

WESTERN AUSTRALIA

ANNO QUINQUAGESIMO SEPTIMO

VICTORIÆ REGINÆ

No. 17

An Act to further amend 'The Railways Act, 1878.'

[Assented to 13th October, 1893.]

Preamble

**B**E it enacted by the Queen'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:—

*The Railways Amendment Act, 1893*

1. This Act may be cited as 'The Railways Amendment Act, 1893,' and shall be read and construed with and as an amendment of 'The Railways Act, 1878,' hereinafter called the 'Principal Act.'

Short title and incorporation

2. (1) In any case where land has been taken before, or is taken after, the passing of this Act by the Commissioner of Railways under the provisions of the Principal Act, out of a location or allotment, and the Crown was, or is at the time of such taking, entitled otherwise than by the Principal Act to resume the whole of the land so taken, no compensation whatever for or in respect of such land shall be paid or be payable under the Principal Act, or any amendment thereof, to any person whomsoever.

No compensation payable in respect of lands which might be resumed

(2) If the land which has been or is so taken as aforesaid exceeds the quantity which the Crown was or is entitled to resume as aforesaid out of the location or allotment from which it was or is taken, then compensation shall be payable under the Principal Act in respect only of the difference in area between the quantity of such location or allotment which the Crown was or is entitled to resume as aforesaid and the actual quantity so taken.

Compensation payable when quantity taken exceeds quantity which might be resumed

(3) The compensation payable in respect of such difference in area shall be the sum which bears the same proportion to the value of the whole quantity of land so taken as such difference does to such whole quantity, and the value of such whole quantity shall be ascertained as provided by the twenty-second section of the Principal Act.

How computed

3. Whenever during the course of arbitration proceedings under the Principal Act, or any amendment thereof, any question of law arises, the arbitrator or the arbitrators and umpire, as the case may be, shall, upon the application of any party to such proceedings, reserve such question for the consideration and determination of a Judge of the Supreme Court, and may postpone or adjourn such proceedings pending such determination, or may make his or their award, as the case may be, subject to such determination.

Arbitrators may reserve questions of law

4. Whenever any question of law has been reserved as aforesaid, the arbitrator or arbitrators and umpire, as the case may be, shall forthwith state a case, setting forth the facts out of which such question arises, and shall sign and transmit the same to the Registrar of the Supreme Court, and the party upon whose application such question was reserved shall forthwith apply to a Judge in Chambers to fix a day for the consideration of the said question, and shall give to the other parties to the arbitration proceedings at least one day's clear notice in writing of the day so fixed. Any such application may be heard and determined by a Judge in Chambers or in Court as the Judge directs.

Arbitrators to state a case

5. Whenever a case has been stated under this Act, the Court or Judge to whose determination such case is submitted may cause such case to be sent back for amendment, or may amend the same by consent of the parties to the arbitration proceedings.

Case may be amended

6. The judgment or order of the Court or Judge determining any question of law reserved as aforesaid, or an abstract or minute thereof, shall be endorsed by the Registrar of the Supreme Court upon the case stated with respect to such question, and be by him transmitted

Judgment to be endorsed on case stated

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*The Railways Amendment Act, 1893*

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to the arbitrator, or arbitrators and umpire, as the case may be, by whom such question was reserved, and such arbitrator, or arbitrators and umpire, shall be bound by such judgment or order.

Party dissatisfied  
may appeal

7. Any party to any arbitration proceedings who is dissatisfied with any judgment or order as aforesaid may appeal therefrom to the full Court.

W. C. F. ROBINSON,  
GOVERNOR.

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