

Acts of the General Assembly of Her Majesty's Province of New-Brunswick passed in the year 1858. Fredericton, NB: John Simpson, Printer to the Queen's Most Excellent Majesty, 1858.

21 Victoria – Chapter 18

An Act for the regulation of Railways. Passed 6th April 1858.

Section.

1. Penalty for obstructing the setting out or construction of the European and North American Railway.
2. Penalty for trespassing, injuring the fences, &c.
3. Penalty for going, riding, &c. on any portion of the Railway.
4. Penalty in case of animals found on the Railway.
5. Penalty for travelling without payment of fare; annoying passengers, &c.;
6. Aid against such offenders.
7. Penalty for sending dangerous goods without sufficient marks.
8. Penalty for damaging carriages, or getting into or off train in motion.

Section.

9. Penalty for placing obstructions, &c. so as to upset carriages.
10. Seizure of engine drivers, &c. found drunk or neglecting duty; penalty.
11. Appointment, &c. of Police Magistrates and Stipendiary Constables.
12. Certain Sections of 11 V. c. 12, extended to the Police District.
13. Committal on non-payment of a fine.
14. Costs may be awarded.
15. Record by Police Magistrates.
16. Lock-up houses, establishment of.
17. Parts of this Act extended to line of the Canada and New Brunswick Railway and Land Company.

Be it enacted by the Lieutenant Governor, Legislative Council, and Assembly, as follows:—

1. If any person shall wilfully obstruct the Commissioners for the management and construction of Railways under 19 Victoria, Cap. 15, or any Engineer, officer, or person acting under authority from the said Commissioners, in the lawful exercise of their power in setting out the line of the European and North American Railway, or shall pull up or remove any poles, pegs or stakes driven into the ground for the purpose of so setting out the line of the Railway, or shall deface or destroy any pegs or marks put down or made for the same purpose, or shall wilfully obstruct any of the Contractors, or their servants or workmen, while employed in the construction of the Railway, he shall forfeit a sum not exceeding five pounds for every such offence.

2. If any person shall wilfully obstruct or impede any Engineer, officer or person acting with authority from the said Commissioners, in the execution of his duties upon the Railway, or upon or in any of the Stations or other works or premises connected therewith; or if any person shall wilfully trespass upon the Railway, or any of the Stations or other works connected therewith, and shall refuse to quit the same upon request made to him by any officer, servant or agent of the Commissioners; or shall wilfully disturb, breakdown, injure or destroy any of the fences of the Railway, or remove the same or any part thereof; or shall blot out or deface any regulations put up upon the line, or pull down or injure the boards upon which such regulations are affixed, every

such person so offending, and all others aiding or assisting therein, shall severally forfeit a sum not exceeding twenty five pounds for every such offence.

3. If any person, after the Railroad or any section thereof shall be opened for use, shall himself go thereon, or shall ride, drive or lead any animal thereon, he shall for every such offence forfeit a sum not exceeding forty shillings; but nothing in this regulation shall prevent the passing across the Railroad where the same is crossed by any other road on a level therewith.

4. If any animal shall be found going at large within the limits of the Railroad, or any section thereof, after the same shall be open for use, the owner thereof, and the person through whose default or neglect the same shall occur, shall for every such offence severally forfeit a sum not exceeding forty shillings, provided that the Railroad shall have on the sides thereof where it shall not cross some other road on the same level a fence approved of by the Commissioners.

5. If any person shall travel, or attempt to travel, in any carriage belonging to the Railroad, without having previously paid his fare, and with intent to avoid payment thereof, or if any person, having paid his fare for a certain distance, knowingly and wilfully proceed in any such carriage beyond such distance without previously paying the additional fare for the additional distance, and with intent to avoid payment thereof, or if any person knowingly and wilfully refuse or neglect on arriving at the point to which he has paid his fare to quit such carriage, or if any person, while in such carriage, shall offend or annoy the other passengers therein by riotous conduct, or by indecent or profane language, or shall disobey the lawful directions of the conductor or officer, or shall persist in smoking after a request from the conductor to desist, every such person shall for every such offence forfeit a sum not exceeding five pounds.

6. If any person be discovered either in or after committing or attempting to commit any such offence as in the preceding regulation mentioned, all officers and servants of the Commissioners and such other persons as they may call to their aid, and all constables, gaolers, and peace officers, may lawfully apprehend and detain such person until he can conveniently be taken before some Justice, or until he can be otherwise discharged in due course of law.

7. If any person shall send by the Railway any aquafortis, oil of vitriol, gunpowder, lucifer matches, or other goods of a dangerous character, without distinctly marking their nature on the outside of the package containing the same, or otherwise giving notice to the book-keeper or other servant of the Commissioners with whom the same are left, at the time of so sending, he shall forfeit for every such offence a sum not exceeding twenty pounds.

8. If any passenger shall wilfully cut the lining, or remove or damage any part of the carriage, or shall get into or get off of any train when in motion, or at any other place than the passengers' platforms, or attempt to do so, every such person shall for every such offence forfeit and pay a sum not exceeding forty shillings.

9. If any person shall wilfully and maliciously put, place, cast or throw upon or across any Railway, any wood, stone or other matter or thing, or shall wilfully or maliciously take up, remove

or displace any rail, sleeper, or other matter or thing belonging to any Railway, or shall wilfully and maliciously turn, move or divert any points or other machinery belonging to any Railway, or shall wilfully and maliciously make or show, hide or remove any signal or light upon or near to any Railway, or shall wilfully and maliciously do or cause to be done any other matter or thing with intent in any of the cases aforesaid, to obstruct, upset, overthrow, injure or destroy any engine, tender, carriage, truck, using such Railway, or to endanger the safety of any person travelling or being upon any such Railway, every such offender shall be guilty of felony, and be imprisoned for a term not exceeding seven years.

10. It shall be lawful for any officer or agent of the Railway Commissioners, or for any special constable duly appointed, and all such persons as they may call to their assistance, to seize and detain any conductor, engine driver, porter, or other servant in the employ of such Commissioners, who shall be found drunk while employed upon the Railway, or commit any offence against any of the bye laws, rules or regulations of such Commissioners; or shall wilfully, maliciously, or negligently do or omit to do any act whereby the life or limb of any person passing along, or being upon the Railway, or the works thereof respectively, shall be or might be injured or endangered, or whereby the passage of any of the engines, carriages or trains shall be or might be obstructed or impeded, and to convey such conductor, engine driver, porter, or other servant so offending, or any person counselling, aiding, or assisting in such offence, with all convenient dispatch before some Police Magistrate for the place within which such offence shall be committed, without any other warrant or authority than this Act; and every such person so offending, and every person counselling, aiding, or assisting therein as aforesaid, shall, when convicted before such Justice as aforesaid, (who is hereby authorized and required upon complaint to him made upon oath, without information in writing, to take cognizance thereof and to act summarily in the premises,) in the discretion of such Justice, be imprisoned with or without hard labour for any term not exceeding two calendar months, or in the like discretion of such Justice shall for every such offence forfeit any sum not exceeding ten pounds, and in default of payment thereof, shall be imprisoned with or without hard labour as aforesaid, for such period, not exceeding two calendar months, as such Justice shall appoint, such commitment to be determined on payment of the amount of the penalty.

11. The Lieutenant Governor in Council is hereby authorized to appoint fit and proper persons to be Police Magistrates along the line of the European and North American Railway, each of which Police Magistrates shall have authority to act by himself in all cases in which two Justices of the Peace may now act, and in the adjudication of all summary cases under this Act; and the jurisdiction of such Police Magistrates may extend along the whole line of the European and North American Railway, its branches and extensions, and within five miles on each side thereof, through all or any of the Counties within which the said line of Railway, its branches or extensions, may pass, according as the Lieutenant Governor in Council may appoint and direct, and may be described in all proceedings as "The Police District of the European and North American Railway and such Police Magistrates are hereby authorized and empowered to appoint, subject to the approval of the said Commissioners, such and so many stipendiary constables on the said line of Railway as they may deem necessary for the preservation of peace or good order, and to displace the same and appoint others whenever requisite, which constables shall be under the direction

and control of such Policer Magistrates; and such Magistrates and Constables shall have all the powers, authority and privileges incident to the office of the Police Magistrates and Constables by the provisions of an Act passed in the eleventh year of the Reign of Her present Majesty, intituled *An Act for establishing and maintaining a Police Force in the Parish of Portland, in the City and County of Saint John*, within the district for which they are severally appointed.

12. The tenth, fifteenth, sixteenth, eighteenth, nineteenth, twenty second, twenty third, twenty fourth, twenty fifth, twenty sixth, twenty seventh, thirty fifth, (together with Schedules A and B therein referred to mutalis mutandis,) and thirty sixth Sections of an Act made and passed in the eleventh year of the Reign of Her present Majesty, intituled *An Act for establishing and maintaining a Police Force in the Parish of Portland, in the City and County of Saint John*, shall extend and apply to and be in force in the said District to all intents and purposes; and all and every of the offences, penalties, forfeitures, powers, authorities, methods, remedies, rules, regulations, advantages, directions, clauses, matters and things contained in the said several Sections respectively, shall be created, incurred, and be observed, practised and put in execution in the said Police District, as fully and effectually to all intents and purposes as if the said offences, forfeitures, powers, authorities, methods, remedies, rules, regulations, advantages, directions, clauses, matters and things were severally, particularly and respectively repeated and re-enacted, and were declared in the body of this Act, and shall severally be applied, construed, deemed and taken to belong to this Act, in like manner as if the same had been enacted therein.

13. In every case on the adjudication of a pecuniary penalty under this Act, and non-payment thereof, it shall be lawful for the Police Magistrate to commit the offender to the common gaol or to the Penitentiary for a term not exceeding three months, the imprisonment to cease on payment of the sum due on such conviction.

14. It shall be lawful for such Magistrate who shall hear and determine any such charge or complaint, to award such costs to be paid to or by either of the parties to the said charge or complaint, the said costs to be according to the Table of Fees in the said Portland Police Act hereinbefore referred to.

15. The said Police Magistrates, and each of them, shall keep a book in which shall be regularly entered an account, in detail, of all sums of money, whether arising from fines, penalties, convictions, costs or fees received or expended by such Magistrate, in connection with or on account of such Police establishment, and shall pay over all such moneys so received at the end of each month to the Provincial Treasurer, and the same shall form part of the Railway Fund.

16. The Commissioners of Railways are hereby empowered to appoint and establish one or more buildings or places to be lock-up houses in and for the said district, and the same shall be to all intents and purposes a lawful place of committal and confinement of persons charged with offences against this Act, during the time of proceeding and until final judgment for such offence, at the discretion of the Magistrate.

17. Whereas it is desirable that all the Sections of this Act applicable to the New Brunswick and Canada Railway and Land Company, shall be in full force: And whereas in this Act the words following, that is to say, 'the Commissioners for the management and construction of Railways under Act 19 Victoria, Chapter 15, or any Engineer, officer or person acting under authority from the said Commissioners,' are used; be it therefore enacted as follows—The term 'Commissioner, Manager, Engineer, or any officer or person acting under their authority,' shall have the same meaning and effect as respects the New Brunswick and Canada Railway and Land Company, as the term hereinafore mentioned has with respect to the European and North American Railway Company; and offences committed under this Act along the line of the New Brunswick and Canada Railway and Land Company may be tried, in the absence of a Police Magistrate, by any Justice of the Peace in any County where any such offence may be committed; and all the provisions of the Sections of this Act from one to ten inclusive, and also the thirteenth and sixteenth Sections, shall be and are hereby extended to the said New Brunswick and Canada Railway and Land Company as fully as if the same were enacted in the Act or Acts passed relating thereto.