

CHAPTER 134.

RAILWAY.

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CHAPTER 134.

RAILWAY.

An Ordinance to Repeal an Ordinance intituled "The Sierra Leone Railway Ordinance, 1896" and to make other Provisions in lieu thereof.

[30TH APRIL, 1898.]

12 of 1898.
15 of 1899.
21 of 1902.
24 of 1907.
14 of 1924.
Sec. 29 of
12 of 1924.
Sec. 6 of
44 of 1924.
12 of 1928.
12 of 1933.
14 of 1947.
30 of 1952.
21 of 1953.
P.N. 149 of
1959.
P.N. 171 of
1959.

PART I.

1. This Ordinance may be cited as the Railway Ordinance. All the provisions of this Ordinance, together with rules made thereunder, save such provisions and rules as relate to the

Short title
and
application.

entering upon and acquisition of lands, shall apply to the Protectorate.

Interpreta-
tion.

2. In this Ordinance, unless the context otherwise requires—
“ Chief Justice ” includes any Judge of the Supreme Court;

“ damage ” includes total or partial destruction, breakage, loss of weight or bulk, deterioration, and every description of damage to goods and injury to animals;

“ dangerous goods ” means any article or substance of an explosive, inflammable, poisonous or corrosive nature or liable to spontaneous combustion, classified by the General Manager, under sub-section (1) of section 27, as dangerous goods;

“ engineer ” shall mean any officer for the time being acting under the authority of the Secretary of State, or the Governor, in superintending the construction and establishment or maintenance of the railway;

“ General Manager ” shall mean the person appointed to superintend the working of the railway;

“ goods ” includes animals, alive or dead, vehicles, produce, substances and articles of every description other than luggage;

“ lands ” shall include Crown lands, public, common and waste lands, places, streets, highways, roads, ways, pathways, and all messuages and corporeal hereditaments whatsoever;

“ luggage ” means such articles of necessity or convenience as are carried, in some kind of package, by passengers for their personal use according to the habits or wants of the class to which they belong, but does not include articles carried for business, trade or profit;

“ Minister ” means the Member of Executive Council charged for the time being with responsibility for the subject of Lands;

“ misdelivery ” includes non-delivery and delay in the delivery of any goods;

“ perishable goods ” includes fish, fruit, vegetables, plants, meat, game, butter, eggs, milk, cheese, bread and any other goods liable to rapid deterioration;

“ railway ” shall mean the whole or any portion of a railway or tramway, whether worked by steam or otherwise, to be constructed, established, or maintained under the provisions of this Ordinance, and all works, stations, houses, termini, and rolling stock connected therewith;

“ Railway Administration ” shall mean the officer or officers responsible for the administration of any railway constructed, established and maintained under the provisions of this Ordinance and any Ordinance amending the same; ‘

“ railway official ” means any person employed by the Railway Administration in connection with the construction or service of the railway;

“ superfluous land ” means land taken and appropriated for the purposes of the railway under this Ordinance which has ceased to be required for such purposes;

“ terminals ” includes charges in respect of stations, sidings, wharves, depots, warehouses, cranes and other similar matters, and any service rendered thereat;

“ warehouse ” means any place, building or part of a building provided or used by the Railway Administration for the purpose of storing goods. Where it is more convenient for the Railway Administration that goods to be warehoused shall remain in trucks, any such truck when placed in a siding shall for the purposes of this Ordinance be deemed to be a warehouse.

3. It shall be lawful for the Governor to establish and maintain railways subject to the approval of the Secretary of State, with terminal and intermediate stations, and all proper works and conveniences for the conveyance of passengers, animals, and goods, commencing and terminating at such points as shall be approved of by the Governor in Council.

Power to establish railways.

4. Actions and suits shall and may be maintained in the name of the engineer on all contracts entered into by, or on behalf of, Her Majesty the Queen for making or maintaining the railway, or any part thereof, or any other of the works hereby authorised, and damages and costs may be recovered against the engineer; and all damages and costs so recovered shall be paid by the Accountant General.

Enforcement of railway contracts.

5. It shall be lawful for the engineer, with all necessary workmen and other servants at all times, to enter upon any lands; and also to set out, appropriate and take so much of such lands as may be required for the construction, establishment, and maintenance of the railway.

Power to enter and take lands.

6. When the engineer shall set out, appropriate, and take any lands for the purpose of the railway, he shall cause such lands to be marked out and a notice to be posted in some

Marking out lands by engineer.

conspicuous part of such lands, and such notice shall be in these words, viz.:—"Taken for the railway," and shall be signed by the engineer. All such lands, when so set out, appropriated, or taken, shall be vested in Her Majesty the Queen free from all other estates and all liens, rights, charges, and encumbrances whatsoever.

Plan and certificate to be registered.

7. Within eight days after any such appropriation, the engineer shall cause to be registered in the Office of the Registrar General a plan of the lands so set out, appropriated, and taken as aforesaid, together with a certificate under his hand to the effect that the same have been taken and appropriated for the purposes of the railway.

Registration of plan, etc., conclusive evidence of land taken.

8. When any lands have been taken and appropriated for the purposes of the railway, whether under the provisions of this or any other Ordinance, the registration of a plan of such lands, together with the certificate in the Office of the Registrar General as in the last section mentioned, shall be conclusive evidence that such lands have been set out, appropriated, and taken for the railway under the provisions of this Ordinance.

Lands injuriously affected.

9. (1) If any lands be so cut through and divided by the taking and appropriation of part of such lands for the railway as to leave either on both sides, or on one side thereof, a portion of land which is practically useless to the owner for the purpose for which he had been accustomed to use the land, it shall be lawful for the owner of such land, by notice in writing to be served on the engineer at any time before an agreement is come to for the purchase of the land taken as aforesaid, or before the assessment of the price to be paid for such land under the provisions of this Ordinance, to require the Governor on behalf of Her Majesty the Queen to purchase not only the land actually taken as aforesaid, but also the land rendered useless as aforesaid by reason of the severance aforesaid, and thereupon it shall be lawful for the Governor to purchase the land rendered useless as aforesaid, or, if he refuses to do so, it shall be lawful for the Chief Justice, if he shall find as a fact that any portion of the said lands have been by the severance rendered useless as aforesaid, to adjudge that the Governor shall purchase the same and determine the price to be paid for the same as if such lands were actually taken and appropriated for the purposes of the railway.

Power to re-sell.

(2) It shall be lawful for the Minister to re-sell any lands purchased under the provisions of this section, and any moneys

arising from any such sale shall be carried to, and form part of, the general revenue of the Colony.

10. Nothing in this Ordinance shall be deemed to authorise the engineer to take, and appropriate, a part only of any house, building, or manufactory, but, where a part of the land on which any house, building, or manufactory stands, is required for the railway, it shall be lawful for the owner of such house, building, or manufactory to require the engineer to take the whole house, building, or manufactory:

Part of house, etc., not to be taken.

Provided that it shall be lawful for the Minister to re-sell any portion of any such house, building, or manufactory that may not be required for the railway; and any moneys arising from any such sale shall be carried to, and form part of, the general revenue of the Colony.

Power to re-sell.

11. If, in any case in which according to the provisions of this Ordinance, the engineer is authorised to enter upon and take any lands required for the railway, the owner or occupier of any such lands, or any other person refuse to give up the possession thereof, or hinder the engineer, his workmen or servants, from entering upon or taking possession of the same, it shall be lawful for the Governor to issue his warrant, in the form in the First Schedule to this Ordinance, directed to the Sheriff, ordering him to deliver possession of the same to the engineer, and upon the receipt of such warrant the Sheriff shall deliver possession of any such lands accordingly; and the costs accruing by reason of the execution of such warrant, to be taxed by the Master of the Supreme Court, subject to review by the Chief Justice, shall be paid by the person refusing to give possession, or hindering the engineer, his workmen, or servants as aforesaid, and the amount of such costs shall be deducted and retained by the Governor from the compensation (if any) then payable by him to such person, and, if no compensation be payable to such person, or if the same be less than the amount of such costs, then such costs or the excess thereof beyond such compensation, if not paid on demand, shall be levied by distress; and upon application to the Magistrate for that purpose he shall issue his warrant accordingly.

Refusal by owner to give up possession.

12. (1) The Minister may grant, lease or otherwise dispose of any superfluous land or any easement, right or privilege over or in relation to such land.

Power of Minister to grant or lease, etc.

(2) Any such grant, lease or other disposition may be for less than the best price or rent that can reasonably be obtained, or gratuitously, if made for any public or charitable purpose.

Publication of notice to be conclusive evidence of superfluity.

13. A public notice referring to any land which has been taken and appropriated for the purposes of the railway under this Ordinance, and stating that such land has ceased to be required for such purposes, shall, on publication thereof in three successive issues of the *Gazette*, be deemed to be conclusive evidence that such land has ceased to be required for such purposes:

Provided that nothing in this section shall be construed as affecting any question concerning the title to such land.

Land not in a town or built upon, etc. to be offered to owner of land from which it was originally taken.

14. Before the Minister disposes of any superfluous land he shall, unless such land be situate within a town or village, or be land built upon or used for building purposes, first offer to sell the same to the person then entitled to the land (if any) from which the same was originally severed; or if such person refuse to purchase the same, or cannot after diligent inquiry be found, then the like offer shall be made to the person or to the several persons whose lands shall immediately adjoin the land so proposed to be sold, such persons being capable of entering into a contract for the purchase of such land; and where more than one such person shall be entitled to such right of pre-emption such offer shall be made to such persons in succession, one after another, in such order as the Minister shall think fit.

Right of pre-emption to be claimed within six weeks from offer.

15. (1) If any such persons be desirous of purchasing such land, then within six weeks after such offer of sale they shall signify their desire in that behalf to the Minister; or if they decline such offer, or if for six weeks they neglect to signify their desire to purchase such land, the right of pre-emption of every such person so declining or neglecting in respect of the land included in such offer shall cease.

Evidence of refusal, etc., to exercise right.

(2) A declaration in writing made before a Justice of the Peace by some public officer, stating that such offer was made, and was refused, or not accepted within six weeks from the time of making the same, or that the person or all the persons entitled to the right of pre-emption were out of the Colony, or could not after diligent inquiry be found, or were not capable of entering into a contract for the purchase of such land, shall in all courts be sufficient evidence of the facts therein stated.

Differences as to price to be settled by arbitration.

16. If any person entitled to such pre-emption be desirous of purchasing any such land, and such person and the Minister do not agree as to the price thereof, then such price shall be ascertained by arbitration in accordance with the provisions of the Arbitration Ordinance:

Provided that unless the Minister and such person otherwise agree in writing the reference shall be to a single arbitrator.

17. Nothing in sections 12 to 16 shall affect any lands forming part of a public street or highway, though such lands may have been taken and appropriated for the purposes of the railway under this Ordinance.

Saving as to streets and highways.

POWER GIVEN TO ENGINEER TO ENTER LANDS AND MAKE THE RAILWAY AND MAINTAIN AND REPAIR THE SAME.

18. The engineer, his agents, servants, workmen, and other persons authorised by him or by the Governor, shall be, and they are, hereby empowered to do the following things, viz.—

Powers of engineer, his agents and workmen.

(1) From time to time, as he may think necessary, to enter upon any lands for the purpose of making surveys or taking levels for the railway or doing anything necessary under this Ordinance with a view to taking and appropriating any lands;

(2) In or upon the lands set out, appropriated or taken for the railway, or upon any lands within one hundred feet thereof, to bore, dig, cut, trench, embank, sough, and drain; and to remove, or lay out, and also to use, cut, work, and manufacture any earth, stone, rubbish, trees, gravel, or sand, or any other material or things whatsoever which may be dug or obtained therein, and which may be necessary or proper for making, maintaining, altering, repairing, or working the railway or any part thereof, or which may obstruct the making, maintaining, altering, repairing, or working of the same respectively;

(3) To lay down, make, erect and construct in, under, upon, across, or over the railway, or any part thereof, or any lands, or any roads, streets, dams, ways, lanes, or other public passages or places, hills, valleys, rivers, canals, brooks, streams, or other waters whatsoever, such inclined planes, tunnels, embankments, bridges, arches, piers, roads, ways, passages, conduits, drains, culverts, cuttings, fences, rails, sleepers, telegraph and telephone poles, wires and lines, wharves, warehouses, toll-houses, landing places, machinery, and buildings of whatsoever kind or description, and all such other works and conveniences as shall be necessary or expedient for the establishment, maintenance, or repairing or using of the railway;

(4) And also to alter and divert the course of any rivers, canals, trenches, brooks, streams, or watercourses, if necessary for constructing, maintaining and repairing tunnels, bridges,

passages, or other works over or under the same, and to divert or alter, as well temporarily as permanently, the course of any such rivers, canals, streams, or watercourses, trenches, roads, streets, dams, or ways, in order the more conveniently and economically, as regards the construction of the railway, to carry the same over, or under, or by the side of, the railway as shall be necessary for the establishment, maintenance, or repairing or using of the railway;

(5) And also to make roads, ways, canals, watercourses, soughs, drains, trenches, or conduits in, to, through, over, or under any lands for the purpose of bringing or conveying any passengers, goods, animals, or carriages to or from the railway, or conveying water from or to the railway, or to obtain access to, or egress from, any mine, forest, quarry, or kiln, which may be situate on any land of the Crown;

(6) And also to erect and construct such houses, warehouses, offices, and other buildings, yards, stations, wharves, engines, machinery, apparatus, and other works and conveniences as the engineer shall think proper;

(7) And also from time to time to alter, repair, or discontinue the before-mentioned works, or any of them, and to substitute others in their stead;

(8) And to do and execute all other matters and things necessary for making and maintaining, altering, repairing, and using the railway, and other works by this Ordinance authorised;

he, the said engineer, his agents, servants, workmen and other persons authorised as aforesaid, doing as little damage as may be in the execution of the several powers to him and them hereby granted.

Vesting of
railway in
Crown.

19. The railway shall be vested in Her Majesty, her heirs, and successors.

COMPENSATION.

Compensa-
tion for lands
taken for the
railway.

20. The owners and occupiers of, and all other persons interested in, any lands which may be appropriated and taken or used for the purposes of the railway or injuriously affected by the exercise of any of the powers hereby vested in the engineer, shall be entitled to, and shall receive compensation for, the value of the lands so taken or used, and for all damages sustained by such owners, occupiers and other persons by reason of the exercise as regards such lands of the powers

granted by this Ordinance; the amount of such compensation to be ascertained and determined as hereinafter provided.

21. It shall be lawful for the Governor, for, and on behalf of, Her Majesty, to contract and agree with the owner or occupier of, or any other person interested in, any lands which may be appropriated or taken or used for the purposes of the railway, or injuriously affected by the exercise of any of the powers hereby vested in the engineer, for the compensation to be allowed and paid to such owner, occupier, or other person, either in respect of the actual value of such lands, or in respect of damages incurred by reason of the exercise of any of the said powers; and any sum or sums so agreed on as last aforesaid, or which shall be awarded under the provisions of this Ordinance, shall be paid by the Accountant General.

Compensation may be agreed on.

22. In all cases in which any lands have been appropriated, taken, or used for the purposes of the railway or injuriously affected by the exercise of any of the powers hereby vested in the engineer, if, within twenty-one days after the posting of the notice, "Taken for the Railway," as hereinbefore provided, no claim shall have been lodged with the engineer in respect of such lands, or if the person who may have lodged any claim and the Governor shall not have agreed as to the amount of compensation to be paid for the interest of any such person in any such lands, or if any such person has not given satisfactory evidence of his alleged interest, or if separate and conflicting claims are made in respect of the same lands, the amount of compensation due (if any), and every such disputed interest or title shall be settled in accordance with the provisions of the Public Lands Ordinance, the words "Director of Surveys and Lands" being construed as meaning "The Engineer under the provisions of this Ordinance."

Cases of disputed compensation, etc.

Cap. 116.

THINGS TO BE DONE BY ORDER OF THE GOVERNOR.

23. (1) It shall be lawful to use and employ on the railway locomotive engines or other moving power, and all classes of rolling stock to be drawn or propelled thereby.

Power to use locomotive, etc., on railway.

(2) It shall be lawful for the Governor to order to be constructed or made on the advice of the engineer—

(a) any gates, bridges, arches, culverts, and passages, over, under, or by the sides of, or leading to or from, the railway, as shall be necessary for the purpose of making good any

interruptions caused by the railway to the use of lands through which the railway shall be made;

(b) also all necessary arches, tunnels, culverts, drains, or other passages, either over, or under, or by the sides of, the railway, of such dimensions as will be sufficient at all times to convey the water as effectively from the lands lying near, or affected by, the railway as before the making of the railway, or as nearly as may be, and such works shall be made from time to time as the construction of the railway proceeds;

(c) also proper watering places for cattle where, by reason of the railway, the cattle of any person occupying any lands within a quarter of a mile from any part of the railway previous to the construction of the railway which cannot be approached by a main road, shall be deprived of access to their former watering places; and such watering places shall be so made that such cattle may be at all times sufficiently supplied with water as theretofore as if the railway had not been made, or as nearly so as may be; and all necessary watercourses and drains shall be made for the purposes of conveying water to the said watering places:

Provided that such accommodation works shall not be made in such manner as would prevent or obstruct the working or using of the railway:

Provided also that until such accommodation works are provided the owners and occupiers of any lands or any other persons whose right of way shall be affected by the want of such communication, and their respective servants, may at all times freely pass and repass with carriages, horses, and other animals, directly (but not otherwise) across the parts of the railway especially constructed for their, or for the public, convenience:

Provided also that if any difference shall arise between the owner or occupier of any land taken and appropriated for the railway or injuriously affected by the same, touching the accommodation works to be provided under this section or the sufficiency thereof, it shall be lawful for such owner or occupier to petition the Supreme Court, and a copy of such petition shall be served on the engineer, and the Chief Justice shall appoint a day for the hearing of the petition, and shall in a summary way, after hearing the parties, decide whether the accommodation works proposed to be provided are, or are not, sufficient, and in the latter event what further accommodation works shall be provided, and the engineer shall carry out any such order of the Chief Justice.

PART II.—REVENUE FROM RAILWAY.

24. If any person fails to pay on demand any rate, terminal or other charge whatsoever due from him, whether he be owner or agent, in respect of any goods, the Railway Administration may detain the whole or any part of such goods, or, if they have been removed from the railway any other goods of the defaulter, whether as owner or agent which may then be in, or thereafter come into, its possession, and the following provisions shall apply in the case of any goods so detained—

(a) in the case of animals or perishable goods, it shall be lawful for the Railway Administration to sell the same at any time either by public auction or by private treaty as it may deem expedient;

(b) in the case of other goods, the same may be sold by public auction after seven days' notice shall have been given to the defaulter or, if he cannot be found, after notice of the intended sale shall have been posted up at Water Street Station, Freetown, and any other station to which the goods may have been consigned or where the charges were incurred;

(c) the surplus of the proceeds of any such sale as aforesaid, after deducting the expenses of or incidental to the sale and the amount of the rate, terminal or charge due to the Railway Administration, shall be paid to the defaulter, and, if the defaulter cannot be found, shall be deemed to be revenue of the Railway Administration.

25. All moneys received by the Railway Administration under this Ordinance shall be paid to the Accountant General who shall keep a separate account of such moneys.

Moneys received to be paid to the Accountant-General.

PART III*.—POWERS OF GENERAL MANAGER.

26. (1) The General Manager may, subject to the approval of the Governor in Council, make bye-laws for all or any of the following purposes, namely—

Power to make bye-laws.

(a) for preventing the commission of offences and nuisances on the railway;

(b) for preventing trespasses upon, and damage to, the railway;

(c) for maintaining order in, and regulating the use of, railway stations and the approaches thereto; and

(d) generally, for regulating the travelling upon, and use of, the railway.

* Parts III to VII were inserted by Ordinance 30 of 1952, in replacement of the former Part III; except section 51, which was a replacement by Ordinance 21 of 1953.

(2) Any person who is guilty of a contravention of any bye-law made under this section shall be liable, on summary conviction, to a fine not exceeding ten pounds.

(3) A copy of any bye-law made under this section shall be hung or affixed, and kept so hung or affixed, on the front or other conspicuous part of every station of the railway, so as to give public notice thereof. Every person who shall deface, tear down, injure, or remove such copy when so hung or affixed, shall be guilty of an offence and shall be liable, on summary conviction, to a fine not exceeding five pounds.

Power to fix rates, fares and charges, impose conditions and prescribe and provide for other matters.

27. (1) The General Manager may, subject to the approval of the Governor in Council—

(a) fix fares, rates, and charges, including insurance premiums;

(b) fix charges for terminals and demurrage or prescribe how the same shall be charged;

(c) classify goods;

(d) impose conditions with respect to the carriage of passengers and the receiving, keeping and carriage of their luggage, and the receiving, carriage and delivery of goods;

(e) provide for the disposal of any goods or luggage found upon the railway, or in the custody of the Railway Administration unclaimed, or of which delivery is refused or for any reason cannot be effected; and

(f) prescribe forms for the purpose of this Ordinance.

(2) The power conferred by sub-section (1) of this section shall include the power to provide—

(a) for the payment of a penalty fee, in addition to the fare, in the case of passengers who are on trains without having proper tickets, or travelling beyond the place authorised by their tickets, or travelling in a carriage of a superior class to that authorised by their tickets; and

(b) in cases in which there is any doubt as to the actual distance which a passenger has travelled without a proper ticket, or beyond the place authorised by his ticket, or in a carriage of a superior class to that authorised by his ticket, for determining the distance which such passenger shall be deemed to have so travelled.

(3) All fares, rates, charges, classifications, conditions, provisions and forms fixed, imposed, made or prescribed under

this section shall come into force upon such date as may be notified by the General Manager in the *Gazette* and the Railway Administration shall keep a copy of the tariff containing particulars of all such fares, rates, charges, classifications, conditions, provisions and forms at every station on the railway and allow any person to inspect the same free of charge at all reasonable times.

PART IV.—CARRIAGE OF PASSENGERS.

28. (1) Every person travelling upon the railway shall, upon payment of the fare, be furnished with a ticket specifying the stations from and to which, and the class of carriage for which, the fare has been paid. Such ticket shall remain the property of the Railway Administration.

Obligation to possess and produce tickets.

(2) Every passenger shall, on demand by a railway official, produce, show and, if so requested by the railway official, deliver up a ticket showing that his fare to the place where such demand is made, by a carriage of the class in which he is travelling, has been paid, or shall pay his fare, or shall give the railway official, his name and address, and in default, such passenger shall be guilty of an offence and shall be liable, on summary conviction, to a fine not exceeding fifty shillings.

(3) The liability of an offender to punishment under this section shall not prejudice the recovery of any fare payable by him.

(4) In this section the expression "fare" includes any penalty fee which may be payable by virtue of sub-sections (1) and (2) of section 27.

29. (1) The Railway Administration shall not be liable for personal injury to, or loss of life of, any passenger unless such injury or loss of life is caused by negligence or lack of reasonable care, diligence or skill on the part of the Railway Administration or its servants.

Liability in respect of personal injury of, to or loss of life of passenger.

(2) The Railway Administration shall not in any circumstances be liable for personal injury to, or loss of life of, a passenger—

(a) who is travelling by special permission whether verbal or written in any part of a train other than a passenger coach set apart for the use of passengers; or

(b) who is travelling over a line in course of construction whether with or without permission.

(3) In order to avoid liability in pursuance of the provisions of sub-section (2) of this section it shall not be necessary for the Railway Administration to give any notice to such passenger

of the conditions on which he travels and it shall be immaterial whether or not the passenger is an infant.

(4) For the purposes of this section, the term "passenger" shall include every person (other than a railway servant on duty) lawfully travelling on any train, having paid his fare to the place where the injury or loss of life occurs.

No liability
for delay.

30. The Railway Administration shall not be liable for any delay to any passenger caused by the failure of any train to start on any advertised journey or in the late starting or arrival of any train from whatever cause arising.

Liability as to
passenger's
luggage.

31. (1) The Railway Administration shall not be liable for the loss of, or damage to, any passenger's luggage unless it shall have been accepted, booked and paid for and a receipt in the form prescribed by the General Manager under sub-section (1) of section 27 issued therefor by a railway official authorised in that behalf, and the loss or damage shall have been caused by the negligence or misconduct of its servants or agents.

(2) The Railway Administration shall not be liable for the loss of, or damage to, any passenger's luggage left with any person employed by the Railway Administration or otherwise disposed of on any railway premises unless such luggage is accepted and booked, or deposited in a railway cloak room, and a receipt in the form prescribed by the General Manager as aforesaid issued therefor by a railway official authorised in that behalf.

(3) Where by virtue of sub-section (1) or sub-section (2) of this section the Railway Administration is liable for the loss of or damage to any luggage, it shall not be liable for any sum exceeding ten pounds unless the person delivering the same for carriage by the Railway shall at the time of delivery have declared its value and paid to the Railway Administration such insurance premium on the value in excess of ten pounds, as may be prescribed by the General Manager under sub-section (1) of section 27; and in such case the Railway Administration shall not be liable for any sum in excess of the value so declared.

PART V.—CARRIAGE OF GOODS.

Measure of
general re-
sponsibility
of Railway
Administra-
tion as carrier
of goods.

32. (1) Subject to any other provisions of this Ordinance, the Railway Administration shall be liable for the loss or misdelivery of, or damage to, any goods occasioned during transit (as hereinafter defined) from any cause whatsoever, unless it proves that the loss, misdelivery or damage has arisen from—

- (a) act of God;
- (b) act of war or the Queen's enemies;
- (c) arrest or restraint of princes or rulers or seizure under any legal process;
- (d) orders or restrictions imposed by the Government;
- (e) riot, civil commotion, or stoppage or restraint of labour which is illegal by virtue of the Trade Disputes (Declaration of Law) Ordinance; Cap. 222.
- (f) casualty including fire or explosion;
- (g) inherent liability to wastage in bulk or weight, latent defect, inherent vice, natural deterioration or the presence of vermin or insect pests not being due to the negligence of the Railway Administration or its servants;
- (h) defective containers or defective, insecure or insufficient packing;
- (i) incorrect or insufficient description or address for delivery; or
- (j) acts or omissions of the owner, consignor or consignee or of the servant or agent of the owner, consignor or consignee:

Provided that—

(i) The Railways Administration shall not by reason of any of the foregoing provisions of this sub-section be relieved from liability in respect of the loss of or damage to any goods in transit unless it proves that it used all reasonable foresight and care in carriage of such goods;

(ii) the Railway Administration shall not be liable for the misdelivery of any goods in transit unless such misdelivery has arisen from the misconduct or negligence of the Railway Administration or its servants;

(iii) the Railway Administration shall not incur liability of any kind in respect of goods where there has been fraud or material misrepresentation or misdescription on the part of the owner, consignor or consignee or the servant or agent of the owner, consignor or consignee.

(2) Goods shall be deemed to be in transit from the time the goods are accepted for carriage by the railway, in the manner prescribed by the General Manager under sub-section (1) of section 27, until—

Transit defined.

(a) the expiration of twenty-four hours after the arrival of the goods at the station to which they are consigned; or

(b) such time as, within the said period of twenty-four hours, the consignee, or his servant or agent acting on his behalf, takes delivery of the goods; or

(c) such time as the goods are placed in a warehouse at the station to which they are consigned in accordance with any conditions imposed by the General Manager in that behalf under sub-section (1) of section 27; or

(d) in the case of goods consigned to a siding not belonging to the Railway Administration, or to a warehouse of the consignee served by a siding of the Railway Administration, such time as the goods are delivered at the siding or at the place where, by arrangement, the consignee takes delivery of goods:

Provided that perishable goods shall be claimed by the owner or consignee within such period after the arrival of the goods at the station to which they are consigned as may be reasonable in the circumstances, notwithstanding that such period may be less than twenty-four hours, and if the goods are not so claimed the Railway Administration may dispose of them in such manner as may be prescribed by the General Manager under sub-section (1) of section 27.

Acceptance defined.

(3) Goods shall be deemed to be accepted within the meaning of this section when the goods, accompanied by a properly completed consignment note, have been accepted at the forwarding station, in accordance with any conditions imposed by the General Manager under sub-section (1) of section 27, by a railway official authorised in that behalf and a receipt therefor, in the form prescribed by the General Manager, has been issued by such railway official, and in the case of goods classified by the General Manager as parcels, when a receipt in the form prescribed by the General Manager has been issued in respect thereof by a railway official authorised in that behalf.

(4) The Railway Administration shall not be liable for any demurrage which may accrue or be due on any ship however caused.

Limitation of liability of the Railway Administration in respect of goods in custody but not in transit.

33. (1) Before the commencement and after the termination of the period of transit as defined in sub-section (2) of section 32, the Railway Administration shall hold any goods, delivered to it for carriage by the railway, as warehousemen, subject to any charges prescribed by the General Manager under sub-section (1) of section 27 and to the condition that it shall not be liable for any loss, or misdelivery of, or damage to, such goods except

upon proof that the loss, misdelivery or damage was caused by the negligence or misconduct of the Railway Administration or its servants.

(2) In respect of goods held by it as warehousemen the Railway Administration shall not be liable for any loss or misdelivery of, or damage to—

(a) any article of a kind mentioned in the Second Schedule to this Ordinance;

(b) any dangerous goods or any perishable goods not claimed as provided in sub-section (2) of section 32.

(c) any animal; or

(d) any goods consigned to, and arriving at, a station in respect of which the Railway Administration has given notice that it has not sufficient or suitable accommodation for the goods so consigned or for any goods or for any class of goods to which the goods so consigned belong, whether such loss, misdelivery, or damage is caused by the negligence of the Railway Administration or its servants or otherwise.

34. (1) The Railway Administration shall not be liable for the loss, misdelivery of, or damage to, any article or package deposited in a cloakroom in cases where—

Limitation of liability in respect of article deposited in cloak rooms.

(a) the value or the aggregate value of the article or package exceeds the sum of ten pounds unless at the time of deposit the value thereof be declared and in addition to the ordinary charges for deposit a sum of sixpence is paid for each ten pounds or fraction thereof by which the declared value exceeds ten pounds and a similar charge for each week during which the article or package is left on deposit;

(b) the value of the article or package is less than ten pounds, unless such loss, misdelivery or damage shall be proved to have been occasioned by negligence of the Railway Administration or its servants.

(2) With regard to any article or package deposited in a cloakroom, the Railway Administration shall not in any case be liable for—

(a) special, indirect or consequential loss or damage;

(b) any act, neglect or default of any person employed by the Railway Administration not within the scope of his employment;

(c) loss or damage in respect of any article or package deposited contrary to the provisions of this Ordinance or to any conditions imposed by the General Manager under sub-section (1) of section 27.

Limitation of liability in respect of damage or loss during loading or unloading, and in respect of goods loaded at sidings.

35. (1) No liability shall attach to the Railway Administration with respect to any damage to or loss of any goods while the same are being loaded or unloaded where such services are being undertaken by the consignor or consignee, unless such loss or damage results from negligence or misconduct on the part of the Railway Administration or its servants acting within the scope of their employment.

(2) The Railway Administration shall not be liable for the loss or misdelivery of, or damage to, any goods accepted by it for loading at a siding except upon proof that the loss, misdelivery or damage was occasioned by the wilful misconduct of the Railway Administration or its servants.

No liability unless goods booked and paid for.

36. The Railway Administration shall in no case be liable for the loss, deterioration or misdelivery of, or damage to any goods carried or delivered for carriage by the railway, unless the goods in respect of which compensation is claimed shall have been booked and paid for in conformity with this Ordinance and subject to any conditions imposed by the General Manager under sub-section (1) of section 27.

Goods carried under special contract. Special provisions as to owner's risk.

37. (1) The liability, rights, and obligations of the Railway Administration in respect of the transport of goods may be limited by special contract provided such contract is in writing and is signed by, or on behalf of the consignor, or is in such other form as may be specified by the General Manager.

(2) When goods are conveyed under a special contract for the conveyance of goods at owner's risk, the Railway Administration shall not be liable for the loss or misdelivery of, or damage to, the consignment or any part thereof except upon proof that the same arose from the wilful misconduct of the Railway Administration or its servants:

Provided that nothing in this section shall exempt the Railway Administration from any liability it might otherwise incur in the following cases—

(i) non-delivery of the whole of a consignment or of any separate package forming part of a consignment, properly packed and addressed, unless such non-delivery is due to an accident to a train or to fire;

(ii) misdelivery, where merchandise properly addressed is not tendered to or placed at the disposal of the consignee within fifty-six days, or in the case of perishable merchandise within a reasonable time, which shall not be less than ten days after the consignment was accepted by the Railway Administration;

And provided further that the Railway Administration shall not be liable in the cases of non-delivery or misdelivery mentioned in the foregoing proviso to this sub-section or for theft upon proof by them that the same has not been caused by the negligence or wilful misconduct of the Railway Administration, or its servants.

38. (1) The Railway Administration shall not be a common carrier of animals, but may accept any animal for carriage by the railway subject to any special conditions imposed by the General Manager under sub-section (1) of section 27.

Provision as to liability in respect of carriage of certain animals.

(2) The responsibility of the Railway Administration for the loss of, or damage to, any animal accepted by it for carriage by the railway shall not in any case exceed, in the case of horses, twenty-five pounds for each animal, in the case of horned cattle, five pounds for each animal, and in the case of sheep, goats, dogs or other animals, one pound for each animal unless the owner or consignor declared the animal or caused it to be declared at the time of delivery to be of higher value.

(3) Where such higher value has been declared the Railway Administration may charge in respect of the increased risk an excess charge proportionate to the excess of the value so declared over the respective sums aforesaid.

(4) The Railway Administration shall not be liable for the loss of, or damage to, any animal accepted by it for carriage by the railway—

(a) except while the animal is in transit as defined in section 32;

(b) where the loss or damage is caused by fire, fright, restiveness, tsetse fly or any other insect pest, or delay not caused by the negligence or wilful misconduct of its servants.

39. (1) When any goods of a description mentioned in the Second Schedule to this Ordinance are contained in any parcel or package delivered to the Railway Administration for carriage by the railway, the Railway Administration shall not be responsible for the loss or misdelivery of, or damage to any goods

Liability as to articles of special value.

in such parcel or package, unless the owner or consignor declared the nature of its contents and their value or caused the same to be declared at the time of delivery, and paid or engaged to pay such special rate therefor as may have been prescribed by the General Manager under sub-section (1) of section 27.

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

Carriage of dangerous goods.

40. The Railway shall not be a common carrier of dangerous goods, but may accept any dangerous goods for carriage by the railway subject to any special conditions imposed by the General Manager under sub-section (1) of section 27, which may include a condition that the owner or consignor shall compensate the Railway Administration for any damage to the railway, and indemnify the Railway Administration against any consequential loss or misdelivery of, or damage to, other goods or injury to, or the death of, any passenger where the loss, misdelivery, damage, injury or death is directly or indirectly attributable to the carriage of such goods.

Examination of contents of packages.

41. Without prejudice to the powers of the General Manager under sub-section (1) of section 27, the Railway Administration may make it a condition of acceptance of any package for carriage by the railway that a railway official authorised in that behalf shall have satisfied himself, by examination or otherwise, as to the nature of the contents thereof:

Provided that this section shall not apply to any parcel carried by the railway for the postal authority.

Burden of proof in respect of claims for compensation for loss or damage.

42. In any suit against the Railway Administration for compensation for the loss or misdelivery of, or damage to, any goods delivered for carriage by railway, it shall not be necessary for the plaintiff to prove how the loss misdelivery or damage was caused; but the burden of proving the value of the goods, and, in the case of damage to goods, the extent of the damage, shall lie upon the claimant.

43. No person shall be entitled to a refund of an overcharge in respect of any goods carried by the railway or to compensation for the loss or misdelivery of, or damage to, any goods delivered to be so carried, unless his claim has been preferred in writing by him or on his behalf to the Railway Administration within six months from the date of delivery of the goods for carriage.

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

44. (1) Notwithstanding anything in the foregoing provisions the Railway Administration shall not be responsible for the loss or misdelivery of, or damage to any goods with respect to which a description false or incorrect in any material particular has been given by the owner or person having charge thereof, if the loss, misdelivery or damage is in any way brought about by the false description, and the Railway Administration shall not be responsible in any case for an amount exceeding the value of the goods calculated in accordance with the false description.

Exoneration from responsibility in case of goods falsely described.

(2) The consignor of any goods which are falsely or incorrectly described shall be liable to make good to the Railway Administration any damage to the railway, and any consequential loss or misdelivery of, or damage to, any other goods, which is directly or indirectly attributable to such false or incorrect description and for which the Railway Administration may be liable to any other person.

Owner liable for consequential damage.

PART VI.—OFFENCES, PENALTIES, JURISDICTION AND PROCEDURE.

45. If any person shall wilfully hinder or obstruct, or cause or procure to be hindered or obstructed, the General Manager, the engineer, or any railway official agent or servant of the Railway Administration, or any workman or other person authorised by the Governor, the General Manager or the engineer, or employed in doing or performing any of the works by this Ordinance authorised to be done, or in the exercise of any of the powers or authorities in this Ordinance contained, or if any person shall remove or pull up any picket, stake, pole, or mark used in setting out or marking the line of the railway or any lands taken under this Ordinance, he shall be guilty of an offence, and shall be liable, on summary conviction, to a fine not exceeding twenty pounds, and in default of payment thereof to imprisonment for a period not exceeding three months.

Penalty for hindering railway officials and for removing marks.

46. If any person shall oppose, hinder, or obstruct the Sheriff in the execution of any warrant directed to him by the Governor to deliver possession of any lands, such person shall

Penalty for hindering Sheriff.

be guilty of an offence, and shall be liable, on summary conviction, to a fine not exceeding fifty pounds and in default of payment thereof to imprisonment for a period not exceeding six months.

Penalty for frauds.

47. Any person who shall defraud, or attempt to defraud, the Railway Administration by travelling, or attempting to travel, upon the railway without having previously paid his fare, or by riding in or upon any carriage of a superior class than that for which he shall have paid his fare, or by continuing his journey in or upon any of the carriages beyond the station for which he shall have paid his fare, without having previously paid the fare for the additional distance, or who shall in any other manner whatever attempt to evade the payment of his fare, or who shall knowingly and wilfully refuse or neglect, on arriving at the station to which he shall have paid his fare, to quit such carriage and railway premises, or who shall transfer, or profit by the transfer of, the return half of any ticket obtained by him, shall be guilty of an offence and shall be liable, on summary conviction, to a fine not exceeding ten pounds.

Neglect to account for article delivered to railway officers.

48. If any person shall deliver to any railway official any article or property to be carried on the railway, and, when required to give an account of the quantity or description of any such article or property, shall neglect or refuse to give such account, or shall wilfully give a false account, such person shall be guilty of an offence and shall be liable, on summary conviction, to a fine not exceeding ten pounds; and it shall be lawful for any railway official to detain any article or property which he has reason to suspect is wrongfully described, until he shall be satisfied as to the nature of such article or property and the Railway Administration shall not be liable for any loss arising in consequence of such detention.

Penalty where railway servant is in a state of intoxication while on duty.

49. (1) If a railway servant is in a state of intoxication while on duty, he shall, on summary conviction be liable to a fine of five pounds, or, when the state of his intoxication is such as would be likely to endanger the safety of any person travelling or being upon a railway, be liable upon conviction before the Supreme Court to a fine not exceeding one hundred pounds or to imprisonment for a period not exceeding two years, or to both such fine and imprisonment.

Penalty for omission and neglect.

(2) Whosoever, by any unlawful act, or by any wilful omission or neglect, shall endanger or cause to be endangered the safety of any person conveyed or being in or upon a railway

or shall aid or assist therein and whosoever, by any unlawful act or by any wilful omission or neglect shall obstruct or cause to be obstructed any engine or carriage using any railway, or shall aid or assist therein, shall be guilty of an offence, and being convicted thereof shall be liable to imprisonment for a term not exceeding two years.

(3) Any person who by any unlawful act or by the wilful omission to do any act which it is his duty to do, causes the safety of any person travelling by or being upon any railway, to be endangered, shall be guilty of any offence and shall be liable on conviction to imprisonment for a term not exceeding two years.

Omission to do act which it is duty of railway servant to do.

50. If any person shall wilfully and maliciously put, place, cast or throw upon or across the railway any wood, stone, or matter or thing, or shall wilfully or maliciously take up or remove, or displace any rail, sleeper, or matter or thing belonging to the railway, or shall wilfully and maliciously turn, move or divert any points or other machinery belonging to the railway, or shall wilfully and maliciously make, show, hide or remove any signal or light upon or near the railway, or shall wilfully or maliciously do, or caused to be done, any other act with intent, in any of the cases aforesaid, to upset, obstruct, overthrow, injure, or destroy any engine, tender, carriage or truck used upon the railway, or to endanger the safety of any persons travelling or being upon the railway, or cast, throw, or cause to fall or strike against, into, or upon any engine, tender, carriage, or truck used upon the railway, any wood, stone, or other matter or thing, with intent to endanger the safety of any person being in or upon such engine, tender, carriage, or truck, every such offender shall be guilty of an offence, and shall be liable on conviction, on information, to a fine not exceeding one hundred pounds or to imprisonment for a period not exceeding twenty years, or to both such fine and imprisonment, or, on summary conviction, to a fine not exceeding twenty pounds or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

Obstructing engine or carriages, or endangering safety of passengers.

51. It shall be lawful for any railway official, or constable, and all persons called by him to his assistance, to seize and detain any person whom such railway official, or constable has reasonable cause to suspect of having committed an offence against the provisions of this Ordinance or against any bye-law made thereunder, and to convey him with all convenient despatch before some Magistrate, without any

Arrest.
[c.f. s. 154
8 & 9 Vict.
c. 20.]

warrant or other authority than this Ordinance; and such Magistrate shall proceed with all convenient despatch to the hearing and determination of the complaint against the person so brought before him.

Jurisdiction
of
Magistrates.

52. For the purposes of this Ordinance, the Magistrate before whom any person is charged with committing an offence under this Ordinance or any bye-law made thereunder shall have jurisdiction to hear and determine such offence although such Magistrate may otherwise have no jurisdiction in the place where such offence is alleged to have been committed.

PART VII.—MISCELLANEOUS.

Appointment
of General
Manager.

53. It shall be lawful for the Governor to appoint a General Manager of the railway.

Appointment
of engineers,
overseers,
etc.

54. It shall be lawful for the Governor to appoint such engineers, station masters, and other officers, for superintending and working the railway, with such salaries and emoluments as shall be fixed by him, with the consent of the House of Representatives, and to assign their several and respective duties to such engineers, station masters and other officers. Notwithstanding anything in this section contained, the General Manager shall have power to appoint and remove non-pensionable officers, and to assign to all officers working on the railway their several and respective duties.

Expenses of
maintaining
railway, etc.

55. It shall be lawful for the Governor from time to time by warrant under his hand directed to the Accountant General, to pay from and out of the general revenue of Sierra Leone all expenses and moneys incurred or due for or in respect of the maintaining or keeping in repair of the engines, carriages, stock, machinery, apparatus, implements and materials required or used on or about or in relation to the railway, and the payment of the salaries of the General Manager and the engineers, overseers, station masters, and other officers and workmen employed on or about or in relation to the railway, and any other expenses in relation to the railway; and an account of all such expenses and of moneys expended, and of the receipts of moneys in respect of the fares and freight charges paid for the conveyance of passengers, animals and goods, and other sources of revenue, shall be laid before the House of Representatives every six months by the Financial Secretary.

56. When any owner or occupier of land adjoining or near the railway lays down and constructs, at his own expense, either upon or through his own lands, or on lands of other persons, any collateral branches of the railway, or any tramways, for the purposes of bringing carriages, goods, animals, and passengers to and from or upon the railway, the engineer or General Manager shall render every facility for connecting the same with the trunk line, if, in the engineer's opinion, such construction can be made without injury to the railway, and without inconvenience to the traffic thereon; the whole of the cost of so doing being defrayed by such owner or occupier.

Points, etc. may be made to connect private tramways with the railway.

57. (1) All actions and suits arising out of, or founded upon, the contractual rights and liabilities of the Railway Administration in respect of any loss or damage occurring upon the railway, or in respect of any matter or thing done or omitted thereon, or otherwise in connection with the business of the Railway Administration as carriers, which, if the railway were the property of any company, firm, or person carrying on the business of a carrier in Sierra Leone might, under the law of Sierra Leone, be brought by or against such company, firm or person, may be brought by or against the Railway Administration.

Power to sue for damages in matters arising from, or founded upon contract.

(2) Any such action or suit may be commenced and prosecuted by or against the General Manager as the nominal plaintiff or defendant, as the case may be, without otherwise naming him, and the General Manager shall be entitled to recover, or be liable to, as the case may be, the damages and costs of any such action or suit. Any such damages or costs, if recovered by him, shall be paid into the Treasury, and, if recovered against him, shall be paid and made good from the Treasury on the warrant of the Governor.

Sec. 11.

FIRST SCHEDULE.

FORM OF WARRANT OF THE GOVERNOR.

By His Excellency,
Governor and Commander-in-Chief of the
Colony of Sierra Leone.

Governor.

To the Sheriff of the Colony of Sierra Leone greeting:

Whereas certain lands, namely [*describe lands*], are required for the Railway within the meaning of the Railway Ordinance.

We therefore command you that you enter the same within fourteen days from the date hereof, and without delay, and cause the engineer to have possession of the said lands and premises.

Dated this.....day of.....19.....

Sec. 39.

SECOND SCHEDULE.

1. Coins being neither gold nor silver.
2. Cloths and tissue and lace, of which gold or silver forms part, not being the uniform or part of the uniform of an officer, soldier, sailor, police officer or constable or member of a defence force, or of any public officer, British or foreign, entitled to wear uniform.
3. Government securities.
4. Stamps.
5. Bills of exchange, promissory notes, bank and currency notes and orders or other securities for payment of money.
6. Maps, writings, title deeds and plans.
7. Engravings, lithographs and photographs.
8. Silk in a manufactured or unmanufactured state, and whether wrought up or not wrought up with other materials.
9. Shawls.
10. Lace, furs and feathers.
11. Opium and narcotic preparations.
12. Ivory, ebony and sandalwood.
13. Musk, sandalwood oil and other essential oils used in the preparation of perfumes.
14. Passenger's luggage exceeding £10 in value.
15. Books and manuscripts exceeding £5 in value.
16. Watches, clocks and time-pieces of any description.
17. Musical instruments.
18. Aircraft instruments.
19. Wireless and radio instruments and equipment.
20. Scientific instruments.
21. Cameras and cinematograph apparatus (including films).
22. Paintings, carvings, statuary, sculptures and other works of art.
23. Pearls, jewellery, trinkets and plated articles.
24. Gold and silver, coined or uncoined, manufactured or unmanufactured.
25. Art pottery and all articles made of glass, china or marble.
26. Amber.
27. Precious stones.