

PROCLAMATION.¹

BY

HIS EXCELLENCY SIR ALFRED MILNER, &c., &c.

No. 4, 1898.—DATED 14th FEBRUARY, 1898.

Preamble.

WHEREAS a line of railway has been laid by the Bechuanaland Railway Company from a point near Palapye in the Bechuanaland Protectorate, shown upon a plan lodged in the office of the Resident Commissioner thereof, to the Northern border of the said Protectorate, the said line being an extension of the line authorised by the agreement of August 3rd, 1894, set forth in the Schedule to Proclamation No. 227 of British Bechuanaland.

And whereas a plan showing the route of the line of railway laid as aforesaid is in course of preparation, and will shortly be lodged in the office of the Resident Commissioner aforesaid.

And whereas it is expedient to confirm to and confer upon the said company the rights, powers, and privileges necessary for the efficient construction, maintenance and working of the said line of railway from the said point to the Northern border of the said Protectorate subject to all lawful obligations imposed by this Proclamation.

¹ As to appointment of railway police see Proclamation No. 47 of 1924.

Now, therefore, under and by virtue of the powers in me vested, I do hereby proclaim, declare and make known as follows:—

Line from Palapye to the Northern border of the Protectorate authorised.

1. The Bechuanaland Railway Company shall be and is hereby authorised and empowered to construct, equip, maintain and work the portion of the line of railway laid between the point near Palapye, in the Bechuanaland Protectorate, shown upon the plan lodged in the Resident Commissioner's Office, under the provisions of Proclamation No. 25 of 1896, and a point on the Northern border of the said Protectorate, the course of the said line of railway between the said points to be more particularly defined and determined by a plan or plans to be lodged in the office of the said Resident Commissioner.

Powers of the Railway Company.

2. The said railway company shall have the power to enter upon, take possession of, hold and retain for the purposes of this Proclamation land required for the said line of railway between the points aforementioned, of a uniform width throughout of one hundred yards, and such land in addition as may be required for all junctions, sidings and stations, and for all other works and approaches. The said company shall not be bound to pay compensation in respect of any land so taken save in respect of actual improvements, or of land included within the limits of a grant which has been approved by Her Majesty's Secretary of State.

Company to have the powers of a Divisional Council.

3. For the purposes of construction, maintenance, and working of the said line of railway, the said company shall have all the rights and powers and be subject to all the duties and obligations which a Divisional Council by the law of the Colony of the Cape of Good Hope has and exercises or is subject to under the provisions of Sections 146 and 147 of the Act No. 40 of 1889, of the said Colony, for the purposes of Section 141 of the said Act: provided that the publication of notice in the "Gazette" shall be deemed to be sufficient notice to any proprietor who shall be absent or whose place of residence shall be unknown.

Sections 204 and 205 of the Divisional Council Act to apply.

4. The provisions of Sections 204 and 205 of the said Act No. 40 of 1889 shall, *mutatis mutandis*, apply in respect of the said line of railway as though the same were a public road, the said company being deemed and taken to be referred to in the said sections in place and stead of the Divisional Council.

Questions of compensation how determined.

5. The settlement of questions of compensation that may arise in consequence of any exercise by the said company of rights and powers, in accordance with this Proclamation, shall not delay such exercise, but such questions shall, as soon as may be, be determined, in the absence of agreement, in accordance with the provisions of the "Lands and Arbitration Clauses Act, 1882," of the said Colony.

Railway may be carried across roads.

6. At all places where the line of the said railway or any deviation thereof shall intersect or cross the line of any street or road it shall be lawful for the said company to make and carry the said railway across such street or road either by means of a level crossing or by means of a sufficient bridge or viaduct over or under the said street or road, and the said company shall be bound to make all such cuttings, embankments and approaches, with all such culverts and drains, and all such repairs as may be requisite to make good the street or road across, or over, or under the said railway, at gradients not exceeding one foot in twenty feet; and shall also be bound to

maintain and keep in repair all such crossings, bridges, viaducts, cuttings, embankments and approaches, culverts and drains as aforesaid.

New streets and roads may be carried across railway.

7. Nothing in this Proclamation contained shall prevent any streets or public roads hereafter to be constructed under lawful authority from being made and carried across the said line of railway at all requisite and convenient places; provided that as little damage and inconvenience as possible shall be caused to the said railway by such crossings.

Railway Acts of the Cape Colony to apply.

8. Upon completion of the said railway or any portion thereof the said company shall subject to the foregoing provisions of this Proclamation enjoy all the powers and privileges conferred upon and be subject to all the obligations and conditions affecting railway companies contained in the following Acts of the Cape Colony, viz., Act No. 19 of 1861, entitled "The Regulation of Railways Act, 1861," as amended by Act 19 of 1877, Act No. 31 of 1896, and Act No. 6 of 1905, save and except Section 29 of the said Act No. 19 of 1861: provided that the approval of the High Commissioner shall be necessary and sufficient for any by-laws made under the said Acts. 1, 2, 3.

Penalty for leaving gates open.

9. Any person who shall open or unfasten any gate abutting on the said line of railway except for the purpose of then and there passing through the same, with or without any vehicle or animals in his care, or of enabling some other person or persons so to pass, and any person who shall pass through any such gate and who shall not immediately after so passing through the same, with or without any vehicle or animals in his care, close and fasten such gate or cause the same to be closed and fastened, shall be guilty of an offence, and shall be liable on conviction to a penalty not exceeding twenty shillings or in default of payment thereof to imprisonment with or without hard labour for a period not exceeding fourteen days unless such fine be sooner paid.

Commencement of Proclamation.

10. This Proclamation shall take effect from the date of its publication in the *Gazette*.
