

THE WASTE LANDS ACT.

ABSTRACT OF CLAUSES.

PREAMBLE. 18 & 19 Vict. c. 56. 5 & 6 Vict. c. 36. 9 & 10 Vict. c. 104.

1. Land to be disposed of only according to Act.

Reserves for Public Purposes.

2. Public Purposes for which Land may be reserved or disposed of. Instrument disposing of Land to contain Clause of Forfeiture on Breach of Condition. Notice of proposed Disposition to be published.

Land Regulations.

3. Power for Governor in Council to make Land Regulations.

Commissioner of Crown Lands.

4. Surveyor-General to be Commissioner of Crown Lands.
5. Commissioner to conform to Directions of Governor in Council.
6. Deputy Commissioner of Crown Lands may be appointed.

Classification of Lands.

7. Lands to be distinguished into Three Classes; viz.—
 First Class. Town Lands.
 Second Class. Agricultural Lands.
 Third Class. Pastoral Lands.
8. Governor in Council may proclaim Agricultural Divisions, and all Lands in such Divisions to be Agricultural Lands.

Lowest Upset Price.

9. Lowest Upset Price.

Sale by Auction.

10. All Waste Lands may be sold by Auction.
11. Town Lands by Auction only.
12. Lands sold by Auction to be previously surveyed in Lots.
13. Agricultural Lots not to exceed 160 Acres. Pastoral Lots not to exceed 1280 Acres.
14. Notice of Sale by Auction to be published.
15. Commissioner to fix Upset Price according to best Estimate he can form; and may alter the same for any subsequent Sale by Auction.
16. Lands not to be sold at Auction at less than advertised Upset Price.

Sale by Private Contract.

17. Agricultural and Pastoral Lands may be sold by private Contract in certain Cases.
18. Agricultural and Pastoral Lands unsold at Auction to be advertised in *Gazette*, and to be sold by private Contract to the first Applicant within One Year after Auction, and before the Lands are again put up for Sale by Auction.
19. Right of Selection and Purchase of Land by private Contract at fixed Price. One Lot of Land, not being Town Land, not exceeding 320 Acres. No Person to select for Purchase more than One Lot. Sale void if contrary to foregoing Provisions. Right of Selection restricted to unoccupied Land not advertised for Sale.
20. Sales of selected Lands to be subject to Rules as to Form, Dimensions, &c. of Lots.
21. Selected Land to be surveyed before Grant is issued.
22. All private Contracts of Sale to be made with Commissioner.

Conditions of Payment of Purchase-money.

23. Payment of Purchase-money on Sale by Auction.
24. Payment of Purchase-money on Sale by Private Contract.
25. Terms of Credit on Sale by Auction of Town Lands. Premium for Credit. Deposit One-fourth of Purchase-money. Residue in annual Instalments of One-fourth.
26. Terms of Credit on Sale of Agricultural or Pastoral Land by Auction or private Contract. Premium for Credit. Deposit of One-fifth of Purchase-money. Residue in annual Instalments of One-tenth.
27. On failure in Payment of any Instalment Land forfeited.

The Waste Lands Act.

28. Commissioner to sell forfeited Land by Auction. And may buy in the Land at Price not exceeding Balance due and Deposit. If Land realizes more than Balance due and Deposit, the Overplus to be paid to original Purchaser.
29. Purchaser may pay off at any Time.
30. No Credit where Price less than £40.

Land not alienable till paid for.

31. Purchaser not having paid the full Price not to transfer his Interest.

Grants for Wharfs and Works of Public Utility.

32. Grants may be made for Wharfs, Jetties, Patent Slips, and other Works of public Utility, of Land bordering on Sea, and also of adjoining Bed and Soil of Sea, &c. Such Grant to confer Right to exclusive Use of Water covering Bed and Soil. No such Grant to interfere with Right of Access to Sea of neighbouring Proprietor. Not to affect Navigation. Clause of Forfeiture on Non-completion of Works. Land resumable if required for Defence of Colony.

Grant Deed.

33. Lands to be conveyed by Grant provided Purchase-money first paid.

Leases.

34. The Commissioner may publish Notice in the *Gazette* offering Lands for Lease for 14 Years.
35. Commissioner may let selected Pastoral Land not previously occupied within a Year without Notice published.
36. Every Lease to be determinable by Six Months' Notice if Rent in arrear or if Land required for Sale.
37. Notwithstanding Lease Surveyor may enter and survey Land.
38. Leases to contain Clauses, &c. prescribed by Regulations.
39. Leases to be made by and with Commissioner.

Occupation Licences.

40. Licence of Occupation.
41. Licence to fell Timber.

Resumption of Land on Forfeiture, &c.

42. Upon Forfeiture, &c. Land to revert to Crown, and become Waste.
43. Summary Remedy for dispossessing Persons in unlawful Occupation of Crown Land.
44. Any Person obstructing Commissioner or Sheriff liable to a Penalty of £50.
45. Protection of Persons dispossessing unlawful Occupiers. Limitation of Actions. Notice of Action. General Issue. Tender of Amends. Costs.

Actions on Contracts by and against Commissioner.

46. Actions by and against Commissioner.
47. No Action to abate by Death, &c. of any Commissioner.

Commissioner indemnified.

48. Commissioner to be indemnified from Costs, &c. out of Land Fund.

Existing Rights saved.

49. Rights under existing Contracts saved.

Repeal of Acts.

50. Repeal of "*The Crown Demise Act*" and "*The Patent Slip Act*."

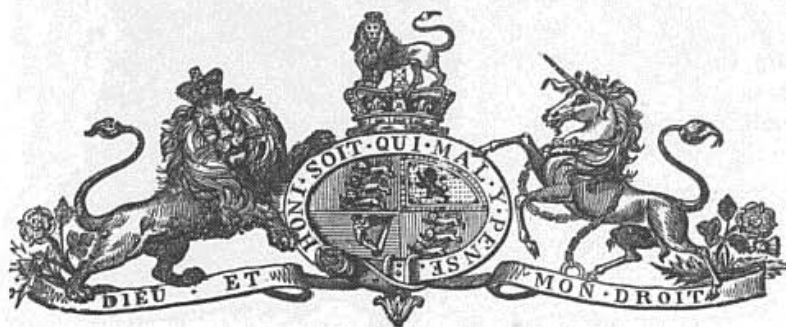
Construction.

51. Construction. "*Waste Lands*." "*Islands*." "*The Commissioner*." "*Surveyor*."

Short Title.

52. Short Title.

T A S M A N I A.



1857-8.

ANNO VICESIMO-PRIMO

VICTORIÆ REGINÆ,

No. 33.

AN ACT for regulating the Sale and Disposal of
Waste Lands of the Crown in the Colony
of *Tasmania*. [25 February, 1858.]

WHEREAS by an Act of the Imperial Parliament of the 19th *Victoria*, Chapter 56, the Acts of Parliament then in force respecting the Disposal of the Waste Lands of the Crown in this Colony were repealed, and it was enacted that it should be lawful for the Legislature of this Colony, by any Act or Acts to be passed from Time to Time, in the same Manner and under the same Conditions as were or might be by Law required in respect of other Acts of the said Legislature, to regulate the Sale and other Disposal of the Waste Lands of the Crown in the said Colony: And whereas it is expedient, in pursuance of the said recited Act of Parliament, to regulate the Sale and other Disposal of the Waste Lands of the Crown in this Colony: Be it therefore enacted by His Excellency the Governor of *Tasmania*, by and with the Advice and Consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

PREAMBLE.

18 & 19 Vict.
c. 56.

5 & 6 Vict. c. 36.

9 & 10 Vict.

c. 104.

1 The Waste Lands of the Crown in *Tasmania* shall be disposed of in the Manner and according to the Regulations hereinafter prescribed, and not otherwise.

Land to be dis-
posed of only ac-
cording to Act.

Reserves for Public Purposes.

Public Purposes for which Land may be reserved or disposed of.

Instrument disposing of Land to contain Clause of Forfeiture on Breach of Condition.

Notice of proposed Disposition to be published.

Power for Governor in Council to make Land Regulations.

Surveyor-General to be Commissioner of Crown Lands.

Commissioner to conform to Directions of Governor in Council.

Deputy Commissioner of Crown Lands may be appointed.

2 The Governor in Council may except from Sale and reserve to Her Majesty, or dispose of in such other Manner as for the public Interests may seem best, such Lands as may be required for public Roads or other internal Communications whether by Land or Water, or for Purposes of Military Defence, or as the Sites of Places of public Worship, Schools, Public Libraries, Museums, Literary or Scientific Institutions, Hospitals, or Alms-houses for aged or infirm Poor, or as Places for the Interment of the Dead, or Places for the Recreation and Amusement of the Inhabitants of any City, Town, or Village, or as the Sites of public Quays or Landing-places on the Seacoast or Shores of navigable Streams, or for any other Purpose of public Safety, Convenience, Health, or Enjoyment; and in every Instrument by which any such Land is disposed of for any of the said Purposes such Purpose shall be expressly stated, and such Instrument shall contain a Condition providing that the Land shall be appropriated only to such Purpose, and for the absolute Forfeiture of the said Land to Her Majesty upon Breach of such Condition; and upon such Forfeiture the Land so forfeited shall be disposable under this Act as Waste Land of the Crown: but no such Instrument for the Disposal of any such Land for any of the Purposes above enumerated shall be executed or issued until after the Expiration of Sixty Days Public Notice, such Notice to be published in the *Gazette*, of the Application upon which it is proposed to dispose of such Lands for any of such enumerated Purposes.

Land Regulations.

3 Subject to the Provisions of this Act, the Governor in Council is hereby empowered from Time to Time to make and issue Regulations, not inconsistent with the Provisions of this Act, for the more effectual Disposal of such Lands, and respecting any other Matters and Things whatsoever which may be requisite for the more effectual carrying out of the Purposes of this Act; and any such Regulations to repeal, alter, or amend; and all such Regulations shall be published in the *Gazette*, and shall come into Operation at the Expiration of One Month from the Date of such Publication, and shall have equal Force and Effect with the Provisions of this Act.

Commissioner of Crown Lands.

4 The Surveyor-General for the time being shall be the Commissioner for the Disposal of Waste Lands of the Crown under this Act, and shall be called "The Commissioner of Crown Lands."

5 The Commissioner shall, in the Execution of the Powers vested in him by this Act, conform to such Directions as he may from Time to Time receive from the Governor in Council.

6 The Governor in Council is hereby empowered to appoint a fit Person as and to be Deputy Commissioner of Crown Lands, and such Deputy Commissioner shall, during the Absence of the Commissioner from his Office, execute in the Name and on behalf of the Commissioner any of the Powers vested in such Commissioner by this Act; and all Things done by such Deputy Commissioner, under the Authority conferred by this Section, shall be as valid and effectual as if done by the Commissioner; and such Deputy Commissioner shall have such other Powers, not inconsistent with this Act, and perform such Duties as may be assigned to him by the Commissioner, or by the Governor in Council.

Classification of Lands.

7 The Waste Lands of the Crown shall be distinguished into Three Classes,—the First Class to be called Town Lands, the Second Class to be called Agricultural Lands, and the Third Class to be called Pastoral Lands; and within the First Class shall be comprised all Lands situate within the Limits of any Town, Township, or Village, now existing, or that may be hereafter reserved by the Government for such purpose, or within the Distance of Five Miles from the nearest Point of any Part of the Boundaries of either *Hobart Town* or *Launceston*; and within the Second Class shall be comprised all Lands which are situate within the Limits of any Portions of the Colony which the Governor in Council from Time to Time proclaims as Agricultural Divisions, or which the Commissioner, upon his own Examination or that of some Person deputed by him for the Purpose, or upon the Report of a Surveyor, deems suitable for Cultivation, or which, after having been surveyed, are described in any Notice by the Commissioner of Sale of Lands by Auction as Agricultural Lands; and within the Third Class shall be comprised all Lands not comprised in the First Class, and not being situate within any Agricultural Division, which the Commissioner, upon such Examination or Report as aforesaid, from Time to Time deems unsuitable for Cultivation, regard being had to the Locality and general Nature and Quality of the Land, and to the existing Circumstances of the Colony at the Time.

Lands to be distinguished into 3 Classes; viz.—
First Class, Town Lands;

Second Class, Agricultural Lands;

Third Class, Pastoral Lands.

8 The Governor in Council is hereby empowered from Time to Time, as it may appear expedient so to do, to proclaim any Portions of the Colony which are, in the Opinion of the Governor in Council, suitable for Settlement by industrious Farmers, or suitable for Cultivation, or for Settlement in small Lots only, as and to be Agricultural Divisions, and any such Proclamation from Time to Time to alter or revoke; and during the Time that any such Proclamation is in Force no Waste Lands situate within the Limits of any such Agricultural Division shall be sold or disposed of otherwise than as Agricultural Lands under this Act.

Governor in Council may proclaim Agricultural Divisions, and all Lands in such Divisions to be Agricultural Lands.

Lowest Upset Price.

9 The lowest Upset Price of Waste Lands of the Crown in this Colony not held, or that have never been held, under Grazing Licence is hereby fixed at Ten Shillings per Acre; and for all other Lands the lowest Upset Price shall be One Pound per Acre until the said Lands have been exposed for Sale by Public Auction, and, not having been sold, have remained open for Sale by Private Contract for the Period of Six Months in such Manner as is hereinafter provided in this Act for the Sale of Lands by Private Contract; and if such Lands as aforesaid, at the Expiration of Six Months from the Day they are exposed for Sale by Public Auction, have not been sold by Private Contract, then the Commissioner may lower the Upset Price of such Lands in such Manner as is hereinafter provided in this Act.

Lowest Upset Price.

Sale by Auction.

10 All Waste Lands of the Crown may be sold by Public Auction, in the Manner and subject to the Conditions hereinafter prescribed.

All Waste Lands may be sold by Auction.

11 Town Lands shall be sold by Public Auction only, and not otherwise.

Town Lands by Auction only.

Lands sold by Auction to be previously surveyed in Lots.

12 All Lands sold by Auction shall, previously to such Sale, be surveyed and delineated in the Public Charts of the Colony, in such Lots as are subsequently offered and put up for Sale.

Agricultural Lots not to exceed 160 Acres. Pastoral Lots not to exceed 1280 Acres.

13 Agricultural Lands shall be put up for Sale by Auction in Lots containing an Area not exceeding One hundred and sixty Acres each; Pastoral Lands shall be put up for Sale by Auction in Lots containing an Area not exceeding Twelve hundred and eighty Acres each.

Notice of Sale by Auction to be published.

14 Within Three Months and not less than One Month next preceding the Sale of any such Lands by Auction, the Commissioner shall, by Notice to be published in the *Gazette*, declare the Time and Place at which such Auction will be held, and what are the Lands to be offered for Sale at such Auction, and what are the upset Prices at which they will be offered for Sale; and in every such Notice the Lands specified therein shall be distinguished into their proper Classes, in accordance with the Provisions hereinbefore contained; and lithographed Plans of the Land intended to be sold, showing the several Lots for Sale, shall be sent by the Commissioner of Crown Lands to the Police Office nearest to such Land or such Place as he shall in such Notice specify, for the Use of intending Purchasers; and every Person shall be entitled to receive One of such Plans upon Payment of One Shilling.

Commissioner to fix Upset Price according to best Estimate he can form;

15 The Commissioner shall from Time to Time, previously to the Publication of such Notice, fix the Upset Price of the Lands specified in such Notice according to the best Estimate he is enabled to form of the fair Value of such Lands according to existing Circumstances at the Time, by Examination or by the Report of a Surveyor, including in such Upset Price the Cost of Survey and of the Grant Deed; and the Commissioner may from Time to Time, in any subsequent Notice of the intended Sale by Auction of any Lands which have been previously offered for Sale by Auction and not sold, fix a lower or higher Upset Price according to Circumstances, but so that the Upset Price shall never be fixed lower than the lowest Upset Price fixed by this Act, with the Addition of the Cost of Survey and of the Grant Deed.

and may alter the same for any subsequent Sale by Auction.

Lands not to be sold at Auction at less than advertised Upset Price.

16 No Lands shall be sold at any such Auction at a lower Price than the Upset Price of such Lands so fixed by the Commissioner, and specified and advertised in the last preceding published Notice of the intended Sale by Auction of such Lands.

Sale by Private Contract.

Agricultural and Pastoral Lands may be sold by private Contract in certain Cases.

17 Agricultural and Pastoral Lands may be sold by private Contract upon the Terms and subject to the Conditions hereinafter prescribed, and not otherwise.

Agricultural and Pastoral Lands unsold at Auction to be advertised in *Gazette*, and to be sold by private Contract to the first Applicant within One Year after Auction, and before the Lands are again put up for Sale by Auction.

18 Within Twenty-one Days after every Sale by Auction of Agricultural or Pastoral Lands under this Act, and afterwards Quarterly or oftener if he thinks fit, and until the same Lands are again put up for Sale by Auction, the Commissioner shall cause a List of all such Lots of Agricultural and Pastoral Lands as were put up for Sale at such Auction and not sold, with the Upset Prices at which they were put up at such Auction, to be published in the *Gazette*, and shall prefix a Notice that any Person may purchase any of the said Lots at such Upset Prices by private Contract; and the Commissioner shall, after the Expiration of Fourteen Days from the Date

of the first Publication of such Notice, sell any of such Lots at the Upset Prices mentioned in the Notice by private Contract to any Person who applies to purchase the same: Provided, that if more than one Application is made to purchase the same Lot, such Lot shall not be sold by private Contract, but shall be again put up for Sale by Auction as soon as may be after such Applications are made: Provided also that such Applications to purchase shall be made within One Year next after the Lands were last put up for Sale by Auction, and before the Publication of any subsequent Notice of Sale thereof by Auction.

19 Any Person shall, upon Application to the Commissioner, and Payment of the Expense of surveying the same, to be fixed by the Commissioner, have the Right of purchasing by private Contract, at the fixed Price of One Pound per Acre, one single Lot or Parcel of Land, not being Town Land, selected by the Applicant, containing an Area of not more than Three hundred and twenty Acres; and the Commissioner shall cause the Land selected to be surveyed, and after such Survey the Commissioner and the Applicant shall mutually enter into a Contract for the Sale and Purchase of such Land at the Price, on the Terms, and subject to the Conditions in this Act contained in relation to such Sale of selected Land: Provided that no Person shall be entitled to select for Purchase or to purchase under this Section more than One single Lot or Parcel of Land by private Contract, and that it shall not be lawful for the Commissioner to sell by private Contract more than One single Lot or Parcel of Land selected under this Section to the same Person; so that any Person having once exercised the Right of Selection and Purchase of One Lot or Parcel of Land under this Section shall never be eligible again to select and purchase any Waste Lands of the Crown by private Contract under this Section; and every Sale of Land in contravention of the Provisions of this Section shall be void, and the Land shall revert to the Crown, and any Purchase-money paid upon any such Sale shall be forfeited: Provided also, that such Right of Selection and Purchase shall not extend to any Land which has previously been let or occupied under a Depasturing or Occupation Licence, except such as may have reverted to the Crown on or before the First of *December*, 1857, or to any Land advertised by such Notice as aforesaid for Sale by Auction, or which shall be declared by the Commissioner as Lands required for Purposes of Irrigation or for other specified public Purposes.

Right of Selection and Purchase of Land by private Contract at fixed Price.

One Lot of Land, not being Town Land, not exceeding 320 Acres.

No Person to select for purchase more than One Lot.

Sale void if contrary to foregoing Provisions.

Right of Selection restricted to unoccupied Land not advertised for Sale.

20 All such Sales by private Contract of selected Lands shall be effected in accordance with any Rules respecting the Form or Figure of such Lots or Parcels, and the Bearings and Dimensions of the Boundary Lines thereof with reference to the natural or other Features or Landmarks of the Country or otherwise, which may be prescribed by any such Regulations as aforesaid.

Sales of selected Lands to be subject to Rules as to Form, Dimensions, &c. of Lots.

21 Before the Grant Deed for the Conveyance of any selected Land purchased by private Contract as aforesaid is executed or issued, and before Possession of such Land is given to the Purchaser, the Land selected and purchased shall be accurately surveyed, and the Expense of the Grant Deed shall be paid by the Purchaser, in addition to the said Price of One Pound per Acre.

Selected Land to be surveyed before Grant is issued.

22 All Contracts for the Sale of Lands by private Contract under All private Con-

tracts of Sale to be made with Commissioner.

this Act shall be made by and with the Commissioner, who shall be described in such Contracts by the Name of "The Commissioner of Crown Lands" without otherwise naming him.

Conditions of Payment of Purchase-money.

Payment of Purchase-money on Sale by Auction.

23 Upon the Sale of any Lands by Auction, if the Purchaser, at the Time of Sale, declares that he is desirous of being allowed Credit, such Credit shall be allowed on the Terms hereinafter mentioned; and unless the Purchaser so declares that he is desirous of being allowed Credit, he shall pay, in ready Money at the Time of Sale, a Deposit of One-fifth of the Price, and shall pay the Residue of the Price within One Month next after the Time of Sale; and unless he pays such Residue within such Time, the Deposit shall be forfeited and the Sale void, and the Land shall revert to the Crown.

Payment of Purchase-money on Sale by Private Contract.

24 Upon the Sale of any Lands by private Contract, the Purchaser shall, at his Option, either pay the Purchase-money in ready Money upon the signing of the Contract, or shall be allowed Credit on the Terms hereinafter mentioned.

Terms of Credit on Sale by Auction of Town Lands. Premium for Credit. Deposit One-fourth of Purchase-money. Residue in annual Instalments of One-fourth.

25 Upon the Sale by Auction of Town Lands the Terms of Credit shall be as follows:—A Sum equal to One-tenth of the Price shall be added thereto by way of Premium for the Allowance of Credit, and the Amount of the Price and Premium together shall become the Purchase-money of the Land; and the Purchaser shall pay a Deposit of One-fourth of such Purchase-money at the Time of Sale, and shall contract to pay, and shall pay, the Residue of the Purchase-money by annual Instalments of One-fourth of such Purchase-money; the first of such Instalments to be paid at the Expiration of One Year from the Time of Sale.

Terms of Credit on Sale of Agricultural or Pastoral Land by Auction or private Contract. Premium for Credit. Deposit of One-fifth of Purchase-money. Residue in annual Instalments of One-tenth.

26 Upon the Sale of Agricultural or Pastoral Lands, whether by Auction or by private Contract, the Terms of Credit shall be as follows:—A Sum equal to One-fifth of the Price shall be added thereto by way of Premium for the Allowance of Credit, and the Amount of the Price and Premium together shall become the Purchase-money of the Land; and the Purchaser shall pay a Deposit of One-fifth of such Purchase-money at the Time of Sale or signing the Contract, as the Case may be, and shall contract to pay, and shall pay, the Residue of the Purchase-money by annual Instalments of One-tenth of the Purchase-money, the first Instalment to be paid at the Expiration of One Year from the Time of Sale or signing of the Contract, as the Case may be.

On failure in Payment of any Instalment Land forfeited.

27 In all Cases where Land has been sold upon Credit under the Provisions of this Act, whether by Auction or by private Contract, if Default is made in the Payment of any Instalment of the Purchase-money within Sixty Days after the same has become payable, the Deposit and all Instalments previously paid shall be forfeited, and the Land shall be freed from the Contract of Sale, and shall revert to the Crown subject to the Provisions hereinafter contained.

Commissioner to sell forfeited Land by Auction.

28 The Commissioner shall forthwith, after Default made as aforesaid in the Payment of any such Instalment, publish a Notice in the *Gazette* that the Land so forfeited will be put up for Sale by Auction, specifying in such Notice the Day, Time, and Place at which such Auction will be

held, such Day to be not less than One Month from the Date of the Publication of the Notice; and such Land shall be put up for Sale by Auction as Waste Land of the Crown, at the Time and Place so specified in the Notice, at a Price not less than the Balance of Purchase-money remaining unpaid under the Contract together with the Amount of the Deposit, on Condition of the Purchaser paying at the Time of Sale in ready Money One-fifth of the Price, and the Residue of the Price within One Month after the Time of Sale; and the Commissioner is hereby empowered, by himself or any Person authorised by him in that behalf, to buy in such Land at such Sale at a Price not exceeding the Balance of the Purchase-money remaining unpaid under the Contract together with the Amount of the Deposit; and in case the Land is sold at a Price exceeding the Balance of the Purchase-money remaining unpaid under the Contract together with the Amount of the Deposit, such Balance and Amount of Deposit shall be retained by the Commissioner, and accounted for by him to the Colonial Treasurer as Part of the Land Fund, and the Overplus shall be paid by him into the Treasury to the Credit of the Person having made Default as aforesaid, who shall receive the same by virtue of a Warrant of the Governor upon Application in that behalf made to the Governor by such Person; and in case the Land is so bought in as aforesaid, the same shall become Waste Lands of the Crown disposable under this Act as if no such Contract had ever been made.

And may buy in the Land at Price not exceeding Balance due and Deposit.

If Land realizes more than Balance due and Deposit, the Overplus to be paid to original Purchaser.

29 Notwithstanding anything hereinbefore or in any Contract of Sale contained, it shall be lawful for the Purchaser of any Land upon Credit as aforesaid at any Time during the Period of Credit allowed, and before Default in Payment of any Instalment, to pay off the Balance then remaining unpaid under such Contract.

Purchaser may pay off at any Time.

30 Nothing in this Act contained shall authorise the Sale of any Land on Credit where the Price is less than Forty Pounds.

No Credit where Price less than £40.

Land not alienable till paid for.

31 It shall not be lawful for any Purchaser of Waste Lands of the Crown under this Act to assign or transfer his Interest in the Land purchased, without the Consent in Writing of the Commissioner, until the whole Price of the Land has been paid to the Crown, and every such Assignment or Transfer without such Consent shall be void; and in case any such Purchaser is declared insolvent before the whole Price is paid, the first Deposit paid shall be forfeited, and the same Proceedings may be taken in respect of such Land as in the Case of Failure in Payment of an Instalment due where Credit has been allowed, and the Provisions hereinbefore in that Behalf contained shall be applicable in such Case: Provided that the Purchaser may devise such Interest by his last Will, and in case of his Death intestate such Interest shall descend to his Heir, and the Devisee or Heir shall be entitled to the Land, subject to the same Conditions as the same was subject to in the Hands of the Testator or Intestate.

Purchaser not having paid the full Price not to transfer his Interest.

Grants for Wharfs and Works of Public Utility.

32 It shall be lawful for the Governor in Council to alienate in Fee Simple, or for any less Estate or Interest, on such Terms as to Price and otherwise as the Governor in Council thinks fit, to any Person any Land bordering on a navigable River, or on the Sea, or any Part thereof, and also any adjoining Portion of the Bed and Soil of such navigable River, or

Grants may be made for Wharfs, Jetties, Patent Slips, and other Works of public Utility of Land

bordering on Sea, and also of adjoining Bed and Soil of Sea, &c.

Such Grant to confer Right to exclusive Use of Water covering Bed and Soil.

No such Grant to interfere with Right of Access to Sea of neighbouring Proprietor.

Not to affect Navigation.

Clause of Forfeiture on Non-completion of Works.

Land resumable if required for Defence of Colony.

Lands to be conveyed by Grant provided Purchase-money first paid.

The Commissioner may publish Notice in the *Gazette* offering Lands for Lease for 14 Years.

of the Sea, or any Part thereof, for the Purpose of constructing Wharfs, Jetties, Docks, or Patent Slips, or other Works for the building or repair of Ships, or any other Works of public Utility or Convenience; and any such Grant of any Portion of the Bed and Soil of any navigable River, or of the Sea, or any Part thereof, shall confer a Right to the exclusive Use and Occupation of the Water covering the Bed and Soil granted during the Continuance of such Grant: Provided that no such Grant shall be made so as to interfere with the Right of Access to a navigable River, or to the Sea, or any Part thereof, by any Person having an Estate or Interest in Land bordering thereon, or on any Crown Reserve along the Margin thereof: Provided also, that no Grant of any Portion of the Bed and Soil of any navigable River, or of the Sea, or any Part thereof, shall be made where it would injuriously affect or interfere with Navigation: Provided further, that every such Grant shall contain a Clause in the Nature of a Condition of Forfeiture in case of Non-completion of the Works for the Purpose of the Construction of which such Grant is made within a Period to be therein specified, or in case of the Breach or Non-performance of any or either of the Conditions to be contained in such Grant: Provided lastly, that in case any Portion of the Bed and Soil of any navigable River, or the Sea, or any Part thereof comprised in any such Grant is at any Time deemed by the Governor in Council to be necessary for the Purpose of the Defence of the Colony, it shall be lawful for the Governor, or the Commissioner, or any Person authorised by the Governor in that Behalf, to enter thereupon without Suit, and upon such Entry such Grant shall become absolutely void.

Grant Deed.

33 Under and subject to the various Provisions herein contained, and any Regulations made and published in Manner aforesaid by the Governor in Council, the Governor is hereby authorised, in the Name and on the Behalf of Her Majesty, to convey and alienate in Fee Simple, or for any less Estate or Interest, any Waste Lands of the Crown in this Colony; which Conveyances or Alienations shall be made by Deed of Grant under the Hand of the Governor and the Public Seal of the Colony, and shall be enrolled and recorded in the Supreme Court of *Tasmania* in the same Manner as Crown Grants have heretofore been accustomed to be enrolled and recorded; and shall be in such Form as is at present used, or in such other Form as may from Time to Time be prescribed by the Governor in Council; and being so made shall be valid and effectual to vest in Possession in the Grantee any such Lands as aforesaid for any such Estate or Interest as by any such Deed of Grant is granted to him: Provided always, that no such Deed of Grant shall be issued to any such Purchaser until the whole of the Purchase-money for any such Land has been fully paid.

Leases.

34 The Commissioner shall from Time to Time, by Notice published in the *Gazette*, offer to be let on Lease for any Term not exceeding Fourteen Years under the Provisions of this Act such Parcels of Land, whether surveyed or not, as he thinks fit, describing with all practicable Precision the Locality and Boundaries of such Parcels, and stating the Rent at which each Parcel will be let; and such Rent shall be fixed by the Commissioner according to the best Estimate he is able to form by Examination or Report of a Surveyor of the fair annual Value of the Land, subject to the following Provisions:—

If the Land has been previously let or occupied under a depasturing Licence within One Year next preceding the Date of the Notice, the Rent fixed shall not be less than at the Rate of One Pound for each One hundred Acres :

If the Land has not been previously occupied under a depasturing Licence within One Year next before the Date of the Notice, the Rent fixed shall not be less than Ten Shillings for each One hundred Acres :

And the Person whose Application to rent any Parcel of Land mentioned in such Notice on the Terms therein stated is first received by the Commissioner shall be entitled to a Lease of the same on the Terms aforesaid, subject to any Regulations for deciding between conflicting Claims of different Applicants to rent the same Parcel of Land as may be made by the Governor in Council in pursuance of the Power hereinbefore in that Behalf conferred.

35 It shall be lawful for the Commissioner, without the previous Publication of such Notice, to let to any Person applying to rent the same, in Lots or Parcels containing not less than Five hundred Acres each, any Pastoral Lands selected by the Applicant which have not been previously let or occupied under any Depasturing Licence within One Year next preceding the Date of the Application, for any Term not exceeding Fourteen Years, determinable as hereinafter mentioned, at an annual Rent of One Pound for each One hundred Acres.

Commissioner may let selected Pastoral Land not previously occupied within a Year without Notice published.

36 The Rent reserved by every Lease granted under the foregoing Provisions shall be payable Yearly in advance, and every such Lease shall be determinable on Non-payment of the Rent due within Twenty-one Days after the same has become due, and shall also be determinable, if the Land demised or any Portion thereof is required for Sale or for any public Purpose at any Time during the Term thereby granted, upon Six Months' previous Notice for that Purpose being given to the Lessee or his Representative by the Commissioner, and upon the Expiration of such Notice such Lease shall cease and be void: Provided that such Lessee shall be entitled, on the Determination of his Lease by such Notice, to receive Compensation out of the Land Fund for all Fences which he may have put up upon the Lands so demised and resumed, such Compensation to be ascertained by Valuation in such Manner as may be prescribed by such Regulations as aforesaid; and the Amount of such Compensation shall be added to the Price for the Purchase of such Lands, and shall be repaid to the Crown by the Purchaser: Provided that where only a Portion of the Land may be resumed by the Crown, the Lessee shall have the Option of taking the Remainder on a new Lease under the Provisions of the preceding Sections.

Every Lease to be determinable by Six Months' Notice if Rent in arrear or if Land required for Sale.

37 Notwithstanding any such Lease, it shall be lawful for a Surveyor to enter upon the Lands demised during the Continuance of the Term for the Purpose of surveying the same.

Notwithstanding Lease Surveyor may enter and survey Land.

38 Every Lease made under the Authority of this Act shall contain such Clauses, Covenants, and Conditions as may in that Behalf be prescribed by any such Regulations as aforesaid.

Leases to contain Clauses, &c. prescribed by Regulations.

39 Every Lease made on behalf of the Crown, by the Authority of the Government, of any Land belonging to the Crown in the Colony, may be made by and with the Commissioner, and every such Lease, and

Leases to be made by and with Commissioner.

every Lease made under the Authority of this Act, may be made in the Name of "The Commissioner of Crown Lands," without otherwise naming him, and such Commissioner is hereby authorised to make the same, and to enter into such Covenants and Clauses as may be prescribed by such Regulations as aforesaid, or as the Governor in Council may approve or direct; and every such Lease shall be valid and effectual, notwithstanding any Change in the Person who is the Commissioner, and may be enforced by and against the Commissioner for the Time being.

Occupation Licences.

Licence of Occupation.

40 It shall be lawful for the Commissioner to grant to any Person a Licence for the Occupation, for any Time not exceeding Twelve Months from the Date thereof, of any Agricultural or Pastoral Lands, on such Terms and Conditions as may be provided in that Behalf by such Regulations as aforesaid.

Licence to fell Timber.

41 It shall be lawful for the Commissioner to grant to any Person a Licence for felling, removing, and selling the Timber growing on any Agricultural or Pastoral Lands not leased, on such Terms and Conditions as may be provided in that Behalf by such Regulations as aforesaid.

Resumption of Land on Forfeiture, &c.

Upon Forfeiture, &c. Land to revert to Crown, and become Waste.

42 In case any Grant, Contract, Lease, Licence, or other Agreement whatsoever under this Act in respect of any Waste Land of the Crown becomes void or is determined, or in case any Land granted or disposed of in any Manner under this Act reverts or becomes forfeited to the Crown, the Land comprised in any such Grant, Contract, Lease, or Licence, or so forfeited, shall immediately be disposable under this Act as Waste Lands of the Crown; and it shall be lawful for the Commissioner, or any Person authorised by him, to enter upon any such Land without Suit.

Summary Remedy for dispossessing Persons in unlawful Occupation of Crown Land.

43 Where the Commissioner is authorised to resume or enter upon any Land under this Act, and any Person obstructs the Commissioner, or any Person authorised by him in that Behalf, in resuming such Land or entering thereupon, or remains in the unlawful Occupation of such Lands, or where any Person is in the unlawful Occupation of any Waste Lands of the Crown, and has not quitted the same upon being required by the Commissioner so to do, or has erected any Fence or other thing upon such Land, and has not taken down and removed the same upon being required by the Commissioner so to do, within a reasonable Time to be fixed by the Commissioner, it shall be lawful for the Commissioner to issue under his Hand a Warrant addressed to the Sheriff requiring him in Her Majesty's Name forthwith to dispossess and remove every such Person from any such Land, and to take possession of the same in the Name of Her Majesty, or to take down and prostrate any such Erection; and it shall be the duty of the Sheriff to carry such Warrant into Execution according to the Tenor and Exigency thereof, and all Constables shall, on being required so to do by the Authority of the Sheriff, aid and assist in the Execution of such Warrant; and no Action shall be maintainable against the Sheriff for anything done by him in accordance with the Tenor or Exigency of the Warrant which may be lawfully necessary for carrying the same into execution; but in case any such Warrant is issued unlawfully, an Action on the Case may be brought against the Com-

missioner : Provided that nothing hereinbefore contained shall extend to any Person having occupied Lands without Interruption for the Space of Twenty Years.

44 Any Person who unlawfully obstructs the Commissioner, or any Person by him authorised in that Behalf, in resuming any such Land, or making any such Entry as aforesaid, or who obstructs the Sheriff or any Person assisting in the Execution of any such Warrant, shall for every such Offence forfeit a Penalty not exceeding Fifty Pounds, upon Conviction in a summary Way before Two or more Justices of the Peace; and no such Conviction shall be removable by *Certiorari* or otherwise into the Supreme Court.

Any Person obstructing Commissioner or Sheriff liable to a Penalty of £50.

45 No Action shall be brought for anything done under this Act, in relation to the resuming or entering upon Lands, or the Issue or Execution of any such Warrant as aforesaid unless within Three months after the Fact committed, nor unless Notice in writing of such Action and the Cause thereof is given to the Defendant One month at least before the Commencement of the Action; and the Defendant may plead the General Issue, and give the special Matter in Evidence; and the Plaintiff shall not recover in such Action if Tender of sufficient Amends has been made before Action brought, or if a sufficient Sum of Money has been paid into Court; and if a Verdict is given for the Defendant, or the Plaintiff is nonsuited or discontinues his Action, or if Judgment is given against the Plaintiff, the Defendant shall recover his full Costs as between Attorney and Client; and though a Verdict be given against the Defendant, the Plaintiff shall not have Costs against the Defendant unless the Judge who tries the Case certifies his Approbation of the Action, and of the Verdict.

Protection of Persons dispossessing unlawful Occupiers. Limitation of Actions. Notice of Action. General Issue. Tender of Amends.

Costs.

Actions on Contracts by and against Commissioner.

46 Any Action, Suit, or other Proceeding at Law or in Equity in respect of any Contract, Lease, or other Agreement whatsoever, entered into by or with the Commissioner under the Provisions of this Act, may be commenced and prosecuted by or against "The Commissioner of Crown Lands" for the Time being as the Plaintiff or Defendant therein, as the Case may be, without otherwise naming him; and "The Commissioner of Crown Lands" for the Time being shall recover or be liable to, as the Case may be, the Damages and Costs of any such Action, Suit, or other Proceeding.

Actions by and against Commissioner.

47 No such Action, Suit, or other Proceeding by or against the Commissioner shall abate or be affected by reason of the Death, Resignation, Removal, or new Appointment of any such Commissioner, but the same may be continued in the same Manner against the Commissioner for the Time being as if no such Change had taken place; and the Production of the *Gazette* containing the Notification of the Appointment of any Person as Surveyor-General shall be sufficient *prima facie* Evidence that the Person therein mentioned is the Commissioner of Crown Lands under this Act for the Time being.

No Action to abate by Death, &c. of any Commissioner.

Commissioner indemnified.

48 For the Purpose of indemnifying the Commissioner in Cases where any Damages, Costs, or Expenses have been recovered against or incurred by him for anything *bona fide* done in the Execution of this Act, it shall be lawful for the Governor by Warrant to direct the Colonial

Commissioner to be indemnified from Costs, &c. out of Land Fund.

Treasurer to defray the Amount of such Damages, Costs, and Expenses from the Land Fund; and such Treasurer shall pay the Amount mentioned in such Warrant out of such Fund, and shall in his Accounts be allowed Credit accordingly.

Existing Rights saved.

Rights under existing Contracts saved. **49** Nothing contained in this Act shall affect any Contract lawfully made with respect to any Waste Lands of the Crown before the passing of this Act.

Repeal of Acts.

Repeal of *The Crown Demise Act* and *The Patent Slip Act*. **50** *The Crown Demise Act*, 1853, and *The Patent Slip Act*, 1854, are hereby repealed: Provided that all Leases which may have been made under either of such Acts shall be valid and continue in full force notwithstanding such Repeal, and shall be deemed to have been made with the Commissioner of Crown Lands under this Act, and shall be enforceable by or against such Commissioner accordingly.

Construction.

Construction. **51** In the Construction of this or any other Act relating to Waste Lands of the Crown, the following Words shall have the Meanings hereunder assigned to them, unless there is something in the Context repugnant to such Construction:—

“Waste Lands.” “Waste Lands of the Crown” shall mean any Lands in the Colony which are or may become vested in the Crown, and have not been, and are not, dedicated to some Public Use:

“Lands.” “Lands” or “Land” shall mean Waste Lands of the Crown:

“The Commissioner.” “The Commissioner” shall mean the Commissioner of Crown Lands for the Time being under this Act:

“Surveyor.” “Surveyor” shall mean a Surveyor employed under the Government by the Surveyor-General for the Time being, whether by Contract or otherwise, in the Survey of Waste Lands of the Crown.

Short Title.

Short Title. **52** In referring to this Act it shall be sufficient to use the Expression *The Waste Lands Act*.