

## VICTORIA.



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ELIZABETHÆ SECUNDÆ REGINÆ.

No. 6669.

An Act to authorize the Construction of a Deviation  
on the Gippsland Railway.

[8th November, 1960.]

**W**HEREAS owing to the extension by the State Electricity Commission of Victoria of its brown coal open-cut at Yallourn it is necessary to provide for a deviation from the line or route of the Gippsland Railway : Preamble.

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 *Gippsland Railway Deviation Act 1960.* Short title.

2. In this Act unless inconsistent with the context or subject-matter— Interpretation.

“ Board ” means Board of Land and Works.

“ Commission ” means State Electricity Commission of Victoria.

“ Commissioners ” means The Victorian Railways Commissioners.

3. The

Power to Board of Land and Works to construct a deviation from the Gippsland Railway.

3. The Board may make and construct a deviation from the line or route of the Gippsland Railway to the extent set out in the Schedule to this Act by constructing a line of railway and all proper works and conveniences in connexion therewith within the limits referred to in the said Schedule with such modifications thereof as the Board may consider expedient.

Railway not subject to No. 6354.  
Comp. No. 5352  
s. 4 (1).

4. The said railway shall not be subject to the provisions of the *Railway Lands Acquisition Act 1958*.

No right to require railway to pass through lands, &c.  
Comp. ib. s. 5.

5. Notwithstanding that the land of any owner or occupier is in any way designated as land through or near to which the line of the said railway is intended to pass no right or claim shall be conferred upon any such owner or occupier to require that such line shall so pass through or near to such land or through or near to any other land of such owner or occupier, and no deviation from such line whether made under the authority of this Act or not shall entitle any such owner or occupier to compensation therefor.

Power to enter upon lands and construct railway.  
Comp. ib. ss. 6.

6. (1) 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 any land and to survey and take levels of the same and to ascertain and stake or set out take possession of use and acquire by agreement or compulsorily such parts thereof as the Board deems necessary and proper for the construction of the railway and the works and conveniences authorized by this Act, and in or upon any land to exercise for that purpose all or any of the powers conferred on the Board by section forty-six of the *Railways Act 1958*.

(2) For the purposes of this Act the Board may close divert take and use any road street or way or portion of a road street or way.

(3) In the exercise of the powers granted by this Act the Board and other persons shall do as little damage as may be.

Incorporation of No. 6286.  
Comp. No. 5352  
s. 7.

7. (1) The *Lands Compensation Act 1958* is hereby incorporated with this Act and shall be construed together herewith as one Act and subject to this Act shall take effect with regard to the acquisition or use of land for the purpose of the construction of the railway and works and conveniences authorized by this Act and with regard to the making of compensation to all persons interested in any lands or hereditaments acquired for or used in connexion with or injured or prejudicially affected by the construction of the said railway or by other land of the same person being severed therefrom.

(2) In

(2) In the construction of the *Lands Compensation Act 1958* for the purposes of this section unless inconsistent with the context or subject-matter "the special Act" means this Act.

8. Notwithstanding anything in the *Land Act 1958* or in the *State Electricity Commission Act 1958* or in any other Act or enactment or in the conditions of any Crown grant, the Commission shall—

Transfer to Board by Commission of lands required for railway and creation of easement of way in favour of Commissioners.

(a) transfer or convey to the Board all its estate and interest in any lands which are now or may hereafter be vested in the Commission and which are required for the purposes of the railway and the works and conveniences authorized to be constructed by this Act ;

(b) create in favour of the Commissioners over any lands which are now or may hereafter be vested in the Commission and along a route to be determined by agreement of the Commission and the Commissioners or in default of such agreement by the Governor in Council, an easement of way thirty-three feet wide to provide access to the Commissioners' existing electric sub-station at Hernes Oak and electric tie-station at Morwell West.

9. Notwithstanding anything in any Act the Board may—

Power to Board to dismantle unnecessary part of Gippsland Railway.

(a) dismantle such part of the Gippsland Railway as is rendered unnecessary by the making of the deviation authorized by the foregoing provisions of this Act ; and

(b) sell or otherwise dispose of or use for the purposes of the railway authorized by this Act or transfer to the Commissioners for use for any purpose under the *Railways Act 1958*—

(i) the materials of which the said part of the Gippsland Railway is constructed and the equipment of the said part of that railway ; and

(ii) all property being in or upon or used in connexion with the said part of the Gippsland Railway.

10. (1) The Commission shall bear—

(a) the cost of the dismantling of the part of the Gippsland Railway as hereinbefore authorized ; and

Cost of construction of deviation, dismantling, &c., to be borne by Commission.

(b) the

(b) the costs of and incidental to the making of the deviation and the construction of the line of railway works and conveniences as hereinbefore authorized other than the cost of signalling and safe-working equipment.

Proceeds of dismantling to be paid to Commission.

(2) The net proceeds of any sale or disposal of materials property or equipment (other than signalling or safe-working equipment) pursuant to the last preceding section shall be paid to the Commission.

Proceeds of sale of signalling and safe-working equipment.

(3) The net proceeds of any sale or disposal of signalling or safe-working equipment pursuant to the last preceding section shall be paid into the Railway Renewals and Replacements Fund.

Provision where materials used for other railway purposes.

(4) Where any of the said materials property or equipment other than signalling or safe-working equipment is transferred to the Commissioners for use for any purpose under the *Railways Act 1958* the value of the materials and property so transferred, as determined by agreement of the Commission and the Board or the Commissioners (as the case requires) or, in default of such agreement, by the Governor in Council, shall be paid by the Board or the Commissioners to the Commission.

Value of signalling and safe-working equipment to be credited to Railway Renewals and Replacements Fund.

(5) Where any of the signalling or safe-working equipment of the said part of the Gippsland Railway is transferred to the Commissioners the value thereof as determined by the Commissioners shall be credited to the Railway Renewals and Replacements Fund.

Lands of dismantled railway to vest in Commission.

11. When the Board certifies that the said part of the Gippsland Railway has been dismantled as hereinbefore provided, the lands which immediately before their vesting in the Commissioners were unalienated lands of the Crown and upon which the dismantled part of the said railway was constructed or which were used in connexion therewith shall by force of this Act be divested out of the Commissioners and shall again become and be deemed to be unalienated lands of the Crown and thereupon the Governor in Council may by Order published in the *Government Gazette* vest the said lands in the Commission for the purposes of the *State Electricity Commission Act 1958*.

Board or Commissioners not bound to fence, &c.  
Comp. No. 5352  
s. 11.

12. On the said railway 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 road crossing, nor shall the Board or the Commissioners be liable for any damage which may be caused by the absence of gates or of gatekeepers at the said crossings or by reason of such railway not being fenced in or fenced off.

13. The

13. The line of railway authorized by this Act shall when constructed be deemed to form part of the Gippsland Railway and all laws by-laws regulations and conditions for the time being in force on the railways vested in the Commissioners shall so far as applicable be in force on such line of railway.

Application of  
by-laws, &c., to  
deviations.

14. Upon the vesting in the Commissioners of the line of railway constructed pursuant to this Act the liability (if any) of the Commissioners to maintain any bridge bearing any road over any of the parts of the railway authorized to be dismantled pursuant to this Act shall absolutely cease and determine.

As to bridges.

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## SCHEDULE.

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### *Deviation of Gippsland Railway.*

A single line of railway commencing at or near 84 miles 23 chains from Melbourne on the Gippsland Railway and proceeding thence for a construction length of two miles sixty-six chains more or less : passing for a distance of one mile more or less in a south-easterly direction through allotment 48B, thence easterly through allotments 48B, 29A and 29 all in section A of the Parish of Narracan, all in the County of Buln Buln, and terminating at or near 86 miles 66 chains from Melbourne on the said railway and including a loop approximately forty-eight chains long for crossing trains.

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