



ANNO VICESIMO SECUNDO ET VICESIMO TERTIO

VICTORIÆ REGINÆ.

A.D. 1859.

No. 11.

An Act to vest the powers and functions of the South Australian Railway Commissioners in the Commissioner of Public Works, and for other purposes therein mentioned.

[Assented to, 1st September, 1859.]

WHEREAS by An Act of the Governor and Legislative Council Preamble.
of the Province of South Australia, No. 27 of 1855-6, "To
authorize the appointment of South Australian Railway Commis-
sioners, and to vest in them the construction of the Adelaide City
and Port Railway, and of the Adelaide and Gawler Town Railway,
and to authorize the raising of a further sum of Thirty-six Thousand
Pounds for the completion of the Adelaide City and Port Railway,"
it was enacted that it should be lawful for the Governor to appoint
South Australian Railway Commissioners to whom the undertakings
therein mentioned should be entrusted for execution; and whereas by
An Act passed in the twenty-first year of the reign of Her present
Majesty, "To authorize and provide for the construction of a Rail-
way from the present Terminus of the Adelaide and Gawler Town
Railway to Section 112, in the Hundred of Light, and to confer
certain powers on the South Australian Railway Commissioners,"
certain powers, obligations, and rights were conferred and imposed
on the said Commissioners; and whereas by An Act passed in the
twenty-second year of the reign of Her present Majesty, "To authorize
and provide for the construction of a Railway from the present
terminus of the Adelaide and Gawler Town Railway at Section 112,
in the Hundred of Light, to Section 1411, in the Hundred of Ka-
punda, and to confer certain powers on the South Australian
Railway Commissioners," certain further powers, functions, obliga-
tions, duties, and rights were conferred and imposed upon the before-
mentioned

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22nd Vict.

mentioned Commissioners; and whereas it would conduce to the more efficient and economical management of the undertakings in the said Acts mentioned if the powers, functions, obligations, duties, and rights of the said Commissioners, together with the powers of leasing, hereinafter contained, were conferred upon the Commissioner of Public Works: Be it therefore Enacted, by the Governor-in-Chief of the Province of South Australia, with the advice and consent of the Legislative Council and House of Assembly of the said Province, in this present Parliament assembled, as follows—

*x 29. April 1859 - original
for first time of the Session -
See S. B.*

Powers of South Australian Railway Commissioners vested in the Commissioner of Public Works.

1. From and after the day on which this Act shall come into operation, all the powers, functions, obligations, duties, immunities, and rights, by the said Acts, or otherwise, conferred or imposed upon, or vested in the South Australian Railway Commissioners, shall be and hereby are transferred to and imposed upon and vested in the Commissioner of Railways, and shall be enjoyed, exercised, and performed by him, to the same extent, and within the same limitations as they now are or have heretofore been enjoyed, exercised, and performed by the South Australian Railway Commissioners and the authorities given by the said Acts to the Treasurer and the Governor in reference to moneys received by the Treasurer, or the advancement and payment of moneys, shall extend to the carrying over, advancement, or payment of such moneys to, or to the credit of the Commissioner of Railways, in the same manner as if his name had been introduced into the said Acts in lieu of the said South Australian Railway Commissioners.

Commissioner of Public Works to be Commissioner of Railways.

2. The Commissioner of Public Works for the time being shall be the Commissioner of Railways for the purposes of this Act.

Commissioner to appoint officers.

*In witness whereof p. 107
approved & signed
29th April 1859*

3. The Commissioner of Railways shall, from time to time, appoint and employ such manager, engineers, clerks, messengers, and other officers as he shall think fit, and shall also, from time to time, at his discretion, dismiss and discharge such officers, or any of them, and appoint others in their place: Provided that the salaries or rewards of all persons appointed and employed by such Commissioner under the authority of this Act, shall be annually voted by Parliament.

Salaries voted by Parliament.

Property, rights, &c., of Commissioners transferred.

4. All lands, chattels, and effects, belonging to or vested in the said South Australian Railway Commissioners, and all moneys due and owing to such Commissioners, shall vest absolutely in and be paid to and recoverable by the Commissioner of Railways; and all contracts entered into with or by the said Commissioners may be enforced by or against the said Commissioner of Railways.

Power to lease railways.

5. It shall be lawful for the Commissioner of Railways, from time to time, by advertisement in the *Government Gazette*, and in one or more of the daily newspapers, to invite tenders for the renting on lease of the said railways, and any branches thereof, and the works appertaining thereto, for such periods and upon such terms as may appear to him expedient; and, upon receipt of such tenders, to accept any

any one thereof, or, at his option, to refuse such tenders; and, upon the acceptance of any such tenders, and security being given to his satisfaction for the due performance thereof, and of any lease to be issued in pursuance thereof, to demise and lease the said railways, branches, and works, and the tolls, dues, and charges thereof, and arising therefrom: Provided that every such lease shall contain a covenant on the part of the lessee to provide a conveyance for all military, volunteers, militia, police, and other forces, when proceeding on duty, and for all public mails and public stores, by the ordinary trains free of charge; and, in the event of invasion or civil commotion, to place the whole resources of the railways at the disposal of the Governor, upon requisition, at the charge actually incurred by such lessee.

6. This Act shall take effect from the expiration of one calendar month from the passing thereof. Commencement of Act. *ie, 2^o Oct. /59*

7. This Act may be cited as "The Railway Commissioner's Act." Short title. *29 May 1859*
being one month from the passing day of the Act

*Extract from Gov. Gazette
6^o Oct. 1859.*

Public Works Office, Adelaide, October 1, 1859.
NOTICE is hereby given, that, in exercise of the powers vested in me by Act No. 11 of 1859, I have this day appointed Edward John Peake, Esquire, to be Manager of Railways.
 ARTHUR BLYTH,
 Commissioner of Railways.

Public Works Office, Adelaide, October 1, 1859.
NOTICE is hereby given, that, in exercise of the powers vested in me, by Act No. 11 of 1859, I have this day re-appointed William Hanson, Esquire, as Engineer-in-Chief of South Australian Railways.
 ARTHUR BLYTH,
 Commissioner of Railways.

o If the passing of the Act is to be deemed to be 1^o Sept. the day of the Gov. assent was 10^o Sept. was not Commencement under the Act until the 2^o of Oct. from an Act say it would take effect.

The power of the Commissioner to make the appointment of a manager did not arise under the Act until 2^o Oct. if the Act takes effect from 1 Oct. month from the day of its passing, but if it takes effect as I contend it does from the 1^o day of the before this point would be immaterial. The same observation applies to the Engineer in Chief.

Both appointments seem more extensive than warranted by the Act if they are to be construed literally as appointed. The appointments authorized are such only as are necessary for carrying out the objects of the different Railway Acts specifically mentioned in the Act No. 11 - 1859. but that Act does not warrant the appointment of a manager of Railways generally or the App. of an Engineer in Chief of S.A. Railways.

These appointments would not extend to the Railway authorized by Act No. 20 - 1859. Part. 137. nor in the Commissioner of Public Works a Commissioner of Railways.