

ANNO PRIMO

GEORGII V REGIS.

A.D. 1910.

No. 1018.

An Act giving the Government Power to make Advances to Person's of Limited Means to provide Homes for themselves, and for other purposes.

[Assented to, December 7th, 1910.]

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

1. This Act may be cited as "The Advances for Homes Act, Short title. 1910."

2. In this Act, unless a contrary meaning appears—

Interpretation.

- "Advance" means an advance made under this Act:
- "Agreement" means an agreement containing a covenant to purchase Crown lands:
- Settlers Act, 960, 1908, s. 2. Q. 10, 1909, s. 2.

Cf. Advances to

- "Applicant" means an applicant for an advance:
- "Borrower" means a person who has obtained an advance:
- "Dwelling-house" includes the house and its appurtenances, necessary outbuildings, fences, and permanent provision for lighting, water supply, drainage, and sewerage, but does not include any land:
- "Family" includes the parents or other relatives dependent upon the applicant or borrower:
- "Holding" means land of which an applicant or borrower is Cf. N.Z. 39, 1906, the beneficial owner in fee simple in possession, or Crown lands

lands (in which term is included any land vested in the Board) held by an applicant or borrower for his own benefit under a lease or agreement:

- "Inspector-General" means the Inspector-General of the Bank:
- "Inspector" means an inspector appointed by the trustees of the Bank:
- "Prescribed" means prescribed by regulations made under this Act:
- "The Bank" means the State Bank of South Australia.
- "The Board" means the Board of Trustees of the Bank:
- "The Fund" means the Advances for Homes Fund constituted by this Act:
- "The Treasurer" means the Treasurer for the time being of the State:
- "This Act" includes regulations made under this Act:
- "Trustee" and "trustees" respectively mean member and members of the Board:
- "Valuer" means a valuer appointed by the trustees:

Administration.

3. This Act and the Fund constituted by this Act shall be administered by the Board of Trustees of the State Bank of South Australia.

Commission to Bank and remuneration to trustees for administration.

4. (1) The Bank shall, after the thirtieth day of June in each year, be paid by the Treasurer of the State out of the Fund, as consideration for the administration of this Act and the Fund by the Board, and to meet the expenses of such administration, an amount equal to Fifteen Shillings per centum of the total balance of the advances due on such thirtieth day of June.

Cf. State Advances Act, s. 19. No. 633 of 1895.

- (2) Every trustee shall be paid out of the moneys of the Bank a prescribed fee not exceeding Two Guineas for his attendance at any meeting of the Board held for the purpose of this Act: Provided that:—
 - (a) The amount which may be paid to a trustee during any one year of office by way of fees for meetings under "The State Advances Act, 1895," and this Act shall not exceed in the aggregate Two Hundred and Fifty-two Pounds; and
 - (b) When the Board deals with business under "The State Advances Act, 1895," and this Act on the same day, only one fee shall be paid to a trustee for attendance at a meeting or meetings on such day.

5. The Board shall, for the purposes of this Act, be a body Incorporation of corporate, with perpetual succession and a common seal, and be capable of suing and being sued, and of doing and suffering all Act, 1908, s. 6. such other acts and things as may be necessary or expedient for carrying out the provisions of this Act.

6. The Board shall hold all property, all estates and interests in property, and all moneys acquired by them under this Act for and Ibid., s. 7. on account of the Crown.

7. The provisions of "The State Advances Act, 1895," as to Meetings of Board for purposes of the the proceedings at and the conduct of meetings of the Board, and as Act, and quorum. to the powers of the chairman of a meeting, shall apply when the Board is transacting business under this Act: Provided that in such case three trustees shall form a quorum, and may execute and exercise all the powers and discretions of the Board under this Act.

8. (1) A Fund is hereby constituted, to be called "The Advances Advances for Homes for Homes Fund."

Cf. ibid., s. 11.

- (2) The Treasurer shall set apart to the credit of the Fund such loan moneys as are from time to time provided by Parliament for that purpose, not exceeding One Hundred Thousand Pounds in any one financial year.
- (3) All moneys received by the Board under this Act, except the sums paid to the Bank under section 4, shall be kept separate from the State Advances Fund and all other moneys of the Bank.
- (4) All moneys received by the Board in repayment of advances, or for rent, shall be paid to the Treasurer and be placed to the credit of the Fund and form part thereof. Moneys received by way of interest on advances shall be paid to the Treasurer and be applied in aid of the general revenue of the State.
- (5) The Fund shall be held by the Treasurer and be applied to the purposes of this Act.
- 9. The Inspector-General shall, under the Board, be the chief officers of Board. executive officer of the Board for the purposes of this Act. The officers and servants appointed under "The State Advances Act, 1895," shall also be the officers and servants of the Board for carrying out the provisions of this Act, and the Trustees may, subject to the approval of the Governor, appoint such inspectors, valuers, and other additional officers and servants as may be necessary for carrying out the said provisions.

No. 633 of 1895.

10. The provisions of sections 22 and 23 of "The State Sections 22 and 23 of Advances Act, 1895," shall, so far as the same can apply to the to apply. purposes of this Act, apply to the meetings and business of the Duties of Chief Board under this Act, and to the Inspector-General as the chief Inspector. executive officer of the Board under this Act.

State Advances Act

Advances for Homes. Cf. Advances to Settlers Act, 1908, s. 13. Q. 10, 1909, s. 7.

- 11. (1) Subject to the provisions of this Act the Board may make advances to any person on the prescribed security for the N.Z. 72, 1908, s. 48; purpose of enabling him-
 - (a) To erect a dwelling-house on his holding as a home for himself and his family, or, after erection or partial erection of a dwelling-house on his holding, to enlarge or complete the same;
 - (b) To purchase a house and land enclosed or occupied therewith as a home for himself and his family; or
 - (c) To discharge any mortgage already existing on his holding.
 - (2) No advance shall be made to any person who at the time of his application for such advance is in receipt of an income exceeding Three Hundred Pounds per annum, nor unless his income is derived, as to at least four-fifths thereof, from actual personal exertion.
 - (3) Advances may be made for any purpose mentioned in subdivision (a) of subsection (1) hereof of an amount not exceeding four-fifths of the value of the dwelling-house to be erected, enlarged, or completed, and the holding upon which the same is to be erected or stands.
 - (4) Advances may be made for the purpose mentioned in subdivision (b) of subsection (1) hereof of an amount not exceeding four-fifths of the fair estimated value of the house and land to be purchased.
 - (5) Advances may be made for the purpose mentioned in subdivision (c) of subsection (1) hereof of an amount not exceeding four-fifths of the fair estimated value of the applicant's estate or interest in the holding and the permanent improvements thereon.
 - (6) Notwithstanding anything in this section, at no time shall the total advances to any person exceed the sum of Five Hundred Pounds.
 - (7) Any advance may be made by instalments.
 - (8) If the advance is for the purpose mentioned in subdivision (a) of subsection (1) hereof then--
 - (a) An instalment or instalments of such advance may be made before the building is commenced, provided that the total of the amounts so advanced shall not exceed four-fifths of the fair estimated value of the applicant's estate or interest in the holding and the permanent improvements thereon.
 - (b) The total of the amounts advanced up to any given time shall not exceed the value of the progress theretofore made with the building, as certified in writing by a valuer to the satisfaction of the Board, in addition to the amount (if any) advanced as provided for by subdivision (a) of this subsection.

Application for

advance and evidence

Settlers Act, 1968,

The Advances for Homes Act.—1910.

- (9) The payment of advances by instalments shall be made subject to anything prescribed in that behalf.
 - 12. (1) Every application for an advance shall—
 - 1. Be made to the Board and in the prescribed form, and shall thereunder. contain such particulars as are prescribed:
 - 11. Be accompanied by a statutory declaration by the applicant N.Z.72, 1908, s. 48. in the prescribed form that his income does not exceed Q. 10, 1909, s. 7. Three Hundred Pounds per annum, and that his income is derived, as to at least four-fifths thereof, from actual personal exertion, and, if the advance is for the purpose of erecting a dwelling-house, that he desires the loan for the sole purpose of erecting a dwelling-house as a home for himself and his family:
 - III. Be supported by such evidence (if any) as is prescribed, or as the Board requires.
- (2) The Board shall in no case make an advance for the purpose of erecting a dwelling-house unless it is shown to their satisfaction that the proposed buildings will be substantial and durable, and that the house to be erected is needed in the proposed locality, nor unless the plans and specifications thereof have been approved by the Board, and comply with all regulations made in that behalf.
- (3) Whenever any question arises whether any applicant is the owner or lessee of the land in respect of which his application is made, or as to the amount of his income, the decision of the Board on such question shall be final and conclusive for all purposes of this Act.
- 13. If at any time, in the opinion of the Board, any money Advances by instaladvanced under this Act has not been applied for the purpose for ments. which it was advanced, or has not been carefully and economically expended, the Board may refuse to pay any further instalment of the proposed advance, and may at once call in the whole amount already advanced, whereupon the borrower shall forthwith repay the same, and in default the Board shall have the same remedies for the recovery of the same as are provided by this Act for the recovery of sums payable by the borrower.

Advances to Settlers Act, 1908, s. 15 (2).

14. (1) No advance shall be made except upon the security of a Advance to be mortgage or mortgages in the prescribed form to the Board of the secured by mortgage. borrower's estate and interest in his holding, as well as of the im- Cf. ibid., s. 16. provements already thereon, and the improvements (if any) with respect to which such advance is made, with or without such The borrower additional security as to the Board may seem fit. may, notwithstanding anything to the contrary in any enactment or law, or in the lease or agreement under which he holds, lawfully execute such mortgage or other security.

(2) The provisions of "The Bills of Sale Act, 1886," or any Act amending that Act or substituted therefor, shall not apply to

any mortgage or other security executed under the provisions of this Act, or affect the validity of any such mortgage or security in respect of any chattels comprised therein.

Advances only to be made on first mortgages.
Ibid., s. 17.

15. No advance shall be made on any property which is encumbered by any previous mortgage or charge, other than a mortgage or charge under this Act, or a charge in favor of the Crown; but a second mortgage may be taken as collateral security.

Provisions relating to mortgages.

- 16. With respect to every mortgage under this Act the following provisions shall apply:—
 - (a) The loan shall be for such one of the terms of years mentioned in the Schedule to this Act as is agreed between the Board and the mortgagor: Provided that if the buildings are to be or are of—
 - I. Stone or brick, or stone and brick, the term shall not exceed forty-two years:
 - 11. Ordinary concrete, ferro-concrete, reinforced concrete, or other similar material, the term shall not exceed thirty years:
 - 111. Ordinary wood and iron, or wood, the term shall not exceed twenty years:
 - (b) The loan, if made in one sum, shall date as from the first day of the next month following that in which it is made, and if made by instalments, shall date as from the first day of the next month following that in which the final instalment is made:
 - (c) Interest at the rate of five per centum per annum (but subject to a rebate, as provided by section 17) shall be paid on the loan or each instalment thereof, computed from the date when the loan or instalment is made:
 - (d) If the loan is made in one sum, interest at the rate of four and a half per centum per annum, computed from the date when the same is made to the first day of the next following month, shall be paid to, or may be deducted by, the Board at the time when loan is made:
 - (e) If the loan is made by instalments, then, until and including the first day of the next month following that in which the final instalment is made, interest at the rate of four and a half per centum per annum shall be paid to the Board on the first day of each month on all instalments theretofore made, computed from the dates of making the same respectively; or such interest may be deducted by the Board from any instalment of the loan:
 - (f) After the first day of the next month following that in which the loan or the final instalment thereof is made, the principal, with interest thereon as provided by paragraph

(C)

- (c) hereof, shall be repaid to the Board by equal instalments, which shall be quarterly or monthly, as agreed between the Board and the mortgagor:
- (g) Every such instalment shall consist partly of principal and partly of interest, and every such instalment shall, in respect of each One Hundred Pounds thereof be of the amount set forth in Table A or Table B (whichever is applicable to the case) in the Schedule to this Act opposite to the term for which the loan is made, and in respect of any part of One Hundred Pounds shall be of an amount proportionate to the amount so set forth:
- (h) Irrespective of the prescribed instalments, the mortgagor may from time to time pay to the Board any sum being not less than One Pound, and being either One Pound or a multiple of One Pound, in reduction of the mortgage debt, and thereafter the instalments shall be proportionately smaller by a readjustment of the amounts of interest included therein:
- (i) Notwithstanding anything in this section, where it has been agreed to repay by quarterly instalments, the loan, or any part thereof, may be repaid by monthly instalments; and in that case the instalments shall be as set forth in Table B in the Schedule to this Act.
- 17. In order to encourage the early payment of the prescribed Rebate of interest instalments of principal and interest the following provisions shall paid punctually. apply with respect to every instalment:—

N.Z. 39, 1906, s. 39.

- (a) If the mortgagor (not being in arrears with any previous instalment or other payment under the mortgage) pays the instalment on or before its due date, or not later than the seventh day thereafter, he shall be entitled to a rebate of one-tenth of so much thereof as consists of interest, thereby reducing the rate of such interest to four and a half per centum in lieu of five per centum per annum:
- (b) Such rebate may be deducted and retained by the mortgagor from the full nominal amount of the instalment when making the payment.
- 18. (1) When an advance has been made upon the security of a mortgage of a holding the freehold whereof may under any Act be freehold acquired acquired from the Crown, the grant in respect of such holding shall subsequent to not be issued while such mortgage is in existence, except to the mortgage. Board, nor unless it bears an indorsement showing that it is subject Act, 1908, 8. 19. to the mortgage.

(2) When an advance has been made upon the security of a mortgage of a lease over a holding no fresh lease of the holding shall be issued while such mortgage is in existence, except to the Board, nor unless it bears an indorsement showing that it is subject to the mortgage.

(3) When

No. 380 of 1886.

- (3) When a grant or fresh lease has been indorsed, as mentioned in this section, such grant or lease shall be subject to the mortgage as if it were expressly charged thereby; and notwithstanding the provisions of "The Real Property Act, 1886," the Registrar-General shall make any entry in the Register Book which may be necessary for the purpose of showing that the grant or fresh lease is subject to the mortgage.
- (4) The Board shall be entitled to retain possession of every such grant or fresh lease while such mortgage is in existence.

Power for Board to acquire freehold.

Ibid., s. 20.

- 19. (1) Where an advance has been made upon the security of a mortgage of a holding the freehold whereof may under any Act be acquired from the Crown, the Board may, at any time and not-withstanding the provisions of any Act, acquire the freehold of the holding on behalf of the mortgagor or his successor in interest, and for that purpose may make all such payments to the Crown and otherwise as are necessary.
- (2) All payments so made by the Board shall be added to and become part of the mortgage debt, notwithstanding that the amount of the advance is thereby increased to more than Five Hundred Pounds.
- (3) The grant of the holding shall be delivered to the Board, and shall bear an indorsement showing that it is subject to the mortgage, and thereupon the provisions of subsections (3) and (4) of section 18 shall apply in respect of the grant.

Remedies for recovery of instalments.

Ibid., s. 22.

20. (1) In addition and without prejudice to any other remedy, if at any time any instalment required by this Act, or any part thereof, is unpaid for thirty days next after the time appointed for the payment thereof, then, although no legal demand has been made for the payment thereof, the Board may enter upon the holding charged, or any part thereof, and recover the amount due by distress and sale of any goods and chattels on such holding, or such amount may be recovered in any Court of competent jurisdiction by action, in the name of the Board, from the owner or lessee for the time being of such holding.

How land to be sold.

(2) If at any time any instalment required by this Act, or any part thereof, is unpaid for three calendar months next after the time appointed for the payment thereof, then, although no legal demand has been made for the payment thereof, the Board may enter upon and take possession of the holding with respect to which the advance has been made, and may sell the estate and interest of the mortgagor therein and any lease or agreement under which he holds, either by private sale or public tender or auction, and subject to any conditions of sale they think expedient, and after such notice of the time, place, terms, and conditions of sale as they think just and expedient, and may transfer such holding and any such lease or agreement to the purchaser and give a good and valid title thereto.

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

21. (1) The borrower over whose holding a mortgage or other Mortgagor to effect security has been given under the provisions of this Act shall during the continuance of the same, to the satisfaction of the Board, Ibid., s. 23. keep in good and tenantable repair all buildings, fences, fixtures, and improvements upon the holding comprised in such mortgage or other security.

necessary repairs.

- (2) If after the expiration of two months' notice in writing by the Chairman of the Board any borrower has not complied with the requirements of this section—
 - (a) The like consequences shall follow as are provided by section 20 in case of breach of the terms or conditions of the mortgage or other security, or default made in the payment of any interest or instalment payable under the provisions of this Act: or
 - (b) The Inspector-General, or any person acting with his authority, may enter upon the holding and effect all repairs which the Inspector-General deems necessary; and the expense thereby incurred, with interest at the rate of Five Pounds per centum per annum, shall be repaid to the Board by the borrower on demand, and until repayment shall be a charge under the mortgage or other security upon the holding, notwithstanding that the amount of the advance is thereby increased to more than Five Hundred Pounds.
- 22. (1) As between the Board and the borrower with respect to Conditions annexed whose holding an advance has been made, the following conditions to land while subject to advances. shall be imposed so long as such holding is subject to any charge in Ibid., s. 24. favor of the Board, namely:—

- (a) Such holding shall not be let or sublet by such borrower without the consent of the Board:
- (b) Every lease, sub-lease, or agreement contrary to the provisions of this section shall be void and of no effect:
- (c) If such borrower lets or sublets such holding or any part thereof in contravention of the provisions of this section. the Board may cause the borrower's estate and interest in the holding and any lease or agreement under which he holds the same to be sold:

- (d) When the borrower's title to the holding as owner or lessee is devested from him under any law relating to insolvency, the Board may cause his estate and interest in the holding and in any lease or agreement under which he holds the same to be sold:
- (2) The provisions of section 20, as to sale and application of proceeds of sale, shall apply to every sale made under the provisions of this section.

Restraint on power of alienation during mortgage.

- 23. (1) Whilst a holding is subject to a mortgage or other security to secure the repayment of an advance no transfer, conveyance, assignment, or surrender of such holding, or of any estate or interest therein, shall have any force or effect, nor shall it be registered in the Lands Titles or General Registry Office or be noted in the Land Office, unless such transfer, conveyance, assignment, or surrender—
 - (a) Arises through the operation of any law relating to insolvency; or
 - (b) Is made to a devisee by a person acting in the capacity of executor or administrator; or
 - (c) Is made with the consent in writing of the Board.

Cf. Crown Lands Amendment Act 909, 1906, s. 8.

(2) Such consent shall not be granted within five years after the making of an advance, unless it is proved to the satisfaction of the Board that the refusal thereof would inflict great hardship.

Extension of time for repayment.

- Advances to Settlers Act, 1908, s. 25.
- 24. In cases of hardship, the Board may extend the time for making any payment required by this Act: Provided that the deferred payments shall bear interest at the rate of Five Pounds per centum per annum.

Receipts for instalments exempt from stamp duty. 372 of 1886. 789 of 1902.

25. All receipts for instalments, or parts thereof, paid to the Board in or towards repayment of advances shall be exempt from all stamp duties chargeable upon receipts under the "Stamp Act, 1886," or any Act amending or substituted for that Act.

Appraisers Act not to apply.
Cf. State Advances
Amendment Act (767

of 1901), s. 4.

26. The provisions of an Ordinance to regulate the licensing of appraisers in South Australia, being the Ordinance No. 10 of 1843, shall not apply to any appraiser or valuer when acting, or to any valuation made, in connection with the business of the Board under this Act.

Board to obtain reports as to expenditure of advances.

Advances to Settlers Act, 1908, s. 26.

27. The Board from time to time shall obtain reports from the inspectors and valuers of the Board as to the manner in which advances and instalments of advances have been expended and used by the respective borrowers, and as to the state and condition of the improvements for the purpose of which such advances and instalments have respectively been paid, and generally as to the state and condition of the holdings in respect of which such advances and instalments have been paid.

28. The Board shall keep a register or list of all advances, with to be kept for the names of the persons to whom the advances have been made, inspection. and also an alphabetical index of the names of such persons. Such Ibid., s. 27. register or list and index shall be open to public inspection on the payment of a fee of One Shilling.

29. The provisions of sections 59 to 62, inclusive, of "The State Financial statements, Advances Act, 1895," as to financial statements, accounts, and audit shall apply to the Board in connection with the administration of this Act and the Fund, the said sections being, for the purposes of this section, read as if the word "Board" were substituted for the word "Bank" wherever it occurs, and the said section 59 being read as passed, and not as amended by the Act No. 682 of 1897.

accounts, and audit.

No. 633 of 1895.

30. The annual financial statement required by virtue of section Financial statement 29 shall show, in respect of the previous financial year--

—Particul**ars.**

- (a) The financial position of the Fund:
- (b) The financial results of the year's operations:
- (c) The cost of management during the year:
- (d) The gross and net profits made during the year:
- (e) The whole cash receipts and expenditure during the year:
- (f) Such other accounts and records (if any) as are prescribed.
- 31. The Governor may from time to time make regulations for Regulations. all or any of the following purposes, namely:-Cf. Advances to Settlers Act, 1908,
 - (a) Prescribing the duties of the officers and servants of the s. 31. Board:
 - (b) Prescribing the mode in which applications for advances are to be made:
 - (c) Regulating the consideration and granting of applications:
 - (d) Prescribing what inquiries and valuations shall be made in relation to applications:
 - (e) Prescribing the manner in which the amounts of instalments of advances shall be determined and paid to borrowers:
 - (f) Prescribing plans and specifications for buildings to be erected with the assistance of advances, or on lands held under leases from the Board, whether with the assistance of advances or not:
 - (g) Prescribing the principle and method to be adopted by valuers in valuing the progress made with buildings and reporting thereon:
 - (h) Prescribing the forms of mortgages and securities to be taken and of leases to be granted by the Board, and providing for the registration of such mortgages and securities and leases: (i) Prescribing

- (i) Prescribing the records, books, and accounts to be kept by the Board:
- (j) Providing for the receipt and payment of moneys under this Act, and the safe custody of securities:
- (k) Prescribing the fees to be paid in respect of advances and leases:
- (1) Prescribing anything which by this Act is required to be or may be prescribed:
- (m) Prescribing anything which may be necessary or convenient for carrying out the objects and provisions of this Act.

Publication and effect of regulations.

Ibid., s. 32.

- 32. (1) All such regulations shall-
- (a) Be published in the Government Gazette;
- (b) Take effect from the date of such publication, or from a later date to be specified therein; and
- (c) Be laid before both Houses of Parliament within fourteen days after publication, if Parliament is then in Session, and if not, then within fourteen days after the commencement of the next Session.
- (2) Notwithstanding any publication thereof, no regulation shall continue to have any force or effect if the same is disapproved, by resolution of either House of Parliament within thirty sitting days after such regulation has been laid before Parliament, if Parliament is so long in Session: Provided that if Parliament is not in Session for thirty sitting days after such regulation has been laid before Parliament, then such regulation shall not continue to have any force or effect if disapproved by either House of Parliament within thirty sitting days after the commencement of the next Session of Parliament.

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

DAY H. BOSANQUET, Governor.

THE SCHEDULE.

TABLE A.

Table of Quarterly Repayments for every One Hundred Pounds, including interest at Section 16. five per centum per annum, for the undermentioned terms respectively:—

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TABLE B.

Table of Monthly Repayments for every One Hundred Pounds, including interest at Section 16. five per centum per annum, for the undermentioned terms respectively:—

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