



ANNO SECUNDO

GEORGII V REGIS.

A.D. 1911.

No. 1067.

An Act to authorise the Constituting of Railway Areas and the Construction of Railways therein, to provide for the Maintenance, Management, and Cost of such Railways, and for other purposes.

[Assented to, January 4th, 1912.]

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

PART I.

PART I.

PRELIMINARY.

1. This Act may be cited as "The District Railways Act, 1911." Short title.
2. The Acts mentioned in the First Schedule, so far as the same are severally applicable, but with the exceptions stated in the said Schedule, are incorporated with this Act. Incorporation with other Acts.
3. In this Act, except where inconsistent with the context or some other meaning is clearly intended,— Interpretation.
 - "Application" means an application for the constituting of a Railway Area under this Act:
 - "Authorised railway" means a railway authorised by the Minister under this Act:
 - "Constituent council" means the council representing a constituent district:
 - "Constituent district" means a district the whole or part of which is within a Railway Area:
 - "Commissioner" means the South Australian Railways Commissioner: "Council"

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“Council” means a District Council or Municipal Council:

“District” means a district as defined by “The District Councils Act,” or a Municipality:

“Engineer” means the Engineer of Roads and Bridges:

“Gazette” means the *South Australian Government Gazette*:

“Justice” means Justice of the Peace for the said State:

“Land” does not include unleased Crown lands, unleased lands belonging to the Crown, or lands dedicated or reserved for any public purpose and not let for any purpose other than a public purpose:

“Landholder” means the owner of any freehold estate in land, the holder of land under agreement with the Crown for the sale of such land upon credit, or the lessee of land held under lease from the Crown:

“Minister” means the Minister of the Crown to whom for the time being the administration of this Act is committed by the Governor:

“Municipal Council” means the Mayor, Aldermen (if any), and Councillors of a Municipal Corporation or a quorum thereof, and the definition of “Municipal Council” in “The Municipal Corporations Act, 1890,” shall not apply to this Act:

No. 497 of 1890.

“Railway” means a railway, mono-railway, or tramway, whether the motive power to be used in connection therewith is steam, electricity, or horse-power, or any other means whatsoever:

“Ratepayer” means ratepayer as defined by “The District Councils Act” or “The Municipal Corporations Act”:

“Rating authority” means the person or persons appointed to declare and levy railway rates in respect of an authorised railway:

“Regulation” means regulation made under this Act:

“Special fund” means a fund constituted under the provisions of section 37:

No. 419 of 1887.

“The District Councils Act” means and includes “The District Councils Act, 1887,” and the Acts amending that Act, or any Act substituted for that Act and any Acts amending such substituted Act:

No. 497 of 1890.

“The Municipal Corporations Act” means and includes “The Municipal Corporations Act, 1890,” and the Acts amending that Act, or any Act substituted for that Act and any Acts amending such substituted Act:

“Unimproved value” means unimproved value as defined by section 13 of “The Taxation Act Amendment Act, 1908”:

No. 969 of 1908.

“Year” means a year ending on the 30th day of June.

4. This

*The District Railways Act.—1911.***4. This Act is divided into Parts as follows:—****PART I.****Arrangement of Act.****PART I.**—Preliminary.**PART II.**—The Railway Area.**PART III.**—The Poll of Ratepayers.**PART IV.**—The Construction and Management of an Authorised Railway.**PART V.**—Financial Provisions—**DIVISION I.**—Cost of Railway:**DIVISION II.**—Railway Fund and Accounts:**DIVISION III.**—Valuation of Lands for Rating Purposes:**DIVISION IV.**—Railway Rates.**PART VI.**—Miscellaneous.**PART II.****PART II.****THE RAILWAY AREA.**

5. A Railway Area under this Act may comprise the whole or any part or parts of any district or districts, and may also comprise any locality or localities not within any district.

What localities may be Railway Areas.

6. Any number of ratepayers of any district, not being less than fifty, may by petition request the Council representing such district to apply to the Minister for the constitution of a Railway Area under this Act.

Ratepayers may present a petition to the Council.

Queensland Local Authorities Act, 1902, s. 286.

7. Such petition shall be in the form of the Second Schedule, or in a form to the like effect, and shall contain the following particulars:

Form of petition. Cf. *ibid.*, s. 287.

- (a) The name of the proposed railway;
- (b) The boundaries of the proposed Railway Area, which need not be limited to the district of the petitioning ratepayers;
- (c) Full particulars of the proposed railway, including the route, gauge (except in the case of a mono-railway), motive power, mode of construction, and any other particulars prescribed by regulation;
- (d) The proposed constitution of the rating authority;
- (e) An estimate of the cost of the proposed railway;
- (f) An estimate of the net revenue that may reasonably be expected to be yielded by the proposed railway.

8. (1) Every

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Verification of
petition.

Cf. S.E. Drainage
Amendment Act,
1908, s. 50.

Cf. Queensland Act,
s. 287.

Application by
Council to Minister.

Minister to refer
application to Com-
missioner, who shall
furnish report.

Cf. S.E. Drainage
Act, 1908, s. 51.

Queensland Act,
s. 288.

Minister may amend
application.

Cf. Queensland Act,
s. 294 (ii).

8. (1) Every signature to the petition shall be witnessed by some person, who shall make a declaration before a Justice of the Peace in the form at the end of the Second Schedule.

(2) Any person wilfully making any false statement in such declaration shall be guilty of a misdemeanor, and shall be liable on conviction to imprisonment with hard labor for any term not exceeding two years.

(3) No petition unaccompanied by such declaration shall be received by a Council.

9. (1) Every Council to which such a petition is presented shall, within thirty days after the presentation thereof, apply to the Minister to constitute the Railway Area in terms of the petition.

(2) Any Council, without the presentation of such a petition, may at any time apply to the Minister to constitute a Railway Area, and such Area need not be limited to the district of such Council.

(3) The application shall be in the form in the Third Schedule, or in a form to the like effect, and shall contain the particulars required by section 7.

10. (1) The Minister shall refer any application to the Commissioner, who shall, as soon as practicable, furnish the Minister with a preliminary report, certifying—

(a) Whether or not he recommends that the proposed Railway Area be constituted;

(b) What lands will, in his opinion, be benefited by the proposed railway;

(c) His estimate of the cost of constructing the proposed railway; and

(d) His estimate of the net revenue that may reasonably be expected to be yielded by the proposed railway.

(2) If the Commissioner considers that the particulars contained in the application are insufficient for the purpose of preparing his preliminary report, he may report to the Minister accordingly. The Minister may call upon the applying Council to furnish such (if any) further particulars as he deems necessary; and in that case the Commissioner need not furnish a preliminary report until such particulars have been furnished.

(3) If the Commissioner by his preliminary report recommends that the proposed Railway Area be constituted, he shall prepare and forward to the Minister, with such preliminary report, a preliminary plan, showing the centre line of the proposed railway and limits of deviation.

11. The Minister may, at any time before the publication referred to in section 12, make such amendments to the application as he thinks proper. All amendments so made shall be incorporated in and form part of the application as if such amendments had been originally included therein.

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12. After receiving the preliminary report of the Commissioner, the Minister shall, if the Minister approves of the application, cause to be published in the *Gazette* a notice in the form in the Fourth Schedule, or in a form to the like effect. Such notice shall state—

- (a) The Minister's approval of the application ;
- (b) The name of the proposed railway ;
- (c) The boundaries of the Railway Area, which may be the same as the proposed Area set forth in the application, or may embrace localities not included therein or exclude localities so included ;
- (d) The names of the constituent Councils ; and
- (e) Who or what shall be the rating authority, and any necessary provisions as to the constitution of such authority.

Minister's approval to be published in *Gazette*.

Cf. S.E. Drainage Act, 1908, s. 52.
Queensland Act, ss. 288 and 294 (i).

13. Upon the publication as aforesaid of such notice, the railway referred to therein shall, subject to the provisions of section 16 and of Part III. be deemed to be authorised, and the Railway Area therein defined shall be constituted, and such notice shall be conclusive as to the matters stated therein.

Upon publication railway deemed to be authorised.

14. After the publication of such notice, the Minister shall cause to be forwarded to every constituent Council copies of—

Copy of declaration to be forwarded to constituent councils.

- (a) The Commissioner's preliminary report ;
- (b) The preliminary plan of the proposed railway, which need not be the same as the preliminary plan accompanying the Commissioner's preliminary report ; and
- (c) Such notice.

15. Upon receipt of such copies by any constituent Council the same shall be deposited in the office of such Council and shall be open to inspection by the ratepayers of the district.

Copy to be deposited in office.

Cf. Queensland Act, s. 288.

16. (1) Notwithstanding anything in this Act, unless the proposed railway is to be a mono-railway worked by animal power, the railway shall not be deemed to be authorised until, after the publication of the notice under section 12—

Railway, unless a mono-railway, not authorised until approved by Parliament.

- (a) The Minister has laid on the table of both Houses of Parliament copies of the documents mentioned in section 14 and a statement of the particulars (except the route) of the proposed railway as set forth in the application under section 9, and
 - (b) A resolution has been passed by both Houses of Parliament approving of the same being constructed.
- (2) After the passing of such resolution by both Houses a notice of the passing thereof shall be published in the *Gazette*.

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THE POLL OF RATEPAYERS.

Twenty ratepayers in a constituent district may object to railway and demand a poll.

Cf. Queensland Act, s. 289.

Form of petition.

17. At any time within thirty days after the publication of a notice under section 12, if the proposed railway is to be a mono-railway worked by animal power, or of a notice under section 16 in any other case, any twenty ratepayers of any constituent district who are assessed in respect of land within the Railway Area, may, by petition to the Council representing such district, object to the construction of the proposed railway, and require that the question be submitted to a vote of the ratepayers in the Railway Area.

Form of petition.

18. Such petition shall be in the form in the Fifth Schedule, or in a form to the like effect, and the provisions contained in section 8 of this Act, *mutatis mutandis*, shall apply to such petition and the declaration verifying the signatures thereto.

Other constituent councils to be notified.

19. Within fourteen days after the receipt of such petition the Council to which the same is presented shall serve the other (if any other) constituent Councils with notice thereof, together with a certificate signed by the Town Clerk or District Clerk, as the case may be, of the presentation of such petition. Such notice and certificate shall be in the form in the Sixth Schedule, or in a form to the like effect.

Constituent councils to cause poll to be taken.

20. When any such petition has been presented, the constituent Council, or every constituent Council, if more than one, shall within ninety days of the publication of the notice under section 12, if the proposed railway is to be a mono-railway worked by animal power, or if the notice under section 16 in any other case, cause a poll of ratepayers of its district, who are assessed in respect of land within the Railway Area, to be taken on the question whether or not the railway shall be constructed: Provided that any such poll shall not be invalid merely because it was taken after the expiration of the said ninety days.

Provision for poll.
Cf., Act 1017, 1910, s. 12.

21. Every poll of ratepayers under this Act shall be taken by ballot, and the following provisions shall be observed in respect thereof:—

Returning Officer.

- I. The Council shall appoint a Returning Officer, for the purpose of the poll, who shall, *mutatis mutandis*, have all the powers conferred by the District Councils Act, where the poll is held in a District Council District, or by the Municipal Corporations Act, where the poll is held in a Municipality, and all the powers conferred by "The Ballot Act of 1862," and any Act amending that Act, on a Returning Officer in case of an election, and shall preside at the taking of the poll: Provided that he may appoint deputies to preside at the polling-places where he does not preside personally:

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- II. The Council shall appoint a polling-place or polling-places in the district for such poll, and where the district is divided into wards shall appoint a polling-place in each ward which is included, or part of which is included, in the Railway Area: Polling-places.
- III. The Council shall, not less than twenty-eight days before the day fixed for the poll, cause a notice stating— Notice of poll.
- (a) The day fixed for the poll ;
 - (b) The polling-place or polling-places appointed for the district, or the polling-places appointed for the several wards ;
 - (c) The name and address of the Returning Officer ; and
 - (d) The hours of polling,
- to be inserted in at least two newspapers circulating in the district, and to be given in such (if any) other ways as the Council deems expedient:
- IV. The Returning Officer, if it appears to him expedient, may cause booths to be erected or rooms to be hired and used as booths for the purpose of the poll, at the several polling-places in the district; and the same shall have such separate voting compartments as the Returning Officer deems most convenient, constructed so as to screen the voters from observation while they mark their voting-papers: Polling booths.
- V. The Returning Officer, before the day fixed for taking the poll, shall cause to be furnished for use at the polling-place a copy of the assessment-book of the Council, or, if the district is divided into wards, shall cause to be furnished for use at the polling-place in each ward in which the poll is to be taken, a copy of such portion of the assessment-book as relates to land within the ward; and in such copy he shall indicate what ratepayers are entitled to vote at the poll at the polling-place for which it is furnished; and he shall certify each such copy as correctly indicating the ratepayers who are entitled to vote at the poll at the polling-place, and shall sign such certificate. Such copy of the assessment-book or any such copy of portion thereof need not contain any matter relating only to rates of any kind: List of ratepayers.
- VI. The taking of the poll shall commence at eight o'clock in the forenoon, and shall continue open until all the voters present in the polling-booth at seven o'clock in the afternoon have had an opportunity of voting, and shall then close; in any dispute as to time the decision of the Returning Officer or his deputy shall be final: Hours of polling.
- VII. In respect of each polling-booth, two scrutineers to be present at the voting thereat, shall be appointed by the Council: Scrutineers.

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Who entitled to vote.

VIII. The ratepayers entitled to vote at the poll shall be those whose names appear in the assessment-book as ratepayers in respect of such of the land included within the Railway District as is situated within the district: Provided that no person shall be entitled to vote unless he—

(a) Was a ratepayer in respect of land so included and situated on the date of the presentation of the petition under section 6, or of the application under section 9 if the application was made without petition, and

(b) Is a ratepayer in respect of land so included and situated on the day of the taking of the poll:

Exercise of voting power by body corporate.

Cf. M.C. Amendment Act, 833 of 1903, s. 32.

IX. In case any ratable property which is included within the Railway Area and situated within the district, is held by a body corporate as a ratepayer, such body corporate may, by writing delivered to the Returning Officer not later than the fourteenth day before the day fixed for the poll, nominate a person to vote at the poll on behalf of such body corporate. Such person shall for the purposes of the poll be regarded as a ratepayer instead of such body corporate, and his name shall accordingly be entered upon the copy of the assessment-book or of portion thereof furnished for use at the poll, and he shall, notwithstanding anything in this section, have the same rights of voting as such body corporate would have if it were a natural person, in addition to any right to vote which he may have on his own behalf. Except by the means provided by this paragraph no body corporate shall have any right to vote at the poll:

Number of votes.

X. Each ratepayer entitled to vote may vote on a scale according to the amount of the value at which he is assessed in the assessment-book in respect of land included in the Railway Area, as follows:— Not exceeding Twenty-five Pounds, one vote; exceeding Twenty-five Pounds but not exceeding Thirty-five Pounds, two votes; exceeding Thirty-five Pounds but not exceeding Forty-five Pounds, three votes; exceeding Forty-five Pounds but not exceeding Fifty-five Pounds, four votes; exceeding Fifty-five Pounds but not exceeding Sixty-five Pounds, five votes; exceeding Sixty-five Pounds, six votes. No person shall have more than six votes; and except as by this section provided, no person shall have more than one vote. For the purposes of this section, where land included in the Railway Area and other land are assessed together in the assessment-book, the Council shall determine what portion of the assessed value is in respect of the land so included, and such determination shall, for the said purposes only, be final:

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- x1. In case of joint tenancy, or tenancy in common, one person only shall vote, unless the assessed value of the property exceeds Seventy-five Pounds, and then one other joint tenant, or tenant in common, may vote for each additional Seventy-five Pounds, or any fractional part of Seventy-five Pounds, of assessed value; and joint tenants, or tenants in common entitled, may vote in the order in which they tender their votes, until votes have been taken for the whole assessed value on the above basis, or all the joint tenants, or tenants in common, have voted:
- x11. When a ratepayer's name appears in the assessment-book in respect of land included in the Railway Area and situated in one ward and also in respect of land included in the Railway Area and situated in another or other wards, the assessed values of all such lands shall be added together for the purpose of computing the number of votes to which he is entitled, and he shall be indicated as entitled to vote on the copy of portion of the assessment-book furnished for the polling-place in each of such wards, but he shall vote at one polling-place only:
- x111. Both the owner and the occupier of any ratable property may vote in respect thereof, but no person shall vote both as owner and as occupier:
- x1v. Subject to paragraph ix. hereof, no person shall vote more than once, or at more than one polling-place:
- xv. Every voting-paper shall bear the initials of the Returning Officer or his deputy on the back thereof, and shall have the following sentences on the face thereof:—
- “I approve of the [*name*] Railway being constructed in pursuance of ‘The District Railways Act, 1911.’”
- “I object to the [*name*] Railway being constructed in pursuance of ‘The District Railways Act, 1911.’”
- and shall also have a square printed opposite each such sentence; and nothing else, except the cross indicating the vote, shall be inserted in or placed on any voting-paper. Any voting-paper not complying with this subdivision shall be informal:
- xvi. Every person entitled and desiring to vote shall present himself to the Returning Officer, or his deputy, at the polling-place for the district or for the ward in which he claims to vote, and shall state his Christian name and surname, abode, profession or occupation, the nature of his qualification, and the place where the property in respect of which he claims to vote is situated. The Returning Officer, or deputy, shall thereupon place a mark against the voter's name on the copy of the assessment-book, or of portion thereof, in use at the polling-place, and hand such voter a voting-paper for every vote to which he is entitled:
- Voting in case of joint tenancy or tenancy in common.
- When ratepayers assessed in two or more wards.
- Owner and occupier both entitled to vote.
- Only to vote once.
- Voting-papers.
- Voter to state his name, &c.
- xvii. Upon

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How to vote.

xvii. Upon receiving his voting paper or papers the voter shall without delay—

- (a) Retire alone into some unoccupied voting compartment of the booth, and there in private indicate his vote by making a cross having its point of intersection within the square on his voting-paper or on each of his voting-papers opposite the sentence which expresses his wish; and
- (b) Fold the voting paper or papers so as not to show in what way the vote has been given, but to show the initials of the Returning Officer, or deputy, and exhibit it or them so folded to the Returning Officer, or deputy, and then without unfolding, deposit it or them in a ballot box to be provided by the Returning Officer for that purpose:

No voting-paper so deposited shall on any account be taken from the ballot box except in the presence of a scrutineer or scrutineers after the poll:

Voter requiring assistance.

xviii. If any voter satisfies the Returning Officer, or his deputy, that he is unable to vote without assistance, the Returning Officer, or deputy, shall permit any person appointed by such voter to accompany him into the voting compartment and to mark, fold, and deposit his voting paper or papers for him:

Who allowed in booth.

xix. Subject to paragraph xviii. hereof, the only persons who shall be allowed to remain in the polling-booth shall be the persons about to vote, the Returning Officer, his deputy, and the scrutineers:

What questions may be put.

xx. No inquiry shall be permitted at the poll as to the right of any person to vote, except as follows, that is to say:—The Returning Officer, or his deputy, may, or if required by any scrutineer shall, put to any person applying for a voting-paper at the time of his so applying, but not afterwards, the following questions, or any of them, and no other:

- (1) Are you the person whose name appears as [*stating the name*] and as the owner (*or* occupier) of the property set opposite such name in the assessment-book now in force for the District (*or* Municipality)?
- (2) Are you the owner (*or* the occupier) within the meaning of the District Councils Act (*or* the Municipal Corporations Act) of the property in respect of which you now claim to vote?
- (3) Have you already voted at the present poll?

Provided that the Returning Officer or his deputy may, by reference to the copy of the assessment-book or of portion thereof or otherwise, give any information necessary to explain any of the said questions:

xxi. No

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Answers to questions.

xxi. No person shall be entitled to vote unless his answer to the first and second questions, or such of them as is put to him, is in the affirmative, and to the third, if put, is in the negative:

xxii. The Returning Officer, or his deputy, shall, before any vote is taken, in the presence of one at least of the scrutineers, exhibit the ballot box empty; and shall, at the close of the poll, in the presence of one at least of the scrutineers, close, fasten, and seal the ballot box containing the voting-papers which have been deposited at the voting-place at which he presided; and shall also allow any scrutineer so desiring to seal the same; and each deputy shall, with as little delay as possible, deliver, or cause his box to be delivered, to the Returning Officer: Ballot boxes.

xxiii. At the close of the poll the Returning Officer shall fix a time, which shall be as soon as conveniently may be, and a place, for examining the votes and declaring the result of the poll, and shall at such time and place, in the presence of one at least of the scrutineers and of as many more of them as choose to be present— Scrutiny and count and declaration of poll.

- (a) Open all the boxes containing voting-papers deposited by voters at the taking of the poll at the several voting-places;
- (b) Examine all such voting-papers and reject all such as are informal as above mentioned, or contain crosses against both of the above sentences; and
- (c) Ascertain, from the voting-papers not so rejected, the total number of votes given in favor of the respective sentences.

The Returning Officer shall then openly declare the said numbers and declare the result of the poll:

xxiv. All voting-papers shall be preserved by the Returning Officer until the expiration of three months after the publication of the certificate of the result of the poll as provided by section 25. Papers to be preserved.

22. Any person who, at or in connection with any poll taken under section 21— Offences connected with poll.

Ibid., s. 12 (2).

- (a) Votes or attempts to vote more than once, or at more than one polling-place; or
- (b) Personates any other person for the purpose of voting at such poll; or
- (c) Wilfully makes a false answer to any question lawfully put to him by the Returning Officer, or his deputy; or
- (d) Wilfully obstructs the voting by any unnecessary delay in performing any act within a polling-booth; or
- (e) Unlawfully

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(e) Unlawfully tampers with any ballot box or voting-paper used or to be used at such poll; or

(f) In any other way, wilfully infringes, whether by act or omission, any of the provisions of section 21,

shall be guilty of a misdemeanor, and shall be liable to be imprisoned, with or without hard labor, for any term not exceeding six months.

Provisions for poll of owners and occupiers of land not within a district.

23. (1) The provisions of this Part, *mutatis mutandis*, shall apply to the owners and occupiers of land within the Railway Area, but not situated in any district, who if such land were within a district, would be ratepayers of such district.

(2) For the purposes of this Part—

(a) Such owners and occupiers shall be deemed to be ratepayers assessed in respect of land within the Railway Area;

(b) The Minister shall be deemed to be the Council in respect of such ratepayers, and of the lands of which they are owners and occupiers; and

(c) Such lands shall be deemed to be a District Council District and a constituent district, and the Minister shall be deemed to be the District Clerk thereof.

Provisions for voters list and voting places.

24. (1) The Minister shall in every such case as mentioned in section 23 decide what owners and occupiers are to be deemed to be the ratepayers assessed in respect of land within the Railway Area and situated in his district within the meaning of that section. His decision shall be final, and shall not be questioned in any way; and, for the purposes of the poll, a list of such ratepayers signed by the Minister shall be deemed to be the assessment-book for the Minister's district.

(2) The Minister may, in his discretion, for the purposes of the poll, divide his district into wards.

Certificates of results of separate polls.

Ibid., s. 13.

25. (1) The result of the poll, or of each poll if more than one, taken in the Railway Area shall be embodied in a certificate signed by the Returning Officer who presided thereat. Such certificate may be in the form of the Seventh Schedule, or in a form to the like effect.

(2) The certificate, or each such certificate if more than one, shall be forwarded to the Minister, and be by him published in the *Gazette*, which shall, after the expiration of the period of three months immediately following such publication, be conclusive evidence of the result of the poll therein mentioned and of the validity of the poll and the performance of all conditions precedent thereto, unless the poll has during such period been declared to be invalid by the Supreme Court.

Certificates of aggregate results of polls.

Ibid., s. 14.

26. (1) When the localities within the Railway Area are not situated wholly within one district the aggregate result of the polls taken

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taken in the Railway Area, ascertained from the appropriate Returning Officers' certificates published under section 25, shall be embodied in a certificate signed by the Minister.

(2) Such certificate shall be published by the Minister in the *Gazette*, which shall, after the expiration of the period of three months immediately following such publication, be conclusive evidence of the aggregate result of the polls taken in the Railway Area, unless any of such polls has been declared invalid within the period and in the manner mentioned in section 25.

27. (1) If the number of negative votes at the poll as certified under section 25, or the aggregate number of negative votes at the polls as certified under section 26 (where that section applies), exceeds one-third of the aggregate number of formal votes cast, as shown by the certificate of the result of the poll or polls,—

If negative votes exceed affirmative votes, railway not to be proceeded with.

- I. The Railway Area shall cease to be constituted, and the railway shall cease to be authorised, and shall not be proceeded with; and
- II. The costs of and incidental to and consequent upon the petition, the application, the Commissioner's preliminary report and plan, the notices in the *Gazette*, the polls of ratepayers, and any other matters incidental to or consequent on the constitution of the Railway Area, shall be borne by the constituent Council if only one, or if more than one, then by the constituent Councils, in such proportions as may have been agreed upon between them before the publication of the Minister's certificate under section 26, or, if no such agreement has been so made, then by the Council which made the application.

(2) Any Council is hereby authorised to pay out of its revenue any amount for which it is liable, whether pursuant to agreement or otherwise, under this section; and any such amount may be recovered by action as a debt due by such Council.

(3) In addition to any other remedy of the Minister against any Council, by virtue of this section or otherwise, for the costs of, incidental to, or consequent upon any poll taken by him, such costs may be deducted out of any sum payable, or which might be paid, to such Council, by way of Government grant or subsidy for any purpose.

PART IV.

PART IV.

THE CONSTRUCTION AND MANAGEMENT OF AN AUTHORISED RAILWAY.

28. When a railway has been authorised as provided by Part II., then—

Deposit of plan in Surveyor-General's office.

- I. If no petition for a poll is presented within the time mentioned in section 17, or
- II. If

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11. If a petition having been presented and a poll or polls having been held, the railway has not ceased to be authorised as provided by section 27,

the Commissioner shall deposit the preliminary plan of the railway in the office of the Surveyor-General in Adelaide.

Commissioner to
construct railway.

29. (1) Notwithstanding anything in any of the Acts incorporated herewith, the Commissioner may, after the deposit of the preliminary plan of an authorised railway as provided by section 28, construct and maintain such railway, together with all proper works and conveniences connected therewith or for the purposes thereof, as the said railway is delineated in the said plan, or as the said railway is delineated in any plans deposited in the office of the Surveyor-General, with the consent of the Minister, pursuant to any law for the time being in force as to the deposit of plans of railways to be constructed by the Commissioner.

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(2) Provided that in case the Houses of Parliament are not sitting when any plans or books of reference are deposited in the office of the Surveyor-General under section 9 of "The Railway 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.

Tenders to be called.

30. The Commissioner shall call for tenders for the construction of an authorised 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 may deem advisable, and may accept or reject any tender; and he may construct the railway himself if no tender therefor is accepted.

Commissioner may
work authorised
railways, with usual
powers.

31. The Commissioner may work all authorised railways, and shall have and may exercise in respect thereof the same powers and privileges (subject however to the same conditions), including the power to make and enforce regulations and by-laws, as he for the time has and may exercise in respect of other railways under his control, and such (if any) other powers and privileges as are prescribed by regulations made by the Governor under this Act.

Fares, tolls, and
charges.

32. The Commissioner may demand for the use of an authorised 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, stock, minerals, and mails, 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 he may fix fares, tolls, charges, and rates in respect of the railways under his control.

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FINANCIAL PROVISIONS.

DIVISION I.

DIVISION I.—COST OF RAILWAY.

33. The cost of an authorised railway shall be provided for out of moneys voted by Parliament for the purposes of this Act, and the cost and expenses of maintaining and working the same shall, in the first instance, be provided for in like manner.

Cost of railway to be advanced out of moneys voted by Parliament.
Cf. Act 962, 1908, s. 54.

34. As soon as practicable after the completion of the construction of an authorised railway, the Commissioner shall furnish the Minister with a final report certifying the date of the completion and the cost of the railway.

Commissioner's final report.
Ibid., s. 56.

35. In estimating the cost of an authorised railway the following items shall be included:—

Cost of railway.
Cf. Act 1017, 1910, s. 3.

- (a) The cost of constructing the railway and all works and conveniences connected therewith or for the purposes thereof;
- (b) The cost of purchasing or otherwise acquiring the land required for the railway and the said works and conveniences, and of compensating persons interested in such land or injuriously affected by the construction of the railway and the said works and conveniences;
- (c) The cost of such (if any) rolling-stock and appliances as the Commissioner estimates will be required for the railway at the outset, but not including any stock or appliances used or intended to be used for other railways worked by the Commissioner;
- (d) The costs of and incidental to, and consequent upon the petition, application, Commissioner's preliminary and final reports, plans, sections, and specifications, the notices in the *Gazette*, the poll or polls (if any) of ratepayers, and all other matters incidental to the constitution of the Railway Area and the authorising of the construction of the railway; and
- (e) All other incidental expenses (if any) in respect of the above-mentioned matters or any of them.

36. The Minister shall, by notice in the *Gazette*, publish the Commissioner's final report; and such notice shall be conclusive as to the matters contained therein, including the date of the completion of the railway, and the cost thereof, notwithstanding that such cost differs from any previous estimate of the cost.

Commissioner's report to be published in *Gazette*.
Act 962, 1908, s. 56.

DIVISION II.—RAILWAY FUND AND ACCOUNTS.

DIVISION II.

37. A special fund shall be constituted in respect of an authorised railway, and shall be held by the Treasurer of the said State.

Railway Fund to be constituted.

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Separate account to be kept for the purposes of the Act.

(2) The accounts required to be kept by virtue of this section shall be merely for the purpose of the special financial provisions of this Act, and shall not interfere with any other accounts usually kept by the Commissioner, or which he is required to keep, for other purposes.

39. (1) All earnings in respect of an authorised railway or of any part thereof, all moneys received by the Commissioner in respect of the railway under section 71, and all penalties recovered by the Commissioner for breaches, in connection with the railway, of any regulations or by-laws made by him under the power conferred by section 31, shall be credited by the Commissioner in the accounts by this Act required to be kept in respect of such railway.

(2) All creditings made by the Commissioner for the purposes of this section shall be final and conclusive for the purposes of this Act.

40. (1) In the accounts by this Act required to be kept in respect of an authorised railway, the Commissioner shall debit as the first charge, to be paid to the Treasurer, interest at the rate of four per centum per annum on the cost of the railway, and interest at the same rate on any overdue interest, and, as a further charge, the working expenses in respect of the railway.

(2) The working expenses in respect of the railway so to be debited shall include the following:—

- i. The expenses (including wages) of and incidental to the carriage, loading, and unloading of goods, stock, minerals, parcels, mails, and passengers on the railway;
- ii. Rent for the use on the railway of such of the Commissioner's rolling-stock as is used on any other railway or railways worked by the Commissioner, such rent being calculated according to the time that such stock is on the railway;
- iii. Interest at four per centum per annum upon the cost of any rolling-stock and appliances provided by the Commissioner from time to time for the railway exclusively (and not for other railways as well), but not including any stock or appliances the cost of which has been included in estimating the cost of the railway under section 35;
- iv. The expenses of maintaining and repairing the railway, and the works and conveniences connected therewith or for the purposes thereof;
- v. The

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- v. The expenses of maintaining and of repairing the rolling-stock and appliances used exclusively for the railway; and
- vi. Such amounts annually as will be sufficient to repay the cost of all rolling-stock and appliances provided by the Commissioner from time to time for the railway exclusively (including any stock and appliances the cost of which has been included in estimating the cost of the railway) within periods of fifteen years, calculated from the last day of the years in which the respective expenditures of such cost take place.

but shall not include—

- i. Any amounts paid by the Commissioner in respect of personal injuries suffered by passengers, employés of the Commissioner, or other persons on the railway, whether whilst travelling or not;
- ii. Any amounts paid by the Commissioner in respect of damages to property through fires caused by running trains on the railway; or
- iii. The expenses of repairing rolling-stock or appliances damaged or destroyed on the railway otherwise than by ordinary wear and tear.

(3) In all cases the decision of the Commissioner upon the question whether any item is or is not a working expense in respect of the railway shall be final and conclusive for the purposes of this Act.

41. (1) The accounts by this Act required to be kept in respect of an authorised railway shall be balanced on the thirtieth day of June in each year.

Accounts to be balanced annually.

(2) Whenever on balancing such accounts there appears to be a credit balance for the year, the amount thereof shall be carried by the Commissioner to the credit of the special fund constituted in respect of the railway.

Credit balance in the account to be carried to the Railway Fund.

(3) Whenever on balancing such accounts there appears to be a debit balance for the year, the amount thereof shall be debited in the account of the said special fund. If after such debiting the said fund shows a debit balance, the amount thereof shall be made good, in manner hereafter in this Act provided, by the rating authority appointed in respect of the railway.

How debit balance in the account to be borne.

42. Whenever under the provisions of section 41 a debit balance is to be made good by a rating authority, the Commissioner shall serve upon such authority a notice in writing signed by him, stating the amount of such balance, and requiring such authority to pay the said amount to the Commissioner, and to declare and collect a railway rate for the purpose of raising such amount.

Commissioner to make requisition.

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DIVISION III.

DIVISION III.—VALUATION OF LANDS FOR RATING PURPOSES.

Preliminary
valuation for rates.

Cf. Act 962, 1908,
s. 57 (1).

43. For the purposes of railway rates, the rating authority appointed in respect of an authorised railway shall, within two months after the completion of such railway, and also within two months after the expiration of six months next after every general assessment of land for the purposes of land tax in the said State, cause to be made a preliminary valuation of the unimproved value of the lands within the Railway Area of the several landholders, including in such valuation the amount of enhancement of value in consequence of the railway.

Notice in the *Gazette*.

Cf. *ibid.*, s. 57 (2).

44. (1) After making any such preliminary valuation, the rating authority shall set the same forth in a notice published in the *Gazette*, and shall publish in a newspaper (if any) circulating in the area, a notice stating that such valuation has been made, and the date of the *Gazette* in which the same is set forth.

(2) The notice in the *Gazette* may be in the form in the Eighth Schedule.

(3) The *Gazette* containing such notice shall be conclusive as to such preliminary valuation.

Objection to the
valuation.

Cf. *ibid.*, s. 58.

45. (1) Any landholder may, within two months after the publication in the *Gazette* of the notice of the preliminary valuation, object to the valuation of his land thereunder. The objection shall be made by notice served on the rating authority, and shall be in the form in the Ninth Schedule, or in a form to the like effect.

(2) Proof of the posting of the notice of objection as a registered letter addressed to the clerk of the rating authority at the office of such authority shall be sufficient evidence of the service thereof.

Determination of
objection.

Cf. *ibid.*, s. 59.

46. (1) Every objection shall be considered by the rating authority at a time fixed by notice posted to the objector, not being less than seven days after the posting of such notice, and at a place fixed by such notice: Provided that the consideration of any objection may be adjourned from time to time and from place to place as such authority deems convenient.

(2) The objector may attend any meeting of the rating authority held to consider his objection, and may produce such evidence as such authority deems relevant.

(3) The rating authority may make any inquiries they deem necessary, and inform themselves in such manner as they deem fair, for the purpose of determining the objection, and shall not be bound to observe any rules of evidence or procedure.

(4) The rating authority shall consider the objection and determine the same as they find to be fair and equitable, and may confirm or increase or decrease the amount of the valuation, and may, if the amount is confirmed or increased, order the objector to pay

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pay the costs occasioned by the objection; and the costs so ordered may be recovered in any court of competent jurisdiction as a debt due to the rating authority, or in the same way as a railway rate declared by such authority.

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(5) The determination of the rating authority shall be final and not subject to any appeal or to be questioned in any way.

47. If upon the consideration of any objection to the preliminary valuation the amount is altered, the rating authority shall adjust the valuations of other lands as may be found necessary.

Adjustment of
valuation.
Cf. *ibid.*, s. 60.

48. (1) The rating authority shall forthwith, after the time for objecting has expired, if no objection is pending, or if any objection is then pending, then forthwith after the determination of all objections, make their final valuation.

Final valuation.
Cf. *ibid.*, s. 61.

(2) The rating authority shall set forth their final valuation in a notice published in the *Gazette*, and shall publish in a newspaper (if any) circulating in the Area a notice stating that such valuation has been made, and the date of the *Gazette* in which the same is set forth.

(3) The notice in the *Gazette* may be in the form in the Tenth Schedule.

(4) The *Gazette* containing such notice shall be conclusive as to the final valuation.

49. If in any case the rating authority fails to discharge or carry out any duty by this Division or section 69 imposed on such authority, the Commissioner may discharge and carry out such duty and, for that purpose, he shall have and may exercise all the rights, powers, duties, and functions by this Act conferred or imposed upon such authority, and all things done by the Commissioner shall be of the same effect as if done by such authority.

Commissioner may
act under this
Division in default of
the rating authority.

DIVISION IV.—RAILWAY RATES.

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50. (1) On the service upon a rating authority of a notice under section 42, such authority shall forthwith declare a railway rate upon all the land within the Railway Area, and shall, with all practicable speed, levy and collect such rate.

Railway rates to be
declared and
collected by rating
authority.

(2) The rate to be declared as aforesaid shall, at the least, be such as will be sufficient to produce the amount of the debit balance specified in the said notice under section 42, and to meet the other payments mentioned in section 55.

51. (1) The rating authority shall, as soon as practicable after declaring the railway rate, publish in the *Gazette* a notice setting forth the amounts of the railway rate to be paid by the several landholders, which amounts shall be determined upon the basis of
the

Notice of rate.

Cf. Act 962, 1908
s. 62.

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the final valuation made by such authority which is for the time being in force, and also stating the date upon which the rate is to be paid, and shall publish in a newspaper (if any) circulating in the Area a notice stating that such rate has been declared, and the date of the *Gazette* in which the first-mentioned notice is published.

(2) The date upon which the rate is to be paid shall not be earlier than twenty-one days from the date of the publication of the notice in the *Gazette*, nor later than forty-two days from the last-mentioned date.

(3) Such notice may be in the form in the Eleventh Schedule, or in a form to the like effect, and shall be conclusive evidence of all matters set forth therein, and, except in proceedings to quash such rate, of the validity thereof.

Rate to be a first charge on the land.
Cf. 962, 1908, s. 63 (1).
Cf. *ibid.*, s. 63 (2).

52. (1) The amount of the railway rate payable by each landholder shall be a debt due from such landholder to the rating authority, and shall be a first charge upon all the land of such landholder which is situated within the Railway Area.

(2) A railway rate shall become due on the day specified in that behalf in the notice in respect thereof published in the *Gazette* under section 51.

Cf. *ibid.*, s. 63 (4).
No. 380 of 1886.

(3) The charge upon the land may be enforced by the rating authority as if it were a mortgage under "The Real Property Act, 1886," duly registered thereunder.

Recovery by distress.
Ibid., s. 65.

53. In addition and without prejudice to any other remedy, a rating authority may recover the amount of any rate due to it from any landholder which remains unpaid for three months after the same has become due, by distress and sale of any goods and chattels on any land upon which the rate is charged; or such amount may be recovered in any court of competent jurisdiction by action in the name of the rating authority, or in a summary manner before a Special Magistrate or two Justices, from the landholder of such land for the time being, and no statute of limitations shall affect any such action or proceeding.

Remedies for recovery of ordinary rates to apply.

54. Without derogating from the preceding provisions of this Act, it is hereby declared that the same proceedings, *mutatis mutandis*, including proceedings for the letting or sale of land, may be taken by a rating authority for the recovery of a railway rate (whatever may be the amount thereof) declared by such authority on any land within its Railway Area as if the landholder of such land were a ratepayer and the rating authority were a District Council; and this section shall apply notwithstanding that the landholder is not a ratepayer of any constituent district.

Application of railway rates.

55. (1) Every rating authority shall cause to be kept a separate and distinct account of all moneys raised by railway rates.

(2) Such

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(2) Such moneys shall be applied in the following manner:—

Firstly—In payment to the Commissioner of all amounts required by him to be paid by the rating authority by notice under section 42, and

Secondly—In payment of all costs, charges, and expenses of such authority in connection with declaring, levying, and collecting railway rates, and all other costs, charges and expenses of and incidental to the maintenance of the rating authority and the execution by such authority of the powers, authorities, duties, and obligations conferred or imposed by or under the provisions of this Act.

(3) If any railway rate produces more money than is immediately required for the purposes mentioned in subsection (2) of this section, the surplus shall be held by the rating authority as a fund applicable towards similar purposes in the future.

56. (1) If in any case the amount required by the Commissioner's notice under section 42, is not fully paid to the Commissioner within six months from the service of such notice, the Commissioner may publish in the *Gazette* a notice in the form No. 1 in the Twelfth Schedule, or in a form to the like effect; or, if a sufficient railway rate has not been declared for the raising of such amount as mentioned in subsection (2) of section 50, he may himself declare such rate by a notice published in the *Gazette*, which notice may be in the form No. 2 in the Twelfth Schedule, or in a form to the like effect.

If amount of requisition not paid within six months Commissioner may publish notice or declare rate.

(2) When the Commissioner declares a rate under this section he shall, in addition to such publication in the *Gazette*, publish a notice in a newspaper (if any) circulating in the Railway Area stating that the rate has been declared, and the date of the *Gazette* in which the amounts thereof to be paid by the several landholders are set forth.

(3) A copy of the *Gazette* containing any notice published under this section shall be conclusive evidence of all matters set forth therein, and, except in proceedings to quash a rate declared under this section, of the validity thereof.

57. Upon the publication of a notice under section 56, all the rights and powers of the rating authority in reference to the recovery of rates, including the letting or sale of land for non-payment of rates, shall, as regards the railway rate mentioned in or declared by such notice, be transferred to and become vested in the Commissioner, by virtue of such publication; and the Commissioner, or any person authorised by him in that behalf, may exercise any power and do any act which could before such publication, or could if the rate had been declared by the rating authority, have been exercised or done in reference to the recovery of any such rates by such authority or by its clerk, or any collector, receiver, or other officer of, or person acting under the authority of, the rating authority.

Transfer to Commissioner of Council's rights for recovery of rate.

58. The

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Appropriation of
rates received by the
Commissioner.

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58. The amount of any railway rates received by the Commissioner from a rating authority, or recovered under the powers conferred by section 57, shall be applied in the following manner:—

Firstly—In reimbursing to the Commissioner the costs of notices in respect of the railway under section 42 and of anything done by him in respect of the railway under sections 56 and 57;

Secondly—In the payment to the Treasurer of any interest due to him in respect of the railway under section 40;

Thirdly—In reimbursing to the Commissioner the working expenses of the railway; and

Fourthly—Any surplus shall be paid to the credit of the special fund constituted in respect of the railway.

Rate may be declared
for meeting the
expenses of the
rating authority.

59. If during any year ending on the thirtieth day of June no notice under section 42 has been served on a rating authority, such authority may declare a railway rate upon the land within its railway area for the purpose of meeting the costs, charges, and expenses mentioned in the second paragraph of subsection (2) of section 55, and may levy and collect such rate and apply the same in payment of such costs, charges, and expenses, and any surplus not required for that purpose shall be held for the purpose mentioned in subsection (3) of that section.

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MISCELLANEOUS.

In case of mono-
railway worked by
animal power the
Commissioner's
functions to be per-
formed by the
Engineer of Roads
and Bridges.

60. (1) In any case where the railway proposed in an application under section 9 is a mono-railway and the proposed motive power is animal power, the application shall be referred to the Engineer instead of to the Commissioner, and the duties and powers imposed and conferred upon the Commissioner by section 10 shall be discharged and exercised by the Engineer instead of by the Commissioner.

(2) When a mono-railway with animal power has been authorised or constructed under this Act, all the duties, rights, powers, and functions imposed and conferred upon the Commissioner by this Act, or by the Acts incorporated with this Act, shall, in respect of such railway, be vested in and be discharged, exercised, and performed by the Engineer instead of by the Commissioner: Provided that, in such case, the provisions of section 65 shall apply only where both the authorised railways are mono-railways worked with animal power.

(3) For the purpose of giving effect to this section, all references in this Act to the Commissioner shall, in the cases mentioned in subsections

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subsections (1) and (2) of this section be read as references to the Engineer: Provided that—

- i. The word “Commissioner” at the end of subsection (1) of section 29 shall still be read as “Commissioner”; and
- ii. The words “he” and “his” in sections 31 and 32 shall still be read as referring to the Commissioner.

61. (1) The Minister may at any time and from time to time, and notwithstanding any proceedings taken or anything done pursuant to or consequent on a notice published under section 12 or 16, by notice published in the *Gazette*, make such amendments or alterations of or additions to the said notice as he thinks proper.

Amendments to
Minister's declaration

(2) Upon such publication the amendments, alterations, or additions so made shall be deemed to be incorporated in and to form part of the said notice, as if they had been originally included therein: Provided always that—

- i. Such amendments, alterations, and additions shall not affect any right granted or accrued, liability incurred, duty imposed, or thing done or omitted to be done under or pursuant to the said notice before such amendments, alterations, and additions were made, or any legal or other proceedings commenced or to be commenced with respect to any such matter or thing:

- ii. All such matters and things, so far as practicable and so far as consistent with such amendments, alterations, and additions, shall be preserved and continued and of the same force and effect as if they had been made or done under the said notice with such amendments, alterations, and additions incorporated therein.

62. (1) The Minister may at any time, by notice in the *Gazette*, appoint a clerk and an office for any rating authority, and may from time to time, by notice in the *Gazette*, vary any such appointment.

Appointment of
clerk, and office of
rating authority.

(2) Every clerk so appointed shall, for the purposes of this Act, exercise and be liable to perform the same powers, authorities, duties, and obligations, *mutatis mutandis*, as he might exercise and be liable to perform if such rating authority were a District Council and such clerk were a district clerk under the District Councils Act.

(3) Where it may be requisite to serve any notice, summons, writ, or other legal proceeding upon any rating authority, service of a copy thereof upon the clerk of such authority personally or by leaving the same at the office so appointed shall be deemed sufficient service on such authority.

63. Within the meaning of any Act incorporated with this Act an authorised railway shall be deemed to be —

Authorised railway
to be deemed a
railway to be con-
structed at the
public expense.

- (a) A railway authorised to be constructed at the public expense,
- (b) A

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(b) A railway by this Act authorised to be constructed, and

(c) An undertaking authorised by this Act:

Provided that for the purposes of section 13 of “The Lands Clauses Consolidation Amendment Act, 1881,” there shall be deemed to be no special Act.

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

64. With respect to any land purchased or taken by the Commissioner for the purposes of this Act, or with respect to which he exercises for such purposes the powers conferred by section 4 of “The Railways Clauses Act, 1876,” if the amount of compensation to be paid 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, or that he desires to have the compensation for the exercise of the said powers fixed, as the case may be, the amount of compensation shall be determined by arbitration in the following manner:—

No. 6 of 1847.

Notice to arbitrate and appointment of arbitrator by Commissioner.

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:

Appointment of arbitrator by owner.

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:

Notice of appointment deemed a submission.

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:

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

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 price and compensation (if any) to be paid:

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- 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: Provisions as to umpire, vacancies, &c.
- 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: Informality not to invalidate.
- 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: Award to be final.
- 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; 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: Effect of submission and award.
- 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 Meaning of “owner” and “land.”
- (b) The word “land” includes any estate or interest (legal or equitable) in land, or any easement, right, or privilege in, under, over, affecting, or in connection with land. No. 6 of 1847.
65. (1) In any case where— Junctions with other railways.
- I. A Government railway passes through or forms one or more boundaries of a Railway Area, or
- II. An authorised railway of another Railway Area forms one or more boundaries of a Railway Area,
- the Commissioner may, if he deems it practicable and advisable, at the request of the rating authority of the Railway Area, in such a case as mentioned in subdivision i. of this subsection, or of the rating

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rating authorities of the two Railway Areas, in such a case as mentioned in subdivision 11. of this subsection, and with the consent in either case of the Minister, join the authorised railway of the first-mentioned Railway Area on to such Government railway or to the authorised railway of such other Railway Area, as the case may be.

(2) The Commissioner may construct any extension of any existing railway which may be necessary to effect the junction, and shall for that purpose have all the same powers and privileges as if such extension were an authorised railway.

(3) The costs of and incidental to the junction and any such extension shall be added to, and be deemed to be part of, the cost of the authorised railway of the Railway Area within which the junction and such extension (if any) are made, and shall be taken into account in estimating the interest to be debited under section 40 in respect of such railway.

Minister may construct an experimental mono-railway.

66. (1) In order to experiment and make demonstration as to the suitability of mono-railways for the purposes of this Act, it shall be lawful for the Minister to construct, maintain, manage, and work a mono-railway in such part of the said State as he deems convenient.

(2) For the purposes of the construction and maintenance of such railway, the acquisition of any lands required therefor, and all other purposes preliminary or incidental to or consequent on such construction and maintenance, and for the purposes of the management and working of such railway, all the duties, rights, powers, and functions imposed and conferred upon the Commissioner by this Act, or by the Acts incorporated with this Act, shall, in respect of such railway, be vested in and be discharged, exercised, and performed by the Minister, or such person as he appoints in that behalf.

How cost of such railway to be provided.

67. The costs of constructing the railway authorised by section 66 and any deficiency on the working and maintenance thereof shall be paid out of moneys voted by Parliament for the purposes of this Act.

Railways may be constructed along roads.

68. It shall be lawful to construct any authorised railway, or the railway authorised by section 66, wholly or in part along any public street or road, and to maintain, manage, and work the same: Provided that the construction, maintenance, management, and working thereof shall be subject to anything prescribed in that behalf by regulation.

Lessees to pay proportion of cost to landholder.

69. (1) Where any land charged with a railway rate as mentioned in section 52 is subject to a lease to any person other than the landholder of such land, such lease having been granted before the publication

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publication in the *Gazette* of the notice of such rate under section 51, the lessee under such lease shall pay to the landholder such proportion of the rate as may be agreed between them. PART VI.
CF. 962, 1908, s. 64.

(2) In default of agreement, the amount of the proportion to be paid by the lessee shall be settled by the rating authority on the application of either the landholder or the lessee.

(3) Such application shall be made by notice served on or sent by registered post to the other party and to the rating authority.

(4) The application shall be heard by the rating authority at a time fixed by notice posted to both parties, not being less than seven days after the posting, and at a place fixed by such notice: Provided that the hearing may be adjourned from time to time and from place to place as such authority deems convenient.

(5) The rating authority may inform itself in such manner as it deems fit for determining the proportion to be paid by the lessee, and shall not be bound to observe any rules of evidence or procedure.

(6) The rating authority shall determine the matter as they deem fair and equitable, and may order either party to pay to the other party the costs of the application, not exceeding Five Pounds; and the costs so ordered may be recovered as a debt in any court of competent jurisdiction, or in a summary manner before a Special Magistrate or two Justices.

(7) The determination of the rating authority shall be final, and not subject to any appeal, or to be questioned in any way.

70. The production of the *Gazette* purporting to contain any order or notice or other matter under the provisions of this Act, shall be conclusive evidence of the making and publication of such order or notice or other matter and of the contents thereof. Evidence of order or notice.

71. (1) In apportioning moneys voted by Parliament for the construction and maintenance of the main roads of the State, an authorised railway shall be regarded as a main road: Provided that, in apportioning the same, regard shall not be had to the cost of construction, but only to the cost of maintenance thereof. Railways to be regarded as main roads in respect of grant.

(2) Moneys so apportioned in respect of an authorised railway shall not be paid to any road authority, but shall be paid to the Commissioner, and shall be paid by him to the credit of the fund constituted in respect of the authorised railway.

72. (1) The Governor may from time to time make—

Governor may make regulations.

- I. Regulations prescribing the forms to be used for the purposes of this Act, either in addition to or in substitution of the forms in the Schedules hereto;

II. All

*The District Railways Act.—1911.***PART VI.**

II. All such regulations as are by this Act contemplated or required to be made; and

III. All such regulations as may be necessary or convenient for carrying into effect all or any of the objects and purposes expressed or implied by this Act, or anything incidental to or in any way connected with such objects and purposes, or any of them.

(2) All such regulations—

Publication and
effect.

(a) Shall be published in the *Gazette* ;

(b) From the date of publication, or a later date specified in the order whereby the same are made shall (subject to subsection (3) hereof), be of the same effect as if they were contained in this Act ; and

(c) Shall be laid before both Houses of Parliament within fourteen days after publication, if Parliament is then in Session, and if not then within fourteen days after the commencement of the next Session.

Disallowance by
Parliament.

(3) If either House of Parliament passes a resolution disallowing any such regulation, of which resolution notice has been given at any time within fourteen sitting days of such House after such regulation has been laid before it, such regulation shall thereupon cease to have effect, but without affecting the validity or curing the invalidity of anything done, or of the omission of anything, in the meantime.

This subsection shall apply notwithstanding that the said fourteen sitting days, or some of them, do not occur in the same Session or Parliament as that in which the regulation is laid before such House.

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

DAY H. BOSANQUET, Governor.

The District Railways Act.—1911.

SCHEDULES.

THE FIRST SCHEDULE.

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. Sec. 2

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

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 Amendment Act, 1909.”

(2) “The Municipal Corporations Act, 1890.”

(3) “The District Councils Act, 1887.”

(4) “The Local Government Act, 1910.”

All Acts amending or substituted for any of the above-mentioned Acts and all Acts amending any such substituted Act.

THE SECOND SCHEDULE.

Sec. 7.

FORM OF PETITION TO THE COUNCIL.

We, the undersigned, being ratepayers in the District of _____, hereby request the Council of the said district to apply to the Minister for the constitution of a Railway Area under the provisions of “The District Railways Act, 1911.”

The following are the particulars:—

- (a) [*The name of the proposed railway.*]
- (b) [*A description of the proposed railway area.*]
- (c) [*Full particulars of the proposed railway.*]
- (d) [*The proposed constitution of the controlling authority.*]
- (e) [*An estimate of the cost of the proposed railway.*]
- (f) [*An estimate of the net revenue that may reasonably be expected to be yielded by the proposed railway.*]

Dated this _____ day of _____, 19 ____.

Signatures of Petitioners.	Addresses.	Signatures of Witnesses.

Declaration

*The District Railways Act.—1911.**Declaration by Witness.*

Sec. 8.

I solemnly and sincerely declare that the signatures to the above petition opposite which my name is signed are the genuine signatures of the persons whose signatures they purport to be.

Declared before me at _____, this _____ day of _____, 19____.
[Signature of witness.]
_____, Justice of the Peace.

Sec. 9.

THE THIRD SCHEDULE.

APPLICATION OF COUNCIL.

To the Hon. the Minister administering "The District Railways Act, 1911."

The Council of the District of _____ hereby applies for the constitution of a Railway Area under the provisions of "The District Railways Act, 1911."

The following are the particulars:—

[Here set out the particulars as set forth in the Second Schedule.]

Dated this _____ day of _____, 19____.
[Signed A.B.] Clerk.

Sec. 12.

THE FOURTH SCHEDULE.

NOTICE OF APPROVAL OF RAILWAY AREA.

An application having been presented for the constitution of the Railway Area hereinafter mentioned, I, _____, the Minister administering "The District Railways Act, 1911," do hereby declare that—

- (a) I approve of the constitution of the Railway Area hereinafter mentioned.
- (b) [State the name of the railway.]
- (c) [Define the Railway Area.]
- (d) [State what are to be the constituent councils.]
- (e) [State who or what shall be the controlling authority, and any necessary provisions as to the constitution of such authority.]

Dated the _____ day of _____, 19____.

The Minister administering "The District Railways Act, 1911."

Sec. 18.

THE FIFTH SCHEDULE.

THE RAILWAY.

Form of Objection by Ratepayers and Petition for Poll.

We, the undersigned, being ratepayers in the District of _____ rated in respect of land within the Railway Area, do hereby object to the construction of the proposed railway, and pray that the question be submitted to a vote of the ratepayers in the Railway Area.

Dated the _____ day of _____, 19____.

Signatures of Objectors.	Addresses.	Signatures of Witnesses.

Declaration

*The District Railways Act.—1911.**Declaration by Witness.*

I solemnly and sincerely declare that the signatures to the above petition opposite to which my name is signed are the genuine signatures of the persons whose signatures they purport to be.

[Signature of witness.]

Declared before me at _____, the _____ day of _____ 19 _____,
Justice of the Peace.

THE SIXTH SCHEDULE.

Sec. 19.

THE RAILWAY.

Notice of Petition for Poll.

The Council of the District of _____ hereby gives notice that a petition has been presented for a poll of ratepayers in the Railway Area, and hereby certifies that the said petition is in due form and is signed by not less than twenty ratepayers of the said district, who are rated in respect of land within the Railway Area.

Dated the _____ day of _____, 19 _____.
[A.B.,] Town Clerk (or District Clerk).

THE SEVENTH SCHEDULE.

Sec. 25.

THE RAILWAY.

Certificate of Result of Poll.

I, [name of returning officer], certify that a poll taken on the _____ day of _____, 19 _____, in the District of [name of district] on the question whether the above-mentioned railway shall be constructed in pursuance of "The District Railways Act, 1911," resulted as follows:—

Number of votes in approval of the railway being
constructed.....
Number of votes in objection thereto.....
Number of informal votes.....

Total number of votes

Dated this _____ day of _____, 19 _____.
[Signature] Returning Officer.

THE EIGHTH SCHEDULE.

Sec. 44.

THE RAILWAY.

Preliminary Notice of Valuation.

The controlling authority has made the following preliminary valuation of the unimproved value of the land of the several landholders in the Railway Area under the provisions of "The District Railways Act, 1911":—

Name of Landholder.	Section or Block and Hundred.	Amount of Valuation.
John Smith	94, Grey	£
William Jones.....	110, Grey	£

Dated the _____ day of _____, 19 _____.
Clerk of the Rating Authority.

THE

The District Railways Act.—1911.

Sec. 45.

THE NINTH SCHEDULE.

THE RAILWAY.

Notice of Objection to Valuation.

Take notice that I object to the amount of the valuation of my land made for the purposes of the [*here describe railway by a name it is known by, or otherwise shortly and sufficiently identify it*] by the preliminary valuation of the controlling authority, on the ground that such amount is too high.

Dated the day of , 19 .

[*Signature of objector.*]

[*Address and occupation.*]

Sec. 48.

THE TENTH SCHEDULE.

THE RAILWAY.

Final Notice of Valuation.

The rating authority has made the following final valuation of the unimproved value of the land of the several landholders in the Railway Area under the provisions of "The District Railways Act, 1911":—

Name of Landholder.	Section or Block and Hundred.	Amount of Final Valuation.
John Smith	94, Grey	£
William Jones	110, Grey	£

Dated the day of , 19 .

, Clerk of the Rating Authority.

Sec. 51.

THE ELEVENTH SCHEDULE.

THE RAILWAY.

Notice of Railway Rate.

The controlling authority has this day declared a railway rate in respect of the above railway pursuant to "The District Railways Act, 1911." The amount of the rate to be paid by each landholder, and the date upon which the rate is to be paid, are set out hereunder; and such landholders are to make payment accordingly at the office of the said authority at [*state where situated.*]

Name of Landholder.	Amount of Rate.	Date when Rate to be paid.

Dated this day of , 19 .

Clerk of the Rating Authority.

THE

The District Railways Act.—1911.

THE TWELFTH SCHEDULE.

Sec. 56.

FORM No. 1.

THE RAILWAY.

Notice to Pay Railway Rate to Railways Commissioner.

Notice is hereby given that all moneys unpaid in respect of the railway rate declared by the rating authority on the day of 19 , are to be paid to the South Australian Railways Commissioner at Adelaide.

Dated this day of 19 .

The South Australian Railways Commissioner.

FORM No. 2.

Sec. 56.

THE RAILWAY.

Notice of Railway Rate declared by Railways Commissioner.

Notice is hereby given that on the day of 19 , the South Australian Railways Commissioner, pursuant to "The District Railways Act, 1911," served on the rating authority a notice requiring the payment of the sum of , and that the rating authority not having declared a railway rate to produce the said sum as required by the said Act, the said Commissioner, in exercise of his powers in that behalf under the said Act, hereby declares a railway rate in respect of the above Railway, and pursuant to the said Act. The amount of the rate to be paid by each landholder, and the date when the rate is to be paid, are set out hereunder; and such landholders are to make payment accordingly to the South Australian Railways Commissioner at Adelaide.

Name of Landholder.	Amount of Rate.	Date when Rate to be paid.

Dated the day of 19 .

The South Australian Railways Commissioner.