



Western Australia.

ANNO QUINQUAGESIMO SECUNDO

VICTORIÆ REGINÆ.

No. XXI.

AN ACT to make provision for the Construction of certain Accommodation Works on Railways.

[Assented to, 7th December, 1888.]

WHEREAS by "The Railways Act, 1878," it is provided that it shall be lawful for the Commissioner of Railways, or any person acting under his authority, with his servants and workmen, with the approval and consent of the Governor, to make or construct, in, upon, across, under, or over any lands, streets, or roads along the line, or within any lawful deviation from such line, over which any Railway within the meaning of the said Act may be authorised to be constructed, such temporary or permanent inclined planes, tunnels, embankments, aqueducts, bridges, roads, ways, passages, conduits, piers, drains, cuttings, and fences as the persons aforesaid shall think proper, and also to divert or alter, as well temporarily as permanently, the course of any such streets, roads, or ways, or to raise or sink the level of any of such roads, streets, or ways, in order the more conveniently to carry the same over or under or by the side of any such Railway; And whereas certain lines of Railway have already been authorised to be constructed, the routes of which intersect certain lands, streets, and roads,

Preamble.

and owing to the smallness of the population along the route of such Railways, and for other reasons, under and over bridges and level crossings, accommodation roads, approaches, cattle creeps, watercourses, drains, culverts, and other works have not hitherto in some cases been considered necessary or provided, and it may be necessary hereafter, for the accommodation of traffic and the more convenient access to different portions of land intersected by such lines of Railway, to provide for the construction of such under and over bridges and level crossings, accommodation roads, approaches, cattle creeps, watercourses, drains, culverts, and other works; And whereas doubts have arisen as to the power of the Commissioner of Railways to require, in the case of private lines of Railway, the construction of such under and over bridges and level crossings, accommodation roads, approaches, cattle creeps, watercourses, drains, culverts, and other works, as may be necessary to be provided for the purposes aforesaid: Be it therefore enacted by His Excellency the Governor of Western Australia and its Dependencies, by and with the advice and consent of the Legislative Council thereof, as follows:—

Governor in Council
may re-open roads
and streets.

1. IT shall be lawful for the Governor in Council, upon application made by any Municipal Council or Road Board within whose jurisdiction any lands, streets, or roads along the line of any Railway authorised to be constructed as aforesaid may be situate, and also without any such application, and notwithstanding that any street or road intersected by any such line of Railway shall have been closed to traffic, either by being permanently fenced across or otherwise, at any time and from time to time hereafter to order and direct the construction and maintenance of such under and over bridges and level crossings, accommodation roads, approaches, cattle creeps, water-courses, drains, culverts, and other works under, over, upon, or across any such lands, street, or road intersected by such line of Railway as may in the opinion of the Governor in Council be necessary and proper for the public accommodation and benefit. Provided that this section shall only apply to streets and roads declared or in existence at the time of the construction of the Railway.

Mode of procedure.

2. THE construction and maintenance of any such works so ordered and directed as aforesaid shall, in the case of every private line of Railway, be undertaken and carried out, and all costs and expenses of the same and incidental thereto shall be borne and paid, by the persons or company to whom such railway line may belong, and if such persons or company shall not construct such works within such time as the Commissioner of Railways, under the direction of the Governor in Council, shall by notice in writing require, it shall be lawful for the said Commissioner to construct such works,

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and in case the persons or company owning such railway line shall refuse or neglect to pay the costs and expenses of and incidental to such works for the space of fourteen days after demand, then such costs and expenses shall be recoverable from such persons or company as aforesaid at the suit of the Commissioner of Railways in any court of competent jurisdiction, and upon the refusal, neglect, or default of such persons or company to maintain the said works from time to time to the satisfaction of the Commissioner of Railways, he may maintain the same and recover from time to time in manner aforesaid from such persons or company all costs and expenses of and incidental to such maintenance.

3. IN the event of any new street being hereafter opened within a townsite, or new road being hereafter laid out and defined by any Road Board, it shall be lawful for the Governor in Executive Council, on the application of the Municipal Council of the town or Road Board of the district within which such street or road respectively may be situate, to order and direct such over or under bridges, level crossings, accommodation roads, approaches, and other works as may in the opinion of the Governor in Council be necessary for the purpose of carrying such street or road across any line of railway. Provided always, that all costs and expenses of the construction and maintenance of any such works shall be paid and borne wholly by the Council or Road Board upon whose application the same shall be so ordered.

Crossings for new roads or streets may be ordered.

4. THIS Act may be cited as "The Railways Amendment Act, 1888," and shall be read and construed as one with "The Railways Act, 1878," and with the other Acts therewith incorporated.

Short Title.

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

F. NAPIER BROOME, Governor.