



ANNO OCTAVO

GEORGII V REGIS.

A.D. 1917.

No. 1307.

An Act to provide for the Construction of a Railway from Long Plains to Red Hill, and for Broadening the Gauge of certain existing Railways, and for other purposes.

[Assented to, November 15th, 1917.]

BE it Enacted by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows :

1. This Act may be cited as the "North-Western Railways System Development Act, 1917." Short title.

2. The Acts mentioned in the Schedule, so far as they are severally applicable, but with the exceptions stated in the Schedule, are incorporated with this Act. Acts incorporated herewith.

Long Plains to Red Hill Railway.

3. (1) The South Australian Railways Commissioner (hereinafter called " the Commissioner ") may— Authority to construct railway.

- i. construct a railway (hereinafter called " the said railway ") from the terminus at Long Plains of the railway authorised by the Salisbury to Long Plains Railway Act, 1913, to Red Hill as the said railway is delineated in the plan deposited in the office of the Surveyor-General, in Adelaide, signed " J. C. B. Moncrieff, Chief Engineer for Railways," and dated the tenth day of September, nineteen hundred and seventeen, or as the said railway is delineated in any plans so deposited after the passing of this Act pursuant to any law for the time being in force as to the deposit of such plans ;
- ii. construct

North-Western Railways System Development Act.—1917.

ii. construct all proper works and conveniences connected with, or for the purposes of, the said railway or any part thereof, or of the said railway and any other railway or railways; and

iii. maintain the said railway and all works and conveniences hereinbefore mentioned.

(2) In case the Houses of Parliament are not sitting at the time when any plans and books of reference as to the railway to be constructed under the authority of this Act are deposited in the office of the Surveyor-General under section 9 of the Railways Clauses Act, 1876, the Commissioner may make deviations under the said section before causing copies of such plans and books of reference to be laid before Parliament, but such copies shall be laid before both Houses of Parliament within fourteen days after the next sittings of such Houses respectively.

No. 32 of 1876.

How work to be carried out.

4. (1) The Commissioner—

(a) shall call for tenders for the construction of the said railway to be sent in within such time, to such place, and to be upon and subject to such terms, conditions, and provisions as he deems advisable, and may accept or reject any tender; or

(b) if no tender is accepted under paragraph (a) hereof, may himself construct the said railway, and, if he thinks proper, may for such purpose contract by petty contracts or on piecework rates for the construction of any part or parts thereof.

Railway may be constructed in sections.

(2) Notwithstanding anything in this Act, the Commissioner may construct the said railway in sections, as he may find convenient, instead of as one work, and in that case subsection (1) hereof shall apply in respect of each such section.

(3) All payments in respect of any contract entered into by the Commissioner for the construction of the works shall be made in cash and not by inscribed stock, Treasury Bills, or any other form of government security.

Gauge and rails.

5. The gauge of the said railway shall be five feet three inches, and the rails to be used in the construction there of shall be of steel, and of the weight of not less than eighty pounds to the yard.

Fares, tolls, and charges.

6. The Commissioner may demand for the use of the said railway, and in respect thereof, and for the carriage of goods, stock, minerals, mails, parcels, and passengers thereon, and for the loading and unloading of goods, minerals, mails, and stock, such fares, tolls, charges, and rates as are from time to time fixed by the Commissioner, in manner prescribed by any Act or Acts under which the Commissioner may fix fares, tolls, charges, and rates in respect of the railways under his control.

7. All

North-Western Railways System Development Act.—1917.

7. All fares, tolls, rents, dues, charges, rates, and sums of money which are received under authority of this Act shall be paid, in such manner as is prescribed by the Governor, to the Treasurer of the said State for the public purposes of the said State.

Appropriation of fares, tolls, &c.

8. When any land is purchased or taken by the Commissioner for the purposes of this Act, or the Commissioner exercises, with respect to any land and for such purposes, the powers conferred by any of the Acts incorporated with this Act, or any land is alleged to be injuriously affected by the constructing of the said railway or any works or conveniences authorised by this Act, if the amount of compensation to be paid to any owner of such land is not determined by agreement in writing, signed by or on behalf of such owner and the Commissioner, within twenty-one days after the Commissioner has given notice to such owner, as required by section 18 of the Lands Clauses Consolidation Act, that he requires to purchase or take such land, or that he desires to have the compensation for the exercise of the said powers or for the injurious affection fixed, as the case may be, the amount of compensation shall be determined by arbitration in the following manner :—

Method of determining purchase-money and compensation for land taken.

No. 6 of 1847.

i. The Commissioner may give notice in writing to such owner of his intention to have the compensation settled by arbitration, and may, by the same or a subsequent notice in writing to such owner, nominate and appoint an arbitrator to act in the reference on behalf of the Commissioner :

Notice to arbitrate and appointment of arbitrator by Commissioner.

ii. Such owner may, within twenty-one days after the giving of such notice appointing an arbitrator, give notice in writing to the Commissioner agreeing that such arbitrator shall be sole arbitrator, or nominating and appointing another arbitrator to act in the reference on behalf of such owner :

Appointment of arbitrator by owner.

iii. Each such notice nominating and appointing an arbitrator, or agreeing to the appointment of a sole arbitrator, shall be deemed a submission to arbitration on the part of the party by whom the same is given ; and after the giving of any such notice neither party shall have power to revoke the appointment thereby made or such submission without the consent in writing of the other party, nor shall the death of either party operate as a revocation :

Notice of appointment deemed a submission.

iv. Unless such owner, within twenty-one days after the giving by the Commissioner as aforesaid of notice nominating and appointing an arbitrator, gives notice to the Commissioner as provided by paragraph ii. hereof, agreeing that such arbitrator shall be sole arbitrator or nominating and appointing another arbitrator, the Commissioner may appoint the arbitrator nominated

In default of appointment by owner, arbitrator appointed by Commissioner to act alone.

North-Western Railways System Development Act.—1917.

nominated and appointed by him to act on behalf of both parties; and such arbitrator shall proceed to hear and determine the matter and shall give his award determining the price and compensation (if any) to be paid:

Provisions as to umpire, vacancies, etc.

v. All the provisions of sections 26 to 35 inclusive of the Lands Clauses Consolidation Act shall, *mutatis mutandis*, apply with respect to the arbitration and the determination of the compensation:

Informality not to invalidate.

vi. No notice, appointment, or award made under this section shall be set aside or be invalid for irregularity or error in matter of form:

Award to be final.

vii. Every award under this section of arbitrators, or of a single arbitrator (in a case where it is agreed, as mentioned in paragraph ii. hereof, that an arbitrator shall be the sole arbitrator, or where a single arbitrator is empowered by this section to give an award), or of an umpire, shall be final: Provided always that where an arbitrator or umpire has misconducted himself the Supreme Court or a Judge thereof may remove him, and that where an arbitrator has misconducted himself, or an arbitration or award has been improperly procured, the said Court or a Judge thereof may set the award aside:

Effect of submission and award.

viii. A submission to arbitration under this section shall have the same effect as if it had been made an order of the Supreme Court; and an award under this section may, by leave of the Supreme Court or a Judge thereof, be enforced in the same manner as a judgment or order of the said Court to the same effect:

Meaning of "owner and "land."

ix. In this section—

(a) the word "owner" includes, with respect to any land, any person having any estate or interest (legal or equitable) in the land, or any easement, right, power, or privilege in, under, over, affecting, or in connection with the land, or by the Lands Clauses Consolidation Act enabled to sell and convey, transfer, release, assign, or otherwise assure such estate, interest, easement, right, power, or privilege; and

(b) the word "land" includes any estate or interest (legal or equitable) in land, and any easement, right, or privilege in, under, over, affecting, or in connection with land.

No. 6 of 1847.

Gauges of certain Railways may be Broadened.

Power to broaden gauges of railways in North-Western System.

9. (1) After the Commissioner has accepted a tender or tenders for the construction of the whole of the said railway, or has himself commenced

North-Western Railways System Development Act.—1917.

commenced to construct the said railway, the Commissioner may alter from three feet six inches to five feet three inches the gauge of the following existing lines of railway, namely:—

- i. the line of railway constructed between Hamley Bridge and Moonta pursuant to the Port Wakefield to Hoyle's Plains Tramway Act, 1866, the Port Wakefield and Kadina Railway Act, the Act No. 62 of 1877, being an Act to provide for the formation of a line of railway from Hamley Bridge to Balaklava, the Act No. 76 of 1877, being an Act to provide for the formation of a line of railway from Kadina to Wallaroo, and the Wallaroo to Moonta Railway Act, 1890 ;

No. 25 of 1866-7.
No. 9 of 1873.
No. 490 of 1890.
- ii. the line of railway constructed between Balaklava and Brinkworth pursuant to the Port Wakefield to Hoyle's Plains Tramway Act, 1866, the Port Wakefield and Hoyle's Plains Tramway Extension Act, and the Blyth to Gladstone Railway Act, 1891 ; and

No. 10 of 1873.
No. 522 of 1891.
- iii. the line of railway constructed between Kadina and Brinkworth pursuant to the Act No. 40 of 1876, being an Act to provide for the formation of a line of railway from Kadina to Barunga Gap, the Act No. 72 of 1877, being an Act to provide for the formation of a line of railway from Barunga Gap towards Black Point, and the Blyth to Gladstone Railway Act, 1891,

and for that purpose may take up and relay or reconstruct the said lines of railway and may make any and every alteration to and adjustment of the said lines of railway and any other line of railway under his control, and the works and conveniences connected with or for the purposes of any of the said lines of railway, which the Commissioner deems necessary or convenient for working the said first-mentioned lines of railway as altered pursuant to this section in conjunction with other lines of railway under his control.

(2) The rails to be used in relaying the said lines of railway pursuant to subsection (1) hereof shall be of steel and of the weight of not less than sixty pounds to the yard in the case of the lines of railway referred to in subdivisions i. and ii. of the said subsection (1), and of the weight of not less than forty pounds to the yard in the case of the line of railway referred to in subdivision iii. of the said subsection (1).

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

H. L. GALWAY, Governor.

North-Western Railways System Development Act.—1917.

THE SCHEDULE

Sec. 2.

Ordinance No. 6 of 1847.—The Lands Clauses Consolidation Act, except sections 9, 12 to 17 inclusive, 21 to 25 inclusive, 38 to 62 inclusive, 64 to 68 inclusive, 110, 114 to 120 inclusive, 136, and 137.

Act No. 26 of 1855-6, being an Act to amend the Land Clauses Consolidation Act, except sections 1, 4, and 6.

Act No. 202 of 1881.—The Lands Clauses Consolidation Amendment Act, 1881, except sections 5 to 11 inclusive.

Act No. 1035 of 1911.—The Lands Clauses Consolidation Further Amendment Act, 1911.

Act No. 1163 of 1914.—The Lands Clauses Consolidation Further Amendment Act, 1914.

Ordinance No. 7 of 1847.—The Railways Clauses Consolidation Act.

Act No. 6 of 1858, being an Act to amend the Railways Clauses Consolidation Act.

Act No. 32 of 1876.—The Railways Clauses Act, 1876.

Act No. 414 of 1887.—The South Australian Railways Commissioners Act, 1887.

Act No. 512 of 1891.—The South Australian Railways Commissioners Act Amendment Act, 1891.

Act No. 612 of 1894.—The South Australian Railways Commissioners Act Amendment Act, 1894.

Act No. 912 of 1906.—The South Australian Railways Commissioners Further Amendment Act, 1906.

Act No. 988 of 1909.—The South Australian Railways Commissioners Act Amendment Act, 1909.

Act No. 1144 of 1913.—The South Australian Railways Commissioners Act Amendment Act, 1913.