

No. 76.] *Railways (Cue-Big Bell and other Railways) Discontinuance.* [1960.

**RAILWAYS (CUE-BIG BELL AND
OTHER RAILWAYS)
DISCONTINUANCE.**

9° Elizabeth II., No. LXXVI.

No. 76 of 1960.

AN ACT to authorise the discontinuance of the operation of the Cue-Big Bell Railway, and certain other Railways within the State; and for other and incidental purposes.

[Assented to 12th December, 1960.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

Short title
and citation.
Commence-
ment.

1. This Act may be cited as the *Railways (Cue-Big Bell and other Railways) Discontinuance Act, 1960.*

2. (1) This Act shall come into operation on a day to be fixed by proclamation.

1960.] *Railways (Cue-Big Bell and other [No. 76.
Railways) Discontinuance.*

(2) It shall not be necessary to proclaim that the whole of this Act shall commence on one day, but the several sections and paragraphs of this Act may be proclaimed to commence on such days as are respectively fixed by proclamation.

(3) Sections twelve to seventeen (both inclusive) of this Act shall commence upon the making of the first proclamation under this section, but if that proclamation does not provide for the commencement of the whole of this Act, the provisions of those sections shall apply in relation to any railway referred to in this Act only on and after the commencement of the section or paragraph of this Act providing for the cessation of the operation of that railway.

3. On and after the commencement of this section the line of railway as authorised by and constructed under the Cue-Big Bell Railway Act, 1936 (Act No. 5 of 1936), shall cease to be operated until the Governor otherwise declares.

Closure of
Cue-Big Bell
Railway.

4. On and after the commencement of this section the line of railway as authorised by and constructed under the Meekatharra-Wiluna Railway Act, 1927 (Act No. 32 of 1927), shall cease to be operated until the Governor otherwise declares.

Closure of
Meekatharra-
Wiluna
Railway.

5. On and after the commencement of this section the line of railway as authorised by and constructed under the Malcolm-Laverton Railway Act, 1902 (Act 2 Edwardi VII., No. 41), shall cease to be operated until the Governor otherwise declares.

Closure of
Malcolm-
Laverton
Railway.

6. On and after the commencement of this section the railway constructed from Wokarina to Yuna, being—

Closure of
Wokarina-
Yuna
Railway.

- (a) the line of railway as authorised and constructed under the Upper Chapman Railway Act, 1909 (Act No. 3 of 1909); and

No. 76.] *Railways (Cue-Big Bell and other Railways) Discontinuance.* [1960.

- (b) the line of railway as authorised and constructed under the Naraling - Yuna Railway Act, 1911 (Act No. 14 of 1911),

shall cease to be operated until the Governor otherwise declares.

Closure of
Geraldton-
Ajana
Railway.

7. On and after the commencement of this section the railway constructed from Geraldton to Ajana, being—

- (a) the line of railway as authorised and constructed under The Geraldton and Northampton Railway Act, 1873 (Act 37 Victoriae No. 21), save and except so much of that line as extends from the point of commencement specified in the Schedule to that Act to the prolongation in a north-westerly direction of the southern alignment of Houston Street in the townsite of Geraldton; and
- (b) the line of railway as authorised by and constructed under the Northampton-Ajana Railway Act, 1911 (Act No. 12 of 1911),

shall cease to be operated until the Governor otherwise declares.

Closure of
Brookton-
Corrigin
Railway.

8. On and after the commencement of this section the railway constructed from Brookton to Corrigin, being the line of railway as authorised and constructed under the Brookton-Kunjin Railway Act, 1911 (Act No. 15 of 1911), save and except so much of that line as extends—

- (a) at the Brookton end, from the point of commencement specified in the Schedule to that Act to the southern alignment of Bartram Street in the townsite of Brookton; and

1960.] *Railways (Cue-Big Bell and other [No. 76.
Railways) Discontinuance.*

- (b) at the Corrigin end, from the eastern alignment of the surveyed road adjoining the eastern boundary of Avon Location number 11595 to the point of termination specified in that Schedule,

shall cease to be operated until the Governor otherwise declares.

9. On and after the commencement of this section the railway constructed from Mukinbudin to Bullfinch, being—

Closure of
Mukinbudin-
Bullfinch
Railway.

- (a) the line of railway as authorised by and constructed under the Wyalkatchem-Mount Marshall Railway (Extension No. 2) Act, 1922 (Act No. 22 of 1922), save and except so much of that line as extends from the point of commencement specified in the Schedule to that Act to a point distant one thousand nine hundred and seventy-two and four-tenths links west of the eastern boundary of Avon Location number 14104; and
- (b) the line of railway as authorised by and constructed under the Lake Brown-Bullfinch Railway Act, 1926 (Act No. 37 of 1926), save and except so much of that line as extends from the south - western boundary of the townsite of Bullfinch to the point of termination specified in the Schedule to that Act,

shall cease to be operated until the Governor otherwise declares.

10. On and after the commencement of this section the railway constructed from Southern Cross to Bullfinch, being the line of railway as authorised and constructed under the Southern Cross-Bullfinch Railway Act, 1910 (Act No. 9 of 1910), and in addition thereto all that portion of railway line as extends west of the point of termination specified

Closure of
Southern
Cross-
Bullfinch
Railway.

in the Schedule to that Act to the point of termination specified in the Schedule to the Lake Brown-Bullfinch Act, 1926, shall cease to be operated until the Governor otherwise declares.

Certain other Railways to be closed.

11. (1) On and after the commencement of any paragraph of subsection (2) of this section the railway specified in that paragraph shall cease to be operated until the Governor otherwise declares.

(2) The railways referred to in subsection (1) of this section are—

Gnowangerup-Ongerup Railway.

(a) the railway constructed from Gnowangerup to Ongerup, more particularly described in the First Schedule to this Act;

Elleker-Nornalup Railway.

(b) the railway constructed from Elleker to Nornalup, more particularly described in the Second Schedule to this Act;

Busselton-Flinders Bay Railway.

(c) the railway constructed from Busselton to Flinders Bay, more particularly described in the Third Schedule to this Act;

Boddington-Narrogin Railway.

(d) the railway constructed from Boddington to Narrogin, more particularly described in the Fourth Schedule to this Act; and

Nyabing-Pingrup Railway.

(e) the railway constructed from Nyabing to Pingrup, more particularly described in the Fifth Schedule to this Act.

Disposal of railway materials and omission of costs of railway from accounts.

12. Upon any railway referred to in sections three to eleven (both inclusive) of this Act ceasing to operate pursuant to the provisions of this Act—

(a) the material of that railway may be used in the construction or maintenance of any other authorised railway, or may be sold, disposed of or otherwise dealt with as the Minister for Railways may determine; and

1960.] *Railways (Cue-Big Bell and other [No. 76.
Railways) Discontinuance.*

- (b) the cost of that railway as charged to the Government Railways Capital Account may be omitted from the accounts prepared under Part IV. of the Government Railways Act, 1904.

13. All portions of land upon which any railway referred to in sections three to eleven (both inclusive) of this Act ceases to operate, pursuant to the provisions of this Act, and all rights (if any) to mines of coal or other minerals under the land comprised in those portions, are upon that railway so ceasing to operate hereby revested in Her Majesty as of her former estate freed and discharged from the estate, right, title, interest, claim or demand of all persons whomsoever to or in respect of the lands and rights, and any of those portions of land which are under the operation of the Transfer of Land Act, 1893, are hereby removed from the operation of that Act.

Revesting of
lands and
mineral
rights.

14. (1) Notwithstanding anything in the Land Act, 1933, or the Government Railways Act, 1904, or in any other Act, any land revested in Her Majesty pursuant to the provisions of section thirteen of this Act may be leased, sold or disposed of in accordance with the provisions of this section.

Revested
land may be
disposed of.

(2) The Governor may, on the recommendation of the Minister for Lands, by Order in Council—

- (a) declare that upon payment of the price fixed for the same by the Minister, so much of the revested land as adjoins the land of a person holding land contiguous thereto shall vest in that person in the land so adjoining the revested land, and where the land on the opposite sides of the revested land is held by different owners, the contiguous half of the revested land to the middle thereof may be vested in each such owner;

- (b) lease any revested land, together with the improvements (if any) thereon, to Co-operative Bulk Handling Limited or to any local authority or other person for such period, at such rental and upon such terms and conditions as the Minister may think fit;
- (c) sell or dispose of any revested land, together with the improvements (if any) thereon, to Co-operative Bulk Handling Limited or to any local authority or other person for an estate in fee simple for such price and subject to such conditions as the Minister may determine;
- (d) reserve any revested land to Her Majesty for any public purpose.

(3) In this section—

“Co-operative Bulk Handling Limited” means the co-operative company incorporated under the provisions of the Companies Act, 1893, as amended by the Companies Act, 1929, and carrying on business by that name;

“local authority” means the council of a municipality under the Municipal Corporations Act, 1906, or the board of a road district under the Road Districts Act, 1919.

Revested
land
deemed
incorporated
with
adjoining
land.

15. (1) Where revested land becomes vested pursuant to paragraph (a) of subsection (2) of section fourteen of this Act in any person, that land shall be deemed to be incorporated with and to form part of the parcel of land which the revested land passes through, or, as the case may be, adjoins, as the same is denoted and identified in the records of the Department of Lands and Surveys, or the Office of Land Titles, or the Deeds Office, as the case may be, but where the same person holds the

land on both sides of the revested land, and the land on one side thereof is held under an instrument of title different from that under which the land on the other side of the revested land is held, the Minister for Lands shall decide with which parcel of land the revested land is to be so incorporated.

(2) When any revested land has become vested under paragraph (a) of subsection (2) of section fourteen of this Act in any person as owner of any lands which the revested land passed through, or, as the case may be, adjoined, the Under Secretary for Lands shall issue to such person a certificate in writing setting forth the particulars of the revesting and specifying the land affected.

16. (1) The Registrar of Titles or the Under Secretary for Lands, as the case may require, shall, upon receipt of an application in writing from the person in whom any revested land is vested under paragraph (a) of subsection (2) of section fourteen of this Act and production of the certificate issued to him under subsection (2) of section fifteen of this Act, and on payment of the fee prescribed where a fee is payable, make such alterations in any lease from the Crown issued under the Land Act, 1933, or in any certificate of title issued under the Transfer of Land Act, 1893, or in any other records under his control and relating to the parcel of land which the revested land passed through or adjoined, as may be necessary to show that the revested land has become incorporated with and forms part of that parcel of land.

Necessary
alterations
to be made
in records.

(2) Where the parcel referred to in subsection (1) of this section is freehold land under the Transfer of Land Act, 1893, the Registrar of Titles may, and shall upon the application of the owner of that parcel and production of the certificate issued to that owner under paragraph (a) of subsection (2) of section fifteen of this Act, and on payment of the fee prescribed by or under the Transfer of Land Act, 1893, cancel the relative

certificate of title and issue a new certificate of title in which shall be included the revested land which has become incorporated with and forms part of the parcel of land comprised in the certificate of title.

Revested land to be subject to encumbrance existing on land with which it is incorporated.

17. Where revested land has become incorporated with and forms part of other land as in section fifteen of this Act provided, and such other land is subject to a mortgage or other encumbrance or caveat, the revested land shown to be included in the lease or certificate of title of that other land shall, upon that lease or certificate of title being altered as provided for in section sixteen of this Act, by virtue of this Act become subject to such mortgage or other encumbrance or caveat as if the revested land had originally been included therein.

FIRST SCHEDULE.

S. 11 (2),
para. (a).

DESCRIPTION OF GNOWANGERUP-ONGERUP RAILWAY.

All that railway having a total length of 34 miles 45 chains or thereabouts, commencing at the south-western alignment of Yougenup Road in the townsite of Gnowangerup, and thence proceeding generally in an easterly direction, and terminating at the north-eastern boundary of the Ongerup Station Yard, being the south-western alignment of No. 3 Avenue in the townsite of Ongerup, which railway is portion of the railway constructed under the authority of the Tambellup-Ongerup Railway Act, 1911 (Act No. 11 of 1911).

SECOND SCHEDULE.

S. 11 (2),
para. (b).

DESCRIPTION OF ELLEKER-NORNALUP RAILWAY.

All that railway having a total length of 60 miles 36 chains or thereabouts, commencing from the western boundary of Lot A.5 of Plantagenet Location number 402, and thence proceeding generally in a westerly direction, and terminating at the western boundary of the Nornalup Station Yard, being a point distant 525 links or thereabouts east of the eastern boundary of Hay Location number 699,

which railway is the railway purchased from Millars Karri and Jarrah Company (1902) Limited by resolution of the Legislative Assembly No. 25 of the 29th November, 1907, and the Legislative Council No. 28 of the 19th December, 1907, and declared opened as a Government Railway in *Government Gazette* No. 18 of the 3rd April, 1908, and the railway constructed under the authority of the Albany-Denmark Railway Extension Act, 1923 (Act No. 19 of 1923).

THIRD SCHEDULE.

DESCRIPTION OF BUSSELTON-FLINDERS BAY RAILWAY.

S. 11 (2),
para. (c).

All that railway having a total length of 66 miles 54 chains or thereabouts, commencing at the eastern alignment of Queen Street in the townsite of Busselton, and thence proceeding generally in a westerly and southerly direction, and terminating at the southern boundary of the Flinders Bay Station Yard 215 miles 69 chains or thereabouts from Perth, which railway is the railway constructed or acquired under the authority of the Boyanup-Busselton Railway Extension Act, 1914 (Act No. 17 of 1915), the Busselton-Margaret River Railway Deviation Act, 1922 (Act No. 3 of 1923), the Busselton-Margaret River Railway Deviation No. 2 Act, 1923 (Act No. 36 of 1923), the Flinders Bay-Margaret River Railway Act, 1913 (Act No. 32 of 1913), the Flinders Bay-Margaret River Railway Act, 1916 (Act No. 14 of 1916) and the Flinders Bay-Margaret River Railway Deviation No. 1 Act, 1923 (Act No. 37 of 1923).

FOURTH SCHEDULE.

DESCRIPTION OF BODDINGTON-NARROGIN RAILWAY.

S. 11 (2),
para. (d).

All that railway having a total length of 49 miles 73 chains or thereabouts, commencing at a point being the north-westerly prolongation of the north-east boundary of Lot 61 (Reserve 17428) in the townsite of Boddington, and thence proceeding generally in an easterly direction, and terminating at the western boundary of Williams Location number 153 near the townsite of Narrogin, which railway is the railway constructed under the authority of the Hotham-Crossman Railway Act, 1911 (Act No. 14 of 1912), the Hotham-Crossman Railway Extension Act, 1912 (Act No. 76 of 1912) and the Pinjarra-Dwarda Railway Extension Act, 1914 (Act No. 15 of 1915).

No. 76.] *Railways (Cue-Big Bell and other
Railways) Discontinuance.* [1960.

S. 11 (2),
para. (e).

FIFTH SCHEDULE.

DESCRIPTION OF NYABING-PINGRUP
RAILWAY.

All that railway having a total length of 21 miles 18 chains or thereabouts, commencing at a point distant 1,000 links east of the western boundary of Kojonup Location number 7664 near the townsite of Nyabing, and terminating at the alignment of the eastern boundary of Kent Location number 336 near the townsite of Pingrup, being portion of the railway constructed under the authority of the Katanning-Nyabing Railway Extension Act, 1914 (Act No. 16 of 1915).
