



Western Australia.

ANNO · PRIMO ET SECUNDO

EDWARDI VII. REGIS.

No. XXVI.

AN ACT to confirm a Provisional Order authorising the Construction of Tramways in the Districts of the North Perth Road Board and of the Perth Road Board.

[Assented to, 19th February, 1902.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. THIS Act may be cited as the North Perth and Perth Road Board Districts Tramways Act, 1902. Short title.

2. THE term "Local Authority," when used in this Act or in the Tramways Act, 1885, shall mean the Council of any Municipality declared and proclaimed or constituted under the provisions of any Interpretation.

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Act relating to Municipal Institutions, or other Board, Council, Trustees, or persons in whom a road, as defined by the Tramways Act, 1885, is vested, or who have the power to maintain or repair such road.

Confirmation of Provisional Order.

3. THE Provisional Order made by the Commissioner of Railways for Western Australia on the 29th day of January, 1902, and set forth in the Schedule to this Act is hereby confirmed.

Power to construct tramways.

4. SUBJECT to the provisions of the Tramways Act, 1885, the Promoter named in the said Provisional Order may make, form, lay down, construct, maintain and work the tramways set forth in the said Provisional Order.

Schedule incorporated.

5. THE Schedule shall form part of this Act.

Right of purchase by local authority.

6. THE local authority shall have the right, at the end of twenty-one years from the date fixed for the completion of the works by the Provisional Order, upon giving six calendar months' notice in writing of such its intention, to purchase the whole of the lines, plant, lands, and buildings of the Promoter, situate and being within the North Perth Road Board and the Perth Road Board Districts as now determined, and which have been in use for the purposes of the tramway or tramways comprised within the Provisional Order hereinbefore referred to. The price to be paid for all land, whether freehold or leasehold, with right of purchase, shall be the amount paid or to be paid in accordance with the provisions of Clause three of the Provisional Order and no more. The price to be paid by the local authority for the lines, engines, cables, plant, buildings, and necessary appurtenances used in working the tramway or tramways shall be ascertained by arbitration, in manner provided by the Arbitration Act, 1895. If the local authority shall not exercise the right of purchase mentioned hereinbefore, at the end of twenty-one years as aforesaid, then such right shall not be exercisable by them until the end of twenty-eight years from the date fixed for the completion of the works by the Provisional Order, and if exercised then it shall be on the same terms and conditions as if they had exercised their right at the expiration of twenty-one years from the date fixed for the completion of the works by the Provisional Order.

Reversion to local authority.

7. IF the local authority shall not exercise the right of purchase mentioned in the next preceding section hereof, at the end of either the twenty-one years or the twenty-eight years therein specified, then, at the expiration of thirty-five years from the date fixed for the completion of the works by the provisional order, the whole of the lines, cables, engines, cars, plant, and all other appurtenances necessary for the carrying on of the working of the

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tramway or tramways, together with all extensions thereof shall revert to the local authority free of all cost, and shall be handed over by the promoter or his assigns, in good working order and condition. All land or lands used for the purposes of the said tramway, whether freehold or leasehold, with right of purchase, shall also be conveyed to the local authority, who shall pay for same the price or prices indicated under the provisions of Section six, without any addition whatever. All buildings erected on such freehold or leasehold land, with right of purchase, and which are necessary for the carrying on of the tramway or tramways, shall also be taken over by the local authority, and the price to be paid by such local authority shall be ascertained by arbitration in manner provided by the Arbitration Act, 1895.

8. NOTHING herein contained shall prejudice or affect a certain agreement dated the 9th day of August, 1901, and made between the North Perth Road Board of the one part and the Promoter of the other part, except so far as the same is contrary to or in conflict with the provisions of this Act or the Tramways Act, 1885.

Saving rights of the North Perth Road Board.

9. IF at any time hereafter any local authority shall require to connect with and acquire running powers over the tramways authorised by this Act, it shall be lawful to do so upon terms and conditions to be settled by agreement, in writing, between such local authority and the Promoter or its assigns, and in default of such agreement or so far as such agreement shall not extend, upon terms and conditions to be settled by arbitration. If within twenty-eight days after notice served on the Promoter or its assigns by the local authority, requiring the Promoter or its assigns to agree to terms and conditions, the parties fail to come to an agreement, such notice shall, on the expiration of such twenty-eight days, operate as if it were a submission executed by both parties referring to arbitration the settlement of terms and conditions so far as not agreed upon.

Power for local authority to connect with and acquire running powers over tramways.

10. IT shall at all times hereafter be lawful for the Commissioner of Railways, and for any person acting with his authority, to construct, maintain, and use lines of railway crossing the said tramways at any points; and whenever any such line of railway shall have been so constructed, the Commissioner of Railways may require the Promoter or its assigns, at their or its own cost, to erect a suitable bridge over such railway for the tramway traffic.

Power for Commissioner of Railways to make lines crossing tramway.

11. WHENEVER any telephone service is erected prior to the construction of the tramways, and is prejudicially affected by the construction or working of the tramways, the Postmaster General may, at the cost of the Promoter or its assigns, do all such things as

Protection of telephone service from injury by tramways.

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may be necessary to protect the telephone service from being so affected either by placing the same on a metallic circuit system or otherwise.

Poles may be used
for electric lighting.

12. IT shall be lawful for the local authority to make use of the poles erected in connection with the tramway or tramways for the purposes of electric lighting, whether such electric lighting be carried on by such local authority or by persons authorised by them to carry on such work.

In the name and on behalf of the King I hereby assent
to this Act.

ARTHUR LAWLEY, Governor.

THE SCHEDULE.

PROVISIONAL ORDER.

WHEREAS THE TOWN PROPERTIES OF WEST AUSTRALIA, LIMITED, whose registered office is in Trustee Chambers, Barrack Street, Perth, a Company within the meaning of the expression "The Promoters," as defined by "The Tramways Act, 1885," Section three, Sub-section two, has made application to me for a Provisional Order authorising the construction of Tramways in the Districts of the North Perth Road Board and the Perth Road Board, along the routes specified in the Schedule hereunder written: AND WHEREAS the Promoter has published notice of its intention to make such application, in the form prescribed in the Schedule "B" annexed to "The Tramways Act, 1885," by advertisement in the *Government Gazette*, and in the *West Australian* and *Morning Herald* newspapers; and has deposited the documents described in Schedule "C," annexed to the same Act, at the Department of Public Works, Perth, and with the Secretaries of the North Perth Road Board and the Perth Road Board respectively: AND WHEREAS I have considered the said application, and it appears to me expedient and proper that the said application should be granted: NOW THEREFORE I, the undersigned Commissioner of Railways for Western Australia, do hereby, by virtue of the provisions of "The Tramways Act, 1885," make a Provisional Order, and I do order as follows, that is to say:—

1. The Promoter shall be and is hereby empowered to make, form, lay down, construct, maintain, and work tramways in, upon, and along such of the streets and roads in the respective Districts of the North Perth Road Board and of the Perth Road Board as are mentioned in the said Schedule hereunder written. PROVIDED, nevertheless, that notwithstanding anything herein contained it shall be lawful for the Commissioner of Railways at any time within six months from the date hereof, by notice, in writing, to the Promoter, delivered at its registered office for the time being, to prohibit the construction of any part or parts of the said tramway which, in the opinion of the Commissioner of Railways, may interfere with the Railway system.

2. The Promoter shall, within nine months after the confirmation of this Provisional Order, or within such extended time as the Commissioner of Railways and the Local Authorities may approve, substantially commence the works in connection with the said tramways, and complete the same, in so far as the same lie within the District of the North Perth Road Board, within six months of such commencement, and complete the portion of such works lying within the District of the Perth Road Board within nine months of such commencement.

3. The Promoter shall, within two years from the passing of the Act of Parliament confirming this Provisional Order, purchase all such freehold lands and acquire all such leasehold lands, with the right of purchase, as may be required for the purpose of working the said tramways, and shall forthwith, after such purchase or acquirement, notify to each of the said local authorities respectively the price paid for such freehold and to be paid for such leasehold lands as lie within their respective districts, and all buildings and works required or used in connection with the tramways shall be erected on freehold lands or leaseholds with the right of purchase.

4. The said tramways shall be constructed on the 3ft. 6in. gauge.

5. The roads of all the lines shall be properly macadamised by the Promoter for a width of 6ft. 6in. for single lines and 16ft. for double lines, and shall be kept in thorough repair to the level of the rails by the Promoter.

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6. The said tramways shall be laid with steel rails.
7. The said tramways shall, if required by the local authorities, be used for the conveyance or carriage of passengers, passengers' luggage, parcels, merchandise, live and dead stock, manure, wood, timber, coal, farm and garden produce, articles, materials, and all other goods of a portable nature.
8. The Promoter, during a period of ten years after the opening of the said tramways for public traffic, may demand and take for every passenger conveyed upon the said tramways any tolls and charges not exceeding in amount the sum of twopence for any single fare on a single journey from or to the Government Road boundary of the town of Leederville, and the Southern boundary of the Osborne Park Estate and one penny for any single fare on a single journey from or to the Southern boundary of the Osborne Park Estate and the terminus of the said line in the said estate. Provided, always, that the Promoter shall, as and when required by the North Perth Road Board, provide special cars for workmen before eight o'clock in the morning, and all workmen travelling upon such special cars before eight o'clock in the morning shall, on payment of a fare not exceeding threepence, be provided with return tickets from or to the Government Road boundary of the town of Leederville and the Southern boundary of the Osborne Park Estate, the return portion whereof shall be available for use on workmen's cars between the hours of 5 and 6:30 p.m. Provided also, that children under three years of age and in arms shall travel free on the said tramways.
9. At the expiration of the said period of ten years the question of passenger fares shall be referred to the local authorities so far as regards their respective districts and the Promoter, and, in the event of their failing to agree, shall be determined by the Commissioner of Railways.
10. The restrictions herein contained as to tolls and charges which the Promoter may demand and take for the conveyance or carriage of passengers shall not extend to any special cars other than workmen's cars, but shall apply only to workmen's cars, and to the ordinary cars appointed by the Promoter from time to time for the conveyance of passengers.
11. The tolls and charges for passengers authorised to be taken, and which shall be demanded by the Promoter shall be paid to such persons, and at such places upon or near the tramways, and in such manner and under such regulations as the Promoter shall appoint by notice, to be exhibited in some conspicuous place on the inside of each of the passenger cars used by the Promoter upon the said tramways.
12. Every passenger travelling upon the tramways may take with him ordinary personal luggage or goods belonging to him not exceeding in weight 20lbs., without any charge being made for the carriage thereof.
13. The Promoter may demand and take, in respect of any parcels, merchandise, live or dead stock, articles, produce, and other goods (not being passengers' luggage not exceeding 20lbs. in weight) carried by it on the said tramways, such tolls and charges as may be mutually agreed upon between the Promoter and each of the local authorities in respect of whose districts such tolls shall be payable, or in case of dispute as may be settled by the Commissioner of Railways.
14. All cars used on the said tramways shall be moved by electric power, and the Promoter may erect and maintain all such poles and posts, with wires attached thereto, in the said streets and roads mentioned in the said Schedule hereunder written, along the routes therein mentioned, as may be necessary or required for supplying electricity to the said cars, and for working the said tramways on the overhead trolley system: PROVIDED that the Commissioner of Railways shall be entitled to direct the alteration of position of any pole or post or wire, if it appears to him that the same is specially inconvenient, and could be made less inconvenient without great cost to the Promoter; and in the event of such direction being given by the said Commissioner of Railways, the Promoter shall comply with it without delay.

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15. All cars using the said tramways may travel at a speed not exceeding the rate of 10 miles an hour, and may follow after each other at distances of not less than 50 yards, and may stop at any point on the said tramways, except on crossings of streets, for the purpose of taking up and setting down passengers, and may stand at the terminus of any of the said tramways.

16. Cars shall be run at such intervals as shall be determined by the Promoter and the Commissioner of Railways.

17. The said tramways shall be constructed in accordance with the drawings herewith (subject to provisos herein contained), with double or single lines, as the case may be, and, in the case of single lines, the Promoter shall lay them so as to allow for double lines in the future, and shall be at liberty to lay them either in the centre of the road or on either side thereof; but the Commissioner of Railways may from time to time, upon the application of the Promoter, alter or vary the same or authorise the Promoter to alter or vary the same. In the event of the line being duplicated, the centre line of both tracks shall be at equal distances from the centre line of the road.

18. All additional plans and specifications required in connection with the carrying out of the works shall be submitted to the Commissioner of Railways, and all works shall be carried out and finished to his entire satisfaction.

19. The Promoter may, from time to time, make and enter into and carry into effect contracts, agreements, and arrangements with any person, Corporation, or Company for or with reference to the use by such other person, Corporation, or Company of the said tramways or portion thereof, and for prescribing and regulating the tolls and charges to be paid for such use, and the terms and conditions of such use, and all matters incidental thereto.

20. The right to carry parcels, merchandise, live and dead stock, manures, wood, timber, coal, farm and garden produce, articles, materials, and all other goods of a portable nature (not being passengers' luggage not exceeding 20lbs. in weight) shall absolutely cease and determine upon the Commissioner of Railways at any time giving to the Promoters six months' notice to that effect.

21. The term "the Promoter," whenever hereinbefore used, shall mean and include the Town Properties of West Australia, Limited, and its assigns, whenever the context so requires or admits.

SCHEDULE ABOVE REFERRED TO :

From the Government Road boundary of the Town of Leederville, along Oxford Street to North Beach Road and thence along North Beach Road to the Southern boundary of the Osborne Park Estate (Perthshire Location A ν), thence along Main Avenue Northwards through the Osborne Park Estate, commencing at the junction of North Beach Road and Osborne Park Estate, between Lots 61 and 62 in Section D of the said Osborne Park Estate, and terminating at the junction of Lot 5, Section E, and Lot 75, Section C, of the said Osborne Park Estate.

Given under my hand this 29th day of January, 1902.

WALTER KINGSMILL,
Commissioner of Railways.

Stone & Burt, Hay Street, Perth, Solicitors for the Promoter.