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QUINTO

VICTORIÆ REGINÆ.

A.D. 1881.

No. 202.

An Act to amend "The Lands Clauses Consolidation Act,"
and for other purposes.

[*Assented to, September 28th, 1881.*]

WHEREAS it is expedient to amend "The Lands Clauses Con-
solidation Act" and to extend the powers and provisions
thereof—Be it therefore Enacted by the Governor of the Province
of South Australia, with the advice and consent of the Legislative
Council and House of Assembly of the said province, in this present
Parliament assembled, as follows :

Preamble.

PRELIMINARY.

1. This Act may be cited for all purposes as the "Lands
Clauses Consolidation Amendment Act, 1881," and this Act and
"The Lands Clauses Consolidation Act" shall be read, incorporated,
and construed as one Act.

Short Title and
incorporation.

2. This Act and the provisions thereof shall apply to every
undertaking heretofore authorised or hereafter to be authorised by
any Act.

Act to apply to every
undertaking.

3. Section 13 of "The Railways Clauses Act, 1876," is hereby
repealed, save as to any right to compensation acquired thereunder
at the date of the passing of this Act.

Repeal of section 13
of "The Railways
Clauses Act, 1876."

4. In so far as any word or expression used in this Act
has any special meaning assigned to it by "The Lands Clauses
Consolidation Act," or "The Railways Clauses Consolidation Act,"

Interpretation of
certain words or
expressions.

or

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The word "lands" to include easements.

or any Act amending or incorporating the aforesaid Acts, each such word or expression shall in this Act have the meaning so assigned to it; and the word "lands," used in the said Acts, shall, in addition to the meaning ascribed thereto in the said Acts, extend to and include any easements, rights, or privileges in, under, over, or affecting any lands.

HEARING OF CASES OF COMPENSATION UNDER THE LANDS CLAUSES CONSOLIDATION ACT.

Power for promoters or claimant to apply to a Judge of the Supreme Court for an order for the trial of compensation cases under the Lands Clauses Consolidation Act.

5. Whenever, in the case of any lands purchased or taken otherwise than by agreement for the purpose of any undertaking, any question of compensation in respect thereof, or any question of compensation in respect of lands injuriously affected by the execution of the works, is under the provisions of "The Lands Clauses Consolidation Act" to be settled by the verdict of a jury or by arbitration, as in the said Act mentioned, the promoters of the undertaking or the parties claiming compensation may, at any time before the issuing by the promoters of the undertaking to the Sheriff of their warrant, as by the said Acts provided, or the appointment by the promoters of the undertaking of their arbitrator, as by the said Acts directed, apply by summons to a Judge of the Supreme Court, who shall, if he think fit, make an order for trial of the question between the party claiming compensation and the promoters of the undertaking, in the Supreme Court, in such one of the modes of trial prescribed by the Supreme Court Act, 1878, and upon such terms and in such manner as to him shall seem fit, and the mode of trial so ordered shall be in lieu of, and in substitution for, any other mode of settling such questions.

Issue to be made up.

6. Whenever a Judge of the Supreme Court shall, under the preceding section, order any question of compensation to be tried before the said Court, the question between the party claiming compensation and the promoters of the undertaking shall be stated in an issue to be settled, in case of difference, by the Judge.

Issue to be set down and tried.

7. The issue when made up under the preceding section shall be entered at the Supreme Court with the Master thereof for trial, and shall be tried in the mode directed by the Judge, at the next Civil Sittings of the Supreme Court to take place after the expiration of fourteen days from the entry of such issue, or at such other time as the Judge may direct.

Proceedings.

8. The proceedings in respect of such issue, and the verdict and judgment thereon, shall be under and subject to the control and jurisdiction of the Supreme Court as in ordinary actions therein; but so, nevertheless, that in all cases where the issue relates to the value of the lands to be purchased and also to compensation claimed for injury done or to be done to lands held therewith, the verdict shall be delivered separately in manner provided by the forty-ninth section of "The Lands Clauses Consolidation Act."

9. The

Lands Clauses Consolidation Amendment Act.—1881.

9. The attendance of witnesses to give evidence on the trial of any such issue may be enforced by subpoena issued out of and under the seal of the Supreme Court as in ordinary actions; and in any such issue the party claiming compensation shall be deemed to be the plaintiff, and the promoters of the undertaking, the defendants, and shall be so described in all proceedings, and each party shall have all the rights and privileges of a plaintiff or defendant respectively as in the case of an ordinary action tried under the provisions of the "Supreme Court Act, 1878."

Enforcing attendance of witnesses.

Rights and privileges of parties.

10. The verdict and judgment upon any issue tried under the provisions of this Act shall, as regards costs and every other matter incident to or consequent thereon, have the same operation and be entitled to the same effect as if that verdict and judgment had been the verdict of a jury and the judgment of a Judge, Commissioner, or Sheriff upon an inquiry conducted upon a warrant to the Sheriff issued by the promoters of the undertaking under "The Lands Clauses Consolidation Act."

Effect of verdict of jury and judgment of the Court.

11. Whenever the promoters of the undertaking are called upon or liable under the provisions of "The Lands Clauses Consolidation Act" to issue their warrant to the Sheriff in case of any disputed compensation, and the promoters shall obtain a Judge's order under section 5 of this Act, the obtaining of such order and notice thereof to the opposite party shall be a satisfaction of the promoters' duty in respect of the issue of the warrant and in respect of the appointment of an arbitrator.

Obtaining order for trial to be satisfaction of duty in respect of the issuing of the warrant and appointment of arbitrator.

COSTS OF ARBITRATIONS.

12. Whenever, under "The Lands Clauses Consolidation Act," or any Act incorporating the same, any question of disputed compensation is determined by arbitration, the costs of and incidental to the arbitration and award shall, if either party so requires, be taxed and settled as between the parties by the Master of the Supreme Court; and such fees may be taken in respect of taxation as may be fixed in pursuance of the enactments relating to the fees to be demanded and taken in the office of the Supreme Court.

Costs of arbitrations, where either party so requires, to be settled by Master of the Supreme Court.

VALUATION OF LANDS REQUIRED FOR UNDERTAKINGS.

13. In determining or assessing the amount of compensation under "The Lands Clauses Consolidation Act," to be paid by the promoters of any undertaking for lands taken by them for the purposes of such undertaking and for severance (if any), regard shall be had only to the value of such lands twelve months prior to the passing of the special Act authorising the carrying out of the undertaking; or if there shall be no such special Act, then to the value of

Basis of assessing compensation for lands taken, and for severance.

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of such lands twelve months prior to the giving by the promoters of the undertaking of a notice of their intention to take such lands for the purposes of the undertaking, together with, in either case, the actual value of any improvements *bonâ fide* made during the said period of twelve months. Should such promoters fail to take possession or pay the compensation for twelve months after the passing of the special Act or the giving of the notice, then the promoters shall pay to the person entitled to such compensation interest at the rate of Five Pounds per centum per annum until payment of such compensation.

Compensation for lands held under credit agreements to be paid to Commissioner on account.

14. The compensation payable by the promoters of any undertaking for or in respect of lands held under agreement for purchase upon credit from the Crown shall be paid to the Commissioner of Crown Lands on account of the money owing to the Crown on such agreement, and shall be accounted for accordingly.

ACCOMMODATION WORKS.

Accommodation works to be determined before hearing of claims for compensation.

15. In every case in which the promoters of any undertaking are liable to make any works for the accommodation of the owners or occupiers of lands adjoining a railway or other undertaking, the kind or number of such accommodation works and the dimensions or sufficiency thereof shall be determined before the hearing of any claim for compensation against such promoters for or in respect of lands of which the persons so entitled to accommodation works are the owners or occupiers. If any such person neglects to have the question of his claim for accommodation works determined as hereinbefore directed, he shall have no further right to compel the promoters of the undertaking to make such accommodation works.

MISCELLANEOUS.

Compulsory power to take lands for public undertakings may be exercised without limit as to time.

16. Notwithstanding anything contained in "The Lands Clauses Consolidation Act," or any other Act, the powers of acquiring lands compulsorily for the purposes of any undertaking, authorised or to be hereafter authorised by any Act of Parliament, and for carrying out which moneys shall have been or may be voted by Parliament, may be exercised without limit as to time.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

WM. F. DRUMMOND JERVOIS, Governor.