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1855-6.

No. 26.

An Act to amend the "Lands Clauses Consolidation Act."

[Assented to, June 19, 1856.]

WHEREAS it is expedient to amend the "Lands Clauses Consolidation Act," and to extend the powers and provisions thereof—Be it therefore enacted by the Governor-in-Chief of the Province of South Australia, by and with the advice and consent of the Legislative Council thereof, as follows:

1. The provisions of clause 22 of the "Lands Clauses Consolidation Act" shall apply to all cases of disputed compensation where the amount shall not exceed One Hundred Pounds.

Disputed compensation.

2. In cases where the purchase or compensation money to be paid for any lands to be purchased or taken by the promoters of the undertaking for the execution of the said Act shall not exceed One Hundred Pounds, if the owners of any such lands, or of any interest therein, on tender of the purchase-money or compensation, either agreed or awarded to be paid in respect thereof, refuse to accept the same, or neglect or fail to make out a title to such lands, or the interest therein claimed by him, to the satisfaction of such promoters or if he refuse to convey or release such lands as directed by such promoters or if any such owner be absent from the said Province, or cannot after diligent inquiry be found, or fail to appear on the inquiry before a jury, as provided for by the said "Lands Clauses Consolidation Act," it shall be lawful for the promoters aforesaid to place the purchase-money or compensation payable in respect of such lands, or any interest therein, in the Treasury of the said Province, to be carried by the Colonial Treasurer, for the time being of the said Province, to the credit of the said promoters, subject to the control and disposition

In certain cases, money may be paid into Treasury.

disposition of such promoters and the parties interested in such lands, with the approval of the Governor.

Receipt to be given by Colonial Treasurer.

3. Upon any such money being so placed in the said Colonial Treasury, the said Colonial Treasurer shall give to the promoters of the undertaking, or to the party paying in such money by their direction, a receipt for such money, specifying therein in respect of what purchase the same shall have been paid in, and that the same is subject to the control and disposition only of the said promoters, and of the said interested parties, as aforesaid, with the approval of the Governor; and it shall be lawful for the said promoters, if they think fit, to execute a deed poll under their hands and seals, containing a description of the lands in respect whereof such payment shall have been made, and declaring the circumstances under which such money shall have been so placed in the said Treasury, and thereupon all the estate and interest in such lands, in respect whereof such purchase-money or compensation shall have been paid, shall vest absolutely in the said promoters, and they shall be entitled to the immediate possession of such lands.

Owner of land how bound by valuation of surveyor.

4. When any such purchase-money or compensation aforesaid, payable in respect of any lands, or any interest therein, shall have been ascertained by the valuation of a surveyor, and placed in the said Treasury, in the manner and under the provisions herein-contained, the owner or party entitled to convey such lands, or interest therein, shall be finally bound by such valuation.

Possession of lands may be given to promoters.

5. If for twenty-one days after the service of such notice, as is provided for by clause 19 of the said "Lands Clauses Consolidation Act," any such party or parties, therein referred to, shall fail to state the particulars of his or their claim in respect of any such lands and premises, or to treat with the promoters of the undertaking in respect thereof, and such party or parties shall offer any obstruction to the undertaking, or the works thereof, it shall be lawful for any Special Magistrate of the said Province, upon reasonable evidence of the facts being furnished to him by the said promoters of the undertaking, and upon their application, to summon such party or parties to appear before him at a time and place to be named in such summons, and upon the appearance of such party or parties, it shall be lawful for the said Magistrate to inquire into the title of such party or parties to any such lands and premises, and for that purpose to examine such party or parties, or any of them, and their witnesses, upon oath; and if upon such inquiry it shall appear that such party or parties has or have no valid title to the lawful possession of any such lands and premises, or in the event of the absence at such inquiry of such party or parties, upon proof of due service of the summons, such party or parties shall, as against the promoters of the undertaking, for the due execution of the special Act, be deemed a trespasser or trespassers on any such lands and premises; and it shall be lawful for such Magistrate immediately thereupon, to issue his warrant, under his hand and seal, to some one or more person or persons named therein, commanding

commanding him or them within a period to be therein named, not less than seven nor more than fourteen clear days from the date of such warrant, to enter (by force if needful) into the said lands and premises, and give possession of the same to the said promoters, for the purpose of affording them protection and facility in executing the works of the said undertaking; and the costs of every such inquiry shall be in the discretion of such Magistrate, and he shall settle the amount thereof.

6. Where the amount claimed for the purchase of or compensation to be paid for any lands to be purchased or taken by the promoters of the undertaking shall exceed One Hundred Pounds, and it shall appear to the promoters that such claim is exorbitant, and that the sum to be paid will not, possibly amount to One Hundred Pounds, it shall be lawful for any Special Magistrate of the said Province, upon the application of such promoters, to summon the party or parties claiming as aforesaid, to appear before him at a time and place to be named in such summons, and upon the appearance of such party or parties, or in the absence of any of them, upon proof of due service of the summons, it shall be lawful for the said Magistrate to inquire into the value of such lands and premises, and for that purpose to examine such party or parties or any of them, and their witnesses, upon oath; and if, upon such inquiry, it shall appear that such party or parties has or have claimed an exorbitant amount from such promoters, and that the probable sum to be paid to him or them will not exceed the sum of One Hundred Pounds, then it shall be lawful for any such Magistrate to order that such claim is a fit and proper one to be settled by two Justices as aforesaid, and such party or parties shall be finally bound by such order, and the costs of every such inquiry shall be in the discretion of such Magistrate, and he shall settle the amount thereof.

Special Magistrate may decide if claim fit to be adjudged by two Justices.

7. In lieu of the bond provided by the eighty-fifth clause of the "Lands Clauses Consolidation Act" to be given by the promoters of the undertaking, with two sureties, it shall be deemed a sufficient compliance with the said clause, so far as relates to such bond, for the said promoters, or any two of them, to give their bond without sureties.

Bond, how given.

8. This Act and the "Lands Clauses Consolidation Act," shall be read and construed as one Act.

This Act incorporated with "Lands Clauses Consolidation Act."