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GEORGI VI REGIS.

A.D. 1939.

No. 38 of 1939.

An Act to constitute boards of management to exercise certain powers of control, management, and supervision with respect to irrigation and reclamation on and within lands privately owned or occupied adjacent to the River Murray.

[Assented to 21st December, 1939.]

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.**

1. This Act may be cited as the "Irrigation on Private Property Act, 1939". Short title.
2. This Act shall come into operation on a day to be fixed by proclamation. Commencement of Act.
3. The provisions of this Act are arranged as follows :— Arrangement of Act.

PART	I.—Preliminary.
PART	II.—Proclamation of Private Irrigation Areas.
PART	III.—Constitution of Boards of Management.
PART	IV.—Meetings of the Boards of Management.
PART	V.—Duties of Owners and Occupiers
PART	VI.—Duties and powers of the Board of Management.

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Irrigation on Private Property Act, 1939.

PART VII.—Finance.

PART VIII.—The Assessment Book

PART IX.—Miscellaneous Provisions

Definitions.

4. In this Act, except where the context or subject matter requires a different construction—

“ chairman ” means chairman of a board of management :

“ channel ” includes any irrigation or drainage pipe :

“ embankment ” means any bank or dyke constructed to protect land from inundation by water from the River Murray :

“ private irrigation area ” means a private irrigation area proclaimed under this Act :

“ member ” means a member of the board of management of a private irrigation area :

“ Minister ” means the Minister of Irrigation for the time being or other the Minister of the Crown to whom, for the time being, the administration of the Irrigation Act, 1930-1936, is committed by the Governor :

“ owner ” means—

(a) the registered proprietor under The Real Property Act, 1886, of any estate of freehold in possession :

(b) as regards land not under The Real Property Act, 1886, any person who is seized of any estate of freehold in possession or if the said estate is subject to redemption under any mortgage, the person who, upon payment of all such mortgages, would be entitled to a conveyance of such an estate :

(c) any person who has agreed to purchase any estate of the nature mentioned in paragraph (a) or (b), and is under the terms of the agreement for purchase entitled to the possession or to receive the rents and profits of the land :

(d) as regards any land belonging to the Crown, any person who has agreed to purchase the land from the Crown or who is in possession of the land under any lease granted by the Crown :

(e) any lessee (other than a lessee under a lease granted by the Crown), under-lessee, tenant, or under-tenant, in possession of land pursuant to any

lease, under-lease, or agreement for tenancy whereby the land is demised for a term of three years or more :

(f) any mortgagee in possession who is by himself or his tenant in occupation of any land under any mortgage whether registered under The Real Property Act, 1886-1936, or otherwise :

(g) any trustee and attorney for any such person as beforementioned in this definition who receives or is entitled to receive the rents and profits of the land or who would be entitled to receive the rents and profits if the land were let :

“reclaimed land” means land adjacent to the River Murray which is reclaimed or partly reclaimed from being swamp lands :

“River Murray” includes any affluent, effluent, anabranch or extension of the River Murray and any river, creek, stream, watercourse, spring, lake, lagoon, swamp, or marsh connected with the River Murray :

“the board” means the board of management of a private irrigation area established under this Act.

PART II.

PART II.

PROCLAMATION OF PRIVATE IRRIGATION AREAS.

5. (1) The owners of land adjacent or near to the River Murray may present to the Minister a petition in the form in the first schedule praying that a private irrigation area be constituted to comprise the part of the State adjacent or near to the River Murray specified in the petition.

Petition for constitution of area.

(2) The Minister shall not consider any such petition unless he is satisfied—

(a) that the petition is signed by one-half or more of the owners of reclaimed land within the part of the State proposed to be constituted a private irrigation area ; and

(b) that the area of reclaimed land owned by the persons by whom the petition is signed is more than one-half of the total area of reclaimed land within the said part of the State.

PART II.

Notice of
petition.

6. If satisfied that the petition complies with the next preceding section the Minister shall cause the petition to be published for three consecutive weeks in the *Gazette*.

Counter-
petition.

7. (1) Any person or persons may by counter-petition, addressed to the Minister within twenty-one days from the first publication of the original petition show cause against any such petition or any part thereof being granted.

(2) Such counter-petition or petitions shall be published for three consecutive weeks in the *Gazette*.

(3) Publication of the substance and prayer of a petition or counter-petition shall be deemed a sufficient publication of such petition or counter-petition for the purposes of this and the next preceding section.

Inquiry by
special
magistrate.

8. (1) The Minister may appoint a special magistrate to investigate any matter connected with a petition or counter-petition, or to ascertain whether the provisions of this Act have been observed.

(2) The special magistrate shall, for the purpose of any such investigation, have every power of summoning and examining witnesses that may be exercised by a local court of limited jurisdiction, and shall report to the Minister within thirty days, or within such further time as is allowed by the Minister.

(3) Where a special magistrate is so appointed, no proclamation shall be made by the Governor in the matter until a report has been received.

Proclamation
of private
irrigation area.

9. (1) If after considering the petition and any counter-petition and any report made pursuant to section 8, the Governor is satisfied that a private irrigation area should be established, the Governor may, by proclamation, establish the irrigation area, and for such purpose may grant the prayer of the petition or any part thereof with such alterations or modifications as to him appear necessary or expedient.

(2) The proclamation shall—

(a) assign a name to the private irrigation area :

(b) define the boundaries of the private irrigation area, which may consist wholly of reclaimed land or partly of reclaimed land and partly of other lands :

(c) fix the time and place for the first meeting of the board of management of the private irrigation area.

Petition for
addition to
private
irrigation area.

10. (1) The owners of land adjacent to any private irrigation area may present a petition to the Minister in the form in the

first schedule (with such modifications as are necessary) praying that the part of the State specified in the petition shall be added to the private irrigation area.

(2) The provisions of subsection (2) of section 5 and sections 6, 7 and 8 shall apply to the petition as if it were a petition praying for the constitution of a private irrigation area.

(3) If, after considering the petition and any counter-petition and any report made pursuant to section 8, the Governor is satisfied that the addition should be made to the private irrigation area the Governor may, by proclamation, add the part of the State specified in the petition, or any portion thereof, to the private irrigation area, but no such proclamation shall be made unless the board of management of the private irrigation area consents thereto.

(4) The Governor may by the said proclamation or any subsequent proclamation, fix any financial obligations to be undertaken by owners of reclaimed land within the part of the State added to the private irrigation area.

11. From and after the publication of any proclamation under this Part the land therein defined shall be a private irrigation area or be added to a private irrigation area, as the case may be, and be subject to the provisions of this Act.

Constitution of private irrigation area.

PART III.

PART III.

CONSTITUTION OF BOARDS OF MANAGEMENT.

12. The owners of reclaimed lands within a private irrigation area are hereby constituted a board of management.

Constitution of board of management.

13. (1) The board shall be a body corporate under the name of "The Irrigation Board", and shall have perpetual succession and a common seal, and by such name shall be capable of suing and being sued and of purchasing, holding, and leasing land and of doing and suffering subject to this Act all such other acts and things as bodies corporate may by law do and suffer.

Incorporation of board.

(2) Judicial notice shall be taken of the incorporation and of the common seal of the board, and the production of any deed, instrument, or writing, if sealed with the said seal, shall be sufficient evidence of the due making and execution of such deed, instrument, or writing.

(3) The common seal of the board shall be kept at the board's office.

PART IV.

PART IV.

MEETINGS OF THE BOARD OF MANAGEMENT.

Office. **14.** The board shall have and maintain a suitable office either within or without the private irrigation area for transacting the business of the board.

First meeting of board. **15.** The first meeting of the board shall be held at the time and place declared under section 9.

Chairman of board. **16. (1)** At the first meeting of the board and at every annual meeting the members present shall elect a chairman from among them, and if there is an equal number of votes for two or more members receiving the largest number of votes the person to act as chairman shall be chosen by lot between those members having the equality of votes, but the omission to elect a chairman shall not prevent the board from making such election at any future meeting.

(2) The chairman may resign his office at any time, and any vacancy in the office of chairman may be filled at any meeting of the board.

Secretary of board. **17.** The board shall appoint a secretary to the board and may appoint such other officers with such powers and duties and upon such terms and conditions as the board may from time to time determine.

Annual meeting. **18.** An annual meeting of the board shall be held in the month of July next after the publication of the proclamation constituting the private irrigation area and in the month of July in every succeeding year at the office of the board on such day and at such hour as the board determines from time to time.

Ordinary meetings. **19.** Ordinary meetings of the board shall be held at such times and places as the board from time to time determines.

Special meetings. **20. (1)** A special meeting may be called by the chairman at any time and on the requisition in writing of any two or more members it shall be his duty to call such meeting.

(2) If the chairman refuses or neglects, or for two clear days after receipt of such requisition fails to call such meeting, then any two members may call such meeting by written notice signed by them posted to each member of the board, such notice stating the object of such meeting, and the time and place of holding the same.

21. Three days notice of every meeting, signed by the secretary, shall be delivered or sent by post to every member at the address shown in the assessment book hereinafter referred to, informing him of the time and place of the meeting.

Notice of meetings.

22. (1) At all meetings of the board a majority of the members shall form a quorum.

Quorum of meetings.

(2) Any meeting at which there is no quorum shall, at the expiration of half an hour from the time fixed for such meeting, be adjourned to such time as those present at the meeting may determine, and any business which could have been transacted at such meeting may be transacted at the adjourned meeting, and written notice of such adjournment shall be given to members by being posted to each of them not less than three days before the date of such adjourned meeting.

23. (1) A corporate body being a member of the board may attend meetings and vote by any person authorized under its common seal to attend meetings and vote.

Rights of voting.

(2) If there is more than one owner of any reclaimed land within the private irrigation area all of those owners may attend meetings, but only the owner having the actual physical possession of the land shall vote. If there is more than one owner having such physical possession such owners shall have only such voting rights as are hereinafter provided.

If such owners, by notice in writing, given to the secretary to the board, nominate any one of their number to vote, the owner so nominated (and no other of such owners) shall, until the nomination is cancelled by such owners by notice in writing given to the secretary to the board, be entitled to vote.

If notice as aforesaid is not given, such one of such owners (and no other of such owners) whose name is first in alphabetical progression, first as to surname and then as to Christian names, shall be entitled to vote.

24. (1) Subject to subsection (2) of this section, at every meeting of the board a member shall be entitled to one vote for every acre or part of an acre of reclaimed land held by him as appears in the assessment book, and the chairman shall, in addition to his deliberative vote or votes, be entitled to a casting vote in case of equality of votes.

Power to vote.

(2) The board may by resolution carried at any meeting by a two-thirds majority of the total number of members of the board resolve that at all future meetings of the board every member shall, irrespective of the number of acres held by him, have one vote only, and any such resolution so carried shall thereafter be binding upon the board.

On the motion for any such resolution every member shall have one vote only.

Notwithstanding that a resolution has been carried under this subsection the chairman shall in addition to a deliberative vote have a casting vote also in case of equality of votes.

Proxy voting.

25. (1) Voting shall be personally or by proxy appointed by writing signed by the member.

(2) A proxy must be a member of the board or the husband or wife of a member or a child over the age of twenty-one years of a member.

Absence of chairman or secretary.

26. If, in consequence of death, absence, or any lawful impediment it is impossible or inconvenient for the secretary or any member or other person to perform any particular matter or thing which, by this Act, he is required to perform, the chairman, or if, for the like reason, it is impossible or inconvenient for the chairman, the board may perform the matter or thing, or appoint some member or other person to perform it.

Revocation of resolution.

27. No resolution passed at any meeting of the board shall be revoked or altered at any subsequent meeting unless written notice of an intention to propose such revocation or alteration is given or posted to each of the members seven days at least before holding the meeting.

Power to appoint committee.

28. (1) The board may appoint a committee of its members, and may delegate to any such committee such of its powers and duties under this Act as it thinks fit.

(2) The board may from time to time make such regulations as it thinks fit for the guidance of a committee, and may from time to time remove any members of the committee and appoint, in the stead of any of them, other members of the board.

(3) The proceedings of a committee shall, unless otherwise ordered by the board, require the approval of the board.

(4) In no case shall a committee authorize an expenditure or pay any sum of money exceeding twenty pounds.

(5) At the first meeting of any committee one of its members shall be appointed chairman of the committee, and all questions in committee shall be determined by a majority of votes of the members present; and the chairman shall have a deliberative vote, and in case of equality of votes a casting vote. The chairman of the board shall be *ex officio* a member of every committee.

29. (1) The board shall cause minutes of all the meetings of the board, and of every committee thereof, and of the proceedings thereat, with the names of the members who attend at each meeting, and the names of all members voting on any question for the decision of which a division is called, to be duly made in books provided for the purpose, and to be kept by the secretary, under the supervision of the board.

Minutes.

(2) The minutes of every board meeting and of every meeting of a committee, until a report is agreed upon shall be put for confirmation to the next succeeding meeting or, if that is omitted, to some subsequent meeting, and, if found correct, shall be signed by the chairman of the meeting at which the same are confirmed, or if he refuses or neglects to sign for seven days after such meeting, then by any two members present and entitled to vote at such meeting, and the minutes of a committee meeting at which a report is agreed to shall, if found correct, be signed at such meeting or some adjournment thereof.

30. (1) Every minute purporting to be such a minute as aforesaid and to be so signed, or a copy of or extract from any such minute purporting to be attested by the seal of the board and signed by the secretary, shall be received as evidence in all courts and by all judges, bodies corporate and unincorporate, and persons, without proof that the meeting to which the same refers was duly convened or held, or that the persons attending thereat were members of the board or committee, or of the signature of the chairman or members, or of the fact of his having been such chairman, or of their having been members entitled to sign such minutes, or of the affixing of the seal or of the signature of the secretary; but all such matters shall be presumed until the contrary is proved.

Minutes admissible as evidence.

(2) All such books shall at all reasonable times be open to the inspection of any member and of any creditor of the board who may take copies of the same at all reasonable times on payment of one shilling to the secretary.

31. (1) The board by its corporate name may enter into contracts with any person for the execution of any works directed by this Act to be executed by the board or which the board may think proper to do or direct to be done under or by virtue of the powers conferred upon the board by this Act or any other Act, or for the supply of any matters or things whatsoever necessary for enabling the board to carry the purpose of this Act into full and complete execution, in such manner and upon such terms, and for such sum or sums of money and under such stipulations, conditions, and restrictions as the board thinks proper.

Power to make contracts.

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(2) Every such contract may, if the board so thinks fit, specify the person to whose satisfaction the same is to be completed, and the mode of determining any dispute which may arise concerning or in consequence of such contract.

Contracts.

32. (1) The powers hereby granted to the board to make contracts may be exercised as follows :—

- I. Any contract which, if made between private persons would be by law required to be in writing and under seal, the board may make in writing in its corporate name under its common seal, and in like manner may vary or discharge the same :
- II. Any contract which, if made between private persons would be by law required to be in writing and signed by the parties thereto, the board may make in writing in its corporate name signed by any two members of the board, and in like manner may vary or discharge the same :
- III. Any contract which, if made between private persons would be by law valid although made by parol only and not reduced into writing, the members of the board or any two of them (of whom the chairman shall be one), acting by direction and on behalf of the board, may make by parol only, without writing, and in like manner may vary or discharge the same.

(2) All contracts so made and duly executed by the parties thereto respectively shall be effectual in law and binding on the board and all other parties thereto, their successors, assigns, executors, or administrators (as the case may be).

(3) In case of default in the execution of any such contract either by the board or by any other party thereto such actions may be instituted, either by or against the board in its corporate name or by or against the other parties failing in the execution thereof, and such damages and costs recovered as might be instituted and recovered had the like contract been made between private persons.

Composition
with
contractors.

33. It shall be lawful for the board from time to time to compound and agree with any person who has entered into any contract with the board, or against whom any action is brought for any penalty contained in any such contract or in any bond or other security for the performance thereof or for or on account of any breach or non-performance of any such contract, bond, or security, for such sum of money or other recompense as the board may think proper.

PART V.

PART V.

DUTIES OF OWNERS.

34. All owners of reclaimed land within the private irrigation area shall do or cause to be done all and each of the following acts and things :—

Duties of owners.

- I. Make and construct all such drains and channels on their reclaimed lands and in such manner and of such size or sizes and to such depth and width and with such grades as the board may from time to time direct, and keep all such drains and channels clean and free from weeds, growth, and rubbish, and from any and every obstruction whatsoever, and prevent from being done anything that might hinder or obstruct the free flow or drainage of waters through all or any of such drains or channels or any part thereof :
- II. Make such structures in the channels and drains on their reclaimed lands as the board may from time to time direct and keep the same in good order, repair and condition :
- III. Destroy and keep destroyed all vermin and noxious weeds on their respective lands :
- IV. Fence with a suitable fence capable of resisting the ingress and egress of cattle and stock the boundaries of their respective lands, and keep such fences in good and substantial order, repair, and condition :
- V. Preserve in good order, repair, and condition all and any trees and plantations or portions thereof which at the time of the coming into operation of this Act within the private irrigation area are in, or which at any time thereafter may come into existence on any lands owned or occupied by them, and will not permit the same to be damaged or destroyed by any person or cattle, and should any such trees die or be destroyed or damaged, replace the same as shall be directed by the board, and tend to and care for the same in a proper manner :
- VI. Erect such syphons over the embankment for the purpose of watering their respective reclaimed lands as the board may from time to time direct, and keep the same at all times in good order, repair and condition and effective for the purpose for which they are required :

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- VII. Permit officers of the board at all times the free and unrestricted right to enter into and upon their respective lands within the private irrigation area to view and examine the state and condition thereof, and to ascertain whether the owners are duly observing and carrying out all and every obligation and duty imposed on them by this Act:
- VIII. Forthwith comply with, carry out, or give proper effect to every order or direction of the board or its officers given pursuant to this Act.

Restriction on carrying out work.

35. No owner shall do or permit to be done any of the acts and things mentioned in section 37 hereof on their respective lands except with the written consent of the board.

No irrigation without consent of board.

36. No person shall water or irrigate or permit to be watered or irrigated the whole or any part of any land within the private irrigation area except at such time or times and in such manner as may be directed by the board or its officers appointed for the purpose of regulating such watering or irrigation.

PART VI.

PART VI.

DUTIES AND POWERS OF THE BOARD OF MANAGEMENT.

Powers of board as to embankment.

37. The board shall do or cause to be done all and each of the following acts and things :—

- I. Erect, keep erected and maintained in good order, repair, and condition, the embankment within the private irrigation area at such height or level and conforming to such cross sectional size as may from time to time be determined upon by the board :
- II. Preserve the embankment within the irrigation area intact and effective to resist the ingress of River Murray waters :
- III. Make such bulkheads, sluice gates, or inlets on, in, or through the embankment or lay such pipes through the embankment as may from time to time be determined upon by the board.

38. The board, in addition to all other powers, may—

Powers of
board.

- (a) purchase or hire or otherwise acquire on such terms and conditions as it deems expedient, such land, machinery, tools and appliances, goods and chattels as it may from time to time require or deem necessary for the effective reclamation, irrigation, and drainage of the lands within the private irrigation area, and for the supply and distribution of water to owners of such land, and may erect all necessary pumping machinery, plant, and buildings and make and construct all such irrigation works, channels, drains, tanks, sluice gates, syphons, and other works as it may from time to time deem necessary or expedient for the effective working of the private irrigation area :
- (b) determine the height or level and cross-sectional size of the embankment :
- (c) regulate and control all water and pumping operations within the private irrigation area :
- (d) determine the height at which water may or shall be maintained in any channel or drain within the private irrigation area :
- (e) enter themselves, or by their officers or agents, upon any lands or premises within the private irrigation area to view and examine the same, and to ascertain whether owners of land within the private irrigation area are observing and performing all and every obligation imposed on them by this Act :
- (f) do all acts, matters, and things which any owner ought to have done under the provisions of this Act but has failed to do :
- (g) make such charges against owners of lands within the private irrigation area and declare such rates on such lands and recover from such owners all such charges and rates in manner by this Act provided :
- (h) borrow money for the execution of the works and powers by this Act authorized to be done, and on such terms and conditions as the board may arrange :
- (i) appoint officers and servants on such terms and conditions and at such remuneration as the board deems expedient : such officers and servants may be members of the board and all or any part of such remuneration may be retained by the board and

PART VI.

credited to the member entitled thereto on account of moneys he may be owing to the board under the provisions of this Act :

- (j) enter themselves, or by their officers, agents, servants, and workmen, into and upon all and any land within the private irrigation area and take and remove soil and material where it deems necessary or advisable for the purpose of carrying out its duties and powers under this Act.

PART VII.

PART VII.

FINANCE.

Power to declare and levy rates.

39. (1) The board may, from time to time, declare and levy rates for all or any of the following purposes :—

- I. Defraying the cost of construction of any works carried out or to be carried out by the board pursuant to this Act :
- II. Paying the interest and repaying the capital of any loan lawfully raised by the board :
- III. Paying the costs and expenses of administration of this Act and of doing anything which the board may lawfully do.

(2) Any such rate may be declared in respect of any period of twelve, six, or three months.

(3) Any such rate shall be a stated amount per acre on the reclaimed land within the private irrigation area.

(4) Any such rate shall be uniform as regards the whole of the reclaimed land within the private irrigation area.

Entry of rate in assessment book.

40. Whenever a rate is declared the secretary shall make entries in the assessment book showing the amount per acre of reclaimed land and the date of declaration of the rate and the amount payable by each owner.

Notice to owner.

41. The secretary shall give written notice to each owner of reclaimed land in respect of which rates are payable, of the date of the declaration of every rate, the amount payable by the owner, and the land in respect of which that amount is payable: Provided that where there is more than one owner of any reclaimed land it shall be sufficient if notice is given to any one of those owners.

Notice before recovery of rates.

42. Every rate shall become due and payable when it is declared, but no rate shall be recoverable by action from any

person until twenty-one days after a written notice from some officer of the board has been served on that person, informing him of the amount of the rate payable by him, and in respect of what land the rate is payable.

43. If any rate is not paid before the end of three months after it becomes due and payable, a fine equal to five pounds per centum thereof shall be added to the amount of the rate, and shall thenceforth for all purposes be deemed to be a part of the rate, and shall be paid by the person or persons liable to pay the rate, and be recoverable from any person liable to pay the rate, and in such manner as if it were part thereof : Provided that no such fine shall be added to the amount of any rate payable by a person resident in the State unless the rate has remained unpaid for the space of twenty-one days after notice of the rate has been given to that person.

Fine in default in payment.

44. Every person appearing in the assessment book as the owner of any reclaimed land shall be liable for all rates declared in respect of that land, notwithstanding any change in the ownership thereof prior to the declaration of the rates, except as to rates declared after he, having ceased to be owner, has given written notice to the secretary of the change of ownership, stating who is the person who has become owner.

Liability of persons appearing in assessment book as owners.

45. Rates may be recoverable from any person liable to pay them, in the name of the board, by action in any court of competent jurisdiction.

Recovery of rates.

46. The board shall have the same power to sell land for non-payment of rates as a district council has under Part XIV. of the Local Government Act, 1934-1938, and that Part of that Act shall *mutatis mutandis* apply to the board as if the board were a district council and the secretary of the board were a clerk of a district council: Provided that if any land is sold by the board pursuant to the powers given by this section and a memorandum of transfer is registered or a certificate of title is issued as provided in section 276 of the said Act, the provisions of the said section 276, which provide that the registration of the memorandum of transfer or issue of the certificate of title shall vest in the purchaser an indefeasible estate in fee simple free from any mortgage, lease, tenancy, encumbrance, or charge, shall apply only to any such mortgage, lease, tenancy, encumbrance, or charge which is granted after the date upon which the Royal Assent is given to this Act.

Power to sell land for non-payment of rates.

47. No trustee, agent, or attorney for any owner of reclaimed land shall be liable to pay any money recovered or penalty imposed under the provisions of this Act in excess of the amount then in his hands or under his control and belonging to his *cestui que trust*.

Limitation of liability of trustee, agent or attorney.

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Loans.

48. (1) The board may from time to time borrow money for executing any works authorized under this Act on the security of the rates by means of debentures.

(2) Every amount of money so borrowed shall be repaid within a period of years agreed upon between the board and the party lending the money by periodical instalments and such sums as are necessary for the repayment of the said instalments shall be set aside from time to time.

(3) The board shall appropriate the rates of the board in the first instance to the payment of the interest and to the payment of the periodical instalments.

(4) Debentures issued by the board shall be under the common seal of the board and shall be in the form of the second schedule hereto.

(5) The holder of any debenture or coupon, upon default being made by the board in the payment thereof, shall have all the rights of a creditor of the board in respect of any sum of money due upon the debenture or coupon, and may apply to the Supreme Court or a Judge thereof for the appointment of a receiver.

Any such receiver—

- (a) shall have the like power of collecting and obtaining payment of the rate on the security of which the money was borrowed as the board would have :
- (b) on exercising any such power, shall collect and obtain payment of the rate as well on behalf of the person so applying as on behalf of the other holders of debentures and coupons :
- (c) for that purpose shall have access to all books and papers relating to the said rate :
- (d) shall receive such remuneration out of the moneys arising therefrom as the said Court or a Judge thereof directs.

Borrowing on overdraft.

49. The board may from time to time, in addition to the power vested in it pursuant to the preceding section, borrow money from any bank on overdraft or otherwise on the credit of its revenue.

Banking of money.

50. (1) All money received on account of the board shall be paid into a bank appointed by the board.

(2) Payment into the bank shall in every case be made as soon as the moneys in hand amount to five pounds or more.

(3) Every payment of one pound or more made on behalf of the board shall be by cheque on the bank, drawn by the chairman and by a member authorized from time to time by the board in that behalf, or in case of the absence of the chairman, drawn by two members authorized from time to time by the board and in each case countersigned by the secretary.

(4) Payments of less than one pound may be made out of a petty cash fund, replenished from time to time by cheques drawn and countersigned as aforesaid.

51. The board shall cause to be kept full and accurate accounts of all money received and expended under the provisions of this Act. Accounts.

52. The board shall cause such accounts to be audited at least once in every year and also as often as it deems it advisable so to do, and for that purpose may appoint an auditor or auditors and pay him or them such remuneration and expenses as are necessary. Audit of
Accounts.

53. (1) Any owner liable for the payment of moneys under section 55 of this Act and any owner liable for payment of rates under this Act shall continue liable for the payment of such moneys and rates with interest charged thereon, notwithstanding any change in the ownership of the land in respect whereof the moneys or rates and interest are payable except as to rates declared after he, having ceased to be an owner, has given written notice to the board of that fact stating who is the person who has become owner. Liability for
rates.

(2) Until paid all moneys payable under section 55 of this Act and all rates declared pursuant to this Act and all interest charged thereon or any portion thereof unpaid shall be a charge upon the reclaimed land in respect whereof the moneys or rates and interest are payable notwithstanding any change in the ownership of the said land.

PART VIII.

PART VIII.

THE ASSESSMENT BOOK.

54. (1) The board shall cause to be kept a book or record in this Act called the assessment book, wherein shall be recorded the name, address, and occupation of each owner of land within the private irrigation area and the area of reclaimed land owned by each owner. Assessment
book to be
kept.

Irrigation on Private Property Act, 1939.

(2) At the establishment of a private irrigation area under the provisions of this Act the particulars required for such assessment book shall be obtained from and be similar to those set out in the petition referred to in the first schedule to this Act.

(3) Thereafter every owner of land within the private irrigation area shall from time to time notify the board in writing of any change in ownership of such land and change of any address.

(4) The board may, from time to time, rectify all errors and omissions in the assessment book.

(5) If at any time the board is satisfied—

(a) that the assessment book does not accurately show the area of reclaimed land owned by any owner ; or

(b) that any person has ceased to be or has become the owner of any land within the private irrigation area ; or

(c) that any person appearing in the assessment book as the owner of any land within the private irrigation area is not the owner thereof,

the board shall alter the assessment book accordingly.

PART IX.

PART IX.

MISCELLANEOUS PROVISIONS.

Owner in default.

55. (1) If any owner of reclaimed land within the private irrigation area makes default in the due observance or performance of all or any of the obligations imposed on him under the provisions of this Act, then and in such case, the board may do or cause to be done, the act, matter or thing with respect to which default has been made, and all costs and expenses thereby incurred by the board together with interest thereon at the rate of five pounds per centum per annum calculated from the time the cost or expense was incurred by the board shall be deemed to

be a debt due and owing by such defaulting owner to the board, and shall be forthwith recoverable by the board from such owner in any court of competent jurisdiction.

(2) An owner shall be deemed to have made default under the preceding subsection hereof if and when he fails to carry out or give effect to a notice containing any order or direction or orders or directions of the board lawfully made under the provisions of this Act and within the time stated in such notice.

(3) A notice requiring an owner to do or cause to be done or cease from doing any act, matter, or thing shall be deemed to have been duly given if the same is in writing and either delivered to such owner personally or posted to him in a prepaid envelope addressed to him at the address given in the assessment book.

56. Every owner of land within the private irrigation area shall permit the board and its officers and servants free and unrestricted right of access to, over, and across all land within the private irrigation area for the purpose of carrying out all or any of the provisions of this Act.

Board's right of access.

57. The board shall not be liable for any penalty or damage resulting to any owner of land within the private irrigation area in consequence of any act, matter or thing done, or purporting to be done, or omitted to be done, by the board, its servants, or agents, pursuant to the provisions of this Act.

Board not liable for damages.

58. Any person who brings any water or permits any water to be brought on to his land within the private irrigation area without the approval of the board shall be liable to a penalty not exceeding twenty pounds for every such offence.

Watering without approval of board.

59. Any person who unlawfully destroys or injures any irrigation work, or any part thereof, within the private irrigation area shall, on conviction, be liable to a penalty not exceeding one hundred pounds, and to imprisonment for any period not exceeding twelve months either in addition to or in substitution for the said pecuniary penalty.

Unlawful damage to works.

60. Any person who takes or uses any water from any channel or drain within a private irrigation area without the approval of the board shall be liable to a penalty not exceeding twenty pounds.

Taking water without approval.

61. If any person throws or conveys or causes or permits to be thrown or conveyed any rubbish, dirt, filth, or other noisome thing into any channel or drain within a private irrigation area, he shall be liable to a penalty not exceeding twenty pounds.

Rubbish, etc., put in channels, etc.

PART IX.

Obstructing
board or its
officers.

62. Any person who obstructs the board or any of its officers or servants in the performance of anything which they are respectively empowered to do by this Act shall be liable to a penalty not exceeding fifty pounds.

Offences.

63. Where any matter or thing is under this Act, or by any order or notice made and published under the authority hereof, directed or forbidden to be done, or where any authority is given by this Act to any person to direct any matter or thing to be done, or forbid any matter or thing to be done, and such act so directed to be done, remains undone, or such act so forbidden to be done is done, in every such case every person offending against such direction or prohibition shall be deemed guilty of an offence against this Act.

Penalties for
offences.

64. Every person guilty of an offence against this Act shall be liable to the penalty expressly imposed by this Act and, if no specific penalty is imposed, to a penalty not exceeding twenty pounds.

Penalty not to
exclude
payment for
damages.

65. Every penalty imposed on any person under this Act shall be in addition to the sum which he may be lawfully adjudged liable to pay to the board or any person for any damage sustained, and the payment of the penalty shall not bar or affect the right of the board or any person to bring an action against such person for such damage.

Service of
summons, etc.,
on board.

66. Any summons, notice, writ, or other proceeding may be served on the board by being given personally to the chairman or secretary, or at the board's office to some officer of the board there.

Seal not
necessary on
orders, etc.

67. Every order, notice, authorization, permit, or other document requiring to be authenticated by the board may be sufficiently authenticated without the common seal of the board, if signed by the chairman, by two members, or by the secretary.

Officer may
represent
board.

68. In the event of any person against whom the board has any claim or demand being adjudicated bankrupt or making a statutory assignment for the benefit of or composition with his creditors, any officer of the board appointed by the chairman, in writing under his hand, may represent the board in all proceedings relating to the bankruptcy or assignment of the estate of such person as if such claim or demand had been the claim or demand of such officer.

Summary
proceedings.

69. All proceedings in respect of offences against this Act shall be disposed of summarily.

70. (1) No member of the board shall be subject to be sued or prosecuted by any person, and the body, goods, or land of a member shall not be liable to execution of any legal process by reason of any contract or other instrument entered into by the board, or by reason of any other lawful act done by the board in the execution of any of its powers.

(2) Every member, his executors, administrators, or assigns, shall be indemnified by the board for all payments made or liabilities incurred in respect of any acts done by him for and on behalf of the board and of all losses, costs, and damages which he may incur in the *bona fide* execution of the powers conferred upon him by this Act as a member of the board acting for and on behalf of the board.

71. The assessment book or any copy or extract therefrom certified as a true copy or extract under the hand of the chairman or the secretary shall be admissible in evidence in any legal proceedings, and any statement appearing therein shall be deemed to be proved in the absence of evidence to the contrary.

Assessment book admissible as evidence.

72. Minutes of the board or any committee thereof, and contracts, specifications, plans, estimates, and other documents in the hands of the board by this Act required or authorized and any copy thereof or extract therefrom purporting to be signed by the chairman or the secretary shall be receivable in any proceedings before any court or person as evidence of the matters therein contained.

Minutes of board admissible as evidence.

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

C. M. BARCLAY-HARVEY, Governor.

Irrigation on Private Property Act, 1939.

SCHEDULES.

THE FIRST SCHEDULE.

PETITION FOR THE CONSTITUTION OF A PRIVATE IRRIGATION AREA.

To The Minister of Irrigation, Adelaide.

We, the undersigned owners of privately owned lands adjacent to the River Murray, hereby request that the lands hereunder enumerated be declared a private irrigation area under the provisions of the Irrigation on Private Property Act, 1939, under the name of "The.....Irrigation Area". The boundaries of the land proposed to be included in such area are

The names, addresses, and occupations of all persons owning lands within the proposed area, with particulars of their respective holdings are as follows :—

Name of Owner.	Address.	Occupation.	Whether Owner or Lessee and Nature of Title.	If Lessee, Date of Expiration of Existing Lease.	Section No.

Hundred.	Area of Reclaimed Land Within the Private Irrigation Area.	Area of Other Land Within the Private Irrigation Area.

We hereby certify that the particulars set opposite our respective names above are true and correct.

Signatures—

Witness.

Dated this.....day of....., 19.....

PETITION FOR ADDITION OF LAND TO A PRIVATE IRRIGATION AREA.

To the Minister of Irrigation, Adelaide.

We, the undersigned owners of privately owned lands adjacent to the River Murray, do hereby request that the lands hereunder enumerated be added to the..... Irrigation Area, and form part thereof, pursuant to section 10 of the Irrigation on Private Property Act, 1939.

Irrigation on Private Property Act, 1939.

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The boundaries of the land proposed to be thus added are
The names, addresses, and occupations of all owners of lands thus proposed to be added,
with particulars of their respective holdings are as follows :—

Name of Owner.	Address.	Occupation.	Whether Owner or Lessee and Nature of Title.	If Lessee, Date of Expiration of Existing Lease.	Section No.

Hundred.	Area of Reclaimed Land Proposed to be Added.	Area of Other Land Proposed to be Added.

We hereby certify that the particulars set opposite our respective names above are true and correct.

Signatures—

Witness.

Dated this.....day of.....19.....

THE SECOND SCHEDULE.

FORM OF DEBENTURE.

The.....Irrigation Board (hereinafter called the said board) in pursuance of the powers conferred by Part VII. of the Irrigation on Private Property Act, 1939, and in consideration of the sum of..... pounds paid to the said board for the purposes of the said board hereby binds itself to pay to the bearer or bearers for the time being of the coupons annexed hereto and numbered.....to..... both inclusive (the bearer of coupon numbered.....to be also the bearer of this debenture) the principal sum of..... pounds and interest at the rate of..... per centum per annum thereon from the..... day of.....19....., to the.....day of.....19....., by.....equal half-yearly instalments of.....each for.....years from the.....day of.....19.....

And the said board hereby charges the rates of the said board with the payment to the bearer for the time being of this debenture and the bearer or bearers for the time being of the coupons annexed hereto of the instalments of principal and interest upon the said principal as represented in the coupons by him or them held.

Given under the common seal of the said board the.....day of.....19.....

The common seal of the said board was hereto affixed on the date hereof in the presence of—

.....
Chairman of the board.

.....
Secretary of the board.

NOTE.—Interest and principal payable at the bank of the board, namely the.....Bank at.....

Irrigation on Private Property Act, 1939.

COUPON FOR INSTALMENT OF PRINCIPAL AND INTEREST.

The.....Irrigation Board

Coupon No.....

Due

Coupon for £..... representing half-yearly instalment of principal and interest as under due on the..... day of..... 19....., on debenture No.....

Principal included in instalment £.....

Interest included in instalment £.....

Payable to bearer on delivering up of this coupon and the said debenture at

..... Chairman of the board.

..... Secretary of the board.