

ANNO PRIMO

# GEORGII V REGIS.

A.D. 1910.

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## No. 1015.

An Act to provide for the Construction of a Railway from Brinkworth to Mundoorra and the Re-construction of the Existing Railway from Mundoorra to Port Broughton, and for other purposes.

*[Assented to, December 7th, 1910.]*

**B**E it Enacted by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

**1.** This Act may be cited as “The Brinkworth to Port Broughton Railway Act, 1910.” Short title.

**2.** The District Councils Act and the Acts mentioned in the First Schedule, so far as the same are severally applicable, are incorporated with this Act. Incorporation with other Acts.

**3.** In this Act, except where the subject-matter, or context, or any other provision of this Act requires a different construction— Interpretation.

“Commissioner” means the South Australian Railways Commissioner:

“Cost of the railway” means and includes—

- i. The cost of constructing the new railway and all works and conveniences connected therewith;
- ii. The cost of converting the existing railway into a railway suitable for steam locomotive traction, the cost of all such alterations in the works and conveniences connected with the existing railway before conversion as are made for the purpose of working the existing railway by steam locomotion

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locomotion, and the cost of all such other works and conveniences connected with the existing railway, before or after conversion, as are constructed after the passing of this Act for the purposes of the railway ;

iii. The cost of all other works and conveniences constructed after the passing of this Act for the purposes of the railway ;

iv. The cost of purchasing or otherwise acquiring the land required for the undertaking provisionally authorised by this Act, and of compensating persons interested in such land or injuriously affected by the carrying out of the undertaking ;

v. The cost of the additional rolling-stock which the Commissioner estimates will be required for working the railway ;

vi. The difference between—

(a) The value, as estimated by the Commissioner, of the materials of which the existing railway is constructed, the works and conveniences connected therewith, and any lands, houses, buildings and other property of any kind used in connection therewith, for the purposes of the existing railway before conversion ; and

(b) The value, as estimated by the Commissioner, of the said materials, works and conveniences, lands, houses, buildings, and other property, for any other purposes (if any) for which they can be used, whether in or in connection with the railway or otherwise ; and

vii. All other expenses of carrying out the undertaking provisionally authorised by this Act or incidental to the above-mentioned items respectively numbered i., ii., iii., iv., and v., or any of them :

“ Council ” means a District Council whose district, or part of whose district, is included in the Railway District :

“ District ” means the district under the jurisdiction of a District Council :

“ Gazette ” shall mean *The South Australian Government Gazette* :

“ Ratepayer ” means a ratepayer within the meaning of the District Councils Act :

“ The District Councils Act ” means “ The District Councils Act, 1887,” and all Acts amending that Act, or any Act substituted for that Act, and all Acts amending such substituted Act :

“ The existing railway ” means the railway from Mundoora to Port Broughton existing at the time of the passing of this Act, and known as the Port Broughton and Mundoora Tramway :  
“ The

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“The new railway” means the railway from Brinkworth to Mudoora constructed or to be constructed in pursuance of section 4 of this Act:

“The railway” means and includes the new railway and the railway formed by the conversion of the existing railway in pursuance of this Act:

“The Railway District” means the Railway District constituted by this Act:

“The undertaking provisionally authorised by this Act” or “the undertaking” means and includes all the matters and things which, subject to the provisions of this Act, are authorised by section 4:

“Year” means a period of twelve months ending on the thirtieth day of June.

4. Subject to the provisions hereafter in this Act contained, the Commissioner may—

Power to construct the railway, including conversion of existing railway.

- i. Construct a railway from Brinkworth to Mudoora, as the said railway is delineated in the plan deposited in the office of the Surveyor-General, in Adelaide, signed “Walter Rutt, Chief Engineer for Railways,” and dated the fourteenth day of October, one thousand nine hundred and ten, or as the said railway is delineated in any plans so deposited after the passing of this Act pursuant to any law for the time being in force as to the deposit of such plans;
- ii. Convert the railway from Mudoora to Port Broughton, existing at the time of the passing of this Act, into a railway suitable for steam locomotive traction, so that it and the railway mentioned in subdivision i. hereof may form and be used as a continuous railway, and do all such things as may be necessary for convenient or carrying out such conversion, and make all such alterations in any works and conveniences connected with the existing railway as may be necessary or convenient so that the same may be used for steam locomotive traction;
- iii. Construct all proper works and conveniences connected with, or for the purposes of, the railway or any part thereof, or of the railway and any other railway; and
- iv. Maintain the railway and all works and conveniences hereinbefore mentioned:

Provided that in case the Houses of Parliament are not sitting when any plans and books of reference are deposited in the office of the Surveyor-General under section 9 of “The Railway Clauses Act, 1876,” the Commissioner may make deviations under the said section before causing copies of the plans and books of reference to be laid before Parliament, but such copies shall be laid before both Houses of

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of Parliament within fourteen days after the next sittings of such Houses respectively.

**Tenders.**

**5.** (1) The Commissioner shall call for tenders for the construction of the new railway, to be sent in within such time, 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.

(2) The Commissioner may construct the new railway although no tender for the construction thereof has been accepted.

(3) The conversion of the existing railway, and all things connected with or incidental to such conversion, may be carried out by the Commissioner without calling for tenders.

**Gauge, &c.**

**6.** The gauge of the railway shall be three feet six inches, and the rails to be used in the construction thereof shall be of iron or steel, and of the weight of not less than forty pounds to the yard.

**Power to dispose of properties of existing railway not required for the railway.**

**7.** Notwithstanding the provisions of any Act incorporated with this Act, the Commissioner may, at any time during or after the conversion of the existing railway in pursuance of this Act, sell by public auction or private contract and transfer or convey, or may let or grant licences in respect of, any lands, houses, buildings, and other property of any kind used in connection with the existing railway before such conversion which, in his opinion, are not required or are not suitable for the purposes of the railway; and may sell or otherwise dispose of, or use for such purposes as he deems proper, any materials or things of which the existing railway is constructed or which are used in connection therewith, and which, in his opinion, are not required or are not suitable for the railway or for use in connection therewith.

**Fares, tolls, and charges.**

**8.** The Commissioner may demand for the use of the railway, 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, tolls, charges, and rates as are from time to time fixed by the Commissioner, in manner prescribed by any Act or Acts under which the Commissioner may fix fares, tolls, charges, and rates in respect of the railways under his control.

**Appropriation of fares, tolls, &c.**

**9.** Subject to the provisions of this Act, all fares, 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 is prescribed by the Governor, to the Treasurer of the said State for the public purposes of the said State.

**Constitution of "The Port Broughton Railway District."**

**10.** The lands situated within the area defined in the plan in the Fifth Schedule and enclosed by the outer edge of the blue line shown on such plan, are hereby constituted a Railway District for the purposes of this Act, and shall be called "The Port Broughton Railway District."

**11.** Within

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11. Within three months from the passing of this Act the question whether the undertaking provisionally authorised by this Act shall be carried out shall be submitted by each Council to a poll of the ratepayers who are assessed in respect of such of the land included within the Railway District as is situated within the district of such Council: Provided that any poll in pursuance of this section shall be valid although taken after the expiration of the said three months.

Questions to be submitted to poll of ratepayers.

12. (1) Every poll of ratepayers under this Act shall be taken by ballot, and the following provisions shall be observed in respect of each poll:—

Provisions for poll.

i. The Council shall appoint a Returning Officer for the purpose of the poll, who shall, *mutatis mutandis*, have all the powers conferred by the District Councils Act, and all the powers conferred by "The Ballot Act, 1862," and any Act amending that Act, on a Returning Officer in case of an election, and shall preside at the taking of the poll: Provided that he may appoint deputies to preside at the polling-places where he does not preside personally:

Returning Officer.

No. 13 of 1862.

ii. The Council shall appoint a polling-place in the district for such poll, and where the district is divided into wards shall appoint a polling-place in each ward which is included, or part of which is included, in the Railway District:

Polling-places.

iii. The Council shall, not less than twenty-eight days before the day fixed for the poll, cause a notice stating—

Notice of poll.

(a) The day fixed for the poll;

(b) The polling-place appointed for the district, or the polling-places appointed for the several wards;

(c) The name and address of the Returning Officer; and

(d) The hours of polling,

to be inserted in at least two newspapers circulating in the district, and to be given in such (if any) other ways as the Council deems expedient:

iv. The Returning Officer, if it appears to him expedient, may cause booths to be erected, or rooms to be hired and used as booths for the purpose of the poll, at the several polling-places in the district; and the same shall have such separate voting compartments as the Returning Officer deems most convenient, constructed so as to screen the voters from observation while they mark their voting-papers:

Polling-booths.

v. The Returning Officer, before the day fixed for taking the poll, shall cause to be furnished for use at the polling-place a copy of the assessment-book of the Council, or, if the district

List of ratepayers.

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district is divided into wards, shall cause to be furnished for use at the polling-place in each ward in which the poll is to be taken, a copy of such portion of the assessment-book as relates to land within the ward; and in such copy he shall indicate what ratepayers are entitled to vote at the polling-place for which it is furnished, and the number of votes to which each ratepayer is entitled; and he shall certify each such copy as correctly indicating the ratepayers who are entitled to vote at the polling-place and the number of votes to which they are respectively entitled, and shall sign such certificate. Such copy of the assessment-book or any such copy of portion thereof need not contain any matter relating only to rates:

Hours of polling.

VI. The taking of the poll shall commence at eight o'clock in the forenoon, and shall continue open until all the voters present in the polling-booth at seven o'clock in the afternoon have had an opportunity of voting, and shall then close; in any dispute as to time the decision of the Returning Officer or his deputy shall be final:

Scrutineers.

VII. In respect of each polling-place, two scrutineers to be present at the voting thereat, shall be appointed by the Council:

Who entitled to vote.

VIII. The ratepayers entitled to vote are those whose names appear in the assessment-book in respect of such of the land included within the Railway District as is situated within the district:

Exercise of voting power by body corporate.

Cf. M.C.  
Amendment Act,  
833 of 1903, s. 32.

IX. In case any ratable property which is included within the Railway District and situated within the district is held by a body corporate as a ratepayer, such body corporate may, by writing delivered to the Returning Officer not later than the seventh day before the day fixed for the poll, nominate a person to vote at the poll on behalf of such body corporate. Such person shall, for the purposes of the poll, be regarded as a ratepayer instead of such body corporate, and his name shall accordingly be entered upon the copy of the assessment book, or of portion thereof furnished for use at the poll, and he shall, notwithstanding anything in this section, have the same rights of voting as such body corporate would have if it were a natural person, in addition to any rights which he may have on his own behalf. Except by the means provided by this paragraph no body corporate shall have any right to vote at the poll.

Number of votes.

X. Each ratepayer entitled to vote may vote on a scale according to the amount of the value at which he is assessed in the assessment-book in respect of land included in the Railway District, as follows:—Not exceeding Twenty-five Pounds, one vote; exceeding Twenty-five Pounds but not exceeding Thirty-five Pounds, two votes; exceeding Thirty-five Pounds, but not exceeding Forty-five Pounds, three votes; exceeding

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exceeding Forty-five Pounds but not exceeding Fifty-five Pounds, four votes; exceeding Fifty-five Pounds, but not exceeding Sixty-five Pounds, five votes; exceeding Sixty-five Pounds, six votes. No person shall have more than six votes; and except as by this section provided, no person shall have more than one vote. For the purposes of this section, where land included in the Railway District and other land are assessed together in the assessment-book, the Council shall determine what portion of the assessed value is in respect of the land so included, and such determination shall, for the said purposes only, be final:

- x1. In case joint tenants or tenants in common are assessed in respect of any land the assessed value of the land shall be divided by the number of joint tenants or tenants in common, and the quotient (ignoring any remainder) shall, for the purposes of paragraph x. of this section, be deemed to be the value at which each of such joint tenants or tenants in common is assessed in respect of such land: Joint tenants and tenants in common.
- x11. When a ratepayer's name appears in the assessment-book in respect of land included in the Railway District and situated in one ward and also in respect of land included in the Railway District and situated in another or other wards, the assessed values of all such lands shall be added together for the purpose of computing the number of votes to which he is entitled, and he shall be indicated as entitled to vote on the copy of portion of the assessment-book furnished for the polling-place in each of such wards, but he shall vote at one polling-place only: When ratepayer assessed in two or more wards.
- x111. Both the owner and the occupier of any ratable property may vote in respect thereof, but no person shall vote both as owner and as occupier in respect of the same property: All ratepayers entitled to vote.
- x1v. No person shall vote more than once, or at more than one polling-place: Only to vote once
- xv. Every voting-paper shall bear the initials of the Returning Officer or his deputy on the back thereof, and shall have the following sentences on the face thereof:— Voting-papers.
- “ I approve of the undertaking provisionally authorised by ‘ The Brinkworth to Port Broughton Railway Act, 1910 ’ being carried out.”
- “ I object to the undertaking provisionally authorised by ‘ The Brinkworth to Port Broughton Railway Act, 1910 ’ being carried out”;
- and shall also have a square printed opposite each such sentence; and nothing else, except the cross indicating the vote, shall be inserted in or placed on any voting-paper. Any voting-paper not complying with this subdivision shall be informal: xvi. Every

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Voter to state his name, &c.

xvi. Every person entitled and desiring to vote shall present himself to the Returning Officer, or his deputy, at the polling-place for the district or for the ward in which he claims to vote, and shall state his Christian name and surname, abode, profession or occupation, the nature of his qualification, and the place where the property in respect of which he claims to vote is situate. The Returning Officer, or deputy, shall thereupon place a mark against the voter's name on the copy of the assessment-book, or of portion thereof, in use at the polling-place, and hand such voter a voting-paper for every vote to which he is entitled:

How to vote.

xvii. Upon receiving his voting paper or papers the voter shall without delay—

(a) Retire alone into some unoccupied voting compartment of the booth, and there in private indicate his vote or votes by making a cross having its point of intersection within the square on his voting-paper, or on each of his voting-papers, opposite the sentence which expresses his wish; and

(b) Fold the voting paper or papers so as not to show in what way the vote or votes have been given, but to show the initials of the Returning Officer, or deputy, and exhibit it or them so folded to the Returning Officer, or deputy, and then without unfolding, deposit it or them in a ballot box to be provided by the Returning Officer for that purpose.

No voting-paper so deposited shall on any account be taken from the ballot box except in the presence of a scrutineer or scrutineers after the poll:

Voter requiring assistance.

xviii. If any voter satisfies the Returning Officer, or deputy, that he is unable to vote without assistance, the Returning Officer, or deputy, shall permit any person appointed by such voter to accompany him into the voting compartment and to mark, fold, and deposit his voting paper or papers for him:

Who allowed in booth.

xix. Subject to paragraph xviii. of this section, the only persons who shall be allowed to remain in the polling-booth shall be the persons about to vote, the Returning Officer, his deputy, and the scrutineers:

What questions may be put.

xx. No inquiry shall be permitted at the poll as to the right of any person to vote, except as follows, that is to say:—The Returning Officer, or his deputy, may, or if required by any scrutineer shall, put to any person applying for a voting-paper at the time of his so applying, but not afterwards, the following questions, or any of them, and no other:—

(1) Are



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(1) Are you the person whose name appears as [stating the name] and as the owner (*or* occupier) of the property set opposite such name in the assessment-book now in force for this District?

(2) Are you the owner (*or* the occupier) within the meaning of the District Councils Acts of the property in respect of which you now claim to vote?

(3) Have you already voted at the present poll?

Provided that the Returning Officer or deputy may, by reference to the copy of the assessment-book or of portion thereof or otherwise, give any information necessary to explain any of the said questions:

xxi. No person shall be entitled to vote unless his answer to the first and second questions, or such of them as is put to him, is in the affirmative, and to the third, if put, is in the negative: Answers to questions.

xxii. The Returning Officer, or deputy, shall, before any vote is taken, exhibit the ballot box empty; and shall, at the close of the poll, publicly close, fasten, and seal the ballot box containing the voting-papers which have been taken at the voting-place at which he presided, and shall also allow any scrutineer so desiring to seal the same; and each deputy shall, with as little delay as possible, deliver, or cause his box to be delivered, to the Returning Officer: Ballot boxes.

xxiii. At the close of the poll the Returning Officer shall fix a time, which shall be as soon as conveniently may be, and a place, for examining the votes and declaring the result of the poll, and shall at such time and place, in the presence of one at least of the scrutineers and of as many more of them as choose to be present— Scrutiny and count, and declaration of poll.

(a) Open all the boxes containing voting-papers deposited by voters at the taking of the poll at the several voting-places;

(b) Examine all such voting-papers and reject all such as are informal as above mentioned, or contain crosses against both of the above sentences; and

(c) Ascertain, from the voting papers not so rejected, the total numbers of votes given in favor of the respective sentences.

The Returning Officer shall then openly declare the said numbers and declare the result of the poll:

xxiv. All voting-papers shall be preserved by the Returning Officer until the expiration of three months after the publication of the certificate of the result of the poll, as provided by section 13. Papers to be preserved.

(2). Any

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Offences connected with poll.

(2) Any person who, at or in connection with any poll taken under this section—

- (a) Votes or attempts to vote more than once, or at more than one polling-place, or
- (b) Personates any other person for the purpose of voting at such poll, or
- (c) Wilfully makes a false answer to any question lawfully put to him by the Returning Officer or his deputy, or
- (d) Wilfully obstructs the voting by any unnecessary delay in performing any act within a polling-booth, or
- (e) Unlawfully tampers with any ballot box or voting-paper used or to be used at such poll, or
- (f) In any other way wilfully infringes, whether by act or omission, any of the provisions of subsection (1) of this section,

shall be guilty of a misdemeanor, and shall be liable to be imprisoned for any term not exceeding six months.

Certificate of result of poll.

**13.** (1) The result of each poll shall be embodied in a certificate under the hand of the Returning Officer who presided thereat. Such certificate may be in the form in the Second Schedule, or in a form to the like effect.

(2) Each such certificate shall be published in the *Gazette*, which shall, after the expiration of the period of three months immediately following such publication, be conclusive evidence of such result and of the validity of the poll and the performance of all conditions precedent thereto, unless the poll has, during such period, been declared to be invalid by a Court of competent jurisdiction.

Order for carrying out the undertaking.

**14.** If the aggregate result of the polls is that two-thirds or more of the formal votes given at such polls are in approval of the undertaking provisionally authorised by this Act being carried out, the Governor may make an Order that the undertaking shall be carried out in pursuance of this Act, and such Order shall be published in the *Gazette*. When such Order has been so published, and not before, the undertaking may be carried out.

The whole undertaking to be construction of a railway within meaning of Railways Clauses Act.

**15.** Within the meaning of any Act incorporated with this Act, the whole of the undertaking provisionally authorised by this Act, and not only the new railway, shall be deemed to be—

- (a) A railway authorised to be constructed at the public expense,
- (b) A railway by this Act authorised to be constructed, and
- (c) An undertaking authorised by this Act.

Method of determining purchase-money and compensation for and taken.

**16.** Notwithstanding any thing in any of the Acts incorporated with this Act, whenever the Commissioner desires to purchase or take

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take any land for the purposes of this Act, and the price to be paid therefor, and the compensation (if any) to be made in consequence of the taking thereof, are not determined by agreement in writing, signed by or on behalf of the owner of such land 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, such price and compensation (if any) shall be determined in the following manner:—

No. 6 of 1847.

- i. The Commissioner may give notice in writing to such owner of his intention to have the price and compensation (if any) 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:
 

Notice to arbitrate and appointment of arbitrator by Commissioner.
- 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:
 

Appointment of arbitrator by owner.
- 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:
 

Notice of appointment deemed a submission.
- 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 price and compensation (if any) to be paid:
 

In default of appointment by owner arbitrator appointed by Commissioner to act alone.
- 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 said price and compensation:
 

Determination of price and compensation.
- 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:
 

Informality not to invalidate.

vii. Every

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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. hereof, 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:

Service of notices.

IX. The provisions of sections 19 and 20 of "The Lands Clauses Consolidation Act" as to the service of notices shall apply to notices under this section:

Meaning of "owner" and "land."

No. 6 of 1847.

X. In this section the word "owner" includes any person having any estate or interest in the land in question, or by "The Lands Clauses Consolidation Act" enabled to sell and convey the same, and the word "land" includes any estate or interest in the land in question:

Certain provisions of Lands Clauses Consolidation Acts not to apply.

No. 202 of 1881.

XI. Sections 22 to 25 inclusive, sections 38 to 62 inclusive, and sections 64 to 68 inclusive of "The Lands Clauses Consolidation Act," section 6 of the Act No. 26 of 1855-6, being an Act to amend the "Lands Clauses Consolidation Act," and sections 5 to 11 inclusive of the "Lands Clauses Consolidation Amendment Act, 1881," shall not apply with respect to the determination of the said price and compensation.

Statement of cost of railway to be published in *Gazette*.

17. A statement of the cost of the railway shall, within a reasonable time after the completion of the undertaking, be published by the Commissioner in the *Gazette*, which shall be conclusive evidence of the cost of the railway.

Railway District Fund to be constituted.

18. A fund shall be constituted for the Railway District, and shall be held by the Treasurer of the said State. Such fund shall be called "The Port Broughton Railway District Fund."

Separate account to be kept for purposes of the Act.

19. (1) An account shall be kept by the Commissioner of the particulars and in the manner stated in sections 20 and 21, in respect of the railway for each year; and an abstract of such account for every year shall be published by the Commissioner in the *Gazette* within three months after the end of such year.

(2) The

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(2) The accounts required to be kept by virtue of this section shall be merely for the purpose of the special financial provisions of this Act, and shall not interfere with any other accounts usually kept by the Commissioner, or which he is required to keep, for other purposes.

**20.** (1) All earnings in respect of the railway or of any part thereof shall be credited by the Commissioner in the account by this Act required to be kept in respect of the railway. What to be credited  
in the account.

(2) When in the course of the same journey, goods, stock, minerals, parcels, mails, or passengers are carried partly on the railway and partly on another or other railways in the said State, one third of the earnings on account of such carriage on such other railway or railways (in addition to the whole of the earnings on account of such carriage on the railway) shall be credited by the Commissioner in the account to be kept as aforesaid in respect of the railway.

(3) All divisions, apportionments, and creditings made by the Commissioner for the purposes of this section shall be final and conclusive for the purposes of this Act.

**21.** (1) In the account by this Act required to be kept in respect of the railway, the Commissioner shall debit, as the first charge, the working expenses in respect of the railway, and as a further charge, interest at the rate of four per centum per annum on the cost of the railway. What to be debited  
in the account.

(2) The working expenses in respect of the railway so to be debited shall be the following:—

- i. The expenses of and incidental to the carriage, loading, and unloading of goods, stock, minerals, parcels, mails, and passengers on the railway;
- ii. The expenses of maintaining the railway, and the works and conveniences connected therewith or for the purposes thereof; and
- iii. Such proportion of the expenses of maintaining, and (subject to subdivision (b) hereof) of repairing and replacing the rolling-stock used for working the railway, as the Commissioner considers fairly attributable to the working of the railway;

but shall not include —

- (a) Amounts paid in respect of personal injuries suffered by passengers, employes of the Commissioner, or other persons on the railway, whether whilst travelling or not;
- (b) The expenses of repairing or replacing rolling-stock damaged or destroyed on the railway otherwise than by ordinary wear and tear; or

(c) Amounts

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(c) Amounts paid in respect of damages to property through fires caused by running trains on the railway:

Provided that in all cases the decision of the Commissioner upon the question whether any item is or is not a working expense in respect of the railway shall be final and conclusive for the purposes of this Act.

Credit balance in the account to be carried to the Railway District Fund.

**22.** If in any year the earnings credited as aforesaid for that year in the account by this Act required to be kept in respect of the railway exceed the working expenses and interest for that year debited as aforesaid in such account, the difference shall be carried by the Commissioner to the credit of the fund constituted for the Railway District.

How debit balance in the account to be borne.

**23.** If any year the earnings credited as aforesaid for that year in the account by this Act required to be kept in respect of the railway are less than the working expenses and interest for that year debited as aforesaid in such account, the difference shall be debited in the account of the fund constituted for the Railway District. If after such debiting the said fund shows a debit balance, then—

- i. If such balance does not exceed the interest debited as aforesaid for that year, such balance shall be made good, in manner hereafter in this Act provided, by the Councils; and
- ii. If such balance exceeds the interest debited as aforesaid for that year, such balance shall, to an amount equal to such interest be made good, in manner aforesaid, by the Councils, and the remainder thereof shall be made good by the Commissioner.

Commissioner to make requisitions.

**24.** Whenever under the provisions of section 23 a debit balance or part of a debit balance is to be made good by the Councils—

- i. Each Council shall, within one month after being requested so to do by the Commissioner, furnish him with a certificate under the hand of the chairman of the Council showing the assessed value of all the ratable property in its district which is included in the Railway District:
- ii. For the purposes of this section, where ratable property included in the Railway District and other ratable property are assessed together by any of the Councils, the Council shall determine how much of the assessed value is in respect of the property so included; and if the Council fails to make such determination within the month mentioned in paragraph i. of this section the Commissioner may make such determination; and such determination of the Council or the Commissioner, as the case may be, shall, for the purposes of this section, be final and be regarded as part of the Council assessment for the time being in force:

iii. The

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111. The Commissioner shall apportion the sum required between the Councils in proportion to the assessed values, as shown by the various Council assessments for the time being in force, of the ratable property included in the Railway District which is situated in the districts of the several Councils, and shall accordingly charge the respective sums ascertained by such apportionment against the several Councils; and the Commissioner shall forward to the clerk of the district of each Council a requisition signed by the Commissioner for the sum so charged against such Council:
- iv. Every such requisition shall be published in the *Gazette*, which shall be conclusive evidence of the validity of the requisition, of the correctness of all amounts therein stated, and of the due performance of all conditions precedent thereto, and all conditions precedent to the declaring of a rate under the provisions hereinafter contained.
- 25.** Upon any such requisition being forwarded to the clerk of a district, the Council thereof shall forthwith declare a rate sufficient to produce the sum required by the requisition. Council to declare rate.
- 26.** Such rate shall be called a railway rate, and shall be declared, in accordance with the assessment then in force, on the ratable property included in the Railway District which is situated in the district of the Council. Railway rate, how to be declared.
- 27.** For the purposes of such rate the Council may either use the assessment-book already existing or may transcribe the necessary portions thereof into a separate assessment-book, and may make such apportionment, or such separate and fresh assessment, as appears just in any case where only part of the property comprised in an assessment is included in the Railway District. Use or transcription of existing assessment-book.
- 28.** (1) The railway rate when declared shall be entered in the assessment-book of the Council, and so that particulars, similar to those required in the case of other rates declared by the Council, shall be entered in a proper column opposite the names of the rate-payers liable to pay the railway rate, and the assessment-book shall at all times show a complete record of the moneys due for such rate in respect of every assessed property. Railway rate to be entered in assessment-book.
- (2) The Council may make such additions to or alterations in the form of the assessment-book used for the railway rate as it deems expedient for carrying out the purposes of this Act.
- 29.** Within fourteen days after declaring any railway rate the Council shall cause notice to be given in the *Gazette*, and in a newspaper (if any) generally circulating in its district, of the nature and amount of the rate. Such notice shall be in the form in the Third Schedule, or in a form to the like effect. Notice of railway rate.

**30.** If

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If amount of requisition not paid within two years Commissioner may publish notice.

**30.** If within two years from the publication in the *Gazette* of a requisition upon a Council as hereinbefore provided the amount of the requisition is not paid to the Commissioner, he may publish in the *Gazette* a notice in the form No. 1 in the Fourth Schedule, or in a form to the like effect; or, if the rate has not been declared, he may declare such rate by a notice published as aforesaid, and in the form No. 2 in the said Schedule, or in a form to the like effect.

Transfer to Commissioner of Council's rights for recovery of rate.

**31.** Upon the publication of a notice under section 30 all the rights and powers of the Council in reference to the recovery of rates, and for the letting or sale of land for non-payment of rates, shall, as regards the railway rate or rates mentioned in or declared by such notice, by virtue of such publication, be transferred to and become vested in the Commissioner; and the Commissioner, or any person authorised by him in that behalf, may exercise any power and do any act which could before such publication, or could if the rate had been declared by the Council, have been exercised or done in reference to the recovery of any such rates by the Council or by any district clerk, collector, receiver, or other officer of, or person acting under the authority of, the Council.

Supplementary railway rates.

**32.** If any railway rate does not within one year from its declaration produce the required sum, the Council shall from time to time declare another railway rate or other railway rates until the required sum is produced; and all the provisions of this Act with regard to a rate declared or to be declared under section 25 or declared under section 30 shall, so far as applicable, apply to every rate declared or to be declared under this section.

Application of surplus of railway rate.

**33.** If any railway rate produces more money than is required for its purpose, the surplus shall be held by the Council as a fund applicable towards meeting any requisition thereafter made by the Commissioner upon such Council under this Act, and so much thereof as is not required for that purpose within five years from the declaration of the rate shall be applied from time to time towards payment of any Council rate due in respect of the ratable property on which the railway rate has been paid.

Application of District Councils Act to railway rates.

**34.** All the provisions of the District Councils Act, so far as the same relate to rates declared, or to be declared, under such Act and the recovery thereof (except as to limitations of the amounts of such rates) shall, subject to the provisions of this Act and so far as applicable, apply to railway rates declared, or to be declared, under this Act.

*Gazette* evidence of railway rate.

**35.** The *Gazette* containing a notice of the declaring of a railway rate in the form in the Third Schedule, or in a form to the like effect, or in the form No. 2 in the Fourth Schedule, or in a form to the like effect, shall be evidence, and, except on proceedings to quash such rate, shall be conclusive evidence that the rate has been duly declared and of the amount, and the correctness of the amount, thereof.

**36.** The



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**36.** The moneys received in respect of a railway rate shall, up to the amount for which the Commissioner has made a requisition or requisitions, be paid to him by the Council, and shall be carried by him to the credit of the fund constituted for the Railway District. Payment of railway rate to Commissioner.

**37.** If the total of the earnings credited for any period of ten consecutive years, as provided by section 20, in the accounts by this Act required to be kept in respect of the railway, is not less than the total of the working expenses and interest debited for the same period, as provided by section 21, in such accounts, the Commissioner shall, as soon as practicable after the termination of such period, by notice published in the *Gazette*, declare that the fund constituted for the Railway District is closed; and thereupon— When guarantee provisions to end.

- (a) The Treasurer shall transfer the amount standing to the credit of the said fund to the credit of the revenue of the South Australian Railways generally, and
- (b) The provisions of sections 18 to 37, both inclusive, of this Act shall cease to apply to, and shall not again come into force with respect to, the railway and the Railway District.

**38.** The *Gazette* containing any order, statement, notice, requisition, or other publication made or given by the Governor or the Commissioner under this Act shall be conclusive evidence of the fact, tenor, and validity of such order, statement, notice, requisition, or other publication, and of the facts stated, recited, or assumed therein; and no such order, statement, notice, requisition, or other publication shall be invalid by reason of any thing required as preliminary thereto not having been duly done. Gazette to be evidence of statement, &c.

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

DAY H. BOSANQUET, Governor.

*The Brinkworth to Port Broughton Railway Act.—1910.*

SCHEDULES.

THE FIRST SCHEDULE.

Sec. 2.

Ordinance No. 6 of 1847.—“The Lands Clauses Consolidation Act.”  
 Act No. 26 of 1855-6, being an Act to amend “The Lands Clauses Consolidation Act.”  
 Act No. 202 of 1881.—“The Lands Clauses Consolidation Amendment Act, 1881.”  
 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. 7 of 1873.—“The Port Broughton Railway Act.”  
 All Acts amending or substituted for any of the said Acts and all Acts amending any such substituted Act.

THE SECOND SCHEDULE.

Sec. 13.

THE PORT BROUGHTON RAILWAY.

I, [*name of Returning Officer*], hereby certify that a poll taken on the day of \_\_\_\_\_, 19\_\_\_\_, in the District of \_\_\_\_\_ on the question whether the undertaking provisionally authorised by “The Brinkworth to Port Broughton Railway Act, 1910,” should be carried out, resulted as follows:—

Number of votes in approval of the undertaking being carried out. . . . .  
 Number of votes in objection thereto. . . . .  
 Number of informal votes . . . . .

Total number of votes . . . . .

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.  
 [Signature] Returning Officer.

THE THIRD SCHEDULE.

Sec. 29.

THE PORT BROUGHTON RAILWAY DISTRICT.

*Notice of Railway Rate.*

At a meeting of the District Council of \_\_\_\_\_, duly held on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, a railway rate was declared of \_\_\_\_\_ in the pound upon the assessment of that part of the District of \_\_\_\_\_ which is included in the Port Broughton Railway District; and all persons liable are required to pay the amount of the said rate, according to the assessment, to the District Clerk (*or Collector or other officer*) at the district office.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.  
 [Signed] A.B.,  
 Chairman of the District Council (*or District Clerk*).

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*The Brinkworth to Port Broughton Railway Act.—1910.*

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## THE FOURTH SCHEDULE.

## FORM No. 1.

## THE PORT BROUGHTON RAILWAY DISTRICT.

Sec. 30.

*District of*

Notice is hereby given that all moneys unpaid in respect of the railway rate (or rates) declared by the District Council of \_\_\_\_\_ on the day of \_\_\_\_\_ 19 , [if more than one rate add date of declaration of every other rate] are to be paid to the South Australian Railways Commissioner.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 19 .

[Signature]

The South Australian Railways Commissioner.

## FORM No. 2.

## THE PORT BROUGHTON RAILWAY DISTRICT.

Sec. 30.

*Notice of Railway Rate Declared by Railways Commissioner.*

Notice is hereby given that on the \_\_\_\_\_ day of \_\_\_\_\_ 19 , the South Australian Railways Commissioner, pursuant to "The Brinkworth to Port Broughton Railway Act, 1910," forwarded to the clerk of the District of \_\_\_\_\_ a requisition for the sum of \_\_\_\_\_ and that the Council of the said District not having declared a railway rate to produce the said sum as required by the said Act, the said Commissioner, in exercise of his powers in that behalf under the said Act, hereby declares a railway rate of \_\_\_\_\_ in the pound upon the assessment of that part of the District of \_\_\_\_\_, which is included in the Port Broughton Railway District; and all persons liable are required to pay the amount of the said rate, according to the assessment, to the South Australian Railways Commissioner.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 19 .

[Signature]

The South Australian Railways Commissioner.

## THE FIFTH SCHEDULE.

Sec. 10.

[PLAN.]

PLAN

# THE BRINK WORTH TO PORT BROUGHTON

RAILWAY ACT 1910.

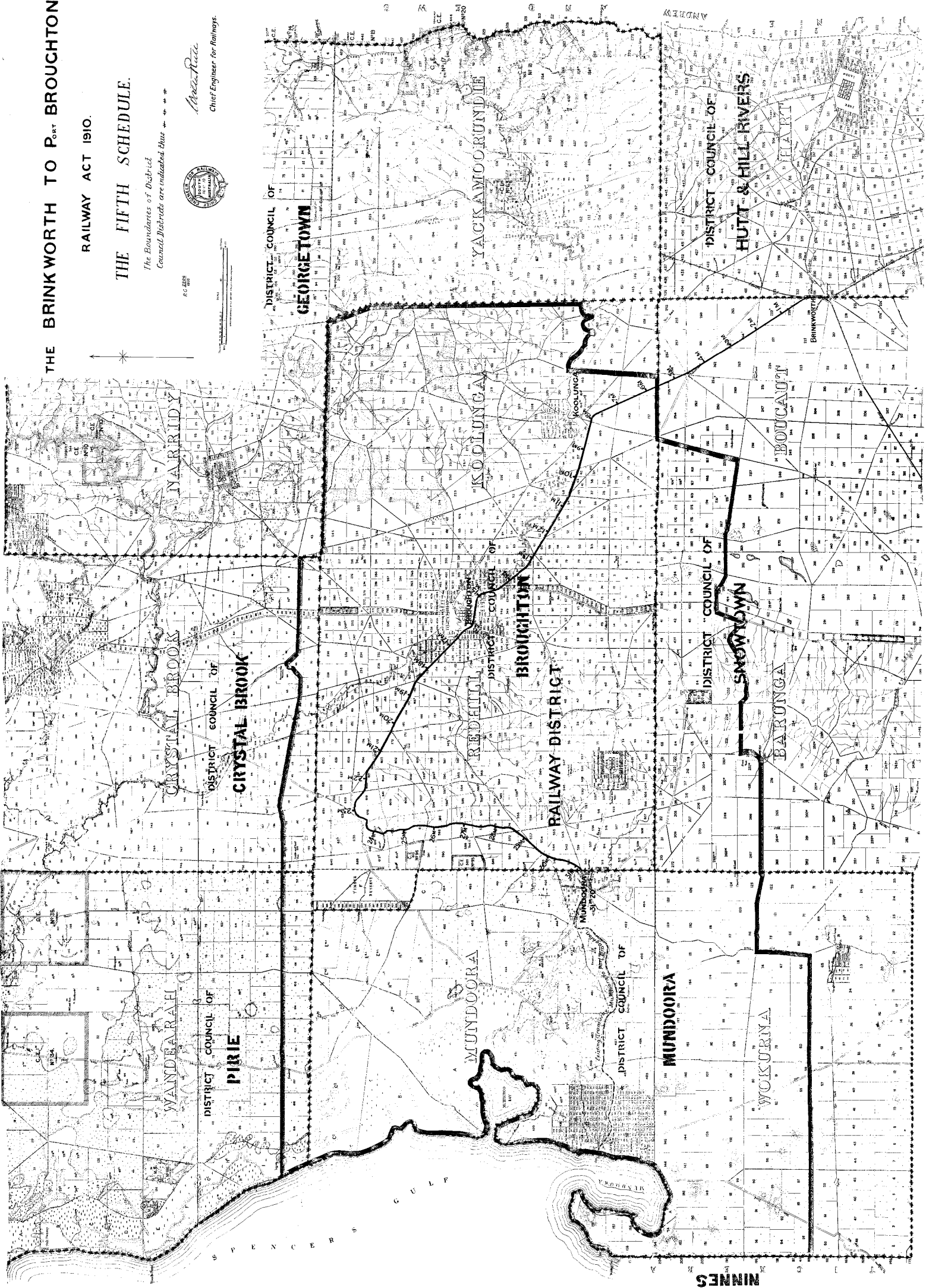
## THE FIFTH SCHEDULE.

The Boundaries of District and Council Districts are indicated thus



*Walter Price*

Chief Engineer for Railways.



MINNES