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GEORGI VI REGIS.

A.D. 1939.

No. 28 of 1939.

An Act to provide for the control of the National Gallery at Adelaide, and for other purposes.

[Assented to 14th December, 1939.]

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

- Short title.** 1. This Act may be cited as the " Art Gallery Act, 1939 ".
- Commencement.** 2. This Act shall come into force on a day to be fixed by proclamation.
- Interpretation.** 3. In this Act, unless the context or subject matter otherwise requires—
- “ board ” means The Art Gallery Board :
- “ chairman ” means the chairman of the board :
- “ member ” means member of the board :
- “ Minister ” means the Minister of Education :
- “ art gallery ” means the National Gallery established at Adelaide.
- Art Gallery Board.** 4. (1) There shall be a board to be called “ The Art Gallery Board ”.
- (2) The board shall be a body corporate with perpetual succession and a common seal, and shall, by the name of “ The Art Gallery Board ”, be capable of suing and being sued, of acquiring and disposing of property, of proving

and compounding debts, and of doing and suffering, subject to this Act, all such other things as bodies corporate may by law do and suffer.

5. The board shall consist of five members appointed by the Governor. Constitution of board.

6. (1) Subject to the succeeding subsections of this section, all persons appointed as members shall hold office for four years. Term of office.

(2) A member appointed to fill a vacancy caused otherwise than by the retirement of a member on the expiration of his term of office shall hold office only for the unexpired portion of the term of the member in whose place he is appointed.

(3) Any retiring member shall hold office until his successor is appointed.

(4) Of the members first appointed to the board at the commencement of this Act two shall hold office for two years. The members so to hold office shall be designated by the Governor at the time of the first appointment of the board at the commencement of this Act.

7. (1) A casual vacancy in the office of a member of the board shall occur in any of the following circumstances :— Casual vacancies.

I. The death of a member :

II. The resignation of a member by notice in writing signed by the member and received by the Minister :

III. When the member has been absent from three consecutive ordinary meetings of the board without the permission of the board, which permission may be granted by the board at any time before the expiration of six weeks after the last meeting as aforesaid :

IV. The removal of the member by the Governor.

(2) The Governor may appoint a member of the board upon the happening of any casual vacancy.

8. Every appointment of a member shall be notified by the Minister in the *Government Gazette*. The *Government Gazette* containing any such notification shall be *prima facie* evidence of the appointment so notified. Notice of appointment.

9. (1) The board may act and may exercise all its powers notwithstanding any vacancy in its membership, and no act or proceeding of the board shall be invalid or illegal in consequence only of any such vacancy existing at the time of any such act or proceeding. Board may act, notwithstanding vacancy.

(2) All acts and proceedings of the board shall, notwithstanding the subsequent discovery of any defect in the appointment of any member thereof or that any member was disqualified or disentitled to be a member or to act as such, be as valid as if the member had been duly appointed and was qualified and entitled to be and to act as a member of the board.

Quorum. 10. At all meetings of the board any three members shall constitute a quorum.

Chairman. 11. (1) The Governor may from time to time appoint one of the members to be chairman of the board.

(2) The member so appointed shall hold office as chairman for four years from his appointment as chairman: Provided that if any vacancy occurs in the office of chairman otherwise than by effluxion of time, the member appointed to fill the vacancy shall hold office only for the unexpired portion of the term of office of his immediate predecessor.

(3) The chairman may resign his office as chairman by notice in writing given to the Minister.

(4) If at any time the chairman ceases to be a member of the board, he shall cease to be chairman of the board.

Who to preside at meetings. 12. (1) At all meetings of the board the chairman, if present, shall preside.

(2) In the absence of the chairman from any meeting or part of a meeting one of the other members present shall be elected by those present to preside at the meeting during such absence.

(3) The person presiding at a meeting shall have a deliberative vote, and when the votes are equal for and against a motion shall also have a casting vote.

Non-application of Public Service Act, 1936-1938. 13. The Public Service Act, 1936-1938, shall not apply to any member of the board by reason of his appointment as such member.

Officers. 14. (1) The Governor may appoint a director and such other officers and servants as are necessary to carry this Act into effect.

(2) The Public Service Act, 1936-1938, shall, except as otherwise provided by or pursuant to that Act, apply to all persons appointed as aforesaid.

Department of the public service. 15. (1) There shall be a department in the public service called "The Art Gallery Department".

(2) The director shall be the permanent head of the department.

16. (1) The board shall undertake—

General powers and duties of the board.

- (a) the care and control of the art gallery and of all lands and premises placed under the care and control of the board :
- (b) the care and control of all works of art, exhibits and other personal property acquired for the purposes of the art gallery.

(2) The board may—

- (a) receive, take, or purchase any work of art, exhibit or personal property :
- (b) sell or exchange any such work of art, exhibit or personal property under the care or control of the board.

17. (1) The board shall receive and apply all moneys voted by Parliament for the purposes of the art gallery.

Disposal of moneys voted.

(2) This section shall not apply to moneys voted by Parliament for the salaries or wages of the officers and servants appointed for the purpose of carrying this Act into effect.

18. (1) The board may lend or make available to any institution, upon such terms and conditions as the board thinks fit, any works of art, exhibits or other personal property of which the board has the care or control.

Power of board to lend exhibits.

(2) The board may accept upon loan any works of art, exhibits or other personal property.

19. The board may, upon any special occasion, or for any special purpose, require that admission to the art gallery or any part thereof shall be subject to such charge for admission as is fixed by the board.

Power of board to arrange special exhibitions.

20. All gifts and bequests after the commencement of this Act made to or on behalf or for the benefit or purposes of the art gallery, or the board, or the governing body of the art gallery, or any of them, shall be deemed gifts and bequests to or on behalf or for the benefit or purposes of the board. Any such gifts and bequests, and any income therefrom, shall be applied by the board towards the purposes for which the gifts or bequests are made.

Vesting of certain property in the board.

21. (1) If any person unlawfully damages, mutilates, destroys, or removes from the possession of the board any work of art, exhibit or chattel in the possession of the board at the time of the damaging, mutilation, destruction, or removal, he shall, without limiting or affecting any other liability thereby imposed on him by this Act or otherwise, be liable for and shall pay to the board the full amount of the value of the work of art, exhibit or chattel so damaged, mutilated, destroyed, or removed.

Liability of persons damaging, etc., any chattel in board's possession.

(2) The said amount shall be recoverable summarily.

(3) Any proceedings under this section may be taken by the board or by any person purporting to be authorized in writing by the board.

(4) When any such damage, mutilation, destruction, or removal constitutes an offence against this Act, and in any proceedings in respect thereof a person is convicted, the court of summary jurisdiction convicting the said person may, in addition to imposing any penalty, order the said person to pay to the board the full amount of the value of the work of art, exhibit or chattel damaged, mutilated, destroyed, or removed, and that amount shall be recoverable as if it were part of the penalty so imposed, notwithstanding that the total of the penalty and the amount exceeds the maximum penalty which may be imposed.

Reward for
information of
commission of
offence.

22. (1) The board may offer and pay a reward to any person who gives information to the board or any of its officers of the commission of an offence against this Act or of the damaging, mutilation, destruction, or removal from the possession of the board of any work of art, exhibit or chattel in the possession of the board, whether the damaging, mutilation, destruction, or removal is an offence against this Act or not.

(2) When proceedings are taken before a court in respect of any such offence, damaging, mutilation, destruction, or removal, and a person is convicted by the court, or any order is made by the court against a person in respect thereof, the court may, in addition to imposing any penalty or pecuniary liability, order the person to pay to the board the amount of any reward paid or promised or engaged to be paid by the board in respect of the offence, damaging, mutilation, destruction, or removal, and the said amount shall be recoverable as if it were part of the penalty or pecuniary liability imposed as aforesaid.

(3) The total amount recoverable under subsection (2) hereof shall not exceed the sum of five pounds in respect of each offence, damaging, mutilation, destruction, or removal.

Regulations.

23. The Governor, on the recommendation of the board, may make regulations for all or any of the following purposes :—

- I. For the conduct of the business and proceedings of the board :
- II. For the management of the affairs of the art gallery :
- III. For the admission and the exclusion or expulsion of the public or any individual to and from the art gallery or any part thereof :

- iv. For specifying the conditions and restrictions upon and subject to which the public may be allowed to examine works of art and exhibits :
- v. For preventing the handling, touching, defacing, or marking of the works of art and exhibits in the possession of the board :
- vi. For the effectual use of the works of art and exhibits for the purposes of public education and enjoyment :
- vii. For fixing penalties for any breach of any regulation not exceeding the sum of twenty pounds for any one offence :
- viii. Generally for carrying into effect the objects of this Act or any of such objects.

24. All proceedings for offences against this Act shall be disposed of summarily. Summary proceedings.

25. In any information or complaint preferred by the board against any person who steals or injures, and in any proceedings instituted in relation to, any property belonging to or under the care or control of the board, it shall be sufficient to state generally that the property in respect of which any such information or complaint is preferred or any such proceedings are instituted, is the property of the board. Proceedings by board.

26. (1) The board shall, on or before the thirtieth day of September in every year, report its proceedings during the twelve months ending on the preceding thirtieth day of June to the Governor. A copy of the report shall be laid, as soon as practicable, before both Houses of Parliament. Annual report and audit.

(2) The accounts of the board shall, once at least in every year, be audited by the Auditor-General, who shall, in respect of the said accounts, have all the powers which may be exercised by him under the Audit Act, 1921-1936, and any Act for the time being in force relating to the audit of public accounts. An abstract of the accounts, together with the report of the Auditor-General thereon, shall be laid, as soon as practicable, before both Houses of Parliament.

27. The moneys required for the purposes of this Act shall be paid out of moneys provided by Parliament. Expenses under Act.

28. (1) All personal property of the Board of Governors of the Public Library, Museum, and Art Gallery of South Australia, in the possession or control of the said Board of Governors for the purpose of being used for the purposes of the art gallery shall after the commencement of this Act, be under the care and control of the board. Transfer of certain property.

(2) If any doubt or difficulty arises as to whether this section applies to any property, the Minister may by notice in writing give directions as to that property and any such direction shall be binding upon all persons, courts, and tribunals.

Transfer of
certain trust
property.

29. (1) The Minister shall by notice in writing direct that such portion of any property, real or personal, held by the said Board of Governors as, in the opinion of the Minister, is held in trust for the purposes of the art gallery shall be under the care and control of the board.

(2) Every such notice shall be binding upon all persons, courts, and tribunals.

(3) The property placed under the care and control of the board, and any income thereof, shall be applied by the board for the purposes of the art gallery : Provided that if any such property or income was held by the said Board of Governors pursuant to any trust deed or instrument the property and income shall be applied in accordance with the conditions of the deed or instrument.

Provision for
existing
contracts.

30. (1) All contracts entered into and obligations incurred by the said Board of Governors so far as the same relate to the art gallery shall, after the commencement of this Act, be deemed to have been entered into or incurred by the board in substitution for the said Board of Governors.

(2) The board shall take and exercise in substitution all the powers, duties, rights, and immunities of the said Board of Governors under any such contract.

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

C. M. BARCLAY-HARVEY, Governor.