

PETHERICK COLLECTION.

No. 4 of 1911.

An Act relating to the Petherick Collection.

[Assented to 26th October, 1911.]

WHEREAS by the Petherick Agreement a library of books, pamphlets, plates, maps, and manuscripts illustrative of the geography and history of the Australian States New Zealand and other island groups of the South Seas and known as the "Petherick Collection" was transferred to the Commonwealth upon the terms and conditions therein set out : Preamble.

And whereas the Petherick Collection is now deposited in the Library of the Parliament of the Commonwealth and the said agreement is deposited with the Librarian of the said Parliament :

And whereas by the said agreement it is provided that the agreement shall not be binding until approved of by the Parliament of the Commonwealth by resolution or otherwise :

And whereas it is desirable to approve of the said agreement :

Be it therefore enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows :—

1. This Act may be cited as the *Petherick Collection Act 1911*. Short title.

2. In this Act, the Petherick Agreement means the two Indentures of Agreement relating to the Petherick Collection which are described in the Schedule. Definition.

3. The Petherick Agreement is hereby approved. Approval of
Petherick
Agreement.

THE SCHEDULE.

An Indenture of Agreement dated the fourth day of November, One thousand nine hundred and nine, between Edward Augustus Petherick, late of Streatham, in the County of London, Colonial Literary Agent, residing in Melbourne, in the State of Victoria, in the Commonwealth of Australia, and Mary Agatha Petherick, of Melbourne, aforesaid, wife of the said Edward Augustus Petherick, of the one part, and the Honorable Sir Albert John Gould, President of the Senate and Chairman of the Library Committee of the Parliament of the Commonwealth, in the agreement acting for and on behalf of and with the intent to bind the Commonwealth and not so as to incur or come under any personal liability, of the other part.

An Indenture of Agreement dated the ninth day of November, One thousand nine hundred and nine, between the said Edward Augustus Petherick and the said Mary Agatha Petherick of the first part, the said Sir Albert John Gould of the second part, and the Honorable Patrick McMahon Glynn, Attorney-General of the Commonwealth of Australia for and on behalf of the said Commonwealth, of the third part.

THIS INDENTURE made the fourth day of November One thousand nine hundred and nine between EDWARD AUGUSTUS PETHERICK late of Streatham in the County of London Colonial Literary Agent now residing in Melbourne in the State of Victoria in the Commonwealth of Australia and MARY AGATHA PETHERICK of Melbourne aforesaid wife of the said Edward Augustus Petherick of the one part and THE HONORABLE SIR ALBERT JOHN GOULD President of the Senate of the Parliament of the said Commonwealth of Australia and Chairman of the Library Committee of the said Parliament (herein acting for and on behalf of and with the intent to bind the said Commonwealth of Australia and not so as to incur or come under any personal liability in respect of these presents) of the other part :

WHEREAS the said EDWARD AUGUSTUS PETHERICK has during many years acquired from time to time and brought together a large number of books pamphlets plates maps and manuscripts illustrative of the geography and history of the Australian States New Zealand and other island groups of the South Seas forming the library known as the "Petherick Collection" which said collection is now deposited in the Parliament House at Melbourne aforesaid and includes all the papers and articles so deposited in the said Parliament House

AND WHEREAS the said MARY AGATHA PETHERICK has assisted the said EDWARD AUGUSTUS PETHERICK in preserving the said Collection and bringing the same to Melbourne

AND WHEREAS the said EDWARD AUGUSTUS PETHERICK and MARY AGATHA PETHERICK are desirous that the said Collection shall not be dispersed but shall be and remain available for the use of the people of the Commonwealth for purposes of reference especially by students and scholars and shall form portion of an Historical Museum of Australasia and Polynesia

AND WHEREAS the said EDWARD AUGUSTUS PETHERICK is further desirous of being employed by the said Library Committee upon or in connexion with the said Collection and such other duties and responsibilities as the Library Committee shall direct

NOW THIS INDENTURE WITNESSETH that the said EDWARD AUGUSTUS PETHERICK and MARY AGATHA PETHERICK in consideration of the premises and for the considerations hereinafter appearing do and each of them doth hereby assign transfer and convey to the Commonwealth of Australia all the right title or interest which they or either of them may have or possess or be entitled to in each and all of the said books pamphlets plates maps and manuscripts and other articles now deposited as aforesaid in the Parliament House at Melbourne and forming the said "Petherick Collection" TO HOLD the same unto the Commonwealth of Australia absolutely

AND THIS INDENTURE FURTHER WITNESSETH that the said EDWARD AUGUSTUS PETHERICK doth hereby covenant and agree with and to the said Commonwealth of Australia that the said EDWARD AUGUSTUS PETHERICK shall and will at all times hereafter unless prevented therefrom by physical or mental incapacity perform such duties and accept such responsibilities upon or in connexion with the said "Petherick Collection" or the Library of the Parliament as the said Library Committee shall from time to time direct and that they the said EDWARD AUGUSTUS PETHERICK and MARY AGATHA PETHERICK have good right and title to assign transfer and convey the said collection to the Commonwealth free of all claims and charges

AND THIS INDENTURE FURTHER WITNESSETH that in consideration of the premises the said SIR ALBERT JOHN GOULD doth hereby for and on behalf of the Commonwealth of Australia as aforesaid covenant and agree with the said EDWARD AUGUSTUS PETHERICK and the said MARY AGATHA PETHERICK that the said the Commonwealth of Australia shall so long as the said EDWARD AUGUSTUS PETHERICK shall be physically and mentally capable and shall faithfully perform the duties allotted to him by the said Library Committee employ the said EDWARD AUGUSTUS PETHERICK upon or in connexion with the said "Petherick Collection" or the Library of the Parliament with the title of Archivist

AND THIS INDENTURE FURTHER WITNESSETH that in consideration of the assignment hereinbefore contained and of any services which may be performed by the said EDWARD AUGUSTUS PETHERICK (if any) the said SIR ALBERT JOHN GOULD doth hereby for and on behalf of the said Commonwealth covenant and agree with the said EDWARD AUGUSTUS PETHERICK that the said Commonwealth of Australia shall from and after the first day of June One thousand nine hundred and nine

pay to the said EDWARD AUGUSTUS PETHERICK during the life of the said EDWARD AUGUSTUS PETHERICK an annuity or yearly sum of Five hundred pounds (£500) payable by equal monthly payments on or about the last day of each month the first three of such monthly payments having been paid in advance to the said EDWARD AUGUSTUS PETHERICK on the eleventh day of June One thousand nine hundred and nine and the next monthly payment hereunder being due on or about the thirtieth day of September One thousand nine hundred and nine and such annuity shall be payable whether the said EDWARD AUGUSTUS PETHERICK continues capable of performing the duties mentioned or not

AND THIS INDENTURE LASTLY WITNESSETH and it is hereby agreed and declared between the parties hereto :—

- (1) That although the said "Petherick Collection" is hereby transferred to the Commonwealth to form portion of an Historical Museum of Australasia and Polynesia, the said "Petherick Collection" is and shall be the property of the Commonwealth absolutely and may be dealt with as the Commonwealth by its Executive Council may from time to time think fit.
- (2) That this agreement shall not be binding until approved of by the Parliament of the Commonwealth by resolution or otherwise.

IN WITNESS WHEREOF the parties hereto have hereunto set their hands and seals the day and year first above-mentioned.

SIGNED SEALED AND DELIVERED by the said
EDWARD AUGUSTUS PETHERICK in the
presence of—
HENRY G. TURNER, J.P.,
St. Kilda.

(Sgd.)
EDWARD AUGUSTUS
PETHERICK. (L.S.)

SIGNED SEALED AND DELIVERED by the said
MARY AGATHA PETHERICK in the presence
of—
JACOB MARK, J.P.,
450 Little Collins-street, Melbourne.

(Sgd.)
MARY AGATHA PETHERICK.
(L.S.)

SIGNED SEALED AND DELIVERED by the said
SIR ALBERT JOHN GOULD in the presence
of—
ARTHUR WADSWORTH,
Librarian, Federal Parliament.

(Sgd.) A. J. GOULD. (L.S.)

THIS INDENTURE made the ninth day of November One thousand nine hundred and nine BETWEEN EDWARD AUGUSTUS PETHERICK late of Streatham in the County of London Colonial Literary Agent now residing in Melbourne in the State of Victoria in the Commonwealth of Australia and MARY AGATHA PETHERICK of Melbourne aforesaid wife of the said Edward Augustus Petherick of the first part THE HONORABLE SIR ALBERT JOHN GOULD President of the Senate of the Parliament of the said Commonwealth of Australia and Chairman of the Library Committee of the said Parliament of the second part AND THE HONORABLE PATRICK McMAHON GLYNN Attorney-General of the Commonwealth of Australia for and on behalf of the said Commonwealth of the third part

WHEREAS it was agreed by the parties hereto of the first and second parts that certain books pamphlets plates maps and manuscripts illustrative of the geography and history of the Australian States New Zealand and other island groups of the South Seas forming the Library known as the "Petherick Collection" should be assigned transferred, and conveyed by the said parties of the first part to the Commonwealth of Australia upon the terms and conditions and for the considerations more particularly set forth in an Indenture made the fourth day of November One thousand nine hundred and nine between the said parties of the first and second parts (hereinafter called the said Indenture)

AND WHEREAS before the execution of the said Indenture by the parties of the first part a certain Deed Poll (hereinafter called the said Deed of Gift) entitled "Deed of Gift to the Commonwealth of Australia of an Australasian and Polynesian

Library" and purporting to convey the said Petherick Collection as a gift to the said THE HONORABLE SIR ALBERT JOHN GOULD K.B.V.D. for ever for the use of the people of the Commonwealth was inadvertently executed by the said EDWARD AUGUSTUS PETHERICK

AND WHEREAS the said THE HONORABLE SIR ALBERT JOHN GOULD has so far as he lawfully can disclaimed repudiated and refused to accept the gift purporting to be contained in the said Deed of Gift

AND WHEREAS the parties hereto are desirous of preventing any doubts arising as to the ownership of the said Petherick Collection or the terms upon which the said Petherick Collection is acquired and held by the Commonwealth

NOW THIS INDENTURE WITNESSETH that the said parties hereto of the first and second parts do and each of them doth hereby confirm the said Indenture and declare that the terms and conditions upon which it was agreed that the said Petherick Collection should be conveyed by the parties of the first part and acquired by the Commonwealth of Australia are contained in the said Indenture and not in the said Deed of Gift and that it was at all material times intended by the said parties of the first and second parts that the said Indenture should be the operative instrument by which the property in the said Petherick Collection should pass from the parties of the first part

AND THIS INDENTURE FURTHER WITNESSETH that the said THE HONORABLE SIR ALBERT JOHN GOULD doth hereby assign transfer and convey to the Commonwealth of Australia all right title or interest in the said Petherick Collection (if any) which he may have acquired in the said Petherick Collection by reason of the execution by the said EDWARD AUGUSTUS PETHERICK of the said Deed of Gift in the manner aforesaid.

IN WITNESS WHEREOF the parties hereto have hereunto set their hands and seals the day and year first above-mentioned.

SIGNED SEALED AND DELIVERED by the said EDWARD AUGUSTUS PETHERICK in the presence of— A. H. COLLIS, Officer of Parliament, Melbourne.	}	(Sgd.) EDWD. A. PETHERICK (L.S.)
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SIGNED SEALED AND DELIVERED by the said MARY AGATHA PETHERICK in the presence of— A. H. COLLIS, Officer of Parliament, Melbourne.	}	(Sgd.) MARY AGATHA PETHERICK (L.S.)
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SIGNED SEALED AND DELIVERED by the said THE HONORABLE SIR ALBERT JOHN GOULD in the presence of— . ARTHUR WADSWORTH, Librarian, Federal Parliament.	}	(Sgd.) A. J. GOULD. (L.S.)
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SIGNED SEALED AND DELIVERED by the said THE HONORABLE PATRICK McMAHON GLYNN in the presence of— R. R. GARRAN, Secretary, Attorney-General's Dept.	}	(Sgd.) P. McM. GLYNN. (L.S.)
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