



ANNO TERTIO

GEORGII V REGIS.

A.D. 1912.

No. 1097.

An Act to approve and ratify and provide for carrying out an Agreement for the Construction and Working of certain Border Railways, and purposes incidental thereto, entered into between the Governments of the States of Victoria and South Australia.

[Assented to, December 14th, 1912.]

WHEREAS the Governments of the States of Victoria and South Australia have entered into the Agreement set out in the First Schedule to this Act, subject to approval by the respective Parliaments of the said States: And whereas it is desirable to approve and ratify the said Agreement and provide for carrying out the provisions thereof—Be it therefore Enacted by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows: Preamble.

1. This Act may be cited as “The South Australian and Victorian Border Railways Act, 1912.” Short title.

2. (1) This Act shall not come into force until an Act approving and ratifying the Agreement, and providing for the carrying out by the State of Victoria of the provisions thereof, so far as such provisions are to be carried out by that State, has been passed by the Parliament of that State, and has been assented to by the Governor thereof. Commencement of Act.

(2) When such Act of the Parliament of Victoria has been passed and assented to as aforesaid, the Governor may, by Proclamation published in the *Government Gazette*, fix the day when this Act shall come into force, such day not being earlier than the date when the said Act of the Parliament of Victoria is to come into force, and this Act shall come into force accordingly. 3. This

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Incorporation with
other Acts.

3. This Act is incorporated and shall be read as one Act with the Acts mentioned in the Second Schedule to this Act (except as specified in that Schedule), and with all Acts amending or substituted for any of those Acts or amending any such substituted Act.

Interpretation.

4. In this Act, except where some other meaning is expressed or is clearly intended,—

“The Agreement” means the Agreement set out in the First Schedule to this Act:

“The Commissioner” means the South Australian Railways Commissioner or other the person or authority who, under the laws of this State, for the time being (according to the requirements of the context) carries out the construction or the working of, or in whom are vested, the State railways of this State:

“Railway” includes the railway referred to, and all works and conveniences—

- I. Connected with and for the purposes of such railway;
or
- II. Connected with and for the purposes of such railway,
and any other railway or railways; or
- III. For connecting such railway with any other railway.

Ratification of the
Agreement.

5. The Agreement is hereby approved and ratified and shall be deemed and taken to be part of this Act, and all such things as may be necessary for carrying out the provisions thereof, so far as such provisions are to be carried out by this State, may and shall be done by the Commissioner or other proper authority.

Railways
Commissioner to
construct railway
from Pinnaroo to
Murrayville.

6. (1) The Commissioner shall—

(a) Construct the railway mentioned in the Agreement from the present railway terminus at Pinnaroo to the present railway terminus at Murrayville in the State of Victoria, as the railway so to be constructed is delineated in the plan deposited in the office of the Surveyor General, in Adelaide, signed “J. C. B. Moncrieff, Chief Engineer for Railways,” and dated the twenty-sixth day of November, nineteen hundred and twelve: or as the said railway is delineated in any plans after the passing of this Act so deposited, pursuant to any law for the time being in force in this State as to the deposit of such plans; and

(b) Connect the railway so to be constructed with the railway from Tailm Bend to Pinnaroo and with the railway from Ouyen in the State of Victoria to Murrayville aforesaid so as to form a continuous railway with those railways.

(2) In

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(2) In case the Houses of Parliament are not sitting at the time when any plans and books of reference as to the railway to be constructed as aforesaid are deposited in the office of the Surveyor-General under section 9 of "The Railways Clauses Act, 1876," the Commissioner may make deviations under the said section before causing copies of such plans and books of reference to be laid before Parliament; but such copies shall be laid before both Houses of Parliament within fourteen days after the next sittings of such Houses respectively.

Deviations.

No. 32 of 1876.

7. The gauge of the railway to be constructed as aforesaid shall be five feet three inches, and the rails used in the construction thereof shall be of iron or steel and not less than sixty pounds to the yard in weight.

Gauge and rails.

8. The Commissioner shall call for tenders for the construction of the railway to be constructed as aforesaid, to be sent in within such times, to such place, and to be upon and subject to such terms, conditions, and provisions as he deems advisable, and may accept or reject any tender, and may construct the said railway himself if no tender therefor is accepted.

Tenders to be called for railway.

9. The Commissioner shall at all times maintain, and keep open for traffic, such parts of the railway to be constructed as aforesaid, and of the railway to be constructed pursuant to the Agreement from Mumbannar in the State of Victoria to Mount Gambier, as are situated within this State.

Parts of railways to be maintained by this State.

10. The person or authority for the time being authorised by or under the laws of the State of Victoria to construct State railways in that State, may---

Railway to Mount Gambier may be constructed by the State of Victoria.

- (a) Construct, or cause to be constructed, as part of the said railway to be constructed from Mumbannar to Mount Gambier, a railway from the boundary between this State and the State of Victoria to a point at or near the present railway terminus at Mount Gambier, in the line described in the Third Schedule to this Act, subject to such deviations and modifications as would be lawful if the railway authorised by this section were being constructed in the State of Victoria;
- (b) Make any surveys preliminary to or for the purposes of the construction of the railway authorised by this section;
- (c) For the purposes aforesaid, occupy and use any lands acquired by the Commissioner as provided by section 11;
- (d) Do all such other matters and things as may be necessary for the construction of the railway authorised by this section; and
- (e) For the purposes aforesaid, exercise all the powers and privileges (subject, however, to the same conditions) of the person

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person or authority constructing the railway authorised by this section, under the laws for the time being in force in the State of Victoria as to the construction of railways by such person or authority, as if the said railway were being constructed in the State of Victoria.

The Commissioner to acquire lands required for railway to be constructed by Victoria.

11. (1) Upon the receipt of a request in writing signed by the person or authority for the time being authorised by or under the laws of the State of Victoria to construct State railways in that State, the Commissioner shall acquire all lands within this State which by such request are declared to be required for the purposes of the railway authorised by section 10.

No. 414 of 1887.

(2) All lands so acquired and the said railway shall vest in the Commissioner for the purposes of "The South Australian Railways Commissioners Act, 1887," and any Act amending that Act, or any Act substituted therefor.

Victorian authorities empowered to work the parts of the said railways within this State.

12. The Victorian Railways Commissioners may, during the period limited by or agreed under clause 11 of the Agreement—

- i. Run trains on the parts within this State of the railways to be constructed pursuant to the Agreement, and work the said parts of railways ;
- ii. Collect and enforce the payment of rates in respect of services rendered on or in connection with the said parts of railways ; and
- iii. For the purposes aforesaid, exercise all the powers and privileges (subject however to the same conditions) of the said Commissioners under the laws for the time being in force in the State of Victoria as to the matters mentioned in this section, as if the said parts of railways were within the State of Victoria.

Victorian laws, by-laws, &c., to be in force on the railways during Agreement period.

Cf. N.S.W., Act No. 2, 1906, s. 2.

13. (1) During the period limited by or agreed under clause 11 of the Agreement, and subject to section 14 of this Act, all laws, by-laws, and regulations for the time being in force on or in respect of the railways vested in the Victorian Board of Land and Works, or in the Victorian Railways Commissioners, shall be in force on and in respect of the parts within this State of the railways to be constructed pursuant to the Agreement, and may be enforced in all Courts and tribunals of this State.

(2) Penalties imposed by such laws, by-laws, and regulations, may be recovered summarily before any Special Magistrate or two Justices of the Peace, in manner provided by the Ordinance No. 6 of 1850 and any Act amending that Act, or by any Act for the time being in force in this State as to summary proceedings before Justices of the Peace. Any conviction or order made by the Magistrate or Justices in any such proceedings may be enforced as provided by the said Ordinance or any other Act.

(3) Such

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(3) Such penalties may be recovered by any person appointed in that behalf by the Victorian Railways Commissioners and approved by the Commissioner. The production of a document, purporting to be signed by the said Commissioners and by the Commissioner, appointing and approving a person therein named to recover such penalties, shall be sufficient evidence that the person therein named has been duly appointed and approved as aforesaid, and shall be evidence that the person producing such document is the person thereby appointed and approved.

(4) Any document purporting to be a copy of any such law, by-law, or regulation, and to be printed by the Government Printer of the State of Victoria, shall in all proceedings for such penalties be sufficient evidence that the law, by-law, or regulation in the words of such document was duly made by the said Commissioners, and shall be evidence that it is still in force.

14. (1) The Commissioner or, whilst working the parts situated within this State of the railways to be constructed pursuant to the Agreement, the Victorian Railway Commissioners, may demand for the use of such parts and in respect thereof, and for the carriage of goods, stock, minerals, mails, parcels, and passengers thereon, and for the loading and unloading of goods, minerals, mails, and stock, such fares, freights, tolls, charges, and rates as are from time to time fixed by the Commissioner, in manner prescribed by any Act or Acts under which he may fix fares, freights, tolls, charges, and rates in respect of the railways under his control. Tolls and charges.

15. Subject to the provisions of the Agreement, all fares, freights, tolls, rents, dues, charges, rates, and sums of money which are received and levied under authority of this Act shall be paid, in such manner as the Governor prescribes, to the Treasurer of this State for the public purposes of this State. Appropriation of tolls, &c.

16. With respect to any land purchased or taken by the Commissioner for the purposes of this Act, or with respect to which he exercises for such purposes any of the powers conferred by the Acts incorporated with this Act, if the amount of compensation to be paid to any owner thereof is not determined by agreement in writing, signed by or on behalf of such owner and the Commissioner, within twenty-one days after the Commissioner has given notice to such owner, as required by section 18 of "The Lands Clauses Consolidation Act," that he requires to purchase or take such land, or that he desires to have the compensation for the exercise of the said powers fixed, as the case may be, the amount of compensation shall be determined by arbitration in the following manner:— Method of determining purchase-money and compensation for land taken.

- i. The Commissioner may give notice in writing to such owner of his intention to have the compensation settled by arbitration, and may, by the same or a subsequent notice in writing to such owner, nominate and appoint an arbitrator to act in the reference on behalf of the Commissioner: No. 6 of 1847.

ii. Such Notice to arbitrate and appointment of arbitrator by Commissioner.

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Appointment of
arbitrator by owner.

II. Such owner may, within twenty-one days after the giving of such notice appointing an arbitrator, give notice in writing to the Commissioner agreeing that such arbitrator shall be sole arbitrator, or nominating and appointing another arbitrator to act in the reference on behalf of such owner:

Notice of appoint-
ment deemed a sub-
mission.

III. Each such notice nominating and appointing an arbitrator, or agreeing to the appointment of a sole arbitrator, shall be deemed a submission to arbitration on the part of the party by whom the same is given; and after the giving of any such notice neither party shall have power to revoke the appointment thereby made or such submission without the consent in writing of the other party, nor shall the death of either party operate as a revocation:

In default of appoint-
ment by owner,
arbitrator appointed
by Commissioner to
act alone.

IV. Unless such owner, within twenty-one days after the giving by the Commissioner as aforesaid of notice nominating and appointing an arbitrator, gives notice to the Commissioner, as provided by paragraph II. hereof, agreeing that such arbitrator shall be sole arbitrator or nominating and appointing another arbitrator, the Commissioner may appoint the arbitrator nominated and appointed by him to act on behalf of both parties; and such arbitrator shall proceed to hear and determine the matter, and shall give his award determining the compensation (if any) to be paid:

Provisions as to
umpire, vacancies, &c.

V. All the provisions of sections 26 to 35 inclusive, of "The Lands Clauses Consolidation Act," shall, *mutatis mutandis*, apply with respect to the determination of the compensation:

Informality, not
to invalidate.

VI. No notice, appointment, or award made under this section shall be set aside or be invalid for irregularity or error in matter of form:

Award to be final.

VII. Every award under this section of arbitrators, or of a single arbitrator (in a case where it is agreed, as mentioned in paragraph II. thereof, that an arbitrator shall be the sole arbitrator, or where a single arbitrator is empowered by this section to give an award), or of an umpire, shall be final: Provided always that where an arbitrator or umpire has misconducted himself, the Court may remove him, and that where an arbitrator has misconducted himself, or an arbitration or award has been improperly procured, the Court may set the award aside. "Court" in this paragraph means the Supreme Court or a Judge thereof:

Effect of submission
and award.

VIII. A submission to arbitration under this section shall have the same effect as if it had been made an order of the Supreme Court; and an award under this section may, by leave of the Supreme Court or a Judge thereof, be enforced in the same manner as a judgment or order of the said Court to the same effect:

IX. In

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ix. In this section—

Meaning of “land”
and “owner.”

(a) The word “land” includes any estate or interest (legal or equitable) in land, and any easement, right, or privilege in, under, over, affecting, or in connection with land; and

(b) The word “owner” includes, with respect to any land, any person having any estate or interest (legal or equitable) in the land, or any easement, right, power, or privilege in, under, over, affecting, or in connection with the land, or by the “Lands Clauses Consolidation Act,” enabled to sell and convey, transfer, release, assign, or otherwise assure such estate, interest, easement, right, power, or privilege: No. 6 of 1847.

In the name and on behalf of His Majesty, I hereby assent to
this Bill.

DAY H. BOSANQUET, Governor.

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SCHEDULES.

THE FIRST SCHEDULE.

AGREEMENT made the twenty-eighth day of November, nineteen hundred and twelve, BETWEEN the STATE OF VICTORIA of the one part and the STATE OF SOUTH AUSTRALIA of the other part WHEREBY IT IS MUTUALLY AGREED as follows :—

Interpretation

1. (1) In this Agreement—

The singular number includes the plural, and the plural number includes the singular :

“Conveyance of traffic” includes conveyance, loading, and unloading, and all other services rendered in connection with traffic :

“Financial year” means the period of twelve months ending with the thirtieth day of June in any year :

“Railways Commissioner” means the Railways Commissioner or Commissioners, or other the person or authority who (according to the requirements of the context), under the laws for the time being of the particular State, carries out the construction, or the working of, or in whom are vested, the State railways of such State :

“Rate” includes rate, fare, freight, toll, and any other charge for any services rendered on or in connection with a railway :

“State” means the State of Victoria or the State of South Australia :

“Traffic” includes passenger, goods, stock, mineral, parcel, mail, and all other traffic, and all other services rendered on or in connection with a railway.

The cost of constructing a railway means—

- I. The cost of constructing the said railway and all works and conveniences connected therewith or for the purposes thereof ; and
- II. The cost of acquiring the lands required for the said railway and compensating persons interested in the said lands or injuriously affected by the acquisition thereof or the construction of the said railway ; together with
- III. Interest at the rate of four pounds per centum per annum, from the respective dates of expenditure until the railway is opened for traffic, on the principal moneys expended in constructing the said railway and works and conveniences, and in acquiring such lands and paying such compensation.

(2) In this Agreement, except where inconsistent with the context or some other meaning is clearly intended, the term “railway” includes—

- I. The railway referred to, and
- II. All works and conveniences connected with and for the purposes of such railway, and
- III. All works and conveniences connected with and for the purposes of such railway and any other railway or railways.

(3) For the purposes of this Agreement and all matters arising hereunder the boundary between the said States shall be deemed to be the existing boundary fence : Provided that if, during the period limited by or agreed under clause 11 hereof, some other boundary is by competent authority declared to be the true boundary between the said States, such true boundary shall thereafter be the

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the boundary for the purposes of this agreement, and an adjustment shall be made accordingly in respect of the ownership of the connecting railways and the lands acquired for the purposes thereof, but no adjustment shall be made in the amount of the revenue and working expenses which, up to the date of such declaration, were based upon the position of the existing boundary fence: Provided further that for the purposes of the interchange of rolling-stock Mount Gambier and Pinnaroo shall be regarded as Border stations.

2. (1) The State of Victoria shall construct a railway, on the five feet three inches gauge, from Mumbannar in Victoria to the present railway terminus at Mount Gambier in South Australia, connecting with a railway to be constructed from Heywood in Victoria to Mumbannar and with the railway from Wolseley in South Australia to Mount Gambier. Connecting railways to be constructed.

(2) The State of South Australia shall construct a railway, on the said gauge, from the present railway terminus at Pinnaroo in South Australia to the present railway terminus at Murrayville in Victoria, connecting with the railway from Tailem Bend in South Australia to Pinnaroo, and with the railway from Ouyen in Victoria to Murrayville.

(3) The said railway from Mumbannar to Mount Gambier is hereinafter referred to as "Railway A"; the said railway from Pinnaroo to Murrayville is hereinafter referred to as "Railway B"; and Railway A and Railway B are hereinafter together referred to as "the connecting railways."

3. Upon the receipt of a request in writing signed by the Railways Commissioner of a State which, under this Agreement, is to construct portion of a railway within the territory of the other State, the Railways Commissioner of the last-mentioned State shall acquire all lands situated within the said territory which by the said request are declared to be required for the purposes of the said portion of a railway. All lands so acquired shall be the property of the Railways Commissioner by whom they are acquired. Railways Commissioners to acquire necessary lands in their respective States.

4. The cost of constructing the connecting railways and of constructing, during the period limited by or agreed under clause 11 hereof, all such additional works and conveniences in connection with either of the connecting railways, or with either of the connecting railways and any other railway, as are agreed by the Victorian Railways Commissioner and the South Australian Railways Commissioner to be necessary in order to deal with the traffic on such connecting railway, shall be borne by the said States in equal proportions. Cost of construction to be borne by the States in equal proportions.

5. Subject to the provisions of clause 9 hereof, each of the said States shall, at all times, at its own expense maintain such parts of the connecting railways as lie within its own territory in good repair and open for traffic. Each State to maintain railways within its own territory.

6. During the period limited by or agreed under clause 11 hereof, subject, however, to any arrangements as to special trains or otherwise which are agreed upon between the Railways Commissioners of the said States, the train services on the connecting railways shall be run by the Victorian Railways Commissioner, and the said railways shall be worked by him, and, subject to the provisions of clause 9 hereof, the working expenses of such train services shall be borne by the said States on the basis of the mileage run in the respective States. Connecting railways to be worked by Victorian Railways Commissioners.

7. At all times, Victorian rates shall apply on the Victorian side of the boundary between the said States and South Australian rates on the South Australian side of the said boundary, but the Railways Commissioner of one State shall not at any time, in respect of the conveyance of any traffic from or to the starting point of either of the connecting railways or of the Ouyen to Murrayville Railway, or on, or on and from, or to and on, any of the said railways, allow any rebate, allowance, or consideration of any description, or charge any rate lower or higher than the mileage scale of rates then in general operation throughout such State, which may have the effect of— Competitive rates not to be charged

- (a) Inducing traffic, either directly or indirectly, from the other State, or
- (b) Preventing or discouraging traffic, either directly or indirectly, from going into the other State:

Provided

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Provided that—

- I. The Railways Commissioner of a State may continue to charge, in respect of the conveyance of traffic on any railway, any rates which were charged on the first day of September, nineteen hundred and twelve, in respect of the conveyance of similar traffic on such railway, and
- II. Nothing in this Agreement shall affect the Agreement signed the twenty-fourth day of May, nineteen hundred and five, and made between the Railways Commissioners of the States of New South Wales, Victoria, and South Australia, or prevent the Railways Commissioners of the States from making and giving effect to any other Agreement of a similar nature, and
- III. Unless and until otherwise agreed between the Victorian and South Australian Railways Commissioners, the exemptions specified in subclauses (1), (2), and (3) of clause B of the said Agreement signed the twenty-fourth day of May, nineteen hundred and five, shall apply in respect of traffic conveyed from or to the starting point of either of the connecting railways, or of the Ouyen to Murrayville Railway, or on, or on and from, or to and on any of the said railways :

Provided nevertheless that no local or deficiency rates shall be charged on either of the connecting railways or on the Ouyen to Murrayville Railway or the Heywood to Mumbannar Railway.

Records of revenue
to be kept.

8. (1) (a) The Victorian Railways Commissioner shall keep full and accurate and separate records of all revenue derived by the State of Victoria in respect of the conveyance of traffic—

- I. From any places on Railway A, or on the Ouyen to Pinnaroo Railway, to any places on other railways : Provided that, as regards traffic conveyed from Mumbannar or Ouyen, the traffic has, in the course of the same journey, been conveyed on Railway A or on the Ouyen to Pinnaroo Railway :
- II. To any places on Railway A, or on the Ouyen to Pinnaroo Railway, from any places (except Mumbannar and Ouyen) on other railways :

to the extent that such revenue is derived in respect of conveyance on railways other than Railway A and the Ouyen to Pinnaroo Railway.

(b) The South Australian Railways Commissioner shall keep full and accurate and separate records of all revenue derived by the State of South Australia in respect of the conveyance of traffic—

- I. From any places on Railway A, or on the Ouyen to Pinnaroo Railway, to any places on other railways : Provided that, as regards traffic conveyed from Mount Gambier or Pinnaroo, the traffic has, in the course of the same journey, been conveyed on Railway A or on the Ouyen to Pinnaroo Railway :
- II. To any places on Railway A, or on the Ouyen to Pinnaroo Railway, from any places (except Mount Gambier and Pinnaroo) on other railways :

to the extent that such revenue is derived in respect of conveyance on railways other than Railway A and the Ouyen to Pinnaroo Railway.

(2) The Victorian and South Australian Railways Commissioners shall also each keep full and accurate and separate records of all revenue derived by their States, respectively, in respect of the conveyance of traffic—

- I. On Railway A :
- II. On Railway B :
- III. On the Ouyen to Murrayville Railway

including, as to each of those railways, cases where the traffic is also carried on another railway or other railways, but only to the extent that the revenue is derived in respect of conveyance on Railway A, Railway B, or the Ouyen to Murrayville Railway, as the case may be.

(3) The

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(3) The Victorian and South Australian Railways Commissioners shall also each keep full and accurate and separate records of their States' respective working expenses—

- I. Of Railway A :
- II. Of Railway B :
- III. Of the Ouyen to Murrayville Railway.

9. The Victorian and South Australian Railways Commissioners shall, in account with each other, determine the aggregate amount of the revenue derived, as mentioned in subclause (1) of clause 8 hereof, and after a sum equal to sixty per centum of the said aggregate amount (as the estimated cost of earning such revenue) has been credited to the States in the proportions of the total amounts of their respective contributions to the said aggregate amount, the residue, being forty per centum of the said aggregate amount, shall be applied in the following manner :—

Application of revenue mentioned in clause 8 subclause (1).

First.—The working expenses of the connecting railways, and an interest charge at the rate of four per centum per annum on the cost mentioned in clause 4 hereof, shall be credited therefrom to the States by which such expenses and costs have been incurred and borne, but only to the extent that the revenue derived as mentioned in subclause (2) of clause 8 hereof in respect of the conveyance of traffic on Railway A and Railway B is insufficient to meet such working expenses and interest charge—the amounts to be thus credited to the several States being abated equally in case the said aggregate amount is insufficient for such crediting ;

Second.—The working expenses of the Ouyen to Murrayville Railway from the time of the opening for traffic of Railway B, and an interest charge at the rate of four per centum per annum, calculated from the last mentioned time, on the cost of constructing the Ouyen to Murrayville Railway, shall be credited to the State of Victoria, but only to the extent that the revenue derived as mentioned in subclause (2) of clause 8 hereof in respect of the conveyance of traffic on the Ouyen to Murrayville Railway from the said last mentioned time is insufficient to meet such working expenses and interest charge ;

Third.—If any balance remains it shall be credited equally to the Railways Commissioners of the respective States up to a maximum amount of £5,000 each per annum ; and

Fourth.—If any further balance remains it shall be credited equally to the Railways Commissioners of the respective States, subject however to subsequent re-adjustment under the provisions of clause 14 hereof.

10. The first application of revenue under clause 9 hereof shall be made in respect of the period commencing on the opening for traffic of Railway A or Railway B (whichever is so opened the earlier), and ending at the close of the financial year ending next after the opening for traffic of Railway A or Railway B (whichever is so opened the later), and shall be made as soon as practicable after the close of the said financial year. Subsequent applications of revenue under clause 9 hereof shall be made annually in respect of the several subsequent financial years, and as soon as practicable thereafter respectively.

Revenue to be applied annually.

11. Notwithstanding anything herein contained, the provisions of clauses 8 to 10 hereof inclusive shall apply only in respect of the period of fifteen years ending at the close of the fifteenth financial year ending after the opening for traffic of Railway A or Railway B (whichever is so opened the earlier), or in respect of such shorter period ending at the close of some financial year as is agreed upon between the said States : Provided that the period so agreed upon shall not be less than seven years.

Period during which foregoing provisions to apply.

12. As soon as the provisions of clauses 8 to 10 hereof cease to apply pursuant to clause 11 hereof, the average annual profit made by the State of Victoria or the State of South Australia (as the case may be) at the expense of the other of the said States, in respect of the then immediately preceding period of seven financial years, shall be capitalized by multiplying the amount thereof by twenty-five ; and the capital sum so arrived at shall be paid by the State which has made the said average annual profit to the other State, in such manner as may be agreed upon between the said States.

At end of period capital sum to be paid by the State which is gaining at the expense of the other.

13. (1) For

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How profit made at expense of other State to be ascertained.

13. (1) For the purposes of clause 12 hereof, the average annual profit made by one State at the expense of the other State in respect of the said period of seven financial years shall be calculated in the following manner :—

(a) The net revenue derived by one State, in respect of the conveyance of—

I. All traffic during the said period entering that State from the other State by way of the connecting railways and conveyed, in the course of the same journey, to any places in the first-mentioned State :

II. All traffic during the said period conveyed from any places in the first-mentioned State and, in the course of the same journey, entering the said other State by way of the connecting railways :

shall be regarded as a profit gained by the said first-mentioned State and a loss incurred by the said other State :

(b) The total of the profits, as thus ascertained, gained by a State in respect of the said period shall be set off against the total of the losses, as thus ascertained, incurred by that State in respect of the same period, and the result (if it shows a balance of profit) divided by seven will give the average annual profit made by that State in respect of the said period at the expense of the other State :

(c) For the purposes of the calculation, the net revenue derived in respect of the conveyance of traffic shall be deemed to be the full amount of the revenue derived in respect thereof, less sixty per centum of such full amount, as the estimated cost of earning the revenue.

(2) In addition to any other records by this Agreement required to be kept the Victorian and South Australian Railways Commissioners shall each keep full and accurate records of all revenue derived by them or their respective States as mentioned in subclause (1) of this clause.

Division of revenue to be re-adjusted at time of capitalization.

14. At the time of the capitalization provided for by clause 12 hereof there shall be ascertained—

I. The total amounts contributed by the States of Victoria and South Australia respectively as provided by clause 9 hereof, during the period limited by or agreed under clause 11 hereof ;

II. The total amounts credited to the said States respectively during the said period as provided by clause 9 hereof ; and

III. The total amounts which would be credited to the said States respectively if the amounts actually credited during the said period in respect of the first, second, and third divisional arrangements under clause 9 hereof were left unaltered, but the amounts actually credited during the said period in respect of the fourth divisional arrangement under clause 9 hereof were re-adjusted according to the following provisions, namely :—

(a) That no amount be credited to any State in respect of the said fourth divisional arrangement, if the total amount of the contributions by that State referred to in subclause I. of this clause is less than the total of the amounts credited to that State under the said first, second, and third divisional arrangements :

(b) That if the total of the amounts credited to any State under the said first, second, and third divisional arrangements is less than the total amount of the contributions by that State referred to in subclause I. of this clause, then the amount to be credited to that State under the said fourth divisional arrangement shall be sufficient only to make the aggregate of the amounts credited to that State equal to the total amount of its contributions referred to in subclause I. of this clause ;

and if it is thereby found that the total amount credited as mentioned in subclause II. hereof, to the State to which the capital sum is to be paid, is less than the amount which would have been credited to such State consistently with the provisions of

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of subclause III. hereof, such State shall be paid the difference by the other State, but if it is found to be more than the last mentioned amount, then the capital sum so to be paid shall be reduced by the amount of such difference.

15. The Railways Commissioner of one State shall at all reasonable times be entitled to inspect and take copies of or extracts from all records by this Agreement required to be kept by the Railways Commissioner of the other State, and of all records, accounts, vouchers, and other papers, documents, and books of the last mentioned Commissioner or State, which in any way relate to any of the revenues, expenses, costs, or interest charges mentioned or referred to in this Agreement.

Inspection of accounts.

16. Each State shall by legislation authorize the other State or the Railways Commissioner thereof—

Necessary powers for construction of the railways to be conferred by legislation.

- I. To construct any railway, or part of a railway, which under the provisions of this Agreement is to be constructed by such other State within the territory of the first mentioned State, and to make surveys for that purpose :
- II. To do all such other matters and things as may be necessary for the construction of the said railway, or part of a railway ; and
- III. For the purposes aforesaid, to exercise all the powers and privileges (subject however, to the same conditions) of the said other State, or its Railways Commissioner, under the laws for the time being in force in the said other State as to the construction of railways by it or its Railways Commissioner, as if the said railway or part of a railway were being constructed by the said other State or its Railways Commissioner.

17. The State of South Australia shall by legislation authorize the State of Victoria and its Railways Commissioner—

Necessary powers for working of the railways to be conferred by legislation.

- I. During the period limited or agreed under clause 11 hereof, to run the train services on such parts of the connecting railways as lie within the State of South Australia, and to work such parts ;
- II. During the said period, to collect and enforce the payment of rates in respect of services on such parts or in connection therewith ; and
- III. For those purposes, to exercise all the powers and privileges (subject, however, to the same conditions) of the State of Victoria and its Railways Commissioner under the laws for the time being in force in the State of Victoria, as to the matters mentioned in this clause, as if the said parts of railways were situate within the State of Victoria.

18. This Agreement shall not in any way be binding unless or until legislation has been passed by the Parliaments of both the said States approving this Agreement, and authorizing the said States and their respective Railways Commissioners to carry out the provisions hereof.

Agreement not binding until approved by Parliament.

19. (1) If any question or difference arises between the said States, or between the Railways Commissioners of the said States, touching this Agreement, or the construction of this Agreement, or the rights, duties, or obligations under this Agreement of a State or the Railways Commissioner thereof, or as to any other matter in anywise arising out of or connected with or incidental to any of the subject matters of this Agreement, the same shall be referred to a single arbitrator agreed upon by the Governors of the said States, or if the said Governors do not agree upon a single arbitrator within fourteen days after notice in writing given by one of them to the other of his desire so to agree, then to three arbitrators, one to be appointed by the Governor of each of the said States, and the third to be appointed by writing signed by the two appointed as aforesaid before the reference is entered upon ; and the decision of such single arbitrator (if only one) or of such three arbitrators, or any two of them, shall be binding and final and not subject to any appeal or to be questioned in any manner whatsoever. If the Governor of a State fails to appoint an arbitrator within fourteen days after the Governor of the other State has appointed an arbitrator, and caused notice in writing to be given to the Governor of the first mentioned State requiring him to appoint an arbitrator, then upon such failure the Governor making the request may appoint another arbitrator to act

Arbitration.

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on behalf of the State the Governor of which has so failed to appoint, and the arbitrator so appointed may proceed and act in all respects as if he had been appointed by the Governor so failing to make such appointment.

(2) This Agreement shall be deemed to be a submission to arbitration within the meaning of the Arbitration Act, 1910, of the State of Victoria, and of the Arbitration Act, 1891, of the State of South Australia, and each of those Acts shall, within its own State, apply to the arbitration and all matters incidental thereto or consequent thereon.

IN WITNESS whereof the Honorable William Alexander Watt (Premier of the State of Victoria) for and on behalf of the State of Victoria, and the Honorable Archibald Henry Peake (Premier of the State of South Australia) for and on behalf of the State of South Australia, have hereunto set their hands and seals the day and year first above written.

SIGNED SEALED AND DELIVERED BY the above-named WILLIAM ALEXANDER WATT in the presence of—	}	W. A. WATT. (L.S.)
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F. SHORT, J.P.,
Secretary to the Premier.

SIGNED SEALED AND DELIVERED BY the above-named ARCHI- BALD HENRY PEAKE in the presence of—	}	A. H. PEAKE. (L.S.)
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FRED. W. YOUNG,
Commissioner of Crown Lands,
Adelaide.

Section 2.

THE SECOND SCHEDULE.

Ordinance No. 6 of 1847.—“The Lands Clauses Consolidation Act,” except sections 9, 12 to 17 inclusive, 21 to 25 inclusive, 38 to 62 inclusive, 64 to 68 inclusive, 110, 114 to 120 inclusive, 136, and 137.

Act No. 26 of 1855-6, being an Act to amend “The Lands Clauses Consolidation Act,” except sections 1, 4, and 6.

Act No. 202 of 1881.—“The Lands Clauses Consolidation Amendment Act, 1881,” except sections 5 to 11 inclusive.

Act No. 1035.—“The Lands Clauses Consolidation Further Amendment Act, 1911.”

Ordinance No. 7 of 1847.—“The Railways Clauses Consolidation Act.”

Act No. 6 of 1858, being an Act to amend “The Railways Clauses Consolidation Act.”

Act No. 32 of 1876.—“The Railways Clauses Act, 1876.”

Act No. 414 of 1887.—“The South Australian Railways Commissioners Act, 1887.”

Act No. 512 of 1891.—“The South Australian Railways Commissioners Act Amendment Act, 1891.”

Act No. 612 of 1894.—“The South Australian Railways Commissioners Act Amendment Act, 1894.”

Act No. 912 of 1906.—“The South Australian Railways Commissioners Further Amendment Act, 1906.”

Act No. 988 of 1909.—“The South Australian Railways Commissioners Act Amendment Act, 1909.”

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THE THIRD SCHEDULE.

Section 10.

A line commencing at a point on the boundary between the States of Victoria and South Australia and on the western boundary of the Parish of Malanganee, in the State of Victoria, and running in a westerly direction through the Hundred of Gambier and into the Hundred of Blanche, to a point at or near the present railway terminus at Mount Gambier.