



ANNO TRICESIMO QUINTO ET TRICESIMO SEXTO

# VICTORIÆ REGINÆ.

A.D. 1872.

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## No. 18.

*An Act to Regulate the Alienation and Sale of the Waste Lands of the Crown.*

[Assented to, 15th August, 1872.]

**W**HEREAS it is expedient to make better provision for the Alienation and Sale of the Waste Lands of the Crown—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.

1. This Act may be cited, for all purposes, as “The Waste Lands Alienation Act, 1872.” Short title.

2. The following terms, within inverted commas, shall, for the purposes of this Act, unless the context otherwise indicate, bear the meaning set against them respectively:— Definition of terms.

“Waste Lands.”—All lands within the said Province vested in Her Majesty the Queen, and situated south of the line defined and described in the First Schedule hereto (including all unselected lands situated in any agricultural area proclaimed before the passing of this Act), and which lands have not been or may not hereafter be reserved for and dedicated to any lawful purpose, or which have not been granted or lawfully contracted to be granted in fee simple or leased with a right of purchase under the provisions of “The Scrub Lands Act, 1866,” or any Act amending the same,

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same, or which have not been or may not hereafter be leased under any Act authorizing the granting of leases, with or without right of purchase, except leases for pastoral purposes, or which having been so contracted to be granted, or so leased shall be, or have been, lawfully forfeited, or resumed, or re-vested in the Crown :

- “Lands under Agreement.”—All lands which may have been taken up on terms of credit under agreements within the provisions of Acts No. 14 of 1868-9, No. 4 of 1869-70, and No. 27 of 1870-71, or either or any of them, and the regulations made thereunder :
- “Governor in Council.”—The Governor of the said Province, with the advice and consent of the Executive Council thereof :
- “Country Lands.”—All surveyed waste lands, not being town, township, suburban lands, reclaimed lands, improved lands, or reserves :
- “Town or Township Lands.”—All lands reserved, surveyed, and laid out in lots as the site for a town or township :
- “Suburban Lands.”—All surveyed waste lands situate in the immediate vicinity of any town or township lands, and which may be declared by notice in the *Gazette* to be suburban lands :
- “Reclaimed Lands.”—All waste lands reclaimed and improved by means of Government expenditure, upon drains or other public works, and proclaimed as such :
- “Special Country Lots.”—Any single Section or block of country lands which may be surrounded by sold or selected lands, and which shall have been heretofore offered for sale and not sold, or have been withdrawn from sale, or has not been dedicated for any public purpose :
- “Improved Lands.”—All waste lands on which improvements have been made by selectors or lessees from the Crown :
- “Selector.”—Any person who has entered into an agreement for the purchase of land upon credit under this Act, and, except where repugnant to or restricted by the context, the devisee or personal representative of any such person, or any transferee of any such agreement under the provisions of this Act :
- “Cultivation.”—Ploughing, digging, or trenching, and planting cereal, hemp, flax, pulse, or root crops :
- “The Commissioner.”—The Commissioner of Crown Lands and Immigration, for the time being :
- “*Gazette*.”—*South Australian Government Gazette*.

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PART II.—Alienation by selection and sale, upon credit, under agreements:

PART III.—Alienation and sale by auction for cash or credit:

PART IV.—General matters and procedure.

PART I.—Introductory:

4. The several Acts and parts of Acts mentioned in the following table, to the extent to which the same are therein expressed to be repealed, shall be and the same are hereby repealed, except so far as the several Acts or parts of Acts repeal any Acts or Ordinances: and all proceedings of what nature soever, for obtaining possession of forfeited lands, or for the enforcement of any penalties, or in any way for carrying out the provisions of any Act or regulation now existing, or in respect of any agreement or lease with right of purchase, or in respect of any matter or contracts already entered into, shall be commenced and prosecuted in the manner provided by this Act: Provided that nothing herein contained shall be deemed to affect any estate, right, or interest created or existing under or by virtue of any of the Acts or parts of Acts hereby repealed: And provided that nothing herein shall prejudice or affect anything already lawfully done, or commenced, or contracted to be done under such Acts or parts of Acts, or under any existing regulations, agreements, or leases:—

Repeal of former Acts. Proceedings, &c., under repealed Acts saved.

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Date.	Title of Act.	Extent of Repeal.
No. 5 of 1857	An Act for regulating the sale and other disposal of Waste Lands belonging to the Crown in South Australia—"The Waste Lands Act."	Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11.
No. 18 of 1858	An Act to amend the "Waste Lands Act."	Section 5.
No. 14 of 1868-9	An Act to further amend the Waste Lands Act—"The Waste Lands Amendment Act, 1868-9."	The whole.
No. 4 of 1869-70	An Act to amend the Waste Lands Amendment Act, 1868-9.	The whole.
No. 27 of 1870-1	An Act to further amend "The Waste Lands Amendment Act, 1868-9."	The whole.

5. The Governor, in the name and on behalf of Her Majesty, may alienate, grant, and convey in fee simple, or may reserve and dedicate to the public use any waste lands, under and subject to the provisions of this Act, and the regulations to be made under the authority of this Act; and all grants, conveyances, and alienations, sealed with the seal of the said Province, may be made in such form as to the Governor in Council shall seem expedient.

Governor may grant lands.

6. The Governor in Council may, by notice in the *Gazette*, reserve and dedicate, in such manner as may seem best for the public interests, any waste lands, for the preservation of water supply, or for any public roads or other internal communications, whether by land or water, or for any quay or landing place, or public

Dedication to the public of lands for certain purposes.

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public reservoir, aqueduct, or watercourse, or for the purposes of any hospital or asylum, or for any market place or slaughter-house, or for the purposes of any institutions for public instruction and amusement, or for any public buildings, not being intended for ecclesiastical purposes, or for the interment of the dead, or as places for the recreation and amusement of the inhabitants of any city, town, or township, or other purpose of public safety, convenience, health, or enjoyment, or for any other public purpose, or for the purpose of building or endowing any Common or District schools, not being denominational schools; and upon such notice being published in the *Gazette*, such lands shall become and be reserved and dedicated accordingly, and may at any time thereafter be granted for such purpose in fee simple: Provided that the delineation in the public maps of the said Province of any public roads shall be deemed a sufficient dedication thereof, anything hereinbefore contained to the contrary notwithstanding.

Forfeited, resumed, or re-vested lands to be considered waste lands.

7. When any lands under agreement, or lands held under lease, under the provisions of "The Scrub Lands Act, 1866," or of any Act amending the same, or lands held upon credit under this Act, shall be or have been lawfully forfeited, or resumed, or re-vested in the Crown, under the provisions of the Act or Acts affecting the same respectively, or under the provisions of this Act, such lands shall be considered waste lands within the meaning of this Act; and such lands may be dealt with as country, reclaimed, or improved lands, as may seem expedient to the Governor in Council.

Lands to be surveyed &c., before selection.

8. Before any lands which, at the time of the passing of this Act, have not been surveyed and delineated in the public maps in the office of the Surveyor-General shall be granted, or contracted to be granted, in fee simple, under the provisions hereinafter contained, the same shall be surveyed and delineated in the said public maps in such sections as may be deemed convenient, but so that no one section shall contain a greater area than six hundred and forty acres; and a notice shall be published by the Commissioner in the *Gazette*, describing generally the lands so surveyed and delineated, and referring to such maps, and fixing a date, not being less than six weeks from the first publication of such notice, after which the lands referred to in such notice will be open for selection.

Governor may reserve lands.

9. The Governor in Council may, from time to time by Proclamation in the *Gazette*, reserve such portions of the waste lands, for the use or benefit of the aboriginal inhabitants of the said Province, or for any purposes of military defence, or as forest or mineral reserves, or for any railway or railway station, as may be described in such Proclamation, and may from time to time in like manner revoke any such Proclamation as to the whole or any portion of such lands so reserved, and thereupon such lands, the Proclamation reserving which is so revoked, shall be dealt with as if the same had never been reserved as aforesaid: Provided always, that no Proclamation revoking any Proclamation reserving lands as aforesaid

said

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said shall be issued until a statement has been laid before Parliament for thirty days, setting forth the particulars of the Proclamation so proposed to be revoked.

10. The Commissioner, notwithstanding anything in this Act contained, may decline to accede to any application for selection of any waste lands known or supposed to contain gold, copper, or any other mineral.

Exception of mineral lands.

11. The Governor in Council may, from time to time, by notice published in the *Gazette*, declare what parts of the waste lands are to be set apart for the sites of new towns or townships, and for suburbs thereto, and such lands shall thereupon be reserved and designated as town, township, or suburban lands, as the case may be.

Town or township lands may be reserved.

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12. All country lands may be sold upon credit at such a price, not being less than One Pound nor more than Two Pounds per acre, as shall be fixed by notice to be published in the *Gazette*, declaring such lands open for selection: Provided that, if the price fixed by such notice is more than One Pound per acre, the same shall be reduced every seven days by not less than Two Shillings and Sixpence nor more than Five Shillings per acre, until such price is reduced to One Pound per acre; the amount by which such price is to be reduced at the intervals aforesaid, being also specified in such notice.

Country lands may be sold on credit.

13. All reclaimed lands may be sold upon credit at such price, not being less than One Pound per acre, in addition to the estimated cost of reclaiming the same, as shall be fixed by notice to be published in the *Gazette* declaring such lands open for selection: Provided that if the price fixed by such notice is more than One Pound per acre, such amount may be reduced in the manner specified in the last preceding clause, until the price is reduced to One Pound per acre, in addition to the estimated cost of reclaiming the land.

Reclaimed land may be sold upon credit.

14. All improved lands may be sold upon credit at such price, not being less than One Pound nor more than Two Pounds per acre, as may be fixed by notice to be published in the *Gazette* declaring such lands open for selection: Provided that the amount so to be fixed as aforesaid shall in no case exceed the price fixed for country lands in the same vicinity, with an addition of the value of the improvements effected on such land at the time of the revocation or cancellation of the agreement of any previous selector, or on the reverting of such land to the Crown, or of the amount paid or to be paid by the Government to any lessee, as the case may be; such price to be fixed in respect of each Section of improved lands

Improved lands may be sold on credit.

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lands by such notice as aforesaid, and such notice to specify the amount added to the price of such lands as the value of such improvements: Provided also, that the amount at which such improvements shall be valued may be altered or reduced from time to time by the Governor in Council as may be deemed expedient, notice thereof being published in the *Gazette* for four consecutive weeks: Provided that the price of such land may be reduced in like manner, as provided in clause No. 12, with regard to country lands, but in no case shall the price of such land be less than One Pound per acre, with the addition of the value of such improvements.

Method of selecting by written application and payment of deposit.

15. Any person who may be desirous of purchasing lands open for selection under this Act, shall apply to the Commissioner in the form set out in the Second Schedule to this Act, or to the like effect, and shall pay, in ready money, at the time of making such application, an amount equal to Ten Pounds per centum on the purchase-money stated by him in his application; and in the event of such lands being improved lands, the amount specified in the notice to be issued as aforesaid as the value of such improvements, and such first-mentioned payment shall be deemed to be and be regarded as payment in advance of interest for three years upon the amount of such purchase-money.

Land office to be open for receipt of applications.

16. The Commissioner shall cause the Land Office in Adelaide to be kept open for the receipt of applications for the purchase of land as aforesaid, between the hours of ten and twelve in the forenoon on such days as may be fixed by the regulations, to be made under the power in that behalf hereinafter contained; and shall also cause a box to be kept in such Land Office in which such applications, immediately on receipt, and without being examined, shall be deposited; and such box shall be publicly opened at the hour of noon of each day on which such Land Office shall be so open for the receipt of applications as aforesaid, and all applications found therein shall be immediately examined; and if it shall appear that there is only one application for any Section, the person so applying shall be declared the purchaser, except as hereinafter mentioned; but if there shall be two or more applicants for any Section or Sections, the said Section or Sections shall be offered at auction, on the same day, at an hour not later than two o'clock, under regulations to be made under the power in that behalf hereinafter contained, the competition being confined to the persons who have applied for the same Section: and, notwithstanding anything contained in clause No. 12 of this Act, the person who shall bid the highest price at the said auction shall be declared the purchaser of such Section or Sections, and shall immediately pay a further sum of ten per centum on the amount so bid by him in excess of the price at the which said Section or Sections was or were offered for selection; and the other persons so competing for such Section or Sections shall be entitled to have the deposit paid by them with their applications returned forthwith, unless the same shall be forfeited as hereinafter mentioned: Provided that if there shall be

If more than one applicant.

simultaneous

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simultaneous applications for the same Section or Sections of land, the persons (if any), who shall declare their intention to reside upon such land, shall be entitled to priority as against persons who shall not declare their intention to reside thereon, anything in this Act contained to the contrary notwithstanding, but as between themselves, shall be subject to the provisions hereinbefore contained in reference to simultaneous applicants.

17. If, on opening the box, as aforesaid, it shall be found that there is only one application for any Section, the clerk shall, if the amount of deposit is enclosed and the application in proper form, forthwith declare the applicant the purchaser of such Section, and hand him a receipt for the amount of such deposit in the form in the Third Schedule, or to the like effect; and in case there shall be more applicants than one, on the purchaser being determined as hereinbefore provided, the clerk shall deliver to him a like receipt.

Receipt for deposit to be handed to purchaser.

18. If a person shall apply for more than one Section, and shall be declared the purchaser of less than the number for which he applied, he may, by giving notice in writing to the Commissioner, within two days from the date of such declaration, decline to become the purchaser of any such Sections.

Purchaser may decline to take less than the number of Sections applied for.

19. If, at the opening of the box for the receipt of applications as hereinbefore mentioned, it shall be found that any one person has by himself or his duly authorized agent, applied for a greater area than seven hundred acres, he shall not be entitled to be declared the purchaser of any of the Sections so applied for; and the amount paid by him for deposit shall be absolutely forfeited.

If one person applies for more than 700 acres, all his deposits forfeited.

20. If any person shall make application to purchase lands under the foregoing provisions for any other purpose than that of *bonâ fide* becoming the purchaser of the lands so applied for, the Governor in Council may declare that all moneys paid by such person for the deposit on making any such application as aforesaid shall be absolutely forfeited; and it is hereby expressly declared that the Governor in Council may declare any such forfeiture on any evidence which may appear to him sufficient; and a notice that any such forfeiture has been declared, signed by the Commissioner, and published in the *Gazette*, shall be conclusive evidence thereof, and shall be an effectual bar to any action or suit at law or in equity which may be instituted by such person, or anyone claiming through or under him, for the recovery of the amount of any money so paid or deposited by him as aforesaid, and may be so pleaded accordingly.

Deposits of persons applying otherwise than *bonâ fide* may be absolutely forfeited by Governor in Council.

21. Within seven days of any person being declared the purchaser of any land under the provisions hereinbefore contained (unless such person shall have declined to purchase under the provisions of clause 18) an agreement, in the form contained in the Fourth Schedule hereto, or to the like effect, shall be drawn up by the Commissioner, and executed by him in duplicate, and being so executed

Agreement to be entered into by purchaser.

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executed, shall be left at the Land Office; and if the purchaser shall neglect or refuse to execute such agreement in duplicate for a further period of fourteen days, or such further time as may be allowed by the Commissioner, the amount paid by such purchaser as deposit upon making application for such lands, and all his right, title, or interest to or in such lands and deposit, shall be absolutely forfeited, and such lands shall again be open for selection as if such former application had never been made.

Purchase money, how paid.

22. The purchaser shall, within fourteen days from the termination of the third year from the date of any such agreement, pay to the Treasurer, or such person as he shall appoint, another amount equal to Ten Pounds per centum upon the purchase-money of the lands mentioned in such agreement, which payment shall be deemed to be and be regarded as payment in advance of interest for three years upon the amount of such purchase-money; and the purchaser shall, at the end, or within fourteen days after the expiration of six years from the date of the said agreement, pay the purchase-money of the lands mentioned therein; and thereupon the purchaser shall, if he shall also have complied with the other conditions by this Act and by the said agreement imposed, be entitled to a grant in fee simple of the land mentioned in such agreement: Provided that at the expiration of the said sixth year, the purchaser shall, at his option, upon payment of one-half of his purchase-money within fourteen days after the commencement of the seventh year be entitled to an extension of time for any period not exceeding four years for payment of the balance of his purchase-money together with payment, in advance, within fourteen days after the commencement of the seventh and each succeeding year, of a sum equal to Four Pounds per centum upon the balance of his purchase-money as and for interest thereon for the then current year; and at the end of any such year the purchaser may pay the balance of his purchase-money, and thereupon, if he have also complied with the conditions required by this Act, the purchaser shall be entitled to a grant of the land in manner aforesaid: Provided also, that any person who shall have *bonâ fide* resided upon and cultivated the land so selected by him, as aforesaid, and shall have made improvements thereon to the value of Ten Shillings per acre, and otherwise fulfilled the requirements of his agreement and of this Act, shall be at liberty to pay the amount of the purchase-money for the same at the end of the first five years from the date of the said agreement without further interest thereon, and shall thereupon be entitled to a grant of the land in manner aforesaid.

Proviso for extension of time.

Proviso for payment at end of five years.

Personal residence dispensed with in certain cases.

23. If any person, at the time of making application to select land as hereinbefore provided, shall forward a statement that he, at the time of making such application, actually and *bonâ fide* intends to cultivate the soil, but that he desires to be exempted from personal residence, and that he proposes to place his son, stepson, son-in-law, or other male relative, or man-servant, upon such land, to reside thereon and manage the same on his behalf, and shall also forward enclosed with such application a declaration in the form of the Fifth Schedule



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Schedule hereto, such declaration to be made before any of the persons authorized by clause 52 of this Act to take declarations, then and in any such case the Commissioner shall vary the terms of the agreement to be entered into by such person so as to exempt him from personal residence on such land, but to oblige him to keep such son, stepson, son-in-law, or other male relative, or his manservant residing thereon: Provided that in the event of any person selecting land under the provisions of this section, he shall not be allowed to pay his purchase money before the expiration of six years from the date of the said agreement.

24. Nothing herein contained shall entitle any person to hold at any one time upon credit a larger area of country lands, reclaimed lands, and improved lands, or either of them, than six hundred and forty acres. No person shall hold, as aforesaid, more than three separate and detached blocks of land; and such area shall, when practicable, be comprised in one block: Provided that in case the block selected shall be surrounded by land not open for selection, so that the area thereof is less than six hundred and forty acres, such person selecting may also select either one or two blocks until the total of six hundred and forty acres is made up; but if any person shall be interested, directly or indirectly, at any one time in a larger area of country lands, reclaimed lands, and improved lands, or either of them, than six hundred and forty acres held upon credit, he shall thereby be and be deemed to be guilty of a fraud under this Act, and all land held by him upon credit, and all moneys paid by him on account thereof, shall be absolutely forfeited.

No person to hold more than 640 acres.

25. When any person shall be desirous of becoming the purchaser of more than one Section, the total area whereof is in excess of the number of acres allowed to be held upon credit by one person, such person, in the event of his being declared the purchaser of the said Sections, shall have the option, either of having the said Sections re-surveyed so as to reduce the area thereof to six hundred and forty acres or less, or of paying in cash to the Commissioner the purchase-money of the acreage so in excess; but so that in no case shall such excess exceed sixty acres: Provided that in the event of such Sections being re-surveyed, the person so applying shall pay to the Commissioner in cash, at the time of making such application, a sum which may in the opinion of the Commissioner cover the cost of such re-survey: Provided also that persons already holding land upon credit of a less area than six hundred and forty acres may, subject to the Commissioner's approval, and upon like conditions as to payment of cost of resurvey, select so much of any Section adjacent to land already in his occupation as shall be sufficient to complete his maximum of six hundred and forty acres.

Sections exceeding in the aggregate 640 acres may be re-surveyed in certain cases, or applicant may purchase excess for cash.

26. Any person having entered into any agreement for the purchase of any lands under this Act, may at any time within six months from the date of such agreement, and any person who may

Agreements may be cancelled within twelve months on forfeiting deposit.

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have entered into any agreement for purchase of land under any of the Acts hereby repealed, may at any time within twelve months from the date of such agreement, by giving the Commissioner a written notice of his desire to forfeit the amount paid by him as deposit, and to be released from such agreement, and by surrendering his copy thereof, have such agreement cancelled, and thereupon such land shall again be open for selection, and such person shall be entitled to make any other selection in the same manner as if such agreement had never existed.

Selectors to send in returns.

27. Every selector shall, within fourteen days from the expiration of each of the first four years from the date of his agreement deliver at the office of the Commissioner a return containing all the particulars mentioned in the Sixth Schedule to this Act; and the omission to deliver any such return shall render the land in respect of which such return should have been delivered liable to forfeiture at the discretion of the Governor in Council; and the making of any wilfully incomplete return, or any false statement in any such return, shall be deemed to be a fraud under this Act; and the truth of the statements in every such return, shall be declared before some one of the persons authorized by clause 52 of this Act to take declarations, and every such return shall be deemed a declaration within the meaning of the said clause.

When more than one Section included in same agreement, condition to apply to all Sections.

28. When more than one Section is held by the same selector under one or more agreement or agreements, the conditions as to improvements, ploughing, cultivation, and residence, shall be deemed to apply to all the land included in such agreement or agreements taken together, as if such land were comprised in one block, and not to each Section separately.

Lands held upon credit not to be transferred, except under certain circumstances.

29. No conveyance, transfer, or lease, or agreement to convey, transfer, assign, or lease any lands sold on credit under this Act, shall have any force or effect, unless the same shall have been approved by the Governor in Council: Provided always, that the Governor in Council, on being satisfied that all required improvements have been made, and all other conditions of the agreement have been fulfilled, and that the selector is unable to occupy such land, from illness, physical incapacity, or necessary absence from the said Province, or in cases where a woman holding lands upon credit shall marry, or where the personal representative or devisee of a selector shall decline to hold such land, may approve of a transfer being made to some person to be named as transferee, who shall thereupon, if he shall have previously signified his acceptance of such transfer, be bound by all the conditions of the agreement, in the same manner as if he had been the original selector: Provided also, that no such transfer shall be made so as to enable any person to hold upon credit, under this or the said repealed Acts, more than six hundred and forty acres at any one time.

Conditions in agreements may be

30. Any condition contained or implied in any agreement, or imposed

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imposed on any selector under this Act, may be performed or completed by the personal representatives or devisees of such selector; and if any person shall become entitled to lands held upon credit under this Act, as the personal representative or devisee of any selector, such personal representative or devisee shall hold the same upon the same terms and under the same conditions as the deceased selector, except that it shall not be obligatory on such personal representative or devisee to comply with the conditions requiring residence.

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performed by representatives of deceased selectors.

31. No person under the age of eighteen, or married woman, except a married woman who has obtained a decree for judicial separation, binding according to the laws in force in the said Province, shall be entitled to hold, either directly or otherwise, any land upon credit under this Act, unless such person or married woman shall become entitled to such lands as the personal representative or devisee of any selector. Provided that should a woman holding lands upon credit subsequently marry, it shall be lawful for her to transfer the lands held by her to her husband, upon his entering into such agreement as may be required by the Commissioner.

Who may not hold lands on terms of credit.

32. If any selector under this Act shall be adjudicated insolvent, or shall assign his estate for the benefit of his creditors, all lands held by him upon credit under this Act shall revert to the Crown and shall be open to re-selection: Provided always, that the Commissioner shall cause the improvements made by such insolvent upon such land to be valued, and the amount of such valuation shall, when paid for by the person re-selecting such land, be payable to the assignees of the estate of such insolvent, after deducting the cost of making the valuation.

Estates of insolvents, &c., to revert to Crown, and improvements paid for.

33. No person shall select lands as agent, servant, or trustee of, or for any other person, or enter into any agreement to permit any other person to acquire by purchase or otherwise the lands in respect of which such application is made or any part thereof, or the applicant's interest therein.

No agent to buy in his own name for another.

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34. Nothing herein shall prevent any *bona fide* applicant from employing an agent duly authorized to make application in the name and for the declared use and benefit of such applicant; and all contracts, agreements, and securities which shall be entered into, made, or given with the intent of violating or evading any of the provisions of this Act, shall be and are hereby declared to be a fraud under this Act, and between all the parties thereto, illegal, and absolutely void at law and in equity.

Nothing shall prevent *bona fide* applicant employing agent to buy in applicant's name.

Certain contracts to be void.

35. The Commissioner on being satisfied that any selector has been guilty of fraud under this Act, or has violated, or failed to perform any of the conditions contained or implied in or by his agreement may publish in the *Gazette* a notice in the form or to the effect

In certain cases the agreement may be revoked.

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effect of the Seventh Schedule to this Act, which notice shall either before or after its publication in the *Gazette* be also served upon the selector, or posted to his last known address, or the place of residence mentioned in his agreement; and during the month following the publication of the said notice it shall be lawful for the selector to furnish to the Commissioner any documentary evidence which such selector shall consider necessary (such documentary evidence to consist of a statement or statements in writing, signed by the selector or any person desiring to testify to any facts on his behalf, and declared to be true before some one of the persons authorized to take declarations under this Act) that he has not been guilty of the fraud under this Act, or has not wilfully violated or failed to perform the conditions of his agreement mentioned in the said notice (as to which the burthen of proof shall be upon the selector); and if the selector shall furnish no such evidence, or if the evidence so furnished by him shall fail to prove to the satisfaction of the Governor in Council that the selector has not been guilty of the fraud under this Act, or has not wilfully violated or failed to perform the conditions of his agreement as mentioned in the said notice, it shall be lawful for the Governor in Council at any time after the expiration of the said month from the publication of the said notice to revoke the said agreement, and resume possession of the land therein described; and thereupon no claim at law or in equity under such agreement (except as against the selector) shall be made, entertained, or enforced in any Court; but the selector shall be taken to have forfeited all right, title, and interest under his agreement, and all money paid thereunder, and to be, as to the land therein described, a mere trespasser; and the production of a copy of the *Gazette* containing a notice by the Commissioner of such revocation and resumption shall be conclusive evidence that such agreement has been lawfully revoked, and that the land therein mentioned has been lawfully resumed.

Selector whose agreement revoked, not to be allowed to select again.

36. No selector, whose agreement shall be so revoked, shall be entitled or allowed to select or become the purchaser of the same or any other land, upon credit under this Act for the space of two years from the date of such revocation, anything hereinbefore contained to the contrary notwithstanding.

## PART III.

## PART III.—Alienation and sale by auction for cash or credit:

Lands which have passed the hammer to be open for sale for cash.

37. Any waste lands which have heretofore been offered at auction and not sold, and which still remain unsold, and any waste lands which may be offered for sale at auction under the provisions of this Act and not sold, may be sold for cash or credit by private contract at prices not less than the respective upset prices at which such lands have been respectively last offered at auction.

Township lands to be sold for cash.

38. Town or township and suburban lands shall be sold by auction for cash and not upon credit.

Country lands open

39. Any country lands which have not heretofore been offered at auction

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auction, and which have been open for selection under the provisions of either of the said repealed Acts or of this Act, for a period of one year, and remain unselected, and any reclaimed lands, or improved lands which have been open for selection and remain unselected for a like period may be offered for sale at auction for cash or credit as to country lands, at an upset price of One Pound per acre, and as to reclaimed lands or improved lands, at such an upset price, not being less than One Pound per acre, as may be fixed concerning the same: Provided that any country lands which have been heretofore offered, or shall, after the passing of this Act, be offered for sale by auction and not sold, and which shall have remained, or shall remain, unsold for a period of five years from the date or respective dates on which the same were so offered for sale may be offered in blocks of not more than three thousand acres on lease for ten years at an annual rental of not less than Sixpence per acre, with a right of purchase at any time during the currency of the lease at Twenty Shillings per acre; and such leases shall be offered for sale by auction and sold to the bidder of the highest annual rental at such sale subject to any regulations which may be made in that behalf under the provisions in this Act contained: Provided also that no such country lands, reclaimed lands, or improved lands shall be offered for sale for cash or credit until after a statement has been laid before Parliament for thirty days, showing the particulars of the lands proposed to be so offered for sale, and the price at which it is proposed to offer the same respectively.

for selection under this Act may be sold for cash after having been open for selection for one year, and a statement has been laid before Parliament.

Proviso for leasing land after five years.

Proviso.

40. Any special country lots may be sold by auction for cash or on credit.

Special country lots may be sold for cash or credit.

41. The Governor in Council may from time to time fix an upset price at which town, township, or suburban lands and special country lots may be respectively offered at auction, and may from time to time raise and lower such upset prices: Provided always that such upset prices shall not be less in any case than One Pound per acre.

Governor to fix upset price of town, township, or suburban lands.

42. No lands shall be offered at auction until after a statement, shewing the particulars of such lands, and the upset price at which it is proposed to offer the same, respectively, and the time and place at which such auction will be holden, has been published for four consecutive weeks in the *Gazette*.

Lands to be gazetted before offered at auction.

43. Nothing in this Part of this Act shall prevent any lands being selected upon terms of credit, under the foregoing provisions of this Act, at any time prior to the advertisement for the sale by auction of such lands: Provided that should the lands so advertised for sale be not sold, the said lands shall again be open for selection on credit or sale by private contract for cash.

Lands to be always open for selection.

44. No waste lands shall be sold for cash, at public auction unless on condition of the purchaser paying at the time of sale, in ready money

Purchase money of lands sold by auction when to be paid,

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money, a deposit of at least Twenty Pounds per centum of the purchase money, and of paying the residue of such purchase money within one calendar month next after the time of such sale by auction; and in case of the failure of such purchaser to pay the residue of such purchase money within such one calendar month, the deposit shall be forfeited, and the sale of the said lands shall be null and void.

PART IV.PART IV.—General Matters and Procedure:

Improvements under  
pastoral leases.

45. When the improvements on any improved lands open for selection under this Act have been made by pastoral lessees of the Crown, the value of such improvements shall be paid to the Treasurer in cash by the person selecting such lands; but the amount so paid shall be allowed in computing the amount required to be expended by such person in improvements under the provisions of this Act.

Cultivation of olives,  
&c.

46. If any selector shall be desirous of engaging in the cultivation of osiers, olives, mulberries, vines, apples, pears, oranges, figs, almonds, or hops, or such other plants as the Governor in Council may define by Proclamation in the *Gazette*, the planting and cultivating in a husbandlike manner of one acre of land with any of the above trees or plants shall, for all the purposes of this Act, be deemed to be equivalent to the cultivation of six acres of such land as hereinbefore defined: Provided that such cultivating be *bonâ fide* continued and kept up to the satisfaction of the Commissioner until full payment of the purchase-money, but not otherwise: Provided that if such selector shall wish to grow artificial grass, as a rotation of crops, he may, every third year, plant and cultivate lucerne or artificial grass for such purpose, and in that case the planting of three acres of land with lucerne or artificial grass during such third year shall be deemed to be equivalent to the cultivation of one acre of cereal or root crops.

Selectors under re-  
pealed Acts may avail  
themselves of this Act  
and consolidate agree-  
ments.

47. Any selector under any Act repealed by this Act who shall be desirous of availing himself of the provisions hereof in respect to cultivation and residence, or who, having two or more agreements of different dates for purchase upon credit under any Act so repealed, shall be desirous of obtaining a consolidation of such agreements at an average date, may apply in writing to the Commissioner accordingly; and, upon the approval of the Governor in Council, shall be entitled to surrender such agreements, and to enter into a fresh agreement under this Act in respect of such lands for the term unexpired under such agreements, calculated from the average date thereof; and at an average of the purchase-money and interest agreed to be paid in the said several agreements: Provided that no such approval shall be granted by the Governor in Council, unless the selector so applying shall prove to the satisfaction of the Governor in Council that he has actually been engaged in the *bonâ fide* cultivation of at least one-fifth of the whole of the land held by him under such agreements, and has complied with all  
the

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## PART IV.

the other conditions under which he holds such lands, except that residence on the land held under any one of such agreements shall, for such purposes, be deemed a residence on the whole of such lands; and provided also that before any such application shall be granted notice thereof shall be published for three weeks consecutively in the *Gazette*.

48. When any person shall occupy, or be in possession of any waste lands, under or by virtue, or under color of any agreement entered into under this Act or any Act hereby repealed, which is void, or has expired, or become forfeited, or has been revoked under this Act, or any Act hereby repealed, or shall remain in unauthorized occupation or possession of such lands, and shall refuse or neglect to deliver up possession of the same to any person authorized by the Commissioner in that behalf, such last-mentioned person, or any other person authorized by the Commissioner, may apply, upon an information to be laid by him, in the form or the effect set out in the Eighth Schedule to this Act, to any Justice of the Peace for the said Province, such Justice shall issue a summons in the form or to the effect set forth in the Ninth Schedule to this Act, calling upon the occupier of such lands to appear, at a time and place to be therein specified, before a Special Magistrate, or any two or more Justices of the Peace, who may hear and determine the matter of such information in a summary way, *ex parte* or otherwise; and, upon proof to the satisfaction of the Special Magistrate or Justices who may hear the complaint at the time and place so specified, or at any adjourned hearing of the said complaint, that the lands referred to in such summons are held under or by virtue, or under color of an agreement which has become forfeited and void, or has been revoked, and that such lands are in the unauthorized possession or occupation of the person summoned, a warrant shall be issued by the said Special Magistrate or Justices, in the form or to the effect set forth in the Tenth Schedule to this Act; and every constable or bailiff to whom such warrant is directed, may forthwith execute the same according to the tenor and exigency thereof in the same manner as any warrant of possession, or writ of *habere facias possessionem*, may now be executed by virtue of any law existing at the present time in the said Province; and the jurisdiction of such Special Magistrate or Justices shall not be taken away or deemed to be ousted by any claim of title, question of property, or suggestion of right, whether made *bonâ fide* or otherwise, which may be raised by the occupant at any such hearing as aforesaid, but all matters relevant to, and arising out of the information laid as aforesaid, shall be heard and finally determined by such Special Magistrate or Justices.

Any unauthorized occupier under agreement which has been revoked, may be dispossessed.

49. Every proceeding under this Act for the recovery of the possession of any waste lands as aforesaid, where no other method of proceeding is by this Act provided, shall, subject to the provisions of this Act, be had and taken, and all informations and summonses under this Act may be heard and determined in a summary way by a Special Magistrate or two Justices of the Peace for the said Province

Proceedings to be taken under Act No. 6 of 1850.



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vince, under the provisions of an Ordinance of the Governor and Legislative Council No. 6 of 1850, "To facilitate the performance of the duties of Justices of the Peace out of Sessions with respect to summary convictions and orders," or of any Act hereafter to be in force relating to the duties of Justices with respect to summary convictions and orders; and all orders under this Act may be enforced as in the said Ordinance, or in any other Act is, or shall be provided; and no order or proceeding of any Special Magistrate or Justices, made under the authority of this Act, shall be appealed against, or removed by *certiorari* or otherwise, into the Supreme Court of the said Province.

Summary proceedings not to prejudice other remedies.

50. Nothing in this Act contained shall render it compulsory for the Commissioner to adopt the summary procedure for recovery of possession of waste lands hereinbefore prescribed, or shall affect or take away any other remedy of or on behalf of Her Majesty for recovering possession of waste lands, and the provisions of the "Waste Lands Amendment and Procedure Act, 1869-70, Part II," shall also be applicable for the recovery of possession of any waste lands which may be described in any void or revoked agreement under this Act.

Regulations may be made.

51. The manner in which all sales of lands shall be conducted and the times when the same shall take place, and all other matters relating to the conduct and management of such sales in accordance with the provisions of this Act, may be fixed and determined by the Governor in Council, who may make and publish such regulations as to him shall seem meet, for carrying out the objects, purposes, and provisions hereof; and may from time to time rescind, alter, and amend the same, and make other regulations in lieu thereof for carrying out more fully such objects, purposes, and provisions; and every regulation, when published in the *Gazette*, shall have the force of law: Provided that a copy of all regulations made under the authority of this Act, shall be laid before Parliament within fourteen days from the publication thereof, if the Parliament shall be then sitting, and if the Parliament shall not be then sitting, then within fourteen days from its next sitting for the dispatch of business.

False declaration a misdemeanor.

52. Declarations under this Act, may be made and declared before the Commissioner, the Surveyor-General, Justices of the Peace, notaries public, commissioners for taking affidavits in the Supreme Court, and such other persons as the Governor in Council may appoint under this Act for that purpose; and if any person wilfully make any false statement in any declaration made in pursuance of this Act, he shall be guilty of a misdemeanor, and shall be punishable as if guilty of wilful and corrupt perjury.

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

JAMES FERGUSSON, Governor.

SCHEDULES



*The Waste Lands Alienation Act.—1872.*

## SCHEDULES REFERRED TO.

## FIRST SCHEDULE.

*Definitions of Lands within the Line known as Goyder's Line of Rainfall.*

First—Commencing at a point on the eastern shore of Spencer's Gulf true west of the south-west corner of the Hundred of Wongyarra; thence true east to said corner; thence north and east along Hundred boundary, to Mount Remarkable; thence north, west, east, and south along boundaries of Hundreds of Gregory and Wongyarra, to a point on the east boundary of the Hundred of Wongyarra, true west of north-west corner of the Hundred of Appila; thence to said corner, and along Hundred boundary, to north-east corner of Hundred of Appila; thence north, to north-west corner of Hundred of Pekina; thence east and south along Hundred boundaries, to north-west corner of Hundred of Yongola; thence east and south along boundaries of said Hundred, and east to north-east corner of Hundred of Terowie; thence southerly, along east boundaries of Hundreds of Terowie, Hallett, Kingston, Kooringa, and Apoinga, to south-east corner of last-named Hundred; thence along north boundary of County Eyre, to North-West Bend; thence along the River Murray, to the north-east corner of Hundred of Younghusband; thence south and west, by Hundred boundaries, to north-east corner of Hundred of Burdett; thence south, east, south, west, and south, along Hundred boundaries, to south-east corner of Hundred of Bonney; thence south-easterly, to north-east corner of Hundred of Santo; thence along Hundred boundary, to north-west boundary of pastoral lease 493; thence to north-east corner of said lease 493; thence south-easterly, along eastern boundaries of leases 493, 1246, 199, 963, 200, to south-east corner of lease 200; thence west-south-west one and a-half miles; thence south-south-easterly, by boundary of lease 203, to a point eight chains from its south-east corner; thence to north-east corner of lease 223; thence to north-west corner of lease 284; and thence to its northernmost corner; thence north-north-westerly, by boundaries of leases 168 and 159A, to south boundary of Hundred of Lochaber; thence west and north by boundaries of said Hundred, to a point three and a-half miles south of its north-west corner; thence by west and north boundaries of lease 539, to west boundary of Hundred of Glen Roy; thence north, along Hundred boundary, to west boundary of lease 156; thence north-westerly and northerly, by western boundaries of leases 156, 991, 913, 824, to north-west corner of lease 824; thence northerly, to south-west corner of lease 225, and along west boundaries of leases 225, 224, and 574, and east-north-east to north-east corner of lease 574; thence true east, to east boundary of Province; thence true south, along Province boundary, to sea-coast; thence following the sea-coast, to the point of commencement; also, including Hundred of Davenport, Kangaroo Island, and Wauraltie Island.

Clause 2.

Second—Bounded by a line commencing at a point on the western shore of Spencer's Gulf due east of Darke's Peak; thence south-westerly and northerly, following the sea-coast, to a point about half a mile west of the north-west corner of lease 1992; thence east to north-east corner of said lease; thence north to north-west corner of lease 1938; thence east along northern boundary of said lease, to its north-east corner; thence along the northern boundary of lease 1985, to its north-east corner; thence along the southern boundaries of leases 1596, 1733, 1652, to the northern angle of lease 1975; thence south-easterly, to Tooligie; thence east by south to a point thirty-one miles true south of Darke's Peak; thence north to Darke's Peak; thence true east to the coast, the point of commencement; also, including Taylor's, Grindal, Thistle, Little, Lewis, Smith, Williams, Hopkins, Liguanea, and Wedge Islands, the Gambier Isles, Sir Joseph Banks's Group, and Flinders Islands.

## SECOND SCHEDULE.

*Application for Selection.*

I, the undersigned, do hereby apply to become the selector of Section \_\_\_\_\_ in  
the Hundred of \_\_\_\_\_  
under the provisions of "The Waste Lands Alienation Act, 1872," and I herewith  
tender

Clause 15.

*The Waste Lands Alienation Act.—1872.*

tender and pay the sum of  
 as and for three years' interest in advance upon such purchase money [*if the applica-  
 tion is for improved lands add—and the sum of* being the amount  
 fixed for the value of the improvements (or cost of reclamation, *as the case may be*)  
 on such land] I intend to reside upon such land if the same is allotted to me [*or as  
 the case may be*] and I undertake to sign within twenty-one days an agreement in  
 writing in the terms and in the form provided by the said Act.

Dated this                      day of                      , 18 .

(Signature).  
 (Occupation).  
 (Address).

## THIRD SCHEDULE.

*Form of Receipt for Payment in advance of First Instalment of Interest on Purchase Money.*

Clause 17.

Received this day from                      the sum of                      pounds, being three  
 years' interest in advance upon the purchase money for Section No.                      , in the Hun-  
 dred of                      , County of                      , and containing                      acres of land situate in

[*if the receipt is for reclaimed improved lands add—and also the sum of*  
 being the amount fixed for the value of the improvements (or cost of reclamation, *as the  
 case may be*) on such land], and the said is to enter into an agreement within twenty-  
 one days from the date of this receipt in accordance with "The Waste Lands  
 Alienation Act, 1872."

Dated this                      day of                      , 18 .

(Signature of Commissioner of Crown Lands or officer appointed by him.)

## FOURTH SCHEDULE.

*Form of Agreement of Sale and Purchase on Credit.*

Clause 21.

MEMORANDUM of agreement made the                      No.                      day of                      , between  
 the Commissioner of Crown Lands and Immigration of the Province of South  
 Australia, hereinafter called the vendor of the one part, and  
 of                      hereinafter called the purchaser of the other  
 part, it is hereby agreed between the parties hereto, that the vendor shall sell, and  
 the purchaser shall purchase, all that piece of land, being                      in  
 fee simple at the price of £                      , to be paid in the manner provided in  
 "The Waste Lands Alienation Act, 1872."

It is also agreed by the said parties as follows, that is to say—

1. The purchaser shall and will take possession of the said land within three months  
 from the date hereof, and, after the first six months therefrom, shall continue to reside  
 [or keep his son, stepson, son-in-law, or manservant, continually residing, *as the case  
 may be*], on the same during nine months out of every twelve months thereafter,  
 until the payment of the last instalment of the purchase money.

2. The purchaser shall and will make substantial improvements upon the said land  
 before the end of the second year, to the extent of five shillings per acre; before the end  
 of the third year, to the extent of seven shillings and sixpence per acre; before the end  
 of the fourth year, to the extent of ten shillings per acre; such improvements to  
 consist of all or any of the following, that is to say—erecting a dwelling-house or farm  
 buildings, sinking wells, constructing water tanks or reservoirs, putting up fencing,  
 draining, and clearing and grubbing the said land.

3. No fence shall be deemed to be a fence within the meaning of this agreement,  
 unless the same shall be a wire fence, or constructed of posts and rails, or wires, or of  
 stone, or other substantial material, and ordinarily capable of resisting the trespass of  
 great cattle.

4. Any

See 21

*The Waste Lands Alienation Act.—1872.*

4. Any person, authorized by the vendor, may at all reasonable times enter upon the said lands, to view the said lands, and any improvements thereon.

5. The purchaser shall and will, during each and every year, until the whole of the purchase money has been paid, plough and have under cultivation at least one-fifth of such land, but in the event of the purchaser not cultivating such one-fifth of the said land during the first year, he shall and will during the next year cultivate at least two-fifths of the said land.

6. The purchaser shall and will send in to the vendor true returns, as provided by "The Waste Lands Alienation Act, 1872."

7. All improvements, ploughing, and cultivation, made by the purchaser, shall be subject to the valuation or inspection, as the case may be, of such officer as the vendor may appoint for that purpose, whose valuation shall be conclusive, and binding on the parties hereto.

8. The purchaser shall and will make the payments of interest on his purchase money and pay the amount of such purchase money on the days and at the times on and at which the same respectively shall become due and payable.

9. The purchaser shall and will not at any time, until he has paid the whole of his purchase money, assign, transfer, or make over the said lands, or his rights under this agreement, nor shall he attempt so to do, nor shall he grant any lease or other tenancy of or over the said land, unless and until he has obtained the consent of the Governor in Council for that purpose.

10. This agreement is made subject to the provisions of "The Waste Lands Alienation Act, 1872," and of any regulations made or to be made thereunder, and any such regulations which may hereafter be made, shall be equally binding and obligatory on the parties hereto, as if this agreement had been made subject thereto.

11. Upon breach of any of the foregoing conditions, or upon the publication of a notice in the *Gazette*, that the Governor in Council has revoked this agreement, or if the purchaser shall do any act declared by "The Waste Lands Alienation Act, 1872," to be a fraud under that Act, or in either of such cases, the purchaser shall forfeit all benefit under this agreement, and shall deliver up to the vendor, or whomsoever he may appoint, the said lands with all improvements, thereon; and this agreement shall become void, and the purchaser may be dealt with under "The Waste Lands Alienation Act, 1872," as a person in unauthorized occupation of such lands.

In witness, &c.

(Signatures)

, Vendor (L.S.).

, Purchaser (L.S.).

## FIFTH SCHEDULE.

I, \_\_\_\_\_, of \_\_\_\_\_, in the Province of South Australia, do hereby actually and *bona fide* engage to cultivate Section No. \_\_\_\_\_, in the Hundred of \_\_\_\_\_, (or as the case may be), containing \_\_\_\_\_ acres, and I make the application forwarded herewith, and bearing date the \_\_\_\_\_ day of \_\_\_\_\_ 18\_\_\_\_, for the purchase upon credit of Section (or Sections) No. \_\_\_\_\_, Hundred of \_\_\_\_\_, solely and entirely for my own use and benefit; and I do hereby solemnly and sincerely declare that no other person or persons is or are interested with me, either directly or indirectly, in applying to select such Section (or Sections) as aforesaid, other than the person or persons whom I may from time to time place thereon to cultivate the same on my behalf; and further that I am not now interested, either directly or indirectly, in such a quantity of land held upon credit as, together with the Sections of land now applied for, will amount in the aggregate to more than six hundred and forty acres. And I make this, my solemn declaration, conscientiously believing the same to be true.

Clause 23.

Declared at \_\_\_\_\_ in the Province of South Australia, this \_\_\_\_\_ day of \_\_\_\_\_ 18\_\_\_\_, before me.

A. B.

C. D.

[To be written or printed at the foot of every declaration.]—NOTE.—If any of the statements contained in the above declaration are untrue, the person making the same will be liable to the penalties of wilful and corrupt perjury.

SIXTH

*The Waste Lands Alienation Act.—1872.*

SIXTH SCHEDULE.

Clause 27.

*Return rendered in conformity with "The Waste Lands Alienation Act, 1872," showing the Nature, Extent, and Value of all Improvements and Cultivation made during the Year ending 18 , upon Land purchased on Credit, and length of residence thereon.*

Name of Purchaser  
 Hundred or Area in which the Land is situated  
 Nos. of Sections

Nature and Extent of Improvements.	Value.		
	£	s.	d.
<b>BUILDINGS.</b> (State whether dwellings or farm buildings, and give the dimensions of the buildings, and materials of which they are constructed).			
<b>FENCES.</b> (State the kind of fence put up, and the length).			
<b>WELLS, TANKS, OR RESERVOIRS.</b> (Give description and measurement)			
<b>DRAINING, CLEARING, OR GRUBBING.</b> (Give description of timber and area cleared).			
Total.....			

Quantity of land under cultivation, and nature of such cultivation.

Length of time that the selector has resided on the land during the year [if such selector is not personally residing on the land, state the Christian and surname of the person who has been residing thereon, and the time he has so resided].

I, the undersigned, being the purchaser upon credit, of the Sections above described, hereby declare that the above is a true and correct statement according to the best of my knowledge and belief.

Signature

Dated the \_\_\_\_\_ day of \_\_\_\_\_, 18  
 Witness—

SEVENTH SCHEDULE.

*Notice of intention to revoke Agreement for the Purchase of Land on Credit.*

Clause 35

To \_\_\_\_\_ of \_\_\_\_\_ the purchaser of  
 Section No. \_\_\_\_\_ situated in \_\_\_\_\_ under an Agreement  
 under "The Waste Lands Alienation Act, 1872," dated the  
 day of \_\_\_\_\_ 18 .

*Sec. 35.*

Take notice, that it has been shown, to the satisfaction of the Commissioner of Crown Lands, that you, the above-named \_\_\_\_\_, have [been guilty of fraud under the said Act], or [have violated, or failed to perform, some of the conditions of the above-mentioned agreement], inasmuch as you have (or have not) within the terms and meaning of such agreement, and of the said Act, and the regulations in that behalf duly made (*state nature of the fraud, or breach of conditions complained of*): And further take notice, that during the month following the publication hereof in the *Gazette*, you are at liberty to furnish to the Commissioner of Crown Lands any documentary evidence that [you have not been guilty of the fraud under the said Act above-mentioned], or [that you have not violated, or failed to perform, the conditions of your agreement as above-mentioned], as to which the onus of proof is upon you: And further take notice, that if you furnish no such evidence, or if the evidence furnished by you fails to prove to the satisfaction of His Excellency the Governor, by and with the advice and consent of \_\_\_\_\_

