

**RURAL AND INDUSTRIES BANK.**

8° AND 9° GEO. VI., No. LI.

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No. 51 of 1944.

**AN ACT** to constitute and regulate and provide for the management of a Rural and Industries Bank to take the place of the Agricultural Bank of Western Australia; to authorise such Bank to receive deposits, borrow money, and to make loans and investments, and generally to carry on the business of banking; to provide for a government guarantee of any indebtedness of such Bank; to repeal or amend Acts dealing with the Agricultural Bank of Western Australia and with advances to persons engaged in rural industries; to provide for the transfer of certain assets liabilities and powers to such Bank; and for other purposes consequent thereon or incidental thereto.

[Assented to 1st February, 1945.]

**BE** it enacted by the King'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 *Rural and Industries Bank Act, 1944*, and shall come into operation on a date to be fixed by proclamation.

Short title  
and com-  
mencement.

Act to bind  
the Crown.  
N.S.W. No. 48  
of 1906, s. 2.

Construction  
of Act.  
N.S.W. No. 63  
of 1932, s 17.

Arrangement.  
W.A. No. 45  
of 1934, s. 2;  
N.S.W. No. 48  
of 1906, s. 3.

2. This Act shall bind the Crown.

3. This Act shall be read and construed so as not to exceed the legislative power of the State to the intent that where any enactment thereof would, but for this section, have been construed as being in excess of that power, it shall nevertheless be a valid enactment to the extent to which it is not in excess of that power.

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

PART I., ss. 1 to 6—PRELIMINARY.

PART II., ss. 7 to 19—ESTABLISHMENT OF BANK.

*Division 1, s. 7—Constitution of Bank.*

*Division 2, ss. 8 to 18—Management.*

*Division 3, s. 19—Powers of Management.*

PART III., ss. 20 to 25—TRANSFER OF ASSETS  
AND LIABILITIES.

*Division 1, ss. 20 and 21—Assets.*

*Division 2, ss. 22 to 25—Liabilities.*

PART IV., ss. 26 to 35—FINANCE.

*Division 1, ss. 26 to 29—Funds.*

*Division 2, ss. 30 to 34—Borrowing Powers.*

*Division 3, s. 35—Investments.*

PART V., ss. 36 to 45—ADMINISTRATION.

*Division 1, ss. 36 to 41—Staff.*

*Division 2, ss. 42 to 45—Administration of  
certain Acts transferred.*

PART VI., ss. 46 to 69—RURAL DEPARTMENT.

*Division 1, ss. 46 to 50—Powers.*

*Division 2, ss. 51 to 65—Loans.*

*Division 3, ss. 66 to 69—General.*

PART VII., ss. 70 to 83—GOVERNMENT AGENCY  
DEPARTMENT.

PART VIII., ss. 84 to 94—ENFORCEMENT AND  
WRITING DOWN OF SECURITIES.

PART IX., ss. 95 to 98—ACCOUNTS AND AUDIT.

PART X., ss. 99 to 105—OFFENCES AND PENALTIES.

PART XI., s. 106—REGULATIONS.

PART XII., ss. 107 to 118—MISCELLANEOUS.

SCHEDULES—

FIRST SCHEDULE—REPEALED ACTS.

SECOND SCHEDULE—PROVISIONS RELATING TO DEBENTURES.

THIRD SCHEDULE—COVENANTS AND PROVISOS TO BE IMPLIED IN CERTAIN MORTGAGES.

5. The Acts mentioned in the First Schedule to this Act are hereby repealed to the extent stated in such Schedule. Acts repealed.

6. In this Act unless the context otherwise requires—
- “Agricultural Bank” means the Agricultural Bank of Western Australia as heretofore established under the Agricultural Bank Act, 1934, and includes the Commissioners thereof.
- “Amortisation loan” means a loan secured by mortgage repayable with interest by periodical instalments.
- “Bank” means the Rural and Industries Bank constituted by this Act and includes the Commissioners thereof.
- “Borrower” means any person who applies for and obtains a loan from the Bank under this Act, and includes any person who at the time of the commencement of this Act is—
- (a) Immediately or contingently indebted to the Agricultural Bank under any security held by the Agricultural Bank;
- or
- Interpretation.  
W.A. *ibid.*,  
s. 4; N.S.W.  
No. 48 of  
1906, s. 5.

(b) Immediately or contingently indebted to the Treasurer under any security held by the Treasurer in respect of financial assistance rendered to such person under section twenty-four of the Industries Assistance Act, 1915-1940.

“Commissioners” means the Commissioners of the Bank.

“Crops” include every kind of agricultural produce, vegetable or fruit.

“Fixed loan” means a loan on mortgage granted for a fixed term of years during which interest only is payable.

“Industry” includes every trade, or business, or form or branch of productive labour, or other activity having for its object the production or manufacture of marketable products or things.

“Loan” includes any monetary accommodation, or the amount of any accommodation furnished in money’s worth or goods, and any liability undertaken on behalf of the borrower either immediately or under the terms of any guarantee or indemnity.

“Long term loan” means a loan on mortgage granted for a period of years (not exceeding twenty-five years) during which interest is payable, and instalments of principal may be repaid at the will of the borrower.

“Minister” means the Minister of the Crown for the time being and from time to time charged with the administration of this Act.

“Repealed Acts” means the Acts specified in the First Schedule to this Act.

“Rural industry” includes the agricultural, horticultural, pastoral, grazing and dairying industries carried on in the State and such other industries carried on in the State as the Governor may from time to time by Proclamation declare to be a rural industry for the purposes of this Act.

“Security” includes a statutory lien or charge.

“Transferred activities” means the several activities the administration of which is transferred to the Bank by the provisions of this Act.

## PART II.—ESTABLISHMENT OF THE BANK.

### *Division 1.—Constitution of the Bank.*

7. (1) There is hereby established a Bank which shall be called “The Rural and Industries Bank of Western Australia.”

Bank  
established.

(2) The Bank shall consist of two departments which shall be called respectively “the Rural Department” and “the Government Agency Department.”

(3) The business and activities of the Bank shall be distributed between and carried on in the said departments respectively in the manner in this Act hereinafter provided.

(4) The transactions and accounts relating to each department shall be kept separate and distinct.

(5) Except as otherwise expressly provided in this Act no money or assets belonging to either one of the said departments shall be used or applied for any purpose whatsoever of the other department and no liability or commitment of either one of the said departments shall affect in any way the other department or the funds or assets thereof.

Provided that money for the time being or from time to time to the credit of either one of the said departments at any branch or agency office thereof may be used for purposes of the other department subject to monthly adjustments between the departments.

(6) The same officers and servants of the Bank may be employed in carrying on the business of the Bank in both departments aforesaid, and in such case the total costs of administration of the Bank shall be apportioned between the said departments in such manner and in such proportions as the Minister on the recommendation of the Commissioners and subject to certification by the Auditor-General as to the correctness thereof shall from time to time determine.

*Division 2.—Management.*

Management  
of Bank  
vested in  
Commissioners.

8. The management of the Bank shall be and is hereby vested in three Commissioners one of whom shall have had administrative or executive experience in a trading bank.

Commissioners to be appointed by Governor and to be a body corporate.  
W.A. *ibid.*, s. 5; N.S.W. No. 48 of 1906, s. 6; N.S.W. No. 63 of 1932, s. 2.

9. (1) The Commissioners shall be appointed by the Governor and shall be a body corporate under the name of "The Commissioners of the Rural and Industries Bank of Western Australia" with perpetual succession and a common seal and shall be capable of holding, acquiring and disposing of real and personal property, of suing and being sued, and of doing and suffering all things which bodies corporate may by law do and suffer.

(2) The Governor shall appoint one of the Commissioners to be Chairman.

(3) The Chairman and one member to be nominated by the Governor shall devote the whole of their time and attention to the business of the Bank and the remaining member shall devote to the said business such portion of his time and attention as may be recommended by the Commissioners and approved by the Governor. Such part time Commissioner shall attend and take part in the meetings of the Commissioners. Provided that the Governor when nominating the full time member, other than the Chairman, shall, all things being equal, give preference to a person who has served in the Armed Forces of His Majesty in the 1914-1918 war or in the present war.

Tenure of office of Commissioners.  
W.A. *ibid.*, s. 5 (d).

10. (1) The Chairman and the other full time Commissioner shall hold office for a period of seven years from the date of their appointment, and thereafter shall be eligible for re-appointment for a period (not exceeding seven years) to be fixed at the time of such re-appointment.

(2) The part time Commissioner who shall be the Under Treasurer of the State or his deputy shall hold office for a period of two years from the date of his appointment, and thereafter shall be eligible for re-appointment as a part time Commissioner for a like term.

Provided that the appointment of a person as the part time Commissioner shall not disqualify such person from being appointed at any time Chairman or full time Commissioner.

11. (1) The Chairman and the other two Commissioners shall be paid such remuneration respectively as shall be fixed by the Governor from time to time.

Remuneration.  
W.A. *ibid.*,  
s. 5 (g).

(2) Such remuneration shall be a charge upon and be payable out of the funds of the Bank as part of the administration costs of the Bank.

12. No person shall be eligible for appointment either as Chairman or as a Commissioner or to continue to hold any such appointment while he is or if he becomes an officer of any bank firm or institution which carries on the business of making loans on security of any lands in Western Australia.

Disqualifica-  
tion for ap-  
pointment as  
Chairman.  
W.A. *ibid.*,  
s. 5 (i).

13. (1) Each Commissioner shall have the same rights of leave of absence as are or may be granted to officers of the Bank under any award or industrial agreement applicable to such officers.

Leave of ab-  
sence and pro-  
tection of  
certain bene-  
fits of Com-  
missioners.  
See N.S.W. 63  
of 1932, s. 8,  
s. 3 (3), (4)  
and (5).

(2) In the case of a Commissioner who at the date of his appointment as such was an officer of the Agricultural Bank or an officer of the Bank under this Act, as the case may be, his period of service as such an officer shall be taken into account in determining his rights under subsection (1) of this section.

(3) In the case of a Commissioner who at the date of his appointment as such was a public service officer under and within the provisions of the Public Service Act, 1904-1935, and was entitled to any leave of absence or other rights under that Act, the period of his service as such an officer or the period which at the said date represented his length of service for the purposes of his rights under the said Act, as the case may be, shall be taken into account in determining his rights under subsection (1) of this section.

(4) A Commissioner who at the date of his appointment as such is a contributor under and within the pro-

visions of the Superannuation and Family Benefits Act, 1938-1939, may, subject to the provisions of that Act cease to be such a contributor or may continue to contribute as a contributor under the said Act.

Proceedings  
of Commis-  
sioners.

W.A. *ibid.*, s. 5  
(e) and (f);  
N.S.W. No. 63  
of 1932, s. 9.

14. (1) At a meeting of the Commissioners two Commissioners shall form a quorum.

(2) The Chairman shall preside at any meeting of the Commissioners at which he is present, and if the votes at any such meeting are equal he shall, in addition to his deliberative vote, have a second or casting vote. If at any meeting at which the Chairman is not present the voting is equal the matter shall be postponed to the next meeting of the Commissioners at which the Chairman is present.

(3) All questions before the Commissioners upon which they are not unanimous shall be decided by the majority of the votes of those present at the meeting, and in such case the decision of the majority shall be the decision of the Commissioners.

Suspension of  
Commissioner  
by Governor  
for mis-  
behaviour or  
incompetence.

W.A. *ibid.*, s. 5  
(j).

15. The Governor may dismiss any Commissioner at any time on grounds of misbehaviour or incompetence or, if in the opinion of the Governor any such Commissioner for any reason becomes incapable of carrying out the duties of his office.

Resignation.

W.A. *ibid.*, s. 5  
(l).

16. A Commissioner may resign his office by notice in writing addressed to the Governor.

Office of Com-  
missioner how  
vacated.

W.A. *ibid.*, s. 5  
(k).

17. A Commissioner shall be deemed to have vacated his office as such if he—

- (a) Commits a breach of the provisions of paragraph (3) of section nine or of section twelve of this Act; or
- (b) Becomes bankrupt or takes any relief under the law relating to bankrupt debtors; or
- (c) Absents himself from the business of the Commissioners for more than two weeks without the approval of the Governor in writing; or
- (d) Becomes insane or incapable of managing his affairs; or



- (e) Has any direct or indirect pecuniary interest in any agreement with the Commissioners otherwise than as a member and in common with the other members of an incorporated company consisting of at least twenty members; or
- (f) Resigns; or
- (g) Is dismissed from office under section fifteen of this Act; or
- (h) Is convicted of any crime or misdemeanour; or
- (i) Dies.

18. If and whenever any vacancy occurs in the office of a Commissioner, the Governor shall as soon as reasonably may be thereafter appoint a person to fill such vacancy.

Vacancies to be filled.

*Division 3.—Powers of Management.*

19. Subject to this Act the Commissioners shall, in relation to the conduct of the business of the Bank, have and may exercise the following powers and authorities.

Powers and authorities. W.A. *ibid.*, s. 6.

- (a) To take over and assume the conduct of the business heretofore transacted or carried on by the Agricultural Bank under the provisions of the Agricultural Bank Act, 1934, and any other Acts heretofore administered by such Agricultural Bank.
- (b) To carry on the business of banking generally in all forms authorised or recognised by law including the receipt of money on current account, the receipt of money on fixed deposit, the investment of surplus deposits, the making of loans, and the receipt and keeping of any securities, deeds, instruments and other writings for safe custody.
- (c) To consider and determine applications for loans under this Act, on the security of amortisation loans, fixed loans and long term loans and to make loans to persons engaged

Take over business of Agricultural Bank.

Carry on general banking.

Deal with applications for loans.

in or about to engage in any rural industry or other industry and to other persons subject to the prescribed security.

Enforce  
existing  
securities.

(d) In its corporate name to enforce payment of moneys or securities for money (including any statutory lien or security) in favour of the Commissioners, and to enforce payment of any moneys or securities for money (including any statutory lien or security) in favour of—

(i) the Agricultural Bank; or

(ii) any of the transferred activities formerly vested in or taken over by the Agricultural Bank, and by virtue of this Act vested in or taken over by the Bank; or

(iii) vested in the Finance and Development Board, and formerly vested in the Agricultural Bank and by virtue of this Act now vested in the Bank—

and for that purpose to exercise in relation thereto in addition to any powers conferred by this Act all the rights, powers and remedies conferred on any person or body corporate under the repealed Acts, the Industries Assistance Act, 1915-1940, the Discharged Soldiers' Settlement Act, 1918, the Group Settlers' Advances Act, 1925, the Wire and Wire Netting Act, 1926.

Borrowing.

(e) To borrow moneys as hereinafter mentioned with the consent of the Governor on the security of the funds undertaking and revenue of the Bank.

Gf. N.S.W.  
No. 63 of  
1932, s. 70H.  
Agency  
powers.

(f) Through the Government agency department of the Bank but subject to the Minister to perform and exercise such duties, functions, powers and authorities (including the administration of property and assets) as may be delegated to the Bank in pursuance of this Act or of any other Act or by the Governor, and when required so to do by the Minister

to advise the Minister or join with other persons in advising the Minister concerning any matters delegated to the Bank as aforesaid.

- (g) To engage and dismiss officers and servants for the purpose of carrying out the provisions of this Act. Employ officers and servants.
- (h) To suspend or postpone payment and, with the approval of the Minister and the consent of the Governor, to release payment of the whole or any portion of the indebtedness of any borrower; and in relation thereto to join in and be bound by any mutual scheme, arrangement or composition between any such borrower and his creditors for the adjustment of his affairs, whether made voluntarily or under the provisions of any law. Postpone or suspend or release debts.
- (i) To appoint valuers as hereinafter mentioned with general or local knowledge, for the purpose of advising the Commissioners in regard to any application to suspend, postpone or release payment of any amount owing in respect of any loan or in regard to any other matters as required by the Commissioners. Appoint valuers.
- (j) To expend moneys in order to provide suitable buildings and premises in which to carry on the business of the Bank or as residential quarters for officers and for the purposes aforesaid to take over and use any buildings and premises at the time of the commencement of this Act belonging to or held and occupied by the Agricultural Bank. Procure and provide premises.
- (k) Generally to exercise all such other general or specific powers and authorities as are conferred on the Commissioners by this Act.

### PART III.—TRANSFER OF ASSETS AND LIABILITIES

#### *Division 1.—Assets.*

20. By force of this Act there shall be transferred to and vested in the Bank—

- (a) all assets, funds and securities which by virtue of section thirty of the Agricultural Bank Act,

Assets of  
Agricultural  
Bank and  
Treasurer  
transferred to  
the Bank.

1934, and otherwise are at the commencement of this Act vested in the Agricultural Bank; and

- (b) all securities held at the commencement of this Act by the Treasurer in relation to financial assistance which has been rendered by the Treasurer to persons under the provisions of section twenty-four of the Industries Assistance Act, 1915-1940.

Assets, funds  
and securities  
to be divided  
between  
Departments.

21. (1) The securities referred to in paragraph (b) of section twenty of this Act shall in the first instance be allotted to and be dealt with in the Government Agency Department of the Bank, but may at any time on the recommendation of the Commissioners and with the approval of the Minister be transferred to and be dealt with in the Rural Department of the Bank.

(2) The assets funds and securities referred to in paragraph (a) of section twenty of this Act shall in the first instance be allotted to and be dealt with in the Rural Department of the Bank, but thereafter the following provisions shall apply:—

- (a) Moneys lying to the credit of the Agricultural Bank at the commencement of this Act shall be appropriated for use in connection with the business of the bank as carried on through the Rural Department.
- (b) Assets (other than money and securities) transferred to and vested in the Bank by this Act may with the approval of the Minister be apportioned between the Rural Department and the Government Agency Department in such manner as the Commissioners may from time to time determine.
- (c) Securities transferred to and vested in the Bank may with the approval of the Minister be allotted by the Commissioners and be dealt with through the Government Agency Department when in the opinion of the Commissioners the properties which are the subject of such securities have not been sufficiently developed as to be sound farming assets.

- (d) Securities which have been allotted to the Government Agency Department as provided for in paragraph (c) hereof may be transferred to and be dealt with in the Rural Department when in the opinion of the Commissioners the properties which are the subject of such securities have been so developed as to be reasonably regarded as sound farming assets.

*Division 2—Liabilities.*

22. The Bank shall take over and assume the liability for all obligations of the Agricultural Bank as existing at the time of the commencement of this Act, and also the liability for all obligations (both actual and contingent) of the Treasurer as existing at the time of the commencement of this Act under any guarantee or other binding undertaking given by the Treasurer prior to the commencement of this Act pursuant to the power in that behalf conferred on him by section twenty-four of the Industries Assistance Act, 1915-1940.

Bank to take over liabilities of the Agricultural Bank and of the Treasurer.  
W.A. *ibid.*, s.7.

23. In relation to the obligations of the Treasurer taken over by the Bank as provided for in section twenty-two of this Act the following provisions shall apply—

Adjustments in relation to obligations of the Treasurer taken over by the Bank.

- (a) Where prior to the commencement of this Act the Treasurer pursuant to any guarantee or undertaking given by him for the benefit of a borrower has been required to pay and has actually paid the amount of the indebtedness of such borrower, but has not received from the borrower re-imburement in full of the amount so paid by the Treasurer, the Bank, upon the enforcement by the Bank of the security given by the borrower to the Treasurer to protect him in respect of such re-imburement, shall hold the amount recovered by such enforcement in trust for the Treasurer and shall deal with the same in such manner as the Treasurer shall direct.
- (b) Where after the commencement of this Act, the Bank is required, pursuant to any obligation of the Treasurer taken over by the Bank under section twenty-two of this Act, to pay and

does pay the amount of the indebtedness of the borrower as guaranteed by the Treasurer, the Bank, upon the enforcement by the Bank of the security given by the borrower to the Treasurer to protect him in respect of the re-imbusement of the payment of such indebtedness when made on behalf of the borrower, shall hold the amount recovered as belonging to and forming part of the funds of the Bank.

Governor may grant relief from liability to Treasurer. W.A. *ibid.*, s. 8.

24. (1) From and after the commencement of this Act the aggregate indebtedness of the Agricultural Bank to the Treasurer taken over and assumed by the Bank under this Act, and the amount of any debt due by the Bank to the Treasurer under paragraph (a) of section twenty-three of this Act may be reduced by the Governor on the recommendation of the Treasurer from time to time by such sum or sums as after investigation and audit represent lost capital of the Bank.

(2) The Governor may on the recommendation of the Treasurer suspend the liability of the Bank to the Treasurer in respect of any sum or sums forming part of the aggregate indebtedness or debt aforesaid and grant the Bank relief from interest payments to the Treasurer during such period of suspension or grant the Bank relief from interest payments on any sum or sums forming part of the aggregate indebtedness or debt aforesaid whether payment of such sum or sums is suspended or not. Provided that nothing herein contained shall be construed as relieving the Bank from its duty to make any sinking fund payments which the Bank is required to make under section twenty-five of this Act.

Certain sinking fund payments to be continued. Cf. W.A. *ibid.*, s. 9.

25. Where by virtue of section nine of the Agricultural Bank Act, 1934, the Agricultural Bank is at the time of the commencement of this Act bound to make any sinking fund payments to provide for the redemption of any loan made to the Finance and Development Board under the provisions of the Finance and Development Board Act, 1930, or to make payment of any other moneys borrowed by the said Board under the said Act, the Bank shall continue to make such sinking fund payments or to make payment of the other moneys aforesaid

in the same manner and at the times as applied in the case of the Agricultural Bank when it was liable to make such payments.

#### PART IV.—FINANCE.

##### *Division 1.—Funds.*

26. The funds of the Bank shall be fixed at the sum of twelve million pounds, and shall include— Funds of the Bank.

- (a) moneys transferred from the credit of the Agricultural Bank to the credit of the Bank;
- (b) the value of all assets (other than money and securities) formerly belonging to or held by the Agricultural Bank and now by virtue of this Act transferred to the Bank;
- (c) the value of or the amount of the indebtedness of borrowers under all securities formerly belonging to the Agricultural Bank and now by virtue of this Act belonging to and vested in the Bank;
- (d) the value of or the amount of the indebtedness of borrowers under all securities formerly belonging to the Treasurer in respect of financial assistance rendered by him to such borrowers under section twenty-four of the Industries Assistance Act, 1915-1940, and now by virtue of this Act transferred to and vested in the Bank;
- (e) moneys appropriated by Parliament to the purposes of this Act;
- (f) moneys borrowed by the Bank under the borrowing powers conferred by this Act;
- (g) income from investments; and
- (h) all other revenue of the Bank.

27. All moneys received by or belonging to the Bank and which form part of the funds of the Bank shall be paid to a special account in the name of the Commissioners to be kept at the Treasury, and from that account the Commissioners shall draw all sums needed for the costs of the administration of the Bank and the conduct of the business of the Bank under this Act.

Moneys received by or belonging to Bank to be paid into account at the Treasury.  
See W.A. *ibid.*, s. 9.

Application  
of funds of  
the Bank.

28. The Funds of the Bank shall be charged with and applied—

- (a) in payment of remuneration or allowances to the Commissioners to which they are entitled under this Act;
- (b) in payment of salaries, wages and other allowances of officers and servants of the Bank;
- (c) in payment of the general administration expenses of the Bank including the provision of offices and premises for the transaction of the business of the Bank;
- (d) in payment of any indebtedness under obligations taken over and assumed by the Bank;
- (e) in making loans to borrowers under the provisions of this Act;
- (f) in making any other payment incidental to the business of the Bank which is recommended by the Commissioners to the Minister and approved by the Governor.

Sinking fund  
for repay-  
ment of  
moneys ap-  
propriated by  
Parliament.  
See W.A. No.  
8 of 1912, s. 6.

29. The interest on and contributions, at a rate to be fixed from time to time by the Treasurer, to the sinking fund for the redemption of money appropriated by Parliament to the purposes of this Act shall be paid by the Bank to the Treasurer half-yearly and shall be applied by the Treasurer to recoup the Consolidated Revenue Fund in respect of such interest and contributions.

*Division 2—Borrowing Powers.*

Power to  
borrow money.  
W.A. *ibid.*,  
ss. 11 and 23.  
See W.A. No.  
8 of 1912, s. 7;  
N.S.W. No. 63  
of 1932,  
s. 36A.

30. (1) Subject to section twenty-six of this Act and to subsection (2) of this section, the Bank on the recommendation of the Minister and with the approval of the Treasurer and of the Governor may from time to time—

- (a) borrow money by the issue and sale of debentures for the purpose of raising the funds of the Bank for the effectual execution of this Act;
- (b) create and issue debentures in exchange for the debentures issued in respect of moneys previously borrowed by the Agricultural Bank or by the Bank and not repaid;



- (c) create and issue and sell such debentures for the purpose of raising money for redeeming any outstanding loans raised by the Agricultural Bank or by the Bank and paying any expenses incurred in the creation of debentures and otherwise carrying out the provisions of this Act;
- (d) effect any conversion authorised by this section either by arrangement with the holders of existing debentures or by the purchase thereof out of moneys raised by the sale of debentures or partly in one way and partly in the other.

(2) Before any borrowing of money by the Bank is approved by the Governor a proposal showing the term and particulars of the proposed borrowing and the rate of interest to be paid thereon shall be prepared by the Commissioners for the Minister and, if approved by him, shall be submitted to the Treasurer for his approval.

31. (1) Due payment of debentures issued and sold by the Bank and the interest thereon shall be charged on and secured upon the funds and securities and other assets of the Bank.

Provided that such charge shall not prejudice or affect the powers of the Bank to recover release or discharge any security aforesaid or the property comprised therein or to sell or convey such property or to foreclose such security or property or deal with the same under this Act.

(2) Due payment of such debentures and the interest thereon is also hereby guaranteed by the Government of the State, and any liability arising from such guarantee shall be payable and be paid out of the Consolidated Revenue Fund.

32. The interest on and contributions, at a rate to be fixed by the Governor, to the sinking fund for the redemption of money borrowed by the Bank, when a sinking fund is created for such purpose, or the moneys for the payment of periodical instalments of principal and interest

Moneys borrowed to be a charge on Bank assets and guaranteed by the State.  
W.A. *ibid.*, s. 12; W.A. No. 8 of 1912, s. 7; N.S.W. No. 63 of 1932, s. 36A (2).

Sinking fund for repayment of moneys borrowed by the Bank.  
See W.A. No. 8 of 1912, s. 6 (4).

when the moneys borrowed by the Bank are repayable by instalments shall be paid by the Bank to the Treasurer and shall be applied by the Treasurer in the manner hereinafter provided in the Second Schedule to this Act in relation to debentures issued by the Bank under the authority of this Act.

Provisions relating to debentures. Second Schedule.

W.A. No. 8 of 1912, s. 7 (4) and Schedule.

Power to Trustees to invest in bank debentures.

N.S.W. No. 63 of 1932, s. 36A (13).

33. The provisions expressed in the Second Schedule to this Act shall apply to all debentures issued by the Bank under this Act.

34. All debentures issued by the Bank under this Act shall be securities authorised by the laws relating to the investment of trust moneys and shall have the status of Government securities within the meaning of any Act in force for the time being relating to friendly societies, and any trust funds may be invested in such debentures accordingly and all corporations, companies or co-partnerships and all trustees, executors and administrators, whether incorporated, established or appointed before or after the commencement of this Act, not expressly forbidden to invest their funds in the purchase of Government securities by their charter, act of incorporation, deed of settlement, or of partnership, trust deed, settlement, testamentary or other instrument whatsoever respectively are hereby authorised and empowered to invest such funds in the purchase of and to hold such debentures as aforesaid without incurring or committing any breach of trust or of any condition, restriction or provision contained in any such Act, charter, or other instrument whatsoever as aforesaid.

#### *Division 3.—Investments.*

Investment of moneys in the control of the Bank.

35. (1) Save and except to the extent to which the same may be required for immediate use by the Bank for the purposes of its operations under this Act—

- (a) moneys forming part of the funds of the Bank;
- (b) moneys received on fixed deposit from depositors; and
- (c) moneys received from depositors on current account in the course of the general banking business carried on by the Bank—

may, and shall as far as practicable, but subject to subsection (2) of this section, be invested in investments of the following kinds, that is to say:—

- (a) any investments which are from time to time authorised by any Act of the State for the investment of trust funds; and
- (b) any debentures or other securities issued or given by any corporate body constituted or established by any law of the Commonwealth or of any State in the said Commonwealth which authorises the issue of such debentures or the giving of such other securities and provides that the said debentures or other securities are guaranteed by the Government of the Commonwealth or of the State as the case may be, under the laws whereof the said debentures are issued or the said other securities are given as aforesaid.

(2) No moneys shall be invested under the authority conferred by this section in any kind of investment whatsoever without the consent of the Treasurer being first obtained.

## PART V.—ADMINISTRATION.

### *Staff.*

36. The Commissioners shall have and may exercise exclusively the power to employ or appoint, promote or transfer from one position on the staff of the Bank to another position on such staff, to terminate the employment or appointment of, and dismiss all officers of the Bank, but, save and except as aforesaid and subject as in this section hereafter provided, every person employed by the Bank as an officer thereof, shall, whilst so employed, be deemed to be an officer within the meaning and for the purposes of the provisions of the Public Service Act, 1904-1935, and such provisions and the provisions of all other Acts which apply to persons who are officers within the meaning and for the purposes of the Public Service Act, 1904-1935, shall apply to such person aforesaid.

Appointment  
of staff.  
Application  
of provisions  
of Public  
Service Act,  
1904-1935,  
W.A. *ibid.*,  
s. 31.

Provided that—

- (i) Subject to sections thirty-eight and thirty-nine of this Act, a person employed as an officer of the Bank shall not by virtue of this section acquire any legal right under the Public Service Act, 1904-1935, to any transfer, promotion or appointment to any position in any department under the said Act; and
- (ii) A person who is employed as an officer within the meaning of the Public Service Act, 1904-1935, in any department under that Act shall not by reason thereof have any legal right to any transfer, promotion or appointment to any position on the staff of the Bank; and
- (iii) No person of the kind mentioned in paragraph (ii) of this proviso shall be transferred or promoted from the position which he occupies in a department under the Public Service Act, 1904-1935, to any position on the staff of the Bank without the concurrence of the Commissioners and the approval of the Minister.

Officers of  
Agricultural  
Bank may be  
engaged by  
Commissioners.  
W.A. *ibid.*,  
s. 32.

37. (1) Subject to subsection (2) of this section, the Commissioners may engage those officers in the employ of the Agricultural Bank at the commencement of this Act whose services the Commissioners desire to retain.

(2) Nothing in this section shall operate or be deemed to operate so as to confer on any such officers a legal right to any transfer to employment in the Bank or to engagement by the Commissioners under this Act.

Preservation  
of existing  
rights.  
W.A. *ibid.*,  
s. 33.

38. Any officer of the Agricultural Bank who is engaged by the Commissioners in the employ of the Bank under section thirty-seven of this Act shall continue to be qualified for and entitled to receive any leave and any payment pension or gratuity for which as such officer he was qualified or to which he was entitled under and by virtue of the provisions of section thirty-three of the Agricultural Bank Act, 1934, or otherwise as an officer of the Agricultural Bank to the same extent as if the Agricultural Bank were still in existence and he con-

tinued to be an officer thereof, and for such purposes his service under the Commissioners shall be deemed to be a continuation of his service as an officer of the Agricultural Bank.

39. If any officer of the Agricultural Bank is engaged by the Commissioners in the employ of the Bank under section thirty-seven of this Act, and such officer was an officer of the Agricultural Bank to which the provisions of section thirty-four of the Agricultural Bank Act, 1934, applied, then in the event of his office as an officer of the Bank under this Act being discontinued or abolished the provisions of section thirty-four of the Agricultural Bank Act, 1934, shall be deemed still to apply to such officer and he shall be eligible for and shall be appointed to any vacancy in the division of the Public Service from which he transferred when he became an officer of the Agricultural Bank and which is not lower in classification and salary than that which he held when he transferred to the service of the Agricultural Bank as aforesaid.

Protection in case office abolished.  
W.A. *ibid.*, s. 34.

40. (1) An officer or servant of the Bank, and the wife of any such officer or servant shall not be eligible, whilst such officer or servant remains in the employ of the Bank, to obtain any loan from the Bank under this Act, save and except with the approval of the Governor on the recommendation of the Minister.

Members of staff not eligible for loans but may deposit moneys with Bank.  
W.A. *ibid.*, s. 35.

(2) Nothing in subsection (1) of this section shall prohibit the Bank from receiving from any officer or servant aforesaid or from the wife of any such officer or servant any money which he or she desires to deposit with the Bank either on a current account or by way of a fixed deposit.

41. During such time as the Bank under the authority of this Act continues to administer the Discharged Soldiers' Settlement Act, 1918, the Commissioners shall appoint and at all times have upon the staff of the Bank an officer who is a discharged soldier within the meaning

Officer to be appointed in connection with discharged soldiers.  
W.A. *ibid.*, s. 36.

of the said Act to assist the Commissioners and other persons who likewise are discharged soldiers in transactions between the Bank and such persons.

*Division 2.—Administration of certain Acts transferred to the Bank.*

Administra-  
tion of certain  
Acts trans-  
ferred to  
Bank.  
W.A. *ibid.*,  
s. 37 (a).

42. (1) Subject to subsection (2) of this section, after the passing of this Act the administration of the following Acts shall be transferred to the Bank, that is to say:—

- (a) The Discharged Soldiers' Settlement Act, 1918.
- (b) The Group Settlement Act, 1925.
- (c) The Group Settlers' Advances Act, 1925.
- (d) The Industries Assistance Act, 1915-1940.
- (e) The Wire and Wire Netting Act, 1926.

(2) The Acts referred to in paragraphs (a), (b) and (c) of subsection (1) of this section shall be administered by the Bank through the Rural Department, and the Acts referred to in paragraphs (d) and (e) of subsection (1) of this section shall be administered by the Bank as an agency of the Government of the State through the Government Agency Department.

Commission-  
ers to exercise  
powers of the  
several auth-  
orities for-  
merly con-  
trolling  
transferred  
activities.  
W.A. *ibid.*,  
s. 37 (b).

43. Subject to this Act and without affecting any powers conferred on the Bank by this Act, the Bank through the Commissioners shall exercise in the corporate name of the Commissioners all powers, functions and rights vested in or exercisable by—

- (a) the Discharged Soldiers' Land Settlement Board under the Discharged Soldiers' Settlement Act, 1918;
- (b) the Commissioners of the Agricultural Bank under the Group Settlement Act, 1925;
- (c) the Minister for Lands under the Group Settlers' Advances Act, 1925;

- (d) the Industries Assistance Board under the Industries Assistance Act, 1915-1940;
- (e) the Minister for Lands under the Wire and Wire Netting Act, 1926.

44. The control of any register of debentures or inscribed stock and all duties imposed on the Finance and Development Board under the Finance and Development Board Act, 1930, in respect of any moneys borrowed by that Board and owing at the commencement of this Act as the same devolved upon the Agricultural Bank under and by virtue of the provisions of section thirty-seven of the Agricultural Bank Act, 1934, shall devolve upon the Bank by virtue of this Act.

Control of register of debentures and duties of Finance and Development Board to devolve on the Bank.  
W.A. *ibid.*, s. 37 (c).

45. As from the date of the commencement of this Act, the administration costs of the Bank to be determined from time to time in the manner hereinafter provided, incurred in connection with the administration of those transferred activities which by virtue of subsection (2) of section forty-two of this Act are to be administered by the Bank through the Government Agency Department shall be borne and paid by the Government of the State, and the Treasurer shall recoup the Bank for the amount thereof in such manner and at such times as may be arranged between the Treasurer and the Commissioners as provided for in section seventy-eight of this Act.

Government to pay administration costs in respect of certain transferred activities.

## PART VI.—RURAL DEVELOPMENT.

### *Division 1.—Powers.*

46. Subject to this Act, the Commissioners shall, in connection with the carrying on of the business of the Bank through the Rural Department be empowered to do all or any of the following things:—

- (a) acquire hold sell convey lease assign and otherwise assure land of any tenure;
- (b) receive money on deposit for a fixed term and pay interest thereon;

Powers of Commissioners in relation to conduct of business in Rural Department.  
N.S.W. No. 48 of 1906, s. 48A.

- (c) receive deposits to be inscribed as "Deposit Stock" repayable on notice as prescribed, and pay interest thereon;
- (d) accept money on current account to be operated on by cheques;
- (e) issue bills and drafts and grant letters of credit;
- (f) discount bills, drafts and Government securities;
- (g) grant overdrafts payable on demand to persons who are depositors of money in the Bank whether carrying on any rural industry or other industry or not, on the security of land, crops, wool, live-stock, plant or machinery, personal security, guarantees, promissory notes, bills of exchange or any other security approved of by the Commissioners.
- (h) deposit money in any trading bank of the State.

Deposits to be held in cash.  
N.S.W. No. 48 of 1906, s. 45B.

47. The Commissioners shall hold or retain in cash or on current account or on deposit available at not more than six months' call twenty per centum of the quarterly average of the moneys held by the Bank on deposit and on current account.

Funds of deceased customer payable to Public Trustee in certain cases.  
N.S.W. No. 48 of 1906, s. 48D.

48. (1) Where moneys are standing in the Bank to the credit of a customer, whether by way of fixed deposit, deposit stock or current account at the date of the death of such customer and probate of the will of such customer or letters of administration of his estate is not or are not produced to the Bank within such time, not being less than six months from the death of such customer, as the Commissioners think reasonable, the Commissioners may pay the amount of such moneys and any interest due thereon to the Public Trustee under the Public Trustee Act, 1941, to be administered and disposed of by him according to law.

(2) The receipt of the Public Trustee for any such payment received by him shall be a sufficient discharge to the Bank in respect of the amount mentioned in such receipt and shall be binding on any widow, widower, or next-of-kin, or person appointed as legal representative of the estate of the deceased customer.

(3) The provisions of this section shall apply to the delivery of any bonds, debentures, or other securities held by the Bank on behalf of the deceased customer.



49. (1) The payment of all moneys due by the Bank in respect of the banking operations carried on by the bank in the Rural Department under the authority of this Part of this Act is guaranteed by the Government of the State.

Payment  
guaranteed.  
N.S.W. No. 48  
of 1906, s. 48.

(2) Any liability arising from such guarantee shall be payable and be paid out of the Consolidated Revenue Fund.

50. (1) After making such deductions as the Commissioners think fit from the earnings of the Rural Department derived from banking operations carried on therein in respect of the estimated losses in connection with the operations of the said department, the net profits earned by the said banking operations during any year shall be set apart towards a Reserve Fund for meeting any further loss or deficiency in connection with the operations of the said Department.

Reserve Fund  
for Rural  
Department.

(2) Any deficiency in the said Reserve Fund at the end of any financial year of the Bank shall be made good from the Consolidated Revenue Fund upon such deficiency being certified to by the Commissioners and the Minister.

#### *Division 2.—Loans.*

51. (1) Subject to this Act the persons to whom the Commissioners may make loans under this division shall be persons—

Persons to  
whom loans  
may be made.

- (a) Who are or are about to become depositors regularly depositing money on current account with the Bank as their Banker; and
- (b) Who require financial assistance to enable them to engage or to continue to engage in rural industry, or in any other industry, or for any other purpose approved by the Commissioners.

(2) In this division, persons who are engaged in or are about to engage in rural industry are referred to as “settlers,” and persons who are engaged in or are about to engage in any industry (not being a rural industry) are referred to as “manufacturers.”

52. Subject to this Act, the Commissioners may grant to settlers and manufacturers and other borrowers fixed or amortisation or long term loans through the Rural Department upon mortgage of—

Power to  
make loans.  
W.A. *ibid.*,  
s. 38; N.S.W.  
No. 48 of  
1906, s. 62.

- (a) An estate in fee simple in any land in the State:

- (b) a leasehold estate or other holding or tenure in any land granted under the Land Act, 1933-1939;
- (c) A gold mining lease or mineral lease or any other holding or tenure granted under any of the laws of the State relating to mining.

Purposes for which loans may be made. W.A. *ibid.*, ss. 38 and 44; N.S.W. No. 48 of 1906, s. 63.

53. (1) Subject as in this section hereinafter provided, the Commissioners may specify the purposes for which any loan may be made and may with the concurrence of the borrower vary such purposes.

Provided that—

- (i) a loan made to a settler shall be for a purpose connected with or incidental to his business or undertaking in the rural industry in which he is engaged or is about to engage.
- (ii) a loan made to a manufacturer shall be for a purpose connected with or incidental to his business or undertaking in the industry (not being a rural industry) in which he is engaged or is about to engage.
- (iii) a loan made to a borrower (other than a settler or a manufacturer) shall be for a purpose which in the opinion of the Commissioners is reasonable.
- (iv) The following matters shall be included in the purposes which may be specified by the Commissioners, that is to say:—
  - (a) the discharge of a mortgage secured upon the land owned or used or a Bill of Sale over the chattels of a borrower used in connection with his business or undertaking;
  - (b) the release of a statutory charge or other charge upon the land of a borrower used as aforesaid;
  - (c) the satisfaction of a bill of sale or lien over the crops, live-stock, machinery, goods or other chattels of a borrower produced or belonging to or used by a borrower as aforesaid.

(d) the discharge or satisfaction of any other security given by the borrower.

(2) If in the opinion of the Commissioners a loan granted for a specified purpose has not been applied to such purpose or to some other approved purpose or has not been carefully and economically expended the Commissioners may at once call in the whole or so much of the loan as shall have been made (as the case may be) whereupon the borrower shall forthwith repay the same, and in default of such repayment the Commissioners shall have and may exercise the same remedies for the recovery of the same as are provided by this Act for the recovery of loans on default being made by a borrower in payment of principal and/or interest under the terms of any security.

54. Every application for a loan shall be in the prescribed form.

Applications.  
W.A. *ibid.*,  
s. 39; N.S.W.  
No. 48 of  
1906, s. 65.  
Persons over  
16 years of  
age may ob-  
tain loans.  
W.A. *ibid.*,  
s. 40.

55. Any person over the age of sixteen years, who is the owner of an estate or interest in any rural land and otherwise qualified by this Act may apply for a loan and, if the same is granted to him, shall be capable of mortgaging the land and contracting with the Bank to the same extent as if he were of full age.

56. Before making any loan the Commissioners shall be satisfied—

Commission-  
ers must be  
satisfied as to  
certain con-  
ditions before  
making loans.  
W.A. *ibid.*,  
s. 41.

- (a) that the loan is required for a purpose mentioned in the proviso to subsection (1) of section fifty-three of this Act and of which the Commissioners approve;
- (b) that the applicant has reasonable prospects of developing and carrying on his business or undertaking successfully, or otherwise is deserving of such loan.

57. The costs and expenses which the Bank may charge in respect of making loans under this Division shall not exceed—

Costs and  
expenses  
which may be  
charged in  
respect of  
loans.  
N.S.W. No. 48  
of 1906, s. 67.

- (a) fees for stamps, registration, searches and other expenses out of pocket;
- (b) the prescribed fees for valuation;

- (c) for other expenses, not more than two per centum on the amount of the loan up to one hundred pounds, and thereafter one-half per centum on the amount above one hundred pounds and up to five hundred pounds, and one-fourth per centum on the amount above five hundred pounds.

Amount of  
loan and  
nature of  
security.  
W.A. *ibid.*,  
ss. 42, 43, 47;  
N.S.W. No. 48  
of 1906, s. 68.

58. The following provisions shall apply to loans under this division—

- (a) Subject as in this paragraph hereafter provided, no such loan shall be of less amount than fifty pounds or more than ten thousand pounds to any one person.

Provided that, where the applicant is already indebted to the Bank by virtue of any security given to or held by the Agricultural Bank and by this Act transferred to and vested in the Bank, the amount of the loan which may be made to the applicant may be equal to the amount (if any) by which the sum of ten thousand pounds exceeds the amount of his said indebtedness and such further amount in excess of such ten thousand pounds as the Commissioners are of the opinion is necessary to enable a borrower already indebted to the Bank in the manner aforesaid to do any of the following things namely—

- (i) to put his lands to better advantage in some branch of rural industry other than that in which such lands have been previously used and the Commissioners are satisfied that the security of the Commissioners would be likely to be enhanced thereby; or
- (ii) to re-establish himself on other lands of the Bank; or
- (iii) to purchase machinery, stock and/or plant; or
- (iv) where the borrower is a manufacturer, who is already indebted to the Bank

by virtue of any security given by him to the Treasurer in respect of financial assistance rendered by the Treasurer under section twenty-four of the Industries Assistance Act, 1915-1940, to develop or put to better advantage his business or undertaking in the industry in which he is engaged or to re-establish himself in some other industry if the Commissioners are satisfied that the security of the Commissioners would be likely to be enhanced thereby.

- (b) A loan when granted to a borrower may be made in one sum or in progress payments from time to time at the discretion of the Commissioners.
- (c) Subject as in this paragraph hereafter provided, no loan shall be made in respect of any land which is the subject of a prior encumbrance, mortgage or charge (other than an encumbrance, mortgage or charge in favour of or by this Act vested in the Bank) unless the money to be lent is to be used to pay off such prior encumbrance, mortgage or charge.

Provided that where any land aforesaid is the subject of a prior encumbrance, mortgage or charge in favour of the Crown or any Crown instrumentality a loan may be made by the Commissioners in respect of such land upon the security of a second mortgage of such land, so long as the amount of the loan when added to the amount owing or legally claimable in respect of such prior encumbrance, mortgage or charge does not exceed the limitations imposed by paragraph (a) of this section.

- (d) The amount of the loan (except a loan under section sixty-five of this Act) shall not exceed seventy per centum of the sale value of the security as assessed by the valuers of the Bank.

- (e) If any interest or instalment on any loan (not being by way of overdraft on current account) is in arrear for more than two months the Commissioners may charge the borrower interest on such interest or instalment at a rate not higher than the rate of interest payable under the mortgage.
- (f) Where any interest or instalment on any such loan is in arrear the Commissioners may upon the application of the borrower—
- (i) fix an extended period for the repayment of the principal sum owing in respect of the loan at the date of the application and, in the case of an amortisation loan alter the instalment accordingly.
  - (ii) capitalise the whole or portion of such interest or instalment by adding the same to the principal sum owing in respect of the loan at the date of the application and fix an extended period for the repayment of the amount comprising such principal sum and the capitalised interest or instalment, and, in the case of an amortisation loan, alter the instalment accordingly.

Rate of interest.  
W.A. *ibid.*,  
ss. 46 and 47;  
N.S.W. No. 48  
of 1906, s.  
68A.

59. (1) The maximum rates of interest to be paid by borrowers in respect of loans and to be stipulated in securities given for such loans shall be such rates as are from time to time recommended by the Commissioners and approved by the Governor.

(2) Different rates of interest may be fixed in relation to—

- (a) fixed loans and amortisation loans and long term loans respectively; and
- (b) loans to settlers, to manufacturers and to other borrowers respectively; and
- (c) loans to settlers participating in a close settlement scheme as referred to in section sixty-five of this Act, and to loans to other settlers.

(3) The Commissioners may, subject to the approval of the Minister—

- (a) reduce the rate of interest payable under any security in respect of any loan at any time and from time to time;
- (b) increase any rate of interest which has been reduced as provided for under paragraph (a) hereof up to but not exceeding the rate payable under the security on giving one month's notice in writing of any such increase to the borrower at his last known place of abode;
- (c) Not more than once in any period of three years increase the rate of interest beyond that stipulated in the security but not exceeding the maximum rate of interest for the time being fixed under subsection (1) of this section on giving six months' notice in writing as aforesaid.

(4) In the case of an amortisation loan, when a variation is made in the rate of interest payable in respect thereof, the instalment may be altered accordingly.

(5) Interest on loans made by the Bank (not being loans by way of overdraft on current account), or on so much thereof as shall from time to time remain unpaid, shall be payable half-yearly on the thirty-first day of March and the thirtieth day of September in each year.

(6) This section shall apply in respect of any securities formerly held by the Agricultural Bank which by this Act are vested in or held by the Bank, and for the purposes of this section such securities shall be deemed to have been given to the bank for loans made by the Bank after the commencement of this Act.

Provided that this subsection shall not apply to any securities formerly held by the Agricultural Bank by virtue of the transfer thereof to the Agricultural Bank from any of those transferred activities which by virtue of section forty-two of this Act are to be administered by the Government Agency Department.

60. Before making any loan the Commissioners shall take security by way of mortgage as in this Act provided in the prescribed form with such additions or variations as the Commissioners may consider necessary in the circumstances, and with or without such additional or collateral security as the Commissioners may require.

Form of  
security.  
W.A. *ibid.*,  
s. 48.

Implied  
covenants in  
mortgages.  
W.A. *ibid.*,  
s. 49.  
Third  
Schedule.

61. In every mortgage given in respect of a loan under this Division the covenants and provisos set out in the Third Schedule to this Act shall be implied as fully as if set out at length in the mortgage subject to any modifications and exceptions and to any additions which may be set out in such mortgage.

As to special  
forms of  
mortgages.  
W.A. *ibid.*,  
s. 50.

62. In all cases where a special form of mortgage is prescribed by any Act affecting lands used in rural industry or affecting leases or other holdings or tenements granted under the laws relating to mining, the fact that a mortgage of such lands under this Act is not in such form shall not in any way hinder its registration or limit its effect as a valid mortgage.

Power to  
make ad-  
vances under  
the Mining  
Development  
Act, 1902-  
1927, not  
affected.

63. Nothing in this Act shall in any way interfere with or prejudice or affect the power conferred upon the Minister for Mines to make advances to persons under the provisions of the Mining Development Act, 1902-1927.

Repayment  
of loan.  
W.A. *ibid.*,  
s. 53; N.S.W.  
No. 48 of  
1906, s. 66.

64. (1) Any borrower who is not in arrear with the payment of any instalment or any interest due in respect of his loan may on any day fixed for the payment of any instalment or interest repay to the Bank the whole of his indebtedness or may at any time repay any portion thereof being an amount of integral pounds. Provided that this paragraph shall not apply to a fixed loan except with the consent of the Commissioners and then subject to such conditions as the Commissioners may impose.

(2) Where a portion only of the loan is so repaid, the Commissioners shall allow interest on the amount repaid at a rate to be recommended by them and approved by the Minister.

Provided that such repayment shall not affect the obligation of the borrower to pay the instalments (if any) provided in the mortgage; but when the sum repaid with the interest thereon amounts to the balance of the loan, the Commissioners shall apply such sum in repayment of the loan and discharge the mortgage.

(3) In the case of a fixed loan the amount of such repayment shall be deducted from the amount of the loan, and thereafter interest shall be payable only on the reduced amount.



(4) If a borrower who has made repayments under this section subsequently falls into arrear with his instalments or interest, the Commissioners may apply any money so repaid to meet his overdue instalments or interest.

(5) The Commissioners may, whenever in their opinion the circumstances so warrant, refund to a borrower any repayments or any portion of the repayments made by him under the provisions of subsection (1) of this section but subject to the liability of the borrower to repay to the Bank the amount of such refunded repayment or any part thereof together with interest thereon at the rate provided for the principal sum at such future date as may be required by the Commissioners, and the same shall continue a charge under the security held by the Commissioners as if the refunded repayment or part thereof had not been paid to or received by the Bank. Provided that—

- (a) no such refund shall be made unless every subsequent mortgagee agrees in writing that the Bank shall in respect of the refund have and retain the same priority as it has in respect of its security as against the security of such subsequent mortgagee; and
- (b) no such refund shall be valid as against the security of any subsequent mortgagee unless such mortgagee shall consent in writing to every such refund.

65. Where the State has adopted, or, as the agent of the Commonwealth, has undertaken the management of a close settlement scheme, and for the purpose of facilitating the effectual carrying out of such scheme, the Commissioners may make loans to settlers to assist them in purchasing lands as participants in such scheme, and in connection with such loans the following special provisions shall apply—

- (a) (i) the land must be freehold or be comprised in a free homestead farm or conditional purchase lease granted under the Land Act, 1933-1939, or in a Miner's Homestead lease granted under the Mining Act, 1904-1939, or otherwise must be land in respect of which the settler can acquire from the Crown a freehold title, or
- (ii) the land must be comprised in a lease granted under the law of the Commonwealth

Loans for  
purchase of  
farms.  
N.S.W. No. 48  
of 1906, s. 64.

which authorises the granting of leases of land for close settlement.

- (b) the amount of the loan may exceed the maximum limit of ten thousand pounds provided in section fifty-eight of this Act but shall not exceed the sale value of the security to be given by the settler for such loan as assessed by the valuers of the Bank or eleven thousand pounds, whichever sum is the greater;
- (c) of the full amount of the loan made, the Bank shall be deemed to have advanced at the risk of the Bank only that portion of the loan which is equal to seventy per centum of the sale value of the security to be given by the settler as aforesaid, and to have advanced the balance of the loan on behalf of and as agent for the State and at the risk of the State, with the intent that in the event of the borrower making default in repayment of the loan, and the Bank selling the security by way of the enforcement thereof, the Bank shall be indemnified by the State in respect of any loss suffered by the Bank by reason of the net proceeds derived from the sale of the security being insufficient to repay in full the difference between the full amount of the loan, and that portion of the loan over and above that portion thereof which has been made by the Bank at its own risk as aforesaid;
- (d) where a settler makes default in repayment of the loan, and the Bank sells the security by way of enforcement thereof the net proceeds derived from such sale shall be applied—
  - (i) Firstly in repaying to the Bank in full the amount of that portion of the loan which the Bank is to be deemed to have advanced at its own risk; and
  - (ii) Secondly in repaying to the Bank the amount of that portion of the loan which the Bank is to be deemed to have advanced on behalf of and as agent for and at the risk of the State;
- (e) if the net proceeds from the sale of a security are insufficient to make to the Bank in full the

- repayment mentioned in subparagraph (ii) of paragraph (d) hereof, the Treasurer shall upon demand being made by the Bank pay to the Bank the amount of the deficiency;
- (f) a valuation of the farm proposed to be purchased shall be made by the valuers of the Bank upon application for the loan by the settler and upon payment by him of the prescribed fee;
- (g) No loan shall be made to a settler under this section for an amount in excess of an amount equal to seventy per centum of the sale value of the security to be given by the settler for the loan unless and until the amount of such loan has been approved by the Treasurer;
- (h) a certificate may be issued to either the vendor or the purchaser by the Commissioners setting out the amount of the loan which the Bank is prepared to make upon a sound title in the farm proposed to be purchased; and such certificate shall have force for the time and be subject to the conditions therein named;
- (i) Conditions and covenants may be inscribed in the instrument of mortgage to give effect to the objects of the close settlement scheme aforesaid and to provide for the making of such improvements in connection with the farm as may be necessary;
- (j) in all other respects loans made under this section shall be subject to the same provisions as other loans made by the Bank under this Division.

*Division 3.—General.*

66. (1) Where an advance has been made under any Acts repealed by the Agricultural Bank Act, 1934, or under the Acts repealed by this Act, or under any of the Acts relating to the transferred activities or a loan has been made under this Act upon the security of a mortgage or transfer of a holding the freehold whereof may under any Act be acquired from the Crown, the Bank may at any time notwithstanding the provisions of any

Crown may  
acquire Crown  
grant.  
W.A. *ibid.*,  
s. 54.

Act, acquire the freehold of the holding on behalf of the borrower or his successor in interest and for that purpose make all such payments to the Crown and otherwise as are necessary.

(2) All payments so made by the Bank shall be added to and become part of the mortgage debt.

(3) The deed of grant of the holding shall be delivered to the Bank.

Forfeited  
Crown lands  
securities.  
N.S.W. No. 48  
of 1906, s. 69.

67. The following provisions shall apply where land or lease of land in respect of which any loan has been made by the Bank under this Part of this Act or which is subject to any encumbrance, mortgage, charge or lien vested in or held by the Bank under this Act is forfeited under the provisions of the Land Act, 1933-1939, or under the provisions of the Mining Act, 1904-1939 (as the case may be), that is to say:—

(1) Upon forfeiture the land or lease of land shall vest in the Bank for a period of two years from the date of forfeiture taking effect or for such further period as the Minister for Lands or the Minister for Mines, as the case may be, may allow.

(2) Within one month from the date of forfeiture or such further period as may be agreed to by the Commissioners, the Minister for Lands or the Minister for Mines, as the case may require, shall notify the Commissioners in writing whether or not he intends to discharge the Bank's claim. If the Minister concerned notifies the Commissioners of his intention to discharge the Bank's claim the land or lease aforesaid, upon receipt by the Commissioners of such notification, shall be divested from the Commissioners and shall become subject to the provisions of the Land Act, 1933-1939, or of the Mining Act, 1904-1939, as the case may be, as if any advance or loan had not been made on the security thereof, and the amount of the said claim shall be paid to the Bank in pursuance of such notification by such Minister before the end of the then current financial year.

- (3) Where the Minister for Lands or the Minister for Mines, as the case may be, notifies the Commissioners in accordance with paragraph (2) hereof that he does not intend to discharge the Bank's claim, or the Minister concerned requests the Commissioners to sell the land or the lease under this subsection the Commissioners may sell the land or the lease to any person and the purchaser shall hold the same subject to any conditions prescribed by the Land Act, 1933-1939, or by the Mining Act, 1904-1939 (as the case may be), which at the date of forfeiture were binding on the former holder but freed from any liability for any breach before such sale of any such conditions, and the purchaser shall have six months from the time of sale for complying with any unfulfilled improvement conditions (if any) in relation to the land or the lease.
- 4) Upon a sale of any land or lease under paragraph (3) hereof the proceeds of such sale shall be applied in the following order—
- (a) in payment of any outstanding moneys due under the Land Act, 1933-1939, or under the Mining Act, 1904-1939 (as the case may be), at the date of forfeiture, not exceeding one year's rent or instalment as the case may be;
  - (b) in satisfaction of the claim of the Bank;
  - (c) in payment of any further sum due to the Crown at the date of forfeiture—
- and any balance remaining thereafter shall be paid into the Treasury to the credit of the Consolidated Revenue Fund.
- (5) Where the proceeds of any sale aforesaid upon being applied in the manner provided in paragraph (4) hereof are insufficient for payment in full of any further sum due to Crown mentioned in subparagraph (c) of paragraph (4) hereof the balance due to the Crown shall be charged upon the Consolidated Revenue Fund.
- (6) If the Commissioners at any time within the said period of two years or such further period as

may have been allowed give notice in writing to the Minister for Lands or to the Minister for Mines, as the case may require, that they are unable to sell the land or the lease (as the case may be) the land or the lease may be disposed of under the Land Act, 1933-1939, or under the Mining Act, 1904-1939, whichever is applicable, and any money received by the Minister for Lands or by the Minister for Mines (as the case may be) in respect of the improvements on the land or on the lease shall, to the extent of the Bank's claim be paid to the Bank. Provided that at any time before the Minister for Lands or the Minister for Mines notifies the land or the land comprised in the lease as available for any class of holding under the Land Act, 1933-1939, or under the Mining Act, 1904-1939, whichever is applicable the Commissioners may revoke in writing the notice that they are unable to sell the land or the lease as the case may be.

- (7) Any sale under this section may be made on such terms and conditions as the Commissioners think fit and the Minister approves.
- (8) Upon any sale by the Commissioners under this section a purchaser shall not be bound to see or inquire as to whether a case has arisen to authorise the sale.
- (9) The Commissioners may, whilst the land or the lease of land remains vested in them lease or otherwise manage any such forfeited holding and any sum received by way of rental or otherwise shall be applied in reduction of the amount due to the Bank in respect of such holding.

68. The following provisions shall apply in respect of any land subject to a loan—

- (a) such land, holding, or tenure shall not nor shall any part thereof be transferred, mortgaged, charged, assigned, let or sublet without the previous consent in writing of the Commissioners;

- (b) any consent under this section may be given subject to such conditions as the Commissioners may impose;
- (c) any transfer, mortgage, charge, assignment, letting or subletting of such land holding or tenure or any part thereof in contravention of this section shall be void, and the Commissioners may cause the estate and interest in such land holding or tenure of any person guilty of any such contravention to be sold;
- (d) where the owner or lessee of any such land, holding or tenure becomes bankrupt, the Commissioners may, subject to the laws relating to bankruptcy, cause his estate and interest therein to be sold;

69. (1) Subject as in this section hereafter provided where under any security taken over by the Bank from the Agricultural Bank or the Treasurer under this Act—

Statutory  
charge.  
W.A. *ibid.*,  
s. 51.

- (a) any interest is due by any borrower on any account to the Bank; or
- (b) any repayment made by a borrower under subsection (1) of section sixty-four of this Act has been refunded by the Bank to the borrower under subsection (5) of the same section; or
- (c) when any loan has been made by the Bank to any borrower other than to effect permanent improvements or other than to purchase machinery, plant or live-stock—

a first charge is hereby created in favour of the Bank in respect of all or any such sums in priority to all other encumbrances—

- (i) where the borrower is engaged in rural industry, upon all crops wool or wool clips, butter fat, whole milk, produce, livestock and the increase in progeny of all livestock from time to time derived from or in connection with or being or depasturing on any lands of any tenure (including a homestead farm) held, occupied or used by such borrower in connection with rural industry; and

- (ii) where the borrower is engaged in an industry (not being a rural industry), upon all goods, wares and merchandise, stock in trade and other products manufactured, produced or obtained by and all book debts owing to the borrower in the course of or in connection with his business; and
- (iii) in the case of other borrowers, upon all the movable chattels of the borrower.

Provided that—

- (a) such charge shall not arise or be enforceable under this section unless and until—
  - (i) in the case of interest due, a payment of interest is in arrear for a period of not less than one year; or
  - (ii) in the case of a refunded repayment referred to in paragraph (b) of this subsection or in the case of a loan referred to in paragraph (c) of this subsection a payment in respect thereof, which the Bank is entitled under the security or this Act to demand and has demanded is not paid within the period of one year from the date of such demand; and
  - (iii) the Commissioners are satisfied that the borrower during the period of one year when such payment of interest or other payment was in arrear as aforesaid had the means to pay at least one year's interest or the payment demanded as aforesaid as the case may be; and
  - (iv) the Governor on the recommendation of the Commissioners approves of the charge being claimed and enforced by the Commissioners.
- (b) When the charge arises and becomes enforceable as provided for in paragraph (a) of this proviso, it may be enforced against any of the chattels of the borrower referred to in this subsection which are then subsisting or may thereafter become the property of the



borrower, and the proceeds derived from the sale of any such chattels whilst still in the hands of the purchaser or any agent of the purchaser or agent of the borrower.

- (c) Where the interest due exceeds the interest payable for one year the maximum charge for interest against the crops, wool, or wool clips, butter-fat, whole milk, produce, livestock or increase in progeny thereof of any one season shall be in respect of one year's interest.
- (d) In so far as any livestock are subject to a *bona fide* mortgage or encumbrance for value duly registered under and complying with the Bills of Sale Act, 1899, any such charge as aforesaid on the livestock and increase in progeny shall be subject to such mortgage and encumbrance and the rights, powers and remedies of the mortgagee or encumbrancer.

(2) Any charge in favour of the Bank under this section shall rank after any statutory charge existing under the Industries Assistance Act, 1915-1940.

(3) Any charge in favour of the Bank under this section shall be without prejudice to any other powers conferred on the Bank or the Commissioners by this Act or by the terms of any security.

(4) The Commissioners may at any time agree in writing with any borrower or with any creditor of a borrower to waive the charge created by this section wholly or in part in any case where the Commissioners consider that the circumstances warrant such waiver.

(5) This section shall not apply to any new business under the Rural Department of the Bank.

#### PART VII.—GOVERNMENT AGENCY DEPARTMENT.

70. (1) The Commissioners shall, through the Government Agency Department of the Bank, perform and exercise such duties, functions, powers and authorities (including the administration of property and assets) as are conferred or imposed upon the Bank by this Act in respect of those transferred activities which by this Act are required to be administered by the Bank through the Government Agency Department, or as may be hereafter delegated to the Bank in pursuance of any Act or by the Governor.

Powers to be executed through the Government Agency Department.  
N.S.W. No. 48 of 1906, s. 70H; N.S.W. No. 63 of 1932, s. 70H.

(2) (a) Each separate agency shall be carried out by the Bank in accordance with the terms and provisions of the Act or instrument creating such agency.

(b) Each of the transferred activities which by this Act are required to be administered by the Bank through the Government Agency Department shall for the purposes of this Part be deemed to be and be treated as a separate agency.

(3) Separate accounts shall be kept by the Bank in respect of each agency.

(4) There shall be provided from time to time to the Government Agency Department for the purposes thereof under this Part—

(a) Such moneys as are appropriated from time to time by Parliament.

(b) Such moneys as the Treasurer may from time to time make available to the Bank for the purposes of any Agency.

(c) Such part of the funds of the Bank as the Commissioners may from time to time pursuant to an arrangement made between the Treasurer and the Commissioners allocate to any Agency.

Provision in  
respect of  
certain  
agencies.  
N.S.W. No. 48  
of 1906, s.  
70I.

71. (1) In respect to those transferred activities which by this Act are required to be administered by the Bank through the Government Agency Department and which in accordance with paragraph (b) of subsection (2) of section seventy of this Act are to be treated as separate agencies, the liability of the Bank in relation to each such agency shall be shown in a separate account in the books of the said department wherein the Treasurer shall be credited with the total amount which immediately before the commencement of this Act was owing or payable by borrowers for advances made under such agency before the commencement of this Act.

(2) In each such account the Treasurer shall from time to time—

(a) be credited with—

(i) any further amounts to become due to the Bank in respect of such agency from such borrowers in relation to such advances;

- (ii) so much of any moneys appropriated by Parliament for the purposes of the Government Agency Department as is allotted by the Bank to such Agency;
  - (iii) any amounts made available to the Bank for the purpose of such agency under paragraph (b) of subsection (4) of section seventy of this Act.
  - (iv) Revenue (other than further amounts mentioned in subparagraph (1) hereof) which becomes due to the Bank in respect of such agency.
- (b) be debited with—
- (i) the amount by which the indebtedness of any person to the Bank in respect of such agency is reduced by or under this or any other Act;
  - (ii) the amounts of any losses on realisation of any security;
  - (iii) the amount due to the Bank in respect of such agency by any person on forfeiture of a holding or on surrender of a holding or cancellation of a contract or arrangement for the sale of the land, where such holding or land becomes available for disposal under the Land Act, 1933-1939, or any other Act;
  - (iv) any amount paid to the Treasurer in pursuance of the provisions in this Part hereafter contained;
  - (v) revenue moneys paid to the Treasurer in pursuance of the provisions in this Part hereafter contained.

72. (1) In respect to agencies delegated to the Bank under this Part after the commencement of this Act, the liability of the Bank in relation to each such agency shall be shown in a separate account in the books of the Government Agency Department.

Provision in respect to agencies delegated after the commencement of this Act, N.S.W. No. 48 of 1906, s. 70I.

(2) In each such account the Treasurer shall from time to time—

- (a) be credited with—
  - (i) any amounts to become due to the Bank in respect of such agency for capital moneys;

- (ii) so much of any moneys appropriated by Parliament for the purposes of the Government Agency Department as is allotted by the Bank to such agency;
  - (iii) any amounts made available to the Bank for the purposes of such agency under paragraph (b) of subsection (4) of section seventy of this Act;
  - (iv) revenue which becomes due to the Bank in respect of such agency.
- (b) be debited with—
- (i) the amount by which the indebtedness of any person to the Bank in respect of such agency is reduced by or under this or any other Act;
  - (ii) the amounts of any losses on realisation of any security;
  - (iii) the amount due to the Bank in respect of such agency by any person on forfeiture of a holding or on surrender of a holding or cancellation of a contract or arrangement for the sale of the land, where such holding or land becomes available for disposal under the Land Act, 1933-1939, or any other Act;
  - (iv) any amount paid to the Treasurer in pursuance of the provisions in this Part hereafter contained;
  - (v) revenue moneys paid to the Treasurer in pursuance of the provisions in this Part hereafter contained.

Banking account for each agency.  
N.S.W. No. 48 of 1906, s. 70J.

73. For each agency there shall be opened a banking account in the Rural Department and to the credit of such account there shall be deposited all moneys received by the Bank in respect of the agency.

Monthly transfers to Government Agency Department Capital Account and Government Agency Department Revenue Account.  
N.S.W. No. 48 of 1906, s. 70K.

74. (1) As soon as practicable after the end of each month the Bank shall ascertain in respect of each account mentioned in section seventy-three of this Act the amount of the preceding month's credits which represents capital moneys and the amount of such credits which represents revenue moneys and shall transfer the amount which represents capital moneys to the credit of

an account in the Rural Department styled the "Government Agency Department Capital Account" and the amount which represents revenue moneys to the credit of an account in the Rural Department styled the "Government Agency Department Revenue Account."

Provided that nothing in this subsection shall prevent the Bank from making intermediate transfers subject to a final monthly adjustment as provided herein.

(2) The money to the credit of the Government Agency Department Revenue Account shall be paid to the Treasurer as and when available.

(3) For the purposes of this section the expressions "capital moneys" and "revenue moneys" shall have the same meanings respectively as are applied or used in the ordinary course in the practice of accountancy.

75. The Bank may keep such further accounts as it deems necessary in respect of each agency to record the operations of such agency.

Power to keep further accounts.  
N.S.W. No. 48 of 1906, s. 70L.

76. The Bank shall not be required or liable to allow interest on the amount standing at credit of the Government Agency Department Capital Account or the Government Agency Department Revenue Account in the Rural Department at any time and no interest shall be payable on the amount at credit of the Treasurer in any of the accounts mentioned in sections seventy-one and seventy-two of this Act.

No interest payable on money in Government Agency Department Capital and Revenue Accounts.  
N.S.W. No. 48 of 1906, s. 70N.

77. (1) The Treasurer may in respect of any agency in the Government Agency Department direct the rate of interest to be charged, the maximum amount of any loan which may be made to any borrower or expended on behalf of any applicant, the period for which any loan may be made and the purposes for which the same may be granted in any case in which such rate, amount, period, or purposes are not regulated by or under any Act and the Bank shall give effect to any such direction.

Power of Treasurer to fix interest rates, etc., in certain cases.  
N.S.W. No. 48 of 1906, s. 70O.

(2) Any such direction, if given, shall be given generally in respect of a class of borrower, applicant or loan.

Costs of ad-  
ministration.  
N.S.W. No. 48  
of 1906, s.  
70P.

78. The whole of the costs of administration of every agency carried on by the Bank in the Government Agency Department as certified to by the Commissioners shall be paid by the Treasurer to the Bank from time to time as and when required.

Audit Act,  
1904, not to  
apply to keep-  
ing of ac-  
counts in De-  
partment.  
N.S.W. No. 48  
of 1906, s.  
70Q.

79. Notwithstanding the provisions of the Audit Act, 1904, or any other Act or any previous method or custom of keeping accounts the Bank shall not be bound to keep any accounts in the Government Agency Department regulating or showing its position with the Treasurer other than those prescribed in this Part of this Act and shall not be concerned or bound to show in any account the source of or loan appropriation or vote from which the moneys represented by the assets transferred to and vested in the Bank were provided.

Powers of  
Bank to make  
appropria-  
tions and to  
determine  
place of pay-  
ment.  
N.S.W. No. 48  
of 1906, s.  
70S.

80. (1) Where the same person is indebted to the Bank in respect of more than one agency or in respect of the Rural Department of the Bank and also of any one or more agencies the Bank may appropriate any moneys received by it (which are not otherwise appropriated by the person paying the same) to the satisfaction or part satisfaction of the indebtedness of such person in respect of such agency or of the Rural Department as the Commissioners may determine, and such person shall be notified in writing within fourteen days of such determination of the Commissioners.

(2) Any amount payable to the Bank in respect of any agency in the Government Agency Department by any person shall be paid at such branch or agency of the Bank or in such manner as the Commissioners may determine and notify in writing to such person.

Statement in  
writing to be  
*prima facie*  
evidence.  
N.S.W. No. 48  
of 1906, s.  
70T.

81. (1) A statement in writing signed by the Chairman of the Commissioners or by another Commissioner or officer of the Bank duly authorised for the purpose that on a specified day a specified amount was due and owing to the Bank in respect of an agency under this Part—

(a) by a specified person; or

(b) under or in accordance with a specified security shall be *prima facie* evidence of the facts so stated.

(2) A statement in writing signed by the Chairman of the Commissioners or by another Commissioner or an officer of the Bank duly authorised for the purpose that a security or the debt thereby secured or any money due thereunder or that the right to recover any money or debt is vested in the Bank in respect of a particular agency shall be *prima facie* evidence of the facts so stated.

82. The Bank is hereby indemnified by the State in respect of any act done by it and of any losses, costs or damages incurred by it in the *bona fide* exercise or performance of the powers, authorities, duties and functions conferred or imposed upon it by or under this Part of this Act.

Indemnity.  
N.S.W. No. 48  
of 1906, s.  
70V.

83. In relation to loans made or securities taken or held by the Bank in respect of any agency under this Part of this Act, all the provisions of this Act contained in Part VI. which relate to loans shall, wherever the same can consistently with the provisions of this Part be applied, with such adaptations as may be necessary apply and shall be deemed to be incorporated in and to be provisions in this Part of this Act relating to such loans or securities aforesaid.

Provisions of  
Part VI. to  
apply.

## PART VIII.—ENFORCEMENT AND WRITING DOWN OF SECURITIES.

### (a) *Enforcement of Securities.*

84. (1) If at any time any instalment or interest or of an instalment under any security vested in or held by the Bank by or under this Act or any part of such interest or instalment 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 Commissioners may enter upon and take possession and/or sell the whole or any part of the land with respect to which the advance or loan has been made, either by private sale or public tender or auction, and, subject to any conditions of sale the Commissioners may think expedient, and after such notice of the time, place, terms and conditions of sale as the Commissioners may think

Power of sale.

just and expedient and upon a sale being effected the Commissioners may transfer or convey such land to the purchaser and give a good and valid title thereto.

To maintain property after seizure and pending sale.

(2) When the Commissioners have taken and so long as they retain possession of any land or property under this section, the Commissioners shall have power to do whatever is necessary to provide for the maintenance and upkeep of the same, and, in the case of land used in rural industry, to crop and/or otherwise work the same for such time and in such manner as the Commissioners shall deem expedient with a view to an advantageous sale, and may expend such moneys as the Commissioners may consider necessary for any of the purposes aforesaid, and any moneys so expended shall, with interest thereon at the rate stipulated in the security, be repayable by the borrower to the Bank on demand, and all such moneys and interest shall be a charge on the land comprised in the security.

Application of proceeds.

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

Borrower to keep buildings in repair. W.A. *ibid.*, s. 56.

85. (1) Every borrower shall, so long as any principal, interest, or other moneys secured by any security vested in or held by the Bank in respect of any advance or loan remain unpaid by such borrower, keep in good and tenantable repair all buildings, fences, fixtures and improvements upon the land comprised in such security to the satisfaction of the Commissioners or the authorised agent of the Commissioners.

(2) If, after the expiration of two months' notice in writing by the Commissioners any borrower has not complied with the requirements of this section—

- (a) the like consequences shall follow as are provided in case of default made in the payment of any sum of money payable under the provisions of this Act; and



- (b) the Commissioners and any person acting with the authority of the Commissioners may, without prejudice to the powers of distraint and sale exercisable by the Commissioners in default enter upon the land comprised in the security and effect all repairs which the Commissioners or such person deem necessary, and the expense thereby incurred, with interest at the rate payable under the security, shall be repaid to the Bank by the borrower on demand, and until payment shall be a charge on the land comprised in the security.

86. (1) Save as expressly modified by this Act the provisions of the Transfer of Land Act, 1893, shall apply to any mortgage executed under this Act.

Transfer of  
Land Act,  
1893, to  
apply.  
W.A. *ibid.*,  
s. 57.

(2) On the Bank becoming the proprietor of land by virtue of an order of foreclosure such land may be sold, leased or otherwise disposed of on such terms and conditions as the Commissioners may think fit.

87. (1) On or for the purpose of any sale made by the Bank under this Act or under the provisions of any security vested in or held by the Bank by or under this Act, the Commissioners may:—

Specific  
powers in  
connection  
with sale of  
land on de-  
fault.  
W.A. *ibid.*,  
s. 58.

- (a) Sell the land or property comprised in the security in one or in several lots;
- (b) subdivide any lands comprised in the security;
- (c) effect any improvements upon any such land which the Commissioners consider may be necessary in order to attract purchasers and obtain a better realisation;
- (d) sell such land or property or any lot into which it is divided for the purposes of sale with any other land or property comprised in any collateral security;
- (e) allow time for payment of the whole or any part of the purchase money with or without interest in the meantime.

(2) Any moneys expended in effecting improvements under paragraph (c) of subsection (1) of this section shall be a charge on the lands comprised in the security and be repayable by the borrower together with interest at the rate payable under the security and shall be recoverable in like manner as the principal moneys.

(3) The Commissioners shall not be liable to account, where they have effected a sale and allowed time to the purchaser, except for such sums as the Bank actually receives in cash.

Further powers to Commissioners in possession of land. *W.A. ibid.*, s. 59.

88. (1) The Bank as mortgagee of land, while in possession, as against the borrower and all persons claiming under him including every encumbrancer, may—

- (a) from time to time lease the land or any part thereof with or without any plant, stock or machinery or other chattels over which the Bank has a security for principal interest and other moneys owing under such security for any term not exceeding seven years at such rent and subject to such conditions as to the Commissioners may seem fit;
- (b) from time to time agree with any person where the land secured is used in rural industry, to crop, work or maintain the said land with or without plant, stock or machinery thereon over which the Bank has security as aforesaid on such terms and conditions as the Commissioners think fit.

Provided that if the land is subject to a mortgage registered in priority to the Bank's security such lease shall not be binding on the prior mortgagee without his consent.

(2) The Commissioners may make loans for expenditure on or in connection with the land to any lessee or person mentioned in subsection (1) of this section, and the repayment of such loans with interest shall by force of this Act be charged upon the estate or interest in the land of the borrower and all persons claiming under him as well as upon the leasehold interest of the lessee in such land.

(3) A lease granted under this section shall have the same effect as if the borrower and the Bank as mortgagee were parties to it.

Provided that the Commissioners may—

- (i) accept a surrender of any such lease or agree to the cancellation or determination of any agreement aforesaid on such terms as the Commissioners think fit; or

- (ii) agree to a modification or variation of the terms of any such lease or agreement.

89. (1) Subject to subsection (2) of this section the term "owner" in the Road Districts Act, 1919-1943, and in the Municipal Corporations Act, 1906-1943, respectively shall not extend to the Bank or the Commissioners as mortgagee in possession or otherwise.

Provisions relating to rates on mortgaged properties, etc.

(2) In respect of rates assessed under the said Acts upon land comprised in any security held by the Bank in the Rural Department of the Bank, the Commissioners if and when they enter into possession as mortgagee shall become and be liable for and shall pay—

- (a) the amount owing at the time of the entry for any such rates then in arrear up to an amount not exceeding the amount of rates assessed for any one year of the period in relation to which the rates are in arrear; and
- (b) current rates as they fall due during such time as the Commissioners remain in possession as aforesaid.

(3) While any security held by the Bank in the Rural Department of the Bank remains in force the Commissioners shall take all proper measures to ensure as far as possible that the borrower whilst he continues to occupy or use the land comprised in the security pays as and when they fall due for payment all rates assessed under the said Acts upon the land comprised in such security in accordance with his covenant implied in the security to make such payment.

(4) Whenever the Bank or the Commissioners sell the land comprised in any security held by the Bank in the Rural Department of the Bank in exercise of the mortgagee's power of sale under the said security, the Commissioners shall cause to be included in the conditions of sale a condition that in addition to the purchase price to be paid for the land on the sale thereof, the purchaser shall and will forthwith upon such sale being effected pay to the Commissioners for payment by them to the

road board or the municipal council entitled thereto the amount of all rates assessed under the said Acts upon the said land and owing and unpaid at the time of such sale.

(b) Postponement of Payment.

90. Where the Commissioners are satisfied that any borrower who is the owner of any land or chattels the subject of any security vested in or held by the Bank is unable to meet his indebtedness thereunder and any interest payable in respect thereof in accordance with his obligations under such security or this Act, the Commissioners may, but subject to the consent of the Treasurer in the case of an advance or loan made in respect of an agency in the Government Agency Department or to a settler in connection with the purchase of a farm in a close settlement scheme if they are satisfied that the borrower is deserving of assistance, paying due regard to his relationship to the Bank, suspend or postpone payment of the whole or any portion of the indebtedness of the borrower, as the Commissioners think fit, and during the period of such suspension or postponement the Commissioners may relieve the borrower from liability for payment of interest on such suspended or postponed amount, and make any necessary adjustment in regard to the payment of instalments in order to give effect to any such suspension of postponement.

Provided that—

- (i) such suspension or postponement shall be subject to review by the Commissioners at any time or from time to time as the Commissioners may determine but at least once in every two years;
- (ii) no period of time during which any indebtedness is suspended or postponed under the authority of this section shall be taken into account for the purpose of any statute of limitation.

Power to postpone payment of advances or loans.  
W.A. *ibid.*, s. 63.

Bank may require other creditors to postpone claims before Bank postpones its claim.  
W.A. *ibid.*, s. 64.

91. The Commissioners may make it a condition of agreement by the Bank to any suspension or postponement mentioned in section ninety-one of this Act that the other creditors of the borrower, both secured and un-

secured, enter into a mutually binding scheme or arrangement between themselves, the Commissioners and the borrower for the suspension or postponement of their claims on such terms and conditions as the Commissioners consider reasonable.

92. Nothing in sections ninety and ninety-one of this Act shall in any way affect the operation of the provisions of the Farmers' Debts Adjustment Act, 1930-1937, in the application thereof to any indebtedness of a borrower to the Bank under this Act.

Operation of  
Farmers'  
Debts Adjust-  
ment Act,  
1930-1937.

(c) Writing down of Securities.

93. (1) Subject to subsection (2) of this section where the Commissioners are satisfied in relation to any security taken by the Bank under this Act or vested in or held by the Bank by or under the provisions of this Act—

Power to  
write down  
over-capital-  
ised securities.  
W.A. *ibid.*,  
s. 65.

- (a) that the value of the securities as assessed by the valuers of the Bank is insufficient to cover the aggregate amount of the indebtedness of the borrower to the Bank on all accounts secured by such security; and
- (b) that there is no reasonable expectation of the security appreciating in value so as to cover the amount of such indebtedness, and of the borrower being able to pay the same; and
- (c) that the borrower is deserving of assistance when due regard is had to his past relationship with the Bank or any of the transferred activities—

the Commissioners may with the approval of the Minister and of the Governor—

- (i) write off and reduce the aggregate amount of the said indebtedness of the borrower to such sum as the Commissioners consider the security may reasonably be expected to carry;
- (ii) adjust the payment thereof over such period or periods as the Commissioners think fit, and, where there are several securities carrying varying rates of interest, fix a uniform rate of interest to be paid by the borrower—

but the Commissioners may make it a condition of agreeing to any such writing off and reduction that all or any of the other creditors of the borrower secured and unsecured enter into a mutually binding scheme or arrangement between themselves, the Commissioners and the borrower for the reduction and adjustment of their claims on such terms and conditions as the Commissioners consider reasonable.

(2) Where the security referred to in subsection (1) of this section had been given—

- (a) prior to the commencement of the Agricultural Bank Act, 1934, to one of the transferred activities subsequently taken over by the Agricultural Bank under the said Act; or
- (b) prior to the commencement of this Act to the Agricultural Bank; or
- (c) after the commencement of this Act, to the Bank in respect of any agency in the Government Agency Department—

the Commissioners shall not write down or reduce the amount of the indebtedness of the borrower under such security unless in addition to the consent of the Minister and the Governor, the approval of the Treasurer is also obtained.

(3) Any writing down or reduction of the indebtedness of a borrower under this section shall not operate as a release or discharge by the Bank to the borrower of the amount of the indebtedness written down or reduced except when such writing down or reduction takes place pursuant to a scheme or arrangement provided for in subsection (1) of this section whereby the other creditors of the borrower are bound to write down or reduce their claims against the borrower.

Bank may  
consolidate  
securities.  
W.A. *ibid.*,  
s. 67.

94. The Commissioners may, in any case where a borrower is indebted to the Bank on a number of different securities or accounts, and where it is convenient and practicable to do so, combine the whole of the accounts and securities in one account or security and fix a uniform rate of interest and terms of repayment with the borrower. Provided that this section shall not apply so as to enable the Commissioners to combine any security or account of a borrower in the Rural Department with any security or account of the borrower in the Government

Agency Department except with the approval of the Treasurer.

**PART IX.—ACCOUNTS AND AUDIT.**

95. The Commissioners may appoint internal auditors whose duty it shall be to conduct a continual audit of the accounts of the Bank.

Appointment  
of internal  
auditors.  
W.A. *ibid.*,  
s. 68.

Provided that every such appointment shall be subject to the approval of the Auditor-General both in respect of the person to be appointed and of the nature and extent of the audit work to be performed.

96. (1) The Commissioners shall as soon as possible and not later than two months after the thirtieth day of September in each year, cause to be prepared—

Accounts.  
W.A. *ibid.*,  
s. 69.

- (a) a balance sheet as at the said thirtieth day of September of the affairs of the Bank showing all the assets and all the liabilities of the Bank either immediate or contingent and making due allowance for bad debts or depreciated securities;
- (b) a revenue account giving particulars of the revenue derived by the Bank and the charges made thereon for the next preceding twelve months ending on the thirtieth day of September and showing the net profit or net loss made or incurred for such period;
- (c) An analysed cash account in such form as may be prescribed showing particulars of receipts and disbursements made by the Bank for the period covered by the said revenue account.

(2) Such revenue account and analysed cash account shall be prepared distinctively in relation to the operations of the Bank through the Rural Department and the operations of the Bank through the Government Agency Department respectively.

97. (1) The Auditor General shall from time to time appoint an officer of his staff to audit the affairs and accounts of the Bank.

Appointment  
of special  
auditor by  
Auditor  
General.  
Reports.  
Comments and  
powers of  
Auditor  
General.  
W.A. *ibid.*,  
s. 70.

(2) Such officer shall from time to time report to the Auditor General in writing on the affairs and accounts of the Bank.

(3) (a) The Auditor General shall make whatever written comments he thinks necessary on the position of the Bank as disclosed by the said accounts and the report or reports of his officer.

(b) Such comments together with the report or reports of his officer shall be forwarded by the Auditor General to the Commissioners and by them to the Minister before the thirtieth day of November in every year; and the Minister shall cause the same to be laid on the table of each House of the Parliament at the next sitting of each such House respectively.

(4) The Auditor General and his officer aforesaid shall for the purpose of carrying out their duties under this Act have all the powers conferred on the Auditor General by any law in force relating to the audit of public accounts.

Report to be  
made annually  
to Parliament.

98. (1) Not later than the thirtieth day of November in every year the Commissioners shall furnish a report to the Minister of the operations of the Bank in the Rural Department and the Government Agency Department respectively for the twelve months ending on the then next preceding thirtieth day of September together with a copy of the balance sheet and accounts referred to in section ninety-six of this Act and the reports of the Auditor General and his officer thereon referred to in section ninety-seven of this Act, and the Minister shall cause the same to be laid on the table of each House of the Parliament at the next sitting of each such House respectively: Provided that where in any year it is impossible to comply with the provisions of this subsection within the time provided, the Auditor General shall prepare and forward to the Commissioners for submission by them to the Minister an interim report before the thirtieth day of November in that year and the Minister shall cause the same to be laid on the table of each House of Parliament at the next sitting of each such House respectively.

(2) Simultaneously with furnishing to the Minister the report and the accompanying documents mentioned in subsection (1) of this section, the Commissioners shall furnish a copy of such report and of the accompanying documents aforesaid to the Treasurer.



## PART X.—OFFENCES AND PENALTIES.

99. (1) Any person who does or makes any of the following acts or omissions or who is concerned in doing or making any of the following acts or omissions commits an offence against this Act and is liable on summary conviction to a penalty of not more than six months' imprisonment with hard labour or to a fine not exceeding one hundred pounds or both, that is to say:—

Offences and penalties.  
W.A. *ibid.*,  
s. 72.

- (a) destroying, damaging or disposing of any property comprised in any security vested in or held by the Bank or any part of such property; or
- (b) without the consent of the Bank in writing, removing any materials from any buildings, erections or fixtures on lands comprised in any security aforesaid, unless the defendant prove that he had no intent to defraud; or
- (c) hindering or obstructing any Commissioner or any officer or any authorised agent of the Bank in or in connection with any distress, or any sale authorised by or under this Act; or
- (d) concealing any assets comprised in any security aforesaid; or
- (e) knowingly receiving any security or any property comprised in any security which has been unlawfully disposed of, removed or concealed contrary to the preceding provisions of this section.

(2) All offences under this section shall be tried and determined by a stipendiary magistrate.

100. (1) Any officer or servant or authorised agent of the Bank who directly or indirectly takes any fee or reward from any applicant for a loan under this Act shall be guilty of an offence.

Officer taking fee or reward.  
N.S.W. No. 43  
of 1906, s. 73.

Penalty—Two years' imprisonment with or without hard labour.

(2) An offence under this section shall be tried and determined summarily by a stipendiary magistrate.

(3) Any officer or servant or authorised agent aforesaid who is convicted of an offence under this section shall be dismissed from the service of the Bank.

Person acting  
when inter-  
ested.  
N.S.W. No. 48  
of 1906, s. 79.

**101.** (1) Any person who—

(a) having any pecuniary interest in any land tendered as security for a loan under this Act; or

(b) being a partner of the applicant for a loan, acts as valuer or adviser to the Commissioners in connection with such land or loan shall be guilty of an offence.

Penalty—Two hundred pounds with a minimum penalty of fifty pounds.

(2) An offence under this section may be dealt with summarily under the Justices Act, 1902-1942.

(3) Any person who is convicted of an offence under this section shall be dismissed from the service of the Bank.

Bribing an  
officer.  
N.S.W. No. 48  
of 1906, s. 80.

**102.** (1) Any person who in respect of any loan or application for any loan, bribes or attempts to bribe or corruptly influence any person appointed or acting under this Act shall be guilty of an offence.

Penalty—Two years' imprisonment with or without hard labour.

(2) An offence under this section shall be heard and determined summarily by a stipendiary magistrate.

Forgery.  
N.S.W. No. 48  
of 1906, s. 82.

**103.** If any person forges or alters, or offers, utters, disposes of, or puts off, knowing the same to be forged or altered any deed, rule, order, bond or writing obligatory, or any acquittance, receipt, release, account or statement, or any note, bill, or other security for payment of money, or letter or power of attorney or other instrument in writing or makes any false entry, or knowingly makes up any untrue account which concerns or relates to the affairs or business of the Bank with intent to defraud, such person shall be guilty of forgery and be punished accordingly.

104. (1) Any person who, as security for a loan under this Act—

- (a) mortgages any land or chattel which is subject to a charge or encumbrance; or
- (b) mortgages any land or chattel of which he is not the owner,

without disclosing to the Commissioners the existence of such charge or encumbrance or that he is not the owner of such land or chattel, shall be guilty of an offence.

Penalty—One hundred pounds.

(2) An offence under this section shall be dealt with summarily under the Justices Act, 1902-1942.

105. (1) Any person who by word of mouth or in writing makes a false statement with intent to defraud in connection with any application for a loan under this Act shall be guilty of an offence.

Penalty—One hundred pounds.

(2) An offence under this section shall be dealt with summarily under the Justices Act, 1902-1942.

#### PART XI.—REGULATIONS.

106. The Governor may make any regulations, not inconsistent with the provisions of this Act which may be necessary or convenient for carrying this Act into operation or for facilitating the operation of this Act and of the Bank thereunder and, without in any way limiting or restricting the generality of this section, may make regulations particularly in respect of the following matters, namely—

- (1) The conduct of meetings of the Commissioners.
- (2) The custody and method of affixing the Common Seal of the Commissioners.
- (3) The form of the Common Seal.
- (4) The forms to be used under this Act including the forms of security to be taken on the granting of a loan in any case or in any particular class of case.

Non-disclosure of prior mortgage.  
N.S.W. No. 48 of 1906, s. 93.

False statement.  
N.S.W. No. 48 of 1906, s. 95.

Regulations.  
W.A. *ibid.*, s. 73; N.S.W. No. 48 of 1906, ss. 36A (14), 70W, 83.

- (5) The form, sale, and redemption of debentures issued and sold by the Bank and other matters relating to the exercise by the Bank of the borrowing powers under this Act.
- (6) The control and discipline of the officers and servants and authorised agents of the Bank.
- (7) The protection of the securities of the Bank.
- (8) The management of the Bank and the regulation of its business.
- (9) Fixing the emoluments of valuers and agents.
- (10) Regulating the receipt and repayment of deposits and the payments of interest thereon.
- (11) Regulating applications for and the making of loans by the Bank.
- (12) Prescribing fees payable in respect of such applications and loans.
- (13) Keeping of the accounts of the Bank.
- (14) Prescribing a penalty not exceeding twenty pounds for the breach or omission of any duty imposed by any regulation made under this section.
- (15) Generally for any other matters which the Governor may by Proclamation declare to be matters in respect of which regulations may be made under this section.

Protection to  
Commission-  
ers.  
W.A. *ibid.*,  
s. 74.

#### PART XII.—MISCELLANEOUS.

107. (1) No matter or thing done by the Commissioners or by any officer, servant, valuer or agent of the Commissioners in good faith in or about the purported exercise of any of the powers conferred upon and exercisable by such persons respectively shall subject the Commissioners or any member thereof, or any such officer, servant, valuer or agent to any liability in respect thereof.

(2) Subject to the foregoing provisions of this section, no action or proceeding shall be brought against the Commissioners—

- (a) until after the expiration of one month's notice in writing to the Commissioners specifying the name of the person intending to bring such action or proceeding, and particulars of the cause or grounds of such action or proceeding;
- (b) after the expiration of twelve months from the time when such cause of action or ground or proceeding arose.

108. Where in consequence of a forgery committed by a person a depositor in the Bank suffers any loss in circumstances which at law renders the Bank liable to reimburse such depositor the amount of such loss, the Bank shall be indemnified by the State in respect of the full amount which the Bank is required to pay in connection with such reimbursement, including the costs of defending any action or other proceeding taken by the depositor against the Bank.

Indemnity to Bank in respect of loss suffered by depositor through forgery.

109. The Commissioners by their counsel, solicitor or agent shall be entitled to be heard before any statutory board or before any Court in any matter, action or proceeding relating to land in respect of which the Bank holds any subsisting security under this Act.

Commissioners entitled to be heard before any board or Court.  
N.S.W. No. 48 of 1906, s. 77

110. The Bank may act as the agent in Western Australia of any Bank carrying on business in or outside Western Australia.

Bank may act as agent.  
N.S.W. No. 48 of 1906, s. 86.

111. The Commissioners may arrange with any other Bank to act as the agent of the Bank in any place whether in or outside the State.

Other Bank may act as agent of the Bank.  
N.S.W. No. 48 of 1906, s. 87.

112. The Commissioners may open and conduct branches of the Bank in any parts of the State, and may appoint any persons to be agents of the Bank in connection with any such branches.

Commissioners may conduct country branches and appoint agents.

113. The Commissioners may by writing under their seal appoint any person whether in the State or in any place beyond the State to be the attorney of the Bank.

Bank may appoint attorney.  
N.S.W. No. 48 of 1906, s. 88

Clearing  
house.  
N.S.W. No. 48  
of 1906, s. 89.

114. The Commissioners shall be entitled if they so desire to be represented at and take part in the proceedings and transactions of any clearing house or cheque clearing system in as full and ample manner as any other bank, and all banks represented at or taking part in such proceedings or transactions shall recognise fully the Commissioners and afford them all necessary facilities for transacting their banking business and operations and the exchanges in relation thereto.

Attorney may  
operate on  
account.  
N.S.W. No. 48  
of 1906, s. 90.

115. The Commissioners may permit operations on any account in the Bank by a duly appointed attorney, agent, or representative.

Deposits by  
trustees.  
N.S.W. No. 48  
of 1906, s. 91.

116. A trustee, executor or administrator may invest or deposit any trust money on deposit or current account in the Bank.

Custody of  
bonds.  
N.S.W. No. 48  
of 1906, s. 92.

117. The Commissioners are hereby empowered to hold for safe custody on behalf of any depositor, bonds or debentures or other securities of a like nature subject to payment of such fee or charge and to such conditions as may be prescribed.

Vesting  
orders.  
N.S.W. No. 48  
of 1906, s. 96.

118. (1) Nothing in this Act shall preclude the Supreme Court of Western Australia or the High Court of Australia from making an order vesting in any person or directing the attachment or the disposition or payment of—

- (a) any moneys to the credit of a depositor whether on fixed deposit or otherwise;
- (b) so much of the moneys received by the Bank upon the exercise by it of any of its rights or remedies under any security and at the date of the order actually in the disposition of the Bank as exceeds the moneys due to the Bank under or in respect of the security.

(2) Where any such order is duly served upon the Bank, the Commissioners shall give effect thereto.

**FIRST SCHEDULE.**

Section 5.

Act.	Extent of Repeal.
Agricultural Bank Act, 1934	The whole.
Industries Assistance Act, 1915-1940	Section 24.

**SECOND SCHEDULE.**

Section 33.

Provisions applicable to Debentures issued by the Bank under  
Section thirty of this Act.

## 1. Debentures—

- (a) shall be in the prescribed form sealed with the seal of the Commissioners and shall be numbered consecutively;
- (b) may be issued with or without interest coupons attached;
- (c) shall be charged and secured upon the assets and revenue of the Bank;
- (d) with interest coupons (if any) attached thereto, and interest coupons, after being detached therefrom, shall be payable to bearer and shall pass by delivery and without any assignment or indorsement; and the bearer shall have the same rights as if he were expressly named as payee therein;
- (e) shall be registered in a register to be kept at the Treasury;
- (f) shall provide for payment of interest half-yearly on the last days of December and June in each year.

2. The principal sum and interest for which any debenture may be issued shall be paid with moneys in the special account of the Commissioners kept at the Treasury appropriated as hereinafter provided and so far as moneys in such account shall not be available for payment of such principal and interest, any such principal sum and interest shall be chargeable upon and be paid out of the Consolidated Revenue Fund, which so soon as reasonably may be thereafter shall be recouped the amount so paid out of moneys in the said special account.

3. It shall be lawful for the Bank upon the issue of any debentures to provide therein for the repayment of the principal money secured thereby at the end of the term for which the principal money has been borrowed, or for the repayment of the principal money with interest by half-yearly or other periodical instalments.

4. Where by any debentures it is provided that the principal money secured thereby shall be repayable at the end of the term for which the principal money has been borrowed, then so long as such debentures remain outstanding the Bank shall in each half-year ending respectively on the last days of December and June appropriate out of the funds of the Bank a sum equal to the interest due on such debentures calculated up to the end of such half-year and also shall appropriate such sum, being such percentage half-yearly as may be fixed by

the Governor, as a contribution half-yearly to a sinking fund which will be sufficient to liquidate the loan at the date of maturity and shall pay the said sums appropriated as aforesaid half-yearly to the Treasurer.

5. Where, by any debentures, it is provided that the principal money secured thereby, together with interest thereon, shall be repayable by half-yearly or other periodical instalments, then from time to time before any such instalment shall fall due the Bank shall appropriate out of the funds of the Bank a sum equal to the amount of the principal sum and interest payable by the periodical instalment then next falling due, and shall pay the sum so appropriated to the Treasurer.

6. As and when payments are made by the Bank to the Treasurer under clauses 4 and 5 hereof the said payments shall be paid by the Treasurer to the credit of a special account in the Treasury to be called *The Rural and Industries Bank Loan Redemption Account*, and thereafter shall be applied by the Treasurer as hereinafter mentioned, namely—

- (a) As regard payments made by the Bank to the Treasurer under clause 4 hereof, the Treasurer shall hold the sum appropriated for payment of interest for the purpose of paying the interest as and when it falls due and payable, and shall invest the sum appropriated as contribution to the sinking fund to accumulate at compound interest in such investments as are permitted by law in relation to the investment of trust funds in the name of the Bank and the Treasurer:

Provided that—

(i) any of the moneys required to be invested as aforesaid may in lieu thereof be invested in the purchase of any of the debentures by the issue and sale whereof the loan was raised and the debentures with the coupons belonging thereto so purchased shall be forthwith cancelled; and

(ii) during the period for which debentures purchased by the Treasurer under the authority of the next preceding paragraph of this proviso would have been current if the same had not been so purchased, a sum equal to the half-yearly interest and contribution to the sinking fund which such debentures would have carried or entailed if not so purchased shall be provided by the Bank half-yearly and invested as aforesaid and paid to the credit of the sinking fund.

- (b) As regards payments made by the Bank to the Treasurer under clause 5 hereof the Treasurer shall hold the same for the purpose of paying as and when they fall due for payment the periodical instalments of principal and interest in respect of which the said payments have been appropriated by the Bank and paid to the Treasurer as aforesaid.



7. All payments to debenture holders or to the holders of interest coupons which have been detached from debentures when due, whether for interest only or for principal and interest, shall be payable by the Treasurer at the times and at the place mentioned for such payment on the face of the debenture or interest coupon, as the case may be.

8. If at the maturity of any loan there is any balance in the sinking fund formed for liquidating the loan after such loan has been liquidated, such balance shall be transferred to the special account of the Commissioners kept at the Treasury and become part of the funds of the Bank and may be used accordingly.

9. The accumulated sinking fund formed for the redemption of any loan shall be charged in priority with payment at their due date of the principal owing on or secured by the debentures in respect of which such sinking fund was created:

Provided that the accumulated sinking fund in respect of any debentures which are redeemed by the issue and sale of other debentures shall be held or used on account of the sinking fund (if any) for such other debentures.

10. With the approval of the Governor, the Bank may sell and dispose of debentures beyond the limits of the State and in such case the Bank may appoint agents to negotiate such sale on behalf of the Bank.

11. Any person shall be entitled to obtain from the Treasurer copies or extracts certified by the officer of the Treasury in whose custody the register of debentures is kept to be true copies of, or extracts from, such register, upon payment of the prescribed fee, and any copy or extract, so certified shall be admissible in evidence.

12. No notice of any trust expressed or implied or constructive shall be received by the Bank or the Treasurer or by any officer of the Treasury having the custody of the register of debentures in relation to any debentures issued under this Act.

13. A person advancing money and receiving in consideration thereof any debenture issued under this Act shall not be bound to inquire into the application of the moneys advanced or be in any way responsible for the non-application or misapplication thereof.

14. (1) In case any debenture shall by accident be defaced, the Bank may from time to time on such debenture being delivered to the Bank cause a new debenture to be issued and delivered to the holder of such defaced debenture in lieu thereof and thereupon the debenture so defaced shall be cancelled.

(2) The debenture so to be issued in lieu of the defaced debenture 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 debenture in substitution for which such new debenture shall be issued as aforesaid and shall bear the same number, date and amount and bear the like interest as the said defaced debenture bore respectively.

15. In case proof shall be made to the satisfaction of the Treasurer by statutory declaration or otherwise that any debenture has by casualty or mischance been lost, burnt or otherwise destroyed, it shall be lawful for the Treasurer to cause the principal money and interest due upon such debenture so lost, burnt or otherwise destroyed to be paid as the same respectively become due to the person claiming to have been the last holder of such debenture in like manner as if the original debenture had been brought in to be paid off:

Provided that the person so receiving the principal money and interest in respect of such debenture alleged to have been lost, burnt or otherwise destroyed shall give security to the satisfaction of the Treasurer against any lawful claim which may be made upon the Treasurer in respect of such debenture.

16. From and after the day appointed for the repayment of any debenture or for payment of any periodical instalment of principal and interest under any debenture all interest in respect of the principal moneys then payable shall cease and determine whether repayment of such debenture or payment of such periodical instalment has or has not been demanded.

## Section 61.

**THIRD SCHEDULE.**

Covenants and provisos to be implied in Mortgages.

Covenants by the borrower—

- (a) To pay from time to time all rent, purchase money, rates, taxes, and outgoings which may be payable in respect of the mortgaged land.
- (b) To observe and perform all the conditions under which the mortgaged land is held by the borrower.
- (c) At all times to cultivate and manage the said lands or any business or industry carried on on the said lands in accordance with most approved methods; to keep all such parts thereof as are usually ploughed or intended for the plough in a fit state for the plough; to keep down noxious weeds, suckers and undergrowth; to keep the said lands from all vermin and pests; to comply with all regulations, by-laws and requisitions of any competent statutory body, board or person in regard to the said lands and which are enforceable against the owner or occupier in respect thereof.

Provisos—

- (1) That if the borrower shall make default—
  - (a) in paying any rent, purchase money, rates, taxes and outgoings payable in respect of the mortgaged land; or
  - (b) in the observance or performance of any conditions under which the mortgaged land is held

the Commissioners may pay such moneys payable or perform such conditions, and all moneys paid by the Commissioners under this proviso shall be a debt due by the borrower to the Commissioners payable on demand, and until repaid shall carry interest at the rate payable under the mortgage in respect of the principal moneys, and shall with such interest be secured by the mortgage; and

(2) That if the borrower shall make default in the observance or performance of any condition under which the mortgaged land is held, the like consequences shall follow as are provided by the Rural and Industries Bank Act, 1944, in case of default made in the payment of any instalment of principal and/or interest payable under the provisions of the said Act.

(3) That if any payment of principal and/or interest is unpaid by the borrower for two calendar months next after the time appointed by the mortgage for the payment thereof, or if by the default of the borrower the mortgaged land becomes forfeited, the Commissioners may, without prejudice to any other powers conferred by the Act, require the repayment by the borrower forthwith of all moneys advanced to him by the Commissioners, and such moneys with interest thereon may be sued for and shall be recoverable by the Commissioners by action against the borrower in any court of competent jurisdiction.