



ANNO QUARTO

EDWARDI VII REGIS.

A.D. 1904.

No. 873.

An Act to authorise the Construction of a Barrage across various parts of the River Murray, and for other purposes.

[Assented to, November 24th, 1904.]

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

1. This Act may be cited as "The Murray Barrage Act, 1904." Short title and commencement.
2. The Lands Clauses Consolidation Acts are incorporated herewith. Incorporation of Lands Clauses Consolidation Acts.
3. In this Act the following expressions shall have the meaning by this section assigned to them, save where the context or subject is inconsistent with such meaning:—
Definitions.
 - "The barrage":—The barrage to be constructed and maintained under the provisions of this Act across the river, and all necessary works connected therewith, to prevent the influx of salt water to the river, and shall include any weir, lock, and other work necessary to secure navigation of the river, and for the purposes of the Lands Clauses Consolidation Acts shall be deemed to be "The undertaking" therein referred to:
 - "The Commissioner":—The Commissioner of Public Works.
 - "The plan"—The plan deposited in the office of the Surveyor-General and signed by the Commissioner, showing the location of the barrage and the lands deemed to be benefited by the construction of the same: "The

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“The river”—The portion of the River Murray as marked AA in the plan, and shall include such channels, creeks, and lakes connected therewith as are marked BB, CC, DD, and EE, respectively in the plan.

Division of Act into parts.

4. This Act is divided into Parts, as follows:—

PART I.—The Barrage:

PART II. Provisions for Rating:

PART III.—Appeal:

PART IV.—Process for Recovery of Rates:

PART V.—Miscellaneous.

PART I.

PART I.

THE BARRAGE.

Governor authorised to construct.

5. The Governor, subject to the provisions hereinafter contained, is hereby authorised and empowered to construct and maintain the barrage.

Cost of construction.

6. The cost of the construction of the barrage shall not exceed in amount the sum of One Hundred Thousand Pounds sterling, to be expended as follows:—

I. As to the portion of the barrage marked BB, CC, DD, and EE in the plan, the sum of Fifty-eight Thousand Pounds sterling:

II. As to the portion of the barrage marked AA in the plan in the Schedule, the sum of Forty-two Thousand Pounds sterling.

Portion of barrage to be first proceeded with.

7. The portion of the barrage as marked BB, CC, DD, and EE is hereby authorised to be constructed forthwith.

Plans to be prepared and tenders to be called.

8. The Commissioner shall cause plans and specifications to be prepared and tenders to be called for the construction of such portion of the barrage as is hereby in section 7 authorised to be constructed.

The work to be carried out by contract.

9. The work connected with such portion of the barrage shall be carried out by contract.

The Commissioner may accept or refuse any tender.

10. The Commissioner may accept or refuse any tender.

Resolution of Parliament to determine construction of any other portion.

11. No other portion of the barrage shall be constructed unless the construction thereof shall be authorised by resolution of Parliament.

Commissioner to proceed with other portion of work when resolution carried.

12. When any such resolution as last aforesaid has been carried, the Commissioner shall proceed with the work authorised by such resolution, subject to the provisions hereinbefore contained for the construction of the portion authorised to be made forthwith.

13. The

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13. The Commissioner may demand for the use of the barrage, or any part thereof, such fares, tolls, and charges as may from time to time be prescribed by any regulation.

PART I.

Tolls may be charged.
765, 1901, sec 7.

14. The positions shown and the measurements set forth in the plan shall be deemed only an approximate of such positions and measurements, and before calling for tenders the Commissioner may make any necessary alterations therein, but no such alteration shall materially affect the positions and measurements as defined in such plan.

Plan subject to alterations.

Ibid, sec. 10, amended.

PART II.

PROVISIONS FOR RATING.

PART II.

15. The lands deemed to be benefited by the construction of the barrage are as set forth in the plan and therein colored red and yellow.

Lands deemed to be benefited by the barrage.

16. All such lands are hereby declared to be ratable property for the purposes of this Act, and shall be liable in each year for the payment of the rates, as hereinafter set forth: Provided that whenever any general system or undertaking for the locking of the River Murray within the State shall be sanctioned by the Parliament of the Commonwealth of Australia, or of this State, the provisions for rating under this clause shall thereupon cease to have force and effect.

Lands liable to the payment of rates

17. As early as he conveniently can in each year the Commissioner shall make, for the purposes of this Act, an assessment of the ratable property, based on the unimproved value of the lands, and notice of the making thereof shall be published by the Commissioner in the *Government Gazette* as soon as he conveniently can after it has been made. Immediately upon such publication, such assessment shall be deemed to have been in force from the commencement of the then current year, and shall, unless lawfully altered within that year, continue and be in force until the end thereof; but if such assessment is lawfully altered within that year, then such assessment as so altered shall be deemed to have been in force from the commencement of that year, and shall continue to be in force till the end thereof: Provided always that the assessment which is in force on the last day of any year shall continue and be in force during the whole of the next year if the Commissioner shall so direct by a notice published in the *Government Gazette* before the first day of February in such next year.

Annual assessment to be made.

Act 269 of 1882, sec. 66, amended.

18. For the purpose of making any assessment the Commissioner may appoint any person to assess the whole or any part of such ratable property, and may, if he thinks proper, adopt or avail himself of so much of any assessment in force made by or by the authority of the Commissioner of Waterworks, or any Municipal Corporation, or District Council, as may be applicable to or useful for the purpose of making any assessment under this Act.

Commissioner may avail himself of other assessment-books.

Act 323, 1884, sec. 38.

19. The

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PART II.

Commissioner may inspect rate and assessment books.
Act 323, 1884, sec. 39.

19. The Commissioner, or any person authorised by him, shall be entitled, at all reasonable times, to inspect, free of charge, all rate-books and assessment-books relating to any land, and all other books and documents concerning any assessment referred to in the immediately preceding section.

Penalty for not permitting inspection.

20. Any person who shall wilfully neglect or refuse to permit the Commissioner, or any person authorised by him, to exercise any right conferred by the immediately preceding section shall, on conviction thereof, forfeit and pay for every such offence a penalty not exceeding Fifty Pounds.

Particulars of assessment-book.
Ibid., sec. 37.

21. Every assessment shall be written in a book wherein shall be specified in separate columns the following particulars:—

- I. A short description of or reference to the land assessed:
- II. The actual value of the land assessed:
- III. The names and descriptions of the ratepayers in respect of the land assessed, so far as such name and description can be readily ascertained.

Assessment-book to be deposited in the office of the Commissioner.
Ibid., sec. 41.

22. So soon as any such assessment shall have been made by the Commissioner, the assessment-book, or a true copy thereof, shall be deposited in the office of the Commissioner, and the same shall be open free of charge to public inspection between the hours of ten o'clock in the forenoon and three o'clock in the afternoon on every day except Sundays, Saturdays, and public holidays.

Two copies of the assessment-book to be deposited at different places:
Sec. 136, Act 419 of 1887.

23. Two copies at the least of every assessment-book shall be made, and shall be deposited at different convenient places within the area of ratable property for inspection by the ratepayers.

Commissioner may alter assessment-book.
Ibid., sec. 42.

24. The Commissioner may at any time alter or correct any assessment and assessment-book in any manner he shall think fit, and as soon as he conveniently can thereafter shall give notice that the assessment has been altered or corrected, as the case may be.

Rates.

25. The following rates shall be chargeable in each year on the assessed value of such ratable property—

- I. As to all the lands in the said plan colored red, One Half-penny for every Pound sterling:
- II. As to all the lands in the said plan colored yellow, One Farthing for every Pound sterling.

Owner or occupier liable.

26. The owner or occupier of any land hereby declared to be ratable property shall be liable to the payment of any rate due at any time in respect of such land: Provided that any occupier having paid the rate may recover the same from the owner in any Court of competent jurisdiction, except in the case of Crown lands, when the occupier shall alone be liable to the payment of the rate on any such land.

27. The

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27. The Commissioner shall cause notice to be given in the *Government Gazette*, and in a newspaper (if any) generally circulating within the area of ratable property, of the time when and the place where the rate shall be payable; such time not being later than one month from the publication of such notice.

PART II.

The Commissioner to notify when rate first due.

28. In each year thereafter, on a date corresponding as nearly as possible to the date when the first proclamation of the notice of the time and place for payment of the rate was given, the Commissioner shall give notice in the manner prescribed in section 27 as to the time and place when and where the rate shall be payable.

Notice to be given when and where rates payable thereafter.

PART III.

PART III.

APPEAL.

29. Any ratepayer may appeal to the Commissioner against any assessment on the ground that the amount of such assessment is more than it ought to be, and shall set forth in such appeal the amount which he claims the assessment should be fixed at.

Ratepayer may appeal.

Taxation Act 323, 1884, sec 47.

30. Such appeal shall be in writing, signed by the appellant or his agent, and shall be made within one month from the making of the assessment or the giving of notice of any alteration or addition to any assessment.

Commencement of appeal.

Ibid, sec. 49.

31. The Commissioner shall, within fourteen days from the receipt of the notice of any appeal, if satisfied that the assessment appealed against should be amended to the amount as claimed by the appellant, amend the assessment accordingly, and give notice thereof to the appellant.

Commissioner may agree to grounds of appeal.

32. If the Commissioner is satisfied that the assessment appealed against is reasonable he shall, within such fourteen days from the receipt of the notice of appeal, give notice of the appeal to the clerk of the Local Court, and shall attach to such appeal the notice of appeal as forwarded to him by the appellant.

Commissioner may give notice to Local Court.

Ibid., sec. 49, amended.

33. If the Commissioner fails to give the notice of appeal to the Clerk of the Court within the limited period, the appellant, within any period not exceeding two months from the giving of the first notice of appeal, may give notice of the appeal to the Clerk of the Court containing the particulars required by section 29.

If the Commissioner fails to give the necessary notice the appellant may give notice.

34. The Clerk of the Local Court, on the receipt of any notice of appeal, shall set the appeal down for hearing at the next sitting of the Local Court of Full Jurisdiction, to be held not earlier than seven days from the receipt of such notice by him, and shall forthwith give notice thereof to the appellant and the Commissioner.

The clerk to set case down for hearing.

35. The

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PART III.

Court of Appeal.

Taxation Act, 323,
1884, sec. 48.

35. The Local Court of Full Jurisdiction sitting at Adelaide, or at the option of the appellant, the Local Court of Full Jurisdiction nearest to his residence or the land assessed, shall be the Court of Appeal to hear and determine any appeal.

Decision on appeal.

Ibid., sec. 51.

36. The Court shall hear evidence touching the question in dispute, and at the same or some adjourned or subsequent sittings the Court may make such order touching the matter in dispute and as to costs as it may deem advisable, and shall cause any alteration necessitated by the decision to be immediately made in the assessment-book, or certified copy as aforesaid, and every such alteration shall be attested by the signature of the Special Magistrate.

PART IV.

PART IV.

PROCESS FOR RECOVERY OF RATES.

Recovery by process.

Ibid., sec. 55.

37. If any rate shall be in arrear the Commissioner, without prejudice to his right to recover such rate in any other way, may sue for and recover the same in any Court of competent jurisdiction as a debt due to the Commissioner, and any action therefor may be maintained in the name of the Commissioner, without specifying the name of the person holding the office, and shall not be liable to be abated by any vacancy or change occurring in the office of Commissioner or otherwise.

Recovery by distress.

Ibid., sec. 56.

38. If any rate shall be in arrear for twenty-one days after any notice in writing to the taxpayer to pay the same the Commissioner, or any person authorised by the Commissioner, may thereupon, with or without any warrant, distrain the goods and chattels of such ratepayer wherever the same may be, for payment of the rates in arrear; and if the sum for which the distress is taken, together with the reasonable costs of distress, be not paid within five days after the distress has been made, then the goods and chattels distrained, or so much as shall be sufficient to pay such sum and costs, may be sold, and the proceeds, after deducting such sum and costs and all expenses, shall be returned to the ratepayer.

Notice of intention to
let or sell.

Ibid., sec. 58.

39. Whenever any rate in respect of any land shall have been in arrear for the space of two years it shall be lawful for the Commissioner to cause to be published three consecutive weeks in the *Government Gazette* a notice specifying such land, and the amount of rates due in respect thereof, and stating that if such rates shall not be paid within one year from the first publication of such notice the Commissioner will let the land from year to year as provided by this Act, or will apply to the Supreme Court for a sale thereof.

Commissioner may
let from year to year.

Ibid., sec. 59.

40. If, after one year from the first publication of such notice, all or any part of the said rates due at the time of such first publication are still unpaid, the Commissioner may let such lands from
year

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PART IV.

year to year, and may receive the rents and apply the same towards the payment of the said rates and costs and expenses, and hold any surplus for the person entitled to the income of the land.

41. The Commissioner, in lieu of letting such lands, may, by petition to the Supreme Court or any Judge thereof, apply for a sale of the land described in such notice, or of so much as may be necessary, and the Court or Judge, on being satisfied by affidavit or otherwise that the arrears are lawfully due and were in arrear at the time of the first publication of such notice, and that all acts required to be done by the Commissioner have been done, shall order the sale of the said land, or so much thereof as shall be sufficient to pay all arrears due up to time of sale, together with all costs of and attending the application and of and attending the sale by public auction, and that the proceeds be paid into Court.

Application for sale.

Ibid., sec. 60.

42. The Court or a Judge shall order payment of the said rates, costs, and expenses to be first made out of the proceeds of the sale; and the conveyance or transfer, as the case may be, shall be executed by the Master or other officer of the Court to the purchaser, his heirs and assigns, in such form as shall be approved by the Court or a Judge, and such conveyance or transfer shall vest the land sold in the purchaser for an estate in fee simple, free from all encumbrances; and in cases where the land is under the Real Property Act of 1861 the purchaser shall be entitled to receive a certificate of title to the land purchased; and the balance arising from the proceeds of such sale shall be subject to any orders of the Court for the benefit of the parties interested therein.

Powers of the Court or Judge.

Ib., sec. 61.

PART V.

PART V.

MISCELLANEOUS.

43. The Governor may appoint such officers as he may think fit to carry out the purposes of this Act.

Governor may appoint officers.

44. The *Government Gazette* containing the notice declaring when and where any rate shall be paid shall be conclusive evidence of the rate being due and payable at the time and place therein mentioned.

Government Gazette conclusive evidence of rate due.

45. The Commissioner or his authorised agent may at all reasonable times enter upon any lands comprised in the plan, and may thereon or therein do any act or thing necessary for the purposes of this Act.

Commissioner's power to enter lands.

46. (1) The Governor may make regulations for the purpose of carrying out the objects of this Act, and may provide a penalty not exceeding Ten Pounds for any breach thereof, and such regulations shall, when published in the *Government Gazette*, have the full force of law.

Commissioner's powers under Lands Clauses Consolidation Act.

(2) Every

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(2) Every such regulation shall be laid before Parliament within fourteen days, if Parliament be then sitting, and if Parliament be not then sitting, within fourteen days from its next sitting for the dispatch of business; and if during the session in which they are so laid before Parliament either House of Parliament pass a resolution objecting to any such regulations, the same shall, so far as objected to, thenceforth cease to have the force of law, and notice of such resolution shall forthwith be published by the Minister in the *Government Gazette*.

Proceedings for offences.

47. (1) All proceedings for offences against or breaches of this Act, or any regulations made thereunder, shall be taken before and determined in a summary way by any Special Magistrate or two Justices of the Peace for the said State.

(2) All such proceedings shall be regulated by Ordinance No. 6 of 1850, "The Justices Procedure Act, 1883-4," and any other Act that may be law in that behalf.

Recovery of penalties.

48. There shall be an appeal from any conviction by a Special Magistrate or Justices, or from any order dismissing any information or complaint under this Act, or the regulations thereunder, which appeal shall be to the Local Court of Adelaide of Full Jurisdiction, and the proceedings on such appeal shall be conducted in manner prescribed for appeals to Local Courts by Ordinance No. 6 of 1850, "The Justices Procedure Amendment Act, 1883-4," or any other Act for the time being in force in that behalf.

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

GEORGE R. LE HUNTE, Governor.