

VICTORIA.



ANNO SECUNDO

GEORGII QUINTI REGIS.

No. 2331.

An Act to authorize the Construction and Maintenance by The Victorian Manganese Mines Iron and Steel Company No Liability of a Railway from Lakes Entrance in the Parish of Colquhoun County of Tambo to certain land in the Parishes of Nowa Nowa and Buchan held under mineral leases by the said Company and for other purposes.

[20th October, 1911.]

WHEREAS The Victorian Manganese Mines Iron and Steel Company No Liability (hereinafter called "the company") is registered as the proprietor of certain mineral leases numbered 2436 and 2457 (hereinafter referred to as "the said mineral leases") entered in the register-book in the Office of Titles, volume 245, folio 27829, and volume 245, folio 27830 respectively, for an area embracing in the whole one hundred and fifty-four acres and one rood situate in the parishes of Nowa Nowa and Buchan, county of Tambo, mining district of Gippsland, in Victoria: And whereas the company is carrying on mining operations on the said area: And whereas in order to provide for the better carrying on of such mining operations and to afford facilities for transporting to the sea coast any products

Preamble.

Register-book,
vol. 245, fols.
27829 and 27830.

Schedule.

products of such mining operations and to improve the means of communication between the said area and the sea coast the company is desirous of constructing a railway following the route described in the Schedule to this Act being about thirty-eight miles in length: And whereas the route of the said railway passes partly through unoccupied Crown lands and partly through State forest lands and partly through certain lands held under lease or licence from the Crown and partly through private lands and partly across and along certain roads in certain municipal districts: And whereas the councils of the municipalities affected are willing to permit the said railway to be constructed and maintained across and along the said roads: And whereas it is expedient to authorize the company to construct the said railway and to provide for the granting to the company of a lease of so much of the land of the Crown (whether unoccupied Crown land or State forest land) as is required for the purposes of the said railway; and to authorize the said councils to permit the said railway to be constructed and maintained across and along the said roads; and also to provide for the construction maintenance management working and control of the said railway and for other matters in connexion with the same: Be it therefore 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):—

Short title.

1. This Act may be cited as the *Victorian Manganese Mines Iron and Steel Company's Railway Act 1911.*

Interpretation.

2. In this Act unless inconsistent with the context or subject-matter—

"Board."

"Board" means the Board of Land and Works.

"Railway."

"Railway" means the railway authorized by this Act.

Construction of Act.
Part III. of No. 1135.

3. (1) The railway authorized by this Act shall be deemed to be a railway within the meaning of Part III. of the *Railways Act 1890.*

(2) The company shall be deemed to be a railway company within the meaning of Part III. of the said Act.

Limitation of
application of
No. 1135,
ss. 135-137.

(3) For the purposes of this Act the provisions of sections one hundred and thirty-five to one hundred and thirty-seven of the *Railways Act 1890* shall apply only if as when and to such extent as the Governor in Council may direct in writing.

(4) In the construction of Part III. of the *Railways Act 1890* for the purposes of this Act—

"Company" or "railway company" shall mean The Victorian Manganese Mines Iron and Steel Company No Liability.

"Railway" shall mean the railway authorized by this Act.

"Special Act" shall mean this Act.

4. (1) Notwithstanding

4. (1) Notwithstanding anything contained in any Act it shall be lawful for the Governor in Council in the name and on behalf of His Majesty to grant to the company a lease of any unoccupied lands of the Crown or of any State forest lands required for the purposes of the railway including any bridges culverts walls crossings approaches works and conveniences connected therewith.

Power to Governor in Council to grant lease of Crown lands to company.

See No. 1749 s. 144.

(2) The said lease—

(a) shall be for such period and subject to such covenants terms and conditions as to the Governor in Council may seem fit ; and

Terms and conditions of lease.

(b) shall for the purposes of the Land Acts have the like effect as if it had been granted under the provisions of section one hundred and forty-four of the *Land Act* 1901.

Effect of lease. No. 1749 s. 144.

5. (1) Before the said lease is granted there shall be deposited by the company in some bank in Melbourne to a trust account in the joint names of the company and the Treasurer of Victoria for the time being the sum of Sixty-five thousand pounds.

Deposit of £65,000 by company before lease is granted.

(2) The said sum shall be available as required for the purposes of the construction and equipment of the railway and shall be applicable in and towards such purposes and not otherwise.

6. A plan and section of the intended railway approved by the Board showing the line and levels thereof with a book of reference to the plan containing a description of any unoccupied lands of the Crown and any State forest lands and of so much of the roads in the municipal district of any municipality as it is proposed to use for the purposes of the railway and a list of the names of the owners or reputed owners lessees or reputed lessees and occupiers of all private lands or lands held under lease or licence from the Crown through which the said railway will pass shall be deposited at the office of the Clerk of the Parliaments before the said lease is granted.

Plan section and book of reference to be deposited with the Clerk of the Parliaments.

7. The land used for the said railway shall not exceed in width—

Limit of width of land to be used for railway.

(a) on any road, sixty-six feet ;

(b) on any lands of the Crown or any State forest lands, such width as may be determined by the Board.

8. (1) Subject to the provisions of this Act it shall be lawful for the company to construct and maintain a railway three feet six inch gauge (with all necessary bridges culverts walls crossings approaches works and conveniences connected therewith) from the township of Lakes Entrance in the parish of Colquhoun to the lands in the parishes of

Railway to be constructed according to plans and sections.

Nowa

Schedule.

Nowa Nowa and Buchan held by the company under the said mineral leases for a length of thirty-eight miles more or less in the line described in the Schedule to this Act and delineated on the said plans and according to the levels defined on the said sections and upon the lands described in the book of reference deposited in the office of the Clerk of the Parliaments and to enter upon and take and use such of the said lands as shall be necessary for such purposes subject to the approval of the Board.

(2) It shall be lawful for the company to deviate from the line delineated on the plan so deposited to any distance approved by the Board in writing under the seal thereof.

9. Subject to the provisions of this Act—

Construction of railway to be subject to provisions of the *Lands Compensation Act 1890.*

- (1) In exercising the powers given to the company by this Act to construct the said railway and to take private lands for that purpose the company shall make to the owners and occupiers and all other parties interested in any such lands taken or used for the purposes of the said railway or injuriously affected by the construction thereof full compensation for the value of the lands so taken or used and for all damages sustained by such owners occupiers and other parties by reason of the exercise as regards such lands of the powers by this Act to be vested in the company.
- (2) The amount of such compensation shall in the absence of agreement be ascertained and determined in the manner provided by the *Lands Compensation Act 1890* for determining questions of compensation with regard to lands purchased or taken under the provisions hereof, and all the provisions of the said Act shall be applicable to determining the amount of such compensation and to enforcing the payment or other satisfaction thereof.
- (3) The company shall have for the several purposes aforesaid all the powers privileges and immunities duties and obligations conferred or imposed by the said Act on the Board.
- (4) In no case shall the company take or take possession of or appropriate any private land until the compensation has been paid or satisfaction thereof has been made or the amount thereof has been deposited in some bank in the name of trustees to be appointed by the Board in trust for the persons entitled thereto.

(5) In

(5) In the construction of the *Lands Compensation Act* 1890 for the purposes of this Act—

- (a) "Board of Land and Works" and "Board" shall mean the company ;
(b) "Special Act" shall mean this Act.

10. Where the line of railway passes across or along any road in the municipal district of any municipality the council of the said municipality subject to the approval of the Governor in Council may consent to the user of so much of the said roads as may be necessary for the purposes of the said railway subject to such terms and conditions as may be agreed upon between the company and the council ; or as, in default of such agreement, may be determined by the Board.

Power to municipalities to permit use of roads for railway.

11. All plans and specifications of any works to be carried out under the authority of this Act shall be subject to the approval of the Board.

Plans and specifications to be subject to approval of the Board.

12. The company shall to the satisfaction in all things of the Board—

- (a) construct and maintain the railway and all bridges culverts walls crossings approaches works and conveniences connected therewith ; and
(b) as and when required by the Board erect and maintain such fences gates level crossings and cattle guards as the Board may direct.

Railway and works to be constructed and maintained to the satisfaction of the Board.

13. Subject to the right of the company to carry on the railway any material and supplies for the purposes of and any products of the mining operations on the land comprised in the said mineral leases the company whenever so directed by the Governor in Council and upon such terms and conditions as may be determined by the Board shall—

Company to permit running rights over the railway and to carry produce for Government &c.

- (a) permit the Victorian Railways Commissioners to use the railway for the passage over or along the same of any waggons for goods or animals or of any carriages for passengers ;
(b) permit any other company or person to use the railway for the passage over or along the same of any waggons for goods or animals ;
(c) carry in its own carriages or waggons any passengers and any produce materials goods or animals for any Department of the Government or for any company or person ;
(d) permit any connexions with the railway required for the purposes of this section to be made and maintained.

14. (1) It

Power to acquire railway on behalf of the Government.

14. (1) It shall be lawful for the Board if they think fit on behalf of the Government of Victoria to acquire at any time upon giving six months' notice in writing to the company of the intention so to do the railway authorized by this Act and all lands buildings works rolling-stock and plant of or belonging to the company together with all the estate right title and interest of the company in over or affecting any lands leased or acquired or used by the company for the purposes of the railway upon such terms as may be agreed upon between the Board and the company.

Determination of dispute &c. as to terms of purchase.

(2) If after such notice any difference or dispute arises between the Board and the company as to any terms or conditions or as to the amount of the purchase money to be paid to the company such difference or dispute shall be settled by arbitration in the manner provided by the *Lands Compensation Act 1890* with respect to the settlement of disputes by arbitration.

Railway to become forfeited to the Board in certain circumstances.

15. (1) All leases of lands (whether Crown lands or private lands) and all privileges and authorities given or authorized to be given to the company under this Act shall wholly cease and determine and all the estate right title and interest of the company in over or affecting any lands whatsoever leased or acquired or used by the company for the purposes of the railway and in or with respect to the user of any road for the purposes of the railway and in all works and buildings on the railway shall by virtue only of this Act absolutely vest in the Board without the necessity of any conveyance or transfer if—

If railway not commenced or proceeded with.

(a) the company does not within six months after the date of the lease to be granted to the company under this Act by the Governor in Council proceed with the construction of the railway to the satisfaction of the Board and does not so continue with such construction; or

If not completed.

(b) if the company does not within two years after the commencement of this Act complete such portion of the railway as the Board may require to be so completed; or

If not used.

(c) if the company for the space of twelve months ceases to use the railway for purposes of traffic; or

If mineral leases forfeited &c.

(d) if for any reason the said mineral leases are pursuant to the Mines Acts surrendered forfeited avoided or determined.

Meaning of "lands."

(2) In this and the next preceding section "lands" includes as well as lands any easement right or privilege in over or affecting any land.

Power to company to levy tolls &c.

16. Subject to the provisions of this Act the company may from time to time demand receive and levy such tolls or rates and charges as shall be approved by the Board for the carriage on the railway by the company of goods passengers and animals.

17. (1) The

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

(2) The remuneration to be paid to employés in the maintenance and working of the railway and the hours of work of such employés shall be as nearly as practicable the same as the remuneration and hours of work of employés of the Victorian Railways Commissioners for the like services. Remuneration to be paid to employés.

(3) In case of any question or dispute arising under this section such question or dispute if not determined by agreement shall be referred to the Board for decision and the decision of the Board thereon shall be final and conclusive and binding on all parties. Decision of disputes.

18. (1) The company with the consent of the Governor in Council may convey transfer and assign to any other person or body of persons (whether incorporated or not) all leases granted to the company under this Act and all privileges and authorities given to the company under this Act and all rights of the company with respect to privileges and authorities authorized to be given to the company under this Act and all the estate right title and interest of the company in over or affecting any lands leased or acquired or used by the company for the purposes of the railway and in or with respect to the user of any road for the purposes of the railway and in all works and buildings on the railway; and upon such transfer and assignment the said transferee and assignee shall for the purposes of this Act be substituted for the company and shall be liable to the same covenants conditions liabilities and obligations as the company and the provisions of this Act shall be read and construed accordingly. Power to company to transfer and assign property &c. with consent of Governor in Council.

(2) In this section "lands" includes as well as lands any easement right or privilege in over or affecting any lands.

SCHEDULE.

Section 8.

SCHEDULE.**THE VICTORIAN MANGANESE MINES IRON AND STEEL COMPANY'S RAILWAY.**

Commencing in the township of Lakes Entrance in the parish of Colquhoun, county of Tambo, and proceeding thence for about thirty-eight miles in a northerly direction, passing through the parish of Colquhoun, through allotments 149 and 148 of that parish, through the parish of Colquhoun East, through the south-eastern corner of the parish of Ninnie, through the township of Nowa Nowa, passing under or over the Bairnsdale to Orbost railway, through the parishes of Tildesley West, Nowa Nowa South, and Nowa Nowa, through or near Mineral Lease No. 2457 in the parish of Nowa Nowa held by The Victorian Manganese Mines Iron and Steel Company No Liability, into the parish of Buchan and terminating in or near Mineral Lease No. 2436 in that parish held by The Victorian Manganese Mines Iron and Steel Company No Liability, near to or adjoining the eastern boundary of allotment 10B, section D, parish of Buchan, county of Tambo.

MELBOURNE:**By Authority : J. KEMP, Government Printer.**