



WESTERN AUSTRALIA.

ANNO QUADRAGESIMO SECUNDO

VICTORIÆ REGINÆ.

No. XXXI.

AN ACT to consolidate and amend divers Acts now in force relating to the survey, construction, and maintenance of Railways.

[Assented to, 24th July, 1878.]

WHEREAS it is expedient to consolidate and amend the various Acts now in force relating to the survey, construction, and maintenance of Railways; Be it 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:—

Preamble.

1 THIS Act may be cited for all purposes as "The Railways Act, 1878."

Short Title.

2 FROM and after the passing of this Act the following Acts shall be and the same are hereby repealed (that is to say):—"The Railways and Electric Telegraph Protection Act, 1871," "The Railway Survey Act, 1873," "The Railways Act, 1873," and an Act

Repeal of 34 Vict. No. 19, 37 Vict. No. 7, 37 Vict. No. 20, 41 Vict. No. 16.

Railways.

Act passed in the 41st year of the reign of Her present Majesty, intituled "An Act to amend the Railways Act, 1873."

Interpretations in this and the Special Act.

3 THE following words and expressions, both in this and the Special Act, shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction, (that is to say):—

"Land."	The word "Land" shall include messuages, land, tenements, and hereditaments.
"Owner."	The word "Owner" shall include any person having any estate or interest, legal or equitable.
"Commissioner."	The word "Commissioner" shall mean the Commissioner of Railways for Western Australia.
"Person."	The word "Person" shall include corporations.
"The Railway."	The expression "The Railway" shall mean any railway or tramway by the Special Act authorised to be constructed, and works in connection therewith.
"The Special Act."	The expression "The Special Act" used in this Act shall be construed to mean any Act which has been or shall be hereafter passed, authorising the construction of a railway.

This Act incorporated with any Special Acts.

4 THIS Act shall be deemed to be incorporated with and to form part of the Special Act.

Governor to appoint a Commissioner of Railways.

5 IT shall be lawful for the Governor to appoint some fit and proper person to be the Commissioner of Railways for Western Australia, for the purpose of making, completing, maintaining, and working all railways within the Colony that may have been or may be authorised to be constructed and maintained out of the public funds, and for doing the various acts and things by this Act required to be done by the Commissioner. Any such appointment shall be notified in the *Government Gazette*. And the Governor shall have power to remove or suspend any person so appointed, and as often as any person so appointed shall die, resign, or become incapable, or shall be removed or suspended, it shall be lawful for the Governor, in like manner, to appoint either permanently or temporarily, as the case may require, some other fit and proper person to be the Commissioner in the place of the Commissioner so dying, resigning, becoming incapable, or being suspended or removed.

Railways.

6 IT shall be lawful for the Commissioner appointed as aforesaid, with the approval and consent of the Governor, testified in writing, to enter into contracts and agreements relative to the railway, or the construction, maintenance, or working thereof, and, with the like approval and consent, to do and perform all other acts and things which by this Act he is authorised or required to do and perform. And the public revenue of the Colony shall be answerable in respect of any contract or agreement entered into as aforesaid, but not otherwise. And no right of action shall accrue to any person against the Commissioner as such in respect of any contract or agreement unless such contract or agreement has been made by the Commissioner with the consent and approval aforesaid.

Powers of Commissioner.

7 ALL contracts and agreements duly made and entered into as aforesaid, and all bonds and other securities given to the Commissioner, and all rights of action or suit that may accrue to or against the Commissioner as such, may be enforced by or against the person holding the office of Commissioner for the time being, in the same manner as if the Commissioner and his successors in such office were a corporation sole; and any action, suit, or proceeding, commenced or taken by or against any duly appointed Commissioner as aforesaid, in which such person describes himself or is described as such Commissioner, shall not abate by reason of the death, resignation, incapacity, suspension, or removal of such person, but may be prosecuted, continued, and enforced by or against the person appointed, either permanently or temporarily, to fill the office of Commissioner. In case the office of Commissioner shall at any time be vacant, the person holding the office of Colonial Secretary shall, during such vacancy, be deemed to be the Commissioner to all intents and purposes.

Contracts to be enforced and actions to be brought by or against the Commissioner for the time being.

Actions not to abate.

SURVEY OF RAILWAYS.

8 FROM and after the passing of this Act, it shall be lawful for the Commissioner or any person or persons employed by him from time to time in that behalf, or his or their servants or assistants, to enter upon any lands within this Colony for the purpose of surveying the same, with a view to constructing a railway through or over the same or of ascertaining where a railway might most advantageously run, and to erect pegs, posts, or other landmarks upon the same, in such places as he or they or any of them may think proper.

Certain persons to have power to enter on and survey lands and erect posts.

9 ANY one obstructing or interfering with the said Commissioner or the person or persons employed by him or his or their assistants or servants as aforesaid, while entering on and surveying any land for

Any person obstructing such persons or moving, &c. the posts, guilty of an offence.

Railways.

Penalty.

for any of the purposes aforesaid, and any person wilfully or negligently moving, breaking, throwing down, altering, defacing, destroying, injuring, or concealing any such peg, post, or other landmark as aforesaid, shall be guilty of an offence; and such offence shall be cognizable in a summary manner by any two Justices of the Peace, who shall inflict on every person guilty thereof, a fine or penalty not exceeding ten pounds.

CONSTRUCTION OF RAILWAYS.

When Railway to be according to a map or plan, such map or plan to be deposited and open to inspection.

10 A MAP or Plan, showing the course to be taken by the Railway, together with a book of reference in the form given in the Form A in the Schedule to this Act, certified as correct, under the hand of the Commissioner, shall be deposited and kept at the office of the Commissioner in Perth, and at the offices of the respective Resident or Police Magistrates (other than the Police Magistrate of Perth), through any part of whose district it may be proposed to construct such railway; and in case any material deviation from the said line indicated in such map or plan shall at any time afterwards be determined upon by the Commissioner, he shall forthwith mark the same on such map or plan. Such map or plan and book of reference shall at all times be open to inspection by any owner of land in the district.

Limits of deviation authorised.

11 WHEN by the Special Act the railway is authorised to be constructed along a line laid down and described therein, it shall be lawful to deviate from such line at a distance of one mile on either side thereof.

Power to Commissioner to enter on land, &c., for railway.

12 IT shall be lawful for the Commissioner or any person acting under his authority, with his servants and workmen, with the approval and consent aforesaid, to enter upon and take for the purpose of the railway any such land along the line, or within any lawful deviation from such line, over which the railway is authorised to be constructed, as may, in the judgment of the Commissioner, be necessary for the purpose; and also to enter upon any land adjoining or contiguous to the land taken as aforesaid and take from thence any timber, earth, stone, sand, gravel, or other material that may be necessary for constructing or repairing such railway, and also from time to time to shoot upon and leave on such adjoining land any timber, earth, stone, sand, gravel, or other stuff that it may be necessary for the persons engaged in constructing or repairing

Railways.

repairing such railway to get rid of; and also to make or construct in, upon, across, under, or over any lands, streets, hills, valleys, roads, rivers, brooks, streams, or other waters along the line or within any lawful deviation from such line over which such railway may be authorised to be constructed such temporary or permanent inclined planes, tunnels, embankments, aqueducts, bridges, roads, ways, passages, conduits, piers, drains, arches, cuttings, and fences as the persons aforesaid shall think proper; and also to alter the course of any rivers, not being navigable streams or watercourses, for the purpose of constructing and maintaining tunnels, bridges, passages, or other works over or under the same, and for any other necessary purpose; and also to divert or alter, as well temporarily as permanently, the course of any such rivers or streams of water, streets, roads, or ways, or to raise or sink the level of any such rivers or streams, 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 to make drains or conduits into, through, or under any lands adjoining such railway, for the purpose of conveying water from or to such railway; and also in or upon such railway, or any lands adjoining or near thereto, to erect and construct such houses, warehouses, offices, and other buildings, yards, stations, wharfs, engines, machinery, apparatus, and other works and conveniences as may be deemed requisite; and also from time to time to alter, repair, or discontinue the before-mentioned works, or any of them, and to substitute others in their stead; and where such railway shall pass through any plantation, woodlands, or forests, it shall be lawful for the persons aforesaid to fell or remove any trees standing thereon within the distance of a hundred yards from either side of such railway, and generally to do all other acts necessary for making, maintaining, altering, repairing, or using such railway; Provided, always, that in the exercise of the powers by this Act granted as little damage as may be shall be done. Provided, also, that nothing in this section contained shall be deemed to apply to the waste lands of the Crown, or to in any way affect any right, as to any land heretofore granted or otherwise disposed of by the Crown, reserved to Her Majesty the Queen, her heirs and successors, or any person or persons acting in that behalf by her or their authority, to do any of the acts or things by this section authorised to be done; and nothing shall be deemed to be done in pursuance and by virtue of the powers by this section conferred which, if this Act had not been passed, might lawfully have been done by Her Majesty the Queen, her heirs and successors, or any person or persons acting in that behalf by her or their authority, under any such reservation as aforesaid.

to construct inclined planes, tunnels, &c.,

alter the course of rivers,

and of roads, &c.,

and to erect toll-houses, warehouses, &c.

This section not to apply to Waste Lands of the Crown, or to affect any right in the Crown to resume land,

or to apply where the Act in question may otherwise lawfully be done.

Railways.

How land to be taken.

13 WHEN any land is required to be entered upon and taken pursuant to and by virtue of the provisions of the next preceding section, the Commissioner shall, in all cases in which he may know or be able to ascertain the name and address of the owner (or his agent) and occupier of such land, give due notice to such owner and occupier of the intention to take the said land; he shall also give notice in the *Government Gazette* that such land will be with the approval and consent aforesaid taken on a day to be named in such notice, and shall mark off the land to be taken upon the map or plan of the proposed railway kept at the office of the Commissioner, in accordance with the provisions of this Act. Provided always that no omission to give the notice first above mentioned shall in any way vitiate the taking of such land, but when such notice shall have been given in the *Gazette* as aforesaid, and the said land shall have been marked off as aforesaid, the said land shall be deemed to have been taken on the day named in such notice to all intents and purposes.

Compensation to be made.

14 IN all cases in which any land is taken, entered upon, or used in pursuance and by virtue of the powers by the eleventh section conferred, full compensation shall be made to the owner or owners of such land.

17 Vict. No. 6 superseded so far as regards land resumed for a railway.

15 AN Ordinance passed in the 17th year of the reign of Her present Majesty and numbered six, shall be deemed to be superseded by the provisions of this Act so far as relates to any land resumed by Her Majesty, her heirs or successors, or any person acting under her or their authority for the purpose of a railway.

Method of settling compensation,

by agreement,

16 ANY person whose land is taken, entered upon, or used in pursuance and by virtue of the provisions of this Act, or whose land is resumed, entered upon, or used for the purpose of a Railway, by Her Majesty, her heirs, or successors, or any person acting under her or their authority, under any reservation of right as aforesaid, and who shall consider himself entitled to compensation in respect of such land being taken or resumed, entered upon, or used (such person being hereinafter referred to as "the claimant") shall send in to the Commissioner a notice in writing according to Form B in the schedule, setting forth the nature of his interest in such land and the amount of compensation which he claims in respect of the premises, and accompanied by all deeds and documents necessary to establish his title to such land. If the Commissioner shall be satisfied as to the title of the claimant to such land, and as to his right to recover compensation in respect of such land being taken or resumed,

Railways.

resumed, entered upon, or used as aforesaid, and as to the amount of compensation claimed by him as aforesaid, he shall with the approval of the Governor in Executive Council, pay such amount to the claimant; if he shall be satisfied as to the title and right to compensation as aforesaid, but thinks the amount of compensation claimed excessive, he shall, with the approval of the Governor in Executive Council, send him a written notice according to Form C in the schedule, offering such amount of compensation as he may think sufficient, and such proceedings shall thereupon be taken as in the next section set forth. If the Commissioner shall not be satisfied as to the title of the claimant to such land or as to his right to compensation in respect of the same being taken, or resumed, entered upon, or used as aforesaid, he shall give notice to such person according to Form D in the schedule, that he repudiates his claim; but before giving such notice of repudiation, it shall be lawful for any Judge of the Supreme Court in Chambers, on the application of the Commissioner, to order the claimant to produce such further evidence of title as the Commissioner may require.

by arbitration,

Commissioner may repudiate claim.

17 WHERE the Commissioner makes an offer of compensation as in the preceding section mentioned, then, if the claimant shall accept the same, the Commissioner shall pay the amount of compensation so offered; but if the claimant shall be unwilling to accept it, he shall give notice according to Form E in the schedule, to the Commissioner to proceed to arbitration upon the subject; when such notice has been given, unless the claimant and the Commissioner shall in writing agree upon some one person as arbitrator, according to Form F in the schedule, the claimant shall in writing, according to Form G in the schedule, appoint an arbitrator and give the Commissioner written notice thereof, and the Commissioner on receipt of such notice shall, within twenty-one days, according to a like Form, appoint an arbitrator on his part, and shall give notice of such appointment to the claimant. After the parties have in writing agreed upon some person as arbitrator, or arbitrators have been nominated by the parties respectively as aforesaid, the parties shall be deemed to have submitted the amount of compensation payable to arbitration to all intents and purposes, and such submission may be made a rule of the Supreme Court, and neither party shall have power to revoke the same without the consent of the other, nor shall the death of either party operate as a revocation thereof. The two arbitrators so appointed as aforesaid shall, before proceeding with the arbitration, by writing under their hands nominate an umpire, and in the event of their being unable to agree upon a person to act as umpire, it shall be lawful for a Judge of the Supreme Court, on the application of either

Method of proceeding to arbitration.

Railways.

either of them, to nominate an umpire, and the said arbitrators and umpire shall, after hearing the respective parties, their counsel, and witnesses, and making such investigation as they shall deem necessary, make their award, and the award of a majority of them shall be final and conclusive, to all intents and purposes as to the compensation to be paid by the Commissioner to the person whose land shall have been taken or resumed, entered upon, or used.

Provision in case arbitrator dies, &c.

18 IF any arbitrator or umpire shall after being appointed as aforesaid and before making an award as aforesaid die, or become incapable or shall neglect to proceed with due diligence, it shall be lawful for any Judge of the Supreme Court in Chambers, upon the application of either party, or of the other arbitrator or the umpire, to appoint some one else to be arbitrator or umpire, as the case may be, in the place of the arbitrator so dying, becoming incapable, or neglecting to proceed, and thereupon the person so appointed shall be deemed to all intents and purposes to be the arbitrator or umpire originally appointed under the provisions of the next preceding section.

Arbitrators to deliver award to Commissioner.

19 THE arbitrators shall deliver their award in writing to the Commissioner, and the Commissioner shall retain the same and shall forthwith, on demand, furnish a copy thereof to the other party, and shall, at all times on demand, produce the said award and allow the same to be inspected or examined by such person or any person appointed by him for such purpose.

Costs of arbitration.

20 ALL the costs of any such arbitration and incident thereto to be settled by the arbitrators, shall be borne by the Commissioner unless the arbitrators shall award the same or a less sum than shall have been offered by the Commissioner, in which case each party shall bear his own costs incident to the arbitration, and the cost of the arbitration shall be borne by the parties in equal proportions, but if the sum awarded shall be one-fourth less than the amount claimed, the whole costs of and incident to the arbitration and award shall be borne by the claimant, and the arbitrators shall direct the payment of the same accordingly, provided that if either party shall be dissatisfied with the costs allowed by the arbitrators as aforesaid, the costs may be taxed by the master or other proper officer of the Supreme Court, and the amount allowed by such officer shall be the amount to be paid.

When Commissioner repudiates claim party may bring action.

21 WHEN the Commissioner shall in accordance with the provisions of the fifteenth section have given notice to the party making any claim that he repudiates the same, it shall be lawful for the

Railways.

the person making such claim to bring an action in any Court of competent jurisdiction against the Commissioner to recover the full compensation that he may be entitled to in respect of the land taken or resumed, entered upon or used. But no such action shall in any case be brought unless a claim to compensation shall have been made pursuant to the provisions of section fifteen and the Commissioner shall have given notice that he repudiates the same; and at the trial of any such action, it shall not be competent for the claimant to give any further evidence of his title to the land taken or resumed, or as to his right to compensation, than that which he has submitted to the Commissioner.

22 IN estimating the purchase money or compensation to be paid in respect of any land taken or resumed, regard shall be had solely to the matters following—that is to say—to the value of such land at the time of its being taken or resumed, and without reference to any alteration in such value arising from the establishment of the railway; and to the damage, if any, sustained by the owner of such land by reason of the severance of such land from the other lands of such owner or by reason of such other lands being otherwise injuriously affected by the taking or resumption of such first-mentioned land as aforesaid.

Mode of estimating compensation.

23 ALL monies which by this Act are directed to be paid by the Commissioner shall be paid by warrant from the Governor on the Colonial Treasurer to the party lawfully entitled thereto, or to his agent duly authorised on his behalf within one month after the amount payable shall have been determined; and the Commissioner, acting in pursuance of the powers by this Act vested in him, shall not be deemed to incur any personal responsibility whatever.

Commissioner to pay money within a month.

24 WHENEVER any land being along the line upon which the railway is authorised to be constructed, or within any lawful deviation from the same has once being set out, ascertained and finally appropriated for the purposes of the railway, such lands and the fee simple and inheritance thereof, together with all rights or easements, in or over the same, and all the estate, use, trust, and interest of every person therein, shall thenceforth be vested in the Commissioner for and on behalf of Her Majesty, to and for the purposes of this Act, for ever, as fully and effectually to all intents and purposes as if the same had been conveyed by the persons legally entitled to sell and convey the said lands; but, nevertheless, the Commissioner may, if he think fit in any case, demand a conveyance. Provided always, that it shall at all times be lawful for the Commissioner, with the approval

Lands taken in pursuance of this Act to vest in Commissioner without conveyance.

of

Railways.

of the Governor, to sell or otherwise dispose of any land which may have been taken in pursuance and by virtue of the provisions of this Act, and which it may be found is not required for the purpose of the railway.

Proceeding in case of refusal to give up land.

25 IF, in any case in which, according to the provisions of this Act, the Commissioner is authorised to enter upon and take possession of any lands required for the purpose of the railway, the owner or occupier of any such lands, or any other person refuse to give up the possession thereof, or hinder the Commissioner from entering upon or taking possession of the same, it shall be lawful for the Commissioner to issue his warrant to the Sheriff to deliver possession of the same to the person appointed in such warrant to receive the same, and upon the receipt of such warrant the Sheriff shall deliver possession of any such land accordingly, and the costs accruing by reason of the issuing and execution of such warrant, to be settled by the Sheriff, shall be paid by the person refusing to give possession, and the amount of such costs shall be deducted and retained by the Commissioner from the compensation (if any) then payable to such party, or if no such compensation be payable to such party, or if the same be less than the amount of such costs, then such costs or the excess thereof beyond such compensation if not paid on demand shall be levied by distress, and upon application to any Justice for that purpose he shall issue his warrant accordingly.

WORKING OF RAILWAYS.

No railway to be opened until certified.

26 NO railway shall be opened for public traffic until the Commissioner has certified, by notice to that effect in the *Government Gazette*, that such railway may safely be used for public traffic.

After publication of certificate, Commissioner may open the line for traffic,

levy tolls,

make by-laws.

27 FROM and after the publication of the certificate aforesaid, it shall be lawful for the Commissioner to run steam engines, trucks, waggons, carriages, and other rolling stock over and along the railway, and to carry passengers, goods, horses, cattle, and other animals thereon, and to cause fares and tolls to be levied from and upon persons and things carried on the railway, according to a scale to be fixed by him, and approved of by the Governor in Council (which scale may from time to time be revised and altered by the Commissioner, with the like consent) and published as hereinafter mentioned; and it shall be lawful for the Commissioner, subject to the like approval, to make by-laws for the regulation of the traffic on the railway, and for the preservation of order thereon, and at the stations

Railways.

stations and other buildings in connection therewith, which by-laws, when published, shall have the force of law, and the breach thereof shall be punishable in a summary manner before two Justices of the Peace, by a penalty not exceeding Ten pounds; and it shall be lawful for the Commissioner to do all other acts and things which may be necessary to be done in order to insure the safe working of the traffic on the railway.

Penalty ten pounds.

28 ANY matter or thing which by the next preceding section is required to be published, shall be deemed to have been duly published if it has been set forth in the *Government Gazette*, and at the stations on the line of railway. The production of a copy of the *Government Gazette* containing any such matter or thing shall, if such matter or thing purport on the face of it to have been duly performed or done, be sufficient evidence of such matter or thing having been duly performed or done, and proof of publication at one station shall be *prima facie* proof of publication at all.

What to be deemed a sufficient publication of by-laws, &c.

29 FROM and after the time that the Commissioner shall have commenced traffic on the line as aforesaid, he shall be deemed to be a common carrier, and, except as hereinafter otherwise provided, shall be subject to the obligations and entitled to the privileges of such carrier.

Commissioner to be deemed common carrier.

30 THE liability of the Commissioner, as a common carrier, shall be limited as follows: (that is to say) that no greater damage shall be recoverable for the loss of or injury done to any animal carried on any such railway beyond the sums hereinafter mentioned (that is to say), for any horse, Twenty pounds; for any neat cattle, per head, Fifteen pounds; for any sheep, pig, or other small animal, per head, Twenty shillings; unless the person sending or delivering the same shall at the time of such delivery have declared them to be respectively of higher value than as above mentioned, in which case it shall be lawful for the persons authorised to take fares and tolls on the line of railway to demand and receive by way of compensation for the extra risk and excess of care thereby occasioned a reasonable percentage (according to a scale to be fixed in the same way as the list of fares and tolls, and published therewith) upon the value so declared above the respective sums so limited as aforesaid, and which shall be paid in addition to the ordinary rate of charge. Provided, always, that the proof of the value of such animals and the amount of injury done thereto shall in all cases lie upon the person claiming compensation for such loss or injury. Provided, also, that the Commissioner, as such common carrier as aforesaid, shall

Limitation of liability as common carrier.

Railways.

shall not be liable for the loss of or injury to any article or articles of property of the descriptions following; (that is to say) gold or silver coin, or any gold or silver in a manufactured or unmanufactured state, or any precious stones, jewellery, watches, clocks, or time-pieces of any description, trinkets, bills, bank-notes, orders, notes or securities for payment of money, English or Foreign stamps, maps, writings, title deeds, paintings, engravings, pictures, gold or silver plate or plated articles, glass, china, silks in a manufactured or unmanufactured state, and whether wrought up or not wrought up with other material, furs, or lace, or any of them, contained in any parcel or package which shall have been delivered either to be carried for hire or to accompany the person of any passenger on the said railway, when the value of such article or articles of property aforesaid contained in such parcel or package shall exceed the sum of Ten pounds, unless at the time of the delivery thereof to the person authorised to receive the same to be carried on the said line of railway, or, in case the same accompanies the person of any passenger, before such person commences his journey on the said line of railway, the value and nature of such article or articles of property shall have been declared by the person sending or delivering or accompanying the same, and such increased charge, by way of compensation for the extra risk and excess of care involved by the carriage of such article or articles, be paid to the person authorised to receive the same, according to a scale to be fixed in that behalf in the same way as the list of fares and tolls, and published therewith.

Liability for loss after
transit restricted.

31 WHEN any goods shall be delivered to be carried along or upon any railway, and the same shall have been carried safely to the place to which the Commissioner shall have contracted to carry the same, and shall have been duly discharged from the truck in which they were carried, the Commissioner shall be responsible only as a bailee for custody in respect of any damage or loss that may arise or accrue with reference to such goods until the removal of the same by the consignees thereof; and if such goods shall not be removed from the premises of the Commissioner within forty-eight hours of the time of such discharge, the Commissioner may charge a reasonable sum for the warehousing thereof, and recover the amount so charged from the person liable to pay or who shall have paid for the carriage of such goods.

Goods of excessive weight
or bulk not to be carried.

32 NO person shall be entitled to require any single article of goods to be conveyed upon or along the railway the weight of which,

Railways.

which, exclusive of the carriage, exceeds four tons, or, including the carriage, exceeds six tons, or which from its excessive bulk would be inconvenient to transport; but no objection on account of its weight or bulk shall be taken to the carriage of any boiler or single piece of machinery if the same can be transported on any single truck or carriage, or upon two or more trucks or carriages joined together, and if it be offered for transport at least twenty-four hours before the time fixed for starting.

33 NO person shall be entitled to carry or to require to be carried upon or along any railway any aquafortis, oil of vitriol, gunpowder, or other goods which in the judgment of the person or persons appointed to superintend and manage the line may be of a dangerous nature, and the said person or persons may refuse to take any parcel suspected to contain goods of a dangerous nature, or require the same to be opened to ascertain the fact; but nothing herein contained shall prevent the persons from carrying such goods if and when they shall see fit.

Dangerous goods not to be carried.

34 IF, on demand, any person fail to pay the tolls, rates, or charges due in respect of any animals or goods, the Commissioner may either recover the same in any Court of competent jurisdiction, or may detain and sell all or any of such animals or goods, or if the same have been removed from the premises may detain and sell any other animal or goods within such premises belonging to the person liable to pay such tolls, rates, or charges, and out of the monies arising from such sale may retain the tolls, rates, or charges so payable, and all charges and expenses of such detention and sale, rendering the overplus (if any) of such monies and the unsold animals or goods to the person entitled thereto.

In default of payment of tolls, goods may be detained and sold.

35 IT shall be lawful for any officer or agent of the Commissioner, and all persons called by him to his assistance, to seize and detain any person who shall have committed any offence against the provisions of this Act, or of the by-laws made under the authority hereof, and whose name and residence shall be unknown to such officer or agent, and give him in charge to a police constable, who shall convey him with all convenient despatch before some Justice of the Peace without any warrant or other authority than this Act; and such Justice shall proceed with all convenient despatch to the hearing and determining of the complaint against such offender.

Power to seize certain persons without warrant.

36 WHEN passengers are booked at any intermediate station for any train, the condition that there is room in such train shall in all

Booking at intermediate stations conditional.

Railways.

all cases be implied; and when there is not sufficient room for all such passengers, those booked for the longest distance shall have the preference, and those booked for the same distance shall have priority according to the order in which they are booked.

Refreshment rooms.

37 IT shall be lawful for the Commissioner to devote a convenient place at each station on the railway to the purposes of a refreshment room, and to let the same to some fit and proper person to use the same for the supply and sale of spirituous and other liquors and refreshments; and it shall not be competent to the licensing Magistrates for the district within which any such refreshment room is situate to refuse to grant or transfer to any person to whom the Commissioner may with the approval of the Governor let any such refreshment room, any certificate required by "The Wines, Beer, and Spirit Sale Act, 1872," or any of the licenses mentioned in the fourth section of the said Act for which such person may apply.

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

H. ST. GEORGE ORD, Governor.

SCHEDULE.

Railways.

SCHEDULE.

FORM A.

WESTERN AUSTRALIAN RAILWAYS.

Book of Reference of the Railway from to

No.	Length.		Owners.	Occupiers.	General Bearing of Railway.	Description of Land through which the Railway is intended to be carried.			Quantity required for making Railway.	Value of Land taken.	Value of Injury by Severance.	Remarks.
	From.	To.				Nature and Quality.	State of Cultivation.	Inclosures if any.				
	C. L.	C. L.										

FORM B.

In the matter of "The Railways Act, 1878," and of certain land taken (or resumed, &c.) for the purpose of the Railway.

To the Commissioner of Railways for Western Australia.

Sir,—I have the honor to inform you that I am the (here describe nature of interest) of certain land (here describe the same) which has been taken (or resumed, or entered upon, or used, as the case may be) for the purpose of the Railway.

I enclose the following title deeds, showing my interest in the said land.

(Here set out list of deeds).

I consider that I am entitled to compensation in respect of the said land, and I claim, as full compensation for the taking of the same, including all buildings and fences thereon, and as damages for all injury done to the adjoining land belonging to me, by severance or otherwise, the sum of £ which sum I hereby declare to be my full claim in respect of the matters aforesaid.

I am, &c.

Form C.

Railways.

FORM C.

*In the matter of "The Railways Act, 1878," and of certain land taken
(or resumed, &c.,) for the purpose of the Railway.*

Sir,—With reference to your letter of the day of in which you inform me that you are the of certain land described in your said letter, which land has been taken (*or resumed, &c.,*) for the purpose of the Railway, and in which you make a claim of £ as compensation for the land so taken, including all buildings and fences thereon, and as damages for all injury done to the adjoining land belonging to you, by severance or otherwise, I have now the honor to inform you, having submitted your title to the said land and your claim to compensation as aforesaid, to the proper legal authority, that I am satisfied as to your title and as to your right to compensation as aforesaid; but having subjected your claim, in respect of its amount, to competent valuation, I am unable to concur with you as to the amount of compensation to which you are entitled, and I have now, with the approval of His Excellency the Governor, to offer you, in lieu of the amount claimed by you, the sum of £ in full satisfaction of all claims made by you in your said letter.

If you should be willing to accept the offer which I now make to you, you will be good enough to inform me thereof without delay, and the said amount will be paid to you in accordance with the provisions of "The Railways Act, 1878;" if you should be unwilling to accept it, you will please give me the necessary notice to proceed to arbitration upon the subject, pursuant to the provisions of the said Act.

I have, &c.,

A.B.,

Commissioner of Railways.

 FORM D.

*In the matter of "The Railways Act, 1878," and of certain land taken
(or resumed, &c.,) for the purpose of the Railway.*

Sir,—With reference to your letter of the day of in which you inform me that you are the of certain land described in your said letter, which land has been taken (*or resumed, &c.,*) for the purpose of the Railway, and in which you make a claim of £ as compensation for the land so taken, including all buildings and fences thereon, and as damages for all injury done to the adjoining land belonging to you, by severance or otherwise, I have now the honor to inform you, having submitted your title to the said land and your claim to compensation as aforesaid to the proper legal authority, that you have failed to

Railways.

to satisfy me as to your title to the said land (*or* right to compensation) as set forth in your said letter, and I accordingly, pursuant to the provisions of "The Railways Act, 1878," repudiate your said claim.

I have, &c ,

A.B.,

Commissioner of Railways.

FORM E.

In the matter of "The Railways Act, 1878," and of certain land taken for the purpose of the Railway.

To the Commissioner of Railways for Western Australia.

Sir,—With reference to your letter of the day of in which you offer me the sum of £ as compensation for certain land described in my application of the day of , which said land has been taken for the purpose of the Railway, I have the honor to inform you that I am unwilling to accept the said sum, and I hereby give you notice, in accordance with the provisions of "The Railways Act, 1878," to proceed to arbitration to determine the amount to which I am entitled as compensation for the land taken as aforesaid.

I have, &c.,

FORM F.

In the matter of "The Railways Act, 1878," and of certain land taken (or resumed, &c.,) for the purpose of the Railway.

WHEREAS certain land (*here describe the same*) has been taken for the purpose of the Railway; And whereas A.B., (the claimant,) has claimed the sum of £ as compensation for the land so taken, including all buildings and fences thereon, and as damages for all injury done to the adjoining land belonging to the said by severance or otherwise; And whereas Commissioner of Railways for Western Australia, conceding the title of the said A.B. to the said land, and his right to compensation in respect of the premises, considers the said amount of £ excessive, and the said A.B. and the said Commissioner are unable to agree as to the amount of compensation to be paid by the said Commissioner to the said A.B., in respect of the premises; Now THEREFORE it is hereby witnessed that the said A. B. and the said Commissioner do agree upon of as arbitrator as to the amount to be paid as aforesaid, pursuant to the provisions of "The Railways Act, 1878."

Form G.

Railways.

FORM G.

*In the matter of "The Railways Act, 1878," and of certain land taken
(or resumed, &c.,) for the purpose of the Railway.*

WHEREAS certain land (*here describe the same*) has been taken for the purpose of the Railway; And whereas A.B. (the claimant), has claimed the sum of £ as compensation for the land so taken, including all buildings and fences thereon, and as damages for all injury done to the adjoining land belonging to the said by severance or otherwise; And whereas Commissioner of Railways for Western Australia, conceding the title of the said A.B., to the said land, and his right to compensation in respect of the premises, considers the said amount of £ excessive, and the said A.B., and the said Commissioner are unable to agree as to the amount of compensation to be paid by the said Commissioner to the said A.B., in respect of the premises; And whereas the said A.B. and the said Commissioner are unable to agree upon any one person as arbitrator. NOW THEREFORE it is hereby witnessed that the said A.B., pursuant to the provisions of "The Railways Act, 1878," doth appoint of an arbitrator on his part, and hereby requires the said Commissioner of Railways to appoint an arbitrator on his part, in order that the said arbitrators may proceed to assess the amount of compensation payable to the said A.B., in respect of the premises, pursuant to the provisions of "The Railways Act, 1878."