

SOIL CONSERVATION (AMENDMENT) BILL, 1980

EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The objects of this Bill are to amend the Soil Conservation Act, 1938 ("the Act")—

- (a) to incorporate the Commissioner of the Soil Conservation Service of New South Wales as a corporation sole with the corporate name "Soil Conservation Commission of New South Wales" (Schedule 1 (2)—proposed section 4B);
 - (b) to enable the Minister to appoint soil conservation catchment committees (Schedule 1 (3)—proposed sections 23A–23C);
 - (c) to enable the Corporation to deal with property and enter into contracts for the purposes of the Act (Schedule 1 (4)—proposed section 25C);
 - (d) to enable the Corporation to borrow money and obtain advances and temporary and other financial accommodation for the purposes of the Act (Schedule 1 (5) and (6)—proposed sections 26A–26D and Fourth Schedule); and
 - (e) to make other provisions of a consequential or ancillary nature.
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SOIL CONSERVATION (AMENDMENT) BILL, 1980

No. , 1980.

A BILL FOR

An Act to amend the Soil Conservation Act, 1938, so as to incorporate the Commissioner of the Soil Conservation Service of New South Wales as a corporation sole for borrowing and certain other purposes, and to make provision for the appointment and functions of soil conservation catchment committees.

[MR GORDON—20 February, 1980.]

Soil Conservation (Amendment).

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 :—

5 **1.** This Act may be cited as the “Soil Conservation (Amendment) Act, 1980”. Short title.

2. The Soil Conservation Act, 1938, is amended in the manner set forth in Schedule 1. Amendment of Act No. 10, 1938.

SCHEDULE 1.

Sec. 2.

10 **AMENDMENTS TO THE SOIL CONSERVATION ACT, 1938.**

(1) (a) Section 3, definition of “Catchment committee”—

 Before the definition of “Commissioner”, insert:—

 “Catchment committee” means a soil conservation
 catchment committee constituted in
15 accordance with section 23A.

(b) Section 3, definition of “Corporation”—

 After the definition of “Commissioner”, insert :—

 “Corporation” means the corporation constituted by
 section 4B (1).

Soil Conservation (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE SOIL CONSERVATION ACT,
1938—*continued.*

(2) Section 4B—

5 After section 4A, insert :—

10 4B. (1) The Commissioner is, for the purpose of exercising or performing those powers, authorities, duties or functions expressed to be conferred or imposed on the Corporation by or under this Act, hereby incorporated as a corporation sole with the corporate name “Soil Conservation Commission of New South Wales”. Commissioner to be corporation sole for certain purposes.

- (2) The Corporation—
- (a) has perpetual succession;
 - (b) shall have an official seal;
 - 15 (c) may take proceedings, and be proceeded against, in its corporate name;
 - (d) may do and suffer all other things that a body corporate generally may, by law, do and suffer and that are necessary for or incidental to the purposes for which the Corporation is constituted;
 - 20 and
 - (e) is, for the purposes of any Act, a statutory body representing the Crown.

25 (3) The seal of the Corporation shall be kept by the Commissioner and shall be affixed to an instrument or document only in the presence of the Commissioner, or a person for the time being authorised by him for the purpose, who shall attest by his signature the fact and date of the affixing of the seal.

Soil Conservation (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE SOIL CONSERVATION ACT,
1938—*continued.*

(4) All courts and persons acting judicially—

- 5 (a) shall take judicial notice of the seal of the Corporation that has been affixed to any instrument or document; and
- (b) shall, until the contrary is proved, presume that the seal was properly affixed.

10 (3) Sections 23A–23C—

After section 23, insert :—

23A. (1) The regulations may make provision for or with respect to—

- 15 (a) the constitution of soil conservation catchment committees;
- (b) the membership of catchment committees, including—
- 20 (i) the appointment or election of members;
- (ii) the appointment of members from panels of elected persons; and
- (iii) the specification of offices by virtue of the holding or occupation of which persons are members;
- 25 (c) the term of office of a member (other than a member referred to in paragraph (b) (iii)) determined by reference to a period of time or the occurrence of an event or the existence of a state of affairs;
- 30 (d) the area in relation to which a catchment committee is to operate, specified by reference to local government areas or in any other manner;

Appoint-
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of soil
conser-
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mittees.

Soil Conservation (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE SOIL CONSERVATION ACT,
1938—*continued.*

- 5 (e) the variation of the boundaries of the area in relation to which a catchment committee is to operate;
- (f) the amalgamation of catchment committees;
- 10 (g) the suspension of the operations of a catchment committee for any period of time or until further order; or
- (h) the disbanding of a catchment committee.

15 (2) Unless a contrary intention appears, a reference in a provision of a regulation made pursuant to this section to a local government area shall be construed as a reference to that area with boundaries as at the date of the commencement of the provision.

(3) In this section, “local government area” has the meaning ascribed to that expression in section 4 of the Local Government Act, 1919.

- 20 23B. (1) A member of a catchment committee, other than a member referred to in section 23A (1) (b) (iii), shall be deemed to have vacated his office if he—
- (a) dies;
- 25 (b) resigns his office by writing under his hand addressed to the Minister;
- (c) becomes a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, or a person under detention under Part VII of that Act; or
- 30 (d) is removed from office by the Minister.

Provisions
respecting
the
members
and
procedures
of
catchment
committees.

Soil Conservation (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE SOIL CONSERVATION ACT,
1938—*continued.*

5 (2) The Minister may, for any cause which to him seems sufficient, remove a member of a catchment committee from office.

(3) The members of a catchment committee shall elect a Chairman—

10 (a) where the regulations so provide, from one of a prescribed class of members of that catchment committee; or

(b) where the regulations do not so provide, from one of the members of that catchment committee, to hold office for a period of 12 months.

15 (4) The Chairman of a catchment committee shall preside at all meetings of the catchment committee at which he is present, and, in the absence of the Chairman at any meeting of the catchment committee, the members present shall appoint one of their number to preside as chairman
20 at that meeting.

25 (5) A majority of the members of a catchment committee shall form a quorum and any duly convened meeting of the catchment committee at which a quorum is present shall be competent to transact any business of the catchment committee.

(6) Questions arising at a meeting of a catchment committee shall be determined by a majority of votes of the members of the catchment committee present and voting.

30 (7) A member of a catchment committee shall have one vote and the Chairman or member presiding shall, in addition to a deliberative vote, have, in the event of an equality of votes, a second or casting vote.

Soil Conservation (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE SOIL CONSERVATION ACT,
1938—*continued.*

5 (8) The procedure for the calling of, and for the
conduct of business at, meetings of a catchment committee
shall, subject to the regulations or to any directions by
the Minister, be as determined by the catchment committee.

10 (9) No matter or thing done by a catchment com-
mittee, and no matter or thing done by any member of a
catchment committee, shall, if the matter or thing was done
in good faith for the purpose of exercising or performing
the powers, authorities, duties or functions of the com-
mittee, subject the committee or the member personally to
any action, liability, claim or demand.

15 23c. (1) A catchment committee, in respect of its Functions of
prescribed area of operation, may— catchment
committee.

(a) make recommendations to the Minister or Com-
missioner on soil conservation matters or matters
incidental thereto which are referred to it by the
20 Minister or Commissioner or raised by the
catchment committee itself;

(b) assist in the identification of problems relating to
soil erosion, soil conservation or land use;

25 (c) recommend the undertaking of works, land
utilisation or land management where problems
of soil erosion, siltation or surface water flow
affect more than one property;

(d) arrange voluntary agreements between land-
holders in relation to—

30 (i) land management;

(ii) land utilisation;

(iii) the construction and maintenance of soil
conservation work; or

Soil Conservation (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE SOIL CONSERVATION ACT,
1938—*continued.*

- 5 (iv) any other purposes contemplated by this Act,
which are approved by the Commissioner;
- (e) stimulate interest in soil conservation, land management and improved land use;
- 10 (f) engage in general liaison with landholders, public authorities and representatives of government organisations;
- (g) participate in or arrange field days and demonstrations;
- (h) publicise its activities; and
- 15 (i) utilise the advice and assistance of a government department or a public authority, subject to obtaining the approval of the department or authority concerned.

20 (2) A catchment committee shall, in the exercise or performance of its powers, authorities, duties or functions (except in relation to the contents of a recommendation or report made by it to the Minister), be subject to the control and direction of the Minister.

(4) Section 25C—

25 After section 25B, insert :—

25c. (1) The Corporation may, for the purposes of this Act, with the approval of the Minister—

- 30 (a) purchase, exchange, take on lease, hold, dispose of by way of lease or sale, and otherwise deal with, property; or
- Powers of Corporation with respect to land and contracts.

Soil Conservation (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE SOIL CONSERVATION ACT,
1938—*continued.*

- 5 (b) make and enter into contracts with any person for the carrying out of works or the performance of services or the supply of goods or materials in connection with the exercise or performance by the Minister, Commissioner or Corporation of his or its powers, authorities, duties or functions.
- 10 (2) The powers conferred by subsection (1) are in addition to and not in derogation of any other powers conferred by or under this Act or by or under any other law.
- (5) Sections 26A–26D—
- 15 After section 26, insert :—
- 20 26A. (1) For the temporary accommodation of the Corporation, it may, for any purpose referred to in section 26c (1), obtain advances by overdraft of current account in any bank or banks upon the credit of the Corporation's funds to such extent as may, from time to time, be approved by the Governor. Temporary accommodation.
- (2) The Treasurer may advance such money to the Corporation, upon such terms and conditions as to repayment and interest, as may be agreed upon.
- 25 26B. (1) Without affecting section 26A, the Corporation may, for any purpose referred to in section 26c (1), enter into arrangements to borrow money from, or obtain advances from, or obtain other financial accommodation from, an approved person or body, whether in New South Wales or elsewhere, to such extent and secured and arranged in such manner and for such period as may be approved. Other financial accommodation.
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Soil Conservation (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE SOIL CONSERVATION ACT,
1938—*continued.*

5 (2) The due payment of any amounts payable by the Corporation pursuant to any arrangements entered into under this section, and any interest or other charges in relation thereto, is hereby guaranteed by the Government, and any liability arising from the guarantee shall be payable out of money provided by Parliament.

10 (3) Where the approval of the Governor in relation to any arrangements is expressed to be given under this section, the provisions of section 26C and the Fourth Schedule do not apply to or in respect of the arrangements,
15 but this subsection does not prevent the borrowing of money under section 26C (1) for the discharge or partial discharge of any indebtedness to any person or body referred to in subsection (1).

(4) In this section—

20 “approved” means approved from time to time by the Governor on the recommendation of the Minister and with the concurrence of the Treasurer;

25 “financial accommodation” includes financial accommodation by way of credit arrangements, including arrangements for the deferred payment by the Corporation of amounts payable by it under any contract or agreement entered into by it, but not including any arrangements that provide for the payment of instalments where the extension of credit to the Corporation is not involved.
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Soil Conservation (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE SOIL CONSERVATION ACT,
1938—*continued.*

5 26C. (1) The Corporation may from time to time, with the approval of the Governor given on the recommendation of the Minister and with the concurrence of the Treasurer, borrow money for— Purposes for which money may be borrowed.

10 (a) the purpose of the exercise or performance of any of the powers, authorities, duties or functions of the Minister, Commissioner or Corporation conferred or imposed by or under this Act;

 (b) the renewal of loans;

15 (c) the discharge or partial discharge of any loan or any indebtedness to the Treasurer or to any bank or to any person or body referred to in section 26B (1); or

 (d) any other purpose of this Act.

 (2) The Fourth Schedule has effect with respect to loans.

20 26D. (1) There shall be established in the Special Deposits Account in the Treasury a Soil Conservation Commission of New South Wales Account into which shall be deposited— Corporation Account.

25 (a) all money borrowed by the Corporation under section 26C; and

 (b) all other money that the Treasurer directs is to be so deposited.

30 (2) The Soil Conservation Commission of New South Wales Account may be applied to any of the purposes for which money may be borrowed under section 26C (1).

Soil Conservation (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE SOIL CONSERVATION ACT,
1938—*continued.*

(6) Fourth Schedule—

5 After the Third Schedule, insert :—

FOURTH SCHEDULE.

Sec. 26c.

LOANS.

10 1. (1) The Corporation shall establish with the Treasurer a Reserves
reserve for loan repayment fund in respect of each loan or renewal for
loan raised by the Corporation. repayments
of loans.

15 (2) The Corporation shall, during each year, transfer from
the revenue of the Corporation to each fund referred to in sub-
clause (1) of this clause a sum not less than the sum that the
Corporation, in its application for approval of the loan, specified
that it proposed to transfer to that fund.

20 (3) Where any land or property of any kind which has been
provided out of loan money is sold before the loan has been wholly
repaid, the net proceeds of the sale shall be added to the reserve
for loan repayment in the appropriate fund or paid directly to the
lender, unless the Minister with the concurrence of the Treasurer
directs otherwise.

25 (4) Money held as a reserve for loan repayment may be
invested in Government securities of the Commonwealth or the
State of New South Wales or in debentures, bonds, inscribed stock
or other prescribed securities in any loan of the Corporation or in
any securities guaranteed by the Government of that State or in
such other securities as the Governor may approve or as may be
prescribed, in each case at their current market price.

30 (5) Any interest or profits realised on investments made under
subclause (4) of this clause shall be added to and form part of the
reserve for loan repayment fund from which the investments were
made.

Soil Conservation (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE SOIL CONSERVATION ACT,
1938—*continued.*

5 (6) All money paid into the reserve for loan repayment fund 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.

10 (7) Where the Corporation decides to cancel debentures, bonds, inscribed stock or other prescribed securities purchased from the reserve for repayment of the loan for which they were issued, the Corporation shall, in addition to the sum otherwise payable to the reserve for repayment of that loan and subject to any agreement to which it is a party whereby it undertakes to pay interest at a higher rate to that reserve, pay to that reserve interest at the rate of 4.5 per cent per annum on the face value of the cancelled securities from the date of their cancellation until the maturity of the loan.

20 (8) If, after a loan has been repaid, there remains in the reserve for loan repayment of that loan any balance, that balance shall form part of the general funds of the Corporation.

(9) A reserve for loan repayment fund shall not be subject to seizure in satisfaction of any debt other than the loan in respect of which the reserve was created.

25 (10) This clause shall not apply to any loan to be repaid by instalments at intervals of 1 year or less.

30 2. (1) For securing repayment of the principal and interest on any money borrowed, the Corporation may, as provided by the regulations, issue debentures, bonds, inscribed stock or other prescribed securities. ^{Debentures, etc.}

(2) Every such debenture or bond and every coupon originally annexed to the debenture or bond, and whether separated therefrom or not, may be transferred by simple delivery.

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

Soil Conservation (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE SOIL CONSERVATION ACT,
1938—*continued.*

- 5 (4) Debentures, bonds, inscribed stock or prescribed securities issued under this Act shall, as regards both the issue and transfer thereof for full consideration for 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, contained in the Second Schedule to that Act.
- 10 3. (1) The holder of a coupon originally annexed to a debenture or bond, and whether separated therefrom or not, shall be entitled to receive payment from the Corporation of the interest specified in the coupon on its presentation on or after the date when, and at the place where, the interest is payable. Payment of debentures and coupons.
- 15 (2) The due repayment of any loan in respect of which debentures, bonds, stock or any other prescribed securities have been issued by the Corporation and the interest thereon shall be a charge upon the income and revenue of the Corporation and is hereby guaranteed by the Government.
- 20 (3) Any liability arising under the guarantee given by subclause (2) of this clause shall be discharged out of money provided by Parliament.
- 25 (4) The charge created by subclause (2) of this clause shall not prejudice or affect any power of the Corporation to sell, convey, lease or otherwise deal with, free of the charge, any property vested in it.
- 30 4. (1) Notwithstanding any other provision of this Act, any money which the Corporation is authorised to borrow may be borrowed by a loan raised, wholly or in part, in such places outside New South Wales as the Governor on the recommendation of the Minister and with the concurrence of the Treasurer may approve, and may be negotiated and raised in any currency. Raising loans in any country.
- 35 (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 contain any term, condition or provision permitted under the law of the place where the loan is raised and the Corporation may establish and conduct in that place registries relating to the securities issued in respect of that loan.

Soil Conservation (Amendment).

*SCHEDULE 1—continued.**AMENDMENTS TO THE SOIL CONSERVATION ACT,
1938—continued.*

5 (3) The Corporation may, in respect of any such loan, agree
that a sinking fund shall be established and controlled at such place
and in such manner as may be found necessary or expedient in the
circumstances of the case and, where any sinking fund is so estab-
lished, the provisions of clause 1 shall apply with regard to that
10 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
clause, the Corporation may enter into such agreements as it thinks
fit with respect to the form of the debentures, bonds, stock or other
15 securities referred to in subclause (2) of this clause, or for the sale
of those debentures, bonds, stock or other securities, or the granting
of an option to purchase those debentures, bonds, stock or other
securities, or for services to be performed by any person in Aus-
20 tralia or in any other part of the world in connection with that loan
or with the issue, management and redemption of or otherwise with
respect to those debentures, bonds, stock or other securities, and
any such agreement may be upon such terms and conditions and
may contain such provisions for the giving or receipt of consideration
as the Corporation thinks fit.

25 (5) Copies of any agreement referred to in subclause (4) of
this clause shall be forwarded to the Minister who shall lay them, or
cause them to be laid, before both Houses of Parliament as soon as
possible after the loan is raised.

30 (6) The Governor may, upon the recommendation of the
Corporation, by notification published in the Gazette, appoint 2 or
more persons to enter into for and on behalf of the Corporation all
such agreements as the Corporation is by this clause authorised to
enter into and to sign, execute or otherwise perfect all such agree-
ments, debentures, bonds, stock or other securities as are by this
35 clause 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 and by a like
notification, revoke or vary any such appointment and make any
fresh appointment.

Soil Conservation (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE SOIL CONSERVATION ACT,
1938—*continued.*

5 (7) The production of a copy of the Gazette containing a notification of any appointment referred to in subclause (6) of this clause or the revocation thereof shall, in favour of a lender or of any holder of a security, be conclusive evidence of the appointment or revocation.

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

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

25 (10) Subject to this clause and the law in force in the place where any loan is raised under this clause and applicable to that loan and the securities issued in connection therewith, the provisions of this Schedule, other than clauses 2 (1), 7 (3) and 7 (4), shall apply to and in respect of that loan and those securities in the same
30 way as they apply to and in respect of any other loan and any other securities.

35 5. (1) This clause applies to and in respect of a loan, wherever raised, where the Governor, on the recommendation of the Minister and with the concurrence of the Treasurer, approves (as referred to in section 26c (1)) of the loan in and by an instrument which specifies that it is a loan to which this clause applies. Other methods of raising loans.

(2) Except as provided in this clause, the provisions of this Schedule do not apply to or in respect of a loan to which this clause applies.

Soil Conservation (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE SOIL CONSERVATION ACT,
1938—*continued.*

(3) A loan to which this clause applies may be—

- 5 (a) raised in such amounts and in such currencies;
- (b) raised in such manner and on such terms and conditions;
and
- (c) secured by such securities, if any,

10 as the Governor, on the recommendation of the Minister and with the concurrence of the Treasurer, approves in and by the instrument referred to in subclause (1) of this clause or in that instrument by reference to another instrument.

15 (4) Any security or other instrument issued or executed by the Corporation or the Government in respect of a loan to which this clause applies shall, both as regards its issue or execution and its transfer or assignment, be deemed to be included in the general exemptions from stamp duty under Part III of the Stamp Duties Act, 1920, contained in the Second Schedule to that Act.

20 (5) The Governor may, upon the recommendation of the Corporation, appoint 2 or more persons for and on behalf of the Corporation to enter into any securities or other instruments in respect of a loan to which this clause applies and to sign, execute or otherwise perfect all such securities or other instruments, and to do all such things as may be necessary or convenient to be done
25 for the purpose of raising the loan under this Act, and may upon the like recommendation revoke or vary any such appointment and make any fresh appointment.

30 (6) The production of a copy of the Gazette containing a notification of any appointment or revocation under subclause (5) of this clause shall in favour of a lender, of the holder of any security or of a person to whom the benefit under any such instrument is assigned be conclusive evidence of the appointment or revocation.

35 (7) The due payment of any amounts payable by the Corporation to the lender in respect of any loan to which this clause applies is a charge on the income and revenue of the Corporation, from whatever source arising, and is hereby guaranteed by the Government, and, where any agreement to which the Government is a

Soil Conservation (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE SOIL CONSERVATION ACT,
1938—*continued.*

5 party specifies any terms or conditions upon or subject to which
the due payment of those amounts is so guaranteed, the due pay-
ment of those amounts is so guaranteed upon or subject to those
terms and conditions.

10 (8) An agreement with respect to a loan to which this clause
applies and to which the Government and the Corporation are
parties may require the Government to make any payment for
which the Corporation would, under the agreement, be liable but
for its being precluded from making the payment by any law in
force in New South Wales.

15 (9) The Consolidated Revenue Fund is hereby appropriated
for the purpose of meeting any liability in respect of any guarantee
referred to in subclause (7) of this clause and any liability of the
Government arising under any agreement referred to in subclause
(8) of this clause.

(10) The provisions of—

20 (a) clauses 10, 11, 12 and 13 apply to and in respect of the
appointment of a receiver by reason of any default being
made by the Corporation in making any payment in respect
of a loan to which this clause applies and to and in respect
25 of a receiver appointed by virtue of the application of
clause 10 by this subclause in the same way as those clauses
apply to and in respect of the appointment of a receiver
by reason of any default being made by the Corporation in
making any payment, whether of principal or interest, to
the holder of any debenture, or coupon, issued, or stock
30 inscribed, by the Corporation and to and in respect of
a receiver appointed under clause 10;

35 (b) clause 8 (1) apply to and in respect of a person advancing
money to the Corporation by way of a loan to which this
clause applies in the same way as they apply to and in
respect of a person advancing money to the Corporation
as referred to in clause 8 (1);

40 (c) clause 8 (2) apply to and in respect of a notification in the
Gazette of the approval of the Governor having been
given to a loan to which this clause applies in the same
way as they apply to and in respect of a notification in
the Gazette of the approval of the Governor having been
given to a borrowing referred to in clause 8 (2);

Soil Conservation (Amendment).

SCHEDULE 1—continued.

**AMENDMENTS TO THE SOIL CONSERVATION ACT,
1938—continued.**

- 5 (d) clause 9 apply to and in respect of a loan to which this clause applies as if the reference in that clause to other securities which are secured upon the income and revenue of the Corporation included a reference to such a loan; and
- 10 (e) any other clause of this Schedule (being a clause that, in an agreement between the Corporation and the lender with respect to a loan to which this clause applies, is specified as being a clause that applies to and in respect of the loan or as being a clause that, with such modifications or additions as are so specified, applies to and in respect of the loan) apply or apply with those modifications or additions, as the case may be, to and in respect of the loan.
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20 6. (1) Any trustee, unless expressly forbidden by any instrument **Trustees.** creating the trust, may invest any trust money in his hands in stock inscribed by the Corporation or in any debentures, bonds or other securities issued in accordance with this Act, and the investment shall be deemed to be a security authorised by the Trustee Act, 1925.

25 (2) Any debenture or bond issued, stock inscribed, or other security issued, in pursuance of this Act, shall be a lawful investment for any money which any company, council or body corporate, incorporated by any Act, is authorised or directed to invest in addition to any other investment authorised for the investment of that money.

30 (3) No notice of any express, implied or constructive trust shall be received by the Corporation or by any officer or employee of the Service in relation to any debenture or coupon issued or stock inscribed by the Corporation.

35 7. (1) If any debenture or bond issued by the Corporation is **Lost** lost, destroyed or defaced before it has been redeemed, the Corporation **debentures.** may, subject to the provisions of this clause, issue a new debenture or bond in its place.

Soil Conservation (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE SOIL CONSERVATION ACT,
1938—*continued.*

5 (2) A new debenture or bond, issued under subclause (1) of this clause with interest coupon annexed, shall bear the same date, number, principal sum and rate of interest as the lost, destroyed or defaced debenture or bond.

(3) Where a debenture or bond is lost or destroyed, a new debenture or bond shall not be issued unless—

10 (a) it has been established to the satisfaction of the Supreme Court that the debenture or bond has been lost or destroyed before redemption;

(b) such advertisements as the Court may direct have been published;

15 (c) 6 months have elapsed since the publication of the last of those advertisements; and

(d) sufficient security has been given to the Corporation to indemnify it against any double payment if the missing debenture or bond is at any time thereafter presented for redemption.
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(4) Where a debenture or bond is defaced, a new debenture or bond shall not be issued unless and until the defaced debenture or bond is lodged with the Corporation for cancellation.

25 (5) The provisions of this clause shall apply to and in respect of a lost, destroyed or defaced coupon in the same way as they apply to and in respect of a lost, destroyed or defaced debenture or bond.

30 (6) Notwithstanding any other provision of this clause, in the case of loss, theft, destruction, mutilation or defacement of any debenture or bond issued under clause 4, a duplicate or new debenture or bond may be issued upon proof to the satisfaction of the Corporation of the loss, theft or destruction, or upon surrender of the mutilated or defaced debenture or bond, as the case may be, and upon the Corporation receiving security or indemnity satisfactory to it against double payment if the missing debenture or bond
35 is at any time thereafter presented for payment.

Soil Conservation (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE SOIL CONSERVATION ACT,
1938—*continued.*

- 5 8. (1) A person advancing money to the Corporation shall not be bound to inquire into the application of the money advanced or be in any way responsible for its non-application or misapplication. Protection of investors.
- 10 (2) A notification in the Gazette of the approval of the Governor having been given to a borrowing by the Corporation shall, in favour of a lender and of any holder of any security given by the Corporation, be conclusive evidence that all conditions precedent to the borrowing have been complied with and, where the approval notified is to a borrowing by the Corporation in a place outside New South Wales and in a particular currency, shall also be
- 15 conclusive evidence in favour of those persons of the approval of the Governor to the borrowing in the place and in the currency specified in the notification.
- 20 9. All debentures, bonds, stock or other securities which are secured upon the income and revenue of the Corporation shall rank Securities pari passu without any preference one above another by reason of rank priority of date or otherwise. equally.
- 25 10. (1) If for 6 months default is made by the Corporation in making any payment, whether of principal or interest, to the holder of any debenture, or coupon, issued or stock inscribed by the Corporation, the holder thereof may apply to the Supreme Court for the appointment of a receiver of the income of the Corporation. Receivers.
- 30 (2) A receiver may be appointed in respect of the income of the Corporation either generally or as regards specified income.
- (3) The Supreme Court may make such orders and give such directions as it may deem proper for and with respect to all or any of the following matters:—
- (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.

Soil Conservation (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE SOIL CONSERVATION ACT,
1938—*continued.*

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

- 10 11. (1) A receiver shall have power to collect all income pay- Powers and
able to the Corporation which he has by order of the Supreme Court duties of
been so authorised to collect and for the purposes of this subclause receivers.
the receiver shall be deemed to be the Corporation and may exercise
all the powers of the Corporation.

- (2) The receiver shall discharge such duties of the Corporation
or of any officers or employees of the Service as may be prescribed.

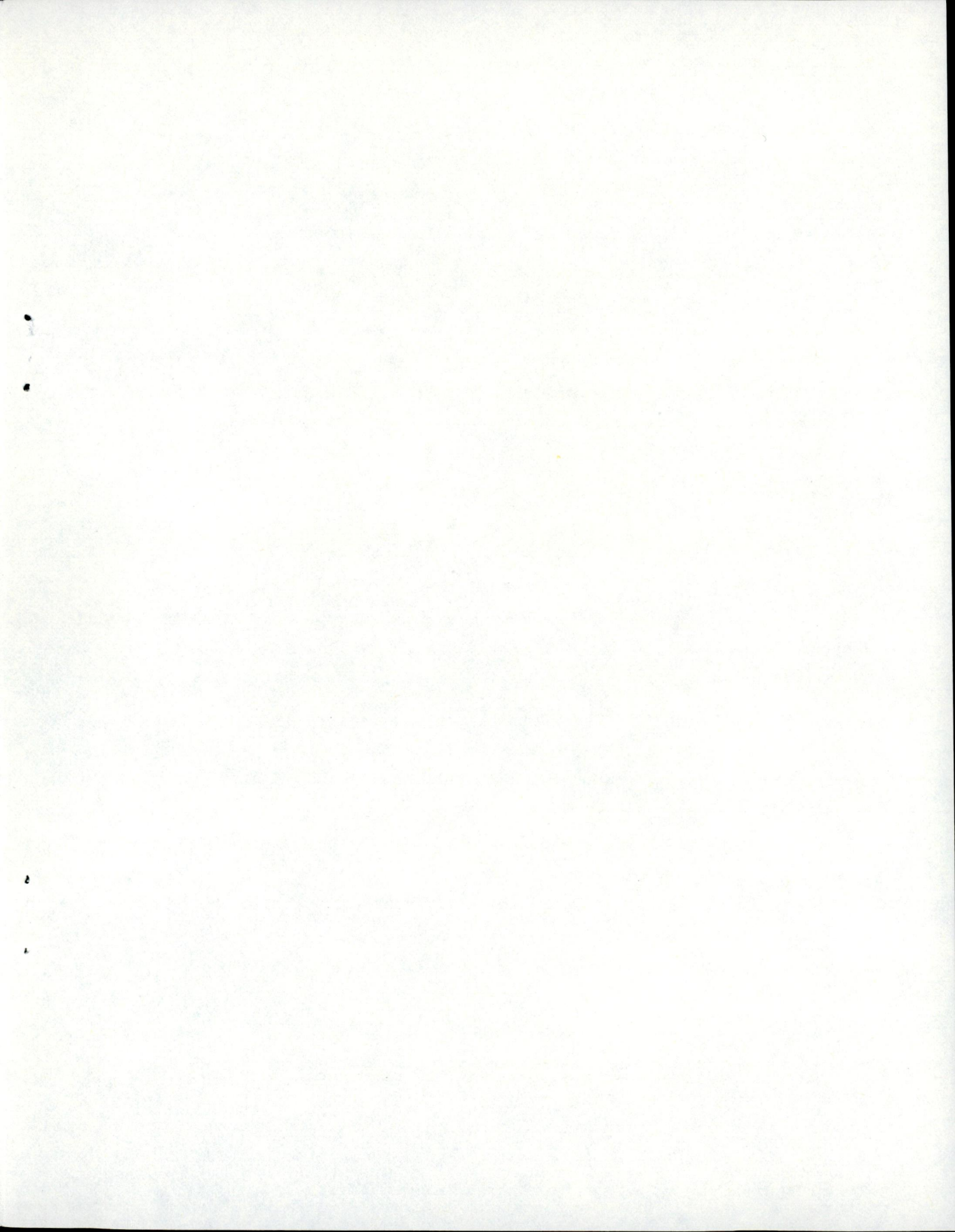
- 15 12. The receiver shall be entitled to such commission or remunera- Commission
tion for his services as the Supreme Court may order, and the com- to
mission or remuneration shall be payable out of the income for and receiver.
in respect of which he has been appointed receiver.

- 15 13. The receiver shall, subject to any order of the Supreme Court, Application
pay and apply all money received by him in the following order, of money
that is to say— received.

- 20 (a) firstly, in 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; and
- 25 (c) thirdly, in payment of all the residue of the money to the
Corporation.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1980



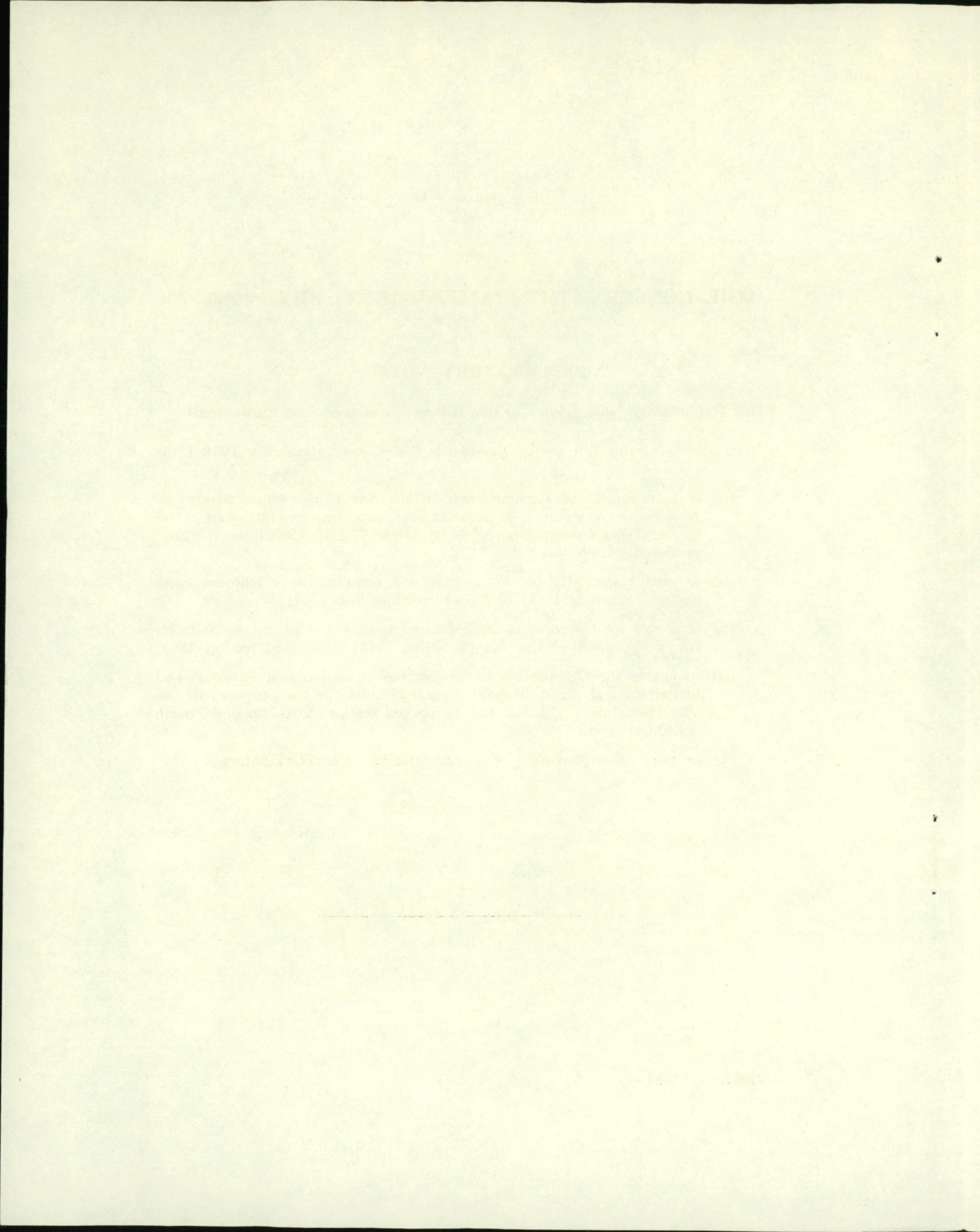
SOIL CONSERVATION (AMENDMENT) BILL, 1980

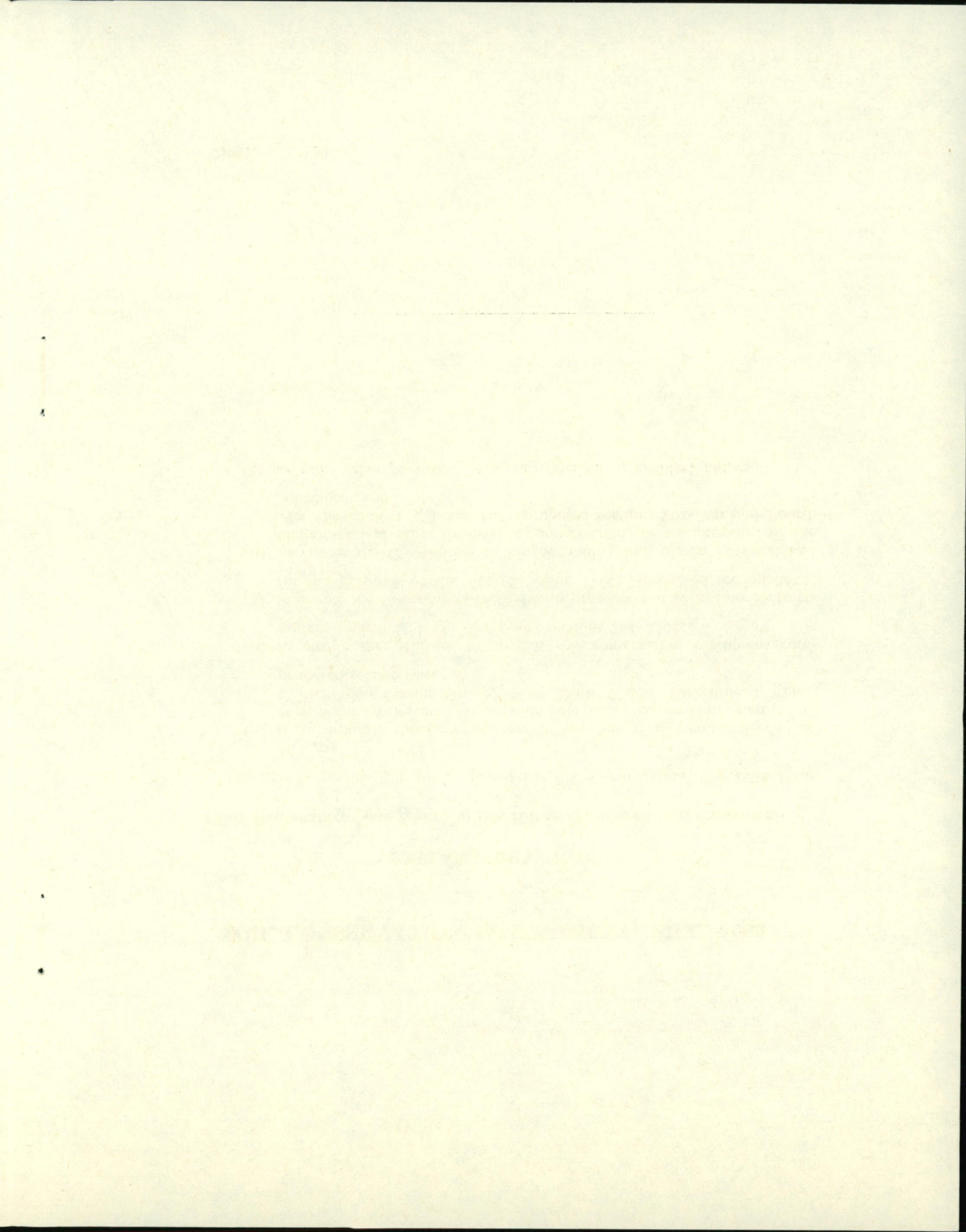
EXPLANATORY NOTE

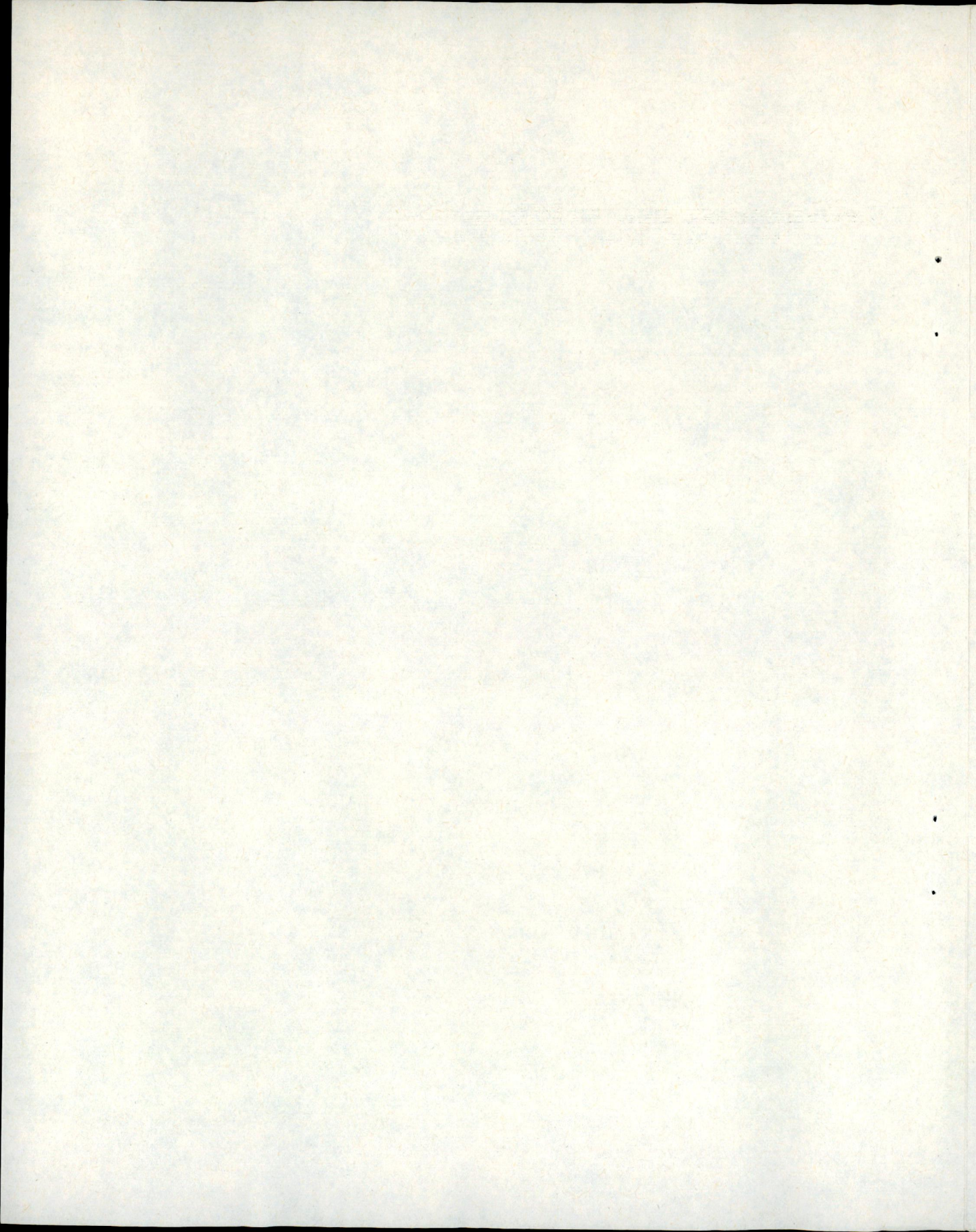
(This Explanatory Note relates to this Bill as introduced into Parliament)

The objects of this Bill are to amend the Soil Conservation Act, 1938 ("the Act")—

- (a) to incorporate the Commissioner of the Soil Conservation Service of New South Wales as a corporation sole with the corporate name "Soil Conservation Commission of New South Wales" (Schedule 1 (2)—proposed section 4B);
 - (b) to enable the Minister to appoint soil conservation catchment committees (Schedule 1 (3)—proposed sections 23A–23C);
 - (c) to enable the Corporation to deal with property and enter into contracts for the purposes of the Act (Schedule 1 (4)—proposed section 25C);
 - (d) to enable the Corporation to borrow money and obtain advances and temporary and other financial accommodation for the purposes of the Act (Schedule 1 (5) and (6)—proposed sections 26A–26D and Fourth Schedule); and
 - (e) to make other provisions of a consequential or ancillary nature.
-







SOIL CONSERVATION (AMENDMENT) BILL, 1980

No. , 1980.

A BILL FOR

An Act to amend the Soil Conservation Act, 1938, so as to incorporate the Commissioner of the Soil Conservation Service of New South Wales as a corporation sole for borrowing and certain other purposes, and to make provision for the appointment and functions of soil conservation catchment committees.

[MR GORDON—20 *February*, 1980.]

Soil Conservation (Amendment).

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 :—

5 **1.** This Act may be cited as the "Soil Conservation Short
(Amendment) Act, 1980". title.

2. The Soil Conservation Act, 1938, is amended in the manner Amendment
set forth in Schedule 1. of Act No.
10, 1938.

SCHEDULE 1.

Sec. 2.

10 AMENDMENTS TO THE SOIL CONSERVATION ACT, 1938.

(1) (a) Section 3, definition of "Catchment committee"—

Before the definition of "Commissioner", insert:—

15 "Catchment committee" means a soil conservation
 catchment committee constituted in
 accordance with section 23A.

(b) Section 3, definition of "Corporation"—

After the definition of "Commissioner", insert :—

"Corporation" means the corporation constituted by
section 4B (1).

Soil Conservation (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE SOIL CONSERVATION ACT,
1938—*continued.*

(2) Section 4B—

5 After section 4A, insert :—

10 4B. (1) The Commissioner is, for the purpose of exercising or performing those powers, authorities, duties or functions expressed to be conferred or imposed on the Corporation by or under this Act, hereby incorporated as a corporation sole with the corporate name "Soil Conservation Commission of New South Wales".

Commis-
sioner to be
corporation
sole for
certain
purposes.

(2) The Corporation—

- 15 (a) has perpetual succession;
(b) shall have an official seal;
(c) may take proceedings, and be proceeded against,
in its corporate name;
(d) may do and suffer all other things that a body
corporate generally may, by law, do and suffer
and that are necessary for or incidental to the
20 purposes for which the Corporation is constituted;
and
(e) is, for the purposes of any Act, a statutory body
representing the Crown.

25 (3) The seal of the Corporation shall be kept by the Commissioner and shall be affixed to an instrument or document only in the presence of the Commissioner, or a person for the time being authorised by him for the purpose, who shall attest by his signature the fact and date of the affixing of the seal.

Soil Conservation (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE SOIL CONSERVATION ACT,
1938—*continued.*

(4) All courts and persons acting judicially—

- 5 (a) shall take judicial notice of the seal of the Corporation that has been affixed to any instrument or document; and
- (b) shall, until the contrary is proved, presume that the seal was properly affixed.

10 (3) Sections 23A–23C—

After section 23, insert :—

23A. (1) The regulations may make provision for or with respect to—

- 15 (a) the constitution of soil conservation catchment committees;
- (b) the membership of catchment committees, including—
- 20 (i) the appointment or election of members;
- (ii) the appointment of members from panels of elected persons; and
- (iii) the specification of offices by virtue of the holding or occupation of which persons are members;
- 25 (c) the term of office of a member (other than a member referred to in paragraph (b) (iii)) determined by reference to a period of time or the occurrence of an event or the existence of a state of affairs;
- 30 (d) the area in relation to which a catchment committee is to operate, specified by reference to local government areas or in any other manner;

Appoint-
ment
of soil
conser-
vation
catch-
ment
com-
mittees.

Soil Conservation (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE SOIL CONSERVATION ACT,
1938—*continued.*

- 5 (e) the variation of the boundaries of the area in relation to which a catchment committee is to operate;
- (f) the amalgamation of catchment committees;
- 10 (g) the suspension of the operations of a catchment committee for any period of time or until further order; or
- (h) the disbanding of a catchment committee.

15 (2) Unless a contrary intention appears, a reference in a provision of a regulation made pursuant to this section to a local government area shall be construed as a reference to that area with boundaries as at the date of the commencement of the provision.

(3) In this section, “local government area” has the meaning ascribed to that expression in section 4 of the Local Government Act, 1919.

- 20 23B. (1) A member of a catchment committee, other than a member referred to in section 23A (1) (b) (iii), shall be deemed to have vacated his office if he—
- (a) dies;
- 25 (b) resigns his office by writing under his hand addressed to the Minister;
- (c) becomes a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, or a person under detention under Part VII of that Act; or
- 30 (d) is removed from office by the Minister.

Provisions respecting the members and procedures of catchment committees.

Soil Conservation (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE SOIL CONSERVATION ACT,
1938—*continued.*

5 (2) The Minister may, for any cause which to him seems sufficient, remove a member of a catchment committee from office.

(3) The members of a catchment committee shall elect a Chairman—

10 (a) where the regulations so provide, from one of a prescribed class of members of that catchment committee; or

(b) where the regulations do not so provide, from one of the members of that catchment committee, to hold office for a period of 12 months.

15 (4) The Chairman of a catchment committee shall preside at all meetings of the catchment committee at which he is present, and, in the absence of the Chairman at any meeting of the catchment committee, the members present shall appoint one of their number to preside as chairman at that meeting.

20 (5) A majority of the members of a catchment committee shall form a quorum and any duly convened meeting of the catchment committee at which a quorum is present shall be competent to transact any business of the catchment committee.

25 (6) Questions arising at a meeting of a catchment committee shall be determined by a majority of votes of the members of the catchment committee present and voting.

30 (7) A member of a catchment committee shall have one vote and the Chairman or member presiding shall, in addition to a deliberative vote, have, in the event of an equality of votes, a second or casting vote.

Soil Conservation (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE SOIL CONSERVATION ACT,
1938—*continued.*

5 (8) The procedure for the calling of, and for the
conduct of business at, meetings of a catchment committee
shall, subject to the regulations or to any directions by
the Minister, be as determined by the catchment committee.

10 (9) No matter or thing done by a catchment com-
mittee, and no matter or thing done by any member of a
catchment committee, shall, if the matter or thing was done
in good faith for the purpose of exercising or performing
the powers, authorities, duties or functions of the com-
mittee, subject the committee or the member personally to
any action, liability, claim or demand.

15 23c. (1) A catchment committee, in respect of its Functions of
prescribed area of operation, may— catchment
committee.

(a) make recommendations to the Minister or Com-
missioner on soil conservation matters or matters
incidental thereto which are referred to it by the
20 Minister or Commissioner or raised by the
catchment committee itself;

(b) assist in the identification of problems relating to
soil erosion, soil conservation or land use;

25 (c) recommend the undertaking of works, land
utilisation or land management where problems
of soil erosion, siltation or surface water flow
affect more than one property;

(d) arrange voluntary agreements between land-
holders in relation to—

30 (i) land management;

(ii) land utilisation;

(iii) the construction and maintenance of soil
conservation work; or

Soil Conservation (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE SOIL CONSERVATION ACT,
1938—*continued.*

(iv) any other purposes contemplated by this Act,

which are approved by the Commissioner;

(e) stimulate interest in soil conservation, land management and improved land use;

(f) engage in general liaison with landholders, public authorities and representatives of government organisations;

(g) participate in or arrange field days and demonstrations;

(h) publicise its activities; and

(i) utilise the advice and assistance of a government department or a public authority, subject to obtaining the approval of the department or authority concerned.

(2) A catchment committee shall, in the exercise or performance of its powers, authorities, duties or functions (except in relation to the contents of a recommendation or report made by it to the Minister), be subject to the control and direction of the Minister.

(4) Section 25C—

After section 25B, insert :—

25C. (1) The Corporation may, for the purposes of this Act, with the approval of the Minister—

(a) purchase, exchange, take on lease, hold, dispose of by way of lease or sale, and otherwise deal with, property; or

Powers of Corporation with respect to land and contracts.

Soil Conservation (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE SOIL CONSERVATION ACT,
1938—*continued.*

- 5 (b) make and enter into contracts with any person for the carrying out of works or the performance of services or the supply of goods or materials in connection with the exercise or performance by the Minister, Commissioner or Corporation of his or its powers, authorities, duties or functions.
- 10 (2) The powers conferred by subsection (1) are in addition to and not in derogation of any other powers conferred by or under this Act or by or under any other law.
- (5) Sections 26A–26D—
- 15 After section 26, insert :—
- 20 26A. (1) For the temporary accommodation of the Corporation, it may, for any purpose referred to in section 26c (1), obtain advances by overdraft of current account in any bank or banks upon the credit of the Corporation's funds to such extent as may, from time to time, be approved by the Governor. Temporary accommodation.
- (2) The Treasurer may advance such money to the Corporation, upon such terms and conditions as to repayment and interest, as may be agreed upon.
- 25 26B. (1) Without affecting section 26A, the Corpora- Other financial accom-
tion may, for any purpose referred to in section 26c (1), modation.
enter into arrangements to borrow money from, or obtain
advances from, or obtain other financial accommodation
from, an approved person or body, whether in New South
30 Wales or elsewhere, to such extent and secured and
arranged in such manner and for such period as may be
approved.

Soil Conservation (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE SOIL CONSERVATION ACT,
1938—*continued.*

5 (2) The due payment of any amounts payable
by the Corporation pursuant to any arrangements entered
into under this section, and any interest or other charges
in relation thereto, is hereby guaranteed by the Govern-
ment, and any liability arising from the guarantee shall be
payable out of money provided by Parliament.

10 (3) Where the approval of the Governor in rela-
tion to any arrangements is expressed to be given under
this section, the provisions of section 26C and the Fourth
Schedule do not apply to or in respect of the arrangements,
15 but this subsection does not prevent the borrowing of
money under section 26C (1) for the discharge or partial
discharge of any indebtedness to any person or body
referred to in subsection (1).

(4) In this section—

20 “approved” means approved from time to time by
the Governor on the recommendation of the
Minister and with the concurrence of the
Treasurer;

25 “financial accommodation” includes financial accom-
modation by way of credit arrangements, includ-
ing arrangements for the deferred payment by
the Corporation of amounts payable by it under
any contract or agreement entered into by it,
but not including any arrangements that provide
30 for the payment of instalments where the exten-
sion of credit to the Corporation is not involved.

Soil Conservation (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE SOIL CONSERVATION ACT,
1938—*continued.*

5 26c. (1) The Corporation may from time to time, with the approval of the Governor given on the recommendation of the Minister and with the concurrence of the Treasurer, borrow money for— Purposes for which money may be borrowed.

10 (a) the purpose of the exercise or performance of any of the powers, authorities, duties or functions of the Minister, Commissioner or Corporation conferred or imposed by or under this Act;

 (b) the renewal of loans;

15 (c) the discharge or partial discharge of any loan or any indebtedness to the Treasurer or to any bank or to any person or body referred to in section 26B (1); or

 (d) any other purpose of this Act.

 (2) The Fourth Schedule has effect with respect to loans.

20 26d. (1) There shall be established in the Special Deposits Account in the Treasury a Soil Conservation Commission of New South Wales Account into which shall be deposited— Corporation Account.

25 (a) all money borrowed by the Corporation under section 26c; and

 (b) all other money that the Treasurer directs is to be so deposited.

30 (2) The Soil Conservation Commission of New South Wales Account may be applied to any of the purposes for which money may be borrowed under section 26c (1).

Soil Conservation (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE SOIL CONSERVATION ACT,
1938—*continued.*

(6) Fourth Schedule—

5 After the Third Schedule, insert :—

FOURTH SCHEDULE.

Sec. 26c.

LOANS.

10 1. (1) The Corporation shall establish with the Treasurer a Reserves
reserve for loan repayment fund in respect of each loan or renewal for
loan raised by the Corporation. repayments
of loans.

15 (2) The Corporation shall, during each year, transfer from
the revenue of the Corporation to each fund referred to in sub-
clause (1) of this clause a sum not less than the sum that the
Corporation, in its application for approval of the loan, specified
that it proposed to transfer to that fund.

20 (3) Where any land or property of any kind which has been
provided out of loan money is sold before the loan has been wholly
repaid, the net proceeds of the sale shall be added to the reserve
for loan repayment in the appropriate fund or paid directly to the
lender, unless the Minister with the concurrence of the Treasurer
directs otherwise.

25 (4) Money held as a reserve for loan repayment may be
invested in Government securities of the Commonwealth or the
State of New South Wales or in debentures, bonds, inscribed stock
or other prescribed securities in any loan of the Corporation or in
any securities guaranteed by the Government of that State or in
such other securities as the Governor may approve or as may be
prescribed, in each case at their current market price.

30 (5) Any interest or profits realised on investments made under
subclause (4) of this clause shall be added to and form part of the
reserve for loan repayment fund from which the investments were
made.

Soil Conservation (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE SOIL CONSERVATION ACT,
1938—*continued.*

5 (6) All money paid into the reserve for loan repayment fund 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.

10 (7) Where the Corporation decides to cancel debentures, bonds, inscribed stock or other prescribed securities purchased from the reserve for repayment of the loan for which they were issued, the Corporation shall, in addition to the sum otherwise payable to the reserve for repayment of that loan and subject to any agreement to which it is a party whereby it undertakes to pay interest at a
15 higher rate to that reserve, pay to that reserve interest at the rate of 4.5 per cent per annum on the face value of the cancelled securities from the date of their cancellation until the maturity of the loan.

20 (8) If, after a loan has been repaid, there remains in the reserve for loan repayment of that loan any balance, that balance shall form part of the general funds of the Corporation.

(9) A reserve for loan repayment fund shall not be subject to seizure in satisfaction of any debt other than the loan in respect of which the reserve was created.

25 (10) This clause shall not apply to any loan to be repaid by instalments at intervals of 1 year or less.

30 2. (1) For securing repayment of the principal and interest on any money borrowed, the Corporation may, as provided by the regulations, issue debentures, bonds, inscribed stock or other prescribed securities. Debentures, etc.

(2) Every such debenture or bond and every coupon originally annexed to the debenture or bond, and whether separated therefrom or not, may be transferred by simple delivery.

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

Soil Conservation (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE SOIL CONSERVATION ACT,
1938—*continued.*

5 (4) Debentures, bonds, inscribed stock or prescribed securities issued under this Act shall, as regards both the issue and transfer thereof for full consideration for 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, contained in the Second Schedule to that Act.

10 3. (1) The holder of a coupon originally annexed to a debenture or bond, and whether separated therefrom or not, shall be entitled to receive payment from the Corporation of the interest specified in the coupon on its presentation on or after the date when, and at the place where, the interest is payable. Payment of debentures and coupons.

15 (2) The due repayment of any loan in respect of which debentures, bonds, stock or any other prescribed securities have been issued by the Corporation and the interest thereon shall be a charge upon the income and revenue of the Corporation and is hereby guaranteed by the Government.

20 (3) Any liability arising under the guarantee given by subclause (2) of this clause shall be discharged out of money provided by Parliament.

25 (4) The charge created by subclause (2) of this clause shall not prejudice or affect any power of the Corporation to sell, convey, lease or otherwise deal with, free of the charge, any property vested in it.

30 4. (1) Notwithstanding any other provision of this Act, any money which the Corporation is authorised to borrow may be borrowed by a loan raised, wholly or in part, in such places outside New South Wales as the Governor on the recommendation of the Minister and with the concurrence of the Treasurer may approve, and may be negotiated and raised in any currency. Raising loans in any country.

35 (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 contain any term, condition or provision permitted under the law of the place where the loan is raised and the Corporation may establish and conduct in that place registries relating to the securities issued in respect of that loan.

Soil Conservation (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE SOIL CONSERVATION ACT,
1938—*continued.*

5 (3) The Corporation may, in respect of any such loan, agree
that a sinking fund shall be established and controlled at such place
and in such manner as may be found necessary or expedient in the
circumstances of the case and, where any sinking fund is so estab-
lished, the provisions of clause 1 shall apply with regard to that
10 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.

15 (4) In connection with the raising of any loan under this
clause, the Corporation may enter into such agreements as it thinks
fit with respect to the form of the debentures, bonds, stock or other
securities referred to in subclause (2) of this clause, or for the sale
of those debentures, bonds, stock or other securities, or the granting
of an option to purchase those debentures, bonds, stock or other
securities, or for services to be performed by any person in Aus-
20 tralia or in any other part of the world in connection with that loan
or with the issue, management and redemption of or otherwise with
respect to those debentures, bonds, stock or other securities, and
any such agreement may be upon such terms and conditions and
may contain such provisions for the giving or receipt of consideration
as the Corporation thinks fit.

25 (5) Copies of any agreement referred to in subclause (4) of
this clause shall be forwarded to the Minister who shall lay them, or
cause them to be laid, before both Houses of Parliament as soon as
possible after the loan is raised.

30 (6) The Governor may, upon the recommendation of the
Corporation, by notification published in the Gazette, appoint 2 or
more persons to enter into for and on behalf of the Corporation all
such agreements as the Corporation is by this clause authorised to
enter into and to sign, execute or otherwise perfect all such agree-
ments, debentures, bonds, stock or other securities as are by this
35 clause 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 and by a like
notification, revoke or vary any such appointment and make any
fresh appointment.

Soil Conservation (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE SOIL CONSERVATION ACT,
1938—*continued.*

5 (7) The production of a copy of the Gazette containing a notification of any appointment referred to in subclause (6) of this clause or the revocation thereof shall, in favour of a lender or of any holder of a security, be conclusive evidence of the appointment or revocation.

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

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

25 (10) Subject to this clause and the law in force in the place where any loan is raised under this clause and applicable to that loan and the securities issued in connection therewith, the provisions of this Schedule, other than clauses 2 (1), 7 (3) and 7 (4), shall apply to and in respect of that loan and those securities in the same way as they apply to and in respect of any other loan and any other securities.

35 5. (1) This clause applies to and in respect of a loan, wherever raised, where the Governor, on the recommendation of the Minister and with the concurrence of the Treasurer, approves (as referred to in section 26c (1)) of the loan in and by an instrument which specifies that it is a loan to which this clause applies. Other methods of raising loans.

(2) Except as provided in this clause, the provisions of this Schedule do not apply to or in respect of a loan to which this clause applies.

Soil Conservation (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE SOIL CONSERVATION ACT,
1938—*continued.*

- (3) A loan to which this clause applies may be—
- 5 (a) raised in such amounts and in such currencies;
- (b) raised in such manner and on such terms and conditions;
- and
- (c) secured by such securities, if any,
- 10 as the Governor, on the recommendation of the Minister and with the concurrence of the Treasurer, approves in and by the instrument referred to in subclause (1) of this clause or in that instrument by reference to another instrument.
- (4) Any security or other instrument issued or executed by
- 15 the Corporation or the Government in respect of a loan to which this clause applies shall, both as regards its issue or execution and its transfer or assignment, be deemed to be included in the general exemptions from stamp duty under Part III of the Stamp Duties Act, 1920, contained in the Second Schedule to that Act.
- (5) The Governor may, upon the recommendation of the
- 20 Corporation, appoint 2 or more persons for and on behalf of the Corporation to enter into any securities or other instruments in respect of a loan to which this clause applies and to sign, execute or otherwise perfect all such securities or other instruments, and to
- 25 do all such things as may be necessary or convenient to be done for the purpose of raising the loan under this Act, and may upon the like recommendation revoke or vary any such appointment and make any fresh appointment.
- (6) The production of a copy of the Gazette containing a
- 30 notification of any appointment or revocation under subclause (5) of this clause shall in favour of a lender, of the holder of any security or of a person to whom the benefit under any such instrument is assigned be conclusive evidence of the appointment or revocation.
- (7) The due payment of any amounts payable by the Corpora-
- 35 tion to the lender in respect of any loan to which this clause applies is a charge on the income and revenue of the Corporation, from whatever source arising, and is hereby guaranteed by the Government, and, where any agreement to which the Government is a

Soil Conservation (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE SOIL CONSERVATION ACT,
1938—*continued.*

5 party specifies any terms or conditions upon or subject to which the due payment of those amounts is so guaranteed, the due payment of those amounts is so guaranteed upon or subject to those terms and conditions.

10 (8) An agreement with respect to a loan to which this clause applies and to which the Government and the Corporation are parties may require the Government to make any payment for which the Corporation would, under the agreement, be liable but for its being precluded from making the payment by any law in force in New South Wales.

15 (9) The Consolidated Revenue Fund is hereby appropriated for the purpose of meeting any liability in respect of any guarantee referred to in subclause (7) of this clause and any liability of the Government arising under any agreement referred to in subclause (8) of this clause.

(10) The provisions of—

20 (a) clauses 10, 11, 12 and 13 apply to and in respect of the appointment of a receiver by reason of any default being made by the Corporation in making any payment in respect of a loan to which this clause applies and to and in respect of a receiver appointed by virtue of the application of
25 clause 10 by this subclause in the same way as those clauses apply to and in respect of the appointment of a receiver by reason of any default being made by the Corporation in making any payment, whether of principal or interest, to the holder of any debenture, or coupon, issued, or stock inscribed, by the Corporation and to and in respect of
30 a receiver appointed under clause 10;

(b) clause 8 (1) apply to and in respect of a person advancing money to the Corporation by way of a loan to which this clause applies in the same way as they apply to and in
35 respect of a person advancing money to the Corporation as referred to in clause 8 (1);

(c) clause 8 (2) apply to and in respect of a notification in the Gazette of the approval of the Governor having been given to a loan to which this clause applies in the same way as they apply to and in respect of a notification in
40 the Gazette of the approval of the Governor having been given to a borrowing referred to in clause 8 (2);

Soil Conservation (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE SOIL CONSERVATION ACT,
1938—*continued.*

- 5 (d) clause 9 apply to and in respect of a loan to which this clause applies as if the reference in that clause to other securities which are secured upon the income and revenue of the Corporation included a reference to such a loan; and
- 10 (e) any other clause of this Schedule (being a clause that, in an agreement between the Corporation and the lender with respect to a loan to which this clause applies, is specified as being a clause that applies to and in respect of the loan or as being a clause that, with such modifications or additions as are so specified, applies to and in respect of the loan) apply or apply with those modifications or additions, as the case may be, to and in respect of the loan.
- 15

20 6. (1) Any trustee, unless expressly forbidden by any instrument **Trustees.** creating the trust, may invest any trust money in his hands in stock inscribed by the Corporation or in any debentures, bonds or other securities issued in accordance with this Act, and the investment shall be deemed to be a security authorised by the Trustee Act, 1925.

25 (2) Any debenture or bond issued, stock inscribed, or other security issued, in pursuance of this Act, shall be a lawful investment for any money which any company, council or body corporate, incorporated by any Act, is authorised or directed to invest in addition to any other investment authorised for the investment of that money.

30 (3) No notice of any express, implied or constructive trust shall be received by the Corporation or by any officer or employee of the Service in relation to any debenture or coupon issued or stock inscribed by the Corporation.

35 7. (1) If any debenture or bond issued by the Corporation is **Lost** lost, destroyed or defaced before it has been redeemed, the Corpora- **debentures.** tion may, subject to the provisions of this clause, issue a new debenture or bond in its place.

Soil Conservation (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE SOIL CONSERVATION ACT,
1938—*continued.*

5 (2) A new debenture or bond, issued under subclause (1) of this clause with interest coupon annexed, shall bear the same date, number, principal sum and rate of interest as the lost, destroyed or defaced debenture or bond.

(3) Where a debenture or bond is lost or destroyed, a new debenture or bond shall not be issued unless—

10 (a) it has been established to the satisfaction of the Supreme Court that the debenture or bond has been lost or destroyed before redemption;

(b) such advertisements as the Court may direct have been published;

15 (c) 6 months have elapsed since the publication of the last of those advertisements; and

(d) sufficient security has been given to the Corporation to indemnify it against any double payment if the missing debenture or bond is at any time thereafter presented for redemption.
20

(4) Where a debenture or bond is defaced, a new debenture or bond shall not be issued unless and until the defaced debenture or bond is lodged with the Corporation for cancellation.

25 (5) The provisions of this clause shall apply to and in respect of a lost, destroyed or defaced coupon in the same way as they apply to and in respect of a lost, destroyed or defaced debenture or bond.

30 (6) Notwithstanding any other provision of this clause, in the case of loss, theft, destruction, mutilation or defacement of any debenture or bond issued under clause 4, a duplicate or new debenture or bond may be issued upon proof to the satisfaction of the Corporation of the loss, theft or destruction, or upon surrender of the mutilated or defaced debenture or bond, as the case may be, and upon the Corporation receiving security or indemnity satisfactory to it against double payment if the missing debenture or bond is at any time thereafter presented for payment.
35

Soil Conservation (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE SOIL CONSERVATION ACT,
1938—*continued.*

5 8. (1) A person advancing money to the Corporation shall not be bound to inquire into the application of the money advanced or be in any way responsible for its non-application or misapplication. ^{Protection} _{investors.}

10 (2) A notification in the Gazette of the approval of the Governor having been given to a borrowing by the Corporation shall, in favour of a lender and of any holder of any security given by the Corporation, be conclusive evidence that all conditions precedent to the borrowing have been complied with and, where the approval notified is to a borrowing by the Corporation in a place outside New South Wales and in a particular currency, shall also be conclusive evidence in favour of those persons of the approval of the Governor to the borrowing in the place and in the currency specified in the notification.

20 9. All debentures, bonds, stock or other securities which are secured upon the income and revenue of the Corporation shall rank ^{Securities} _{rank} pari passu without any preference one above another by reason of ^{equally.} _{priority of date or otherwise.}

25 10. (1) If for 6 months default is made by the Corporation in making any payment, whether of principal or interest, to the holder of any debenture, or coupon, issued or stock inscribed by the Corporation, the holder thereof may apply to the Supreme Court for the appointment of a receiver of the income of the Corporation. ^{Receivers.}

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

30 (3) The Supreme Court may make such orders and give such directions as it may deem proper for and with respect to all or any of the following matters:—

(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.

Soil Conservation (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE SOIL CONSERVATION ACT,
1938—*continued.*

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

10 11. (1) A receiver shall have power to collect all income pay- Powers and
able to the Corporation which he has by order of the Supreme Court duties of
been so authorised to collect and for the purposes of this subclause receivers.
the receiver shall be deemed to be the Corporation and may exercise
all the powers of the Corporation.

(2) The receiver shall discharge such duties of the Corporation
or of any officers or employees of the Service as may be prescribed.

15 12. The receiver shall be entitled to such commission or remunera- Commission
tion for his services as the Supreme Court may order, and the com- to
mission or remuneration shall be payable out of the income for and receiver.
in respect of which he has been appointed receiver.

20 13. The receiver shall, subject to any order of the Supreme Court, Application
pay and apply all money received by him in the following order, of money
that is to say— received.

(a) firstly, in 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; and

25 (c) thirdly, in payment of all the residue of the money to the
Corporation.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1980

(55c)

**SOIL CONSERVATION (AMENDMENT) ACT, 1980,
No. 11**

New South Wales



ANNO VICESIMO NONO

ELIZABETHÆ II REGINÆ

Act No. 11, 1980.

An Act to amend the Soil Conservation Act, 1938, so as to incorporate the Commissioner of the Soil Conservation Service of New South Wales as a corporation sole for borrowing and certain other purposes, and to make provision for the appointment and functions of soil conservation catchment committees. [Assented to, 9th April, 1980.]

Soil Conservation (Amendment).

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 :—

Short
title.

1. This Act may be cited as the "Soil Conservation (Amendment) Act, 1980".

Amendment
of Act No.
10, 1938.

2. The Soil Conservation Act, 1938, is amended in the manner set forth in Schedule 1.

Sec. 2.

SCHEDULE 1.

AMENDMENTS TO THE SOIL CONSERVATION ACT, 1938.

(1) (a) Section 3, definition of "Catchment committee"—

Before the definition of "Commissioner", insert:—

"Catchment committee" means a soil conservation
catchment committee constituted in
accordance with section 23A.

(b) Section 3, definition of "Corporation"—

After the definition of "Commissioner", insert :—

"Corporation" means the corporation constituted by
section 4B (1).

Soil Conservation (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE SOIL CONSERVATION ACT,
1938—*continued.*

(2) Section 4B—

After section 4A, insert :—

4B. (1) The Commissioner is, for the purpose of exercising or performing those powers, authorities, duties or functions expressed to be conferred or imposed on the Corporation by or under this Act, hereby incorporated as a corporation sole with the corporate name "Soil Conservation Commission of New South Wales".

Commissioner to be corporation sole for certain purposes.

(2) The Corporation—

- (a) has perpetual succession;
- (b) shall have an official seal;
- (c) may take proceedings, and be proceeded against, in its corporate name;
- (d) may do and suffer all other things that a body corporate generally may, by law, do and suffer and that are necessary for or incidental to the purposes for which the Corporation is constituted; and
- (e) is, for the purposes of any Act, a statutory body representing the Crown.

(3) The seal of the Corporation shall be kept by the Commissioner and shall be affixed to an instrument or document only in the presence of the Commissioner, or a person for the time being authorised by him for the purpose, who shall attest by his signature the fact and date of the affixing of the seal.

Soil Conservation (Amendment).

 SCHEDULE 1—*continued.*

 AMENDMENTS TO THE SOIL CONSERVATION ACT,
 1938—*continued.*

(4) All courts and persons acting judicially—

- (a) shall take judicial notice of the seal of the Corporation that has been affixed to any instrument or document; and
- (b) shall, until the contrary is proved, presume that the seal was properly affixed.

(3) Sections 23A–23C—

After section 23, insert :—

23A. (1) The regulations may make provision for or with respect to—

- (a) the constitution of soil conservation catchment committees;
- (b) the membership of catchment committees, including—
 - (i) the appointment or election of members;
 - (ii) the appointment of members from panels of elected persons; and
 - (iii) the specification of offices by virtue of the holding or occupation of which persons are members;
- (c) the term of office of a member (other than a member referred to in paragraph (b) (iii)) determined by reference to a period of time or the occurrence of an event or the existence of a state of affairs;
- (d) the area in relation to which a catchment committee is to operate, specified by reference to local government areas or in any other manner;

Appoint-
ment
of soil
conser-
vation
catch-
ment
com-
mittees.

Soil Conservation (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE SOIL CONSERVATION ACT,
1938—*continued.*

- (e) the variation of the boundaries of the area in relation to which a catchment committee is to operate;
- (f) the amalgamation of catchment committees;
- (g) the suspension of the operations of a catchment committee for any period of time or until further order; or
- (h) the disbanding of a catchment committee.

(2) Unless a contrary intention appears, a reference in a provision of a regulation made pursuant to this section to a local government area shall be construed as a reference to that area with boundaries as at the date of the commencement of the provision.

(3) In this section, "local government area" has the meaning ascribed to that expression in section 4 of the Local Government Act, 1919.

23B. (1) A member of a catchment committee, other than a member referred to in section 23A (1) (b) (iii), shall be deemed to have vacated his office if he—

- (a) dies;
- (b) resigns his office by writing under his hand addressed to the Minister;
- (c) becomes a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, or a person under detention under Part VII of that Act; or
- (d) is removed from office by the Minister.

Provisions
respecting
the
members
and
procedures
of
catchment
committees.

Soil Conservation (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE SOIL CONSERVATION ACT,
1938—*continued.*

(2) The Minister may, for any cause which to him seems sufficient, remove a member of a catchment committee from office.

(3) The members of a catchment committee shall elect a Chairman—

(a) where the regulations so provide, from one of a prescribed class of members of that catchment committee; or

(b) where the regulations do not so provide, from one of the members of that catchment committee,

to hold office for a period of 12 months.

(4) The Chairman of a catchment committee shall preside at all meetings of the catchment committee at which he is present, and, in the absence of the Chairman at any meeting of the catchment committee, the members present shall appoint one of their number to preside as chairman at that meeting.

(5) A majority of the members of a catchment committee shall form a quorum and any duly convened meeting of the catchment committee at which a quorum is present shall be competent to transact any business of the catchment committee.

(6) Questions arising at a meeting of a catchment committee shall be determined by a majority of votes of the members of the catchment committee present and voting.

(7) A member of a catchment committee shall have one vote and the Chairman or member presiding shall, in addition to a deliberative vote, have, in the event of an equality of votes, a second or casting vote.

Soil Conservation (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE SOIL CONSERVATION ACT,
1938—*continued.*

(8) The procedure for the calling of, and for the conduct of business at, meetings of a catchment committee shall, subject to the regulations or to any directions by the Minister, be as determined by the catchment committee.

(9) No matter or thing done by a catchment committee, and no matter or thing done by any member of a catchment committee, shall, if the matter or thing was done in good faith for the purpose of exercising or performing the powers, authorities, duties or functions of the committee, subject the committee or the member personally to any action, liability, claim or demand.

23c. (1) A catchment committee, in respect of its prescribed area of operation, may—

Functions of
catchment
committee.

- (a) make recommendations to the Minister or Commissioner on soil conservation matters or matters incidental thereto which are referred to it by the Minister or Commissioner or raised by the catchment committee itself;
- (b) assist in the identification of problems relating to soil erosion, soil conservation or land use;
- (c) recommend the undertaking of works, land utilisation or land management where problems of soil erosion, siltation or surface water flow affect more than one property;
- (d) arrange voluntary agreements between landholders in relation to—
 - (i) land management;
 - (ii) land utilisation;
 - (iii) the construction and maintenance of soil conservation work; or

Soil Conservation (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE SOIL CONSERVATION ACT,
1938—*continued.*

- (iv) any other purposes contemplated by this Act,
which are approved by the Commissioner;
- (e) stimulate interest in soil conservation, land management and improved land use;
- (f) engage in general liaison with landholders, public authorities and representatives of government organisations;
- (g) participate in or arrange field days and demonstrations;
- (h) publicise its activities; and
- (i) utilise the advice and assistance of a government department or a public authority, subject to obtaining the approval of the department or authority concerned.

(2) A catchment committee shall, in the exercise or performance of its powers, authorities, duties or functions (except in relation to the contents of a recommendation or report made by it to the Minister), be subject to the control and direction of the Minister.

(4) Section 25c—

After section 25B, insert :—

25c. (1) The Corporation may, for the purposes of this Act, with the approval of the Minister—

- (a) purchase, exchange, take on lease, hold, dispose of by way of lease or sale, and otherwise deal with, property; or

Soil Conservation (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE SOIL CONSERVATION ACT,
1938—*continued.*

- (b) make and enter into contracts with any person for the carrying out of works or the performance of services or the supply of goods or materials in connection with the exercise or performance by the Minister, Commissioner or Corporation of his or its powers, authorities, duties or functions.

(2) The powers conferred by subsection (1) are in addition to and not in derogation of any other powers conferred by or under this Act or by or under any other law.

(5) Sections 26A–26D—

After section 26, insert :—

26A. (1) For the temporary accommodation of the Corporation, it may, for any purpose referred to in section 26C (1), obtain advances by overdraft of current account in any bank or banks upon the credit of the Corporation's funds to such extent as may, from time to time, be approved by the Governor.

Temporary accommodation.

(2) The Treasurer may advance such money to the Corporation, upon such terms and conditions as to repayment and interest, as may be agreed upon.

26B. (1) Without affecting section 26A, the Corporation may, for any purpose referred to in section 26C (1), enter into arrangements to borrow money from, or obtain advances from, or obtain other financial accommodation from, an approved person or body, whether in New South Wales or elsewhere, to such extent and secured and arranged in such manner and for such period as may be approved.

Other financial accommodation.

Soil Conservation (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE SOIL CONSERVATION ACT,
1938—*continued.*

(2) The due payment of any amounts payable by the Corporation pursuant to any arrangements entered into under this section, and any interest or other charges in relation thereto, is hereby guaranteed by the Government, and any liability arising from the guarantee shall be payable out of money provided by Parliament.

(3) Where the approval of the Governor in relation to any arrangements is expressed to be given under this section, the provisions of section 26c and the Fourth Schedule do not apply to or in respect of the arrangements, but this subsection does not prevent the borrowing of money under section 26c (1) for the discharge or partial discharge of any indebtedness to any person or body referred to in subsection (1).

(4) In this section—

“approved” means approved from time to time by the Governor on the recommendation of the Minister and with the concurrence of the Treasurer;

“financial accommodation” includes financial accommodation by way of credit arrangements, including arrangements for the deferred payment by the Corporation of amounts payable by it under any contract or agreement entered into by it, but not including any arrangements that provide for the payment of instalments where the extension of credit to the Corporation is not involved.

Soil Conservation (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE SOIL CONSERVATION ACT,
1938—*continued.*

26c. (1) The Corporation may from time to time, with the approval of the Governor given on the recommendation of the Minister and with the concurrence of the Treasurer, borrow money for—

Purposes
for which
money
may be
borrowed.

- (a) the purpose of the exercise or performance of any of the powers, authorities, duties or functions of the Minister, Commissioner or Corporation conferred or imposed by or under this Act;
- (b) the renewal of loans;
- (c) the discharge or partial discharge of any loan or any indebtedness to the Treasurer or to any bank or to any person or body referred to in section 26B (1); or
- (d) any other purpose of this Act.

(2) The Fourth Schedule has effect with respect to loans.

26d. (1) There shall be established in the Special Deposits Account in the Treasury a Soil Conservation Commission of New South Wales Account into which shall be deposited—

Corporation
Account.

- (a) all money borrowed by the Corporation under section 26c; and
- (b) all other money that the Treasurer directs is to be so deposited.

(2) The Soil Conservation Commission of New South Wales Account may be applied to any of the purposes for which money may be borrowed under section 26c (1).

Soil Conservation (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE SOIL CONSERVATION ACT,
1938—*continued.*

(6) Fourth Schedule—

After the Third Schedule, insert :—

Sec. 26c.

FOURTH SCHEDULE.

LOANS.

Reserves
for
repayments
of loans.

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

(2) The Corporation shall, during each year, transfer from the revenue of the Corporation to each fund referred to in subclause (1) of this clause a sum not less than the sum that the Corporation, in its application for approval of the loan, specified that it proposed to transfer to that fund.

(3) Where any land or property of any kind which has been provided out of loan money is sold before the loan has been wholly repaid, the net proceeds of the sale shall be added to the reserve for loan repayment in the appropriate fund or paid directly to the lender, unless the Minister with the concurrence of the Treasurer directs otherwise.

(4) Money held as a reserve for loan repayment may be invested in Government securities of the Commonwealth or the State of New South Wales or in debentures, bonds, inscribed stock or other prescribed securities in any loan of the Corporation or in any securities guaranteed by the Government of that State or in such other securities as the Governor may approve or as may be prescribed, in each case at their current market price.

(5) Any interest or profits realised on investments made under subclause (4) of this clause shall be added to and form part of the reserve for loan repayment fund from which the investments were made.

Soil Conservation (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE SOIL CONSERVATION ACT,
1938—*continued.*

(6) All money paid into the reserve for loan repayment fund 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.

(7) Where the Corporation decides to cancel debentures, bonds, inscribed stock or other prescribed securities purchased from the reserve for repayment of the loan for which they were issued, the Corporation shall, in addition to the sum otherwise payable to the reserve for repayment of that loan and subject to any agreement to which it is a party whereby it undertakes to pay interest at a higher rate to that reserve, pay to that reserve interest at the rate of 4.5 per cent per annum on the face value of the cancelled securities from the date of their cancellation until the maturity of the loan.

(8) If, after a loan has been repaid, there remains in the reserve for loan repayment of that loan any balance, that balance shall form part of the general funds of the Corporation.

(9) A reserve for loan repayment fund shall not be subject to seizure in satisfaction of any debt other than the loan in respect of which the reserve was created.

(10) This clause shall not apply to any loan to be repaid by instalments at intervals of 1 year or less.

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

(2) Every such debenture or bond and every coupon originally annexed to the debenture or bond, and whether separated therefrom or not, may be transferred by simple delivery.

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

Soil Conservation (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE SOIL CONSERVATION ACT,
1938—*continued.*

(4) Debentures, bonds, inscribed stock or prescribed securities issued under this Act shall, as regards both the issue and transfer thereof for full consideration for 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, contained in the Second Schedule to that Act.

Payment of
debentures
and
coupons.

3. (1) The holder of a coupon originally annexed to a debenture or bond, and whether separated therefrom or not, shall be entitled to receive payment from the Corporation of the interest specified in the coupon on its presentation on or after the date when, and at the place where, the interest is payable.

(2) The due repayment of any loan in respect of which debentures, bonds, stock or any other prescribed securities have been issued by the Corporation and the interest thereon shall be a charge upon the income and revenue of the Corporation and is hereby guaranteed by the Government.

(3) Any liability arising under the guarantee given by subclause (2) of this clause shall be discharged out of money provided by Parliament.

(4) The charge created by subclause (2) of this clause shall not prejudice or affect any power of the Corporation to sell, convey, lease or otherwise deal with, free of the charge, any property vested in it.

Raising
loans in
any
country.

4. (1) Notwithstanding any other provision of this Act, any money which the Corporation is authorised to borrow may be borrowed by a loan raised, wholly or in part, in such places outside New South Wales as the Governor on the recommendation of the Minister and with the concurrence of the Treasurer may approve, and may be negotiated and raised in any currency.

(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 contain any term, condition or provision permitted under the law of the place where the loan is raised and the Corporation may establish and conduct in that place registries relating to the securities issued in respect of that loan.

Soil Conservation (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE SOIL CONSERVATION ACT,
1938—*continued.*

(3) The Corporation may, in respect of any such loan, agree that a sinking fund shall be established and controlled at such place and in such manner as may be found necessary or expedient in the circumstances of the case and, where any sinking fund is so established, the provisions of clause 1 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 clause, the Corporation may enter into such agreements as it thinks fit with respect to the form of the debentures, bonds, stock or other securities referred to in subclause (2) of this clause, or for the sale of those debentures, bonds, stock or other securities, or the granting of an option to purchase those 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 that loan or with the issue, management and redemption of or otherwise with respect to those debentures, bonds, stock or other securities, and any such agreement may be upon such terms and conditions and may contain such provisions for the giving or receipt of consideration as the Corporation thinks fit.

(5) Copies of any agreement referred to in subclause (4) of this clause shall be forwarded to the Minister who shall lay them, or cause them to be laid, before both Houses of Parliament as soon as possible after the loan is raised.

(6) The Governor may, upon the recommendation of the Corporation, by notification published in the Gazette, appoint 2 or more persons to enter into for and on behalf of the Corporation all such agreements as the Corporation is by this clause authorised to enter into and to sign, execute or otherwise perfect all such agreements, debentures, bonds, stock or other securities as are by this clause 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 and by a like notification, revoke or vary any such appointment and make any fresh appointment.

Soil Conservation (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE SOIL CONSERVATION ACT,
1938—*continued.*

(7) The production of a copy of the Gazette containing a notification of any appointment referred to in subclause (6) of this clause or the revocation thereof shall, in favour of a lender or of any holder of a security, be conclusive evidence of the appointment or revocation.

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

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

(10) Subject to this clause and the law in force in the place where any loan is raised under this clause and applicable to that loan and the securities issued in connection therewith, the provisions of this Schedule, other than clauses 2 (1), 7 (3) and 7 (4), shall apply to and in respect of that loan and those securities in the same way as they apply to and in respect of any other loan and any other securities.

Other
methods of
raising
loans.

5. (1) This clause applies to and in respect of a loan, wherever raised, where the Governor, on the recommendation of the Minister and with the concurrence of the Treasurer, approves (as referred to in section 26c (1)) of the loan in and by an instrument which specifies that it is a loan to which this clause applies.

(2) Except as provided in this clause, the provisions of this Schedule do not apply to or in respect of a loan to which this clause applies.

Soil Conservation (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE SOIL CONSERVATION ACT,
1938—*continued.*

(3) A loan to which this clause applies may be—

- (a) raised in such amounts and in such currencies;
- (b) raised in such manner and on such terms and conditions;
and
- (c) secured by such securities, if any,

as the Governor, on the recommendation of the Minister and with the concurrence of the Treasurer, approves in and by the instrument referred to in subclause (1) of this clause or in that instrument by reference to another instrument.

(4) Any security or other instrument issued or executed by the Corporation or the Government in respect of a loan to which this clause applies shall, both as regards its issue or execution and its transfer or assignment, be deemed to be included in the general exemptions from stamp duty under Part III of the Stamp Duties Act, 1920, contained in the Second Schedule to that Act.

(5) The Governor may, upon the recommendation of the Corporation, appoint 2 or more persons for and on behalf of the Corporation to enter into any securities or other instruments in respect of a loan to which this clause applies and to sign, execute or otherwise perfect all such securities or other instruments, and to do all such things as may be necessary or convenient to be done for the purpose of raising the loan under this Act, and may upon the like recommendation revoke or vary any such appointment and make any fresh appointment.

(6) The production of a copy of the Gazette containing a notification of any appointment or revocation under subclause (5) of this clause shall in favour of a lender, of the holder of any security or of a person to whom the benefit under any such instrument is assigned be conclusive evidence of the appointment or revocation.

(7) The due payment of any amounts payable by the Corporation to the lender in respect of any loan to which this clause applies is a charge on the income and revenue of the Corporation, from whatever source arising, and is hereby guaranteed by the Government, and, where any agreement to which the Government is a

Soil Conservation (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE SOIL CONSERVATION ACT,
1938—*continued.*

party specifies any terms or conditions upon or subject to which the due payment of those amounts is so guaranteed, the due payment of those amounts is so guaranteed upon or subject to those terms and conditions.

(8) An agreement with respect to a loan to which this clause applies and to which the Government and the Corporation are parties may require the Government to make any payment for which the Corporation would, under the agreement, be liable but for its being precluded from making the payment by any law in force in New South Wales.

(9) The Consolidated Revenue Fund is hereby appropriated for the purpose of meeting any liability in respect of any guarantee referred to in subclause (7) of this clause and any liability of the Government arising under any agreement referred to in subclause (8) of this clause.

(10) The provisions of—

- (a) clauses 10, 11, 12 and 13 apply to and in respect of the appointment of a receiver by reason of any default being made by the Corporation in making any payment in respect of a loan to which this clause applies and to and in respect of a receiver appointed by virtue of the application of clause 10 by this subclause in the same way as those clauses apply to and in respect of the appointment of a receiver by reason of any default being made by the Corporation in making any payment, whether of principal or interest, to the holder of any debenture, or coupon, issued, or stock inscribed, by the Corporation and to and in respect of a receiver appointed under clause 10;
- (b) clause 8 (1) apply to and in respect of a person advancing money to the Corporation by way of a loan to which this clause applies in the same way as they apply to and in respect of a person advancing money to the Corporation as referred to in clause 8 (1);
- (c) clause 8 (2) apply to and in respect of a notification in the Gazette of the approval of the Governor having been given to a loan to which this clause applies in the same way as they apply to and in respect of a notification in the Gazette of the approval of the Governor having been given to a borrowing referred to in clause 8 (2);

Soil Conservation (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE SOIL CONSERVATION ACT,
1938—*continued.*

- (d) clause 9 apply to and in respect of a loan to which this clause applies as if the reference in that clause to other securities which are secured upon the income and revenue of the Corporation included a reference to such a loan; and
- (e) any other clause of this Schedule (being a clause that, in an agreement between the Corporation and the lender with respect to a loan to which this clause applies, is specified as being a clause that applies to and in respect of the loan or as being a clause that, with such modifications or additions as are so specified, applies to and in respect of the loan) apply or apply with those modifications or additions, as the case may be, to and in respect of the loan.

6. (1) Any trustee, unless expressly forbidden by any instrument creating the trust, may invest any trust money in his hands in stock inscribed by the Corporation or in any debentures, bonds or other securities issued in accordance with this Act, and the investment shall be deemed to be a security authorised by the Trustee Act, 1925. Trustees.

(2) Any debenture or bond issued, stock inscribed, or other security issued, in pursuance of this Act, shall be a lawful investment for any money which any company, council or body corporate, incorporated by any Act, is authorised or directed to invest in addition to any other investment authorised for the investment of that money.

(3) No notice of any express, implied or constructive trust shall be received by the Corporation or by any officer or employee of the Service in relation to any debenture or coupon issued or stock inscribed by the Corporation.

7. (1) If any debenture or bond issued by the Corporation is lost, destroyed or defaced before it has been redeemed, the Corporation may, subject to the provisions of this clause, issue a new debenture or bond in its place. Lost debentures.

Act No. 11, 1980.

Soil Conservation (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE SOIL CONSERVATION ACT,
1938—*continued.*

(2) A new debenture or bond, issued under subclause (1) of this clause with interest coupon annexed, shall bear the same date, number, principal sum and rate of interest as the lost, destroyed or defaced debenture or bond.

(3) Where a debenture or bond is lost or destroyed, a new debenture or bond shall not be issued unless—

- (a) it has been established to the satisfaction of the Supreme Court that the debenture or bond has been lost or destroyed before redemption;
- (b) such advertisements as the Court may direct have been published;
- (c) 6 months have elapsed since the publication of the last of those advertisements; and
- (d) sufficient security has been given to the Corporation to indemnify it against any double payment if the missing debenture or bond is at any time thereafter presented for redemption.

(4) Where a debenture or bond is defaced, a new debenture or bond shall not be issued unless and until the defaced debenture or bond is lodged with the Corporation for cancellation.

(5) The provisions of this clause shall apply to and in respect of a lost, destroyed or defaced coupon in the same way as they apply to and in respect of a lost, destroyed or defaced debenture or bond.

(6) Notwithstanding any other provision of this clause, in the case of loss, theft, destruction, mutilation or defacement of any debenture or bond issued under clause 4, a duplicate or new debenture or bond may be issued upon proof to the satisfaction of the Corporation of the loss, theft or destruction, or upon surrender of the mutilated or defaced debenture or bond, as the case may be, and upon the Corporation receiving security or indemnity satisfactory to it against double payment if the missing debenture or bond is at any time thereafter presented for payment.

Soil Conservation (Amendment).

SCHEDULE 1—continued.

*AMENDMENTS TO THE SOIL CONSERVATION ACT,
1938—continued.*

8. (1) A person advancing money to the Corporation shall not be bound to inquire into the application of the money advanced of Protection
or be in any way responsible for its non-application or misapplication. investors.

(2) A notification in the Gazette of the approval of the Governor having been given to a borrowing by the Corporation shall, in favour of a lender and of any holder of any security given by the Corporation, be conclusive evidence that all conditions precedent to the borrowing have been complied with and, where the approval notified is to a borrowing by the Corporation in a place outside New South Wales and in a particular currency, shall also be conclusive evidence in favour of those persons of the approval of the Governor to the borrowing in the place and in the currency specified in the notification.

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

10. (1) If for 6 months default is made by the Corporation in making any payment, whether of principal or interest, to the holder of any debenture, or coupon, issued or stock inscribed by the Corporation, the holder thereof may apply to the Supreme Court for the appointment of a receiver of the income of the Corporation. Receivers.

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

(3) The Supreme Court may make such orders and give such directions as it may deem proper for and with respect to all or any of the following matters:—

- (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.

Soil Conservation (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE SOIL CONSERVATION ACT,
1938—*continued.*

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

Powers and
duties of
receivers.

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

(2) The receiver shall discharge such duties of the Corporation or of any officers or employees of the Service as may be prescribed.

Commission
to
receiver.

12. The receiver shall be entitled to such commission or remuneration for his services as the Supreme 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.

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

- (a) firstly, in 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; and
- (c) thirdly, in payment of all the residue of the money to the Corporation.

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

A. R. CUTLER,
Governor.

*Government House,
Sydney, 9th April, 1980.*



