructed or carried on under the powers of any Act of Parliament:

The term “canal company” includes any person being the owner or lessee of, or working, or entitled to charge tolls for the use of any canal in the United Kingdom constructed or carried on under the powers of any Act of Parliament:

The term “person” includes a body of persons corporate or unincorporate:

The term “railway” includes every station, siding, wharf, or dock of or belonging to such railway and used for the purposes of public traffic:

The term “canal” includes any navigation which has been made under or upon which tolls may be levied by authority of Parliament, and also the wharves and landing-places of and belonging to such canal or navigation, and used for the purposes of public traffic:

The term “traffic” includes not only passengers and their luggage, goods, animals, and other things conveyed by any railway company or canal company, but also carriages, waggons, trucks, boats, and vehicles of every description adapted for running or passing on the railway or canal of any such company:

The term “mails” includes mail bags and post letter bags:

The term “special Act” means a local or local and personal Act, or an Act of a local and personal nature, and

includes a Provisional Order of the Board of Trade, confirmed by Act of Parliament, and a certificate granted by the Board of Trade under the Railways Construction Facilities Act, 1864:

Appointment and Duties of Railway Commissioners.

* * * * *

5. Any person appointed a Commissioner under this Act shall, within three calendar months after his appointment, absolutely sell and dispose of any stock, share, debenture stock, debenture bond, or other security of any railway or canal company in the United Kingdom which he shall, at the time of his appointment own or be interested in for his own benefit; and it shall not be lawful for any person appointed a Commissioner under this Act, so long as he shall hold office as such Commissioner, to purchase, take, or become interested in for his own benefit any such stock, share, debenture stock, debenture bond, or other security; and if any such stock, share, debenture stock, debenture bond, or other security, or any interest therein, shall come to or vest in such Commissioner by will or succession, for his own benefit, he shall within three calendar months after the same shall so come to or vest in him absolutely sell and dispose of the same or his interest therein.

Commissioners not to be interested in railway or canal stock.

It shall not be lawful for the Commissioners, except by the consent of the parties to the proceedings, to exercise any jurisdiction by this Act conferred upon them in any case in which they shall be directly or indirectly interested in the matter in question.

The Commissioners shall devote the whole of their time to the performance of their duties under this Act, and shall not accept or hold any office or employment inconsistent with this provision.

6. Any person complaining of anything done or of any omission made in violation or contravention of section two of the Railway and Canal Traffic Act, 1854, or of section sixteen of the Regulation of Railways Act, 1868, or of this Act, or of any enactment amending or applying the said enactments respectively, may apply to the Commissioners, and, upon the certificate of the Board of Trade alleging any such violation or contravention any person appointed by the Board of Trade in that behalf may in like manner apply to the Commissioners; and, for the purpose of enabling the Commissioners to hear and determine the matter of any such complaint, they shall have and may exercise all the jurisdiction conferred by section three of the Railway and Canal Traffic Act, 1854, on the several courts and judges empowered to hear and determine complaints under that Act; and may make orders of like nature with the writs and orders authorised to be issued and made by the said

Transfer to Commissioners of jurisdiction under 17 & 18 Vict. c. 31, s. 3.

courts and judges; and the said courts and judges shall, except for the purpose of enforcing any decision or order of the Commissioners, cease to exercise the jurisdiction conferred on them by that section.

Power for Commissioners to enable companies to explain alleged violation of law.

7. Where the Commissioners have received any complaint alleging the infringement by a railway company or canal company of the provisions of any enactment in respect of which the Commissioners have jurisdiction, they may, if they think fit, before requiring or permitting any formal proceedings to be taken on such complaint, communicate the same to the company against whom it is made, so as to afford them an opportunity of making such observations thereon as they may think fit.

Differences between railway and canal companies to be referred to Commissioners.

8. Where any difference between railway companies or between canal companies, or between a railway company and a canal company, is, under the provisions of any general or special Act passed either before or after the passing of this Act, required or authorised to be referred to arbitration, such difference shall at the instance of any company party to the difference and with the consent of the Commissioners be referred to the Commissioners for their decision in lieu of being referred to arbitration: Provided, that the power of compelling a reference to the Commissioners in this section contained shall not apply to any case in which any arbitrator has in any general or special Act been designated by his name or by the name of his office, or in which, a standing arbitrator having been appointed under any general or special Act, the Commissioners are of opinion that the difference in question may more conveniently be referred to him.

Power to refer differences to Commissioners.

9. Any difference to which a railway company or canal company is a party, may, on the application of the parties to the difference, and with the assent of the Commissioners, be referred to them for their decision.

Transfer to Commissioners of certain powers and duties of the Board of Trade.
26 & 27 Vict.
c. 92.

10. The following powers and duties of the Board of Trade shall be transferred to the Commissioners; namely,

- (1.) The powers of the Board of Trade under Part III. of the Railway Clauses Act, 1863, or under any special Act, with respect to the approval of working agreements between railway companies; and
- (2.) The powers and duties of the Board of Trade under section thirty-five of the Railway Clauses Act, 1863, with respect to the exercise by railway companies of their powers in relation to steam vessels:

And the provisions of the said Acts conferring such powers or imposing such duties, or otherwise referring to such powers or duties, shall, so far as is consistent with the tenor thereof, be read as if the Commissioners were therein named instead of the Board of Trade.

Explanation and Amendment of Law.

14. Every railway company and canal company shall keep at each of their stations and wharves a book or books showing every rate for the time being charged for the carriage of traffic, other than passengers and their luggage, from that station or wharf to any place to which they book, including any rates charged under any special contract, and stating the distance from that station or wharf of every station, wharf, siding, or place to which any such rate is charged. Publication of rates.

Every such book shall during all reasonable hours be open to the inspection of any person without the payment of any fee.

The Commissioners may from time to time, on the application of any person interested, make orders with respect to any particular description of traffic, requiring a railway company or canal company to distinguish in such book how much of each rate is for the conveyance of the traffic on the railway or canal, including therein tolls for the use of the railway or canal, for the use of carriages or vessels, or for locomotive power, and how much is for other expenses, specifying the nature and detail of such other expenses.

Any company failing to comply with the provisions of this section shall for each offence, and in the case of a continuing offence, for every day during which the offence continues, be liable to a penalty not exceeding five pounds, and such penalty shall be recovered and applied in the same manner as penalties imposed by the Railways Clauses Consolidation Act, 1845, and the Railways Clauses Consolidation (Scotland) Act, 1845 (as the case may require), are for the time being recoverable and applicable.

15. The Commissioners shall have power to hear and determine any question or dispute which may arise with respect to the terminal charges of any railway company, where such charges have not been fixed by any Act of Parliament, and to decide what is a reasonable sum to be paid to any company for loading and unloading, covering collection, delivery, and other services of a like nature; any decision of the Commissioners under this section shall be binding on all courts and in all legal proceedings whatsoever. Power to Commissioners to fix terminal charges.

16. No railway company or canal company, unless expressly authorised thereto by any Act passed before the passing of this Act, shall, without the sanction of the Commissioners, to be signified in such manner as they may by general order or otherwise direct, enter into any agreement whereby any control over or right to interfere in or concerning the traffic carried or rates or tolls levied on any part of a canal is given to the railway company, or any persons managing or connected with the management of any railway; and any such agreement made after the commencement of this Act without such sanction shall be void. Arrangements between railway companies and canal companies.

The Commissioners shall withhold their sanction from any such agreement which is in their opinion prejudicial to the interests of the public.

Not less than one month before any such agreement is so sanctioned, copies of the intended agreement certified under the hand of the secretary of the railway company or one of the railway companies party or parties thereto, shall be deposited for public inspection at the office of the Commissioners, and also at the office of the clerk of the peace of the county, riding, or division in England or Ireland in which the head office of any canal company party to the agreement is situate, and at the office of the principal sheriff clerk of every such county in Scotland, and notice of the intended agreement, setting forth the parties between whom or on whose behalf the same is intended to be made, and such further particulars with respect thereto as the Commissioners may require, shall be given by advertisement in the London, Edinburgh, or Dublin Gazette, according as the head office of any canal company party to the agreement is situate in England, Scotland, or Ireland, and shall be sent to the secretary or principal officer of every canal company any of whose canals communicates with the canal of any company party to the agreement; and shall be published in such other way, if any, as the Commissioners for the purpose of giving notice to all parties interested therein by order direct.

Maintenance of canals by railway companies.

17. Every railway company owning or having the management of any canal or part of a canal shall at all times keep and maintain such canal or part, and all the reservoirs, works, and conveniences thereto belonging, thoroughly repaired and dredged and in good working condition, and shall preserve the supplies of water to the same, so that the whole of such canal or part may be at all times kept open and navigable for the use of all persons desirous to use and navigate the same without any unnecessary hindrance, interruption, or delay.

Conveyance of Mails.

Conveyance of mails.

18. Every railway company shall convey by any train all such mails as may be tendered for conveyance by such train, whether such mails be under the charge of a guard appointed by the Postmaster-General or not, and notwithstanding that no notice in writing requiring mails to be conveyed by such train has been given to the company by the Postmaster-General.

Every railway company shall afford all reasonable facilities for the receipt and delivery of mails at any of their stations without requiring them to be booked or interposing any other delay.

Where the mails are in charge of a guard appointed by the Postmaster-General, every railway company shall permit such

guard, if he thinks fit, to receive and deliver them at any station by himself or his assistants, rendering him nevertheless such aid as he may require.

19. Every railway company shall be entitled to reasonable remuneration for any services performed by them in pursuance of this Act with respect to the conveyance of mails, and such remuneration shall be paid by the Postmaster-General.

Remuneration for conveyance of mails.

Any difference between the Postmaster-General and any railway company as to the amount of such remuneration, or as to any other question arising under this Act, shall be decided by arbitration, in manner provided by the Act of the session of the first and second years of the reign of Her present Majesty's chapter ninety-eight, or, at the option of such railway company, by the Commissioners.

20. Where a railway company use, maintain, or work, or are party to any arrangement for using, maintaining, or working steam vessels for the purpose of carrying on a communication between any towns or ports, all provisions contained in any Act with respect to the conveyance of mails by railways shall, so far as they are applicable to the conveyance of mails by steam vessels, extend to the steam vessels so used, maintained, or worked.

Conveyance of mails on steam vessels.

Regulations as to Commissioners.

* * * * *

26. Any decision or any order made by the Commissioners for the purpose of carrying into effect any of the provisions of this Act may be made a rule or order of any superior court, and shall be enforced either in the manner directed by section three of the Railway and Canal Traffic Act, 1854, as to the writs and orders therein mentioned, or in like manner as any rule or order of such court.

Orders of Commissioners.

For the purpose of carrying into effect this section, general rules and orders may be made by any superior court in the same manner as general rules and orders may be made with respect to any other proceedings in such court.

* * * * *

27. The Commissioners shall sit at such times and in such places and conduct their proceedings in such manner as may seem to them most convenient for the speedy despatch of business; they may, subject as in this Act mentioned, sit either together or separately, and either in private or in open court, but any complaint made to them shall, on the application of any party to the complaint, be heard and determined in open court.

Sittings of Commissioners.

* * * * *

Evidence of documents.

30. Every document purporting to be signed by the Commissioners, or any one of them, shall be received in evidence without proof of such signature, and until the contrary is proved shall be deemed to have been so signed and to have been duly executed or issued by the Commissioners.

Commissioners to make annual reports.

31. The Commissioners shall, once in every year, make a report to Her Majesty of their proceedings under this Act during the past year, and such report shall be laid before both Houses of Parliament within fourteen days after the making thereof if Parliament is then sitting, and if not, then within fourteen days after the next meeting of Parliament.

Miscellaneous.

Determination of fees.

32. The Commissioners may, by general order, with the concurrence of the Treasury, appoint the fees to be taken in relation to proceedings before them, and may from time to time, by general order, with the like concurrence, increase, reduce, or abolish all or any of such fees, and appoint new fees to be taken in relation to such proceedings.

* * * * *

Notices how to be given.

35. Any notice required or authorised to be given under this Act may be in writing or in print, or partly in writing and partly in print, and may be sent by post, and if sent by post shall be deemed to have been received at the time when the letter containing the same would have been delivered in the ordinary course of the post; and in proving such sending it shall be sufficient to prove that the letter containing the notice was prepaid and properly addressed and put into a post office.

Application of Act to Scotland.

36. In the application of this Act to Scotland—

- (1.) The term "attending on subpœna before a court of record" means attending on citation the Court of Justiciary:
- (2.) The Queen's and Lord Treasurer's Remembrancer shall perform the duties of a master of one of the superior courts under this Act.



[37 & 38 VICT. CAP. 40.]

AN Act to amend the Regulations of Railways Act, 1873, so far as regards the reference of differences to the Railway Commissioners in lieu of Arbitrators. [30th July 1874.]

PART II.

Reference to Railway Commissioners.

6. Where any difference to which a railway company or canal company is a party is required or authorised under the provisions of any general or special Act passed either before or after the passing of this Act, to be referred to the arbitration of or to be determined or settled by the Board of Trade, or some person or persons appointed by the Board of Trade, the Board of Trade may, if they think fit, by order in writing under the hand of the president or one of the secretaries of the Board, refer the matter for the decision of the railway commissioners, and appoint them arbitrators or umpire, as the case may be, and thereupon the Commissioners for the time being shall have the same powers as if the matter had been referred to their decision in pursuance of the Regulation of Railways Act, 1873, and also any further powers which the Board of Trade, or an arbitrator or arbitrators, or umpire appointed by the Board of Trade, would have had for the purpose of the arbitration, if the difference had not been referred to the Commissioners: Provided always, that this section shall not apply to any case in which application is made to the Board of Trade for the appointment of an umpire under the twenty-eighth section of the Lands Clauses Consolidation Act, 1845.

Power of Board of Trade to appoint Railway Commissioners to be arbitrators or umpire.

7. Where any difference is referred for the decision of the Commissioners in pursuance of the Regulation of Railways Act, 1873, as amended by this part of this Act, the Commissioners shall have the same power by their decision of rescinding, varying, or adding to any award or other decision previously made by any arbitrator or arbitrators (including therein the Board of Trade) with reference to the same subject matter as any arbitrator or arbitrators would have had if the difference had been referred to him or them.

Declaration as to powers of Commissioners in arbitrations.

Construction
with 36 & 37
Vict. c. 48.

8. This part of this Act shall be construed as one with the Regulation of Railways Act, 1873.

The Regulation of Railways Act, 1873, together with this part of this Act, may be cited as the Regulation of Railways Acts, 1873 and 1874.

Short title.

This Act may be cited as the Board of Trade Arbitrations, &c., Act, 1874.



[46 & 47 VICT. CAP. 34.]

AN Act to amend the Law relating to Railway Passenger Duty, and to amend and consolidate the Law relating to the conveyance of the Queen's Forces by Railway.

[20th August 1883.]

Be it enacted as follows:

1. This Act may be cited as the Cheap Trains Act, 1883.

Short title.

2. After the commencement of this Act the duties now payable in respect of passengers conveyed for hire on a railway shall, subject to the provisions of this Act, be varied as follows:

Abolition of passenger duty for cheap trains and reduction on urban traffic.

(1.) Fares not exceeding the rate of one penny a mile shall be exempt from duty; but fares for return or periodical tickets shall be exempt from duty only where the ordinary fare for the single journey does not exceed that rate:

(2.) Duty shall be payable at the rate of two per cent. on fares exceeding the rate of one penny a mile for conveyance between railway stations within one urban district certified so to be in manner provided in this section:

(3.) Where the Board of Trade are satisfied that any two or more railway stations are within an area which has a continuous urban as distinguished from a rural or suburban character, and contains a population of not less than one hundred thousand inhabitants, the Board of Trade may certify that those stations are within one urban district for the purposes of this Act. The Board of Trade may from time to time and at any time rescind or vary any certificate given by them under this section.

3. (1.) If at any time the Board of Trade have reason to believe—

Provision for proper third-class accommodation and workmen's trains.

(a) that upon any railway or part of a railway, or upon any line or system of railways, whether belonging to one company or to two or more companies, which forms a continuous means of communication, a due and sufficient proportion of the accommodation provided by

such company or companies is not provided for passengers at fares not exceeding the rate of one penny a mile; or

- (b) that upon any railway carrying passengers proper and sufficient workmen's trains are not provided for workmen going to and returning from their work at such fares and at such times between six o'clock in the evening and eight o'clock in the morning as appear to the Board of Trade to be reasonable.

then and in either case the Board of Trade may make such inquiry as they think necessary, or may, if required by the company or any of the companies concerned, refer the matter for the decision of the Railway Commissioners, who shall have the same power therein as if it had been referred to their decision in pursuance of the Regulation of Railways Act, 1873.

(2.) If on an inquiry under this Act it is proved to the satisfaction of the Board of Trade or the Railway Commissioners, as the case may be, that such proper and sufficient accommodation or workmen's trains as aforesaid are not provided by any railway company, the Board of Trade or the Railway Commissioners, as the case may be, may order the company to provide such accommodation or workmen's trains at such fares as, having regard to the circumstances, may appear to the said Board or the Commissioners to be reasonable.

(3.) If any company on whom an order is made under this Act to provide proper and sufficient accommodation of workmen's trains refuse, or, at any time after the expiration of one month from the making thereof, neglect to comply with the order, the Board of Trade shall issue a certificate to that effect to the Commissioners of Inland Revenue, and after the date of such certificate the company shall lose the benefit of this Act and be liable to pay in respect of the fares received after such date the same amount of passenger duty as would be payable if the passenger duty had not been varied as provided by this Act, and shall continue so liable in respect of all fares received up to the date at which the Board of Trade certify that the company has complied with the said order. Where two or more companies are concerned, the certificate shall state whether both or all, or one or more, and which of them is in default.

(4.) A company on whom an order is made by the Board of Trade under this section may within six months after the making of the order appeal to the Railway Commissioners, who shall have the same power in the matter as if it had been originally referred to their decision.

(5.) The Board of Trade or the Railway Commissioners, as the case may be, may rescind or vary any order made by them under this section.

4. (1.) Where any Act of Parliament allows a number of miles greater than the actual number of miles to be reckoned for the purpose of calculating the fares on any part of a railway, the mileage so allowed shall be deemed for the purposes of this Act to be the mileage of that part of the railway.

Provision as to special mileage and exceptional charges.

(2.) Where any Act of Parliament allows special or exceptional charges upon any part of a railway, that part shall for the purpose of calculating fares under this Act be deemed to be a separate railway.

5. For the purposes of this Act fares shall not be deemed to exceed the rate of one penny a mile which do not exceed one penny for a single journey of any distance less than a mile, or, where the distance travelled, being more than one mile, is any number of complete halfmiles and a fraction not less than a quarter of a mile, do not exceed one halfpenny for every half-mile and one halfpenny for the fraction; but for a child between three and twelve years of age the fare shall not exceed half an adult's fare, and children under three years of age shall be conveyed free of charge: Provided that a railway company shall not be bound to charge less than one penny to any person over three years of age for any single journey.

Proviso as to fractions of miles. 21 & 22 Vict. c. 75.

Any charge or fare which by any local and personal Act relating to any railway is declared to be a charge or fare consistent with the provisions of the enactments relating to passenger duty which are repealed by this Act shall be deemed for the purposes of this Act to be a fare not exceeding the rate of one penny a mile.

6. (1.) For the purpose of moving by railway on any occasion of the public service—

Conveyance of the Queen's forces at reduced rates.

(a) any of the officers or men in or belonging to Her Majesty's navy, or royal naval volunteers, and any other officers or men under the command or government of the Admiralty; and

(b) any of the officers or soldiers in Her Majesty's regular reserve or auxiliary forces (within the meaning of the Army Act, 1881, or any Act amending the same) for the time being subject to military law; and

44 & 45 Vict. c. 58.

(c) any officers or men of any police force;

(all and any of which officers, soldiers, and men are in this Act called "the forces");

every railway company shall, on the production of a route duly signed for the conveyance of the forces, provide conveyance for them and their personal luggage, and also for any public baggage, stores, arms, ammunition, and other necessaries and things, whether actually accompanying the forces or not, at all usual times at which passengers are conveyed by the company, on such terms as may be agreed on between the railway company and the Secretary of State, Admiralty, or police authority,



and subject to or in default of agreement on the following terms:

- (i.) The passenger carriages provided shall be of such classes in use on the railway, and in such proportions, as specified in the route, all carriages being protected from the weather and having proper accommodation:
- (ii.) The fares shall not exceed the following proportions of the fares charged to private passengers for the single journey by ordinary train in the respective classes of carriages specified in the route, that is to say, if the number of persons conveyed is less than one hundred and fifty, three fourths; and if the number is one hundred and fifty or more, then for the first one hundred and fifty, three fourths, as for four officers and one hundred and forty-six soldiers or other persons; and for the numbers in excess of the said one hundred and fifty, one half:
- (iii.) This section shall apply to such wives, widows, and children of members of the forces as are entitled to be conveyed at the public expense, in like manner as if they were part of the forces, but children less than three years old shall be conveyed free of charge, and the fare for a child more than three and less than twelve years old shall be half the fare payable under this section for an adult:
- (iv.) One hundredweight of personal luggage shall be conveyed by the railway company free of charge for every one conveyed under this section who is required by the route to be conveyed first-class, and half a hundredweight for every other person conveyed; and any excess of weight shall be conveyed at not more than two-thirds of the rate charged to the public for excess luggage:
- (v.) The said public baggage, stores, arms, ammunition, necessaries, and things shall be carried at rates not exceeding twopence per ton per mile, the assistance of the forces to be given when available in loading and unloading the same:
- (vi.) Provided that the company shall not be bound under this section to carry gunpowder or other explosive or combustible matters except on terms agreed upon between the company and the Admiralty or one of Her Majesty's Principal Secretaries of State, as the case may be.

(2.) For the purposes of this section a route duly signed shall be deemed to be a route issued and signed in accordance with section one hundred and three of the Army Act, 1881, or an order signed by a person authorised in this behalf by one of Her Majesty's Principal Secretaries of State, or a route or

order signed by a person authorised in this behalf by the Admiralty, or, as regards the police, a route or order signed by a person authorised in this behalf by the police authority.

(3.) Fares payable under this section shall be exempt from passenger duty.

(4.) Where a company has by refusal or neglect to comply with an order of the Board of Trade or the Railway Commissioners lost the benefit of this Act, that company shall, until its compliance is certified as in this Act provided, be exempt from the provisions of this section, but shall be bound to convey all such persons and things as mentioned in this section on the same terms as if this Act had not been passed.

7. The Act of the fifth and sixth years of Her Majesty's reign, chapter seventy-nine, intituled "An Act to repeal the duties payable on stage carriages and on passengers conveyed upon railways and certain other stamp duties in Great Britain, and to grant other duties in lieu thereof, and also to amend the laws relating to the stamp duties," is hereby amended in the following respects:—

Amendment
of 5 & 6 Vict.
c. 79. ss. 4
& 7.

(a.) In lieu of the affidavit required by section four of the said Act in verification of accounts rendered for the purposes of railway passenger duty, every such account shall be certified to be a full and true account under the hand of the person by whom the affidavit would have been made if this Act had not been passed.

(b.) The Commissioners of Inland Revenue may, at their discretion, dispense with the security by bond required by section seven of the said Act.

8. In this Act, unless a contrary intention appears from the context—

Definitions.

The term "fare" includes all sums received or charged for the hire, fare, or conveyance of passengers upon or along any railway:

The term "railway company" includes any person being the owner or lessee of or working any railway in the United Kingdom constructed or carried on under the powers of any Act of Parliament:

The term "the Admiralty" means the Lord High Admiral of the United Kingdom for the time being, or the Commissioners for the time being for executing the office of Lord High Admiral:

The term "police force" means the police force of the metropolitan police district or any county, borough, or place maintaining a separate police force:

The term "police authority" means the Secretary of State, quarter sessions, watch committee, police committee, police commissioners, or other authority having the management of a police force.

Anything which the Board of Trade is by this Act empowered or required to do may be done by writing under the hand of the President or Secretary or one of the Assistant Secretaries of the Board.

Commence-
ment of Act.

9. This Act shall come into operation on the first day of October one thousand eight hundred and eighty-three, which day is in this Act referred to as the commencement of this Act.

Repeal.

10. Without prejudice to anything done or suffered, or any right acquired or liability incurred before the commencement of this Act, the Acts specified in the Schedule to this Act are hereby repealed, as from the commencement of this Act, to the extent specified in the third column of the Schedule, except so far as such Acts apply to Ireland, and except as respecting the conveyance of forces by companies who lose the benefit of this Act.

Extent of
Act.

11. This Act shall not extend to Ireland.

SCHEDULE.

Session and Chapter.	Title.	Extent of Repeal.
5 & 6 Vict. c. 55 ...	An Act for the better regulation of railways and for the conveyance of troops.	Section twenty.
7 & 8 Vict. c. 85 ...	An Act to attach certain conditions to the construction of future railways authorised or to be authorised by any Act of the present or succeeding sessions of Parliament; and for other purposes in relation to railways.	Sections six, seven, eight, nine, ten, and twelve.
16 & 17 Vict. c. 69 ...	An Act to make better provision concerning the entry and service of seamen, and otherwise to amend the laws concerning Her Majesty's Navy.	Section eighteen.
21 & 22 Vict. c. 75 ...	An Act to amend the law relating to cheap trains, and to restrain the exercise of certain powers by canal companies being also railway companies.	Sections one and two.
26 & 27 Vict. c. 33 ...	An Act for granting to Her Majesty certain duties of inland revenue; and to amend the laws relating to the inland revenue.	Section fourteen.



[51 & 52 VICT. CAP. 25.]

AN Act for the better Regulation of Railway and Canal Traffic,
and for other purposes. [10th August 1888.]

Sect.

1. Short title and construction.

PART I.—COURT AND PROCEDURE OF RAILWAY AND CANAL
COMMISSIONERS.

Establishment of Railway and Canal Commission.

2. Establishment of new Railway and Canal Commission.
3. Appointment and tenure of office of appointed Commissioners.
4. Appointment and attendance of ex-officio Commissioners.
5. Sittings of Commissioners.
6. Appointment of additional judge.
7. Provision for complaints by public authority in certain cases.

Jurisdiction.

8. Jurisdiction of Railway Commissioners transferred to the Commission.
9. Jurisdiction of Commissioners under special Acts.
10. Jurisdiction over tolls and rates.
11. Jurisdiction to order traffic facilities, notwithstanding agreements.
12. Power to award damages.
13. No damages where rates published under certain conditions.
14. Orders on two or more companies.
15. Amendment of 36 & 37 Vict. c. 48. s. 8 as to references to arbitration under special Act.
16. Power to apportion expenses between railway company and applicants for works.

Appeals.

17. Appeals on certain questions to superior court of appeal.

Supplemental.

18. General powers and enforcement of orders.
19. Costs.
20. Power to make rules.
21. Appointment of officers, clerks, &c.
22. Salaries, expenses, &c.
23. Company to which this part of this Act applies.

PART II.—TRAFFIC.

24. Revised classification of traffic and schedule of rates.
25. Provisions as to through traffic.
26. Powers of Commissioners as to through rates.

Sect.

27. Under preference in case of unequal tolls, rates, and charges, and unequal services performed.
28. Extension of enactments as to undue preference to goods carried by sea.
29. Group rates to be chargeable by railway companies.
30. Power to dock companies and harbour boards to complain of undue preference.
31. Complaints of Board of Trade of unreasonable charges by railway companies.
32. Annual returns by railway companies to contain such statistics as the Board of Trade shall require.
33. Classification table to be open for inspection. Copies to be sold.
34. Place of publication of rates in respect of traffic at places other than stations.
35. Power to make rules for purposes of this part of this Act.

PART III.—CANALS.

36. Part II. to extend to canal companies
37. Application of 36 & 37 Vict. c. 48 to canals.
38. Powers of Commissioners over canal tolls, rates, and charges where a railway company or its officers own or control the traffic of a canal.
39. Returns by canal companies.
40. Byelaws of canal companies.
41. Inspection of canal.
42. Misapplication of a railway company's funds for acquisition of unauthorised interest in canal.
43. Canal companies may agree for through tolls, &c.
44. Canal companies may establish clearing system.
45. Abandonment of canal.
46. Definition of "canal company."

PART IV.—MISCELLANEOUS.

47. Perpetuation of 36 & 37 Vict. c. 48.
48. Evidence on rating appeals.
49. Recovery and application of penalties.
50. Parties may appear in person or by counsel, &c.
51. Parliamentary agents entitled to practice before Commissioners.
52. Saving of powers conferred on Commissioners and Board of Trade.
53. Proceedings of Board of Trade.
54. Expenses of local authorities.
55. Definitions.
56. Commencement of Act.
57. Pending business.
58. Transfer of pending business from superior courts.
59. Repeal and savings.

SCHEDULE.

Be it enacted (&c., &c.) as follows :

I. This Act may be cited as the Railway and Canal Traffic Act, 1888.

This Act shall be construed as one with the Regulation of Railways Act, 1873, and the Acts amending it; and those Acts and this Act may be cited together as the Railway and Canal Traffic Acts, 1873 and 1888.

Short title
and con-
struction.
36 & 37 Vict.
c. 48.

PART I.—COURT AND PROCEDURE OF RAILWAY AND CANAL COMMISSIONERS.

Establishment of Railway and Canal Commission.

2. On the expiration of the provisions of the Regulation of Railways Act, 1873, with respect to the Commissioners therein mentioned, there shall be established a new Commission, styled the Railway and Canal Commission (in this Act referred to as the Commissioners), and consisting of two appointed and three ex-officio Commissioners; and such Commission shall be a court of record, and have an official seal, which shall be judicially noticed. The Commissioners may act notwithstanding any vacancy in their body.

Establishment of new Railway and Canal Commission.

3.—(1.) The two appointed Commissioners may be appointed by Her Majesty at any time after the passing of this Act, and from time to time as vacancies occur.

Appointment and tenure of office of appointed Commissioners.

(2.) They shall be appointed on the recommendation of the President of the Board of Trade, and one of them shall be of experience in railway business.

(3.) Section five of the Regulation of Railways Act, 1873, shall apply to each appointed Commissioner.

(4.) There shall be paid to each appointed Commissioner such salary not exceeding three thousand pounds a year as the President of the Board of Trade may, with the concurrence of the Treasury, determine.

(5.) It shall be lawful for the Lord Chancellor, if he think fit to remove for inability or misbehaviour any appointed Commissioner.

4.—(1.) Of the three ex-officio Commissioners of the Railway and Canal Commission one shall be nominated for England, one for Scotland, and one for Ireland; and an ex-officio Commissioner shall not be required to attend out of the part of the United Kingdom for which he is nominated.

Appointment and attendance of ex-officio Commissioners.

(2.) The ex-officio Commissioner in each case shall be such judge of a superior court as—

(a.) in England the Lord Chancellor; and

(b.) in Scotland the Lord President of the Court of Session; and

(c.) in Ireland the Lord Chancellor of Ireland;

may from time to time by writing under his hand assign, and such assignment shall be made for a period of not less than five years.

(3.) For the purpose of the attendance of the ex-officio Commissioners, regulations shall be made from time to time by the Lord Chancellor, the Lord President of the Court of Session, and the Lord Chancellor of Ireland respectively in communication with the ex-officio Commissioners for England, Scotland, or Ireland, as the case may be, as to the arrangements for

securing their attendance, as to times and place of sitting in each case, and otherwise for the convenient and speedy hearing thereof.

Sittings of
Commissioners.

5.—(1.) Subject to the provisions of this Act and to general rules under this Act, the Commissioners may hold sittings in any part of the United Kingdom, in such place or places as may be most convenient for the determination or proceedings before them.

(2.) The central office of the Commissioners shall be in London and the Commissioners when holding a public sitting in London shall hold the same at the Royal Courts of Justice, or at such other place as the Lord Chancellor may from time to time appoint.

(3.) Not less than three Commissioners shall attend at the hearing of any case, and the ex-officio Commissioner shall preside, and his opinion upon any question which in the opinion of the Commissioners is a question of law shall prevail.

36 & 37 Vict.
c. 48.

(4.) Save as aforesaid, section twenty-seven of the Regulation of Railways Act, 1873, shall apply, and any act may be done by any two Commissioners.

(5.) Every judge who may, with his consent, be assigned to hold the office of ex-officio Commissioner, shall attend to hear any cases before the Commission, which as ex-officio Commissioner he is required to hear, when and as soon as the cases are ready to be heard, or as soon thereafter as reasonably may be; and any such judge shall be required to perform any of the other duties of a judge of a superior court only when his attendance on the Commission is not required.

(6.) If and when any judge who may be assigned to hold the office of ex-officio Commissioner is temporarily unable to attend, the Lord Chancellor in England, the Lord President of the Court of Session in Scotland, and the Lord Chancellor in Ireland, may respectively nominate any judge of a superior court to sit as ex-officio Commissioner in place of the judge who is so temporarily unable to attend as aforesaid, and the judge so nominated shall for the purpose of any case which he may hear be an ex-officio Commissioner.

(7.) If the President of the Board of Trade is satisfied either of the inability of an appointed Commissioner to attend at the hearing of any case, or of there being a vacancy in the office, and in either case of the necessity of a speedy hearing of the case, he may appoint a temporary Commissioner to hear such case, and such Commissioner, for all purposes connected with such case, shall, until the final determination thereof, have the same jurisdiction and powers as if he were an appointed Commissioner. A temporary Commissioner shall be paid such sum by the Commissioner so unable to sit, or if the office is vacant, out of the salary of the office, as the President of the Board of Trade may assign.

6. On an address from both Houses of Parliament representing that, regard being had to the duties imposed by this Act on the ex-officio Commissioners, the state of business of the High Court in England requires the appointment of an additional judge of that court, it shall be lawful for Her Majesty to appoint an additional judge of such court, and from time to time on a like address but not otherwise, to fill any vacancy in such judgeship, and the law relating to the appointment and qualification of the judges of such superior court, to their duties and tenure of office, to their precedence, salary and pension, and otherwise, shall apply to any judge so appointed under this section, and a judge so appointed under this section shall be attached to such division or branch of the court as Her Majesty may direct, subject to such power of transfer as may exist in the case of any other judge of such division or branch.

Appoint-
ment of
additional
judge.

7.—(1.) Any of the following authorities, that is to say—

(a.) Any of the following local authorities namely, any harbour board, or conservancy authority, the common council of the City of London, any council of a city or borough, any representative county body which may be created by an Act passed in the present or any future session of Parliament, any justices in quarter sessions assembled, the Commissioners of Supply of any county in Scotland, the Metropolitan Board of Works, or any urban sanitary authority not being a council as aforesaid, or any rural sanitary authority; or

Provision
for com-
plaints by
public
authority in
certain cases.

(b.) any such association of traders or freighters, or chamber of commerce or agriculture as may obtain a certificate from the Board of Trade that it is, in the opinion of the Board of Trade, a proper body to make such complaint,

may make to the Commissioners any complaint which the Commissioners have jurisdiction to determine, and may do so without proof that such authority is aggrieved by the matter complained of, and any of such authorities may appear in opposition to any complaint which the Commissioners have jurisdiction to determine in any case where such authority, or the persons represented by them, appear to the Commissioners to be likely to be affected by any determination of the Commissioners upon such complaint.

(2.) The Board of Trade may, if they think fit, require, as a condition of giving a certificate under this section, that security be given in such manner and to such amount as they think necessary, for any costs which the complainants may be ordered to pay or bear.

(3.) Any certificate granted under this section shall, unless withdrawn, be in force for twelve months from the date on which it was given.

Jurisdiction.

Jurisdiction of Railway Commissioners transferred to Commission.

8. There shall be transferred to and vested in the Commissioners all the jurisdiction and powers which at the commencement of this Act were vested in, or capable of being exercised by the Railway Commissioners, whether under the Regulation of Railways Act, 1873, or any other Act, or otherwise, and any reference to the Railway Commissioners in the Regulation of Railways Act, 1873, or in any other Act, or in any document, shall, from and after the commencement of this Act, be construed to refer to the Railway and Canal Commission established by this Act.

Jurisdiction of Commissioners under special Acts. 17 & 18 Vict. c. 31.

9. Where any enactment in a special Act—

(a.) contains provisions relating to traffic facilities, undue preference, or other matters mentioned in section two of the Railway and Canal Traffic Act, 1854, or

(b.) requires a company to which this part of this Act applies to provide any station, road, or other similar work for public accommodation, or

(c.) otherwise imposes on a company to which this part of this Act applies any obligation in favour of the public or any individual,

or where any Act contains provisions relating to private branch railways or private sidings, the Commissioners shall have the like jurisdiction to hear and determine a complaint of a contravention of the enactment as the Commissioners have to hear and determine a complaint of a contravention of section two of the Railway and Canal Traffic Act, 1854, as amended by subsequent Acts.

Jurisdiction over tolls and rates.

10. Where any question or dispute arises, involving the legality of any toll, rate, or charge, or portion of a toll, rate, or charge, charged or sought to be charged for merchandize traffic by a company to which this part of this Act applies, the Commissioners shall have jurisdiction to hear and determine the same, and to enforce payment of such toll, rate, or charge, or so much thereof as the Commissioners decide to be legal.

Jurisdiction to order traffic facilities, notwithstanding agreements.

11. Nothing in any agreement, whether made before or after the passing of this Act, which has not been confirmed by Act or by the Board of Trade, or by the Commissioners under the Regulation of Railways Act, 1873, or this Act, shall render a company to which this part of this Act applies unable to afford, or shall authorise such company to refuse, such reasonable facilities for traffic as may in the opinion of the Commissioners be required in the interests of the public, or shall prevent the Commissioners from making or enforcing any order with respect to such facilities.

Power to award damages.

12. Where the Commissioners have jurisdiction to hear and determine any matter, they may, in addition to or in substitution for any other relief, award to any complaining party who

is aggrieved such damages as they find him to have sustained; and such award of damages shall be in complete satisfaction of any claim for damages, including repayment of overcharges, which, but for this Act, such party would have had by reason of the matter of complaint.

Provided that such damages shall not be awarded unless complaint has been made to the Commissioners within one year from the discovery by the party aggrieved of the matter complained of.

The Commissioners may ascertain the amount of such damages either by trial before themselves, or by directing an inquiry to be taken before one or more of themselves or before some officer of their court.

13. In cases of complaint of undue preference no damages shall be awarded if the Commissioners shall find that the rates complained of have, for the period during which such rates have been in operation, been duly published in the rate-books of the railway company kept at their stations in accordance with section fourteen of the Regulation of Railways Act, 1873, as amended by this Act, unless and until the party complaining shall have given written notice to the railway company requiring them to abstain from or remedy the matter of complaint, and the railway company shall have failed, within a reasonable time, to comply with such requirements in such manner as the Commissioners shall think reasonable.

No damages where rates published under certain conditions.

14. The Commissioners may order two or more companies to which this part of this Act applies to carry into effect an order of the Commissioners, and to make mutual arrangements for that purpose, and may further order the companies or, in case of difference, any of them, to submit to the Commissioners for approval a scheme for carrying into effect the order, and when the Commissioners have finally approved the scheme, they may order each of the companies to do all that is necessary on the part and within the power of such company to carry into effect the scheme, and may determine the proportions in which the respective companies are to defray the expense of so doing, and may for the above purposes make, if they think fit, separate orders on any one or more of such companies.

Orders on two or more companies.

Provided that nothing in this section shall authorise the Commissioners to require two companies to do anything which they would not have jurisdiction to require to be done if such two companies were a single company.

15. For the purposes of section eight of the Regulation of Railways Act, 1873, and any other enactment relating to the reference to the Railway Commission of any difference between companies which under the provisions of any general or special Act is required or authorised to be referred to arbitration, the provisions of any agreement confirmed or authorised by any such Act shall be deemed to be provisions of such Act.

Amendment of 36 & 37 Vict. c. 48, as to references to arbitration.

Power to apportion expenses between railway company and applicants for works.

16.—(1.) Where the Board of Trade or the Commissioners, in the exercise of any power given by any general or special Act, on application order a company to which this part of this Act applies, to provide a bridge, subway, or approach, or any work of a similar character, the Board of Trade or the Commissioners, as the case may be, may require as a condition of making the order that an agreement to pay the whole or a portion of the expenses of complying with the order shall be entered into by the applicants or some of them, or such other persons as the Board of Trade or Commissioners think fit, and any of the following local authorities, namely, any sanitary authority, highway board, surveyor of highways acting with the consent of the vestry of his parish, or any other authority having power to levy rates, shall have power, if such authority think fit, to enter into any such agreement as is sanctioned by the Board of Trade or the Commissioners for the purpose of the order.

(2.) In such case any question respecting the persons by whom or the proportions in which the expenses of complying with the order are to be defrayed may, on the application of any party to the application, or on a certificate of the Board of Trade, be determined by the Commissioners.

(3.) In this section the expression “parish” shall have the same meaning as the same expression has in the Acts relating to highways; and the expression “the consent of the vestry of his parish” shall, in any place where there is no vestry meeting, mean the consent of a meeting of inhabitants contributing to the highway rates, provided that the same notice shall have been given of such a meeting as would be required by law for the assembling of a meeting in vestry.

Appeals.

Appeals on certain questions to superior court of appeal.

17.—(1.) No appeal shall lie from the Commissioners upon a question of fact, or upon any question regarding the *locus standi* of a complainant.

(2.) Save as otherwise provided by this Act, an appeal shall lie from the Commissioners to a superior Court of Appeal.

(3.) An appeal shall not be brought except in conformity with such rules of court as may from time to time be made in relation to such appeals by the authority having power to make rules of court for the superior Court of Appeal.

(4.) On the hearing of an appeal the Court of Appeal may draw all such inferences as are not inconsistent with the facts expressly found, and are necessary for determining the question of law, and shall have all such powers for that purpose as if the appeal were an appeal from a judgment of a superior court, and may make any order which the Commissioners could have made, and also any such further or other order as may be

just, and the costs of and incidental to an appeal shall be in the discretion of the Court of Appeal, but no Commissioner shall be liable to any costs by reason or in respect of any appeal.

(5.) The decision of the superior Court of Appeal shall be final: Provided that where there has been a difference of opinion between any two of such superior Courts of Appeal, any superior Court of Appeal in which a matter affected by such difference of opinion is pending may give leave to appeal to the House of Lords, on such terms as to costs as such court shall determine.

(6.) Save as provided by this Act, an order or proceeding of the Commissioners shall not be questioned or reviewed, and shall not be restrained or removed by prohibition, injunction, certiorari or otherwise, either at the instance of the Crown or otherwise.

Supplemental.

18.—(1.) For the purposes of this Act the Commissioners shall have full jurisdiction to hear and determine all matters whether of law or of fact, and shall as respects the attendance and examination of witnesses, the production and inspection of documents, the enforcement of their orders, the entry on and inspection of property, and other matters necessary or proper for the due exercise of their jurisdiction under this Act, or otherwise for carrying this Act into effect, have all such powers, rights, and privileges as are vested in a superior court; Provided that no person shall be punished for contempt of court, except with the consent of an ex-officio Commissioner.

General powers and enforcement of orders.

(2.) The Commissioners may review and rescind or vary any order made by them; but, save as is by this Act provided, every decision or order of the Commissioners shall be final.

19. The costs of and incidental to every proceeding before the Commissioners shall be in the discretion of the Commissioners, who may order by whom and to whom the same are to be paid, and by whom the same are to be taxed and allowed.

Costs.

20.—(1.) The Commissioners may from time to time, with the approval of the Lord Chancellor and the President of the Board of Trade, make, rescind, and vary general rules for their procedure and practice under this Act, and generally for carrying into effect this part of this Act.

Power to make rules.

(2.) All rules made under this section shall be laid before Parliament within three weeks after they are made, if Parliament is then sitting, and if Parliament is not then sitting within three weeks after the beginning of the next session of Parliament, and shall be judicially noticed, and shall have effect as if they were enacted by this Act.

21.—(1.) There shall be attached to the Railway and Canal Commission, such officers, clerks, and messengers as the Lord Chancellor, with the consent of the Treasury as to number, from time to time appoints.

Appointment of officers, clerks, &c.

(2.) There shall be paid to each of such officers, clerks, and messengers such salaries as the Treasury from time to time determine.

Salaries,
expenses, &c.

22. The salaries of the appointed Commissioners, and of all officers, clerks, and messengers attached to the Railway and Canal Commission, and all the expenses of the said Commission of and incidental to the carrying out of this Act, shall be paid out of the moneys to be provided by Parliament.

Company to
which Part I.
applies.

23. This part of this Act shall apply to any railway company, and to any canal company, and to any railway and canal company.

PART II.—TRAFFIC.

Revised
classification
of traffic and
schedule of
rates.

24.—(1.) Notwithstanding any provision in any general or special Act, every railway company shall submit to the Board of Trade a revised classification of merchandise traffic, and a revised schedule of maximum rates and charges applicable thereto, proposed to be charged by such railway company, and shall fully state in such classification and schedule the nature and amounts of all terminal charges proposed to be authorised in respect of each class of traffic, and the circumstances under which such terminal charges are proposed to be made. In the determination of the terminal charges of any railway company regard shall be had only to the expenditure reasonably necessary to provide the accommodation in respect of which such charges are made, irrespective of the outlay which may have been actually incurred by the railway company in providing that accommodation.

(2.) The classification and schedule shall be submitted within six months from the passing of this Act, or such further time as the Board of Trade may, in any particular case, permit, and shall be published in such a manner as the Board of Trade may direct.

(3.) The Board of Trade shall consider the classification and schedule, and any objections thereto, which may be lodged with them on or before the prescribed time and in the prescribed manner, and shall communicate with the railway company and the persons (if any) who have lodged objections, for the purpose of arranging the differences which may have arisen.

(4.) If, after hearing all parties whom the Board of Trade consider to be entitled to be heard before them respecting the classification and schedule, the Board of Trade come to an agreement with the railway company as to the classification and schedule, they shall embody the agreed classification and schedule in a Provisional Order, and shall make a report thereon, to be submitted to Parliament, containing such observations as they think fit in relation to the agreed classification and schedule.

(5.) When the agreed classification and schedule have been embodied in a Provisional Order, the Board of Trade, as soon

as they conveniently can after the making of the Provisional Order (of which the railway company shall be deemed to be the promoters), shall procure a Bill to be introduced into either House of Parliament for an Act to confirm the Provisional Order, which shall be set out at length in the schedule to the Bill.

(6.) In any case in which a railway company fails within the time mentioned in this section to submit a classification and schedule to the Board of Trade, and also in every case in which a railway company has submitted to the Board of Trade a classification and schedule, and after hearing all parties whom the Board of Trade consider to be entitled to be heard before them, the Board of Trade are unable to come to an agreement with the railway company as to the railway company's classification and schedule, the Board of Trade shall determine the classification of traffic which, in the opinion of the Board of Trade, ought to be adopted by the railway company, and the schedule of maximum rates and charges, including all terminal charges proposed to be authorised applicable to such classification which would, in the opinion of the Board of Trade, be just and reasonable, and shall make a report, to be submitted to Parliament, containing such observations as they may think fit in relation to the said classification and schedule, and calling attention to the points therein on which differences which have arisen have not been arranged.

(7.) After the commencement of the session of Parliament next after that in which the said report of the Board of Trade has been submitted to Parliament, the railway company may apply to the Board of Trade to submit to Parliament the question of the classification and schedule which ought to be adopted by the railway company, and the Board of Trade shall on such application, and in any case may, embody in a Provisional Order such classification and schedule as in the opinion of the Board of Trade ought to be adopted by the railway company, and procure a Bill to be introduced into either House of Parliament for an Act to confirm the Provisional Order, which shall be set out at length in the Schedule to the Bill.

(8.) If, while any Bill to confirm a Provisional Order made by the Board of Trade under this section is pending in either House of Parliament, a petition is presented against the Bill or any classification and schedule comprised therein, the Bill, so far as it relates to the matter petitioned against, shall be referred to a select committee, or, if the two Houses of Parliament think fit so to order, to a joint committee of such Houses, and the petitioner shall be allowed to appear and oppose as in the case of a private Bill.

(9.) In preparing, revising, and settling the classifications and schedules of rates and charges, the Board of Trade may consult and employ such skilled persons as they may deem

necessary or desirable; and they may pay to such persons such remuneration as they may think fit and as the Treasury may approve.

(10.) The Act of Parliament confirming any Provisional Order made under this section shall be a public general Act, and the rates and charges mentioned in a Provisional Order as confirmed by such Act shall, from and after the Act coming into operation, be the rates and charges which the railway company shall be entitled to charge and make.

(11.) At any time after the confirmation of any Provisional Order under this section any railway company may, and any person, upon giving not less than twenty-one days' notice to the railway company, may apply in the prescribed manner to the Board of Trade to amend any classification and schedule by adding thereto any articles, matters, or things, and the Board of Trade may hear and determine such application, and classify and deal with the articles, matters, or things referred to therein in such matter as the Board of Trade shall think right. Every determination of the Board of Trade under this sub-section shall forthwith be published in the "London Gazette," and shall take effect as from the date of the publication thereof.

(12.) Nothing in this section shall apply to any remuneration payable by the Postmaster-General to any railway company for the conveyance of mails, letter bags, or parcels under any general or special Act relating to the conveyance of mails, or under the Post Office (Parcels) Act, 1882.

(13.) Nothing in this section shall apply to any remuneration payable by the Secretary of State for War to any railway company for the conveyance of War Office stores under the powers conferred by the Cheap Trains Act, 1883.

45 & 46 Vict.
c. 74.

46 & 47 Vict.
c. 34.
Provisions as
to through
traffic.

25. Whereas by section two of the Railway and Canal Traffic Act, 1854, it is enacted that every railway company and canal company, and railway and canal company shall, according to their respective powers, afford all reasonable facilities for the receiving and forwarding and delivering of traffic upon and from the several railways and canals belonging to or worked by such companies respectively, and for the return of carriages, trucks, boats, and other vehicles; and that no such company shall make or give any undue or unreasonable preference or advantage to or in favour of any particular person or company, or any particular description of traffic, in any respect whatsoever, or shall subject any particular person or company, or any particular description of traffic, to any undue or unreasonable prejudice or disadvantage in any respect whatsoever; and that every railway company and canal company and railway and canal company having or working railways or canals which form part of a continuous line of railway, or canal or railway and canal communication, or which have the terminus station or wharf of the one near the terminus station

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

And whereas it is expedient to explain and amend the said enactment :

Be it therefore enacted, that—

Subject as herein-after mentioned, the said facilities to be so afforded are hereby declared to and shall include the due and reasonable receiving, forwarding, and delivering by every railway company and canal company and railway and canal company, at the request of any other such company, of through traffic to and from the railway or canal of any other such company at through rates, tolls, or fares (in this Act referred to as through rates); and also the due and reasonable receiving, forwarding, and delivering by every railway company and canal company and railway and canal company, at the request of any person interested in through traffic, of such traffic at through rates: Provided that no application shall be made to the Commissioners by such person until he has made a complaint to the Board of Trade under the provisions of this Act as to complaints to the Board of Trade of unreasonable charges, and the Board of Trade have heard the complaint in the manner herein provided.

Provided as follows :

- (1.) The company or person requiring the traffic to be forwarded shall give written notice of the proposed through rate to each forwarding company, stating both its amount and the route by which the traffic is proposed to be forwarded; and when a company gives such notice it shall also state the apportionment of the through rate. The proposed through rate may be per truck or per ton: each forwarding company shall, within ten days, or such longer period as the Commissioners may from time to time by general order prescribe, after the receipt of such notice, by written notice inform the company or persons requiring the traffic to be forwarded, whether they agree to the rate and route; and if they object to either, the grounds of the objection :

- (3.) If at the expiration of the prescribed period no such objection has been sent by any forwarding company, the rate shall come into operation on such expiration :
- (4.) If an objection to the rate or route has been sent within the prescribed period, the matter shall be referred to the Commissioners for their decision :
- (5.) If an objection be made to the granting of the rate or to the route, the Commissioners shall consider whether the granting of a rate is a due and reasonable facility in the interest of the public, and whether, having regard to the circumstances, the route proposed is a reasonable route, and shall allow or refuse the rate accordingly, or fix such other rate as may seem to the Commissioners just and reasonable :
- (6.) Where, upon the application of a person requiring traffic to be forwarded, a through rate is agreed to by the forwarding companies, or is made by order of the Commissioners, the apportionment of such through rate, if not agreed upon between the forwarding companies, shall be determined by the Commissioners :
- (7.) If the objection be only to the apportionment of the rate, the rate shall come into operation at the expiration of the prescribed period, but the decision of the Commissioners, as to its apportionment, shall be retrospective; in any other case the operation of the rate shall be suspended until the decision is given :
- (8.) The Commissioners, in apportioning the through rate, shall take into consideration all the circumstances of the case, including any special expense incurred in respect of the construction, maintenance, or working of the route, or any part of the route, as well as any special charges which any company may have been entitled to make in respect thereof :
- (9.) It shall not be lawful for the Commissioners in any case to compel any company to accept lower mileage rates than the mileage rates which such company may for the time being legally be charging for like traffic carried by a like mode of transit on any other line of communication between the same points, being the points of departure and arrival of the through route.

Where a railway company or a canal company use, maintain, or work, or are party to an arrangement for using, maintaining, or working steam vessels for the purpose of carrying on a communication between any towns or ports, the provisions of this section shall extend to such steam vessels, and to the traffic carried thereby.

When any company, upon written notice being given as aforesaid, refuses or neglects without reason to agree to the

proposed through rates, or to the route, or to the apportionment, the Commissioners, if an order is made by them upon an application for through rates, may order the respondent company or companies to pay such costs to the applicants as they think fit.

26. Subject to the provisions in the last preceding section contained, the Commissioners shall have full power to decide that any proposed through rate is just and reasonable, notwithstanding that a less amount may be allotted to any forwarding company out of such through rate than the maximum rate such company is entitled to charge, and to allow and apportion such through rate accordingly.

Powers of Commissioners as to through rates.

27.—(1.) Whenever it is shown that any railway company charge one trader or class of traders, or the traders in any district, lower tolls, rates, or charges for the same or similar merchandise, or lower tolls, rates, or charges for the same or similar services, than they charge to other traders, or classes of traders, or to the traders in another district, or make any difference in treatment in respect of any such trader or traders, the burden of proving that such lower charge or difference in treatment does not amount to an undue preference shall lie on the railway company.

Undue preference in case of unequal tolls, rates, and charges, and unequal services, performed.

(2.) In deciding whether a lower charge or difference in treatment does or does not amount to an undue preference, the court having jurisdiction in the matter, or the Commissioners, as the case may be, may, so far as they think reasonable, in addition to any other considerations affecting the case, take into consideration whether such lower charge or difference in treatment is necessary for the purpose of securing in the interests of the public the traffic in respect of which it is made, and whether the inequality cannot be removed without unduly reducing the rates charged to the complainant: Provided that no railway company shall make, nor shall the court, or the Commissioners, sanction any difference in the tolls, rates, or charges made for, or any difference in the treatment of, home and foreign merchandise, in respect of the same or similar services.

(3.) The court or the Commissioners shall have power to direct that no higher charge shall be made to any person for services in respect of merchandise carried over a less distance than is made to any other person for similar services in respect of the like description and quantity of merchandise carried over a greater distance on the same line of railway.

28. The provisions of section two of the Railway and Canal Traffic Act, 1854, and of section fourteen of the Regulation of Railways Act, 1873, and of any enactments amending and extending those enactments, shall apply to traffic by sea in any vessels belonging to or chartered or worked by any railway company, or in which any railway company procures merchandise to be carried, in the same manner and to the like extent as they apply to the land traffic of a railway company.

Extension or enactments as to undue preference to goods carried by sea.

Group rates to be chargeable by railway companies.

29.—(1.) Notwithstanding any provision in any general or special Act, it shall be lawful for any railway company, for the purpose of fixing the rates to be charged for the carriage of merchandise to and from any place on their railway, to group together any number of places in the same district, situated at various distances from any point of destination or departure of merchandise, and to charge a uniform rate or uniform rates of carriage for merchandise to and from all places comprised in the group from and to any point of destination or departure.

(2.) Provided that the distances shall not be unreasonable, and that the group rates charged and the places grouped together shall not be such as to create an undue preference.

(3.) Where any group rate exists or is proposed, and in any case where there is a doubt whether any rates charged or proposed to be charged by a railway company may not be a contravention of section two of the Railway and Canal Traffic Act, 1854, and any Acts amending the same, the railway company may, upon giving notice in the prescribed manner, apply to the Commissioners, and the Commissioners may, after hearing the parties interested and any of the authorities mentioned in section seven of this Act, determine whether such group rate or any rate charged or proposed to be charged as aforesaid does or does not create an undue preference. Any persons aggrieved, and any of the authorities mentioned in section seven of this Act, may, at any time after the making of any order under this section, apply to the Commissioners to vary or rescind the order, and the Commissioners, after hearing all parties who are interested, may make an order accordingly.

Power to dock companies and harbour boards to complain of undue preference.

30. Any port or harbour authority or dock company which shall have reason to believe that any railway company is by its rates or otherwise placing their port, harbour, or dock, at an undue disadvantage as compared with any other port, harbour, or dock to or from which traffic is or may be carried by means of the lines of the said railway company, either alone or in conjunction with those of other railway companies, may make complaint thereof to the Commissioners, who shall have the like jurisdiction to hear and determine the subject matter of such complaint as they have to hear and determine a complaint of a contravention of section two of the Railway and Canal Traffic Act, 1854, as amended by subsequent Acts.

Complaints to Board of Trade of unreasonable charges by railway companies.

31.—(1.) Whenever any person receiving or sending or desiring to send goods by any railway is of opinion that the railway company is charging him an unfair or unreasonable rate of charge, or is in any other respect treating him in an oppressive or unreasonable manner, such person may complain to the Board of Trade.

(2.) The Board of Trade, if they think that there is reasonable ground for complaint, may thereupon call upon the railway company for an explanation, and endeavour to settle



amicably the differences between the complainant and the railway company.

(3.) For the purpose aforesaid, the Board of Trade may appoint either one of their own officers or any other competent person to communicate with the complainant and the railway company, and to receive and consider such explanations and communications as may be made in reference to the complaint; and the Board of Trade may pay to such last-mentioned person such remuneration as they may think fit, and as may be approved by the Treasury.

(4.) The Board of Trade shall from time to time submit to Parliament reports of the complaints made to them under the provisions of this section, and the results of the proceedings taken in relation to such complaints, together with such observations thereon as the Board of Trade shall think fit.

(5.) A complaint under this section may be made to the Board of Trade by any of the authorities mentioned in section seven of this Act, in any case in which, in the opinion of any of such authorities, they or any traders or persons in their district are being charged unfair or unreasonable rates by a railway company; and all the provisions of this section shall apply to a complaint so made as if the same had been made by a person entitled to make a complaint under this section.

32.—(1.) The returns required of a railway company under section nine of the Railways Regulation Act, 1871, shall include such statements as the Board of Trade may from time to time prescribe, and the forms referred to in that section may from time to time be altered by the Board of Trade in such manner as they think expedient for giving effect to this section, and the said section nine of the Railways Regulation Act, 1871, shall apply accordingly.

Annual returns by railway companies to contain such statistics as the Board of Trade shall require. 34 & 35 Vict. c. 78, s. 9.

(2.) The Board of Trade may from time to time alter the times fixed by the said Act or by the Railways Regulation Act (Returns of Signal Arrangements, Workings, &c.), 1873, for the forwarding of any of the returns required by the said Act or this Act.

36 & 37 Vict. c. 78.

33.—(1.) The book, tables, or other document in use for the time being containing the general classification of merchandise carried on the railway of any Company, shall, during all reasonable hours, be open to the inspection of any person without the payment of any fee at every station at which merchandise is received for conveyance, or where merchandise is received at some other place than a station then at the station nearest such place, and the said book, tables, or other document as revised from time to time shall be kept on sale at the principal office of the company at a price not exceeding one shilling.

Classification table to be open for inspection. Copies to be sold.

(2.) Printed copies of the classification of merchandise traffic, and schedule of maximum tolls, rates, and charges, of every railway company authorised, as provided by this Act, shall be

kept for sale by the railway company at such places and at such reasonable price as the Board of Trade may by any general or special order prescribe.

(3.) The company shall within one week after application in writing made to the secretary of any railway company by any person interested in the carriage of any merchandise which has been or is intended to be carried over the railway of such company, render an account to the person so applying in which the charge made or claimed by the company for the carriage of such merchandise shall be divided, and the charge for conveyance over the railway shall be distinguished from the terminal charges (if any), and from the dock charges (if any), and if any terminal charge or dock charge is included in such account the nature and detail of the terminal expenses or dock charges in respect of which it is made shall be specified.

(4.) Every railway company shall publish at every station at which merchandise is received for conveyance, or where merchandise is received at some other place than a station then at the station nearest to such place, a notice, in such form as may be from time to time prescribed by the Board of Trade, to the effect that such book, tables, and document touching the classification of merchandise and the rates as they are required by this section and section fourteen of the Regulation of Railways Act, 1873, to keep at that station, are open to public inspection, and that information as to any charge can be obtained by application to the secretary or other officer at the address stated in such notice.

36 & 37 Vict.
c. 48.

(5.) Where a railway company carries merchandise partly by land and partly by sea, all the books, tables, and documents, touching the rates of charge of the railway company, which are kept by the railway company at any port in the United Kingdom used by the vessels which carry the sea traffic of the railway company, shall, besides containing all the rates charged for the sea traffic, state what proportion of any through rate is appropriated to the conveyance by sea, distinguishing such proportion from that which is appropriated to the conveyance by land on either side of the sea.

(6.) Where a railway company intend to make any increase in the tolls, rates, or charges published in the books required to be kept by the company for public inspection, under section fourteen of the Regulation of Railways Act, 1873, or this Act, they shall give by publication in such manner as the Board of Trade may prescribe at least fourteen days' notice of such intended increase, stating in such notice the date on which the altered rate or charge is to take effect; and no such increase in the published tolls, rates, or charges of the railway company shall have effect unless and until the fourteen days' notice required under this section has been given.

(7.) Any company failing to comply with the provisions of this section shall, for each offence, and in the case of a continuing offence for every day during which the offence continues, be liable, on summary conviction, to a penalty not exceeding five pounds.

34. When traffic is received or delivered at any place on any railway other than a station within the meaning of section fourteen of the Regulation of Railways Act, 1873, the railway company on whose line such place is, shall keep at the station nearest such place a book or books showing every rate for the time being charged for the carriage of traffic other than passengers and their luggage, from such place to any place to which they book, including any rates charged under any special contract, and stating the distance from that place of every station, wharf, siding, or place to which such rate is charged.

Place of publication of rates in respect of traffic at places other than stations.

Every such book shall, during all reasonable hours, be open to the inspection of any person without the payment of a fee.

35.—(1.) The Board of Trade may from time to time make, rescind, and vary rules with respect to the following matters:—

Power to make rules for purposes of Part II. of Act.

(a.) The form and manner in which classification and schedules under this part of this Act are to be prepared and submitted to the Board of Trade and to Parliament, and the publication, advertisement, and settlement (by the Board of Trade) of such classifications and schedules, and of Provisional Orders;

(b.) All proceedings before the Board of Trade under this part of this Act;

(c.) The fees to be paid in respect of such proceedings; and

(d.) Any matter authorised by this Act to be prescribed.

(2.) Any rules made by the Board of Trade in pursuance of this section shall be laid before Parliament within three weeks after they are made, if Parliament be then sitting, and if Parliament be not then sitting, within three weeks after the beginning of the then next session of Parliament, and shall be judicially noticed, and shall have effect as if they were enacted by this Act.

PART III.—CANALS.

36. All the provisions of Part II. of this Act relating to any railway company shall, so far as applicable, apply to every canal company, and to every railway and canal company; and in Part II. of this Act, unless the context otherwise requires, the expression "railway company" shall include a canal company and railway and canal company, and the expression "railway" shall include a canal, and the expression "rate" shall include tolls and dues of every description chargeable for the use of any canal or by any canal company.

Part II. to extend to canal companies.

Application
of 36 & 37
Vict. c. 48
to canals.

37.—(1.) Section fifteen of the Regulation of Railways Act, 1873, shall apply to the terminal charges of a canal company.

(2.) The Railway and Canal Traffic Act, 1854, as amended by the Regulation of Railways Act, 1873, shall extend to any person whose consent is required to any variation of the rates, tolls, or dues charged for the use of any canal, or by any canal company, and in like manner as if such person were a canal company, and the expressions “canal company” and “railway and canal company” in the said Acts and this Act shall be construed accordingly to include such person.

(3.) The provisions of the Railway and Canal Traffic Act, 1854, and the Regulation of Railways Act, 1873, with respect to rates, shall apply to tolls and dues of every description chargeable for the use of any canal or by any canal company. And nothing in any agreement, whether made before or after the passing of this Act, and whether confirmed by Act of Parliament or not, and nothing in this Act shall prevent the Commissioners from making or enforcing any order for a through rate or toll which may in their opinion be required in the interest of the public.

(4.) Any company allowing traffic to pass from a canal on to any other canal or any railway, or from a railway on to a canal, shall be deemed to be a forwarding company, and the allowing of traffic so to pass shall be deemed to be the forwarding of traffic within the meaning of the above-mentioned Acts.

(5.) The provisions of the Railway and Canal Traffic Act, 1854, and of the Regulation of Railways Act, 1873, and of this Act, with respect to through rates, shall extend to any canals which, in connexion with any river or other waterway, form part of a continuous line of water communication, notwithstanding that tolls may not be leviable by authority of Parliament upon such river or other waterway.

Powers of
Commissioners over
canal tolls,
rates, and
charges
where a rail-
way com-
pany or its
officers own
or control
the traffic of
a canal.

38. Where a railway company, or the directors or officers of a railway company, or any of them or any persons on their behalf, have the control over, or the right to interfere in or concerning the traffic conveyed, or the tolls, rates, or charges levied on the traffic of or for the conveyance of merchandise on a canal, or any part of a canal, and it is proved to the satisfaction of the Commissioners that the tolls, rates, or charges levied on the traffic of or for the conveyance of merchandise on the canal are such as are calculated to divert the traffic from the canal to the railway, to the detriment of the canal or persons sending traffic over the canal or other canals adjacent to it—

(1.) The Commissioners may, on the application of any person interested in the traffic of the canal, make an order requiring the tolls, rates, and charges, levied on the traffic of or for the conveyance of merchandise on the canal, to be altered and adjusted in such a manner

that the same shall be reasonable as compared with the rates and charges for the conveyance of merchandise on the railway :

- (2.) If within such time as may be prescribed by the order of the Commissioners, the tolls, rates, and charges levied on the traffic of or the conveyance of merchandise on the canal are not altered and adjusted as required by such order, the Commissioners may themselves by an order make such alterations in and adjustment of the tolls, rates, and charges levied on the traffic of or for the conveyance of merchandise on the canal as they shall think just and reasonable, and the tolls, rates, and charges as altered and adjusted by the order of the Commissioners shall be binding on the company or persons owning or having the control over the traffic of, or the tolls, rates, and charges, levied on the traffic of, or for the conveyance of merchandise on the canal :
- (3.) No application shall be made to the Commissioners under this section until the Board of Trade have certified that the applicant is a fit person to make the application, and that the application is a proper one to be submitted for the adjudication of the Commissioners; and no order shall be made by the Commissioners under this section unless notice of the application has been served upon such company and persons, and in such manner as the Board of Trade may direct :
- (4.) The Commissioners may at any time, upon the application of any company or person affected by any order made under this section, and after notice to and hearing such companies and persons as the Commissioners may by any general rules or special order prescribe, rescind or vary any order made under this section.

39.—(1.) Every canal company shall, on or before the first day of January in every year, beginning on the first day of January next after the passing of this Act, send to the registrar of joint stock companies a return stating the name of the company, a short description of their canal, the name of their principal officer, and the place of their office, or, if they have more than one office, of their principal office.

Returns by
canal
companies.

(2.) Every canal company shall within such time as may be prescribed by the Board of Trade, and afterwards from time to time whenever required by the Board of Trade, not being oftener than once in every year, forward to the Board of Trade in such form and manner as the Board may from time to time prescribe, such returns as the Board of Trade may require for the purpose of showing the capacity of such canal for traffic, and the capital, revenue, expenditure, and profits of the canal company.

(3.) When the canal of a canal company, or any part thereof, is intended to be stopped for more than two days, the company shall report to the Board of Trade, stating the time during which such stoppage is intended to last, and when the same is re-opened the company shall so report to the Board of Trade.

(4.) A company failing to comply with this section, shall be liable, on summary conviction, to a fine not exceeding five pounds for every day during which their default continues, and any director, manager, and officer of the company who knowingly and wilfully authorises or permits the default shall be liable, on summary conviction, to the like fine.

Byelaws of
canal
companies.

40.—(1.) Every canal company shall, before such date as the Board of Trade may prescribe, forward to the Board of Trade true copies, certified in such manner as the Board of Trade direct, of any byelaws or regulations of such company which are in force at the commencement of this Act; and the byelaws of any canal company, copies of which are not forwarded to the Board of Trade as provided by this section, shall from and after the said day cease to have any operation, save in so far as any penalty may have been already incurred under the same.

(2.) A byelaw or regulation of any canal company hereafter to be made under any power which has before or at the time of the passing of this Act been, or which may hereafter be, conferred on any canal company, shall not have any force or effect until two months after a true copy of such byelaw or regulation, certified in such manner as the Board of Trade direct, has been forwarded to the Board of Trade, unless the Board of Trade before the expiration of such period have signified their approbation thereof.

(3.) The Board of Trade may, at any time after any existing or future byelaws or regulations of a canal company have been forwarded to them, notify to the company their disallowance thereof, or of any of them, and in case such byelaw or regulations are in force at the time of the disallowance, the time at which the said byelaws or regulations shall cease to be in force. A byelaw or regulation disallowed by the Board of Trade shall not after such disallowance have any force or effect whatever, save (as regards any byelaw or regulation which may be in force at the time of the disallowance thereof) in so far as any penalty may have been then already incurred under the same.

(4.) The Board of Trade may from time to time make, rescind, and vary such regulations as they think fit with respect to the publication by canal companies of their byelaws and regulations, and with respect to the publication by canal companies of their intention to apply to the Board of Trade for the allowance of any intended bye-laws and regulations. Any regulations so made which are for the time being in force, shall have effect as if they had been enacted in this Act.

41. Whenever the Board of Trade are, through their officers or otherwise, informed that the works of any canal are in such a condition as to be dangerous to the public, or to cause serious inconvenience or hindrance to traffic, the Board of Trade may direct such officer or other person as they appoint for the purpose to inspect the said canal and report thereon to the Board of Trade, and for the purpose of making any inspection under this section the officer or person appointed for the purpose shall, in relation to the canal or works to be inspected, have all the powers of an inspector appointed under the Regulation of Railways Act, 1871.

Inspection
of canals.

34 & 35 Vict.
c. 78.

42.—(1.) No railway company, or director, or officer of a railway company shall, without express statutory authority, apply or use or authorise or permit the application or use of any part of the company's funds for the purpose of acquiring either in the name of the railway company, or of any director or officer of the railway company, or other person, any canal interest, or of enabling any director or officer of the railway company, or other person, to purchase or acquire any canal interest, or of guaranteeing or repaying to any director or officer of the railway company or other person who has purchased or acquired any canal interest the sums of money expended or liability incurred by such director, officer, or person, in the purchase or acquisition of such canal interest, or any part of such money or liability.

Misapplica-
tion of a
railway
company's
funds for
acquisition
of unauthor-
ised interest
in canal.

(2.) In the event of any contravention of the provisions of this section, the canal interest purchased in such contravention shall be forfeited to the Crown, and the directors or officers of the company who so applied or used, or authorised or permitted such application or use of the company's funds, shall be liable to repay to the company the sums so applied or used and the value of the canal interest so forfeited; and proceedings to compel such repayment may be taken by any shareholder in the company.

(3.) In this section the expression "company's funds" means the corporate funds of any railway company, and includes any funds which are under the control of or administered by a railway company; the expression "officer" includes any person having any control over a company's funds or any part thereof; and the expression "canal interest" means shares in the capital of a canal company, and includes any interest of any kind in a canal company or canal.

43.—(1.) Any canal company may make and enter into contracts and arrangements with any other canal company or canal companies for the passage over and along their respective canals, or any of them, of boats, barges, vessels, and other through traffic, and for the use, by such traffic, of the wharves, landing places, and other works of any such canal, upon payment of such through tolls, rates, and charges, and subject to

Canal com-
panies may
agree for
through
tolls, &c.

such conditions and restrictions as may be agreed upon between such companies; and for the collection and recovery by any one of the companies on behalf of themselves and the other companies interested of the tolls, rates, and charges, payable in respect of such through traffic; and for the division and apportionment of the tolls, rates, and charges; and any such contract may contain provisions for the erection and maintenance of or otherwise for providing warehouses, offices, and other buildings and conveniences, and any other provisions for the purpose of carrying into effect any such arrangement, and any company may apply their funds or moneys for the same purpose.

(2.) Notwithstanding any enactments providing for the charge of equal tolls, rates, and charges, such through tolls, rates, and charges as above mentioned may respectively be computed at a lower toll or rate per mile than the tolls, rates, or charges charged for the passage over and along the same canals of like traffic, not being through traffic, without necessitating or occasioning any reduction of the last-mentioned tolls, rates, or charges.

(3.) Any like contracts and arrangements existing at the passing of this Act shall be, and from the respective dates of the making thereof shall be deemed to have been, as valid as if the same had been made after the commencement of this Act.

Canal companies may establish clearing system.

44. For the purpose of facilitating through traffic upon canals, any canal companies upon whose canals through tolls, rates, or charges may be in operation, may establish a canal clearing system, on such principles, in such manner, and subject to such regulations as to the admission of other companies to such system, the retirement of members, the appointment of a committee to conduct the business of the system, and of a secretary or other necessary officers, the mode of conducting business, and such other regulations for carrying into effect such system as may from time to time be approved by the Board of Trade in writing under the hand of the secretary or one of the assistant secretaries of that Board; and any company may apply any funds or money belonging to them, for the purpose of establishing or carrying into effect any such system, and the provisions of sections eleven to twenty-six inclusive of the Railway Clearing Act, 1850, shall, *mutatis mutandis*, apply to any canal clearing system when so established.

13 & 14 Vict. c. 33.

Abandonment of canal.

45.—(1.) Where, on the application of a canal company, it appears to the Board of Trade that any canal or part of a canal belonging to the applicants (herein-after referred to as an unnecessary canal) is at the time of making the application, unnecessary for the purposes of public navigation, or where, on the application of any local authority, or of three or more owners of lands adjoining or near to any canal or part of a

canal, it appears to the Board of Trade that that canal or part of a canal (herein-after referred to as a derelict canal) has, for at least three years previously to the making of the application been disused for navigation, or, by reason of the default of the proprietors thereof, has become unfit for navigation, or that the lands adjoining or near thereto have suffered injury by water that has escaped from the derelict canal, and that the proprietors of the derelict canal decline or are unable to effect the repairs necessary to prevent further injury, the Board of Trade may by warrant signed by the secretary authorise the abandonment by the existing proprietors of such unnecessary canal or such derelict canal, and after the granting of the warrant, and the due publication as required by the Board of Trade of a notice of the granting thereof, the Board of Trade may make an order releasing the canal company or other the proprietors of the unnecessary or derelict canal from all liability to maintain the same canal, and from all statutory and other obligations in respect thereof, or of or consequent on the abandonment thereof.

(2.) In the case of an unnecessary canal no warrant of abandonment shall be granted unless the Board of Trade are satisfied—

- (a.) That it is unnecessary for the purposes of public navigation;
- (b.) That the application has been expressly authorised by a resolution of a majority of the shareholders of the canal company owning the canal present, and voting at an extraordinary or special general meeting of that company;
- (c.) That such public and other notices of the application have been given as the Board of Trade may require;
- (d.) That compensation (the amount thereof to be determined in case of difference as the Board of Trade may prescribe) has been made to all persons entitled to compensation by reason of the proposed abandonment of the canal.

(3.) In the case of a derelict canal the warrant may be granted on the condition that the canal or any part thereof, with all or any of the powers relating thereto, be transferred to any person, body of persons, or local authority, and where any such person, body of persons, or local authority, and where any such condition is imposed, the Board of Trade may, if they think fit, frame and embody in a Provisional Order a scheme for the management of the canal or any part thereof.

(4.) The Provisional Order may provide for the constitution of a body to manage the canal or any part thereof, for the transfer to that body or any local authority of the canal or any part thereof, and of all or any of the powers relating

thereto, for the limitation or discharge of any liabilities affecting the canal or the owners thereof for the time being, and for any other matters which may appear to the Board of Trade to be necessary or proper for carrying this section into effect.

(5.) The Board of Trade may submit to Parliament, for confirmation any Provisional Order made by it in pursuance of this section, but any such order shall be of no force unless and until it is confirmed by Act of Parliament.

(6.) If, while the Bill confirming any such order is pending in either House of Parliament, a petition is presented against any order comprised therein, the Bill, so far as it relates to the order, may be referred to a select committee, and the petitioner shall be allowed to appear and oppose as in the case of private Bills.

(7.) In this section the expression "local authority" means any one of the local authorities mentioned in section seven of this Act.

(8.) For the purpose of giving effect to the provisions of this section, the Board of Trade may require the applicants to furnish any evidence in their possession or under their control relative to the application, and may at the expense of the applicants appoint and send an officer to inspect the canal referred to in the application, and to obtain information and evidence in the neighbourhood thereof relative to the proposed abandonment, and may from time to time make regulations as to the mode of making applications, and the nature and mode of publication of notices, and generally as to the conduct of proceedings.

Definition of
"canal com-
pany."

46. In this part of this Act the expression "canal company" shall include a "railway and canal company," so far as relating to any canal of any such last-mentioned company.

PART IV.—MISCELLANEOUS.

Perpetua-
tion of
36 & 37 Vict.
c. 48.

47. So much of the Regulation of Railway Act, 1873, as limits the time during which that Act shall continue in force shall, save so far as it relates to the appointment of the Commission, be repealed, and the said Act, save as aforesaid, shall be perpetual.

Evidence on
rating
appeals.

48. On any rating appeal, and before any court, where it may be material to show the receipts or profits of a railway company or canal company, or railway and canal company, it shall be lawful for the company to prove the same by written statements or returns verified by the affidavit or statutory declaration of the manager or other responsible officer, and any such statement or returns shall be *primâ facie* evidence of the facts therein stated with respect to such receipts or

profits: Provided that the person by whom any such affidavit or statutory declaration is made shall in every case, if required, attend to be cross-examined thereon.

49. Every penalty recoverable on summary conviction under this Act may be prosecuted and recovered in the manner directed by the Summary Jurisdiction Acts before a court of summary jurisdiction.

Recovery and application or penalties.

50. In any proceedings under this Act any party may appear before the Commissioners either by himself in person or by counsel or solicitor.

Parties may appear in person or by counsel, &c.

51. Any person who shall be certified by the Chairman of Committees of the House of Lords or the Speaker of the House of Commons to have practised for two years before the passing of this Act in promoting or opposing Bills in Parliament shall be entitled to practise in any proceedings under this Act as an attorney or agent before the Commissioners: Provided that every such person so practising as aforesaid shall, in respect of such practice and everything relating thereto, be subject to the jurisdiction and orders of the Commissioners, and further provided that no such person shall practise as aforesaid until his name shall have been entered in a roll to be made and kept, and which is hereby authorised to be made and kept, by the Commissioners.

Parliamentary agents entitled to practise before Commissioners.

52. The powers and jurisdiction conferred by this Act on the Commissioners or Board of Trade shall be in addition to and not in substitution for any powers and jurisdiction vested in the Commissioners or Board of Trade by any statute.

Saving of powers conferred on Commissioners and Board of Trade.

53.—(1.) All documents purporting to be rules, orders, or certificates made or issued by the Board of Trade, and to be sealed with the seal of the Board, or to be signed by a secretary or assistant secretary of the Board, or any person authorised in that behalf by the President of the Board, shall be received in evidence, and deemed to be such orders, rules, or certificates without further proof, unless the contrary is shown.

Proceedings of Board of Trade.

(2.) A certificate signed by the President of the Board of Trade that any order made, certificate issued or act done, is the order, certificate, or act of the Board of Trade, shall be conclusive evidence of the fact so certified.

54.—(1.) Where any local authority having power under this Act to make or oppose any complaint to the Commissioners, or the Board of Trade, or to enter into any agreement to pay the whole or a portion of the expenses of complying with an order of the Commissioners or the Board of Trade, or to make any application for the abandonment or acquisition of a canal under this Act, incur any expenses in or incidental to such

Expenses of local authorities.

complaint, opposition, agreement, or application, such expenses may be defrayed out of the rates or funds out of which the expenses incurred by such authority in the execution of their ordinary duties are defrayed, and if such authority is a rural sanitary authority in England, shall be defrayed as general expenses, unless the Local Government Board direct that they shall be defrayed as special expenses.

(2.) A local authority may enter into any contract involving the payment by themselves and their successors of any expenses authorised by this section to be defrayed.

(3.) Where any such local authority have no power to borrow money for the purpose of defraying any expenses authorised by this section, such authority, if other than a surveyor of highways, may, with the consent of the Board of Trade in the case of any harbour board or conservancy authority, and with the consent of the Local Government Board in the case of any other authority, borrow money in manner provided by the Local Loans Act, 1875, on the security of the rates or funds out of which the expenses are authorised to be defrayed, and the prescribed period for the loan shall be such period as the Board giving such consent may approve.

38 & 39 Vict.
c. 83.

(4.) On the request of any board whose consent is required for such loan, the Board of Trade or Commissioners shall certify such particulars respecting the amount of the said expenses and the propriety of incurring the same and of borrowing for the payment thereof as may be requested by such board.

(5.) In Ireland, any authority borrowing in pursuance of this section may borrow in manner provided by the Public Health (Ireland) Act, 1878, in like manner as if the provisions of that Act with respect to borrowing were re-enacted in this section, and in terms made applicable thereto.

41 & 42 Vict.
c. 52.

Definitions.

55. In this Act, unless the context otherwise requires,—

Terms defined by the Regulation of Railways Act, 1873, have the meanings thereby assigned to them :

The term “conservancy authority” means any persons who are otherwise than for private profit intrusted with the duty or invested with the power of conserving, maintaining, or improving the navigation of any tidal or inland water or navigation :

The term “harbour board” means any persons who are otherwise than for private profit intrusted with the duty or invested with the power of constructing, improving, managing, regulating, and maintaining a harbour, whether natural or artificial, or any dock :

The term “Lord Chancellor” means the Lord High Chancellor of Great Britain :

The term "undue preference" includes an undue preference, or an undue or unreasonable prejudice or disadvantage, in any respect, in favour of or against any person or particular class of persons or any particular description of traffic :

The term "terminal charges" includes charges in respect of stations, sidings, wharves, depôts, warehouses, cranes, and other similar matters, and of any services rendered thereat :

The term "merchandise" includes goods, cattle, live stock, and animals of all descriptions :

The term "trader" includes any person sending, receiving, or desiring to send merchandise by railway or canal :

The term "home," in relation to merchandise, includes the United Kingdom, the Channel Islands, and the Isle of Man :

The term "rating appeal" means an appeal against any valuation list or against any poor rate or any other local rate :

The term "Summary Jurisdiction Acts" in Scotland means the Summary Procedure Act, 1864, the Summary Jurisdiction (Process) Act, 1881, and any Act or Acts, amending the same; and in Ireland, within the police district of Dublin metropolis, the Acts regulating the powers and duties of justices of the peace for such district, or of the police of such district, and elsewhere, the Petty Sessions (Ireland) Act, 1851, and any Act amending the same : 27 & 28 Vict. c. 53. 44 & 45 Vict. c. 24. 14 & 15 Vict. c. 93.

The terms "superior court" means, as regards England, the High Court of Justice, as regards Scotland, the Court of Session, and as regards Ireland, the High Court of Justice :

The term "superior court of appeal" means, as regards England, Her Majesty's Court of Appeal; as regards Scotland, the Court of Session in either division of the Inner House; and as regards Ireland, Her Majesty's Court of Appeal :

The term "rules of court" means, as regards Scotland, acts of sederunt.

In the application of this Act to Ireland, the expression "council of a borough," includes town or township commissioners, and any reference to justices in quarter sessions shall be construed to refer to a grand jury; and any reference to the Local Government Board or to an urban or rural sanitary authority, shall be construed to refer to the Local Government Board for Ireland, and to an urban or rural sanitary authority in Ireland.

56. This Act shall come into operation on the first day of January one thousand eight hundred and eighty-nine, which day is in this Act referred to as the commencement of this Act: Commencement of Act. Provided that at any time after the passing of this Act any

appointment and rules may be made, and other things done for the purpose of bringing this Act into operation at such commencement.

Pending
business.
36 & 37 Vict.
c. 48.

57. Subject to general rules to be made under this Act, all proceedings which, at the commencement of this Act, under the Regulation of Railways Act, 1873, and Acts amending it, or under any other Acts, are pending before the Railway Commissioners, shall be transferred to the Railway and Canal Commission under this Act, and may thereupon be continued and concluded in all respects as if such proceedings had been originally instituted before that Commission.

Transfer of
pending
business
from
superior
courts.

58. Every action or proceeding which might have been brought before the Railway Commissioners if this Act had been in force at the time when such action or proceeding was begun, and is at the commencement of this Act pending before any superior court, may, upon the application of either party, be transferred by any judge of such superior court to the Railway and Canal Commissioners under this Act, and may thereupon be continued and concluded in all respects as if such action or proceeding had been originally instituted before that Commission: Provided that no such transfer, nor anything herein contained, shall vary or affect the rights or liabilities of any party to such action or proceeding.

Repeal.

59.—(1.) The enactments mentioned in the schedule to this Act are hereby repealed to the extent therein specified.

(2.) The repeal effected by this Act shall not affect—

- (a.) Anything done or suffered before the commencement of this Act under any enactment repealed by this Act, or the expiration of any office which would otherwise have expired by virtue of any enactment repealed by this Act; nor
- (b.) Any right or privilege acquired, or duty imposed, or liability or disqualification incurred, under any enactment so repealed; nor
- (c.) Any fine, forfeiture, or other punishment incurred or to be incurred in respect of any offence committed or to be committed against any enactment so repealed; nor
- (d.) The institution or continuance of any proceeding or other remedy, whether under any enactment so repealed, or otherwise, for ascertaining or enforcing any such liability or disqualification, or enforcing or recovering any such fine, forfeiture, or punishment as aforesaid.

SCHEDULE.

ACTS REPEALED.

NOTE.—A description or citation in this schedule of a portion of an Act is inclusive of the words, section, or other part first and last mentioned, or otherwise referred to as forming the beginning or as forming the end of the portion described in the description or citation. Section 59.

Session and Chapter of Act.	Short Title.	Extent of Repeal.
17 & 18 Vict. c. 31 ...	The Railway and Canal Traffic Act, 1854.	Section four and section five.
31 & 32 Vict. c. 119 ...	The Regulation of Railways Act, 1868.	Section sixteen, paragraph two, from "The Provisions of," to the end of the section.
36 & 37 Vict. c. 48 ...	The Regulation of Railways Act, 1873.	Section three, from "The term 'superior court'" to the end of the section, section four, section eleven, section twelve, section thirteen, section twenty-one, section twenty-two, section twenty-three, section twenty-four, section twenty-five, section twenty-six from the words "The Commissioners may review" to the end of the section, section twenty-eight, section twenty-nine, section thirty-four, and section thirty-seven.
37 & 38 Vict. c. 40 ...	The Board of Trade Arbitrations, &c., Act, 1874.	Section eight from "and shall continue in force" to "expiration."



[56 & 57 VICT. CAP. 38.]

AN ACT to make further provisions for the Conveyance of Her Majesty's Mails. [24th August 1893.]

Be it enacted, &c., &c., as follows:

Differences as to remuneration for conveyance of mails. 45 & 46 Vict. c. 74.

1. Where under any Act relating to the conveyance of mails or under the Post Office (Parcels) Act, 1882, it is provided that any matter of difference relating to any remuneration or compensation to be paid by the Postmaster-General to any railway company shall be referred to arbitration, that matter of difference shall at the instance of any party thereto be referred to the Railway and Canal Commission instead of to arbitration, and that Commission shall determine the same, and this provision shall apply to any matter of difference referred to in section eight of the Post Office (Parcels) Act, 1882, where such railway companies are therein mentioned, or any company or person owning a steam vessel, are or is one party to the arbitration in like manner as it applies to a difference where a single railway company is a party to the arbitration.

Carriage of mails on tramways.

2.—(1.) Every tramway company, that is to say, every company, body, or person owning or working any tramway authorised by any Act passed after the first day of January one thousand eight hundred and ninety-three, shall if required by the Postmaster-General, perform with respect to any tramway owned or worked by the company all such reasonable services in regard to the conveyance of mails as the Postmaster-General from time to time requires: Provided as follows:—

(a.) Nothing in this section shall authorise the Postmaster-General to require mails in excess of the following weights to be carried in or upon any carriage, that is to say:—

(i.) If the carriage is conveying or intended to convey passengers, and not goods or parcels, then in excess of the maximum weight for the time being fixed for the luggage of ordinary passengers; and

(ii.) If the carriage is conveying or intended to convey parcels only, then in excess of such maximum weight as is for the time being fixed for ordinary parcels, or if that maximum appears to the Post-

master-General to be so low as to exclude him from availing himself of the use of any such carriage, then as is for the time being fixed by agreement, or in default of agreement by the Railway and Canal Commission.

(iii.) If the carriage is conveying or intended to convey both parcels and passengers but not goods, then in excess of the maximum weight for the time being fixed for ordinary parcels, or for the luggage of ordinary passengers, whichever is the greater.

(b.) Mails when carried in or upon a carriage conveying passengers shall be so carried as not to inconvenience the passengers, but so nevertheless that the custody of the mails by any officer of the Post Office in charge thereof shall not be interfered with.

(c.) Nothing in this section shall authorise the Postmaster-General to require any mails to be carried in or upon a carriage conveying or intended to convey passengers but not goods or parcels, except in charge of an officer of the Post Office travelling as a passenger.

(d.) If goods as well as passengers and parcels are carried on the tramway the enactments relating to the conveyance of mails by railway shall, subject to the provisions of this section, apply in like manner as if the tramway company were a railway company, and the tramway were a railway.

(2.) The remuneration for any services performed in pursuance of this section shall be such as may be from time to time determined by agreement between the Postmaster-General and the tramway company, or, in default of agreement by the Railway and Canal Commission, and this provision shall have effect in lieu of any provisions respecting remuneration contained in the enactments relating to the conveyance of mails by railway which are applied by this section.

(3.) For the purpose of this section a requisition by the Postmaster-General may be signified by writing under the hand of any person who is at the time either Postmaster-General or a Secretary or Assistant Secretary of the Post Office, or the Inspector-General of Mails; and any document purporting to be signed by any such person as aforesaid shall, until the contrary is proved, be deemed, without proof of the official character of such person, to have been duly signed as required by this section.

3. Every tramroad authorised by any Act passed after the first day of January one thousand eight hundred and ninety-three shall, for the purposes of the conveyance of mails, be deemed to be a railway, and the enactments relating to the conveyance of mails by railway shall, subject to the provisions

Carriage of
mails on
tramroads.

of this Act, apply to every such tramroad and to the company, body, or person owning or working the same as if the tramroad were a railway, and the company, body, or person were a railway company.

Determina-
tion of
differences.

4. Notwithstanding anything in the Railway and Canal Traffic Act, 1888, any matter of difference directed to be determined by the Railway and Canal Commission under this Act may in the discretion of the Commission be heard and determined by the two appointed Commissioners, whose order shall be deemed to be the order of the Commission, and subject to this provision all proceedings relating to any such matter of difference shall be conducted by the Commission in the same manner as any other proceeding is conducted by them under the Railway and Canal Traffic Acts, 1873 and 1888, or any Act amending the same, and any order of the Commission upon any such difference shall be enforceable as any other order of the Commission.

5.—(1.) In this Act—

Definitions.
36 & 37 Vict.
c. 48.
45 & 46 Vict.
c. 74.

The expression “mails” has the same meaning as in the Regulation of Railway Act, 1873, and includes parcels within the meaning of the Post Office (Parcels) Act, 1882:

27 & 28 Vict.
c. 121.

The expression “Act” means any Act of Parliament whether public, general, local and personal, or private, and includes any order confirmed by any such Act, and a certificate granted by the Board of Trade under the Railways Construction Facilities Act, 1864, and an Order in Council made by the Lord Lieutenant of Ireland under the Tramways (Ireland) Acts, 1860 to 1891, or the Railways (Ireland) Act, 1890:

53 & 54 Vict.
c. 52.

The expression “tramway” means a tramway authorised by an Act to be constructed wholly along public roads or streets without any deviation therefrom:

The expression “tramroad” means any tramroad or tramway which is not a tramway as herein-before defined, and includes a tramway or a light railway constructed under the Tramways (Ireland) Acts, 1860 to 1891, or the Railways (Ireland) Act, 1890.

(2.) A railway, tramway, or tramroad, shall be deemed to be authorised by an Act passed after the first day of January one thousand eight hundred and ninety-three, where the construction of the railway, tramway, or tramroad is first authorised, or where the time for its construction is extended, by an Act passed after the date aforesaid.

Short title.

6. This Act may be cited as the Conveyance of Mails Act, 1893.



[57 & 58 VICT. CAP. 54.]

AN Act to Amend the Railway and Canal Traffic Act, 1888.
[25th August 1894.]

Be it enacted, &c., &c., as follows:—

1.—(1.) Where a railway company have, either alone or jointly with any other railway company or companies, since the last day of December one thousand eight hundred and ninety-two directly or indirectly increased, or hereafter increase directly or indirectly, any rate or charge, then if any complaint is made that the rate or charge is unreasonable, it shall lie on the company to prove that the increase of the rate or charge is reasonable, and for that purpose it shall not be sufficient to show that the rate or charge is within any limit fixed by an Act of Parliament or by any Provisional Order confirmed by Act of Parliament.

Complaints
as to rates
or charges
raised since
1892.

(2.) Under and subject to any regulations which may be made by the Board of Trade, every railway company shall keep the books, schedules, or other papers, specifying all the rates, charges, and conditions of transport in use upon such railway on the thirty-first day of December one thousand eight hundred and ninety-two, open for inspection at its head office, and shall upon demand supply copies of or extracts from such books, schedules, and papers.

(3.) The Railway and Canal Commissioners shall have jurisdiction to hear and determine any complaint with respect to any such increase of rate or charge, but not until a complaint with respect hereto has been made to and considered by the Board of Trade under section thirty-two of the Railway and Canal Traffic Act, 1888.

(4.) Unless the court shall before or at the hearing of the complaint otherwise order, a complainant to the Railway and Canal Commissioners under this section shall, before or within fourteen days after filing his complaint, pay to the railway company such sum in respect of any rate or charge complained of as would have been payable by him to them had the rate or charge in force immediately before the increase remained in force; or if that rate or charge is higher than the rate or charge in force on the last day of December one thousand eight hun-

51 & 52 Vict.
c. 25.

dred and ninety-two, then such sum as would have been payable on the footing of the last-mentioned rate or charge; any dispute as to the amount so payable shall be decided by the registrar, or in such other mode as the court may order, but such payment or decision shall be without prejudice to any order of the court upon the complaint.

51 & 52 Vict.
c. 25.

(5.) Section twelve of the Railway and Canal Traffic Act, 1888, shall apply in the case of any such complaint, and in the case of any rate or charge increased before the passing of this Act shall have effect as if six months after the passing of this Act were substituted for the limit of one year therein mentioned, but the Board of Trade may, if they think fit, extend the said period of six months with respect to any complaints made to them during that period.

Restrictions
on power to
award costs.

2. In proceedings before the Railway and Canal Commissioners, other than disputes between two or more companies, the Commissioners shall not have power to award costs on either side, unless they are of opinion that either the claim or the defence has been frivolous and vexatious.

Amendment
of 36 & 37
Vict. c. 48,
s. 14 as to
division of
rates.

3. The provisions of section fourteen of the Regulation of Railways Act, 1873, with respect to the power to make orders and failure to comply with such orders, shall extend to any rates entered in books kept in pursuance of section thirty-four of the Railway and Canal Traffic Act, 1888.

Rebate on
sidings rates.

4. Whenever merchandise is received or delivered by a railway company at any siding or branch railway not belonging to the company, and a dispute arises between the railway company and the consignor or consignee or such merchandise as to any allowance or rebate to be made from the rates charged to such consignor or consignee in respect that the railway does not provide station accommodation or perform terminal services, the Railway and Canal Commissioners shall have jurisdiction to hear and determine such dispute, and to determine what, if any, is a reasonable and just allowance or rebate.

Short title.

5. This Act may be cited as the Railway and Canal Traffic Act, 1894, and shall be read with the Railway and Canal Traffic Acts, 1873 to 1888.



[60 & 61 VICT. CAP. 56.]

AN Act to amend the Law respecting the Metropolitan Water Companies. [6th August 1897.]

Be it enacted, &c., &c., as follows:—

1.—(1.) Any water consumer or any local authority may complain to the Railway and Canal Commission that any of the metropolitan water companies has failed to perform some statutory duty of the company, and the Commission may hear and determine that complaint, and if satisfied of such failure order the company within the time limited by the order to fulfil the duty, and may, if they think fit, by any such order, impose any penalty for such failure which can be imposed under any Act, and enforce any such order in like manner as any other order of the Commission.

Complaint may be made to railway and canal commission.

(2.) If at any time complaint as to the quantity or quality of the water supplied by any of the metropolitan water companies for domestic use is made to the Railway and Canal Commission, by any water consumer or local authority, the Commission may hear and determine such complaint, and if satisfied that the complaint is well founded, may order the company, within such reasonable time as is specified in the order, to remove the ground of such complaint, and may enforce such order in like manner as any other order of the Commission, and may award damages to the complainant.

(3.) All enactments relating to the Railway and Canal Commission (except section two of the Railway and Canal Traffic Act, 1894, which restricts the power to award costs) shall, with the necessary modification, apply to the Railway and Canal Commission for the purpose of their jurisdiction under this Act.

57 & 58 Vict. c. 54.

(4.) This Act shall be in addition to and not in substitution for any existing proceedings or remedy.

2. A local authority may aid any water consumer in obtaining the determination of any question which appears to the local authority to be of interest to water consumers within the district of such local authority with respect to the rights, duties, and liabilities of any of the metropolitan water companies in reference to the quantity or quality of water supplied or the charges made by them. A local authority aiding any legal proceedings under this section may, if the

Power of local authorities to aid water consumers.

court think fit, be made a party to the proceedings, and shall be liable for costs accordingly.

Extension to whole water area, and adaptation of Metropolitan Water Acts.
15 & 16 Vict. c. 84.
34 & 35 Vict. c. 113.

3. The Metropolitan Water Act, 1852, and the Metropolitan Water Act, 1871, shall, as respects the metropolitan water companies, extend to the whole of the area within which any of the companies is for the time being authorised to supply water, and for the purpose of the said Acts as so extended reference to that area shall be substituted for references to "the metropolis" and "the limits of this Act," and as respects any area outside the administrative county of London a reference to the council of a county or county borough shall be substituted for a reference to the metropolitan authority, and so much of the said Acts or of any local Act as is inconsistent with such substitution shall be and is hereby repealed.

Return of proceedings taken.

4. The Railway Commissioners shall include in their annual report a return of all proceedings taken before them under this Act.

Definitions.

5. In this Act, unless the context otherwise requires,—

34 & 35 Vict. c. 113.

The expression "metropolitan water companies" means the water companies specified in section three of the Metropolitan Water Act, 1871, namely; the New River Company, the East London Waterworks Company, the Southwark and Vauxhall Water Company, the Company of Proprietors of the West Middlesex Waterworks, the Company of Proprietors of Lambeth Waterworks, the Governor and Company of Chelsea Waterworks, the Grand Junction Waterworks Company, and the Company of Proprietors of the Kent Waterworks:

The expression "water consumer" means any person who is supplied with water by any of the metropolitan water companies, or who pays or is liable to pay any money charged by any of those companies for or in respect of the supply of water, whether under the name of rent, rate, or otherwise, and includes any householder or owner or occupier of a house entitled to make a communication with the mains or pipes of any of those companies: Provided that nothing in this Act shall affect the terms of any agreement existing at the time of the passing of this Act between a water company and a water consumer as to the supply of water:

The expression "local authority" means the council of any county, borough, or district, the mayor, aldermen, and commonalty of the city of London, and any vestry, district board, or local board of health in the county of London.

Short title and commencement.

6.—(1.) This Act may be cited as the Metropolitan Water Act, 1897.

(2.) This Act shall come into operation on the first day of September next after the passing thereof.



[4 EDW. 7, CAP. 19.]

AN Act to amend the Law relating to Private Sidings on Railways. [15th August 1904.]

Be it enacted, &c., &c., as follows:—

1. This Act may be cited as the Railways- (Private Sidings) Act, 1904. Short title.

2. The reasonable facilities which every railway company is required to afford under section two of the Railway and Canal Traffic Act, 1854, as amended or explained by any other Act, shall include reasonable facilities for the junction of private sidings or private branch railways with any railway belonging to or worked by any such company, and reasonable facilities for receiving, forwarding, and delivering traffic upon and from those sidings or private branch railways. Facilities with respect to private sidings. 17 & 18 Vict. c. 31.

3. The Railway and Canal Commissioners may at any time review and rescind or vary any order made by them under this Act on the application of any party to the order, but, before such an application is entertained by the Commissioners, the applicant shall show to the Commissioners, in manner provided by rules to be made for the purpose under section twenty of the Railway and Canal Traffic Act, 1888, that there is a *prima facie* case for the application. Provisions as to order under the Act. 51 & 52 Vict. c. 25.

RULES.

RAILWAY AND CANAL COMMISSION RULES, 1889,

AND

SCHEDULE OF FORMS

MADE IN PURSUANCE OF

THE RAILWAY AND CANAL TRAFFIC ACT, 1888.

[51 & 52 VICT. c. 25.]

GENERAL RULES made by the Commissioners established under the Statute 51 & 52 Vict. c. 25, intituled "An Act for the better Regulation of Railway and Canal Traffic and for other purposes," for regulating the procedure and practice before them.

Interpretation.

Interpreta-
tion of
terms.

1. In the construction of these rules and the forms herein referred to, words importing the singular number shall include the plural, and words importing the plural number shall include the singular number, and the following terms shall (if not inconsistent with the context or subject matter) have the respective meanings herein-after assigned to them; that is to say "application" shall include complaint under the Railway and Canal Traffic Act, 1854, and the Railway and Canal Traffic Acts, 1873 and 1888; "applicant" shall include all persons or authorities authorised to make any application or complaint to the Commissioners: "defendant" shall mean the persons or company against whom the application or complaint is made, or any persons or authorities who may appear in opposition to such application or complaint; "solicitor" shall include any person entitled under section 51 of the Railway and Canal Traffic Act, 1888, to practise as an attorney or agent in proceedings before the Commissioners; and terms defined by the Railway and Canal Traffic Acts, 1873 and 1888, shall, unless there be something repugnant thereto in the context, have, in these Rules, the same meanings that are assigned to them by those Acts,

Application or Complaint to the Commissioners.

2. Every proceeding before the Commissioners, except proceedings under section 14 of the regulation of Railways Act, 1873, and sections 33 and 34 of the Railway and Canal Traffic Act, 1888, and applications under rules 53 and 54 of these rules, shall be commenced by an application made to them, which shall be in writing, or printed, and signed by the applicant or his solicitor, or in the case of a company or any of the authorities mentioned in section 7 of the Railway and Canal Traffic Act, 1888, being applicants, the application shall be signed by their chairman, manager, secretary, or solicitor. It shall contain a clear and concise statement of the facts, the grounds of application, and the relief or remedy to which the applicant claims to be entitled. It shall be divided into paragraphs numbered consecutively. It shall be indorsed with the name and address of the applicant, and if there be a solicitor acting for him in the matter, with the name and address of such solicitor, and if he be an agent for another solicitor in the matter, then also the name and address of such other solicitor. The application shall be according to Form No. 1 in the First Schedule hereto, or to the like effect.

Proceedings how commenced, and form of application generally.

3. Every application made to the Commissioners under section 6 of the Regulation of Railways Act, 1873, or section 9 of the Railway and Canal Traffic Act, 1888, shall be for an order enjoining the company complained of to do or to desist from doing the acts therein specified.

4. Every application made to the Commissioners under section 8 of the Regulation of Railways Act, 1873, shall be for an order determining the difference referred to them (with their consent) in lieu of being referred to arbitration, such consent to be signified by sealing the indorsement on such application; which indorsement shall be according to Form No. 3 in the First Schedule hereto. The applicant shall state whether or not it is a case in which any arbitrator has in any general or special Act been designated by his name or by the name of his office, or in which a standing arbitrator has been appointed under any general or special Act.

5. Every application made to the Commissioners under section 9 of the Regulation of Railways Act, 1873, shall be signed by all the parties to the difference, or their solicitors, and shall be for an order determining the difference referred to the Commissioners (with their consent). The consent of the Commissioners shall be signified as aforesaid.

6. Every application made to the Commissioners under section 10, sub-section 1, of the Regulation of Railways Act, 1873, shall be for the approval by the Commissioners of any working agreement between railway companies, whereof they desire to have the Commissioners' approval, or shall be for the

exercise of any other powers (to be specified in the said application) transferred by the said sub-section to the Commissioners with respect to the approval of working agreements.*

7. Every application made to the Commissioners under section 25, sub-section 4, of the Railway and Canal Traffic Act, 1888, shall be for an order allowing the through rate or route, or through rate and route proposed by the applicant and objected to by the forwarding company or companies.

8. Every application made to the Commissioners under section 25, sub-sections 6 and 7, of the Railway and Canal Traffic Act, 1888, shall be for an order allowing or determining (as the case may be) the apportionment of the through rate objected to by the forwarding company or companies.

9. Every application made to the Commissioners under section 14 of the Regulation of Railways Act, 1873, and under sections 33 and 34 of the Railway and Canal Traffic Act, 1888, may be by summons, and shall be for an order upon the company against whom the application is made to keep at the stations, wharves, or ports named in such summons a book or books of rates and distances, and other particulars required by those sections or either of them, or for an order allowing inspection of certain books, or for an order to distinguish in the book or books in such summons mentioned how much of the rate in respect whereof the application is made is for the conveyance of the particular description of traffic therein named on the railway or canal in question, including therein tolls for the use of the railway or canal, for use of carriages or vessels, or for locomotive or other tractive power, and how much is for other expenses, specifying the nature and detail of such other expenses. The applicant in such last-mentioned case shall file an affidavit at the time of taking out such summons stating that he is interested in the matter, and showing how he is interested therein.

10. Every application made to the Commissioners under section 15 of the Regulation of Railways Act, 1873, or under section 37 of the Railway and Canal Traffic Act, 1888, shall be for them to hear and determine the question or dispute therein mentioned with respect to the terminal charges of the company against whom the application is made, and to decide what is a reasonable sum to be paid to such company in respect of such terminal charges.

11. Every application made to the Commissioners under section 16 of the Regulation of Railways Act, 1873, shall be for them to sanction the agreement therein mentioned, such

* The public notice required to be given by the railway companies should be according to Form No. 9 of Schedule I., and the Commissioners' directions prescribing the steps to be taken to obtain their approval of working agreements are set out in Schedule IV.

sanction to be signified by certificate under their seal. Before the companies enter into such agreement, notice of their intention to do so shall be given by them, or one of them, by advertisement to be inserted once at least in each of three successive weeks in some newspaper published or circulating in the county or counties in which the canal to which the proposed agreement relates or some portion of such canal is situate. Such notice shall be according to Form No. 8 in the First Schedule hereto.

12. Every application made to the Commissioners under section 17 of the Regulation of Railways Act, 1873, shall be for an order upon the railway company against whom the application is made, restraining them from permitting and suffering the canal therein mentioned, or parts thereof, or works belonging thereto, to remain unrepaired, or in want of dredging, or not in good working condition, or without proper supplies of water thereto; and also enjoining them to keep and maintain the said canal or such parts thereof, or such works thereto belonging, thoroughly repaired or dredged or in good working condition, or to preserve the supplies of water to the same. The application in such case shall specify the obstruction, want of repair, or other defect sought to be remedied, and show in what part of the canal or works such obstruction, want of repair, or other defect exists.

13. Every application made to the Commissioners under section 10 of the Railway and Canal Traffic Act, 1888, shall be for them to hear and determine the question or dispute therein mentioned with respect to the legality of any toll, rate, or charge or portion of a toll, rate, or charge charged or sought to be charged by any company for merchandise traffic. The parties may concur in stating such question or dispute in the form of a joint application without further pleadings.

14. Every application by a company under section 29, subsection 3, of the Railway and Canal Traffic Act, 1888, shall be for an order determining whether the group rate, or the rate as to which there is a doubt, is or is not a contravention of section 2 of the Railway and Canal Traffic Act, 1854, and in any such application the company applying shall state the nature of the doubt considered to exist.

Where such an application is in respect of a group rate it shall specify, in addition to the amount of the rate, the names of the places grouped together, and such distances as may be material for the purposes of the application.

The company making the application for such order shall give one month's public notice of their intention to apply to the Commissioners under this section by advertisement in at least one London daily newspaper and in one newspaper in general circulation in the district or districts within which the group is comprehended; such advertisements shall in each case be inserted in each of three successive weeks, at intervals

of not less than a week, in each of the newspapers in which they appear. In such notice full particulars shall be given of the group rate, or the rate or rates as to which the Commissioners' determination is to be asked.

15. Every application to the Commissioners under section 38, sub-section 1, of the Railway and Canal Traffic Act, 1888, shall be for an order on the railway company or on the directors or officers of the railway company or on any person acting on their behalf, and having such control or right of interference as mentioned in the said section, requiring the tolls, rates, and charges levied by such railway company, directors, officers, or persons on the traffic of, or for the conveyance of merchandise on, the canal in respect of which the complaint is made to be altered and adjusted in such manner that the same shall be reasonable as compared with the rates and charges for the conveyance of merchandise on the railway. The applicant shall state in what manner the existing tolls, rates, and charges so levied as aforesaid are calculated to divert traffic from the canal to the railway to the detriment of the canal, or of persons sending traffic over the canal or other canals adjacent to it, and shall state the amount and the particulars of the alteration or reduction proposed.

Differences under sect. 19 of Regulation of Railways Act, 1873, the Board of Trade Arbitrations Act, 1874, and the Telegraph Act, 1878.

16. The procedure in cases under the following Acts shall be in each case, as nearly as may be, the same as that directed to be taken by Rule 4 of these rules in proceedings under the 8th section of the Regulation of Railways Act, 1873.

- (a.) Differences between the Postmaster-General and any company, referred to the Commissioners under the provision of section 19 of the Regulation of Railways Act, 1873.
- (b.) Differences referred to the decision of the Commissioners by the Board of Trade under the provisions of Part 2 of the Board of Trade Arbitrations Act, 1874.
- (c.) Differences required by sections 4 and 5 of the Telegraph Act, 1878, to be referred to the decision of the Commissioners.

Reference under Cheap Trains Act, 1883.

17. When the Board of Trade, under the provisions of section 3 of the Cheap Trains Act, 1883, have referred any matters contained in the said section for the decision of the Commissioners, the railway company or companies concerned shall, on receiving notice from the Commissioners to do so, file an answer within such time as the Commissioners may order to the allegations contained in the order of the Board of Trade referring the matter as aforesaid.

Claim for Damages.

Damages, how claimed.

18. If the applicant, in any matter which the Commissioners have jurisdiction to hear and determine, claims damages from the defendant, he shall in such case state in his application

the amount of damages claimed, and the matter in respect of which such claim is made, and the defendant may before or at the time of delivering his answer, or, by leave of the Commissioners, at any later time, pay into court a sum of money by way of satisfaction, which shall be taken to admit the matter in respect of which the payment is made; or the defendant may, with an answer denying liability, pay money into court. If the defendant, in any matter which the Commissioners have jurisdiction to hear and determine, desire to have all claims for damages in respect of such matter dealt with by the Commissioners, he shall make such claim in his answer, or, by leave of the Commissioners, at any subsequent stage of the proceedings.

The provisions of Rules 2, 3, 4, 5, 6, and 7 of Order 22 of the Rules of the Supreme Court, 1883, and the forms required to be used in such rules shall, *mutatis mutandis*, apply to and be used in all proceedings in this rule provided for.*

Money paid into court in applications made to the Commissioners in English cases shall be paid into the Bank of England (Law Courts Branch), and the manner of payment into and out of Court, and the manner in which money in court shall be dealt with, shall be subject to the regulations contained in the Supreme Court Funds Rules in force for the time being so far as the same are applicable.

Money paid into court on applications made to the Commissioners in Scotch cases shall be paid into one of the incorporated or chartered banks in Scotland.

Money paid into court on application made to the Commissioners in Irish cases shall be paid into the Bank of Ireland.

Filing Application.

19. Every application to which any of the foregoing rules apply shall be indorsed as required by Rule 2 and filed with the Registrar to the Commissioners (herein-after in these rules called "the Registrar") at their office, and except in cases under sections 10 and 16 of the Regulation of Railways Act, 1873, three copies of the application shall also be left with the Registrar. The Registrar shall make out a list of the applications so filed according to the order in which they are received by him, and such list may be inspected at the office during office hours. The applications shall be heard by the Commissioners so far as it may in their judgment be practicable according to the order in which they are so entered upon the list.

Filing application at the Commissioners' office.

Indorsement on Application.

20. In all proceedings (except proceedings under sections 8, 9, 10, and 19 of the Regulation of Railways Act, 1873, and

Indorsement upon application.

* The provisions of the rules and the forms referred to are set in Schedule II.

subject to Rule 22 of these rules) a copy of the application shall be indorsed with a notice to the defendant to put in an answer to the application within fifteen days from the service thereof, and that in default of such answer being put in within the time named, or any extension thereof duly granted, the Commissioners may proceed to hear the said application *ex parte*. Such indorsement shall be according to Form No. 2 in the First Schedule hereto, and shall be sealed by the Registrar with their seal.

Service of Application.

Service of application.

21. A copy of the application indorsed as aforesaid shall in all cases (except under sections 9 and 10 of the Regulation of Railways Act, 1873, and subject to Rule 22 of these rules) be served by leaving the same with the manager, secretary, or chief clerk of the defendant at his principal office in any part of the United Kingdom, or in such manner as the Commissioners by special order may direct, but no such personal service shall be necessary when the defendant's solicitor or agent undertakes in writing to accept service of such copy on his behalf.

Suspension of Proceedings.

Communication by Commissioners to company complained of.

22. If the Commissioners think fit, in pursuance of section 7 of the Regulation of Railways Act, 1873, to communicate an application to the company against whom it is made, so as to afford them an opportunity of making observations thereon before requiring or permitting any formal proceedings to be taken thereon, they shall give notice thereof to the applicant within seven days from the date of the application having been left at their office, and thereupon all formal proceedings thereon shall be suspended until further notice from the Commissioners to the applicant.

Commissioners requiring further information.

23. The Commissioners may also within the said period of seven days, or at any time thereafter, require further information or particulars or documents from the applicant, and may suspend all formal proceedings upon the application until satisfied in this respect.

Inquiries under the Act of 1854.

24. If the Commissioners at any stage of the proceedings think fit to direct inquiries to be made under section 3 of the Railway and Canal Traffic Act, 1854, they shall give notice thereof to the parties to the application, and may stay proceedings, or any part of the proceedings thereon, until further notice from the Commissioners.

Consent Cases.

Parties dispensing with formal proceedings.

25. In all cases the parties may, by consent in writing, dispense with the formal proceedings herein-after mentioned, or some portion of them, and orders by consent may be drawn up, and, if approved of by the Commissioners, may be sealed with their seal.

Answer.

26. Within 15 days from the service of the application, or within such shorter or extended time as may be fixed by the Commissioners, the defendant shall file, with the Registrar, their answer to the application, and leave with him three copies of the same, and the defendant shall, within such time, deliver to the applicant or to his solicitor a signed copy of the answer. The answer shall contain a clear and concise statement of the facts which form the ground of defence, or of any other objections relied upon. It may admit the whole or any part of the facts stated in the application. It shall be divided into paragraphs numbered consecutively, and it shall be signed by the person actually making the same, and who is acquainted with the facts stated therein. It shall be endorsed with the name and address of the defendant, and if there be a solicitor acting for him in the matter, with the name and address of such solicitor, and if he be an agent for another solicitor in the matter, then also with the name and address of such other solicitor. It shall be according to Form No. 4 in the First Schedule hereto, or to the like effect.

Form of
and time for
filing and
delivery.

Reply.

27. Within six days from the delivery of the answer to the applicant, or within such shorter or extended time as may be fixed by any special order of the Commissioners, the applicant shall file his reply (if any) with the Registrar, and leave with him three copies of the same, and shall within such time deliver to the defendant or to his solicitor a copy of the reply. The applicant, in such reply may object to the said answer as being insufficient, stating the grounds of such objection, or deny the facts stated therein, or may admit the whole or any part of such facts. The reply shall be signed by the applicant, his solicitor, or agent, and be according to Form No. 5 in the First Schedule hereto, or to the like effect.

Form of
and time for
filing and
delivery.

Pleadings after Reply by Leave.

28. No pleading subsequent to reply other than a joinder of issue shall be pleaded without leave of the Commissioners.

Pleadings
after reply.

Close of Pleadings by implied Joinder.

29. If the applicant does not deliver a reply, or any party does not deliver any subsequent pleading within the period allowed for that purpose, the pleadings shall be deemed to be closed at the expiration of that period, and all material statements of facts in the pleading last delivered shall be deemed to have been denied and put in issue.

Close of
pleadings on
default.

Power to direct and settle Issues.

Commissioners may direct issues.

30. If it appear to the Commissioners at any time that the statements in the application or answer, or reply, do not sufficiently raise or disclose the issues of fact in dispute between the parties, they may direct them to prepare issues, and such issues shall, if the parties differ, be settled by the Commissioners.

Preliminary Questions of Law.

Commissioners may decide preliminary questions of law.

31. The Commissioners may, by consent of the parties to any proceedings before them, or on the application of either party, order any point of law raised by the pleadings to be set down for hearing and disposed of at any time before the hearing of the application. The argument of such point of law shall take place before not less than three Commissioners, and upon such hearing, if, in the opinion of the Commissioners, the decision of such point of law substantially disposes of the whole application, the Commissioners may order that the argument shall be the hearing of the case, and thereupon may grant and dismiss the application or make such other order therein as may seem to them just.

Preliminary Meeting.

Commissioners may hold preliminary meeting.

32. If it appear to the Commissioners at any time before the hearing of the application that it will be to the advantage of the parties to hold a preliminary meeting for the purpose of fixing or altering the place of hearing, determining the mode of conducting the inquiry, the admitting of certain facts, or the proof of them by affidavit, or for any other purpose, they shall have power to hold such meeting upon giving notice thereof to the parties, and may thereupon make such order as shall seem to them fit under the circumstances.

Preliminary Communication with the Parties.

Commissioners may communicate with parties.

33. The Commissioners may, if they think fit, instead of holding such meeting as in the preceding rule mentioned, communicate with the parties in writing, and may require answers to such inquiries as they may think fit to make.

Interim Injunction.

Commissioners may grant interim injunction.

34. An interim injunction may be moved for at any stage of the proceedings. Such application (except as after provided) shall be made to and be disposed of by the *ex officio* Commissioner for the part of the United Kingdom in which the proceedings (under which the application is made) are depending. Notice of such application shall be given to the parties affected thereby at least two clear days before the application is moved: Provided that in cases of emergency it shall be

competent to the *ex officio* Commissioner to grant the interim injunction sought without previous notice. An application to dissolve any injunction may be made at any time to the *ex officio* Commissioner on two clear days' notice to the party in whose favour the injunction was granted.

Discovery of Documents and Interrogatories.

35. In England and Ireland either party may, without filing any affidavit, apply to the Commissioners for an order to direct the other party to make discovery on oath of the documents which are or have been in his possession or power relating to the matter in question. In Scotland either party may apply to the *ex officio* Commissioner for an order on the other party to produce all documents which are in his possession or power relating to the matter in question, or either party may apply as aforesaid for a diligence to recover all documents, in whose possession they may be, relating to the matter in question. Provided that, in either case, the party making the application shall give to the other party at least three days' notice of his intention to make it, and shall (where a diligence is sought), with such notice, furnish a copy of the specification setting forth the documents for recovery of which a diligence is sought.

Applications
for dis-
covery.

36. In England and Ireland the applicant may, at any time after serving his application, and the defendant may, at or after the time of delivering his answer, by leave of the Commissioners, deliver interrogatories in writing for the examination of the opposite party.

Interroga-
tories.

Interrogatories shall be answered by affidavit to be filed within ten days or within such other time as the Commissioners may allow. The interrogatories may be answered partly by one person and partly by another or others, but in all cases the party answering any part thereof shall state in his answer that the matters stated by him are within his personal knowledge, and if any person interrogated omits to answer or answers insufficiently, the party interrogating may apply to the Commissioners for an order requiring him to answer, or to answer further as the case may be.

No payment into court of a sum of money as deposit shall be required from a party seeking discovery by interrogatories or otherwise.

In Scotland either of the parties may at any time after the service of the application or lodging of the answer respectively, and before any proof has been adduced, present to the *ex officio* Commissioner a statement of facts which he desires to be answered by his opponent, and may move the *ex officio* Commissioner for an order on his opponent to answer the same, with which motion the *ex officio* Commissioner shall deal as

appears just. Notice of such motion (accompanied by a copy of the statement of facts) to be served at least three days before the motion is to be heard.

Production and Inspection of Documents.

Production of documents on oath.

37. It shall be lawful for the Commissioners, at any time during the pendency of any matter before them, to order the production by any party thereto, upon oath, of such of the documents in his possession or power relating to any such matter as the Commissioners shall think right; and the Commissioners may deal with such documents, when produced before them, in such manner as shall appear just.

Documents referred to in pleadings.

38. Either party shall be entitled at any time before or at the hearing of the case to give a notice in writing to the other party in whose application or answer or reply reference is made to any document, to produce it for the inspection of the party giving such notice, or of his solicitor, and to permit him to take copies thereof, and any party not complying with such notice shall not afterwards be at liberty to put any such document in evidence on his behalf in such proceeding without the leave of the Commissioners, unless he satisfy the Commissioners that he has sufficient cause for not complying with such notice.

Notice to produce.

Notice to produce.

39. Either party may give to the other a notice in writing to produce such documents as relate to any matters in difference (specifying the said documents), and which are in the possession or control of such other party, and if such notice be not complied with, secondary evidence of the contents of the said documents may be given by or on behalf of the party who gave such notice.

Notice to admit.

Notice to admit.

40. Either party may give to the other party a notice in writing to admit any documents saving all just exceptions, and in case of neglect or refusal to admit after such notice, the costs of proving such documents shall be paid by the party so neglecting or refusing, whatever the result of the application may be, unless at the hearing the Commissioners certify that the refusal to admit was reasonable, and no costs of proving any document shall be allowed unless such notice be given, except where the omission to give the notice is, in the opinion of the taxing officer, a saving of expense.

Notice of Discontinuance.

Notice where application withdrawn or settled.

41. When any application made to the Commissioners has been withdrawn or settled, the applicant shall immediately thereupon give notice thereof to the Registrar.

Witnesses.

42. The attendance of witnesses, with or without documents, shall be enforced by subpoena which may be sued out by either party requiring the attendance of such witness. Such subpoena shall be according to Forms No. 6 or 7 in the First Schedule hereto, and shall be sealed by the Registrar with the seal of the Commission, and may be served in any part of the United Kingdom. The witnesses shall be entitled to the same protection as when subpoenaed or cited to attend a superior court, and the laws and practice in force for the time being relating to witnesses in a superior court shall apply to them in proceedings before the Commissioners. Attendance of witnesses.

Appointing Date of Hearing.

43. The applicant, at the time of filing his reply (if any), or if the defendant make default in putting in his answer, or at any time after the pleadings are closed, may apply to the Registrar to fix a date for the hearing. If the applicant does not within six weeks after the close of the pleadings, or within such extended time as the Commissioners may allow, apply to the Registrar to fix a date for the hearing, the defendant may do so. No such application shall be made without two days' previous notice in writing to the opposite party. If either of the parties fail to appear on the application to fix a day for hearing, notice of the day appointed shall be served within a time to be named by the Registrar. Application to fix date of hearing.

The parties shall leave with the registrar, six days before the day fixed for the hearing, any maps, plans, time-tables, and special Acts, or other documents referred to in the application, answer, reply, or other pleading, or which may be useful in explaining or supporting the same. Depositing maps, plans, &c.

The Hearing.

44. If the applicant does not appear at the time and place appointed for the hearing, the Commissioners may dismiss the application, and if the defendant does not appear at such time and place, and the Commissioners are satisfied that the notice of the hearing was duly served, they may hear and determine the application *ex parte*, and if at any adjournment of the hearing the parties or either of them do not appear, the Commissioners may decide the case in their absence. Power of Commissioners to proceed *ex parte*.

Evidence at the Hearing.

45. The witnesses at the hearing shall be examined *vivâ voce*, but the Commissioners may at any time, and whether before or at the hearing, for sufficient reason, order that any particular facts may be proved by affidavit, or that the affidavit of any witness may be read at the hearing on such conditions as they may think reasonable, or that any witness To be *vivâ voce* except in certain cases, and whether before or at the hearing.

whose attendance ought for some sufficient cause to be dispensed with, be examined by interrogatories or otherwise before a person to be appointed by them for that purpose, provided that when it appears to the Commissioners that the other party *bonâ fide* desires the production of a witness for cross-examination, and that such witness can be produced, an order shall not be made authorising the evidence of such witnesses to be given by affidavit.

Depositions taken before a person authorised to take them may be read at the hearing without calling the deponents unless the Commissioners otherwise order.

Commissioners may require further evidence. Hearing to proceed from day to day.

46. The Commissioners may require further evidence to be taken either *vivâ voce*, or by affidavit, or by deposition taken before a person appointed by them for that purpose.

47. The hearing of the case, when once commenced, shall proceed, so far as in the judgment of the Commissioners may be practicable and convenient, from day to day.

View.

Power of Commissioners to view.

48. In any case in which, in the opinion of the Commissioners, a view is necessary or desirable, it may be had by one or more Commissioners as they may direct.

Judgment of Commissioners.

Judgment of Commissioners.

49. After hearing the case the Commissioners may dismiss the application, or make an order thereon in favour of the defendants, or reserve their decision, or make such other order upon the application as may be warranted by the evidence, and may seem to them just.

May be in writing and sent or delivered to the parties.

50. The Commissioners may give their decision in writing, signed by them, and it may be sent or delivered to the respective parties, and it shall not be necessary to hold a court merely for the purpose of giving such decision.

Taxation of Costs.

Costs, how taxed.

51. Costs shall be taxed upon the order of the Commissioners under which they are payable, and such costs shall, if required, be taxed by the Registrar or such other person as the Commissioners may direct.

Alteration or Rescission of Order.

Alteration or rescission of order.

52. Any application to the Commissioners to review and rescind or vary any decision or order previously made by them, and not being a decision or order upon an interlocutory application, nor under Rule 14 of these rules, shall be made within 28 days after the said decision or order shall have been communicated to the parties unless the Commissioners think fit to enlarge the time for making such application.

Any application to the Commissioners to review and rescind or vary any decision or order previously made by them upon an interlocutory application shall be made within fourteen days after the said decision or order shall have been communicated to the parties, unless the Commissioners think fit to enlarge the time for making such application.

Every application under this rule shall be made by motion; and no such motion shall be made without two clear days' previous notice in writing to the Registrar and to the parties affected thereby.

Interlocutory Applications.

53. Where not otherwise provided for in these rules, all interlocutory applications shall, unless otherwise specially ordered, be heard by the Registrar upon summons duly served, and may be determined in a summary way. Such application may, if the Registrar thinks fit, be adjourned, either before or at the time of hearing before him, into court for hearing before the Commissioners.

Interlocutory applications.

Any person affected by any order or decision of the Registrar in any matter involving questions of law may appeal therefrom to the *ex officio* Commissioner, and in any other matter to the Commissioners. Such appeal shall be by way of indorsement on the summons by the Registrar at the request of any party or by notice in writing to attend before the Commissioners without a fresh summons. Such notice shall be given to the Registrar and to the opposite party within four days after the decision complained of, or such further time as may be allowed by the Registrar or by the *ex officio* Commissioner, or the Commissioners.

An appeal from the Registrar's decision shall be no stay of proceedings unless so ordered by the Registrar or by the *ex officio* Commissioner, or the Commissioners.

Affidavits.

54. Affidavits shall be confined to such facts as the witness is able of his own knowledge to prove, except on interlocutory proceedings, on which statements as to his belief with the grounds thereof may be admitted. The costs of every affidavit which shall unnecessarily set forth matters of hearsay or argumentative matter or copies of or extracts from documents shall be paid by the party using or filing the same.

Affidavits, how framed.

55. Any affidavit used in any proceeding before the Commissioners may be sworn as follows:—

Before whom sworn.

In the United Kingdom before any of the said Commissioners or the Registrar, or the officer appointed by the Commissioners to administer oaths in proceedings before them (and in these cases without the payment of any fee), or before a person authorised to administer oaths in any of the superior

courts, or before a commissioner empowered to take or receive affidavits, or before a justice of the peace for the county or place where it is sworn or made.

In Scotland, in addition to the above-mentioned persons, before any sheriff-depute or his substitute or a justice of the peace.

In any place in the British dominions out of the United Kingdom, before any court, judge, or justice of the peace, or any person authorised to administer oaths there in any court.

In any place out of the British dominions, before a British minister, consul, or vice-consul.

The Commissioners shall take judicial notice of the seal or signature, as the case may be, or any such court, judge, minister, consul, or vice-consul, attached, appended, or subscribed to any such affidavit.

Filing of, and giving office copies of, and of other documents.

56. Affidavits used in any proceedings before the Commissioners shall be filed in their office, and office copies of the same and of other documents filed in their office may be procured by the parties on application to the Registrar.

Computation of Time.

Time, how computed.

57. In all cases in which any particular number of days, not expressed to be clear days, is prescribed by the Railway and Canal Traffic Acts, 1873 and 1888, or by these rules, the same shall be reckoned exclusively of the first day and inclusively of the last day, unless the last day shall happen to fall on a Sunday, Christmas Day, or Good Friday, or a day appointed for a public fast or thanksgiving, in which case the time shall be reckoned exclusively of that day also.

What days to be excluded.

58. The days between Thursday next before and the Wednesday next after Easter Day, and the day appointed to be kept as the Queen's Birthday, and Whit Monday and Whit Tuesday, and Christmas Day, and the three following days, shall not be reckoned or included in any proceedings under the Railway and Canal Traffic Acts, 1873 and 1888.

Pleadings in the vacations.

59. The time between the 12th day of August and the 24th day of October in England and Ireland, and in Scotland between the 20th day of March and the 12th day of May, and between the 20th day of July and the 15th day of October, shall be reckoned in the computation of the times appointed or allowed by these rules for filing, amending, or delivering, unless otherwise ordered.

Registrar's Office, when open.

Registrar's office, when open.

60. (*Rescinded. See post Rules of Commissioners of 1st January, 1909.*)

Sittings of the Court.

61. Every *ex officio* Commissioner shall be entitled to the same vacations as are observed in the superior court of which he is a member. During the periods observed as vacations in the Superior Courts the Lord Chancellor in England, the Lord President of the Court of Session in Scotland, and the Lord Chancellor in Ireland, may appoint any Judge of a Superior Court to take the place and perform the whole functions of the *ex officio* Commissioner for these parts of the United Kingdom respectively, in case of the *ex officio* Commissioner being absent or temporarily unable to fulfil his duties. Vacations.

Adjournment.

62. The Commissioners may from time to time adjourn any proceedings before them. Power of Commissioners to adjourn.

Amendment.

63. The Commissioners may at any stage of the proceedings allow any pleadings to be amended, or may order to be struck out any matters which may tend to prejudice, embarrass, or delay the fair hearing of the case, and all such amendments shall be made as may be necessary for the purpose of determining the real questions in controversy between the parties. Power of Commissioners to amend.

Formal Objections.

64. No proceedings before the Commissioners shall be defeated by any formal objection. Formal objections not to prevail.

Practice of Superior Courts, when applicable.

65. (*Rescinded. See post Rules of Commissioners of 1st January, 1909.*) Discretion of Commissioners in cases not expressly provided for.

Enlargement or Abridgment of Time.

66. The Commissioners or the Registrar, subject to an appeal to the Commissioners, may enlarge or abridge the time appointed by these rules, or fixed by any order, for doing any act or taking any proceedings upon such terms, if any, as the justice of the case may require, and any such enlargement may be ordered, although the application for the same is not made until after the expiration of the time appointed or allowed. Power to enlarge or abridge them.

The time for delivering, amending, or filing any answer, reply, or other pleading or document may be enlarged by consent in writing, without application to the Commissioners. Such written consent shall be left with the Registrar at the time of filing the answer, reply, or other pleading or document. Enlarging time by consent

Transmission of Documents and Fees by Post.

Documents,
&c., sent by
post.

67. Where an applicant does not reside in London, and he has no solicitor or agent there, all pleadings and documents required by these rules to be sealed, filed in, or delivered at the Commissioners' office, may be sent by post, addressed to "The Registrar of the Court of the Railway and Canal Commission," and the fees payable (if any) in respect thereof may be sent by post, by post-office order, payable to "The Registrar of the Railway and Canal Commission," to the Registrar, who shall cause stamps to be procured to the amount of such remittances, and such stamps to be obliterated. All letters, notices, or documents sent by post to the officers of the Commission shall be prepaid.

Table of Fees.

What fees
may be
taken.

68. The fees, a table whereof is in the Third Schedule hereunto annexed, may be demanded and taken in respect of the proceedings before the Commissioners.

Signed the 22nd day of February, 1889.

ALFRED WILLS.
JOHN TRAYNER.
JAMES MURPHY.
F. PEEL.
WM. P. PRICE.

Approved,
HALSBURY, C.

Approved,
M. E. HICKS-BEACH,
President of the Board of Trade.

SCHEDULES.

FIRST SCHEDULE.

FORMS.

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- No. 1. Application.
 - No. 2. Indorsement.
 - No. 3. Indorsement required by Rule 4.
 - No. 4. Answer.
 - No. 5. Reply.
 - No. 6. Form of subpœna ad testificandum.
 - No. 7. Form of subpœna duces tecum.
 - No. 8. Notice required by Rule 11.
 - No. 9. Form of Notice to the public required to be given by the Railway Companies by section 24 of Railway Clauses Act, 1863.
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The forms of proceedings contained in this Schedule may be used in the cases to which they are applicable, with such alterations as the circumstances of the case may render necessary, but any variance therefrom, not being in matter of substance, shall not affect their validity or regularity.

No. 1.

Application.

In the Court of the Railway and Canal Commission.

In the matter of the application of A.B.	}	A.B. states that
The against Company.		1. 2.

And the said A.B. applies to the said court under the above-mentioned Acts for an order enjoining the said Company [*here state concisely the nature of the application, as for example,*] to desist from giving any undue preference to themselves or other persons in the carrying or in the collecting, carrying, and delivering, for themselves or other persons, of goods and par-

cels, or in their charges for the same over the said *A.B.* in the carrying of such goods and parcels for him, and enjoining the said company not to subject him to any undue prejudice in respect thereof.

Dated this _____ day of _____ 18 .
 (Signed), *A.B.*
or
C.D.
 Solicitor for the Applicant.

No. 2.

Indorsement on Application.

To the within named _____ Company.

You are hereby commanded by the Court of the Railway and Canal Commission within 15 days from the service of the within application to put in your answer to the same, and take notice that in default of such answer being put in within such time or any extension thereof duly granted, the said Court may proceed to hear the said application *ex parte*.

(Sealed.)

[*Indorsement.*]

The within application is made by *A.B.* of
 (*stating address and occupation, and if there be a solicitor in the matter*) by *C.D.* of _____ (*and if he be agent for the solicitor*) as agent for *E.F.* of _____ solicitor for
 the said *A.B.*, and was filed on the _____ day of
 18 .

No. 3.

Indorsement required by Rule 4.

To the within named _____ Company.

Take notice that the Court of the Railway and Canal Commission, having consented to the within-mentioned difference (or differences) being referred to for its decision in lieu of being referred to arbitration, you are hereby commanded within _____ days from the service upon you of the within statement to put in your answer to the same, and take notice, that in default of such answer being put in within such time, or any extension thereof duly granted, the said Court may proceed to hear and determine the said difference *ex parte*.

(Sealed.)

you to attend before the Railway and Canal Commissioners at
 , on day, the day of
 18 , at the hour of in the noon,
 and so from day to day until the above application is tried,
 to give evidence on behalf of the applicant (or defendant).

Witness, &c.

No. 7.

Subpœna Duces Tecum.

In the Court of the Railway and Canal Commission.

In the Matter of the Application of A.B., Applicant,
 against

The Company, Defendant.

Edward the Seventh, by the Grace of God, &c. to [*the names of three witnesses may be inserted*] greeting. We command you to attend before the Railway and Canal Commissioners at
 , on day, the day of
 18 , at the hour of in the noon, and so from day to day until the above application is tried, to give evidence on behalf of the applicant (or defendant), and also to bring with you and produce at the aforesaid time and place [*specify documents to be produced*].

Witness.

No. 8.

Notice required by Rule 11.

The Railway and Canal Traffic Acts, 1873 and 1888.

Notice is hereby given that it is the intention of the
 Railway Company and the Canal Com-
 pany, subject to the sanction of the Railway and Canal Com-
 missioners, to enter into an agreement for the following pur-
 poses, viz. (among other things), the

and that a copy of the proposed agreement can be seen at the
 office of the Railway and Canal Commission at

Dated this day of 18 .
 Secretary to the
 (Solicitor or Agent).

No. 9.

Form of Notice to be given to the Public by Railway Companies of their intention to enter into Agreements amongst themselves under Part III. of the Railway Clauses Act, 1863.

Notice is hereby given pursuant to the provisions of the Railway Clauses Act, 1863, and the Railway and Canal Traffic Acts, 1873 and 1888, and the Act, 18 , that it is the intention of the Railway Company and the Railway Company to enter into an agreement for the following purposes, viz. (among other things), the

and that any company or person aggrieved by such proposed agreement, and desiring to object thereto, may bring such objection before the Railway and Canal Commissioners by sending the same in writing, addressed to the Registrar to the Railway and Canal Commissioners, at their office, at the London, on or before the* day of 18 , in which office a copy of the proposed agreement can be seen.

Dated this day of 18 .
Secretary to the
(Solicitor or Agent).

SECOND SCHEDULE.

Rules 2, 3, 4, 5, 6, 7 of Order XXII. of the Rules of the Supreme Court, 1883, referred to in Rule 18 of these Rules.

2. Payment into court shall be signified in the defence, and the claim or cause of action in satisfaction of which such payment is made shall be specified therein.

3. With a defence setting up a tender before action, the sum of money alleged to have been tendered must be brought into court.

4. If the defendant pays money into court before delivering his defence, he shall serve upon the plaintiff a notice specifying both the fact that he has paid in such money, and also the claim or cause of action in respect of which such payment has been made. Such notice shall be in the form No. 3 in Appendix B., with such variations as circumstances may require.

* 28 days should intervene between the date of the newspaper containing the first insertion of this notice and the date here inserted. See Schedule IV.

[Form No. 3, referred to in the foregoing rule.]

Heading as in Form.*

Take notice that the defendant has paid into court l.,
and says that that sum is enough to satisfy the plaintiff's claim
[or the plaintiff's claim for, &c.]

Z., defendant's solicitor.

To Mr. X.Y., the plaintiff's solicitor.

5. In the following cases of payment into court under this order, viz. :—

- (a.) When payment into court is made before delivery of defence;
- (b.) When the liability of the defendant in respect of the claim or cause of action in satisfaction of which the payment into court is made is not denied in the defence;
- (c.) When payment into court is made with a defence setting up a tender of the sum paid;

the money paid into court shall be paid out to the plaintiff on his request, or to his solicitor, on the plaintiff's written authority, unless the court or a judge shall otherwise order.

6. When the liability of the defendant in respect of the claim or cause of action, in satisfaction of which the payment into court has been made is denied in the defence, the following rules shall apply :—

- (a.) The plaintiff may accept, in satisfaction of the claim or cause of action in respect of which the payment into court has been made, the sum so paid in, in which case he shall be entitled to have the money paid out to him as herein-after provided, notwithstanding the defendant's denial of liability, whereupon all further proceedings in respect of such claim or cause of action, except as to costs, shall be stayed; or the plaintiff may refuse to accept the money in satisfaction, and reply accordingly, in which case the money shall remain in court, subject to the provisions herein-after mentioned.
- (b.) If the plaintiff accept the money so paid in he shall, after service of such notice in the Form No. 4 in Appendix B., as is in Rule 7 mentioned, or, after delivery of a reply accepting the money, be entitled to have the money paid out to himself on request, or to

* NOTE.—In proceedings before the Commissioners the heading of this form will be the same as the heading of the forms in the First Schedule.

his solicitor, on the plaintiff's written authority, unless the court or judge shall otherwise order.

- (c.) If the plaintiff does not accept, in satisfaction of the claim or cause of action in respect of which the payment into court has been made, the sum so paid in, but proceeds with the action in respect of such claim or cause of action, or any part thereof, the money shall remain in court and be subject to the order of the court or a judge, and shall not be paid out of court except in pursuance of an order. If the plaintiff proceeds with the action in respect of such claim or cause of action, or any part thereof, and recovers less than the amount paid into court, the amount paid in shall be applied, so far as is necessary, in satisfaction of the plaintiff's claim, and the balance (if any) shall, under such order, be repaid to the defendant. If the defendant succeeds in respect of such claim or cause of action, the whole amount shall, under such order, be repaid to him.

7. The plaintiff, when payment into court is made before delivery of defence may, within four days after the receipt of notice of such payment, or when such payment is first signified in a defence, may, before reply, accept in satisfaction of the claim or cause of action in respect of which such payment has been made, the sum so paid in, in which case he shall give notice to the defendant in the Form No. 4 in Appendix B., and shall be at liberty, in case the entire claim or cause of action is thereby satisfied, to tax his costs after the expiration of four days from the service of such notice, unless the court or a judge shall otherwise order, and, in case of non-payment of the costs within 48 hours after such taxation, to sign judgment for his costs so taxed.

[Form No. 4 referred to in the foregoing Rules 6 and 7.*]

Take notice that the plaintiff accepts the sum of l.
paid by you into court in satisfaction of the claim in respect of which it is paid in.

THIRD SCHEDULE.

TABLE OF FEES.

This schedule relating to the fees to be taken in relation to the proceedings before the Commissioners is repealed by the Railway and Canal Commission Fees Order, 1901, *post*.

* See note on page

FOURTH SCHEDULE.

DIRECTIONS of the Railway and Canal Commissioners relating to the working agreements between two or more railway companies.

1. Care should be taken that at least 28 days from the date of the newspaper containing the first insertion of the notice to the public, of the intention of the companies to enter into a working agreement, are allowed for bringing objections before the Railway and Canal Commissioners, and that during the whole of that period a copy of the proposed working agreement is lodged at the Commissioners' office for inspection. [*See Form of Notice to be given to the Public, ante p. .*]

2. At the expiration of the period specified in the notices for bringing objections before the Railway and Canal Commissioners, and together with the application for their approval, there should be sent to their office:

- a. The Act or Acts of Parliament authorising such agreement.
- b. Copies of the newspapers containing the notices of the intention of the two companies to enter into such agreement which are required by the 24th section of the Railway Clauses Act, 1863.
- c. Copies of the newspapers containing the advertisements of each Company, required by the 23rd section of the same Act, convening the special meetings at which the agreement was assented to.
- d. A copy of the circular which was addressed to each shareholder.
- e. The agreement, sealed by the companies, together with a certificate given under the hands of the chairman at the meeting, and of the secretary of each company, stating that such agreement was duly assented to by the required proportion of the votes of the shareholders and stockholders entitled to vote in that behalf at meetings of the company, present (personally or by proxy) at a general meeting of each of the companies specially convened for that purpose, pursuant to the 23rd section of the same Act.

3. The application to the Commissioners for their approval should be made in the manner prescribed by their General Rules of February, 1889, Nos. 2 and 6.

The agreement, when approved by the Commissioners, will be returned with their approval signified thereon, and the copy lodged at their office will be retained by them.

NOTE.—Where the special Act or Acts authorising the agreement do not incorporate the Railway Clauses Act, 1863, Part 3, or are of an earlier date, the course of proceeding will be that indicated in the special Acts.

RULE made by the Railway and Canal Commissioners in pursuance of the 20th section of the Railway and Canal Traffic Act, 1888, in relation to applications to the Commissioners made under the Metropolis Water Act, 1897.

The Railway and Canal Commission Rules 1889 shall, with the necessary modifications, apply to all applications to the Railway and Canal Commissioners under the Metropolis Water Act, 1897.

Signed this 17th day of December, 1897.

R. S. WRIGHT.
FREDERICK PEEL.
COBHAM.

Approved,
HALSBURY, C.

Approved,
C. RITCHIE,
President of the Board of Trade.

RULES, dated January 1, 1909, made by the Railway and Canal Commissioners in pursuance of the 20th section of the Railway and Canal Traffic Act, 1888, varying Rules 60 and 65 of the Railway and Canal Commission Rules, 1889.

Rules 60 and 65 of the Railway and Canal Commission Rules, 1889, are hereby rescinded, and in lieu thereof the following Rules are hereby made:—

60. The Registrar's office shall be open daily from 10 o'clock in the forenoon till 4 o'clock in the afternoon, except upon Saturday, when it shall be open from 10 o'clock in the forenoon till 1 o'clock in the afternoon, and except between the 1st day of August and the 12th day of October, when the office is to be open from 11 o'clock in the forenoon till 1 o'clock in the afternoon, except on Saturday.

Registrar's
Office, when
open.

The office shall be closed on the following days, namely, Good Friday, Easter Eve, Monday and Tuesday in Easter week, the first Monday in August, Christmas Day and the three following days, and the day appointed to be kept as the King's Birthday, and Whit Monday and Whit Tuesday.

65. The general principles of practice in the superior courts may be adopted and applied at the discretion of the Commissioners to proceedings before them.

Discretion of
Commissioners in
cases not
expressly
provided for.

Where, in any complaint or other proceeding before the Commissioners, the defendant has his domicile or principal place of

business or head office in England, such proceedings shall be deemed to be proceeding falling to be dealt with by the *ex-officio* Commissioner for England, in so far as he is, by statute or any Rule of Court, charged with any duty in connexion therewith, and in like manner, where the defendant has his domicile or principal place of business or head office in Scotland or Ireland the proceedings shall be dealt with by the *ex-officio* Commissioners for Scotland and Ireland respectively; where the question in dispute relates to any property or railway situated in a different part of the United Kingdom from that in which the defendant has his domicile or principal place of business or head office, the Commissioners if they are of opinion that the trial can be more conveniently and economically heard in such different part of the United Kingdom may order the trial to take place there. Where there are in any proceedings more defendants than one having their domicile or principal place of business or head office in different parts of the United Kingdom, the Commissioners shall determine before which of the *ex-officio* Commissioners such proceedings shall depend.

Subject to this rule, if any question should arise whether the Superior Court of England, Ireland, or Scotland is the Court with reference to which in the particular case the expression "superior court" in any of the said rules is to be understood, the same shall be determined by the Commissioners, who shall make such order in that behalf as they shall think right under the circumstances either with reference to the particular matter under consideration only or with reference to the future conduct of the proceedings in general, or any of them, or with reference to anything that has already been done.

Provided that if any steps or proceedings have been taken under the practice of one superior court, and the Commissioners shall think that the practice of any other superior court ought to be applied, they shall make such order as shall, as far as practicable and as is just under the circumstances, prevent the steps already taken from being rendered nugatory, and any expense already incurred from being thrown away.

Signed the 1st day of January, 1909.

A. T. LAWRENCE.
 C. KINCAID MACKENZIE.
 D. H. MADDEN.
 A. E. GATHORNE HARDY.
 JAMES T. WOODHOUSE.

Approved,
 LOREBURN, C.

Approved,
 WINSTON S. CHURCHILL,
 President of the Board of Trade

APPEALS UNDER THE RAILWAY AND CANAL
TRAFFIC ACTS.

I.—IN ENGLAND.

RULE OF THE SUPREME COURT.

We, the undersigned, being the authority having power to make Rules for Her Majesty's Court of Appeal in England, do hereby, in pursuance of the seventeenth section of the Railway and Canal Traffic Act, 1888, make the following rule in relation to appeals from the Commissioners under that Act:—

Order LVIII. of the Rules of the Supreme Court, 1883, shall, so far as applicable, apply to all appeals from the Commissioners under the Railway and Canal Traffic Act, 1888.

Dated this 10th day of April, 1889.

(Signed) HALSBURY, C.
COLERIDGE, L.C.J.
ESHER, M.R.
JAMES HANNEN.
NATHL. LINDLEY, L.J.
EDWD. FRY, L.J.
C. E. POLLOCK.
H. MANISTY.

II.—IN SCOTLAND.

ACT OF SEDERUNT FOR REGULATING THE PROCEDURE IN
APPEALS UNDER THE RAILWAY AND CANAL TRAFFIC
ACT, 1888.

Edinburgh, 1st June 1889.

THE LORDS OF COUNCIL AND SESSION, considering that, by the Act 51 & 52 Vict. cap. 25, they are empowered to make Acts of Sederunt for regulating the procedure in appeals, authorised by the said Act, from the Railway Commissioners to the Court of Session, Do hereby ENACT and DECLARE that, on and after the fifteenth day of June current, the following rules shall take effect and be enforced with reference to such appeals.

1. In any case where an appeal to the Court of Session from any judgment, order, or finding of the Railway Commissioners is competent under the said Act, the same may be taken by

lodging with the Registrar of the Railway Commissioners a Note of Appeal in the form, or as nearly as may be in the form, set forth in the Schedule appended hereto.

2. It shall not be competent to appeal against any judgment, order, or finding of the said Commissioners unless the Note of Appeal is lodged with the Registrar, as above provided, in the case of a final judgment within fourteen days, and in the case of any interlocutory judgment, order, or finding, within four days from the date of the judgment, order, or finding appealed against. Provided always, that the Court may, on special cause shown, allow appeals notwithstanding they have not been taken within the respective periods above provided. A final judgment, in the sense of this rule, shall mean a judgment by the Commissioners disposing of the whole question or questions raised for their determination in the proceedings in which such judgment is pronounced; and all other judgments, orders, or findings by the Commissioners shall be regarded as interlocutory.

3. The party appealing shall, within two days of lodging his Note of Appeal, intimate that he has done so to all the other parties to the proceedings in which the appeal is taken, by sending to them a copy of his Note of Appeal by registered letter.

4. When any Note of Appeal has been lodged with the Registrar as before provided, he shall forthwith transmit the same, together with the whole pleadings and other proceedings before the Commissioners, to the Principal Clerk of that Division of the Court to which the appeal has been taken, who shall sub-join to the appeal a note of the day on which it is received.

5. The respondent in any appeal, or any party to the proceedings in which the appeal is taken, may insist in the same to the effect of having the judgment, order, or finding appealed against, altered or modified, provided that at least three days before the appeal is heard, he shall intimate by registered letter to all parties concerned or interested in such alteration or modification, that he intends to do so, and shall intimate at same time the alteration or modification for which he intends to move.

6. Within fourteen days after the appeal and proceedings have been received by the Principal Clerk of Session, as aforesaid, the appellant shall print and box to the Court the Note of Appeal, the judgment, order, or finding appealed against, and such other part of the proceedings as may be necessary to be considered in disposing of the said appeal; and failing his doing so, the appeal shall be dismissed, unless the Court, or the Lord Ordinary on the Bills in time of Vacation, shall have within said fourteen days dispensed with such printing. The respondent or other party desirous of obtaining any alteration or modification of the judgment, order, or finding appealed

against, as provided in Art. 5 hereof, shall, before the day on which the appeal is to be heard, lodge with the Principal Clerk, and print and box to the Court, a copy of the intimation sent by him, in terms of Art. 5 hereof.

And the Lords appoint this Act to be inserted in the Books of Sederunt, and to be published in the usual manner.

JOHN INGLIS, *I.P.D.*

SCHEDULE.

The A. B. Railway Co. (or C. D. merchant in Glasgow), appeals against the judgment (or order, or finding) of the Railway Commissioners, dated the _____ day of _____ to the _____ Division (specify *First* or *Second*) of the Court of Session. (Date.) (Signed by Appellant or his Law Agent.)

Or,

When a part only of the judgment, order, or finding is appealed against, the form above given shall be used, adding the words: "In so far as the said judgment (order, or finding) determines that" specify the part of the judgment, &c., appealed against).

III.—IN IRELAND.

"The Rules of this Order shall, so far as applicable, apply to all appeals from the Commissioners under the Railway and Canal Traffic Act, 1888 (51 & 52 Vict. c. 25)."

Order LVIII.—Rule 21 of the Rules of the Supreme Court (Ireland), 1891.

RAILWAY AND CANAL COMMISSION.

THE RAILWAY AND CANAL COMMISSION FEES
ORDER, 1901.

In pursuance of the powers given by Section 32 of Regulation of Railways Act, 1873, We, the undersigned Railway and Canal Commissioners, do hereby, with the concurrence of the Lords Commissioners of His Majesty's Treasury, order that on and after the 1st day of October, 1901, the several fees or 36 & 37 Vict.
c. 48.

sums specified in the Schedule hereunder written shall be taken on the proceedings therein mentioned in lieu of all other fees for the proceedings set forth.

Signed the 30th day of September, 1901.

R. S. Wright,
Moir Stormonth Darling,
J. G. Gibson,
F. Peel,
Cobham.

Approved—

W. H. Fisher,
H. T. Anstruther.

SCHEDULE.

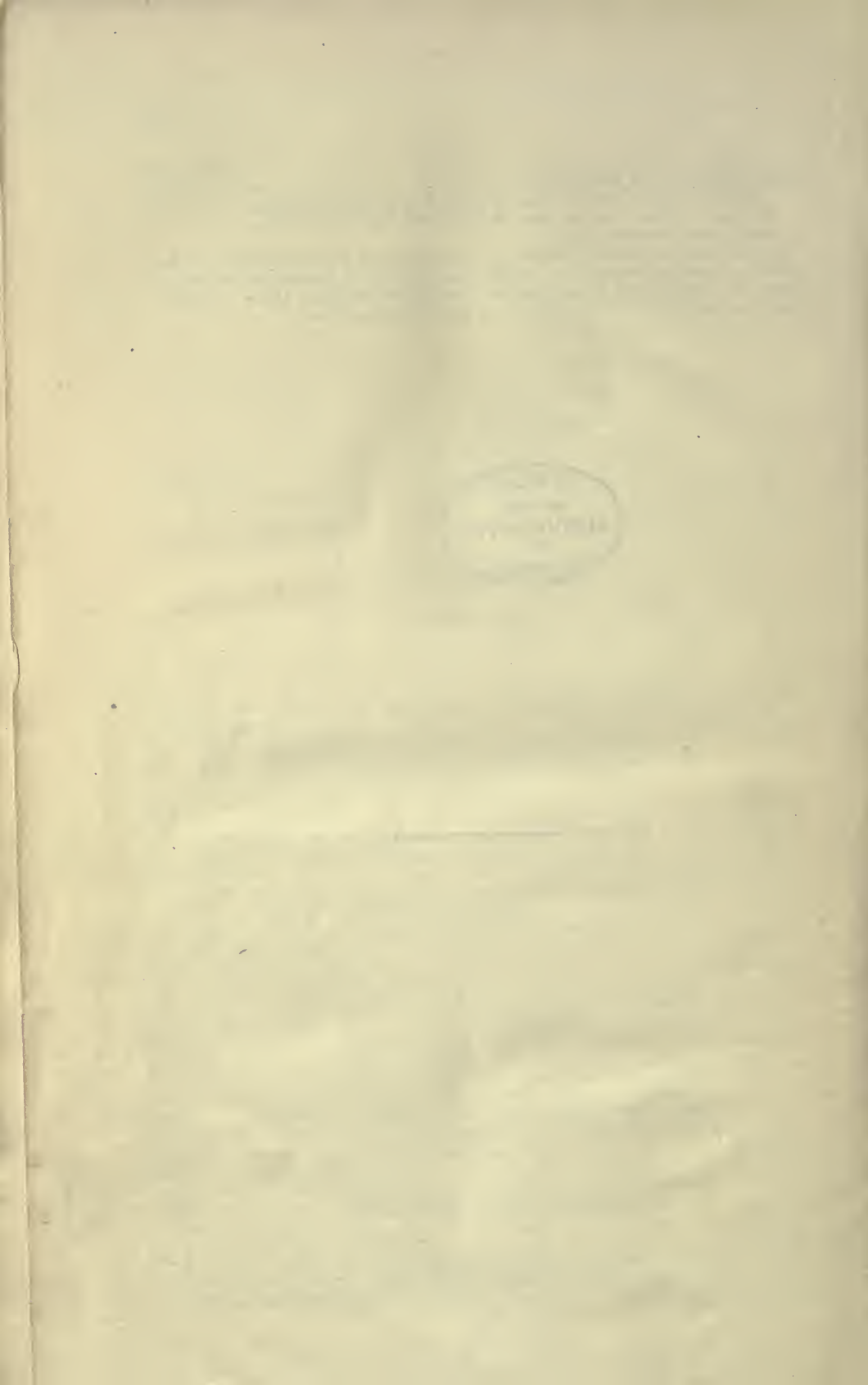
	£	s.	d.
Receiving and filing every application or statement of case, or answer thereto	1	0	0
Receiving and filing every reply, affidavit, or other proceeding ...	0	2	6
<i>Note</i> —No extra charge is to be made for documents that may accompany any application, answer, reply, or affidavit.			
Every summons upon interlocutory proceedings	0	5	0
Every order made thereon	0	2	6
Attendance by Counsel or interlocutory proceedings, each side ...	0	10	0
For every appointment for hearing	0	2	6
Every subpoena	0	2	6
Every hearing not in the nature of an interlocutory proceeding, or of an arbitration or otherwise provided for	2	0	0
On drawing up and issuing under seal an Order made in Court on the original hearing	1	0	0
Ditto in the Court of Appeal	2	0	0
Office copies of proceedings (per folio)	0	0	6
On entering an Appeal to the Court of Appeal in England, Scotland, or Ireland	2	0	0
On an Allocatur for taxation, two and a half per cent. on the amount allowed in the bill of costs.			
Every hearing in the nature of an arbitration between railway companies or canal companies, or between railway companies and the Postmaster General under the Railway and Canal Traffic Acts, 1854-1888, and the conveyance of Mails Act, 1893, or any of them, each day or part of a day	15	15	0
Every decision of such difference	5	5	0
Every hearing in the nature of an arbitration, one of the parties being other than a railway company or canal company, each day or part of a day	5	5	0
Every decision of such difference... ..	2	2	0
Every hearing under the Telegraphs Acts, 1863, 1878, and 1892, or under the Railway Employment (Prevention of Accidents) Act, 1900, each day or part of a day	15	15	0

Every decision of such difference... ..	£	s.	d.
	5	5	0

Note.—The fee for the hearing is to be paid on each day by the party whose case is then being heard, unless the Commissioners otherwise order.

All fees shall be paid by stamps, impressed on the forms applicable to the various proceedings respectively, which shall be sold in London at the Royal Courts of Justice; in Edinburgh, at the Inland Revenue Office, Waterloo Place; in Dublin, at the Inland Revenue Office, Custom House.





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