



ANNO VICESIMO SEPTIMO

ELIZABETHAE II REGINAE

A.D. 1978

No. 31 of 1978

An Act to establish a Constitutional Museum of South Australia; to constitute a trust for the administration thereof and for matters incidental thereto.

[Assented to 6th April, 1978]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

PART I**PART I****PRELIMINARY**

Short title.

1. This Act may be cited as the "Constitutional Museum Act, 1978".

Commencement.

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

Arrangement of Act.

3. This Act is arranged as follows:—

PART I—PRELIMINARY**PART II—THE CONSTITUTIONAL MUSEUM AND ADMINISTRATION****DIVISION I—ESTABLISHMENT OF THE CONSTITUTIONAL MUSEUM****DIVISION II—THE TRUST****DIVISION III—EMPLOYEES****DIVISION IV—FINANCIAL****PART III—MISCELLANEOUS.**

Definitions.

4. In this Act, unless the contrary intention appears—

"the Constitutional Museum" means the Constitutional Museum of South Australia established under Part II of this Act:

"member" means a member of the Trust:

"the Trust" means the Constitutional Museum Trust established under Part II of this Act.

PART II

PART II

THE CONSTITUTIONAL MUSEUM AND ADMINISTRATION

DIVISION I—ESTABLISHMENT OF THE CONSTITUTIONAL MUSEUM

DIVISION I

5. (1) There shall be a museum entitled the "Constitutional Museum of South Australia".

Establishment of the Constitutional Museum.

(2) The Constitutional Museum shall be established upon the lands hatched on the plan in the schedule to this Act.

DIVISION II—THE TRUST

DIVISION II

6. (1) There shall be a body entitled the "Constitutional Museum Trust".

Establishment of the Trust.

(2) The Trust—

- (a) shall be a body corporate with perpetual succession and a common seal;
 - (b) shall be capable in its corporate name of acquiring, holding and disposing of real and personal property;
 - (c) shall be capable of acquiring or incurring any other legal rights or liabilities and of suing and being sued;
- and
- (d) shall have the powers, authorities, duties and obligations prescribed by or under this Act.

(3) Where an apparently genuine document purports to bear the common seal of the Trust, it shall be presumed in any legal proceedings, in the absence of proof to the contrary, that the common seal of the Trust was duly affixed to that document.

7. (1) The Trust shall consist of five members appointed by the Governor.

Terms and conditions upon which members of the Trust hold office.

(2) A member of the Trust shall be appointed for a term of up to three years and, upon the expiration of his term of office, shall be eligible for re-appointment.

(3) The Governor may appoint a suitable person to be a deputy of a member of the Trust, and such a person, while acting in the absence of that member shall be deemed to be a member of the Trust, and shall have all the powers, authorities, duties and obligations of the member of whom he has been appointed a deputy.

(4) The Governor may remove a member of the Trust from office for—

- (a) mental or physical incapacity;
 - (b) neglect of duty;
- or
- (c) dishonourable conduct.

(5) The office of a member of the Trust shall become vacant if—

- (a) he dies;
 - (b) his term of office expires;
 - (c) he resigns by written notice addressed to the Governor;
- or

PART II
DIVISION II

(d) he is removed by the Governor pursuant to subsection (4) of this section.

(6) Upon the office of a member of the Trust becoming vacant, a person shall be appointed, in accordance with this Act, to the vacant office, but where the office of a member of the Trust becomes vacant before the expiration of the term for which he was appointed, a person appointed in his place shall be appointed only for the balance of the term of his predecessor.

Validity of
acts of the
Trust.

8. (1) An Act or proceeding of the Trust shall not be invalid by reason only of a vacancy, or vacancies, in its membership.

(2) No liability shall attach to a member of the Trust for any act or omission by him, or by the Trust, in good faith and in the exercise or purported exercise of his or its powers or functions, or in the discharge, or purported discharge, of his or its duties under this Act.

Delegation
of powers
to members.

9. (1) The Trust may by instrument in writing delegate to any member or officer of the Trust any of the powers and functions conferred on the Trust by or under this Act.

(2) A delegation under subsection (1) of this section is revocable at will and no delegation shall prevent the exercise of any power or function by the Trust itself.

Remuneration
of members.

10. A member of the Trust shall, if the Governor thinks fit, be paid such fees as may from time to time be fixed by the Governor and shall be entitled to receive such travelling and other allowances as are from time to time approved by the Minister.

The Chairman.

11. (1) The Governor may from time to time appoint one of the members of the Trust to be the Chairman of the Trust.

(2) The Chairman shall, subject to this Act, hold office as such for a term of up to three years specified in the instrument of his appointment and shall, at the expiration of that term, be eligible for re-appointment.

(3) If at any time the Chairman ceases to be a member of the Trust, he shall cease to be Chairman of the Trust.

Conduct of
business by
the Trust.

12. (1) Three members of the Trust shall constitute a quorum of the Trust.

(2) A decision carried by a majority of the votes of the members present at a meeting of the Trust shall be a decision of the Trust.

(3) The Chairman, or if he is not present, a person elected by the members present, shall preside at a meeting of the Trust.

(4) The person presiding at a meeting of the Trust shall, in the event of an equality of votes upon any question arising before the Trust, have a second or casting vote.

(5) The common seal of the Trust shall not be affixed to any instrument except in pursuance of a resolution of the Trust.

(6) Any instrument executed in pursuance of such a resolution shall be attested by the signature of any two members of the Trust.

(7) The Trust shall cause accurate minutes to be kept of its proceedings at meetings.

(8) Subject to this Act, the business of the Trust shall be conducted in such manner as the Trust may determine.

13. (1) A member of the Trust who is in any way directly or indirectly interested in a contract, or proposed contract, made by or in the contemplation of, the Trust—

(a) shall as soon as he becomes aware of the contract or proposed contract, disclose the nature of his interest to the Trust;

and

(b) shall not take part in any deliberations or decision of the Trust with respect to that contract.

Penalty: Five hundred dollars.

(2) Any disclosure made in compliance with subsection (1) of this section shall be recorded in the minutes of the Trust.

(3) A member of the Trust who is an employee of the Trust shall be deemed not to have any direct or indirect interest in any matter relating to employment by the Trust by reason of the fact that he is an employee of the Trust.

14. (1) Subject to this Act the functions and powers of the Trust are as follows:—

(a) to administer, develop, maintain, manage and control the Constitutional Museum;

(b) to manage all lands and premises placed under the control of the Trust;

(c) to manage all funds vested in, or under the control of, the Trust and to apply those funds in accordance with the terms and conditions of any instrument of trust or other instrument affecting the disposition of those moneys;

(d) to carry out, or promote, research into matters of political and historical interest;

(e) to accumulate and care for objects of political or historical interest;

(f) to accumulate and classify data in regard to any such matters;

(g) to disseminate information of political or historical interest;

(h) to perform any other appropriate functions that may be assigned to the Trust by regulation;

and

(i) to provide refreshment facilities within the areas subject to the management of the Trust and to make such applications under the Licensing Act, 1967-1976, as may be considered appropriate.

(2) The Trust shall not be required to accept or accumulate material that does not, in the opinion of the Trust, justify collection and classification under this Act.

(3) In the performance of any of its functions the Trust may, upon such terms and conditions as it thinks fit—

(a) receive, take, purchase, hire or accept upon loan, any objects of political or historical interest;

(b) sell, lend, exchange or dispose of any objects of political or historical interest;

or

(c) lend or otherwise make available to any institution, body or person carrying out relevant research any object of political or historical interest.

PART II
DIVISION II

Trust subject to general control and direction of Minister.

15. The Trust shall, in the exercise and performance of its powers and functions under this Act, except where it makes, or is required to make, a recommendation to the Minister, be subject to the general control and direction of the Minister.

DIVISION III

DIVISION III—EMPLOYEES

Employment of employees.

16. (1) For the purposes of this Act the Trust may employ such persons as it thinks necessary for the administration of the Constitutional Museum.

(2) The terms and conditions of employment of such employees shall be determined by the Trust and subject to the approval of the Minister.

(3) An employee of the Trust shall not, as such, be subject to the Public Service Act, 1967-1977.

(4) An employee of the Trust may, in accordance with an arrangement between the Trust and the South Australian Superannuation Board, become a contributor to the South Australian Superannuation Fund.

Secretary to the Trust.

17. (1) There shall be a secretary to the Trust.

(2) The secretary shall be an employee of the Trust.

DIVISION IV

DIVISION IV—FINANCIAL

Power to borrow.

18. (1) The Trust may with the consent of the Treasurer, for the purposes of this Act, borrow money at interest from any person.

(2) The Treasurer may upon such terms and conditions as he thinks fit guarantee the repayment on any moneys (together with interest thereon) borrowed by the Trust under this section.

(3) Any moneys required to be paid in satisfaction of a guarantee given pursuant to subsection (2) of this section shall be paid out of the General Revenue of the State which is hereby to the necessary extent appropriated accordingly.

Funds of the Trust.

19. (1) All moneys received by the Trust shall be paid into a fund and applied by the Trust to the performance of its functions.

(2) Any moneys of the Trust as are not immediately required by the Trust may be lodged on deposit with the Treasurer or invested in any other manner approved of by the Treasurer.

(3) The Trust may establish such banking accounts as it thinks fit.

(4) An account established under this section shall be operated by cheque signed and countersigned by such persons as the Trust may appoint for that purpose.

Budget.

20. (1) As soon as practicable after the commencement of this Act the Trust shall present to the Minister a budget showing its estimates of receipts and payments over the balance of the financial year within which the budget is presented and thereafter the Trust shall before the commencement of each succeeding financial year present to the Minister a budget showing its estimates of its receipts and payments for that succeeding financial year.

(2) The Minister may approve of any budget presented to him pursuant to subsection (1) of this section or may direct or allow the Trust to amend a budget before so approving of the budget.

(3) The Trust shall not, without the consent of the Minister, make any expenditure that is not authorized by an approved budget.

(4) In this section—

“approved budget” means a budget that has been approved of by the Minister or a budget that, having been amended, has been approved of by the Minister.

21. (1) The Trust shall cause proper accounts to be kept of its financial Accounts.
affairs.

(2) The Auditor-General may at any time, and shall at least once in each year, audit the accounts of the Trust, and shall have and may exercise in respect of the moneys and accounts of the Trust and the persons dealing therewith the powers that are vested in the Auditor-General by the Audit Act, 1921-1975, in respect of public accounts and accounting officers.

(3) The Minister shall cause a copy of the audited accounts to be laid, as soon as practicable, before each House of Parliament.

PART III

PART III

MISCELLANEOUS

22. (1) The Trust may, on behalf of the Constitutional Museum, accept— Gifts, etc.

(a) grants, conveyances, transfers and leases of land whether from the Crown or any instrumentality thereof or any other person;

(b) rights to the use, control, management or occupation of any land;
and

(c) gifts of personal property of any kind to be used or applied by it for the purposes of this Act.

(2) Notwithstanding anything contained in the Stamp Duties Act, 1923-1977, no stamp duty shall be payable on any instrument by which land or any interest in or right over land is granted or assured to or vested in the Trust pursuant to this section.

(3) Notwithstanding anything contained in the Succession Duties Act, 1929-1977, no succession duty shall be payable in respect of any property or interest passing to the Trust pursuant to this section or by reason of the death of any person and any such property shall not be subject to succession duty under that Act.

(4) Notwithstanding anything contained in the Gift Duty Act, 1968-1976, no gift duty under that Act shall be payable in respect of the gift of any real or personal property to the Trust pursuant to this section.

23. (1) Any person who, without the authority of the Trust, damages, mutilates, destroys or removes from the possession of the Trust any object from the collection of the Constitutional Museum or any other property of the Trust, shall be guilty of an offence and liable to a penalty not exceeding one thousand dollars, or imprisonment for six months. Damage to
property of
the Trust.

(2) The Court before which any person is convicted of an offence under subsection (1) of this section may order that person to pay to the Trust compensation for the damage or destruction of any object from the collection of the Constitutional Museum or any other property of the Trust.

(3) This section does not derogate from any criminal liability to which a person may otherwise be subject.

Report.

24. (1) The Trust shall, on or before the thirtieth day of September in each year, deliver to the Minister a report in writing upon the administration of the Constitutional Museum, and of the property under the control of the Trust, during the period of twelve months ending on the preceding thirtieth day of June in that year.

(2) The Minister shall cause a copy of the report to be laid, as soon as practicable, before each House of Parliament.

Proceedings.

25. Proceedings for an offence against this Act shall be disposed of summarily.

Regulations.

26. (1) The Governor may, upon the recommendation of the Trust, make such regulations as are contemplated by this Act, or as are necessary or expedient for the purposes of this Act.

(2) Without limiting the generality of the foregoing, those regulations may—

(a) make provision in relation to any aspect of the control of the Constitutional Museum;

(b) regulate the proceedings of the Trust;

(c) prescribe conditions upon which the public or any person may have access to the Constitutional Museum, or any land or premises under the control of the Trust;

(d) prescribe and provide for the recovery of charges for admission to the Constitutional Museum or any part thereof;

(e) prescribe and provide for the recovery of charges for any services provided by the Trust;

(f) provide for the care and custody of the property of the Constitutional Museum or any part thereof;

(g) prescribe terms and conditions upon which persons may have access to the exhibits of the Constitutional Museum or any part thereof;

(h) provide for the payment of rewards for information leading to the conviction of any person for an offence against this Act;

and

(i) prescribe penalties (recoverable summarily) not exceeding five hundred dollars for breach of, or non-compliance with, the provisions of any regulation.

SECTION 5
THE SCHEDULE



SEC. 1188

ADELAIDE RAILWAY
STATION

Granted

PARLIAMENT
HOUSE

NORTH TERRACE

CITY OF ADELAIDE
HUNDRED OF ADELAIDE

SCALE



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

K. SEAMAN, Governor