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New South Wales



ANNO TERTIO

ELIZABETHÆ II REGINÆ

Act No. 36, 1954.

An Act to make provision for and in relation to the handling and storage of wheat and the operation and control of the Government Grain Elevators; to provide for the constitution of the Grain Elevators Board of New South Wales and to define its powers, authorities, duties and functions; to dissolve the State Wheat Committee constituted under the Wheat Marketing Act, 1948-1953; to amend the said Act in certain respects; to repeal the Grain Elevator Act, 1916, and the Wheat Act, 1927; and for purposes connected therewith. [Assented to, 29th November, 1954.]

Grain Elevators.

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

PART I.

PRELIMINARY.

Short title
and com-
mencement.

1. (1) This Act may be cited as the "Grain Elevators Act, 1954."

(2) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

Division
into Parts.

2. This Act is divided into Parts as follows:—

PART I—PRELIMINARY.

PART II—CONSTITUTION OF THE GRAIN ELEVATORS BOARD.

PART III—VESTING OF GOVERNMENT GRAIN ELEVATORS IN THE BOARD.

PART IV—POWERS, AUTHORITIES, DUTIES AND FUNCTIONS OF THE BOARD.

PART V—FINANCE.

DIVISION 1.—*Loan Liability of the Board to the Treasurer.*

DIVISION 2.—*Loans.*

DIVISION 3.—*Accounts and Audit.*

PART VI—MISCELLANEOUS.

Defini-
tions.

3. In this Act, unless the context or subject matter otherwise indicates or requires—

"Australian Wheat Board" means the Board constituted under the Wheat Marketing Act 1948-1953 of the Parliament of the Commonwealth
"Board"

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“Board” means the Grain Elevators Board of New South Wales.

“Chairman” means the Chairman of the Board.

“Member” means a member of the Board.

“Prescribed” means prescribed by this Act or by the regulations.

“Regulations” means regulations made under this Act.

“Treasurer” means the Colonial Treasurer.

4. The Grain Elevator Act, 1916, and the Wheat Act, 1927, are hereby repealed. Repeal of Acts Nos. 47, 1916, and 6, 1927.

5. (1) The State Wheat Committee constituted under the Wheat Marketing Act, 1948-1953, is hereby dissolved. Dissolution of State Wheat Committee.

(2) The Wheat Marketing Act, 1948-1953, is amended by omitting Part II.

6. (1) The Wheat Marketing Act, 1948-1953, is amended— Amendment of Act No. 46, 1948.

(a) by inserting in section three before the definition of “licensed receiver” the following new definition:— Sec. 3. (Definitions.)

“Grain Elevators Board” means the Grain Elevators Board of New South Wales constituted under the Grain Elevators Act, 1954.

(b) (i) by omitting from section eight the words “Manager of the Government Grain Elevators” wherever occurring and by inserting in lieu thereof the words “Grain Elevators Board”; Sec. 8. (Licensed receivers.)

(ii) by omitting from paragraph (b) of subsection two of the same section the words and figures “Wheat Act, 1927” and by inserting in lieu thereof the words and figures “Grain Elevators Act, 1954”;

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Sec. 9.
(Powers of Board.)

(c) (i) by omitting from paragraph (d) of section nine the words and figures "Wheat Act, 1927" and by inserting in lieu thereof the words and figures "Grain Elevators Act, 1954";

(ii) by omitting from the same paragraph the words "in the Government Grain Elevators" and by inserting in lieu thereof the words "by the Grain Elevators Board".

Citation.

(2) The Wheat Marketing Act, 1948, as amended by subsequent Acts and by this Act, may be cited as the Wheat Marketing Act, 1948-1954.

PART II.
CONSTITUTION OF THE GRAIN ELEVATORS BOARD.
Constitution of Board.

7. (1) There shall be constituted a Grain Elevators Board which shall have and may exercise and discharge the powers, authorities, duties and functions conferred and imposed upon it by or under this or any other Act.

In the exercise and discharge of such powers, authorities, duties and functions the Board shall be subject in all respects to the control and direction of the Minister.

(2) For the purposes of any Act, the Board shall be deemed to be a statutory body representing the Crown.

(3) The Board shall consist of five members appointed by the Governor.

Of the members so appointed—

(a) one shall in and by the instrument by which he is appointed be the Chairman of the Board;

(b) one shall be an officer in the employ of the Commissioner for Railways selected by the Minister from a panel of not less than three officers submitted to the Minister by the Commissioner for Railways;

(c) one shall be an officer of the Treasury nominated by the Treasurer;

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(d) two shall be persons nominated as representing the wheatgrowers of New South Wales by the Minister, who before nominating such persons shall have regard to the recommendations (if any) in that behalf of any body or bodies representative in the opinion of the Minister of the interests of such wheatgrowers.

(4) A person who is directly interested (other than as a wheatgrower) in the business of selling, purchasing or dealing in wheat shall not be eligible to be appointed as a member of the Board and shall be disqualified from holding any such office. cf. Vic. Act No. 4270, s. 5 (3).

(5) (a) Subject to this Act the term of office of a member of the Board shall be such term, not exceeding five years, as is specified in the instrument of his appointment. Act No. 69, 1915, s. 8.

(b) Upon the expiration of the term of office of a member of the Board he shall, if otherwise qualified, be eligible for reappointment from time to time. Any such reappointment shall be for such term not exceeding five years as may be specified in the instrument of reappointment.

(c) On the occurrence of a vacancy in the office of a member of the Board, the person appointed to fill the vacant office shall, subject to this Act, hold office for the remainder of the unexpired term of the vacant office.

(d) A person who is of or above the age of sixty-five years shall not be appointed as a member.

(e) The Governor may in the case of the illness, suspension or absence of any member appoint a deputy to act in the place of such member during his illness, suspension or absence; and, if a member is appointed to act in the place of the Chairman, the Governor may appoint a deputy to act in the place of that member. The provisions of this Act with respect to the qualifications for appointment as and the method of appointment of a member shall extend and apply to a deputy to be appointed to act in the place of such member.

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(f) A deputy appointed under this subsection shall have the immunities, powers, authorities and duties of the member in whose place he acts.

(g) A deputy appointed under this subsection may be paid such remuneration for his services including such fees and allowances and such travelling expenses as the Governor may determine.

(h) No person shall be concerned to enquire whether or not any occasion has arisen requiring or authorising a deputy so to act and all acts or things done or omitted by the deputy shall be as valid and effectual and shall have the same consequences as if the same had been done or omitted by the member for whom the deputy is acting.

(6) The Chairman or any deputy appointed to act in his place shall devote the whole of his time to the duties of his office.

The Chairman shall, by virtue of and while acting in such office, be the Manager of the Board, and a deputy shall, by virtue of and while acting in the place of the Chairman, be the Acting Manager of the Board, but neither the Chairman or such deputy shall on such account be entitled to receive any remuneration additional to that which he is entitled to receive as Chairman or as such deputy, as the case may be.

(7) (a) Each member shall receive such remuneration, fees, allowances and travelling expenses as the Governor may from time to time determine.

(b) Where by or under any Act provision is made requiring the holder of an office specified therein to devote the whole of his time to the duties of his office or prohibiting him from engaging in employment outside the duties of his office, such provision shall not operate to disqualify him from holding that office and also the office of a member (other than the office of Chairman) under this Act or from accepting and retaining any remuneration, fees or allowances payable to a member under this Act.

(c)

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(c) The office of a member (other than the Chairman) shall not for the purposes of the Constitution Act, 1902, or any Act amending that Act, be deemed to be an office or place of profit under the Crown.

(8) The provisions of the Public Service Act, 1902, or of any Act amending that Act, shall not apply to or in respect of the appointment of a member and a member shall not be subject to any such Act during his term of office.

(9) A member shall be deemed to have vacated his office—

- (a) if, being the Chairman, he engages during his term of office in any paid employment outside the duties of his office;
- (b) if he becomes bankrupt, compounds with his creditors or makes any assignment of his remuneration, fees, allowances or estate for their benefit;
- (c) if, being the Chairman, he absents himself from duty for a period exceeding fourteen consecutive days except on leave granted by the Minister (which leave the Minister is hereby authorised to grant) unless such absence is occasioned by illness or other unavoidable cause;
- (d) if, being a member other than the Chairman, he is absent from four consecutive ordinary meetings of the Board without leave granted by the Board;
- (e) if he becomes an insane person or patient or an incapable person within the meaning of the Lunacy Act of 1898, as amended by subsequent Acts;
- (f) if he is convicted in New South Wales of a felony or of a misdemeanour which is punishable by imprisonment for twelve months or upwards, or if he is convicted elsewhere than in New South Wales of an offence which if committed in New South Wales would be a felony or misdemeanour which is punishable as aforesaid;

(g)

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- (g) if he becomes directly interested (other than as a wheatgrower) in the business of selling, purchasing or dealing in wheat;
- (h) if he resigns his office by writing under his hand addressed to the Governor;
- (i) if, not being the Chairman, he is removed from office by the Governor.

A member shall be deemed to have vacated his office upon the day upon which he attains the age of sixty-five years.

(10) The Governor may, for any cause which appears to him to be sufficient, remove a member not being the Chairman from office.

(11) (a) The Chairman may be suspended from his office by the Governor for misbehaviour or incompetence but shall not be removed from office except as provided in this subsection.

(b) The Minister shall cause to be laid before Parliament a full statement of the grounds of suspension within seven sitting days after such suspension if Parliament is then in session and, if not, then within seven sittings days after the commencement of the next session.

(c) The Chairman suspended under this section shall be restored to office unless each House of Parliament, within twenty-one days from the time when such statement has been laid before such House, declares by resolution that the Chairman ought to be removed from office, and if each House of Parliament within the said time does so declare, the Chairman shall be removed by the Governor accordingly.

Savings of
rights of
person
appointed
Chairman.

8. (1) A person who, at the date of his appointment as Chairman, is an officer of the Public Service and who ceases to be Chairman for any cause whatsoever other-wise than in pursuance of subsections nine (paragraph (h) excepted) and eleven of section seven of this Act, shall if he is under the age of sixty years be appointed to some office in the Public Service not lower in classification and salary than that which he held immediately before his appointment as Chairman.

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(2) (a) Nothing contained in this Act shall affect the rights accrued or accruing under the Public Service Act, 1902, or under the Superannuation Act, 1916-1952, or any Act amending such Acts, to any person appointed as Chairman who is at the time of his appointment or has been at any time previous thereto an officer of the Public Service or an employee within the meaning of the Superannuation Act, 1916-1952, or any amendment thereof.

(b) Any officer of the Public Service or any person who is an employee within the meaning of the Superannuation Act, 1916-1952, or any amendment thereof, who is appointed as Chairman shall continue to contribute to any fund or account and shall be entitled to receive any deferred or extended leave and any payment, pension or gratuity as if he were an officer or employee within the meaning of the Public Service Act, 1902, or the Superannuation Act, 1916-1952, as the case may be, or any Act amending such Acts, and for such purpose his service as Chairman shall be deemed to be service for the purpose of such Acts.

9. (1) The Board shall be a body corporate with perpetual succession and a common seal, and may sue or be sued in its corporate name, and shall be capable of purchasing, holding, granting, demising, disposing of or otherwise dealing with real and personal property and of doing and suffering all such acts and things as bodies corporate may by law do and suffer.

Board to be
body
corporate.

(2) The corporate name of the Board shall be "The Grain Elevators Board of New South Wales".

(3) The common seal shall be kept in the custody of the Chairman and shall not be affixed to any instrument except in pursuance of a resolution of the Board.

Any instrument executed in pursuance of any such resolution shall be attested by the signature of any two members.

(4) (a) The procedure for the calling of meetings of the Board and for the conduct of business at such meetings shall be as determined by the Board.

Proceedings
of Board.
Act No. 22,
1950, s. 6.

(b)

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(b) Three of the members shall form a quorum and any duly convened meeting at which a quorum is present shall be competent to transact any business of the Board and shall have and may exercise and discharge all the powers, authorities, duties and functions of the Board.

A decision of a majority of the members present at a meeting of the Board shall be the decision of the Board.

(c) At any meeting of the Board the Chairman shall preside. In the absence of the Chairman from a meeting the members present may choose one of their number to preside as Chairman of that meeting.

At any meeting of the Board the Chairman or the member presiding as chairman shall have a deliberative vote, and if the voting is equal, a casting vote.

(5) The Board shall cause full and accurate minutes to be kept of its proceedings at formal meetings and submit to the Minister a copy of the minutes of each formal meeting within one week after the date on which such formal meeting is held.

(6) No act or proceeding of the Board shall be invalidated or prejudiced by reason only of the fact that at the time when such act or proceeding was done, taken or commenced, there was a vacancy in the office of a member.

(7) (a) No matter or thing done, and no contract entered into by the Board, and no matter or thing done by any member or by any other person whomsoever acting under the direction of the Board shall, if the matter or thing was done or the contract was entered into bona fide for the purpose of executing this Act, subject them or any of them personally to any action, liability, claim or demand whatsoever.

(b) Nothing in this subsection shall exempt any member from liability to be surcharged with the amount of any payment which is disallowed by the Auditor-General in the accounts of the Board and which such member authorised or joined in authorising.

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PART III.

VESTING OF GOVERNMENT GRAIN ELEVATORS IN THE BOARD.

10. On and from the commencement of this Act the following provisions shall have effect:—

Vesting of
property.
cf. Act
No. 22, 1950
s. 31.

- (a) All control and administration of the Government Grain Elevators exercisable by the Manager of the Government Grain Elevators or any other person immediately before the commencement of this Act shall be exercisable by the Board under and in accordance with this Act.
- (b) All real and personal property and all right and interest therein which immediately before the commencement of this Act is vested in or belongs to the Crown, or any Minister of the Crown as constructing authority, or the Commissioner for Railways, and which immediately before such commencement is held or used for the purposes of or in connection with the Government Grain Elevators shall vest in and belong to the Board. This paragraph shall not apply to stacking sites and grain sheds for bagged wheat and rolling stock and permanent ways vested in or belonging to the Commissioner for Railways.
- (c) All moneys liquidated and unliquidated claims which immediately before the commencement of this Act are payable to or recoverable by the Crown in relation to or in connection with the Government Grain Elevators (other than moneys liquidated and unliquidated claims so payable by or so recoverable from the Australian Wheat Board) or which immediately before such commencement are payable to or recoverable by any Minister of the Crown as constructing authority in relation to or in connection with any real or personal property, which is vested in or belongs to the Board by virtue of this section, shall be moneys liquidated and unliquidated claims payable to or recoverable by the Board.

(d)

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- (d) (i) All suits, actions, and proceedings pending immediately before the commencement of this Act at the suit of the Crown in relation to or in connection with the Government Grain Elevators, shall be respectively suits, actions, and proceedings pending at the suit of the Board.
- (ii) All suits, actions, and proceedings pending immediately before the commencement of this Act at the suit of any Minister of the Crown as constructing authority in relation to or in connection with any real or personal property or any right or interest therein which is vested in or belongs to the Board by virtue of this section shall be respectively suits, actions, and proceedings pending at the suit of the Board.
- (e) (i) All contracts, agreements and undertakings entered into with, and all securities lawfully given to or by the Crown in relation to or in connection with the Government Grain Elevators and in force immediately before the commencement of this Act shall be deemed to be contracts, agreements and undertakings entered into with and securities given to or by the Board.

This sub-paragraph shall not relieve the Crown from any liability under any agreement between the Crown and the Australian Wheat Board whereby the Crown has undertaken to make sites for wheat storage available to the Australian Wheat Board.

- (ii) All contracts, agreements and undertakings entered into with and all securities given to or by any Minister of the Crown as constructing authority in relation to or in connection with any real or personal property which is vested in or belongs to the Board by virtue of this section and in force immediately before the commencement of
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of this Act shall be deemed to be contracts, agreements and undertakings entered into with and securities given to or by the Board.

- (f) The Board may pursue the same remedies for the recovery of any such moneys and claims and for the prosecution of such suits, actions, and proceedings as the Crown or a Minister, as the case may be, might have done but for this Act.
- (g) The Board may enforce and realise any security or charge existing immediately before the commencement of this Act in favour of the Crown or any Minister of the Crown as constructing authority, as the case may be, in respect of any such moneys or claims as if the security or charge were existing in favour of the Board.
- (h) (i) All debts due and moneys payable by the Crown in relation to or in connection with the Government Grain Elevators and all claims liquidated or unliquidated recoverable against the Crown in relation to or in connection with the Government Grain Elevators shall be debts due, moneys payable by and claims recoverable against the Board.
- (ii) All debts due and moneys payable by any Minister of the Crown as constructing authority in relation to or in connection with any real or personal property or any right or interest therein which is vested in or belongs to the Board by virtue of this section, and all claims liquidated or unliquidated in relation to or in connection with any such real or personal property or right or interest therein shall be debts due, moneys payable by and claims recoverable against the Board.
- (i) No attornment by a lessee of any land vested in the Board by this section shall be necessary.

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Liability of Board to Treasurer.
cf. Act No. 22, 1950, s. 32.

11. (1) As soon as practicable after the commencement of this Act the Committee of Review constituted under section thirty-one of this Act shall cause to be notified in the Gazette the amount of liability to the Treasurer which shall be assumed by the Board in relation to or in connection with any real or personal property which is vested in or belongs to the Board by virtue of section ten of this Act and the amount thereof which shall bear interest.

(2) The liability assumed by the Board pursuant to subsection one of this section shall as from the commencement of this Act become and be part of the loan liability to the Treasurer as defined in section thirty of this Act.

 PART IV.

POWERS, AUTHORITIES, DUTIES AND FUNCTIONS OF THE BOARD.

General powers of Board.
Ibid. s. 9.

12. The Board may, subject to and in accordance with this Act and the regulations—

- (a) undertake the storage and handling of wheat;
- (b) maintain and operate and where necessary improve and extend all elevators and other works for or in relation to the storage and handling of wheat for the time being vested in it, and construct any new, additional or supplementary elevators and other works for or in relation to the storage and handling of wheat;
- (c) consider and advise the Minister on matters relating to or affecting the wheat industry.

Board may be agent of Australian Wheat Board.

13. The Board may act as an agent of the Australian Wheat Board in relation to any matter.

Warrants.

cf. Act No. 6, 1927, s. 11.

14. (1) There shall be issued for wheat received by the Board for storage a warrant in the prescribed form.

(2) Such warrants shall be consecutively numbered and two warrants bearing the same number shall not be issued during the period in which the wheat harvest of any season is being delivered.

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15. The Board shall not deliver wheat from its charge unless there shall have been delivered to the Board—

Delivery by
the Board.
cf. Act No.
6, 1927,
s. 12.

- (a) a warrant representing the same quantity of wheat of the same description or quality; and
- (b) instructions in the prescribed form by the person delivering the warrant as to the disposal of such wheat;

and unless all fees, freight and other charges due in connection therewith have been paid.

16. (1) Notwithstanding anything contained in this Act or the regulations the Board may enter into such undertakings or agreements as it thinks fit with respect to the delivery of wheat pursuant to any warrant issued by it. Such undertakings or agreements may contain provisions additional to, in variation of or in substitution for those contained in section fifteen of this Act and shall be endorsed upon the warrant.

Special
warrants.

(2) The Board shall not deliver wheat from its charge pursuant to any warrant endorsed with undertakings or agreements as provided in subsection one of this section otherwise than in accordance with such undertakings or agreements.

17. Warrants shall after endorsement by the person to whom they were issued be transferable by delivery.

Warrants
negotiable.
Ibid. s. 13.

18. No action for damages for conversion or for detention of any wheat shall be brought against the Board or any of its servants by any person claiming to be entitled to any mortgage, charge, lien (including any lien on crops under the Liens on Crops and Wool and Stock Mortgages Act, 1898), or any other encumbrance whatsoever of, upon or over such wheat or any crop from which such wheat was harvested.

Protection
against
actions, etc.
Ibid. s. 14.

19. (1) After the delivery of any wheat in respect of which a warrant has been produced as provided in section fifteen of this Act the Government and the Board shall not be answerable to any other person claiming to be the owner of such wheat or of any interest therein.

Indemnity.
Ibid. s. 15.

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(2) The Board shall not be responsible for—

- (a) any loss of or damage to wheat in its charge arising from irresistible force, the act of God or the Queen's enemies, strikes, lock-outs, or any other cause beyond its control; or
- (b) any loss which may be sustained by reason of the short supply or non-supply of railway trucks to the Board for the purpose of moving wheat under the instructions of the owner of the wheat.

(3) Where wheat in the charge of the Board is destroyed or damaged by any of the causes referred to in paragraph (a) of subsection two of this section all persons at the time of the loss entitled to delivery of wheat under warrants shall bear the loss in a proportion to be fixed by the Board approximating as nearly as can be calculated by it to the proportion that the wheat which such persons are entitled by the warrants to receive bears to the total stocks of wheat then in the charge of the Board, and the amount of wheat deliverable on warrants then in force shall be reduced accordingly.

(4) Where from any cause for which the Board is responsible loss of or damage to wheat occurs, the liability of the Board shall be limited to the market value of the wheat at the time of the loss or damage.

(5) Where the Board is unable from any cause for which it is responsible to deliver wheat in the quantity and of the quality mentioned in a warrant or in accordance with any agreement or undertaking endorsed thereon, the Board may pay to the owner of the warrant the amount of the market value of the wheat mentioned in the warrant as at the date on which delivery was sought, but so that the amount shall not exceed the market value on the fifteenth day of November following the harvest during which the wheat was delivered, and the Board shall not be responsible to any further extent for any damages, loss, costs, charges, or expenses resulting from its failure to so deliver the wheat.

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20. (1) The Board, subject to the approval of the Minister, may enter into any agreement it thinks fit with the Australian Wheat Board as to the terms and conditions upon which it shall receive wheat on behalf of the Australian Wheat Board.

Wheat received on behalf of Australian Wheat Board.

(2) Any such agreement shall have force and effect notwithstanding anything contained in this Act or the regulations.

21. It shall be lawful for the Board to demand, collect, sue for and receive, in respect and for the use of any property of the Board or any service performed or thing done by it, such dues, rates, fees and charges as may be prescribed or as may otherwise be agreed upon between the parties.

Board may make charges. cf. Act No. 69, 1915, s. 15.

Nothing in this section shall affect the operation of the provisions of the Wheat Marketing Act, 1948-1954, with respect to the remuneration payable to the Board thereunder as a licensed receiver.

22. The provisions of Part III of the Public Works Act, 1912, as amended by subsequent Acts, shall not extend to any works constructed or proposed to be constructed by the Board.

Public Works Act, 1912—Part III excluded. Act No. 22, 1950, s. 10.

23. (1) The Board may subject to this Act make and enter into contracts or agreements with any person for the performance of services, or for the supply of goods, machinery or material in connection with the exercise or discharge by the Board of its powers, authorities, duties and functions.

Contracts. *Ibid.* s. 11.

(2) All persons contracting with the Board (other than as wheatgrowers) shall be deemed for the purposes of the Constitution Act, 1902, to be public contractors.

(3) Any contract or agreement authorised by this or any other section of this Act shall be in the name of the Board and may be made as follows, that is to say—

with respect to any contract which, if made between private persons, would be by law required to be in writing and signed by the parties to be charged

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charged therewith or in writing and under seal the Board may make such contract in writing and under their common seal and in the same manner may vary or discharge the same;

with respect to any contract which, if made between private persons, would by law be valid although made by parol only and not reduced into writing the Chairman may make such contract by parol only without writing and in the same manner may vary or discharge the same.

Acquisition
of land.
Act No. 22,
1950, ss. 14,
15, 16 & 17.

24. (1) The Board may for the purposes of this Act acquire land by lease, purchase, appropriation or resumption in accordance with the provisions of this section.

In this section "land" means either land in fee simple or any easement, right or privilege in, over, or affecting land.

(2) Where the Board proposes to acquire land for any purpose it may also acquire other land adjoining or in the vicinity of such land.

(3) Where the Board proposes to acquire land, including land previously appropriated or resumed for any purpose, by appropriation or resumption it may apply to the Governor through the Minister.

(4) The Board shall make provision to the satisfaction of the Governor for payment of compensation for the land, together with interest and all necessary charges and expenses incidental to the appropriation or resumption.

(5) The Governor may authorise the appropriation or the resumption of the land.

(6) Thereupon the Governor may—

- (a) appropriate or resume the land by Gazette notification under Division 1 of Part V of the Public Works Act, 1912; and
- (b) notify that the land is vested in the Board.

(7) Thereupon the land shall vest in the Board.

(8)

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(8) For the purposes of the Public Works Act, 1912, such appropriation or resumption shall be deemed to be for the purpose of carrying out an authorised work within the meaning of that Act.

(9) Where land is vested in the Board under this section the Board may notwithstanding anything contained in any other Act but subject to the provisions of subsection ten of this section sell, lease, exchange or otherwise deal with or dispose of such land.

(10) The Board shall not sell, lease, exchange or otherwise deal with or dispose of land acquired by it under this section or vested in it by or under the provisions of this Act except with the approval of the Minister and subject to such terms and conditions as the Minister may attach to his approval.

25. The Board may, with the approval of the Minister of the Department concerned, make use of the services of any officer or employee of the Public Service.

Use of services of officers, etc.
Act No. 22,
1950, s. 58.

26. (1) Any officer or employee of the Public Service who is appointed to the service of the Board shall retain any rights which have accrued or are accruing to him as an officer or employee of the Public Service or as an employee within the meaning of the Superannuation Act, 1916, or any amendment thereof, and shall continue to contribute to any fund or account and shall be entitled to receive any deferred or extended leave and any payment, pension or gratuity as if he had continued to be an officer or employee of the Public Service or an employee within the meaning of the Superannuation Act, 1916, as amended by subsequent Acts, as the case may be. And for the purposes of this subsection his service with the Board shall be deemed to be service for the purposes of the said Act, and of the Public Service Act, 1902, as amended by subsequent Acts.

Saving of rights of public servants appointed to Board.
cf. *Ibid.*
s. 63.

(2) Any officer or employee of the Public Service so appointed shall not be entitled to claim benefits under this Act as well as under any other Act in respect of the same period of service.

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Appointment
of servants.
cf. Act
No. 22, 1950,
s. 64.

27. (1) The Board shall appoint and employ such servants as may be necessary for carrying out the provisions of this Act.

(2) Subject to the provisions of this Act every servant of the Board shall continue in the service of the Board at the will of the Board only.

(3) All servants of the Board shall be subject to the sole control and governance of the Board which may, subject to this Act, fix wages and conditions of employment where such wages and conditions are not fixed in accordance with the provisions of any other Act.

Amendment
of Act No.
15, 1944.
Second Sch.
(Employing
Authorities.)

28. The Crown Employees Appeal Board Act, 1944-1953, is amended by inserting at the end of the Second Schedule the words "The Grain Elevators Board of New South Wales".

Offences by
members or
servants of
Board.
cf. Act No.
69, 1915,
s. 18c.

29. (1) Any member of the Board or any servant of the Board who without lawful authority demands or receives from any person any payment, gratuity or present in consideration of doing or omitting to do any act or thing pertaining to his office or employment under this Act shall be liable upon summary conviction to a penalty not exceeding one hundred pounds or to imprisonment for a term not exceeding two years.

(2) Any person who without lawful authority offers, makes or gives to a member of the Board or any servant of the Board, any payment, gratuity or present in consideration that such member or servant will do or omit to do some act or thing pertaining to his office or employment, shall be liable upon summary conviction to a penalty not exceeding one hundred pounds or to imprisonment for a term not exceeding two years.

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PART V.

FINANCE.

DIVISION 1.—*Loan Liability of the Board to the Treasurer.*

30. For the purposes of this Act the loan liability of the Board to the Treasurer on behalf of the State (in this Act referred to as “the loan liability to the Treasurer”) shall comprise—

Loan Liability to the Treasurer.
Act No. 22, 1950, s. 35.

- (a) any liability to the Treasurer assumed by the Board pursuant to section eleven of this Act;
- (b) any moneys appropriated from the General Loan Account and provided from time to time by the Treasurer for the Board.

31. (1) (a) There shall be constituted a committee (in this Act referred to as “the Committee of Review”) which shall have the functions and duties prescribed by this Act.

Loan liability. Committee of Review.
Ibid. s. 36.

(b) The Committee of Review shall consist of the persons for the time being holding the following offices, that is to say, the Auditor-General, the Chairman of the Board and the Under Secretary to the Treasury, each of whom may appoint in writing a representative to act on his behalf.

(c) The Auditor-General, or his representative so appointed, shall be the chairman of the Committee of Review.

(2) The functions of the Committee of Review shall be—

- (a) to determine the amount of liability to be assumed by the Board pursuant to section eleven of this Act;
- (b) to determine how the expense of meeting payments on account of leave or upon retirement or death of an officer or employee of the Public Service appointed to the service of the Board should be apportioned between the Treasurer and the Board;

(c)

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- (c) to certify to the Governor, as soon as practicable after the close of each financial year—
- (i) the amount of the loan liability to the Treasurer at the close of such financial year, having regard to moneys appropriated from the General Loan Account and provided for the Board during that financial year, the amount of any liability assumed by the Board pursuant to section eleven of this Act during that financial year and to any repayment by the Board during that financial year in respect of the loan liability to the Treasurer;
 - (ii) the amount (if any) which should be added to or deducted from that part of the loan liability to the Treasurer which does not bear interest.

Payment of interest and sinking fund charges.

Act No. 22, 1950, s. 37.

32. (1) In respect of the loan liability of the Board to the Treasurer as determined in accordance with section thirty-one of this Act the Board shall pay to the Treasurer such amounts for interest, exchange, sinking fund contributions and other charges as the Treasurer may from time to time determine:

Provided that the amounts so determined in any year shall, unless the Treasurer otherwise directs, be the amounts chargeable in that year.

(2) The amounts determined by the Treasurer under subsection one of this section shall not exceed the amounts which the Treasurer calculates as being as nearly as practicable sufficient to recoup the State for interest, exchange, sinking fund contributions and other charges payable by the State in respect of the loan liability of the Board to the Treasurer.

(3) Payments by the Board in accordance with the provisions of subsection one of this section shall be made in such amounts and at such times as the Treasurer may from time to time direct.

DIVISION

Grain Elevators.

DIVISION 2.—*Loans.*

33. (1) For the temporary accommodation of the Board it may obtain advances by overdraft of current account in any bank or banks upon the credit of the Board's funds to such extent as may from time to time be approved by the Governor.

Temporary accommodation.
Act No. 22,
1950, s. 38.

(2) The Treasurer may advance such moneys to the Board as the Governor may approve upon such terms and conditions as to repayment and interest as may be agreed upon.

(3) The Board may subject to the conditions and upon the terms prescribed receive money on deposit at short call or on fixed deposit.

34. The Board may from time to time with the approval of the Governor borrow money—

Purposes for which money may be borrowed.
cf. Ibid.
s. 39.

(a) for the improvement or extension of existing works or the construction or acquisition of additional or supplementary works for or in relation to the storage and handling of wheat;

(b) for the renewal of loans;

(c) for the discharge or partial discharge of any indebtedness to the Treasurer or to any bank;
or

(d) otherwise for the purposes of this Act.

35. Loans to the Board shall be deemed to be secured upon the income of the Board from whatever source arising.

Security for loans.
Ibid. s. 40.

36. (1) The Board shall establish a reserve fund for loan repayment in respect of each loan or renewal loan raised by the Board.

Reserves for repayment.
cf. Ibid.
s. 41.

(2) The Board shall during each year transfer to such fund from the revenue of the Board a sum not less than the Board in its application for approval of the loan intimated that it proposed to set apart as aforesaid.

(3)

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(3) Moneys held as reserve for loan repayment may be invested in government securities of the Commonwealth of Australia or of the State of New South Wales, or in debentures or inscribed stock in any loan of the Board, or in any securities guaranteed by the Government of the said State or in debentures or securities issued by the Sydney County Council or the Sydney City Council, or in such other securities as the Governor may approve or as may be prescribed in each case at their current market price. Any interest or profits realised on such investments shall be added to and form part of the reserve for loan repayment. All moneys paid into the reserve fund for loan repayment in respect of any loan or renewal loan may be applied in or towards repayment of any other loan or renewal loan but may not be applied for any other purpose until the loan or renewal loan in respect of which the fund has been established has been repaid.

(4) Where the Board decides to cancel debentures and inscribed stock of the Board purchased from the reserve for repayment of the loan for which they were issued, then, in addition to the sums otherwise payable to the reserve for loan repayment in respect of that loan, the Board shall, subject to any agreement to which it is a party whereby it undertakes to pay interest at a higher rate to such reserve, pay to such reserve interest at the rate of four and one-half per centum per annum on the face value of the cancelled securities from the date of their cancellation until the maturity of the loan.

(5) This section shall not apply to any loan to be repaid by instalments at intervals of one year or less.

Debentures,
etc.

Act No. 22,
1950, s. 42.

37. (1) For securing repayment of the principal and interest on any money borrowed the Board may as provided by the regulations issue debentures, inscribed stock or other prescribed securities.

(2)

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(2) Every such debenture and every coupon originally annexed to the debenture and whether separated therefrom or not shall be transferable by simple delivery.

(3) Inscribed stock shall be transferable in the books of the Board in accordance with the regulations.

(4) Debentures or inscribed stock issued under this Act shall both as regards the issue and transfer thereof for full consideration or money or money's worth be deemed to be included in the general exemptions from stamp duty under Part III of the Stamp Duties Act, 1920-1954, contained in the Second Schedule to that Act. The regulations may provide for the exemption from stamp duty of any other prescribed security.

(5) The holder of a coupon originally annexed to a debenture and whether separated therefrom or not shall be entitled to receive payment from the Board of the interest mentioned in the coupon upon the presentation of the same on or after the date when and at the place where the interest is payable.

(6) The due repayment of the debentures and stock and the interest thereon and of any loan in respect of which any other prescribed security is issued and the interest thereon shall be a charge upon the income and revenue of the Board and is hereby guaranteed by the Government. Any liability arising from such guarantee shall be payable out of moneys provided by Parliament. Such charge shall not prejudice or affect the power of the Board to sell or convey any property vested in it free of any such charge.

38. (1) Notwithstanding anything contained in this Division of this Part any money which the Board is authorised to borrow may be borrowed by a loan raised wholly or in part in such country as the Governor may approve, and may be negotiated and raised in any currency.

Raising
loan in
any country.
Act No. 22,
1950, ss. 43
and 43A.

(2)

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(2) Any such loan may be raised wholly or in part by the issue of debentures, bonds, stock or other securities in any form and containing any term, condition or provision permitted under the law of the place where such loan is raised and the Board may establish and conduct in such country registries relating to the securities issued in respect of such loan.

(3) The Board may in respect of any such loan agree that a sinking fund shall be established and controlled at such place, by such person and in such manner as may be found necessary or expedient in the circumstances of the case, and where any such sinking fund is so established the provisions of section thirty-six of this Act shall apply with regard to that loan only in respect of the amount, if any, the repayment of which is not provided for by the sinking fund established under the agreement.

(4) In connection with the raising of any loan under this section, the Board may enter into such agreements as the Board shall think fit with respect to the form of such debentures, bonds, stock or other securities, or for the sale of such debentures, bonds, stock or other securities, or the granting of an option to purchase such debentures, bonds, stock or other securities, or for services to be performed by any person in Australia or in any other part of the world in connection with such loan or with the issue, management, and redemption of or otherwise with respect to such debentures, bonds, stock or other securities, and such agreements may be upon such terms and conditions and may contain such provisions for the giving or receipt of consideration as the Board shall think fit.

Copies of any such agreement shall be forwarded to the Minister who shall cause the same to be laid before both Houses of Parliament as soon as possible after the loan is raised.

(5) The Governor may upon the recommendation of the Board appoint two or more persons to enter into for and on behalf of the Board all such agreements as the

the

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the Board is by this section authorised to enter into and to sign, execute, or otherwise perfect all such agreements, debentures, bonds, stock or other securities as are by this section provided for and to do all such things as may be necessary or convenient to be done for the purpose of raising any loan under this Act, and may upon the like recommendation revoke or vary any such appointment and make any fresh appointment.

The production of a copy of the Gazette containing a notification of any such appointment or revocation as aforesaid shall in favour of a lender or of any holder of a security be conclusive evidence of the appointment or revocation.

(6) All debentures, bonds, stock or other securities bearing the signatures of such persons so appointed in that behalf shall be deemed to be securities lawfully issued under seal by the Board and the principal moneys and interest secured thereby shall be deemed to be a charge upon the income and revenue of the Board from whatsoever source arising, and the due repayment of such principal moneys and interest is hereby guaranteed by the Government, and all agreements and any instruments purporting to be made or issued under the authority of this section and bearing the signatures of such persons shall be deemed to have been lawfully made or issued by the Board, and if the same shall purport to have been sealed by such persons to have been lawfully executed by the Board under seal.

A holder of any such debenture, bond, stock or other security shall not be bound to enquire whether the issue of such security was in fact duly authorised.

(7) Subject to this section and the law in force in the place where any loan is raised under this section and applicable to such loan and the securities issued in connection therewith the provisions of this Division of this Part other than subsection one of section thirty-seven and subsections three and four of section forty of this Act shall apply, *mutatis mutandis*, to and in respect of such loan and such securities.

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Trustees.
Act No. 22,
1950, s. 44.

39. (1) Any trustee unless expressly forbidden by the instrument (if any) creating the trust, may invest any trust moneys in his hands in stock inscribed by the Board, and the investment shall be deemed to be an investment authorised by the Trustee Act, 1925, or any Act amending or replacing that Act.

(2) Any debenture issued or stock inscribed by the Board shall be a lawful investment for any moneys which any company, council, or body corporate incorporated by any Act of Parliament of New South Wales is authorised or directed to invest in addition to any other investment expressly provided for the investment of such moneys.

(3) No notice of any trust expressed, implied or constructive, shall be received by the Board or by any servant of the Board in relation to any debenture or coupon issued or stock inscribed by the Board.

Lost
debentures.
Ibid. s. 45.

40. (1) If any debenture issued by the Board is lost or destroyed or defaced before the same has been paid, the Board may, subject to the provisions of this section issue a new debenture in lieu thereof.

(2) The new debenture with interest coupon annexed shall bear the same date, number, principal sum, and rate of interest as the lost, destroyed, or defaced debenture.

(3) When the debenture is lost or destroyed the new debenture shall not be issued unless and until—

- (a) a judge of the Supreme Court has been satisfied by affidavit of the person entitled to the lost or destroyed debenture, or of some person approved by the judge, that the same has been lost or destroyed before it has been paid off;
- (b) such advertisement as the judge may direct has been published;
- (c) six months have elapsed since the publication of the last of the advertisements; and
- (d) sufficient security has been given to the Board to indemnify it against any double payment if
the

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the missing debenture be at any time thereafter presented for payment.

(4) When the debenture is defaced the new debenture shall not be issued unless and until the defaced debenture is lodged with the Board for cancellation.

(5) The provisions of this section shall, *mutatis mutandis*, extend to the case of a lost, destroyed, or defaced coupon.

(6) In case of the loss, theft, destruction, mutilation, or defacement of any debenture or bond issued under section thirty-eight of this Act, a duplicate or new debenture or bond may be issued upon proof to the satisfaction of the Board of such loss, theft or destruction, or upon surrender of the mutilated or defaced debenture or bond, as the case may be, and upon the Board receiving security or indemnity satisfactory to it against double payment if the missing debenture or bond be at any time thereafter presented for payment.

41. (1) If for six months default is made by the Board in making any payment whether of principal or interest, to the holder of any debenture, or coupon, issued or stock inscribed by the Board, the holder thereof may apply to the Supreme Court in its equitable jurisdiction, in accordance with rules of court, for the appointment of a receiver of the income of the Board. Receivers.
Act No 22,
1950, s. 46.

(2) A receiver may be appointed in respect of the income of the Board either generally or as regards specified income.

(3) The Court may make such orders and give such directions as it may deem proper for and with respect to—

(a) the appointment of a receiver;

(b) the removal of a receiver;

(c) the appointment of a receiver in place of a receiver previously appointed.

(4) The receiver shall be deemed to be an officer of the Court, and shall act under its directions.

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Powers and
duties of
receivers.

Act No. 22,
1950, s. 47.

42. (1) A receiver shall have power to collect all income payable to the Board which he has by order of the Court been so authorised to collect and for the purposes of this subsection the receiver shall be deemed to be the Board and may exercise all the powers of the Board.

(2) The receiver shall discharge such duties of the Board or of any servants of the Board as may be prescribed.

Commission
to receiver.
Ibid. s. 48.

43. The receiver shall be entitled to such commission or remuneration for his services as the Court may order, and the commission or remuneration shall be payable out of the income for and in respect of which he has been appointed receiver.

Application
of money
received.
Ibid. s. 49.

44. The receiver shall, subject to any order of the Court, pay and apply all moneys received by him in the following order, that is to say—

- (a) firstly, in the payment of the costs, charges, and expenses of collection, and of his commission or remuneration;
- (b) secondly, in the payment of the amount due and payable to the holder of the debenture or inscribed stock or coupon, as the case may be;
- (c) thirdly, in payment of all the residue of the moneys to the Board.

Protection
of invest-
ments.
Ibid. s. 50.

45. (1) A person advancing money to the Board shall not be bound to enquire into the application of the money advanced, or be in any way responsible for the non-application or misapplication thereof.

(2) A notification in the Gazette of the approval of the Governor having been given to a borrowing by the Board shall, in favour of a lender and of any holder of a security given by the Board, be conclusive evidence that all conditions precedent to the borrowing have been complied with, and where the approval notified is to the borrowing by the Board in a country outside New South
Wales

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Wales and in a particular currency shall also be conclusive evidence in favour of such persons of the approval of the Governor to the borrowing in the country and in the currency specified in the notification.

46. All debentures, bonds, or other securities which are secured upon the income and revenue of the Board shall rank *pari passu* without any preference one above another by reason of priority of date or otherwise.

Debentures and bonds to rank *pari passu*.
Act No. 22, 1950, s. 51.

47. If the Board borrows any money without having first obtained the approval of the Governor, each member holding office who has, knowingly and wilfully or for personal benefit or advantage, consented to the borrowing shall be liable to a penalty of five hundred pounds.

Penalty for illegal borrowing.
Ibid. s. 52.

The action to recover the penalty shall not be taken without the written consent of the Attorney-General.

DIVISION 3.—*Accounts and Audit.*

48. (1) The Board shall cause proper books of account to be kept and shall as soon as practicable after the end of each financial year of the Board prepare and transmit to the Minister for presentation to Parliament a report of its operations during such year and balance-sheets and statements of accounts setting forth a true statement of the financial position and the transactions of the Board for such year.

Accounts to be kept.
cf. Act No. 69, 1915, s. 18n.

(2) Each such balance-sheet and statement—

- (a) shall include a profit and loss account and a statement of the assets and liabilities of the Board and shall be in a form approved by the Auditor-General; and
- (b) shall be audited and reported upon by the Auditor-General, who shall have in respect of the accounts of the Board all the powers conferred on the Auditor-General by any law now or hereafter to be in force relating to the audit of public accounts, as well as all powers conferred by this Act.

(3)

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(3) The Audit Act, 1902-1953, (section twenty-five excepted), shall apply to the Board and its servants in the same manner as it applies to accounting officers of public departments.

(4) Without limiting the generality of the powers conferred by subsection two of this section, the Auditor-General may disallow any expenditure or entry in the books of the Board which he considers has been wrongly, irregularly or dishonestly made.

(5) Any sum so disallowed shall be a surcharge upon and may be recovered or deducted from moneys due to the servants by whom the expenditure was incurred or ordered to be incurred or by whom the entry was made or ordered to be made, but such servants shall have the same right of appeal against such surcharge as is prescribed under the Audit Act, 1902-1953.

(6) The Board shall produce for inspection to any person duly authorised in writing by the Minister any or all of its books, accounts, agreements, vouchers, letters or other documents.

(7) The Board shall in each year pay into the Treasury such sum as is fixed by the Treasurer towards the cost of the audit of the accounts of the Board by the Auditor-General.

49. Subject to any provision made by or under this Act the Board shall cause expenditure to be charged against income and capital as nearly as may be in accordance with commercial principles.

Charging
expenditure
generally.
Act No. 22,
1950, s. 54.

 PART VI.

MISCELLANEOUS.

50. All courts and persons having by law or consent of parties authority to hear, receive and examine evidence—

(a) shall take judicial notice of the seal of the Board affixed to any documents; and

(b)

Judicial
notice of
seal of the
Board.
Ibid. s. 91.

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(b) shall until the contrary be proved presume that such seal was properly affixed thereto.

51. Any notice, summons, writ or other proceeding required to be served on the Board may be served by being left at the office of the Board, or, in the case of a notice, by post.

Service of notice of proceedings on the Board. Act No. 22, 1950, s. 92.

52. Every summons, process, demand, order, notice, statement, direction or document requiring authentication by the Board may be sufficiently authenticated without the seal of the Board if signed by the Chairman.

Documents. How authenticated. *Ibid.* s. 93.

53. (1) All proceedings for offences against this Act or the regulations shall be disposed of summarily before a court of petty sessions.

Penalties and recovery of charges, etc. *Ibid.* s. 96.

(2) Any charge, fee, remuneration or money due to the Board under the provisions of this Act or any regulations may be recovered as a debt in a court of competent jurisdiction.

(3) Proceedings for the recovery of any charge, fee, remuneration or money so due to the Board shall be deemed to be for the recovery of a debt or liquidated demand within the meaning of—

- (a) section twenty-four of the Common Law Procedure Act, 1899;
- (b) section sixty-four of the District Courts Act, 1912-1953;
- (c) section twenty-five of the Small Debts Recovery Act, 1912-1933.

54. In any legal proceedings by or against the Board no proof shall be required (until evidence is given to the contrary) of—

No proof of certain matters required. *Ibid.* s. 97.

- (a) the constitution of the Board;
- (b) any resolution of the Board;
- (c) the appointment of any member or any servant of the Board;

(d)

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- (d) the presence of a quorum at any meeting at which any determination is made or any act is done by the Board.

Delegation.
Act No. 22,
1950, s. 99.

55. (1) The Board may from time to time by resolution delegate such of the authorities, powers, duties or functions of the Board (other than this power of delegation) as may be prescribed and as are specified in the resolution—

- (a) to any member;
- (b) to any servant of the Board;
- (c) to any officer, servant or employee of whose services the Board makes use pursuant to this or any other Act.

(2) Any such delegation may be made either generally or for any particular case or class of cases.

(3) Any person when acting within the scope of any such delegation to him shall be deemed to be the Board.

(4) Any instrument necessary to be executed and any notice, order, summons or other like document requiring authentication for the purpose of the exercise or discharge of any power, authority, duty or function delegated to any person under this section shall be sufficiently executed or authenticated as the case may be if signed by such person in such a way as to show that he does so under and in pursuance of the delegation.

(5) The Board may by resolution revoke such delegation.

Notice of
action.
Ibid. s. 100.

56. (1) A writ or other process in respect of any damage or injury to person or property shall not be sued out or served upon the Board or any member, or any servant of the Board or any person acting in his aid for anything done or intended to be done or omitted to be done under this Act, until the expiration of one month after notice in writing has been served on the Board or member, servant or person as provided in this section.

(2)

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(2) The notice shall state—

- (a) the cause of action;
- (b) the time and place at which the damage or injury was sustained; and
- (c) the name and place of abode or business of the intended plaintiff and of his attorney, if any, in the case.

(3) In the case of damage to property, any person who produces on demand his authority from the Board shall be permitted to inspect the property damaged, and all facilities and information necessary to ascertain fully the value of the property damaged, the nature and extent of the damage, and the amount of money, if any, expended in repairing the same shall be given to him.

Representative of the Board to be permitted to inspect property injured.

(4) At the trial of any such action the plaintiff shall not be permitted to go into evidence of any cause of action that is not stated in the notice, and unless the notice has been served the plaintiff shall not be entitled to maintain the action:

Provided that at any stage of the proceedings the court or any judge of the court in which the action is pending may, if the court or judge deems it to be just or reasonable in the circumstances so to do—

- (a) amend any defect in the notice on such terms and conditions, if any, as the court or judge may fix;
- (b) direct that any non-compliance or insufficient compliance with this section shall not be a bar to the maintenance of the action.

(5) Every such action shall be commenced within the period of twelve months next after the occurring of the cause of action. Such period is in this subsection referred to as the “prescribed period”:

Provided that where an application is made to a judge of the Supreme Court in accordance with rules of court for an extension of the prescribed period the judge may, if he is satisfied that sufficient cause has been shown,

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or that having regard to all the circumstances of the case, it would be reasonable so to do, make an order for extension of the prescribed period for such further period and subject to such terms and conditions, if any, as may be set out in the order.

Such application for extension may be made either within the prescribed period or at any time within twelve months thereafter.

Any person who is dissatisfied with the decision of the judge on any such application may appeal to the Supreme Court and that Court may on the appeal make any order which ought to have been made in the first instance.

Every such appeal shall be made in accordance with rules of court.

(6) The Board, or any member, servant or person to whom any such notice of action is given as aforesaid, may tender amends to the plaintiff, his attorney or agent at any time within one month after service of notice of action, and in case the same is not accepted may plead the tender in bar.

(7) The defendant in every such action may plead the general issue and at the trial thereof give this Act and the special matter in evidence.

Regulations. **57.** (1) The Governor may make regulations, not inconsistent with this Act, for and with respect to—

- (a) the receipt, storage, insurance, handling and delivery of wheat by the Board;
- (b) the operation, management, control and maintenance of elevators and other works under the control of the Board which are used for the storage and handling of wheat;
- (c) prescribing qualities of wheat for the purposes of this Act;
- (d) the conditions under which wheat shall be received by the Board for storage and warrants issued;

(e)

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- (e) the inspection or weighing of wheat received or delivered by the Board;
- (f) the forms of warrants and instructions as to the disposal of wheat delivered by the Board;
- (g) the method of issuing and the form of duplicate warrants issued in lieu of warrants which are alleged to have been defaced, destroyed or lost and the security to be taken before any such issue;
- (h) the conditions under which one warrant may be issued in place of two or more warrants and under which two or more warrants may be issued in place of one;
- (i) the method of providing for shortages of stocks of wheat under the control of the Board and of disposing of surpluses of wheat held by the Board;
- (j) the dues, rates, fees or charges or the remuneration payable for receiving, storing, insuring, weighing, drying, cleaning and delivering wheat and for other services rendered or things done by the Board in connection with the handling of wheat;
- (k) securities other than debentures or inscribed stock which may be issued by the Board for securing repayment of principal and interest on any money borrowed by the Board;
- (l) the control and governance of servants by the Board and any other matter or thing necessary or convenient to ensure the maintenance of discipline and efficiency in the service of the Board;
- (m) the prescription of all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to **this Act.**

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(2) Any regulation made under this Act may impose a penalty not exceeding fifty pounds for any breach thereof.

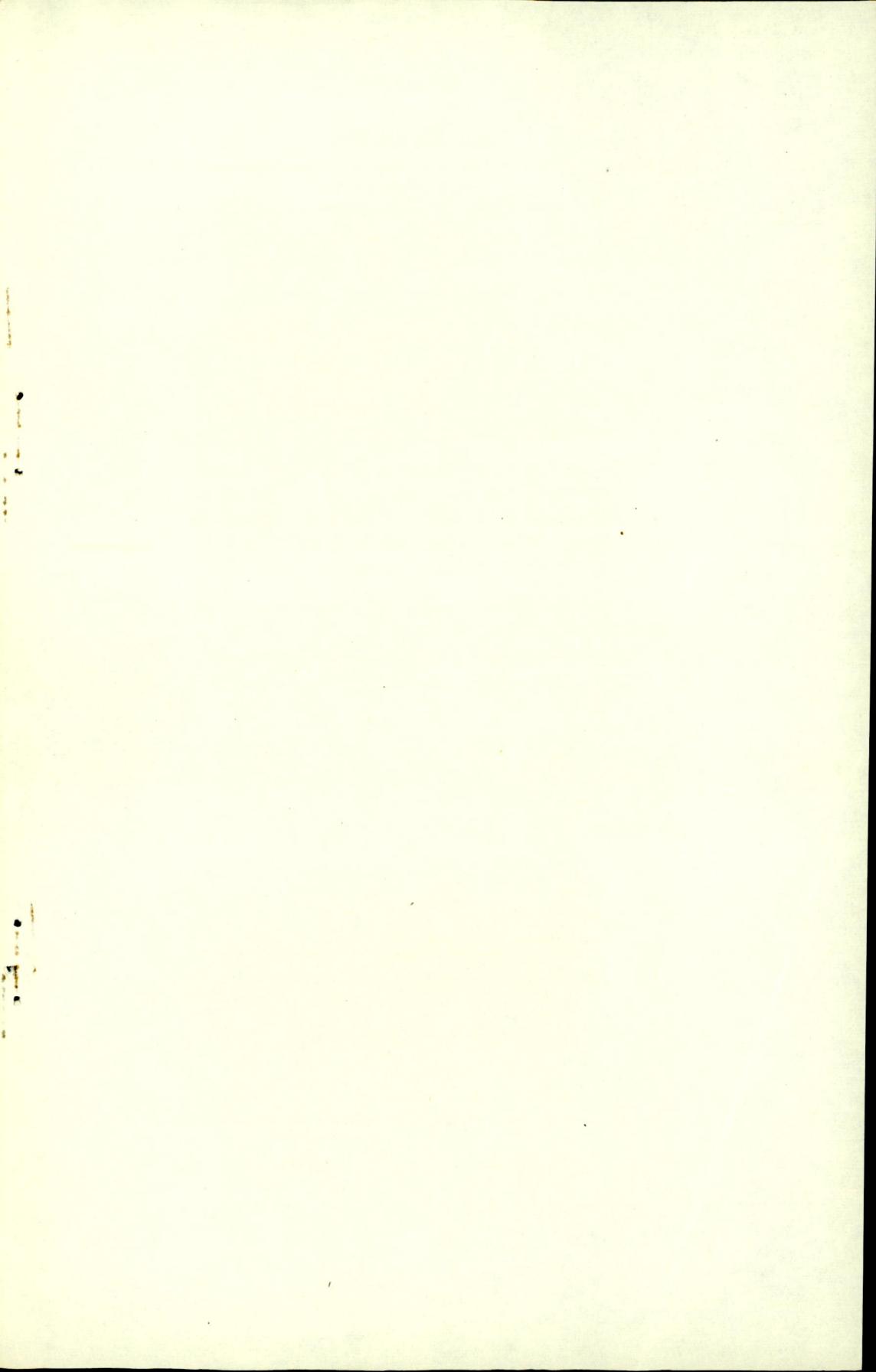
(3) The regulations shall—

- (a) be published in the Gazette;
- (b) take effect from the date of publication or from a later date to be specified in the regulations;
- (c) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is then in session, and if not, then within fourteen sitting days after the commencement of the next session.

(4) If either House of Parliament passes a resolution of which notice has been given within fifteen sitting days after such regulations have been laid before such House disallowing any regulation or part thereof, such regulation or part shall thereupon cease to have effect.

BY AUTHORITY:

A. H. PETTIFER, Government Printer, Sydney, 1955.

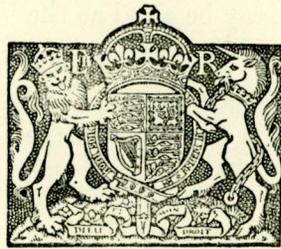


I certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

H. ROBBINS,
Clerk of the Legislative Assembly.

Legislative Assembly Chamber,
Sydney, 24 November, 1954.

New South Wales



ANNO TERTIO

ELIZABETHÆ II REGINÆ

Act No. 36, 1954.

An Act to make provision for and in relation to the handling and storage of wheat and the operation and control of the Government Grain Elevators; to provide for the constitution of the Grain Elevators Board of New South Wales and to define its powers, authorities, duties and functions; to dissolve the State Wheat Committee constituted under the Wheat Marketing Act, 1948-1953; to amend the said Act in certain respects; to repeal the Grain Elevator Act, 1916, and the Wheat Act, 1927; and for purposes connected therewith. [Assented to, 29th November, 1954.]

BE

I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.

G. BOOTH,
Chairman of Committees of the Legislative Assembly.

Grain Elevators.

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

PART I.

PRELIMINARY.

Short title
and com-
mencement.

1. (1) This Act may be cited as the "Grain Elevators Act, 1954."

(2) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

Division
into Parts.

2. This Act is divided into Parts as follows:—

PART I—PRELIMINARY.

PART II—CONSTITUTION OF THE GRAIN ELEVATORS BOARD.

PART III—VESTING OF GOVERNMENT GRAIN ELEVATORS IN THE BOARD.

PART IV—POWERS, AUTHORITIES, DUTIES AND FUNCTIONS OF THE BOARD.

PART V—FINANCE.

DIVISION 1.—*Loan Liability of the Board to the Treasurer.*

DIVISION 2.—*Loans.*

DIVISION 3.—*Accounts and Audit.*

PART VI—MISCELLANEOUS.

Defini-
tions.

3. In this Act, unless the context or subject matter otherwise indicates or requires—

"Australian Wheat Board" means the Board constituted under the Wheat Marketing Act 1948-1953 of the Parliament of the Commonwealth
"Board"

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“Board” means the Grain Elevators Board of New South Wales.

“Chairman” means the Chairman of the Board.

“Member” means a member of the Board.

“Prescribed” means prescribed by this Act or by the regulations.

“Regulations” means regulations made under this Act.

“Treasurer” means the Colonial Treasurer.

4. The Grain Elevator Act, 1916, and the Wheat Act, 1927, are hereby repealed. Repeal of Acts Nos. 47, 1916, and 6, 1927.

5. (1) The State Wheat Committee constituted under the Wheat Marketing Act, 1948-1953, is hereby dissolved. Dissolution of State Wheat Committee.

(2) The Wheat Marketing Act, 1948-1953, is amended by omitting Part II.

6. (1) The Wheat Marketing Act, 1948-1953, is amended— Amendment of Act No. 46, 1948.

(a) by inserting in section three before the definition of “licensed receiver” the following new definition:— Sec. 3. (Definitions.)

“Grain Elevators Board” means the Grain Elevators Board of New South Wales constituted under the Grain Elevators Act, 1954.

(b) (i) by omitting from section eight the words “Manager of the Government Grain Elevators” wherever occurring and by inserting in lieu thereof the words “Grain Elevators Board”; Sec. 8. (Licensed receivers.)

(ii) by omitting from paragraph (b) of subsection two of the same section the words and figures “Wheat Act, 1927” and by inserting in lieu thereof the words and figures “Grain Elevators Act, 1954”;

(c)

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(Powers of
Board.)

(c) (i) by omitting from paragraph (d) of section nine the words and figures "Wheat Act, 1927" and by inserting in lieu thereof the words and figures "Grain Elevators Act, 1954";

(ii) by omitting from the same paragraph the words "in the Government Grain Elevators" and by inserting in lieu thereof the words "by the Grain Elevators Board".

Citation.

(2) The Wheat Marketing Act, 1948, as amended by subsequent Acts and by this Act, may be cited as the Wheat Marketing Act, 1948-1954.

PART II.

CONSTITUTION OF THE GRAIN ELEVATORS BOARD.

Constitution
of Board.

7. (1) There shall be constituted a Grain Elevators Board which shall have and may exercise and discharge the powers, authorities, duties and functions conferred and imposed upon it by or under this or any other Act.

In the exercise and discharge of such powers, authorities, duties and functions the Board shall be subject in all respects to the control and direction of the Minister.

(2) For the purposes of any Act, the Board shall be deemed to be a statutory body representing the Crown.

(3) The Board shall consist of five members appointed by the Governor.

Of the members so appointed—

(a) one shall in and by the instrument by which he is appointed be the Chairman of the Board;

(b) one shall be an officer in the employ of the Commissioner for Railways selected by the Minister from a panel of not less than three officers submitted to the Minister by the Commissioner for Railways;

(c) one shall be an officer of the Treasury nominated by the Treasurer;

(d)

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(d) two shall be persons nominated as representing the wheatgrowers of New South Wales by the Minister, who before nominating such persons shall have regard to the recommendations (if any) in that behalf of any body or bodies representative in the opinion of the Minister of the interests of such wheatgrowers.

(4) A person who is directly interested (other than as a wheatgrower) in the business of selling, purchasing or dealing in wheat shall not be eligible to be appointed as a member of the Board and shall be disqualified from holding any such office. cf. Vic. Act No. 4270, s. 5 (3).

(5) (a) Subject to this Act the term of office of a member of the Board shall be such term, not exceeding five years, as is specified in the instrument of his appointment. Act No. 69, 1915, s. 8.

(b) Upon the expiration of the term of office of a member of the Board he shall, if otherwise qualified, be eligible for reappointment from time to time. Any such reappointment shall be for such term not exceeding five years as may be specified in the instrument of reappointment.

(c) On the occurrence of a vacancy in the office of a member of the Board, the person appointed to fill the vacant office shall, subject to this Act, hold office for the remainder of the unexpired term of the vacant office.

(d) A person who is of or above the age of sixty-five years shall not be appointed as a member.

(e) The Governor may in the case of the illness, suspension or absence of any member appoint a deputy to act in the place of such member during his illness, suspension or absence; and, if a member is appointed to act in the place of the Chairman, the Governor may appoint a deputy to act in the place of that member. The provisions of this Act with respect to the qualifications for appointment as and the method of appointment of a member shall extend and apply to a deputy to be appointed to act in the place of such member.

(f)

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(f) A deputy appointed under this subsection shall have the immunities, powers, authorities and duties of the member in whose place he acts.

(g) A deputy appointed under this subsection may be paid such remuneration for his services including such fees and allowances and such travelling expenses as the Governor may determine.

(h) No person shall be concerned to enquire whether or not any occasion has arisen requiring or authorising a deputy so to act and all acts or things done or omitted by the deputy shall be as valid and effectual and shall have the same consequences as if the same had been done or omitted by the member for whom the deputy is acting.

(6) The Chairman or any deputy appointed to act in his place shall devote the whole of his time to the duties of his office.

The Chairman shall, by virtue of and while acting in such office, be the Manager of the Board, and a deputy shall, by virtue of and while acting in the place of the Chairman, be the Acting Manager of the Board, but neither the Chairman or such deputy shall on such account be entitled to receive any remuneration additional to that which he is entitled to receive as Chairman or as such deputy, as the case may be.

(7) (a) Each member shall receive such remuneration, fees, allowances and travelling expenses as the Governor may from time to time determine.

(b) Where by or under any Act provision is made requiring the holder of an office specified therein to devote the whole of his time to the duties of his office or prohibiting him from engaging in employment outside the duties of his office, such provision shall not operate to disqualify him from holding that office and also the office of a member (other than the office of Chairman) under this Act or from accepting and retaining any remuneration, fees or allowances payable to a member under this Act.

(c)

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(c) The office of a member (other than the Chairman) shall not for the purposes of the Constitution Act, 1902, or any Act amending that Act, be deemed to be an office or place of profit under the Crown.

(8) The provisions of the Public Service Act, 1902, or of any Act amending that Act, shall not apply to or in respect of the appointment of a member and a member shall not be subject to any such Act during his term of office.

(9) A member shall be deemed to have vacated his office—

- (a) if, being the Chairman, he engages during his term of office in any paid employment outside the duties of his office;
- (b) if he becomes bankrupt, compounds with his creditors or makes any assignment of his remuneration, fees, allowances or estate for their benefit;
- (c) if, being the Chairman, he absents himself from duty for a period exceeding fourteen consecutive days except on leave granted by the Minister (which leave the Minister is hereby authorised to grant) unless such absence is occasioned by illness or other unavoidable cause;
- (d) if, being a member other than the Chairman, he is absent from four consecutive ordinary meetings of the Board without leave granted by the Board;
- (e) if he becomes an insane person or patient or an incapable person within the meaning of the Lunacy Act of 1898, as amended by subsequent Acts;
- (f) if he is convicted in New South Wales of a felony or of a misdemeanour which is punishable by imprisonment for twelve months or upwards, or if he is convicted elsewhere than in New South Wales of an offence which if committed in New South Wales would be a felony or misdemeanour which is punishable as aforesaid;

(g)

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- (g) if he becomes directly interested (other than as a wheatgrower) in the business of selling, purchasing or dealing in wheat;
- (h) if he resigns his office by writing under his hand addressed to the Governor;
- (i) if, not being the Chairman, he is removed from office by the Governor.

A member shall be deemed to have vacated his office upon the day upon which he attains the age of sixty-five years.

(10) The Governor may, for any cause which appears to him to be sufficient, remove a member not being the Chairman from office.

(11) (a) The Chairman may be suspended from his office by the Governor for misbehaviour or incompetence but shall not be removed from office except as provided in this subsection.

(b) The Minister shall cause to be laid before Parliament a full statement of the grounds of suspension within seven sitting days after such suspension if Parliament is then in session and, if not, then within seven sittings days after the commencement of the next session.

(c) The Chairman suspended under this section shall be restored to office unless each House of Parliament, within twenty-one days from the time when such statement has been laid before such House, declares by resolution that the Chairman ought to be removed from office, and if each House of Parliament within the said time does so declare, the Chairman shall be removed by the Governor accordingly.

Savings of
rights of
person
appointed
Chairman.

8. (1) A person who, at the date of his appointment as Chairman, is an officer of the Public Service and who ceases to be Chairman for any cause whatsoever otherwise than in pursuance of subsections nine (paragraph (h) excepted) and eleven of section seven of this Act, shall if he is under the age of sixty years be appointed to some office in the Public Service not lower in classification and salary than that which he held immediately before his appointment as Chairman.

(2)

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(2) (a) Nothing contained in this Act shall affect the rights accrued or accruing under the Public Service Act, 1902, or under the Superannuation Act, 1916-1952, or any Act amending such Acts, to any person appointed as Chairman who is at the time of his appointment or has been at any time previous thereto an officer of the Public Service or an employee within the meaning of the Superannuation Act, 1916-1952, or any amendment thereof.

(b) Any officer of the Public Service or any person who is an employee within the meaning of the Superannuation Act, 1916-1952, or any amendment thereof, who is appointed as Chairman shall continue to contribute to any fund or account and shall be entitled to receive any deferred or extended leave and any payment, pension or gratuity as if he were an officer or employee within the meaning of the Public Service Act, 1902, or the Superannuation Act, 1916-1952, as the case may be, or any Act amending such Acts, and for such purpose his service as Chairman shall be deemed to be service for the purpose of such Acts.

9. (1) The Board shall be a body corporate with perpetual succession and a common seal, and may sue or be sued in its corporate name, and shall be capable of purchasing, holding, granting, demising, disposing of or otherwise dealing with real and personal property and of doing and suffering all such acts and things as bodies corporate may by law do and suffer. Board to be
body
corporate.

(2) The corporate name of the Board shall be "The Grain Elevators Board of New South Wales".

(3) The common seal shall be kept in the custody of the Chairman and shall not be affixed to any instrument except in pursuance of a resolution of the Board.

Any instrument executed in pursuance of any such resolution shall be attested by the signature of any two members.

(4) (a) The procedure for the calling of meetings of the Board and for the conduct of business at such meetings shall be as determined by the Board. Proceedings
of Board.
Act No. 22,
1950, s. 6.

(b)

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(b) Three of the members shall form a quorum and any duly convened meeting at which a quorum is present shall be competent to transact any business of the Board and shall have and may exercise and discharge all the powers, authorities, duties and functions of the Board.

A decision of a majority of the members present at a meeting of the Board shall be the decision of the Board.

(c) At any meeting of the Board the Chairman shall preside. In the absence of the Chairman from a meeting the members present may choose one of their number to preside as Chairman of that meeting.

At any meeting of the Board the Chairman or the member presiding as chairman shall have a deliberative vote, and if the voting is equal, a casting vote.

(5) The Board shall cause full and accurate minutes to be kept of its proceedings at formal meetings and submit to the Minister a copy of the minutes of each formal meeting within one week after the date on which such formal meeting is held.

(6) No act or proceeding of the Board shall be invalidated or prejudiced by reason only of the fact that at the time when such act or proceeding was done, taken or commenced, there was a vacancy in the office of a member.

(7) (a) No matter or thing done, and no contract entered into by the Board, and no matter or thing done by any member or by any other person whomsoever acting under the direction of the Board shall, if the matter or thing was done or the contract was entered into bona fide for the purpose of executing this Act, subject them or any of them personally to any action, liability, claim or demand whatsoever.

(b) Nothing in this subsection shall exempt any member from liability to be surcharged with the amount of any payment which is disallowed by the Auditor-General in the accounts of the Board and which such member authorised or joined in authorising.

PART

Grain Elevators.

PART III.

VESTING OF GOVERNMENT GRAIN ELEVATORS IN THE BOARD.

10. On and from the commencement of this Act the following provisions shall have effect:—

- (a) All control and administration of the Government Grain Elevators exercisable by the Manager of the Government Grain Elevators or any other person immediately before the commencement of this Act shall be exercisable by the Board under and in accordance with this Act.
- (b) All real and personal property and all right and interest therein which immediately before the commencement of this Act is vested in or belongs to the Crown, or any Minister of the Crown as constructing authority, or the Commissioner for Railways, and which immediately before such commencement is held or used for the purposes of or in connection with the Government Grain Elevators shall vest in and belong to the Board. This paragraph shall not apply to stacking sites and grain sheds for bagged wheat and rolling stock and permanent ways vested in or belonging to the Commissioner for Railways.
- (c) All moneys liquidated and unliquidated claims which immediately before the commencement of this Act are payable to or recoverable by the Crown in relation to or in connection with the Government Grain Elevators (other than moneys liquidated and unliquidated claims so payable by or so recoverable from the Australian Wheat Board) or which immediately before such commencement are payable to or recoverable by any Minister of the Crown as constructing authority in relation to or in connection with any real or personal property, which is vested in or belongs to the Board by virtue of this section, shall be moneys liquidated and unliquidated claims payable to or recoverable by the Board.

Vesting of
property.
cf. Act
No. 22, 1950
s. 31.

(d)

Grain Elevators.

- (d) (i) All suits, actions, and proceedings pending immediately before the commencement of this Act at the suit of the Crown in relation to or in connection with the Government Grain Elevators, shall be respectively suits, actions, and proceedings pending at the suit of the Board.
- (ii) All suits, actions, and proceedings pending immediately before the commencement of this Act at the suit of any Minister of the Crown as constructing authority in relation to or in connection with any real or personal property or any right or interest therein which is vested in or belongs to the Board by virtue of this section shall be respectively suits, actions, and proceedings pending at the suit of the Board.
- (e) (i) All contracts, agreements and undertakings entered into with, and all securities lawfully given to or by the Crown in relation to or in connection with the Government Grain Elevators and in force immediately before the commencement of this Act shall be deemed to be contracts, agreements and undertakings entered into with and securities given to or by the Board.

This sub-paragraph shall not relieve the Crown from any liability under any agreement between the Crown and the Australian Wheat Board whereby the Crown has undertaken to make sites for wheat storage available to the Australian Wheat Board.

- (ii) All contracts, agreements and undertakings entered into with and all securities given to or by any Minister of the Crown as constructing authority in relation to or in connection with any real or personal property which is vested in or belongs to the Board by virtue of this section and in force immediately before the commencement
of

Grain Elevators.

of this Act shall be deemed to be contracts, agreements and undertakings entered into with and securities given to or by the Board.

- (f) The Board may pursue the same remedies for the recovery of any such moneys and claims and for the prosecution of such suits, actions, and proceedings as the Crown or a Minister, as the case may be, might have done but for this Act.
- (g) The Board may enforce and realise any security or charge existing immediately before the commencement of this Act in favour of the Crown or any Minister of the Crown as constructing authority, as the case may be, in respect of any such moneys or claims as if the security or charge were existing in favour of the Board.
- (h) (i) All debts due and moneys payable by the Crown in relation to or in connection with the Government Grain Elevators and all claims liquidated or unliquidated recoverable against the Crown in relation to or in connection with the Government Grain Elevators shall be debts due, moneys payable by and claims recoverable against the Board.
- (ii) All debts due and moneys payable by any Minister of the Crown as constructing authority in relation to or in connection with any real or personal property or any right or interest therein which is vested in or belongs to the Board by virtue of this section, and all claims liquidated or unliquidated in relation to or in connection with any such real or personal property or right or interest therein shall be debts due, moneys payable by and claims recoverable against the Board.
- (i) No attornment by a lessee of any land vested in the Board by this section shall be necessary.

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Liability of Board to Treasurer.
cf. Act No. 22, 1950, s. 32.

11. (1) As soon as practicable after the commencement of this Act the Committee of Review constituted under section thirty-one of this Act shall cause to be notified in the Gazette the amount of liability to the Treasurer which shall be assumed by the Board in relation to or in connection with any real or personal property which is vested in or belongs to the Board by virtue of section ten of this Act and the amount thereof which shall bear interest.

(2) The liability assumed by the Board pursuant to subsection one of this section shall as from the commencement of this Act become and be part of the loan liability to the Treasurer as defined in section thirty of this Act.

PART IV.

POWERS, AUTHORITIES, DUTIES AND FUNCTIONS OF THE BOARD.

General powers of Board.
Ibid. s. 9.

12. The Board may, subject to and in accordance with this Act and the regulations—

- (a) undertake the storage and handling of wheat;
- (b) maintain and operate and where necessary improve and extend all elevators and other works for or in relation to the storage and handling of wheat for the time being vested in it, and construct any new, additional or supplementary elevators and other works for or in relation to the storage and handling of wheat;
- (c) consider and advise the Minister on matters relating to or affecting the wheat industry.

Board may be agent of Australian Wheat Board.
Warrants.
cf. Act No. 6, 1927, s. 11.

13. The Board may act as an agent of the Australian Wheat Board in relation to any matter.

14. (1) There shall be issued for wheat received by the Board for storage a warrant in the prescribed form.

(2) Such warrants shall be consecutively numbered and two warrants bearing the same number shall not be issued during the period in which the wheat harvest of any season is being delivered.

15.

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15. The Board shall not deliver wheat from its charge unless there shall have been delivered to the Board—

- Delivery by the Board. cf. Act No. 6, 1927, s. 12.
- (a) a warrant representing the same quantity of wheat of the same description or quality; and
 - (b) instructions in the prescribed form by the person delivering the warrant as to the disposal of such wheat;

and unless all fees, freight and other charges due in connection therewith have been paid.

16. (1) Notwithstanding anything contained in this Act or the regulations the Board may enter into such undertakings or agreements as it thinks fit with respect to the delivery of wheat pursuant to any warrant issued by it. Such undertakings or agreements may contain provisions additional to, in variation of or in substitution for those contained in section fifteen of this Act and shall be endorsed upon the warrant.

(2) The Board shall not deliver wheat from its charge pursuant to any warrant endorsed with undertakings or agreements as provided in subsection one of this section otherwise than in accordance with such undertakings or agreements.

17. Warrants shall after endorsement by the person to whom they were issued be transferable by delivery.

Warrants negotiable. *Ibid.* s. 13.

18. No action for damages for conversion or for detention of any wheat shall be brought against the Board or any of its servants by any person claiming to be entitled to any mortgage, charge, lien (including any lien on crops under the Liens on Crops and Wool and Stock Mortgages Act, 1898), or any other encumbrance whatsoever of, upon or over such wheat or any crop from which such wheat was harvested.

Protection against actions, etc. *Ibid.* s. 14.

19. (1) After the delivery of any wheat in respect of which a warrant has been produced as provided in section fifteen of this Act the Government and the Board shall not be answerable to any other person claiming to be the owner of such wheat or of any interest therein.

Indemnity. *Ibid.* s. 15.

(2)

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(2) The Board shall not be responsible for—

- (a) any loss of or damage to wheat in its charge arising from irresistible force, the act of God or the Queen's enemies, strikes, lock-outs, or any other cause beyond its control; or
- (b) any loss which may be sustained by reason of the short supply or non-supply of railway trucks to the Board for the purpose of moving wheat under the instructions of the owner of the wheat.

(3) Where wheat in the charge of the Board is destroyed or damaged by any of the causes referred to in paragraph (a) of subsection two of this section all persons at the time of the loss entitled to delivery of wheat under warrants shall bear the loss in a proportion to be fixed by the Board approximating as nearly as can be calculated by it to the proportion that the wheat which such persons are entitled by the warrants to receive bears to the total stocks of wheat then in the charge of the Board, and the amount of wheat deliverable on warrants then in force shall be reduced accordingly.

(4) Where from any cause for which the Board is responsible loss of or damage to wheat occurs, the liability of the Board shall be limited to the market value of the wheat at the time of the loss or damage.

(5) Where the Board is unable from any cause for which it is responsible to deliver wheat in the quantity and of the quality mentioned in a warrant or in accordance with any agreement or undertaking endorsed thereon, the Board may pay to the owner of the warrant the amount of the market value of the wheat mentioned in the warrant as at the date on which delivery was sought, but so that the amount shall not exceed the market value on the fifteenth day of November following the harvest during which the wheat was delivered, and the Board shall not be responsible to any further extent for any damages, loss, costs, charges, or expenses resulting from its failure to so deliver the wheat.

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20. (1) The Board, subject to the approval of the Minister, may enter into any agreement it thinks fit with the Australian Wheat Board as to the terms and conditions upon which it shall receive wheat on behalf of the Australian Wheat Board.

Wheat received on behalf of Australian Wheat Board.

(2) Any such agreement shall have force and effect notwithstanding anything contained in this Act or the regulations.

21. It shall be lawful for the Board to demand, collect, sue for and receive, in respect and for the use of any property of the Board or any service performed or thing done by it, such dues, rates, fees and charges as may be prescribed or as may otherwise be agreed upon between the parties.

Board may make charges. cf. Act No. 69, 1915, s. 15.

Nothing in this section shall affect the operation of the provisions of the Wheat Marketing Act, 1948-1954, with respect to the remuneration payable to the Board thereunder as a licensed receiver.

22. The provisions of Part III of the Public Works Act, 1912, as amended by subsequent Acts, shall not extend to any works constructed or proposed to be constructed by the Board.

Public Works Act, 1912—Part III excluded. Act No. 22, 1950, s. 10.

23. (1) The Board may subject to this Act make and enter into contracts or agreements with any person for the performance of services, or for the supply of goods, machinery or material in connection with the exercise or discharge by the Board of its powers, authorities, duties and functions.

Contracts. *Ibid.* s. 11.

(2) All persons contracting with the Board (other than as wheatgrowers) shall be deemed for the purposes of the Constitution Act, 1902, to be public contractors.

(3) Any contract or agreement authorised by this or any other section of this Act shall be in the name of the Board and may be made as follows, that is to say—

with respect to any contract which, if made between private persons, would be by law required to be in writing and signed by the parties to be charged

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charged therewith or in writing and under seal the Board may make such contract in writing and under their common seal and in the same manner may vary or discharge the same;

with respect to any contract which, if made between private persons, would by law be valid although made by parol only and not reduced into writing the Chairman may make such contract by parol only without writing and in the same manner may vary or discharge the same.

Acquisition
of land.
Act No. 22,
1950, ss. 14,
15, 16 & 17.

24. (1) The Board may for the purposes of this Act acquire land by lease, purchase, appropriation or resumption in accordance with the provisions of this section.

In this section "land" means either land in fee simple or any easement, right or privilege in, over, or affecting land.

(2) Where the Board proposes to acquire land for any purpose it may also acquire other land adjoining or in the vicinity of such land.

(3) Where the Board proposes to acquire land, including land previously appropriated or resumed for any purpose, by appropriation or resumption it may apply to the Governor through the Minister.

(4) The Board shall make provision to the satisfaction of the Governor for payment of compensation for the land, together with interest and all necessary charges and expenses incidental to the appropriation or resumption.

(5) The Governor may authorise the appropriation or the resumption of the land.

(6) Thereupon the Governor may—

(a) appropriate or resume the land by Gazette notification under Division 1 of Part V of the Public Works Act, 1912; and

(b) notify that the land is vested in the Board.

(7) Thereupon the land shall vest in the Board.

(8)

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(8) For the purposes of the Public Works Act, 1912, such appropriation or resumption shall be deemed to be for the purpose of carrying out an authorised work within the meaning of that Act.

(9) Where land is vested in the Board under this section the Board may notwithstanding anything contained in any other Act but subject to the provisions of subsection ten of this section sell, lease, exchange or otherwise deal with or dispose of such land.

(10) The Board shall not sell, lease, exchange or otherwise deal with or dispose of land acquired by it under this section or vested in it by or under the provisions of this Act except with the approval of the Minister and subject to such terms and conditions as the Minister may attach to his approval.

25. The Board may, with the approval of the Minister of the Department concerned, make use of the services of any officer or employee of the Public Service.

Use of services of officers, etc.
Act No. 22,
1950, s. 58.

26. (1) Any officer or employee of the Public Service who is appointed to the service of the Board shall retain any rights which have accrued or are accruing to him as an officer or employee of the Public Service or as an employee within the meaning of the Superannuation Act, 1916, or any amendment thereof, and shall continue to contribute to any fund or account and shall be entitled to receive any deferred or extended leave and any payment, pension or gratuity as if he had continued to be an officer or employee of the Public Service or an employee within the meaning of the Superannuation Act, 1916, as amended by subsequent Acts, as the case may be. And for the purposes of this subsection his service with the Board shall be deemed to be service for the purposes of the said Act, and of the Public Service Act, 1902, as amended by subsequent Acts.

Saving of rights of public servants appointed to Board.
et. Ibid.
s. 63.

(2) Any officer or employee of the Public Service so appointed shall not be entitled to claim benefits under this Act as well as under any other Act in respect of the same period of service.

27.

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Appointment
of servants.
cf. Act
No. 22, 1950,
s. 64.

27. (1) The Board shall appoint and employ such servants as may be necessary for carrying out the provisions of this Act.

(2) Subject to the provisions of this Act every servant of the Board shall continue in the service of the Board at the will of the Board only.

(3) All servants of the Board shall be subject to the sole control and governance of the Board which may, subject to this Act, fix wages and conditions of employment where such wages and conditions are not fixed in accordance with the provisions of any other Act.

Amendment
of Act No.
15, 1944.
Second Sch.
(Employing
Authorities.)

28. The Crown Employees Appeal Board Act, 1944-1953, is amended by inserting at the end of the Second Schedule the words "The Grain Elevators Board of New South Wales".

Offences by
members or
servants of
Board.
cf. Act No.
69, 1915,
s. 18c.

29. (1) Any member of the Board or any servant of the Board who without lawful authority demands or receives from any person any payment, gratuity or present in consideration of doing or omitting to do any act or thing pertaining to his office or employment under this Act shall be liable upon summary conviction to a penalty not exceeding one hundred pounds or to imprisonment for a term not exceeding two years.

(2) Any person who without lawful authority offers, makes or gives to a member of the Board or any servant of the Board, any payment, gratuity or present in consideration that such member or servant will do or omit to do some act or thing pertaining to his office or employment, shall be liable upon summary conviction to a penalty not exceeding one hundred pounds or to imprisonment for a term not exceeding two years.

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PART V.

FINANCE.

DIVISION 1.—*Loan Liability of the Board to the Treasurer.*

30. For the purposes of this Act the loan liability of the Board to the Treasurer on behalf of the State (in this Act referred to as “the loan liability to the Treasurer”) shall comprise—

Loan liability to the Treasurer.
Act No. 22, 1950, s. 35.

- (a) any liability to the Treasurer assumed by the Board pursuant to section eleven of this Act;
- (b) any moneys appropriated from the General Loan Account and provided from time to time by the Treasurer for the Board.

31. (1) (a) There shall be constituted a committee (in this Act referred to as “the Committee of Review”) which shall have the functions and duties prescribed by this Act.

Loan liability. Committee of Review.
Ibid. s. 36.

(b) The Committee of Review shall consist of the persons for the time being holding the following offices, that is to say, the Auditor-General, the Chairman of the Board and the Under Secretary to the Treasury, each of whom may appoint in writing a representative to act on his behalf.

(c) The Auditor-General, or his representative so appointed, shall be the chairman of the Committee of Review.

(2) The functions of the Committee of Review shall be—

- (a) to determine the amount of liability to be assumed by the Board pursuant to section eleven of this Act;
- (b) to determine how the expense of meeting payments on account of leave or upon retirement or death of an officer or employee of the Public Service appointed to the service of the Board should be apportioned between the Treasurer and the Board;

(c)

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(c) to certify to the Governor, as soon as practicable after the close of each financial year—

- (i) the amount of the loan liability to the Treasurer at the close of such financial year, having regard to moneys appropriated from the General Loan Account and provided for the Board during that financial year, the amount of any liability assumed by the Board pursuant to section eleven of this Act during that financial year and to any repayment by the Board during that financial year in respect of the loan liability to the Treasurer;
- (ii) the amount (if any) which should be added to or deducted from that part of the loan liability to the Treasurer which does not bear interest.

Payment of
interest and
sinking fund
charges.
Act No. 22,
1950, s. 37.

32. (1) In respect of the loan liability of the Board to the Treasurer as determined in accordance with section thirty-one of this Act the Board shall pay to the Treasurer such amounts for interest, exchange, sinking fund contributions and other charges as the Treasurer may from time to time determine:

Provided that the amounts so determined in any year shall, unless the Treasurer otherwise directs, be the amounts chargeable in that year.

(2) The amounts determined by the Treasurer under subsection one of this section shall not exceed the amounts which the Treasurer calculates as being as nearly as practicable sufficient to recoup the State for interest, exchange, sinking fund contributions and other charges payable by the State in respect of the loan liability of the Board to the Treasurer.

(3) Payments by the Board in accordance with the provisions of subsection one of this section shall be made in such amounts and at such times as the Treasurer may from time to time direct.

DIVISION

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DIVISION 2.—*Loans.*

33. (1) For the temporary accommodation of the Board it may obtain advances by overdraft of current account in any bank or banks upon the credit of the Board's funds to such extent as may from time to time be approved by the Governor. Temporary accommodation. Act No. 22, 1950, s. 38.

(2) The Treasurer may advance such moneys to the Board as the Governor may approve upon such terms and conditions as to repayment and interest as may be agreed upon.

(3) The Board may subject to the conditions and upon the terms prescribed receive money on deposit at short call or on fixed deposit.

34. The Board may from time to time with the approval of the Governor borrow money— Purposes for which money may be borrowed. cf. *Ibid.* s. 39.

- (a) for the improvement or extension of existing works or the construction or acquisition of additional or supplementary works for or in relation to the storage and handling of wheat;
- (b) for the renewal of loans;
- (c) for the discharge or partial discharge of any indebtedness to the Treasurer or to any bank; or
- (d) otherwise for the purposes of this Act.

35. Loans to the Board shall be deemed to be secured upon the income of the Board from whatever source arising. Security for loans. *Ibid.* s. 40.

36. (1) The Board shall establish a reserve fund for loan repayment in respect of each loan or renewal loan raised by the Board. Reserves for repayment. cf. *Ibid.* s. 41.

(2) The Board shall during each year transfer to such fund from the revenue of the Board a sum not less than the Board in its application for approval of the loan intimated that it proposed to set apart as aforesaid.

(3)

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(3) Moneys held as reserve for loan repayment may be invested in government securities of the Commonwealth of Australia or of the State of New South Wales, or in debentures or inscribed stock in any loan of the Board, or in any securities guaranteed by the Government of the said State or in debentures or securities issued by the Sydney County Council or the Sydney City Council, or in such other securities as the Governor may approve or as may be prescribed in each case at their current market price. Any interest or profits realised on such investments shall be added to and form part of the reserve for loan repayment. All moneys paid into the reserve fund for loan repayment in respect of any loan or renewal loan may be applied in or towards repayment of any other loan or renewal loan but may not be applied for any other purpose until the loan or renewal loan in respect of which the fund has been established has been repaid.

(4) Where the Board decides to cancel debentures and inscribed stock of the Board purchased from the reserve for repayment of the loan for which they were issued, then, in addition to the sums otherwise payable to the reserve for loan repayment in respect of that loan, the Board shall, subject to any agreement to which it is a party whereby it undertakes to pay interest at a higher rate to such reserve, pay to such reserve interest at the rate of four and one-half per centum per annum on the face value of the cancelled securities from the date of their cancellation until the maturity of the loan.

(5) This section shall not apply to any loan to be repaid by instalments at intervals of one year or less.

Debentures,
etc.
Act No. 22,
1950, s. 42.

37. (1) For securing repayment of the principal and interest on any money borrowed the Board may as provided by the regulations issue debentures, inscribed stock or other prescribed securities.

(2)

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(2) Every such debenture and every coupon originally annexed to the debenture and whether separated therefrom or not shall be transferable by simple delivery.

(3) Inscribed stock shall be transferable in the books of the Board in accordance with the regulations.

(4) Debentures or inscribed stock issued under this Act shall both as regards the issue and transfer thereof for full consideration or money or money's worth be deemed to be included in the general exemptions from stamp duty under Part III of the Stamp Duties Act, 1920-1954, contained in the Second Schedule to that Act. The regulations may provide for the exemption from stamp duty of any other prescribed security.

(5) The holder of a coupon originally annexed to a debenture and whether separated therefrom or not shall be entitled to receive payment from the Board of the interest mentioned in the coupon upon the presentation of the same on or after the date when and at the place where the interest is payable.

(6) The due repayment of the debentures and stock and the interest thereon and of any loan in respect of which any other prescribed security is issued and the interest thereon shall be a charge upon the income and revenue of the Board and is hereby guaranteed by the Government. Any liability arising from such guarantee shall be payable out of moneys provided by Parliament. Such charge shall not prejudice or affect the power of the Board to sell or convey any property vested in it free of any such charge.

38. (1) Notwithstanding anything contained in this Division of this Part any money which the Board is authorised to borrow may be borrowed by a loan raised wholly or in part in such country as the Governor may approve, and may be negotiated and raised in any currency.

Raising
loan in
any country.
Act No. 22,
1950, ss. 43
and 43A.

(2)

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(2) Any such loan may be raised wholly or in part by the issue of debentures, bonds, stock or other securities in any form and containing any term, condition or provision permitted under the law of the place where such loan is raised and the Board may establish and conduct in such country registries relating to the securities issued in respect of such loan.

(3) The Board may in respect of any such loan agree that a sinking fund shall be established and controlled at such place, by such person and in such manner as may be found necessary or expedient in the circumstances of the case, and where any such sinking fund is so established the provisions of section thirty-six of this Act shall apply with regard to that loan only in respect of the amount, if any, the repayment of which is not provided for by the sinking fund established under the agreement.

(4) In connection with the raising of any loan under this section, the Board may enter into such agreements as the Board shall think fit with respect to the form of such debentures, bonds, stock or other securities, or for the sale of such debentures, bonds, stock or other securities, or the granting of an option to purchase such debentures, bonds, stock or other securities, or for services to be performed by any person in Australia or in any other part of the world in connection with such loan or with the issue, management, and redemption of or otherwise with respect to such debentures, bonds, stock or other securities, and such agreements may be upon such terms and conditions and may contain such provisions for the giving or receipt of consideration as the Board shall think fit.

Copies of any such agreement shall be forwarded to the Minister who shall cause the same to be laid before both Houses of Parliament as soon as possible after the loan is raised.

(5) The Governor may upon the recommendation of the Board appoint two or more persons to enter into for and on behalf of the Board all such agreements as the
the

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the Board is by this section authorised to enter into and to sign, execute, or otherwise perfect all such agreements, debentures, bonds, stock or other securities as are by this section provided for and to do all such things as may be necessary or convenient to be done for the purpose of raising any loan under this Act, and may upon the like recommendation revoke or vary any such appointment and make any fresh appointment.

The production of a copy of the Gazette containing a notification of any such appointment or revocation as aforesaid shall in favour of a lender or of any holder of a security be conclusive evidence of the appointment or revocation.

(6) All debentures, bonds, stock or other securities bearing the signatures of such persons so appointed in that behalf shall be deemed to be securities lawfully issued under seal by the Board and the principal moneys and interest secured thereby shall be deemed to be a charge upon the income and revenue of the Board from whatsoever source arising, and the due repayment of such principal moneys and interest is hereby guaranteed by the Government, and all agreements and any instruments purporting to be made or issued under the authority of this section and bearing the signatures of such persons shall be deemed to have been lawfully made or issued by the Board, and if the same shall purport to have been sealed by such persons to have been lawfully executed by the Board under seal.

A holder of any such debenture, bond, stock or other security shall not be bound to enquire whether the issue of such security was in fact duly authorised.

(7) Subject to this section and the law in force in the place where any loan is raised under this section and applicable to such loan and the securities issued in connection therewith the provisions of this Division of this Part other than subsection one of section thirty-seven and subsections three and four of section forty of this Act shall apply, *mutatis mutandis*, to and in respect of such loan and such securities.

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Trustees.
Act No. 22,
1950, s. 44.

39. (1) Any trustee unless expressly forbidden by the instrument (if any) creating the trust, may invest any trust moneys in his hands in stock inscribed by the Board, and the investment shall be deemed to be an investment authorised by the Trustee Act, 1925, or any Act amending or replacing that Act.

(2) Any debenture issued or stock inscribed by the Board shall be a lawful investment for any moneys which any company, council, or body corporate incorporated by any Act of Parliament of New South Wales is authorised or directed to invest in addition to any other investment expressly provided for the investment of such moneys.

(3) No notice of any trust expressed, implied or constructive, shall be received by the Board or by any servant of the Board in relation to any debenture or coupon issued or stock inscribed by the Board.

Lost
debentures.
Ibid. s. 45.

40. (1) If any debenture issued by the Board is lost or destroyed or defaced before the same has been paid, the Board may, subject to the provisions of this section issue a new debenture in lieu thereof.

(2) The new debenture with interest coupon annexed shall bear the same date, number, principal sum, and rate of interest as the lost, destroyed, or defaced debenture.

(3) When the debenture is lost or destroyed the new debenture shall not be issued unless and until—

- (a) a judge of the Supreme Court has been satisfied by affidavit of the person entitled to the lost or destroyed debenture, or of some person approved by the judge, that the same has been lost or destroyed before it has been paid off;
- (b) such advertisement as the judge may direct has been published;
- (c) six months have elapsed since the publication of the last of the advertisements; and
- (d) sufficient security has been given to the Board to indemnify it against any double payment if
the

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the missing debenture be at any time thereafter presented for payment.

(4) When the debenture is defaced the new debenture shall not be issued unless and until the defaced debenture is lodged with the Board for cancellation.

(5) The provisions of this section shall, mutatis mutandis, extend to the case of a lost, destroyed, or defaced coupon.

(6) In case of the loss, theft, destruction, mutilation, or defacement of any debenture or bond issued under section thirty-eight of this Act, a duplicate or new debenture or bond may be issued upon proof to the satisfaction of the Board of such loss, theft or destruction, or upon surrender of the mutilated or defaced debenture or bond, as the case may be, and upon the Board receiving security or indemnity satisfactory to it against double payment if the missing debenture or bond be at any time thereafter presented for payment.

41. (1) If for six months default is made by the Board in making any payment whether of principal or interest, to the holder of any debenture, or coupon, issued or stock inscribed by the Board, the holder thereof may apply to the Supreme Court in its equitable jurisdiction, in accordance with rules of court, for the appointment of a receiver of the income of the Board. Receivers. Act No 22, 1950, s. 46.

(2) A receiver may be appointed in respect of the income of the Board either generally or as regards specified income.

(3) The Court may make such orders and give such directions as it may deem proper for and with respect to—

- (a) the appointment of a receiver;
- (b) the removal of a receiver;
- (c) the appointment of a receiver in place of a receiver previously appointed.

(4) The receiver shall be deemed to be an officer of the Court, and shall act under its directions.

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Powers and
duties of
receivers.
Act No.22,
1950, s. 47.

42. (1) A receiver shall have power to collect all income payable to the Board which he has by order of the Court been so authorised to collect and for the purposes of this subsection the receiver shall be deemed to be the Board and may exercise all the powers of the Board.

(2) The receiver shall discharge such duties of the Board or of any servants of the Board as may be prescribed.

Commission
to receiver.
Ibid. s. 48.

43. The receiver shall be entitled to such commission or remuneration for his services as the Court may order, and the commission or remuneration shall be payable out of the income for and in respect of which he has been appointed receiver.

Application
of money
received.
Ibid. s. 49.

44. The receiver shall, subject to any order of the Court, pay and apply all moneys received by him in the following order, that is to say—

- (a) firstly, in the payment of the costs, charges, and expenses of collection, and of his commission or remuneration;
- (b) secondly, in the payment of the amount due and payable to the holder of the debenture or inscribed stock or coupon, as the case may be;
- (c) thirdly, in payment of all the residue of the moneys to the Board.

Protection
of invest-
ments.
Ibid. s. 50.

45. (1) A person advancing money to the Board shall not be bound to enquire into the application of the money advanced, or be in any way responsible for the non-application or misapplication thereof.

(2) A notification in the Gazette of the approval of the Governor having been given to a borrowing by the Board shall, in favour of a lender and of any holder of a security given by the Board, be conclusive evidence that all conditions precedent to the borrowing have been complied with, and where the approval notified is to the borrowing by the Board in a country outside New South

Wales

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Wales and in a particular currency shall also be conclusive evidence in favour of such persons of the approval of the Governor to the borrowing in the country and in the currency specified in the notification.

46. All debentures, bonds, or other securities which are secured upon the income and revenue of the Board shall rank *pari passu* without any preference one above another by reason of priority of date or otherwise.

Debentures and bonds to rank *pari passu*.
Act No. 22, 1950, s. 51.

47. If the Board borrows any money without having first obtained the approval of the Governor, each member holding office who has, knowingly and wilfully or for personal benefit or advantage, consented to the borrowing shall be liable to a penalty of five hundred pounds.

Penalty for illegal borrowing.
Ibid. s. 52.

The action to recover the penalty shall not be taken without the written consent of the Attorney-General.

DIVISION 3.—*Accounts and Audit.*

48. (1) The Board shall cause proper books of account to be kept and shall as soon as practicable after the end of each financial year of the Board prepare and transmit to the Minister for presentation to Parliament a report of its operations during such year and balance-sheets and statements of accounts setting forth a true statement of the financial position and the transactions of the Board for such year.

Accounts to be kept.
cf. Act No. 69, 1915, s. 18D.

(2) Each such balance-sheet and statement—

- (a) shall include a profit and loss account and a statement of the assets and liabilities of the Board and shall be in a form approved by the Auditor-General; and
- (b) shall be audited and reported upon by the Auditor-General, who shall have in respect of the accounts of the Board all the powers conferred on the Auditor-General by any law now or hereafter to be in force relating to the audit of public accounts, as well as all powers conferred by this Act.

(3)

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(3) The Audit Act, 1902-1953, (section twenty-five excepted), shall apply to the Board and its servants in the same manner as it applies to accounting officers of public departments.

(4) Without limiting the generality of the powers conferred by subsection two of this section, the Auditor-General may disallow any expenditure or entry in the books of the Board which he considers has been wrongly, irregularly or dishonestly made.

(5) Any sum so disallowed shall be a surcharge upon and may be recovered or deducted from moneys due to the servants by whom the expenditure was incurred or ordered to be incurred or by whom the entry was made or ordered to be made, but such servants shall have the same right of appeal against such surcharge as is prescribed under the Audit Act, 1902-1953.

(6) The Board shall produce for inspection to any person duly authorised in writing by the Minister any or all of its books, accounts, agreements, vouchers, letters or other documents.

(7) The Board shall in each year pay into the Treasury such sum as is fixed by the Treasurer towards the cost of the audit of the accounts of the Board by the Auditor-General.

Charging
expenditure
generally.
Act No. 22,
1950, s. 54.

49. Subject to any provision made by or under this Act the Board shall cause expenditure to be charged against income and capital as nearly as may be in accordance with commercial principles.

PART VI.
MISCELLANEOUS.

Judicial
notice of
seal of the
Board.
Ibid. s. 91.

50. All courts and persons having by law or consent of parties authority to hear, receive and examine evidence—

(a) shall take judicial notice of the seal of the Board affixed to any documents; and

(b)

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(b) shall until the contrary be proved presume that such seal was properly affixed thereto.

51. Any notice, summons, writ or other proceeding required to be served on the Board may be served by being left at the office of the Board, or, in the case of a notice, by post.

Service of
notice of
proceedings
on the Board.
Act No. 22,
1950, s. 92.

52. Every summons, process, demand, order, notice, statement, direction or document requiring authentication by the Board may be sufficiently authenticated without the seal of the Board if signed by the Chairman.

Documents.
How authen-
ticated.
Ibid. s. 93.

53. (1) All proceedings for offences against this Act or the regulations shall be disposed of summarily before a court of petty sessions.

Penalties
and
recovery of
charges, etc.
Ibid. s. 96.

(2) Any charge, fee, remuneration or money due to the Board under the provisions of this Act or any regulations may be recovered as a debt in a court of competent jurisdiction.

(3) Proceedings for the recovery of any charge, fee, remuneration or money so due to the Board shall be deemed to be for the recovery of a debt or liquidated demand within the meaning of—

- (a) section twenty-four of the Common Law Procedure Act, 1899;
- (b) section sixty-four of the District Courts Act, 1912-1953;
- (c) section twenty-five of the Small Debts Recovery Act, 1912-1933.

54. In any legal proceedings by or against the Board no proof shall be required (until evidence is given to the contrary) of—

No proof
of certain
matters
required.
Ibid. s. 97.

- (a) the constitution of the Board;
- (b) any resolution of the Board;
- (c) the appointment of any member or any servant of the Board;

(d)

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- (d) the presence of a quorum at any meeting at which any determination is made or any act is done by the Board.

Delegation.
Act No. 22,
1950, s. 99.

55. (1) The Board may from time to time by resolution delegate such of the authorities, powers, duties or functions of the Board (other than this power of delegation) as may be prescribed and as are specified in the resolution—

- (a) to any member;
(b) to any servant of the Board;
(c) to any officer, servant or employee of whose services the Board makes use pursuant to this or any other Act.

(2) Any such delegation may be made either generally or for any particular case or class of cases.

(3) Any person when acting within the scope of any such delegation to him shall be deemed to be the Board.

(4) Any instrument necessary to be executed and any notice, order, summons or other like document requiring authentication for the purpose of the exercise or discharge of any power, authority, duty or function delegated to any person under this section shall be sufficiently executed or authenticated as the case may be if signed by such person in such a way as to show that he does so under and in pursuance of the delegation.

(5) The Board may by resolution revoke such delegation.

Notice of
action.
Ibid. s. 100.

56. (1) A writ or other process in respect of any damage or injury to person or property shall not be sued out or served upon the Board or any member, or any servant of the Board or any person acting in his aid for anything done or intended to be done or omitted to be done under this Act, until the expiration of one month after notice in writing has been served on the Board or member, servant or person as provided in this section.

(2)

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(2) The notice shall state—

- (a) the cause of action;
- (b) the time and place at which the damage or injury was sustained; and
- (c) the name and place of abode or business of the intended plaintiff and of his attorney, if any, in the case.

(3) In the case of damage to property, any person who produces on demand his authority from the Board shall be permitted to inspect the property damaged, and all facilities and information necessary to ascertain fully the value of the property damaged, the nature and extent of the damage, and the amount of money, if any, expended in repairing the same shall be given to him.

Representative of the Board to be permitted to inspect property injured.

(4) At the trial of any such action the plaintiff shall not be permitted to go into evidence of any cause of action that is not stated in the notice, and unless the notice has been served the plaintiff shall not be entitled to maintain the action:

Provided that at any stage of the proceedings the court or any judge of the court in which the action is pending may, if the court or judge deems it to be just or reasonable in the circumstances so to do—

- (a) amend any defect in the notice on such terms and conditions, if any, as the court or judge may fix;
- (b) direct that any non-compliance or insufficient compliance with this section shall not be a bar to the maintenance of the action.

(5) Every such action shall be commenced within the period of twelve months next after the occurring of the cause of action. Such period is in this subsection referred to as the "prescribed period":

Provided that where an application is made to a judge of the Supreme Court in accordance with rules of court for an extension of the prescribed period the judge may, if he is satisfied that sufficient cause has been shown,

or

Grain Elevators.

or that having regard to all the circumstances of the case, it would be reasonable so to do, make an order for extension of the prescribed period for such further period and subject to such terms and conditions, if any, as may be set out in the order.

Such application for extension may be made either within the prescribed period or at any time within twelve months thereafter.

Any person who is dissatisfied with the decision of the judge on any such application may appeal to the Supreme Court and that Court may on the appeal make any order which ought to have been made in the first instance.

Every such appeal shall be made in accordance with rules of court.

(6) The Board, or any member, servant or person to whom any such notice of action is given as aforesaid, may tender amends to the plaintiff, his attorney or agent at any time within one month after service of notice of action, and in case the same is not accepted may plead the tender in bar.

(7) The defendant in every such action may plead the general issue and at the trial thereof give this Act and the special matter in evidence.

Regulations. 57. (1) The Governor may make regulations, not inconsistent with this Act, for and with respect to—

- (a) the receipt, storage, insurance, handling and delivery of wheat by the Board;
- (b) the operation, management, control and maintenance of elevators and other works under the control of the Board which are used for the storage and handling of wheat;
- (c) prescribing qualities of wheat for the purposes of this Act;
- (d) the conditions under which wheat shall be received by the Board for storage and warrants issued;

(e)

Grain Elevators.

- (e) the inspection or weighing of wheat received or delivered by the Board;
- (f) the forms of warrants and instructions as to the disposal of wheat delivered by the Board;
- (g) the method of issuing and the form of duplicate warrants issued in lieu of warrants which are alleged to have been defaced, destroyed or lost and the security to be taken before any such issue;
- (h) the conditions under which one warrant may be issued in place of two or more warrants and under which two or more warrants may be issued in place of one;
- (i) the method of providing for shortages of stocks of wheat under the control of the Board and of disposing of surpluses of wheat held by the Board;
- (j) the dues, rates, fees or charges or the remuneration payable for receiving, storing, insuring, weighing, drying, cleaning and delivering wheat and for other services rendered or things done by the Board in connection with the handling of wheat;
- (k) securities other than debentures or inscribed stock which may be issued by the Board for securing repayment of principal and interest on any money borrowed by the Board;
- (l) the control and governance of servants by the Board and any other matter or thing necessary or convenient to ensure the maintenance of discipline and efficiency in the service of the Board;
- (m) the prescription of all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to **this Act.**

Grain Elevators.

(2) Any regulation made under this Act may impose a penalty not exceeding fifty pounds for any breach thereof.

(3) The regulations shall—

- (a) be published in the Gazette;
- (b) take effect from the date of publication or from a later date to be specified in the regulations;
- (c) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is then in session, and if not, then within fourteen sitting days after the commencement of the next session.

(4) If either House of Parliament passes a resolution of which notice has been given within fifteen sitting days after such regulations have been laid before such House disallowing any regulation or part thereof, such regulation or part shall thereupon cease to have effect.

In the name and on behalf of Her Majesty I assent to this Act.

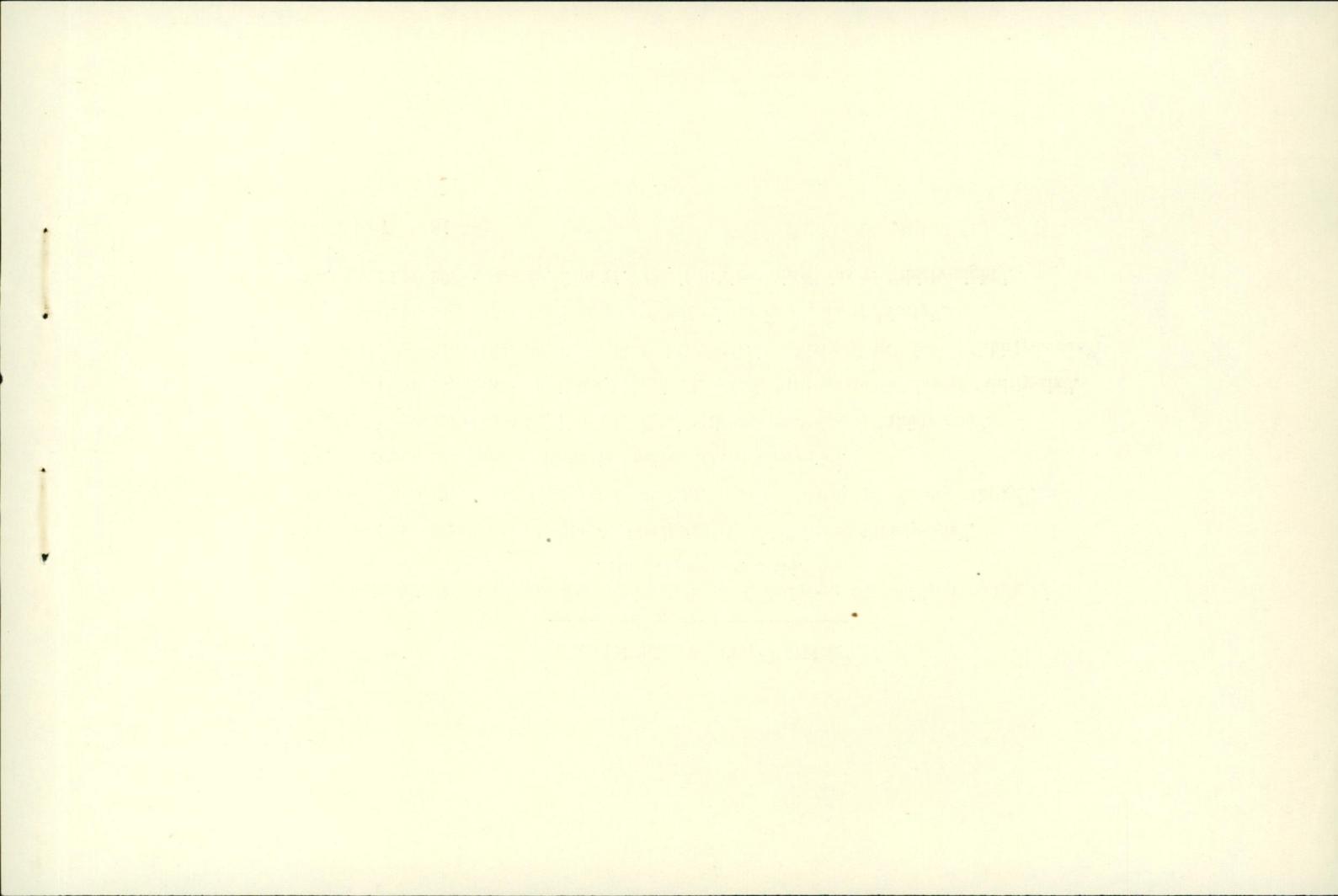
J. NORTHCOTT,
Governor.

*Government House,
Sydney, 29th November, 1954.*

GRAIN ELEVATORS BILL.

*Schedule of Amendments referred to in Legislative Council's Message of
24th November, 1954.*

- No. 1.—Page 14, clause 11, line 3. *Omit* “thirty-two” *insert* **“thirty-one”**.
- No. 2.—Page 14, clause 11, lines 13 and 14. *Omit* “thirty-one” *insert* **“thirty”**.
- No. 3.—Page 20, lines 32 to 39 inclusive. *Omit* clause 30.
- No. 4.—Page 22, clause 32, line 21. *Omit* “thirty-two” *insert* **“thirty-one”**.
- No. 5.—Page 26, clause 38, lines 13 and 14. *Omit* “thirty-seven” *insert* **“thirty-six”**.
- No. 6.—Page 27, clause 38, lines 36 and 37. *Omit* “thirty-eight” *insert* **“thirty-seven”**.
- No. 7.—Page 27, clause 38, line 38. *Omit* “forty-one” *insert* **“forty”**.
- No. 8.—Page 29, clause 40, line 11. *Omit* “thirty-nine” *insert* **“thirty-eight”**.



This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

H. ROBBINS,

Clerk of the Legislative Assembly.

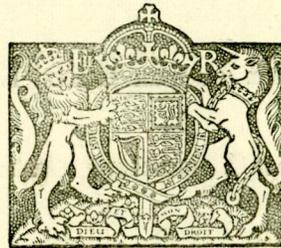
*Legislative Assembly Chamber,
Sydney, 23 November, 1954.*

The LEGISLATIVE COUNCIL has this day agreed to this Bill with Amendments.

J. R. STEVENSON,
Clerk of the Parliaments.

*Legislative Council Chamber,
Sydney, 24th November, 1954.*

New South Wales



ANNO TERTIO

ELIZABETHÆ II REGINÆ

Act No. , 1954.

An Act to make provision for and in relation to the handling and storage of wheat and the operation and control of the Government Grain Elevators; to provide for the constitution of the Grain Elevators Board of New South Wales and to define its powers, authorities, duties and functions; to dissolve the State Wheat Committee constituted under the Wheat Marketing Act, 1948-1953; to amend the said Act in certain respects; to repeal the Grain Elevator Act, 1916, and the Wheat Act, 1927; and for purposes connected therewith.

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84—A

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NOTE.—The words to be omitted are ruled through; those to be inserted are printed in black letter.

Grain Elevators.

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

PART I.

PRELIMINARY.

1. (1) This Act may be cited as the "Grain Elevators Act, 1954." Short title and commencement.

10 (2) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

2. This Act is divided into Parts as follows:—

Division into Parts.

PART I—PRELIMINARY.

15 PART II—CONSTITUTION OF THE GRAIN ELEVATORS BOARD.

PART III—VESTING OF GOVERNMENT GRAIN ELEVATORS IN THE BOARD.

20 PART IV—POWERS, AUTHORITIES, DUTIES AND FUNCTIONS OF THE BOARD.

PART V—FINANCE.

DIVISION 1.—*Loan Liability of the Board to the Treasurer.*

DIVISION 2.—*Loans.*

25 DIVISION 3.—*Accounts and Audit.*

PART VI—MISCELLANEOUS.

3. In this Act, unless the context or subject matter otherwise indicates or requires— Definitions.

30 "Australian Wheat Board" means the Board constituted under the Wheat Marketing Act 1948-1953 of the Parliament of the Commonwealth.

"Board"

Grain Elevators.

“Board” means the Grain Elevators Board of New South Wales.

“Chairman” means the Chairman of the Board.

“Member” means a member of the Board.

5 “Prescribed” means prescribed by this Act or by the regulations.

“Regulations” means regulations made under this Act.

“Treasurer” means the Colonial Treasurer.

10 **4.** The Grain Elevator Act, 1916, and the Wheat Act, 1927, are hereby repealed. Repeal of Acts Nos. 47, 1916, and 6, 1927.

5. (1) The State Wheat Committee constituted under the Wheat Marketing Act, 1948-1953, is hereby dissolved. Dissolution of State Wheat Committee.

(2) The Wheat Marketing Act, 1948-1953, is 15 amended by omitting Part II.

6. (1) The Wheat Marketing Act, 1948-1953, is amended— Amendment of Act No. 46, 1948.

(a) by inserting in section three before the definition of “licensed receiver” the following new definition:— Sec. 3. (Definitions.)

20 “Grain Elevators Board” means the Grain Elevators Board of New South Wales constituted under the Grain Elevators Act, 1954.

25 (b) (i) by omitting from section eight the words “Manager of the Government Grain Elevators” wherever occurring and by inserting in lieu thereof the words “Grain Elevators Board”;

30 (ii) by omitting from paragraph (b) of subsection two of the same section the words and figures “Wheat Act, 1927” and by inserting in lieu thereof the words and figures “Grain Elevators Act, 1954”;

(c)

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- (c) (i) by omitting from paragraph (d) of section Sec. 9.
nine the words and figures "Wheat Act, (Powers of Board.)
1927" and by inserting in lieu thereof the
words and figures "Grain Elevators Act,
5 1954";
- (ii) by omitting from the same paragraph the
words "in the Government Grain Elevators"
and by inserting in lieu thereof the
words "by the Grain Elevators Board".
- 10 (2) The Wheat Marketing Act, 1948, as amended by Citation.
subsequent Acts and by this Act, may be cited as the
Wheat Marketing Act, 1948-1954.

PART II.**CONSTITUTION OF THE GRAIN ELEVATORS BOARD.**

- 15 **7.** (1) There shall be constituted a Grain Elevators Constitution
Board which shall have and may exercise and discharge of Board.
the powers, authorities, duties and functions conferred
and imposed upon it by or under this or any other Act.
- In the exercise and discharge of such powers, authori-
20 ties, duties and functions the Board shall be subject in
all respects to the control and direction of the Minister.
- (2) For the purposes of any Act, the Board shall
be deemed to be a statutory body representing the Crown.
- (3) The Board shall consist of five members
25 appointed by the Governor.
- Of the members so appointed—
- (a) one shall in and by the instrument by which he
is appointed be the Chairman of the Board;
- 30 (b) one shall be an officer in the employ of the
Commissioner for Railways selected by the
Minister from a panel of not less than three
officers submitted to the Minister by the
Commissioner for Railways;
- 35 (c) one shall be an officer of the Treasury nominated
by the Treasurer;

(d)

Grain Elevators.

5 (d) two shall be persons nominated as representing the wheatgrowers of New South Wales by the Minister, who before nominating such persons shall have regard to the recommendations (if any) in that behalf of any body or bodies representative in the opinion of the Minister of the interests of such wheatgrowers.

10 (4) A person who is directly interested (other than as a wheatgrower) in the business of selling, purchasing or dealing in wheat shall not be eligible to be appointed as a member of the Board and shall be disqualified from holding any such office. cf. Vic. Act No. 4270, s. 5 (3).

15 (5) (a) Subject to this Act the term of office of a member of the Board shall be such term, not exceeding five years, as is specified in the instrument of his appointment. Act No. 69, 1945, s. 8.

20 (b) Upon the expiration of the term of office of a member of the Board he shall, if otherwise qualified, be eligible for reappointment from time to time. Any such reappointment shall be for such term not exceeding five years as may be specified in the instrument of reappointment.

25 (c) On the occurrence of a vacancy in the office of a member of the Board, the person appointed to fill the vacant office shall, subject to this Act, hold office for the remainder of the unexpired term of the vacant office.

(d) A person who is of or above the age of sixty-five years shall not be appointed as a member.

30 (e) The Governor may in the case of the illness, suspension or absence of any member appoint a deputy to act in the place of such member during his illness, suspension or absence; and, if a member is appointed to act in the place of the Chairman, the Governor may appoint a deputy to act in the place of
35 that member. The provisions of this Act with respect to the qualifications for appointment as and the method of appointment of a member shall extend and apply to a deputy to be appointed to act in the place of such member.

(f)

Grain Elevators.

(f) A deputy appointed under this subsection shall have the immunities, powers, authorities and duties of the member in whose place he acts.

(g) A deputy appointed under this subsection
5 may be paid such remuneration for his services including such fees and allowances and such travelling expenses as the Governor may determine.

(h) No person shall be concerned to enquire
10 whether or not any occasion has arisen requiring or authorising a deputy so to act and all acts or things done or omitted by the deputy shall be as valid and effectual and shall have the same consequences as if the same had been done or omitted by the member for whom the deputy is acting.

15 (6) The Chairman or any deputy appointed to act in his place shall devote the whole of his time to the duties of his office.

The Chairman shall, by virtue of and while acting in
20 shall, by virtue of and while acting in the place of the Chairman, be the Acting Manager of the Board, but neither the Chairman or such deputy shall on such account be entitled to receive any remuneration additional to that which he is entitled to receive as Chair-
25 man or as such deputy, as the case may be.

(7) (a) Each member shall receive such remuneration, fees, allowances and travelling expenses as the Governor may from time to time determine.

(b) Where by or under any Act provision is
30 made requiring the holder of an office specified therein to devote the whole of his time to the duties of his office or prohibiting him from engaging in employment outside the duties of his office, such provision shall not operate to disqualify him from holding that office and also
35 the office of a member (other than the office of Chairman) under this Act or from accepting and retaining any remuneration, fees or allowances payable to a member under this Act.

(c)

Grain Elevators.

(c) The office of a member (other than the Chairman) shall not for the purposes of the Constitution Act, 1902, or any Act amending that Act, be deemed to be an office or place of profit under the Crown.

5 (8) The provisions of the Public Service Act, 1902, or of any Act amending that Act, shall not apply to or in respect of the appointment of a member and a member shall not be subject to any such Act during his term of office.

10 (9) A member shall be deemed to have vacated his office—

(a) if, being the Chairman, he engages during his term of office in any paid employment outside the duties of his office;

15 (b) if he becomes bankrupt, compounds with his creditors or makes any assignment of his remuneration, fees, allowances or estate for their benefit;

20 (c) if, being the Chairman, he absents himself from duty for a period exceeding fourteen consecutive days except on leave granted by the Minister (which leave the Minister is hereby authorised to grant) unless such absence is occasioned by illness or other unavoidable cause;

25 (d) if, being a member other than the Chairman, he is absent from four consecutive ordinary meetings of the Board without leave granted by the Board;

30 (e) if he becomes an insane person or patient or an incapable person within the meaning of the Lunacy Act of 1898, as amended by subsequent Acts;

35 (f) if he is convicted in New South Wales of a felony or of a misdemeanour which is punishable by imprisonment for twelve months or upwards, or if he is convicted elsewhere than in New South Wales of an offence which if committed in New South Wales would be a felony or misdemeanour which is punishable as aforesaid;

(g)

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- (g) if he becomes directly interested (other than as a wheatgrower) in the business of selling, purchasing or dealing in wheat;
- 5 (h) if he resigns his office by writing under his hand addressed to the Governor;
- (i) if, not being the Chairman, he is removed from office by the Governor.

A member shall be deemed to have vacated his office upon the day upon which he attains the age of sixty-five 10 years.

(10) The Governor may, for any cause which appears to him to be sufficient, remove a member not being the Chairman from office.

(11) (a) The Chairman may be suspended from his 15 office by the Governor for misbehaviour or incompetence but shall not be removed from office except as provided in this subsection.

(b) The Minister shall cause to be laid before Parliament a full statement of the grounds of suspension 20 within seven sitting days after such suspension if Parliament is then in session and, if not, then within seven sittings days after the commencement of the next session.

(c) The Chairman suspended under this section shall be restored to office unless each House of Parlia- 25 ment, within twenty-one days from the time when such statement has been laid before such House, declares by resolution that the Chairman ought to be removed from office, and if each House of Parliament within the said time does so declare, the Chairman shall be removed 30 by the Governor accordingly.

8. (1) A person who, at the date of his appointment as Chairman, is an officer of the Public Service and who ceases to be Chairman for any cause whatsoever other- 35 (h) excepted) and eleven of section seven of this Act, shall if he is under the age of sixty years be appointed to some office in the Public Service not lower in classification and salary than that which he held immediately before his appointment as Chairman.

Savings of rights of person appointed Chairman.

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(2) (a) Nothing contained in this Act shall affect the rights accrued or accruing under the Public Service Act, 1902, or under the Superannuation Act, 1916-1952, or any Act amending such Acts, to any person appointed
5 as Chairman who is at the time of his appointment or has been at any time previous thereto an officer of the Public Service or an employee within the meaning of the Superannuation Act, 1916-1952, or any amendment thereof.

10 (b) Any officer of the Public Service or any person who is an employee within the meaning of the Superannuation Act, 1916-1952, or any amendment thereof, who is appointed as Chairman shall continue
15 to contribute to any fund or account and shall be entitled to receive any deferred or extended leave and any payment, pension or gratuity as if he were an officer or employee within the meaning of the Public Service Act, 1902, or the Superannuation Act, 1916-1952, as the case
20 may be, or any Act amending such Acts, and for such purpose his service as Chairman shall be deemed to be service for the purpose of such Acts.

9. (1) The Board shall be a body corporate with perpetual succession and a common seal, and may sue or be sued in its corporate name, and shall be capable of
25 purchasing, holding, granting, demising, disposing of or otherwise dealing with real and personal property and of doing and suffering all such acts and things as bodies corporate may by law do and suffer.

Board to be
body
corporate.

(2) The corporate name of the Board shall be "The
30 Grain Elevators Board of New South Wales".

(3) The common seal shall be kept in the custody of the Chairman and shall not be affixed to any instrument except in pursuance of a resolution of the Board.

Any instrument executed in pursuance of any such
35 resolution shall be attested by the signature of any two members.

(4) (a) The procedure for the calling of meetings of the Board and for the conduct of business at such meetings shall be as determined by the Board.

Proceedings
of Board.
Act No. 22,
1950, s. 6.

(b)

Grain Elevators.

(b) Three of the members shall form a quorum and any duly convened meeting at which a quorum is present shall be competent to transact any business of the Board and shall have and may exercise and discharge
5 all the powers, authorities, duties and functions of the Board.

A decision of a majority of the members present at a meeting of the Board shall be the decision of the Board.

10 (c) At any meeting of the Board the Chairman shall preside. In the absence of the Chairman from a meeting the members present may choose one of their number to preside as Chairman of that meeting.

At any meeting of the Board the Chairman or the
15 member presiding as chairman shall have a deliberative vote, and if the voting is equal, a casting vote.

(5) The Board shall cause full and accurate minutes to be kept of its proceedings at formal meetings and submit to the Minister a copy of the minutes of each
20 formal meeting within one week after the date on which such formal meeting is held.

(6) No act or proceeding of the Board shall be invalidated or prejudiced by reason only of the fact that at the time when such act or proceeding was done, taken
25 or commenced, there was a vacancy in the office of a member.

(7) (a) No matter or thing done, and no contract entered into by the Board, and no matter or thing done by any member or by any other person whomsoever acting
30 under the direction of the Board shall, if the matter or thing was done or the contract was entered into bona fide for the purpose of executing this Act, subject them or any of them personally to any action, liability, claim or demand whatsoever.

35 (b) Nothing in this subsection shall exempt any member from liability to be surcharged with the amount of any payment which is disallowed by the Auditor-General in the accounts of the Board and which such member authorised or joined in authorising.

PART

Grain Elevators.

PART III.

VESTING OF GOVERNMENT GRAIN ELEVATORS IN THE BOARD.

10. On and from the commencement of this Act the following provisions shall have effect:—

Vesting of property.
cf. Act No. 22, 1950, s. 31.

- 5 (a) All control and administration of the Government Grain Elevators exercisable by the Manager of the Government Grain Elevators or any other person immediately before the commencement of this Act shall be exercisable by the Board under and in accordance with this Act.
- 10 (b) All real and personal property and all right and interest therein which immediately before the commencement of this Act is vested in or belongs to the Crown, or any Minister of the Crown as constructing authority, or the Commissioner for Railways, and which immediately before such commencement is held or used for the purposes of or in connection with the Government Grain Elevators shall vest in and belong to the Board.
- 15 This paragraph shall not apply to stacking sites and grain sheds for bagged wheat and rolling stock and permanent ways vested in or belonging to the Commissioner for Railways.
- 20 (c) All moneys liquidated and unliquidated claims which immediately before the commencement of this Act are payable to or recoverable by the Crown in relation to or in connection with the Government Grain Elevators (other than moneys liquidated and unliquidated claims so payable by or so recoverable from the Australian Wheat Board) or which immediately before such commencement are payable to or recoverable by any Minister of the Crown as constructing authority in relation to or in connection with any real or personal property, which is vested in or belongs to the Board by virtue of this section, shall be moneys liquidated and unliquidated claims payable to or recoverable by the Board.
- 25
- 30
- 35

(d)

Grain Elevators.

- 5 (d) (i) All suits, actions, and proceedings pending immediately before the commencement of this Act at the suit of the Crown in relation to or in connection with the Government Grain Elevators, shall be respectively suits, actions, and proceedings pending at the suit of the Board.
- 10 (ii) All suits, actions, and proceedings pending immediately before the commencement of this Act at the suit of any Minister of the Crown as constructing authority in relation to or in connection with any real or personal property or any right or interest therein which is vested in or belongs to the Board by virtue of this section shall be respectively suits, actions, and proceedings pending at the suit of the Board.
- 15
- 20 (e) (i) All contracts, agreements and undertakings entered into with, and all securities lawfully given to or by the Crown in relation to or in connection with the Government Grain Elevators and in force immediately before the commencement of this Act shall be deemed to be contracts, agreements and undertakings entered into with and securities given to or by the Board.
- 25
- 30 This sub-paragraph shall not relieve the Crown from any liability under any agreement between the Crown and the Australian Wheat Board whereby the Crown has undertaken to make sites for wheat storage available to the Australian Wheat Board.
- 35 (ii) All contracts, agreements and undertakings entered into with and all securities given to or by any Minister of the Crown as constructing authority in relation to or in connection with any real or personal property which is vested in or belongs to the Board by virtue of this section and in force immediately before the commencement
- 40

of

Grain Elevators.

of this Act shall be deemed to be contracts, agreements and undertakings entered into with and securities given to or by the Board.

- 5 (f) The Board may pursue the same remedies for the recovery of any such moneys and claims and for the prosecution of such suits, actions, and proceedings as the Crown or a Minister, as the case may be, might have done but for this Act.
- 10 (g) The Board may enforce and realise any security or charge existing immediately before the commencement of this Act in favour of the Crown or any Minister of the Crown as constructing authority, as the case may be, in respect of any
- 15 such moneys or claims as if the security or charge were existing in favour of the Board.
- (h) (i) All debts due and moneys payable by the Crown in relation to or in connection with the Government Grain Elevators and all claims liquidated or unliquidated recoverable against the Crown in relation to or in connection with the Government Grain Elevators shall be debts due, moneys payable by and claims recoverable against the
- 20 Board.
- 25 (ii) All debts due and moneys payable by any Minister of the Crown as constructing authority in relation to or in connection with any real or personal property or any right or interest therein which is vested in or belongs to the Board by virtue of this section, and all claims liquidated or unliquidated in relation to or in connection with
- 30 any such real or personal property or right or interest therein shall be debts due, moneys payable by and claims recoverable against the Board.
- 35 (i) No attornment by a lessee of any land vested in the Board by this section shall be necessary.

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11. (1) As soon as practicable after the commencement of this Act the Committee of Review constituted under section ~~thirty-two~~ **thirty-one** of this Act shall cause to be notified in the Gazette the amount of liability 5 to the Treasurer which shall be assumed by the Board in relation to or in connection with any real or personal property which is vested in or belongs to the Board by virtue of section ten of this Act and the amount thereof which shall bear interest.

Liability of Board to Treasurer. cf. Act No. 22, 1950, s. 32.

10 (2) The liability assumed by the Board pursuant to subsection one of this section shall as from the commencement of this Act become and be part of the loan liability to the Treasurer as defined in section ~~thirty-one~~ **thirty** of this Act.

15

PART IV.

POWERS, AUTHORITIES, DUTIES AND FUNCTIONS OF THE BOARD.

12. The Board may, subject to and in accordance with this Act and the regulations--

General powers of Board.

- 20 (a) undertake the storage and handling of wheat;
- (b) maintain and operate and where necessary improve and extend all elevators and other works for or in relation to the storage and handling of wheat for the time being vested in it, and construct any new, additional or supplementary elevators and other works for or in relation to the storage and handling of wheat;
- 25 (c) consider and advise the Minister on matters relating to or affecting the wheat industry.

Ibid. s. 9.

30 **13.** The Board may act as an agent of the Australian Wheat Board in relation to any matter.

Board may be agent of Australian Wheat Board.

14. (1) There shall be issued for wheat received by the Board for storage a warrant in the prescribed form.

Warrants. cf. Act No. 6, 1927, s. 11.

35 (2) Such warrants shall be consecutively numbered and two warrants bearing the same number shall not be issued during the period in which the wheat harvest of any season is being delivered.

15.

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15. The Board shall not deliver wheat from its charge unless there shall have been delivered to the Board—

- (a) a warrant representing the same quantity of wheat of the same description or quality; and
- 5 (b) instructions in the prescribed form by the person delivering the warrant as to the disposal of such wheat;

and unless all fees, freight and other charges due in connection therewith have been paid.

10 **16.** (1) Notwithstanding anything contained in this Act or the regulations the Board may enter into such undertakings or agreements as it thinks fit with respect to the delivery of wheat pursuant to any warrant issued by it. Such undertakings or agreements may contain

15 provisions additional to, in variation of or in substitution for those contained in section fifteen of this Act and shall be endorsed upon the warrant.

Special warrants.

(2) The Board shall not deliver wheat from its charge pursuant to any warrant endorsed with undertakings or agreements as provided in subsection one of this section otherwise than in accordance with such undertakings or agreements.

20

17. Warrants shall after endorsement by the person to whom they were issued be transferable by delivery.

Warrants negotiable. *Ibid.* s. 13.

25 **18.** No action for damages for conversion or for detention of any wheat shall be brought against the Board or any of its servants by any person claiming to be entitled to any mortgage, charge, lien (including any lien on crops under the Liens on Crops and Wool and

30 Stock Mortgages Act, 1898), or any other encumbrance whatsoever of, upon or over such wheat or any crop from which such wheat was harvested.

Protection against actions, etc. *Ibid.* s. 14.

19. (1) After the delivery of any wheat in respect of which a warrant has been produced as provided in section fifteen of this Act the Government and the Board shall not be answerable to any other person claiming to be the owner of such wheat or of any interest therein.

35

Indemnity. *Ibid.* s. 15.

(2)

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(2) The Board shall not be responsible for—

5 (a) any loss of or damage to wheat in its charge arising from irresistible force, the act of God or the Queen's enemies, strikes, lock-outs, or any other cause beyond its control; or

(b) any loss which may be sustained by reason of the short supply or non-supply of railway trucks to the Board for the purpose of moving wheat under the instructions of the owner of the wheat.

10 (3) Where wheat in the charge of the Board is destroyed or damaged by any of the causes referred to in paragraph (a) of subsection two of this section all persons at the time of the loss entitled to delivery of wheat under warrants shall bear the loss in a propor-
15 tion to be fixed by the Board approximating as nearly as can be calculated by it to the proportion that the wheat which such persons are entitled by the warrants to receive bears to the total stocks of wheat then in the charge of the Board, and the amount of wheat deliverable
20 on warrants then in force shall be reduced accordingly.

(4) Where from any cause for which the Board is responsible loss of or damage to wheat occurs, the liability of the Board shall be limited to the market value of the wheat at the time of the loss or damage.

25 (5) Where the Board is unable from any cause for which it is responsible to deliver wheat in the quantity and of the quality mentioned in a warrant or in accordance with any agreement or undertaking endorsed thereon, the Board may pay to the owner of the warrant
30 the amount of the market value of the wheat mentioned in the warrant as at the date on which delivery was sought, but so that the amount shall not exceed the market value on the fifteenth day of November following the harvest during which the wheat was delivered,
35 and the Board shall not be responsible to any further extent for any damages, loss, costs, charges, or expenses resulting from its failure to so deliver the wheat.

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20. (1) The Board, subject to the approval of the Minister, may enter into any agreement it thinks fit with the Australian Wheat Board as to the terms and conditions upon which it shall receive wheat on behalf of the Australian Wheat Board.

Wheat received on behalf of Australian Wheat Board.

(2) Any such agreement shall have force and effect notwithstanding anything contained in this Act or the regulations.

21. It shall be lawful for the Board to demand, collect, sue for and receive, in respect and for the use of any property of the Board or any service performed or thing done by it, such dues, rates, fees and charges as may be prescribed or as may otherwise be agreed upon between the parties.

Board may make charges. cf. Act No. 69, 1915, s. 15.

Nothing in this section shall affect the operation of the provisions of the Wheat Marketing Act, 1948-1954, with respect to the remuneration payable to the Board thereunder as a licensed receiver.

22. The provisions of Part III of the Public Works Act, 1912, as amended by subsequent Acts, shall not extend to any works constructed or proposed to be constructed by the Board.

Public Works Act, 1912—Part III excluded. Act No. 22, 1950, s. 10.

23. (1) The Board may subject to this Act make and enter into contracts or agreements with any person for the performance of services, or for the supply of goods, machinery or material in connection with the exercise or discharge by the Board of its powers, authorities, duties and functions.

Contracts. *Ibid.* s. 11.

(2) All persons contracting with the Board (other than as wheatgrowers) shall be deemed for the purposes of the Constitution Act, 1902, to be public contractors.

(3) Any contract or agreement authorised by this or any other section of this Act shall be in the name of the Board and may be made as follows, that is to say—

with respect to any contract which, if made between private persons, would be by law required to be in writing and signed by the parties to be charged

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charged therewith or in writing and under seal the Board may make such contract in writing and under their common seal and in the same manner may vary or discharge the same;

- 5 with respect to any contract which, if made between private persons, would by law be valid although made by parol only and not reduced into writing the Chairman may make such contract by parol only without writing and in the same manner
10 may vary or discharge the same.

24. (1) The Board may for the purposes of this Act acquire land by lease, purchase, appropriation or resumption in accordance with the provisions of this section.

Acquisition
of land.
Act No. 22,
1950, ss. 14,
15, 16 & 17.

- In this section "land" means either land in fee simple
15 or any easement, right or privilege in, over, or affecting land.

(2) Where the Board proposes to acquire land for any purpose it may also acquire other land adjoining or in the vicinity of such land.

- 20 (3) Where the Board proposes to acquire land, including land previously appropriated or resumed for any purpose, by appropriation or resumption it may apply to the Governor through the Minister.

- 25 (4) The Board shall make provision to the satisfaction of the Governor for payment of compensation for the land, together with interest and all necessary charges and expenses incidental to the appropriation or resumption.

- 30 (5) The Governor may authorise the appropriation or the resumption of the land.

(6) Thereupon the Governor may—

- (a) appropriate or resume the land by Gazette notification under Division 1 of Part V of the Public Works Act, 1912; and
35 (b) notify that the land is vested in the Board.

(7) Thereupon the land shall vest in the Board.

(8)

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(8) For the purposes of the Public Works Act, 1912, such appropriation or resumption shall be deemed to be for the purpose of carrying out an authorised work within the meaning of that Act.

5 (9) Where land is vested in the Board under this section the Board may notwithstanding anything contained in any other Act but subject to the provisions of subsection ten of this section sell, lease, exchange or otherwise deal with or dispose of such land.

10 (10) The Board shall not sell, lease, exchange or otherwise deal with or dispose of land acquired by it under this section or vested in it by or under the provisions of this Act except with the approval of the Minister and subject to such terms and conditions as the Minister
15 may attach to his approval.

25. The Board may, with the approval of the Minister of the Department concerned, make use of the services of any officer or employee of the Public Service.

Use of services of officers, etc.
Act No. 22, 1950, s. 58.

26. (1) Any officer or employee of the Public Service who is appointed to the service of the Board shall retain any rights which have accrued or are accruing to him as an officer or employee of the Public Service or as an employee within the meaning of the Superannuation Act, 1916, or any amendment thereof, and shall continue to
25 contribute to any fund or account and shall be entitled to receive any deferred or extended leave and any payment, pension or gratuity as if he had continued to be an officer or employee of the Public Service or an employee within the meaning of the Superannuation Act,
30 1916, as amended by subsequent Acts, as the case may be. And for the purposes of this subsection his service with the Board shall be deemed to be service for the purposes of the said Act, and of the Public Service Act, 1902, as amended by subsequent Acts.

Saving of rights of public servants appointed to Board.
cf. *Ibid.* s. 63.

35 (2) Any officer or employee of the Public Service so appointed shall not be entitled to claim benefits under this Act as well as under any other Act in respect of the same period of service.

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27. (1) The Board shall appoint and employ such servants as may be necessary for carrying out the provisions of this Act.

Appointment of servants.
cf. Act No. 22, 1950, s. 64.

(2) Subject to the provisions of this Act every servant of the Board shall continue in the service of the Board at the will of the Board only.

(3) All servants of the Board shall be subject to the sole control and governance of the Board which may, subject to this Act, fix wages and conditions of employment where such wages and conditions are not fixed in accordance with the provisions of any other Act.

28. The Crown Employees Appeal Board Act, 1944-1953, is amended by inserting at the end of the Second Schedule the words "The Grain Elevators Board of New South Wales".

Amendment of Act No. 15, 1944.
Second Sch. (Employing Authorities.)

29. (1) Any member of the Board or any servant of the Board who without lawful authority demands or receives from any person any payment, gratuity or present in consideration of doing or omitting to do any act or thing pertaining to his office or employment under this Act shall be liable upon summary conviction to a penalty not exceeding one hundred pounds or to imprisonment for a term not exceeding two years.

Offences by members or servants of Board.
cf. Act No. 69, 1915, s. 18c.

(2) Any person who without lawful authority offers, makes or gives to a member of the Board or any servant of the Board, any payment, gratuity or present in consideration that such member or servant will do or omit to do some act or thing pertaining to his office or employment, shall be liable upon summary conviction to a penalty not exceeding one hundred pounds or to imprisonment for a term not exceeding two years.

30. On or before the thirtieth day of September in every year the Board shall present to the Minister a Report covering the whole of its operations during the preceding financial year and copies of same shall be laid before both Houses of Parliament within one month if Parliament be then sitting and if Parliament be not sitting then within one month after the commencement of the next ensuing Session thereof.

Annual Report.

PART

Grain Elevators.

PART V.

FINANCE.

DIVISION 1.—*Loan Liability of the Board to the Treasurer.*

- 5 ~~21~~ **30.** For the purposes of this Act the loan liability of the Board to the Treasurer on behalf of the State (in this Act referred to as "the loan liability to the Treasurer") shall comprise—
- 10 (a) any liability to the Treasurer assumed by the Board pursuant to section eleven of this Act;
- (b) any moneys appropriated from the General Loan Account and provided from time to time by the Treasurer for the Board.
- 15 ~~22~~ **31.** (1) (a) There shall be constituted a committee (in this Act referred to as "the Committee of Review") which shall have the functions and duties prescribed by this Act.
- 20 (b) The Committee of Review shall consist of the persons for the time being holding the following offices, that is to say, the Auditor-General, the Chairman of the Board and the Under Secretary to the Treasury, each of whom may appoint in writing a representative to act on his behalf.
- 25 (c) The Auditor-General, or his representative so appointed, shall be the chairman of the Committee of Review.
- (2) The functions of the Committee of Review shall be—
- 30 (a) to determine the amount of liability to be assumed by the Board pursuant to section eleven of this Act;
- 35 (b) to determine how the expense of meeting payments on account of leave or upon retirement or death of an officer or employee of the Public Service appointed to the service of the Board should be apportioned between the Treasurer and the Board;
- (c)

Loan liability to the Treasurer.

Act No. 22, 1950, s. 35.

Loan liability. Committee of Review. *Ibid.* s. 36.

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(e) to certify to the Governor, as soon as practicable after the close of each financial year—

- 5 (i) the amount of the loan liability to the Treasurer at the close of such financial year, having regard to moneys appropriated from the General Loan Account and provided for the Board during that financial year, the amount of any liability assumed by the Board pursuant to section eleven of this Act during that financial year and to any repayment by the Board during that financial year in respect of the loan liability to the Treasurer;
- 10
- 15 (ii) the amount (if any) which should be added to or deducted from that part of the loan liability to the Treasurer which does not bear interest.

20 ~~32.~~ **32.** (1) In respect of the loan liability of the Board to the Treasurer as determined in accordance with section ~~thirty-two~~ **thirty-one** of this Act the Board shall pay to the Treasurer such amounts for interest, exchange, sinking fund contributions and other charges as the Treasurer may from time to time determine:

Payment of interest and sinking fund charges.
Act No. 22, 1950, s. 37.

25 Provided that the amounts so determined in any year shall, unless the Treasurer otherwise directs, be the amounts chargeable in that year.

30 (2) The amounts determined by the Treasurer under subsection one of this section shall not exceed the amounts which the Treasurer calculates as being as nearly as practicable sufficient to recoup the State for interest, exchange, sinking fund contributions and other charges payable by the State in respect of the loan liability of the Board to the Treasurer.

35 (3) Payments by the Board in accordance with the provisions of subsection one of this section shall be made in such amounts and at such times as the Treasurer may from time to time direct.

DIVISION

*Grain Elevators.*DIVISION 2.—*Loans.*

~~34.~~ **33.** (1) For the temporary accommodation of the Board it may obtain advances by overdraft of current account in any bank or banks upon the credit of the Board's funds to such extent as may from time to time be approved by the Governor.

Temporary accommodation.
Act No. 22,
1950, s. 38.

(2) The Treasurer may advance such moneys to the Board as the Governor may approve upon such terms and conditions as to repayment and interest as may be agreed upon.

(3) The Board may subject to the conditions and upon the terms prescribed receive money on deposit at short call or on fixed deposit.

~~35.~~ **34.** The Board may from time to time with the approval of the Governor borrow money—

Purposes for which money may be borrowed.

(a) for the improvement or extension of existing works or the construction or acquisition of additional or supplementary works for or in relation to the storage and handling of wheat;

cf. Ibid.
s. 39.

(b) for the renewal of loans;

(c) for the discharge or partial discharge of any indebtedness to the Treasurer or to any bank;
or

(d) otherwise for the purposes of this Act.

~~36.~~ **35.** Loans to the Board shall be deemed to be secured upon the income of the Board from whatever source arising.

Security for loans.
Ibid. s. 40.

~~37.~~ **36.** (1) The Board shall establish a reserve fund for loan repayment in respect of each loan or renewal loan raised by the Board.

Reserves for repayment.
cf. Ibid.
s. 41.

(2) The Board shall during each year transfer to such fund from the revenue of the Board a sum not less than the Board in its application for approval of the loan intimated that it proposed to set apart as aforesaid.

(3)

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(3) Moneys held as reserve for loan repayment may be invested in government securities of the Commonwealth of Australia or of the State of New South Wales, or in debentures or inscribed stock in any loan of the Board, or in any securities guaranteed by the Government of the said State or in debentures or securities issued by the Sydney County Council or the Sydney City Council, or in such other securities as the Governor may approve or as may be prescribed in each case at their current market price. Any interest or profits realised on such investments shall be added to and form part of the reserve for loan repayment. All moneys paid into the reserve fund for loan repayment in respect of any loan or renewal loan may be applied in or towards repayment of any other loan or renewal loan but may not be applied for any other purpose until the loan or renewal loan in respect of which the fund has been established has been repaid.

(4) Where the Board decides to cancel debentures and inscribed stock of the Board purchased from the reserve for repayment of the loan for which they were issued, then, in addition to the sums otherwise payable to the reserve for loan repayment in respect of that loan, the Board shall, subject to any agreement to which it is a party whereby it undertakes to pay interest at a higher rate to such reserve, pay to such reserve interest at the rate of four and one-half per centum per annum on the face value of the cancelled securities from the date of their cancellation until the maturity of the loan.

(5) This section shall not apply to any loan to be repaid by instalments at intervals of one year or less.

~~38.~~ **37.** (1) For securing repayment of the principal and interest on any money borrowed the Board may as provided by the regulations issue debentures, inscribed stock or other prescribed securities.

(2)

Debentures,
etc.
Act No. 22,
1950, s. 42.

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(2) Every such debenture and every coupon originally annexed to the debenture and whether separated therefrom or not shall be transferable by simple delivery.

5 (3) Inscribed stock shall be transferable in the books of the Board in accordance with the regulations.

(4) Debentures or inscribed stock issued under this Act shall both as regards the issue and transfer thereof for full consideration or money or money's worth
10 be deemed to be included in the general exemptions from stamp duty under Part III of the Stamp Duties Act, 1920-1954, contained in the Second Schedule to that Act. The regulations may provide for the exemption from stamp duty of any other prescribed security.

15 (5) The holder of a coupon originally annexed to a debenture and whether separated therefrom or not shall be entitled to receive payment from the Board of the interest mentioned in the coupon upon the presentation of the same on or after the date when and at the place
20 where the interest is payable.

(6) The due repayment of the debentures and stock and the interest thereon and of any loan in respect of which any other prescribed security is issued and the interest thereon shall be a charge upon the income
25 and revenue of the Board and is hereby guaranteed by the Government. Any liability arising from such guarantee shall be payable out of moneys provided by Parliament. Such charge shall not prejudice or affect the power of the Board to sell or convey any property
30 vested in it free of any such charge.

~~39.~~ 38. (1) Notwithstanding anything contained in this Division of this Part any money which the Board is authorised to borrow may be borrowed by a loan raised wholly or in part in such country as the Governor may
35 approve, and may be negotiated and raised in any currency.

Raising
loan in
any country.
Act No. 22,
1950, ss. 43
and 43A.

(2)

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(2) Any such loan may be raised wholly or in part by the issue of debentures, bonds, stock or other securities in any form and containing any term, condition or provision permitted under the law of the place where
5 such loan is raised and the Board may establish and conduct in such country registries relating to the securities issued in respect of such loan.

(3) The Board may in respect of any such loan agree that a sinking fund shall be established and
10 controlled at such place, by such person and in such manner as may be found necessary or expedient in the circumstances of the case, and where any such sinking fund is so established the provisions of section ~~thirty-seven~~ **thirty-six** of this Act shall apply with regard to
15 that loan only in respect of the amount, if any, the repayment of which is not provided for by the sinking fund established under the agreement.

(4) In connection with the raising of any loan under this section, the Board may enter into such agree-
20 ments as the Board shall think fit with respect to the form of such debentures, bonds, stock or other securities, or for the sale of such debentures, bonds, stock or other securities, or the granting of an option to purchase such debentures, bonds, stock or other securities, or for ser-
25 vices to be performed by any person in Australia or in any other part of the world in connection with such loan or with the issue, management, and redemption of or otherwise with respect to such debentures, bonds, stock or other securities, and such agreements may be upon
30 such terms and conditions and may contain such provisions for the giving or receipt of consideration as the Board shall think fit.

Copies of any such agreement shall be forwarded to the Minister who shall cause the same to be laid before
35 both Houses of Parliament as soon as possible after the loan is raised.

(5) The Governor may upon the recommendation of the Board appoint two or more persons to enter into for ~~and~~ on behalf of the Board all such agreements as
the

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the Board is by this section authorised to enter into and to sign, execute, or otherwise perfect all such agreements, debentures, bonds, stock or other securities as are by this section provided for and to do all such things
5 as may be necessary or convenient to be done for the purpose of raising any loan under this Act, and may upon the like recommendation revoke or vary any such appointment and make any fresh appointment.

The production of a copy of the Gazette containing a
10 notification of any such appointment or revocation as aforesaid shall in favour of a lender or of any holder of a security be conclusive evidence of the appointment or revocation.

(6) All debentures, bonds, stock or other
15 securities bearing the signatures of such persons so appointed in that behalf shall be deemed to be securities lawfully issued under seal by the Board and the principal moneys and interest secured thereby shall be deemed to be a charge upon the income and revenue of the Board
20 from whatsoever source arising, and the due repayment of such principal moneys and interest is hereby guaranteed by the Government, and all agreements and any instruments purporting to be made or issued under the authority of this section and bearing the signatures
25 of such persons shall be deemed to have been lawfully made or issued by the Board, and if the same shall purport to have been sealed by such persons to have been lawfully executed by the Board under seal.

A holder of any such debenture, bond, stock or other
30 security shall not be bound to enquire whether the issue of such security was in fact duly authorised.

(7) Subject to this section and the law in force in the place where any loan is raised under this section and applicable to such loan and the securities issued in
35 connection therewith the provisions of this Division of this Part other than subsection one of section ~~thirty-eight~~ **thirty-seven** and subsections three and four of section ~~forty-one~~ **forty** of this Act shall apply, mutatis mutandis, to and in respect of such loan and such
40 securities.

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40. **39.** (1) Any trustee unless expressly forbidden by the instrument (if any) creating the trust, may invest any trust moneys in his hands in stock inscribed by the Board, and the investment shall be deemed to be an investment authorised by the Trustee Act, 1925, or any Act amending or replacing that Act.

Trustees.
Act No. 22,
1950, s. 44.

(2) Any debenture issued or stock inscribed by the Board shall be a lawful investment for any moneys which any company, council, or body corporate incorporated by any Act of Parliament of New South Wales is authorised or directed to invest in addition to any other investment expressly provided for the investment of such moneys.

(3) No notice of any trust expressed, implied or constructive, shall be received by the Board or by any servant of the Board in relation to any debenture or coupon issued or stock inscribed by the Board.

~~41.~~ **40.** (1) If any debenture issued by the Board is lost or destroyed or defaced before the same has been paid, the Board may, subject to the provisions of this section issue a new debenture in lieu thereof.

Lost
debentures.
Ibid. s. 45.

(2) The new debenture with interest coupon annexed shall bear the same date, number, principal sum, and rate of interest as the lost, destroyed, or defaced debenture.

(3) When the debenture is lost or destroyed the new debenture shall not be issued unless and until—

- (a) a judge of the Supreme Court has been satisfied by affidavit of the person entitled to the lost or destroyed debenture, or of some person approved by the judge, that the same has been lost or destroyed before it has been paid off;
- (b) such advertisement as the judge may direct has been published;
- (c) six months have elapsed since the publication of the last of the advertisements; and
- (d) sufficient security has been given to the Board to indemnify it against any double payment if the

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the missing debenture be at any time thereafter presented for payment.

(4) When the debenture is defaced the new debenture shall not be issued unless and until the defaced debenture is lodged with the Board for cancellation.

(5) The provisions of this section shall, mutatis mutandis, extend to the case of a lost, destroyed, or defaced coupon.

(6) In case of the loss, theft, destruction, mutilation, or defacement of any debenture or bond issued under section ~~thirty-nine~~ **thirty-eight** of this Act, a duplicate or new debenture or bond may be issued upon proof to the satisfaction of the Board of such loss, theft or destruction, or upon surrender of the mutilated or defaced debenture or bond, as the case may be, and upon the Board receiving security or indemnity satisfactory to it against double payment if the missing debenture or bond be at any time thereafter presented for payment.

~~42.~~ **41.** (1) If for six months default is made by the Board in making any payment whether of principal or interest, to the holder of any debenture, or coupon, issued or stock inscribed by the Board, the holder thereof may apply to the Supreme Court in its equitable jurisdiction, in accordance with rules of court, for the appointment of a receiver of the income of the Board.

Receivers.
Act No 22,
1950, s. 46.

(2) A receiver may be appointed in respect of the income of the Board either generally or as regards specified income.

(3) The Court may make such orders and give such directions as it may deem proper for and with respect to—

- (a) the appointment of a receiver;
- (b) the removal of a receiver;
- (c) the appointment of a receiver in place of a receiver previously appointed.

(4) The receiver shall be deemed to be an officer of the Court, and shall act under its directions.

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~~42.~~ **42.** (1) A receiver shall have power to collect all income payable to the Board which he has by order of the Court been so authorised to collect and for the purposes of this subsection the receiver shall be deemed to be the Board and may exercise all the powers of the Board.

Powers and duties of receivers. Act No.22, 1950, s. 47.

(2) The receiver shall discharge such duties of the Board or of any servants of the Board as may be prescribed.

10 ~~44.~~ **43.** The receiver shall be entitled to such commission or remuneration for his services as the Court may order, and the commission or remuneration shall be payable out of the income for and in respect of which he has been appointed receiver.

Commission to receiver. *Ibid.* s. 48.

15 ~~45.~~ **44.** The receiver shall, subject to any order of the Court, pay and apply all moneys received by him in the following order, that is to say—

Application of money received. *Ibid.* s. 49.

20 (a) firstly, in the payment of the costs, charges, and expenses of collection, and of his commission or remuneration;

(b) secondly, in the payment of the amount due and payable to the holder of the debenture or inscribed stock or coupon, as the case may be;

25 (c) thirdly, in payment of all the residue of the moneys to the Board.

46. **45.** (1) A person advancing money to the Board shall not be bound to enquire into the application of the money advanced, or be in any way responsible for the non-application or misapplication thereof.

Protection of investments. *Ibid.* s. 50.

30 (2) A notification in the Gazette of the approval of the Governor having been given to a borrowing by the Board shall, in favour of a lender and of any holder of a security given by the Board, be conclusive evidence that all conditions precedent to the borrowing have been

35 complied with, and where the approval notified is to the borrowing by the Board in a country outside New South

Wales

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Wales and in a particular currency shall also be conclusive evidence in favour of such persons of the approval of the Governor to the borrowing in the country and in the currency specified in the notification.

- 5 ~~47.~~ **46.** All debentures, bonds, or other securities which are secured upon the income and revenue of the Board shall rank pari passu without any preference one above another by reason of priority of date or otherwise.
- 10 ~~48.~~ **47.** If the Board borrows any money without having first obtained the approval of the Governor, each member holding office who has, knowingly and wilfully or for personal benefit or advantage, consented to the borrowing shall be liable to a penalty of five hundred pounds.
- 15 The action to recover the penalty shall not be taken without the written consent of the Attorney-General.

Debentures and bonds to rank pari passu.
Act No. 22, 1950, s. 51.

Penalty for illegal borrowing.
Ibid. s. 52.

DIVISION 3.—*Accounts and Audit.*

- ~~49.~~ **48.** (1) The Board shall cause proper books of account to be kept and shall as soon as practicable after the end of each financial year of the Board prepare and transmit to the Minister for presentation to Parliament a report of its operations during such year and balance-sheets and statements of accounts setting forth a true statement of the financial position and the transactions of the Board for such year.
- 25 (2) Each such balance-sheet and statement—
- (a) shall include a profit and loss account and a statement of the assets and liabilities of the Board and shall be in a form approved by the Auditor-General; and
- 30 (b) shall be audited and reported upon by the Auditor-General, who shall have in respect of the accounts of the Board all the powers conferred on the Auditor-General by any law now or hereafter to be in force relating to the audit of public accounts, as well as all powers
- 35 conferred by this Act.

Accounts to be kept.
cf. Act No. 69, 1915, s. 18b.

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- (3) The Audit Act, 1902-1953, (section twenty-five excepted), shall apply to the Board and its servants in the same manner as it applies to accounting officers of public departments.
- 5 (4) Without limiting the generality of the powers conferred by subsection two of this section, the Auditor-General may disallow any expenditure or entry in the books of the Board which he considers has been wrongly, irregularly or dishonestly made.
- 10 (5) Any sum so disallowed shall be a surcharge upon and may be recovered or deducted from moneys due to the servants by whom the expenditure was incurred or ordered to be incurred or by whom the entry was made or ordered to be made, but such servants shall have
- 15 the same right of appeal against such surcharge as is prescribed under the Audit Act, 1902-1953.
- (6) The Board shall produce for inspection to any person duly authorised in writing by the Minister any or all of its books, accounts, agreements, vouchers, letters
- 20 or other documents.
- (7) The Board shall in each year pay into the Treasury such sum as is fixed by the Treasurer towards the cost of the audit of the accounts of the Board by the Auditor-General.
- 25 ~~50.~~ 49. Subject to any provision made by or under this Act the Board shall cause expenditure to be charged against income and capital as nearly as may be in accordance with commercial principles.
- Charging expenditure generally. Act No. 22, 1950, s. 54.

PART VI.

MISCELLANEOUS.

- 30 ~~51.~~ 50. All courts and persons having by law or consent of parties authority to hear, receive and examine evidence—
- (a) shall take judicial notice of the seal of the Board affixed to any documents; and
- 35 (b)
- Judicial notice of seal of the Board. Ibid. s. 91.

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(b) shall until the contrary be proved presume that such seal was properly affixed thereto.

~~52.~~ **51.** Any notice, summons, writ or other proceeding required to be served on the Board may be served by **5** being left at the office of the Board, or, in the case of a notice, by post.

Service of notice of proceedings on the Board. Act No. 22, 1950, s. 92.

~~53.~~ **52.** Every summons, process, demand, order, notice, statement, direction or document requiring authentication by the Board may be sufficiently authenticated with- **10** out the seal of the Board if signed by the Chairman.

Documents. How authenticated. *Ibid.* s. 93.

~~54.~~ **53.** (1) All proceedings for offences against this Act or the regulations shall be disposed of summarily before a court of petty sessions.

Penalties and recovery of charges, etc. *Ibid.* s. 96.

(2) Any charge, fee, remuneration or money due **15** to the Board under the provisions of this Act or any regulations may be recovered as a debt in a court of competent jurisdiction.

(3) Proceedings for the recovery of any charge, fee, remuneration or money so due to the Board shall **20** be deemed to be for the recovery of a debt or liquidated demand within the meaning of—

- (a) section twenty-four of the Common Law Procedure Act, 1899;
- (b) section sixty-four of the District Courts Act, **25** 1912-1953;
- (c) section twenty-five of the Small Debts Recovery Act, 1912-1933.

~~55.~~ **54.** In any legal proceedings by or against the Board no proof shall be required (until evidence is given to **30** the contrary) of—

No proof of certain matters required. *Ibid.* s. 97.

- (a) the constitution of the Board;
- (b) any resolution of the Board;
- (c) the appointment of any member or any servant of the Board;

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(d) the presence of a quorum at any meeting at which any determination is made or any act is done by the Board.

~~56.~~ **55.** (1) The Board may from time to time by resolution delegate such of the authorities, powers, duties or functions of the Board (other than this power of delegation) as may be prescribed and as are specified in the resolution—

Delegation.
Act No. 22,
1950, s. 99.

- (a) to any member;
- 10 (b) to any servant of the Board;
- 15 (c) to any officer, servant or employee of whose services the Board makes use pursuant to this or any other Act.

(2) Any such delegation may be made either generally or for any particular case or class of cases.

(3) Any person when acting within the scope of any such delegation to him shall be deemed to be the Board.

(4) Any instrument necessary to be executed and any notice, order, summons or other like document requiring authentication for the purpose of the exercise or discharge of any power, authority, duty or function delegated to any person under this section shall be sufficiently executed or authenticated as the case may be if signed by such person in such a way as to show that he does so under and in pursuance of the delegation.

(5) The Board may by resolution revoke such delegation.

~~57.~~ **56.** (1) A writ or other process in respect of any damage or injury to person or property shall not be sued out or served upon the Board or any member, or any servant of the Board or any person acting in his aid for anything done or intended to be done or omitted to be done under this Act, until the expiration of one month after notice in writing has been served on the Board or member, servant or person as provided in this section.

Notice of
action.
Ibid. s. 100.

(2)

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(2) The notice shall state—

- (a) the cause of action;
- (b) the time and place at which the damage or injury was sustained; and
- 5 (c) the name and place of abode or business of the intended plaintiff and of his attorney, if any, in the case.

(3) In the case of damage to property, any person who produces on demand his authority from the Board shall be permitted to inspect the property damaged, and all facilities and information necessary to ascertain fully the value of the property damaged, the nature and extent of the damage, and the amount of money, if any, expended in repairing the same shall be given to him.

Representative of the Board to be permitted to inspect property injured.

15 (4) At the trial of any such action the plaintiff shall not be permitted to go into evidence of any cause of action that is not stated in the notice, and unless the notice has been served the plaintiff shall not be entitled to maintain the action:

20 Provided that at any stage of the proceedings the court or any judge of the court in which the action is pending may, if the court or judge deems it to be just or reasonable in the circumstances so to do—

- 25 (a) amend any defect in the notice on such terms and conditions, if any, as the court or judge may fix;
- (b) direct that any non-compliance or insufficient compliance with this section shall not be a bar to the maintenance of the action.

30 (5) Every such action shall be commenced within the period of twelve months next after the occurring of the cause of action. Such period is in this subsection referred to as the "prescribed period":

35 Provided that where an application is made to a judge of the Supreme Court in accordance with rules of court for an extension of the prescribed period the judge may, if he is satisfied that sufficient cause has been shown,

or

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or that having regard to all the circumstances of the case, it would be reasonable so to do, make an order for extension of the prescribed period for such further period and subject to such terms and conditions, if any, as
5 may be set out in the order.

Such application for extension may be made either within the prescribed period or at any time within twelve months thereafter.

Any person who is dissatisfied with the decision of
10 the judge on any such application may appeal to the Supreme Court and that Court may on the appeal make any order which ought to have been made in the first instance.

Every such appeal shall be made in accordance with
15 rules of court.

(6) The Board, or any member, servant or person to whom any such notice of action is given as aforesaid, may tender amends to the plaintiff, his attorney or agent at any time within one month after service of notice
20 of action, and in case the same is not accepted may plead the tender in bar.

(7) The defendant in every such action may plead the general issue and at the trial thereof give this Act and the special matter in evidence.

25 ~~58.~~ 57. (1) The Governor may make regulations, not Regulations.
inconsistent with this Act, for and with respect to—

- (a) the receipt, storage, insurance, handling and delivery of wheat by the Board;
- 30 (b) the operation, management, control and maintenance of elevators and other works under the control of the Board which are used for the storage and handling of wheat;
- (c) prescribing qualities of wheat for the purposes of this Act;
- 35 (d) the conditions under which wheat shall be received by the Board for storage and warrants issued;

(e)

This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

H. ROBBINS,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 23 November, 1954.*

New South Wales



ANNO TERTIO

ELIZABETHÆ II REGINÆ

Act No. , 1954.

An Act to make provision for and in relation to the handling and storage of wheat and the operation and control of the Government Grain Elevators; to provide for the constitution of the Grain Elevators Board of New South Wales and to define its powers, authorities, duties and functions; to dissolve the State Wheat Committee constituted under the Wheat Marketing Act, 1948-1953; to amend the said Act in certain respects; to repeal the Grain Elevator Act, 1916, and the Wheat Act, 1927; and for purposes connected therewith.

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

PART I.

PRELIMINARY.

1. (1) This Act may be cited as the "Grain Elevators Act, 1954." Short title and commencement.

10 (2) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

2. This Act is divided into Parts as follows:— Division into Parts.

PART I—PRELIMINARY.

15 PART II—CONSTITUTION OF THE GRAIN ELEVATORS BOARD.

PART III—VESTING OF GOVERNMENT GRAIN ELEVATORS IN THE BOARD.

20 PART IV—POWERS, AUTHORITIES, DUTIES AND FUNCTIONS OF THE BOARD.

PART V—FINANCE.

DIVISION 1.—*Loan Liability of the Board to the Treasurer.*

DIVISION 2.—*Loans.*

25 DIVISION 3.—*Accounts and Audit.*

PART VI—MISCELLANEOUS.

3. In this Act, unless the context or subject matter otherwise indicates or requires— Definitions.

30 "Australian Wheat Board" means the Board constituted under the Wheat Marketing Act 1948-1953 of the Parliament of the Commonwealth.

"Board"

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“Board” means the Grain Elevators Board of New South Wales.

“Chairman” means the Chairman of the Board.

“Member” means a member of the Board.

5 “Prescribed” means prescribed by this Act or by the regulations.

“Regulations” means regulations made under this Act.

“Treasurer” means the Colonial Treasurer.

10 4. The Grain Elevator Act, 1916, and the Wheat Act, 1927, are hereby repealed. Repeal of Acts Nos. 47, 1916, and 6, 1927.

5. (1) The State Wheat Committee constituted under the Wheat Marketing Act, 1948-1953, is hereby dissolved. Dissolution of State Wheat Committee.

15 (2) The Wheat Marketing Act, 1948-1953, is amended by omitting Part II.

6. (1) The Wheat Marketing Act, 1948-1953, is amended— Amendment of Act No. 46, 1948.

20 (a) by inserting in section three before the definition of “licensed receiver” the following new definition:— Sec. 3. (Definitions.)

“Grain Elevators Board” means the Grain Elevators Board of New South Wales constituted under the Grain Elevators Act, 1954.

25 (b) (i) by omitting from section eight the words “Manager of the Government Grain Elevators” wherever occurring and by inserting in lieu thereof the words “Grain Elevators Board”; Sec. 8. (Licensed receivers)

30 (ii) by omitting from paragraph (b) of subsection two of the same section the words and figures “Wheat Act, 1927” and by inserting in lieu thereof the words and figures “Grain Elevators Act, 1954”;

(c)

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- (c) (i) by omitting from paragraph (d) of section Sec. 9.
 nine the words and figures "Wheat Act, (Powers of Board.)
 1927" and by inserting in lieu thereof the
 words and figures "Grain Elevators Act,
 1954";
- (ii) by omitting from the same paragraph the
 words "in the Government Grain Elevators"
 and by inserting in lieu thereof the
 words "by the Grain Elevators Board".
- (2) The Wheat Marketing Act, 1948, as amended by Citation.
 subsequent Acts and by this Act, may be cited as the
 Wheat Marketing Act, 1948-1954.

PART II.

CONSTITUTION OF THE GRAIN ELEVATORS BOARD.

7. (1) There shall be constituted a Grain Elevators Constitution of Board.
 Board which shall have and may exercise and discharge
 the powers, authorities, duties and functions conferred
 and imposed upon it by or under this or any other Act.

In the exercise and discharge of such powers, authori-
 ties, duties and functions the Board shall be subject in
 all respects to the control and direction of the Minister.

(2) For the purposes of any Act, the Board shall
 be deemed to be a statutory body representing the Crown.

(3) The Board shall consist of five members
 appointed by the Governor.

Of the members so appointed—

- (a) one shall in and by the instrument by which he
 is appointed be the Chairman of the Board;
- (b) one shall be an officer in the employ of the
 Commissioner for Railways selected by the
 Minister from a panel of not less than three
 officers submitted to the Minister by the
 Commissioner for Railways;
- (c) one shall be an officer of the Treasury nominated
 by the Treasurer;

(d)

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5 (d) two shall be persons nominated as representing the wheatgrowers of New South Wales by the Minister, who before nominating such persons shall have regard to the recommendations (if any) in that behalf of any body or bodies representative in the opinion of the Minister of the interests of such wheatgrowers.

10 (4) A person who is directly interested (other than as a wheatgrower) in the business of selling, purchasing or dealing in wheat shall not be eligible to be appointed as a member of the Board and shall be disqualified from holding any such office. cf. Vic. Act No. 4270, s. 5 (3).

15 (5) (a) Subject to this Act the term of office of a member of the Board shall be such term, not exceeding five years, as is specified in the instrument of his appointment. Act No. 69, 1915, s. 8.

20 (b) Upon the expiration of the term of office of a member of the Board he shall, if otherwise qualified, be eligible for reappointment from time to time. Any such reappointment shall be for such term not exceeding five years as may be specified in the instrument of reappointment.

25 (c) On the occurrence of a vacancy in the office of a member of the Board, the person appointed to fill the vacant office shall, subject to this Act, hold office for the remainder of the unexpired term of the vacant office.

(d) A person who is of or above the age of sixty-five years shall not be appointed as a member.

30 (e) The Governor may in the case of the illness, suspension or absence of any member appoint a deputy to act in the place of such member during his illness, suspension or absence; and, if a member is appointed to act in the place of the Chairman, the Governor may appoint a deputy to act in the place of
35 that member. The provisions of this Act with respect to the qualifications for appointment as and the method of appointment of a member shall extend and apply to a deputy to be appointed to act in the place of such member.

(f)

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(f) A deputy appointed under this subsection shall have the immunities, powers, authorities and duties of the member in whose place he acts.

(g) A deputy appointed under this subsection 5 may be paid such remuneration for his services including such fees and allowances and such travelling expenses as the Governor may determine.

(h) No person shall be concerned to enquire whether or not any occasion has arisen requiring or 10 authorising a deputy so to act and all acts or things done or omitted by the deputy shall be as valid and effectual and shall have the same consequences as if the same had been done or omitted by the member for whom the deputy is acting.

15 (6) The Chairman or any deputy appointed to act in his place shall devote the whole of his time to the duties of his office.

The Chairman shall, by virtue of and while acting in such office, be the Manager of the Board, and a deputy 20 shall, by virtue of and while acting in the place of the Chairman, be the Acting Manager of the Board, but neither the Chairman or such deputy shall on such account be entitled to receive any remuneration additional to that which he is entitled to receive as Chair- 25 man or as such deputy, as the case may be.

(7) (a) Each member shall receive such remuneration, fees, allowances and travelling expenses as the Governor may from time to time determine.

(b) Where by or under any Act provision is 30 made requiring the holder of an office specified therein to devote the whole of his time to the duties of his office or prohibiting him from engaging in employment outside the duties of his office, such provision shall not operate to disqualify him from holding that office and also 35 the office of a member (other than the office of Chairman) under this Act or from accepting and retaining any remuneration, fees or allowances payable to a member under this Act.

(c)

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(c) The office of a member (other than the Chairman) shall not for the purposes of the Constitution Act, 1902, or any Act amending that Act, be deemed to be an office or place of profit under the Crown.

- 5 (8) The provisions of the Public Service Act, 1902, or of any Act amending that Act, shall not apply to or in respect of the appointment of a member and a member shall not be subject to any such Act during his term of office.
- 10 (9) A member shall be deemed to have vacated his office—
- (a) if, being the Chairman, he engages during his term of office in any paid employment outside the duties of his office;
- 15 (b) if he becomes bankrupt, compounds with his creditors or makes any assignment of his remuneration, fees, allowances or estate for their benefit;
- 20 (c) if, being the Chairman, he absents himself from duty for a period exceeding fourteen consecutive days except on leave granted by the Minister (which leave the Minister is hereby authorised to grant) unless such absence is occasioned by illness or other unavoidable cause;
- 25 (d) if, being a member other than the Chairman, he is absent from four consecutive ordinary meetings of the Board without leave granted by the Board;
- 30 (e) if he becomes an insane person or patient or an incapable person within the meaning of the Lunacy Act of 1898, as amended by subsequent Acts;
- (f) if he is convicted in New South Wales of a felony or of a misdemeanour which is punishable by imprisonment for twelve months or upwards, or if he is convicted elsewhere than in New South Wales of an offence which if committed in New South Wales would be a felony or misdemeanour which is punishable as aforesaid;
- (g)

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- (g) if he becomes directly interested (other than as a wheatgrower) in the business of selling, purchasing or dealing in wheat;
- 5 (h) if he resigns his office by writing under his hand addressed to the Governor;
- (i) if, not being the Chairman, he is removed from office by the Governor.

A member shall be deemed to have vacated his office upon the day upon which he attains the age of sixty-five 10 years.

(10) The Governor may, for any cause which appears to him to be sufficient, remove a member not being the Chairman from office.

15 (11) (a) The Chairman may be suspended from his office by the Governor for misbehaviour or incompetence but shall not be removed from office except as provided in this subsection.

(b) The Minister shall cause to be laid before Parliament a full statement of the grounds of suspension 20 within seven sitting days after such suspension if Parliament is then in session and, if not, then within seven sittings days after the commencement of the next session.

(c) The Chairman suspended under this section shall be restored to office unless each House of Parliament, 25 within twenty-one days from the time when such statement has been laid before such House, declares by resolution that the Chairman ought to be removed from office, and if each House of Parliament within the said time does so declare, the Chairman shall be removed 30 by the Governor accordingly.

8. (1) A person who, at the date of his appointment as Chairman, is an officer of the Public Service and who ceases to be Chairman for any cause whatsoever otherwise than in pursuance of subsections nine (paragraph 35 (h) excepted) and eleven of section seven of this Act, shall if he is under the age of sixty years be appointed to some office in the Public Service not lower in classification and salary than that which he held immediately before his appointment as Chairman.

Savings of rights of person appointed Chairman.

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(2) (a) Nothing contained in this Act shall affect the rights accrued or accruing under the Public Service Act, 1902, or under the Superannuation Act, 1916-1952, or any Act amending such Acts, to any person appointed
5 as Chairman who is at the time of his appointment or has been at any time previous thereto an officer of the Public Service or an employee within the meaning of the Superannuation Act, 1916-1952, or any amendment thereof.

10 (b) Any officer of the Public Service or any person who is an employee within the meaning of the Superannuation Act, 1916-1952, or any amendment thereof, who is appointed as Chairman shall continue to contribute to any fund or account and shall be entitled
15 to receive any deferred or extended leave and any payment, pension or gratuity as if he were an officer or employee within the meaning of the Public Service Act, 1902, or the Superannuation Act, 1916-1952, as the case may be, or any Act amending such Acts, and for such
20 purpose his service as Chairman shall be deemed to be service for the purpose of such Acts.

9. (1) The Board shall be a body corporate with perpetual succession and a common seal, and may sue or be sued in its corporate name, and shall be capable of
25 purchasing, holding, granting, demising, disposing of or otherwise dealing with real and personal property and of doing and suffering all such acts and things as bodies corporate may by law do and suffer.

Board to be
body
corporate.

(2) The corporate name of the Board shall be "The
30 Grain Elevators Board of New South Wales".

(3) The common seal shall be kept in the custody of the Chairman and shall not be affixed to any instrument except in pursuance of a resolution of the Board.

Any instrument executed in pursuance of any such
35 resolution shall be attested by the signature of any two members.

(4) (a) The procedure for the calling of meetings of the Board and for the conduct of business at such meetings shall be as determined by the Board.

Proceedings
of Board.
Act No. 22,
1950, s. 6.

(b)

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(b) Three of the members shall form a quorum and any duly convened meeting at which a quorum is present shall be competent to transact any business of the Board and shall have and may exercise and discharge
5 all the powers, authorities, duties and functions of the Board.

A decision of a majority of the members present at a meeting of the Board shall be the decision of the Board.

10 (c) At any meeting of the Board the Chairman shall preside. In the absence of the Chairman from a meeting the members present may choose one of their number to preside as Chairman of that meeting.

At any meeting of the Board the Chairman or the
15 member presiding as chairman shall have a deliberative vote, and if the voting is equal, a casting vote.

(5) The Board shall cause full and accurate minutes to be kept of its proceedings at formal meetings and submit to the Minister a copy of the minutes of each
20 formal meeting within one week after the date on which such formal meeting is held.

(6) No act or proceeding of the Board shall be invalidated or prejudiced by reason only of the fact that at the time when such act or proceeding was done, taken
25 or commenced, there was a vacancy in the office of a member.

(7) (a) No matter or thing done, and no contract entered into by the Board, and no matter or thing done by any member or by any other person whomsoever acting
30 under the direction of the Board shall, if the matter or thing was done or the contract was entered into bona fide for the purpose of executing this Act, subject them or any of them personally to any action, liability, claim or demand whatsoever.

35 (b) Nothing in this subsection shall exempt any member from liability to be surcharged with the amount of any payment which is disallowed by the Auditor-General in the accounts of the Board and which such member authorised or joined in authorising.

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PART III.

VESTING OF GOVERNMENT GRAIN ELEVATORS IN THE BOARD.

10. On and from the commencement of this Act the following provisions shall have effect:—

- 5 (a) All control and administration of the Government Grain Elevators exercisable by the Manager of the Government Grain Elevators or any other person immediately before the commencement of this Act shall be exercisable by the Board under and in accordance with this Act.
- 10 (b) All real and personal property and all right and interest therein which immediately before the commencement of this Act is vested in or belongs to the Crown, or any Minister of the Crown as constructing authority, or the Commissioner for Railways, and which immediately before such commencement is held or used for the purposes of or in connection with the Government Grain Elevators shall vest in and belong to the Board.
- 15 This paragraph shall not apply to stacking sites and grain sheds for bagged wheat and rolling stock and permanent ways vested in or belonging to the Commissioner for Railways.
- 20 (c) All moneys liquidated and unliquidated claims which immediately before the commencement of this Act are payable to or recoverable by the Crown in relation to or in connection with the Government Grain Elevators (other than moneys liquidated and unliquidated claims so payable by or so recoverable from the Australian Wheat Board) or which immediately before such commencement are payable to or recoverable by any Minister of the Crown as constructing authority in relation to or in connection with any real or personal property, which is vested in or belongs to the Board by virtue of this section, shall be moneys liquidated and unliquidated claims payable to or recoverable by the Board.
- 25
- 30
- 35

(d)

Vesting of property.
cf. Act No. 22, 1950, s. 31.

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- 5 (d) (i) All suits, actions, and proceedings pending immediately before the commencement of this Act at the suit of the Crown in relation to or in connection with the Government Grain Elevators, shall be respectively suits, actions, and proceedings pending at the suit of the Board.
- 10 (ii) All suits, actions, and proceedings pending immediately before the commencement of this Act at the suit of any Minister of the Crown as constructing authority in relation to or in connection with any real or personal property or any right or interest therein which is vested in or belongs to the Board by virtue of this section shall be respectively
- 15 suits, actions, and proceedings pending at the suit of the Board.
- 20 (e) (i) All contracts, agreements and undertakings entered into with, and all securities lawfully given to or by the Crown in relation to or in connection with the Government Grain Elevators and in force immediately before the commencement of this Act shall be
- 25 deemed to be contracts, agreements and undertakings entered into with and securities given to or by the Board.
- 30 This sub-paragraph shall not relieve the Crown from any liability under any agreement between the Crown and the Australian Wheat Board whereby the Crown has undertaken to make sites for wheat storage available to the Australian Wheat Board.
- 35 (ii) All contracts, agreements and undertakings entered into with and all securities given to or by any Minister of the Crown as constructing authority in relation to or in connection with any real or personal property which is vested in or belongs to the Board by virtue of this section and in
- 40 force immediately before the commencement

of

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of this Act shall be deemed to be contracts, agreements and undertakings entered into with and securities given to or by the Board.

- 5 (f) The Board may pursue the same remedies for the recovery of any such moneys and claims and for the prosecution of such suits, actions, and proceedings as the Crown or a Minister, as the case may be, might have done but for this Act.
- 10 (g) The Board may enforce and realise any security or charge existing immediately before the commencement of this Act in favour of the Crown or any Minister of the Crown as constructing authority, as the case may be, in respect of any
- 15 such moneys or claims as if the security or charge were existing in favour of the Board.
- 20 (h) (i) All debts due and moneys payable by the Crown in relation to or in connection with the Government Grain Elevators and all claims liquidated or unliquidated recoverable against the Crown in relation to or in connection with the Government Grain Elevators shall be debts due, moneys payable by and claims recoverable against the
- 25 Board.
- 30 (ii) All debts due and moneys payable by any Minister of the Crown as constructing authority in relation to or in connection with any real or personal property or any right or interest therein which is vested in or belongs to the Board by virtue of this section, and all claims liquidated or unliquidated in relation to or in connection with any such real or personal property or right
- 35 or interest therein shall be debts due, moneys payable by and claims recoverable against the Board.
- (i) No attornment by a lessee of any land vested in the Board by this section shall be necessary.

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11. (1) As soon as practicable after the commencement of this Act the Committee of Review constituted under section thirty-two of this Act shall cause to be notified in the Gazette the amount of liability to the Treasurer which shall be assumed by the Board in relation to or in connection with any real or personal property which is vested in or belongs to the Board by virtue of section ten of this Act and the amount thereof which shall bear interest.

Liability of Board to Treasurer.
cf. Act No. 22, 1950, s. 32.

(2) The liability assumed by the Board pursuant to subsection one of this section shall as from the commencement of this Act become and be part of the loan liability to the Treasurer as defined in section thirty-one of this Act.

15

PART IV.

POWERS, AUTHORITIES, DUTIES AND FUNCTIONS OF THE BOARD.

12. The Board may, subject to and in accordance with this Act and the regulations—

General powers of Board.
Ibid. s. 9.

- 20** (a) undertake the storage and handling of wheat;
- (b) maintain and operate and where necessary improve and extend all elevators and other works for or in relation to the storage and handling of wheat for the time being vested in it, and construct any new, additional or supplementary elevators and other works for or in relation to the storage and handling of wheat;
- 25** (c) consider and advise the Minister on matters relating to or affecting the wheat industry.

30 **13.** The Board may act as an agent of the Australian Wheat Board in relation to any matter.

Board may be agent of Australian Wheat Board.

14. (1) There shall be issued for wheat received by the Board for storage a warrant in the prescribed form.

Warrants.
cf. Act No. 6, 1927, s. 11.

35 (2) Such warrants shall be consecutively numbered and two warrants bearing the same number shall not be issued during the period in which the wheat harvest of any season is being delivered.

15.

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- 15.** The Board shall not deliver wheat from its charge unless there shall have been delivered to the Board—
- (a) a warrant representing the same quantity of wheat of the same description or quality; and
- (b) instructions in the prescribed form by the person delivering the warrant as to the disposal of such wheat;
- and unless all fees, freight and other charges due in connection therewith have been paid.
- 16.** (1) Notwithstanding anything contained in this Act or the regulations the Board may enter into such undertakings or agreements as it thinks fit with respect to the delivery of wheat pursuant to any warrant issued by it. Such undertakings or agreements may contain provisions additional to, in variation of or in substitution for those contained in section fifteen of this Act and shall be endorsed upon the warrant.
- (2) The Board shall not deliver wheat from its charge pursuant to any warrant endorsed with undertakings or agreements as provided in subsection one of this section otherwise than in accordance with such undertakings or agreements.
- 17.** Warrants shall after endorsement by the person to whom they were issued be transferable by delivery.
- 18.** No action for damages for conversion or for detention of any wheat shall be brought against the Board or any of its servants by any person claiming to be entitled to any mortgage, charge, lien (including any lien on crops under the Liens on Crops and Wool and Stock Mortgages Act, 1898), or any other encumbrance whatsoever of, upon or over such wheat or any crop from which such wheat was harvested.
- 19.** (1) After the delivery of any wheat in respect of which a warrant has been produced as provided in section fifteen of this Act the Government and the Board shall not be answerable to any other person claiming to be the owner of such wheat or of any interest therein.

Delivery by
the Board.
cf. Act No.
6, 1927,
s. 12.

Special
warrants.

Warrants
negotiable.
Ibid. s. 13.

Protection
against
actions, etc.
Ibid. s. 14.

Indemnity.
Ibid. s. 15.

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(2) The Board shall not be responsible for—

(a) any loss of or damage to wheat in its charge arising from irresistible force, the act of God or the Queen's enemies, strikes, lock-outs, or any other cause beyond its control; or

(b) any loss which may be sustained by reason of the short supply or non-supply of railway trucks to the Board for the purpose of moving wheat under the instructions of the owner of the wheat.

10 (3) Where wheat in the charge of the Board is destroyed or damaged by any of the causes referred to in paragraph (a) of subsection two of this section all persons at the time of the loss entitled to delivery of wheat under warrants shall bear the loss in a proportion to be fixed by the Board approximating as nearly as can be calculated by it to the proportion that the wheat which such persons are entitled by the warrants to receive bears to the total stocks of wheat then in the charge of the Board, and the amount of wheat deliverable on warrants then in force shall be reduced accordingly.

(4) Where from any cause for which the Board is responsible loss of or damage to wheat occurs, the liability of the Board shall be limited to the market value of the wheat at the time of the loss or damage.

25 (5) Where the Board is unable from any cause for which it is responsible to deliver wheat in the quantity and of the quality mentioned in a warrant or in accordance with any agreement or undertaking endorsed thereon, the Board may pay to the owner of the warrant 30 the amount of the market value of the wheat mentioned in the warrant as at the date on which delivery was sought, but so that the amount shall not exceed the market value on the fifteenth day of November following the harvest during which the wheat was delivered, 35 and the Board shall not be responsible to any further extent for any damages, loss, costs, charges, or expenses resulting from its failure to so deliver the wheat.

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20. (1) The Board, subject to the approval of the Minister, may enter into any agreement it thinks fit with the Australian Wheat Board as to the terms and conditions upon which it shall receive wheat on behalf of the Australian Wheat Board.

Wheat received on behalf of Australian Wheat Board.

(2) Any such agreement shall have force and effect notwithstanding anything contained in this Act or the regulations.

21. It shall be lawful for the Board to demand, collect, sue for and receive, in respect and for the use of any property of the Board or any service performed or thing done by it, such dues, rates, fees and charges as may be prescribed or as may otherwise be agreed upon between the parties.

Board may make charges. cf. Act No. 69, 1915, s. 15.

Nothing in this section shall affect the operation of the provisions of the Wheat Marketing Act, 1948-1954, with respect to the remuneration payable to the Board thereunder as a licensed receiver.

22. The provisions of Part III of the Public Works Act, 1912, as amended by subsequent Acts, shall not extend to any works constructed or proposed to be constructed by the Board.

Public Works Act, 1912—Part III excluded. Act No. 22, 1950, s. 10.

23. (1) The Board may subject to this Act make and enter into contracts or agreements with any person for the performance of services, or for the supply of goods, machinery or material in connection with the exercise or discharge by the Board of its powers, authorities, duties and functions.

Contracts. *Ibid.* s. 11.

(2) All persons contracting with the Board (other than as wheatgrowers) shall be deemed for the purposes of the Constitution Act, 1902, to be public contractors.

(3) Any contract or agreement authorised by this or any other section of this Act shall be in the name of the Board and may be made as follows, that is to say—

with respect to any contract which, if made between private persons, would be by law required to be in writing and signed by the parties to be

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charged therewith or in writing and under seal the Board may make such contract in writing and under their common seal and in the same manner may vary or discharge the same;

- 5 with respect to any contract which, if made between private persons, would by law be valid although made by parol only and not reduced into writing the Chairman may make such contract by parol only without writing and in the same manner
10 may vary or discharge the same.

24. (1) The Board may for the purposes of this Act acquire land by lease, purchase, appropriation or resump-
tion in accordance with the provisions of this section.

Acquisition
of land.

Act No. 22,
1950, ss. 14,
15, 16 & 17.

In this section "land" means either land in fee simple
15 or any easement, right or privilege in, over, or affecting land.

(2) Where the Board proposes to acquire land for any purpose it may also acquire other land adjoining or in the vicinity of such land.

- 20 (3) Where the Board proposes to acquire land, including land previously appropriated or resumed for any purpose, by appropriation or resumption it may apply to the Governor through the Minister.

(4) The Board shall make provision to the satis-
25 faction of the Governor for payment of compensation for the land, together with interest and all necessary charges and expenses incidental to the appropriation or resumption.

(5) The Governor may authorise the appropria-
30 tion or the resumption of the land.

(6) Thereupon the Governor may—

- (a) appropriate or resume the land by Gazette notification under Division 1 of Part V of the Public Works Act, 1912; and
35 (b) notify that the land is vested in the Board.

(7) Thereupon the land shall vest in the Board.

(8)

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(8) For the purposes of the Public Works Act, 1912, such appropriation or resumption shall be deemed to be for the purpose of carrying out an authorised work within the meaning of that Act.

5 (9) Where land is vested in the Board under this section the Board may notwithstanding anything contained in any other Act but subject to the provisions of subsection ten of this section sell, lease, exchange or otherwise deal with or dispose of such land.

10 (10) The Board shall not sell, lease, exchange or otherwise deal with or dispose of land acquired by it under this section or vested in it by or under the provisions of this Act except with the approval of the Minister and subject to such terms and conditions as the Minister
15 may attach to his approval.

25. The Board may, with the approval of the Minister of the Department concerned, make use of the services of any officer or employee of the Public Service.

Use of services of officers, etc.
Act No. 22, 1950, s. 58.

26. (1) Any officer or employee of the Public Service who is appointed to the service of the Board shall retain any rights which have accrued or are accruing to him as an officer or employee of the Public Service or as an employee within the meaning of the Superannuation Act, 1916, or any amendment thereof, and shall continue to contribute to any fund or account and shall be entitled to receive any deferred or extended leave and any payment, pension or gratuity as if he had continued to be an officer or employee of the Public Service or an employee within the meaning of the Superannuation Act, 1916, as amended by subsequent Acts, as the case may be. And for the purposes of this subsection his service with the Board shall be deemed to be service for the purposes of the said Act, and of the Public Service Act, 1902, as amended by subsequent Acts.

Saving of rights of public servants appointed to Board.
cf. *Ibid.* s. 63.

35 (2) Any officer or employee of the Public Service so appointed shall not be entitled to claim benefits under this Act as well as under any other Act in respect of the same period of service.

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27. (1) The Board shall appoint and employ such servants as may be necessary for carrying out the provisions of this Act.

Appointment of servants.
cf. Act No. 22, 1950, s. 64.

(2) Subject to the provisions of this Act every servant of the Board shall continue in the service of the Board at the will of the Board only.

(3) All servants of the Board shall be subject to the sole control and governance of the Board which may, subject to this Act, fix wages and conditions of employment where such wages and conditions are not fixed in accordance with the provisions of any other Act.

28. The Crown Employees Appeal Board Act, 1944-1953, is amended by inserting at the end of the Second Schedule the words "The Grain Elevators Board of New South Wales".

Amendment of Act No. 15, 1944.
Second Sch. (Employing Authorities.)

29. (1) Any member of the Board or any servant of the Board who without lawful authority demands or receives from any person any payment, gratuity or present in consideration of doing or omitting to do any act or thing pertaining to his office or employment under this Act shall be liable upon summary conviction to a penalty not exceeding one hundred pounds or to imprisonment for a term not exceeding two years.

Offences by members or servants of Board.
cf. Act No. 69, 1915, s. 18c.

(2) Any person who without lawful authority offers, makes or gives to a member of the Board or any servant of the Board, any payment, gratuity or present in consideration that such member or servant will do or omit to do some act or thing pertaining to his office or employment, shall be liable upon summary conviction to a penalty not exceeding one hundred pounds or to imprisonment for a term not exceeding two years.

30. On or before the thirtieth day of September in every year the Board shall present to the Minister a Report covering the whole of its operations during the preceding financial year and copies of same shall be laid before both Houses of Parliament within one month if Parliament be then sitting and if Parliament be not sitting then within one month after the commencement of the next ensuing Session thereof.

Annual Report.

PART

Grain Elevators.

PART V.

FINANCE.

DIVISION 1.—*Loan Liability of the Board to the Treasurer.*

- 5 **31.** For the purposes of this Act the loan liability of the Board to the Treasurer on behalf of the State (in this Act referred to as “the loan liability to the Treasurer”) shall comprise—
- 10 (a) any liability to the Treasurer assumed by the Board pursuant to section eleven of this Act;
- (b) any moneys appropriated from the General Loan Account and provided from time to time by the Treasurer for the Board.
- 15 **32.** (1) (a) There shall be constituted a committee (in this Act referred to as “the Committee of Review”) which shall have the functions and duties prescribed by this Act.
- 20 (b) The Committee of Review shall consist of the persons for the time being holding the following offices, that is to say, the Auditor-General, the Chairman of the Board and the Under Secretary to the Treasury, each of whom may appoint in writing a representative to act on his behalf.
- 25 (c) The Auditor-General, or his representative so appointed, shall be the chairman of the Committee of Review.
- (2) The functions of the Committee of Review shall be—
- 30 (a) to determine the amount of liability to be assumed by the Board pursuant to section eleven of this Act;
- 35 (b) to determine how the expense of meeting payments on account of leave or upon retirement or death of an officer or employee of the Public Service appointed to the service of the Board should be apportioned between the Treasurer and the Board;
- (c)

Loan liability to the Treasurer.
Act No. 22, 1950, s. 35.

Loan liability. Committee of Review.
Ibid. s. 36.

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(c) to certify to the Governor, as soon as practicable after the close of each financial year—

- 5 (i) the amount of the loan liability to the Treasurer at the close of such financial year, having regard to moneys appropriated from the General Loan Account and provided for the Board during that financial year, the amount of any liability assumed by the Board pursuant to section eleven of this Act during that financial year and to any repayment by the Board during that financial year in respect of the loan liability to the Treasurer;
- 10
- 15 (ii) the amount (if any) which should be added to or deducted from that part of the loan liability to the Treasurer which does not bear interest.

20 **33.** (1) In respect of the loan liability of the Board to the Treasurer as determined in accordance with section thirty-two of this Act the Board shall pay to the Treasurer such amounts for interest, exchange, sinking fund contributions and other charges as the Treasurer may from time to time determine:

Payment of interest and sinking fund charges.

Act No. 22, 1950, s. 37.

25 Provided that the amounts so determined in any year shall, unless the Treasurer otherwise directs, be the amounts chargeable in that year.

30 (2) The amounts determined by the Treasurer under subsection one of this section shall not exceed the amounts which the Treasurer calculates as being as nearly as practicable sufficient to recoup the State for interest, exchange, sinking fund contributions and other charges payable by the State in respect of the loan liability of the Board to the Treasurer.

35 (3) Payments by the Board in accordance with the provisions of subsection one of this section shall be made in such amounts and at such times as the Treasurer may from time to time direct.

DIVISION

*Grain Elevators.*DIVISION 2.—*Loans.*

34. (1) For the temporary accommodation of the Board it may obtain advances by overdraft of current account in any bank or banks upon the credit of the Board's funds to such extent as may from time to time be approved by the Governor.

Temporary accommodation.
Act No. 22, 1950, s. 38.

(2) The Treasurer may advance such moneys to the Board as the Governor may approve upon such terms and conditions as to repayment and interest as may be agreed upon.

(3) The Board may subject to the conditions and upon the terms prescribed receive money on deposit at short call or on fixed deposit.

35. The Board may from time to time with the approval of the Governor borrow money—

Purposes for which money may be borrowed.

(a) for the improvement or extension of existing works or the construction or acquisition of additional or supplementary works for or in relation to the storage and handling of wheat;

cf. Ibid.
s. 39.

(b) for the renewal of loans;

(c) for the discharge or partial discharge of any indebtedness to the Treasurer or to any bank;
or

(d) otherwise for the purposes of this Act.

36. Loans to the Board shall be deemed to be secured upon the income of the Board from whatever source arising.

Security for loans.
Ibid. s. 40.

37. (1) The Board shall establish a reserve fund for loan repayment in respect of each loan or renewal loan raised by the Board.

Reserves for repayment.
cf. Ibid.
s. 41.

(2) The Board shall during each year transfer to such fund from the revenue of the Board a sum not less than the Board in its application for approval of the loan intimated that it proposed to set apart as aforesaid.

(3)

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(3) Moneys held as reserve for loan repayment may be invested in government securities of the Commonwealth of Australia or of the State of New South Wales, or in debentures or inscribed stock in any loan of the Board, or in any securities guaranteed by the Government of the said State or in debentures or securities issued by the Sydney County Council or the Sydney City Council, or in such other securities as the Governor may approve or as may be prescribed in each case at their current market price. Any interest or profits realised on such investments shall be added to and form part of the reserve for loan repayment. All moneys paid into the reserve fund for loan repayment in respect of any loan or renewal loan may be applied in or towards repayment of any other loan or renewal loan but may not be applied for any other purpose until the loan or renewal loan in respect of which the fund has been established has been repaid.

(4) Where the Board decides to cancel debentures and inscribed stock of the Board purchased from the reserve for repayment of the loan for which they were issued, then, in addition to the sums otherwise payable to the reserve for loan repayment in respect of that loan, the Board shall, subject to any agreement to which it is a party whereby it undertakes to pay interest at a higher rate to such reserve, pay to such reserve interest at the rate of four and one-half per centum per annum on the face value of the cancelled securities from the date of their cancellation until the maturity of the loan.

(5) This section shall not apply to any loan to be repaid by instalments at intervals of one year or less.

38. (1) For securing repayment of the principal and interest on any money borrowed the Board may as provided by the regulations issue debentures, inscribed stock or other prescribed securities.

Debentures,
etc.
Act No. 22,
1950, s. 42.

(2)

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(2) Every such debenture and every coupon originally annexed to the debenture and whether separated therefrom or not shall be transferable by simple delivery.

5 (3) Inscribed stock shall be transferable in the books of the Board in accordance with the regulations.

(4) Debentures or inscribed stock issued under this Act shall both as regards the issue and transfer thereof for full consideration or money or money's worth
10 be deemed to be included in the general exemptions from stamp duty under Part III of the Stamp Duties Act, 1920-1954, contained in the Second Schedule to that Act. The regulations may provide for the exemption from stamp duty of any other prescribed security.

15 (5) The holder of a coupon originally annexed to a debenture and whether separated therefrom or not shall be entitled to receive payment from the Board of the interest mentioned in the coupon upon the presentation of the same on or after the date when and at the place
20 where the interest is payable.

(6) The due repayment of the debentures and stock and the interest thereon and of any loan in respect of which any other prescribed security is issued and the interest thereon shall be a charge upon the income
25 and revenue of the Board and is hereby guaranteed by the Government. Any liability arising from such guarantee shall be payable out of moneys provided by Parliament. Such charge shall not prejudice or affect the power of the Board to sell or convey any property
30 vested in it free of any such charge.

39. (1) Notwithstanding anything contained in this Division of this Part any money which the Board is authorised to borrow may be borrowed by a loan raised wholly or in part in such country as the Governor may
35 approve, and may be negotiated and raised in any currency.

Raising
loan in
any country.
Act No. 22,
1950, ss. 43
and 43A.

(2)

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(2) Any such loan may be raised wholly or in part by the issue of debentures, bonds, stock or other securities in any form and containing any term, condition or provision permitted under the law of the place where
5 such loan is raised and the Board may establish and conduct in such country registries relating to the securities issued in respect of such loan.

(3) The Board may in respect of any such loan agree that a sinking fund shall be established and
10 controlled at such place, by such person and in such manner as may be found necessary or expedient in the circumstances of the case, and where any such sinking fund is so established the provisions of section thirty-seven of this Act shall apply with regard to that loan only
15 in respect of the amount, if any, the repayment of which is not provided for by the sinking fund established under the agreement.

(4) In connection with the raising of any loan under this section, the Board may enter into such agree-
20 ments as the Board shall think fit with respect to the form of such debentures, bonds, stock or other securities, or for the sale of such debentures, bonds, stock or other securities, or the granting of an option to purchase such
25 debentures, bonds, stock or other securities, or for services to be performed by any person in Australia or in any other part of the world in connection with such loan or with the issue, management, and redemption of or otherwise with respect to such debentures, bonds, stock
30 or other securities, and such agreements may be upon such terms and conditions and may contain such provisions for the giving or receipt of consideration as the Board shall think fit.

Copies of any such agreement shall be forwarded to the Minister who shall cause the same to be laid before
35 both Houses of Parliament as soon as possible after the loan is raised.

(5) The Governor may upon the recommendation of the Board appoint two or more persons to enter into for and on behalf of the Board all such agreements as
the

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the Board is by this section authorised to enter into and to sign, execute, or otherwise perfect all such agreements, debentures, bonds, stock or other securities as are by this section provided for and to do all such things
5 as may be necessary or convenient to be done for the purpose of raising any loan under this Act, and may upon the like recommendation revoke or vary any such appointment and make any fresh appointment.

The production of a copy of the Gazette containing a
10 notification of any such appointment or revocation as aforesaid shall in favour of a lender or of any holder of a security be conclusive evidence of the appointment or revocation.

(6) All debentures, bonds, stock or other
15 securities bearing the signatures of such persons so appointed in that behalf shall be deemed to be securities lawfully issued under seal by the Board and the principal moneys and interest secured thereby shall be deemed to be a charge upon the income and revenue of the Board
20 from whatsoever source arising, and the due repayment of such principal moneys and interest is hereby guaranteed by the Government, and all agreements and any instruments purporting to be made or issued under the authority of this section and bearing the signatures
25 of such persons shall be deemed to have been lawfully made or issued by the Board, and if the same shall purport to have been sealed by such persons to have been lawfully executed by the Board under seal.

A holder of any such debenture, bond, stock or other
30 security shall not be bound to enquire whether the issue of such security was in fact duly authorised.

(7) Subject to this section and the law in force in the place where any loan is raised under this section and applicable to such loan and the securities issued in
35 connection therewith the provisions of this Division of this Part other than subsection one of section thirty-eight and subsections three and four of section forty-one of this Act shall apply, mutatis mutandis, to and in respect of such loan and such securities.

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40. (1) Any trustee unless expressly forbidden by the instrument (if any) creating the trust, may invest any trust moneys in his hands in stock inscribed by the Board, and the investment shall be deemed to be an investment authorised by the Trustee Act, 1925, or any Act amending or replacing that Act.

Trustees.
Act No. 22,
1950, s. 44.

(2) Any debenture issued or stock inscribed by the Board shall be a lawful investment for any moneys which any company, council, or body corporate incorporated by any Act of Parliament of New South Wales is authorised or directed to invest in addition to any other investment expressly provided for the investment of such moneys.

(3) No notice of any trust expressed, implied or constructive, shall be received by the Board or by any servant of the Board in relation to any debenture or coupon issued or stock inscribed by the Board.

41. (1) If any debenture issued by the Board is lost or destroyed or defaced before the same has been paid, the Board may, subject to the provisions of this section, issue a new debenture in lieu thereof.

Lost
debentures.
Ibid. s. 45.

(2) The new debenture with interest coupon annexed shall bear the same date, number, principal sum, and rate of interest as the lost, destroyed, or defaced debenture.

(3) When the debenture is lost or destroyed the new debenture shall not be issued unless and until—

- (a) a judge of the Supreme Court has been satisfied by affidavit of the person entitled to the lost or destroyed debenture, or of some person approved by the judge, that the same has been lost or destroyed before it has been paid off;
- (b) such advertisement as the judge may direct has been published;
- (c) six months have elapsed since the publication of the last of the advertisements; and
- (d) sufficient security has been given to the Board to indemnify it against any double payment if the

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the missing debenture be at any time thereafter presented for payment.

(4) When the debenture is defaced the new debenture shall not be issued unless and until the defaced
5 debenture is lodged with the Board for cancellation.

(5) The provisions of this section shall, mutatis mutandis, extend to the case of a lost, destroyed, or defaced coupon.

(6) In case of the loss, theft, destruction, mutila-
10 tion, or defacement of any debenture or bond issued under section thirty-nine of this Act, a duplicate or new debenture or bond may be issued upon proof to the satisfaction of the Board of such loss, theft or destruction, or upon
15 surrender of the mutilated or defaced debenture or bond, as the case may be, and upon the Board receiving security or indemnity satisfactory to it against double payment if the missing debenture or bond be at any time thereafter presented for payment.

42. (1) If for six months default is made by the
20 Board in making any payment whether of principal or interest, to the holder of any debenture, or coupon, issued or stock inscribed by the Board, the holder thereof may apply to the Supreme Court in its equitable jurisdiction, in accordance with rules of court, for the appointment
25 of a receiver of the income of the Board.

Receivers.
Act No. 22,
1950, s. 46.

(2) A receiver may be appointed in respect of the income of the Board either generally or as regards specified income.

(3) The Court may make such orders and give
30 such directions as it may deem proper for and with respect to—

- (a) the appointment of a receiver;
- (b) the removal of a receiver;
- (c) the appointment of a receiver in place of a
35 receiver previously appointed.

(4) The receiver shall be deemed to be an officer of the Court, and shall act under its directions.

43.

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43. (1) A receiver shall have power to collect all income payable to the Board which he has by order of the Court been so authorised to collect and for the purposes of this subsection the receiver shall be deemed to be the Board and may exercise all the powers of the Board.

Powers and duties of receivers.
Act No. 22,
1950, s. 47.

(2) The receiver shall discharge such duties of the Board or of any servants of the Board as may be prescribed.

44. The receiver shall be entitled to such commission or remuneration for his services as the Court may order, and the commission or remuneration shall be payable out of the income for and in respect of which he has been appointed receiver.

Commission to receiver.
Ibid. s. 48.

45. The receiver shall, subject to any order of the Court, pay and apply all moneys received by him in the following order, that is to say—

Application of money received.
Ibid. s. 49.

(a) firstly, in the payment of the costs, charges, and expenses of collection, and of his commission or remuneration;

(b) secondly, in the payment of the amount due and payable to the holder of the debenture or inscribed stock or coupon, as the case may be;

(c) thirdly, in payment of all the residue of the moneys to the Board.

46. (1) A person advancing money to the Board shall not be bound to enquire into the application of the money advanced, or be in any way responsible for the non-application or misapplication thereof.

Protection of investments.
Ibid. s. 50.

(2) A notification in the Gazette of the approval of the Governor having been given to a borrowing by the Board shall, in favour of a lender and of any holder of a security given by the Board, be conclusive evidence that all conditions precedent to the borrowing have been complied with, and where the approval notified is to the borrowing by the Board in a country outside New South Wales

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Wales and in a particular currency shall also be conclusive evidence in favour of such persons of the approval of the Governor to the borrowing in the country and in the currency specified in the notification.

5 **47.** All debentures, bonds, or other securities which are secured upon the income and revenue of the Board shall rank *pari passu* without any preference one above another by reason of priority of date or otherwise.

Debentures and bonds to rank *pari passu*.
Act No. 22, 1950, s. 51.

10 **48.** If the Board borrows any money without having first obtained the approval of the Governor, each member holding office who has, knowingly and wilfully or for personal benefit or advantage, consented to the borrowing shall be liable to a penalty of five hundred pounds.

Penalty for illegal borrowing.
Ibid. s. 52.

15 The action to recover the penalty shall not be taken without the written consent of the Attorney-General.

DIVISION 3.—*Accounts and Audit.*

20 **49.** (1) The Board shall cause proper books of account to be kept and shall as soon as practicable after the end of each financial year of the Board prepare and transmit to the Minister for presentation to Parliament a report of its operations during such year and balance-sheets and statements of accounts setting forth a true statement of the financial position and the transactions of the Board for such year.

Accounts to be kept.
cf. Act No. 69, 1915, s. 18D.

25 (2) Each such balance-sheet and statement—
 (a) shall include a profit and loss account and a statement of the assets and liabilities of the Board and shall be in a form approved by the Auditor-General; and
 30 (b) shall be audited and reported upon by the Auditor-General, who shall have in respect of the accounts of the Board all the powers conferred on the Auditor-General by any law now or hereafter to be in force relating to the audit
 35 of public accounts, as well as all powers conferred by this Act.

(3)

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(3) The Audit Act, 1902-1953, (section twenty-five excepted), shall apply to the Board and its servants in the same manner as it applies to accounting officers of public departments.

5 (4) Without limiting the generality of the powers conferred by subsection two of this section, the Auditor-General may disallow any expenditure or entry in the books of the Board which he considers has been wrongly, irregularly or dishonestly made.

10 (5) Any sum so disallowed shall be a surcharge upon and may be recovered or deducted from moneys due to the servants by whom the expenditure was incurred or ordered to be incurred or by whom the entry was made or ordered to be made, but such servants shall have
15 the same right of appeal against such surcharge as is prescribed under the Audit Act, 1902-1953.

(6) The Board shall produce for inspection to any person duly authorised in writing by the Minister any or all of its books, accounts, agreements, vouchers, letters
20 or other documents.

(7) The Board shall in each year pay into the Treasury such sum as is fixed by the Treasurer towards the cost of the audit of the accounts of the Board by the Auditor-General.

25 **50.** Subject to any provision made by or under this Act the Board shall cause expenditure to be charged against income and capital as nearly as may be in accordance with commercial principles.

Charging expenditure generally.
Act No. 22, 1950, s. 54.

PART VI.**MISCELLANEOUS.**

30 **51.** All courts and persons having by law or consent of parties authority to hear, receive and examine evidence—

Judicial notice of seal of the Board.

35 (a) shall take judicial notice of the seal of the Board affixed to any documents; and

Ibid. s. 91.

(b)

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(b) shall until the contrary be proved presume that such seal was properly affixed thereto.

52. Any notice, summons, writ or other proceeding required to be served on the Board may be served by being left at the office of the Board, or, in the case of a notice, by post.

Service of notice of proceedings on the Board. Act No. 22, 1950, s. 92.

53. Every summons, process, demand, order, notice, statement, direction or document requiring authentication by the Board may be sufficiently authenticated without the seal of the Board if signed by the Chairman.

Documents. How authenticated. *Ibid.* s. 93.

54. (1) All proceedings for offences against this Act or the regulations shall be disposed of summarily before a court of petty sessions.

Penalties and recovery of charges, etc. *Ibid.* s. 96.

(2) Any charge, fee, remuneration or money due to the Board under the provisions of this Act or any regulations may be recovered as a debt in a court of competent jurisdiction.

(3) Proceedings for the recovery of any charge, fee, remuneration or money so due to the Board shall be deemed to be for the recovery of a debt or liquidated demand within the meaning of—

- (a) section twenty-four of the Common Law Procedure Act, 1899;
- (b) section sixty-four of the District Courts Act, 1912-1953;
- (c) section twenty-five of the Small Debts Recovery Act, 1912-1933.

55. In any legal proceedings by or against the Board no proof shall be required (until evidence is given to the contrary) of—

No proof of certain matters required. *Ibid.* s. 97.

- (a) the constitution of the Board;
- (b) any resolution of the Board;
- (c) the appointment of any member or any servant of the Board;

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(d) the presence of a quorum at any meeting at which any determination is made or any act is done by the Board.

56. (1) The Board may from time to time by resolution delegate such of the authorities, powers, duties or functions of the Board (other than this power of delegation) as may be prescribed and as are specified in the resolution—

Delegation.
Act No. 22,
1950, s. 99.

- 10 (a) to any member;
- (b) to any servant of the Board;
- 15 (c) to any officer, servant or employee of whose services the Board makes use pursuant to this or any other Act.

(2) Any such delegation may be made either generally or for any particular case or class of cases.

(3) Any person when acting within the scope of any such delegation to him shall be deemed to be the Board.

(4) Any instrument necessary to be executed and any notice, order, summons or other like document requiring authentication for the purpose of the exercise or discharge of any power, authority, duty or function delegated to any person under this section shall be sufficiently executed or authenticated as the case may be if signed by such person in such a way as to show that he does so under and in pursuance of the delegation.

(5) The Board may by resolution revoke such delegation.

57. (1) A writ or other process in respect of any damage or injury to person or property shall not be sued out or served upon the Board or any member, or any servant of the Board or any person acting in his aid for anything done or intended to be done or omitted to be done under this Act, until the expiration of one month after notice in writing has been served on the Board or member, servant or person as provided in this section.

Notice of
action.
Ibid. s. 100.

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(2) The notice shall state—

- (a) the cause of action;
- (b) the time and place at which the damage or injury was sustained; and
- 5 (c) the name and place of abode or business of the intended plaintiff and of his attorney, if any, in the case.

(3) In the case of damage to property, any person who produces on demand his authority from the Board shall be permitted to inspect the property damaged, and all facilities and information necessary to ascertain fully the value of the property damaged, the nature and extent of the damage, and the amount of money, if any, expended in repairing the same shall be given to him.

Representative of the Board to be permitted to inspect property injured.

15 (4) At the trial of any such action the plaintiff shall not be permitted to go into evidence of any cause of action that is not stated in the notice, and unless the notice has been served the plaintiff shall not be entitled to maintain the action:

20 Provided that at any stage of the proceedings the court or any judge of the court in which the action is pending may, if the court or judge deems it to be just or reasonable in the circumstances so to do—

- 25 (a) amend any defect in the notice on such terms and conditions, if any, as the court or judge may fix;
- (b) direct that any non-compliance or insufficient compliance with this section shall not be a bar to the maintenance of the action.

30 (5) Every such action shall be commenced within the period of twelve months next after the occurring of the cause of action. Such period is in this subsection referred to as the “prescribed period”:

35 Provided that where an application is made to a judge of the Supreme Court in accordance with rules of court for an extension of the prescribed period the judge may, if he is satisfied that sufficient cause has been shown, or

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or that having regard to all the circumstances of the case, it would be reasonable so to do, make an order for extension of the prescribed period for such further period and subject to such terms and conditions, if any, as
5 may be set out in the order.

Such application for extension may be made either within the prescribed period or at any time within twelve months thereafter.

Any person who is dissatisfied with the decision of
10 the judge on any such application may appeal to the Supreme Court and that Court may on the appeal make any order which ought to have been made in the first instance.

Every such appeal shall be made in accordance with
15 rules of court.

(6) The Board, or any member, servant or person to whom any such notice of action is given as aforesaid, may tender amends to the plaintiff, his attorney or agent at any time within one month after service of notice
20 of action, and in case the same is not accepted may plead the tender in bar.

(7) The defendant in every such action may plead the general issue and at the trial thereof give this Act and the special matter in evidence.

25 **58.** (1) The Governor may make regulations, not Regulations. inconsistent with this Act, for and with respect to—

- (a) the receipt, storage, insurance, handling and delivery of wheat by the Board;
- 30 (b) the operation, management, control and maintenance of elevators and other works under the control of the Board which are used for the storage and handling of wheat;
- (c) prescribing qualities of wheat for the purposes of this Act;
- 35 (d) the conditions under which wheat shall be received by the Board for storage and warrants issued;

(e)

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- (e) the inspection or weighing of wheat received or delivered by the Board;
- (f) the forms of warrants and instructions as to the disposal of wheat delivered by the Board;
- 5 (g) the method of issuing and the form of duplicate warrants issued in lieu of warrants which are alleged to have been defaced, destroyed or lost and the security to be taken before any such issue;
- 10 (h) the conditions under which one warrant may be issued in place of two or more warrants and under which two or more warrants may be issued in place of one;
- 15 (i) the method of providing for shortages of stocks of wheat under the control of the Board and of disposing of surpluses of wheat held by the Board;
- 20 (j) the dues, rates, fees or charges or the remuneration payable for receiving, storing, insuring, weighing, drying, cleaning and delivering wheat and for other services rendered or things done by the Board in connection with the handling of wheat;
- 25 (k) securities other than debentures or inscribed stock which may be issued by the Board for securing repayment of principal and interest on any money borrowed by the Board;
- 30 (l) the control and governance of servants by the Board and any other matter or thing necessary or convenient to ensure the maintenance of discipline and efficiency in the service of the Board;
- 35 (m) the prescription of all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

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(2) Any regulation made under this Act may impose a penalty not exceeding fifty pounds for any breach thereof.

(3) The regulations shall—

- 5 (a) be published in the Gazette;
- (b) take effect from the date of publication or from a later date to be specified in the regulations;
- 10 (c) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is then in session, and if not, then within fourteen sitting days after the commencement of the next session.

(4) If either House of Parliament passes a resolution of which notice has been given within fifteen sitting days after such regulations have been laid before such House disallowing any regulation or part thereof, such regulation or part shall thereupon cease to have effect.

No. , 1954.

A BILL

To make provision for and in relation to the handling and storage of wheat and the operation and control of the Government Grain Elevators; to provide for the constitution of the Grain Elevators Board of New South Wales and to define its powers, authorities, duties and functions; to dissolve the State Wheat Committee constituted under the Wheat Marketing Act, 1948-1953; to amend the said Act in certain respects; to repeal the Grain Elevator Act, 1916, and the Wheat Act, 1927; and for purposes connected therewith.

[MR. GRAHAM;—10 *November*, 1954.]

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BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of 5 the same, as follows:—

PART I.

PRELIMINARY.

1. (1) This Act may be cited as the "Grain Elevators Act, 1954." Short title and commencement.

10 (2) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

2. This Act is divided into Parts as follows:— Division into Parts.

PART I—PRELIMINARY.

15 PART II—CONSTITUTION OF THE GRAIN ELEVATORS BOARD.

PART III—VESTING OF GOVERNMENT GRAIN ELEVATORS IN THE BOARD.

20 PART IV—POWERS, AUTHORITIES, DUTIES AND FUNCTIONS OF THE BOARD.

PART V—FINANCE.

DIVISION 1.—*Loan Liability of the Board to the Treasurer.*

DIVISION 2.—*Loans.*

25 DIVISION 3.—*Accounts and Audit.*

PART VI—MISCELLANEOUS.

3. In this Act, unless the context or subject matter otherwise indicates or requires— Definitions.

30 "Australian Wheat Board" means the Board constituted under the Wheat Marketing Act 1948-1953 of the Parliament of the Commonwealth.

"Board"

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- “Board” means the Grain Elevators Board of New South Wales.
- “Chairman” means the Chairman of the Board.
- “Member” means a member of the Board.
- 5 “Prescribed” means prescribed by this Act or by the regulations.
- “Regulations” means regulations made under this Act.
- “Treasurer” means the Colonial Treasurer.
- 10 4. The Grain Elevator Act, 1916, and the Wheat Act, 1927, are hereby repealed. Repeal of Acts Nos. 47, 1916, and 6, 1927.
5. (1) The State Wheat Committee constituted under the Wheat Marketing Act, 1948-1953, is hereby dissolved. Dissolution of State Wheat Committee.
- (2) The Wheat Marketing Act, 1948-1953, is 15 amended by omitting Part II.
6. (1) The Wheat Marketing Act, 1948-1953, is amended— Amendment of Act No. 46, 1948.
- (a) by inserting in section three before the definition of “licensed receiver” the following new 20 definition:—
- “Grain Elevators Board” means the Grain Elevators Board of New South Wales constituted under the Grain Elevators Act, 1954.
- 25 (b) (i) by omitting from section eight the words “Manager of the Government Grain Elevators” wherever occurring and by inserting in lieu thereof the words “Grain Elevators Board”; Sec. 8. (Licensed receivers.)
- 30 (ii) by omitting from paragraph (b) of subsection two of the same section the words and figures “Wheat Act, 1927” and by inserting in lieu thereof the words and figures “Grain Elevators Act, 1954”;
- (c)

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- (c) (i) by omitting from paragraph (d) of section Sec. 9.
 nine the words and figures "Wheat Act, (Powers of Board.)
 1927" and by inserting in lieu thereof the
 words and figures "Grain Elevators Act,
 1954";
- (ii) by omitting from the same paragraph the
 words "in the Government Grain Elevators"
 and by inserting in lieu thereof the
 words "by the Grain Elevators Board".
- (2) The Wheat Marketing Act, 1948, as amended by Citation.
 subsequent Acts and by this Act, may be cited as the
 Wheat Marketing Act, 1948-1954.

PART II.

CONSTITUTION OF THE GRAIN ELEVATORS BOARD.

7. (1) There shall be constituted a Grain Elevators Constitution of Board.
 Board which shall have and may exercise and discharge
 the powers, authorities, duties and functions conferred
 and imposed upon it by or under this or any other Act.
- In the exercise and discharge of such powers, authori-
 ties, duties and functions the Board shall be subject in
 all respects to the control and direction of the Minister.
- (2) For the purposes of any Act, the Board shall
 be deemed to be a statutory body representing the Crown.
- (3) The Board shall consist of five members
 appointed by the Governor.
- Of the members so appointed—
- (a) one shall in and by the instrument by which he
 is appointed be the Chairman of the Board;
- (b) one shall be an officer in the employ of the
 Commissioner for Railways selected by the
 Minister from a panel of not less than three
 officers submitted to the Minister by the
 Commissioner for Railways;
- (c) one shall be an officer of the Treasury nominated
 by the Treasurer;
- (d)

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5 (d) two shall be persons nominated as representing the wheatgrowers of New South Wales by the Minister, who before nominating such persons shall have regard to the recommendations (if any) in that behalf of any body or bodies representative in the opinion of the Minister of the interests of such wheatgrowers.

(4) A person who is directly interested (other than as a wheatgrower) in the business of selling, purchasing or dealing in wheat shall not be eligible to be appointed as a member of the Board and shall be disqualified from holding any such office. cf. Vic. Act No. 4270, s. 5 (3).

10 (5) (a) Subject to this Act the term of office of a member of the Board shall be such term, not exceeding five years, as is specified in the instrument of his appointment. Act No. 69, 1915, s. 8.

(b) Upon the expiration of the term of office of a member of the Board he shall, if otherwise qualified, be eligible for reappointment from time to time. Any such reappointment shall be for such term not exceeding five years as may be specified in the instrument of reappointment.

(c) On the occurrence of a vacancy in the office of a member of the Board, the person appointed to fill the vacant office shall, subject to this Act, hold office for the remainder of the unexpired term of the vacant office.

(d) A person who is of or above the age of sixty-five years shall not be appointed as a member.

30 (e) The Governor may in the case of the illness, suspension or absence of any member appoint a deputy to act in the place of such member during his illness, suspension or absence; and, if a member is appointed to act in the place of the Chairman, the Governor may appoint a deputy to act in the place of that member. The provisions of this Act with respect to the qualifications for appointment as and the method of appointment of a member shall extend and apply to a deputy to be appointed to act in the place of such member.

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(f) A deputy appointed under this subsection shall have the immunities, powers, authorities and duties of the member in whose place he acts.

(g) A deputy appointed under this subsection
5 may be paid such remuneration for his services including such fees and allowances and such travelling expenses as the Governor may determine.

(h) No person shall be concerned to enquire
10 whether or not any occasion has arisen requiring or authorising a deputy so to act and all acts or things done or omitted by the deputy shall be as valid and effectual and shall have the same consequences as if the same had been done or omitted by the member for whom the deputy is acting.

15 (6) The Chairman or any deputy appointed to act in his place shall devote the whole of his time to the duties of his office.

The Chairman shall, by virtue of and while acting in such office, be the Manager of the Board, and a deputy
20 shall, by virtue of and while acting in the place of the Chairman, be the Acting Manager of the Board, but neither the Chairman or such deputy shall on such account be entitled to receive any remuneration additional to that which he is entitled to receive as Chair-
25 man or as such deputy, as the case may be.

(7) (a) Each member shall receive such remuneration, fees, allowances and travelling expenses as the Governor may from time to time determine.

(b) Where by or under any Act provision is
30 made requiring the holder of an office specified therein to devote the whole of his time to the duties of his office or prohibiting him from engaging in employment outside the duties of his office, such provision shall not operate to disqualify him from holding that office and also
35 the office of a member (other than the office of Chairman) under this Act or from accepting and retaining any remuneration, fees or allowances payable to a member under this Act.

(c)

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(c) The office of a member (other than the Chairman) shall not for the purposes of the Constitution Act, 1902, or any Act amending that Act, be deemed to be an office or place of profit under the Crown.

- 5 (8) The provisions of the Public Service Act, 1902, or of any Act amending that Act, shall not apply to or in respect of the appointment of a member and a member shall not be subject to any such Act during his term of office.
- 10 (9) A member shall be deemed to have vacated his office—
- (a) if, being the Chairman, he engages during his term of office in any paid employment outside the duties of his office;
- 15 (b) if he becomes bankrupt, compounds with his creditors or makes any assignment of his remuneration, fees, allowances or estate for their benefit;
- (c) if, being the Chairman, he absents himself from duty for a period exceeding fourteen consecutive days except on leave granted by the Minister (which leave the Minister is hereby authorised to grant) unless such absence is occasioned by illness or other unavoidable cause;
- 20 (d) if, being a member other than the Chairman, he is absent from four consecutive ordinary meetings of the Board without leave granted by the Board;
- 25 (e) if he becomes an insane person or patient or an incapable person within the meaning of the Lunacy Act of 1898, as amended by subsequent Acts;
- 30 (f) if he is convicted in New South Wales of a felony or of a misdemeanour which is punishable by imprisonment for twelve months or upwards, or if he is convicted elsewhere than in New South Wales of an offence which if committed in New South Wales would be a felony or misdemeanour which is punishable as aforesaid;

(g)

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- (g) if he becomes directly interested (other than as a wheatgrower) in the business of selling, purchasing or dealing in wheat;
- 5 (h) if he resigns his office by writing under his hand addressed to the Governor;
- (i) if, not being the Chairman, he is removed from office by the Governor.

A member shall be deemed to have vacated his office upon the day upon which he attains the age of sixty-five 10 years.

(10) The Governor may, for any cause which appears to him to be sufficient, remove a member not being the Chairman from office.

(11) (a) The Chairman may be suspended from his 15 office by the Governor for misbehaviour or incompetence but shall not be removed from office except as provided in this subsection.

(b) The Minister shall cause to be laid before Parliament a full statement of the grounds of suspension 20 within seven sitting days after such suspension if Parliament is then in session and, if not, then within seven sittings days after the commencement of the next session.

(c) The Chairman suspended under this section shall be restored to office unless each House of Parlia- 25 ment, within twenty-one days from the time when such statement has been laid before such House, declares by resolution that the Chairman ought to be removed from office, and if each House of Parliament within the said time does so declare, the Chairman shall be removed 30 by the Governor accordingly.

8. (1) A person who, at the date of his appointment as Chairman, is an officer of the Public Service and who ceases to be Chairman for any cause whatsoever other- 35 (h) excepted) and eleven of section seven of this Act, shall if he is under the age of sixty years be appointed to some office in the Public Service not lower in classification and salary than that which he held immediately before his appointment as Chairman.

Savings of rights of person appointed Chairman.

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(2) (a) Nothing contained in this Act shall affect the rights accrued or accruing under the Public Service Act, 1902, or under the Superannuation Act, 1916-1952, or any Act amending such Acts, to any person appointed
5 as Chairman who is at the time of his appointment or has been at any time previous thereto an officer of the Public Service or an employee within the meaning of the Superannuation Act, 1916-1952, or any amendment thereof.

10 (b) Any officer of the Public Service or any person who is an employee within the meaning of the Superannuation Act, 1916-1952, or any amendment thereof, who is appointed as Chairman shall continue
15 to contribute to any fund or account and shall be entitled to receive any deferred or extended leave and any payment, pension or gratuity as if he were an officer or employee within the meaning of the Public Service Act, 1902, or the Superannuation Act, 1916-1952, as the case
20 may be, or any Act amending such Acts, and for such purpose his service as Chairman shall be deemed to be service for the purpose of such Acts.

9. (1) The Board shall be a body corporate with perpetual succession and a common seal, and may sue or be sued in its corporate name, and shall be capable of
25 purchasing, holding, granting, demising, disposing of or otherwise dealing with real and personal property and of doing and suffering all such acts and things as bodies corporate may by law do and suffer.

Board to be
body
corporate.

(2) The corporate name of the Board shall be "The
30 Grain Elevators Board of New South Wales".

(3) The common seal shall be kept in the custody of the Chairman and shall not be affixed to any instrument except in pursuance of a resolution of the Board.

Any instrument executed in pursuance of any such
35 resolution shall be attested by the signature of any two members.

(4) (a) The procedure for the calling of meetings of the Board and for the conduct of business at such meetings shall be as determined by the Board.

Proceedings
of Board.
Act No. 22,
1950, s. 6.

(b)

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(b) Three of the members shall form a quorum and any duly convened meeting at which a quorum is present shall be competent to transact any business of the Board and shall have and may exercise and discharge
5 all the powers, authorities, duties and functions of the Board.

A decision of a majority of the members present at a meeting of the Board shall be the decision of the Board.

10 (c) At any meeting of the Board the Chairman shall preside. In the absence of the Chairman from a meeting the members present may choose one of their number to preside as Chairman of that meeting.

At any meeting of the Board the Chairman or the
15 member presiding as chairman shall have a deliberative vote, and if the voting is equal, a casting vote.

(5) The Board shall cause full and accurate minutes to be kept of its proceedings at formal meetings and submit to the Minister a copy of the minutes of each
20 formal meeting within one week after the date on which such formal meeting is held.

(6) No act or proceeding of the Board shall be invalidated or prejudiced by reason only of the fact that at the time when such act or proceeding was done, taken
25 or commenced, there was a vacancy in the office of a member.

(7) (a) No matter or thing done, and no contract entered into by the Board, and no matter or thing done by any member or by any other person whomsoever acting
30 under the direction of the Board shall, if the matter or thing was done or the contract was entered into bona fide for the purpose of executing this Act, subject them or any of them personally to any action, liability, claim or demand whatsoever.

35 (b) Nothing in this subsection shall exempt any member from liability to be surcharged with the amount of any payment which is disallowed by the Auditor-General in the accounts of the Board and which such member authorised or joined in authorising.

PART

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PART III.

VESTING OF GOVERNMENT GRAIN ELEVATORS IN THE BOARD.

10. On and from the commencement of this Act the following provisions shall have effect:—

Vesting of
property.
cf. Act
No. 22, 1950,
s. 31.

- 5 (a) All control and administration of the Govern-
ment Grain Elevators exercisable by the
Manager of the Government Grain Elevators or
any other person immediately before the com-
10 mencement of this Act shall be exercisable by the
Board under and in accordance with this Act.
- 15 (b) All real and personal property and all right and
interest therein which immediately before the
commencement of this Act is vested in or belongs
to the Crown, or any Minister of the Crown as
20 constructing authority, or the Commissioner for
Railways, and which immediately before such
commencement is held or used for the purposes
of or in connection with the Government Grain
Elevators shall vest in and belong to the Board.
This paragraph shall not apply to stacking
sites and grain sheds for bagged wheat and roll-
ing stock and permanent ways vested in or
belonging to the Commissioner for Railways.
- 25 (c) All moneys liquidated and unliquidated claims
which immediately before the commencement of
this Act are payable to or recoverable by the
Crown in relation to or in connection with the
Government Grain Elevators (other than moneys
30 liquidated and unliquidated claims so payable by
or so recoverable from the Australian Wheat
Board) or which immediately before such
commencement are payable to or recoverable by
any Minister of the Crown as constructing author-
ity in relation to or in connection with any real
35 or personal property, which is vested in or be-
longs to the Board by virtue of this section, shall
be moneys liquidated and unliquidated claims
payable to or recoverable by the Board.

(d)

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- 5 (d) (i) All suits, actions, and proceedings pending immediately before the commencement of this Act at the suit of the Crown in relation to or in connection with the Government Grain Elevators, shall be respectively suits, actions, and proceedings pending at the suit of the Board.
- 10 (ii) All suits, actions, and proceedings pending immediately before the commencement of this Act at the suit of any Minister of the Crown as constructing authority in relation to or in connection with any real or personal property or any right or interest therein which is vested in or belongs to the Board
- 15 by virtue of this section shall be respectively suits, actions, and proceedings pending at the suit of the Board.
- 20 (e) (i) All contracts, agreements and undertakings entered into with, and all securities lawfully given to or by the Crown in relation to or in connection with the Government Grain Elevators and in force immediately before the commencement of this Act shall be deemed to be contracts, agreements and undertakings entered into with and securities given to or by the Board.
- 25
- 30 This sub-paragraph shall not relieve the Crown from any liability under any agreement between the Crown and the Australian Wheat Board whereby the Crown has undertaken to make sites for wheat storage available to the Australian Wheat Board.
- 35 (ii) All contracts, agreements and undertakings entered into with and all securities given to or by any Minister of the Crown as constructing authority in relation to or in connection with any real or personal property which is vested in or belongs to the Board by virtue of this section and in force immediately before the commencement
- 40

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of this Act shall be deemed to be contracts, agreements and undertakings entered into with and securities given to or by the Board.

- 5 (f) The Board may pursue the same remedies for the recovery of any such moneys and claims and for the prosecution of such suits, actions, and proceedings as the Crown or a Minister, as the case may be, might have done but for this Act.
- 10 (g) The Board may enforce and realise any security or charge existing immediately before the commencement of this Act in favour of the Crown or any Minister of the Crown as constructing authority, as the case may be, in respect of any
- 15 such moneys or claims as if the security or charge were existing in favour of the Board.
- (h) (i) All debts due and moneys payable by the Crown in relation to or in connection with the Government Grain Elevators and all claims liquidated or unliquidated recoverable against the Crown in relation to or in connection with the Government Grain Elevators shall be debts due, moneys payable by and claims recoverable against the
- 20 Board.
- 25 (ii) All debts due and moneys payable by any Minister of the Crown as constructing authority in relation to or in connection with any real or personal property or any right or interest therein which is vested in or belongs to the Board by virtue of this section, and all claims liquidated or unliquidated in relation to or in connection with
- 30 any such real or personal property or right or interest therein shall be debts due, moneys payable by and claims recoverable against the Board.
- 35 (i) No attornment by a lessee of any land vested in the Board by this section shall be necessary.

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- 11.** (1) As soon as practicable after the commencement of this Act the Committee of Review constituted under section thirty-one of this Act shall cause to be notified in the Gazette the amount of liability to the Treasurer which shall be assumed by the Board in relation to or in connection with any real or personal property which is vested in or belongs to the Board by virtue of section ten of this Act and the amount thereof which shall bear interest.
- 10** (2) The liability assumed by the Board pursuant to subsection one of this section shall as from the commencement of this Act become and be part of the loan liability to the Treasurer as defined in section thirty of this Act.

Liability of Board to Treasurer.
cf. Act No. 22, 1950, s. 32.

15 **PART IV.**
POWERS, AUTHORITIES, DUTIES AND FUNCTIONS OF THE BOARD.

- 12.** The Board may, subject to and in accordance with this Act and the regulations—
- 20** (a) undertake the storage and handling of wheat;
- (b) maintain and operate and where necessary improve and extend all elevators and other works for or in relation to the storage and handling of wheat for the time being vested in it, and construct any new, additional or supplementary elevators and other works for or in relation to the storage and handling of wheat.
- 25** **13.** The Board may act as an agent of the Australian Wheat Board in relation to any matter.
- 30** **14.** (1) There shall be issued for wheat received by the Board for storage a warrant in the prescribed form.
- (2) Such warrants shall be consecutively numbered and two warrants bearing the same number shall not be issued during the period in which the wheat
- 35** harvest of any season is being delivered.

General powers of Board.
Ibid. s. 9.

Board may be agent of Australian Wheat Board.

Warrants.
cf. Act No. 6, 1927, s. 11.

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- 15.** The Board shall not deliver wheat from its charge unless there shall have been delivered to the Board—
- (a) a warrant representing the same quantity of wheat of the same description or quality; and
- 5 (b) instructions in the prescribed form by the person delivering the warrant as to the disposal of such wheat;
- and unless all fees, freight and other charges due in connection therewith have been paid.
- 10 **16.** (1) Notwithstanding anything contained in this Act or the regulations the Board may enter into such undertakings or agreements as it thinks fit with respect to the delivery of wheat pursuant to any warrant issued by it. Such undertakings or agreements may contain
- 15 provisions additional to, in variation of or in substitution for those contained in section fifteen of this Act and shall be endorsed upon the warrant.
- (2) The Board shall not deliver wheat from its charge pursuant to any warrant endorsed with undertakings or agreements as provided in subsection one
- 20 of this section otherwise than in accordance with such undertakings or agreements.
- 17.** Warrants shall after endorsement by the person to whom they were issued be transferable by delivery.
- 25 **18.** No action for damages for conversion or for detention of any wheat shall be brought against the Board or any of its servants by any person claiming to be entitled to any mortgage, charge, lien (including any lien on crops under the Liens on Crops and Wool and
- 30 Stock Mortgages Act, 1898), or any other encumbrance whatsoever of, upon or over such wheat or any crop from which such wheat was harvested.
- 19.** (1) After the delivery of any wheat in respect of which a warrant has been produced as provided in
- 35 section fifteen of this Act the Government and the Board shall not be answerable to any other person claiming to be the owner of such wheat or of any interest therein.
- (2)

Delivery by
the Board.
cf. Act No.
6, 1927,
s. 12.

Special
warrants.

Warrants
negotiable.
Ibid. s. 13.

Protection
against
actions, etc.
Ibid. s. 14.

Indemnity.
Ibid. s. 15.

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- (2) The Board shall not be responsible for—
- (a) any loss of or damage to wheat in its charge arising from irresistible force, the act of God or the Queen's enemies, strikes, lock-outs, or any other cause beyond its control; or
- (b) any loss which may be sustained by reason of the short supply or non-supply of railway trucks to the Board for the purpose of moving wheat under the instructions of the owner of the wheat.
- (3) Where wheat in the charge of the Board is destroyed or damaged by any of the causes referred to in paragraph (a) of subsection two of this section all persons at the time of the loss entitled to delivery of wheat under warrants shall bear the loss in a proportion to be fixed by the Board approximating as nearly as can be calculated by it to the proportion that the wheat which such persons are entitled by the warrants to receive bears to the total stocks of wheat then in the charge of the Board, and the amount of wheat deliverable on warrants then in force shall be reduced accordingly.
- (4) Where from any cause for which the Board is responsible loss of or damage to wheat occurs, the liability of the Board shall be limited to the market value of the wheat at the time of the loss or damage.
- (5) Where the Board is unable from any cause for which it is responsible to deliver wheat in the quantity and of the quality mentioned in a warrant or in accordance with any agreement or undertaking endorsed thereon, the Board may pay to the owner of the warrant the amount of the market value of the wheat mentioned in the warrant as at the date on which delivery was sought, but so that the amount shall not exceed the market value on the fifteenth day of November following the harvest during which the wheat was delivered, and the Board shall not be responsible to any further extent for any damages, loss, costs, charges, or expenses resulting from its failure to so deliver the wheat.

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20. (1) The Board, subject to the approval of the Minister, may enter into any agreement it thinks fit with the Australian Wheat Board as to the terms and conditions upon which it shall receive wheat on behalf of the Australian Wheat Board.

Wheat received on behalf of Australian Wheat Board.

(2) Any such agreement shall have force and effect notwithstanding anything contained in this Act or the regulations.

21. It shall be lawful for the Board to demand, collect, sue for and receive, in respect and for the use of any property of the Board or any service performed or thing done by it, such dues, rates, fees and charges as may be prescribed or as may otherwise be agreed upon between the parties.

Board may make charges. cf. Act No. 69, 1915, s. 15.

15 Nothing in this section shall affect the operation of the provisions of the Wheat Marketing Act, 1948-1954, with respect to the remuneration payable to the Board thereunder as a licensed receiver.

20 **22.** The provisions of Part III of the Public Works Act, 1912, as amended by subsequent Acts, shall not extend to any works constructed or proposed to be constructed by the Board.

Public Works Act, 1912—Part III excluded. Act No. 22, 1950, s. 10.

25 **23.** (1) The Board may subject to this Act enter into contracts or agreements with any person for the performance of services, or for the supply of goods, machinery or material in connection with the exercise or discharge by the Board of its powers, authorities, duties and functions.

Contracts. *Ibid.* s. 11.

30 (2) All persons contracting with the Board (other than as wheatgrowers) shall be deemed for the purposes of the Constitution Act, 1902, to be public contractors.

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(3) Any contract or agreement authorised by this or any other section of this Act shall be in the name of the Board and may be made as follows, that is to say—

5 with respect to any contract which, if made between private persons, would be by law required to be in writing and signed by the parties to be charged therewith or in writing and under seal the Board may make such contract in writing and under their common seal and in the same manner may vary
10 or discharge the same;

with respect to any contract which, if made between private persons, would by law be valid although made by parol only and not reduced into writing the Chairman may make such contract by
15 parol only without writing and in the same manner may vary or discharge the same.

24. (1) The Board may for the purposes of this Act acquire land by lease, purchase, appropriation or resumption in accordance with the provisions of this section.

Acquisition
of land.
Act No. 22,
1950, ss. 14,
15, 16 & 17.

20 In this section "land" means either land in fee simple or any easement, right or privilege in, over, or affecting land.

(2) Where the Board proposes to acquire land for any purpose it may also acquire other land adjoining
25 or in the vicinity of such land.

(3) Where the Board proposes to acquire land, including land previously appropriated or resumed for any purpose, by appropriation or resumption it may apply to the Governor through the Minister.

30 (4) The Board shall make provision to the satisfaction of the Governor for payment of compensation for the land, together with interest and all necessary charges and expenses incidental to the appropriation or resumption.

35 (5) The Governor may authorise the appropriation or the resumption of the land.

(6)

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- (6) Thereupon the Governor may—
- (a) appropriate or resume the land by Gazette notification under Division 1 of Part V of the Public Works Act, 1912; and
- 5 (b) notify that the land is vested in the Board.
- (7) Thereupon the land shall vest in the Board.
- (8) For the purposes of the Public Works Act, 1912, such appropriation or resumption shall be deemed to be for the purpose of carrying out an authorised
- 10 work within the meaning of that Act.
- (9) Where land is vested in the Board under this section the Board may notwithstanding anything contained in any other Act but subject to the provisions of subsection ten of this section sell, lease, exchange or
- 15 otherwise deal with or dispose of such land.
- (10) The Board shall not sell, lease, exchange or otherwise deal with or dispose of land acquired by it under this section or vested in it by or under the provisions of this Act except with the approval of the Minister
- 20 and subject to such terms and conditions as the Minister may attach to his approval.

25. The Board may, with the approval of the Minister of the Department concerned, make use of the services of any officer or employee of the Public Service.

Use of services of officers, etc. Act No. 22, 1950, s. 58.

- 25 **26.** (1) Any officer or employee of the Public Service who is appointed to the service of the Board shall retain any rights which have accrued or are accruing to him as an officer or employee of the Public Service or as an employee within the meaning of the Superannuation Act,
- 30 1916, or any amendment thereof, and shall continue to contribute to any fund or account and shall be entitled to receive any deferred or extended leave and any payment, pension or gratuity as if he had continued to be an officer or employee of the Public Service or an
- 35 employee within the meaning of the Superannuation Act, 1916, as amended by subsequent Acts, as the case may be. And for the purposes of this subsection his service with

Saving of rights of public servants appointed to Board. *cf. Ibid.* s. 63.

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with the Board shall be deemed to be service for the purposes of the said Act, and of the Public Service Act, 1902, as amended by subsequent Acts.

(2) Any officer or employee of the Public Service so appointed shall not be entitled to claim benefits under this Act as well as under any other Act in respect of the same period of service.

27. (1) The Board shall appoint and employ such servants as may be necessary for carrying out the provisions of this Act.

Appointment of servants.
cf. Act No. 22, 1950, s. 64.

(2) Subject to the provisions of this Act every servant of the Board shall continue in the service of the Board at the will of the Board only.

(3) All servants of the Board shall be subject to the sole control and governance of the Board which may, subject to this Act, fix wages and conditions of employment where such wages and conditions are not fixed in accordance with the provisions of any other Act.

28. The Crown Employees Appeal Board Act, 1944-1953, is amended by inserting at the end of the Second Schedule the words "The Grain Elevators Board of New South Wales".

Amendment of Act No. 15, 1944.
Second Sch. (Employing Authorities.)

29. (1) Any member of the Board or any servant of the Board who without lawful authority demands or receives from any person any payment, gratuity or present in consideration of doing or omitting to do any act or thing pertaining to his office or employment under this Act shall be liable upon summary conviction to a penalty not exceeding one hundred pounds or to imprisonment for a term not exceeding two years.

Offences by members or servants of Board.
cf. Act No. 69, 1915, s. 18c.

(2) Any person who without lawful authority offers, makes or gives to a member of the Board or any servant of the Board, any payment, gratuity or present in consideration that such member or servant will do or omit to do some act or thing pertaining to his office or employment, shall be liable upon summary conviction to a penalty not exceeding one hundred pounds or to imprisonment for a term not exceeding two years.

PART

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PART V.

FINANCE.

DIVISION 1.—*Loan Liability of the Board to the Treasurer.*

- 5 **30.** For the purposes of this Act the loan liability of the Board to the Treasurer on behalf of the State (in this Act referred to as “the loan liability to the Treasurer”) shall comprise—
- 10 (a) any liability to the Treasurer assumed by the Board pursuant to section eleven of this Act;
- (b) any moneys appropriated from the General Loan Account and provided from time to time by the Treasurer for the Board.
- 15 **31.** (1) (a) There shall be constituted a committee (in this Act referred to as “the Committee of Review”) which shall have the functions and duties prescribed by this Act.
- 20 (b) The Committee of Review shall consist of the persons for the time being holding the following offices, that is to say, the Auditor-General, the Chairman of the Board and the Under Secretary to the Treasury, each of whom may appoint in writing a representative to act on his behalf.
- 25 (c) The Auditor-General, or his representative so appointed, shall be the chairman of the Committee of Review.
- (2) The functions of the Committee of Review shall be—
- 30 (a) to determine the amount of liability to be assumed by the Board pursuant to section eleven of this Act;
- 35 (b) to determine how the expense of meeting payments on account of leave or upon retirement or death of an officer or employee of the Public Service appointed to the service of the Board should be apportioned between the Treasurer and the Board;

Loan liability to the Treasurer.
Act No. 22, 1950, s. 35.

Loan liability. Committee of Review.
Ibid. s. 36.

(c)

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(c) to certify to the Governor, as soon as practicable after the close of each financial year—

- 5 (i) the amount of the loan liability to the Treasurer at the close of such financial year, having regard to moneys appropriated from the General Loan Account and provided for the Board during that financial year, the amount of any liability assumed by the Board pursuant to section eleven of this Act during that financial year and to any repayment by the Board during that financial year in respect of the loan liability to the Treasurer;
- 10
- 15 (ii) the amount (if any) which should be added to or deducted from that part of the loan liability to the Treasurer which does not bear interest.

20 **32.** (1) In respect of the loan liability of the Board to the Treasurer as determined in accordance with section thirty-one of this Act the Board shall pay to the Treasurer such amounts for interest, exchange, sinking fund contributions and other charges as the Treasurer may from time to time determine:

Payment of interest and sinking fund charges.

Act No. 22, 1950, s. 37.

25 Provided that the amounts so determined in any year shall, unless the Treasurer otherwise directs, be the amounts chargeable in that year.

30 (2) The amounts determined by the Treasurer under subsection one of this section shall not exceed the amounts which the Treasurer calculates as being as nearly as practicable sufficient to recoup the State for interest, exchange, sinking fund contributions and other charges payable by the State in respect of the loan liability of the Board to the Treasurer.

35 (3) Payments by the Board in accordance with the provisions of subsection one of this section shall be made in such amounts and at such times as the Treasurer may from time to time direct.

DIVISION

Grain Elevators.

DIVISION 2.—*Loans.*

33. (1) For the temporary accommodation of the Board it may obtain advances by overdraft of current account in any bank or banks upon the credit of the Board's funds to such extent as may from time to time be approved by the Governor. Temporary accommodation. Act No. 22, 1950, s. 38.

(2) The Treasurer may advance such moneys to the Board as the Governor may approve upon such terms and conditions as to repayment and interest as may be agreed upon.

(3) The Board may subject to the conditions and upon the terms prescribed receive money on deposit at short call or on fixed deposit.

34. The Board may from time to time with the approval of the Governor borrow money— Purposes for which money may be borrowed.

(a) for the improvement or extension of existing works or the construction or acquisition of additional or supplementary works for or in relation to the storage and handling of wheat; cf. *Ibid.* s. 39.

(b) for the renewal of loans;

(c) for the discharge or partial discharge of any indebtedness to the Treasurer or to any bank; or

(d) otherwise for the purposes of this Act.

35. Loans to the Board shall be deemed to be secured upon the income of the Board from whatever source arising. Security for loans. *Ibid.* s. 40.

36. (1) The Board shall establish a reserve fund for loan repayment in respect of each loan or renewal loan raised by the Board. Reserves for repayment. cf. *Ibid.* s. 41.

(2) The Board shall during each year transfer to such fund from the revenue of the Board a sum not less than the Board in its application for approval of the loan intimated that it proposed to set apart as aforesaid.

(3)

Grain Elevators.

(3) Moneys held as reserve for loan repayment may be invested in government securities of the Commonwealth of Australia or of the State of New South Wales, or in debentures or inscribed stock in any loan of the Board, or in any securities guaranteed by the Government of the said State or in debentures or securities issued by the Sydney County Council or the Sydney City Council, or in such other securities as the Governor may approve or as may be prescribed in each case at their current market price. Any interest or profits realised on such investments shall be added to and form part of the reserve for loan repayment. All moneys paid into the reserve fund for loan repayment in respect of any loan or renewal loan may be applied in or towards repayment of any other loan or renewal loan but may not be applied for any other purpose until the loan or renewal loan in respect of which the fund has been established has been repaid.

(4) Where the Board decides to cancel debentures and inscribed stock of the Board purchased from the reserve for repayment of the loan for which they were issued, then, in addition to the sums otherwise payable to the reserve for loan repayment in respect of that loan, the Board shall, subject to any agreement to which it is a party whereby it undertakes to pay interest at a higher rate to such reserve, pay to such reserve interest at the rate of four and one-half per centum per annum on the face value of the cancelled securities from the date of their cancellation until the maturity of the loan.

(5) This section shall not apply to any loan to be repaid by instalments at intervals of one year or less.

37. (1) For securing repayment of the principal and interest on any money borrowed the Board may as provided by the regulations issue debentures, inscribed stock or other prescribed securities.

Debentures,
etc.
Act No. 22,
1950, s. 42.

(2)

Grain Elevators.

(2) Every such debenture and every coupon originally annexed to the debenture and whether separated therefrom or not shall be transferable by simple delivery.

5 (3) Inscribed stock shall be transferable in the books of the Board in accordance with the regulations.

(4) Debentures or inscribed stock issued under this Act shall both as regards the issue and transfer thereof for full consideration or money or money's worth
10 be deemed to be included in the general exemptions from stamp duty under Part III of the Stamp Duties Act, 1920-1954, contained in the Second Schedule to that Act. The regulations may provide for the exemption from stamp duty of any other prescribed security.

15 (5) The holder of a coupon originally annexed to a debenture and whether separated therefrom or not shall be entitled to receive payment from the Board of the interest mentioned in the coupon upon the presentation of the same on or after the date when and at the place
20 where the interest is payable.

(6) The due repayment of the debentures and stock and the interest thereon and of any loan in respect of which any other prescribed security is issued and the interest thereon shall be a charge upon the income
25 and revenue of the Board and is hereby guaranteed by the Government. Any liability arising from such guarantee shall be payable out of moneys provided by Parliament. Such charge shall not prejudice or affect the power of the Board to sell or convey any property
30 vested in it free of any such charge.

38. (1) Notwithstanding anything contained in this Division of this Part any money which the Board is authorised to borrow may be borrowed by a loan raised wholly or in part in such country as the Governor may
35 approve, and may be negotiated and raised in any currency.

Raising
loan in
any country.
Act No. 22,
1950, ss. 43
and 43A.

(2)

Grain Elevators.

(2) Any such loan may be raised wholly or in part by the issue of debentures, bonds, stock or other securities in any form and containing any term, condition or provision permitted under the law of the place where
5 such loan is raised and the Board may establish and conduct in such country registries relating to the securities issued in respect of such loan.

(3) The Board may in respect of any such loan agree that a sinking fund shall be established and
10 controlled at such place, by such person and in such manner as may be found necessary or expedient in the circumstances of the case, and where any such sinking fund is so established the provisions of section thirty-six of this Act shall apply with regard to that loan only
15 in respect of the amount, if any, the repayment of which is not provided for by the sinking fund established under the agreement.

(4) In connection with the raising of any loan under this section, the Board may enter into such agree-
20 ments as the Board shall think fit with respect to the form of such debentures, bonds, stock or other securities, or for the sale of such debentures, bonds, stock or other securities, or the granting of an option to purchase such debentures, bonds, stock or other securities, or for ser-
25 vices to be performed by any person in Australia or in any other part of the world in connection with such loan or with the issue, management, and redemption of or otherwise with respect to such debentures, bonds, stock or other securities, and such agreements may be upon
30 such terms and conditions and may contain such provisions for the giving or receipt of consideration as the Board shall think fit.

Copies of any such agreement shall be forwarded to the Minister who shall cause the same to be laid before
35 both Houses of Parliament as soon as possible after the loan is raised.

(5) The Governor may upon the recommendation of the Board appoint two or more persons to enter into for and on behalf of the Board all such agreements as
the

Grain Elevators.

the Board is by this section authorised to enter into and to sign, execute, or otherwise perfect all such agreements, debentures, bonds, stock or other securities as are by this section provided for and to do all such things
5 as may be necessary or convenient to be done for the purpose of raising any loan under this Act, and may upon the like recommendation revoke or vary any such appointment and make any fresh appointment.

The production of a copy of the Gazette containing a
10 notification of any such appointment or revocation as aforesaid shall in favour of a lender or of any holder of a security be conclusive evidence of the appointment or revocation.

(6) All debentures, bonds, stock or other
15 securities bearing the signatures of such persons so appointed in that behalf shall be deemed to be securities lawfully issued under seal by the Board and the principal moneys and interest secured thereby shall be deemed to
20 be a charge upon the income and revenue of the Board from whatsoever source arising, and the due repayment of such principal moneys and interest is hereby guaranteed by the Government, and all agreements and
any instruments purporting to be made or issued under the authority of this section and bearing the signatures
25 of such persons shall be deemed to have been lawfully made or issued by the Board, and if the same shall purport to have been sealed by such persons to have been lawfully executed by the Board under seal.

A holder of any such debenture, bond, stock or other
30 security shall not be bound to enquire whether the issue of such security was in fact duly authorised.

(7) Subject to this section and the law in force in the place where any loan is raised under this section and applicable to such loan and the securities issued in
35 connection therewith the provisions of this Division of this Part other than subsection one of section thirty-seven and subsections three and four of section forty of this Act shall apply, mutatis mutandis, to and in respect of such loan and such securities.

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39. (1) Any trustee unless expressly forbidden by Trustees.
the instrument (if any) creating the trust, may invest Act No. 22,
any trust moneys in his hands in stock inscribed by the 1950, s. 44.
Board, and the investment shall be deemed to be an
5 investment authorised by the Trustee Act, 1925, or any
Act amending or replacing that Act.

(2) Any debenture issued or stock inscribed by
the Board shall be a lawful investment for any moneys
which any company, council, or body corporate incor-
10 porated by any Act of Parliament of New South Wales
is authorised or directed to invest in addition to any
other investment expressly provided for the investment
of such moneys.

(3) No notice of any trust expressed, implied or
15 constructive, shall be received by the Board or by any
servant of the Board in relation to any debenture or
coupon issued or stock inscribed by the Board.

40. (1) If any debenture issued by the Board is lost
or destroyed or defaced before the same has been paid, Lost
debentures.
20 the Board may, subject to the provisions of this section, Ibid. s. 45.
issue a new debenture in lieu thereof.

(2) The new debenture with interest coupon
annexed shall bear the same date, number, principal sum,
and rate of interest as the lost, destroyed, or defaced
25 debenture.

(3) When the debenture is lost or destroyed the
new debenture shall not be issued unless and until—

- 30 (a) a judge of the Supreme Court has been satisfied
by affidavit of the person entitled to the lost
or destroyed debenture, or of some person
approved by the judge, that the same has been
lost or destroyed before it has been paid off;
- (b) such advertisement as the judge may direct has
been published;
- 35 (c) six months have elapsed since the publication
of the last of the advertisements; and
- (d) sufficient security has been given to the Board
to indemnify it against any double payment if
the

Grain Elevators.

the missing debenture be at any time thereafter presented for payment.

(4) When the debenture is defaced the new debenture shall not be issued unless and until the defaced debenture is lodged with the Board for cancellation.

(5) The provisions of this section shall, mutatis mutandis, extend to the case of a lost, destroyed, or defaced coupon.

(6) In case of the loss, theft, destruction, mutilation, or defacement of any debenture or bond issued under section thirty-eight of this Act, a duplicate or new debenture or bond may be issued upon proof to the satisfaction of the Board of such loss, theft or destruction, or upon surrender of the mutilated or defaced debenture or bond, as the case may be, and upon the Board receiving security or indemnity satisfactory to it against double payment if the missing debenture or bond be at any time thereafter presented for payment.

41. (1) If for six months default is made by the Board in making any payment whether of principal or interest, to the holder of any debenture, or coupon, issued or stock inscribed by the Board, the holder thereof may apply to the Supreme Court in its equitable jurisdiction, in accordance with rules of court, for the appointment of a receiver of the income of the Board.

Receivers.
Act No. 22,
1950, s. 46.

(2) A receiver may be appointed in respect of the income of the Board either generally or as regards specified income.

(3) The Court may make such orders and give such directions as it may deem proper for and with respect to—

- (a) the appointment of a receiver;
- (b) the removal of a receiver;
- (c) the appointment of a receiver in place of a receiver previously appointed.

(4) The receiver shall be deemed to be an officer of the Court, and shall act under its directions.

42.

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42. (1) A receiver shall have power to collect all income payable to the Board which he has by order of the Court been so authorised to collect and for the purposes of this subsection the receiver shall be deemed to be the Board and may exercise all the powers of the Board.

Powers and duties of receivers. Act No. 22, 1950, s. 47.

(2) The receiver shall discharge such duties of the Board or of any servants of the Board as may be prescribed.

10 43. The receiver shall be entitled to such commission or remuneration for his services as the Court may order, and the commission or remuneration shall be payable out of the income for and in respect of which he has been appointed receiver.

Commission to receiver. *Ibid.* s. 48.

15 44. The receiver shall, subject to any order of the Court, pay and apply all moneys received by him in the following order, that is to say—

Application of money received. *Ibid.* s. 49.

20 (a) firstly, in the payment of the costs, charges, and expenses of collection, and of his commission or remuneration;

(b) secondly, in the payment of the amount due and payable to the holder of the debenture or inscribed stock or coupon, as the case may be;

25 (c) thirdly, in payment of all the residue of the moneys to the Board.

45. (1) A person advancing money to the Board shall not be bound to enquire into the application of the money advanced, or be in any way responsible for the non-application or misapplication thereof.

Protection of investments. *Ibid.* s. 50.

30 (2) A notification in the Gazette of the approval of the Governor having been given to a borrowing by the Board shall, in favour of a lender and of any holder of a security given by the Board, be conclusive evidence that all conditions precedent to the borrowing have been
35 complied with, and where the approval notified is to the borrowing by the Board in a country outside New South
Wales

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Wales and in a particular currency shall also be conclusive evidence in favour of such persons of the approval of the Governor to the borrowing in the country and in the currency specified in the notification.

5 **46.** All debentures, bonds, or other securities which are secured upon the income and revenue of the Board shall rank *pari passu* without any preference one above another by reason of priority of date or otherwise.

Debentures and bonds to rank *pari passu*.
Act No. 22, 1950, s. 51.

10 **47.** If the Board borrows any money without having first obtained the approval of the Governor, each member holding office who has, knowingly and wilfully or for personal benefit or advantage, consented to the borrowing shall be liable to a penalty of five hundred pounds.

Penalty for illegal borrowing.
Ibid. s. 52.

15 The action to recover the penalty shall not be taken without the written consent of the Attorney-General.

DIVISION 3.—*Accounts and Audit.*

20 **48.** (1) The Board shall cause proper books of account to be kept and shall as soon as practicable after the end of each financial year of the Board prepare and transmit to the Minister for presentation to Parliament a report of its operations during such year and balance-sheets and statements of accounts setting forth a true statement of the financial position and the transactions of the Board for such year.

Accounts to be kept.
cf. Act No. 69, 1915, s. 18D.

25 (2) Each such balance-sheet and statement—
(a) shall include a profit and loss account and a statement of the assets and liabilities of the Board and shall be in a form approved by the Auditor-General; and
30 (b) shall be audited and reported upon by the Auditor-General, who shall have in respect of the accounts of the Board all the powers conferred on the Auditor-General by any law now or hereafter to be in force relating to the audit
35 of public accounts, as well as all powers conferred by this Act.

(3)

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(3) The Audit Act, 1902-1953, (section twenty-five excepted), shall apply to the Board and its servants in the same manner as it applies to accounting officers of public departments.

5 (4) Without limiting the generality of the powers conferred by subsection two of this section, the Auditor-General may disallow any expenditure or entry in the books of the Board which he considers has been wrongly, irregularly or dishonestly made.

10 (5) Any sum so disallowed shall be a surcharge upon and may be recovered or deducted from moneys due to the servants by whom the expenditure was incurred or ordered to be incurred or by whom the entry was made or ordered to be made, but such servants shall have
15 the same right of appeal against such surcharge as is prescribed under the Audit Act, 1902-1953.

(6) The Board shall produce for inspection to any person duly authorised in writing by the Minister any or all of its books, accounts, agreements, vouchers, letters
20 or other documents.

(7) The Board shall in each year pay into the Treasury such sum as is fixed by the Treasurer towards the cost of the audit of the accounts of the Board by the Auditor-General.

25 **49.** Subject to any provision made by or under this Act the Board shall cause expenditure to be charged against income and capital as nearly as may be in
accordance with commercial principles.

Charging
expenditure
generally.
Act No. 22,
1950, s. 54.

PART VI.

MISCELLANEOUS.

30 **50.** All courts and persons having by law or consent of parties authority to hear, receive and examine
evidence—

35 (a) shall take judicial notice of the seal of the Board affixed to any documents; and

Judicial
notice of
seal of the
Board.
Ibid. s. 91.

(b)

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(b) shall until the contrary be proved presume that such seal was properly affixed thereto.

51. Any notice, summons, writ or other proceeding required to be served on the Board may be served by being left at the office of the Board, or, in the case of a notice, by post.

Service of notice of proceedings on the Board. Act No. 23, 1950, s. 92.

52. Every summons, process, demand, order, notice, statement, direction or document requiring authentication by the Board may be sufficiently authenticated without the seal of the Board if signed by the Chairman.

Documents. How authenticated. Ibid. s. 93.

53. (1) All proceedings for offences against this Act or the regulations shall be disposed of summarily before a court of petty sessions.

Penalties and recovery of charges, etc. Ibid. s. 96.

(2) Any charge, fee, remuneration or money due to the Board under the provisions of this Act or any regulations may be recovered as a debt in a court of competent jurisdiction.

(3) Proceedings for the recovery of any charge, fee, remuneration or money so due to the Board shall be deemed to be for the recovery of a debt or liquidated demand within the meaning of—

- (a) section twenty-four of the Common Law Procedure Act, 1899;
- (b) section sixty-four of the District Courts Act, 1912-1953;
- (c) section twenty-five of the Small Debts Recovery Act, 1912-1933.

54. In any legal proceedings by or against the Board no proof shall be required (until evidence is given to the contrary) of—

No proof of certain matters required. Ibid. s. 97.

- (a) the constitution of the Board;
- (b) any resolution of the Board;
- (c) the appointment of any member or any servant of the Board;

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(d)

Grain Elevators.

(d) the presence of a quorum at any meeting at which any determination is made or any act is done by the Board.

55. (1) The Board may from time to time by resolution delegate such of the authorities, powers, duties or functions of the Board (other than this power of delegation) as may be prescribed and as are specified in the resolution—

Delegation.
Act No. 22,
1950, s. 99.

- 5
10
- (a) to any member;
 - (b) to any servant of the Board;
 - (c) to any officer, servant or employee of whose services the Board makes use pursuant to this or any other Act.

15 (2) Any such delegation may be made either generally or for any particular case or class of cases.

(3) Any person when acting within the scope of any such delegation to him shall be deemed to be the Board.

20 (4) Any instrument necessary to be executed and any notice, order, summons or other like document requiring authentication for the purpose of the exercise or discharge of any power, authority, duty or function delegated to any person under this section shall be sufficiently executed or authenticated as the case may

25 be if signed by such person in such a way as to show that he does so under and in pursuance of the delegation.

(5) The Board may by resolution revoke such delegation.

56. (1) A writ or other process in respect of any damage or injury to person or property shall not be sued out or served upon the Board or any member, or any servant of the Board or any person acting in his aid for anything done or intended to be done or omitted to be done under this Act, until the expiration of one

30
35

month after notice in writing has been served on the Board or member, servant or person as provided in this section.

Notice of
action.
Ibid. s. 100.

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- (2) The notice shall state—
- (a) the cause of action;
 - (b) the time and place at which the damage or injury was sustained; and
 - 5 (c) the name and place of abode or business of the intended plaintiff and of his attorney, if any, in the case.

(3) In the case of damage to property, any person who produces on demand his authority from the Board shall be permitted to inspect the property damaged, and all facilities and information necessary to ascertain fully the value of the property damaged, the nature and extent of the damage, and the amount of money, if any, expended in repairing the same shall be given to him.

Representative of the Board to be permitted to inspect property injured.

15 (4) At the trial of any such action the plaintiff shall not be permitted to go into evidence of any cause of action that is not stated in the notice, and unless the notice has been served the plaintiff shall not be entitled to maintain the action:

20 Provided that at any stage of the proceedings the court or any judge of the court in which the action is pending may, if the court or judge deems it to be just or reasonable in the circumstances so to do—

- 25 (a) amend any defect in the notice on such terms and conditions, if any, as the court or judge may fix;
- (b) direct that any non-compliance or insufficient compliance with this section shall not be a bar to the maintenance of the action.

30 (5) Every such action shall be commenced within the period of twelve months next after the occurring of the cause of action. Such period is in this subsection referred to as the “prescribed period”:

35 Provided that where an application is made to a judge of the Supreme Court in accordance with rules of court for an extension of the prescribed period the judge may, if he is satisfied that sufficient cause has been shown,

or

Grain Elevators.

or that having regard to all the circumstances of the case, it would be reasonable so to do, make an order for extension of the prescribed period for such further period and subject to such terms and conditions, if any, as
5 may be set out in the order.

Such application for extension may be made either within the prescribed period or at any time within twelve months thereafter.

Any person who is dissatisfied with the decision of
10 the judge on any such application may appeal to the Supreme Court and that Court may on the appeal make any order which ought to have been made in the first instance.

Every such appeal shall be made in accordance with
15 rules of court.

(6) The Board, or any member, servant or person to whom any such notice of action is given as aforesaid, may tender amends to the plaintiff, his attorney or agent at any time within one month after service of notice
20 of action, and in case the same is not accepted may plead the tender in bar.

(7) The defendant in every such action may plead the general issue and at the trial thereof give this Act and the special matter in evidence.

25 **57.** (1) The Governor may make regulations, not Regulations. inconsistent with this Act, for and with respect to—

- (a) the receipt, storage, insurance, handling and delivery of wheat by the Board;
- 30 (b) the operation, management, control and maintenance of elevators and other works under the control of the Board which are used for the storage and handling of wheat;
- (c) prescribing qualities of wheat for the purposes of this Act;
- 35 (d) the conditions under which wheat shall be received by the Board for storage and warrants issued;

(e)

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- (e) the inspection or weighing of wheat received or delivered by the Board;
- (f) the forms of warrants and instructions as to the disposal of wheat delivered by the Board;
- 5 (g) the method of issuing and the form of duplicate warrants issued in lieu of warrants which are alleged to have been defaced, destroyed or lost and the security to be taken before any such issue;
- 10 (h) the conditions under which one warrant may be issued in place of two or more warrants and under which two or more warrants may be issued in place of one;
- 15 (i) the method of providing for shortages of stocks of wheat under the control of the Board and of disposing of surpluses of wheat held by the Board;
- 20 (j) the dues, rates, fees or charges or the remuneration payable for receiving, storing, insuring, weighing, drying, cleaning and delivering wheat and for other services rendered or things done by the Board in connection with the handling of wheat;
- 25 (k) securities other than debentures or inscribed stock which may be issued by the Board for securing repayment of principal and interest on any money borrowed by the Board;
- 30 (l) the control and governance of servants by the Board and any other matter or thing necessary or convenient to ensure the maintenance of discipline and efficiency in the service of the Board;
- 35 (m) the prescription of all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

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(2) Any regulation made under this Act may impose a penalty not exceeding fifty pounds for any breach thereof.

(3) The regulations shall—

- 5 (a) be published in the Gazette;
- (b) take effect from the date of publication or from a later date to be specified in the regulations;
- 10 (c) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is then in session, and if not, then within fourteen sitting days after the commencement of the next session.

(4) If either House of Parliament passes a resolution of which notice has been given within fifteen sitting days after such regulations have been laid before such House disallowing any regulation or part thereof, such regulation or part shall thereupon cease to have effect.

Sydney: A. H. Pettifer, Government Printer—1954.

[3s. 3d.]

GRAIN ELEVATORS BILL, 1954.

EXPLANATORY NOTE.

THE objects of this Bill are—

- (a) to constitute a Grain Elevators Board to undertake the handling and storage of wheat;
- (b) to vest the Government Grain Elevators in the Board and to provide for their being operated and controlled by the Board;
- (c) to provide for a loan liability of the Board to the Treasurer in respect of the Government Grain Elevators and for the repayment of such liability;
- (d) to abolish the State Wheat Committee constituted under the Wheat Marketing Act, 1948-1953, and to amend that Act in certain respects;
- (e) to repeal the Grain Elevator Act, 1916, and the Wheat Act, 1927;
- (f) to make other provisions incidental and supplementary to the foregoing.

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No. , 1954.

A BILL

To make provision for and in relation to the handling and storage of wheat and the operation and control of the Government Grain Elevators; to provide for the constitution of the Grain Elevators Board of New South Wales and to define its powers, authorities, duties and functions; to dissolve the State Wheat Committee constituted under the Wheat Marketing Act, 1948-1953; to amend the said Act in certain respects; to repeal the Grain Elevator Act, 1916, and the Wheat Act, 1927; and for purposes connected therewith.

[MR. GRAHAM;—10 November, 1954.]

Grain Elevators.

BE it enacted by the Queen's Most Excellent Majes-
by and with the advice and consent of the Legis-
lative Council and Legislative Assembly of New South
Wales in Parliament assembled, and by the authority of
5 the same, as follows :—

PART I.

PRELIMINARY.

1. (1) This Act may be cited as the "Grain Elevators Act, 1954." Short title and commencement.

10 (2) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

2. This Act is divided into Parts as follows:— Division into Parts.

PART I—PRELIMINARY.

15 PART II—CONSTITUTION OF THE GRAIN ELEVATORS BOARD.

PART III—VESTING OF GOVERNMENT GRAIN ELEVATORS IN THE BOARD.

20 PART IV—POWERS, AUTHORITIES, DUTIES AND FUNCTIONS OF THE BOARD.

PART V—FINANCE.

DIVISION 1.—*Loan Liability of the Board to the Treasurer.*

DIVISION 2.—*Loans.*

25 DIVISION 3.—*Accounts and Audit.*

PART VI—MISCELLANEOUS.

3. In this Act, unless the context or subject matter otherwise indicates or requires— Definitions.

30 "Australian Wheat Board" means the Board constituted under the Wheat Marketing Act 1948-1953 of the Parliament of the Commonwealth.

"Board"

Grain Elevators.

- “Board” means the Grain Elevators Board of New South Wales.
- “Chairman” means the Chairman of the Board.
- “Member” means a member of the Board.
- 5 “Prescribed” means prescribed by this Act or by the regulations.
- “Regulations” means regulations made under this Act.
- “Treasurer” means the Colonial Treasurer.
- 10 4. The Grain Elevator Act, 1916, and the Wheat Act, 1927, are hereby repealed. Repeal of Acts Nos. 47, 1916, and 6, 1927.
5. (1) The State Wheat Committee constituted under the Wheat Marketing Act, 1948-1953, is hereby dissolved. Dissolution of State Wheat Committee.
- (2) The Wheat Marketing Act, 1948-1953, is
15 amended by omitting Part II.
6. (1) The Wheat Marketing Act, 1948-1953, is amended— Amendment of Act No. 46, 1948.
- (a) by inserting in section three before the defini- Sec. 3. (Definitions.)
20 tion of “licensed receiver” the following new definition:—
- “Grain Elevators Board” means the Grain Elevators Board of New South Wales constituted under the Grain Elevators Act, 1954.
- 25 (b) (i) by omitting from section eight the words “Manager of the Government Grain Elevators” wherever occurring and by inserting in lieu thereof the words “Grain Elevators Board”; Sec. 8. (Licensed receivers.)
- 30 (ii) by omitting from paragraph (b) of subsection two of the same section the words and figures “Wheat Act, 1927” and by inserting in lieu thereof the words and figures “Grain Elevators Act, 1954”;
- (c)

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- (c) (i) by omitting from paragraph (d) of section Sec. 9.
 nine the words and figures "Wheat Act, (Powers of Board.)
 1927" and by inserting in lieu thereof the
 words and figures "Grain Elevators Act,
 1954";
- (ii) by omitting from the same paragraph the
 words "in the Government Grain Elevators"
 and by inserting in lieu thereof the
 words "by the Grain Elevators Board".
- (2) The Wheat Marketing Act, 1948, as amended by Citation.
 subsequent Acts and by this Act, may be cited as the
 Wheat Marketing Act, 1948-1954.

 PART II.

CONSTITUTION OF THE GRAIN ELEVATORS BOARD.

7. (1) There shall be constituted a Grain Elevators Constitution of Board.
 Board which shall have and may exercise and discharge
 the powers, authorities, duties and functions conferred
 and imposed upon it by or under this or any other Act.
- In the exercise and discharge of such powers, authori-
 ties, duties and functions the Board shall be subject in
 all respects to the control and direction of the Minister.
- (2) For the purposes of any Act, the Board shall
 be deemed to be a statutory body representing the Crown.
- (3) The Board shall consist of five members
 appointed by the Governor.
- Of the members so appointed—
- (a) one shall in and by the instrument by which he
 is appointed be the Chairman of the Board;
- (b) one shall be an officer in the employ of the
 Commissioner for Railways selected by the
 Minister from a panel of not less than three
 officers submitted to the Minister by the
 Commissioner for Railways;
- (c) one shall be an officer of the Treasury nominated
 by the Treasurer;
- (d)

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5 (d) two shall be persons nominated as representing the wheatgrowers of New South Wales by the Minister, who before nominating such persons shall have regard to the recommendations (if any) in that behalf of any body or bodies representative in the opinion of the Minister of the interests of such wheatgrowers.

(4) A person who is directly interested (other than as a wheatgrower) in the business of selling, purchasing or dealing in wheat shall not be eligible to be appointed as a member of the Board and shall be disqualified from holding any such office. cf. Vic. Act No. 4270, s. 5 (3).

15 (5) (a) Subject to this Act the term of office of a member of the Board shall be such term, not exceeding five years, as is specified in the instrument of his appointment. Act No. 69, 1915, s. 8.

20 (b) Upon the expiration of the term of office of a member of the Board he shall, if otherwise qualified, be eligible for reappointment from time to time. Any such reappointment shall be for such term not exceeding five years as may be specified in the instrument of reappointment.

25 (c) On the occurrence of a vacancy in the office of a member of the Board, the person appointed to fill the vacant office shall, subject to this Act, hold office for the remainder of the unexpired term of the vacant office.

(d) A person who is of or above the age of sixty-five years shall not be appointed as a member.

30 (e) The Governor may in the case of the illness, suspension or absence of any member appoint a deputy to act in the place of such member during his illness, suspension or absence; and, if a member is appointed to act in the place of the Chairman, the Governor may appoint a deputy to act in the place of that member. The provisions of this Act with respect to the qualifications for appointment as and the method of appointment of a member shall extend and apply to a deputy to be appointed to act in the place of such member.

(f)

Grain Elevators.

(f) A deputy appointed under this subsection shall have the immunities, powers, authorities and duties of the member in whose place he acts.

(g) A deputy appointed under this subsection
5 may be paid such remuneration for his services including such fees and allowances and such travelling expenses as the Governor may determine.

(h) No person shall be concerned to enquire
10 whether or not any occasion has arisen requiring or authorising a deputy so to act and all acts or things done or omitted by the deputy shall be as valid and effectual and shall have the same consequences as if the same had been done or omitted by the member for whom the deputy is acting.

15 (6) The Chairman or any deputy appointed to act in his place shall devote the whole of his time to the duties of his office.

The Chairman shall, by virtue of and while acting in such office, be the Manager of the Board, and a deputy
20 shall, by virtue of and while acting in the place of the Chairman, be the Acting Manager of the Board, but neither the Chairman or such deputy shall on such account be entitled to receive any remuneration additional to that which he is entitled to receive as Chair-
25 man or as such deputy, as the case may be.

(7) (a) Each member shall receive such remuneration, fees, allowances and travelling expenses as the Governor may from time to time determine.

(b) Where by or under any Act provision is
30 made requiring the holder of an office specified therein to devote the whole of his time to the duties of his office or prohibiting him from engaging in employment outside the duties of his office, such provision shall not
35 operate to disqualify him from holding that office and also the office of a member (other than the office of Chairman) under this Act or from accepting and retaining any remuneration, fees or allowances payable to a member under this Act.

(c)

Grain Elevators.

(c) The office of a member (other than the Chairman) shall not for the purposes of the Constitution Act, 1902, or any Act amending that Act, be deemed to be an office or place of profit under the Crown.

- 5 (8) The provisions of the Public Service Act, 1902, or of any Act amending that Act, shall not apply to or in respect of the appointment of a member and a member shall not be subject to any such Act during his term of office.
- 10 (9) A member shall be deemed to have vacated his office—
- (a) if, being the Chairman, he engages during his term of office in any paid employment outside the duties of his office;
- 15 (b) if he becomes bankrupt, compounds with his creditors or makes any assignment of his remuneration, fees, allowances or estate for their benefit;
- 20 (c) if, being the Chairman, he absents himself from duty for a period exceeding fourteen consecutive days except on leave granted by the Minister (which leave the Minister is hereby authorised to grant) unless such absence is occasioned by illness or other unavoidable cause;
- 25 (d) if, being a member other than the Chairman, he is absent from four consecutive ordinary meetings of the Board without leave granted by the Board;
- 30 (e) if he becomes an insane person or patient or an incapable person within the meaning of the Lunacy Act of 1898, as amended by subsequent Acts;
- 35 (f) if he is convicted in New South Wales of a felony or of a misdemeanour which is punishable by imprisonment for twelve months or upwards, or if he is convicted elsewhere than in New South Wales of an offence which if committed in New South Wales would be a felony or misdemeanour which is punishable as aforesaid;

(g)

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- (g) if he becomes directly interested (other than as a wheatgrower) in the business of selling, purchasing or dealing in wheat;
- 5 (h) if he resigns his office by writing under his hand addressed to the Governor;
- (i) if, not being the Chairman, he is removed from office by the Governor.

A member shall be deemed to have vacated his office upon the day upon which he attains the age of sixty-five 10 years.

(10) The Governor may, for any cause which appears to him to be sufficient, remove a member not being the Chairman from office.

15 (11) (a) The Chairman may be suspended from his office by the Governor for misbehaviour or incompetence but shall not be removed from office except as provided in this subsection.

(b) The Minister shall cause to be laid before Parliament a full statement of the grounds of suspension 20 within seven sitting days after such suspension if Parliament is then in session and, if not, then within seven sittings days after the commencement of the next session.

(c) The Chairman suspended under this section shall be restored to office unless each House of Parlia- 25 ment, within twenty-one days from the time when such statement has been laid before such House, declares by resolution that the Chairman ought to be removed from office, and if each House of Parliament within the said time does so declare, the Chairman shall be removed 30 by the Governor accordingly.

8. (1) A person who, at the date of his appointment as Chairman, is an officer of the Public Service and who ceases to be Chairman for any cause whatsoever other- 35 (h) excepted) and eleven of section seven of this Act, shall if he is under the age of sixty years be appointed to some office in the Public Service not lower in classification and salary than that which he held immediately before his appointment as Chairman.

Savings of rights of person appointed Chairman.

Grain Elevators.

(2) (a) Nothing contained in this Act shall affect the rights accrued or accruing under the Public Service Act, 1902, or under the Superannuation Act, 1916-1952, or any Act amending such Acts, to any person appointed
5 as Chairman who is at the time of his appointment or has been at any time previous thereto an officer of the Public Service or an employee within the meaning of the Superannuation Act, 1916-1952, or any amendment thereof.

10 (b) Any officer of the Public Service or any person who is an employee within the meaning of the Superannuation Act, 1916-1952, or any amendment thereof, who is appointed as Chairman shall continue
15 to contribute to any fund or account and shall be entitled to receive any deferred or extended leave and any payment, pension or gratuity as if he were an officer or employee within the meaning of the Public Service Act, 1902, or the Superannuation Act, 1916-1952, as the case may be, or any Act amending such Acts, and for such
20 purpose his service as Chairman shall be deemed to be service for the purpose of such Acts.

9. (1) The Board shall be a body corporate with perpetual succession and a common seal, and may sue or be sued in its corporate name, and shall be capable of
25 purchasing, holding, granting, demising, disposing of or otherwise dealing with real and personal property and of doing and suffering all such acts and things as bodies corporate may by law do and suffer.

Board to be
body
corporate.

(2) The corporate name of the Board shall be "The
30 Grain Elevators Board of New South Wales".

(3) The common seal shall be kept in the custody of the Chairman and shall not be affixed to any instrument except in pursuance of a resolution of the Board.

Any instrument executed in pursuance of any such
35 resolution shall be attested by the signature of any two members.

(4) (a) The procedure for the calling of meetings of the Board and for the conduct of business at such meetings shall be as determined by the Board.

Proceedings
of Board.
Act No. 22,
1950, s. 6.

(b)

Grain Elevators.

(b) Three of the members shall form a quorum and any duly convened meeting at which a quorum is present shall be competent to transact any business of the Board and shall have and may exercise and discharge
5 all the powers, authorities, duties and functions of the Board.

A decision of a majority of the members present at a meeting of the Board shall be the decision of the Board.

10 (c) At any meeting of the Board the Chairman shall preside. In the absence of the Chairman from a meeting the members present may choose one of their number to preside as Chairman of that meeting.

At any meeting of the Board the Chairman or the
15 member presiding as chairman shall have a deliberative vote, and if the voting is equal, a casting vote.

(5) The Board shall cause full and accurate minutes to be kept of its proceedings at formal meetings and submit to the Minister a copy of the minutes of each
20 formal meeting within one week after the date on which such formal meeting is held.

(6) No act or proceeding of the Board shall be invalidated or prejudiced by reason only of the fact that at the time when such act or proceeding was done, taken
25 or commenced, there was a vacancy in the office of a member.

(7) (a) No matter or thing done, and no contract entered into by the Board, and no matter or thing done by any member or by any other person whomsoever acting
30 under the direction of the Board shall, if the matter or thing was done or the contract was entered into bona fide for the purpose of executing this Act, subject them or any of them personally to any action, liability, claim or demand whatsoever.

35 (b) Nothing in this subsection shall exempt any member from liability to be surcharged with the amount of any payment which is disallowed by the Auditor-General in the accounts of the Board and which such member authorised or joined in authorising.

(d) PART

Grain Elevators.

PART III.

VESTING OF GOVERNMENT GRAIN ELEVATORS IN THE BOARD.

10. On and from the commencement of this Act the following provisions shall have effect:—

- Vesting of
property.
cf. Act
No. 22, 1950,
s. 31.
- 5 (a) All control and administration of the Govern-
ment Grain Elevators exercisable by the
Manager of the Government Grain Elevators or
any other person immediately before the com-
mencement of this Act shall be exercisable by the
10 Board under and in accordance with this Act.
- 15 (b) All real and personal property and all right and
interest therein which immediately before the
commencement of this Act is vested in or belongs
to the Crown, or any Minister of the Crown as
constructing authority, or the Commissioner for
Railways, and which immediately before such
commencement is held or used for the purposes
of or in connection with the Government Grain
Elevators shall vest in and belong to the Board.
20 This paragraph shall not apply to stacking
sites and grain sheds for bagged wheat and roll-
ing stock and permanent ways vested in or
belonging to the Commissioner for Railways.
- 25 (c) All moneys liquidated and unliquidated claims
which immediately before the commencement of
this Act are payable to or recoverable by the
Crown in relation to or in connection with the
Government Grain Elevators (other than moneys
liquidated and unliquidated claims so payable by
30 or so recoverable from the Australian Wheat
Board) or which immediately before such
commencement are payable to or recoverable by
any Minister of the Crown as constructing autho-
rity in relation to or in connection with any real
35 or personal property, which is vested in or be-
longs to the Board by virtue of this section, shall
be moneys liquidated and unliquidated claims
payable to or recoverable by the Board.
- (d)

Grain Elevators.

- 5 (d) (i) All suits, actions, and proceedings pending immediately before the commencement of this Act at the suit of the Crown in relation to or in connection with the Government Grain Elevators, shall be respectively suits, actions, and proceedings pending at the suit of the Board.
- 10 (ii) All suits, actions, and proceedings pending immediately before the commencement of this Act at the suit of any Minister of the Crown as constructing authority in relation to or in connection with any real or personal property or any right or interest therein which is vested in or belongs to the Board by virtue of this section shall be respectively suits, actions, and proceedings pending at the suit of the Board.
- 15 (e) (i) All contracts, agreements and undertakings entered into with, and all securities lawfully given to or by the Crown in relation to or in connection with the Government Grain Elevators and in force immediately before the commencement of this Act shall be deemed to be contracts, agreements and undertakings entered into with and securities given to or by the Board.
- 20 This sub-paragraph shall not relieve the Crown from any liability under any agreement between the Crown and the Australian Wheat Board whereby the Crown has undertaken to make sites for wheat storage available to the Australian Wheat Board.
- 25 (ii) All contracts, agreements and undertakings entered into with and all securities given to or by any Minister of the Crown as constructing authority in relation to or in connection with any real or personal property which is vested in or belongs to the Board by virtue of this section and in force immediately before the commencement
- 30 of:
- 35
- 40

Grain Elevators.

- of this Act shall be deemed to be contracts, agreements and undertakings entered into with and securities given to or by the Board.
- 5 (f) The Board may pursue the same remedies for the recovery of any such moneys and claims and for the prosecution of such suits, actions, and proceedings as the Crown or a Minister, as the case may be, might have done but for this Act.
- 10 (g) The Board may enforce and realise any security or charge existing immediately before the commencement of this Act in favour of the Crown or any Minister of the Crown as constructing authority, as the case may be, in respect of any
- 15 such moneys or claims as if the security or charge were existing in favour of the Board.
- (h) (i) All debts due and moneys payable by the Crown in relation to or in connection with the Government Grain Elevators and all claims liquidated or unliquidated recoverable against the Crown in relation to or in connection with the Government Grain Elevators shall be debts due, moneys payable by and claims recoverable against the
- 20 Board.
- 25 (ii) All debts due and moneys payable by any Minister of the Crown as constructing authority in relation to or in connection with any real or personal property or any right or interest therein which is vested in or belongs to the Board by virtue of this section, and all claims liquidated or unliquidated in relation to or in connection with
- 30 any such real or personal property or right or interest therein shall be debts due, moneys payable by and claims recoverable against the Board.
- 35 (i) No attornment by a lessee of any land vested in the Board by this section shall be necessary.

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11. (1) As soon as practicable after the commencement of this Act the Committee of Review constituted under section thirty-one of this Act shall cause to be notified in the Gazette the amount of liability to the Treasurer which shall be assumed by the Board in relation to or in connection with any real or personal property which is vested in or belongs to the Board by virtue of section ten of this Act and the amount thereof which shall bear interest.

Liability of Board to Treasurer. cf. Act No. 22, 1950, s. 32.

10 (2) The liability assumed by the Board pursuant to subsection one of this section shall as from the commencement of this Act become and be part of the loan liability to the Treasurer as defined in section thirty of this Act.

15 PART IV.
POWERS, AUTHORITIES, DUTIES AND FUNCTIONS OF THE BOARD.

12. The Board may, subject to and in accordance with this Act and the regulations—

General powers of Board.

- 20 (a) undertake the storage and handling of wheat;
(b) maintain and operate and where necessary improve and extend all elevators and other works for or in relation to the storage and handling of wheat for the time being vested in it, and construct any new, additional or supplementary elevators and other works for or in relation to the storage and handling of wheat.

Ibid. s. 9.

13. The Board may act as an agent of the Australian Wheat Board in relation to any matter.

Board may be agent of Australian Wheat Board.

30 14. (1) There shall be issued for wheat received by the Board for storage a warrant in the prescribed form.

Warrants. cf. Act No. 6, 1927, s. 11.

(2) Such warrants shall be consecutively numbered and two warrants bearing the same number shall not be issued during the period in which the wheat harvest of any season is being delivered.

15.

Grain Elevators.

15. The Board shall not deliver wheat from its charge unless there shall have been delivered to the Board—

Delivery by
the Board.
cf. Act No.
6, 1927,
s. 12.

- (a) a warrant representing the same quantity of wheat of the same description or quality; and
- 5** (b) instructions in the prescribed form by the person delivering the warrant as to the disposal of such wheat;
- and unless all fees, freight and other charges due in connection therewith have been paid.

10 **16.** (1) Notwithstanding anything contained in this Act or the regulations the Board may enter into such undertakings or agreements as it thinks fit with respect to the delivery of wheat pursuant to any warrant issued by it. Such undertakings or agreements may contain

15 provisions additional to, in variation of or in substitution for those contained in section fifteen of this Act and shall be endorsed upon the warrant.

Special
warrants.

(2) The Board shall not deliver wheat from its charge pursuant to any warrant endorsed with undertakings or agreements as provided in subsection one of this section otherwise than in accordance with such undertakings or agreements.

17. Warrants shall after endorsement by the person to whom they were issued be transferable by delivery.

Warrants
negotiable.
Ibid. s. 13.

25 **18.** No action for damages for conversion or for detention of any wheat shall be brought against the Board or any of its servants by any person claiming to be entitled to any mortgage, charge, lien (including any lien on crops under the Liens on Crops and Wool and

30 Stock Mortgages Act, 1898), or any other encumbrance whatsoever of, upon or over such wheat or any crop from which such wheat was harvested.

Protection
against
actions, etc.
Ibid. s. 14.

19. (1) After the delivery of any wheat in respect of which a warrant has been produced as provided in section fifteen of this Act the Government and the Board shall not be answerable to any other person claiming to be the owner of such wheat or of any interest therein.

Indemnity.
Ibid. s. 15.

(2)

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(2) The Board shall not be responsible for—

5 (a) any loss of or damage to wheat in its charge arising from irresistible force, the act of God or the Queen's enemies, strikes, lock-outs, or any other cause beyond its control; or

(b) any loss which may be sustained by reason of the short supply or non-supply of railway trucks to the Board for the purpose of moving wheat under the instructions of the owner of the wheat.

10 (3) Where wheat in the charge of the Board is destroyed or damaged by any of the causes referred to in paragraph (a) of subsection two of this section all persons at the time of the loss entitled to delivery of wheat under warrants shall bear the loss in a propor-
15 tion to be fixed by the Board approximating as nearly as can be calculated by it to the proportion that the wheat which such persons are entitled by the warrants to receive bears to the total stocks of wheat then in the charge of the Board, and the amount of wheat deliverable
20 on warrants then in force shall be reduced accordingly.

(4) Where from any cause for which the Board is responsible loss of or damage to wheat occurs, the liability of the Board shall be limited to the market value of the wheat at the time of the loss or damage.

25 (5) Where the Board is unable from any cause for which it is responsible to deliver wheat in the quantity and of the quality mentioned in a warrant or in accordance with any agreement or undertaking endorsed thereon, the Board may pay to the owner of the warrant
30 the amount of the market value of the wheat mentioned in the warrant as at the date on which delivery was sought, but so that the amount shall not exceed the market value on the fifteenth day of November following the harvest during which the wheat was delivered,
35 and the Board shall not be responsible to any further extent for any damages, loss, costs, charges, or expenses resulting from its failure to so deliver the wheat.

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20. (1) The Board, subject to the approval of the Minister, may enter into any agreement it thinks fit with the Australian Wheat Board as to the terms and conditions upon which it shall receive wheat on behalf of the Australian Wheat Board.

Wheat received on behalf of Australian Wheat Board.

(2) Any such agreement shall have force and effect notwithstanding anything contained in this Act or the regulations.

21. It shall be lawful for the Board to demand, collect, sue for and receive, in respect and for the use of any property of the Board or any service performed or thing done by it, such dues, rates, fees and charges as may be prescribed or as may otherwise be agreed upon between the parties.

Board may make charges. cf. Act No. 69, 1915, s. 15.

15 Nothing in this section shall affect the operation of the provisions of the Wheat Marketing Act, 1948-1954, with respect to the remuneration payable to the Board thereunder as a licensed receiver.

22. The provisions of Part III of the Public Works Act, 1912, as amended by subsequent Acts, shall not extend to any works constructed or proposed to be constructed by the Board.

Public Works Act, 1912—Part III excluded. Act No. 22, 1950, s. 10.

23. (1) The Board may subject to this Act make and enter into contracts or agreements with any person for the performance of services, or for the supply of goods, machinery or material in connection with the exercise or discharge by the Board of its powers, authorities, duties and functions.

Contracts. *Ibid.* s. 11.

30 (2) All persons contracting with the Board (other than as wheatgrowers) shall be deemed for the purposes of the Constitution Act, 1902, to be public contractors.

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(3) Any contract or agreement authorised by this or any other section of this Act shall be in the name of the Board and may be made as follows, that is to say—

5 with respect to any contract which, if made between private persons, would be by law required to be in writing and signed by the parties to be charged therewith or in writing and under seal the Board may make such contract in writing and under their common seal and in the same manner may vary
10 or discharge the same;

15 with respect to any contract which, if made between private persons, would by law be valid although made by parol only and not reduced into writing the Chairman may make such contract by parol only without writing and in the same manner may vary or discharge the same.

24. (1) The Board may for the purposes of this Act acquire land by lease, purchase, appropriation or resumption in accordance with the provisions of this section. Acquisition of land. Act No. 22, 1950, ss. 14, 15, 16 & 17.

20 In this section "land" means either land in fee simple or any easement, right or privilege in, over, or affecting land.

(2) Where the Board proposes to acquire land for any purpose it may also acquire other land adjoining
25 or in the vicinity of such land.

(3) Where the Board proposes to acquire land, including land previously appropriated or resumed for any purpose, by appropriation or resumption it may apply to the Governor through the Minister.

30 (4) The Board shall make provision to the satisfaction of the Governor for payment of compensation for the land, together with interest and all necessary charges and expenses incidental to the appropriation or resumption.

35 (5) The Governor may authorise the appropriation or the resumption of the land.

(6)

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(6) Thereupon the Governor may—

(a) appropriate or resume the land by Gazette notification under Division 1 of Part V of the Public Works Act, 1912; and

5 (b) notify that the land is vested in the Board.

(7) Thereupon the land shall vest in the Board.

(8) For the purposes of the Public Works Act, 1912, such appropriation or resumption shall be deemed to be for the purpose of carrying out an authorised
10 work within the meaning of that Act.

(9) Where land is vested in the Board under this section the Board may notwithstanding anything contained in any other Act but subject to the provisions of subsection ten of this section sell, lease, exchange or
15 otherwise deal with or dispose of such land.

(10) The Board shall not sell, lease, exchange or otherwise deal with or dispose of land acquired by it under this section or vested in it by or under the provisions of this Act except with the approval of the Minister
20 and subject to such terms and conditions as the Minister may attach to his approval.

25. The Board may, with the approval of the Minister of the Department concerned, make use of the services of any officer or employee of the Public Service.

Use of services of officers, etc.
Act No. 22, 1950, s. 58.

25 26. (1) Any officer or employee of the Public Service who is appointed to the service of the Board shall retain any rights which have accrued or are accruing to him as an officer or employee of the Public Service or as an employee within the meaning of the Superannuation Act,
30 1916, or any amendment thereof, and shall continue to contribute to any fund or account and shall be entitled to receive any deferred or extended leave and any payment, pension or gratuity as if he had continued to be an officer or employee of the Public Service or an
35 employee within the meaning of the Superannuation Act, 1916, as amended by subsequent Acts, as the case may be. And for the purposes of this subsection his service
with

Saving of rights of public servants appointed to Board.
cf. *Ibid.* s. 63.

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with the Board shall be deemed to be service for the purposes of the said Act, and of the Public Service Act, 1902, as amended by subsequent Acts.

(2) Any officer or employee of the Public Service
5 so appointed shall not be entitled to claim benefits under this Act as well as under any other Act in respect of the same period of service.

27. (1) The Board shall appoint and employ such
10 servants as may be necessary for carrying out the provisions of this Act.

Appointment
of servants.
cf. Act
No. 22, 1950,
s. 64.

(2) Subject to the provisions of this Act every servant of the Board shall continue in the service of the Board at the will of the Board only.

(3) All servants of the Board shall be subject to
15 the sole control and governance of the Board which may, subject to this Act, fix wages and conditions of employment where such wages and conditions are not fixed in accordance with the provisions of any other Act.

28. The Crown Employees Appeal Board Act, 1944-
20 1953, is amended by inserting at the end of the Second Schedule the words "The Grain Elevators Board of New South Wales".

Amendment
of Act No.
15, 1944.
Second Sch.
(Employing
Authorities.)

29. (1) Any member of the Board or any servant
of the Board who without lawful authority demands or
25 receives from any person any payment, gratuity or present in consideration of doing or omitting to do any act or thing pertaining to his office or employment under this Act shall be liable upon summary conviction to a penalty not exceeding one hundred pounds or to imprison-
30 ment for a term not exceeding two years.

Offences by
members or
servants of
Board.
cf. Act No.
69, 1915,
s. 18c.

(2) Any person who without lawful authority offers, makes or gives to a member of the Board or any servant of the Board, any payment, gratuity or present in consideration that such member or servant will do
35 or omit to do some act or thing pertaining to his office or employment, shall be liable upon summary conviction to a penalty not exceeding one hundred pounds or to imprisonment for a term not exceeding two years.

PART

Grain Elevators.

PART V.

FINANCE.

DIVISION 1.—*Loan Liability of the Board to the Treasurer.*

5 **30.** For the purposes of this Act the loan liability of the Board to the Treasurer on behalf of the State (in this Act referred to as "the loan liability to the Treasurer") shall comprise—

Loan liability to the Treasurer.
Act No. 22, 1950, s. 35.

- 10 (a) any liability to the Treasurer assumed by the Board pursuant to section eleven of this Act;
- (b) any moneys appropriated from the General Loan Account and provided from time to time by the Treasurer for the Board.

15 **31.** (1) (a) There shall be constituted a committee (in this Act referred to as "the Committee of Review") which shall have the functions and duties prescribed by this Act.

Loan liability. Committee of Review.
Ibid. s. 36.

20 (b) The Committee of Review shall consist of the persons for the time being holding the following offices, that is to say, the Auditor-General, the Chairman of the Board and the Under Secretary to the Treasury, each of whom may appoint in writing a representative to act on his behalf.

25 (c) The Auditor-General, or his representative so appointed, shall be the chairman of the Committee of Review.

(2) The functions of the Committee of Review shall be—

- 30 (a) to determine the amount of liability to be assumed by the Board pursuant to section eleven of this Act;
- 35 (b) to determine how the expense of meeting payments on account of leave or upon retirement or death of an officer or employee of the Public Service appointed to the service of the Board should be apportioned between the Treasurer and the Board;

(c)

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(c) to certify to the Governor, as soon as practicable after the close of each financial year—

- 5 (i) the amount of the loan liability to the Treasurer at the close of such financial year, having regard to moneys appropriated from the General Loan Account and provided for the Board during that financial year, the amount of any liability assumed by the Board pursuant to section eleven of this Act during that financial year and to any repayment by the Board during that financial year in respect of the loan liability to the Treasurer;
- 10
- 15 (ii) the amount (if any) which should be added to or deducted from that part of the loan liability to the Treasurer which does not bear interest.

20 **32.** (1) In respect of the loan liability of the Board to the Treasurer as determined in accordance with section thirty-one of this Act the Board shall pay to the Treasurer such amounts for interest, exchange, sinking fund contributions and other charges as the Treasurer may from time to time determine:

Payment of interest and sinking fund charges.

Act No. 22, 1950, s. 37.

25 Provided that the amounts so determined in any year shall, unless the Treasurer otherwise directs, be the amounts chargeable in that year.

30 (2) The amounts determined by the Treasurer under subsection one of this section shall not exceed the amounts which the Treasurer calculates as being as nearly as practicable sufficient to recoup the State for interest, exchange, sinking fund contributions and other charges payable by the State in respect of the loan liability of the Board to the Treasurer.

35 (3) Payments by the Board in accordance with the provisions of subsection one of this section shall be made in such amounts and at such times as the Treasurer may from time to time direct.

DIVISION

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DIVISION 2.—*Loans.*

33. (1) For the temporary accommodation of the Board it may obtain advances by overdraft of current account in any bank or banks upon the credit of the Board's funds to such extent as may from time to time be approved by the Governor.

Temporary accommodation.
Act No. 22,
1950, s. 38.

(2) The Treasurer may advance such moneys to the Board as the Governor may approve upon such terms and conditions as to repayment and interest as may be agreed upon.

(3) The Board may subject to the conditions and upon the terms prescribed receive money on deposit at short call or on fixed deposit.

34. The Board may from time to time with the approval of the Governor borrow money—

Purposes for which money may be borrowed.
cf. *Ibid.*
s. 39.

- (a) for the improvement or extension of existing works or the construction or acquisition of additional or supplementary works for or in relation to the storage and handling of wheat;
- (b) for the renewal of loans;
- (c) for the discharge or partial discharge of any indebtedness to the Treasurer or to any bank; or
- (d) otherwise for the purposes of this Act.

35. Loans to the Board shall be deemed to be secured upon the income of the Board from whatever source arising.

Security for loans.
Ibid. s. 40.

36. (1) The Board shall establish a reserve fund for loan repayment in respect of each loan or renewal loan raised by the Board.

Reserves for repayment.
cf. *Ibid.*
s. 41.

(2) The Board shall during each year transfer to such fund from the revenue of the Board a sum not less than the Board in its application for approval of the loan intimated that it proposed to set apart as aforesaid.

(3)

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(3) Moneys held as reserve for loan repayment may be invested in government securities of the Commonwealth of Australia or of the State of New South Wales, or in debentures or inscribed stock in any loan of the
5 Board, or in any securities guaranteed by the Government of the said State or in debentures or securities issued by the Sydney County Council or the Sydney City Council, or in such other securities as the Governor may approve or as may be prescribed in each case at their
10 current market price. Any interest or profits realised on such investments shall be added to and form part of the reserve for loan repayment. All moneys paid into the reserve fund for loan repayment in respect of any
15 loan or renewal loan may be applied in or towards repayment of any other loan or renewal loan but may not be applied for any other purpose until the loan or renewal loan in respect of which the fund has been established has been repaid.

(4) Where the Board decides to cancel debentures and inscribed stock of the Board purchased from
20 the reserve for repayment of the loan for which they were issued, then, in addition to the sums otherwise payable to the reserve for loan repayment in respect of that loan, the Board shall, subject to any agreement
25 to which it is a party whereby it undertakes to pay interest at a higher rate to such reserve, pay to such reserve interest at the rate of four and one-half per centum per annum on the face value of the cancelled securities from the date of their cancellation until the
30 maturity of the loan.

(5) This section shall not apply to any loan to be repaid by instalments at intervals of one year or less.

37. (1) For securing repayment of the principal and
35 interest on any money borrowed the Board may as provided by the regulations issue debentures, inscribed stock or other prescribed securities.

Debentures,
etc.
Act No. 22,
1950, s. 42.

(2)

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(2) Every such debenture and every coupon originally annexed to the debenture and whether separated therefrom or not shall be transferable by simple delivery.

5 (3) Inscribed stock shall be transferable in the books of the Board in accordance with the regulations.

(4) Debentures or inscribed stock issued under this Act shall both as regards the issue and transfer thereof for full consideration or money or money's worth
10 be deemed to be included in the general exemptions from stamp duty under Part III of the Stamp Duties Act, 1920-1954, contained in the Second Schedule to that Act. The regulations may provide for the exemption from stamp duty of any other prescribed security.

15 (5) The holder of a coupon originally annexed to a debenture and whether separated therefrom or not shall be entitled to receive payment from the Board of the interest mentioned in the coupon upon the presentation of the same on or after the date when and at the place
20 where the interest is payable.

(6) The due repayment of the debentures and stock and the interest thereon and of any loan in respect of which any other prescribed security is issued and the interest thereon shall be a charge upon the income
25 and revenue of the Board and is hereby guaranteed by the Government. Any liability arising from such guarantee shall be payable out of moneys provided by Parliament. Such charge shall not prejudice or affect the power of the Board to sell or convey any property
30 vested in it free of any such charge.

38. (1) Notwithstanding anything contained in this Division of this Part any money which the Board is authorised to borrow may be borrowed by a loan raised wholly or in part in such country as the Governor may
35 approve, and may be negotiated and raised in any currency.

Raising
loan in
any country.
Act No. 22,
1950, ss. 43
and 43A.

(2)

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(2) Any such loan may be raised wholly or in part by the issue of debentures, bonds, stock or other securities in any form and containing any term, condition or provision permitted under the law of the place where
5 such loan is raised and the Board may establish and conduct in such country registries relating to the securities issued in respect of such loan.

(3) The Board may in respect of any such loan agree that a sinking fund shall be established and
10 controlled at such place, by such person and in such manner as may be found necessary or expedient in the circumstances of the case, and where any such sinking fund is so established the provisions of section thirty-six of this Act shall apply with regard to that loan only
15 in respect of the amount, if any, the repayment of which is not provided for by the sinking fund established under the agreement.

(4) In connection with the raising of any loan under this section, the Board may enter into such agree-
20 ments as the Board shall think fit with respect to the form of such debentures, bonds, stock or other securities, or for the sale of such debentures, bonds, stock or other securities, or the granting of an option to purchase such debentures, bonds, stock or other securities, or for ser-
25 vices to be performed by any person in Australia or in any other part of the world in connection with such loan or with the issue, management, and redemption of or otherwise with respect to such debentures, bonds, stock or other securities, and such agreements may be upon
30 such terms and conditions and may contain such provisions for the giving or receipt of consideration as the Board shall think fit.

Copies of any such agreement shall be forwarded to the Minister who shall cause the same to be laid before
35 both Houses of Parliament as soon as possible after the loan is raised.

(5) The Governor may upon the recommendation of the Board appoint two or more persons to enter into for and on behalf of the Board all such agreements as
the

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the Board is by this section authorised to enter into and to sign, execute, or otherwise perfect all such agreements, debentures, bonds, stock or other securities as are by this section provided for and to do all such things
5 as may be necessary or convenient to be done for the purpose of raising any loan under this Act, and may upon the like recommendation revoke or vary any such appointment and make any fresh appointment.

The production of a copy of the Gazette containing a
10 notification of any such appointment or revocation as aforesaid shall in favour of a lender or of any holder of a security be conclusive evidence of the appointment or revocation.

(6) All debentures, bonds, stock or other
15 securities bearing the signatures of such persons so appointed in that behalf shall be deemed to be securities lawfully issued under seal by the Board and the principal moneys and interest secured thereby shall be deemed to be a charge upon the income and revenue of the Board
20 from whatsoever source arising, and the due repayment of such principal moneys and interest is hereby guaranteed by the Government, and all agreements and any instruments purporting to be made or issued under the authority of this section and bearing the signatures
25 of such persons shall be deemed to have been lawfully made or issued by the Board, and if the same shall purport to have been sealed by such persons to have been lawfully executed by the Board under seal.

A holder of any such debenture, bond, stock or other
30 security shall not be bound to enquire whether the issue of such security was in fact duly authorised.

(7) Subject to this section and the law in force in the place where any loan is raised under this section and applicable to such loan and the securities issued in
35 connection therewith the provisions of this Division of this Part other than subsection one of section thirty-seven and subsections three and four of section forty of this Act shall apply, mutatis mutandis, to and in respect of such loan and such securities.

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39. (1) Any trustee unless expressly forbidden by the instrument (if any) creating the trust, may invest any trust moneys in his hands in stock inscribed by the Board, and the investment shall be deemed to be an investment authorised by the Trustee Act, 1925, or any Act amending or replacing that Act.

Trustees.
Act No. 22,
1950, s. 44.

(2) Any debenture issued or stock inscribed by the Board shall be a lawful investment for any moneys which any company, council, or body corporate incorporated by any Act of Parliament of New South Wales is authorised or directed to invest in addition to any other investment expressly provided for the investment of such moneys.

(3) No notice of any trust expressed, implied or constructive, shall be received by the Board or by any servant of the Board in relation to any debenture or coupon issued or stock inscribed by the Board.

40. (1) If any debenture issued by the Board is lost or destroyed or defaced before the same has been paid, the Board may, subject to the provisions of this section, issue a new debenture in lieu thereof.

Lost
debentures.
Ibid. s. 45.

(2) The new debenture with interest coupon annexed shall bear the same date, number, principal sum, and rate of interest as the lost, destroyed, or defaced debenture.

(3) When the debenture is lost or destroyed the new debenture shall not be issued unless and until—

- (a) a judge of the Supreme Court has been satisfied by affidavit of the person entitled to the lost or destroyed debenture, or of some person approved by the judge, that the same has been lost or destroyed before it has been paid off;
- (b) such advertisement as the judge may direct has been published;
- (c) six months have elapsed since the publication of the last of the advertisements; and
- (d) sufficient security has been given to the Board to indemnify it against any double payment if the

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the missing debenture be at any time thereafter presented for payment.

(4) When the debenture is defaced the new debenture shall not be issued unless and until the defaced debenture is lodged with the Board for cancellation.

(5) The provisions of this section shall, mutatis mutandis, extend to the case of a lost, destroyed, or defaced coupon.

(6) In case of the loss, theft, destruction, mutilation, or defacement of any debenture or bond issued under section thirty-eight of this Act, a duplicate or new debenture or bond may be issued upon proof to the satisfaction of the Board of such loss, theft or destruction, or upon surrender of the mutilated or defaced debenture or bond, as the case may be, and upon the Board receiving security or indemnity satisfactory to it against double payment if the missing debenture or bond be at any time thereafter presented for payment.

41. (1) If for six months default is made by the Board in making any payment whether of principal or interest, to the holder of any debenture, or coupon, issued or stock inscribed by the Board, the holder thereof may apply to the Supreme Court in its equitable jurisdiction, in accordance with rules of court, for the appointment of a receiver of the income of the Board.

Receivers.
Act No. 22,
1950, s. 46.

(2) A receiver may be appointed in respect of the income of the Board either generally or as regards specified income.

(3) The Court may make such orders and give such directions as it may deem proper for and with respect to—

- (a) the appointment of a receiver;
- (b) the removal of a receiver;
- (c) the appointment of a receiver in place of a receiver previously appointed.

(4) The receiver shall be deemed to be an officer of the Court, and shall act under its directions.

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42. (1) A receiver shall have power to collect all income payable to the Board which he has by order of the Court been so authorised to collect and for the purposes of this subsection the receiver shall be deemed to be the Board and may exercise all the powers of the Board.
- Powers and duties of receivers. Act No.22, 1950, s. 47.
- (2) The receiver shall discharge such duties of the Board or of any servants of the Board as may be prescribed.
- 10 43. The receiver shall be entitled to such commission or remuneration for his services as the Court may order, and the commission or remuneration shall be payable out of the income for and in respect of which he has been appointed receiver.
- Commission to receiver. *Ibid.* s. 48.
- 15 44. The receiver shall, subject to any order of the Court, pay and apply all moneys received by him in the following order, that is to say—
- Application of money received. *Ibid.* s. 49.
- 20 (a) firstly, in the payment of the costs, charges, and expenses of collection, and of his commission or remuneration;
- (b) secondly, in the payment of the amount due and payable to the holder of the debenture or inscribed stock or coupon, as the case may be;
- 25 (c) thirdly, in payment of all the residue of the moneys to the Board.
45. (1) A person advancing money to the Board shall not be bound to enquire into the application of the money advanced, or be in any way responsible for the non-application or misapplication thereof.
- Protection of investments. *Ibid.* s. 50.
- 30 (2) A notification in the Gazette of the approval of the Governor having been given to a borrowing by the Board shall, in favour of a lender and of any holder of a security given by the Board, be conclusive evidence that all conditions precedent to the borrowing have been
- 35 complied with, and where the approval notified is to the borrowing by the Board in a country outside New South Wales

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Wales and in a particular currency shall also be conclusive evidence in favour of such persons of the approval of the Governor to the borrowing in the country and in the currency specified in the notification.

5 **46.** All debentures, bonds, or other securities which are secured upon the income and revenue of the Board shall rank pari passu without any preference one above another by reason of priority of date or otherwise.

Debentures and bonds to rank pari passu.
Act No. 22, 1950, s. 51.

10 **47.** If the Board borrows any money without having first obtained the approval of the Governor, each member holding office who has, knowingly and wilfully or for personal benefit or advantage, consented to the borrowing shall be liable to a penalty of five hundred pounds.

Penalty for illegal borrowing.
Ibid. s. 52.

The action to recover the penalty shall not be taken without the written consent of the Attorney-General.

DIVISION 3.—*Accounts and Audit.*

20 **48.** (1) The Board shall cause proper books of account to be kept and shall as soon as practicable after the end of each financial year of the Board prepare and transmit to the Minister for presentation to Parliament a report of its operations during such year and balance-sheets and statements of accounts setting forth a true statement of the financial position and the transactions of the Board for such year.

Accounts to be kept.
cf. Act No. 69, 1915, s. 18D.

25 (2) Each such balance-sheet and statement—

- (a) shall include a profit and loss account and a statement of the assets and liabilities of the Board and shall be in a form approved by the Auditor-General; and
- 30 (b) shall be audited and reported upon by the Auditor-General, who shall have in respect of the accounts of the Board all the powers conferred on the Auditor-General by any law now or hereafter to be in force relating to the audit of public accounts, as well as all powers
- 35 conferred by this Act.

(3)

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(3) The Audit Act, 1902-1953, (section twenty-five excepted), shall apply to the Board and its servants in the same manner as it applies to accounting officers of public departments.

5 (4) Without limiting the generality of the powers conferred by subsection two of this section, the Auditor-General may disallow any expenditure or entry in the books of the Board which he considers has been wrongly, irregularly or dishonestly made.

10 (5) Any sum so disallowed shall be a surcharge upon and may be recovered or deducted from moneys due to the servants by whom the expenditure was incurred or ordered to be incurred or by whom the entry was made or ordered to be made, but such servants shall have
15 the same right of appeal against such surcharge as is prescribed under the Audit Act, 1902-1953.

(6) The Board shall produce for inspection to any person duly authorised in writing by the Minister any or all of its books, accounts, agreements, vouchers, letters
20 or other documents.

(7) The Board shall in each year pay into the Treasury such sum as is fixed by the Treasurer towards the cost of the audit of the accounts of the Board by the Auditor-General.

25 **49.** Subject to any provision made by or under this Act the Board shall cause expenditure to be charged against income and capital as nearly as may be in accordance with commercial principles.

Charging
expenditure
generally.
Act No. 22,
1950, s. 54.

PART VI.

MISCELLANEOUS.

30 **50.** All courts and persons having by law or consent of parties authority to hear, receive and examine evidence—

Judicial
notice of
seal of the
Board.

35 (a) shall take judicial notice of the seal of the Board affixed to any documents; and

Ibid. s. 91.

(b)

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(b) shall until the contrary be proved presume that such seal was properly affixed thereto.

51. Any notice, summons, writ or other proceeding required to be served on the Board may be served by being left at the office of the Board, or, in the case of a notice, by post.

Service of
notice of
proceedings
on the Board.
Act No. 22,
1950, s. 92.

52. Every summons, process, demand, order, notice, statement, direction or document requiring authentication by the Board may be sufficiently authenticated without the seal of the Board if signed by the Chairman.

Documents.
How authenticated.
Ibid. s. 93.

53. (1) All proceedings for offences against this Act or the regulations shall be disposed of summarily before a court of petty sessions.

Penalties
and
recovery of
charges, etc.
Ibid. s. 96.

(2) Any charge, fee, remuneration or money due to the Board under the provisions of this Act or any regulations may be recovered as a debt in a court of competent jurisdiction.

(3) Proceedings for the recovery of any charge, fee, remuneration or money so due to the Board shall be deemed to be for the recovery of a debt or liquidated demand within the meaning of—

- (a) section twenty-four of the Common Law Procedure Act, 1899;
- (b) section sixty-four of the District Courts Act, 1912-1953;
- (c) section twenty-five of the Small Debts Recovery Act, 1912-1933.

54. In any legal proceedings by or against the Board no proof shall be required (until evidence is given to the contrary) of—

No proof
of certain
matters
required.
Ibid. s. 97.

- (a) the constitution of the Board;
- (b) any resolution of the Board;
- (c) the appointment of any member or any servant of the Board;

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(d)

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(d) the presence of a quorum at any meeting at which any determination is made or any act is done by the Board.

- 55.** (1) The Board may from time to time by resolution delegate such of the authorities, powers, duties or functions of the Board (other than this power of delegation) as may be prescribed and as are specified in the resolution—
- (a) to any member;
- 10 (b) to any servant of the Board;
- (c) to any officer, servant or employee of whose services the Board makes use pursuant to this or any other Act.
- (2) Any such delegation may be made either
- 15 generally or for any particular case or class of cases.
- (3) Any person when acting within the scope of any such delegation to him shall be deemed to be the Board.
- (4) Any instrument necessary to be executed and
- 20 any notice, order, summons or other like document requiring authentication for the purpose of the exercise or discharge of any power, authority, duty or function delegated to any person under this section shall be
- 25 sufficiently executed or authenticated as the case may be if signed by such person in such a way as to show that he does so under and in pursuance of the delegation.
- (5) The Board may by resolution revoke such delegation.

Delegation.
Act No. 22,
1950, s. 99.

- 56.** (1) A writ or other process in respect of any
- 30 damage or injury to person or property shall not be sued out or served upon the Board or any member, or any servant of the Board or any person acting in his aid for anything done or intended to be done or omitted to be done under this Act, until the expiration of one
- 35 month after notice in writing has been served on the Board or member, servant or person as provided in this section.

Notice of
action.
Ibid. s. 100.

(2)

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(2) The notice shall state—

- (a) the cause of action;
- (b) the time and place at which the damage or injury was sustained; and
- 5 (c) the name and place of abode or business of the intended plaintiff and of his attorney, if any, in the case.

(3) In the case of damage to property, any person who produces on demand his authority from the Board shall be permitted to inspect the property damaged, and all facilities and information necessary to ascertain fully the value of the property damaged, the nature and extent of the damage, and the amount of money, if any, expended in repairing the same shall be given to him.

Representative of the Board to be permitted to inspect property injured.

15 (4) At the trial of any such action the plaintiff shall not be permitted to go into evidence of any cause of action that is not stated in the notice, and unless the notice has been served the plaintiff shall not be entitled to maintain the action:

20 Provided that at any stage of the proceedings the court or any judge of the court in which the action is pending may, if the court or judge deems it to be just or reasonable in the circumstances so to do—

- 25 (a) amend any defect in the notice on such terms and conditions, if any, as the court or judge may fix;
- (b) direct that any non-compliance or insufficient compliance with this section shall not be a bar to the maintenance of the action.

30 (5) Every such action shall be commenced within the period of twelve months next after the occurring of the cause of action. Such period is in this subsection referred to as the "prescribed period":

Provided that where an application is made to a judge of the Supreme Court in accordance with rules of court for an extension of the prescribed period the judge may, if he is satisfied that sufficient cause has been shown,

or

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or that having regard to all the circumstances of the case, it would be reasonable so to do, make an order for extension of the prescribed period for such further period and subject to such terms and conditions, if any, as
5 may be set out in the order.

Such application for extension may be made either within the prescribed period or at any time within twelve months thereafter.

Any person who is dissatisfied with the decision of
10 the judge on any such application may appeal to the Supreme Court and that Court may on the appeal make any order which ought to have been made in the first instance.

Every such appeal shall be made in accordance with
15 rules of court.

(6) The Board, or any member, servant or person to whom any such notice of action is given as aforesaid, may tender amends to the plaintiff, his attorney or agent at any time within one month after service of notice
20 of action, and in case the same is not accepted may plead the tender in bar.

(7) The defendant in every such action may plead the general issue and at the trial thereof give this Act and the special matter in evidence.

25 **57.** (1) The Governor may make regulations, not Regulations. inconsistent with this Act, for and with respect to—

- (a) the receipt, storage, insurance, handling and delivery of wheat by the Board;
- 30 (b) the operation, management, control and maintenance of elevators and other works under the control of the Board which are used for the storage and handling of wheat;
- (c) prescribing qualities of wheat for the purposes of this Act;
- 35 (d) the conditions under which wheat shall be received by the Board for storage and warrants issued;

(e)

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- (e) the inspection or weighing of wheat received or delivered by the Board;
- (f) the forms of warrants and instructions as to the disposal of wheat delivered by the Board;
- 5 (g) the method of issuing and the form of duplicate warrants issued in lieu of warrants which are alleged to have been defaced, destroyed or lost and the security to be taken before any such issue;
- 10 (h) the conditions under which one warrant may be issued in place of two or more warrants and under which two or more warrants may be issued in place of one;
- 15 (i) the method of providing for shortages of stocks of wheat under the control of the Board and of disposing of surpluses of wheat held by the Board;
- 20 (j) the dues, rates, fees or charges or the remuneration payable for receiving, storing, insuring, weighing, drying, cleaning and delivering wheat and for other services rendered or things done by the Board in connection with the handling of wheat;
- 25 (k) securities other than debentures or inscribed stock which may be issued by the Board for securing repayment of principal and interest on any money borrowed by the Board;
- 30 (l) the control and governance of servants by the Board and any other matter or thing necessary or convenient to ensure the maintenance of discipline and efficiency in the service of the Board;
- 35 (m) the prescription of all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

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(2) Any regulation made under this Act may impose a penalty not exceeding fifty pounds for any breach thereof.

(3) The regulations shall—

- 5 (a) be published in the Gazette;
- (b) take effect from the date of publication or from a later date to be specified in the regulations;
- 10 (c) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is then in session, and if not, then within fourteen sitting days after the commencement of the next session.

(4) If either House of Parliament passes a resolution of which notice has been given within fifteen sitting days after such regulations have been laid before such House disallowing any regulation or part thereof, such regulation or part shall thereupon cease to have effect.