

CUE-BIG BELL RAILWAY.

1° EDWD. VIII., No. V.

No. 5 of 1936.

AN ACT to authorise the construction of a railway from Cue to Big Bell and to ratify an agreement made the 6th day of March, 1936, between the Honourable the Premier, on behalf of the Crown, and the American Smelting and Refining Company of New Jersey.

[Assented to 3rd November, 1936.]

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 Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the *Cue-Big Bell Railway Act, 1936.* Short title.

2. It shall be lawful to construct and maintain a railway, with all necessary, proper, and usual works and conveniences along the line described in the First Schedule to this Act. Authority to construct line.

3. Notwithstanding anything contained in the Public Works Act, 1902-1933, it shall be lawful for the Minister for Railways to deviate from the line as described in the First Schedule to the extent of five miles on either side thereof. To deviate customary five miles.

Ratifying
preliminary
agreement.

4. The agreement made the 6th day of March, One thousand nine hundred and thirty-six, between the Honourable Philip Collier, Premier and Treasurer of the State on behalf of the Crown, and the American Smelting and Refining Company of New Jersey (a copy whereof is set out in the Second Schedule), is hereby ratified.

THE FIRST SCHEDULE.

CUE-BIG BELL RAILWAY.

Description of Main Line of Railway.

Commencing at a point in the Cue station yard on the Mullewa-Cue railway and proceeding thence in a north-west by westerly direction for approximately nine miles and thence in a westerly direction for approximately eight miles to a point approximately fifty chains north-north-west of the 70-mile peg on the No. 3 rabbit-proof fence, thence in a north-westerly direction for approximately half a mile, thence in a northerly direction for approximately one mile, thence in a south-easterly direction for approximately a quarter of a mile, terminating at a point near the eastern boundary of Block G.M.L. 2148, as more particularly set out and delineated in red on map marked C.C.E. Plan No. 30793, deposited pursuant to Edw. VII. No. 47, section 96.

Total length about 18¾ miles.

THE SECOND SCHEDULE.

Copy of Agreement between the Hon. the Premier, on behalf of the Crown, and the American Smelting and Refining Company of New Jersey.

AN AGREEMENT UNDER SEAL made this sixth day of March one thousand nine hundred and thirty-six BETWEEN THE CROWN in right of the State Government of Western Australia (hereinafter called "the State Government") acting in this behalf by THE HONOURABLE PHILIP COLLIER of the Treasury Buildings, Perth, Premier and Treasurer in the State Government, of the one part, and THE AMERICAN SMELTING AND REFINING COMPANY of New Jersey (hereinafter called "the company," which term shall include its successors and assigns), of the other part.

One of the main objects of the company is the mining smelting and refining of metals.

The company is interested with a subsidiary company namely the Premier Gold Mining Company Limited and other subsidiary companies in the promotion of a company in the State of Western Australia to be called the Big Bell Mines Limited having for its purpose the acquisition and working of certain gold mining leases situate near Cue in the said State known as the Big Bell and Little Bell mines (gold mining leases Nos. 2057, 2058, 2059, 2050 and 2065).

The said Premier Gold Mining Company Limited is the holder of an option to acquire a leasehold interest in the said leases and has executed a declaration of trust in favour of the company that it the said Premier Gold Mining Company Limited holds a fifty one per centum interest in such option in trust for the company.

The company has requested the State Government to build a railway from Cue to the said leases and the State Government has agreed to do so subject to the obligations undertaken by the company under this agreement and to Parliamentary approval being given to the building of the line.

NOW IT IS HEREBY AGREED:—

1. In consideration of the undertaking on the part of the company hereinafter contained the State Government will—

- (a) with all reasonable despatch proceed with and complete all necessary surveys and other work of a preliminary nature prior to the construction of the line;
- (b) as soon as practicable after obtaining Parliamentary authorisation proceed with and complete the construction of the line to a point as near as practicable to the southern boundary of the leases thence along and as near as practicable to the western boundary of the said leases for approximately a further one and one-half miles.

2. The company undertakes with the State Government—

- (a) that it will as soon as practicable after the execution of this agreement cause a limited liability company having within two years from the date hereof a total paid up capital of not less than £400,000 to be formed and registered in the State of Western Australia for the purpose of working the said leases;
- (b) that it will as soon as practicable after the execution of this agreement acquire and continue to hold during its currency a majority interest in the capital of the company to be formed in order to enable the company validly to give the bond specified in paragraph (c) of this clause in accordance with the requirements or provisions of the American law;
- (c) that it will as soon as practicable after complying with the provisions of the preceding subparagraphs (a) and (b) of this clause enter into a bond with and acknowledge itself bound to the State Government in the penal sum of fifty

thousand pounds Australian currency to be paid to the State Government at the Treasury in Perth such obligation to be void and of no effect if within the time and manner specified in the next paragraph of this clause the milling plant referred to in that paragraph shall have been completed and equipped:

Provided however that the company shall be progressively released from liability under its bond as follows:—

(i) when the proven value of work in the erection of the mill on the site of the leases equals two hundred thousand pounds—the obligation under the bond shall be reduced by the sum of twelve thousand five hundred pounds;

(ii) when the proven value of such works equals three hundred thousand pounds—the obligation under the bond shall be reduced by a further twelve thousand five hundred pounds,

the balance of the liability being extinguished on completion of the works in accordance with the next paragraph.

The State Mining Engineer shall be the judge of the value of the work for the purpose of this paragraph.

(d) that the company to be formed will within a period of two years from the time when the said railway is declared open for traffic under the Government Railways Act 1904-1933 construct and completely equip to the satisfaction of the State Mining Engineer of Western Australia a mill at the said mine having a capacity for treating for the extraction of gold at least 25,000 tons of gold bearing ore per month.

3. (a) In the interpretation of this agreement the laws of the State of Western Australia shall apply but the State Government shall be entitled in order to perfect or more effectually enforce its rights under the agreement in the United States of America or elsewhere to take such steps at the expense of the company as may be necessary to comply with any formalities required by the laws of any State of the United States of America or by any Federal law of the United States of America or by the law of any other place where the company may be carrying on business.

(b) The company will do all things necessary to enable or assist the State Government in exercising its rights under this clause.

4. (a) For the purpose of any legal proceedings under this agreement the Courts of the State of Western Australia shall have exclusive jurisdiction.

(b) Service of all such proceedings on the company may be effected by leaving the same at the registered office in the State of Western Australia of any company which may be formed to work the said mines as hereinbefore mentioned or at the offices of Messrs.

Stone, James & Co., Solicitors of Perth, Western Australia, and the same shall be considered good service notwithstanding any rule of law or equity to the contrary.

5. Neither the State Government nor the company shall be liable in any damages nor shall the company be liable to any penalty under its bond by reason of any delays in the carrying out of their respective obligations hereunder in so far as such delays are due to strikes lockouts or industrial disturbances or to any unforeseen cause not attributable to any act or default of the party concerned.

6. This agreement is subject to ratification by the Parliament of Western Australia and in the event of such ratification not being given by the last day of October, One thousand nine hundred and thirty-six, the agreement shall become void and of no effect.

As witness the respective executions of the parties—

Signed sealed and delivered by the Honourable Philip Collier in his official capacity as aforesaid in the presence of— (Sgd.) PHILIP COLLIER.

(Sgd.) Albert A. Wolff,
Solicitor,
Perth.

Signed sealed and delivered by Dale Leatham Pitt, of the Palace Hotel, St. George's Terrace, Perth, as agent for and on behalf of the company (acting under the authority of a cable communication dated the 2nd day of March, 1936, from the company to himself) in the presence of— (Sgd.) DALE L. PITT.

(Sgd.) Ernest Blanckensee,
Solr.,
Perth.