CHAPTER 25.

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

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title and construction.

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

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

36 & 37 Vict. c. 48.

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

Establishment of Railway and Canal Commission.

Establishment of new Railway and Canal Commission.

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

Appointment and tenure of office of appointed Commissioners.

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

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

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

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

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

Appointment and attendance of ex officio Commissioners.

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

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

(*a.*) in England the Lord Chancellor; and

(*b.*) in Scotland the Lord President of the Court of Session; and
(*c.*) in Ireland the Lord Chancellor of Ireland;
may from time to time by writing under his hand assign, and such assignment shall be made for a period of not less than five years.

(3.) For the purpose of the attendance of the ex officio Commissioners, regulations shall be made from time to time by the Lord Chancellor, the Lord President of the Court of Session, and the Lord Chancellor of Ireland respectively, in communication with the ex officio Commissioners for England, Scotland, or Ireland, as the case may be, as to the arrangements for securing their attendance, as to the times and place of sitting in each case, and otherwise for the convenient and speedy hearing thereof.

Sittings of Commissioners.

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

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

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

36 & 37 Vict. c. 48.

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

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

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

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

porary Commissioner shall be paid such sum by the Commissioner so unable to sit, or, if the office is vacant, out of the salary of the office, as the President of the Board of Trade may assign.

Appointment of additional judge.

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

Provision for complaints by public authority in certain cases.

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

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

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

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

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

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

Jurisdiction.

Jurisdiction of Railway Commissioners transferred to the Commission.

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

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

9. Where any enactment in a special Act—

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

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

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

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

Jurisdiction over tolls and rates.

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

Jurisdiction to order traffic facilities, notwithstanding agreements.

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

Power to award damages.

12. Where the Commissioners have jurisdiction to hear and determine any matter, they may, in addition to or in substitution for any other relief, award to any complaining party who is aggrieved such damages as they find him to have sustained; and such award of damages shall be in complete satisfaction of any claim for damages, including repayment of overcharges, which, but for this Act, such party would have had by reason of the matter of complaint.

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

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

No damages where rates published under certain conditions.

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

Orders on two or more companies.

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

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

Amendment of 36 & 37 Vict. c. 48. s. 8, as to references to arbitration.

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

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

16.—(1.) Where the Board of Trade or the Commissioners, in the exercise of any power given by any general or special Act, on application order a company to which this part of this Act applies, to provide a bridge, subway, or approach, or any work of a similar character, the Board of Trade or the Commissioners, as the case may be, may require as a condition of making the order that an agreement to pay the whole or a portion of the expenses of complying with the order shall be entered into by the applicants or some of them, or such other persons as the Board of Trade or Commissioners

think fit, and any of the following local authorities, namely, any sanitary authority, highway board, surveyor of highways acting with the consent of the vestry of his parish, or any other authority having power to levy rates, shall have power, if such authority think fit, to enter into any such agreement as is sanctioned by the Board of Trade or Commissioners for the purpose of the order.

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

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

Appeals.

Appeals on certain questions to superior court of appeal.

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

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

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

(4.) On the hearing of an appeal the court of appeal may draw all such inferences as are not inconsistent with the facts expressly found, and are necessary for determining the question of law, and shall have all such powers for that purpose as if the appeal were an appeal from a judgment of a superior court, and may make any order which the Commissioners could have made, and also any such further or other order as may be just, and the costs of and incidental to an appeal shall be in the discretion of the court of appeal, but no Commissioner shall be liable to any costs by reason or in respect of any appeal.

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

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

Supplemental.

General powers and enforcement of orders.

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

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

Costs.

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

Power to make rules.

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

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

Appointment of officers, clerks, &c.

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

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

Salaries, expenses, &c.

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

Company to which Part I. applies.

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

PART II.—TRAFFIC.

Revised classification of traffic and schedule of rates.

24.—(1.) Notwithstanding any provision in any general or special Act, every railway company shall submit to the Board of Trade a revised classification of merchandise traffic, and a revised schedule of maximum rates and charges applicable thereto, proposed to be

charged by such railway company, and shall fully state in such classification and schedule the nature and amounts of all terminal charges proposed to be authorised in respect of each class of traffic, and the circumstances under which such terminal charges are proposed to be made. In the determination of the terminal charges of any railway company regard shall be had only to the expenditure reasonably necessary to provide the accommodation in respect of which such charges are made, irrespective of the outlay which may have been actually incurred by the railway company in providing that accommodation.

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

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

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

(5.) When any agreed classification and schedule have been embodied in a Provisional Order, the Board of Trade, as soon as they conveniently can after the making of the Provisional Order (of which the railway company shall be deemed to be the promoters), shall procure a Bill to be introduced into either House of Parliament for an Act to confirm the Provisional Order, which shall be set out at length in the schedule to the Bill.

(6.) In any case in which a railway company fails within the time mentioned in this section to submit a classification and schedule to the Board of Trade, and also in every case in which a railway company has submitted to the Board of Trade a classification and schedule, and after hearing all parties whom the Board of Trade consider to be entitled to be heard before them, the Board of Trade are unable to come to an agreement with the railway company as to the railway company's classification and schedule, the Board of Trade shall determine the classification of traffic which, in the opinion of the Board of Trade, ought to be adopted by the railway company, and the schedule of maximum rates and charges, including all terminal charges proposed to be authorised applicable to such classification which would, in the opinion of the Board of Trade, be just and reasonable, and shall make a report, to be submitted to Parliament, containing such observations as they may think fit in relation to the said classification and schedule, and

calling attention to the points therein on which differences which have arisen have not been arranged.

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

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

(9.) In preparing, revising, and settling the classifications and schedules of rates and charges, the Board of Trade may consult and employ such skilled persons as they may deem necessary or desirable; and they may pay to such persons such remuneration as they may think fit and as the Treasury may approve.

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

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

(12.) Nothing in this section shall apply to any remuneration payable by the Postmaster-General to any railway company for the conveyance of mails, letter bags, or parcels under any general or special Act relating to the conveyance of mails, or under the Post Office (Parcels) Act, 1882. 45 & 46 Vict. c. 74.

(13.) Nothing in this section shall apply to any remuneration payable by the Secretary of State for War to any railway company

for the conveyance of War Office stores under the powers conferred by the Cheap Trains Act, 1883.

46 & 47 Vict. c. 34.

Provisions as to through traffic.

25. Whereas by section two of the Railway and Canal Traffic Act, 1854, it is enacted that every railway company and canal company, and railway and canal company shall, according to their respective powers, afford all reasonable facilities for the receiving and forwarding and delivering of traffic upon and from the several railways and canals belonging to or worked by such companies respectively, and for the return of carriages, trucks, boats, and other vehicles; and that no such company shall make or give any undue or unreasonable preference or advantage to or in favour of any particular person or company, or any particular description of traffic, in any respect whatsoever, or shall subject any particular person or company, or any particular description of traffic, to any undue or unreasonable prejudice or disadvantage in any respect whatsoever; and that every railway company and canal company and railway and canal company having or working railways or canals which form part of a continuous line of railway, or canal or railway and canal communication, or which have the terminus station or wharf of the one near the terminus station or wharf of the other, shall afford all due and reasonable facilities for receiving and forwarding by one of such railways or canals all the traffic arriving by the other, without any unreasonable delay, and without any such preference or advantage or prejudice or disadvantage as aforesaid, and so that no obstruction may be offered to the public desirous of using such railways or canals or railways and canals as a continuous line of communication, and so that all reasonable accommodation may by means of the railways and canals of the several companies be at all times afforded to the public in that behalf:

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

Be it therefore enacted, that—

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

Provided as follows:

(1.) The company or person requiring the traffic to be forwarded shall give written notice of the proposed through rate to each

forwarding company, stating both its amount and the route by which the traffic is proposed to be forwarded; and when a company gives such notice it shall also state the apportionment of the through rate. The proposed through rate may be per truck or per ton:

(2.) Each forwarding company shall, within ten days, or such longer period as the Commissioners may from time to time by general order prescribe, after the receipt of such notice, by written notice inform the company or persons requiring the traffic to be forwarded, whether they agree to the rate and route; and if they object to either, the grounds of the objection:

(3.) If at the expiration of the prescribed period no such objection has been sent by any forwarding company, the rate shall come into operation at such expiration:

(4.) If an objection to the rate or route has been sent within the prescribed period, the matter shall be referred to the Commissioners for their decision:

(5.) If an objection be made to the granting of the rate or to the route, the Commissioners shall consider whether the granting of a rate is a due and reasonable facility in the interest of the public, and whether, having regard to the circumstances, the route proposed is a reasonable route, and shall allow or refuse the rate accordingly, or fix such other rate as may seem to the Commissioners just and reasonable:

(6.) Where, upon the application of a person requiring traffic to be forwarded, a through rate is agreed to by the forwarding companies, or is made by order of the Commissioners, the apportionment of such through rate, if not agreed upon between the forwarding companies, shall be determined by the Commissioners:

(7.) If the objection be only to the apportionment of the rate, the rate shall come into operation at the expiration of the prescribed period, but the decision of the Commissioners, as to its apportionment, shall be retrospective; in any other case the operation of the rate shall be suspended until the decision is given:

(8.) The Commissioners, in apportioning the through rate, shall take into consideration all the circumstances of the case, including any special expense incurred in respect of the construction, maintenance, or working of the route, or any part of the route, as well as any special charges which any company may have been entitled to make in respect thereof:

(9.) It shall not be lawful for the Commissioners in any case to compel any company to accept lower mileage rates than the mileage rates which such company may for the time being legally be charging for like traffic carried by a like mode of transit on any other line of communication between the same points, being the points of departure and arrival of the through route.

Where a railway company or canal company use, maintain, or work, or are party to an arrangement for using, maintaining, or working steam vessels for the purpose of carrying on a communica-

tion between any towns or ports, the provisions of this section shall extend to such steam vessels, and to the traffic carried thereby.

When any company, upon written notice being given as aforesaid, refuses or neglects without reason to agree to the proposed through rates, or to the route, or to the apportionment, the Commissioners, if an order is made by them upon an application for through rates, may order the respondent company or companies to pay such costs to the applicants as they think fit.

Powers of Commissioners as to through rates.

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

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

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

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

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

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

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

in the same manner and to the like extent as they apply to the land traffic of a railway company.

Group rates to be chargeable by railway companies.

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

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

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

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

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

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

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

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

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

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

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

Annual returns by railway companies to contain such statistics as the Board of Trade shall require.

34 & 35 Vict. c. 78. s. 9.

36 & 37 Vict. c. 76.

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

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

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

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

(2.) Printed copies of the classification of merchandise traffic, and schedule of maximum tolls, rates, and charges of every railway company authorised, as provided by this Act, shall be kept for sale by the railway company at such places and at such reasonable price as the Board of Trade may by any general or special order prescribe.

(3.) The company shall within one week after application in writing made to the secretary of any railway company by any person interested in the carriage of any merchandise which has

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

(4.) Every railway company shall publish at every station at which merchandise is received for conveyance, or where merchandise is received at some other place than a station then at the station nearest to such place, a notice, in such form as may be from time to time prescribed by the Board of Trade, to the effect that such book, tables, and document touching the classification of merchandise and the rates as they are required by this section and section fourteen of the Regulation of Railways Act, 1873, to keep at that station, are open to public inspection, and that information as to any charge can be obtained by application to the secretary or other officer at the address stated in such notice. 36 & 37 Vict c. 48.

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

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

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

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

34. When traffic is received or delivered at any place on any railway other than a station within the meaning of section fourteen of the Regulation of Railways Act, 1873, the railway company on whose line such place is, shall keep at the station nearest such place a book or books showing every rate for the time being charged for the carriage of traffic other than passengers and their

luggage, from such place to any place to which they book, including any rates charged under any special contract, and stating the distance from that place of every station, wharf, siding, or place to which such rate is charged.

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

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

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

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

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

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

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

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

PART III.—CANALS.

Part II. to extend to canal companies.

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

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

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

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

(3.) The provisions of the Railway and Canal Traffic Act, 1854, and the Regulation of Railways Act, 1873, with respect to rates, shall apply to tolls and dues of every description chargeable for the use of any canal or by any canal company. And nothing in any agreement, whether made before or after the passing of this Act, and whether confirmed by Act of Parliament or not, and nothing

in this Act shall prevent the Commissioners from making or enforcing any order for a through rate or toll which may in their opinion be required in the interest of the public.

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

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

Powers of Commissioners over canal tolls, rates, and charges where a railway company or its officers own or control the traffic of a canal.

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

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

(2.) If within such time as may be prescribed by the order of the Commissioners, the tolls, rates, and charges levied on the traffic of or for the conveyance of merchandise on the canal are not altered and adjusted as required by such order, the Commissioners may themselves by an order make such alterations in and adjustment of the tolls, rates, and charges levied on the traffic of or for the conveyance of merchandise on the canal as they shall think just and reasonable, and the tolls, rates, and charges as altered and adjusted by the order of the Commissioners shall be binding on the company or persons owning or having the control over the traffic of, or the tolls, rates, and charges levied on the traffic of, or for the conveyance of merchandise on the canal:

(3.) No application shall be made to the Commissioners under this section until the Board of Trade have certified that the applicant is a fit person to make the application, and that the application is a proper one to be submitted for the adjudication of the Commissioners; and no order shall be made by the Commissioners under this section unless notice of the application

has been served upon such company and persons, and in such manner as the Board of Trade may direct:

(4.) The Commissioners may at any time, upon the application of any company or person affected by any order made under this section, and after notice to and hearing such companies and persons as the Commissioners may by any general rules or special order prescribe, rescind or vary any order made under this section.

Returns by canal companies.

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

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

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

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

Byelaws of canal companies.

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

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

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

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

Inspection of canals.

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

34 & 35 Vict. c. 78.

Misapplication of a railway company's funds for acquisition of unauthorised interest in canal.

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

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

(3.) In this section the expression "company's funds" means the corporate funds of any railway company, and includes any funds

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

Canal companies may agree for through tolls, &c.

43.—(1.) Any canal company may make and enter into contracts and arrangements with any other canal company or canal companies for the passage over and along their respective canals, or any of them, of boats, barges, vessels, and other through traffic, and for the use, by such traffic, of the wharves, landing places, and other works of any such canal, upon payment of such through tolls, rates, and charges, and subject to such conditions and restrictions as may be agreed upon between such companies; and for the collection and recovery by any one of the companies on behalf of themselves and the other companies interested of the tolls, rates, and charges payable in respect of such through traffic; and for the division and apportionment of the tolls, rates, and charges; and any such contract may contain provisions for the erection and maintenance of or otherwise for providing warehouses, offices, and other buildings and conveniences, and any other provisions for the purpose of carrying into effect any such arrangement, and any company may apply their funds or moneys for the same purpose.

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

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

Canal companies may establish clearing system.

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

13 & 14 Vict. c. xxxiii.

Abandonment of canal.

45.—(1.) Where, on the application of a canal company, it appears to the Board of Trade that any canal or part of a canal

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

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

(*a.*) That it is unnecessary for the purposes of public navigation;

(*b.*) That the application has been expressly authorised by a resolution of a majority of the shareholders of the canal company owning the canal present and voting at an extraordinary or special general meeting of that company;

(*c.*) That such public and other notices of the application have been given as the Board of Trade may require;

(*d.*) That compensation (the amount thereof to be determined in case of difference as the Board of Trade may prescribe) has been made to all persons entitled to compensation by reason of the proposed abandonment of the canal.

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

(4.) The Provisional Order may provide for the constitution of a body to manage the canal or any part thereof, for the transfer to that body or any local authority of the canal or any part thereof, and of all or any of the powers relating thereto, for the limitation or discharge of any liabilities affecting the canal or the owners thereof for the time being, and for any other matters which may appear to the Board of Trade to be necessary or proper for carrying this section into effect.

(5.) The Board of Trade may submit to Parliament for confirmation any Provisional Order made by it in pursuance of this section,

but any such order shall be of no force unless and until it is confirmed by Act of Parliament.

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

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

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

Definition of "canal company."

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

PART IV.—MISCELLANEOUS.

Perpetuation of 36 & 37 Vict. c. 48.

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

Evidence on rating appeals.

48. On any rating appeal, and before any court, where it may be material to show the receipts or profits of a railway company or canal company, or railway and canal company, it shall be lawful for the company to prove the same by written statements or returns verified by the affidavit or statutory declaration of the manager or other responsible officer, and any such statements or returns shall be primâ facie evidence of the facts therein stated with respect to such receipts or profits: Provided that the person by whom any such affidavit or statutory declaration is made shall in every case, if required, attend to be cross-examined thereon.

Recovery and application of penalties.

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

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

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

Parliamentary agents entitled to practise before Commissioners.

51. Any person who shall be certified by the Chairman of Committees of the House of Lords or the Speaker of the House of Commons to have practised for two years before the passing of this Act in promoting or opposing Bills in Parliament shall be entitled to practise in any proceedings under this Act as an attorney or

agent before the Commissioners: Provided that every such person so practising as aforesaid shall, in respect of such practice and everything relating thereto, be subject to the jurisdiction and orders of the Commissioners, and further provided that no such person shall practise as aforesaid until his name shall have been entered in a roll to be made and kept, and which is hereby authorised to be made and kept, by the Commissioners.

Saving of powers conferred on Commissioners and Board of Trade.

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

Proceedings of Board of Trade.

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

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

Expenses of local authorities.

54.—(1.) Where any local authority having power under this Act to make or oppose any complaint to the Commissioners, or the Board of Trade, or to enter into any agreement to pay the whole or a portion of the expenses of complying with an order of the Commissioners or the Board of Trade, or to make any application for the abandonment or acquisition of a canal under this Act, incur any expenses in or incidental to such complaint, opposition, agreement, or application, such expenses may be defrayed out of the rates or funds out of which the expenses incurred by such authority in the execution of their ordinary duties are defrayed, and if such authority is a rural sanitary authority in England, shall be defrayed as general expenses, unless the Local Government Board direct that they shall be defrayed as special expenses.

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

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

38 & 39 Vict. c. 83.

(4.) On the request of any board whose consent is required for such loan, the Board of Trade or Commissioners shall certify such particulars respecting the amount of the said expenses and the

propriety of incurring the same and of borrowing for the payment thereof as may be requested by such board.

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

41 & 42 Vict. c. 52.

Definitions.

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

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

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

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

The term "Lord Chancellor" means the Lord High Chancellor of Great Britain:

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

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

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

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

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

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

27 & 28 Vict. c. 53. 44 & 45 Vict. c. 24.

The term "Summary Jurisdiction Acts" in Scotland means the Summary Procedure Act, 1864, the Summary Jurisdiction (Process) Act, 1881, and any Act or Acts amending the same; and in Ireland, within the police district of Dublin metropolis, the Acts regulating the powers and duties of justices of the peace for such district, or of the police of such district, and elsewhere, the Petty Sessions (Ireland) Act, 1851, and any Act amending the same:

14 & 15 Vict. c. 93.

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

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

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

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

Commencement of Act.

56. This Act shall come into operation on the first day of January one thousand eight hundred and eighty-nine, which day is in this Act referred to as the commencement of this Act: Provided that at any time after the passing of this Act any appointment and rules may be made, and other things done for the purpose of bringing this Act into operation at such commencement.

Pending business.

36 & 37 Vict. c. 48.

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

Transfer of pending business from superior courts.

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

Repeal.

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

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

(*a.*) Anything done or suffered before the commencement of this Act under any enactment repealed by this Act, or the expiration of any office which would otherwise have expired by virtue of any enactment repealed by this Act; nor

(*b.*) Any right or privilege acquired, or duty imposed, or liability or disqualification incurred, under any enactment so repealed; nor

(*c.*) Any fine, forfeiture, or other punishment incurred or to be incurred in respect of any offence committed or to be committed against any enactment so repealed; nor

(*d.*) The institution or continuance of any proceeding or other remedy, whether under any enactment so repealed, or otherwise

for ascertaining or enforcing any such liability or disqualification, or enforcing or recovering any such fine, forfeiture, or punishment as aforesaid.

SCHEDULE.

ACTS REPEALED.

Section 59.

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

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

CHAPTER 26.

An Act to apply the sum of twenty million six hundred and ninety-three thousand three hundred and seventy-five pounds out of the Consolidated Fund to the service of the year ending on the thirty-first day of March one thousand eight hundred and eighty-nine.

[10th August 1888.]

Most Gracious Sovereign,

WE, Your Majesty's most dutiful and loyal subjects, the Commons of the United Kingdom of Great Britain and Ireland, in Parliament assembled, towards making good the supply