



ANNO TERTIO

GEORGII V REGIS.

A.D. 1912.

No. 1094.

An Act to provide for the Construction of a Railway from Yeelanna to Mount Hope, and for other purposes.

[*Assented to, December 12th, 1912.*]

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

1. This Act may be cited as “The Mount Hope Railway Act, 1912.” Short title.

2. The Acts mentioned in the First Schedule, so far as they are severally applicable, but with the exceptions stated in the said Schedule, and all Acts amending or substituted for any of those Acts, or any such amending or substituted Act, are incorporated with this Act. Acts incorporated herewith.

3. The South Australian Railways Commissioner (hereinafter called “the Commissioner”) may construct and maintain— Authority to construct railway.

- (a) A railway (hereinafter called “the said railway”) from Yeelanna, on the existing railway from Port Lincoln, to Mount Hope *via* Two Wells, as the said railway is delineated in the plan deposited in the office of the Surveyor-General, in Adelaide, signed “Walter Rutt, Chief Engineer for Railways,” and dated the eighth day of December, nineteen hundred and eleven; or as the said railway is delineated in any plans after the passing of this Act so deposited, pursuant to any law for the time being in force as to the deposit of such plans; and
- (b) All

The Mount Hope Railway Act.—1912.

(b) All proper works and conveniences connected with or for the purposes of the said railway, or any part thereof, or of the said railway and any other railway :

No. 32 of 1876.

Provided that in case the Houses of Parliament are not sitting when any plans and books of reference are deposited in the office of the Surveyor-General under section 9 of "The Railways Clauses Act, 1876," the Commissioner may make deviations under the said section before causing copies of such plans and books of reference to be laid before Parliament, but such copies shall be laid before both Houses of Parliament within fourteen days after the next sittings of such Houses respectively.

Tenders.

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

Gauge and rails.

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

Fares, tolls, and charges.

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

Appropriation of fares, tolls, &c.

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

Method of determining purchase-money and compensation for land taken.

No. 6 of 1847.

8. With respect to any land purchased or taken by the Commissioner for the purposes of this Act, or with respect to which he exercises for such purposes any of the powers conferred by the Acts incorporated with this Act, if the amount of compensation to be paid to any owner thereof is not determined by agreement in writing, signed by or on behalf of such owner and the Commissioner, within twenty-one days after the Commissioner has given notice to such owner, as required by section 18 of "The Lands Clauses Consolidation Act," that he requires to purchase or take such land, or that he desires to have the compensation for the exercise of the said powers fixed, as the case may be, the amount of compensation shall be determined by arbitration in the following manner :—

1. The

The Mount Hope Railway Act.—1912.

- i. The Commissioner may give notice in writing to such owner of his intention to have the compensation settled by arbitration, and may, by the same or a subsequent notice in writing to such owner, nominate and appoint an arbitrator to act in the reference on behalf of the Commissioner: Notice to arbitrate and appointment of arbitrator by Commissioner.
- ii. Such owner may, within twenty-one days after the giving of such notice appointing an arbitrator, give notice in writing to the Commissioner agreeing that such arbitrator shall be sole arbitrator, or nominating and appointing another arbitrator to act in the reference on behalf of such owner: Appointment of arbitrator by owner.
- iii. Each such notice nominating and appointing an arbitrator, or agreeing to the appointment of a sole arbitrator, shall be deemed a submission to arbitration on the part of the party by whom the same is given; and after the giving of any such notice neither party shall have power to revoke the appointment thereby made or such submission without the consent in writing of the other party, nor shall the death of either party operate as a revocation: Notice of appointment deemed a submission.
- iv. Unless such owner, within twenty-one days after the giving by the Commissioner as aforesaid of notice nominating and appointing an arbitrator, gives notice to the Commissioner, as provided by paragraph ii. hereof, agreeing that such arbitrator shall be sole arbitrator or nominating and appointing another arbitrator, the Commissioner may appoint the arbitrator nominated and appointed by him to act on behalf of both parties; and such arbitrator shall proceed to hear and determine the matter and shall give his award determining the price and compensation (if any) to be paid: In default of appointment by owner arbitrator appointed by Commissioner to act alone.
- v. All the provisions of sections 26 to 35 inclusive, of "The Lands Clauses Consolidation Act" shall, *mutatis mutandis*, apply with respect to the determination of the compensation: Provisions as to umpire, vacancies, &c.
- vi. No notice, appointment, or award made under this section shall be set aside or be invalid for irregularity or error in matter of form: Informality not to invalidate.
- vii. Every award under this section of arbitrators, or of a single arbitrator (in a case where it is agreed, as mentioned in paragraph ii. hereof, that an arbitrator shall be the sole arbitrator, or where a single arbitrator is empowered by this section to give an award), or of an umpire, shall be final: Provided always that where an arbitrator or umpire has misconducted himself the Court may remove him, and that where an arbitrator has misconducted himself, or an arbitration or award has been improperly secured, the Court may set the award aside. "Court" in this paragraph means the Supreme Court or a Judge thereof: Award to be final.

The Mount Hope Railway Act.—1912.

Effect of submission
and award.

VIII. A submission to arbitration under this section shall have the same effect as if it had been made an order of the Supreme Court; and an award under this section may be enforced in the same manner as a judgment or order of the said Court to the same effect:

Meaning of "owner"
and "land."

IX. In this section--

(a) The word "owner" includes, with respect to any land any person having any estate or interest (legal or equitable) in the land, or any easement, right, power, or privilege in, under, over, affecting, or in connection with the land, or by the "Lands Clauses Consolidation Act" enabled to sell and convey, transfer, release, assign, or otherwise assure such estate, interest, easement, right, power, or privilege: and

(b) The word "land" includes any estate or interest (legal or equitable) in land, and any easement, right, or privilege in, under, over, affecting, or in connection with land.

No. 6 of 1847.

Purchase-money of
certain Crown lands to
go to Loan Fund and
income to revenue.

9. (1) When any Crown lands situated as mentioned in the Second Schedule are, after the passing of this Act, sold or granted or contracted to be sold or granted by or on behalf of the Crown, whether under an agreement containing a covenant to purchase or otherwise, all purchase-moneys received in respect of such land shall be paid to the credit of the Loan Fund, and, unless and until otherwise provided by Parliament, the interest on such moneys shall be applied as revenue for the general purposes of the said State.

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

(3) In this section and in the Second Schedule "Crown lands" includes any lands which, when sold or granted or contracted to be sold or granted as aforesaid, are subject to any lease or licence granted by or on behalf of the Crown, as well as Crown lands within the meaning of "The Crown Lands Act, 1903."

No. 830 of 1903.

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

DAY H. BOSANQUET, Governor.

The Mount Hope Railway Act.—1912.

THE SCHEDULES.

THE FIRST SCHEDULE.

Section 2.

Ordinance No. 6 of 1847.—“The Lands Clauses Consolidation Act,” except sections 9, 12 to 17 inclusive, 21 to 25 inclusive, 38 to 62 inclusive, 64 to 68 inclusive, 110, 114 to 120 inclusive, 136, and 137.

Act No. 26 of 1855-6 being an Act to amend “The Lands Clauses Consolidation Act,” except sections 1, 4, and 6.

Act No. 202 of 1881.—“The Lands Clauses Consolidation Amendment Act, 1881,” except sections 5 to 11 inclusive.

Act No. 1035 of 1911.—“The Lands Clauses Consolidation Further Amendment Act, 1911.”

Ordinance No. 7 of 1847.—“The Railways Clauses Consolidation Act.”

Act No. 6 of 1858, being an Act to amend “The Railways Clauses Consolidation Act.”

Act No. 32 of 1876.—“The Railway Clauses Act, 1876.”

Act No. 414 of 1887.—“The South Australian Railways Commissioners Act, 1887.”

Act No. 512 of 1891.—“The South Australian Railways Commissioners Act Amendment Act, 1891.”

Act No. 612 of 1894.—“The South Australian Railways Commissioners Act Amendment Act, 1894.”

Act No. 912 of 1906.—“The South Australian Railways Commissioners Further Amendment Act, 1906.”

Act No. 988 of 1909.—“The South Australian Railways Commissioners Act Amendment Act, 1909.”

THE SECOND SCHEDULE.

Section 9.

1. All Crown lands which are situated on either side of the railway and within sixteen miles thereof; and

11. All other Crown lands situated within sixteen miles of the terminus at Mount Hope of the railway.

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