



ANNO SEPTIMO ET OCTAVO

VICTORIÆ REGINÆ.

No. 18.—1844.

By His Excellency GEORGE GREY Esquire Governor and Commander-in-Chief of Her Majesty's Province of South Australia and its Dependencies and Vice-Admiral of the same by and with the advice and consent of the Legislative Council.

AN ORDINANCE to amend "An Act for Making and Maintaining the Great Eastern Road."

WHEREAS an Act or Ordinance of the Governor, with the advice and consent of the Legislative Council of South Australia, was passed in the Fifth Year of Her Majesty's Reign, intituled, "An Act for Making and Maintaining the Great Eastern Road;" whereby the management of the said road was vested in certain Trustees with certain powers therein mentioned; and amongst other things with power to borrow and take up at interest on the credit of the tolls arising on the said road, such sums of money as they should from time to time think proper, and to mortgage the tolls as a security to any person who should advance money in manner therein provided; which moneys were to be applied in the first instance in payment to the Colonial Government of the whole charges and expenses incurred by them in making and forming

Preamble.

11/41

5 Vict., No. 4.

forming the road up to the period when the Trustees should relieve the Government of the charge of the road; and thereafter, in defraying the expenses of making and improving the road and other purposes connected therewith; and the remainder in keeping down the interest of the moneys which might be borrowed on the credit of the recited Ordinance; and in the next place, in amending and keeping in repair the road; and lastly, in repaying the principal money borrowed for the purposes of the Ordinance: And whereas the Trustees, in virtue of the said recited Ordinance, borrowed on mortgage certain moneys; and, after paying certain expenditure incurred by Government, and other outlays on account of the road, a deficiency arose in the funds of the Trust, whereby it became inadequate to the purposes of the Trust, or to meet the claims of the mortgage-holders, and at the request and with the united consent of the Trustees and their creditors the Colonial Government agreed to resume the road, and to admit the just debts as equivalent to money tendered in payment of the price of Waste Lands of the Crown purchased at the rate of One Pound per acre, in proportion to the amounts of such respective debts, under the land regulations then in force in the Province: And whereas, after examination and audit of the accounts of the said Trust, it has been made clearly to appear to the satisfaction of Government, that all outstanding claims against the Trust have been settled; except the holders of certain mortgages valued at or about the sum of Nine Hundred and Eighty-four Pounds, all of whom have discharged their claims, and delivered up their mortgages, or are in the course of doing so, on receipt of their respective Land Grants; and the affairs of the said Trust have thus been finally settled with the consent of all parties; and it has been found expedient, that Her Majesty's Colonial Government should resume the said road, with the powers necessary for carrying into execution the purposes of the said recited Act or Ordinance:

BE IT THEREFORE ENACTED BY HIS EXCELLENCY THE GOVERNOR of South Australia, with the advice and consent of the Legislative Council thereof: That from and after the passing hereof, the provisions of the before-recited Act or Ordinance in so far as the same relate to the appointment, powers, and duties of the Trustees therein mentioned, shall be and the same are hereby repealed, save only as respects all matters and things heretofore lawfully done in pursuance thereof.

Repeal of 5 Vict.
No. 4 in part.

Great Eastern Road
vested in Her Majesty.

II. And be it further enacted, that the right interest and property of and in the Great Eastern Road and the several lines thereof, as the same is now or may hereafter be constructed, and all the bridges

bridges, tunnels, tolls, toll-houses, weighing machines, and other erections and buildings, lamps, bars, toll-boards, direction-boards, posts, rails, fences, and other things which have been or shall be erected and provided in pursuance of the said Act or Ordinance, with the appurtenances thereof, and all materials, tools, and implements which have been or shall be so provided, shall be and the same are hereby vested in Her Majesty, her Heirs and Successors.

III. And be it enacted that the said road shall be, and the same is hereby placed under the direction and management of the Surveyor-General of the Province for the time being, or of such other officer or officers as the Governor from time to time may, by notice published in the Government Gazette, declare and appoint, which appointments His Excellency is hereby empowered to make, cancel, and vary as occasion may require: And such Surveyor-General or other officer or officers aforesaid, shall have, possess, and enjoy all such and the like powers and authority, and receive and enjoy the like immunities, advantages, and protection in the execution hereof, as by the said recited Act or Ordinance was given to and vested in the said Trustees, for making, amending, diverting, improving, and maintaining in repair the said road, levying and farming the tolls, removing tenants, taking materials, making drains, and generally all powers, privileges, and authority given to such Trustees, or to the major part at any meeting thereof, by the said Act or Ordinance, and necessary for putting the same and this Ordinance into execution: Provided always that nothing herein contained shall be construed to give to any such officer, power to borrow money on the credit of the tolls, or to mortgage the tolls in security of any advances.

Under management
of Surveyor-General
or other officer.

IV. And be it enacted that it shall be lawful for the Governor from time to time, as and when he shall think fit, to appoint such other proper persons as may be necessary to act as Surveyors, Treasurers, Collectors, Clerks or other necessary officers, for the due execution hereof, at such salaries as may be fitting, and from time to time to remove them or any of them, and to appoint others in their stead; provided that every such appointment shall be notified in the Government Gazette,

Governor may ap-
point officers.

V. Provided always, and be it enacted that the Surveyor-General or other officer or officers aforesaid, and all persons employed in the execution hereof, and of the said Act or Ordinance, shall be subject to the control of the Governor.

Subject to the con-
trol of the Governor.

VI. And be it enacted that Her Majesty's Attorney or Advocate-General

Advocate-General
may sue and be sued.

cate-General, or such other officer as the Governor from time to time may, in manner before mentioned, in that behalf appoint, may sue and be sued in all actions, suits, or proceedings, the cause whereof shall arise after the passing of this Ordinance, with the same powers and privileges as the said Trustees or any of their number might sue and be sued under the provisions of the said recited Act or Ordinance.

Moneys to be paid to
Colonial Treasurer
for uses hereof

Appropriation clause.

VII. And be it enacted that all moneys arising by receipt of the said tolls, and all fines, penalties, and forfeitures and sums of money whatever levied or recovered, in virtue hereof, and of the said Act or Ordinance, shall be paid to the Colonial Treasurer, on behalf of Her Majesty, her Heirs and Successors, to be appropriated in payment to the Colonial Government of all sums remaining due on account of the charges and expenses incurred by Government in making and forming the said road or any part thereof: and in defraying the expenses of making, amending, widening, diverting and improving the said road, and maintaining and extending the same, and carrying into effect the purposes of this Ordinance.

Limitation of actions.

VIII. And be it enacted, that no action or suit shall be commenced or prosecuted against any person for any thing done in pursuance of the said recited Ordinance, unless commenced within three months after the passing hereof; and no such action or suit shall be commenced or prosecuted against any person for any thing done in pursuance of this Ordinance, unless commenced within three months next after the alleged cause thereof shall have arisen; and the defendant in any such action or suit may plead the general issue, and at the trial thereof give this and the recited Ordinance, and the special matter in evidence; and if the thing complained of shall appear to have been done under the authority or in execution of this, or the recited Ordinance, or if any such action or suit shall be brought after the time limited for bringing the same; then the Jury shall find for the defendant, and if the plaintiff shall become non-suit, or discontinue his action, after the defendant shall have appeared, or have a verdict against him; or if upon demurrer judgment shall be given against the plaintiff, the defendant shall recover treble costs, and have the like remedy for recovery thereof as any defendant hath in any case by Law.

Provido saving crown
rights, &c.

IX. Provided always and be it enacted that nothing herein contained shall be deemed to affect or apply to any right, title or interest of Her Majesty, her Heirs and Successors, or of any body or bodies corporate or politic, or of any other person or persons

sons, excepting such as are mentioned herein, and those claiming by from through and under them.

X. And be it enacted that this Ordinance shall be deemed and taken to be a Public Act, and shall be judicially taken notice of, as such by all Judges, Justices and others, without being specially pleaded. Public Act.

G. GREY,
Governor and Commander-in-Chief.

*Passed the Legislative Council, this Seventh
day of September, 1844.*

W. L. O'HALLORAN,
Clerk of Council.