

TRINIDAD AND TOBAGO.

No. 25.—1896.

12th October.

AN ORDINANCE relating to Railways.

[L.S.]

C. C. KNOLLYS,

ACTING GOVERNOR.

7th November, 1896.

BE it enacted by the Governor of Trinidad and Tobago with the advice and consent of the Legislative Council thereof as follows :

PART I.

Establishment and Maintenance of Railway.

1. This Ordinance may be cited as "The Railways Short title. Ordinance, 1896."

2. The following words and expressions shall have Interpretation. the several meanings hereby assigned to them whenever such meanings are not repugnant to the context, that is to say,

"Railway" means any railway existing in Trinidad at the time of the passing of this Ordinance, and any railway which may thereafter be established and maintained by the Governor.

“Toll” means any rate, fare, charge, or other payment payable for any passenger, animal or goods conveyed upon any railway.

“Goods” means things of every kind conveyed upon or by any railway.

“Contractor” means 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 any railway or any part of the same.

“The Engineer” means the Chief Resident Engineer of any railway or 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, establishment and maintenance of any railway.

“Collector” means the person for the time being charged with receiving the “tolls” and other moneys of the railway, and paying the same into the Treasury through the Chief Accountant of the railway.

“General and Traffic Manager” means the person appointed to superintend the working of any railway.

“Private persons” includes all associations, corporations and bodies whatsoever.

Governor may
establish rail-
ways.

3. It shall be lawful for the Governor with the advice and consent of the Legislative Council to establish and

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maintain railways with terminal and intermediate stations and all proper works and conveniences for the convenience of passengers and goods.

4. The plan of any such railway shall be signed by the Engineer and the Colonial Secretary and deposited in the office of the Sub-Intendant of Crown Lands, and it shall be lawful to deviate from the lines of such plan to the extent of three chains on either side.

Plans to be deposited.

Power to deviate.

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

As to the enforcement of contracts.

6. All Railways shall be vested in Her Majesty the Queen, Her Heirs and Successors.

Railways vested in Her Majesty.

7. There shall be vested in the Engineer and General and Traffic Manager all powers and authorities with regard to the acquisition of land which are vested in or conferred upon the Director of Public Works under the Land Acquisition Ordinance, 1896, the provisions of which shall apply to land set out, appropriated or taken by the Engineer or General and Traffic Manager.

Powers of Engineer as to lands.

Things to be done by Order of the Governor.

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

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

Accommodation works to be provided.

9. 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.

As to the erection of gates where railway crosses high road.

10. Whenever the railway shall cross any public road on a level, there shall be made and maintained good and sufficient gates on each side of the railway where the same shall communicate therewith, and in such cases as the Governor may consider necessary 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.

Railway Servants.

Appointment, dismissal, or fining of Railway Servants.

11.—(1.) It shall be lawful for the General and Traffic Manager to appoint, dismiss, or fine any person in the service of any railway not being a person holding any

of the offices mentioned in Schedule I. to this Ordinance. Provided that in the case of any appointment the office or employment, and the salary and allowances (if any) in connection therewith, or the rate of wages payable, shall have been previously sanctioned by special or general authority of the Governor. Provided also that no fine imposed under this Section shall exceed one month's pay of the person so fined.

(2.) It shall be lawful for the Governor in Executive Council to add to or alter the list of offices in Schedule I. to this Ordinance.

12. Any person dismissed or fined by the General and Traffic Manager under the authority of Section 11 of this Ordinance shall be entitled to appeal against such dismissal or fine to the Governor who may revoke or confirm such dismissal, or confirm, reduce, or remit such fine. The decision of the Governor in all such appeals shall be final. Appeal to Governor.

13. All fines imposed under Section 11 of this Ordinance shall be paid into the Colonial Treasury and shall be credited by the Receiver-General to a Fund to be called "The Railway Servants' Reward Fund," which Fund shall be administered as the Governor in Executive Council shall determine. Reward Fund.

PART II.

Revenue from the Railway.

14. 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 Tolls to be fixed by Governor and Legislative Council.

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to be paid in respect of the conveyance of passengers, animals and goods, upon and by any 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.

15. 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 and Traffic Manager may recover such tolls by an action at law in his name as such General and Traffic Manager.

Tolls to be
paid to
Receiver-
General.

16. 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.

General
Manager to
be Chief
Collector.

17. The General and Traffic Manager shall be the Chief Collector.

Responsibility
of Collectors.

The Chief Collector and all other collectors, officers and servants charged with the receipt, accounting for and payment of Railway Revenue shall be held individually responsible for the due and efficient discharge of

their respective duties and for the exercise of proper supervision over the accounts kept and controlled by each such chief collector, collector, officer or servant and his subordinates and for the due observance of all regulations, bye-laws and other orders and instructions received by him.

Every such chief collector, collector, officer or servant shall be and is hereby declared to be responsible for and chargeable with any loss arising from the improper or negligent discharge of his duty, and the amount of such loss shall be paid by every such chief collector, collector, officer or servant, and shall be a debt due to Her Majesty and shall be recoverable by action in the Supreme Court at the suit or on the information of the Attorney-General.

PART III.

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

18. If any person shall wilfully hinder or obstruct, or cause or procure to be hindered or obstructed the Engineer, the General and Traffic Manager, 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

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

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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.

Penalty for
hindering
Marshal.

19. If any person shall oppose, hinder, obstruct, or assault 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 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 Executive Council to make
Regulations.*

Power to
Governor to
make
regulations.

20. It shall be lawful for the Governor in Executive Council from time to time to make, alter, or rescind regulations—

- (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.

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(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.

21. 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.

Power to Governor to make bye-laws.

22. Such bye-laws shall be published in the *Royal Gazette*, and shall be painted on boards or printed and pasted on boards and exhibited in some conspicuous part of every station of any 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 exhibited shall on conviction for every such offence forfeit and pay any sum not exceeding Five

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

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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 binding upon all persons.

23. 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 and other terminal stations or published in the *Royal Gazette*.

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

24. 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.

Unknown offenders may be arrested without a warrant.

25. 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 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,

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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.

26. 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.

Persons found drunk on railway may be arrested.

27. Every penalty imposed by this Ordinance or by any bye-law under this Ordinance may be recovered in a summary manner on the complaint of the Engineer or General and Traffic Manager or of such officer of the Railway as may be duly authorised in writing by such Engineer or General and Traffic Manager before any Stipendiary Justice of the Peace in the manner prescribed and according to the Summary Conviction Offences (Procedure) Ordinance, 1895 (47—1895).

Recovery of penalties.

“Officer of the Railway” shall for the purposes of this Ordinance mean and include any Railway Con-

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stable, Head-Guard or Under-Guard or other person employed in the service of the Trinidad Government Railway.

Evidence.

28. Production of any document signed or purporting to be signed by the Engineer or General and Traffic Manager for the time being shall be *prima facie* evidence of the authority in writing required by the last preceding Section.

Production of any copy of the bye-laws purporting to be made under this Ordinance shall be conclusive evidence of the making of such bye-laws.

Miscellaneous Provisions.

Governor to
appoint
General
Manager.

29. It shall be lawful for the Governor to appoint a General and Traffic Manager of Railways and such General and Traffic Manager shall receive such salary as the Governor and the Legislative Council may from time to time determine.

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

30. 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.

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

31. 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 and Traffic 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 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.

32. 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 and Traffic Manager shall if required, at the expense of such owners and occupiers, put in such points and make such crossings 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.

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

33. It shall be lawful for the owners or occupiers of lands adjoining or near to the railway who may con-

Power to
owners of
branch rail-
ways to cross
the railway.

struct 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 20 and 21 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.

34. 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.

35. 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 and Traffic Manager 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.

Power to sue for damages occasioned through the 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.

36. There shall be repealed as from the commencement of this Ordinance—

Repeal.

(a.) The Ordinances specified in Schedule II. to this Ordinance to the extent mentioned in the third column of such Schedule.

(b.) So much of any other Ordinance or law as is inconsistent with this Ordinance.

Provided that all Regulations and Bye-Laws in force at the commencement of this Ordinance shall not-

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withstanding the repeals by this Ordinance continue in full force and effect unless and until they are altered or repealed under this Ordinance.

Saving.

Provided also that this repeal shall not affect:—

- (1.) Anything done or suffered before the commencement of this Ordinance under any enactment hereby repealed; or
- (2.) Any right or privilege acquired, or any liability incurred before the commencement of this Ordinance under any enactment hereby repealed; or
- (3.) Any imprisonment, fine, forfeiture or other punishment incurred or to be incurred in respect of any offence committed before the commencement of this Ordinance under any enactment hereby repealed; or
- (4.) The institution or prosecution to its termination of any investigation or legal proceeding, or any other remedy for prosecuting any such offence, or ascertaining, enforcing or recovering any such liability, imprisonment, fine, forfeiture, or punishment as aforesaid, and any such investigation, legal proceeding and remedy may be carried on as if this repeal had not been enacted.

Passed in Council this Twelfth day of October, in the year of Our Lord one thousand eight hundred and ninety-six.

HARRY L. KNAGGS,
Acting Clerk of the Council.

SCHEDULE I.

Maintenance Engineer.	Chief Clerk to General Manager.
Locomotive Engineer.	Chief Accountant.
Telegraph Superintendent.	Chief Cashier.

SCHEDULE II.

No. OF ORDINANCE.	TITLE OR SHORT TITLE.	EXTENT OF REPEAL.
11 of 1873	The Trinidad Railway Ordinance, 1873	The whole.
14 of 1877	The Trinidad Extension Railway Ordinance, 1877	The whole.
12 of 1879	The Trinidad Extension Railway Ordinance, 1879	The whole.
14 of 1883	The Trinidad Extension Railway Ordinance, 1883	The whole.
17 of 1891	The Railway Penalties Recovery Ordinance, 1891	The whole.
33 of 1894	The Railway Servants Ordinance, 1894	The whole.
1 of 1895	The Railway Servants (Amendment) Ordinance, 1895	The whole.