

TRINIDAD RAILWAY ORDINANCE, 1873.

Arrangement of Clauses.

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No. 11—1873.

23rd September.

AN ORDINANCE for Establishing a Railway between
Port-of-Spain and Arima.(L. S.) J. R. LONGDEN, *Governor*.

24th September, 1873.

WHEREAS it is expedient that a railway should be ^{Preamble.}
established and maintained, for the conveyance
of passengers and goods between the town of Port-of-
Spain and the village of Arima and the intermediate
places, with all necessary and proper works and conve-
niences: Be it enacted by His Excellency the Governor,
by and with the advice and consent of the Legislative
Council, as follows:—

PART I.

Title.

1. This Ordinance may be cited, for all purposes, as ^{Short title.}
"The Trinidad Railway Ordinance, 1873."

Interpretation.

2. The following words and expressions shall have the <sup>Interpreta-
tion.</sup>
several meanings hereby assigned to them whenever
such meanings are not repugnant to the context, that is
to say,

- a. Words importing the singular number shall include
the plural number, and words importing the
plural number shall include the singular number;
- b. Words importing the masculine gender shall in-
clude females;

- c. The word "lands," besides its ordinary meaning, shall mean messuages and all other corporeal hereditaments ;
- d. The term "The Railway" shall mean the Port-of-Spain and Arima line of railway and all the works, stations, houses, termini, and carriages connected therewith respectively ;
- e. The word "toll" shall mean any rate, fare, charge, or other payment payable for any passenger, animal or goods conveyed upon or by "the railway" ;
- f. The word "goods" shall mean things of every kind conveyed upon or by "the railway" ;
- g. The term "contractor" shall mean any person or persons who shall enter or who shall have entered into a contract with Her Majesty the Queen or with any person or persons acting on her behalf to make or maintain "the railway" or any part of the same ;
- h. The term "the engineer" shall mean any officer for the time being acting under the authority of Her Majesty's Secretary of State for the Colonies, or the Governor, in superintending the construction and establishment of "the railway" ;
- i. The term "the collector" shall mean the person for the time being charged with receiving the "tolls" ;
- j. The term "the general superintendent" shall mean the person appointed to superintend the working of "the railway."
- k. The words "private persons" shall include all associations, corporations, and bodies whatsoever.

Power to establish the Railway.

3. It shall be lawful for the Governor to establish and maintain a railway, with terminal and intermediate stations and all proper works and conveniences for the conveyance of passengers and goods, commencing at such point on the new or extended wharf in the said town of

Power to
establish
railway.

Port-of-Spain as shall be approved of by the Governor and the Legislative Council, and terminating at such point in or near the village of Arima as shall be selected by the Governor, and according to the plan made by Mr. Edward Tanner, in the year one thousand eight hundred and seventy-two, signed by him and the Colonial Secretary, and which is deposited in the office of the Secretary of the Intendant, with power to deviate from the said plan and make the railway within one hundred feet of the line there shown.

4. Actions and suits shall and may be maintained in the name of the Engineer on all contracts entered into or hereafter to be entered into by or on behalf of Her Majesty the Queen for making or maintaining the said railway or any part thereof, or any other of the works hereby authorised, and damages and costs may be recovered against the Contractor.

As to the enforcement of contracts.

Power to take lands reclaimed at the wharf.

5. It shall be lawful for the Governor to set out, appropriate, and take for the making of the said railway, and for the building of stations, and for other works to be connected therewith, such parts of the land reclaimed under the Ordinance number 22 for 1858, entitled "An Ordinance for improving the quays of the Town of Port-of-Spain" as may be required for such purposes; and for the Contractor to make and build such railway, stations, and other works on such lands as may be set out, appropriated, and taken as aforesaid, anything to the contrary in the said Ordinance contained in anywise notwithstanding.

Power to take lands reclaimed at the wharf.

Power to take other Lands.

6. It shall be lawful for the Engineer with all necessary workmen and other servants at all times to enter upon lands belonging to the Crown or to private persons; and also to set out, appropriate, and take so much of such lands as may be required and expedient for the railway according to the aforesaid plan or within one hundred feet of the line there shown. All such lands so belonging to private persons when so set out, appropriated or taken shall be vested in Her Majesty the

Power to take any lands.

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Queen free from all other estates, and all liens, rights, charges, and encumbrances whatsoever.

Lands taken
to be marked
out by
engineer.

7. When the Engineer shall set out, appropriate, and take any lands for the purposes of the railway, he shall cause such lands to be marked out and a notice to be posted in some 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, and the marking out of such lands and the putting up of such notice shall be conclusive evidence of the said lands having been set out, appropriated, and taken for the railway.

Power to
Governor to
purchase
lands
adjoining the
railway
which may be
injuriously
affected
thereby.

8. Whenever any small portion of land shall be severed and cut off, by the line of the railway, from the remaining and greater portion of the lands of any owner, so that the working of such small portion of land shall become burthensome and expensive to such owner, it shall be lawful for the Governor on behalf of Her Majesty the Queen, at the request of the owner, to buy the small portion of land so severed and cut off, and from time to time to resell the same, either together, or in parcels; and the moneys arising from the sale of such last mentioned land shall be carried to the general revenue of the island.

Case in which
owner, &c., of
lands shall
refuse to give
up possession
thereof.

9. 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 to the Marshal to deliver possession of the same to the Engineer, and upon the receipt of such warrant the Marshal shall deliver possession of any such lands accordingly; and the costs accruing by reason of the execution of such warrant to be settled by the Marshal and allowed by the Governor, 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 party, and if no compensation be payable to such party, 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 any Justice of the Peace for that purpose he shall issue his warrant accordingly.

Power given to Contractor to enter lands and make the Railway and maintain and repair the same.

10. The Contractor, 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. :—

Power to contractor to enter, &c., upon lands appropriated for the railway.

- a. From time to time, to enter upon any lands set out, appropriated, or taken for "the railway" as aforesaid, or on other lands within two hundred yards thereof, and to survey and take levels of the same, or any part thereof ;
- b. 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 materials or things whatsoever which may be dug or obtained therein, and which may be necessary or proper for making, maintaining, altering, repairing or using the railway or any part thereof, or which may obstruct the making, maintaining, altering, repairing or using the same respectively ;
- c. To construct or make in, under, upon, across or over the railway or any part thereof, or over any lands, or any roads, streets, dams, ways, lanes or other public passages or places, mills, valleys, rivers, canals, brooks, streams or other waters whatsoever, such inclined planes, tunnels, embankments, bridges, arches, piers, roads, ways, passages, conduits, drains, culverts, cuttings and

fences ; and, also to lay down, erect and construct such rails, sleepers, houses, sheds, wharves, warehouses, toll-houses, landing places, engines and other buildings, machinery, apparatus and other works and conveniences as shall be necessary or expedient for the establishment, maintenance or repairing or using of the railway ;

- d.* And, also to alter 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 ; or raise or sink the level of or widen any such rivers, streams or watercourses, canals, 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 ;
- e.* 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 and egress from any mine, quarry, or kiln, which may be situate on any land of the Crown ;
- f.* 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 Contractor or Engineer shall think proper ;
- g.* And also from time to time to alter, repair or discontinue the beforementioned works or any of them, and to substitute others in their stead ;

h. 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 Contractor 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 :

Provided that none of the said several powers shall be exercised without the previous sanction in writing of the Engineer.

The Railway vested in Her Majesty the Queen.

11. The railway shall be vested in Her Majesty the Queen, her heirs and successors.

Railway
vested in the
Queen.

Compensation.

12. The owners and occupiers of, and all other parties interested in, any lands which shall be set out, appropriated and taken or used for the purposes of the railway or injuriously affected by the construction thereof, 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 parties 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.

Compensation
to be allowed
for lands
taken for
railway.

13. It shall be lawful for the Governor on behalf of Her Majesty to contract and agree with the owner or occupier or any other person interested in any lands which may be set out, appropriated or taken or used for the purposes of the railway, or injuriously affected by the construction thereof, 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

Amount of
compensation
may be
agreed upon.

the exercise of the right of entry and user hereinbefore given.

As to who shall be deemed the owner of lands in cases of disputed title.

14. Where any question shall arise touching the title of any person to any lands which may be taken or entered upon for the purposes of this Ordinance, the person having the ostensible possession or enjoyment of the rents and profits of such lands shall be deemed the owner of the same.

Procedure in case owner refuses amount offered for compensation, or no amount is offered.

15. If any person shall refuse to accept such sum of money as may be offered to him as compensation under this Ordinance; or if no such offer of compensation shall have been made within sixty days after the Engineer shall have set out, appropriated, or taken, or the Contractor shall have entered on any lands under this Ordinance, in all such cases the amount of compensation shall be settled by the verdict of a jury, and for such purposes it shall be lawful for the Supreme Civil Court or a judge thereof on the application of the person claiming compensation, and on notice being first given by or on behalf of such person to the Engineer of the sum which he is willing to accept as such compensation, to make order that the amount of compensation shall be inquired of and assessed by a jury before a judge of the Supreme Civil Court, at the next sitting for the trial of issues, not less than fourteen days from the time of such order being made, and thereupon a writ shall issue to the Marshal requiring him to summon a jury for that purpose.

As to the summoning of juries.

16. The Marshal shall summon a jury of not less than twenty-four indifferent persons duly qualified to act as jurors; and out of the names appearing on such summons a jury of twelve persons shall be drawn by the Registrar in such manner as juries for trial of issues are by law required to be drawn, and if a sufficient number of jurymen do not appear in obedience to such summons, the Marshal shall return other indifferent men duly qualified as aforesaid of the bystanders or others that can speedily be procured to make up the jury, and all parties shall have the right of lawful challenge against any of the jurymen.

17. On such inquiry, the party claiming compensation shall be deemed the plaintiff, and the Engineer shall be deemed the defendant, and either party shall have power to subpoena any person as a witness, and to enforce the attendance of such witness: and any witness failing to attend without sufficient cause, or who shall appear but refuse to be examined, or to give evidence touching the subject matter in question, shall be proceeded against in the same manner as any other person failing to attend, or refusing to be examined, or to give evidence as a witness on the trial of any issue, in the Supreme Civil Court.

As to the attendance of witnesses.

18. Before the jury shall proceed to inquire of the compensation in respect of which their verdict is to be given, they shall make oath, or affirmation in those cases where an affirmation is admitted in lieu of an oath, that they will truly and faithfully inquire of and assess such compensation; and on such inquiry the judge before whom such inquiry shall be had, shall, on the request of either party, order any six or more of them to view the land in respect of which such compensation shall be claimed in like manner as views may be had on the trial of an action in the Supreme Civil Court.

Jury to be sworn.

19. When the verdict of the jury shall be given for a sum not exceeding the sum, if any, previously offered as compensation, one half of the costs of summoning, impannelling and returning the jury, and of taking the verdict, and recording the verdict and judgment thereon, in case such verdict shall be taken, shall be defrayed by the person claiming compensation, and the other half by the Engineer, and each party shall bear his own costs other than as aforesaid incident to such inquiry; but if the verdict be given for a greater sum than the sum previously offered as compensation to the owner, or if no compensation shall have been previously offered to the owner, the costs of such inquiry shall be allowed to the owner.

As to payment of costs.

20. The costs of any inquiry under this Ordinance shall be settled by one of the judges of the Supreme

Costs to be settled by the Court.

Civil Court on the application of either party, and such costs shall include all reasonable costs, charges, and expenses incurred in obtaining the order for inquiry, the summoning, impannelling, and returning the jury; the attendance of the witnesses; the employment of counsel and solicitors and recording the verdict and judgment, or otherwise incidental to such inquiry.

Registrar of Court to sign judgment for compensation and costs.

21. The Registrar of the Supreme Civil Court shall sign judgment, which judgment shall be for the amount of compensation assessed by the jury together with the costs, if any, allowed to the person claiming compensation, or for the amount of such compensation after deducting the costs, if any, payable by him, and shall keep such judgment among the records of the Supreme Civil Court.

Amount for which judgment has been signed to be paid by Receiver-General.

22. On the production of a copy of such judgment certified by the Registrar, the amount for which judgment shall have been signed shall be paid by the Receiver General on the warrant of the Governor.

Costs of engineer to be paid by Receiver-General.

23. All costs and expenses incurred by the Engineer incidental to such inquiry shall be paid by the Receiver General on the warrant of the Governor.

No claim to be admitted after two years.

24. No claim for compensation shall be admitted or entertained, unless the same shall be made within two years next after the time when the right to such compensation shall have accrued to the person entitled to receive the same.

In cases where notice is given that lands taken for the railway are mortgaged, amount of such mortgage to be deposited in Treasury in

25. If any person having a mortgage or charge on any lands set out, appropriated or taken for the purposes of this Ordinance, or the trustee for any such person, or the guardian of any infant, or committee of any lunatic having such mortgage or charge shall give notice in writing to the Engineer within forty days after such lands shall have been so set out, appropriated or taken, of the amount due in respect of such mortgage

or charge, and the nature and date of the instrument or security under which such mortgage or charge is claimed, it shall then be lawful for the Governor to deposit the compensation payable in respect of such lands, or so much thereof as shall be sufficient to pay off the amount due in respect of such mortgage or charge, in the name and with the privity of the Registrar of the Supreme Civil Court, with the Receiver General, to be placed to the credit of the parties interested in such lands, describing them as far as such engineer can do, subject to the control and disposition of the Supreme Civil Court in Equity.

the name of
the Registrar
of the Court.

26. If any difficulty or question shall arise as to the title of any lands taken or used for the purposes of this Ordinance, or as to the person entitled to the compensation to be made in respect of such lands or any part thereof, it shall be lawful for the Governor to deposit the compensation payable in respect of such lands, in the name and with the privity of the Registrar of the Supreme Civil Court, with the Receiver General, to be placed to the credit of the parties interested in such lands, describing them so far as can be done, subject to the control and disposition of the Supreme Civil Court in Equity.

In cases of
disputed title,
amount of
compensation
to be
deposited in
the Treasury
in the name
of the
Registrar of
the Court.

27. Upon the application by petition of any party making claim to the moneys so deposited as aforesaid or any part thereof, the Supreme Civil Court may, in a summary way, and after such notice as to the Court shall seem fit, and to such person or persons as the Court shall direct, order distribution and payment of such moneys according to the respective rights and interests of the parties making claim to such moneys, or any part thereof, and may make such other order in the premises as to the Court shall seem fit.

Moneys so
deposited to
be paid on the
order of the
Supreme
Civil Court.

28. In all cases of moneys deposited under this Ordinance, it shall be lawful for the Supreme Civil Court, if they shall see fit, to order all costs attending the depositing of such moneys, and the orders for the

Costs
attending
depositing,
&c., of
moneys, to be

paid by
Receiver-
General.

distribution and payment of such moneys and of all proceedings relating thereto, except such as are occasioned by litigation between adverse claimants, to be paid by the Receiver General on the warrant of the Governor.

Things to be done by Order of the Governor.

Power to use
locomotives,
&c., on
railway.

29. It shall be lawful to use and employ on the railway locomotive engines or other moving power, and carriages and waggons to be drawn or propelled thereby.

Accommoda-
tion works to
be provided.

30. There shall be made, and at all times maintained the following works for the accommodation of the owners and occupiers of lands adjoining the railway, that is to say:—

- a. Such and so many convenient 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 the lands through which the railway shall be made; and such works shall be made forthwith after the part of the railway passing over such lands shall have been laid out or formed, or during the formation thereof;
- b. Also sufficient posts, rails, wires, hedges, ditches, mounds, or other fences, for separating the land taken for the railway from the adjacent lands not taken, and protecting such lands from trespass, or the cattle of the owners or occupiers thereof from straying thereout by reason of the railway; together with all necessary gates made to open towards such adjoining lands and not towards the railway; and all necessary stiles; and such posts, rails, wires, and other fences shall be made forthwith after the taking of any such lands if the owners thereof shall so require,

and the said other works as soon as conveniently may be;

- c.* 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 clearly from the lands lying near or affected by the railway as before the making of the railway, or as nearly so as may be, and such works shall be made from time to time as the railway works proceed;
- d.* Also proper watering places for cattle, where by reason of the railway the cattle of any person occupying any lands lying near thereto shall be deprived of access to their former watering places; and such watering places shall be so made as to be at all times sufficiently supplied with water as theretofore and as if the railway had not been made, or as nearly so as may be; and all necessary water-courses and drains shall be made for the purpose of conveying water to the said watering places:

Provided that such accommodation works shall not be made in such a 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 and 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 made in or through the respective lands solely for the purpose of occupying the same lands or for the exercise of such right of way and so as not to obstruct the passage along the railway or to damage the same.

31. Whenever the railway shall cross any royal road on a level, there shall be made and maintained good

As to the erection of gates where

railway
crosses high
road.

and sufficient gates on each side of the railway where the same shall communicate therewith, and proper persons shall be employed to open and shut such gates; and such gates shall be kept constantly closed across such road on both sides of the railway except during the time when horses, cattle, carts or carriages passing along the same shall have to cross such railway, and such gates shall be of such dimensions, and be so constructed, as when closed to fence in the railway; and the persons entrusted with the care of such gates shall cause the same to be closed as soon as such horses, cattle, carts or carriages shall have passed through the same.

Provided always that it shall be lawful for the Governor in any case in which he is satisfied that it will be more conducive to the public safety that the gates on any level crossing over any such road shall be kept closed across the railway to order that such gates shall be kept so closed instead of across the road, and in such case such gates shall be kept constantly closed across the railway, except when engines or carriages passing along the railway, shall have occasion to cross such road in the same manner as above directed with respect to gates being kept closed across the road.

PART II.

Revenue from the Railway.

Tolls to be
fixed by
Governor and
Legislative
Council.

32. It shall be lawful for the Governor, from time to time, with the consent of the Legislative Council by proclamation under his hand to fix the amount of tolls to be paid in respect of the conveyance of passengers, animals and goods, upon and by the railway; and such tolls from time to time to alter and vary as the Governor and the Legislative Council shall see fit.

Regulations
as to the
payment of
tolls.

33. Such tolls shall be paid to such persons, and at such places upon, or near to the railway, and in such manner, and under such regulations as the Governor shall appoint, and if on demand any person shall fail to pay the tolls due in respect of any goods, it shall be lawful for the collector to detain and sell all or any part of such goods, and out of the moneys thence arising

retain the tolls payable in respect of such goods, and all charges and expenses of such detention and sale, and such collector shall, upon demand, render the overplus, if any, of the moneys arising by such sale, and such of the goods as shall remain unsold to the person entitled thereto; and if such goods should happen to be removed before the tolls payable in respect of the same be paid, then the General Superintendent may recover such tolls by an action at law in his name as such General Superintendent.

34. All tolls recovered under this Ordinance shall be paid to the Receiver General, and the Receiver General shall keep a separate account of all moneys so received by him in respect of such tolls.

Tolls to be paid to Receiver General.

PART III.

Offences committed in relation to persons carrying out the powers given by this Ordinance, and other offences.

35. If any person shall wilfully hinder, or obstruct, or cause or procure to be hindered or obstructed the Engineer, the General Superintendent, or any Contractor, or his agents, or his servants, or any workman or other person authorised by the Contractor or the Governor, 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, every such person shall on conviction for any such offence forfeit and pay such sum not exceeding twenty pounds and not less than two pounds as to the Convicting Stipendiary Justice shall seem fit; and in default of payment thereof shall be imprisoned in the Royal Gaol with hard labour for any period not exceeding three months, and not less than fourteen days.

Penalty for hindering engineer, &c., or removing marks.

36. If any person shall oppose, hinder, or obstruct the Marshal in the execution of any warrant directed to him by the Governor to deliver possession of any lands, such person shall on conviction of any such offence forfeit

Penalty for hindering marshal.

and pay any sum not exceeding fifty pounds as to the Convicting Stipendiary Justice shall seem fit, and in default of payment thereof shall be imprisoned in the Royal Gaol with hard labour for any period not exceeding six months.

The Governor in his Executive Council to make Regulations.

Power to Governor to make regulations as herein provided.

37. It shall be lawful for the Governor in his Executive Council from time to time to make regulations and to repeal or alter such regulations and to make others:—

- a. For the guidance and conduct of the officers and servants employed in the working of the railway.
- b. For preventing the commission of any offences or nuisance in the carriages, or in any of the stations or premises connected with the railway.
- c. For regulating the conveyance of passengers, animals and goods, and the payment of the fares of such passengers, animals and goods.
- d. For regulating the times of the arrival and departure of any of such carriages.
- e. For the prevention of trespasses upon or injuries or destruction to the railway.
- f. For regulating the travelling upon, or using, or working of the railway.

Power to Governor to make bye-laws.

38. For the better enforcing of such regulations, it shall be lawful for the Governor, in his Executive Council, from time to time, to make bye-laws, and, from time to time, to alter or repeal such bye-laws and make others in their stead, provided that such bye-laws be not repugnant to the laws of the Island, and to fix a penalty not exceeding ten pounds for the breach of any such bye-law, and in default of payment of such penalty any offender shall be imprisoned for any period not exceeding two months as to the Convicting Stipendiary Justice of the Peace shall seem fit; and if the infringement or non-observance of any such bye-law or regulation as aforesaid be attended with danger, or annoyance to the public, or hindrance in the lawful use of the

railway, it shall be lawful for any officer of the railway summarily to interfere to obviate, or remove such danger, annoyance or hindrance and that without prejudice to any penalty incurred by the infringement or non-observance of such bye-laws.

39. Such bye-laws shall be published in the *Royal Gazette*, and shall be painted on boards or printed on paper, and pasted on boards, and hung up and affixed and continued so hung and affixed on the front or other conspicuous part of every station of the railway so as to give public notice thereof. Any person who shall deface, tear down, injure or remove such bye-laws or any of them when so hung up or affixed shall on conviction for every such offence forfeit and pay any sum not exceeding five pounds as to the convicting Stipendiary Justice shall seem fit, and in default of payment thereof shall be imprisoned in the Royal Gaol for any period not exceeding one month.

Bye-laws to be published in *Gazette* and exposed at railway stations.

40. Such bye-laws shall be binding upon and be observed by all persons and shall be sufficient to justify all persons acting under the same; and for proof of the making and publication of any such bye-laws it shall be sufficient to prove that a printed paper or painted board containing a copy of such bye-laws purporting to have been made by the Governor in his Executive Council, was affixed in some conspicuous place in the railway station in Port-of-Spain, or published in the *Royal Gazette*.

Bye-laws to be binding upon all persons.

41. No person shall be liable to the payment of any penalty, or punishment for any offence made cognizable before a Stipendiary Justice of the Peace under this Ordinance, unless the complaint respecting such offence shall have been made before such Stipendiary Justice of the Peace within six months next after the commission of such offence.

Complaint to be made within six months of the commission of the offence.

42. Where persons guilty of offences against this Ordinance or any bye-law made in pursuance thereof may be persons unknown to the officers and other persons acting under this Ordinance, it shall be lawful for any police constable or any officer of the railway acting with such aid as shall be necessary, and without

Unknown offenders may be arrested without a warrant.

any warrant or other authority, to apprehend and detain any such unknown person guilty of any offence against this Ordinance or any such bye-law, and forthwith to convey him before any Stipendiary Justice of the Peace, and such Stipendiary Justice of the Peace is hereby required to proceed and deal with respect to such offender according to the provisions of this Ordinance.

Persons found drunk on railway may be arrested.

43. It shall be lawful for all officers of the railway, constables, and all such persons as they may call to their assistance to seize and detain any person whomsoever who shall be found drunk upon the railway; and to convey such person with all convenient despatch before some Justice of the Peace, without any other warrant or authority than this Ordinance, and every such person shall when convicted thereof before such Justice as aforesaid, who is hereby authorised and required upon complaint to him made upon oath, without information in writing, to take cognizance thereof, and to act summarily in the premises, forfeit and pay any sum not exceeding five pounds, and not less than one pound as to such Justice shall seem meet, and in default of payment thereof shall be imprisoned in the Royal Gaol with or without hard labour for any term not exceeding two calendar months, and not less than seven days.

As to the recovery of penalties.

44. Every penalty imposed by this Ordinance, or by the Governor in his Executive Council in any bye-law to be made by him in his said Council in pursuance of the powers herein granted, may be recovered in a summary manner, on the complaint of the Engineer or General Superintendent, before any Stipendiary Justice of the Peace, in the manner prescribed and according to the Ordinance Number 5 for 1868, entitled "An Ordinance respecting the Summary Administration of Justice."

Miscellaneous.

General superintendent to be appointed.

45. It shall be lawful for Her Majesty the Queen to appoint a General Superintendent of the railway, and from time to time to revoke such appointment, and from time to time to appoint some other person in the place

of him whose appointment is revoked; and such General Superintendent shall receive such salary as the Governor and the Legislative Council may from time to time determine.

46. 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 Legislative Council, and to assign their several and respective duties to such engineers, station masters, and other officers, and such officers from time to time to remove and to appoint others in their places as to the Governor shall seem fit.

As to the appointment of engineer, overseers, &c.

47. It shall be lawful for the Governor, from time to time, by warrant under his hand directed to the Receiver General, to pay from and out of the general funds of the Island all expenses and moneys incurred, or due, for or in respect of the maintaining, keeping in repair, or working of the railway, or the purchase 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 Superintendent 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 tolls paid for the conveyance of passengers, animals and goods, and other sources of revenue shall be laid before the Legislative Council every six months by the Receiver General.

Expense of maintaining railway, &c., to be paid from Treasury.

48. When the owners or occupiers of land adjoining or near to the railway shall lay down, and construct at their own expense either upon or through their own lands, or on lands of other persons with the consent of such persons any collateral branches of the railway, or any tramways for the purpose of bringing carriages, goods, animals, and passengers, to, and from, or upon the railway, the Engineer or General Superintendent shall if required, at the expense of such owners and occupiers, put in such points and make such crossings

Points &c., may be made to connect private tramway with railway.

and other machinery as may be required for effecting such communication in such place where in the judgment of the Engineer, the communication can be made without injury to the railway and without inconvenience to the traffic thereon.

Power to owners of branch railways to cross the railway.

49. It shall be lawful for the owners or occupiers of lands adjoining or near to the railway who may construct lines of railway or tramway for their own private purposes to cross the railway on the level with their rails or trams, and run engines, carriages or trucks across the railway on such level crossings, subject to the regulations and bye-laws to be made as specified in Sections 37 and 38 of this Ordinance; and the Engineer shall at the request and at the expense of the owners or occupiers of such land, and within a reasonable time, lay down such crossings as may be necessary to establish the communication on the owners' private railway or tramway from one side of the railway to the other side.

Power to owners, &c., of land adjoining railway to construct trenches, &c.

50. It shall be lawful for the owners or occupiers of land adjoining the railway to construct such trenches, tunnels or culverts and to lay down such pipes and conduits as they may require for the purposes of any system of drainage or irrigation, or for the conveyance of cane juice or syrup under the line of rails of the railway, and the Engineer shall, at the request and expense of the owners or occupiers of such land and within a reasonable time, carry across and under the line of rails, such trenches, tunnels, culverts, pipes, or conduits in such manner as to complete the connection, from one side to the other side of the railway, of such system of drainage or irrigation or otherwise, in an effectual manner.

Provided always, that none of the works or things in this section mentioned shall be constructed or done if the constructing or doing thereof, or any part thereof, shall be likely, in the opinion of the Engineer, to affect the stability of the railway or stop the traffic thereon for eight consecutive hours.

Power to sue for damages occasioned through the

51. In every case where by the law of England an action would be maintainable against any railway company in England for or by reason of any loss, damage

or injury occasioned by the act, omission, neglect or default of such Company or any officer or servant of such Company, an action shall be maintainable in any like case occurring in this Colony by the act, omission, neglect, or default of any officer or servant to be employed upon the railway under the authority of this Ordinance, and in any such action the General Superintendent shall be the nominal defendant, and any damages or costs which may be recovered by the plaintiff in any such action shall be paid and made good from the Colonial Treasury and paid on the warrant of the Governor.

neglect of
officers, &c.,
of railway.

Provided nevertheless, that no such action shall be maintainable for or by reason of the destruction or damage by fire of or to any building or erection whatsoever, situate within a distance of one hundred feet from any part of the railway in any case where such building or erection shall have been erected, built or covered, after the passing of this Ordinance, of or with inflammable materials.

Passed in Council this twenty-third day of September, in the year of our Lord one thousand eight hundred and seventy-three.

A. C. ROSS,
Clerk of the Council.

No. 12.—1873.

1st October.

AN ORDINANCE for establishing a Market on the
Extended Wharf.

(L. S.) J. R. LONGDEN, *Governor.*

6th October, 1873.

WHEREAS it is expedient to establish a market on a part of the lands reclaimed under the Ordinance number 22 for 1858, and entitled "An Ordinance for Improving the Quays of the Town of Port-of-Spain:" Be it enacted by His Excellency the Governor, by and