

VICTORIA.



ANNO QUARTO

GEORGII QUINTI REGIS.

No. 2504.

An Act to authorize the Construction by the State
of a Line of Railway from Neerim South to
Toorongo River.

[20th February, 1914.]

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 *Neerim South to Toorongo River Railway Construction Act 1914.* 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.

“Line” means line of railway.

3. (1) It

Power to make
Neerim South
to Toorongo
River Railway.

Schedule.

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) :—

Neerim South to
Toorongo River
Railway.

Schedule.

A five feet three inches gauge railway commencing at or near Neerim South Railway Station and terminating in or near allotment Number 165A in the parish of Neerim in the county of Buln Buln in the line and upon the lands described in the Schedule to this Act, to be called the Neerim South to Toorongo River Railway.

Nos. 1288, 1596,
1605, and 2276.

(2) The said line shall be deemed to be a line of railway in a country district within the meaning of Part I. of the *Railway Lands Acquisition Act* 1893 and subject to the provisions of the *Railway Lands Acquisition Acts*.

Limitation of trust.

(3) For the purposes of this Act the expression "members of the municipal council of the municipal district" in section twenty of the *Railway Lands Acquisition Act* 1893 shall be deemed to apply only to members who are councillors for such ridings of the municipal districts as are wholly or partly included in the Railway Construction District.

Limit of deviation.

4. It shall be lawful to deviate from the said line on either side thereof at any part thereof as provided for in and by such Schedule; 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 One hundred and fifteen thousand eight hundred and forty-four pounds including Three thousand three hundred and twenty-five pounds for rolling-stock.

(2) The prices to be paid to workmen in the construction of the line shall upon the average be equal to a wage of Nine 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 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.

7. For

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 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.

Power to enter upon lands and construct railway.

No. 1250.

8. No contract shall be entered into or expenditure made for the construction of the said line of railway until such contract or expenditure has been previously approved in writing by the Treasurer of Victoria.

Treasurer's approval of contract or expenditure required.

9. 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 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 or in consequence of any part of such line being made constructed maintained altered repaired or used on any road.

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

10. The land to be taken or used for the said line shall not exceed one hundred yards in width, except for any station or 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.

11. On the said line neither the Board nor the Commissioners shall 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

Board need not fence &c.

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 not being fenced in or fenced off.

Power to construct
reservoirs,

and to use roads.

12. 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 and may take and use any road for making constructing maintaining altering repairing and using any part of any such line.

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

13. 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.

Local rates to be
charged on
railway.

No. 1288 s. 77.

No. 1807.

14. (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.

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

(2) Whenever it appears that the traffic receipts from the said line have paid for the cost of maintaining and 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 the cost of construction of the line 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 cost of maintaining and working the Governor in Council may direct that the provisions of sub-section (1) of this section shall cease to apply to such line.

R.S. Com. Rep.
Comp. No. 1695.
s. 4.

(3) Notwithstanding anything in any Act contained such traffic receipts shall be deemed to include and to have included from the date of the opening of the said new line for traffic the estimated traffic receipts accruing to the Commissioners from both "outwards" and "inwards" traffic in passengers live stock goods and merchandise which come to the general railway system as a result of the opening and working of the said new line for traffic over and above all working expenses attributable to the said passengers live stock goods and merchandise.

15. Notwithstanding

15. 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.

16. 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.

NEERIM SOUTH TO TOORONGO RIVER RAILWAY.

Commencing at the termination of the Warragul to Neerim Railway in the Township of Neerim South and proceeding thence for about nine miles in a northerly direction passing out of the Township of Neerim South through the Parish of Neerim into the Parish of Nayook thence for about five miles in an easterly direction passing out of the Parish of Nayook again into the Parish of Neerim and terminating in or near Allotment 165A of that parish about one and one-quarter miles westerly from the junction of the Toorongo River with the Latrobe River being all in the County of Buln Buln subject to such deviations and modifications as may be considered desirable by the Board.

MELBOURNE:

By Authority: ALBERT J. MULLETT, Government Printer.