

No. 33—1906.] [August 21, 1906.

ACT

To Authorize Local Authorities to contribute towards the cost of Constructing and Working certain lines of Railway.

[Assented to 21st August, 1906.]

Preamble. BE it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows :—

Meaning of "Local Authority." 1. For the purposes of this Act the term "Local Authority" shall include "the Divisional Council of any Division," the Council or Board of Commissioners of any Municipality, Borough, or Corporate Town, and the Board of Management of any area or place constituted under "the Villages Management Act, 1881."

Contributions by Local Authority towards Railways. 2. From and after the date of the promulgation of this Act it shall be lawful for a local authority to make contributions to the Government or any Railway Company in aid of all or any of the following items of expenditure in connection with any Railway calculated to be directly or indirectly beneficial to the district or area of such local authority, that is to say :—

- (a) the cost of construction ;
- (b) the cost of working and maintenance ;
- (c) payment of interest on capital cost ;
- (d) cost of special facilities in the way of accommodation, increased train service, reduced fares or rates, and the like.

Provided that all such contributions shall be first approved by a majority of the ratepayers present at a meeting specially convened for the purpose, and by a majority in value of those ratepayers being owners of property whose names appear on the Valuation Roll of the local authority, and who record their votes at a poll specially taken for the purpose of ascertaining whether the owners of property in favour of the contribution exceed in value those who are opposed thereto, and provided further that a statement prepared by the Railway Department, showing the estimated cost of survey, construction, maintenance and working expenses of such line or cost of extra working shall be sent to the Secretary of the Divisional Council, Town Clerk, or Clerk of the Village Management Board, as the case may be, to be submitted to the said meeting, and provided also that any such contribution may be by way of lump sum, or periodical payments, for a period limited or unlimited, and shall be payable out of the general funds or provided for by special rates or otherwise, as may be determined by the ratepayers at such meeting and by the poll as aforesaid.

3. If, however, in the opinion of any local authority only a specified portion of the area within its jurisdiction will be beneficially affected by any contribution as aforesaid, then such local authority, in lieu of holding a meeting and poll of the ratepayers as aforesaid, within the whole area of its jurisdiction, shall hold a Public Meeting of ratepayers and a poll only of the ratepayers owning rateable landed property within such specified portion of their area. In special areas.

4. Any special rate hereby authorized to be levied in terms of the resolution of a meeting and poll, in terms of section two of this Act, shall be levied on all the rateable property in the district or area of the local authority levying the same ; but if, by the resolution, only a portion of the area of such local authority is affected, then the special rates shall be levied only on the rateable property within the specified area approved by a meeting and poll of ratepayers in terms of the last preceding section hereof, provided that no special rate levied under the terms of this Act shall exceed two pence in the Pound. Levy of Special Rate.

5. All meetings and polls taken under this Act shall be convened and held in accordance with such regulations and rules of procedure as the Governor may from time to time promulgate therefor. Meetings of Ratepayers.

6. This Act may be cited for all purposes as "The Local Authorities Railway Contributions Act, 1906." Short Title.

No. 34—1906.]

[August 21, 1906.

ACT

To Provide for the Construction, Acquisition, Equipment, Maintenance, and Working of certain Lines of Railway, and for a Subsidy towards a certain Line of Railway.

[Assented to 21st August, 1906.]

BE it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows :— Preamble.

1. It shall be lawful for the Governor, as soon as it may seem to him expedient after the taking effect of this Act, to cause to be constructed, equipped, maintained, and worked, the Lines of Railway set forth in Schedule A to this Act, at a cost respectively not exceeding the several amounts set opposite the said Lines in the said Schedule. Railway Lines (George to Oudtshoorn;) (Butterworth to Idutywa;) (Riverside to Llewellyn.)

Railway Lines: Eende Kuil to Graaf Water or Vogelfontein. Barkly Bridge to a point on the Kowie Line; Lady Grey to Gairtney; Cathcart to Fairford or Chilton; Hopefield to Hoetjes Bay; Belmont to Douglas; Schoombie to Maraisburg; Queenstown to Whittlesea.

2. It shall, furthermore, be lawful for the Governor, as soon as it may seem to him expedient after the taking effect of this Act, to cause to be constructed, equipped, maintained, and worked, the Lines of Railway set forth in Schedule B to this Act, at a cost respectively not exceeding the several amounts set opposite the said Lines in the Schedule; provided that the sum of £76,000, available from the amount authorized by Act 40 of 1898, for the construction of a line from Kalabas Kraal or Malmesbury to Pickenier's Kloof, shall in addition be available for the purpose of the line from Eende Kuil to Graaf Water or Vogelfontein, provided further that the sum of £25,000 provided by Act 38 of 1902 for the construction of a Line from Hopefield, in the direction of Vredenburg, shall in addition be available for the purpose of the Line from Hopefield to or near Hoetjes Bay *via* the vicinity of Lange Riet Vlei and the vicinity of Vredenburg; provided, further, that the line of Railway from Belmont to Douglas may be constructed either wholly or in part along the main or any other wagon road between the points mentioned, without it being compulsory on the part of the Governor to fence the whole or any portion of the said line of Railway anything to the contrary contained in Section fourteen hereof notwithstanding, and provided, further, that no passenger shall be carried on any of the lines mentioned in Schedule B except at his own risk and no liability shall attach to the Railway Department in respect of any accident to any passenger attributable to insufficiency of ballast, the material or mode of construction or the maintenance of the line, bridges or plant, the lines aforesaid being intended to be constructed and maintained for the purposes of agricultural development as light agricultural railways for the conveyance of produce and goods and not for the ordinary purposes of a railway; nor shall any passenger be entitled to damages in respect of any delays to which he may be subjected.

Bellville-Durbanville and Walmer-Port Elizabeth Railways.

3. Subject to the provisions of the next succeeding Section of this Act it shall be lawful for the Governor as soon as it may seem to him expedient after the taking effect of this Act, to cause to be constructed, equipped, maintained, and worked the Lines of Railways set forth in Schedule C to this Act, provided that for the purpose of the construction of the Line of Railway from Bellville to Durbanville it shall be lawful for the Governor to acquire at a cost to be settled by agreement, but not to exceed the sum of £2,000, all the assets, interests and rights acquired by the Durbanville Railway Company, Limited, under Act 7 of 1903, inclusive of all land required for the construction of the line with usual side-widths, land for stations, sidings, and other purposes in connection with the construction of the railway; and upon the due transfer of such assets being completed the rights of the Company under the said Act shall cease and determine; and, further, provided

that the cost of constructing (and in the case of the Durbanville Railway the cost of the acquisition of the assets hereinbefore provided for) and equipping the said lines inclusive of rolling stock for the Walmer Line but not for the Durbanville Line, shall not exceed the respective amounts set opposite them in the Schedule.

4. The provisions of the preceding Section of this Act shall not be acted upon unless and until the Governor shall be satisfied that the Municipal Council of Durbanville in respect of the line of Railway from Bellville to Durbanville and the Municipal Council of Walmer in respect of the line of Railway from Walmer to a point on the Port Elizabeth-Avontuur Line have entered into contracts with the Government guaranteeing and securing the payment to the Government of:—

Subject to Municipal Guarantee.

(a) Interest at the rate of four per centum per annum on the capital cost of the construction and equipment by the Government of the respective lines of Railway (provided that in the case of the Durbanville line a sum of £1,200 per mile being the amount of the subsidy authorised by Act 7 of 1903, shall be deducted from the Capital cost before assessing the interest), for a period of ten years from the date of the opening for traffic of the said lines respectively such capital cost to include:—

- (1) The acquisition of land and in the case of the Bellville-Durbanville Line the acquisition of the rights aforesaid, the erection of station buildings, and all other appurtenances and appliances as are usual on similiar lines on the Cape Government Railways;
- (2) The actual cost of all betterments or new works which it may be necessary to provide after the opening of the respective lines for safe and proper working; and
- (3) An additional sum not exceeding five per centum of the expenditure to cover the cost of raising loans and interest during construction.

(b) The actual loss incurred by Government in the working of the said lines during the said period of ten years. Provided that any profit in working the said Railways which may be made in any one year ending on the 30th day of June shall be applied to the reduction of the liability of the respective guarantors in respect of the interest charges as aforesaid; and that the net shortfall only shall be the extent of the liability of the Municipalities and ratepayers in any one year. Provided, however, that adjustment be made from time to time, the period of the first adjustment to be within three years from the date of the opening of the said railways

And loss of working line for 10 years.

and thereafter annually, taking into consideration any past surplus of which the said Councils shall not at such date have had the full benefit; and provided also that a final adjustment shall take place after the expiration of the said period of ten years.

Ceres Road  
to Ceres Rail-  
way.

5. It shall furthermore be lawful for the Governor as soon as it may seem to him expedient after the taking effect of this Act to cause to be constructed, equipped, maintained, and worked as a 3 ft. 6 in. gauge line the Railway from Ceres Road to Ceres authorised by Act 38 of 1902 to be constructed on a 2 ft. gauge, at an additional cost not exceeding the amount provided therefor in Schedule D, provided that the Governor shall be satisfied that the Municipal Council, <sup>and</sup> the Divisional Council of Ceres have entered into an Agreement with the Government guaranteeing and securing the payment to the Government for a period of ten years commencing at the expiration of one year from the date of the opening for traffic of the said line of an annual amount not exceeding £1,000 to cover the actual loss incurred by Government in the working and maintaining of the said line together with interest during the said period at the rate of four per centum per annum on the Capital cost of construction and equipment, such Capital cost to include:—

- (1) The acquisition of land, the erection of station buildings, and all other appurtenances and appliances as are usual on similar lines on the Cape Government Railways;
- (2) The actual cost of all betterments or new works which it may be necessary to provide after the opening of the line for safe and proper working; and
- (3) An additional sum not exceeding five per centum of the expenditure to cover the cost of raising loans and interest during construction;

provided that the net shortfall only shall be the extent of the liability of the said Councils in any one year; provided further that adjustments be made from time to time, the period of the first adjustment to be within three years from the date of the opening of the said railway and thereafter annually, taking into consideration any past surplus of which the said Councils or either of them shall not at that date have had the full benefit; and provided further that all liability under this section of the said Councils or either of them shall cease upon the date of the commencement of any extension of the Ceres-Ceres Road section beyond Ceres duly authorised by Parliament as a portion of the Cape Government Railways, and provided also that a final adjustment shall take place after the expiration of the said period of ten years.

6. It shall furthermore be lawful for the Governor as soon as it may seem to him expedient after the taking effect of this Act to cause to be acquired, equipped, maintained, and worked, the lines of railway set forth in Schedule E to this Act at a cost respectively not exceeding the amounts set opposite the said lines in the said Schedule, provided that the sum of £9,184 representing the cost of acquiring and equipping the line from Mafeking to Buurman's Drift Siding shall be paid out of the amount of £84,150 provided by Schedule A of Act 44 of 1905 for a railway from Mafeking to Ottoshoop, notwithstanding anything to the contrary contained in the said Act; and provided further that it shall be lawful for the Governor to cause to be constructed, equipped, maintained and worked an extension to Diep River of the line of railway from Maitland to Ottery Road.

Mafeking -  
Buurman's  
Drift; Mait-  
land - Ottery  
Road; and  
construction  
of line from  
Ottery Road  
to Diep River.

7. It shall furthermore be lawful for the Governor to arrange with any person or Company for the constructing, equipping, maintaining and working of a line of railway from a point on the South Western Railway to an approved point on the Mossel Bay-George Railway, either of 3ft. 6in. or 2ft. gauge, and to agree to pay a subsidy not exceeding £1,300 per mile for a length not exceeding 53 miles, provided such subsidy does not exceed forty per centum of the total cost of constructing and equipping such railway, and it is provided that all the sections of Act 16 of 1904, intituled "The South Western Railway Company, Limited, Act, 1904," save and except those which are inconsistent with this clause shall *mutatis mutandis* be deemed to be, and to have the same effect as though they were, incorporated in this Act.

Subsidy-  
K n y s n a -  
George Rail-  
way.

8. It shall furthermore be lawful for the Governor as soon as it may seem to him expedient after the taking effect of this Act to enter into and ratify a Convention with the Governor of Natal providing for the construction, equipment, maintenance and working by the Governor of Natal, subject to the approval and supervision of an Officer to be appointed by the Governor of the Cape of Good Hope, of a line of railway from Riverside to the Natal Border, the cost of such line of Railway including all station buildings and appurtenances to be borne by the Natal Government; provided always that the Governor shall have the right on giving six months' notice of his intention to acquire and take over the said line of Railway on such terms as may be laid down in the said Convention on payment of an amount not exceeding £20,000 plus the whole cost of station buildings and appurtenances and land required therefor at Riverside for Railway purposes.

Agreement  
for construc-  
tion of River-  
side-Natal  
Border Rail-  
way.

9. It shall be lawful for the Governor, as soon as it may seem to him expedient after the taking effect of this Act, to arrange for the construction and equipment by the High Commissioner of the line of Railway referred to in the Agreement set forth in Schedule F to this Act.

Railway  
from Bloem-  
fontein to  
Kimberley.

Gauge.

10. All the Lines authorised to be constructed by this Act shall be constructed on the standard Colonial gauge of 3 ft. 6 in., with the exception of the Lines from Barkly Bridge *via* Alexandria to a point on the Kowie Railway between Round Hill and Port Alfred; Cathcart to a point in the vicinity of Fairford or Chilton; Queenstown to Whittlesea; Hopefield, to a point at or near Hoetjes Bay; Walmer to a point on the Port Elizabeth-Avontuur Railway; and Belmont to Douglas; which shall be constructed on a 2 ft. gauge.

Power of entry on land.

11. For the purpose of setting out the Lines of Railway referred to in Schedules A, B, C, D and E, and the Lines referred to in Sections eight and nine, the Governor may by persons thereto duly authorised, enter upon any land for the purpose of surveying the same, and of probing and boring for the purpose of ascertaining the nature and formation of the soil, making full compensation to the occupier of any such land for the damage, if any, thereby occasioned.

Application of provisions of Act 19 of 1861.

12. The several provisions of Act No. 19 of 1861, intituled "An Act for the Regulation of Railways in this Colony," save and except the twenty-ninth and thirtieth Sections thereof, and the provisions of any Law amending the said Act shall, *mutatis mutandis*, apply to so much of the land and railways referred to in the preceding Sections of this Act as shall lie within the Cape Colony, precisely as if the said railway belonged to a Company and there were a Board of Directors, the functions of the said Board being performed by the Governor, with advice of the Executive Council.

Governor to have powers of Divisional Council under Sections 146 and 147 of Act 40 of 1889.

13. The Governor shall for the purpose of the construction and maintenance of so much of the lines of railway referred to in this Act as shall lie within this Colony have and exercise all the rights and powers, subject to all the duties and obligations which a Divisional Council by law has and exercises, or is subject to under Sections one hundred and forty-six and one-hundred and forty-seven of the Act No. 40 of 1889, provided that:—

- (a) The extent of the land taken for the said lines of Railway shall not exceed seventy feet for the formation line, together with such additional land as may be required for the slopes, cesses, drainage, stations, sidings, approach roads and all other works, matters, and things which may be requisite or necessary for the efficient construction and maintenance and working of the said railways.
- (b) That the publication of notice in the *Gazette* shall be deemed to be sufficient notice to any proprietor who shall be absent from the Colony, or whose place of residence shall not be known.
- (c) That the settlement of questions as to recompense in consequence of any exercise of the rights and powers

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aforesaid shall not delay such exercise and such questions shall, as soon as may be, be determined under the "Lands and Arbitration Clauses Act, 1882."

14. At all places where the lines of the said railways shall intersect or cross the line of any street or road in this Colony, it shall be lawful for the Governor to cause the said lines of railway to be made and carried across such street or road, either by a level crossing, or by means of a sufficient and convenient bridge, and at all places where the lines of the said railways shall run in the same direction as the line of any street or road in this Colony, it shall be lawful for the Governor, with the consent of the Municipal Council or Divisional Council in which any such street or road may be vested, to cause the said lines of railway to be made and carried along such street or road for such distance, subject to such conditions and with such safeguards as may be agreed upon between the Governor and such Municipal or Divisional Council.

Method to be adopted in crossing road or street.

15. Act No. 15 of 1897 prohibiting the erection of swing gates across certain roads in the division of Oudtshoorn shall not apply to swing gates at level crossings on any railway already constructed or to be constructed within the said division of Oudtshoorn.

Swing gates.

16. It shall and may be lawful for the Governor for the purpose of carrying out the provisions of this Act to raise by way of loan either temporarily or by means of Colonial or Consolidated Stock to be issued in this Colony or in England under the provisions of "The Cape of Good Hope General Loans Act, 1881," as amended by the "Cape of Good Hope General Loans Acts, 1883, 1888 and 1892," a sum not exceeding £2,026,266.

Loan to be raised.

17. No expenditure under this Act shall be incurred for any new work until the Treasurer shall have notified under his hand to the Commissioner of Public Works that the funds for such work are available.

Work not to be commenced until funds available.

18. The provisions of Section seventeen of the "Railways Extension Act, 1895," shall apply to the construction and maintenance of such part of the lines authorised by the Act aforesaid as may have been or shall be constructed by the Governor, and all rights and powers already exercised by him in respect thereof shall be deemed to have been properly and duly exercised.

Act 28 of 1895 to apply to Governor.

19. This Act may be cited for all purposes as "The Railways Acquisition and Construction Act, 1906."

Short Title.

SCHEDULE A.

Schedule A.

Line of Railway.	Mileage.	Cost.
		£
George to Oudtshoorn ... ..	46 $\frac{3}{4}$	372,971
Butterworth to Idutywa ... ..	26	117,842
Riverside to Llewellyn ... ..	27	256,000

## SCHEDULE B.

Line of Railway.	Mileage.	Cost.
Eende Kuil to a point in the vicinity of Graaf Water or Vogelfontein in the direction of Van Rhyn's Dorp ...	53½	£ 155,773
Barkly Bridge <i>via</i> Alexandria to a point on the Kowie Railway between Round Hill and Port Alfred ...	90	313,377
Lady Grey to Gairtney ...	21	197,515
Cathcart to a point in the vicinity of Fairford or Chilton ...	49	138,229
Hopefield to a point at or near Hoetjes Bay <i>via</i> the vicinity of Lange Riet Vlei and the vicinity of Vredenburg	40	62,640
Belmont to Douglas ...	55	100,870
Schoombie to Maraisburg ...	28½	100,000
Queenstown to Whittlesea ...	22½	55,000

## SCHEDULE C.

Line of Railway.	Mileage.	Cost.
Bellville to Durbanville... ..	7¼	£ 26,000
Walmer to a point on the Port Elizabeth—Avontuur Railway ...	3½	11,976

## SCHEDULE D.

Line of Railway.	Mileage.	Cost.
Ceres Road to Ceres ... ..	10¾	£ 60,873

## SCHEDULE E.

Line of Railway.	Mileage.	Cost.
Mafeking to Buurman's Drift Siding ...	9¼	£ ...
Maitland to Ottery Road, Wynberg and Diep River ... ..	9½	57,200

## SCHEDULE F.

MEMORANDUM OF AGREEMENT made and entered into this fifteenth day of June, 1906, between Patrick Duncan, for and on behalf of the High Commissioner of South Africa, in his capacity as Chairman of the Railway Committee of the Inter-Colonial Council of the Transvaal and Orange River Colony of the one part, and Thomas William Smartt, of Cape Town, in the Colony of the Cape of Good Hope, Commissioner of Public Works, acting for and on behalf of the Governor of the Cape of Good Hope, of the other part.

(a) WHEREAS the Inter-Colonial Council aforesaid did, by its Resolution of the 24th November, 1905, authorise the construction of a Line of Railway from Bloemfontein, in the Orange River Colony, to Kimberley or Beaconsfield, or a point in the vicinity thereof, in the Cape Colony, as soon as the written consent of the Cape Government to a point of junction has been received; and

(b) WHEREAS the Government of the Cape of Good Hope desires to do all things necessary in order to enable the Inter-Colonial Council to construct, equip, maintain, and work the said line of railway; and

(c) WHEREAS it is considered desirable that an agreement should be entered into regarding the construction and working of the line of railway aforesaid.

NOW THESE PRESENTS WITNESS, and it is hereby agreed as set forth in the following Articles:—

## ARTICLE 1.

(a) "The Cape" shall mean the Government of the Cape of Good Hope, administered by the Governor of the Cape of Good Hope.

(b) "The Chairman" shall mean the Chairman for the time being of the Railway Committee of the Inter-Colonial Council or the Officer appointed by the High Commissioner to carry out the duties of the Chairman of the Railway Committee in respect of this Agreement.

(c) "The Cape Railways" shall mean the entire system of railways, owned and administered by the Cape Government.

(d) "The Railway" shall mean the line of railway from Bloemfontein to a point on the existing line of Cape Railways at or near Kimberley.

(e) "The Extension" shall mean such portion of the railway defined in sub-section (d) of this Article, as lies between the border of the Orange River Colony and the point of junction with the Cape railways at or near Kimberley as shall be approved by the Cape, and shall include the permanent way, and all buildings,

machinery, plant material, signalling apparatus, platelayers' cottages, residences for railway servants, sidings, junction works, and all other works connected therewith.

ARTICLE 2.

Granting right to construct and work the Extension. The Cape agrees to grant to the Chairman the exclusive right to construct, maintain, and work the Extension as defined in Article 1 hereof, subject to the conditions and Articles herein-after contained.

ARTICLE 3.

The Chairman to construct Extension. The Chairman undertakes to construct, and equip, or to effect the construction and equipment of the Extension at his own risk and cost without any guarantee of interest on the part of the Cape; such construction and equipment shall be in accordance with surveys, plans, sections, types, estimates, and specifications, previously approved by the Cape, or the officer appointed by the Cape for that purpose; and the Chairman further undertakes to bear the cost of the necessary Junction Works and appliances, at or near Kimberley and of providing such buildings at Kimberley (or other exchange station mutually agreed upon) as may be necessary for the accommodation of the staff required to work the Railway.

If the junction herein provided for is not established at Kimberley or other station where staff is kept, the cost of working such junction shall be borne by the Chairman; but if the Junction is established at a station where staff is kept the proportion to be borne by each party hereto of the cost of working it shall be settled by mutual agreement.

ARTICLE 4.

Provision of land. The Cape undertakes from time to time and whenever called upon to do so by the Chairman (and at the cost of the latter when compensation has to be paid), to do, or cause to be done all things necessary in order to provide and vest in the Chairman, free from liability to be expropriated, all land necessary for the construction, working and maintenance of the Extension (including land required for the raising and carrying of materials, sites for signal stations, platelayers' cottages, residences for railway servants, and watering places for railway purposes).

ARTICLE 5.

Telegraphs and Tele-phones. The Chairman agrees and is hereby empowered to lay along the Extension a line of telegraphs, telephones or other line of scientific communication to be used for the purpose of, and in connection with the said Railway, but not otherwise, except where specially required by the Cape, in which case the Cape shall make provision for the transmission of messages on terms to be mutually agreed upon from time to time.

ARTICLE 6.

The Chairman shall be bound properly to fence the Extension.

ARTICLE 7.

The Chairman shall not permit any connections to be made with the said Extension either in the nature of private sidings, or connections with other lines of railway without the approval of the Cape being first had and obtained, nor shall the Chairman permit any connections to be made between the railway and any lines or sidings in the Cape Colony save and except the Extension the subject of this Agreement; it is further provided and agreed that there shall be no junction from the South within the Borders of the Orange River Colony with the railway, elsewhere than at or near Bloemfontein, without the consent of the Cape being first asked and obtained.

ARTICLE 8.

All materials requisite for the construction and equipment of the said railway which have to be imported from oversea therefor shall be imported through Cape Ports.

ARTICLE 9.

The Cape is hereby empowered to take over the Extension (rolling stock excepted) as a going concern, after the expiration of not less than six months' notice of its intention to exercise the power served on the Chairman.

(a) Nothing in this Article shall be construed as empowering the Cape to take over a portion only of the Extension, buildings and appurtenances or any of them.

ARTICLE 10.

On taking over the Extension, as provided in the last preceding Article, the Cape shall pay to the Chairman in consideration therefor the actual cost of the said Extension, that is to say, the original actual cost of construction (exclusive of the cost of rolling stock), plus the actual cost to the Chairman of compensation for expropriation of land, supervision and betterments duly approved by the Cape.

ARTICLE 11.

The following provisions as to the rates and fares to be charged in through and in local traffic shall be binding until such time as they are revised by mutual consent:—

(a) The rates to be charged on the Railway for all over-sea traffic shall be fixed so that the sum of the Port rate from all South African Ports to Bloemfontein or other station, plus the rate therefrom to Kimberley or other station beyond the point of junction of the Railway with the existing Cape Railways shall not be lower than the rate for the time being from East London via Cookhouse and De Aar to Kimberley or other station.

Fencing.

Connections with private sidings or other lines.

Conveyance of material for construction and equipment of Railway.

Expropriation of Extension.

Payment on Expropriation.

Rates and Fares.

Overseas traffic to Kimberley, &c. via Bloemfontein

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Provided always that in the case of such other station being south of the point of junction there shall be added to the rate to Kimberley *via* the new line a sum equal to the rate over the Cape Government Railways for the distance from Kimberley to such other station.

Oversea traffic to places on the Railway via Bloemfontein

(b) No lower rate shall be charged on the railway for oversea traffic forwarded *via* Bloemfontein to any place on the said railway than the proportion, according to mileage, of the rate fixed in terms of the preceding sub-section for the conveyance of such traffic over the whole of the said railway.

Rate for S.A.P.

(c) There shall be a uniform rate for each class of South African Produce over the railway and such shall not be less than the rate per ton per mile charged for similar produce grown in the Cape Colony over other lines of railway in the Orange River Colony.

Conveyance of Coal.

(d) The Chairman undertakes to place the Cape Government so far as concerns the conveyance *via* the railway of coal for the purpose of the Cape Railways in a no worse position in regard to rates and other facilities than those obtaining from time to time over the existing O.R.C. trunk line from Vereeniging to Norval's Pont and Bethulie.

Rates on traffic not otherwise provided for herein.

(e) The rate to be charged in respect of traffic not otherwise provided for in this Article shall be not less than the through or local rate, as the case may be, in force from time to time on the Central South African Railways, provided that in the event of the Cape exercising in respect of the Extension the powers reserved to it in Article 9 the Cape shall have the right to charge over the Extension in respect of traffic dealt with in this sub-section such rates in through or local traffic as the case may be as are in force from time to time on the Cape Government Railways.

Passenger Fares.

(f) The fares for local and through passenger traffic on the railway shall be charged at the mileage rate in force from time to time on the Central South African Railways.

Division.

(g) After the Cape has taken over in terms of Article 9, the Extension, the rates on traffic over the railway shall be divided by mileage according to the length owned by each Administration concerned, terminals as may be mutually agreed to being first deducted in respect of work performed at Port, Cartage or other Stations.

ARTICLE 12.

Working Agreement to be framed.

The Chairman and the Cape undertake that the working of the traffic between their respective lines shall be regulated by the terms of a Working Agreement to be entered into between the Chairman and the Cape, and agree that such Working Agreement may be modified by mutual arrangement.

Further, it is understood that the character of the arrangements for the working and interchange of traffic shall correspond in

their nature in so far as the respective conditions allow with those obtaining for the time being between the Cape Railways and Central South African Railways for the working and interchange of traffic at the Border Stations at Norval's Pont, Bethulie and Warrenton, so long as they form the interchange stations between the Cape Railways and the Central South African Railways.

ARTICLE 13.

It is agreed that trucks and other rolling stock which may be sent with traffic from the lines of one Administration to those of the other, shall be returned to the parent line by any of the direct routes then existing, provided that in the case of Cape trucks, the Cape Railways shall have the right to call upon the Chairman to return the trucks by the route adopted on the forward journey until all the requirements of the Cape Railways in the way of coal supply from the Orange River Colony or Transvaal are met.

Returning of Trucks to Parent Line.

Similarly the Chairman shall be entitled to call upon the Cape Railways to return empty trucks belonging to the Central South African Railways or other Administrations by the route adopted on the forward journey.

ARTICLE 14.

The Chairman undertakes to convey over the Extension all letters, newspapers, parcels and other postal matter usually conveyed through the post at a rate not higher than that which is charged from time to time by the Cape Railways for similar services performed on similar lines in the Cape Colony.

Rate for Mails and other Postal matters.

ARTICLE 15.

The Chairman shall keep all necessary books and accounts as customary which shall shew specifically the cost of construction and equipment of the Extension, and the said books and accounts shall be open at all times to inspection by any person appointed in writing by the Cape, and such person may take such extracts from such books and accounts as he may think proper. The Chairman shall also furnish to the Cape accounts showing the actual cost of the construction and equipment of the said Extension.

Accounts showing cost of construction and equipment.

ARTICLE 16.

The Chairman shall appoint an accredited agent in the Colony of the Cape of Good Hope to sue or to be sued in any of the Courts of the said Colony in connection with any matters concerning the said Extension, similarly the Cape shall appoint an agent in the Orange River Colony.

Accredited Agents to be appointed.

## ARTICLE 17.

Arbitration. All disputes or differences arising during the continuance of this Agreement between the Chairman and the Cape shall be submitted for consideration and decision by three arbitrators, one to be appointed by the Chairman and one to be appointed by the Cape and the third to be appointed by the two arbitrators so appointed, before proceeding to the arbitration.

## ARTICLE 18.

Ratification. The Chairman and the Commissioner undertake to obtain all such authorities and powers as may be necessary in order to enable them to carry out the provisions of this Agreement, as soon as may be, and failing the obtaining of such authorities and powers within a period of twelve months from the date of entering into these Presents, this Agreement shall become null and void, unless the contracting parties shall mutually agree to allow further time for the obtaining of the same.

## ARTICLE 19.

Period of Agreement. This Agreement shall remain in force for a period of seven years after which it shall be terminable by either party on giving six months' notice of their intention to withdraw therefrom: after such termination of period all traffic on the Extension shall cease and the Chairman shall have the right irrespective of which side gave such notice to remove all railway material and plant on such Extension, paying to the Cape any expenditure the latter may be put to in re-adjustment of the actual point of junction.

## ARTICLE 20.

This Agreement shall be of no effect unless and until the Natal Government shall have consented, in writing, to waive all rights in respect of oversea traffic arising under an Agreement dated 10th March, 1905, between themselves and the Chairman for the construction of a Railway between Bethlehem and Kroonstad.

As WITNESS the hands of the said parties the day and year  
aforewritten.

As WITNESSES :

(Signed) H. F. WILSON, (Signed) PATRICK DUNCAN.  
" R. H. BRAND.

As WITNESSES :

(Signed) T. S. McEWEN, (Signed) T. W. SMARTT.  
" F. H. SARGEANT.

No. 35—1906.]

[August 21, 1906.]

## ACT

To Regulate the Trade of General Dealers and Hawkers and to Amend the Law relating to Stamp Duties and Licences.

[Assented to 21st August, 1906.]

BE it enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council and House of Assembly thereof, as follows:— Preamble.

1. So much of Act 38 of 1887 entitled an Act to amend and explain the law relating to Stamp Duties and Licences, and of any other law as is inconsistent with the provisions of this Act, is hereby repealed. Repeal of Laws.

2. "Person" in this Act shall include any firm or company. Meaning of "person."

3. From and after the promulgation of this Act no General Dealer's Licence shall be issued or granted to any person who, at the time of the said promulgation, was not the holder of such a Licence, and no Hawker's Licence shall be issued to anyone, except upon the certificate hereinafter referred to, and upon the promulgation of this Act a list shall be framed and kept by every Resident Magistrate and Assistant Resident Magistrate of a district or detached district, of the names of all persons, holding existing General Dealer's Licences in the said district, and such persons shall be exempt in the said district, so long as they trade there, from the provisions of this Act relating to the obtaining of a Certificate for a New General Dealer's Licence. General Dealer's and Hawker's Licences.

4. Any General Dealer's or Hawker's Licence which requires the aforesaid certificate for its issue, shall be deemed to be a new Licence for the purposes of this Act. New Licence.

5. Any person desiring to obtain a New General Dealer's or Hawker's Licence shall, if he desires to carry on such business within any Municipal area, apply to the Municipal Council thereof for a certificate allowing the issue of such Licence, and such Council shall at the next ordinary meeting or special meeting, called for the purpose of considering the application, grant the said certificate, unless at least two-thirds of the Councillors voting and forming a majority of the whole number of members constituting the Council, are opposed to the issue thereof, in which case it shall be refused. Certificate of Municipal Council in case of a business to be carried on within a Municipality.

6. If the said applicant desires to obtain a new General Dealer's or Hawker's Licence in any Village Management Board area or in any Divisional Council area outside of a Municipal or Village Management Board area, he shall apply to the Divisional Council or Village Management Board of such area as the case may be and such Board or Council shall, at its next ordinary Certificate of Divisional Council or Village Management Board in case of business to be carried on outside a Municipality.