

An Act to make Provision for the Appointment and Constitution of a Public Works Committee and the Powers and Duties thereof.

[22nd July, 1935.]

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 *Public Works Committee Act* 1935, and shall come into operation on a day to be fixed by proclamation of the Governor in Council published in the *Government Gazette*.

Short title and commencement

2. (1) The Acts mentioned in the First Schedule to this Act to the extent to which the same are in and by the said Schedule expressed to be repealed or amended are hereby repealed or amended accordingly.

Repeal and amendment of Acts mentioned in First Schedule.

(2) The provisions of this Act shall not limit or affect the operation of any of the provisions of the *Forests Act* 1928 or the *Melbourne and Metropolitan Tramways Act* 1928 which are amended by this section except to the extent to which the same are so amended.

Saving.
No. 3685.

No. 3732.

3. In

- Interpretation. 3. In this Act unless inconsistent with the context or subject-matter—
- “Committee.” “Committee” means the Public Works Committee constituted under this Act.
- “Prescribed.” “Prescribed” means prescribed by this Act or by the regulations.
- “Public authority.” “Public authority” means the Forests Commission of Victoria, the Board of Land and Works, the Closer Settlement Commission, the State Rivers and Water Supply Commission, The Victorian Railways Commissioners, the Country Roads Board, the Geelong Waterworks and Sewerage Trust and any sewerage authority within the meaning of the Sewerage Districts Acts and any waterworks trust or local governing body within the meaning of the *Water Act 1928* and any trust within the meaning of the *Mildura Irrigation and Water Trusts Act 1928* and any body proclaimed to be a public authority for the purposes of this Act by proclamation of the Governor in Council published in the *Government Gazette*.
- No. 3772 &c. “Public works” means works—
- No. 3801. (a) which are carried out by the Crown, any Government Department or any public authority; and
- No. 3735. (b) for or towards the carrying out of which money is provided by the State.
- “Regulations.” “Regulations” means regulations made under this Act.
- Constitution of Public Works Committee. 4. (1) As soon as conveniently practicable after the commencement of the first session of every Parliament a Joint Committee of six Members of Parliament to be called the Public Works Committee shall be appointed according to the practice of Parliament with reference to the appointment of Members to serve on Joint Select Committees of the Legislative Council and the Legislative Assembly. But no appointment of Members to serve on such Committee shall be made by ballot.
- Comp. No. 3761 s. 4. (2) Two of the members of such Joint Committee shall be Members of and be appointed by the Legislative Council and four of the members of such Joint Committee shall be Members of and be appointed by the Legislative Assembly.
- (3) No responsible Minister of the Crown shall be a member of such Committee.
- (4) Such six persons shall hold office as a Joint Committee during the existence and continuance of the Legislative Assembly

Assembly in session at the time of such appointment and no longer, and shall have and may exercise such powers and authorities perform such duties and be liable to such obligations as are by this Act vested in or imposed upon the Committee.

(5) Every member of the Committee before entering on the duties of his office or sitting at any meeting of such Committee shall make and subscribe a declaration in the form of the Second Schedule to this Act.

Declaration of
members of
committee.
Second
Schedule.

5. (1) Any member of the Committee may by writing under his hand addressed to the Governor in Council resign his seat on the Committee.

Extraordinary
vacancies.
Comp. No. 3761
s. 5.

(2) The seat of any such member shall be deemed to become vacant for any cause for which his seat as a Member of the Legislative Council or Legislative Assembly (as the case may be) would become vacant.

(3) When any such vacancy occurs it shall be filled upon motion in the usual manner: Provided that the proportionate representation on the Committee of Members of the Legislative Council and Members of the Legislative Assembly hereinbefore prescribed shall be observed in the filling up of vacancies.

6. There shall be a Chairman and a Vice-Chairman of the Committee who shall be elected by the members of the Committee at their first meeting, or as soon after such meeting as may be practicable.

Chairman and
vice-chairman.
Ib. s. 6.

7. (1) The Chairman of the Committee shall be entitled to receive by way of remuneration for his services an attendance fee of Two guineas for each attendance at a meeting of the Committee at which a quorum is present.

Attendance fee
to be paid to
chairman.
Ib. s. 7.

(2) Every member of the Committee (other than the Chairman) shall be entitled to receive by way of remuneration for his services an attendance fee of One pound eleven shillings and sixpence for each attendance at a meeting of the Committee at which a quorum is present.

Attendance fees
to be paid to
members.

(3) No member of the Committee (including the Chairman and Vice-Chairman) shall be entitled to receive more than one attendance fee in respect of any one day notwithstanding that he may attend more than one meeting on that day.

Only one fee for
attendance on
any one day.

(4) The attendance fees payable to any member of the Committee pursuant to this Act shall be in addition to any payment received by such member pursuant to any Act as reimbursement of his expenses in relation to his attendance in the discharge of his Parliamentary duties.

Payments for
attendance fees
under this Act
to be
additional to
reimbursement
of members.

Attendance fees
to be a charge
on consolidated
revenue.
Comp. No. 3761
s. 8.

8. (1) The amount to which any person is entitled pursuant to this Act for attendance fees shall be certified to by the Chairman or Vice-Chairman of the Committee and when approved by the Minister shall be payable out of the consolidated revenue which is hereby appropriated for that purpose accordingly.

Amount not to
exceed £1,500
per annum.

(2) The total amount payable for attendance fees of members of the Committee shall not exceed Fifteen hundred pounds in any one financial year.

As to travelling
expenses and
charges.
Ib. s. 9.

9. (1) In addition to the attendance fees by this Act payable to members of the Committee every member thereof (including the Chairman and Vice-Chairman) shall be entitled to such further sum (not exceeding One guinea for each full day and a proportionate amount for part of a day) as is prescribed by regulations for the expenses incurred by him when travelling and also to any charges for any conveyance paid by him when so travelling whenever such expenses and charges have been necessarily incurred in the performance of his duties as a member of the Committee.

Payments for
travelling
expenses &c.
under this Act
to be
additional to
reimbursement
of members
under No. 3660.

(2) The travelling expenses and charges payable to any member of the Committee pursuant to this Act shall be in addition to any payment received by such member pursuant to any Act as reimbursement of his expenses in relation to his attendance in the discharge of his Parliamentary duties.

Travelling
expenses &c. to
be a charge on
consolidated
revenue.
Ib. s. 10.

10. The amount to which any person is entitled pursuant to this Act for travelling expenses and charges shall be certified to by the Chairman or Vice-Chairman of the Committee and when approved by the Minister shall be payable out of the consolidated revenue which is hereby appropriated for that purpose accordingly.

Payments under
this Act not to
disqualify
members of
Parliament.
Ib. s. 11.

11. Notwithstanding any payment made pursuant to this Act to any Member of Parliament, none of the offices of Chairman Vice-Chairman or member of the Committee shall be deemed or taken to be an office or place of profit under the Crown or employment in the public service within the meaning of Division two of Part II. of *The Constitution Act Amendment Act 1928* so as to render such Chairman Vice-Chairman or member incapable of sitting or voting as a member of the Legislative Council or Legislative Assembly (as the case may be) or so as to make null and void the election to Parliament of any such Chairman Vice-Chairman or member.

No. 3660 Part
II., Division 2.

12. (1) The

12. (1) The Chairman or in the case of his absence or other disability the Vice-Chairman shall preside at all meetings of the Committee.

Chairman or Vice-Chairman to preside at meetings.

Comp. No. 3761 s. 12.

Provision for absence of Chairman and Vice-Chairman.

(2) At any meeting of the Committee at which a quorum is present the members in attendance may in the absence of the Chairman and Vice-Chairman appoint one of their number then present to be temporary chairman, and such temporary chairman shall have during the absence of the Chairman and Vice-Chairman all the powers given by this Act to the Chairman or Vice-Chairman of the Committee.

(3) All questions which arise at any meeting of the Committee shall be decided by a majority of votes of the members present, and when the votes are equal the Chairman Vice-Chairman or other member presiding shall have a second or casting vote.

Division and casting vote.

(4) In all cases of divisions the names of the persons voting shall be stated in the minutes and in the report.

Record of divisions.

13. (1) Except as hereinafter by this section provided four members of the Committee or (when there is a vacancy in the Committee or two members of the Committee are under the next succeeding section forbidden to vote or to take part in the proceedings of the Committee) three members of the Committee shall form a quorum competent to exercise all powers and authorities and to incur all obligations conferred or imposed upon the Committee.

Quorum. Ib. s. 13.

(2) When the Committee meet for the consideration of their report to the Governor in Council the quorum shall consist of—

(a) not less than five members ; or

(b) when there is a vacancy in the Committee, or when any member of the Committee is under the next succeeding section forbidden to vote or to take part in the proceedings of the Committee—not less than four members :

Provided that when two members of the Committee are under the next succeeding section forbidden to vote or to take part in the proceedings of the Committee (and whether or not there is a vacancy in the Committee) the quorum shall consist of not less than three members.

14. No member of the Committee shall vote or take part in the proceedings of the Committee when any proposed public works in which he is personally interested or which

Members not to take part when certain works being considered. Ib. s. 14.

are

are proposed to be constructed in into or through the province or district which he represents are being considered or reported on by the Committee.

Power to sit
during recess
&c.

Comp. No. 3761
s. 15.

15. (1) The Committee shall have power to sit and transact business during any adjournment or recess during the Parliament for which they have been appointed, and may sit at such times and in such places and conduct their proceedings in such manner as seems most convenient for the proper and speedy despatch of business.

(2) The Committee shall not sit during the sittings of either House of Parliament except by leave of such House.

(3) The Committee shall sit in open court.

Minutes.
Ib. s. 16.

16. The Committee in such manner as the regulations prescribe shall keep full minutes of their proceedings.

Powers of
committee.
Ib. s. 17.

17. For the purposes of this Act the Committee shall have the following powers (that is to say):—

(1) They may, by themselves or by any person appointed by them to prosecute an inquiry, enter and inspect any land building or place or inspect any material if such entry or inspection appears to them requisite and if the prescribed notice has been given to the owners or occupiers of such land building or place or to the owners or persons in possession of such material.

(2) They may require by summons under the hand of the Chairman or Vice-Chairman the attendance of all such persons as they think fit to call before them and examine and may require answers or returns to such inquiries as they think fit to make.

(3) They may in the prescribed manner require and compel the production of all books maps plans papers and documents relating to the matters before them.

(4) They may by their Chairman or Vice-Chairman hear receive and examine evidence on oath, or where a witness if examined before a Court would be permitted to make a solemn affirmation or declaration or to give evidence in any other way than upon oath then by such affirmation or declaration or otherwise (as the case may be).

(5) If

- (5) If any person who has been duly served with a summons to attend before the Committee and has been paid or tendered his expenses neglects to appear in obedience to the summons, or if any person wilfully insults the Committee or any member thereof or interrupts the proceedings of or misbehaves himself before the Committee, or if any person being summoned or examined as a witness in any inquiry or matter pending before the Committee refuses to be sworn or to make a solemn affirmation or declaration as aforesaid or to produce the documents or any of the documents mentioned in the summons served upon him or prevaricates in his evidence or refuses to answer any lawful question, the Chairman or Vice-Chairman may commit any such offender to gaol for a term of not more than one month, or impose on any such offender a penalty of not more than Fifty pounds and in default of immediate payment thereof commit the offender to gaol for a term of not more than one month unless the fine be sooner paid; and in any of the cases aforesaid a warrant in the form or to the effect of the **Third Schedule** to this Act may be issued by the Chairman or Vice-Chairman and shall be good and valid in law without any other warrant order or process whatsoever; and the Chief Commissioner of Police and all officers of the police force and gaolers to whom it is addressed shall obey such warrant.
- (6) Where any person who has been duly served with a summons to attend as a witness before the Committee and has been paid or tendered his expenses fails to appear in obedience to the summons, the Chairman or Vice-Chairman upon proof of such person having been duly served with the summons, and upon proof that such person's non-appearance was without just cause or reasonable excuse, may issue a warrant in the form or to the effect of the **Fourth Schedule** to this Act to bring such person before the Committee to give evidence.

(7) Every

(7) Every person required by the Committee to attend as a witness shall be allowed such expenses as would be allowed to a witness attending on subpoena before the Supreme Court, and in case of dispute as to the amount to be allowed the same shall be referred to the Prothonotary of the Supreme Court who on request under the hand of the Chairman or Vice-Chairman of the Committee shall ascertain and certify the proper amount of such expenses.

Assessors.

Comp. No. 3761
s. 18.

18. (1) The Committee may from time to time in the exercise of any powers by this Act conferred on them call in the aid of one or more assessors, who shall be persons of technical knowledge or possessing special local knowledge or experience.

(2) There shall be paid to such assessors such remuneration as is prescribed by regulations and as the Committee recommend.

**Functions
of committee.**

19. (1) The Governor in Council may refer any proposal for the carrying out of public works (whether such works are continuations completions repairs reconstructions extensions or new works) to the Committee.

Ib. s. 22 (3).

(2) The Committee shall as soon as conveniently practicable deal with the proposal so referred to them and for that purpose may exercise all powers by this Act conferred on them.

Ib. s. 22 (4).

(3) The Committee shall as soon as conveniently practicable (regard being had to the nature and importance of the proposed works) report in writing to the Governor in Council the result of their inquiries.

Ib. s. 21 (2).

(4) In considering and reporting on any such works the Committee shall have regard—

(a) to the stated purpose thereof ;

(b) to the necessity or advisability of carrying them out ; and where such works purport to be of a reproductive or revenue-producing character, the Committee shall have regard to the amount of revenue which such works may reasonably be expected to produce ;

(c) to

(c) to the present and prospective public value of such works ; and

(d) to the amount of employment which would be provided by the carrying out of such works—

and generally the Committee shall, in all cases, take such measures and procure such information (including the estimated cost of such works) as may enable them to inform or satisfy the Governor in Council as to the expediency of carrying out the works in question.

(5) In the report of the Committee on such works the Committee shall report as to whether in the opinion of the Committee such works are substantially works for the relief of unemployment.

20. (1) Every proposal for the carrying out of any public works (whether such works are continuations completions repairs reconstructions extensions or new works) the estimated cost of which exceeds Ten thousand pounds shall be submitted to the Minister before such works are commenced or proceeded with.

Public works if estimated cost exceeds £10,000 not to be commenced or proceeded with before proposal submitted to Minister.

(2) Where any proposal for the carrying out of any public works (whether such works are continuations completions repairs reconstructions extensions or new works) the estimated cost of which exceeds Twenty thousand pounds has been referred by the Governor in Council to the Committee such works shall not be commenced or proceeded with until the Committee has reported to the Governor in Council on the proposal.

Public works not to be commenced or proceeded with until reported on by the committee if estimated cost exceeds £20,000.
Comp. No. 3761 s. 22.

21. Where any proposed public works are referred to the Committee, and such Committee lapses or ceases to have legal existence before such works are reported on by such Committee, the evidence taken before such Committee shall nevertheless be considered by any subsequent Committee to whom the same works are referred for report pursuant to this Act, as if such evidence had been given before and for the information and guidance of such subsequent Committee.

As to evidence &c. taken before and reports made by previous committees.
Ib. s. 25.

22. The Committee shall before the commencement of each session of Parliament make a general report to the Governor in Council of their proceedings under this Act, and such report shall be laid before both Houses of Parliament within fourteen days after the making thereof if Parliament is then sitting and if Parliament is not then sitting then within fourteen days after the next meeting of Parliament.

Periodical report.
Ib. s. 27.

23. (1) The

Regulations.
Comp. No. 3701
s. 28.

23. (1) The Governor in Council may make regulations for or with respect to prescribing any matters or things authorized or required to be prescribed or necessary or expedient to be prescribed for giving effect to this Act.

(2) All such regulations shall be published in the *Government Gazette*, and shall be laid before both Houses of Parliament within fourteen days after the making thereof if Parliament is then sitting and if Parliament is not then sitting then within fourteen days after the next meeting of Parliament. A copy of any regulations proposed to be made under this Act shall be delivered or posted to each Member of Parliament at least fourteen days before such regulations are submitted for the approval of the Governor in Council.

SCHEDULES.

FIRST SCHEDULE.

Section 2.

Repeal of No.
3761.

Amendment of
No. 3759 s. 38.

Amendments
of No. 3732.

s. 38.

s. 39.

1. The *Railways Standing Committee Act 1928* is repealed.

2. In sub-section (1) of section thirty-eight of the *Railways Act 1928* the expression "and for such purpose shall be the constructing authority thereof within the meaning of the *Railways Standing Committee Act 1928*" is repealed.

3. The *Melbourne and Metropolitan Tramways Act 1928* is amended as follows:—

(a) In sub-section (2) of section thirty-eight, for the words "Minister who shall refer the same to the Parliamentary Standing Committee on Railways for consideration and report to the Minister" there shall be substituted the words "Governor in Council and such proposals shall be referred to the Public Works Committee by the Governor in Council for consideration and report to the Governor in Council";

(b) In paragraph (c) of sub-section (2) of section thirty-nine, for the words "Minister to the Parliamentary Standing Committee on Railways for consideration and report to the Minister" there shall be substituted the words "Governor in Council to the Public Works Committee for consideration and report to the Governor in Council";

FIRST

FIRST SCHEDULE—*continued*.

- (c) In sub-section (1) of section forty— S. 40.
- (i) for the words "Parliamentary Standing Committee on Railways" there shall be substituted the words "Public Works Committee";
- (ii) for the expression "*Railways Standing Committee Act 1928*" there shall be substituted the expression "*Public Works Committee Act 1935*";
- (iii) for the words "section twenty-five" there shall be substituted the words "section twenty-one";
- (d) In sub-section (2) of section forty-eight, for the words "Minister S. 48.
for submission to the Parliamentary Standing Committee on Railways" there shall be substituted the words "Governor in Council for submission to the Public Works Committee".
4. In paragraph (e) of sub-section (1) of section twenty-one of the *Forests Act 1928*— Amendments of
No. 3685 s. 21.
- (a) for the words "Minister to the Parliamentary Standing Committee on Railways for consideration and report to the Minister" there shall be substituted the words "Governor in Council to the Public Works Committee for consideration and report to the Governor in Council"; and
- (b) for the expression "*Railways Standing Committee Act 1928*" there shall be substituted the expression "*Public Works Committee Act 1935*".
5. Section three hundred and seventy-four of the *Water Act 1928* is repealed. Repeal of
No. 3801 s. 374.
6. Section eleven of the *Financial Emergency Act 1931* as amended by any Act is amended as follows:— Amendment of
No. 3961 s. 11,
as amended by
Nos. 3976 s. 2,
&c.
- (a) In sub-section (2) after the words "Committee of Public Accounts" there shall be inserted the words "or of the Public Works Committee";
- (b) The proviso to sub-section (2) is repealed; and
- (c) At the end of paragraph (b) of sub-section (3) after the word "Accounts" there shall be inserted the words "or of the Public Works Committee".
7. In section twenty of the *Unemployment Relief (Administration) Act 1932* for the words "such works are approved by the Employment Council of Victoria" there shall be substituted the words "a report in writing to the Governor in Council by the Employment Council of Victoria or the Public Works Committee is first obtained". Amendment of
No. 4079 s. 20.

SECOND SCHEDULE.

Section 4 (5).

I, A.B., do solemnly and sincerely promise and declare that according to the best of my skill and ability I will faithfully impartially and truly execute the office and perform the duties of a member of the Public Works Committee.

(Signed)

A.B.
THIRD

THIRD SCHEDULE.

Section 17 (5).

To the Chief Commissioner of Police and all Officers of the Police Force of Victoria and to the Gaoler at .

These are to command you the said Chief Commissioner and all officers as aforesaid to apprehend A.B. and convey him to the said gaol, and to deliver him to the said gaoler thereof together with his warrant, and you the said gaoler are hereby required to receive him into your custody in the said gaol and him there safely to keep for the term of [or unless the sum of . . . shall be sooner paid] I the undersigned of the [or . . .] having now here adjudged the said A.B. [to pay a penalty of . . . , and in default of immediate payment thereof] to be imprisoned for the said term for that he the said A.B. [here state the offence to the following effect, as the case may require.

That A.B., having been duly summoned as a witness, and having had his expenses paid or tendered, neglected to appear before the Public Works Committee [or] that A.B. wilfully insulted the said Committee [or] C.D. one of the members of the said Committee [or] that A.B. interrupted the proceedings of the said Committee [or] that A.B. misbehaved himself before the said Committee [or] that A.B. having been summoned or being examined as a witness in a certain inquiry or matter pending before the said Committee refused to be sworn or to produce a certain document mentioned in the summons served on him, viz. :— [or] that A.B. having been so summoned refused to be sworn or to make a solemn declaration pursuant to the *Public Works Committee Act 1935* [or] that A.B. was guilty of prevarication in his evidence or refused to answer a certain lawful question.]

Given under my hand at . . . this . . . day of . . . in the year of our Lord One thousand nine hundred and . . .

C.D.,

Chairman [or Vice-Chairman] of the Public Works Committee.

FOURTH SCHEDULE.

Section 17 (6).

FORM OF WARRANT.

In the matter of the *Public Works Committee Act 1935* and
To the Chief Commissioner of Police and all Officers of the Police Force of Victoria.

Whereas pursuant to the provisions of the said Act it has this day been proved to me that . . . of . . . has been duly summoned to attend and give evidence before the Public Works Committee pursuant to the *Public Works Committee Act 1935* but has failed to appear.

This is to require you forthwith to apprehend the said . . . and to detain him in custody and bring him before the said Committee to give evidence.

Given under my hand at . . . this . . . day of . . . in the year of our Lord One thousand nine hundred and . . .

C.D.,

Chairman [or Vice-Chairman] of the Public Works Committee.

No. 4289.