



ANNO TRICESIMO SEPTIMO ET TRICESIMO OCTAVO

# VICTORIÆ REGINÆ.

A.D. 1874.

No. 17.

*An Act to provide for the Recovery of Damages caused by Negligence on the part of Persons employed by the Government of South Australia in certain cases.*

[Assented to, 6th November, 1874.]

**W**HEREAS it is expedient to give a right of action against Preamble.  
Her Majesty's Government of the Province of South Australia for injuries caused by the negligence of persons employed upon or in anywise in connection with the various Government lines of railway in the said Province, or upon or in connection with any other undertaking where the said Government carry passengers or goods for reward, and to provide for the recovery of damages from such Government in respect thereof—Be it therefore Enacted by the Governor of the Province of South Australia, with the advice and consent of the Legislative Council and House of Assembly of the said Province, in this present Parliament assembled, as follows :

1. Every person injured in his person or property by the wrongful act, neglect, or default of the Commissioner of Railways, or of any person or persons employed by him or by his authority, express or implied, upon any of the Government lines of railway in the said Province, or upon or in connection with any other undertaking on the part of the said Government having for its object the carriage of passengers or goods for reward, shall have a similar right of action against the Commissioner of Railways for the recovery of damages sustained by reason of such wrongful act, neglect, or default, to that which such person would have against a private company or companies if such railways or other Damages may be recovered for injuries caused on Government lines of railway.  
undertakings

*Damages Compensation Act.—1874.*

undertakings were carried on by a private company or companies, any law or usage to the contrary notwithstanding; and no defence to any such action against the said Commissioner shall be available that could not be maintained by such company or companies.

Commissioner to be liable for accidents causing death.

2. The said Commissioner shall also be liable to actions brought under the Act No. 1 of 1865, intituled "An Act for compensating the families of persons killed by accidents," and such actions may be brought by the class of persons authorized by such Act or by this Act, to bring such actions in respect of deaths caused by accidents upon any of the said Government lines of railway, or upon such other undertakings as aforesaid.

If no executor or administrator appointed, or either of them fail to act, persons interested may sue.

3. If and so often as it shall happen at any time or times hereafter in any of the cases intended and provided for by section 2 of the said Act, No. 1 of 1865, that there shall be no executor or administrator of the person deceased, or that there being no such executor or administrator, no such action as in the said Act mentioned shall, within six calendar months after the death of such deceased person as therein mentioned, have been brought by and in the name of his or her executor or administrator, then, and in every such case, such action may be brought by and in the name or names of all or any of the persons (if more than one) for whose benefit such action would have been if it had been brought by and in the name of such executor or administrator, and every action so to be brought shall be for the benefit of the same person or persons, and shall be subject to the same regulations and procedure, as nearly as may be, as if it were brought by and in the name of such executor or administrator.

Defendant may pay money into Court.

4. In any action brought pursuant to this Act it shall be sufficient, if the defendant is advised to pay money into Court, that he pay it as a compensation in one sum to all persons entitled under the said Act for his wrongful act, neglect, or default, without specifying the shares into which it is to be divided by the jury, and if the said sum be not accepted and an issue is taken by the plaintiff as to its sufficiency, and the jury shall think the same sufficient, the defendant shall be entitled to the verdict upon that issue.

Costs.

5. Costs of suit shall follow on either side as in ordinary cases between suitors, any law or practice to the contrary notwithstanding.

Claims to be paid out of General Revenue.

6. It shall be lawful for the Governor to satisfy and pay any judgment recovered under the provisions of this Act, out of the Ordinary Revenue of the said Province, and to perform the decree or decrees pronounced or given by any Court or Judge thereof in respect of any suit brought under the authority of this Act.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

A. MUSGRAVE, Governor.