

Attorney – General’s Office,

Adelaide, 21 st December, 1907.

Sir,

I have the honor to report for the information of His Excellency the Governor with reference to a Bill for an Act to Surrender the Northern Territory of the State of South Australia to the Commonwealth of Australia, and for other purposes; and to Approve and Provide for Carrying Out an Agreement for such Surrender and other purposes entered into between the Governments of the said Commonwealth and the said State, that I am of opinion that His Excellency the Governor should reserve the same for the signification of His Majesty’s pleasure thereon in consequence of the Bill being of an extraordinary nature and importance whereby His Majesty’s prerogative may be prejudiced.

I have the honor to be,

Sir,

Your obedient Servant,

A.H Peake

Attorney General.

The Honorable

The Chief Secretary,

Adelaide, S.A.

**This Bill originated in
the House of Assembly,
and has finally passed
both Houses.**

**Jenkin Coles
Speaker**

ANNO SEPTIMO

EDWARDI VII REGIS.

A.D. 1907.

No. 946

An Act to Surrender the Northern Territory of the State of South Australia to the Commonwealth of Australia, and for other purposes; and to Approve and Provide for Carrying Out an Agreement for such Surrender and other purposes entered into between the Governments of the said Commonwealth and the said State.

[*Reserved December 21st 1907.*]

WHEREAS the Governments of the Commonwealth of Australia and the State of South Australia have entered into the Agreement set out in the Schedule, subject to approval by the Parliaments of the said Commonwealth and the said State: And whereas it is desirable to approve and ratify and to provide for carrying out the said Agreement, and on the terms and conditions thereof to surrender the said Territory to the said Commonwealth—Be it therefore Enacted by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

- 1.** This Act is divided into Parts, as follows:-
 - PART I.—Introductory.
 - PART II.—Approval and Ratification of the Agreement and Surrender of the Territory.
 - PART III.—
 - Division I.—Sale of Port Augusta Railway to and Consent to Construction of Railways by the Commonwealth:
 - Division II.—Incorporation. PART

*I reserve this Bill for the
signification of His Majesty the
King's pleasure thereon
George R LeHunte
Governor*

2
PART I.
INTRODUCTORY

- Short title. **2.** This Act may be cited as “The Northern Territory Surrender Act, 1907”.
- Act to bind the Crown. **3.** This Act shall bind the Crown.
- Commencement. **4.** This Act shall come into force on a day to be fixed by Proclamation.
- Interpretation. **5.** In this Act, unless the contrary intention appears —
- “*The Agreement*” means the Agreement set out in the Schedule:
- “*The Commissioner*” means the South Australia Railway Commissioner:
- “*The Commissioner*” means the Commonwealth of Australia:
- “*Government*” means the Government of the State, and in respect of the railways of the State includes the Commissioner:
- “*The Northern Territory*” means so much of the State of South Australia as lies to the northward of the twenty-sixth parallel of south latitude and between the one hundred and twenty-ninth and one hundred and thirty-eighth degrees of each longitude, together with the bays and gulfs therein, and all and every the islands adjacent to any part of the main land within such limits as aforesaid, with their rights, members, and appurtenances:
- “*The Palmerston and Pine Creek Railway*” means the railway authorised to be made and maintained pursuant to the “Palmerston and Pine Creek Railway Act, 1883”:
- “*Part*” means Part of this Act:
- “*The Port Augusta Railway*” means the railway from Port Augusta to Oodnadatta authorised to be made and maintained pursuant to Acts No. 26 of 1876, No. 226 of 1881, No. 281 of 1883, and No. 413 of 1887.
- “*Proclamation*” means Proclamation by the Governor published in the *Gazette*:
- “*Public Service*” includes Railway Service:
- “*South Australia Proper*” means South Australia, not including the Northern Territory:
- “*The State*” means the State of South Australia.

PART II.

**APPROVAL AND RATIFICATION OF THE AGREEMENT
AND SURRENDER OF THE TERRITORY**

6. The Agreement is hereby approved and ratified.

Ratification of Agreement.

7. The Northern Territory is hereby surrendered to the Commonwealth in accordance with the Agreement. Such surrender is subject to all freehold, leasehold, or other estates or interests in or agreements, securities or rights in respect of land within the said Territory in existence at the time of the acceptance of such surrender by the Commonwealth.

Without limitation of the effect of such general words, such surrender includes the Palmerston and Pine Creek Railway and all the State's right, title, interest in, and control of, all State real and personal property and privileges in the said Territory (except moneys held by or on behalf of or to the credit of, or due or accruing due to, the State, at the date of the acceptance of such surrender), whether held by or vested in the Crown, or by or in any Commissioner, authority, or person, or otherwise, for State purposes.

Such surrender is subject to all freehold, leasehold, or other estates or interests in or agreements, securities, or rights in respect of land within the said Territory in existence at the time of the acceptance of such surrender by the Commonwealth.

8. On the acceptance of such surrender by the Commonwealth, the Government Resident and all other officers and persons in the Public Service of the State of South Australia whose salaries or other remuneration are provided for on the Estimates of Expenditure for the Northern Territory for the year 1907-8 may be transferred by and as from a date prescribed by Proclamation to the service of the Commonwealth, and on such transfer shall cease to be officers in the Public Service of the State of South Australia.

Government Resident and other officers to cease to be in service of State.

Any such officer who is not transferred to the service of the Commonwealth shall, unless he is appointed to some other office of equal emolument in the Public Service of the State, be entitled to receive from the State, in addition to any retiring allowance to which he may be entitled under the "Civil Service Amendment Act, 1881," any compensation payable under the law of the State on abolition of his office.

The provisions of section 84 of the Commonwealth Constitution Act as to transferred officers shall apply to any officer who is under this Act transferred to the service of the Commonwealth as if he were an officer retained in the service of the Commonwealth within the meaning of that section.

DIVISION I.— SALE OF PORT AUGUSTA RAILWAY TO, CONSENT TO
CONSTRUCTION OF TRANSCONTINENTAL RAILWAY BY,

DIVISION I.

THE COMMONWEALTH

Sale and transfer
of Port Augusta
Railway to the
Commonwealth

9. In accordance with the Agreement the Commonwealth may acquire the Port Augusta Railway, and the said railway, including the lands vested in the Commissioner now used or reserved for such railway, together with all stations and other buildings, sidings, wharves, and other accessories vested in the Commissioner and used in connection with the working of the said railway, except the locomotive engines, railway carriages, trucks, and other movable plant or rolling-stock, shall be and is hereby sold and transferred to and invested in the Commonwealth, and the Commonwealth may maintain and work such railway.

10. Subject to the provisions of this Act, and the Agreement, and of the Acts incorporated with this Act, the Commonwealth —

Commonwealth
may construct
part of
Transcontinental
Railway to Port
Darwin.

I. For the purpose of carrying out, in accordance with the Agreement, its undertaking to construct or cause to be constructed the Transcontinental Railway line from Port Darwin southwards to a point on the Port Augusta Railway, may construct, or cause to be constructed, as part of such Transcontinental Railway, a railway in South Australia proper from a point on the Port Augusta Railway, to connect at a point on the northern boundary of South Australia proper with the part of such Transcontinental Railway to be constructed from Port Darwin southwards to such point, with all proper stations, approaches, works, and conveniences connected therewith and necessary therefore, and may maintain and work such railway when constructed:

Commonwealth
may construct
railway to
western boundary
line of South
Australia

II. May construct, or authorise the construction of, or cause to be constructed, a railway westerly from any point on the Port Augusta Railway through South Australia proper to any point on the western boundary line of South Australia proper, by a route to be determined by the Parliament of the Commonwealth, with all proper stations, approaches, works, conveniences connected therewith and necessary therefore, and may maintain and work such railway when constructed:

Power to make
surveys of routes,
&c.

III. So far as may be necessary for the purposes of construction of the railways to the construction of which the State hereby consents, but subject to the provisions of and without limitation of the powers conferred by the Acts incorporated herewith may —

- (a) Make or cause to be made surveys of the route of such railways:
- (b) Compulsorily purchase, take, or acquire lands.

DIVISION

DIVISION II.— INCORPORATION.

PART III
DIVISION II.

11. With this Part are incorporated the following Acts and the Acts amending same:

Acts
incorporated.

- (1) The Lands Clauses Consolidation Act (except sections CXIV., CXV., CVI., CVII., and CVIII. thereof).
- (2) The Railway Clauses Consolidation Act (except sections LXXXI. to CLVIII. inclusive).
- (3) “The Railways Clauses Act, 1876” (except sections 12, 14, 15, and 17), by so that the said Act shall be read as applying to the Railways to the construction of which the State hereby consents, and if “the Commonwealth” was substituted for “the Commissioner of Railways” in the said Act.

For the purposes of —

- (a) Such Acts the Commonwealth shall be deemed to be the promoter of the railway and this Act “a Special Act.”
- (b) Section 13 of Act No. 202 of 1881 there shall be deemed to be no such Special Act.
- (c) This Part “the Commonwealth” shall include any authority constituted or appointed by the Commonwealth to construct, maintain, or work the railway, to the construction of which the State hereby consents.

Definition.

12. For the purpose of construction of the railways to be or that may be constructed by it under this Part, the Commonwealth may exercise, in addition to the powers vested in it by this Act and the Acts incorporated herewith, all the powers, so far as applicable, that under any Act of the State at present in force the Commissioner or other authority of the State may exercise for the purposes of construction of the railways of the State.

Commonwealth
to have for
construction, etc.,
powers of State
authority.

THE SCHEDULE.

—————

AGREEMENT made the seventh day of December one thousand nine hundred and seven BETWEEN the COMMONWEALTH OF AUSTRALIA (hereinafter referred to as the Commonwealth) of the one part and THE STATE OF SOUTH AUSTRALIA (hereinafter referred to as the State) of the other part WITNESSETH that subject as hereinafter mentioned to the approval of The Parliaments of the said Commonwealth and the said State and for the mutual considerations hereinafter appearing IT IS HEREBY AGREED that the State shall on the terms and conditions hereinafter appearing surrender to the Commonwealth the Northern Territory and shall sell and transfer to the Commonwealth the Port Augusta Railway and shall permit the Commonwealth to construct or cause to be constructed in South Australia proper the railways hereinafter mentioned to the northern and western boundaries of South Australia proper from any points on the Port Augusta Railway and shall permit the Commonwealth to maintain and work the said railways when so acquired and constructed.

THE TERMS AND CONDITIONS of this Agreement are as follows: -

(1) The Commonwealth in consideration of the surrender of the Northern Territory and property of the State therein and the grant of the rights hereinafter mentioned to acquire and to construct railways in South Australia proper shall —

- (a) Be responsible for the indebtedness of the State in respect of the Northern Territory as from the date of acceptance of such surrender and shall relieve the State from the said indebtedness in the following manner: -
 - I By annually reimbursing the State the amount of the annual interest paid by it in connection with the loans in respect of the Northern Territory; by paying annually into a Commonwealth Sinking Fund the amounts the State has undertaken to pay into such a fund in connection with the said loans; and by paying and redeeming at or before maturity the said loans.
 - II By paying the amount of the deficit (or Advance account) in respect of the Northern Territory to the said State in such manner as may be agreed upon. If the amount cannot be agreed upon it shall be determined by arbitration.
- (b) Construct or cause to be constructed a railway line from Port Darwin southwards to a point on the northern boundary of South Australia proper (which railway with the railway from a point on the Port Augusta Railway to connect therewith is hereinafter referred to as The Transcontinental Railway).
- (c) At the time of such surrender acquire from the State at the price and on the terms hereinafter mentioned the Port Augusta Railway including the lands now used for and reserved for such railway together with all stations and other buildings sidings wharves and other accessories used in connection with the working of the said railway except the railway carriages trucks and other movable plant and rolling-stock;
- (d) Construct or cause to be constructed as part of the Transcontinental Railway a railway from a point on the Port Augusta Railway to connect with the other part of the Transcontinental Railway at a point on the northern boundary of South Australia proper.
- (e) Pay the price of the said Port Augusta Railway by becoming responsible on the date of the sale and transfer thereof to the Commonwealth for the amount of the loans raised by the State for the purpose of constructing the said railway and used therefor and by annually reimbursing the State the interest payable thereon and by paying annually into a Commonwealth Sinking Fund the amounts the State has undertaken to pay into such a fund in connection with the said loans until the said loans are paid and redeemed by the Commonwealth as or before they become due.

(f) Give

- (f) Give and continue to give to the State and its citizens equal facilities at least in transport of goods and passengers on the Port Augusta Railway to those provided by the State Government at the present time and at rates not exceeding those at present in force.
- (g) Allow the State to connect any new railway hereafter constructed by the State in South Australia proper with any railways acquired or constructed by the Commonwealth in South Australia proper.
- (h) Allow the State reasonable running powers and rights on such conditions as may be agreed upon or in default of agreement as may be determined by arbitration on all railways acquired or constructed by the Commonwealth in South Australia proper and (without limitation of the scope of such powers and rights) the use on such conditions as aforesaid of the station yards buildings and other accessories as Quorn and Port Augusta and the wharf at Port Augusta used in connection with the working of the said railway but not so as to interfere with the proper control working and maintenance of the railways of the Commonwealth.

(2) The State in consideration of the covenants and agreements by the Commonwealth herein shall —

- (a) Surrender to the Commonwealth the Northern Territory and without limitation of the effect of such general words such surrender shall include the railway from Port Darwin southwards known as “The Palmerston and Pine Creek Railway” and all the State’s right title interest in and control of all State real and personal property and privileges in the Northern Territory (except moneys held by or on behalf of or to the credit of or due or accruing due to the State at the date of the acceptance of such surrender) whether held by or vested in the Crown or by or in any Commissioner authority or person otherwise for State purposes.
- (b) At the time of such surrender sell and transfer to the Commonwealth and consent to the acquisition by the Commonwealth of the Port Augusta Railway including the lands now used for and reserved for such railway together with all stations and other buildings sidings wharves and other accessories used in connection with the working of the said railway except the railway carriages trucks and other movable plant and rolling-stock and shall authorise by legislation the Commonwealth to maintain and work such railway when so acquired. The price of such railway shall be the cost of construction of the railway and stations and wharves and other buildings and accessories used therewith (including the cost of resumptions) without interest added but shall not include any expenditure on maintenance works. If the cost of construction cannot be agreed upon such cost shall be determined by arbitration.
- (c) At the time of such surrender authorise by legislation the Commonwealth to do all that is necessary to enable the Commonwealth to make surveys acquire the necessary lands and to construct or cause to be constructed a railway in South Australia proper from any point on the Port Augusta Railway to a point on the northern boundary line of South Australia proper to connect with that part of the Transcontinental Railway to be built in the Northern Territory from Port Darwin southwards to the northern boundary of South Australia proper and to maintain and work such railway when constructed; and to get all timber ballast and other material necessary for such construction in South Australia proper by paying compensation in accordance with the provisions of the State Acts at present in force payable by the State when constructing State railways.
- (d) At the time of such surrender authorise by legislation the Commonwealth, in the same way and to the same extent as in the last preceding sub-clause mentioned to do all that is necessary to enable the Commonwealth to construct or cause to be constructed a railway westerly from any point on the Port Augusta Railway through South Australia proper to any point on the western boundary line of South Australia proper by a route to be determined by the Parliament of the Commonwealth and to maintain and work such railway when constructed.

(e) At the time of such surrender authorised by legislation the Commonwealth for the purpose of constructing the said railways to exercise at least all the powers and privileges held by the State in the Railway Construction Acts at present in force in the State of South Australia as if the railways referred to were being constructed by the State.

3. In consideration of the Commonwealth becoming responsible for the indebtedness of the State in respect of the Northern Territory in manner before mentioned the State hereby releases the Commonwealth from the liability imposed by the Commonwealth of Australia Constitution Act on the Commonwealth to compensate the State for any State properties within such Northern Territory vested in the Commonwealth in connection with any departments of the State transferred to the Commonwealth under the provisions of the said Constitution.

4. This Agreement shall not in any way be binding until and unless approved by the respective Parliaments of the Commonwealth and the State and legislation is passed enabling the Commonwealth and the State to legally carry out the aforesaid surrender and acceptance of the Northern Territory and the Parliament of the State has consented to the acquisition by the Commonwealth of the Port Augusta Railway and to the construction by the Commonwealth of the other railways in South Australia proper mentioned in this Agreement on the terms hereinbefore mentioned.

5. When any dispute or matter authorised or directed by this Agreement to be settled by arbitration shall have arisen then unless the parties hereto occur in the appointment of a single arbitrator such matter shall be referred for decision to two arbitrators one to be appointed by the Prime Minister for the time being of the Commonwealth and one by the Premier for the time being of the State and such arbitration shall be subject as nearly as practicable to the laws relating to arbitration in force in the State.

DEFINITIONS.

In this Agreement unless the contrary intention appears —

“The Northern Territory” means so much of the State of South Australia as lies to the northward of the twenty-sixth parallel of south latitude and between the one hundred and twenty-ninth and one hundred and thirty-eighth degrees of East longitude together with the bays and gulfs therein and all and every the islands adjacent to any part of the Main land within such limits as aforesaid with their rights members and appurtenances.

“The Palmerston and Pine Creek Railway” means the railway authorised to be made and maintained pursuant to the “Palmerston and Pine Creek Railway Act 1883.”

“The Port Augusta Railway” means the railway from Port Augusta to Oodnadatta authorised to be made and maintained pursuant to Acts No. 26 of 1876: No. 226 of 1881: No. 281 of 1883: and No. 413 of 1887.

“South Australia Proper” means South Australia not including the Northern Territory.

IN WITNESS whereof the Honorable Alfred Deakin (Prime Minister of the Commonwealth of Australia) for and on behalf of the said Commonwealth and the Honorable Thomas Price (Premier of the State of South Australia) for and on behalf of the said State have hereunto set their hands and seals the day and year first above written.

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|---|-------------------------|
| SIGNED SEALED AND DELIVERED by the above – named ALFRED DEAKIN in the presence of — LITTLETON E. GROOM. | } (L.S.) ALFRED DEAKIN. |
| SIGNED SEALED AND DELIVERED by the above – named THOMAS PRICE in the presence of — LAURENCE O’LOUGHLIN. | } (L.S.) THOMAS PRICE. |

*I have examined
this fair print, and find it
corresponds in all respects
with the Bill
as finally passed both Houses.
Jas C Morphet*