



ANNO QUADRAGESIMO SECUNDO ET QUADRAGESIMO
TERTIO

VICTORIÆ REGINÆ.

A.D. 1879.

No. 138.

An Act to vest the Property and control of Works constructed with Public Moneys for the Improvement of particular localities in the Commissioner of Crown Lands and Immigration, and for other purposes.

[Assented to, 27th August, 1879.]

WHEREAS sums of money have heretofore been and may hereafter be voted by Parliament for the construction of works for the improvement of particular localities without any Act having been passed authorising such works, and it is desirable to provide for vesting the property in and the control of such works in the Commissioner of Crown Lands and Immigration for the time being, and for other purposes—Be it therefore Enacted by the Governor-in-Chief of the Province of South Australia, with the advice and consent of the Legislative Council and House of Assembly of the said Province, in this present Parliament assembled, as follows:

Preamble.

1. This Act may be cited for all purposes as “The Local Improvements Act, 1879.”

Short title.

2. In the construction of this Act the words “The Commissioner” shall mean the Commissioner of Crown Lands and Immigration for the time being.

Interpretation clause.

3. In all cases where any sum of money shall have heretofore been, or shall hereafter be, voted by Parliament for the construction of works for the improvement of particular localities without any Act having been passed authorising such works, the Commissioner may

Commissioner may acquire land and materials.

may

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may, for the purposes of this Act, and under the name, style, or title of "Commissioner of Crown Lands," purchase, take, or acquire any lands or other hereditaments, goods, chattels, and things necessary for carrying out any such works, and may contract and agree for any such lands, hereditaments, goods, chattels, and things, and may become a party to any instrument giving effect to any such purchase, taking, or acquisition, or for the purchase, or construction of any such works, or the delivery, or removal of any materials, and may take security by way of bonds, or obligations, or otherwise, and by such name as aforesaid, may plead and be impleaded, defend, and be defended, answer, and be answered: Provided that at least one calendar month before any purchase, taking, or acquisition by the Commissioner of any lands or hereditaments under this section, a plan (with limits of deviation), showing the nature of the works intended to be executed and the lands intended to be thereby affected, shall be deposited in the office of the Surveyor-General, at Adelaide, and a copy of such plan shall be laid before Parliament one month previously to the vote authorising such works being submitted to the consideration of the House of Assembly; and a copy of such plan shall also be forwarded through the Post Office to the last known place of abode of all the owners and occupiers of any land proposed to be taken or acquired, or of lands adjoining, and also to the corporation of any corporate town or the district council of any district in which the land proposed to be taken is situate: Provided also that plans are not required to be deposited of works that have already been constructed, and the cost of which has been voted by Parliament.

Incorporation of
Lands Clauses Con-
solidation Act.

4. For the purpose of enabling the Commissioner to obtain any land, or any right or easement in or over any land which he may require for the construction or amendment of any such works "The Lands Clauses Consolidation Act" shall, subject to the provisions herein contained, be incorporated with this Act, and the provisions of the Lands Clauses Consolidation Act shall be applicable in the case of the purchase of a right or easement in or over any land, and for the purposes of this Act the expression "The promoters of the undertaking," whenever used in the "Lands Clauses Consolidation Act," shall mean "The Commissioner."

Vesting of property
in Commissioner.

5. All lands acquired before the passing of this Act for the purpose of constructing any such works, and the works thereon or hereafter to be erected, and all lands acquired by the Commissioner under the authority of this Act, and all works constructed in or upon any such land, shall vest in the Commissioner.

Commissioner may
sell lands acquired.

6. The Commissioner may sell and dispose of any land or property vested in him under the authority of this Act which it may appear to him may be properly sold or disposed of, and may transfer or convey the land or other property sold or disposed of unto the purchaser, or as he shall direct.

7. For

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7. For the purposes of this Act, and subject to the provisions herein contained, the Commissioner shall have the following powers, that is to say:—

He may enter upon any such lands, and take levels of the same, and set out such parts thereof as he shall think necessary, and dig and break up the soil of such lands, and trench and drain the same, and remove or use all earth, stones, mines, minerals, trees, or other things dug or gotten out of the same :

Power of Commissioner for construction of works.

He may from time to time make, maintain, and alter such works upon the lands authorised to be taken by him, and across all roads in the line of the said works as shewn in the said deposited plans, as he shall think proper for carrying out any such works :

He may from time to time enter upon any land adjacent to the lands required for the purpose of such works, and take therefrom any stone, timber, or other material which may be there, and may stack, store, keep, and remove, upon and from any such adjacent land all materials that may be necessary to be used in the construction of any such works.

8. After the completion of any such works the Commissioner may grant, demise, and assign all or any portion of the property vested in him unto any District Council or District Councils, Corporation or Corporations, for such estates or terms of years, and upon such terms and conditions as the Commissioner, may deem advisable.

Power to transfer works to Councils or Corporations.

9. The Commissioner may from time to time make, alter, and revoke such regulations as he may deem advisable for the maintenance and preservation of any such works, and in such regulations may prescribe any penalty not exceeding Fifty Pounds for any breach of any such regulation, and every such penalty may be recovered before any Special Magistrate or two or more Justices of the Peace for the said province in a summary way, by or in the name of the Commissioner or any person by him thereunto authorised.

Power to Commissioner to make regulations.

10. The proceedings before Justices shall be conducted as appointed by and shall be regulated under the Ordinance No. 6 of 1850, intituled "An Ordinance to facilitate the performance of the duties of Justices of the Peace out of Sessions with respect to summary convictions and orders," or of any Act hereafter to be in force relating to the duties of Justices of the Peace with respect to summary convictions and orders.

Application of No. 6 of 1850.

11. In every case of the adjudication of a fine or pecuniary penalty under this Act, and of the non-payment of such fine or pecuniary penalty, any Justice of the Peace may commit the offender or person making default in payment to any gaol in the said province for any time not exceeding three calendar months,

Non-payment of penalty.

the

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the imprisonment to cease on payment of the sum and costs due; but this section shall not affect any remedy for the recovery of any fine or pecuniary penalty under the said Ordinance No. 6 of 1850, or any other Ordinance or Act.

Appeal.

12. There shall be an appeal from any order of Justices of the Peace, made under the provisions hereinbefore contained, or from any order of Justices of the Peace dismissing any information laid under this Act, or from any conviction by Justices for any offence against this Act, which appeal shall be to the Local Court of Adelaide of Full Jurisdiction only, and the proceedings in such appeal shall be conducted in manner appointed by the said Ordinance No. 6 of 1850, for appeals to Local Courts, but the Local Court of Adelaide aforesaid may make such order as to payment of costs of appeal as such Court shall think fit, although such costs may exceed Ten Pounds.

Local Court of Adelaide may state a case for opinion of Supreme Court.

13. It shall be lawful for the Local Court of Adelaide, upon the hearing of any appeal under the last preceding section, to state one or more special case or cases for the opinion of the Supreme Court, and the Supreme Court shall hear and decide such special case or cases, according to the practice of the Supreme Court on special cases; and the Supreme Court shall make such order as to the costs of any such special case as to the said Court shall appear just; and any two or more Justices, or the Local Court of Adelaide, shall make an order in respect of the matters referred to the Supreme Court, in conformity with the certificate of the said Supreme Court, or of any Judge thereof, which order of the Justices of the Peace or Local Court shall be enforced in manner provided by this Act, for the enforcement of orders of Justices of the Peace, and save as herein provided, no order or proceeding of Justices, or of any Local Court made under the authority of this Act, shall be appealed against or removed by *certiorari* or otherwise into the Supreme Court of the said Province.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

WM. F. DRUMMOND JERVOIS, Governor.