

VICTORIA.



ANNO DUODECIMO

ELIZABETHÆ SECUNDÆ REGINÆ

No. 7049.

An Act to provide for the Dismantling of a certain Railway and Section of a Railway, and for other purposes.

[19th November, 1963.]

Preamble.
First Schedule.

WHEREAS by the Acts specified in the second column of the First Schedule to this Act authority was given for the making and maintaining of the railways referred to in the first column of the said Schedule :

And whereas the said railways were in pursuance of the said authority duly constructed and opened for traffic on the dates respectively specified in the third column of the said Schedule :

And whereas since the dates respectively specified in the fourth column of the said Schedule no traffic has been conducted upon the railway or the section of railway referred to or described in the fifth column of the said Schedule :

And whereas the railway and the section of railway so referred to or described and the lands upon which they are constructed and the lands acquired for the purposes thereof and all property being in or upon the said lands or used in connexion with the said railway and section of railway are vested in The Victorian Railways Commissioners (hereinafter called "the Commissioners") :

And

And whereas parts of the said lands (which parts are hereinafter called the "former Crown lands") are lands—

which immediately prior to their vesting in the Commissioners or in the Board of Land and Works were unalienated lands of the Crown (including parts of Government roads) or lands held under lease from the Crown ; and which have never been granted in fee simple to the Commissioners or to the said Board :

And whereas it is expedient to authorize the Commissioners to dismantle the said railway and section of railway and to sell or otherwise dispose of or use the materials of which the same are constructed and the said property and to sell or demise the said lands (other than the former Crown lands) and to deal with as provided in this Act the proceeds arising from any such sale or disposal and the rents and profits arising from any such demise :

And whereas it is expedient to divest the former Crown lands out of the Commissioners and to provide that the said former Crown lands shall again be and be deemed to be unalienated lands of the Crown :

And whereas it is expedient to determine the liability (if any) of the Commissioners to maintain any bridge bearing any road over the said railway or section of railway or any culvert drain or stream diversion appurtenant to the said railway or section of railway :

And whereas it is also expedient to make provision as hereinafter enacted in relation to the dismantling of the said railway and section of railway :

Be it therefore enacted by the Queen'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 *Colac to Weeaproinah Railways Dismantling Act 1963.* Short title.

2. (1) Notwithstanding anything in any Act the Commissioners may— Power to Commissioners to dismantle railways referred to in First Schedule.

(a) dismantle the railway and section of railway referred to or described in the fifth column of the First Schedule to this Act ;

(b) sell or otherwise dispose of or use for any purpose under Part III. of the *Railways Act 1958*— No. 6355 Part III.

(i) the materials of which the said railway and section of railway are constructed ; and

(ii) the

(ii) the hereinbefore recited property or any portion thereof ; and

(c) sell or demise the hereinbefore recited lands (other than the former Crown lands) or any portion thereof.

Application of proceeds of sale of materials or property.

(2) The net proceeds of any sale or disposal of the said materials or of the said property or any portion thereof pursuant to this section shall be paid into the Railway Renewals and Replacements Fund.

Application of proceeds of sale of lands.

(3) The net proceeds of any sale of lands pursuant to this section shall be paid into the State Loans Repayment Fund.

Application of rents and profits arising from demise of lands.

No. 6355 s. 76.

(4) The rents and profits arising from any demise of lands pursuant to this section shall be dealt with in the same manner as are rents and profits arising from any demise of lands pursuant to section seventy-six of the *Railways Act* 1958.

Former Crown lands to be unalienated Crown lands.

3. Upon the completion of the dismantling of those parts of the railway or section of railway referred to or described in the First Schedule to this Act which are situated on former Crown lands, the former Crown lands on which the said parts are situated shall be divested out of the Commissioners and shall again be and be deemed to be unalienated lands of the Crown.

Determination of liability of Commissioners to maintain road bridges culverts, &c.

4. (1) On the commencement of this Act the liability (if any) of the Commissioners to maintain any bridge bearing any road over the said railway or section of railway or any culvert drain or stream diversion appurtenant to the said railway or section of railway shall absolutely cease and determine.

Compensation in respect of bridge in Second Schedule.

(2) Notwithstanding the provisions of sub-section (1) of this section the Commissioners may in respect of the bridge described in the Second Schedule to this Act pay to the appropriate road authority named in the sixth column of the said Schedule such amount as is agreed upon by the Commissioners and the authority or in default of agreement as is determined by arbitration in accordance with the provisions of the *Arbitration Act* 1958 as being—

(a) the estimated cost of replacing the bridge with earthworks on the date of the commencement of this Act ; or

(b) the estimated cost on the said date of any repairs to the bridge then necessary plus an amount estimated to be the capitalized cost of the future maintenance of the bridge—

whichever is the less.

5. On and after the commencement of this Act, notwithstanding anything in any Act or any law or usage the provisions of the *Fences Act* 1958 shall extend and apply to so much and such portions of any of the lands which may be sold or demised pursuant to this Act as are for the time being not so sold or demised as if such lands were unalienated Crown lands and the said provisions shall be read and construed accordingly and for the purposes of this section any reference in section thirty-two of the *Fences Act* 1958 to the Board of Land and Works shall be read and construed as if it were a reference to the Commissioners.

Application of provisions of No. 6249.

No. 6249 s. 32.

6. Where the decking is removed from a bridge (other than a bridge over a roadway) forming part of the railway or the section of a railway authorized to be dismantled by this Act the bridge shall for the purposes of this Act be deemed to be completely dismantled :

Partial demolition deemed to be dismantling of bridges.

Provided that where any part of a timber bridge is situated in the bed of a river or stream under the control of a statutory authority the bridge shall be deemed to be completely dismantled when the parts thereof so situated have been demolished to such extent as is agreed upon by the Commissioners and the authority or in default of agreement as is determined by the Governor in Council.

7. (1) Any bridge or rails which the Commissioners may sell pursuant to this Act may be sold *in situ* subject, in the case of a bridge or rails situated on former Crown lands, to the consent of the Commissioner of Crown Lands and Survey being first obtained and, in the case of a bridge situated over a river or stream under the control of a statutory authority, to the consent of that authority being first obtained.

Sale of bridges and rails *in situ*.

(2) Any bridge or rails shall upon being sold *in situ* pursuant to this section be deemed for the purposes of this Act to have been dismantled and the Commissioners shall have no further responsibility in relation thereto.

Bridges and rails sold *in situ* deemed dismantled.

SCHEDULES.

FIRST SCHEDULE.

A RAILWAY AND A SECTION OF A RAILWAY WHICH ARE TO BE DISMANTLED.

Name of Railway.	Act Authorizing Construction.	Date Opened for Traffic.	Date Traffic Ceased.	Section to be Dismantled.
Colac and Beech Forest Railway	<i>Colac and Beech Forest Railway Construction Act 1898 (No. 1594)</i>	1st March, 1902 ..	30th June, 1962 ..	The whole railway
Beech Forest to Crowe's Railway	<i>Beech Forest to Crowe's Railway Construction Act 1908 (No. 2149)</i>	20th June, 1911 ..	30th June, 1962 ..	That section of the railway not authorized to be dismantled by Act No. 5939

SECOND SCHEDULE.

ROAD BRIDGE OVERLINE ON A RAILWAY WHICH IS TO BE DISMANTLED.

Name of Railway.	Location of Bridge.	No. and Length of Spans.	Width of Bridge.	Type of Construction.	Appropriate Road Authority.
Beech Forest to Crowe's Railway	Situate on the site of a road known as the Beech Forest—Lavers Hill Road in the Shire of Otway and distant 125 miles 16 chains 00 links along the railway from Melbourne	3 spans each 20 feet	<i>ft. in.</i> 20 0	Timber beams and piles approximately 14 feet high	Country Roads Board