



ANNO QUINQUAGESIMO SECUNDO ET QUINQUAGESIMO TERTIO

VICTORIÆ REGINÆ.

A.D. 1889.

No. 472.

An Act to amend "The Crown Lands Act, 1888," and for other purposes.

[Assented to, December 6th, 1889.]

WHEREAS it is expedient to amend "The Crown Lands Act, 1888," and to make provision for other purposes—Be it therefore Enacted by the Governor of the Province of South Australia, with the advice and consent of the Legislative Council and House of Assembly of the said province, in this present Parliament assembled, as follows:

Preamble

PART I.

PART I.

PRELIMINARY.

1. This Act may be cited for all purposes as "The Crown Lands Amendment Act, 1889." Short title.

2. This Act shall be divided into four parts relating to the following subject-matters:— Division of Act into Parts.

PART I. Preliminary, sections 1 to 3:

PART II. Provisions relating to Surrender of Existing Agreements, and Leases in Exchange for Leases under Part II. of "The Crown Lands Act, 1888," sections 4 to 7:

PART III. Provisions as to Erection of Rabbit-proof Boundary Fences; sections 8 to 20:

PART IV. Miscellaneous, sections 21 to 44.

3. In

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PART I.

Interpretation.

3. In the construction of this Act the term "lands reserved for leasing" shall mean all lands vested in the Crown situated within the boundaries described in the Schedule hereto (excepting such of the said lands as shall for the time being be subject to the provisions of Act No. 340 of 1885); and the term "the principal Act" shall mean "The Crown Lands Act, 1888."

PART II.

PART II.

PROVISIONS RELATING TO SURRENDER OF EXISTING AGREEMENTS AND LEASES IN EXCHANGE FOR LEASES UNDER PART II. OF "THE CROWN LANDS ACT, 1888."

Repeal of section 41 of principal Act.

4. Section 41 of the principal Act is hereby repealed.

Rent, how charged.

5. The rent fixed under section 40 of the principal Act shall be charged as from the expiration of the third year from the date of the original agreement or lease; but the person obtaining the lease in exchange shall be credited with the following amounts:—

Moneys paid, how credited.

- i. As to lands now or originally held under agreement for purchase—If the person surrendering shall have elected to take a perpetual lease, he shall be credited as against the rent payable under the new lease with the whole amount paid to the Crown for or in respect of the purchase-money, or purchase-money and rent, for such lands except the first deposit of ten per centum. If the person surrendering shall have elected to take a lease with a right of purchase, he shall in like manner be credited as against rent with the amount so paid as aforesaid (except the first deposit of ten per centum), and in the event of his exercising his right of purchase before the amount so credited shall have been exhausted, he shall be credited with the balance then remaining unappropriated as against the purchase-money for such lands: Provided that in either case such credit shall not cover more than twenty years' rental of such land, according to the rate fixed by the Land Board.
- ii. As to the other lands surrendered—The person surrendering shall be credited as against rent, or as against rent and purchase-money (as the case may require), with all money paid to the Crown as shall be in excess of ten per centum on the amount at which he was originally entitled to purchase the land: Provided that no such credit shall be given unless all moneys payable for the lands held by such person in respect of the first three years' occupation of such lands shall have been previously paid; nor shall any such credit be given contrary to the terms of the proviso to subsection i.

Reduction of purchase-money

6. Any person holding land under agreement with the right of purchase, selected before "The Crown Lands Act, 1888," came into operation,

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operation, may, within twelve months from the passing of this Act and in manner provided by regulations, apply to the Commissioner to reduce the price which he has agreed to pay, who shall submit such application to the Land Board for the district, and, on their recommendation, may reduce the purchase-money; but in all other respects the agreement shall remain in force, and any previous payments on account of purchase-money shall remain to the credit of such person.

7. The crediting of any moneys as aforesaid shall not in any case confer any personal right or claim to such moneys, and the sums so credited shall be applied only as against rent and purchase-money, or rent (as the case may require), as hereinbefore provided.

Crediting of moneys to confer no personal right.

PART III.**PART III.****PROVISIONS AS TO ERECTION OF RABBIT-PROOF BOUNDARY FENCES.**

8. Any District Council whose boundaries, or any of them, either wholly or in part, abut upon Crown lands, may make application to the Commissioner for a loan for the purpose of erecting or assisting to erect a rabbit-proof fence on the line dividing any lands in such district from the adjoining Crown lands, or any line agreed upon between such District Council and the Commissioner in substitution of any such dividing line.

District Council may apply for loan to erect rabbit-proof fence.

9. The Commissioner may grant such loan to such District Council out of any funds provided by Parliament for such purpose.

Loan may be granted.

10. All loans so granted as aforesaid shall be expended by the District Council, to the satisfaction of the Commissioner, in the erection of the fence for which the loan is granted.

Loans to be expended to Commissioner's satisfaction.

11. In cases where no application for a loan is made by a District Council under this part of this Act, the Commissioner may erect any such rabbit-proof fence, on such portions of the boundary line of any District Council as shall abut on any Crown lands.

Commissioner may himself erect fence.

12. The amount of the loan so granted to any District Council, or the amount expended by the Commissioner under this part of this Act, shall be a debt due by such District Council to the Commissioner, and shall be repaid by such Council by ten annual equal amounts, without interest, to the Commissioner; the first annual payment to become due and payable at the expiration of twelve months from the date when such loan was granted, or expenditure incurred, as the case may be: such annual payments shall be a charge upon the annual rates of such District Council.

Amount of loan or expenditure to be a debt by Council

13. A certificate under the hand of the Commissioner of the amount of any loan granted to any District Council, or of the amount expended

Evidence of amount advanced or expended.

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expended on behalf of such Council, under this part of this Act, shall be conclusive evidence of the amount of such loan or expenditure.

Proceedings in default in payment.

14. Upon default being made by the Council in the payment of any annual amount to the Commissioner, he shall have all the rights of a creditor of the Council holding unpaid debentures, under Part XII. of "The District Councils Act, 1887."

Regulations.

15. The Governor may from time to time make regulations for any of the purposes of this part of this Act, and for providing for the nature of the rabbit-proof fences to be erected, the mode of application for loans, the nature and form of securities to be given by District Councils for loans or amounts expended on their behalf, and generally for carrying this part of this Act into effect.

Interpretation of "authorised person."

16. For the purposes of "The Rabbit Suppression Act, 1879," the expression "authorised person," in addition to the meaning assigned to it by the said Act, as regards anything to be done within the boundaries of any District Council, shall mean "any person authorised in writing by any District Council, and all persons acting "under him."

Penalty for non-compliance with notice.

17. If, within twenty-eight days after the service of notice from any authorised person on any owner or occupier of any land, whether freehold or leasehold, given pursuant to section 10 of "The Rabbit Suppression Act, 1879," such owner or occupier shall not commence to do everything required by such notice for the purpose of destroying the rabbits on the land mentioned in such notice, or, having so commenced, shall not continue to do everything required as aforesaid until all such rabbits are destroyed, such owner or occupier shall, for a first offence under this section, be liable to a penalty of not less than Two Pounds nor more than Ten Pounds, and for the second and every subsequent offence under this section shall be liable to a penalty of not less than Ten Pounds nor more than Fifty Pounds.

Who may erect rabbit-proof fence.

18. The Commissioner of Crown Lands, or any District Council, or any person authorised in writing by the Commissioner of Crown Lands or by any District Council, may erect a rabbit-proof fence across any road or roads specified in such authority: Provided always that there shall be a gate of a width of at least ten feet in any such fence.

Penalty for destroying or injuring fence: Penalty for leaving open gate.

19. Any person who shall wilfully and unlawfully destroy or injure any rabbit-proof fence, or any part thereof, shall, on conviction thereof, be liable to a penalty not exceeding Twenty Pounds, or to be imprisoned for any term not exceeding six months. Any person wilfully or negligently leaving open any gate so erected shall be liable to a fine not exceeding Five Pounds, to be recovered in a summary manner under the provisions of Act 6 of 1850.

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Proof of existence of rabbits.

20. Proof that there are on any land burrows showing signs of having been recently used by rabbits, or other signs of the presence of rabbits, shall be *prima facie* evidence of the existence of rabbits on such land: And proof that such signs are not being diminished on any land shall be *prima facie* evidence that the occupier is neglecting to do what is required by any notice which has been served pursuant to the last section.

PART IV.

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MISCELLANEOUS.

21. Notwithstanding anything contained in "The Woods and Forests Act, 1882," leases of lands comprised in any forest reserve under that Act shall not in future be offered for sale by public auction, but the right to such leases shall, subject to the approval of the Commissioner of Forest Lands, be determined, and the rent payable thereunder shall be fixed, by the Land Board for the district within or nearest to which such lands shall be situated in the same manner as the Board is empowered to do with respect to lands within hundreds under Part II. of the principal Act.

Forest leases to be adjudicated upon by Land Boards.

22. The Commissioner of Forest Lands may, on the recommendation of the Land Board for the district within or nearest to which any lands comprised in any such forest reserve are situate, reduce or remit any rent or arrears of rent payable in respect of any such lands. A return of all such reductions and remissions, with the reasons therefor, shall be annually laid before Parliament within one month after the opening of Parliament for the dispatch of business.

Rent of forest lands may be remitted or reduced.

23. The Commissioner may cause any land which has been reclaimed, or which is in course of being reclaimed, to be surveyed in such blocks and let on lease on such terms and conditions as he may consider desirable. The rent of such land to be fixed, and the allotment decided, by the Land Board of the district within which such reclaimed or partially reclaimed land is situate.

Land reclaimed may be leased.

24. Any person who has heretofore surrendered or shall hereafter surrender his agreement or lease, and has taken or shall take a lease under Part II. of the principal Act, shall have a right of appeal to the Commissioner against the decision of the Land Board fixing the amount of rent and purchase-money, or either (as the case may be); and the Commissioner shall, on receipt of such appeal, refer the same to the Land Board for reconsideration and a report thereon, and may, after receiving such report from such Land Board, reduce the rent and purchase-money, or either, so appealed against, as in his opinion the case may require: Provided that all appeals against determinations arrived at before the passing of this Act shall be made within six months from the passing hereof, and that all other appeals shall be made within six months from the notification to the lessee of the amount of the rent, or rent and purchase-money, fixed by the Board.

Appeal from first decision of Land Board.

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Board may require evidence to be on oath.

25. Every Land Board may require the evidence given before it on any application to be on oath. The oath may be in the following form:—"The evidence which you shall give before this Board shall be the truth, the whole truth, and nothing but the truth—So help you God."

Punishment for perjury.

26. Any person who, upon oath or affirmation taken or made under the provisions of this Act, shall wilfully and corruptly give any false evidence before any Land Board shall be guilty of perjury, and on conviction, may be imprisoned with or without hard labor for any period not exceeding four years.

Affirmation may be made in lieu of oath.

27. Where any witness to be examined pursuant to this Act conscientiously objects to take an oath, he may make his solemn declaration and affirmation in the following words:—

I, A. B., do solemnly, sincerely, and truly declare and affirm that the taking of any oath is, according to my religious belief, unlawful; and I do also solemnly, sincerely, and truly declare and affirm that I will state the truth, the whole truth, and nothing but the truth, to all questions that may be asked me.

And any solemn declaration and affirmation so made shall be of the same force and effect, and shall entail the same liabilities, as an oath taken in the form hereinbefore provided.

By whom oath or affirmation to be administered.

28. Any oath or affirmation pursuant to this Act may be administered by any member of any Land Board, and the evidence given by the person making the oath or affirmation shall be taken down in writing and signed by such person, and countersigned by the chairman or any other member of the Land Board before whom such evidence is taken.

Governor may except suburban lands from being dealt with by Boards.

29. The Governor may at any time, by Proclamation, except any suburban lands from being dealt with by any Board, either altogether or for such period as he may from time to time determine; and in cases where any such lands shall be altogether withdrawn, the same may be sold by auction, for cash, in the same manner as town lands.

Foreshore may be leased.

30. For the purposes of Part v. and of section 116 of the principal Act, "mineral lands" and "Crown lands" shall include that part of the province situate between high and low watermark on the seashore and on the margin of tidal rivers.

Applications for transfer to be remitted to Land Board for advice.

31. All applications for the transfer of any lands which shall have been allotted by any Land Board under Part II. of the principal Act, or dealt with by any Land Board under Part II. of this Act shall be made to the Commissioner, and by him be transmitted to such Land Board for advice, and no transfer shall be allowed until after notice of such application shall have been inserted for four weeks in the *Government Gazette*.

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32. Section 15 of the principal Act shall be read as if the following proviso were added at the end thereof—" Provided that no lessee shall hold, under lease with a right of purchase, at any one time more than one thousand acres of lands reserved for leasing."

Not more than one thousand acres of lands reserved for leasing to be held with right of purchase.

33. Section 36 of the principal Act shall be read as if the following words were added at the end thereof—" and, in cases where the rent shall have been twice so reduced without such lands having been taken up, the Commissioner may from time to time offer such lands at such reduced price for the improvements thereon as he may, with the advice of the Board, fix."

Amendment of section 36 of principal Act.

34. Notwithstanding anything contained in the principal Act, it shall not be necessary for any applicant for a lease to forward with his application twenty per centum of the first year's rent if such twenty per centum shall amount to less than One Pound sterling.

Exemption of deposit of portion of rent on application.

35. Section 22 of the principal Act shall be read as if the words "or the first year's rent" were inserted after the word "rent" in the last line of the said section.

Amendment of section 22 of principal Act.

36. In deciding between applicants for blocks of land, the Board shall give the preference to the applicant who shall agree to take the block on condition of personal residence; and every lease so granted shall contain a covenant by the lessee to personally reside on such land for six months at the least in every year of the term; and every such lease shall also contain such right of re-entry, and such other terms and conditions, not inconsistent with the provisions of this Act, as the Commissioner may see fit to impose.

Preference to applicant who agrees to reside.

37. Section 139 of the principal Act shall be read and construed as if the words "or lease under Part VII. of the principal Act" were inserted after the word "purchase" in third line of said section.

Amendment of section 139 of principal Act.

38. On the expiration or other determination of any lease granted under sub-section ix. of section 118 of the principal Act, all improvements made by the lessee, and all machinery erected by him on the land, shall be offered for sale, together with the new lease of such land, at auction, for cash, and the amount (if any) at which such improvements and machinery shall be sold shall, except in cases where the outgoing lessee shall be the purchaser, be paid by the purchaser to the Commissioner, and by him paid to the outgoing lessee.

Improvements made by lessees for manufacture of salt to be sold with new lease.

39. Notwithstanding anything contained in Part IV. of the principal Act, leases of pastoral lands not at the time subject to an existing pastoral lease may be offered for sale after the expiration or determination of the last previous lease; and the outgoing lessee shall have the same rights, and be subject to the same obligations, as he would have had and been subject to under the principal Act if
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Pastoral leases may be offered for sale after expiration of previous lease.

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the new lease had been sold or offered for sale previous to such expiration or determination: Provided that in cases where the leases of any blocks of land which are contiguous to each other expire at different periods of time, the Commissioner may, when he considers it advisable in the public interest, grant to the outgoing lessee a further lease for a term not exceeding three years, at an annual rental to be fixed by the Commissioner, and not being less than the annual rental paid under the previous lease.

Amendment of section
58 of Crown Lands
Act, 1888.

40. Section 58 of the principal Act shall be read as if the following proviso were added at the end thereof: "Provided also that where the leases of two or more blocks have been purchased by the same person, and are occupied as one run, the lessee may surrender the leases of such blocks, and obtain one lease in lieu thereof; and, with the consent of the Commissioner, the improvements necessary to entitle the lessee to repayment of the said deposit of ten per centum may be made on any part of the land included in such lease."

Amendment of clerical
errors.

41. Section 116 of the principal Act shall be read and construed as if the word "therein" had been inserted in the fifteenth line of that section in lieu of the word "herein," and section 119 of the said Act shall be read and construed as if the word "section" had been inserted in the first line of that section in lieu of the word "sections."

Amendment of section
131 of Crown Lands
Act, 1888.

42. Section 131 of the principal Act shall be read as though the words "under this part of this Act" had been omitted.

Amendment of section
20 of Woods and
Forests Act.

43. Section 20 of "The Woods and Forests Act, 1882," is hereby amended, and shall be read and construed as if the words "twenty-one" in the second line of the said section were struck out and the words "forty-two" inserted in lieu thereof.

Incorporation.

44. This Act and the principal Act shall be read and construed together as forming one Act.

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

KINTORE, Governor.

SCHEDULE REFERRED TO.

SCHEDULE.

Lands Reserved for Leasing.

Commencing at the north-west corner of the hundred of Benara; thence east along the north boundary of said hundred to its north-east corner; thence north along the west boundaries of the hundreds of Young, Grey, and Monbulla, and Killanoola to the south-west corner of the hundred of Robertson; thence westerly to the south-east corner of the hundred of Joyce, and north-north-westerly to its north-eastern-corner; thence north along the western boundaries of the hundreds of Lochaber, Glen Roy, and Parsons, to the north-west corner of the latter hundred; thence westerly along the north boundary of county MacDonnell to its north-west corner; thence in a southerly, south-westerly, and south-easterly direction, following the sea-coast to the point of commencement.