

WESTERN AUSTRALIA

ANNO QUINQUAGESIMO OCTAVO

VICTORIÆ REGINÆ

No. 21

An Act to authorise the Establishment of a Bank for the purpose of assisting the Occupation, Cultivation, and Improvement of Agricultural Lands.

[Assented to 23rd November, 1894.]

WHEREAS it is considered advisable to establish a Bank for the purpose of promoting the occupation, cultivation, and improvement of the Agricultural Lands of the Colony: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as 'The Agricultural Bank Act, 1894.'
2. The Governor may establish and maintain a Bank for the purpose of promoting the occupation, cultivation, and improvement of the Agricultural Lands of the Colony, subject to the provisions of this Act.
3. The funds necessary for carrying on the Bank shall be such moneys as may be raised by the sale of Mortgage Bonds, as hereinafter provided, and such other moneys as may be provided by Parliament from time to time.
4. There shall be a Manager of the Bank (hereafter called the Manager), appointed by the Governor, who may also remove from such office any person so appointed. It shall be the duty of such Manager to conduct and manage the said Bank, subject to this Act and the Regulations made hereunder.
5. The Colonial Treasurer for the time being of the Colony may issue from time to time Mortgage Bonds, which shall be in the form

Preamble

Short title

Governor may establish and maintain a Bank

How funds obtainable

Appointment and duties of Manager

Colonial Treasurer may issue Mortgage Bonds

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Schedule	set out in the Schedule to this Act, or in such other form as shall be approved by the Colonial Treasurer, for the purpose of raising any sum or sums of money, not exceeding in the aggregate the sum of One hundred thousand pounds, for the purposes of this Act.
Bonds, how to be signed and registered	6. Every such Mortgage Bond shall be signed by the Colonial Treasurer, and shall be registered in the Treasury and by the Auditor General, and shall be issued for a sum of Ten pounds, Twenty-five pounds, Fifty pounds, One hundred pounds, Five hundred pounds, or One thousand pounds, and shall be payable to the bearer or to the order of the person named in such Mortgage Bond on presentation at or after the due date thereof (being a period not greater than twenty years from the date of such Bond), and shall bear interest at a rate not exceeding Five pounds per centum per annum, to be computed from the day on which the Bond shall be issued and bear date, and such interest shall be payable half-yearly on presentation of the Mortgage Bond, but no interest shall become payable on any Bond after the due date for the payment of the principal.
When payable	
Rate of interest	
When interest payable	
Moneys to be paid to Colonial Treasurer in trust to repay principal and interest	7. All moneys to be raised by the issue of such Bonds, or to be provided by Parliament for the purposes of this Act, shall, subject to the provisions of this Act, be held by the Colonial Treasurer, together with all interest, income, and repayments to become payable in respect of any investments of the principal moneys invested under the powers of investment hereinafter contained, in trust to repay the principal and interest moneys secured by such bonds.
How principal and interest to be paid	8. The principal sum and interest for which any Mortgage Bond may be issued shall be chargeable upon and paid out of moneys arising out of this Act, and so far as funds for the payment of any such principal sum and interest shall not be available under the operation of this Act, any such sum or interest shall be chargeable upon and paid out of the Consolidated Revenue Fund. Such last-mentioned fund shall, in respect of any such payment, be reimbursed out of moneys to be provided by Parliament.
Where Bonds and interest payable	9. All the said Mortgage Bonds when due, and all interest thereon, shall be payable by the Colonial Treasurer at the place mentioned for such payment on the face of the Bond.
Surplus to be annually carried to Redemption Account	10. After providing for the payment of interest due on Mortgage Bonds, and for all expenses of maintenance and administration of the Bank, any surplus income arising from the investment of the moneys available for the purposes of this Act as hereinafter mentioned shall be annually carried to a Redemption Account, together with all moneys arising from the repayment of advances under this Act, and the said funds shall be applied in the following manner to the redemption of Mortgage Bonds:
Annual drawings	(a) The Mortgage Bonds shall be redeemed by annual drawings in every year after the expiration of six years from date of first issue thereof.
Date of drawing to be advertised;	(b) A day shall be appointed by the Colonial Treasurer for the said drawing, of which not less than fourteen days' notice shall be given by advertisement in two daily papers published in the Colony, and the said notice shall specify the day on which, and the hour and place at

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which, the drawing will take place, and the nominal value of the Mortgage Bonds to be redeemed at that drawing.

- (c) On the day and at the hour and place so specified, the Colonial Treasurer shall, in the presence of any Mortgage Bond holders who may think fit to attend, draw by lot out of the whole number of Mortgage Bonds that have been in circulation six years, Mortgage Bonds of the nominal value specified in the said notice. If the Mortgage Bonds of that currency are insufficient to meet the amount of the drawing, the further sum required shall be made up from the numbers of the next issue, and so on *seriatim*. Drawing by lot
- (d) The Colonial Treasurer shall thereupon declare the distinguishing numbers of the Mortgage Bonds drawn for redemption, and shall, as soon as possible, give notice thereof in two daily papers published in the Colony; and the principal moneys secured by the said Mortgage Bonds so distinguished, together with the interest due thereon, shall be payable on demand to the holders thereof, at the said Bank, on the day on which the then current half-year's interest is payable. Result of drawing to be published

11. From and after the day appointed for the repayment of any Mortgage Bonds, all interest on the principal moneys secured thereby shall cease and determine, whether payment of the principal has or has not been demanded. Interest to cease after day appointed for repayment of Bonds

12. Upon the repayment of the principal moneys secured by the Mortgage Bonds which have been withdrawn from circulation in the manner aforesaid, the said Bonds shall be forthwith forwarded by the Colonial Treasurer to the Auditor General, who will, in the presence of the Colonial Treasurer, cause the said Mortgage Bonds to be destroyed. Bonds withdrawn from circulation to be destroyed

13. Any such Mortgage Bonds may be negotiated, sold, or disposed of by the Colonial Treasurer, who may fix the limit of price below which the said Bonds shall not be so negotiated, sold, or disposed of. How Bonds to be negotiated

14. The Governor may authorise the sale or disposal of any such Bonds beyond the limits of the Colony, and may appoint any agent or agents to negotiate such sale on behalf of the Government. Governor may authorise sale of Bonds beyond limits of the Colony

15. In case any Mortgage Bond shall by any accident be defaced, the Colonial Treasurer may, from time to time, on such Bond being delivered to him, cause a new Bond to be issued and delivered to the holder of such defaced Bond in lieu of the Bond so defaced, and the Bond so defaced shall be cancelled by the Colonial Treasurer in the presence of the Auditor General; and the Bond so to be issued in lieu thereof shall have a like currency, and shall in all respects be subject to the same rules, regulations, and provisions as by this Act are declared of and concerning the Bond in substitution for which such new Bond shall be issued as aforesaid, and shall bear the same number or numbers, dates and amounts, and bear the like interest, as the Bond so cancelled bore respectively. Bonds may be exchanged for new Bonds

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- Provision as to Bonds lost or destroyed
- Principal and interest may be paid to an alleged last holder
- Proviso as to security
- Counterfeiting Bonds to be forged, and to be punished
- Bank may make advances to farmers and cultivators
- Advances may be paid by instalments
16. In case proof shall be made to the satisfaction of the Colonial Treasurer, by affidavit or otherwise, that any Mortgage Bond has by casualty or mischance been lost, burnt, or otherwise destroyed, it shall be lawful for the Colonial Treasurer to cause the principal and interest moneys due upon such Bond so lost, burnt, or otherwise destroyed, to be paid as the same respectively become due to the person or persons claiming to have been the last holder or holders of the said Bond, in like manner as if the original Bond had been brought in to be paid off: Provided that the person or persons so receiving the principal money and interest in respect of such Bond alleged to have been lost, burnt, or otherwise destroyed, shall give security to the satisfaction of the Colonial Treasurer against any lawful claim which may be made upon the Colonial Treasurer, or the Government of the Colony, in respect of the Bond so alleged to have been lost, burnt, or otherwise destroyed.
17. Whosoever shall forge, fabricate, or counterfeit, wholly or in part, any paper, writing, or instrument purporting to be a Mortgage Bond under or according to this Act, or who shall forge, counterfeit, alter, add to, obliterate, or wilfully mutilate or deface any word, letter, or figure in or upon any such Mortgage Bond, or who shall fill up with any word, letter, or figure any blank space in or upon any such Mortgage Bond, whether issued or not, and whether wholly or partly made under this Act, or who shall utter, pass, or negotiate, or attempt to utter, pass, or negotiate any such forged, fabricated, counterfeited, altered, added to, obliterated, wilfully mutilated, or defaced or filled up Bond as aforesaid, knowing the same to be so, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the Court, to be kept in penal servitude for life, or for any term not less than three years, or to be imprisoned for any term not exceeding two years with or without hard labour, or with or without solitary confinement.
18. (1) The manager, with the approval of the Governor, may make advances to farmers or other cultivators of the soil on the security of their holdings in Fee Simple, or under Special Occupation Lease or Conditional Purchase from the Crown, or a Homestead Farm under 'The Homesteads Act, 1893':
- (a) For the purpose of making improvements (as herein after defined) on unimproved holdings, or
- (b) Adding to improvements already made on holdings.
- (2) No advance shall exceed one half of the fair estimated value of the improvements proposed to be made, and at no time shall the advance or advances to any one person exceed the sum of Four hundred pounds.
- (3) The rate of interest to be charged on any advance shall not exceed Six pounds per centum per annum, payable half-yearly.
- (4) Every advance shall be recommended by the Manager for the approval of the Governor, and no advance shall be made unless so recommended and approved.
19. (1) Any advance recommended and approved as aforesaid may be paid by the Manager, by instalments, as the improvements proceed.

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(2) Any person applying for an advance under this Act shall set forth in his application the improvements upon which he proposes to expend the advance, and in the event of the money being applied to any purpose other than that approved by the Manager, or not being in his opinion carefully and economically expended, the Manager may in his discretion refuse to pay any further instalment of the agreed advance, and may at once call in the money already paid.

Applicant to state proposed improvements

Manager may withhold payments in certain cases

20. (1) The repayment of every advance under this Act shall be secured to the Manager by Deed or Instrument of Mortgage, in such form as may be prescribed by the Regulations to be made under this Act, and, in the case of holdings other than in fee simple, by transfer to the Manager of the lease or other document of title.

Advances to be secured by mortgage

(2) Notwithstanding anything contained in 'The Homesteads Act, 1893,' a 'selector' within the meaning of that Act may lawfully sign or execute any form of security or transfer required under the provisions of this Act or the Regulations hereunder.

21. Improvements for the purposes of this Act shall mean clearing, cultivating, and ring-barking, but shall not include any other kind of improvement.

Definition of improvements

22. At the expiration of five years from the first day of January or the first day of July, as the case may be, following the date of every advance, the borrower shall begin to repay the same, at the rate of one-fiftieth of the principal sum half-yearly, until the whole has been repaid: Provided always, that the advance may be repaid at any time sooner than is herein provided, and in larger instalments, at the option of the borrower.

Mode of repayment of loan

23. All mortgages and other securities in the name of any person as Manager, under the provisions of this Act, shall and may be put in suit, and be sued and prosecuted in the name of the Manager for the time being in whose name the same may have been taken, or in the name of any person who shall have succeeded to that office at the time such proceedings shall be instituted, notwithstanding that the name of any such succeeding Manager be not inserted in such mortgage or other security as mortgagee, transferee, assignee, or payee of the sum or sums of money therein mentioned, and the death, resignation, removal, or other act of any such Manager for the time being in whose name any such mortgage or other security as aforesaid shall be so put in suit shall not abate any action, suit, or other proceeding had thereon; but the same may be continued where it left off, and be prosecuted and carried on in the name of any person who may have succeeded to that office, or may be or become the Manager for the time being of the said Bank, and the legal estate in all lands and tenements mortgaged or transferred to the said Manager on account of the said Bank, and all legal rights and capacities in respect thereof, including the power to execute and sign any release, reconveyance, transfer, or discharge of any such lands, mortgage, or other security shall become vested in such new Manager as aforesaid, to all intents and purposes, immediately upon his appointment being notified in the 'Government Gazette,' and so on as often as any new appointment of Manager of the said Bank for the time being shall take place.

Securities may be put in suit and enforced in name of Manager for the time being

Manager for the time being may discharge securities

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Advances only
to be made on
first mortgages

24. 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.

Remedy for
recovery of half-
yearly payments

25. (1) If at any time any half-yearly payment of principal or interest, or any part thereof, is unpaid for twenty-one days next after the time appointed for the payment thereof, the Manager may enter and distrain on the land charged, or any part thereof, and dispose, according to law, of any distress found, to the intent that thereby or otherwise the half-yearly payments and all other arrears thereof due at the time of such entry, and all costs and expenses occasioned by non-payment thereof, may be fully paid.

How land to be
sold

(2) If at any time any half-yearly payment of principal or interest, or any part thereof, is unpaid for two calendar months next after the time appointed for the payment thereof, then, although no legal demand has been made for the payment thereof, the Manager may enter upon and take possession and sell the whole or any part of such land, either by private sale or public auction, and subject to any conditions of sale he may think expedient, and after such notice of the time, place, terms, and conditions of sale as he may think just and expedient, and may transfer or convey such land to the purchaser, and give a good and valid title thereto.

Application of
proceeds of sale

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

Conditions
annexed to land
whilst subject
to advances

26. As between the Manager and the owner or holder for the time being of any land on which the Manager has made an advance under this Act, the following conditions shall be imposed so long as such land is subject to any charge in respect of any half-yearly payment in favour of the Manager, namely :

- (a) Such land shall not be sub-divided or let by such owner or holder without the consent of the Manager.
- (b) When the owner or holder sub-divides or lets such land, or any part thereof, in contravention of the foregoing provisions of this section, the Manager may cause the land to be sold.
- (c) Where the title to the land is divested from the owner or holder, under any law relating to bankruptcy or insolvency, the Manager may cause the land to be sold.
- (d) Where on the decease of the owner or holder the land would by reason of any devise, bequest, intestacy, or otherwise become sub-divided, the Manager may require the land to be sold within twelve months after the death of the owner or holder to some one person, and if default is made in selling the same the Manager may cause the same to be sold.

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The provisions of Section twenty-five, as to sale and application of proceeds of sale, shall apply to every sale made under the provisions of this Section.

27. Whenever land authorised to be sold by the Manager under this Act is offered for sale by public auction, and the amount of the highest bidding at such sale is not sufficient to satisfy the moneys due or owing on such land, together with the costs and expenses of or occasioned by such attempted sale, or there is no bid, the Manager shall advertise the land for private sale, in the 'Government Gazette' and in at least one newspaper circulating in the district where such land is situate, 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 principal and interest moneys secured and all costs and expenses occasioned by such sale and proceedings, and upon such reversion the land shall revert in Her Majesty, her heirs and successors accordingly, and may be disposed of by the Commissioner of Crown Lands in like manner as improved lands may be disposed of by such Commissioner under the provisions of Section twenty-one of this Act.

In event of no purchaser, land to revert to the Crown

28. No judgment, order, or decree of any Court of law shall in any way affect the security for the advance made by the Bank, and until the advance and all interest thereon is repaid no process of law shall interfere with the security for the same.

Judgment of Court not to affect security

29. The Governor may from time to time appoint and remove valuers, and such other officers as may be necessary for carrying out this Act.

Governor may appoint officers

30. The Governor may make Regulations prescribing the mode in which applications for advances are to be made, the mode in which the value of improvements shall be determined, the forms of mortgage or security to be taken by the Manager, and generally for carrying out the objects and provisions of this Act; and such Regulations, when published in the 'Government Gazette,' shall have the force of law, and shall be laid before Parliament within fourteen days after such publication, if Parliament be then in session, and if not, then within fourteen days after the next meeting of Parliament.

Governor may make regulations

ALEX. C. ONSLOW,
GOVERNOR'S DEPUTY.

THE SCHEDULE

WESTERN AUSTRALIA

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Number .

MORTGAGE BOND

I, _____, Colonial Treasurer of the Colony of Western Australia, hereby acknowledge that the holder of this Bond is the owner of funds in the Agricultural Bank to the extent of _____ pounds, and that until the redemption of this Bond by me I will, at the Treasury,

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at Perth, on every 1st day of April and 1st day of October, pay to the bearer of this Bond interest on the said sum at the rate of _____ pounds per centum per annum.

The said sum and the said interest are hereby charged on the Consolidated Revenue Fund of the Colony of Western Australia.

Colonial Treasurer of Western Australia.

Registered at the Treasury and Audit Offices, Perth, in the Register of Mortgage Bonds, folio _____, this _____ day of _____, 189 _____.

Auditor General.

Under Treasurer.
