

TASMANIA.

THE STATE ADVANCES ACT 1935.

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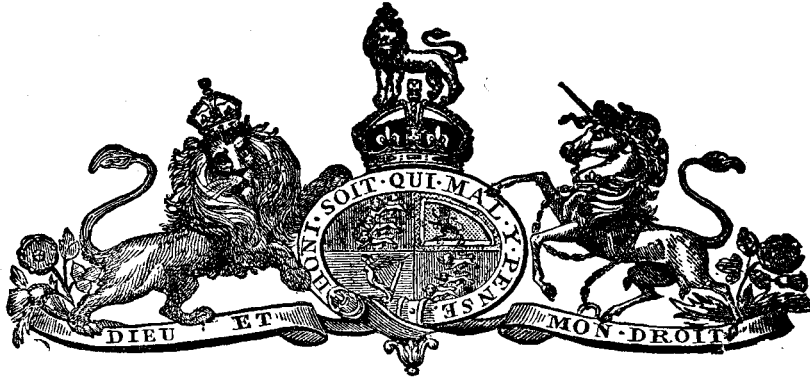
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1017

TASMANIA.



1935.

ANNO VICESIMO SEXTO

GEORGI V. REGIS.

No. 41.

AN ACT to consolidate certain Enactments
relating to Advances by the State to Farmers
and other Producers. [18 October, 1935.]

A.D.
1935.

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows :—

PART I.

PRELIMINARY.

- 1 This Act may be cited as the *State Advances Act 1935*.
- 2 The Acts set forth in the first schedule are hereby repealed.

Short title.

Repeal.

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Interpretation.
7 Ed. VII. No.
20, s. 3.

3—(1) In this Act, unless the contrary intention appears—

“Bank” means the Agricultural Bank of Tasmania:

“Board” means the Board of Management of the Agricultural Bank of Tasmania:

“Credit holding” means land which an applicant or borrower holds under contract of purchase from the Crown on credit:

“Manager” means the Manager of the Bank.

(2) Where by this Act any remedy is given to the Board against or with respect to any land, the expression “land” shall include not only the land but also all improvements thereon.

PART II.

THE AGRICULTURAL BANK AND THE BOARD OF MANAGEMENT.

The Bank.
7 Ed. VII. No.
20, s. 5.

4 There shall be a bank, to be known as the “Agricultural Bank of Tasmania” for the purpose of promoting the occupation, cultivation, and improvement of the agricultural lands of the State as provided by this Act.

The Board.

The Board.
19 Geo. V. No.
50, s. 3.

5—(1) For the purposes of this Act there shall be a Board of three members, to be known as “The Board of Management of the Agricultural Bank of Tasmania.”

(2) The person for the time being holding the office of manager of the Bank shall, *ex officio*, be one of the members of the Board and the chairman thereof.

(3) The two other members of the Board (in this Part referred to as appointed members) shall be appointed by the Governor, and shall hold office for a term of three years.

(4) The Board shall be a body corporate, with perpetual succession and a common seal, and may, in its corporate name, sue and be sued and hold land.

19 Geo. V. No.
50.

(5) The Board constituted and appointed under the *State Advances Act* 1928 shall be the Board for the purposes of this Act and shall retain and be subject to, all the rights, powers, and obligations affecting it at the commencement of this Act subject to the provisions hereinafter contained.

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6 Each appointed member or acting member of the Board shall be paid out of the funds of the Bank such remuneration for his services as shall be fixed by the Governor in the instrument of his appointment.

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Remuneration of appointed members.

19 Geo. V. No. 50, s. 4.

Dismissal of appointed members.

19 Geo. V. No. 50, s. 5.

7 The Governor may dismiss any appointed member of the Board from his office :—

- i. For misbehaviour or incompetence :
- ii. If he becomes incapable of performing his duties :
- iii. If he becomes bankrupt or insolvent, or takes or applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, or compounds with his creditors for less than twenty shillings in the pound, or makes an assignment of his estate for the benefit of his creditors :
- iv. If he absents himself (except on leave granted by the Governor) from all meetings of the Board held during two consecutive months, or during any three months in any period of twelve months :
- v. If he becomes in any way, except as a member, concerned or interested in any contract made by or on behalf of the Board, or in any way participates, or claims to be entitled to participate, in the profits thereof, or in any benefit or emolument arising therefrom : Provided that this paragraph shall not apply in the case of a contract with an incorporated company of more than twenty members, of whom the member of the Board in question is one, unless he is a director of such company, or votes on some question relating to the contract.

8—(1) Any two members of the Board shall form a quorum ; but, if there shall be an equality of votes at a meeting of the Board on any matter, the determination of such matter shall be deferred until the next meeting at which all the members are present.

Quorum and procedure.

19 Geo. V. No. 50, s. 6.

(2) The Chairman shall preside at all meetings of the Board at which he is present, and if he is absent from any meeting one of the members present shall preside thereat.

(3) The Board may act notwithstanding a vacancy in its membership, so long as a quorum remains.

(4) The Board shall cause minutes to be kept of all proceedings at meetings of the Board.

(5) Subject to this Act, the Board may regulate its own procedure.

9 The Board shall hold all property and all estates and interests in property, and all moneys acquired by it under this Act, for and on account of the Crown.

Property to be held on behalf of the Crown.

7 Ed. VII. No. 20, s. 7a (inserted by 3 Geo. V. No. 53.)

Manager and Officers.

10 The Governor, in accordance with the provisions of the *Public Service Act* 1923, may appoint a manager of the Bank, who shall, subject to the Board, have the conduct and management of the Bank ; and may in the like manner appoint such inspectors, valuers, and such other officers as he thinks fit for the purposes of this Act.

Appointment of manager.

7 Ed. VII. No. 20, s. 8.

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Certain persons
not eligible as
members of
Board, &c.

7 Ed. VII. No.
20, s. 9.

11—(1) No person shall be appointed to hold, or shall hold, office as a member or acting member of the Board, or as manager or other officer of the Bank, who is or becomes an officer or employee of any bank, firm, or institution which carries on the business of making advances on the security of agricultural lands in this State.

(2) No advance shall be made under this Act to any member or acting member of the Board, or to the Manager or other officer of the Bank, or in respect of any land or other security in which any such member or acting member, manager, or officer has any interest.

PART III.

FUNDS AND ADVANCES.

Funds.

Borrowings, &c.,
under previous
Acts to be for the
purposes of this
Act.

12 The moneys raised or appropriated under the Acts specified in the second schedule shall be deemed to have been raised or appropriated for the purposes of this Act.

Capital account.
7 Ed. VII. No.
20, s. 12 (inserted
by 20 Geo. V.
No. 32).

13—(1) There shall continue to be kept in the books of the Treasury the account called the "State Advances Act Loan Account."

(2) There shall be credited to that account all money borrowed by the Treasurer for the purposes of this Act or appropriated by Parliament for those purposes, or deemed to have been so borrowed or appropriated.

(3) All interest payable in respect of such moneys shall be charged to, and paid by the Treasurer out of, the Consolidated Revenue.

Working account.
7 Ed. VII. No.
20, s. 13 (inserted
by 20 Geo. V.
No. 32).

14—(1) There shall continue to be kept in the books of the Treasury the account called the "State Advances Act Account," and all expenses of administration and all other payments made by the Board under the authority of, or for the purposes of, this Act shall be charged and debited to that account.

(2) All interest and all repayments in respect of advances and all other moneys received by the Board under this Act shall be paid and credited to the account kept pursuant to subsection (1) hereof.

(3) The Board shall pay to the Treasurer, at such times and at such rates as the Governor may determine, interest on the daily balance standing to the debit of the account kept pursuant to subsection (1).

4) The interest received under subsection (3) shall be paid into the Consolidated Revenue.

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15—(1) The manager, with the approval of the Board, may make advances, in accordance with this section, to any farmer, grazier, or other person engaged in agricultural dairying, grazing, or horticultural pursuits who is the owner of land in fee simple or of a credit holding.

(2) Every such advance shall be made for the purposes of—

i. The payment of—

(a) The balance of the purchase-money for : or

(b) Any existing liabilities in respect of : or

ii. Agricultural, dairying, grazing, or horticultural pursuits on :

iii. Making the prescribed improvements on : or

iv. Adding to the improvements already made on—

the land in respect of which the advance is made, and for no other purpose.

(3) Every application for an advance shall be made in the prescribed form, and shall contain such particulars as may be prescribed.

(4) No such advance shall be less than twenty-five pounds or exceed three thousand pounds; and the aggregate of all such advances to any one person shall at no time exceed three thousand pounds.

(5) No advance to a borrower in respect of a credit holding shall exceed one-half of the capital value of the land as estimated by the Board after deducting from such capital value the amount of instalments due to the Crown in respect of such land at the date of the loan.

(6) No advance in respect of freehold land shall exceed an amount equal to seven-tenths of the capital value of such land as estimated by the Board.

(7) No advance in respect of freehold land shall be made except upon the security of a mortgage to the Board of the land and improvements with respect to which such advance is made, with such additional security, if any, as the Board may think necessary.

(8) No advance shall be made on any property which is encumbered by any previous mortgage or charge (other than a mortgage or charge under this Act); but a second or subsequent mortgage may be taken as collateral security.

16—(1) It shall be the duty of the inspectors to report upon applications for advances, and to inspect improvements which are in course of being effected by means of such advances, and, if the Board thinks fit, any advance may be made by the manager by instalments, upon the report of the inspector, as the improvements are being effected.

(2) At any time, upon the report of an inspector that any money advanced under the provisions of this Act has not been applied for the purpose for which it was advanced, or has not been carefully and economically expended, the manager, with the approval of the Board, may refuse to pay any further instalment of the proposed advance, and may at once call in the whole amount already advanced, whereupon the borrower shall forthwith repay the same, together with

Bank may make advances to farmers and other producers.

7 Ed. VII. No. 20, s. 21 (inserted by 3 Geo. V. No. 53).

Duties of inspectors.
7 Ed. VII. No. 20, s. 22.

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interest thereon, and in default the Board shall have the same remedies for the recovery thereof as are provided by this Act for the recovery of sums payable by the borrower.

Interest on and security for advances, &c.
7 Ed. VII. No. 20, s. 23.

17—(1) Every advance under this Act shall be repaid to the Board, together with interest thereon, or upon so much thereof as shall for the time being remain unpaid, at a rate to be determined by the Treasurer.

(2) Interest upon advances shall be payable half-yearly, on the first days of January and July in each year (in this Act called “interest days”).

(3) Before any advance is made, the borrower shall enter into such agreement with, and give such security to, the Board, as the Board may require, or as may be prescribed, for the purpose of securing the repayment of the advance and interest, and the observance by the borrower of the provisions of this Act, and the performance of such conditions as the Board may require to be performed; and the borrower shall bind himself to give and execute from time to time, to and in favour of the Board, such further and other agreements and documents for the purposes aforesaid as may be required by the Board, or as may be prescribed.

(4) In the case of an advance in respect of a credit holding, such agreement shall provide for the forfeiture to the Crown by the borrower of his right and interest in such land, and all improvements thereon, upon his neglect or failure to comply with the provisions of this Act or with the terms and conditions of the agreement.

(5) The borrower, upon breach of the conditions of any such agreement, shall be deemed a trespasser upon the land, and may be dealt with accordingly.

(6) Any person who has a credit holding may lawfully give and execute any such security or agreement as is referred to in subsection (3) over the land so held.

(7) No agreement, document, or security given or executed to secure an advance under this Act or any release thereof shall be liable to stamp duty, or filing, or registration fees.

Repayment of advance.
7 Ed. VII. No. 20, s. 24 (inserted by 18 Geo. V. No. 80).

18—(1) Until the expiration of five years from the first interest day first following the date of the advance, the borrower shall pay interest upon such advance on the respective interest days, but he shall not be required during that period to repay any portion of the principal money advanced.

(2) After the expiration of the said period of five years the borrower shall, except where otherwise provided, pay on each interest day an equal instalment, comprising such proportion of the principal and interest, of such amount as will ensure the repayment of the advance with interest, upon the expiration of thirty years from the first of such half-yearly days immediately following the date of the advance, the first of such half-yearly payments to be made on the interest day next after the expiration of such period of five years.

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(3) In any case where the Board considers it desirable so to do, the Board may, in lieu of the method of repayment provided by subsections (1) and (2) hereof, fix and determine the time or times, and the method, at and by which, the advance shall be repaid by the borrower, and in any special case may extend the period for repayment beyond thirty years.

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(4) If any advance is made by instalments, the date on which the first instalment is advanced shall, for the purpose of this section, be deemed to be the date on which the advance is made.

19—(1) If default is made by the borrower in the payment of any principal or interest moneys payable by him under the provisions of this Act, then, without making any demand for the payment thereof, the Board may enter upon and take possession of, and sell, the whole or any part of the land with respect to which, or on the security of which an advance has been made.

Remedy for
recovery of
moneys unpaid.
7 Ed. VII. No.
20, s. 25.

(2) Any such sale may be by private contract or public auction, and may be subject to such terms and conditions of sale as the Board thinks expedient, and shall be made after such notice of the time, place, terms, and conditions of sale as the Board thinks desirable, and the Board shall have power to give time for the payment of the purchase money, or to allow the purchase money to remain secured on mortgage of the land sold, at the risk of the borrower, and to vary or rescind any contract of sale and to buy in at any auction and to resell without being answerable for any loss.

(3) Upon any such sale the Board may convey or transfer such land to the purchaser and give a good and valid title thereto.

(4) The provisions of subsection (1) hereof shall not take effect if the borrower, within ninety days from the date when the moneys became payable, pays the same with the addition of a sum by way of penalty, calculated as follows:—If the amount due is paid within thirty days, interest at the rate of two pounds ten shillings per centum per annum is to be added; if the amount due is paid within sixty days, interest at the rate of three pounds fifteen shillings per centum per annum is to be added; and, if the amount due is paid after sixty days, interest at the rate of five pounds per centum per annum is to be added; but, unless the whole of the amount due, together with such penalty, is paid within such period of ninety days, the provisions of subsection (1) of this section shall have full force and effect.

(5) Before any land is sold by private sale under this section, it shall first be offered at public auction, due notice of which shall be publicly advertised in a newspaper.

(6) The Board shall apply the proceeds derived from any such sale in payment, in the first instance, of all moneys due or unpaid in respect of such advance, and in redemption of any amount charged thereon in favour of the Board, or of so much thereof as remains unpaid, and of all expenses incurred by the Board in relation to such sale or otherwise with respect to such land, and shall pay the balance (if any) to the person appearing to the Board to be entitled to receive the same.

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(7) As against borrowers, the Board shall not be responsible for involuntary losses or the default of agents or auctioneers.

(8) Where the advance is made upon the security of a credit holding no power given by this section shall be exercisable without the consent of the Commissioner of Crown Lands, so long as any part of the purchase money payable to the Crown is unpaid; and in giving such consent the Commissioner of Crown Lands may impose such terms and conditions as he thinks fit, and he may in the event of a sale rescind the terms and conditions under which the land was originally sold on credit and impose such new terms and conditions as he may think fit in lieu thereof.

Additional remedy by distraint for recovery of moneys.

7 Ed. VII. No. 20, s. 125a (inserted by 3 Geo. V. No. 53).

20 In addition and without prejudice to any other remedy, if at any time any principal or interest moneys payable by a borrower or his successor in interest are in arrear and unpaid for thirty days next after the time appointed for the payment thereof, then, without making any demand for the payment thereof, the Board may enter upon the land charged, or any part thereof, and recover the amount due, together with costs and expenses, by distress and sale of any goods and chattels on such land, or the same may be recovered from the borrower or his successor in interest in any court of competent jurisdiction by action, in the name of the Board.

Money due by borrower a debt to Crown.

7 Ed. VII. No. 20, s. 25b (inserted by 3 Geo. V. No. 53).

21 It is hereby declared that every sum of money payable by a borrower under any of the provisions of this Act, shall be, and remain until payment, a debt due by the borrower to the Crown, and shall be recoverable, with interest, by the Board accordingly.

Where no purchaser, land to revert to the Crown.

7 Ed. VII. No. 20, s. 26.

22—(1) Whenever land authorised to be sold by the Board under the provisions of this Act is offered for sale by public auction, and the amount of the highest bid at such sale is not sufficient to satisfy the moneys due to the Board, together with the costs and expenses of and occasioned by such attempted sale, or if at such auction there is no bid, the Board shall advertise the land for private sale in the Gazette, and in at least one newspaper once at least in each of three successive weeks, and shall in such advertisement name a day and time, not less than one month from the date of the first of such advertisements, upon or after which the land shall revert to the Crown, together with all improvements thereon, unless in the interval a sufficient amount has been obtained by the sale of such land to satisfy the moneys due to the Board, and all costs and expenses of and occasioned by such sale and proceeding; and, upon the expiration of such period without such sufficient amount having been obtained by such sale, the land shall revert in His Majesty, accordingly.

(2) Any land which has reverted to the Crown and become vested in His Majesty in accordance with the provisions of subsection (1) hereof may be sold by the Commissioner of Crown Lands at such price, and

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either for cash or upon credit, and upon such terms in all respects as he shall think fit, and the Governor upon any such sale may cause at grant deed to be issued to the purchaser thereof upon full payment of the purchase money therefor, and upon fulfilment by such purchaser of all the terms and conditions of the purchase, and such grant deed shall be in the form and contain the reservations prescribed by the *Crown Lands Act 1935*.

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26 Geo V. No.

(3) The proceeds of the sale of any land sold under the provisions of subsection (2) hereof shall be applied first in payment of all expenses incurred by the Commissioner in relation to such sale, and secondly in payment of the moneys, if any, owing to the Crown in respect of such land at the time when the same reverted to the Crown, and the balance shall be paid by the Commissioner to the Board.

23 Every person to whom an advance is made under the provisions of this Act shall, so long as any part of the advance or any interest thereon remains unpaid, and so long as any security given by him remains undischarged, keep in good and tenantable repair, to the satisfaction of the Board or some person authorised by it, all fences, fixtures, and improvements upon the land over which he has given security; and, if after the expiration of two months' notice in writing by the manager such person has not complied with the requirements of this section, the like consequences shall follow as are provided by this Part in case of default made in the payment of any sum of money payable under the provisions of this Act.

Mortgagor to effect necessary repairs.

7 Ed. VII. No. 20, s. 27.

24—(1) As between the Board and the owner of any land, other than a credit holding, for which the purchase-money is not fully paid, with respect to which, or on the security of which, an advance under the provisions of this Act has been made, the following conditions shall be imposed so long as such land, or any estate or interest therein, is subject to any charge in respect of any half-yearly payment in favour of the Board, or any part of the advance, or any interest thereon, remains unpaid, namely:—

Conditions annexed to land while subject to advances.

7 Ed. VII. No. 20, s. 28.

- i. Such owner shall not, without the consent of the Board, sell, transfer, dispose of, or deal with his interest in the land (except by way of devise):
- ii. When the title to the land or to his interest therein is divested from the owner under any law relating to bankruptcy, the Board may cause the same to be sold.

(2) Every sale, transfer, or disposition thereof or dealing therewith contrary to the provisions of subsection (1) hereof shall be void and of no effect; and if such owner contravenes the provisions of that subsection, the Board may cause the land to be sold.

(3) The provisions of this Part, as to sale and application of the proceeds of sale, shall apply to every sale made under the provisions of paragraph ii. of subsection (1) hereof.

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Power to lease in lieu of selling, &c. 7 Ed. VII. No. 20, s. 28a (inserted by 3 Geo. V. No. 53).

25—(1) Whenever under this Act power is conferred upon the Board to cause any land, other than a credit holding, to be sold by reason of any default or breach of covenant or condition or otherwise—

- i. The Board may, if it thinks fit, before exercising such power of sale, lease such land or any part thereof, for any term not exceeding fourteen years: Provided that, upon the determination of any such lease, and before any new lease or renewal of lease is granted the Board shall offer to sell the fee-simple of the land at public auction as hereinbefore provided:
- ii. Without prejudice to any other remedy under this Act, the whole of the debt remaining unpaid by the borrower under this Act shall forthwith become due and payable, and shall be recoverable with interest by the Board accordingly.

(2) Every lease under subsection (1) hereof shall contain a covenant to pay such rent and observe such conditions as the Board in each case thinks fit.

(3) The rents and profits from time to time derived from any such lease shall be applied—

- i. In payment of the costs and expenses from time to time incurred in connection with the lease;
- ii. In payment of the instalments and other payments due under this Act;
- iii. In payment of the balance (if any) to the borrower.

Transfer of holding. 7 Ed. VII. No. 20, s. 28b (inserted by 3 Geo. V. No. 53).

26—(1) Where the consent of the Board is sought to the conveyance or transfer of any land, other than a credit holding, for which the purchase-money is not fully paid, with respect to which an advance under this Act has been made, the Board may require as a condition of its consent that the transferee shall enter into and execute in favour of the Board all such mortgages, bonds, covenants, and other instruments and securities as will effectually secure the payment by the transferee of all sums of money payable under this Act to the Board by the transferrer, and upon entering into and executing the same the transferee shall be equally bound thereby as if the advance had been made to him in the first instance.

(2) Where the consent of the Board is sought to the letting of any land, other than a credit holding, for which the purchase-money is not fully paid, with respect to which an advance under this Act has been made the Board may require as a condition of their consent that the lessee shall enter into and execute in favour of the Board such agreement as will secure to the Board, when so demanded, all the rents and profits of the land and the attainment of such lessee as tenant to the Board.

Issue of grant deed when freehold acquired subsequent to mortgage. 7 Ed. VII. No. 20, s. 29 (substituted by 3 Geo. V. No. 53).

27—(1) When an advance has been made upon the security of a mortgage of a credit holding the grant in respect of such holding shall not be issued while such mortgage is in force, except to the Board, nor unless it bears an endorsement showing that it is subject to the mortgage.

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(2) When a grant has been endorsed as mentioned in this section, the land comprised in such grant shall be subject to the mortgage as if it were expressly charged thereby, and the Recorder of Titles shall make any entry in the register-book which may be necessary for the purpose of showing that such land is subject to the mortgage. A.D. 1935.

(3) The Board shall be entitled to retain possession of every such grant while such mortgage is in existence.

28—(1) Where an advance has been made upon the security of a mortgage of a credit holding, the Board may, at any time and notwithstanding the provisions of any Act, enable the mortgagor or his successor in interest to acquire the freehold of the holding, and for that purpose may make all such payments to the Crown and otherwise as are necessary. **Power to Board to acquire freehold.**

(2) All payments made by the Board shall be added to and become part of the mortgage debt, notwithstanding that the amount of the advance is thereby increased beyond the prescribed limits

(3) The grant of the holding shall be delivered to the Board and shall bear an endorsement showing that it is subject to the mortgage, and thereupon the provisions of subsections (2) and (3) of section twenty-seven shall apply with respect to the grant.

29 No judgment, order, or decree of any court of law shall in any way affect the security for any advance made under the provisions of this Act; and, until all interest and instalments payable in respect of the advance have been paid, no process of law, or provision of any Act in force relating to Crown lands, shall interfere with the security for the same. **Judgment of court not to affect security.**

30 No matter or thing done and no agreement entered into by the Board or any member of the Board, and no matter or thing done by any officer of the bank or other person acting under the direction of the Board, shall, if the matter or thing was done or the agreement was entered into in good faith for the purposes of this Act, subject the Board or any member of the Board, or any such officer or person, to any personal liability in respect thereof. **Protection of members and officers from personal liability.**

PART IV.

RURAL CREDITS DEPARTMENT.

31 For the purposes of this Part, there shall be a Rural Credits Department of the Bank, the moneys, accounts, and transactions of which shall be kept distinct from all other moneys, accounts, and transactions of the bank. **Rural Credits Department.**

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Board may
arrange with
bank to act as its
agent.

32—(1) The Board may enter into an agreement with any bank to act as agent for the Board—

- i. For making advances on behalf of the Board for the purposes of this Part :
- ii. For the collection and receipt of moneys on behalf of the Board : and
- iii. For any other purpose in connection with the carrying out of the objects of this Part which the Board may determine.

(2) Any such agreement as aforesaid shall be in writing and shall be subject to the approval of the Treasurer.

Board may make
advances for
certain purposes.

33—(1) The Board may make advances under this Part, on the prescribed security, to persons engaged in any rural industry for—

- i. The purchase of machinery, implements, stock, poultry, trees, plants, manures, and other things, which the Board may consider necessary or convenient for the carrying on of such industry :
- ii. The payment of any debt or other liability incurred in connection with the carrying on of such industry : and
- iii. Any other purpose which may be approved by the Board—

or for any of such purposes.

(2) Every application for an advance shall be made in the prescribed form, and shall contain such particulars as shall be prescribed.

(3) Any advance under this Part may be made in one payment, or by instalments, in such manner and at such times as the Board shall, in any particular case, determine, or may be made by way of current account.

(4) Interest in respect of advances under this Part shall be payable at such rate as shall be determined by the Board.

(5) Where an advance is made by instalments, interest shall be payable on each such instalment from the time of the advancing thereof, and, in the case of an advance by way of current account, interest may, if the Board so determines, be payable on the daily debit balance of such account.

(6) Except when otherwise determined by the Board, interest shall be payable half-yearly on the first day of January and the first day of July in each year.

(7) All advances shall be repayable within a period of ten years from the making thereof, and, in the case of an advance being made by instalments, such period shall be calculated from the date of the payment of the first instalment.

(8) Any advance may, at the option of the Board, be made repayable in a lump sum or by instalments of principal and interest combined, or in such other manner as the Board shall in any particular case determine.

(9) The Board may fix a higher rate of interest to be payable in any case in which default is made in payment of the same for a period of fourteen days from the due date thereof.

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(10) For the purposes of this Part "rural industry" means—

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- i. Agriculture :
 - ii. Horticulture :
 - iii. Any farming industry :
 - iv. The pastoral industry :
 - v. The manufacture of butter :
 - vi. The manufacture of cider : and
 - vii. The cutting and preparation of timber proposed to be used in the manufacture of cases to be employed as containers of fruit of any kind intended to be exported from this State ; and the manufacture of such cases from such timber—
- and any industry which the Governor may, by proclamation, declare to be a rural industry for the purposes of this Part.

34 No advance shall be made under this Part except upon the security of—

Security on which advances may be made.

- i. Freehold land or a credit holding :
- ii. Crops, wool, stock, poultry, plant, machinery, or implements :
- iii. A policy of life assurance :
- iv. A guarantee approved by the Board : or
- v. Such other security as may be prescribed.

35—(1) The Board may, at the time of making any advance or instalment of an advance under this Part, specify the purpose for which the same is to be applied.

Board may in certain events refuse to pay instalments of advances and may call in any moneys already advanced.

(2) The Board may, if it is satisfied that any money advanced under this Part has not been applied for the purpose for which it was advanced, or for some other purpose approved by the Board, or that such money has been expended in a careless or wasteful manner—

- i. Refuse to pay to the borrower any further instalment on account of such advance : and
- ii. Call in the amount already advanced—

whereupon the borrower shall forthwith repay the same to the Board, together with all interest due or accruing due thereon.

36 The Board may, upon such terms and conditions in all respects as it thinks fit, discount promissory notes or bills of exchange held by persons engaged in any rural industry.

Board may discount bills.

37 The provisions of Part III. of this Act shall, wherever the same are applicable, apply to and in respect of advances under this Part, but, whenever any of such provisions are inconsistent with any of the provisions of this Part, the provisions of this Part shall prevail.

Application of Part III. of this Act.

38—(1) Every security taken by the Board under this Part in respect of any crops, wool, stock, poultry, plant, machinery, implements, or other chattels shall be by mortgage to the Board, and shall be in the form set out in the third schedule, and every such mortgage

Mortgages on crops, stock, &c.

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shall be registered, as provided by this Part, within thirty days after the date thereof.

(2) Every such mortgage duly made and registered as aforesaid shall entitle the Board to all property in the goods and chattels therein specified or described, as security for such advance, to the exclusion of any other person, and during the continuance of any such mortgage the possession of the subject-matter thereof by the mortgagor shall be deemed to be possession by the Board.

(3) Every such mortgage of wool or crop shall be an authority for the Board to take possession of the subject-matter thereof and to—

i. Wash and shear the sheep bearing such wool : and

ii. Harvest any such crop—

if and whenever the same may be necessary for perfecting, protecting, or realising its security under such mortgage.

(4) Every mortgage under this section shall expire and cease to have effect upon the expiration of two years from the date of its registration, or, if the same is re-registered as hereinafter provided, from the date of its last re-registration.

(5) Upon the expiration of any such mortgage or upon payment to the Board of all moneys due to it thereunder, whichever event first happens, the property thereby vested in the Board shall revert to, and re-vest in, the mortgagor, but this provision shall not extend to the property in any goods or chattels of which the Board, under and by virtue of such mortgage, may have lawfully disposed prior to such payment or which it may have seized for the purpose of such disposal prior to such expiration, as the case may be.

(6) Every such mortgage as aforesaid shall be registered within thirty days after the date thereof by filing with the Registrar of the Supreme Court (hereinafter called "the Registrar") a true copy thereof, certified by affidavit.

(7) Any such mortgage may be re-registered at any time before the expiry thereof by the filing of an affidavit, in the prescribed form and containing the prescribed particulars, showing that such mortgage is a subsisting security for the amount stated in such affidavit.

(8) The Registrar shall keep a register in the prescribed form of all such mortgages and shall enter therein the prescribed particulars, and shall keep in the prescribed manner and form an index to such register.

Protection of
landlords and
mortgagees.

39 Where a mortgage of crops is given under this Part by the tenant or mortgagor respectively of the land whereon such crop is or has been growing, the Board, before selling the same, shall pay—

i. In the first of such cases, to the landlord of such land such rent : and

ii. In the second of such cases to any mortgagee of such land who is in possession thereof under his mortgage such interest—

not exceeding in either case the rent or interest in respect of one year, as may be due to such landlord or mortgagee, as the case may be, at

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the time such crop is seized by the Board, and all sums so paid shall be recoverable by the Board under its security on such crops. A.D. 1935.

40—(1) A receipt under the seal of the Board for all moneys secured by any such mortgage as aforesaid, or for the final balance thereof, may be registered without the payment of any fee by filing in the office of the Registrar a true copy thereof, verified by affidavit, and by producing to him the original receipt and the mortgage to which the same relates. Discharge of mortgage.

(2) Such registration shall operate as an extinction of such mortgage, but shall not affect anything lawfully done thereunder prior to such registration.

41 No person shall publish in any trades journal or other similar publication any list or record of the names of persons giving mortgages under this Part. Publication prohibited.

Penalty: Ten pounds.

42 The provisions of—

- i. Sections four, twenty-one, and twenty-two :
- ii. Sections twenty-six to twenty-eight, inclusive :
- iii. Section thirty-two :
- iv. Sections thirty-four to thirty-six, inclusive : and
- v. Sections thirty-nine to forty-five, inclusive—

Application of
Bills of Sale Act
1900.

of the *Bills of Sale Act 1900*, where applicable, shall apply to all mortgages under this Part in the same manner and to the same extent as if the said sections had been re-enacted herein, with the substitution therein of the word "mortgage" in place of the words "bill of sale," and of the words "mortgagor" and "Board" respectively in place of the words "grantor" and "grantee," wherever occurring, and, except as aforesaid, the provisions of the said Act shall have no application to any mortgage duly made and registered as provided by this Part. 64 Vict. No. 70.

PART V.

MISCELLANEOUS.

43 In every year the Board shall furnish a report to the Treasurer upon the operation of this Act, and every such report shall be laid before both Houses of Parliament. Board to report to Treasurer.
7 Ed. VII. No. 20, s. 32.

44—(1) Every member of the Board, manager, or officer appointed under this Act who directly or indirectly takes any fee, consideration, remuneration, gift, or reward of any description whatever in respect of any loan or advance under this Act, except such as he is entitled to take under this Act, shall be dismissed from his office and be liable to a penalty of fifty pounds, or to imprisonment for six months. Officers, &c., not to take rewards.
7 Ed. VII. No. 20, s. 33.

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(2) Every person who—

- i. Having a pecuniary interest in any land tendered as security for a loan or advance under this Act : or
 - ii. Being the husband, partner, employer, or any relation by blood or marriage of the applicant for a loan or advance—
- knowingly acts as valuator in connection with such land or loan or advance, or knowingly sits and votes at any meeting of the Board upon any resolution having reference to such applicant's land or loan or advance, shall be liable to a penalty of one hundred pounds, and shall also be dismissed from any office held by him under this Act.

(3) No person shall, in relation to any loan or advance, or application for any loan or advance, directly or indirectly bribe or attempt to bribe, or directly or indirectly corruptly influence or attempt to corruptly influence, any person whomsoever.

Penalty: Fifty pounds, or six months' imprisonment.

Auditor-General
to audit accounts.
7 Ed. VII. No.
20, s. 36.

45—(1) The accounts of the bank, at such times as may be directed by the Governor, shall be audited by the Auditor-General, and shall be annually laid before Parliament.

(2) The Auditor-General shall have in respect of such accounts the like powers as are conferred on him by law in respect of the audit of public accounts.

Exclusion of
application of 16
Geo. V. No. 15.
7 Ed. VII. No.
20, s. 37.
Saving of 26 Geo.
No.

46 The *Bank Returns Act* 1925 shall not apply to the Bank.

47 Except where otherwise expressly provided, the provisions of this Act shall not prejudice or affect the operation of the provisions of the *Crown Lands Act* 1935.

7 Ed. VII. No.
20, s. 38 (inserted
by 3 Geo. V. No.
53).
Regulations.
7 Ed. VII. No.
20, s. 34.

48 The Governor may make regulations for—

- i. The conduct of the business of the Bank:
- ii. Regulating the meetings and proceedings of the Board:
- iii. Prescribing the mode in which applications for advances are to be made:
- iv. Prescribing what works shall be improvements for the purposes of this Act:
- v. Fixing and prescribing the principle and mode to be adopted in determining the value of improvements for the purposes of this Act:
- vi. Prescribing and fixing the nature and form of the security to be given in respect of credit holdings; the nature and form of agreements and documents to be entered into and executed in connection with any advance; and the mode of registering or recording transactions under this Act relating to such land in the office of the Commissioner of Crown Lands:
- vii. Prescribing the accounts, registers, and books to be kept, and the manner of keeping the same:

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viii. Fixing the scale of costs and fees for the preparation, completion, and discharge of mortgages, and the valuation of securities : A.D. 1935.

ix. Prescribing the duties of valutors and the scale of their remuneration—
and generally for the purposes of this Act.

49 All advances made by the Board in the exercise or intended exercise of its powers under Part V. of the *State Advances Act 1907*, are hereby declared to have been validly made whether or not any such advance was of a sum less than twenty pounds. Transitory provisions.

THE FIRST SCHEDULE.

ACTS REPEALED.

Regnal Year and Number.	Title of Act.
7 Ed. VII. No. 20	<i>The State Advances Act 1907</i>
3 Geo. V. No. 53	<i>The State Advances Act 1912</i>
5 Geo. V. No. 34	<i>The State Advances Act 1914</i>
7 Geo. V. No. 28	<i>The State Advances Act 1916</i>
13 Geo. V. No. 26	<i>The State Advances Act 1923</i>
16 Geo. V. No. 87	<i>The State Advances Act 1926</i>
18 Geo. V. No. 32	<i>The State Advances Act 1927</i>
18 Geo. V. No. 80	<i>The State Advances Act (No. 2) 1927</i>
19 Geo. V. No. 50	<i>The State Advances Act 1928</i>
20 Geo. V. No. 8	<i>The State Advances Act 1929</i>
20 Geo. V. No. 32	<i>The State Advances Act (No. 2) 1929</i>
21 Geo. V. No. 60	<i>The State Advances Act 1930</i>
22 Geo. V. No. 10	<i>The State Advances Act 1931</i>
23 Geo. V. No. 23	<i>The State Advances Act 1932</i>

THE SECOND SCHEDULE.

ACTS UNDER WHICH MONEYS RAISED OR APPROPRIATED.

Enactment.	Amount Raised or Appropriated.
7 Ed. VII. No. 20, s. 11 (1), as amended, 5 Geo. V. No. 34, and 7 Geo. V. No. 28	£150,000 borrowed.
16 Geo. V. No. 87, s. 2	£50,000 borrowed.
18 Geo. V. No. 32	£20,000 reappropriated
18 Geo. V. No. 80	£150,000 reappropriated
19 Geo. V. No. 50 (s. 40)	£250,000 borrowed for purposes of Part V. of <i>State Advances Act 1907</i>

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THE THIRD SCHEDULE.

THIS INDENTURE, made the _____ day of _____ 19____, under the provisions of Part IV. of the *State Advances Act 1935*, BETWEEN [*insert full name of mortgagor*] of [*address*], in Tasmania, [*occupation*] (herein called the mortgagor), of the one part, and the Board of Management of the Agricultural Bank of Tasmania (herein called the Board) of the other part, WITNESSETH that the mortgagor, as the beneficial owner, DOTH MORTGAGE to the Board ALL AND SINGULAR the goods, chattels, and effects particularly described in the schedule hereunder written. To HOLD the same unto the Board as security for the sum of [*insert amount of mortgage*] payable by the mortgagor to the Board on [*insert date of payment; or, if required, the word "demand"*] with interest thereon in the meantime and until payment thereof at the rate of [*insert rate per cent.*], payable [*insert times of payment*].

[*Add here any special covenant, condition, or proviso, as, e.g., "The mortgagor will insure."*]

*Alter as required where a company is the mortgagor. *22*

*IN WITNESS whereof the mortgagor has hereunto set his hand and seal, and the Board has caused its common seal to be hereunto affixed, the day and year first above written.

SIGNED, SEALED, AND DELIVERED by }
the said [*mortgagor*] }
in the presence of }

THE SCHEDULE HEREINBEFORE REFERRED TO [*here insert particulars of property on which security given. If the security is over stock the description must conform to the provisions of Section 34 of the Bills of Sale Act 1900.*]

.....
[*Mortgagor to sign here.*]

.....
Witness.