

VICTORIA.



ANNO OCTAVO

EDWARDI SEPTIMI REGIS.

No. 2144.

An Act to authorize the Construction by the State of a Line of Railway from Ultima to Chillingollah.

[18th August, 1908.]

BE it enacted by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and the Legislative Assembly of Victoria in this present Parliament assembled and by the authority of the same as follows (that is to say):—

1. This Act may be cited as the *Ultima and Chillingollah Railway Construction Act 1908.* Short title.

2. In this Act unless the context otherwise requires— Interpretation,
“Board” means the Board of Land and Works.
“Commissioners” means the Victorian Railways Commissioners.
“Land” includes all real estate messuages lands tenements hereditaments and easements of any tenure.

3. (1) It shall be lawful for the Board to make and construct the following railway in the line and upon the lands described in the Schedule to this Act and within any deviation thereof as herein provided and all proper works and conveniences in connexion therewith (that is to say):— Power to make Railway.
Schedule.

A five feet three inches gauge railway commencing at or near Ultima Railway Station, and terminating in or near to allotment seven in the parish of Chillingollah in the line and upon the lands described in the Schedule to this Act, to be called the Ultima and Chillingollah Railway. Railway.
Schedule.

(2) The

Nos. 1288, 1593,
and 1605.

(2) The said line shall not be subject to the provisions of the Railway Lands Acquisition Acts.

Limit of deviation.

4. It shall be lawful to deviate from the said line of railway on either side thereof at any part thereof to the extent provided for in and by such Schedule but not to any greater distance ; and in consequence of such deviation the said line may be increased in length to an extent of not more than one-tenth of the entire length of such line as described in such Schedule.

Limit of
expenditure.

5. (1) The expenditure for the construction of the said line of railway shall not exceed Thirty-nine thousand four hundred and fifty pounds, including Four hundred and fifty pounds for rolling-stock.

(2) In order to secure that the said line be constructed within the said limit of expenditure, second-hand rails may be used.

(3) The prices to be paid to workmen in the construction of the line shall upon the average be equal to a wage of Seven shillings per day of eight hours.

Lands being
included in
Schedule &c. to
confer no right to
require line to pass
through such
lands or to
compensation.

6. Notwithstanding that the land of any owner or occupier may be described in the Schedule to this Act as the land through or near to which the said line of railway is intended to pass no right or claim shall be conferred upon any such owner or occupier to require that any such line should so pass through or near to such land or other land of such owner or occupier, and no deviation from any such line or route whether such deviation be made under the authority of this or any other Act shall entitle any such owner or occupier to compensation therefor.

Power to enter upon
lands and construct
railways.

7. For the purposes of this Act it shall be lawful for the Board its successors deputies agents and workmen and all other persons by it authorized without making any previous payment or having the previous consent of the owner or occupier to enter into and upon the land of any person whomsoever and to survey and take levels of the same and to ascertain and stake or set out take possession of use and appropriate such parts thereof as the Board deems necessary and proper for the laying out making constructing maintaining altering repairing and using the said line of railway and all other works matters and conveniences connected therewith, and in or upon such land to exercise all or any of the powers conferred on the Board by section fourteen of the *Railways Act* 1891, and in or upon such land or any land within two miles of such line to make construct and use any permanent or temporary road or tramway upon over or through the same for the purpose of conveying earth stone timber gravel sand or any materials or things which the Board deems proper or necessary for making constructing maintaining altering repairing and using such railway. In the exercise of the powers by this Act granted the Board and other persons shall do as little damage as may be.

No. 1250.

8. Notwithstanding

8. Notwithstanding anything in any Act contained no person shall be entitled to receive or shall receive from the Board or the Commissioners or the Government of Victoria any purchase money for any land required for the said line of railway or any compensation in respect of any land required to be used in connexion with or likely to be prejudicially affected by the construction of the said line of railway or in consequence of any part of such line of railway being made constructed maintained or used on any road.

No purchase money or compensation payable by Board Commissioner or Government.

9. The land to be taken or used for the said line of railway shall not exceed one hundred yards in width except for any station where a greater width shall be judged by the Board necessary for waggons and other carriages to turn remain stand in lie or pass each other, or for raising embankments for crossing valleys or low grounds or in cutting through high ground or for the erection or establishment of any fixed or permanent machinery toll-house warehouse wharf or other erection and buildings or for excavating removing or depositing earth or other materials or for making any reservoir for storing water for the use of the said railway or as a precaution against the spread of fire.

Breadth of land for railway.

10. On the said line of railway the Board shall not be bound to erect or contribute to the erection of any dividing or other fence or to erect gates or to employ gatekeepers at any public or occupation road crossing, nor shall the Board or the Commissioners be liable for any damage which may be caused by the absence of gates or gatekeepers at the said crossings or by reason of such line of railway not being fenced in or fenced off.

Board need not fence &c.

11. The Board may enter into and take and use any land for the construction of any reservoir aqueduct pipe track or for any proper work or convenience in connexion with the said line of railway and may take and use any road for making constructing using and maintaining any part of any such line of railway.

Reservoirs may be constructed.

Roads may be used.

12. All laws by-laws regulations and conditions for the time being in force on the railways vested in the Board or in the Commissioners shall so far as the same are capable of being applied be in force on the railway authorized by this Act to be constructed.

Laws by-laws &c. to be in force.

13. (1) The Council of the Shire of Swan Hill shall for twenty years from the opening of the said line for traffic pay annually to the Commissioners and within six months of demand a sum of money not exceeding One thousand one hundred pounds for any one year towards meeting any loss resulting from the earnings in respect of that year being insufficient to provide for payment of interest at the rate of Four pounds per centum per annum on the cost of construction of the railway and of rolling-stock and of the maintenance and working of the said line.

Council to make Deficiency Rate to meet annual deficiency during twenty years.

R. S. Comm. rec. par. 10.

(2) In

(2) In or for each of the said twenty years the said Shire Council may without any petition confirmation or further or other authority than this Act make and levy on the owners of all rateable property within the boundaries of the Railway Deficiency Rate District a separate rate to be called a Railway Deficiency Rate. Such rate shall subject to this Act be made and levied as nearly as practicable pursuant to the provisions of the Local Government Acts and shall vary in proportion to the advantage or benefits appearing to accrue to the lands therein by the construction of the said line and shall be paid by and recoverable from every owner of rateable property within the district.

(3) Such Deficiency Rate shall with the approval of the Governor in Council be fixed for each year at such amounts as will in the opinion of the Commissioners be sufficient to insure the recovery of the full amount required for such year for the payment to the Commissioners as herein provided and the payment of cost of valuations and collection of rates.

(4) The money received in respect of the said Deficiency Rate shall be applicable only towards meeting any loss as aforesaid, and the cost of valuations and collection of rates.

(5) For the purposes of this section the Governor in Council may determine by Order published in the *Government Gazette* the boundaries of the area which shall be the Railway Deficiency Rate District within which the rateable property is for the purposes of this section to be taken to be materially enhanced in value.

(6) The Deficiency Rate shall be annually fixed by the said Shire Council on an acreage basis and shall vary according to the quality of the soil and the distance of the land from the nearest railway station or siding.

(7) The said Shire Council may appoint a valuer or valuers to assist it in fixing the rates per acre to be levied under this section.

Surplus rate in any year to be utilized for following year.

14. If the total receipts from the Deficiency Rate in any year or years of such period of twenty years leave a credit balance after payment in full of any money payable by the Council to the Commissioners such credit balance shall be applied towards paying any money payable to the Commissioners in any other year or years of such period of twenty years.

Default of Council to collect Deficiency Rate.

15. (1) In the event of the said Shire Council failing or omitting to make Deficiency Rates pursuant to this Act or to make levy and recover sufficient Deficiency Rates to enable the said Council to pay in any year on the due date the amount payable in or for such year to the Commissioners it shall be lawful for the Governor in Council to empower the Commissioners to make any valuations necessary for the purpose and to fix levy and recover Deficiency Rates for such year.

(2) When

(2) When so empowered the Commissioners in the name of the Council shall be entitled to make when necessary valuations and to fix levy and recover (as the case may require) such rates accordingly, including therein the necessary expenses incurred by the Commissioners in so doing; and the Commissioners may do anything necessary to complete or enforce the recovery thereof, and for such purposes shall have and may exercise as nearly as practicable all the powers and authorities conferred on the Council by this Act in regard to Deficiency Rates.

16. (1) When the said line is opened for traffic the amount of the fares for passengers and rates for live stock goods and merchandise carried thereon shall in all cases be calculated as though such line of railway were detached and separate from other lines of railway, and subject to the provisions of the *Railway Local Rates Abolition Act 1902* so far as such line is concerned no reduction shall be made in the fares and rates chargeable in respect of passengers live stock goods or merchandise carried over such railway by reason of their being carried over other railways vested in the Commissioners.

Local rates to be charged on railways.
No. 1233 s. 77.
No. 1807.

(2) Whenever it appears that the traffic receipts from the said line have paid for the cost of working such line from the date of the opening of the same for traffic and have also paid full interest at the rate of Four pounds per centum per annum on cost of construction and of rolling-stock then if it appears from any report of the Commissioners that the traffic receipts on such line are likely to continue in the future to pay such interest and such maintenance and cost of working the Governor in Council may direct that the provisions of sub-section (1) of this section shall cease to apply to such line.

When sub-section (1) to cease to apply.

17. Notwithstanding the rate of the amount of fares for passengers and charges for the carriage of live stock goods and merchandise carried on the line it shall be lawful for the Commissioners to make by-laws fixing special rates of fares and charges as aforesaid in order to prevent a loss accruing to the Commissioners from the working of the said line.

Special rates.

18. Traffic receipts accruing to the Commissioners from goods merchandise and live stock brought to the general railway system by means of such new line shall for the purposes of section thirteen of this Act and for the purposes of the *Railway Local Rates Act 1900* be deemed to be and shall include two-thirds of the receipts on account of all such goods merchandise and live stock brought to any railway station on the new line which is more than ten miles from the nearest railway station existing at the date of this Act; and the Commissioners shall calculate accordingly.

Calculation of traffic receipts on general railway system.
No. 1695.

R. S. Comm. rec.
par. 10.

19. Nothing in this Act shall affect or in any manner alter or vary any of the provisions contained in the Audit Acts or any Acts relating to Crown lands.

Audit and Land Acts not affected.

SCHEDULE.

Section 3.

SCHEDULE.

ULTIMA TO CHILLINGOLLAH RAILWAY.

Commencing at the terminus of the Quambatook and Ultima Railway at or near Ultima Station and proceeding thence for about twenty miles in a north-westerly direction passing through the parishes of Ultima and Koro-Ganeit through the parish of Wewin and near the south-west corner thereof and through the parish of Polisbet and into the parish of Chillingollah and terminating in or near allotment eight in the parish of Chillingollah all in the county of Tatchera and subject to such deviations and modifications as may be considered desirable by the Board.

MELBOURNE:

By Authority: J. KEMP, Government Printer.