

[CONFIDENTIAL]

(Rough Draft for Consideration Only.)

No. , 1926.

A BILL

To ratify a certain Agreement made on the twenty-second day of March, one thousand nine hundred and twenty-six, between the Commonwealth of Australia of the first part, Norris Garrett Bell, James Fraser, and James Walker Davidson of the second part, and the State of New South Wales of the third part, relating to the construction of portion of the Kyogle to South Brisbane Railway; to amend the Grafton-Kyogle to South Brisbane Railway Agreement Ratification Act, 1924, and certain other Acts; and for purposes connected therewith.

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

1. (1) This Act may be cited as the "Grafton-Kyogle to South Brisbane Railway Agreement Ratification (Amendment) Act, 1926." Short title.

(2) The Grafton-Kyogle to South Brisbane Railway Agreement Ratification (Amendment) Act, 1924, is in this Act referred to as the Principal Act.

2. The agreement made on the twenty-second day of March in the year one thousand nine hundred and twenty-six between the Commonwealth of Australia of the first part, Norris Garrett Bell, James Fraser, and James Walker Davidson, of the second part, and the State of New South Wales of the third part, a copy of which was laid before each House of Parliament on the day of , one thousand nine hundred and twenty-six, and a copy of which (excluding the annexures) is set out in the Second Schedule contained in section three of this Act, is hereby ratified. Ratification of agreement of 23rd March, 1926.

3. The Principal Act is amended as follows :— Amendment of Act No. 20, 1924.

- (a) by inserting in section one after the figures "1924" the symbol and figures "-1926"; Sec. 1.
- (b) by inserting before the word "Schedule" wherever occurring the word "First";
- (c) by inserting after section four the following new section :— Sec. 4.

5. (1) The foregoing provisions of this Act shall extend to the agreement a copy of which (excluding the annexures) is set out in the Second Schedule to this Act. Supplementary agreement of 23rd March, 1926.

(2) The said agreement shall be carried into effect by the Railway Commissioners for New South Wales.

(d)

(d) by inserting at the end of the Act the following Second
Schedule.
new Schedule :—

THE SECOND SCHEDULE.

AGREEMENT made the twenty-second day of March One thousand nine hundred and twenty-six Between—The Commonwealth of Australia (hereinafter called the “ Commonwealth ”) of the First Part Norris Garrett Bell of Melbourne Commonwealth Railways Commissioner James Fraser of Sydney the Chief Commissioner for Railways of New South Wales and James Walker Davidson of Brisbane Commissioner for Railways of Queensland being the Railway Council constituted by the Agreement contained in the Schedule to the Grafton to South Brisbane Railway Act 1924 of the Commonwealth and the Grafton-Kyogle to South Brisbane Railway Agreement Ratification Act 1924 of the State of New South Wales (hereinafter called the “ Council ” which expression shall unless the context otherwise requires include the members of such Council for the time being and the deputies of such members) of the Second Part and The State of New South Wales (hereinafter called the “ Contractor ”) of the Third Part Whereas for the purposes of the said Agreement tenders were called for the performance of the work required in the construction of Section Number 1 of the railway from Kyogle to South Brisbane referred to in the said Agreement namely from 85 miles 9 chains 2 links from Grafton to 111 miles 54 chains 86 links at Richmond Gap And whereas the Chief Engineer of the Construction Branch of the New South Wales Government Railways and Tramways at the request of the Council submitted to it a sealed estimate showing the rates for which he considered the estimated quantities of the various works included in the said Section Number 1 of the said railway could be constructed And whereas the Council decided not to accept any tender received by it for the construction of the said Section Number 1 but decided to have the same carried out by or on behalf of the State of New South Wales And whereas the Commonwealth has requested that the said Section Number 1 should be constructed by or for the State of New South Wales as an independent Contractor with the Council at the rates mentioned in the said sealed estimate adding thereto the sum of Twenty-five thousand five hundred pounds (£25,500) for engineering supervision Now therefore it is hereby agreed by and between the parties hereto as follows :—

1. The Contractor shall undertake and carry out the work required in the construction of the said Section Number 1 of the said railway in accordance with the Specification of Works hereto annexed and marked with the letter “ A ” with the General Conditions hereto annexed and marked with the letter “ B ” with the Schedule of Quantities and Prices hereto annexed and marked with the letter “ C ” with the Conditions of Tendering hereto annexed and marked with the letter “ D ” and with the sealed Estimate and the letter from F. E. Wickham to E. Simms dated the twenty-eighth day of August one thousand nine hundred and
twenty-five

*Grafton-Kyogle to South Brisbane Railway Agreement Ratification
(Amendment).*

twenty-five copies of which are hereto annexed and marked with the letter "E" and with the provisions of this Contract so far as the same are respectively to be performed observed fulfilled obeyed and abided by on the part of the Contractor and at and for the prices contained in the said Schedule of Quantities and Prices marked "C" according to the Quantities of work as determined by measurement or as otherwise provided herein or hereunder with such additions and deductions as are provided for in this Contract and the annexures hereto to which shall be added the sum of Twenty-five thousand five hundred pounds (£25,500) for engineering supervision.

2. The Council agrees that it shall and will perform observe fulfil obey and abide by the several articles clauses conditions and stipulations contained in this Contract and the said annexures hereto so far as the same respectively are to be performed observed fulfilled obeyed and abided by on the part of the Council.

3. The Council agrees that it will pay to the Contractor for the performance of the said work according to the quantities of work as determined by measurement or as otherwise provided herein or hereunder at the rates shown in the said Schedule of Quantities and Prices marked "C" with such additions and deductions as are provided for in this Contract and the annexures hereto also in addition thereto the said sum of Twenty-five thousand five hundred pounds (£25,500) for engineering supervision.

4. The prices set out in the said Schedule of Prices and Quantities marked "C" are to be taken to have been based upon the rates of wages prescribed by Awards or Orders of the Court of Industrial Arbitration of New South Wales in force on the twenty-eighth day of August one thousand nine hundred and twenty-five and where the rates of wages were at such date not so prescribed upon the rates of wages ruling in New South Wales at the said date and are to be taken to have been based upon forty-four hours per week being the working hours per week at the said date. Such prices shall be subject to adjustments from time to time as follows that is to say:—

- (a) If the rates of wages paid by the Contractor to its employees engaged in New South Wales in the execution of the said work shall by reason of any Award or Order of any Court or other competent authority of the Commonwealth or the State or any Industrial Agreement duly recorded with any such Court or Authority and approved by the Council be greater or less than the rates of wages prescribed by the said Awards or Orders in force on the said day or in case of rates not being so prescribed then the rates of wages ruling in New South Wales at such date the amount of the increase or reduction thereby occasioned in the prices stated in the said Schedule marked "C" shall be added thereto or deducted therefrom as the case may be.
- (b) In the event of the working hours per week being increased or reduced from forty-four hours per week by reason of any Award or Order of any State or Commonwealth Court or Authority or of any Statute or of any Industrial Agreement duly

*Grafton-Kyogle to South Brisbane Railway Agreement Ratification
(Amendment).*

duly recorded with such Court or Authority and approved by the Council affecting the employees of the Contractor engaged in New South Wales in the execution of the said work the amount of decrease occasioned in the prices otherwise payable to the Contractor under the Contract by the increase of the working hours or the amount of the increase occasioned in such prices by the decrease of such hours shall be added to or deducted therefrom as the case may be.

- (c) As often as any increase or decrease shall be made as aforesaid in any of the rates of wages or working hours upon which the prices set out in the said Schedule of Prices marked "C" are taken to have been based the Contractor will thereupon notify the same to the Council.
- (d) The amount of all additions and deductions to be made or allowed to or by the Contractor under Subclause (a) or (b) shall be determined by agreement between a person appointed by the Contractor and a person appointed by the Council and in default of such agreement by the Council.
- (e) So much of piece work rates as consists of wages shall be deemed to have increased or decreased in proportion to the increases or decreases in wages for the class of work in question.

5. In reading and construing the said General Conditions marked "B" the said Specification marked "A" and the said Conditions of Tendering marked "D" the following alterations shall be made—

In the General Conditions—

Interpretation Clause 1 (a)—

The term "Council"—"The Railway Council constituted by the Grafton-Kyogle to South Brisbane Railway Agreement"

is altered to read—

"Council"—"The Railway Council constituted by the Grafton-Kyogle to South Brisbane Railway Agreement or (except in clauses 44 and 45 hereof) any person duly authorised by the unanimous decision of the Council on its behalf."

The term "Superintending Officer"—"The Officer from time to time acting under the Engineer in the supervision of works"; and

The term "Engineer"—"The Chief Engineer for railway construction for the time being or his duly appointed representative"

are deleted, and the word "Council" is substituted in place of the words "Superintending Officer" and "Engineer" wherever appearing in the said General Conditions and Specification of Works.

Clause 5 of the said Conditions of Tendering is deleted.

Clause 7 of the said Conditions of Tendering is deleted.

Clause 6 of the said Conditions of Tendering—The word "Council" is substituted for the word "Engineer."

Clause

*Grafton-Kyogle to South Brisbane Railway Agreement Ratification
(Amendment.)*

Clause 30 (a), (b), (c), and (d) General Conditions is deleted and the following clause is substituted:—

Clause 30. "The payments to be made to the Contractor by the Council in respect of work done shall be made each four weeks and the amount of such payments shall depend upon and be determined by the progress certificate to be given as provided in Clause 27 (b)."

6. Notwithstanding any other provision contained in this Contract or any annexure hereto in the event of the Contractor being dissatisfied with any determination notice certificate or order by a nominee of the Council under this Contract or any annexure hereto the Contractor may within eight weeks of the date on which such determination notice certificate or order is given appeal therefrom to the Council whose decision shall be final.

7. The Commonwealth agrees as a separate agreement with the said State and the Council that it will do all things on its part necessary to be done in order to enable the Council to carry out the provisions of this Contract and the annexures hereto which on its part are to be observed and performed.

8. The Commonwealth agrees that it will take all steps necessary to have this Contract ratified by the Parliament of the Commonwealth as early as possible, and the said State agrees that it will take all steps necessary to have this Contract ratified by the Parliament of the said State as early as possible.

In witness whereof the parties hereto have hereunto set their respective hands and seals the day and year first above written.

Signed Sealed and Delivered by }
Stanley Melbourne Bruce }
the Prime Minister of the }
Commonwealth of Aus- }
tralia for and on behalf of }
the said Commonwealth }
(but so as not to incur any }
personal liability) in the }
presence of—

S. M. BRUCE. (SEAL)

W. C. HILL.

Signed Sealed and Delivered by }
the said Norris Garrett }
Bell (but so as not to incur }
any personal liability) in }
the presence of—

NORRIS G. BELL. (SEAL)

EDWD. SIMMS.

Signed

*Grafton-Kyogle to South Brisbane Railway Agreement Ratification
(Amendment).*

Signed Sealed and Delivered }
 by the said James Fraser } JAMES FRASER by his duly
 (but so as not to incur } authorised Deputy
 any personal liability) in } F. E. WICKHAM. (SEAL)
 the presence of— }
 EDWD. SIMMS.

Signed Sealed and Delivered }
 by the said James Walker } J. W. DAVIDSON. (SEAL)
 Davidson (but so as not }
 to incur any personal lia- }
 bility) in the presence of— }
 EDWD. SIMMS.

Signed Sealed and Delivered }
 by John Thomas Lang }
 the Premier and Colonial }
 Treasurer of the State of }
 New South Wales for and } JOHN T. LANG. (SEAL)
 on behalf of the said }
 State (but so as not to }
 incur any personal lia- }
 bility) in the presence of— }
 M. M. FLANNERY.