An Act to provide for the Construction of a Railway from Tailem Bend via Mindarie and North of Schell's Well to a Point South-East of Brown’s Well, and for other purposes.

[Assented to, December 1st, 1909.]

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

1. This Act may be cited as “The Tailem Bend and Brown’s Well Railway Act, 1909.”

2. The Acts mentioned in the First Schedule of this Act, and all Acts heretofore or hereafter passed amending or substituted for the said Acts, or any of them, shall, so far as they are severally applicable, be incorporated and read with this Act.

3. The South Australian Railways Commissioner (hereafter in this Act called “the Commissioner”) may construct and maintain—

   (a) A railway (hereafter in this Act called “the said railway”) from Tailem Bend, running via Mindarie and to the north of Schell’s Well, to such point as he deems proper to the south-east of Brown’s Well, as the said railway is delineated in the plan deposited in the office of the Surveyor-General, in Adelaide, signed “Walter Rutt, Chief Engineer for Railways,” and dated the third day of November, one thousand nine hundred and nine; or as the said railway is delineated in any plans after the passing of this Act so deposited.
deposited, 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, or the said railway and any existing railway:

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.

4. The gauge of the said railway shall be five feet three inches, and the rails used in the construction thereof shall be of iron or steel, and of the weight of not less than forty pounds to the yard.

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

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

7. The Commissioner shall call for tenders for the construction of the said railway, to be sent in within such time, to such place, and to be upon such terms, conditions, and provisions as he deems advisable, and may accept or reject any tender, and may construct the said railway although no tender for the construction thereof has been accepted.

8. 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 price to be paid therefor, and the compensation (if any) to be made in consequence of the taking thereof, are not determined by agreement in writing, signed by or on behalf of the owner of such land 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, such price and compensation (if any) shall be determined in the following manner:

1. The Commissioner may give notice in writing to such owner of his intention to have the price and compensation (if any)
any) 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:

11. 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:

111. 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 Commissi-
oner, as provided by paragraph 11. hereof, agreeing that
such arbitrator shall be sole arbitrator or nominating and
appointing another arbitrator, the Commissioner may ap-
point 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:

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 said price
and 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 award under this section of arbitrators, or of a single
arbitrator (in a case where it is agreed, as mentioned in para-
graph 11. hereof, that an arbitrator shall be the sole arbi-
trator, 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 arbi-
tration 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
9. (1) When any Crown lands situated as mentioned in the Second Schedule are, after the passing of this Act, sold or granted or contracted to be sold or granted by or on behalf of the Crown, whether under an agreement containing a covenant to purchase or otherwise, all purchase-moneys received in respect of such land shall be paid to the credit of the Loan Fund, and, unless and until otherwise provided by Parliament, the interest on such moneys shall be applied as revenue for the general purposes of the said State.

(2) When Crown lands are sold or granted or contracted to be sold or granted under an agreement containing a covenant to purchase, or otherwise upon credit, subsection (1) shall apply only to so much of the moneys to be paid under such agreement or otherwise as represents the purchase-money, as distinguished from interest thereon and rent, and so much thereof as represents such interest and rent shall, unless and until otherwise provided by Parliament, be applied as revenue for the general purposes of the said State.

(3) This section shall apply to any lands situated as aforesaid which, when sold or granted or contracted to be sold or granted as aforesaid, are subject to any lease or licence granted by or on behalf of the Crown, as well as to all other Crown lands so situated.

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

DAY H. BOSANQUET, Governor.
THE SCHEDULES.

THE FIRST SCHEDULE

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 Railway 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."

THE SECOND SCHEDULE.

1. All Crown lands which are situated on either side of the railway and within sixteen miles thereof, and lie on the east and north of the existing railway from Murray Bridge to Pinnaroo; and

2. All other Crown lands situated within sixteen miles of the terminus of the railway.

In this Schedule "the railway" means the railway to be constructed under this Act.