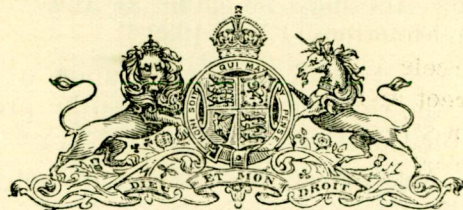


I certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

W. R. McCOURT,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 10 November, 1932.*

New South Wales.



ANNO VICESIMO TERTIO

GEORGII V REGIS.

Act No. 31, 1932.

An Act to provide for the appointment of a Commissioner for Railways, a Commissioner for Road Transport and Tramways, and a Commissioner for Main Roads, and for the exercise and performance by such Commissioners of the powers, authorities, duties, and functions of the Transport Commissioners of New South Wales; to extend such powers and authorities in certain respects; to amend the Government Railways Act, 1912-1932, the Transport Act, 1930, the State Transport (Co-ordination) Act, 1931, the Ministry of Transport Act, 1932, and certain other Acts; and for purposes connected therewith. [Assented to, 19th November, 1932.]

BE

I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.

W. T. MISSINGHAM,
Chairman of Committees of the Legislative Assembly.

Transport (Division of Functions).

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

Short title and commencement.

1. (1) This Act may be cited as the "Transport (Division of Functions) Act, 1932."

(2) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

Definitions.

2. In this Act, unless the context or subject-matter otherwise indicates or requires,—

"Board of Commissioners" means the Transport Commissioners of New South Wales constituted under the Ministry of Transport Act, 1932.

"Chief Transport Commissioner" means the Chief Transport Commissioner appointed under the Ministry of Transport Act, 1932.

"Sydney Harbour Bridge" means the works authorised by or constructed under the authority of the Sydney Harbour Bridge Act, 1922.

"Transport Commissioner" means a transport commissioner appointed under the Ministry of Transport Act, 1932.

Ministry of Transport.

3. (1) For the purpose of carrying into effect the objects and purposes of this Act there shall be a Ministry of Transport under the Minister of Transport which shall be divided into departments as follows:—

(a) the Department of Railways, which shall be administered by the Commissioner for Railways;

(b) the Department of Road Transport and Tramways, which shall be administered by the Commissioner for Road Transport and Tramways;

(c) the Department of Main Roads, which shall be administered by the Commissioner for Main Roads.

(2) Each of such departments may be divided into such branches or sections as may be determined by the Commissioner administering the same.

4.

Transport (Division of Functions).

4. (1) The Commissioner for Railways shall be a body corporate under the name of "The Commissioner for Railways." Commissioner for Railways.

(2) For the purposes of any Act the Commissioner for Railways shall be deemed a statutory body representing the Crown.

(3) The Commissioner for Railways shall exercise and perform the powers, authorities, duties, and functions which, immediately before the commencement of this Act, were exercised and performed by the Board of Commissioners in respect of—

(a) railways;

(b) the maintenance of such portions of the Sydney Harbour Bridge as are used for railway purposes and of the railway tracks and appliances in connection therewith; and

(c) the electrical power substation, and the supply of electricity and appliances in connection therewith in or upon the Sydney Harbour Bridge.

(4) For the purpose of the exercise and performance of such powers, authorities, duties, and functions a reference in the Ministry of Transport Act, 1932, to the Chief Transport Commissioner, to a Transport Commissioner, or to a Commissioner, shall be deemed a reference to the Commissioner for Railways.

5. (1) The Commissioner for Road Transport and Tramways shall be a body corporate under the name of "The Commissioner for Road Transport and Tramways." Commissioner for Road Transport and Tramways.

(2) For the purposes of any Act the Commissioner for Road Transport and Tramways shall be deemed a statutory body representing the Crown.

(3) The Commissioner for Road Transport and Tramways shall exercise and perform the powers, authorities, duties, and functions which, immediately before the commencement of this Act, were exercised and performed by the Board of Commissioners in respect of—

(a) road transport and tramways;

(b) the maintenance of such portions of the Sydney Harbour Bridge as are used for tramway purposes and of the tramway tracks, and appliances in connection therewith.

(4)

Transport (Division of Functions).

(4) For the purpose of the exercise and performance of such powers, authorities, duties, and functions a reference in the Ministry of Transport Act, 1932, to the Chief Transport Commissioner, to a Transport Commissioner, or to a Commissioner shall be deemed a reference to the Commissioner for Road Transport and Tramways.

Commis-
sioner for
Main Roads.

6. (1) The Commissioner for Main Roads shall be a body corporate under the name of "The Commissioner for Main Roads."

(2) For the purposes of any Act the Commissioner for Main Roads shall be deemed a statutory body representing the Crown.

(3) The Commissioner for Main Roads shall exercise and perform—

(a) the powers, authorities, duties, and functions which, immediately before the commencement of this Act, were exercised and performed by the Board of Commissioners in respect of roads;

(b) such of the powers, authorities, duties, and functions which, immediately before the commencement of this Act, were exercised and performed by the Board of Commissioners under or pursuant to the Sydney Harbour Bridge (Administration) Act, 1932, as are not by this Act conferred or imposed upon the Commissioner for Railways or the Commissioner for Road Transport and Tramways.

(4) For the purpose of the exercise and performance of such powers, authorities, duties, and functions a reference in the Ministry of Transport Act, 1932, to the Chief Transport Commissioner, to a Transport Commissioner, or to a Commissioner, shall be deemed a reference to the Commissioner for Main Roads.

Appointment
of
Commis-
sioners.

7. (1) The Commissioner for Railways, the Commissioner for Road Transport and Tramways and the Commissioner for Main Roads shall, respectively—

(a) be appointed by the Governor;

(b) hold office for a period of seven years;

(c) be eligible for reappointment.

(2)

Transport (Division of Functions).

(2) The salaries of the Commissioner for Railways, the Commissioner for Road Transport and Tramways, and the Commissioner for Main Roads shall be fixed by the Governor at the time of their respective appointments, and shall be subject to any deduction provided by the Public Service Salaries Act, 1931-1932, or any Act amending, consolidating, or replacing the same, but shall not otherwise be subject to any reduction.

(3) Any such Commissioner may be paid such fees and allowances as may from time to time be fixed by the Governor.

8. (1) The Governor may appoint an Assistant Commissioner for Railways, an Assistant Commissioner for Road Transport and Tramways, and an Assistant Commissioner for Main Roads or any of them. Appointment and powers of Assistant Commissioners.

(2) The Assistant Commissioner for Railways, if appointed, shall exercise such powers and perform such duties as the Commissioner for Railways may from time to time determine.

(3) The Assistant Commissioner for Road Transport and Tramways, if appointed, shall exercise such powers and perform such duties as the Commissioner for Road Transport and Tramways may, from time to time, determine.

(4) The Assistant Commissioner for Main Roads, if appointed, shall exercise such powers and perform such duties as the Commissioner for Main Roads may, from time to time, determine.

(5) An Assistant Commissioner shall hold office for a period not exceeding seven years, and shall be eligible for reappointment.

(6) The salary of an Assistant Commissioner shall be fixed by the Governor and shall be subject to any deduction provided by the Public Service Salaries Act, 1931-1932, or any Act amending, consolidating, or replacing the same.

(7) Any such Assistant Commissioner may be paid such fees and allowances as may, from time to time, be fixed by the Governor.

Transport (Division of Functions).

Saving of
rights.
cf. Act No. 3,
1932, s. 7
(16) (17)

9. (1) Notwithstanding anything contained in any Act, nothing in this Act shall affect the rights accrued or accruing under the Public Service Act, 1902, the Superannuation Act, 1916, the Government Railways Act, 1912, the Main Roads Act, 1924, the Transport Act, 1930, or the Ministry of Transport Act, 1932, or any Act amending those Acts to any person appointed a Commissioner, or an Assistant Commissioner under this Act, who at the time of his appointment, or at any time previously thereto, was an officer of the Public Service, the Railway Commissioners for New South Wales, the Main Roads Board of New South Wales, the Metropolitan Transport Trust, the Newcastle and District Transport Trust, or the Department of Transport.

(2) Any person appointed a Commissioner or an Assistant Commissioner under this Act who, at any time prior to his appointment, held office under the Government Railways Act, 1912, the Main Roads Act, 1924, the Transport Act, 1930, or the Ministry of Transport Act, 1932, or any Act amending those Acts, or was an officer of the Public Service, or of the Department of Transport, and was a contributor to a superannuation fund or account may continue as a contributor or resume and continue contributions to such fund or account and shall have and receive, upon his ceasing to hold office by effluxion of time, resignation, retirement, becoming incapable, or removal from office otherwise than for misbehaviour or incompetence, any payment, pension, or gratuity as if he were an officer within the meaning of the Act under which the fund or account to which his contributions have been made is administered.

For such purpose his service in any office under any Act, and his service as a Commissioner or Assistant Commissioner under this Act, shall be deemed to be service for the purposes of such Act.

(3) If any such Commissioner or Assistant Commissioner shall die during the currency of his term of office, any pension, payment, or gratuity shall become payable or shall be made or granted, as in the case of the death of an officer or employee within the meaning of such Act.

(4)

Transport (Division of Functions).

(4) Any such Commissioner or Assistant Commissioner, who ceases to hold office by effluxion of time or who is removed from office otherwise than for misbehaviour or incompetence, and who is not appointed to an office of the same kind carrying superannuation rights shall, for the purpose of computing the amount of any payment, pension, or gratuity, be deemed to have retired upon the day upon which he so ceases to hold office, or is removed from office, as the case may be, and to have so retired at an age at which the payment, pension, or gratuity would have become payable in pursuance of the Act under which the fund or account to which his contributions have been made, is administered.

(5) Any officer of the Public Service, or of the Department of Transport, appointed a Commissioner or an Assistant Commissioner under this Act, shall continue to contribute to any fund or account, and shall be entitled to receive any deferred or extended leave, and any payment, pension, or gratuity, as if he were an officer or employee within the meaning of the Public Service Act, 1902, the Superannuation Act, 1916, the Government Railways Act, 1912, the Main Roads Act, 1924, or the Transport Act, 1930, or any Act amending those Acts, as the case may be, and for such purposes his service as a Commissioner, or as an Assistant Commissioner shall be deemed to be service for the purposes of such Acts.

10. The provisions of the Public Service Act, 1902, shall not apply to the appointment of a Commissioner or an Assistant Commissioner.

Public Service Act, 1902 not to apply to certain appointments.

11. A Commissioner or an Assistant Commissioner holding office under this Act may be suspended from his office by the Governor for misbehaviour or incompetence, but shall not be removed from office except as hereinafter provided:—

Suspension or removal from office.

- (a) The Minister shall cause to be laid before Parliament a full statement of the grounds of suspension within seven sitting days after such suspension if Parliament is then in session, and if not, then within seven sitting days after the commencement of the next session.

(b)

Transport (Division of Functions).

(b) A Commissioner or an Assistant Commissioner suspended under this section shall be restored to office unless each House of Parliament, within twenty-one days from the time when such statement has been laid before it, declares by resolution that the Commissioner or Assistant Commissioner, as the case may be, ought to be removed from office, and if each House of Parliament within the said time does so declare, such Commissioner or Assistant Commissioner shall be removed by the Governor accordingly.

Vacation
of office.
cf. Act No. 3,
1932, s. 7
(14).

12. A Commissioner or an Assistant Commissioner shall be deemed to have vacated his office if he—

- (a) engages in New South Wales, during his term of office, in any paid employment outside the duties of his office except with the approval of the Governor;
- (b) becomes bankrupt, compounds with his creditors, or makes an assignment of his salary for their benefit;
- (c) absents himself from duty for a period of fourteen consecutive days, except on leave granted by the Governor;
- (d) becomes incapable of performing his duties;
- (e) resigns his office by writing under his hand;
- (f) becomes in any way concerned or interested otherwise than as a shareholder in an incorporated company consisting of more than twenty-five persons, in any contract or agreement made by or on behalf of any of the Commissioners holding office under this Act, or in any wise participates or claims to be entitled to participate in the profit thereof, or in any benefit or emolument arising therefrom.

Appointment
of deputy.

13. (1) In case of the illness, suspension, or absence of a Commissioner or an Assistant Commissioner appointed under this Act, the Governor may appoint a person to be the deputy of such Commissioner, or Assistant Commissioner, for the period of his illness, suspension, or absence, and any person so appointed shall, whilst

Transport (Division of Functions).

whilst so acting, exercise all the powers and perform all the duties of such Commissioner or Assistant Commissioner, as the case may be.

(2) In case of the illness, suspension, or absence of a person appointed to be the deputy of a Commissioner, or Assistant Commissioner, the Governor may terminate his appointment as such deputy and appoint some other person to be the deputy of such Commissioner or Assistant Commissioner for the balance of the period of the illness, suspension, or absence of the Commissioner or Assistant Commissioner, and such other person, whilst so acting, shall exercise all the powers and perform all the duties of such Commissioner or Assistant Commissioner, as the case may be.

(3) Where an Assistant Commissioner is appointed in pursuance of this section to be the deputy of a Commissioner the Governor may appoint a person to be the deputy of such Assistant Commissioner whilst so acting, and any person so appointed shall, whilst acting as such deputy, exercise all the powers and perform all the duties of such Assistant Commissioner.

14. (1) Upon the commencement of this Act the Board of Commissioners shall cease to function, and the powers, authorities, duties, and functions, including the power to recommend or concur in the making of regulations or ordinances conferred or imposed upon such Board of Commissioners by or under any Act, shall be executed and performed by the respective Commissioners appointed under this Act. Transfer of functions.

(2) Upon such commencement the Chief Transport Commissioner and the Transport Commissioners shall cease to hold office.

(3) The Chief Transport Commissioner and the Transport Commissioners shall be eligible for appointment to an office constituted under this Act or for appointment as an officer of one of the departments of the Ministry of Transport.

(4) If the Chief Transport Commissioner, or any Transport Commissioner, is not so appointed he shall receive such compensation as he would have been entitled to had his services been dispensed with otherwise than according

Transport (Division of Functions).

according to law, and shall be entitled to any superannuation rights he would have had if his services had been dispensed with by reason that his office had been abolished.

Savings.

15. (1) Where any matter or thing has been commenced by or under the authority of the Board of Commissioners, it may be carried on and completed by or under the authority of the Commissioner appointed under this Act to exercise and perform the power, authority, duty, or function under or in respect of which such matter or thing was so commenced.

(2) Any action or proceeding, or any cause of action or proceeding pending or existing immediately before the commencement of this Act by or against the Board of Commissioners may be continued by or against the Commissioner appointed under this Act to exercise and perform the power, authority, duty, or function under or in respect of which such action or proceeding or cause of action or proceeding arose.

Where any person has, before the commencement of this Act, served a notice of intended action against the Board of Commissioners, and has commenced an action or proceeding against the Board of Commissioners, or proposes to commence an action or proceeding against a Commissioner appointed under this Act he may, if any doubt should arise as to the Commissioner against whom he should continue or commence the action or proceeding by notice in writing, require the Minister to nominate the Commissioner appointed under this Act against whom such action or proceeding shall be continued or commenced; and any such action or proceeding may be continued or commenced, as the case may be, and completed against the Commissioner nominated by the Minister.

Where, after the commencement of this Act, any person proposes to commence an action or proceeding against a Commissioner appointed under this Act, he may, if any doubt should arise as to the Commissioner against whom he should continue or commence the action or proceeding, either before or after the date upon which he serves notice of intended action, by notice in writing, require the Minister to nominate the Commissioner appointed
under

Transport (Division of Functions).

under this Act against whom the action or proceeding should be commenced; and such action or proceeding may be commenced and completed against the Commissioner nominated by the Minister.

(3) All moneys and liquidated or unliquidated claims which immediately before the commencement of this Act are payable to or recoverable by the Board of Commissioners shall be moneys and liquidated or unliquidated claims payable to or recoverable by the Commissioner appointed under this Act to exercise and perform the power, authority, duty, or function under or in respect of which such money or claim is so payable or recoverable.

(4) All contracts, agreements, and undertakings entered into with, and all securities lawfully given to or by the Board of Commissioners and in force immediately before the commencement of this Act, shall be deemed to be contracts, agreements, and undertakings entered into with and securities given to or by the Commissioner appointed under this Act to exercise and perform the power, authority, duty, or function under or in respect of which such securities, agreements, and undertakings were so entered into or given.

(5) Each such Commissioner may pursue the same remedies for the recovery of any such moneys and claims and for the prosecution of such suits, actions, and proceedings as the Board of Commissioners might have done but for this Act.

(6) Each such Commissioner may enforce and realise any security or charge existing immediately before the commencement of this Act in respect of any such moneys and claims as if such security or charge were existing in favour of such Commissioner.

(7) All debts due and moneys payable by and all claims liquidated and unliquidated recoverable against the Board of Commissioners shall be debts due and moneys payable by and claims recoverable against the Commissioner appointed under this Act to exercise and perform the power, authority, duty, or function under or in respect of which such debt became due, such money became payable, or such claim became recoverable.

(8)

Transport (Division of Functions).

(8) (a) All by-laws, regulations, and ordinances made under or by virtue of the Government Railways Act, 1912, the Main Roads Act, 1924, the Motor Tax Management Act, 1914, the Metropolitan Traffic Act, 1900, the Motor Traffic Act, 1909, the Transport Act, 1930, or the State Transport (Co-ordination) Act, 1931, or any Act amending those Acts, and in force at the commencement of this Act, shall, so far as they are not inconsistent with this Act, continue in force until repealed or replaced by subsequent by-laws, regulations, or ordinances as the case may be.

(b) Any repeal of the by-laws, regulations, or ordinances continued by this section shall not affect any proceedings pending for the breach of any such by-laws, regulations, or ordinances, and such by-laws, regulations, or ordinances shall, for the purposes of any prosecution in respect of any breach occurring before the date of such repeal be deemed to continue and to have full force and effect.

Funds.

16. The funds vested in and administered by the Board of Commissioners, and the funds administered by the Board of Commissioners, shall be vested in and administered by, or administered by, as the case may be, the respective Commissioners appointed under this Act to exercise and perform the powers, authorities, duties, and functions under or in respect of which such funds were so vested in and administered by, or administered by, as the case may be, the Board of Commissioners.

**Vesting of
lands, etc.**

17. (1) All lands, leases, licenses, rights, easements, user facilities, and all other property of whatever description, held or possessed, immediately before the commencement of this Act, by the Board of Commissioners shall be transferred to and vested in the respective Commissioners appointed under this Act to exercise and perform the powers, authorities, duties, and functions under or in respect of which such property was held or possessed by the Board of Commissioners.

(2) The Commissioner appointed under this Act in whom any such property is vested shall assume such of the liabilities and obligations of the Board of Commissioners as were incurred in respect of the property so vested.

(3)

Transport (Division of Functions).

(3) No attornment by a lessee of any land transferred to a Commissioner under this section shall be necessary.

18. Each of the Commissioners appointed under this Act shall assume such part of the capital indebtedness to the State of the Board of Commissioners as was assumed by the Board of Commissioners and was subsisting immediately before the commencement of this Act in respect of the powers, authorities, duties, and functions which by this Act such Commissioner is required or authorised to exercise and perform.

Capital indebtedness.

19. If any doubt or dispute arises as to which of the Commissioners appointed under this Act is to exercise and perform any power, authority, duty, or function which, before the commencement of this Act, was exercised and performed by the Board of Commissioners, or if any dispute arises between the Commissioners appointed under this Act, out of the exercise or performance of any such power, authority, duty, or function, or as to their respective rights or liabilities, any such Commissioner may refer the matter to the Minister.

Disputes.
cf. Act No. 18, 1930, s. 210.

Where any such matter is so referred it shall be determined by the Governor, or in such manner as the Governor directs.

20. In the construction, and for the purposes of any Act, by-law, regulation, ordinance, or any other instrument or document whatsoever, of the same or a different kind or nature, any reference to, or to be read, deemed, and taken to refer to the Board of Commissioners shall be read, deemed, and taken to refer to the Commissioner appointed under this Act to exercise and perform the power, authority, duty, or function of the Board of Commissioners to which such reference applies.

Construction of Acts, etc.

21. (1) The officers (other than the Transport Commissioners) and employees of the Department of Transport who, immediately before the commencement of this Act, were employed in that Department in connection with the administration of any power, authority, duty, or function of the Board of Commissioners which, by this Act, is required or permitted to be exercised and performed

Officers and employees.

Transport (Division of Functions).

performed by the Commissioner for Railways shall become and be officers and employees of the Department of Railways.

(2) The officers (other than the Transport Commissioners) and employees of the Department of Transport who, immediately before the commencement of this Act, were employed in that department in connection with the administration of any power, authority, duty, or function of the Board of Commissioners which, by this Act, is required or permitted to be exercised and performed by the Commissioner for Road Transport and Tramways, shall become and be officers and employees of the Department of Road Transport and Tramways.

(3) The officers (other than the Transport Commissioners) and employees of the Department of Transport who, immediately before the commencement of this Act, were employed in that department in connection with the administration of any power, authority, duty, or function which, by this Act, is required or permitted to be exercised and performed by the Commissioner for Main Roads, shall become and be officers and employees of the Department of Main Roads.

(4) Any such officer or employee shall continue to contribute to any fund or account and shall be entitled to receive any annual, sick, deferred, or extended leave, and any payment, pension, or gratuity, as if he had remained an officer or employee within the meaning of the Public Service Act, 1902, the Superannuation Act, 1916, the Government Railways Act, 1912, the Transport Act, 1930, the Main Roads Act, 1924, or the Ministry of Transport Act, 1932, or any Act amending those Acts, as the case may be, and for any such purposes his service under this Act shall be deemed to be service for the purposes of any of such first-mentioned Acts.

(5) Where any condition of employment of any such officer or employee is at the date of his transfer regulated by an award or industrial agreement, such condition shall continue to be so regulated until an award by which the Commissioner administering the department to which he has been transferred is bound

is

Transport (Division of Functions).

is made by a court of competent jurisdiction, or such condition is regulated by an industrial agreement to which such Commissioner is a party.

22. (1) The Public Service Act, 1902, as amended by subsequent Acts, shall not apply to the appointment or employment of any officer or employee of the Department of Railways, the Department of Road Transport and Tramways, or the Department of Main Roads.

Public Service Act, 1902, not to apply to employment of officers or employees.

(2) Where, immediately before the commencement of this Act, the employment of any such officer was regulated by the Public Service Act, 1902, such officer shall have the same right to consideration for any appointment in the Public Service as is provided by the Public Service Act, 1902, for an officer of the Public Service.

23. (1) Any Commissioner appointed under this Act may by arrangement with any other Commissioner appointed under this Act—

Transfer of officers between departments.

(a) transfer to the department administered by such first-mentioned Commissioner any officer or employee of the department administered by such other Commissioner;

(b) make use of the services of any officer or employee of the department administered by such other Commissioner.

(2) The provisions of subsections four and five of section twenty-one of this Act shall, mutatis mutandis, apply to and in respect of any officer or employee so transferred.

24. (1) A Commissioner appointed under this Act may reduce any officer or employee of the Department administered by him in all or any of the following respects, that is to say, in rank, position, grade and pay.

Powers of Commissioner in respect of officers and employees.

Where the conditions of employment of any officer or employee are regulated by an award or industrial agreement, his pay shall not be reduced unless he is also reduced in rank, position or grade, and where he is reduced in rank, position or grade his pay shall not be reduced below the highest rate prescribed by the award or industrial agreement for the rank, position or grade to which he is reduced.

(2)

Transport (Division of Functions).

(2) A Commissioner appointed under this Act may, if he thinks it requisite for the efficiency of the Department administered by him, disregard seniority in making any appointment, promotion, reduction or retrenchment.

Special powers of Commissioner for Railways.

25. The Commissioner for Railways may in respect of the parcels of land in the City of Sydney between George-street and Wynyard-lane, and Wynyard-lane and Carrington-street, respectively, which were resumed for the purposes of the construction of and provision of access to Wynyard Railway Station, permit the erection, making, or construction of a building or part of a building across or under Wynyard-lane, but any such building shall be so constructed as to leave a clear space of not less than twenty feet above the surface of the roadway of such lane when it is restored, and as not to impede or restrict pedestrian or vehicular traffic in and along such lane.

Amendment of Act No. 30, 1912.

26. (1) The Government Railways Act, 1912-1932, is amended—

Section 41J.
(Capital Debts Committee of Review.)

(a) by omitting from subsection one of section 41J the words “the Chief Transport Commissioner” and by inserting in lieu thereof the words “the Commissioner for Railways”;

Sec. 107A.
(Enforcement of judgments.)

(b) by omitting from subsection three of section 107A the words “four pounds per week” and by inserting in lieu thereof the words “a sum per week equivalent to the amount of the declared adult male or adult female living wage in force for the time being less five shillings”;

Sec. 110.
(Railways Superannuation Board.)

(c) (i) by omitting from section one hundred and ten the words “Transport Commissioner appointed to the charge of the Staff Branch of the Department of Transport” and by inserting in lieu thereof the words “Commissioner for Railways”;

(ii) by omitting from the same section the words “Transport Commissioner” and by inserting in lieu thereof the words “Commissioner for Railways”;

(iii)

Transport (Division of Functions).

(iii) by omitting from the same section the words "an officer of the Staff Branch of the Department of Transport" and by inserting in lieu thereof the words "an officer of the Department of Railways."

(2) The Transport Act, 1930, as amended by subsequent Acts, is amended—

(a) by omitting subsection eight of section eighteen and by inserting in lieu thereof the following subsection:—

(8) Any officer of the Commissioner for Road Transport and Tramways who at any time prior to the passing of the Principal Act was an officer of the public service under the Public Service Board, and who was transferred from the public service to the service of the Commissioner of Road Transport, a Transport Trust, or the Management Board, or who was an officer of the Main Roads Board, and immediately before the commencement of this Act was an officer of the Highway and Roads Transportation Branch of the Department of Transport, or subsequently to such commencement becomes an officer of the Road Transport and Tramways Department of the Ministry of Transport, shall not be subject to the provisions of the Public Service Act, 1902, nor under the control of the Public Service Board, but he shall retain or have any rights to leave which he would have had if he had continued as an officer of the public service; he shall have the same right to consideration for any appointment to the public service as is provided by the Public Service Act, 1902, for an officer of the public service; he shall, subject to this Act, be entitled to a salary unless and until his salary is fixed by an industrial award such as would be payable to him if he were an officer of the public service, and he shall be entitled to contribute or to continue to contribute to any superannuation fund or account to which

Amend-
ment of Act
No. 18, 1930.
Sec. 18.
(Appoint-
ment of
officers.)

Transport (Division of Functions).

which prior to his transfer he contributed, and to retain or have his rights to any pension, gratuity, allowance, or other benefit which he would have received from such superannuation fund or account if he had continued as an officer of the public service. For the purposes of leave and superannuation service under the Transport Act, 1930, the Ministry of Transport Act, 1932, or this Act shall be regarded as service in the public service.

Sec. 41.
(Capital Debts Committee of Review.)

(b) by omitting paragraphs (b) and (c) of subsection one of section forty-one and by inserting in lieu thereof the following paragraph:—

(b) the Commissioner for Road Transport and Tramways.

Amendment of Act No. 32, 1931.

(3) The State Transport (Co-ordination) Act, 1931, is amended—

Sec. 7.
(Control by Minister of certain authorities.)

(a) by omitting section seven;

Sec. 9.
(Minister's directions to be complied with.)

(b) by omitting section nine.

Amendment of Act No. 2, 1932.

(4) The Ministry of Transport Act, 1932, is amended—

Sec. 5 (3).
(Department of Transport.)

(a) by omitting subsection three of section five;

Sec. 6.
(Department of Transport.)

(b) by omitting subsection two and subsection three of section six;

Sec. 7.
(Board of Commissioners)

(c) by omitting from subsection five of section seven the words "subject to the control of the Minister";

Sec. 8.
(Secretary.)

(d) by omitting section eight;

Sec. 15.
(Vesting of lands, etc.)

(e) by omitting from subsection one of section fifteen the words "and the Main Roads Board of New South Wales" and by inserting in lieu thereof the words "the Main Roads Board of New South Wales and the State Transport (Co-ordination) Board":

(f)

Transport (Division of Functions).

(f) by omitting paragraph (c) and paragraph (d) of subsection one of section twenty-one. **Sec. 21.**
(Revision.)

(5) The amendment made by paragraph (e) of subsection four of this section shall be deemed to have commenced on the twenty-second day of March, one thousand nine hundred and thirty-two.

In the name and on behalf of His Majesty I assent to this Act.

PHILIP GAME,
Governor.

*Government House,
Sydney, 19th November, 1932.*

I certify that the Public Bill which is referred to in the
above resolution was introduced in the Legislative Council and
the Legislative Assembly on the 15th day of August 1932.

W. H. G. GIBBS

Minister of Education, Government of Western Australia

(5) The Government shall be pleased to have
the Bill introduced in the Legislative Council and
the Legislative Assembly on the 15th day of August 1932.
The Bill shall be introduced in the Legislative Council
and the Legislative Assembly on the 15th day of August 1932.

PHILIP GARDNER
Governor

Government House,
Perth, Western Australia, 15th August 1932.

1932, and certain other Acts, and for
purposes connected therewith. [Assented
to on 15th October 1932]

I have caused this Bill to be printed in accordance
with the provisions of the Bill.
W. H. G. GIBBS
Minister of Education, Government of Western Australia

TRANSPORT (DIVISION OF FUNCTIONS) BILL.

SCHEDULE of the Amendments referred to in Message of 9th November, 1932.

Page 9, clause 14, line 39. *After "shall" insert "receive such compensation as he would have been entitled to had his services been dispensed with otherwise than according to law, and shall"*

Page 10, clause 14, line 1. *Omit "or other"*

Page 14, clause 21, line 40. *After "transferred" insert "is bound"*

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1950

1950

This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

W. R. McCOURT,
Clerk of the Legislative Assembly,
Legislative Assembly Chamber,
Sydney, 12 October, 1932.

The LEGISLATIVE COUNCIL has this day agreed to this Bill with Amendments.

C. H. H. CALVERT,
Clerk of the Parliaments,
Legislative Council Chamber,
Sydney, 9th November, 1932.

New South Wales.



ANNO VICESIMO TERTIO

GEORGII V REGIS.

Act No. , 1932.

An Act to provide for the appointment of a Commissioner for Railways, a Commissioner for Road Transport and Tramways, and a Commissioner for Main Roads, and for the exercise and performance by such Commissioners of the powers, authorities, duties, and functions of the Transport Commissioners of New South Wales; to extend such powers and authorities in certain respects; to amend the Government Railways Act, 1912-1932, the Transport Act, 1930, the State Transport (Co-ordination) Act, 1931, the Ministry of Transport Act, 1932, and certain other Acts; and for purposes connected therewith.

8311

31—A

BE

NOTE.—The words to be omitted are ruled through; those to be inserted are printed in black letter.

Transport (Division of Functions).

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the "Transport (Division of Functions) Act, 1932." Short title and commencement.

(2) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

2. In this Act, unless the context or subject-matter otherwise indicates or requires,— Definitions.

"Board of Commissioners" means the Transport Commissioners of New South Wales constituted under the Ministry of Transport Act, 1932.

"Chief Transport Commissioner" means the Chief Transport Commissioner appointed under the Ministry of Transport Act, 1932.

"Sydney Harbour Bridge" means the works authorised by or constructed under the authority of the Sydney Harbour Bridge Act, 1922.

"Transport Commissioner" means a transport commissioner appointed under the Ministry of Transport Act, 1932.

3. (1) For the purpose of carrying into effect the objects and purposes of this Act there shall be a Ministry of Transport under the Minister of Transport which shall be divided into departments as follows:— Ministry of Transport.

(a) the Department of Railways, which shall be administered by the Commissioner for Railways;

(b) the Department of Road Transport and Tramways, which shall be administered by the Commissioner for Road Transport and Tramways;

(c) the Department of Main Roads, which shall be administered by the Commissioner for Main Roads.

(2) Each of such departments may be divided into such branches or sections as may be determined by the Commissioner administering the same.

Transport (Division of Functions).

4. (1) The Commissioner for Railways shall be a body corporate under the name of "The Commissioner for Railways." Commissioner for Railways.

(2) For the purposes of any Act the Commissioner for Railways shall be deemed a statutory body representing the Crown.

(3) The Commissioner for Railways shall exercise and perform the powers, authorities, duties, and functions which, immediately before the commencement of this Act, were exercised and performed by the Board of Commissioners in respect of—

(a) railways;

(b) the maintenance of such portions of the Sydney Harbour Bridge as are used for railway purposes and of the railway tracks and appliances in connection therewith; and

(c) the electrical power substation, and the supply of electricity and appliances in connection therewith in or upon the Sydney Harbour Bridge.

(4) For the purpose of the exercise and performance of such powers, authorities, duties, and functions a reference in the Ministry of Transport Act, 1932, to the Chief Transport Commissioner, to a Transport Commissioner, or to a Commissioner, shall be deemed a reference to the Commissioner for Railways.

5. (1) The Commissioner for Road Transport and Tramways shall be a body corporate under the name of "The Commissioner for Road Transport and Tramways." Commissioner for Road Transport and Tramways.

(2) For the purposes of any Act the Commissioner for Road Transport and Tramways shall be deemed a statutory body representing the Crown.

(3) The Commissioner for Road Transport and Tramways shall exercise and perform the powers, authorities, duties, and functions which, immediately before the commencement of this Act, were exercised and performed by the Board of Commissioners in respect of—

(a) road transport and tramways;

(b) the maintenance of such portions of the Sydney Harbour Bridge as are used for tramway purposes and of the tramway tracks, and appliances in connection therewith.

(4)

Transport (Division of Functions).

(4) For the purpose of the exercise and performance of such powers, authorities, duties, and functions a reference in the Ministry of Transport Act, 1932, to the Chief Transport Commissioner, to a Transport Commissioner, or to a Commissioner shall be deemed a reference to the Commissioner for Road Transport and Tramways.

6. (1) The Commissioner for Main Roads shall be a body corporate under the name of "The Commissioner for Main Roads."

Commissioner for Main Roads.

(2) For the purposes of any Act the Commissioner for Main Roads shall be deemed a statutory body representing the Crown.

(3) The Commissioner for Main Roads shall exercise and perform—

(a) the powers, authorities, duties, and functions which, immediately before the commencement of this Act, were exercised and performed by the Board of Commissioners in respect of roads;

(b) such of the powers, authorities, duties, and functions which, immediately before the commencement of this Act, were exercised and performed by the Board of Commissioners under or pursuant to the Sydney Harbour Bridge (Administration) Act, 1932, as are not by this Act conferred or imposed upon the Commissioner for Railways or the Commissioner for Road Transport and Tramways.

(4) For the purpose of the exercise and performance of such powers, authorities, duties, and functions a reference in the Ministry of Transport Act, 1932, to the Chief Transport Commissioner, to a Transport Commissioner, or to a Commissioner, shall be deemed a reference to the Commissioner for Main Roads.

7. (1) The Commissioner for Railways, the Commissioner for Road Transport and Tramways and the Commissioner for Main Roads shall, respectively—

Appointment of Commissioners.

- (a) be appointed by the Governor;
- (b) hold office for a period of seven years;
- (c) be eligible for reappointment.

(2)

Transport (Division of Functions).

5 (2) The salaries of the Commissioner for Railways, the Commissioner for Road Transport and Tramways, and the Commissioner for Main Roads shall be fixed by the Governor at the time of their respective appointments, and shall be subject to any deduction provided by the Public Service Salaries Act, 1931-1932, or any Act amending, consolidating, or replacing the same, but shall not otherwise be subject to any reduction.

10 (3) Any such Commissioner may be paid such fees and allowances as may from time to time be fixed by the Governor.

15 **S.** (1) The Governor may appoint an Assistant Commissioner for Railways, an Assistant Commissioner for Road Transport and Tramways, and an Assistant Commissioner for Main Roads or any of them. Appointment and powers of Assistant Commissioners.

(2) The Assistant Commissioner for Railways, if appointed, shall exercise such powers and perform such duties as the Commissioner for Railways may from time to time determine.

20 (3) The Assistant Commissioner for Road Transport and Tramways, if appointed, shall exercise such powers and perform such duties as the Commissioner for Road Transport and Tramways may, from time to time, determine.

25 (4) The Assistant Commissioner for Main Roads, if appointed, shall exercise such powers and perform such duties as the Commissioner for Main Roads may, from time to time, determine.

30 (5) An Assistant Commissioner shall hold office for a period not exceeding seven years, and shall be eligible for reappointment.

35 (6) The salary of an Assistant Commissioner shall be fixed by the Governor and shall be subject to any deduction provided by the Public Service Salaries Act, 1931-1932, or any Act amending, consolidating, or replacing the same.

(7) Any such Assistant Commissioner may be paid such fees and allowances as may, from time to time, be fixed by the Governor.

Transport (Division of Functions).

9. (1) Notwithstanding anything contained in any Act, nothing in this Act shall affect the rights accrued or accruing under the Public Service Act, 1902, the Superannuation Act, 1916, the Government Railways Act, 1912, the Main Roads Act, 1924, the Transport Act, 1930, or the Ministry of Transport Act, 1932, or any Act amending those Acts to any person appointed a Commissioner, or an Assistant Commissioner under this Act, who at the time of his appointment, or at any time previously thereto, was an officer of the Public Service, the Railway Commissioners for New South Wales, the Main Roads Board of New South Wales, the Metropolitan Transport Trust, the Newcastle and District Transport Trust, or the Department of Transport.

Saving of rights.
cf. Act No. 3,
1932, s. 7
(16) (17)

(2) Any person appointed a Commissioner or an Assistant Commissioner under this Act who, at any time prior to his appointment, held office under the Government Railways Act, 1912, the Main Roads Act, 1924, the Transport Act, 1930, or the Ministry of Transport Act, 1932, or any Act amending those Acts, or was an officer of the Public Service, or of the Department of Transport, and was a contributor to a superannuation fund or account may continue as a contributor or resume and continue contributions to such fund or account and shall have and receive, upon his ceasing to hold office by effluxion of time, resignation, retirement, becoming incapable, or removal from office otherwise than for misbehaviour or incompetence, any payment, pension, or gratuity as if he were an officer within the meaning of the Act under which the fund or account to which his contributions have been made is administered.

For such purpose his service in any office under any Act, and his service as a Commissioner or Assistant Commissioner under this Act, shall be deemed to be service for the purposes of such Act.

(3) If any such Commissioner or Assistant Commissioner shall die during the currency of his term of office, any pension, payment, or gratuity shall become payable or shall be made or granted, as in the case of the death of an officer or employee within the meaning of such Act.

(4)

Transport (Division of Functions).

(4) Any such Commissioner or Assistant Commissioner, who ceases to hold office by effluxion of time or who is removed from office otherwise than for misbehaviour or incompetence, and who is not appointed to an office of the same kind carrying superannuation rights shall, for the purpose of computing the amount of any payment, pension, or gratuity, be deemed to have retired upon the day upon which he so ceases to hold office, or is removed from office, as the case may be, and to have so retired at an age at which the payment, pension, or gratuity would have become payable in pursuance of the Act under which the fund or account to which his contributions have been made, is administered.

(5) Any officer of the Public Service, or of the Department of Transport, appointed a Commissioner or an Assistant Commissioner under this Act, shall continue to contribute to any fund or account, and shall be entitled to receive any deferred or extended leave, and any payment, pension, or gratuity, as if he were an officer or employee within the meaning of the Public Service Act, 1902, the Superannuation Act, 1916, the Government Railways Act, 1912, the Main Roads Act, 1924, or the Transport Act, 1930, or any Act amending those Acts, as the case may be, and for such purposes his service as a Commissioner, or as an Assistant Commissioner shall be deemed to be service for the purposes of such Acts.

10. The provisions of the Public Service Act, 1902, shall not apply to the appointment of a Commissioner or an Assistant Commissioner.

Public Service Act, 1902 not to apply to certain appointments.

11. A Commissioner or an Assistant Commissioner holding office under this Act may be suspended from his office by the Governor for misbehaviour or incompetence, but shall not be removed from office except as hereinafter provided:—

Suspension or removal from office.

(a) The Minister shall cause to be laid before Parliament a full statement of the grounds of suspension within seven sitting days after such suspension if Parliament is then in session, and if not, then within seven sitting days after the commencement of the next session.

(b)

Transport (Division of Functions).

5 (b) A Commissioner or an Assistant Commissioner
suspended under this section shall be restored
to office unless each House of Parliament, within
twenty-one days from the time when such state-
ment has been laid before it, declares by resolu-
tion that the Commissioner or Assistant Com-
missioner, as the case may be, ought to be removed
from office, and if each House of Parliament
within the said time does so declare, such Com-
missioner or Assistant Commissioner shall be
10 removed by the Governor accordingly.

12. A Commissioner or an Assistant Commissioner shall be deemed to have vacated his office if he—

- 15 (a) engages in New South Wales, during his term
of office, in any paid employment outside the
duties of his office except with the approval of
the Governor; Vacation
of office.
cf. Act No. 3,
1932, s. 7
(14).
- 20 (b) becomes bankrupt, compounds with his credi-
tors, or makes an assignment of his salary for
their benefit;
- (c) absents himself from duty for a period of four-
teen consecutive days, except on leave granted
by the Governor;
- (d) becomes incapable of performing his duties;
- 25 (e) resigns his office by writing under his hand;
- (f) becomes in any way concerned or interested
otherwise than as a shareholder in an incor-
porated company consisting of more than
twenty-five persons, in any contract or agree-
ment made by or on behalf of any of the Com-
missioners holding office under this Act, or in
any wise participates or claims to be entitled to
participate in the profit thereof, or in any
benefit or emolument arising therefrom.

35 13. (1) In case of the illness, suspension, or absence
of a Commissioner or an Assistant Commissioner
appointed under this Act, the Governor may appoint a
person to be the deputy of such Commissioner, or
Assistant Commissioner, for the period of his illness,
40 suspension, or absence, and any person so appointed shall,
whilst Appointment
of deputy.

Transport (Division of Functions).

whilst so acting, exercise all the powers and perform all the duties of such Commissioner or Assistant Commissioner, as the case may be.

(2) In case of the illness, suspension, or absence of a person appointed to be the deputy of a Commissioner, or Assistant Commissioner, the Governor may terminate his appointment as such deputy and appoint some other person to be the deputy of such Commissioner or Assistant Commissioner for the balance of the period of the illness, suspension, or absence of the Commissioner or Assistant Commissioner, and such other person, whilst so acting, shall exercise all the powers and perform all the duties of such Commissioner or Assistant Commissioner, as the case may be.

(3) Where an Assistant Commissioner is appointed in pursuance of this section to be the deputy of a Commissioner the Governor may appoint a person to be the deputy of such Assistant Commissioner whilst so acting, and any person so appointed shall, whilst acting as such deputy, exercise all the powers and perform all the duties of such Assistant Commissioner.

14. (1) Upon the commencement of this Act the Board of Commissioners shall cease to function, and the powers, authorities, duties, and functions, including the power to recommend or concur in the making of regulations or ordinances conferred or imposed upon such Board of Commissioners by or under any Act, shall be executed and performed by the respective Commissioners appointed under this Act.

Transfer of functions.

(2) Upon such commencement the Chief Transport Commissioner and the Transport Commissioners shall cease to hold office.

(3) The Chief Transport Commissioner and the Transport Commissioners shall be eligible for appointment to an office constituted under this Act or for appointment as an officer of one of the departments of the Ministry of Transport.

(4) If the Chief Transport Commissioner, or any Transport Commissioner, is not so appointed he shall receive such compensation as he would have been entitled to had his services been dispensed with otherwise than according to

Transport (Division of Functions).

to law, and shall be entitled to any superannuation or other rights he would have had if his services had been dispensed with by reason that his office had been abolished.

5 **15.** (1) Where any matter or thing has been com- Savings
menced by or under the authority of the Board of Com-
missioners, it may be carried on and completed by or
under the authority of the Commissioner appointed under
this Act to exercise and perform the power, authority,
duty, or function under or in respect of which such
10 matter or thing was so commenced.

(2) Any action or proceeding, or any cause of
action or proceeding pending or existing immediately
before the commencement of this Act by or against the
Board of Commissioners may be continued by or against
15 the Commissioner appointed under this Act to exercise
and perform the power, authority, duty, or function
under or in respect of which such action or proceeding
or cause of action or proceeding arose.

Where any person has, before the commencement of
20 this Act, served a notice of intended action against the
Board of Commissioners, and has commenced an action
or proceeding against the Board of Commissioners, or
proposes to commence an action or proceeding against a
Commissioner appointed under this Act he may, if any
25 doubt should arise as to the Commissioner against whom
he should continue or commence the action or proceeding
by notice in writing, require the Minister to nominate
the Commissioner appointed under this Act against whom
such action or proceeding shall be continued or com-
30 menced; and any such action or proceeding may be con-
tinued or commenced, as the case may be, and completed
against the Commissioner nominated by the Minister.

Where, after the commencement of this Act, any person
proposes to commence an action or proceeding against a
35 Commissioner appointed under this Act, he may, if any
doubt should arise as to the Commissioner against whom
he should continue or commence the action or proceeding,
either before or after the date upon which he serves
notice of intended action, by notice in writing, require
40 the Minister to nominate the Commissioner appointed
under this Act against whom the action or proceeding
should

Transport (Division of Functions).

should be commenced; and such action or proceeding may be commenced and completed against the Commissioner nominated by the Minister.

(3) All moneys and liquidated or unliquidated claims which immediately before the commencement of this Act are payable to or recoverable by the Board of Commissioners shall be moneys and liquidated or unliquidated claims payable to or recoverable by the Commissioner appointed under this Act to exercise and perform the power, authority, duty, or function under or in respect of which such money or claim is so payable or recoverable.

(4) All contracts, agreements, and undertakings entered into with, and all securities lawfully given to or by the Board of Commissioners and in force immediately before the commencement of this Act, shall be deemed to be contracts, agreements, and undertakings entered into with and securities given to or by the Commissioner appointed under this Act to exercise and perform the power, authority, duty, or function under or in respect of which such securities, agreements, and undertakings were so entered into or given.

(5) Each such Commissioner may pursue the same remedies for the recovery of any such moneys and claims and for the prosecution of such suits, actions, and proceedings as the Board of Commissioners might have done but for this Act.

(6) Each such Commissioner may enforce and realise any security or charge existing immediately before the commencement of this Act in respect of any such moneys and claims as if such security or charge were existing in favour of such Commissioner.

(7) All debts due and moneys payable by and all claims liquidated and unliquidated recoverable against the Board of Commissioners shall be debts due and moneys payable by and claims recoverable against the Commissioner appointed under this Act to exercise and perform the power, authority, duty, or function under or in respect of which such debt became due, such money became payable, or such claim became recoverable.

(8)

Transport (Division of Functions).

(8) (a) All by-laws, regulations, and ordinances made under or by virtue of the Government Railways Act, 1912, the Main Roads Act, 1924, the Motor Tax Management Act, 1914, the Metropolitan Traffic Act, 5 1900, the Motor Traffic Act, 1909, the Transport Act, 1930, or the State Transport (Co-ordination) Act, 1931, or any Act amending those Acts, and in force at the commencement of this Act, shall, so far as they are not inconsistent with this Act, continue in force until repealed or re- 10 placed by subsequent by-laws, regulations, or ordinances as the case may be.

(b) Any repeal of the by-laws, regulations, or ordinances continued by this section shall not affect any proceedings pending for the breach of any such by-laws, 15 regulations, or ordinances, and such by-laws, regulations, or ordinances shall, for the purposes of any prosecution in respect of any breach occurring before the date of such repeal be deemed to continue and to have full force and effect.

20 **16.** The funds vested in and administered by the Funds. Board of Commissioners, and the funds administered by the Board of Commissioners, shall be vested in and administered by, or administered by, as the case may be, the respective Commissioners appointed under this Act 25 to exercise and perform the powers, authorities, duties, and functions under or in respect of which such funds were so vested in and administered by, or administered by, as the case may be, the Board of Commissioners.

30 **17.** (1) All lands, leases, licenses, rights, easements, Vesting of lands, etc. user facilities, and all other property of whatever description, held or possessed, immediately before the commencement of this Act, by the Board of Commissioners shall be transferred to and vested in the respective Commissioners appointed under this Act to exercise 35 and perform the powers, authorities, duties, and functions under or in respect of which such property was held or possessed by the Board of Commissioners.

(2) The Commissioner appointed under this Act in whom any such property is vested shall assume such 40 of the liabilities and obligations of the Board of Commissioners as were incurred in respect of the property so vested. (3)

Transport (Division of Functions).

(3) No attornment by a lessee of any land transferred to a Commissioner under this section shall be necessary.

18. Each of the Commissioners appointed under this Act shall assume such part of the capital indebtedness to the State of the Board of Commissioners as was assumed by the Board of Commissioners and was subsisting immediately before the commencement of this Act in respect of the powers, authorities, duties, and functions which by this Act such Commissioner is required or authorised to exercise and perform.

Capital
indebted-
ness.

19. If any doubt or dispute arises as to which of the Commissioners appointed under this Act is to exercise and perform any power, authority, duty, or function which, before the commencement of this Act, was exercised and performed by the Board of Commissioners, or if any dispute arises between the Commissioners appointed under this Act, out of the exercise or performance of any such power, authority, duty, or function, or as to their respective rights or liabilities, any such Commissioner may refer the matter to the Minister.

Disputes.
cf. Act No.
18, 1930,
s. 210.

Where any such matter is so referred it shall be determined by the Governor, or in such manner as the Governor directs.

20. In the construction, and for the purposes of any Act, by-law, regulation, ordinance, or any other instrument or document whatsoever, of the same or a different kind or nature, any reference to, or to be read, deemed, and taken to refer to the Board of Commissioners shall be read, deemed, and taken to refer to the Commissioner appointed under this Act to exercise and perform the power, authority, duty, or function of the Board of Commissioners to which such reference applies.

Construction
of Acts, etc.

21. (1) The officers (other than the Transport Commissioners) and employees of the Department of Transport who, immediately before the commencement of this Act, were employed in that Department in connection with the administration of any power, authority, duty, or function of the Board of Commissioners which, by this Act, is required or permitted to be exercised and performed

Officers and
employees.

Transport (Division of Functions).

performed by the Commissioner for Railways shall become and be officers and employees of the Department of Railways.

5 (2) The officers (other than the Transport Commissioners) and employees of the Department of Transport who, immediately before the commencement of this Act, were employed in that department in connection with the administration of any power, authority, duty, or function of the Board of Commissioners which, by this
10 Act, is required or permitted to be exercised and performed by the Commissioner for Road Transport and Tramways, shall become and be officers and employees of the Department of Road Transport and Tramways.

15 (3) The officers (other than the Transport Commissioners) and employees of the Department of Transport who, immediately before the commencement of this Act, were employed in that department in connection with the administration of any power, authority, duty, or function which, by this Act, is required or permitted
20 to be exercised and performed by the Commissioner for Main Roads, shall become and be officers and employees of the Department of Main Roads.

(4) Any such officer or employee shall continue to contribute to any fund or account and shall be entitled to
25 receive any annual, sick, deferred, or extended leave, and any payment, pension, or gratuity, as if he had remained an officer or employee within the meaning of the Public Service Act, 1902, the Superannuation Act, 1916, the Government Railways Act, 1912, the Transport Act, 1930,
30 the Main Roads Act, 1924, or the Ministry of Transport Act, 1932, or any Act amending those Acts, as the case may be, and for any such purposes his service under this Act shall be deemed to be service for the purposes of any of such first-mentioned Acts.

35 (5) Where any condition of employment of any such officer or employee is at the date of his transfer regulated by an award or industrial agreement, such condition shall continue to be so regulated until an award by which the Commissioner administering the
40 department to which he has been transferred is bound
is

Transport (Division of Functions).

is made by a court of competent jurisdiction, or such condition is regulated by an industrial agreement to which such Commissioner is a party.

5 **22.** (1) The Public Service Act, 1902, as amended by subsequent Acts, shall not apply to the appointment or employment of any officer or employee of the Department of Railways, the Department of Road Transport and Tramways, or the Department of Main Roads. Public Service Act, 1902, not to apply to employment of officers or employees.

10 (2) Where, immediately before the commencement of this Act, the employment of any such officer was regulated by the Public Service Act, 1902, such officer shall have the same right to consideration for any appointment in the Public Service as is provided by the Public Service Act, 1902, for an officer of the Public
15 Service.

23. (1) Any Commissioner appointed under this Act may by arrangement with any other Commissioner appointed under this Act— Transfer of officers between departments.

20 (a) transfer to the department administered by such first-mentioned Commissioner any officer or employee of the department administered by such other Commissioner;

(b) make use of the services of any officer or employee of the department administered by such other Commissioner.
25

(2) The provisions of subsections four and five of section twenty-one of this Act shall, mutatis mutandis, apply to and in respect of any officer or employee so transferred.

30 **24.** (1) A Commissioner appointed under this Act may reduce any officer or employee of the Department administered by him in all or any of the following respects, that is to say, in rank, position, grade and pay. Powers of Commissioner in respect of officers and employees.

35 Where the conditions of employment of any officer or employee are regulated by an award or industrial agreement, his pay shall not be reduced unless he is also reduced in rank, position or grade, and where he is reduced in rank, position or grade his pay shall not be reduced below the highest rate prescribed by the award
40 or industrial agreement for the rank, position or grade to which he is reduced.

(2)

Transport (Division of Functions).

(2) A Commissioner appointed under this Act may, if he thinks it requisite for the efficiency of the Department administered by him, disregard seniority in making any appointment, promotion, reduction or
5 retrenchment.

25. The Commissioner for Railways may in respect of the parcels of land in the City of Sydney between George-street and Wynyard-lane, and Wynyard-lane and Carrington-street, respectively, which were resumed for
10 the purposes of the construction of and provision of access to Wynyard Railway Station, permit the erection, making, or construction of a building or part of a building across or under Wynyard-lane, but any such building shall be so constructed as to leave a clear space of not
15 less than twenty feet above the surface of the roadway of such lane when it is restored, and as not to impede or restrict pedestrian or vehicular traffic in and along such lane.

26. (1) The Government Railways Act, 1912-1932, is
20 amended—

- (a) by omitting from subsection one of section 41J the words "the Chief Transport Commissioner" and by inserting in lieu thereof the words "the Commissioner for Railways";
- 25 (b) by omitting from subsection three of section 107A the words "four pounds per week" and by inserting in lieu thereof the words "a sum per week equivalent to the amount of the declared adult male or adult female living wage in force for the time being less five shillings";
- 30 (c) (i) by omitting from section one hundred and ten the words "Transport Commissioner appointed to the charge of the Staff Branch of the Department of Transport" and by inserting in lieu thereof the words "Commissioner for Railways";
- 35 (ii) by omitting from the same section the words "Transport Commissioner" and by inserting in lieu thereof the words "Commissioner for Railways";
- 40

Special powers of Commissioner for Railways.

Amendment of Act No. 30, 1912.

Section 41J. (Capital Debts Committee of Review.)

Sec. 107A. (Enforcement of judgments.)

Sec. 110. (Railways Superannuation Board.)

(iii)

Transport (Division of Functions).

(iii) by omitting from the same section the words "an officer of the Staff Branch of the Department of Transport" and by inserting in lieu thereof the words "an officer of the Department of Railways."

(2) The Transport Act, 1930, as amended by subsequent Acts, is amended—

(a) by omitting subsection eight of section eighteen and by inserting in lieu thereof the following subsection:—

(8) Any officer of the Commissioner for Road Transport and Tramways who at any time prior to the passing of the Principal Act was an officer of the public service under the Public Service Board, and who was transferred from the public service to the service of the Commissioner of Road Transport, a Transport Trust, or the Management Board, or who was an officer of the Main Roads Board, and immediately before the commencement of this Act was an officer of the Highway and Roads Transportation Branch of the Department of Transport, or subsequently to such commencement becomes an officer of the Road Transport and Tramways Department of the Ministry of Transport, shall not be subject to the provisions of the Public Service Act, 1902, nor under the control of the Public Service Board, but he shall retain or have any rights to leave which he would have had if he had continued as an officer of the public service; he shall have the same right to consideration for any appointment to the public service as is provided by the Public Service Act, 1902, for an officer of the public service; he shall, subject to this Act, be entitled to a salary unless and until his salary is fixed by an industrial award such as would be payable to him if he were an officer of the public service, and he shall be entitled to contribute or to continue to contribute to any superannuation fund or account to which

Transport (Division of Functions).

- 5 which prior to his transfer he contributed, and to retain or have his rights to any pension, gratuity, allowance, or other benefit which he would have received from such superannuation fund or account if he had continued as an officer of the public service. For the purposes of leave and superannuation service under the Transport Act, 1930, the Ministry of Transport Act, 1932, or this Act shall be regarded as service in the public service.
- 10 (b) by omitting paragraphs (b) and (c) of subsection one of section forty-one and by inserting in lieu thereof the following paragraph:—
- 15 (b) the Commissioner for Road Transport and Tramways.
- (3) The State Transport (Co-ordination) Act, 1931, is amended—
- (a) by omitting section seven;
- (b) by omitting section nine.
- 20 (4) The Ministry of Transport Act, 1932, is amended—
- (a) by omitting subsection three of section five;
- (b) by omitting subsection two and subsection three of section six;
- 25 (c) by omitting from subsection five of section seven the words "subject to the control of the Minister";
- (d) by omitting section eight;
- 30 (e) by omitting from subsection one of section fifteen the words "and the Main Roads Board of New South Wales" and by inserting in lieu thereof the words "the Main Roads Board of New South Wales and the State Transport (Co-ordination) Board":
- (f)

Sec. 41.
(Capital Debts Committee of Review.)

Amendment of Act No. 32, 1931.

Sec. 7.
(Control by Minister of certain authorities.)

Sec. 9.
(Minister's directions to be complied with.)

Amendment of Act No. 2, 1932.

Sec. 5 (3).
(Department of Transport.)

Sec. 6.
(Department of Transport.)

Sec. 7.
(Board of Commissioners.)

Sec. 8.
(Secretary.)

Sec. 15.
(Vesting of lands, etc.)

Transport (Division of Functions).

(f) by omitting paragraph (c) and paragraph (d) of subsection one of section twenty-one. **Sec. 21.**
(Revision.)

(5) The amendment made by paragraph (e) of subsection four of this section shall be deemed to have commenced on the twenty-second day of March, one thousand nine hundred and thirty-two.

Transport (Division of Transitions)

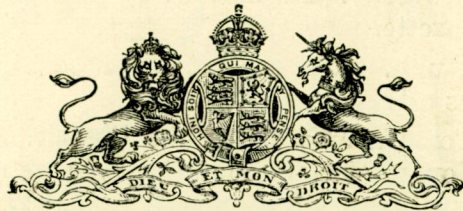
(1) By omitting paragraph (c) and paragraph (d) hereof
of subsection one of section twenty-one
(2) The same shall be deemed to have
commenced on the first day of March one
thousand nine hundred and thirty-two

...

This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

W. R. McCOURT,
Clerk of the Legislative Assembly.
Legislative Assembly Chamber,
Sydney, 12 October, 1932.

New South Wales.



ANNO VICESIMO TERTIO

GEORGII V REGIS.

Act No. , 1932.

An Act to provide for the appointment of a Commissioner for Railways, a Commissioner for Road Transport and Tramways, and a Commissioner for Main Roads, and for the exercise and performance by such Commissioners of the powers, authorities, duties, and functions of the Transport Commissioners of New South Wales; to extend such powers and authorities in certain respects; to amend the Government Railways Act, 1912-1932, the Transport Act, 1930, the State Transport (Co-ordination) Act, 1931, the Ministry of Transport Act, 1932, and certain other Acts; and for purposes connected therewith.

Transport (Division of Functions).

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the "Transport (Division of Functions) Act, 1932." Short title and commencement.

(2) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

2. In this Act, unless the context or subject-matter otherwise indicates or requires,— Definitions.

"Board of Commissioners" means the Transport Commissioners of New South Wales constituted under the Ministry of Transport Act, 1932.

"Chief Transport Commissioner" means the Chief Transport Commissioner appointed under the Ministry of Transport Act, 1932.

"Sydney Harbour Bridge" means the works authorised by or constructed under the authority of the Sydney Harbour Bridge Act, 1922.

"Transport Commissioner" means a transport commissioner appointed under the Ministry of Transport Act, 1932.

3. (1) For the purpose of carrying into effect the objects and purposes of this Act there shall be a Ministry of Transport under the Minister of Transport which shall be divided into departments as follows:— Ministry of Transport.

(a) the Department of Railways, which shall be administered by the Commissioner for Railways;

(b) the Department of Road Transport and Tramways, which shall be administered by the Commissioner for Road Transport and Tramways;

(c) the Department of Main Roads, which shall be administered by the Commissioner for Main Roads.

(2) Each of such departments may be divided into such branches or sections as may be determined by the Commissioner administering the same.

4.

Transport (Division of Functions).

4. (1) The Commissioner for Railways shall be a body corporate under the name of "The Commissioner for Railways." Commissioner for Railways.

5 (2) For the purposes of any Act the Commissioner for Railways shall be deemed a statutory body representing the Crown.

(3) The Commissioner for Railways shall exercise and perform the powers, authorities, duties, and functions which, immediately before the commencement of this Act, were exercised and performed by the Board of Commissioners in respect of—

- (a) railways;
- 15 (b) the maintenance of such portions of the Sydney Harbour Bridge as are used for railway purposes and of the railway tracks and appliances in connection therewith; and
- (c) the electrical power substation, and the supply of electricity and appliances in connection therewith in or upon the Sydney Harbour Bridge.

20 (4) For the purpose of the exercise and performance of such powers, authorities, duties, and functions a reference in the Ministry of Transport Act, 1932, to the Chief Transport Commissioner, to a Transport Commissioner, or to a Commissioner, shall be deemed a reference
25 to the Commissioner for Railways.

5. (1) The Commissioner for Road Transport and Tramways shall be a body corporate under the name of "The Commissioner for Road Transport and Tramways." Commissioner for Road Transport and Tramways.

30 (2) For the purposes of any Act the Commissioner for Road Transport and Tramways shall be deemed a statutory body representing the Crown.

(3) The Commissioner for Road Transport and Tramways shall exercise and perform the powers, authorities, duties, and functions which, immediately before the commencement of this Act, were exercised and performed by the Board of Commissioners in respect of—

- (a) road transport and tramways;
- 40 (b) the maintenance of such portions of the Sydney Harbour Bridge as are used for tramway purposes and of the tramway tracks, and appliances in connection therewith.

(4)

Transport (Division of Functions).

(4) For the purpose of the exercise and performance of such powers, authorities, duties, and functions a reference in the Ministry of Transport Act, 1932, to the Chief Transport Commissioner, to a Transport Commissioner, or to a Commissioner shall be deemed a reference to the Commissioner for Road Transport and Tramways.

6. (1) The Commissioner for Main Roads shall be a body corporate under the name of "The Commissioner for Main Roads."

Commis-
sioner for
Main Roads.

10 (2) For the purposes of any Act the Commissioner for Main Roads shall be deemed a statutory body representing the Crown.

(3) The Commissioner for Main Roads shall exercise and perform—

15 (a) the powers, authorities, duties, and functions which, immediately before the commencement of this Act, were exercised and performed by the Board of Commissioners in respect of roads;

20 (b) such of the powers, authorities, duties, and functions which, immediately before the commencement of this Act, were exercised and performed by the Board of Commissioners under or pursuant to the Sydney Harbour Bridge (Administration) Act, 1932, as are not by this
25 Act conferred or imposed upon the Commissioner for Railways or the Commissioner for Road Transport and Tramways.

(4) For the purpose of the exercise and performance of such powers, authorities, duties, and functions a
30 reference in the Ministry of Transport Act, 1932, to the Chief Transport Commissioner, to a Transport Commissioner, or to a Commissioner, shall be deemed a reference to the Commissioner for Main Roads.

7. (1) The Commissioner for Railways, the Commissioner for Road Transport and Tramways and the Commissioner for Main Roads shall, respectively—

Appointment
of
Commis-
sioners.

- (a) be appointed by the Governor;
- (b) hold office for a period of seven years;
- (c) be eligible for reappointment.

Transport (Division of Functions).

(2) The salaries of the Commissioner for Railways, the Commissioner for Road Transport and Tramways, and the Commissioner for Main Roads shall be fixed by the Governor at the time of their respective appointments, and shall be subject to any deduction provided by the Public Service Salaries Act, 1931-1932, or any Act amending, consolidating, or replacing the same, but shall not otherwise be subject to any reduction.

(3) Any such Commissioner may be paid such fees and allowances as may from time to time be fixed by the Governor.

8. (1) The Governor may appoint an Assistant Commissioner for Railways, an Assistant Commissioner for Road Transport and Tramways, and an Assistant Commissioner for Main Roads or any of them.

Appointment and powers of Assistant Commissioners.

(2) The Assistant Commissioner for Railways, if appointed, shall exercise such powers and perform such duties as the Commissioner for Railways may from time to time determine.

(3) The Assistant Commissioner for Road Transport and Tramways, if appointed, shall exercise such powers and perform such duties as the Commissioner for Road Transport and Tramways may, from time to time, determine.

(4) The Assistant Commissioner for Main Roads, if appointed, shall exercise such powers and perform such duties as the Commissioner for Main Roads may, from time to time, determine.

(5) An Assistant Commissioner shall hold office for a period not exceeding seven years, and shall be eligible for reappointment.

(6) The salary of an Assistant Commissioner shall be fixed by the Governor and shall be subject to any deduction provided by the Public Service Salaries Act, 1931-1932, or any Act amending, consolidating, or replacing the same.

(7) Any such Assistant Commissioner may be paid such fees and allowances as may, from time to time, be fixed by the Governor.

Transport (Division of Functions).

9. (1) Notwithstanding anything contained in any Act, nothing in this Act shall affect the rights accrued or accruing under the Public Service Act, 1902, the Superannuation Act, 1916, the Government Railways Act, 1912, 5 the Main Roads Act, 1924, the Transport Act, 1930, or the Ministry of Transport Act, 1932, or any Act amending those Acts to any person appointed a Commissioner, or an Assistant Commissioner under this Act, who at the time of his appointment, or at any time previously 10 thereto, was an officer of the Public Service, the Railway Commissioners for New South Wales, the Main Roads Board of New South Wales, the Metropolitan Transport Trust, the Newcastle and District Transport Trust, or the Department of Transport.

Saving of rights.
cf. Act No. 3,
1932, s. 7
(16) (17)

15 (2) Any person appointed a Commissioner or an Assistant Commissioner under this Act who, at any time prior to his appointment, held office under the Government Railways Act, 1912, the Main Roads Act, 1924, the Transport Act, 1930, or the Ministry of Transport Act, 20 1932, or any Act amending those Acts, or was an officer of the Public Service, or of the Department of Transport, and was a contributor to a superannuation fund or account may continue as a contributor or resume and continue contributions to such fund or account and shall 25 have and receive, upon his ceasing to hold office by effluxion of time, resignation, retirement, becoming incapable, or removal from office otherwise than for misbehaviour or incompetence, any payment, pension, or gratuity as if he were an officer within the meaning of 30 the Act under which the fund or account to which his contributions have been made is administered.

For such purpose his service in any office under any Act, and his service as a Commissioner or Assistant Commissioner under this Act, shall be deemed to be service 35 for the purposes of such Act.

(3) If any such Commissioner or Assistant Commissioner shall die during the currency of his term of office, any pension, payment, or gratuity shall become payable or shall be made or granted, as in the case of the 40 death of an officer or employee within the meaning of such Act.

(4)

Transport (Division of Functions).

(4) Any such Commissioner or Assistant Commissioner, who ceases to hold office by effluxion of time or who is removed from office otherwise than for misbehaviour or incompetence, and who is not appointed to an office of the same kind carrying superannuation rights shall, for the purpose of computing the amount of any payment, pension, or gratuity, be deemed to have retired upon the day upon which he so ceases to hold office, or is removed from office, as the case may be, and to have so retired at an age at which the payment, pension, or gratuity would have become payable in pursuance of the Act under which the fund or account to which his contributions have been made, is administered.

(5) Any officer of the Public Service, or of the Department of Transport, appointed a Commissioner or an Assistant Commissioner under this Act, shall continue to contribute to any fund or account, and shall be entitled to receive any deferred or extended leave, and any payment, pension, or gratuity, as if he were an officer or employee within the meaning of the Public Service Act, 1902, the Superannuation Act, 1916, the Government Railways Act, 1912, the Main Roads Act, 1924, or the Transport Act, 1930, or any Act amending those Acts, as the case may be, and for such purposes his service as a Commissioner, or as an Assistant Commissioner shall be deemed to be service for the purposes of such Acts.

10. The provisions of the Public Service Act, 1902, shall not apply to the appointment of a Commissioner or an Assistant Commissioner.

Public Service Act, 1902.
not to apply to certain appointments.

11. A Commissioner or an Assistant Commissioner holding office under this Act may be suspended from his office by the Governor for misbehaviour or incompetence, but shall not be removed from office except as hereinafter provided:—

Suspension or removal from office.

(a) The Minister shall cause to be laid before Parliament a full statement of the grounds of suspension within seven sitting days after such suspension if Parliament is then in session, and if not, then within seven sitting days after the commencement of the next session.

(b)

Transport (Division of Functions).

5 (b) A Commissioner or an Assistant Commissioner suspended under this section shall be restored to office unless each House of Parliament, within twenty-one days from the time when such statement has been laid before it, declares by resolution that the Commissioner or Assistant Commissioner, as the case may be, ought to be removed from office, and if each House of Parliament within the said time does so declare, such Commissioner or Assistant Commissioner shall be removed by the Governor accordingly.

10 **12.** A Commissioner or an Assistant Commissioner shall be deemed to have vacated his office if he—

Vacation
of office.

- 15 (a) engages in New South Wales, during his term of office, in any paid employment outside the duties of his office except with the approval of the Governor;
- 20 (b) becomes bankrupt, compounds with his creditors, or makes an assignment of his salary for their benefit;
- (c) absents himself from duty for a period of fourteen consecutive days, except on leave granted by the Governor;
- 25 (d) becomes incapable of performing his duties;
- (e) resigns his office by writing under his hand;
- 30 (f) becomes in any way concerned or interested otherwise than as a shareholder in an incorporated company consisting of more than twenty-five persons, in any contract or agreement made by or on behalf of any of the Commissioners holding office under this Act, or in any wise participates or claims to be entitled to participate in the profit thereof, or in any benefit or emolument arising therefrom.

cf. Act No. 3,
1932, s. 7
(14).

35 **13.** (1) In case of the illness, suspension, or absence of a Commissioner or an Assistant Commissioner appointed under this Act, the Governor may appoint a person to be the deputy of such Commissioner, or Assistant Commissioner, for the period of his illness, suspension, or absence, and any person so appointed shall, whilst

40

Appointment
of deputy.

Transport (Division of Functions).

whilst so acting, exercise all the powers and perform all the duties of such Commissioner or Assistant Commissioner, as the case may be.

(2) In case of the illness, suspension, or absence of a person appointed to be the deputy of a Commissioner, or Assistant Commissioner, the Governor may terminate his appointment as such deputy and appoint some other person to be the deputy of such Commissioner or Assistant Commissioner for the balance of the period of the illness, suspension, or absence of the Commissioner or Assistant Commissioner, and such other person, whilst so acting, shall exercise all the powers and perform all the duties of such Commissioner or Assistant Commissioner, as the case may be.

(3) Where an Assistant Commissioner is appointed in pursuance of this section to be the deputy of a Commissioner the Governor may appoint a person to be the deputy of such Assistant Commissioner whilst so acting, and any person so appointed shall, whilst acting as such deputy, exercise all the powers and perform all the duties of such Assistant Commissioner.

14. (1) Upon the commencement of this Act the Board of Commissioners shall cease to function, and the powers, authorities, duties, and functions, including the power to recommend or concur in the making of regulations or ordinances conferred or imposed upon such Board of Commissioners by or under any Act, shall be executed and performed by the respective Commissioners appointed under this Act.

(2) Upon such commencement the Chief Transport Commissioner and the Transport Commissioners shall cease to hold office.

(3) The Chief Transport Commissioner and the Transport Commissioners shall be eligible for appointment to an office constituted under this Act or for appointment as an officer of one of the departments of the Ministry of Transport.

(4) If the Chief Transport Commissioner, or any Transport Commissioner, is not so appointed he shall be entitled

Transport (Division of Functions).

entitled to any superannuation or other rights he would have had if his services had been dispensed with by reason that his office had been abolished.

5 **15.** (1) Where any matter or thing has been com- Savings.
menced by or under the authority of the Board of Com-
missioners, it may be carried on and completed by or
under the authority of the Commissioner appointed under
this Act to exercise and perform the power, authority,
duty, or function under or in respect of which such
10 matter or thing was so commenced.

(2) Any action or proceeding, or any cause of
action or proceeding pending or existing immediately
before the commencement of this Act by or against the
Board of Commissioners may be continued by or against
15 the Commissioner appointed under this Act to exercise
and perform the power, authority, duty, or function
under or in respect of which such action or proceeding
or cause of action or proceeding arose.

Where any person has, before the commencement of
20 this Act, served a notice of intended action against the
Board of Commissioners, and has commenced an action
or proceeding against the Board of Commissioners, or
proposes to commence an action or proceeding against a
Commissioner appointed under this Act he may, if any
25 doubt should arise as to the Commissioner against whom
he should continue or commence the action or proceeding
by notice in writing, require the Minister to nominate
the Commissioner appointed under this Act against whom
such action or proceeding shall be continued or com-
30 menced; and any such action or proceeding may be con-
tinued or commenced, as the case may be, and completed
against the Commissioner nominated by the Minister.

Where, after the commencement of this Act, any person
proposes to commence an action or proceeding against a
35 Commissioner appointed under this Act, he may, if any
doubt should arise as to the Commissioner against whom
he should continue or commence the action or proceeding,
either before or after the date upon which he serves
notice of intended action, by notice in writing, require
40 the Minister to nominate the Commissioner appointed
under this Act against whom the action or proceeding
should

Transport (Division of Functions).

should be commenced; and such action or proceeding may be commenced and completed against the Commissioner nominated by the Minister.

(3) All moneys and liquidated or unliquidated
5 claims which immediately before the commencement of this Act are payable to or recoverable by the Board of Commissioners shall be moneys and liquidated or unliquidated claims payable to or recoverable by the Commissioner appointed under this Act to exercise and
10 perform the power, authority, duty, or function under or in respect of which such money or claim is so payable or recoverable.

(4) All contracts, agreements, and undertakings entered into with, and all securities lawfully given to or
15 by the Board of Commissioners and in force immediately before the commencement of this Act, shall be deemed to be contracts, agreements, and undertakings entered into with and securities given to or by the Commissioner appointed under this Act to exercise and perform the
20 power, authority, duty, or function under or in respect of which such securities, agreements, and undertakings were so entered into or given.

(5) Each such Commissioner may pursue the same remedies for the recovery of any such moneys and
25 claims and for the prosecution of such suits, actions, and proceedings as the Board of Commissioners might have done but for this Act.

(6) Each such Commissioner may enforce and realise any security or charge existing immediately before
30 the commencement of this Act in respect of any such moneys and claims as if such security or charge were existing in favour of such Commissioner.

(7) All debts due and moneys payable by and all claims liquidated and unliquidated recoverable against
35 the Board of Commissioners shall be debts due and moneys payable by and claims recoverable against the Commissioner appointed under this Act to exercise and perform the power, authority, duty, or function under or in respect of which such debt became due, such money
40 became payable, or such claim became recoverable.

(8)

Transport (Division of Functions).

(8) (a) All by-laws, regulations, and ordinances made under or by virtue of the Government Railways Act, 1912, the Main Roads Act, 1924, the Motor Tax Management Act, 1914, the Metropolitan Traffic Act, 5 1900, the Motor Traffic Act, 1909, the Transport Act, 1930, or the State Transport (Co-ordination) Act, 1931, or any Act amending those Acts, and in force at the commencement of this Act, shall, so far as they are not inconsistent with this Act, continue in force until repealed or re- 10 placed by subsequent by-laws, regulations, or ordinances as the case may be.

(b) Any repeal of the by-laws, regulations, or ordinances continued by this section shall not affect any proceedings pending for the breach of any such by-laws, 15 regulations, or ordinances, and such by-laws, regulations, or ordinances shall, for the purposes of any prosecution in respect of any breach occurring before the date of such repeal be deemed to continue and to have full force and effect.

20 **16.** The funds vested in and administered by the Board of Commissioners, and the funds administered by the Board of Commissioners, shall be vested in and administered by, or administered by, as the case may be, the respective Commissioners appointed under this Act 25 to exercise and perform the powers, authorities, duties, and functions under or in respect of which such funds were so vested in and administered by, or administered by, as the case may be, the Board of Commissioners.

17. (1) All lands, leases, licenses, rights, easements, user facilities, and all other property of whatever description, held or possessed, immediately before the commencement of this Act, by the Board of Commissioners shall be transferred to and vested in the respective Commissioners appointed under this Act to exercise 30 and perform the powers, authorities, duties, and functions under or in respect of which such property was held or possessed by the Board of Commissioners.

(2) The Commissioner appointed under this Act in whom any such property is vested shall assume such 40 of the liabilities and obligations of the Board of Commissioners as were incurred in respect of the property so vested.

(3)

Transport (Division of Functions).

(3) No attornment by a lessee of any land transferred to a Commissioner under this section shall be necessary.

5 **18.** Each of the Commissioners appointed under this Act shall assume such part of the capital indebtedness to the State of the Board of Commissioners as was assumed by the Board of Commissioners and was subsisting immediately before the commencement of this Act in respect of the powers, authorities, duties, and
10 functions which by this Act such Commissioner is required or authorised to exercise and perform.

19. If any doubt or dispute arises as to which of the Commissioners appointed under this Act is to exercise and perform any power, authority, duty, or function
15 which, before the commencement of this Act, was exercised and performed by the Board of Commissioners, or if any dispute arises between the Commissioners appointed under this Act, out of the exercise or performance of any such power, authority, duty, or function, or
20 as to their respective rights or liabilities, any such Commissioner may refer the matter to the Minister.

Where any such matter is so referred it shall be determined by the Governor, or in such manner as the Governor directs.

25 **20.** In the construction, and for the purposes of any Act, by-law, regulation, ordinance, or any other instrument or document whatsoever, of the same or a different kind or nature, any reference to, or to be read, deemed, and taken to refer to the Board of Commissioners shall be
30 read, deemed, and taken to refer to the Commissioner appointed under this Act to exercise and perform the power, authority, duty, or function of the Board of Commissioners to which such reference applies.

21. (1) The officers (other than the Transport Commissioners) and employees of the Department of Transport who, immediately before the commencement of this Act, were employed in that Department in connection with the administration of any power, authority, duty, or function of the Board of Commissioners which, by
40 this Act, is required or permitted to be exercised and performed

Transport (Division of Functions).

performed by the Commissioner for Railways shall become and be officers and employees of the Department of Railways.

(2) The officers (other than the Transport Commissioners) and employees of the Department of Transport who, immediately before the commencement of this Act, were employed in that department in connection with the administration of any power, authority, duty, or function of the Board of Commissioners which, by this Act, is required or permitted to be exercised and performed by the Commissioner for Road Transport and Tramways, shall become and be officers and employees of the Department of Road Transport and Tramways.

(3) The officers (other than the Transport Commissioners) and employees of the Department of Transport who, immediately before the commencement of this Act, were employed in that department in connection with the administration of any power, authority, duty, or function which, by this Act, is required or permitted to be exercised and performed by the Commissioner for Main Roads, shall become and be officers and employees of the Department of Main Roads.

(4) Any such officer or employee shall continue to contribute to any fund or account and shall be entitled to receive any annual, sick, deferred, or extended leave, and any payment, pension, or gratuity, as if he had remained an officer or employee within the meaning of the Public Service Act, 1902, the Superannuation Act, 1916, the Government Railways Act, 1912, the Transport Act, 1930, the Main Roads Act, 1924, or the Ministry of Transport Act, 1932, or any Act amending those Acts, as the case may be, and for any such purposes his service under this Act shall be deemed to be service for the purposes of any of such first-mentioned Acts.

(5) Where any condition of employment of any such officer or employee is at the date of his transfer regulated by an award or industrial agreement, such condition shall continue to be so regulated until an award by which the Commissioner administering the department to which he has been transferred is made by

Transport (Division of Functions).

a court of competent jurisdiction, or such condition is regulated by an industrial agreement to which such Commissioner is a party.

22. (1) The Public Service Act, 1902, as amended by subsequent Acts, shall not apply to the appointment or employment of any officer or employee of the Department of Railways, the Department of Road Transport and Tramways, or the Department of Main Roads.

Public Service Act, 1902, not to apply to employment of officers or employees.

(2) Where, immediately before the commencement of this Act, the employment of any such officer was regulated by the Public Service Act, 1902, such officer shall have the same right to consideration for any appointment in the Public Service as is provided by the Public Service Act, 1902, for an officer of the Public Service.

23. (1) Any Commissioner appointed under this Act may by arrangement with any other Commissioner appointed under this Act—

Transfer of officers between departments.

(a) transfer to the department administered by such first-mentioned Commissioner any officer or employee of the department administered by such other Commissioner;

(b) make use of the services of any officer or employee of the department administered by such other Commissioner.

(2) The provisions of subsections four and five of section twenty-one of this Act shall, mutatis mutandis, apply to and in respect of any officer or employee so transferred.

24. (1) A Commissioner appointed under this Act may reduce any officer or employee of the Department administered by him in all or any of the following respects, that is to say, in rank, position, grade and pay.

Powers of Commissioner in respect of officers and employees.

Where the conditions of employment of any officer or employee are regulated by an award or industrial agreement, his pay shall not be reduced unless he is also reduced in rank, position or grade, and where he is reduced in rank, position or grade his pay shall not be reduced below the highest rate prescribed by the award or industrial agreement for the rank, position or grade to which he is reduced.

(2)

Transport (Division of Functions).

(2) A Commissioner appointed under this Act may, if he thinks it requisite for the efficiency of the Department administered by him, disregard seniority in making any appointment, promotion, reduction or
5 retrenchment.

25. The Commissioner for Railways may in respect of the parcels of land in the City of Sydney between George-street and Wynyard-lane, and Wynyard-lane and Carrington-street, respectively, which were resumed for
10 the purposes of the construction of and provision of access to Wynyard Railway Station, permit the erection, making, or construction of a building or part of a building across or under Wynyard-lane, but any such building shall be so constructed as to leave a clear space of not
15 less than twenty feet above the surface of the roadway of such lane when it is restored, and as not to impede or restrict pedestrian or vehicular traffic in and along such lane.

26. (1) The Government Railways Act, 1912-1932, is
20 amended—

- (a) by omitting from subsection one of section 41J the words "the Chief Transport Commissioner" and by inserting in lieu thereof the words "the Commissioner for Railways";
- 25 (b) by omitting from subsection three of section 107A the words "four pounds per week" and by inserting in lieu thereof the words "a sum per week equivalent to the amount of the declared adult male or adult female living wage in force for the time being less five shillings";
- 30 (c) (i) by omitting from section one hundred and ten the words "Transport Commissioner appointed to the charge of the Staff Branch of the Department of Transport" and by inserting in lieu thereof the words "Commissioner for Railways";
- 35 (ii) by omitting from the same section the words "Transport Commissioner" and by inserting in lieu thereof the words "Commissioner for Railways";
- 40

Special powers of Commissioner for Railways.

Amendment of Act No. 30, 1912.

Section 41J. (Capital Debts Committee of Review.)

Sec. 107A. (Enforcement of judgments.)

Sec. 110. (Railways Superannuation Board.)

(iii)

Transport (Division of Functions).

(iii) by omitting from the same section the words "an officer of the Staff Branch of the Department of Transport" and by inserting in lieu thereof the words "an officer of the Department of Railways."

5

(2) The Transport Act, 1930, as amended by subsequent Acts, is amended—

Amend-
ment of Act
No. 18, 1930.

(a) by omitting subsection eight of section eighteen and by inserting in lieu thereof the following subsection:—

Sec. 18.
(Appoint-
ment of
officers.)

10

(8) Any officer of the Commissioner for Road Transport and Tramways who at any time prior to the passing of the Principal Act was an officer of the public service under the Public Service Board, and who was transferred from the public service to the service of the Commissioner of Road Transport, a Transport Trust, or the Management Board, or who was an officer of the Main Roads Board, and immediately before the commencement of this Act was an officer of the Highway and Roads Transportation Branch of the Department of Transport, or subsequently to such commencement becomes an officer of the Road Transport and Tramways Department of the Ministry of Transport, shall not be subject to the provisions of the Public Service Act, 1902, nor under the control of the Public Service Board, but he shall retain or have any rights to leave which he would have had if he had continued as an officer of the public service; he shall have the same right to consideration for any appointment to the public service as is provided by the Public Service Act, 1902, for an officer of the public service; he shall, subject to this Act, be entitled to a salary unless and until his salary is fixed by an industrial award such as would be payable to him if he were an officer of the public service, and he shall be entitled to contribute or to continue to contribute to any superannuation fund or account to

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which

Transport (Division of Functions).

- 5 which prior to his transfer he contributed, and to retain or have his rights to any pension, gratuity, allowance, or other benefit which he would have received from such superannuation fund or account if he had continued as an officer of the public service. For the purposes of leave and superannuation service under the Transport Act, 1930, the Ministry of Transport Act, 1932, or this Act shall be regarded as service in the public service.
- 10 (b) by omitting paragraphs (b) and (c) of subsection one of section forty-one and by inserting in lieu thereof the following paragraph:—
- 15 (b) the Commissioner for Road Transport and Tramways.
- (3) The State Transport (Co-ordination) Act, 1931, is amended—
- (a) by omitting section seven;
- 20 (b) by omitting section nine.
- (4) The Ministry of Transport Act, 1932, is amended—
- (a) by omitting subsection three of section five;
- 25 (b) by omitting subsection two and subsection three of section six;
- (c) by omitting from subsection five of section seven the words “subject to the control of the Minister”;
- (d) by omitting section eight;
- 30 (e) by omitting from subsection one of section fifteen the words “and the Main Roads Board of New South Wales” and by inserting in lieu thereof the words “the Main Roads Board of New South Wales and the State Transport (Co-ordination) Board”:
- (f)

Sec. 41.
(Capital Debts Committee of Review.)

Amendment of Act No. 32, 1931.

Sec. 7.
(Control by Minister of certain authorities.)

Sec. 9.
(Minister's directions to be complied with.)

Amendment of Act No. 2, 1932.

Sec. 5 (3).
(Department of Transport.)

Sec. 6.
(Department of Transport.)

Sec. 7.
(Board of Commissioners)

Sec. 8.
(Secretary.)

Sec. 15.
(Vesting of lands, etc.)

Transport (Division of Functions).

(f) by omitting paragraph (c) and paragraph (d) of subsection one of section twenty-one. **Sec. 21.**
(Revision.)

(5) The amendment made by paragraph (e) of subsection four of this section shall be deemed to have commenced on the twenty-second day of March, one thousand nine hundred and thirty-two.

Sydney: Alfred James Kent, I.S.O., Government Printer—1932.

[1s. 3d.]

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and having the same printed in the margin for the convenience of the

(1) by the _____ and _____

(2) the amount made by paragraph (1) of

_____ of the _____ shall be deemed to have

_____ and _____
