



Western Australia.

ANNO QUINQUAGESIMO QUINTO

VICTORIÆ REGINÆ.

No. XXXIV.

AN ACT to further amend "The Railways Act, 1878."

[Assented to, 18th March, 1892.]

WHEREAS doubts have arisen whether, under the provisions of "The Railways Act, 1878" (hereinafter called "The Principal Act"), the Commissioner of Railways is authorised to enter upon and take, compulsorily, at any time, such land as he may judge to be necessary or convenient for the purposes of the Railway: And whereas it is expedient to settle such doubts, and to amend the said Act in other respects: Be it therefore 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:—

Preamble.

1. (1.) THE power conferred upon the Commissioner, by the twelfth section of the Principal Act, to enter upon and take lands, may be exercised by him, from time to time and at any time, whether before, during, or after the construction of the railway or any part thereof, and such power shall extend to the taking of lands in addition to any lands at any time previously taken.

Extension of power to take lands.

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(2.) Notwithstanding anything contained in the Principal Act, in estimating the compensation to be paid in respect of any lands taken at any time after the public opening of the railway, and the damage (if any) sustained by the owner thereof, such owner shall be entitled to the increased value (if any), arising from the establishment of the railway, of the lands taken, severed, or injuriously affected.

Amendment of s. 13
of Principal Act.

2. THE thirteenth section of the Principal Act shall be read as if the word "proposed," in the 9th line, were omitted therefrom.

Confirmation of past
acts.

3. ANYTHING heretofore done or purporting to have been done by the Commissioner, under the powers conferred by the Principal Act, or by any other authority, shall be deemed to have been duly and lawfully done if the same could have been lawfully done under the authority of this Act.

Penalty for cross-
ing, &c., line before
approaching train.

4. WHOSOEVER shall drive or attempt to drive any vehicle, machines, or animal across, or shall cross or attempt to cross, or shall be on any railway line when an engine is approaching and within a distance of a quarter of a mile of such engine, shall, on conviction before any two or more Justices of the Peace, forfeit and pay any sum not exceeding Twenty pounds, and in default of payment may be imprisoned, with or without hard labor, for any term not exceeding six calendar months, unless the said penalty be sooner paid. Provided that it shall be a sufficient defence to any charge under this section if it shall be made to appear to the Justices that the approaching engine could not readily have been seen, nor its approach heard, by the person charged. Any information or complaint under this section may be exhibited or made by any person.

Definition of "Rail-
way."

5. THE word "Railway," in this and the Principal Act, and in all Acts amending the same, shall include the land upon which the railway is made, and all lands taken or resumed for the purpose of the railway, together with all buildings and erections of every kind thereon.

Jetties, wharves,
&c., part of railway.

6. ALL jetties, piers, wharves, and landing places, not being the property of any private person, which shall be used in connection with a railway, shall be deemed to form part of such railway; and the working and use of any such jetty, pier, wharf, or landing place shall be under the sole direction and management of the Commissioner of Railways.

Commissioner may
occupy lands
required for
construction of
railway.

7. WHENEVER a railway is to be constructed under the provisions of any Special Act, the Commissioner may enter upon any land lying within the limits of any authorised deviation, on either side of the line, shown on the map referred to in the Special

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Act, and which is required to be occupied for the construction of the railway, and do all things thereon which he is empowered to do for the construction of the railway, without being deemed to commit any trespass thereby.

8. THE Commissioner of Railways may agree with any person or company for the construction, working, and maintenance by the Commissioner of a siding in connection with any railway within the limits of the Railway, subject to the following conditions:—

Commissioner may agree for construction, &c., of sidings.

- (1.) Such siding shall be deemed to be part of the railway, and shall be worked subject to any regulations for the time being in force in respect to the railway or such part thereof.
- (2.) In default of payment by such person or company of any moneys payable under such agreement, the Commissioner may at any time close the connection of such siding with the railway until such payment is made, and no compensation shall be payable to any person or company whatever for any loss or damage arising from the connection being so closed.

9. THE Commissioner may, at any time after giving three months notice of such intention by publication in the *Government Gazette*, close the connection of any siding now existing or hereafter to be constructed in connection with any railway, and no compensation shall be payable to any person whatever for any loss or damage arising from such connection being so closed.

Commissioner may close existing and future sidings.

10. BEFORE the second reading of any Special Act, in the Legislative Assembly or in the Legislative Council, a copy of the map referred to in such Act, showing the line of the proposed railway, shall be laid upon the Table of the House, and if such Act be passed by both Houses the said copy map shall be signed, for the purpose of identification, by the Clerk of the Parliaments, and lodged by him for record and public inspection, free of charge, at the office of the Supreme Court; and such copy shall be thereafter admitted in all courts of law and elsewhere as evidence of the line authorised by the said Special Act. The original of such map deposited in the office of the Commissioner of Railways shall also be available for public inspection, free of charge, at all reasonable times. The provisions of this section as to the signing and recording by the Clerk of the Parliaments, and the public inspection of any copy map, and its admissibility as evidence, and also as to the public inspection of any original map, shall apply in the case of the Special Acts passed during the last and the present Session of Parliament.

Copy of map referred to in Special Act to be laid on the Table, signed and recorded in Supreme Court Office.

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Power to make additional regulations.

11. IN addition to the regulations authorised to be made by the Commissioner, under any of the Railway Acts, he may from time to time make regulations—

- (a.) Fixing the rental to be paid for sidings in connection with any railway;
- (b.) For regulating the use of sidings, and the making and granting of applications therefor;
- (c.) For organising, classifying, and paying the staff in connection with all or any Government Railways.

Limitation of power.

12. THE powers conferred upon the Commissioner of Railways by this Act shall be limited to railways owned by or worked by the Government.

Incorporation.

13. THIS Act shall be incorporated and read with the Principal Act as one Act.

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

ALEX. C. ONSLOW, Administrator.