

New South Wales.



ANNO SECUNDO

GEORGI V REGIS.

An Act to continue and amend the provisions of the Warwick Farm Railway Act, whereby the construction and control of a railway from and connecting the line of railway from Sydney to Liverpool, at a point between the Liverpool and Cabramatta railway stations, to and with the Warwick Farm race-course was authorised; and for purposes consequent thereon and incidental thereto. [Assented to, 30th September, 1911.]

WHEREAS in the fifty-third year of the reign of Her late Majesty Queen Victoria an Act was passed entitled the Warwick Farm Railway Act, in which it was thereby enacted that it should be lawful for Edwin Ernest Allan Oatley and John Thompson, their heirs, executors, administrators, or assigns, upon the terms and conditions, and subject to the provisions thereafter contained, to make, construct, and control a railway for conveying the passengers, their luggage, and other goods, stock, and material, from a point on the line of

Preamble.

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of railway from Sydney to Liverpool, at a point between the Liverpool and Cabramatta railway stations, and with the Warwick Farm race-course, and thence by the lines described in the Schedule to that Act, and to effect a junction between the said line of railway from Sydney to Liverpool and the Warwick Farm race-course, in accordance with section ninety-nine of the Government Railways Act of 1858, and to take and use so much of the streets, roads, or land referred to in the said Schedule as might be required for the purposes of such railway, but so that the same shall not occupy, in any part thereof, a greater space in breadth than fifty feet, including the support and foundations thereof: Provided that the said railway should be completely constructed between the points above indicated, and brought into use within one year from the passing of that Act; and the same should be constructed in a proper and workmanlike manner; and that the said Edwin Ernest Allan Oatley and John Thompson, their heirs, executors, administrators, or assigns should, at his or their cost, forthwith, upon the request in writing of the Commissioners for Railways, efficiently construct and thereafter maintain such sidings upon the said railway as the said Commissioners should consider necessary for the proper and convenient working of the said railway; and should have all necessary rights of ingress and egress to and over the surface of the streets, roads, and lands before referred to, and all such other rights as should be required for the construction, repair, completion, and use of the said railway; and that the gauge of the said railway shall be same gauge as the Government railways; and that the railway should throughout its course be laid at the general level of the said streets, roads, and lands, and throughout the whole extent of the said railway should be laid with rails subject to the approval of the Commissioners for Railways; and that where the railway should cross any public highway, parish road, on a level, the said Edwin Ernest Allan Oatley and John Thompson, their heirs, executors, administrators, or assigns should erect, and at all times maintain, good and sufficient gates across such road on each side of the railway, where the same shall communicate therewith, subject to certain provisions therein contained; and that the said railway should be open to public use upon payment of the tolls or charges following, that is to say: For passengers a sum not exceeding sixpence per head each way; for goods the same rate per mile as are charged on the Government railways, and for this purpose such railway shall be deemed to be a continuation of the Government railway between Sydney and Liverpool; and that the said Edwin Ernest Allan Oatley and John Thompson, their heirs, executors, administrators, or assigns should maintain in perfect order and repair the said railway and the pavements of the same between the rails of the said railway, where crossing any roads, and for the space of one foot six inches on each side

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side of such rails; and that the said Edwin Ernest Allan Oatley and John Thompson, their heirs, executors, administrators, or assigns should immediately repair any damage which may during or by reason of the construction of the said railway be occasioned to any sewer or drain, or gas or water-main, or property, and should also repair all damage which may be occasioned by the working of the said railway: And whereas, in pursuance of the powers for that purpose contained in the said Act, the said Edwin Ernest Allan Oatley and John Thompson, their heirs, executors, administrators, and assigns did, within the term of one year from the passing of the said Act, make and construct the said railway with all proper works and conveniences thereby authorised to be made, and did upon the terms and conditions and subject to the provisions in the said Act contained, make, construct, and control the said railway, and did in every way comply with the provisions of the said Act: And whereas, by the terms of the first section of the Warwick Farm Railway Act, the provisions therein contained, authorising the said Edwin Ernest Allan Oatley and John Thompson, their heirs, executors, administrators, and assigns to make, construct, and control the said railway in manner therein provided were thereby limited to a term of twenty-one years from the passing of the said Act: And whereas the said term of twenty-one years has expired, and it is expedient to authorise the continuance of the construction, maintenance, and control of the said railway upon the like terms and conditions, and subject to the like provisions as those contained in the Warwick Farm Railway Act, and an Act of the Legislature is necessary for that purpose: And whereas the said John Thompson is dead, and all his legal, equitable, beneficial, and other estate, right, title, and interest whatsoever, under or by virtue of the said Act, has become vested in the said Edwin Ernest Allan Oatley, his heirs, executors, administrators, and assigns: Be it therefore enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same as follows:—

1. This Act may be cited for all purposes as the “Warwick Short title. Farm Railway Act Extension Act 1911.”

2. It shall be lawful for the said Edwin Ernest Allan Oatley, his heirs, executors, administrators, or assigns, upon the terms and conditions, and subject to the provisions hereinafter contained, to make, conduct, and control a railway for conveying the passengers, their luggage, and other goods, stock, and material, from a point on the line of railway from Sydney to Liverpool, at a point between Liverpool and Cabramatta railway stations and with the Warwick Farm race-course, and thence by the lines described in the Schedule to this Act, and to effect a junction between the said line of railway from

Authority to
construct and
control railway.

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from Sydney to Liverpool and the Warwick Farm race-course, and to take and use so much of the streets, roads, or land referred to in the said Schedule as may be required for the purposes of such railway, but so that the same shall not occupy, in any part thereof, a greater space in breadth than fifty feet, including the support and foundations thereof.

Sidings.

3. The said Edwin Ernest Allan Oatley, his heirs, executors, administrators, or assigns shall, at his or their cost, forthwith, upon the request in writing of the Chief Commissioner for Railways and Tramways efficiently construct and thereafter maintain such sidings upon the said railway as the said Chief Commissioner shall consider necessary for the proper and convenient working of the said railway.

Entry upon streets,
&c.

4. The said Edwin Ernest Allan Oatley, his heirs, executors, administrators, or assigns shall have all necessary rights of ingress and egress to and over the surface of the streets, roads, and lands, before referred to, and all such other rights as are required for the construction, repair, completion, and use of the said railway: Provided that nothing herein contained shall impair or be held to impair the lawful authority of the Municipal Council of the Municipality of Liverpool or of any other corporation, company, or person to make all entries and exercise all other powers necessary for the construction, maintenance, control, and preservation of gasworks, waterworks, sewerage-work, and other works lawfully constructed under ground.

Gauge.

5. The gauge of the said railway shall be same gauge as the Government railways.

Level.

6. The railway shall throughout its course be laid at the general level of the said streets, roads, and lands, and throughout the whole extent of the said railway shall be laid with rails subject to the approval of the Chief Commissioner for Railways and Tramways.

Crossings.

7. Where the railway shall cross any public road, on a level, the said Edwin Ernest Allan Oatley, his heirs, executors, administrators or assigns shall, to the satisfaction of the Council of the Municipality of Liverpool, erect, and at all times maintain, good and sufficient gates across such road on each side of the railway, where the same shall communicate therewith, and shall employ proper persons to open and shut such gates, and such gates shall be kept constantly closed across such roads on both sides of the railway except during the time when horses, cattle, carts, or carriages passing along the same shall have to cross such railway, and such gates shall be of such dimensions and so constructed as when closed to fence in the railway, and prevent cattle or horses passing along the road from entering upon the railway, and the persons entrusted with the care of such gates shall cause the same to be closed as soon as such horses, cattle, carts, or carriages shall have passed through the same, under a penalty of forty shillings for every default therein: Provided always that it shall be lawful for the Chief Commissioner for Railways and Tramways in any case in which he shall

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shall be satisfied that it will be more conducive to the public safety that the gates on any level crossing over any such road shall be kept closed across the railway, to order that such gates shall be kept so closed, instead of across the road. And in such cases such gates shall be kept constantly closed across the railway except when engines or carriages passing along the railway shall have occasion to cross such road or railway in the same manner and under the like penalty as above directed with respect to the gates being kept closed across the road.

8. The said railway shall be open to public use upon payment of the tolls or charges following, that is to say :—

For passengers, a sum not exceeding sixpence per head each way.

For goods the same rates per mile as are charged on the Government railways, and for this purpose such railway shall be deemed to be a continuation of the Government railway between Sydney and Liverpool.

9. The said Edwin Ernest Allan Oatley, his heirs, executors, administrators, and assigns shall make, and at all times thereafter maintain, for the accommodation of the owners and occupiers of lands adjoining the said railway, that is to say :—

Such and so many convenient gates, bridges, arches, culverts, and passages over, under, or by the sides of or leading to or from the railway as shall be necessary for the purpose of making good any interruptions caused by the railway to the use of the lands through which the railway shall be made, and such works shall be made forthwith after the part of the railway passing over such lands shall have been laid out or formed, or during the formation thereof.

All sufficient posts, rails, hedges, ditches, mounds, or other fences for separating the land taken for the use of the railway from the adjoining lands not taken, and protecting such lands from trespass or the horses or cattle or the owners or occupiers thereof from straying thereout by reason of the railway, together with all necessary gates made to open towards such adjoining lands, and not towards the railway, and all necessary stiles, and such posts, rails, and other fences shall be made forthwith after the taking of any such lands, if the owners thereof shall so require, and the said other works as soon as conveniently may be.

Also all necessary arches, tunnels, culverts, drains, or other passages either over, or under, or by the sides of the railways of such dimensions as will be sufficient at all times to convey the waters as clearly from the lands lying near or affected by the railways as before the making of the railway, or as nearly so as may be, and such works shall be made from time to time as the railway works proceed : Provided

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Provided always that the said Edwin Ernest Allan Oatley, his heirs, executors, administrators, or assigns shall not be required to make such accommodation works in such a manner as would prevent or obstruct the working or using of the railway, nor to make any accommodation works with respect to which the owners and occupiers of the lands shall have agreed to receive and shall have been paid compensation instead of making them.

Penalty on persons
omitting to fasten
gates.

10. If any person omit to shut and fasten any gate shut up at either side of the railway for the accommodation of the owners or occupiers of the adjoining lands, so soon as he and the carriages, cattle, or other animals under his care have passed through the same, he shall forfeit for every such offence any sum not exceeding forty shillings.

Maintenance of
roads.

11. The said Edwin Ernest Allan Oatley, his heirs, executors, administrators, and assigns shall to the satisfaction of the Council of the Municipality of Liverpool form and maintain the whole of the space of the roadway between any gates on each side of the railway across any road, and where the gates are placed across the railway for the whole of the space between and on either side of the rails for the whole width of such gates. Any work required by the said council to be performed in accordance with this section shall be completed within seven days of the receipt of a notice from the council, and if default be made the council may perform such work and recover from the said Edwin Ernest Allan Oatley, his heirs, executors, administrators, or assigns the expenses so incurred as a debt.

Repairs of damage
to sewers, &c.

12. The said Edwin Ernest Allan Oatley, his heirs, executors, administrators, and assigns shall immediately repair any damage which may during or by reason of the construction of the said railway be occasioned to any sewer or drain, or gas or water main, or property, and shall also repair all damage which may be occasioned by the working of the said railway.

Locomotives to be
employed.

13. It shall be lawful for and incumbent upon the said Edwin Ernest Allan Oatley, his heirs, executors, administrators, and assigns, subject as aforesaid, to provide, use, and employ locomotive engines or other moving power and carriages and wagons to be drawn or propelled thereby, and to carry and convey upon the said railway all such passengers and goods as shall be offered for that purpose, and to charge the tolls and charges in respect thereof as above specified: Provided that all such tolls and charges be at all times charged equally to all persons, and after the same rate in respect of all passengers and of all goods of the same description, and no reduction or advance in any such tolls shall be made either directly or indirectly in favour of or against any particular company or person travelling upon or using the said railway.

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14. The Chief Commissioner for Railways and Tramways shall at all times hereafter upon twelve hours' notice in writing to the said Edwin Ernest Allan Oatley, his heirs, executors, administrators, and assigns have the right to run such locomotives, carriages, and trucks, whether loaded or unloaded on and along the said railway, and for such period or periods or at such time or times as the said Chief Commissioner for Railways and Tramways shall in the said notice specify: Provided always that the said Chief Commissioner for Railways and Tramways shall pay to the said Edwin Ernest Allan Oatley, his heirs, executors, administrators, or assigns, such rates or tolls for the exercise of such right as aforesaid as the Governor, with the advice of the Executive Council, shall from time to time determine.

Running powers to the Commissioners for Railways.

15. The said Edwin Ernest Allan Oatley, his heirs, executors, administrators, or assigns shall be responsible for all injuries caused by the improper or negligent construction, maintenance, or working of the said railway, and all claims in respect of such negligence or improper conduct may be enforced against the said Edwin Ernest Allan Oatley, his heirs, executors, administrators, or assigns: Provided that the damage which may be recovered against the said Edwin Ernest Allan Oatley, his heirs, executors, administrators, or assigns, in respect of any such claim, shall, in addition to all other remedies for their recovery, be a first charge upon the tolls, fares, or charges charged for the carriage of passengers and goods on the said railway, and upon all property used in and upon and necessary for the working of the said railway.

Liability for injuries.

16. The tolls shall be paid to such persons and at such places upon or near to the railway, and in such manner and under such regulations as the said Edwin Ernest Allan Oatley, his heirs, executors, administrators, and assigns shall appoint, subject to approval of the Chief Commissioner for Railways and Tramways.

Tolls to be paid as directed.

17. It shall be lawful for the said Edwin Ernest Allan Oatley, his heirs, executors, administrators, or assigns from time to time, subject to the provisions and restrictions in this Act contained, to make regulations or by-laws for the following purposes, that is to say:—

Regulations for use of railway.

For regulating the times of arrival and departure of the carriages and trains, and the number of persons to be carried therein.

For regulating the loading or unloading of carriages.

For preventing the smoking of tobacco, and the commission of any nuisance in or upon such carriages or any of the railway stations, waiting-rooms, or premises, and generally for regulating the travelling upon, or issuing and working of the said railway, and the maintenance of good order, and for regulating the conduct of the railway officers and servants, and

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and for providing for the due management of the said railway and the protection thereof, and the carriages and waiting-rooms, offices, and premises from trespass and injury.

But no such regulation shall authorise the closing of the said railway between sunrise and sunset, except at any time when in consequence of any of the works being out of repair, or from any other sufficient cause it shall be necessary to close the said railway or any part thereof: Provided that such by-laws be not repugnant to the laws of the State, or to the provisions of this Act; and a copy of such by-laws shall be given to every officer and servant of the said Edwin Ernest Allan Oatley, his heirs, executors, administrators, or assigns, employed on the said railway, or affected by such by-laws; and such by-laws shall specify penalties, which shall in no case exceed the sum of ten pounds: Provided always that such by-laws must be first approved of by the Governor or with the advice of the Executive Council: Provided always that the said Edwin Ernest Allan Oatley, his heirs, executors, administrators, or assigns, or his or their employees or servants shall, when using or when upon the premises of the said railway, be liable and subject to the Government railway by-laws.

Evidence of by-laws.

18. The production of a copy of the New South Wales Government Gazette containing such by-laws shall be sufficient evidence of such by-laws in all proceedings under the same.

Effect of this Act upon lands referred to in Schedule.

19. Upon the passing of this Act the lands described or referred to in the Schedule hereto, (excluding thereout the parts of the road from Liverpool to Sydney and of the reserved road sixty-six feet wide referred to therein), shall, without the necessity of any conveyance, forthwith be vested in the said Edwin Ernest Allan Oatley, his heirs, executors, administrators, and assigns, for an estate in fee-simple in possession, freed and discharged from all trusts, obligations, estates, interests, contracts, charges, rates, rights of way, or other easement whatsoever, and to the intent that the legal and equitable estate therein, together with all powers incident thereto, shall be vested in the said Edwin Ernest Allan Oatley, his heirs, executors, administrators, and assigns.

Estates of proprietors of lands referred to in Schedule vested in Edwin Ernest Allan Oatley without the necessity of any conveyance;

20. (1) The estate and interest of every person entitled to the lands described or referred to in the Schedule hereto (excluding thereout the parts of the road from Liverpool to Sydney and of the reserved road sixty feet wide referred to therein), or any portion thereof, and whether to the legal or equitable estate therein, shall by virtue of this Act, and without the necessity of any conveyance, be deemed to have been as fully and effectually conveyed to the said Edwin Ernest Allan Oatley, his heirs, executors, administrators, and assigns, as if the same had been conveyed by the persons legally or equitably entitled thereto by means of the most perfect assurances in the law.

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(2) Every such estate and interest shall upon the passing of this Act be taken to have been converted into a claim for compensation, and the amount for the compensation for the said lands to be paid by the said Edwin Ernest Allan Oatley, his heirs, executors, administrators, and assigns shall be determined in manner hereinafter provided.

21. If within twenty-eight days after the passing of this Act, the persons through whose lands the railway shall pass, or any of them, and the said Edwin Ernest Allan Oatley, his heirs, executors, administrators, or assigns shall not agree as to the amount of compensation to be paid by the said Edwin Ernest Allan Oatley, his heirs, executors, administrators, or assigns, for the said lands belonging to the said parties or any of them, or for any damage that may be sustained by them or him, by reason of the execution of the works, or if any other question as to compensation shall arise under this Act, the amount of such compensation shall be settled by arbitration in manner hereinafter provided.

22. Unless both parties shall concur in the appointment of a single arbitrator, each party, on the request of the other party, shall nominate and appoint an arbitrator to whom such dispute or other matter shall be referred, and every appointment of an arbitrator shall be executed by such party, and such appointment shall be delivered to the arbitrator or arbitrators, and shall be deemed a submission to arbitration on the part of the party by whom the same shall be made; and after any such appointment shall have been made 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, and the award of such arbitrators or umpire, if appointed as hereinafter provided, shall be final; and if, for the space of fourteen days after any such dispute or other matter shall have arisen, after a request in writing shall have been served by the one party on the other party to appoint an arbitrator, such last-mentioned party fail to appoint such arbitrator, then upon such failure it shall be lawful for the Attorney-General for the time being of the said State, on application of the party who has himself appointed an arbitrator, to appoint such arbitrator to act on behalf of both parties, and such arbitrator may proceed to hear and determine the matter which shall be in dispute, and in such case the award or determination of such single arbitrator shall be final and conclusive.

23. If before the matter so referred shall be determined, any arbitrator appointed by either party shall die or become incapable, or refuse, or for fourteen days neglect to act as arbitrator, the party by whom such arbitrator was appointed may nominate and appoint in writing some other person to act in his place, and if for the space of seven days after notice in writing from the other party for the purpose,

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he fail to do so, the remaining or other arbitrator may proceed alone, and every arbitrator so to be substituted as aforesaid shall have the same powers and authorities as were vested in the former arbitrator at the time of such his death, refusal, neglect, or disability as aforesaid.

Appointment of
umpire.

24. Where more than one arbitrator shall have been appointed, such arbitrators shall, before they enter upon the matters referred to them, nominate and appoint, by writing under their hand, an umpire to decide any matters on which they shall differ, or which shall be referred to them under the provisions of this Act, and if such umpire shall die, or refuse, or for seven days neglect to act after being called upon to do so by the arbitrators, they shall forthwith, after such death, refusal, or neglect appoint another umpire in his place, and the decision of every such umpire on the matter so referred to him shall be final.

Attorney-General
to appoint umpire
on neglect.

25. If, in either of the cases aforesaid, the arbitrator or arbitrators shall refuse, or for seven days after request of either party to such arbitration, neglect to appoint an umpire, it shall be lawful for the Attorney-General for the time being, on the application of either party to such arbitration, to appoint an umpire, and the decision of such umpire on the matters on which the arbitration shall differ, or which shall be referred to him under this Act, shall be final.

In case of death of
single arbitrator,
the matter to begin
de novo.

26. If where a single arbitrator shall have been appointed such arbitrator shall die or become incapable, or shall refuse, or for fourteen days neglect to act before he shall have made his award, the matters referred to him shall be determined by arbitration under the provisions of this Act, in the same manner as if such arbitrator had not been appointed.

If either arbitrator
refuse to act, the
other to proceed
ex parte.

27. If where more than one arbitrator shall have been appointed, either of the arbitrators shall refuse, or for fourteen days neglect to act, the other arbitrator may proceed alone, and the decision of such other arbitrator shall be as effectual as if he had been a single arbitrator appointed by both parties.

If arbitrators fail to
make their award
within twenty-one
days, the matter to
go to the umpire.

28. If where more than one arbitrator shall have been appointed and where neither of them shall refuse or neglect to act as aforesaid, such arbitrators shall fail to make their award within twenty-one days after the day on which the last of such arbitrators shall have been appointed for that purpose by both of such arbitrators, under their hands, the matters referred to them shall be determined by the umpire to be appointed as aforesaid.

Powers of arbitra-
tors to call for
books, &c.

29. The said arbitrators or their umpire may call for the production of any documents in the possession or power of either party which they or he may think necessary for determining the question in dispute, and may examine the parties or their witnesses on oath, and administer the oaths necessary for that purpose.

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30. Before any arbitrator or umpire shall enter into the consideration of any matters referred to him, he shall, in the presence of a justice of the peace, make and subscribe the following declaration, that is to say—

Arbitrator or umpire to make a declaration for faithful discharge of duty.

I, A.B., do solemnly and sincerely declare that I will faithfully and honestly, and to the best of my skill and ability, hear and determine the matters referred to me under the provisions of the Warwick Farm Railway Act Extension Act, 1911.

Made and subscribed in the presence of—

A.B.

And such declaration shall be annexed to the award when made; and if any arbitrator or umpire, having made such declaration, shall wilfully act contrary thereto, he shall be guilty of a misdemeanour.

Penalty for misconduct.

31. All costs of any such arbitration and incident thereto to be settled by the arbitrators shall be borne by Edwin Ernest Allan Oatley, his heirs, executors, administrators, or assigns, unless the arbitrators shall award the same, or a less sum than shall have been offered by the said Edwin Ernest Allen Oatley, his heirs, executors, administrators, or assigns, claimed, in which case the whole costs shall be paid by the claimant: Provided that if either party shall be dissatisfied with the costs allowed by the arbitrators as aforesaid, the costs may be taxed by the Prothonotary or other proper officer of the Supreme Court, and the amount allowed by such officer shall be the amount of costs to be paid.

Cost of arbitration—how to be borne.

32. The arbitrators shall deliver their award in writing to the said Edwin Ernest Allan Oatley, his heirs, executors, administrators, or assigns, who shall retain the same, and shall forthwith on demand, at their own expense, 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 party or any person appointed by him for that purpose, and the amount awarded shall be paid within sixty days after the publication of such award.

Award to be delivered to Edwin Ernest Allan Oatley.

33. The submission to any such arbitration may be made a rule of the Supreme Court on the application of either of the parties.

Submission may be made a rule of court.

34. No award made with respect to any question referred to arbitration under the provisions of this Act shall be set aside for irregularity or error in matter of form.

Award not void though error in form.

35. The said Edwin Ernest Allan Oatley, his heirs, executors, administrators, or assigns shall make compensation and satisfaction, to be ascertained and recovered in case of difference in the manner hereby provided for temporary, permanent, or recurring injury, and all other damage, loss, costs, charges, and inconvenience which may in anywise be occasioned to the said owners or occupiers by the non-performance by the said Edwin Ernest Allan Oatley, his heirs, executors, administrators, or assigns of any of the matters or things hereby required to be performed by them or otherwise.

Compensation for temporary, permanent, and recurring injuries.

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Application of
compensation
payable to trustees.

36. (1) The compensation money payable in respect of any lands taken by the said Edwin Ernest Allan Oatley, his heirs, executors, administrators, and assigns, under and by virtue of this Act, from any trustees in trust for charitable or other purposes, shall be paid to such trustees of the lands in respect of which it is payable, and shall be applied—

- (a) in the discharge of any rates, debt, or encumbrance affecting the land in respect of which such money has been paid, or affecting other lands settled therewith to the same or the like uses, trusts, and purposes; or
- (b) in the purchase of other lands or of Government debentures to be conveyed, limited, and settled upon the like uses, trusts, and purposes, and in the same manner as the lands in respect of which such money has been paid were settled.

Payment to trustees
a good discharge.

(2) The payment of the said compensation money to the said trustees in trust for charitable or other purposes shall be a good and valid discharge to the said Edwin Ernest Allan Oatley, his heirs, executors, administrators, and assigns, and they shall not be bound or required to see to the application of the said compensation money.

Power to trustees to
agree upon the
amount of compen-
sation, and to refer
to arbitration.

(3) In the construction of this Act the words “person” or “party” shall include trustees in trust for charitable or other purposes, and the powers hereinbefore given to the persons through whose lands the railway shall pass, to agree as to the amount of compensation to be paid by the said Edwin Ernest Allan Oatley, his heirs, executors, administrators, and assigns, and to settle by arbitrators the amount of such compensation, and all the powers of and incidental thereto, shall extend to and may lawfully be exercised by trustees in trust for charitable or other purposes in the same manner as though such trustees were beneficially entitled to the said lands.

Chief Commissioner
may appoint
inspectors.

37. The Chief Commissioner for Railways and Tramways may from time to time appoint any person to be inspector for the purpose of inspecting the railway and of making any inquiry with respect to the condition of the works, or into the cause of any accident, provided that no person so appointed shall exercise any powers of interference in the affairs of the said Edwin Ernest Allan Oatley, his heirs, executors, administrators, or assigns.

Powers of inspectors.

38. Every inspector under this Act shall, for the purpose of any inspection or inquiry which he is directed by the Chief Commissioner for Railways and Tramways to make or conduct, have the following powers, that is to say:—

- (1) He may enter and inspect the railway and all the stations, works, buildings, offices, stock, plant, and machinery belonging thereto.

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- (2) He may, by summons under his hand, require the attendance of any person who is engaged in the management, service, or employment of the said Edwin Ernest Allan Oatley, his heirs, executors, administrators, or assigns, and whom he thinks fit to call before him and examine for the said purpose, and may require answers or returns to such inquiries for the said purpose as he thinks fit to make.
- (3) He may require and enforce the production of all books, papers, and documents of the said Edwin Ernest Allan Oatley, his heirs, executors, administrators, or assigns, which he considers important for the said purpose.

39. Where, in or about the railway, or any of the works or buildings connected with such railway, or any building or place, whether open or enclosed in connection with such railway, any of the following accidents take place in the course of working, that is to say,—

- (1) any accident attended with loss of life or personal injury to any person whomsoever ;
- (2) any collision where one of the trains is a passenger train ;
- (3) any passenger train, or any part of a passenger train, accidentally leaving the rails ;
- (4) any accident of a kind not comprised in the foregoing descriptions, but which is of such a kind as to have caused, or to be likely to cause, loss of life or personal injury, and which may be specified in that behalf by any order to be made from time to time by the Chief Commissioner for Railways and Tramways,

the said Edwin Ernest Allan Oatley, his heirs, executors, administrators, or assigns shall send notice of such accident, and of the loss of life or personal injury (if any) occasioned thereby, to the Chief Commissioner for Railways and Tramways.

40. Such notice shall be in such form and shall contain such particulars as the Chief Commissioner for Railways and Tramways may from time to time direct, and shall be sent by the earliest practicable post after the accident takes place.

41. The Chief Commissioner for Railways and Tramways may from time to time by order direct that notice of any class of accidents shall be sent to him by telegraph, and may revoke any such order. While such order is in force, notice of every accident of the class to which the order relates shall be sent to the said Chief Commissioner by telegraph immediately after the accident takes place. Failure to comply with the provisions of this section shall render the said Edwin Ernest Allan Oatley, his heirs, executors, administrators, or assigns, liable for each offence to a penalty not exceeding twenty pounds.

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Power of purchase
of railway by
Government.

42. At any time the Governor, with the advice of the Executive Council, may, if he thinks fit, purchase such railway upon giving to the said Edwin Ernest Allan Oatley, his heirs, executors, administrators, or assigns, three months' notice in writing of his intention to do so. If the amount tendered for the purchase of the property be considered inadequate by the said Edwin Ernest Allan Oatley, his heirs, executors, administrators, or assigns, the amount shall be ascertained by assessment in terms of the Public Works Act, 1900.

Recovery of
penalties.

43. All penalties imposed under this Act, or under any by-laws made in pursuance thereof, shall be recoverable in a summary way before any two justices of the peace.

Not to affect
accrued rights.

44. Provided always, and be it further enacted, that nothing in this Act contained shall be deemed to affect the past operation of the said Warwick Farm Railway Act, or to prejudice any rights accrued, offences committed, proceedings taken, or things done thereunder.

SCHEDULE.

ALL that piece of land situated near Warwick Farm as now fenced and used for the purposes of a railway from the Great Southern railway line to the Warwick Farm race-course: Commencing on the Great Southern railway, at a point distant in a southerly direction about one thousand three hundred yards from the Cabramatta station; thence bearing south-easterly in a curved line through land the property of the trustees of the estate of the late Thomas Moore, and now held under lease by the said Edwin Ernest Allan Oatley, his heirs, executors, administrators, and assigns, to the road from Liverpool to Sydney; thence across that road; thence again in south-easterly direction through other land the property of the trustees of the estate of the late Thomas Moore aforesaid, and also held under lease by the said Edwin Ernest Allan Oatley, his heirs, executors, administrators, and assigns, to a reserved road sixty-six feet wide along the eastern boundary of the aforesaid land; thence across that road; thence again in a south-easterly direction through land the property of the said Edwin Ernest Allan Oatley, his heirs, executors, administrators, and assigns, aforesaid to the Warwick Farm race-course.

By Authority: WILLIAM APPLGATE GULLICK, Government Printer, Sydney, 1911.

[1s.]

I Certify that this PRIVATE BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

*Legislative Assembly Chamber, } W. S. MOWLE,
Sydney, 20 September, 1911. } Acting Clerk of the Legislative Assembly.*

New South Wales.



ANNO SECUNDO

GEORGII V REGIS.

An Act to continue and amend the provisions of the Warwick Farm Railway Act, whereby the construction and control of a railway from and connecting the line of railway from Sydney to Liverpool, at a point between the Liverpool and Cabramatta railway stations, to and with the Warwick Farm race-course was authorised; and for purposes consequent thereon and incidental thereto. [Assented to, 30th September, 1911.]

WHEREAS in the fifty-third year of the reign of Her late Majesty Queen Victoria an Act was passed entitled the Warwick Farm Railway Act, in which it was thereby enacted that it should be lawful for Edwin Ernest Allan Oatley and John Thompson, their heirs, executors, administrators, or assigns, upon the terms and conditions, and subject to the provisions thereafter contained, to make, construct, and control a railway for conveying the passengers, their luggage, and other goods, stock, and material, from a point on the line of

I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.

R. D. MEAGHER,
Chairman of Committees of the Legislative Assembly.

Warwick Farm Railway Act Extension.

of railway from Sydney to Liverpool, at a point between the Liverpool and Cabramatta railway stations, and with the Warwick Farm race-course, and thence by the lines described in the Schedule to that Act, and to effect a junction between the said line of railway from Sydney to Liverpool and the Warwick Farm race-course, in accordance with section ninety-nine of the Government Railways Act of 1858, and to take and use so much of the streets, roads, or land referred to in the said Schedule as might be required for the purposes of such railway, but so that the same shall not occupy, in any part thereof, a greater space in breadth than fifty feet, including the support and foundations thereof: Provided that the said railway should be completely constructed between the points above indicated, and brought into use within one year from the passing of that Act; and the same should be constructed in a proper and workmanlike manner; and that the said Edwin Ernest Allan Oatley and John Thompson, their heirs, executors, administrators, or assigns should, at his or their cost, forthwith, upon the request in writing of the Commissioners for Railways, efficiently construct and thereafter maintain such sidings upon the said railway as the said Commissioners should consider necessary for the proper and convenient working of the said railway; and should have all necessary rights of ingress and egress to and over the surface of the streets, roads, and lands before referred to, and all such other rights as should be required for the construction, repair, completion, and use of the said railway; and that the gauge of the said railway shall be same gauge as the Government railways; and that the railway should throughout its course be laid at the general level of the said streets, roads, and lands, and throughout the whole extent of the said railway should be laid with rails subject to the approval of the Commissioners for Railways; and that where the railway should cross any public highway, parish road, on a level, the said Edwin Ernest Allan Oatley and John Thompson, their heirs, executors, administrators, or assigns should erect, and at all times maintain, good and sufficient gates across such road on each side of the railway, where the same shall communicate therewith, subject to certain provisions therein contained; and that the said railway should be open to public use upon payment of the tolls or charges following, that is to say: For passengers a sum not exceeding sixpence per head each way; for goods the same rate per mile as are charged on the Government railways, and for this purpose such railway shall be deemed to be a continuation of the Government railway between Sydney and Liverpool; and that the said Edwin Ernest Allan Oatley and John Thompson, their heirs, executors, administrators, or assigns should maintain in perfect order and repair the said railway and the pavements of the same between the rails of the said railway, where crossing any roads, and for the space of one foot six inches on each

side

Warwick Farm Railway Act Extension.

side of such rails; and that the said Edwin Ernest Allan Oatley and John Thompson, their heirs, executors, administrators, or assigns should immediately repair any damage which may during or by reason of the construction of the said railway be occasioned to any sewer or drain, or gas or water-main, or property, and should also repair all damage which may be occasioned by the working of the said railway: And whereas, in pursuance of the powers for that purpose contained in the said Act, the said Edwin Ernest Allan Oatley and John Thompson, their heirs, executors, administrators, and assigns did, within the term of one year from the passing of the said Act, make and construct the said railway with all proper works and conveniences thereby authorised to be made, and did upon the terms and conditions and subject to the provisions in the said Act contained, make, construct, and control the said railway, and did in every way comply with the provisions of the said Act: And whereas, by the terms of the first section of the Warwick Farm Railway Act, the provisions therein contained, authorising the said Edwin Ernest Allan Oatley and John Thompson, their heirs, executors, administrators, and assigns to make, construct, and control the said railway in manner therein provided were thereby limited to a term of twenty-one years from the passing of the said Act: And whereas the said term of twenty-one years has expired, and it is expedient to authorise the continuance of the construction, maintenance, and control of the said railway upon the like terms and conditions, and subject to the like provisions as those contained in the Warwick Farm Railway Act, and an Act of the Legislature is necessary for that purpose: And whereas the said John Thompson is dead, and all his legal, equitable, beneficial, and other estate, right, title, and interest whatsoever, under or by virtue of the said Act, has become vested in the said Edwin Ernest Allan Oatley, his heirs, executors, administrators, and assigns: Be it therefore enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same as follows:—

1. This Act may be cited for all purposes as the “Warwick Short title. Farm Railway Act Extension Act 1911.”

2. It shall be lawful for the said Edwin Ernest Allan Oatley, his heirs, executors, administrators, or assigns, upon the terms and conditions, and subject to the provisions hereinafter contained, to make, conduct, and control a railway for conveying the passengers, their luggage, and other goods, stock, and material, from a point on the line of railway from Sydney to Liverpool, at a point between Liverpool and Cabramatta railway stations and with the Warwick Farm race-course, and thence by the lines described in the Schedule to this Act, and to effect a junction between the said line of railway
from

Authority to
construct and
control railway.

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from Sydney to Liverpool and the Warwick Farm race-course, and to take and use so much of the streets, roads, or land referred to in the said Schedule as may be required for the purposes of such railway, but so that the same shall not occupy, in any part thereof, a greater space in breadth than fifty feet, including the support and foundations thereof.

Sidings.

3. The said Edwin Ernest Allan Oatley, his heirs, executors, administrators, or assigns shall, at his or their cost, forthwith, upon the request in writing of the Chief Commissioner for Railways and Tramways efficiently construct and thereafter maintain such sidings upon the said railway as the said Chief Commissioner shall consider necessary for the proper and convenient working of the said railway.

Entry upon streets,
&c.

4. The said Edwin Ernest Allan Oatley, his heirs, executors, administrators, or assigns shall have all necessary rights of ingress and egress to and over the surface of the streets, roads, and lands, before referred to, and all such other rights as are required for the construction, repair, completion, and use of the said railway: Provided that nothing herein contained shall impair or be held to impair the lawful authority of the Municipal Council of the Municipality of Liverpool or of any other corporation, company, or person to make all entries and exercise all other powers necessary for the construction, maintenance, control, and preservation of gasworks, waterworks, sewerage-work, and other works lawfully constructed under ground.

Gauge.

5. The gauge of the said railway shall be same gauge as the Government railways.

Level.

6. The railway shall throughout its course be laid at the general level of the said streets, roads, and lands, and throughout the whole extent of the said railway shall be laid with rails subject to the approval of the Chief Commissioner for Railways and Tramways.

Crossings.

7. Where the railway shall cross any public road, on a level, the said Edwin Ernest Allan Oatley, his heirs, executors, administrators or assigns shall, to the satisfaction of the Council of the Municipality of Liverpool, erect, and at all times maintain, good and sufficient gates across such road on each side of the railway, where the same shall communicate therewith, and shall employ proper persons to open and shut such gates, and such gates shall be kept constantly closed across such roads on both sides of the railway except during the time when horses, cattle, carts, or carriages passing along the same shall have to cross such railway, and such gates shall be of such dimensions and so constructed as when closed to fence in the railway, and prevent cattle or horses passing along the road from entering upon the railway, and the persons entrusted with the care of such gates shall cause the same to be closed as soon as such horses, cattle, carts, or carriages shall have passed through the same, under a penalty of forty shillings for every default therein: Provided always that it shall be lawful for the Chief Commissioner for Railways and Tramways in any case in which he shall

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shall be satisfied that it will be more conducive to the public safety that the gates on any level crossing over any such road shall be kept closed across the railway, to order that such gates shall be kept so closed, instead of across the road. And in such cases such gates shall be kept constantly closed across the railway except when engines or carriages passing along the railway shall have occasion to cross such road or railway in the same manner and under the like penalty as above directed with respect to the gates being kept closed across the road.

8. The said railway shall be open to public use upon payment of the tolls or charges following, that is to say :— Railway to be open to public.

For passengers, a sum not exceeding sixpence per head each way.

For goods the same rates per mile as are charged on the Government railways, and for this purpose such railway shall be deemed to be a continuation of the Government railway between Sydney and Liverpool.

9. The said Edwin Ernest Allan Oatley, his heirs, executors, administrators, and assigns shall make, and at all times thereafter maintain, for the accommodation of the owners and occupiers of lands adjoining the said railway, that is to say :— Works for benefit of owners.

Such and so many convenient gates, bridges, arches, culverts, and passages over, under, or by the sides of or leading to or from the railway as shall be necessary for the purpose of making good any interruptions caused by the railway to the use of the lands through which the railway shall be made, and such works shall be made forthwith after the part of the railway passing over such lands shall have been laid out or formed, or during the formation thereof. Gates, bridges, &c.

All sufficient posts, rails, hedges, ditches, mounds, or other fences for separating the land taken for the use of the railway from the adjoining lands not taken, and protecting such lands from trespass or the horses or cattle or the owners or occupiers thereof from straying thereout by reason of the railway, together with all necessary gates made to open towards such adjoining lands, and not towards the railway, and all necessary stiles, and such posts, rails, and other fences shall be made forthwith after the taking of any such lands, if the owners thereof shall so require, and the said other works as soon as conveniently may be. Fences.

Also all necessary arches, tunnels, culverts, drains, or other passages either over, or under, or by the sides of the railways of such dimensions as will be sufficient at all times to convey the waters as clearly from the lands lying near or affected by the railways as before the making of the railway, or as nearly so as may be, and such works shall be made from time to time as the railway works proceed : Drains. Provided

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Provided always that the said Edwin Ernest Allan Oatley, his heirs, executors, administrators, or assigns shall not be required to make such accommodation works in such a manner as would prevent or obstruct the working or using of the railway, nor to make any accommodation works with respect to which the owners and occupiers of the lands shall have agreed to receive and shall have been paid compensation instead of making them.

Penalty on persons
omitting to fasten
gates.

10. If any person omit to shut and fasten any gate shut up at either side of the railway for the accommodation of the owners or occupiers of the adjoining lands, so soon as he and the carriages, cattle, or other animals under his care have passed through the same, he shall forfeit for every such offence any sum not exceeding forty shillings.

Maintenance of
roads.

11. The said Edwin Ernest Allan Oatley, his heirs, executors, administrators, and assigns shall to the satisfaction of the Council of the Municipality of Liverpool form and maintain the whole of the space of the roadway between any gates on each side of the railway across any road, and where the gates are placed across the railway for the whole of the space between and on either side of the rails for the whole width of such gates. Any work required by the said council to be performed in accordance with this section shall be completed within seven days of the receipt of a notice from the council, and if default be made the council may perform such work and recover from the said Edwin Ernest Allan Oatley, his heirs, executors, administrators, or assigns the expenses so incurred as a debt.

Repairs of damage
to sewers, &c.

12. The said Edwin Ernest Allan Oatley, his heirs, executors, administrators, and assigns shall immediately repair any damage which may during or by reason of the construction of the said railway be occasioned to any sewer or drain, or gas or water main, or property, and shall also repair all damage which may be occasioned by the working of the said railway.

Locomotives to be
employed.

13. It shall be lawful for and incumbent upon the said Edwin Ernest Allan Oatley, his heirs, executors, administrators, and assigns, subject as aforesaid, to provide, use, and employ locomotive engines or other moving power and carriages and wagons to be drawn or propelled thereby, and to carry and convey upon the said railway all such passengers and goods as shall be offered for that purpose, and to charge the tolls and charges in respect thereof as above specified: Provided that all such tolls and charges be at all times charged equally to all persons, and after the same rate in respect of all passengers and of all goods of the same description, and no reduction or advance in any such tolls shall be made either directly or indirectly in favour of or against any particular company or person travelling upon or using the said railway.

14.

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14. The Chief Commissioner for Railways and Tramways shall at all times hereafter upon twelve hours' notice in writing to the said Edwin Ernest Allan Oatley, his heirs, executors, administrators, and assigns have the right to run such locomotives, carriages, and trucks, whether loaded or unloaded on and along the said railway, and for such period or periods or at such time or times as the said Chief Commissioner for Railways and Tramways shall in the said notice specify: Provided always that the said Chief Commissioner for Railways and Tramways shall pay to the said Edwin Ernest Allan Oatley, his heirs, executors, administrators, or assigns, such rates or tolls for the exercise of such right as aforesaid as the Governor, with the advice of the Executive Council, shall from time to time determine.

Running powers to the Commissioners for Railways.

15. The said Edwin Ernest Allan Oatley, his heirs, executors, administrators, or assigns shall be responsible for all injuries caused by the improper or negligent construction, maintenance, or working of the said railway, and all claims in respect of such negligence or improper conduct may be enforced against the said Edwin Ernest Allan Oatley, his heirs, executors, administrators, or assigns: Provided that the damage which may be recovered against the said Edwin Ernest Allan Oatley, his heirs, executors, administrators, or assigns, in respect of any such claim, shall, in addition to all other remedies for their recovery, be a first charge upon the tolls, fares, or charges charged for the carriage of passengers and goods on the said railway, and upon all property used in and upon and necessary for the working of the said railway.

Liability for injuries.

16. The tolls shall be paid to such persons and at such places upon or near to the railway, and in such manner and under such regulations as the said Edwin Ernest Allan Oatley, his heirs, executors, administrators, and assigns shall appoint, subject to approval of the Chief Commissioner for Railways and Tramways.

Tolls to be paid as directed.

17. It shall be lawful for the said Edwin Ernest Allan Oatley, his heirs, executors, administrators, or assigns from time to time, subject to the provisions and restrictions in this Act contained, to make regulations or by-laws for the following purposes, that is to say:—

Regulations for use of railway.

For regulating the times of arrival and departure of the carriages and trains, and the number of persons to be carried therein.

For regulating the loading or unloading of carriages.

For preventing the smoking of tobacco, and the commission of any nuisance in or upon such carriages or any of the railway stations, waiting-rooms, or premises, and generally for regulating the travelling upon, or issuing and working of the said railway, and the maintenance of good order, and for regulating the conduct of the railway officers and servants, and

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and for providing for the due management of the said railway and the protection thereof, and the carriages and waiting-rooms, offices, and premises from trespass and injury.

But no such regulation shall authorise the closing of the said railway between sunrise and sunset, except at any time when in consequence of any of the works being out of repair, or from any other sufficient cause it shall be necessary to close the said railway or any part thereof: Provided that such by-laws be not repugnant to the laws of the State, or to the provisions of this Act; and a copy of such by-laws shall be given to every officer and servant of the said Edwin Ernest Allan Oatley, his heirs, executors, administrators, or assigns, employed on the said railway, or affected by such by-laws; and such by-laws shall specify penalties, which shall in no case exceed the sum of ten pounds: Provided always that such by-laws must be first approved of by the Governor or with the advice of the Executive Council: Provided always that the said Edwin Ernest Allan Oatley, his heirs, executors, administrators, or assigns, or his or their employees or servants shall, when using or when upon the premises of the said railway, be liable and subject to the Government railway by-laws.

Evidence of by-laws.

18. The production of a copy of the New South Wales Government Gazette containing such by-laws shall be sufficient evidence of such by-laws in all proceedings under the same.

Effect of this Act upon lands referred to in Schedule.

19. Upon the passing of this Act the lands described or referred to in the Schedule hereto, (excluding thereout the parts of the road from Liverpool to Sydney and of the reserved road sixty-six feet wide referred to therein), shall, without the necessity of any conveyance, forthwith be vested in the said Edwin Ernest Allan Oatley, his heirs, executors, administrators, and assigns, for an estate in fee-simple in possession, freed and discharged from all trusts, obligations, estates, interests, contracts, charges, rates, rights of way, or other easement whatsoever, and to the intent that the legal and equitable estate therein, together with all powers incident thereto, shall be vested in the said Edwin Ernest Allan Oatley, his heirs, executors, administrators, and assigns.

Estates of proprietors of lands referred to in Schedule vested in Edwin Ernest Allan Oatley without the necessity of any conveyance;

20. (1) The estate and interest of every person entitled to the lands described or referred to in the Schedule hereto (excluding thereout the parts of the road from Liverpool to Sydney and of the reserved road sixty feet wide referred to therein), or any portion thereof, and whether to the legal or equitable estate therein, shall by virtue of this Act, and without the necessity of any conveyance, be deemed to have been as fully and effectually conveyed to the said Edwin Ernest Allan Oatley, his heirs, executors, administrators, and assigns, as if the same had been conveyed by the persons legally or equitably entitled thereto by means of the most perfect assurances in the law.

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(2) Every such estate and interest shall upon the passing of this Act be taken to have been converted into a claim for compensation, and the amount for the compensation for the said lands to be paid by the said Edwin Ernest Allan Oatley, his heirs, executors, administrators, and assigns shall be determined in manner hereinafter provided. and converted into a claim for compensation.

21. If within twenty-eight days after the passing of this Act, the persons through whose lands the railway shall pass, or any of them, and the said Edwin Ernest Allan Oatley, his heirs, executors, administrators, or assigns shall not agree as to the amount of compensation to be paid by the said Edwin Ernest Allan Oatley, his heirs, executors, administrators, or assigns, for the said lands belonging to the said parties or any of them, or for any damage that may be sustained by them or him, by reason of the execution of the works, or if any other question as to compensation shall arise under this Act, the amount of such compensation shall be settled by arbitration in manner hereinafter provided. Compensation clause.

22. Unless both parties shall concur in the appointment of a single arbitrator, each party, on the request of the other party, shall nominate and appoint an arbitrator to whom such dispute or other matter shall be referred, and every appointment of an arbitrator shall be executed by such party, and such appointment shall be delivered to the arbitrator or arbitrators, and shall be deemed a submission to arbitration on the part of the party by whom the same shall be made; and after any such appointment shall have been made 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, and the award of such arbitrators or umpire, if appointed as hereinafter provided, shall be final; and if, for the space of fourteen days after any such dispute or other matter shall have arisen, after a request in writing shall have been served by the one party on the other party to appoint an arbitrator, such last-mentioned party fail to appoint such arbitrator, then upon such failure it shall be lawful for the Attorney-General for the time being of the said State, on application of the party who has himself appointed an arbitrator, to appoint such arbitrator to act on behalf of both parties, and such arbitrator may proceed to hear and determine the matter which shall be in dispute, and in such case the award or determination of such single arbitrator shall be final and conclusive. a Appointment of arbitrators.

23. If before the matter so referred shall be determined, any arbitrator appointed by either party shall die or become incapable, or refuse, or for fourteen days neglect to act as arbitrator, the party by whom such arbitrator was appointed may nominate and appoint in writing some other person to act in his place, and if for the space of seven days after notice in writing from the other party for the purpose, Vacancy of arbitrator to be supplied.
he

Warwick Farm Railway Act Extension.

he fail to do so, the remaining or other arbitrator may proceed alone, and every arbitrator so to be substituted as aforesaid shall have the same powers and authorities as were vested in the former arbitrator at the time of such his death, refusal, neglect, or disability as aforesaid.

Appointment of
umpire.

24. Where more than one arbitrator shall have been appointed, such arbitrators shall, before they enter upon the matters referred to them, nominate and appoint, by writing under their hand, an umpire to decide any matters on which they shall differ, or which shall be referred to them under the provisions of this Act, and if such umpire shall die, or refuse, or for seven days neglect to act after being called upon to do so by the arbitrators, they shall forthwith, after such death, refusal, or neglect appoint another umpire in his place, and the decision of every such umpire on the matter so referred to him shall be final.

Attorney-General
to appoint umpire
on neglect.

25. If, in either of the cases aforesaid, the arbitrator or arbitrators shall refuse, or for seven days after request of either party to such arbitration, neglect to appoint an umpire, it shall be lawful for the Attorney-General for the time being, on the application of either party to such arbitration, to appoint an umpire, and the decision of such umpire on the matters on which the arbitration shall differ, or which shall be referred to him under this Act, shall be final.

In case of death of
single arbitrator,
the matter to begin
de novo.

26. If where a single arbitrator shall have been appointed such arbitrator shall die or become incapable, or shall refuse, or for fourteen days neglect to act before he shall have made his award, the matters referred to him shall be determined by arbitration under the provisions of this Act, in the same manner as if such arbitrator had not been appointed.

If either arbitrator
refuse to act, the
other to proceed
ex parte.

27. If where more than one arbitrator shall have been appointed, either of the arbitrators shall refuse, or for fourteen days neglect to act, the other arbitrator may proceed alone, and the decision of such other arbitrator shall be as effectual as if he had been a single arbitrator appointed by both parties.

If arbitrators fail to
make their award
within twenty-one
days, the matter to
go to the umpire.

28. If where more than one arbitrator shall have been appointed and where neither of them shall refuse or neglect to act as aforesaid, such arbitrators shall fail to make their award within twenty-one days after the day on which the last of such arbitrators shall have been appointed for that purpose by both of such arbitrators, under their hands, the matters referred to them shall be determined by the umpire to be appointed as aforesaid.

Powers of arbitra-
tors to call for
books, &c.

29. The said arbitrators or their umpire may call for the production of any documents in the possession or power of either party which they or he may think necessary for determining the question in dispute, and may examine the parties or their witnesses on oath, and administer the oaths necessary for that purpose.

Warwick Farm Railway Act Extension.

30. Before any arbitrator or umpire shall enter into the consideration of any matters referred to him, he shall, in the presence of a justice of the peace, make and subscribe the following declaration, that is to say—

I, A.B., do solemnly and sincerely declare that I will faithfully and honestly, and to the best of my skill and ability, hear and determine the matters referred to me under the provisions of the Warwick Farm Railway Act Extension Act, 1911.

Made and subscribed in the presence of—

A.B.

And such declaration shall be annexed to the award when made; and if any arbitrator or umpire, having made such declaration, shall wilfully act contrary thereto, he shall be guilty of a misdemeanour.

31. All costs of any such arbitration and incident thereto to be settled by the arbitrators shall be borne by Edwin Ernest Allan Oatley, his heirs, executors, administrators, or assigns, unless the arbitrators shall award the same, or a less sum than shall have been offered by the said Edwin Ernest Allen Oatley, his heirs, executors, administrators, or assigns, claimed, in which case the whole costs shall be paid by the claimant: Provided that if either party shall be dissatisfied with the costs allowed by the arbitrators as aforesaid, the costs may be taxed by the Prothonotary or other proper officer of the Supreme Court, and the amount allowed by such officer shall be the amount of costs to be paid.

32. The arbitrators shall deliver their award in writing to the said Edwin Ernest Allan Oatley, his heirs, executors, administrators, or assigns, who shall retain the same, and shall forthwith on demand, at their own expense, 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 party or any person appointed by him for that purpose, and the amount awarded shall be paid within sixty days after the publication of such award.

33. The submission to any such arbitration may be made a rule of the Supreme Court on the application of either of the parties.

34. No award made with respect to any question referred to arbitration under the provisions of this Act shall be set aside for irregularity or error in matter of form.

35. The said Edwin Ernest Allan Oatley, his heirs, executors, administrators, or assigns shall make compensation and satisfaction, to be ascertained and recovered in case of difference in the manner hereby provided for temporary, permanent, or recurring injury, and all other damage, loss, costs, charges, and inconvenience which may in anywise be occasioned to the said owners or occupiers by the non-performance by the said Edwin Ernest Allan Oatley, his heirs, executors, administrators, or assigns of any of the matters or things hereby required to be performed by them or otherwise.

36.

Warwick Farm Railway Act Extension.

Application of
compensation
payable to trustees.

36. (1) The compensation money payable in respect of any lands taken by the said Edwin Ernest Allan Oatley, his heirs, executors, administrators, and assigns, under and by virtue of this Act, from any trustees in trust for charitable or other purposes, shall be paid to such trustees of the lands in respect of which it is payable, and shall be applied—

(a) in the discharge of any rates, debt, or encumbrance affecting the land in respect of which such money has been paid, or affecting other lands settled therewith to the same or the like uses, trusts, and purposes; or

(b) in the purchase of other lands or of Government debentures to be conveyed, limited, and settled upon the like uses, trusts, and purposes, and in the same manner as the lands in respect of which such money has been paid were settled.

Payment to trustees
a good discharge.

(2) The payment of the said compensation money to the said trustees in trust for charitable or other purposes shall be a good and valid discharge to the said Edwin Ernest Allan Oatley, his heirs, executors, administrators, and assigns, and they shall not be bound or required to see to the application of the said compensation money.

Power to trustees to
agree upon the
amount of compen-
sation, and to refer
to arbitration.

(3) In the construction of this Act the words "person" or "party" shall include trustees in trust for charitable or other purposes, and the powers hereinbefore given to the persons through whose lands the railway shall pass, to agree as to the amount of compensation to be paid by the said Edwin Ernest Allan Oatley, his heirs, executors, administrators, and assigns, and to settle by arbitrators the amount of such compensation, and all the powers of and incidental thereto, shall extend to and may lawfully be exercised by trustees in trust for charitable or other purposes in the same manner as though such trustees were beneficially entitled to the said lands.

Chief Commissioner
may appoint
inspectors.

37. The Chief Commissioner for Railways and Tramways may from time to time appoint any person to be inspector for the purpose of inspecting the railway and of making any inquiry with respect to the condition of the works, or into the cause of any accident, provided that no person so appointed shall exercise any powers of interference in the affairs of the said Edwin Ernest Allan Oatley, his heirs, executors, administrators, or assigns.

Powers of inspectors.

38. Every inspector under this Act shall, for the purpose of any inspection or inquiry which he is directed by the Chief Commissioner for Railways and Tramways to make or conduct, have the following powers, that is to say:—

(1) He may enter and inspect the railway and all the stations, works, buildings, offices, stock, plant, and machinery belonging thereto.

(2)

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- (2) He may, by summons under his hand, require the attendance of any person who is engaged in the management, service, or employment of the said Edwin Ernest Allan Oatley, his heirs, executors, administrators, or assigns, and whom he thinks fit to call before him and examine for the said purpose, and may require answers or returns to such inquiries for the said purpose as he thinks fit to make.
- (3) He may require and enforce the production of all books, papers, and documents of the said Edwin Ernest Allan Oatley, his heirs, executors, administrators, or assigns, which he considers important for the said purpose.

39. Where, in or about the railway, or any of the works or buildings connected with such railway, or any building or place, whether open or enclosed in connection with such railway, any of the following accidents take place in the course of working, that is to say,—

- (1) any accident attended with loss of life or personal injury to any person whomsoever;
- (2) any collision where one of the trains is a passenger train;
- (3) any passenger train, or any part of a passenger train, accidentally leaving the rails;
- (4) any accident of a kind not comprised in the foregoing descriptions, but which is of such a kind as to have caused, or to be likely to cause, loss of life or personal injury, and which may be specified in that behalf by any order to be made from time to time by the Chief Commissioner for Railways and Tramways,

the said Edwin Ernest Allan Oatley, his heirs, executors, administrators, or assigns shall send notice of such accident, and of the loss of life or personal injury (if any) occasioned thereby, to the Chief Commissioner for Railways and Tramways.

40. Such notice shall be in such form and shall contain such particulars as the Chief Commissioner for Railways and Tramways may from time to time direct, and shall be sent by the earliest practicable post after the accident takes place.

41. The Chief Commissioner for Railways and Tramways may from time to time by order direct that notice of any class of accidents shall be sent to him by telegraph, and may revoke any such order. While such order is in force, notice of every accident of the class to which the order relates shall be sent to the said Chief Commissioner by telegraph immediately after the accident takes place. Failure to comply with the provisions of this section shall render the said Edwin Ernest Allan Oatley, his heirs, executors, administrators, or assigns, liable for each offence to a penalty not exceeding twenty pounds.

Warwick Farm Railway Act Extension.

Power of purchase
of railway by
Government.

42. At any time the Governor, with the advice of the Executive Council, may, if he thinks fit, purchase such railway upon giving to the said Edwin Ernest Allan Oatley, his heirs, executors, administrators, or assigns, three months' notice in writing of his intention to do so. If the amount tendered for the purchase of the property be considered inadequate by the said Edwin Ernest Allan Oatley, his heirs, executors, administrators, or assigns, the amount shall be ascertained by assessment in terms of the Public Works Act, 1900.

Recovery of
penalties.

43. All penalties imposed under this Act, or under any by-laws made in pursuance thereof, shall be recoverable in a summary way before any two justices of the peace.

Not to affect
accrued rights.

44. Provided always, and be it further enacted, that nothing in this Act contained shall be deemed to affect the past operation of the said Warwick Farm Railway Act, or to prejudice any rights accrued, offences committed, proceedings taken, or things done thereunder.

SCHEDULE.

ALL that piece of land situated near Warwick Farm as now fenced and used for the purposes of a railway from the Great Southern railway line to the Warwick Farm race-course: Commencing on the Great Southern railway, at a point distant in a southerly direction about one thousand three hundred yards from the Cabramatta station; thence bearing south-easterly in a curved line through land the property of the trustees of the estate of the late Thomas Moore, and now held under lease by the said Edwin Ernest Allan Oatley, his heirs, executors, administrators, and assigns, to the road from Liverpool to Sydney; thence across that road; thence again in south-easterly direction through other land the property of the trustees of the estate of the late Thomas Moore aforesaid, and also held under lease by the said Edwin Ernest Allan Oatley, his heirs, executors, administrators, and assigns, to a reserved road sixty-six feet wide along the eastern boundary of the aforesaid land; thence across that road; thence again in a south-easterly direction through land the property of the said Edwin Ernest Allan Oatley, his heirs, executors, administrators, and assigns, aforesaid to the Warwick Farm race-course.

In the name and on behalf of His Majesty I assent to this Act.

State Government House,
Sydney, 30th September, 1911.

W. P. CULLEN,
Lieutenant-Governor.

This PRIVATE BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

Legislative Assembly Chamber, } *W. S. MOWLE,*
Sydney, 28 June, 1911. } *Acting Clerk of the Legislative Assembly.*

The LEGISLATIVE COUNCIL has this day agreed to this Bill with Amendments.

Legislative Council Chamber, }
Sydney, July, 1911. } *Clerk of the Parliaments.*

New South Wales.



ANNO SECUNDO

GEORGII V REGIS.

An Act to continue and amend the provisions of the Warwick Farm Railway Act, whereby the construction and control of a railway from and connecting the line of railway from Sydney to Liverpool, at a point between the Liverpool and Cabramatta railway stations, to and with the Warwick Farm race-course was authorised; and for purposes consequent thereon and incidental thereto.

WHEREAS in the fifty-third year of the reign of Her late Majesty Queen Victoria an Act was passed entitled the Warwick Farm Railway Act, in which it was thereby enacted that it should be lawful for Edwin Ernest Allan Oatley and John Thompson, their heirs, 5 executors, administrators, or assigns, upon the terms and conditions, and subject to the provisions thereafter contained, to make, construct, and control a railway for conveying the passengers, their luggage, and other goods, stock, and material, from a point on the line

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99—A

of

NOTE.—The words to be omitted are ruled through; those to be inserted are printed in black letter.

Warwick Farm Railway Act Extension.

of railway from Sydney to Liverpool, at a point between the Liverpool and Cabramatta railway stations, and with the Warwick Farm race-course, and thence by the lines described in the Schedule to that Act, and to effect a junction between the said line of railway from Sydney
5 to Liverpool and the Warwick Farm race-course, in accordance with section ninety-nine of the Government Railways Act of 1858, and to take and use so much of the streets, roads, or land referred to in the said Schedule as might be required for the purposes of such railway, but so that the same shall not occupy, in any part thereof, a greater
10 space in breadth than fifty feet, including the support and foundations thereof: Provided that the said railway should be completely constructed between the points above indicated, and brought into use within one year from the passing of that Act; and the same should be constructed in a proper and workmanlike manner; and that the
15 said Edwin Ernest Allan Oatley and John Thompson, their heirs, executors, administrators, or assigns should, at his or their cost, forthwith, upon the request in writing of the Commissioners for Railways, efficiently construct and thereafter maintain such sidings upon the said railway as the said Commissioners should consider necessary for
20 the proper and convenient working of the said railway; and should have all necessary rights of ingress and egress to and over the surface of the streets, roads, and lands before referred to, and all such other rights as should be required for the construction, repair, completion, and use of the said railway; and that the gauge of the said railway
25 shall be same gauge as the Government railways; and that the railway should throughout its course be laid at the general level of the said streets, roads, and lands, and throughout the whole extent of the said railway should be laid with rails subject to the approval of the Commissioners for Railways; and that where the railway should cross
30 any public highway, parish road, on a level, the said Edwin Ernest Allan Oatley and John Thompson, their heirs, executors, administrators, or assigns should erect, and at all times maintain, good and sufficient gates across such road on each side of the railway, where the same shall communicate therewith, subject to certain provisions
35 therein contained; and that the said railway should be open to public use upon payment of the tolls or charges following, that is to say: For passengers a sum not exceeding sixpence per head each way; for goods the same rate per mile as are charged on the Government railways, and for this purpose such railway shall be deemed to be a continuation of the Government railway between Sydney
40 and Liverpool; and that the said Edwin Ernest Allan Oatley and John Thompson, their heirs, executors, administrators, or assigns should maintain in perfect order and repair the said railway and the pavements of the same between the rails of the said railway, where crossing any roads, and for the space of one foot six inches on each
side

Warwick Farm Railway Act Extension.

side of such rails; and that the said Edwin Ernest Allan Oatley and John Thompson, their heirs, executors, administrators, or assigns should immediately repair any damage which may during or by reason of the construction of the said railway be occasioned to any sewer or
 5 drain, or gas or water-main, or property, and should also repair all damage which may be occasioned by the working of the said railway: And whereas, in pursuance of the powers for that purpose contained in the said Act, the said Edwin Ernest Allan Oatley and John Thompson, their heirs, executors, administrators, and assigns did, within the term of one year from the passing of the said Act, make
 10 and construct the said railway with all proper works and conveniences thereby authorised to be made, and did upon the terms and conditions and subject to the provisions in the said Act contained, make, construct, and control the said railway, and did in every way comply with the provisions of the said Act: And whereas, by the terms of the first
 15 section of the Warwick Farm Railway Act, the provisions therein contained, authorising the said Edwin Ernest Allan Oatley and John Thompson, their heirs, executors, administrators, and assigns to make, construct, and control the said railway in manner therein provided were thereby limited to a term of twenty-one years from the passing
 20 of the said Act: And whereas the said term of twenty-one years has expired, and it is expedient to authorise the continuance of the construction, maintenance, and control of the said railway upon the like terms and conditions, and subject to the like provisions as those contained in the Warwick Farm Railway Act, and an Act of the
 25 Legislature is necessary for that purpose: And whereas the said John Thompson is dead, and all his legal, equitable, beneficial, and other estate, right, title, and interest whatsoever, under or by virtue of the said Act, has become vested in the said Edwin Ernest Allan Oatley, his heirs, executors, administrators, and assigns: Be it therefore enacted
 30 by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same as follows:—

1. This Act may be cited for all purposes as the “Warwick Short title.
 35 Farm Railway Act Extension Act 1911.”

2. It shall be lawful for the said Edwin Ernest Allan Oatley, his heirs, executors, administrators, or assigns, upon the terms and conditions, and subject to the provisions hereinafter contained, to make, conduct, and control a railway for conveying the passengers,
 40 their luggage, and other goods, stock, and material, from a point on the line of railway from Sydney to Liverpool, at a point between Liverpool and Cabramatta railway stations and with the Warwick Farm race-course, and thence by the lines described in the Schedule to this Act, and to effect a junction between the said line of railway
 from

Authority to
construct and
control railway.

Warwick Farm Railway Act Extension.

from Sydney to Liverpool and the Warwick Farm race-course, and to take and use so much of the streets, roads, or land referred to in the said Schedule as may be required for the purposes of such railway, but so that the same shall not occupy, in any part thereof, a greater space in
5 breadth than fifty feet, including the support and foundations thereof.

3. The said Edwin Ernest Allan Oatley, his heirs, executors, administrators, or assigns shall, at his or their cost, forthwith, upon the request in writing of the Chief Commissioner for Railways and Tramways efficiently construct and thereafter maintain such sidings
10 upon the said railway as the said Chief Commissioner shall consider necessary for the proper and convenient working of the said railway.

4. The said Edwin Ernest Allan Oatley, his heirs, executors, administrators, or assigns shall have all necessary rights of ingress and egress to and over the surface of the streets, roads, and lands,
15 before referred to, and all such other rights as are required for the construction, repair, completion, and use of the said railway: Provided that nothing herein contained shall impair or be held to impair the lawful authority of the Municipal Council of the Municipality of Liverpool or of any other corporation, company, or person to make
20 all entries and exercise all other powers necessary for the construction, maintenance, control, and preservation of gasworks, waterworks, sewerage-work, and other works lawfully constructed under ground.

5. The gauge of the said railway shall be same gauge as the Government railways.

25 6. The railway shall throughout its course be laid at the general level of the said streets, roads, and lands, and throughout the whole extent of the said railway shall be laid with rails subject to the approval of the Chief Commissioner for Railways and Tramways.

7. Where the railway shall cross any public highway or parish road, on a level, the said Edwin Ernest Allan Oatley, his heirs, executors, administrators or assigns shall, to the satisfaction of the Council of the Municipality of Liverpool, erect, and at all times maintain, good and sufficient gates across such road on each side of the railway, where the same shall communicate therewith, and shall
35 employ proper persons to open and shut such gates, and such gates shall be kept constantly closed across such roads on both sides of the railway except during the time when horses, cattle, carts, or carriages passing along the same shall have to cross such railway, and such gates shall be of such dimensions and so constructed as when closed
40 to fence in the railway, and prevent cattle or horses passing along the road from entering upon the railway, and the persons entrusted with the care of such gates shall cause the same to be closed as soon as such horses, cattle, carts, or carriages shall have passed through the same, under a penalty of forty shillings for every default therein:
45 Provided always that it shall be lawful for the Chief Commissioner for Railways

Warwick Farm Railway Act Extension.

Railways and Tramways in any case in which he shall be satisfied that it will be more conducive to the public safety that the gates on any level crossing over any such road shall be kept closed across the railway, to order that such gates shall be kept so closed, instead of
 5 across the road. And in such cases such gates shall be kept constantly closed across the railway except when engines or carriages passing along the railway shall have occasion to cross such road or railway in the same manner and under the like penalty as above directed with respect to the gates being kept closed across the road.

10 **8.** The said railway shall be open to public use upon payment of the tolls or charges following, that is to say :— Railway to be open to public.

For passengers, a sum not exceeding sixpence per head each way.

For goods the same rates per mile as are charged on the Government railways, and for this purpose such railway shall be
 15 deemed to be a continuation of the Government railway between Sydney and Liverpool.

9. The said Edwin Ernest Allan Oatley, his heirs, executors, administrators, and assigns shall make, and at all times thereafter
 maintain, for the accommodation of the owners and occupiers of lands
 20 adjoining the said railway, that is to say :— Works for benefit of owners.

Such and so many convenient gates, bridges, arches, culverts, and passages over, under, or by the sides of or leading to or from
 the railway as shall be necessary for the purpose of making
 good any interruptions caused by the railway to the use of
 25 the lands through which the railway shall be made, and such works shall be made forthwith after the part of the railway passing over such lands shall have been laid out or formed, or during the formation thereof.

All sufficient posts, rails, hedges, ditches, mounds, or other fences
 30 for separating the land taken for the use of the railway from the adjoining lands not taken, and protecting such lands from trespass or the horses or cattle or the owners or occupiers thereof from straying thereout by reason of the railway, together with all necessary gates made to open towards such
 35 adjoining lands, and not towards the railway, and all necessary stiles, and such posts, rails, and other fences shall be made forthwith after the taking of any such lands, if the owners thereof shall so require, and the said other works as soon as conveniently may be. Fences.

Also all necessary arches, tunnels, culverts, drains, or other
 40 passages either over, or under, or by the sides of the railways of such dimensions as will be sufficient at all times to convey the waters as clearly from the lands lying near or affected by the railways as before the making of the railway, or as
 45 nearly so as may be, and such works shall be made from time to time as the railway works proceed: Drains. Provided

Warwick Farm Railway Act Extension.

Provided always that the said Edwin Ernest Allan Oatley, his heirs, executors, administrators, or assigns shall not be required to make such accommodation works in such a manner as would prevent or obstruct the working or using of the railway, nor to make any
 5 accommodation works with respect to which the owners and occupiers of the lands shall have agreed to receive and shall have been paid compensation instead of making them.

10. If any person omit to shut and fasten any gate shut up at either side of the railway for the accommodation of the owners or
 10 occupiers of the adjoining lands, so soon as he and the carriages, cattle, or other animals under his care have passed through the same, he shall forfeit for every such offence any sum not exceeding forty shillings.

Penalty on persons omitting to fasten gates.

11. The said Edwin Ernest Allan Oatley, his heirs, executors,
 15 administrators, and assigns shall ~~maintain in perfect order and repair the said railway, and the pavements of the same between the rails of the said railway, where crossing any roads, and for the space of one foot six inches on each side of such rails to the satisfaction of the council of the municipality of Liverpool form and maintain the whole of the space~~ of the roadway between any gates on each side of the railway across any road, and where the gates are placed across the railway for the whole of the space between and on either side of the rails for the whole width of such gates. Any work required by the said council to be performed in accordance with this section shall be completed
 20 within seven days of the receipt of a notice from the council, and if default be made the council may perform such work and recover from the said Edwin Ernest Allan Oatley, his heirs, executors, administrators, or assigns the expenses so incurred as a debt.

Maintenance of roads.

12. The said Edwin Ernest Allan Oatley, his heirs, executors,
 30 administrators, and assigns shall immediately repair any damage which may during or by reason of the construction of the said railway be occasioned to any sewer or drain, or gas or water main, or property, and shall also repair all damage which may be occasioned by the working of the said railway.

Repairs of damage to sewers, &c.

13. It shall be lawful for and incumbent upon the said
 35 Edwin Ernest Allan Oatley, his heirs, executors, administrators, and assigns, subject as aforesaid, to provide, use, and employ locomotive engines or other moving power and carriages and wagons to be drawn or propelled thereby, and to carry and convey upon the said railway
 40 all such passengers and goods as shall be offered for that purpose, and to charge the tolls and charges in respect thereof as above specified : Provided that all such tolls and charges be at all times charged equally to all persons, and after the same rate in respect of all passengers and of all goods of the same description, and no reduction or advance in
 45 any such tolls shall be made either directly or indirectly in favour of or against any particular company or person travelling upon or using the said railway.

Locomotives to be employed.

14.

Warwick Farm Railway Act Extension.

14. The Chief Commissioner for Railways and Tramways shall at all times hereafter upon twelve hours' notice in writing to the said Edwin Ernest Allan Oatley, his heirs, executors, administrators, and assigns have the right to run such locomotives, carriages, and trucks, whether loaded or unloaded on and along the said railway, and for such period or periods or at such time or times as the said Chief Commissioner for Railways and Tramways shall in the said notice specify: Provided always that the said Chief Commissioner for Railways and Tramways shall pay to the said Edwin Ernest Allan Oatley, his heirs, executors, administrators, or assigns, such rates or tolls for the exercise of such right as aforesaid as the Governor, with the advice of the Executive Council, shall from time to time determine.

Running powers to the Commissioners for Railways.

15. The said Edwin Ernest Allan Oatley, his heirs, executors, administrators, or assigns shall be responsible for all injuries caused by the improper or negligent construction, maintenance, or working of the said railway, and all claims in respect of such negligence or improper conduct may be enforced against the said Edwin Ernest Allan Oatley, his heirs, executors, administrators, or assigns: Provided that the damage which may be recovered against the said Edwin Ernest Allan Oatley, his heirs, executors, administrators, or assigns, in respect of any such claim, shall, in addition to all other remedies for their recovery, be a first charge upon the tolls, fares, or charges charged for the carriage of passengers and goods on the said railway, and upon all property used in and upon and necessary for the working of the said railway.

Liability for injuries.

16. The tolls shall be paid to such persons and at such places upon or near to the railway, and in such manner and under such regulations as the said Edwin Ernest Allan Oatley, his heirs, executors, administrators, and assigns shall appoint, subject to approval of the Chief Commissioner for Railways and Tramways.

Tolls to be paid as directed.

17. It shall be lawful for the said Edwin Ernest Allan Oatley, his heirs, executors, administrators, or assigns from time to time, subject to the provisions and restrictions in this Act contained, to make regulations or by-laws for the following purposes, that is to say:—

Regulations for use of railway.

- For regulating the times of arrival and departure of the carriages and trains, and the number of persons to be carried therein.
- For regulating the loading or unloading of carriages.
- For preventing the smoking of tobacco, and the commission of any nuisance in or upon such carriages or any of the railway stations, waiting-rooms, or premises, and generally for regulating the travelling upon, or issuing and working of the said railway, and the maintenance of good order, and for regulating the conduct of the railway officers and servants, and

Warwick Farm Railway Act Extension.

and for providing for the due management of the said railway and the protection thereof, and the carriages and waiting-rooms, offices, and premises from trespass and injury.

But no such regulation shall authorise the closing of the said
 5 railway between sunrise and sunset, except at any time when in consequence of any of the works being out of repair, or from any other sufficient cause it shall be necessary to close the said railway or any part thereof: Provided that such by-laws be not repugnant to the laws of the State, or to the provisions of this Act; and a copy
 10 of such by-laws shall be given to every officer and servant of the said Edwin Ernest Allan Oatley, his heirs, executors, administrators, or assigns, employed on the said railway, or affected by such by-laws; and such by-laws shall specify penalties, which shall in no case exceed the sum of ten pounds: Provided always that such by-laws must be first
 15 approved of by the Governor or with the advice of the Executive Council: Provided always that the said Edwin Ernest Allan Oatley, his heirs, executors, administrators, or assigns, or his or their employees or servants shall, when using or when upon the premises of the said railway, be liable and subject to the Government railway by-laws.

20 **18.** The production of a copy of the New South Wales Government Gazette containing such by-laws shall be sufficient evidence of such by-laws in all proceedings under the same. Evidence of by-laws.

19. Upon the passing of this Act the lands described or referred to in the Schedule hereto, (excluding thereout the parts of the
 25 road from Liverpool to Sydney and of the reserved road sixty-six feet wide referred to therein), shall, without the necessity of any conveyance, forthwith be vested in the said Edwin Ernest Allan Oatley, his heirs, executors, administrators, and assigns, for an estate in fee-simple in possession, freed and discharged from all trusts, obligations, estates,
 30 interests, contracts, charges, rates, rights of way, or other easement whatsoever, and to the intent that the legal and equitable estate therein, together with all powers incident thereto, shall be vested in the said Edwin Ernest Allan Oatley, his heirs, executors, administrators, and assigns. Effect of this Act upon lands referred to in Schedule.

35 **20.** (1) The estate and interest of every person entitled to the lands described or referred to in the Schedule hereto (excluding thereout the parts of the road from Liverpool to Sydney and of the reserved road sixty feet wide referred to therein), or any portion thereof, and whether to the legal or equitable estate therein, shall by
 40 virtue of this Act, and without the necessity of any conveyance, be deemed to have been as fully and effectually conveyed to the said Edwin Ernest Allan Oatley, his heirs, executors, administrators, and assigns, as if the same had been conveyed by the persons legally or equitably entitled thereto by means of the most perfect assurances in
 45 the law. Estates of proprietors of lands referred to in Schedule vested in Edwin Ernest Allan Oatley without the necessity of any conveyance;

Warwick Farm Railway Act Extension.

(2) Every such estate and interest shall upon the passing of this Act be taken to have been converted into a claim for compensation, and the amount for the compensation for the said lands to be paid by the said Edwin Ernest Allan Oatley, his heirs, executors, administrators, and assigns shall be determined in manner hereinafter provided.

and converted into a claim for compensation.

21. If within twenty-eight days after the passing of this Act, the persons through whose lands the railway shall pass, or any of them, and the said Edwin Ernest Allan Oatley, his heirs, executors, administrators, or assigns shall not agree as to the amount of compensation to be paid by the said Edwin Ernest Allan Oatley, his heirs, executors, administrators, or assigns, for the said lands belonging to the said parties or any of them, or for any damage that may be sustained by them or him, by reason of the execution of the works, or if any other question as to compensation shall arise under this Act, the amount of such compensation shall be settled by arbitration in manner hereinafter provided.

Compensation clause.

22. Unless both parties shall concur in the appointment of a single arbitrator, each party, on the request of the other party, shall nominate and appoint an arbitrator to whom such dispute or other matter shall be referred, and every appointment of an arbitrator shall be executed by such party, and such appointment shall be delivered to the arbitrator or arbitrators, and shall be deemed a submission to arbitration on the part of the party by whom the same shall be made; and after any such appointment shall have been made 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, and the award of such arbitrators or umpire, if appointed as hereinafter provided, shall be final; and if, for the space of fourteen days after any such dispute or other matter shall have arisen, after a request in writing shall have been served by the one party on the other party to appoint an arbitrator, such last-mentioned party fail to appoint such arbitrator, then upon such failure it shall be lawful for the Attorney-General for the time being of the said State, on application of the party who has himself appointed an arbitrator, to appoint such arbitrator to act on behalf of both parties, and such arbitrator may proceed to hear and determine the matter which shall be in dispute, and in such case the award or determination of such single arbitrator shall be final and conclusive.

Appointment of arbitrators.

23. If before the matter so referred shall be determined, any arbitrator appointed by either party shall die or become incapable, or refuse, or for fourteen days neglect to act as arbitrator, the party by whom such arbitrator was appointed may nominate and appoint in writing some other person to act in his place, and if for the space of seven days after notice in writing from the other party for the purpose,

Vacancy of arbitrator to be supplied.

Warwick Farm Railway Act Extension.

he fail to do so, the remaining or other arbitrator may proceed alone, and every arbitrator so to be substituted as aforesaid shall have the same powers and authorities as were vested in the former arbitrator at the time of such his death, refusal, neglect, or disability as aforesaid.

5 **24.** Where more than one arbitrator shall have been appointed, such arbitrators shall, before they enter upon the matters referred to them, nominate and appoint, by writing under their hand, an umpire to decide any matters on which they shall differ, or which shall be referred to them under the provisions of this Act, and if such umpire
10 shall die, or refuse, or for seven days neglect to act after being called upon to do so by the arbitrators, they shall forthwith, after such death, refusal, or neglect appoint another umpire in his place, and the decision of every such umpire on the matter so referred to him shall be final.

Appointment of umpire.

15 **25.** If, in either of the cases aforesaid, the arbitrator or arbitrators shall refuse, or for seven days after request of either party to such arbitration, neglect to appoint an umpire, it shall be lawful for the Attorney-General for the time being, on the application of either party to such arbitration, to appoint an umpire, and the decision of
20 such umpire on the matters on which the arbitration shall differ, or which shall be referred to him under this Act, shall be final.

Attorney-General to appoint umpire on neglect.

26. If where a single arbitrator shall have been appointed such arbitrator shall die or become incapable, or shall refuse, or for fourteen days neglect to act before he shall have made his award, the
25 matters referred to him shall be determined by arbitration under the provisions of this Act, in the same manner as if such arbitrator had not been appointed.

In case of death of single arbitrator, the matter to begin *de novo*.

27. If where more than one arbitrator shall have been appointed, either of the arbitrators shall refuse, or for fourteen days
30 neglect to act, the other arbitrator may proceed alone, and the decision of such other arbitrator shall be as effectual as if he had been a single arbitrator appointed by both parties.

If either arbitrator refuse to act, the other to proceed *ex parte*.

28. If where more than one arbitrator shall have been appointed and where neither of them shall refuse or neglect to act as
35 aforesaid, such arbitrators shall fail to make their award within twenty-one days after the day on which the last of such arbitrators shall have been appointed for that purpose by both of such arbitrators, under their hands, the matters referred to them shall be determined by the umpire to be appointed as aforesaid.

If arbitrators fail to make their award within twenty-one days, the matter to go to the umpire.

40 **29.** The said arbitrators or their umpire may call for the production of any documents in the possession or power of either party which they or he may think necessary for determining the question in dispute, and may examine the parties or their witnesses on oath, and administer the oaths necessary for that purpose.

Powers of arbitrators to call for books, &c.

Warwick Farm Railway Act Extension.

30. Before any arbitrator or umpire shall enter into the consideration of any matters referred to him, he shall, in the presence of a justice of the peace, make and subscribe the following declaration, that is to say—

5 I, A.B., do solemnly and sincerely declare that I will faithfully and honestly, and to the best of my skill and ability, hear and determine the matters referred to me under the provisions of the Warwick Farm Railway Act Extension Act, 1911.

Made and subscribed in the presence of—

10

A.B.

And such declaration shall be annexed to the award when made; and if any arbitrator or umpire, having made such declaration, shall wilfully act contrary thereto, he shall be guilty of a misdemeanour.

31. All costs of any such arbitration and incident thereto to be settled by the arbitrators shall be borne by Edwin Ernest Allan Oatley, his heirs, executors, administrators, or assigns, unless the arbitrators shall award the same, or a less sum than shall have been offered by the said Edwin Ernest Allen Oatley, his heirs, executors, administrators, or assigns, claimed, in which case the whole costs shall be paid by the claimant: Provided that if either party shall be dissatisfied with the costs allowed by the arbitrators as aforesaid, the costs may be taxed by the Prothonotary or other proper officer of the Supreme Court, and the amount allowed by such officer shall be the amount of costs to be paid.

32. The arbitrators shall deliver their award in writing to the said Edwin Ernest Allan Oatley, his heirs, executors, administrators, or assigns, who shall retain the same, and shall forthwith on demand, at their own expense, 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 party or any person appointed by him for that purpose, and the amount awarded shall be paid within sixty days after the publication of such award.

33. The submission to any such arbitration may be made a rule of the Supreme Court on the application of either of the parties.

34. No award made with respect to any question referred to arbitration under the provisions of this Act shall be set aside for irregularity or error in matter of form.

35. The said Edwin Ernest Allan Oatley, his heirs, executors, administrators, or assigns shall make compensation and satisfaction, to be ascertained and recovered in case of difference in the manner hereby provided for temporary, permanent, or recurring injury, and all other damage, loss, costs, charges, and inconvenience which may in anywise be occasioned to the said owners or occupiers by the non-performance by the said Edwin Ernest Allan Oatley, his heirs, executors, administrators, or assigns of any of the matters or things hereby required to be performed by them or otherwise.

36.

Warwick Farm Railway Act Extension.

36. (1) The compensation money payable in respect of any lands taken by the said Edwin Ernest Allan Oatley, his heirs, executors, administrators, and assigns, under and by virtue of this Act, from any trustees in trust for charitable or other purposes, shall be paid to such trustees of the lands in respect of which it is payable, and shall be applied—

Application of compensation payable to trustees.

(a) in the discharge of any rates, debt, or encumbrance affecting the land in respect of which such money has been paid, or affecting other lands settled therewith to the same or the like uses, trusts, and purposes; or

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(b) in the purchase of other lands or of Government debentures to be conveyed, limited, and settled upon the like uses, trusts, and purposes, and in the same manner as the lands in respect of which such money has been paid were settled.

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(2) The payment of the said compensation money to the said trustees in trust for charitable or other purposes shall be a good and valid discharge to the said Edwin Ernest Allan Oatley, his heirs, executors, administrators, and assigns, and they shall not be bound or required to see to the application of the said compensation money.

Payment to trustees a good discharge.

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(3) In the construction of this Act the words "person" or "party" shall include trustees in trust for charitable or other purposes, and the powers hereinbefore given to the persons through whose lands the railway shall pass, to agree as to the amount of compensation to be paid by the said Edwin Ernest Allan Oatley, his heirs, executors, administrators, and assigns, and to settle by arbitrators the amount of such compensation, and all the powers of and incidental thereto, shall extend to and may lawfully be exercised by trustees in trust for charitable or other purposes in the same manner as though such trustees were beneficially entitled to the said lands.

Power to trustees to agree upon the amount of compensation, and to refer to arbitration.

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37. The Chief Commissioner for Railways and Tramways may from time to time appoint any person to be inspector for the purpose of inspecting the railway and of making any inquiry with respect to the condition of the works, or into the cause of any accident, provided that no person so appointed shall exercise any powers of interference in the affairs of the said Edwin Ernest Allan Oatley, his heirs, executors, administrators, or assigns.

Chief Commissioner may appoint inspectors.

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38. Every inspector under this Act shall, for the purpose of any inspection or inquiry which he is directed by the Chief Commissioner for Railways and Tramways to make or conduct, have the following powers, that is to say:—

Powers of inspectors.

(1) He may enter and inspect the railway and all the stations, works, buildings, offices, stock, plant, and machinery belonging thereto.

(2)

Warwick Farm Railway Act Extension.

5 (2) He may, by summons under his hand, require the attendance of any person who is engaged in the management, service, or employment of the said Edwin Ernest Allan Oatley, his heirs, executors, administrators, or assigns, and whom he thinks fit to call before him and examine for the said purpose, and may require answers or returns to such inquiries for the said purpose as he thinks fit to make.

10 (3) He may require and enforce the production of all books, papers, and documents of the said Edwin Ernest Allan Oatley, his heirs, executors, administrators, or assigns, which he considers important for the said purpose.

39. Where, in or about the railway, or any of the works or buildings connected with such railway, or any building or place, whether open or enclosed in connection with such railway, any of the following accidents take place in the course of working, that is to say,—

- (1) any accident attended with loss of life or personal injury to any person whomsoever;
- 20 (2) any collision where one of the trains is a passenger train;
- (3) any passenger train, or any part of a passenger train, accidentally leaving the rails;
- 25 (4) any accident of a kind not comprised in the foregoing descriptions, but which is of such a kind as to have caused, or to be likely to cause, loss of life or personal injury, and which may be specified in that behalf by any order to be made from time to time by the Chief Commissioner for Railways and Tramways,

the said Edwin Ernest Allan Oatley, his heirs, executors, administrators, or assigns shall send notice of such accident, and of the loss of life or personal injury (if any) occasioned thereby, to the Chief Commissioner for Railways and Tramways.

40. Such notice shall be in such form and shall contain such particulars as the Chief Commissioner for Railways and Tramways may from time to time direct, and shall be sent by the earliest practicable post after the accident takes place.

41. The Chief Commissioner for Railways and Tramways may from time to time by order direct that notice of any class of accidents shall be sent to him by telegraph, and may revoke any such order. While such order is in force, notice of every accident of the class to which the order relates shall be sent to the said Chief Commissioner by telegraph immediately after the accident takes place. Failure to comply with the provisions of this section shall render the said Edwin Ernest Allan Oatley, his heirs, executors, administrators, or assigns, liable for each offence to a penalty not exceeding twenty pounds.

Form of notice of accident.

Notice of certain accidents to be sent by telegraph.

Warwick Farm Railway Act Extension.

42. At any time the Governor, with the advice of the Executive Council, may, if he thinks fit, purchase such railway upon giving to the said Edwin Ernest Allan Oatley, his heirs, executors, administrators, or assigns, three months' notice in writing of his intention to do so. If the amount tendered for the purchase of the property be considered inadequate by the said Edwin Ernest Allan Oatley, his heirs, executors, administrators, or assigns, the amount shall be ascertained by assessment in terms of the Public Works Act, 1900.

Power of purchase
of railway by
Government.

43. All penalties imposed under this Act, or under any by-laws made in pursuance thereof, shall be recoverable in a summary way before any two justices of the peace.

Recovery of
penalties.

44. Provided always, and be it further enacted, that nothing in this Act contained shall be deemed to affect the past operation of the said Warwick Farm Railway Act, or to prejudice any rights accrued, offences committed, proceedings taken, or things done thereunder.

Not to affect
accrued rights.

SCHEDULE.

ALL that piece of land situated near Warwick Farm as now fenced and used for the purposes of a railway from the Great Southern railway line to the Warwick Farm race-course : Commencing on the Great Southern railway, at a point distant in a southerly direction about one thousand three hundred yards from the Cabramatta station ; thence bearing south-easterly in a curved line through land the property of the trustees of the estate of the late Thomas Moore, and now held under lease by the said Edwin Ernest Allan Oatley, his heirs, executors, administrators, and assigns, to the road from Liverpool to Sydney ; thence across that road ; thence again in south-easterly direction through other land the property of the trustees of the estate of the late Thomas Moore aforesaid, and also held under lease by the said Edwin Ernest Allan Oatley, his heirs, executors, administrators, and assigns, to a reserved road sixty-six feet wide along the eastern boundary of the aforesaid land ; thence across that road ; thence again in a southeasterly direction through land the property of the said Edwin Ernest Allan Oatley, his heirs, executors, administrators, and assigns, aforesaid to the Warwick Farm race-course.