

1974-75

AUSTRALIA

HOUSE OF REPRESENTATIVES

RAILWAYS AGREEMENT (SOUTH AUSTRALIA) ~~Bill~~ 1975

EXPLANATORY NOTES

No. 105/1975

Circulated by the Minister for Transport  
The Honourable G.K. Jones, M.P.

# GENERAL PURPOSE OF THE BILL

The main purpose of this Bill is to resubmit for the approval of Parliament the Agreement for the transfer of the non-metropolitan South Australian railway system to the Australian Government signed by the Prime Minister and the Premier of South Australia on 21 May 1975.

The Agreement was approved by the Australian Parliament pursuant to the Railways (South Australia) Act 1975 (No. 69 of 1975), but this Act did not come into operation because its commencement was expressed to be subject to similar legislation by the South Australian Parliament approving the Agreement being effected on or before 1 July 1975; South Australian legislation approving the Agreement was not effected by this date.

The Agreement is based on 'Principles to Govern the Transfer of the Non-metropolitan South Australian Railway System to the Australian Government', which were tabled in the Australian Parliament on 9 April 1975.

The Agreement enables Australia to accept responsibility for the assets, financial liabilities and responsibility, and operations of the non-metropolitan railways. Provision has been made in the Agreement for the State Authorities to continue to operate the railways for a period of time during which arrangements relating to the transfer of employees will be made.

CLAUSE 1 SHORT TITLE AND CITATION

This clause gives the short title and citation to the Act.

CLAUSE 2 COMMENCEMENT

The Act shall come into operation on a date to be proclaimed subject to an Act of the South Australian Parliament approving the Agreement coming into force on or before the date of proclamation.

CLAUSE 3 - REPEAL

The Railways (South Australia) Act 1975, approved in the previous session of Parliament, was dependent upon similar legislation being enacted in South Australia before 1 July 1975. As this did not come about, it is necessary to repeal that Act and replace it with the current legislation.

CLAUSE 4 - INTERPRETATION

This clause defines the terms used in the Act. Sub-clause 2 provides that expressions used in the Act have the same meaning as those expressions in the Agreement.

CLAUSE 5 - APPROVAL OF THE AGREEMENT

This clause formally approves the Agreement contained in the Schedule.

CLAUSE 6 - VESTING OF LAND

This clause vests the land, to which the Commission would have been entitled had the Agreement come into force on the commencement date, in the Commission as if the Agreement had come into force on that date.

CLAUSE 7 - VESTING OF PROPERTY OTHER THAN LAND

Sub-clause (1) vests the property, other than land, to which the Commission would have been entitled had the Agreement come into force on the commencement date, in the Commission as if the Agreement had been in force on that date; this property is referred to in clause 2(2)(a)(i) of the Agreement.

There is other property referred to in clauses 5(1)(b)(ii), 5(1)(c)(i) and 5(1)(c)(iii) which will vest in the Australian Commission, but these are assets used partly for the metropolitan railways and partly for the non-metropolitan railways. The Agreement provides for such property to be apportioned on an equitable basis. Sub-clause (2) vests that other property in the Australian Commission following the apportionment.

CLAUSE 8 - TRANSFER OF LIABILITIES

This clause relates to clause 2(?) (e) of the Agreement and provides that the Commission on and after the declared date will be subject to outstanding liabilities and obligations of South Australia or its State Authorities incurred before the declared date in connection with the administration, maintenance and operations of the railways and services incidental thereto, which are not discharged by that date.

CLAUSE 9 - APPLICATION OF STATE LAWS

This clause relates to clause 2(2)(c) of the Agreement and overcomes difficulties created by section 52 of the Constitution concerning the application of State laws to Commonwealth Places.

In the event that a State law purports to have effect in relation to railway land (a Commonwealth Place) after the commencement date, but cannot have effect by virtue of section 52 of the Constitution, the law shall have effect pursuant to the Commonwealth Places (Application of Laws) Act 1970 as amended.

Section 52 of the Constitution gives the Parliament exclusive power to make laws for the peace, order and good government of the Commonwealth with respect to places acquired by the Commonwealth for public purposes.

CLAUSE 10 - PENDING PROCEEDINGS

This clause relates to clause 2(2)(f) of the Agreement and clarifies the position of litigants in proceedings instituted during the interim period. During this period proceedings should be instituted against the State or the State Authorities rather than the Commission, but the Commission will be responsible for any liability incurred as a result of these proceedings.

On the declared date, the Commission is to be substituted for the State or State Authorities in any outstanding proceedings.

CLAUSE 11 - COMMISSION AUTHORISED TO OPERATE NON-METROPOLITAN RAILWAYS IN SOUTH AUSTRALIA

This clause empowers the Commission to operate the railways and services acquired, after the declared date. The clause also empowers the Commission to construct and extend the non-metropolitan railways in South Australia and to maintain and operate those railways and services associated with them.

South Australian legislation conferring these powers has been enacted.

CLAUSE 12 - VICTORIAN RAILWAY'S COMMISSIONERS MAY CONTINUE TO  
OPERATE TRAIN SERVICES ON LAND VESTED IN THE COMMISSION

The Victorian Railways operate train services in South Australia in the Mt Gambier area. This clause of the Act permits this to continue on the same terms and conditions.

CLAUSE 13 - TRANSFER OF EMPLOYEES

Sub-clause (1) refers to clause 15 of the Agreement and provides for action to be taken by the Commission to transfer staff on the declared date.

Sub-clause (2) refers to clause 16 of the Agreement. The total staff of the present SAR will be transferred to the Commission which will, so far as practicable, make staff available for the operation of the metropolitan railways in South Australia.

CLAUSE 14 - CERTIFICATES

Sub-clause (1) relates to clause 2(2)(a)(iii) of the Agreement and provides that the State and Australian Ministers may issue a certificate stating that particular land is vested in the Commission on the commencement date. Such a certificate is conclusive evidence, in proceedings, of the matters stated in it.

Sub-clause (2) provides that the Australian and State Ministers may issue a certificate in relation to any other matter arising out of this Act or the Agreement and this is prima facie evidence of the matters stated in it.

CLAUSE 15 - AUSTRALIA AND COMMISSION TO CARRY OUT AGREEMENT

This clause relates to clause 2(2)(a)(ii) of the Agreement and provides that the provisions of the Agreement shall be observed by Australia and the Commission.

CLAUSE 16 - AMOUNT DEEMED TO BE PAID

Financial assistance was paid by Australia to South Australia on 30 June 1975 amounting to \$26,434,000. Of this amount, \$10 million shall be deemed to have been paid in discharge of the obligation to pay this sum in clause 18 of the Agreement.

CLAUSE 17 - AGREEMENT NOT AFFECTED BY OTHER ACTS

This clause provides that nothing in other legislation will prevent the operation of the Agreement.

CLAUSE 18 - VESTING OF PROPERTY IN COMMISSION BY STATE LAW  
NOT EXCLUDED

This provision enables the vesting of land in the Australian Commission by a law of South Australia should this be found to be necessary.

CLAUSE 19 - CAPITAL OF THE COMMISSION

This is a machinery provision to satisfy section 55 of the Australian National Railways Act 1917-1975, relating to the capital of the Commission to be calculated under that Act. It allows the value of capital to be determined as at the commencement date, 1 July 1975.

CLAUSE 20 - REGULATIONS

This clause relates to clause 2(2)(a)(iv) of the Agreement and is the usual regulation-making power.

THE SCHEDULE

The Schedule to the Bill embodies the Agreement signed by the Prime Minister of Australia and the Premier of South Australia.

PART I

CLAUSE 1 OF THE AGREEMENT

DEFINITIONS

This clause contains definitions of terms used in the Agreement.

Two definitions should be noted:

- (1) "commencement date" - this is the day on which the non-metropolitan railways will be deemed to become vested in Australia and is 1 July 1975; and
- (2) "declared date" - this is the date when the interim arrangements are concluded and the responsibility for the present non-metropolitan South Australian railways will rest absolutely with the Australian Government.

The definitions "metropolitan railways" and "non-metropolitan railways" are also important in that they provide for the division of the SAR in accordance with the Principles.

Sub-clauses (2), (3) and (4) are usual clauses simplifying terms in the Agreement and assisting in clarifying its interpretation.

CLAUSE 2 OF THE AGREEMENT

APPROVING AND IMPLEMENTING LEGISLATION AND CONSENTS

In addition to a number of pieces of legislation being passed, the Agreement is expressed not to come into effect until a certificate has been completed pursuant to sub-clause (1).

The effect of the certificate is to enable the Agreement to come into effect as soon as the legislation approving it has been passed by the Australian and State Governments.

Sub-clause (2) sets out the legislation required to approve the Agreement and other legislation to give effect to it. This legislation provides for:

1. The approving of the Agreement.
2. Vesting in the Commission the land and other property under the Agreement.
3. Authorisation and requirement for the parties to perform and observe the provisions of the Agreement.
4. A joint certificate by Ministers in relation to matters arising under the legislation on the Agreement being prima facie evidence of the matters contained in the certificate and a certificate being conclusive evidence in relation to matters contained in the certificate for the purposes of registering the Commission as the proprietor of any land vested under the Agreement.

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5. Authorising the making of regulations and by-laws.
  6. State legislation concerning the application of State Laws during the interim period in relation to the administration, maintenance and operation of the non-metropolitan railways or services.
  7. Application of State Laws by virtue of the Commonwealth Places (Application of Laws) Act 1970 as amended, which may have become invalid under section 52 of the Constitution  
Note: Section 52 of the Constitution provides, inter alia: "The Parliament shall, subject to this Constitution, have exclusive power to make laws for the peace, order and good government of the Commonwealth with respect to -  
(i) the seat of government of the Commonwealth and all places acquired by the Commonwealth for public purposes."
  8. State legislation discharging State Authorities on and after the declared date from outstanding liabilities and obligations before the declared date.
  9. The Commission to become subject on and after the declared date to all liabilities and obligations referred to in (8) above and for the Commission to be substituted for State Authorities in any pending action or proceeding.
  10. Australian and State legislation concerning proceedings with respect to land and other property. Any proceedings which are commenced against the State Authorities during the interim period should be continued against the Commission at the conclusion of this period.
  11. State legislation giving a general power to the Commission to administer, maintain and operate in the State railways constructed or acquired by Australia; or any services that are incidental to, or are operated in association with such railways. (This clause relates to principle 6 - set out below clause 13.)  
Note: There are some services operated by the South Australian Railways which may not come within the definition of "railways" in the Constitution. As a consequence it is necessary for the State to confer this power.
  12. State legislation conferring power on Australia or the Commission to construct railways in the non-metropolitan area. Power is also conferred to construct railways in the metropolitan area to the extent that those railways are constructed in areas in the metropolitan area which will be the property of the Australian Government, and sidings and crossing loops connected to a non-metropolitan railway.
  13. State legislation referring power to Australia to administer, maintain and operate railways and other services acquired under this Agreement and any railways constructed by Australia.  
This sub-clause is required because of the provisions of section 51 (xxxvii) of the Constitution, which provides "The Parliament shall, subject to this Constitution have power to make laws for the peace, order and good government of the Commonwealth with respect to -

(xxxvii) matters referred to the Parliament of the Commonwealth by the Parliament or Parliaments of any State or States but so that the law shall extend only to States by whose Parliaments the matter is referred or which afterwards adopt the laws".

Sub-clause (3) provides for consents to be obtained with respect to land owned in New South Wales and leased in Victoria by the State Authorities.

#### CLAUSE 3 OF THE AGREEMENT

##### URBAN RAILWAYS OUTSIDE METROPOLITAN AREA

This clause provides that the State shall continue to have the power to construct or extend passenger railways within an urban area outside the metropolitan area (for example, the growth centre at Monarto).

#### CLAUSE 4 OF THE AGREEMENT

##### COMPLIANCE WITH AGREEMENT

This is a usual provision, securing compliance by the parties with the Agreement

### PART II

#### TRANSFER AND INTERIM ADMINISTRATION, MAINTENANCE AND OPERATION OF NON-METROPOLITAN RAILWAYS

#### CLAUSE 5 OF THE AGREEMENT

##### ASSETS AND LIABILITIES

This clause relates in part to Principle 7 - set out below.

This is the major operative clause in the Agreement, and provides that in consideration of the financial arrangements agreed to, the Commission shall be entitled, on the commencement date, to:

1. All land used exclusively for the non-metropolitan railways.
2. Land in the metropolitan area which will become the property of, and be used exclusively by, the Commission (Second Schedule).
3. Minerals that are part of the land referred to above where the land is held by the State Authorities in fee simple. In all the above cases the land is unlimited as to depth.
4. Land owned by the State Authorities in New South Wales (line to Broken Hill). (Subject to the consent of the Governor of New South Wales).
5. Leasehold land in Victoria (at Serviceton).
6. All rolling stock, vehicles, etc., used exclusively by the non-metropolitan railways and, in the case of items used jointly, to be apportioned on an equitable basis.

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7. All other assets and liabilities in respect of the metropolitan and non-metropolitan railways that will be recorded in the 1974/75 balance sheet, and apportioned on an equitable basis to be agreed between the Australian and State Treasurers.
8. Any other contractual or non-contractual rights, interests, etc., not included in the balance sheet that are used solely for non-metropolitan railways; other rights, etc., to be apportioned on an equitable basis.

Sub-clause (2) provides that if land is held by the State or State Authorities for both the metropolitan and the non-metropolitan railways the State Authorities will give the Commission use and enjoyment of this land on reasonable terms and conditions. If there is a dispute on this, the matter shall be referred to arbitration.

#### Principle 7

"All land currently used for railways purposes except that used for metropolitan passenger railway purposes will be transferred to Australia in fee simple, without reservation of minerals and with no limitation as to depth and it shall be agreed that such land will be used for railway purposes only, unless prior agreement has been reached with the State. Land held by South Australian Railways but not currently used for railway purposes will not be disposed of without the Australian Government being given the right of first refusal."

### CLAUSE 6 OF THE AGREEMENT

#### INTERIM ADMINISTRATION, MAINTENANCE AND OPERATION OF RAILWAYS AND SERVICES

This clause relates to Principle 1 - set out below.

It was not possible for all necessary arrangements, particularly those relating to employees, to be completed by the commencement date; the Agreement provides for an "interim period", expected to be about 12 months, during which South Australian Railways will continue to operate the non-metropolitan system on Australia's behalf.

During this period, the South Australian Railways will be required to comply with the directions of the Commission regarding the administration, maintenance and operation of the non-metropolitan system.

#### Principle 1

"Following the initial offer of the Prime Minister in a letter dated 15 December 1972, to determine "Whether a mutually satisfactory basis for the transfer of the non-urban railways can be devised", an Agreement will be prepared to transfer the State's railway system to Australia subject to the qualifications referred to below. Full financial responsibility for the non-metropolitan railways will be accepted by Australia from 1 July 1975. Financial assistance as agreed below will be provided for the financial year 1974/75. The Agreement will make provision for an interim arrangement whereby the operation of the non-metropolitan railways will remain under the

existing State administration with the railway staff remaining subject to the State conditions of employment until it is possible to complete arrangements for the transfer of employees to Commonwealth Railways employment. During this period the South Australian Authorities will act as agents for the Australian Government, which will have full power of decision concerning operation of the railway including the services to be provided, fares and freight rates, also subject to the qualifications referred to below. The apportionment of costs between metropolitan and non-metropolitan operations during the interim arrangement shall be on the basis as has been used for the apportionment of costs in 1974/75 for the purpose of calculating the deficit of non-metropolitan services in 1974/75."

#### CLAUSE 7 OF THE AGREEMENT

##### STANDARDS OF OPERATION

This clause relates to part of Principle 3 - set out below.

The Australian Government has agreed to operate the transferred railway to standards at least equal to those obtaining at the date of this Agreement. An undertaking has been given that the Commission will pursue a program of improvements considered to be economically desirable to maintain standards equivalent to those on the remainder of ANR or the other State railways.

##### Principle 3

"The Australian Government will agree to continue to operate the railways in the State to standards in all respects at least equal to those obtaining at the time of transfer and to pursue a program of improvements that are shown to be economically desirable to ensure standards of service and facilities at least equivalent to those at any time current in the remainder of the Commonwealth system and in other State systems. Any proposals involving closure of lines, reductions in effectively demanded services, or reductions in level of employment at railway workshops, shall not be implemented without prior agreement of the State."

#### CLAUSE 8 OF THE AGREEMENT

##### RATES AND CHARGES

This clause relates to Principle 4 - set out below.

The effect of sub-clause (1) is that users of the non-metropolitan railways and services will be no worse off after transfer in relation both to fares, rates and charges applying before the commencement date and to those applying on other systems.

Sub-clause (2) provides for continuation of existing passenger concessions, while (3) requires the State to make an appropriate contribution to the cost of those concessions.

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Under sub-clause (4), disputes are to be referred to:

Arbitration.

Principle 4

"In general, rates and charges on the system to be transferred will be maintained by the Australian Government at levels not less favourable to the State than those levels generally applying on other State railway systems, but where present rates and charges have established a relative advantage to the State, these advantages will not be diminished. The State will agree to maintain its current proportion of costs as contribution to the passenger concession schemes on non-metropolitan lines".

CLAUSE 9 OF THE AGREEMENT

CLOSURES OF LINES AND REDUCTIONS IN SERVICES

This clause relates to Principle 3 - set out below clause 7.

Under this clause, the agreement of the State Minister is required to any proposed closure of lines or reduction in the level of effectively demanded services. Failing agreement, the matter is to be referred to an arbitrator, who is to take into account the level of public demand and the need for the line or service in question, as well as the additional aspects described in clause 23(2).

CLAUSE 10 OF THE AGREEMENT

STATE REPRESENTATION ON THE COMMISSION

This clause relates to Principle 2 - set out below.

This enables the State to nominate a representative to the position of part-time Commissioner of the Australian National Railways for two consecutive terms of five years each, from the commencement date; the nominee will be appointed under the Australian National Railways Act, subject to the approval of the Australian Minister.

Principle 2

"The State will nominate a representative to be appointed to a position of part-time Commissioner of the proposed Australian National Railways Commission for the first two terms (i.e. ten years) subject to agreement of the Australian Government, and will be able to negotiate with the Australian Government concerning the right to nominate a representative for subsequent terms."

CLAUSE 11 OF THE AGREEMENT

ADDITIONAL PROVISIONS REGARDING LAND AND MINERALS

Sub-clauses (1), (2) and (3) are an extension of the general power to be conferred on the Australian Commission by the State, in relation to the construction of railways. The effect of these sub-clauses is to enable the Australian Commission to obtain the land required for construction, which is State Crown land, free of charge.

Other land required would be purchased in the usual way.

Sub-clause (5) refers to the undertaking of surveys.

Sub-clauses (6) and (7) relate to Principle 7 - set out below clause 5. These provide that the Commission may not use the transferred land or minerals for other than railways purposes without the consent of the State Minister; that Australia will be given first option in respect of the disposal of land intended for the purposes of the non-metropolitan system but not currently used for those purposes; on the same terms and conditions as those on which it was acquired by the State or State Authorities.

Sub-clause (8) provides for the return to the State, without charge, of any land no longer required by the Commission.

#### CLAUSE 12 OF THE AGREEMENT

##### RECIPROCAL TRANSIT RIGHTS

This clause relates to Principle 8 - set out below.

The clause provides for the running of the trains of the Commission and the State Authorities over each other's tracks, on agreed terms and conditions including apportionment of costs: any dispute in this regard is to be determined by arbitration.

##### Principle 8

"The State Government will retain ownership and control of the metropolitan passenger rail system between Belair and North Gawler, including the Northfield, Christie Downs and Tonsley, Outer Harbour, Semaphore, Grange and Hendon/West Lakes and Penfield and GMH Elizabeth branches (the Designated Metropolitan Area) and agrees to grant running rights to the proposed Australian National Railways Commission's trains within, into out of and through the Designated Metropolitan Area at rates to be agreed based on a fair and reasonable apportionment of costs."

#### CLAUSE 13 OF THE AGREEMENT

##### SERVICES ASSOCIATED WITH NON-METROPOLITAN RAILWAYS

This clause relates to Principle 6 - set out below.

Services that are incidental or supplementary to or are operated in association with the railways are to be transferred to the Australian Government.

The Commission will also be able to introduce new road freight and passenger services or extend existing services.

In the event the Commission wishes to introduce new road passenger services which would normally require the approval of the Transport Authority, Australia or the Commission will similarly seek approval for the introduction of the service. In the event that the application is refused the matter will be referred to arbitration.

Australia or the Commission will not be liable to pay fees, taxes or other charges in relation to the passenger services applied for above.

Principle 6

"The State will agree to transfer to Australia those services that are ancillary to the operation of the non-metropolitan railways at the time of transfer. The Australian Government will agree to comply with relevant State legislation affecting the operation of these services except where there is conflict between Australian and State legislation in which case the provisions of Australian legislation will prevail. If the Australian Government requires new road passenger services, they will be subject to application to the relevant South Australian transport Authority. The State will to the extent of which it is necessary confer power to operate the services referred to in this paragraph."

PART III

EMPLOYMENT

CLAUSE 14 OF THE AGREEMENT

DECLARED DATE

The interim period will conclude on the declared date which will be when all the necessary arrangements concerning the transfer have been concluded.

This date will be declared in the Australian Government Gazette, and will be decided by the two Ministers and in the event that agreement cannot be reached on this date the matter will be referred to arbitration.

CLAUSE 15 OF THE AGREEMENT

TRANSFER OF STAFF

On the declared date all employees both metropolitan and non-metropolitan will be offered employment with the Commission.

CLAUSE 16 OF THE AGREEMENT

WORK ON METROPOLITAN RAILWAYS

From the declared date the employees required for the operation and maintenance of the metropolitan railways, will, so far as is practicable, be made available to the State Authorities on terms and conditions to be agreed between the Commission and the Transport Authority.

CLAUSE 17 OF THE AGREEMENT

LEVEL OF EMPLOYMENT

This clause relates to Principle 3 -- set out below clause 7.

By this clause, the Australian Minister is required to seek the approval of the State Minister to any reductions in the general level of railway workshops staff by reasons of redundancy; disputes relating to this clause are to be referred to arbitration.

#### CLAUSE 18 OF THE AGREEMENT

##### PAYMENT

This clause relates to Principle 13 - set out below.

It provides for payment by Australia to the State of \$10 million prior to the commencement date.

##### Principle 13

"The 'offsets principle' will apply in relation to the acceptance by Australia of responsibility for both annual operating deficits and annual debt charges, and future capital expenditure on the railways. The extent of "offsets" is to be in accordance with the general principle that, as a first contribution in consideration for land, minerals and other assets, there will be a net financial benefit to the State's revenue account of \$10 million in 1974/75 after taking account of the State's withdrawal from the Grant's Commission and the transfer of the non-metropolitan railway system to Australia. A net financial benefit will be built into the base of the new formula as set out in Clause 14."

#### CLAUSE 19 OF THE AGREEMENT

##### DEBTS AND LIABILITIES

The amount of debt to be taken over is set out in the sixth schedule which has been agreed between the Australian and State Treasurers. The revised financial agreement will set out arrangements for sinking fund payments but it will not be practical to relieve the State of sinking fund payments in 1975/76 on the debt to be transferred on 1 July 1975. The State will however, be relieved of sinking fund payments for subsequent years. An assurance has been given that the South Australian Government will, during the interim period, be reimbursed for the relevant sinking fund charges for 1975/76.

The State will be relieved of its obligations with respect to the non-metropolitan railways from the commencement date under the Railway Standardisation (South Australia) Act 1949, the Railway Equipment Agreement (South Australia) Act 1961, the Railway Agreement (New South Wales and South Australia) Act 1968.

#### CLAUSE 20 OF THE AGREEMENT

##### REVENUE AND COSTS OF OPERATION OF RAILWAYS

This clause refers to Principle 16 - set out below.

In essence the effect of this clause is that any losses of operations of the non-metropolitan railways will be funded by Australia and similarly any profits will be paid to Australia.

The basis for apportioning costs between the metropolitan and non-metropolitan railways will be agreed between the Australian and State Treasurers.

Paragraph (e) provides for payments made by the State authorities for long service leave, sick leave, workmen's compensation and employer contributions towards superannuation to continue to be charged as current expenditure.

Principle 16

"Payments in respect of long service leave, sick leave, workmen's compensation and employer contributions towards superannuation shall continue to be charged as current expenditures during the interim arrangement and shall be taken into account in estimating the appropriate metropolitan and non-metropolitan costs of operations.

In respect of employee contributions for superannuation held by the South Australian Superannuation Fund on account of staff transferred, an agreed transfer will be made to the Australian Superannuation Fund by means of a transfer of Australian Government inscribed stock of a face value equal to the amount of contributions agreed to be transferred."

CLAUSE 21 OF THE AGREEMENT

TRANSFER OF INVESTMENTS TO AUSTRALIAN SUPERANNUATION FUND

This clause provides for the principles to be observed in respect of the transfer of investments from the State to the Australian Superannuation Fund. These are:

1. The investments transferred shall be related to an equitable diversion of total investments of State Superannuation Fund.
2. The transfer of investments shall not operate to disadvantage the employees to be transferred or contributors to the Australian Superannuation Fund.

CLAUSE 22 OF THE AGREEMENT

ACCOUNTS, INFORMATION ETC.

Sub-clause (1) of this clause requires the State Authorities, during the interim period, to keep such records of the metropolitan and non-metropolitan railways and have such audits carried out by the State Auditor-General as Australia shall reasonably require.

Sub-clause (2) requires the State Authorities to provide information to Australia or the Commission, as requested, in regard to the metropolitan and non-metropolitan railways.

Similarly, sub-clause (3) gives the State access to the Commission's records concerning the non-metropolitan railways where the subject matter is relevant to the metropolitan railways.

PART V

MISCELLANEOUS

CLAUSE 23 OF THE AGREEMENT

ARBITRATION

This clause relates to Principle 17 - set out below.

It provides for matters requiring arbitration under the terms of the Agreement to be referred to an independent arbitrator, who is to take into account economic, social and community factors, and is not to be bound by any laws relating to arbitration.

Principle 17

"Where, following consultation on matters included in the above items 3, 4, 5, 6, 8, 15 and 16, there is disagreement between the two Governments, the matter shall be determined by independent arbitration. The arbitrator shall be acceptable to both Governments, and inter alia, shall take into account economic, social and community factors in his deliberations."