



ANNO VICESIMO NONO

# VICTORIÆ REGINÆ.

A.D. 1865-6.

---

No. 15.

*An Act to amend An Act No. 17 of 1852, "For the making and improving of Roads in South Australia," and for other purposes.*

[Assented to, 16th March, 1866.]

**W**HEREAS by An Act, No. 17 of 1852, "For the making and improving of Roads in South Australia," it is enacted that the Central Board of Main Roads thereafter appointed should be the Commissioners for the care, control, and management of Main Roads, and by the sixth section of the said Act it is further enacted, that the said Central Board of Main Roads should cause to be deposited in the office of the Surveyor-General survey maps and plans of all Main Roads not theretofore deposited, describing the course and bearing and the admeasurement of the same, and when and so often as such survey maps and plans were deposited should cause notice thereof to be published by advertisement in the *South Australian Government Gazette*, setting forth such particulars as might be sufficient generally to describe such roads, and referring to the survey maps and plans deposited as aforesaid: And whereas the said Central Board of Main Roads has from time to time used as Main Roads certain roads, plans of which have not been deposited and which have not been duly gazetted as prescribed by the said section; and has also from time to time made orders for closing portions of such roads so used as aforesaid, and for the sale or exchange of the portions of such roads so closed; and land grants or certificates of title have from time to time been issued in pursuance of such orders for the portions of such roads so ordered to be sold or exchanged as aforesaid: And whereas doubts have arisen as to the validity of such orders, and of the land grants, and certificates of title issued in pursuance thereof in consequence of the **non-compliance**

P

*The Roads Act.—1865-6.*

non-compliance of the said Central Board of Main Roads with the provisions of the said sixth section of the said Act No. 17 of 1852: And whereas it is expedient to amend the said Act No. 17 of 1852, by providing for the Proclamation of Road Districts, and the appointment of Local Boards of Main Roads for the care, control, and management of all Main Roads within the limits to be defined in the Proclamation constituting such Road Districts; and also by repealing the said sixth Section thereof, and making other provisions in lieu thereof: And it is also expedient to remove the doubts before mentioned, and to validate all such orders, land grants, and certificates of title as aforesaid—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:

- Short title. 1. This Act may be cited as "The Roads Act, 1865-6."
- Repeal. 2. Section No. 6 of the Act No. 17 of 1852, intituled "An Act for the making and improving of roads in South Australia," is hereby repealed, save as far as may be necessary for supporting any proceeding had or taken thereunder before the passing of this Act.
- Incorporation. 3. The said Act, No. 17 of 1852, and "The Roads Amendment Act, 1863," shall, save in so far as the same is hereby repealed, be read and construed herewith, as forming one Act.
- Construction of terms. 4. In the construction of the said Acts, No. 17 of 1852, the said "Roads Amendment Act, 1863," and this Act, the word "Commissioners" shall, in addition to the meaning attached to it by the said Acts, No. 17 of 1852, and the "Roads Amendment Act, 1863," be taken to mean and include all Local Boards of Main Roads, to be appointed as hereinafter mentioned.
- Governor may proclaim road districts. 5. The Governor may, from time to time, with the advice of the Executive Council, by Proclamation in the *Government Gazette*, declare and define one or more road districts, not being less than one hundred and twenty miles distant from the City of Adelaide; and from and after a date, to be fixed in such Proclamation, all the powers, authorities, and duties of the Central Board of Main Roads, in reference to all main roads within the limits of such road district, shall cease.
- District Councils, within limits of Road District, not to vote at election of Central Board of Main Roads. 6. From and after the Proclamation of any Road District, the District Councils within the limits thereof shall not be entitled to vote at the election of any member for the Central Board of Main Roads, nor shall the Chairman of any such District Council be entitled to attend *ex officio* at the meetings of the said Central Board of Main Roads.
- Governor may appoint Local Board of Main Roads. 7. At any time after the Proclamation of any Road District as aforesaid,

*The Roads Act.—1865-6.*

aforesaid, the Governor with the advice aforesaid, may appoint a Local Board of Main Roads, which shall consist of not more than five members nor less than three members, and the Governor from time to time may remove any member and appoint any person to fill any vacancy that may occur in such Board; and the said members and all succeeding members whilst so continuing shall be and they are hereby incorporated by the name of "The Local Board of Main Roads for the District of \_\_\_\_\_," with the addition of the distinctive name appointed in the Proclamation declaring such district, and the members of such board present within five minutes of the time appointed for any meeting, and remaining until the business is concluded shall be paid the sum of one guinea for every such attendance: Provided that such payment shall not be made for more than one meeting in each month.

8. At all meetings of any Local Board of Main Roads, every Chairman of a District Council within the limits of its Road District shall, *ex officio*, be entitled to attend and be heard and take part in all proceedings, except that they shall as such have no right of voting.

Chairmen of District Councils may attend but not vote.

9. The following causes shall cause a vacancy in any Local Board of Main Roads:

What to occasion vacancies.

Death or Lunacy:

Non-attendance at the meetings of the Board for a period of three consecutive months:

Disqualification by accepting or continuing to hold any office or place of profit under this Act, or the said Acts, No. 17 of 1852, or "The Roads Amendment Act, 1863," other than as a member of the Board, or being concerned or participating in any contract, or in the profit thereof, or of any work to be done under the authority of the same: Provided that no member shall be deemed to be disqualified by being a shareholder or member of any Joint Stock Company incorporated by Royal Charter, or established by any Act of Parliament, or any Act or Ordinance of the Legislature, by reason of any contract entered into between such Company and the Board; but no member, being a member or shareholder of such company, shall vote on any question relating to the execution of this Act by which such company is interested:

Disqualification by being adjudicated insolvent; or being convicted of any felony; or of any misdemeanor for which the member so convicted shall be sentenced to imprisonment, otherwise than for the non-payment of any fine:

Resignation, by notice in writing delivered to the Chairman or Clerk of the Board by the member resigning:

Refusal to make or sign the declaration hereinafter prescribed:  
And

*The Roads Act.—1865-6.*

And when any vacancy shall occur in such Board the Chairman shall cause a notice thereof in writing to be forwarded to the Commissioner of Public Works for transmission to the Governor, who shall thereupon appoint so many persons as may be necessary to fill such vacancy.

Declaration to be made by members before acting.

10. No person shall be capable of acting as member of any Local Board of Main Roads, except in administering the declaration hereinafter mentioned, until he shall have made and signed, before one of the members, a declaration to the following effect:—

“ I, \_\_\_\_\_, do hereby declare that I will faithfully and impartially, according to the best of my skill and judgment, execute all the powers and authorities reposed in me as a member of the Local Board of Main Roads for the District of \_\_\_\_\_, by virtue of the Roads Act, 1865-6, and also that I am not disqualified as a member in terms of the same Act.”

False declaration misdemeanor.

11. Any person who shall falsely or corruptly make and subscribe the declaration aforesaid, knowing the same to be untrue in any material particular, shall be deemed guilty of misdemeanor.

Annual and ordinary meetings.

12. Every Local Board of Main Roads shall, on the last Monday in January in each year, hold an annual meeting, at a place to be by them appointed, and they shall also hold one meeting at least in each month for the transaction of general business, and the said meetings shall be held at such places and on such day or days in each month as the said Board shall from time to time appoint, and when any such appointment is made, the clerk shall give notice thereof to each member of the said Board, and they shall afterwards, until the time or place of such meeting is changed, and notice of such change duly given, attend such meetings without notice.

Special meetings may be called.

13. The chairman or any two members of any Local Board of Main Roads may, at any time, by writing under their hand, require the clerk to convene and call a special meeting of such Board, and shall therein state the business proposed to be transacted at such meeting; and thereupon such clerk shall convene such meeting by forwarding, through the General Post Office, to the members of such Board, notice of the day and hour thereof, and stating the business for which such meeting is called, at least four days before the time appointed, and at such meeting no other business shall be transacted than that stated in such notice.

Election of Chairman of Local Board.

14. At the first meeting of every Local Board of Main Roads after the appointment as aforesaid, and at every annual meeting thereafter, the members of such Local Board, then present, shall elect a Chairman, who shall continue in office till the ensuing annual meeting, and in case such Chairman shall die, or resign, or cease to be a member of such Board, or otherwise become disqualified to

act

*The Roads Act.—1865-6.*

act as such, the members of such Board, at their next ordinary meeting shall appoint another Chairman, and the Chairman so appointed shall continue in office so long as the person in whose place he was appointed would have been entitled to continue Chairman, and if at any meeting of the said Board the Chairman be not present, one of the members present shall be elected Chairman of such meeting by the majority of the votes of the members present, at such meeting: Provided, that if at any meeting, whether annual or otherwise, there be an equality of votes in the election of the Chairman, it shall be decided by lot which of the members, having an equal number of votes, shall be the Chairman.

15. All meetings of every Local Board of Main Roads shall be open to the public, and the questions there considered shall be decided by the votes of the majority of the members present, but if there shall be an equal division of votes upon any question the Chairman shall have a casting vote, in addition to his own vote as a member.

Meeting open to public.  
Manner of voting.

16. All powers vested in the Local Boards of Main Roads under this Act may be exercised by any three or more members of any such Board present at any meeting holden in pursuance of this Act; and no business shall be transacted at any meeting of any such Board, unless the said number of members be present.

Quorum.

17. No proceeding of any Local Board of Main Roads shall be invalidated or rendered illegal in consequence of there being any vacancy in such Board at the time of such proceeding.

Acts of Local Boards not to be invalidated by means of vacancies.

18. All proceedings of any Local Board of Main Roads, or of any person acting under the authority of the same, shall be valid and sufficient, notwithstanding it be afterwards discovered that there was some defect in the appointment or election of any member of any such Board or person acting as aforesaid.

Informalities in appointment of Local Boards not to invalidate proceedings.

19. All the powers conferred upon the Central Board of Main Roads, by the said Act No. 17 of 1852, for making and enforcing by-laws, and for the appointment of officers, and all duties imposed upon such Central Board of Main Roads as to entering proceedings in books and the inspection of the same, taking security from officers, and forwarding accounts to the Commissioner of Public Works, shall, within the limits of their respective districts, be conferred and imposed upon the Local Boards of Main Roads to be appointed as hereinbefore mentioned: Provided that the Governor may, by Proclamation in the *Government Gazette*, further define and limit, the powers of or impose further duties upon such Local Boards of Main Roads in respect of matters not provided for by this Act, and such regulations from time to time may repeal, alter, or vary.

Certain powers vested in Central Board of Main Roads conferred upon Local Boards within the limits of their districts.

20. From and after the appointment of any Local Board of Main Roads as aforesaid, all the powers and authorities by the said Acts,

All powers of Central Board conferred

*The Roads Act.—1865-6.*

on Local Boards  
within limits of Road  
District.

No. 17 of 1852, and the "Roads Amendment Act, 1863," conferred on the Central Board of Main Roads, within the limits of such Road District, be conferred upon and exercised by such Local Boards of Main Roads; and they shall, within such limits as aforesaid, perform all the duties by the said Acts, or either, prescribed to be performed by the said Central Board of Main Roads; and from and after their appointment as aforesaid all main roads within the limits of any such Road District, with the public works connected therewith, and the right, property, and interest in all lamps, direction boards, mile-stones, posts, rails, walls, fences, and other erections and buildings, with the appurtenances respectively thereunto belonging, and the materials of which the same shall consist, and all materials, tools, and implements which shall be provided for such Main Roads, or portions of Main Roads, and the timber growing thereon, shall be vested in and under the care, control, and management of such Local Board of Main Roads.

Main roads in Road  
District vested in  
Board of Main Roads.

In case no Local Board  
appointed for any  
Road District, Com-  
missioner of Public  
Works to act till ap-  
pointment of Board.

21. After the date to be fixed by the Proclamation declaring any Road District as aforesaid, if no Local Board of Main Roads has been appointed for such Road District, under the powers in that behalf hereinbefore contained; and until such appointment is made, the Commissioner of Public Works, acting as Commissioner of Roads, shall have and exercise, in reference to such Road District, all the powers and authorities, and shall perform all the duties which might have been had, exercised, or performed by the Local Board of Main Roads for the said district, had such a Board been duly appointed.

Central Board of  
Main Roads and Local  
Boards of Main Roads  
may sell and exchange  
certain District  
Roads.

22. Until a map or plan of any Main Road or portion of a Main Road shall have been deposited in the office of the Surveyor-General as hereinafter mentioned, the Central Board of Main Roads, as to all portions of the said Province not included in any Road District, and all Local Boards of Main Roads within their respective districts, shall have full power and authority in the construction or definition of any Main Road or portion of a Main Road to deviate from any track or road theretofore used as a Main Road, and may make any order for closing, or for closing and selling, or closing and exchanging any District Road, or portion of a District Road for which in their opinion the Main Road so constituted or defined is a substitute, and which it is therefore expedient to close.

Central Board of Main  
Roads and Local  
Boards of Main Roads  
to cause maps of Main  
Roads to be deposited  
in office of Surveyor-  
General.

23. Whenever the Central Board of Main Roads, or any Local Board of Main Roads shall have finally determined on the exact course and bearing of any Main Road, or portion of a Main Road, such Central Board of Main Roads or Local Board of Main Roads respectively shall cause to be deposited in the office of the Surveyor-General, survey maps and plans describing the course and bearings and admeasurements of the same, and when and so often as any such survey maps and plans are deposited, shall cause notice thereof to be published by advertisement in the *Government Gazette*, setting forth such particulars as may be sufficient generally to describe such road, or portion

*The Roads Act.—1865-6.*

of a road, and referring to the survey map and plan deposited as aforesaid; and such maps and plans shall be open to public inspection, and the same, or copies thereof, certified under the hand of the Surveyor-General, shall be evidence in all legal proceedings: Provided that it shall not be necessary for the said Boards to cause such maps and plans to be deposited in reference to any roads, or portions of roads, of which maps and plans shall heretofore have been deposited under the provisions of the said sixth section of said Act No. 17 of 1852, and such maps and plans, so heretofore deposited, shall have the same force and effect as if the same had been deposited under the provisions hereof.

Proviso.

24. All orders for closing, or for closing and selling, or closing and exchanging any road or portion of a road heretofore made by the Central Board of Main Roads, and all land grants or certificates of title granted or issued in pursuance thereof, shall be as valid and effectual for all purposes whatever, as if a map or plan of the road or portion of a road so ordered to be closed, or ordered to be closed and sold, or closed and exchanged, had been duly deposited, and notice thereof had been duly published in manner prescribed in the said sixth section of the said Act No. 17 of 1852, "For the making and improving of Roads in South Australia:" Provided that nothing in this clause contained shall extend to any case in which a question or dispute has actually arisen concerning the validity of any such order.

Orders for closing roads heretofore made by Central Board of Main Roads to be valid, although same not gazetted as Main Roads.

In the name and on behalf of the Queen I hereby assent to this Act.

D. DALY, Governor.