



ANNO SECUNDO

GEORGII V REGIS.

A.D. 1911.

No. 1051.

An Act to authorise the altering of the Position of the Terminus at Port Adelaide, and the Route, of the Railway constructed under the "Dry Creek and Port Adelaide Railway Act, 1866," and for other purposes.

[Assented to, December 7th, 1911.]

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

1. (1) This Act may be cited alone as "The Dry Creek and Port Adelaide Railway Deviation Act, 1911." Short title.

(2) The "Dry Creek and Port Adelaide Railway Act, 1866" No. 15 of 1866-7. (hereinafter called "the principal Act") and this Act may be cited together as "The Dry Creek and Port Adelaide Railway Acts, 1866 and 1911."

2. The Acts mentioned in the Schedule to this Act, and all Acts amending the said Acts or any of them, or substituted for the said Acts or any of them, so far as applicable to the purposes of this Act and not inconsistent with this Act, are or shall be incorporated with this Act. Incorporation with other Acts.

3. In this Act—

Interpretation.

"Commissioner" means the South Australian Railways Commissioner:

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“The plan” means the plan deposited in the office of the Surveyor-General, at Adelaide, signed “Walter Rutt, Chief Engineer for Railways,” and dated the twenty-fifth day of October, one thousand nine hundred and eleven:

“The said railway” means the railway constructed under the principal Act.

Authority to alter terminus and route at Port Adelaide.

4. The Commissioner may alter the position of the terminus at Port Adelaide of the railway constructed under the principal Act and the route of the said railway, in manner shown on the plan, and for that purpose, and for the purposes of working and maintaining the said railway as altered pursuant to this Act, may construct and maintain—

- (a) A line of railway from a point at or near the point shown on the plan and thereon marked “C” to a point at or near the point shown on the plan and thereon marked “D,” as the said line of railway is delineated in the plan, or as the said line of railway is delineated in any plans after the passing of this Act deposited in the office of the Surveyor-General, pursuant to any law for the time being in force as to the deposit of such plans; and
- (b) All proper works and conveniences connected with or for the purposes of the said railway as altered pursuant to this Act and any other railway, or of either of them:

Provided that in case the Houses of Parliament are not sitting at the time when any plans and books of reference 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.

New line to be regarded as part of the railway.

Cf. Harbor, &c., Extension Act, 1910, s. 6 (2).

Power to discontinue old route and dispose of materials thereof.

Cf. Port Adelaide, etc., Additional R. Act, 1908, s. 5.

5. When the said railway is altered pursuant to this Act the new route and terminus thereof shall be regarded as part of the railway authorised by the principal Act.

6. When the said railway is altered pursuant to this Act, or for the purpose of carrying out the alterations authorised by the Act, the Commissioner may—

- (a) Discontinue the working of the said railway from a point at or near the point shown on the plan, and thereon marked “A,” to a point at or near the point shown on the plan, and thereon marked “B”; and
- (b) Take up and remove the part of the said railway the working of which is so discontinued or to be discontinued; and
- (c) Use the materials so taken up as he deems expedient, or sell or otherwise dispose of such materials, or any of them, as he deems proper.

7. Notwithstanding

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7. Notwithstanding anything in any of the Acts incorporated with this Act, whenever the Commissioner desires to purchase or take any land for the purposes of this Act, and the amount of compensation to be paid by the Commissioner to any owner thereof 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, the amount of such compensation shall be determined 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:
- 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:
- 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 of the other party, nor shall the death of either party operate as a revocation:
- 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 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 compensation to be paid:
- v. All the provisions of sections 26 to 35 inclusive of "The Lands Clauses Consolidation Act" shall, *mutatis mutandis*, apply with respect to the determination of the compensation:
- 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:

vii. Every

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- 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 Court may remove him, and that where an arbitrator has misconducted himself, or an arbitration or award has been improperly procured, the Court may set the award aside. "Court" in this paragraph means the Supreme Court or a Judge thereof:
- 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 be enforced in the same manner as a judgment or order of the said Court to the same effect:
- No. 6 of 1847. ix. The provisions of sections 19 and 20 of "The Lands Clauses Consolidation Act" as to the service of notices shall apply to notices under this section:
- x. In this section the word "owner" includes any person having any estate or interest in the land in question, or by "The Lands Clauses Consolidation Act" enabled to sell and convey or transfer or release the same, and the word "land" includes any estate or interest in the land in question:
- No. 202 of 1881. xi. Sections 22 to 25 inclusive, sections 38 to 62 inclusive, and sections 64 to 68 inclusive of "The Lands Clauses Consolidation Act," section 6 of the Act No. 26 of 1855-6, being an Act to amend the "Lands Clauses Consolidation Act," and sections 5 to 11 inclusive of the "Lands Clauses Consolidation Amendment Act, 1881," shall not apply with respect to the determination of the said compensation.

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

DAY H. BOSANQUET, Governor.

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THE SCHEDULE.

Section 2.

Ordinance No. 6 of 1847.—“The Lands Clauses Consolidation Act.”

Act No. 26 of 1855-6, being an Act to amend “The Lands Clauses Consolidation Act.”

Act No. 202 of 1881.—“The Lands Clauses Consolidation Amendment Act, 1881.”

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. 15 of 1866-7.—The “Dry Creek and Port Adelaide Railway Act, 1866.”