

New South Wales.



ANNO DUODECIMO

GEORGII V REGIS.

Act No. 10, 1921.


An Act to provide for the dissolution of the Land Appeal Court; to provide for the constitution of a Land and Valuation Court, and to define the jurisdiction, powers, and procedure of such court; to amend the Crown Lands Consolidation Act, 1913, and certain other Acts; and for purposes connected therewith. [Assented to, 10th December, 1921.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the “Land and Valuation Court Act, 1921.”

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2.

*Land and Valuation Court.*Definitions. 

2. In this Act, unless the context otherwise requires,—

“Court” means the Land and Valuation Court constituted by this Act.

“Crown Lands Acts” means the Crown Lands Consolidation Act, 1913, and any Acts amending the same.

“Judge” means the judge of the court.

“Land Appeal Court” means Land Appeal Court as constituted by the Crown Lands Acts.

“Land board” means local land board under the Crown Lands Acts.

“Prescribed” means prescribed by this Act, or by rule made thereunder.

Dissolution of
Land Appeal
Court, and
savings.

3. (1) Upon the passing of this Act the Land Appeal Court shall be dissolved, the appointment of the members of the said court shall terminate, and the jurisdiction and powers of the said court shall cease and determine, except as to things done or commenced before the passing of this Act, which shall respectively be continued and dealt with under this Act.

(2) Any reference to the Land Appeal Court in the Crown Lands Acts, the Closer Settlement Acts, the Pastures Protection Act, 1912, the Public Roads Act, 1902, the Water Act, 1912, or any other Act, shall be construed as a reference to the court constituted by this Act.

(3) All decisions, determinations, orders, or directions made or given by the Land Appeal Court shall be deemed to have been made or given by the court constituted under this Act:

Provided that nothing in this section shall be deemed to confer any right of appeal from any such decision, determination, order, or direction, where such right of appeal would not have existed if this Act had not been passed.

(4) All rules, regulations, and notices made or given or published under the Crown Lands Acts in connection with proceedings before the Land Appeal Court, and in force at the passing of this Act, shall, in

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so far as they are not inconsistent with this Act, be deemed to have been made or given or published under this Act.

(5) The registrar and other officers of the Land Appeal Court holding office at the passing of this Act shall be deemed to have been appointed hereunder.

(6) All documents filed or deposited in the office of the registrar in connection with appeals or proceedings before the Land Appeal Court shall be handed over to and filed with the court constituted under this Act.

4. (1) There is hereby constituted a court to be called the Land and Valuation Court. It shall be a court of record, and have an official seal, which shall be judicially noticed. Constitution of Land and Valuation Court and appointment of judge.

(2) The court shall be constituted by a judge who shall be appointed by the Governor.

(3) In case of the absence, from whatever cause, of the judge, or in any case where the judge deems it not proper or desirable that he should adjudicate in any proceeding pending before the court, the Governor may appoint a deputy judge. The person so appointed shall, subject to the conditions or limitations, and for the period specified in his appointment have all the powers and privileges and fulfil all the duties of the judge.

(4) The person appointed as a judge, or deputy judge, shall be a Supreme Court or a district court judge, or a practising barrister of not less than five years standing, or a practising solicitor of not less than seven years standing.

(5) The judge shall be removable from office in the same manner and upon such grounds only as a Supreme Court judge is by law liable to be removed from such office.

5. (1) The judge shall have the same rank, title, status, and precedence, and the same salary and rights as judges of the Supreme Court. Salary and rights of judge.

(2) If the judge has served in the office of judge for fifteen years he shall, on retiring, be entitled to an annual pension at the rate of one-half of his salary. If the

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the judge retires on permanent disability or infirmity, or by reason of his attaining the age of seventy years, he shall, if he has served in such office for five years, be entitled on retiring to an annual pension at the rate of twenty one-hundredths of his salary, and at the additional rate of three one-hundredths of his salary for each complete year of his service after the expiration of the said five years to the date of his retirement, but so that the rate of his pension shall not exceed one-half of his salary.

(3) Such salary and pension shall be charged upon and payable out of the Consolidated Revenue Fund in every year.

(4) If after the assignment of such pension the judge accepts any new appointment under the Crown, such pension shall merge or be reduced pro tanto during the tenure of such appointment, according as the salary or emoluments of such appointment are greater or less than such pension.

(5) The judge shall retire when he attains the age of seventy years, unless he is granted retiring leave, in which case he shall retire on the expiration of such leave.

Appointment
of officers.

6. (1) The Governor may upon the recommendation of the Public Service Board, appoint a registrar and such other officers of the court as may be necessary.

(2) The registrar and such other officers so appointed shall be paid such salaries as may from time to time be approved, and shall be subject to the provisions of the Public Service Acts during their tenure of office.

(3) In the absence, from whatever cause, of the registrar, a person may be provisionally appointed as deputy registrar, and such person while so appointed may exercise the powers and discharge the duties of the registrar.

(4) The registrar and other officers shall have such powers and perform such duties as may be prescribed.

Court to sit
places directed
by judge.

7. The court shall sit at such places as the judge shall direct.

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8. The court shall have jurisdiction to hear and determine— Jurisdiction
of court.

- (a) appeals, references, or other matters under the Crown Lands Acts, the Pastures Protection Act, 1912, the Closer Settlement Acts, the Water Act, 1912, the Public Roads Act, 1902, or any other Act, in respect of which jurisdiction was conferred prior to the passing of this Act upon the Land Appeal Court, or appeals, references, or other matters which at the passing of this Act were pending before the Land Appeal Court ;
- (b) objections to or appeals against valuations under the Valuation of Land Act, 1916, including objections and appeals which are pending at the passing of this Act ;
- (c) appeals under section eighteen of the Closer Settlement Act, 1904, and section ten of the Closer Settlement (Amendment) Act, 1907 ;
- (d) objections or appeals under section one hundred and thirty-three, or Schedule Three, of the Local Government Act, 1919, or under Part IX of the Sydney Corporation Act, 1902, or any Act amending the same (including objections or appeals which are pending at the passing of this Act), except where the unimproved capital value of the land or ratable property does not exceed five thousand pounds ;
- (e) appeals under section one hundred and seventy-one of the Local Government Act, 1919 ;
- (f) appeals under section ten of the Western Lands (Amendment) Act, 1918 :—

Provided that upon the hearing under this section of any objection or appeal against any valuation of land, or the levying of any rate, or the assessment of ratable property, or upon the determination under the next following section of any claim for compensation, the court may elect to sit with two assessors, who shall be appointed by the court in the manner prescribed from persons nominated as prescribed.

Such

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Such assessors shall have power to advise, but not to adjudicate in any proceeding before the court. The assessors shall be paid such fees and allowances as are prescribed.

Hearing of
claims for
compensation
in resumption
cases.

9. (1) In any case in which a claim is made for compensation by reason of the acquisition of land for public purposes under the Public Works Act, 1912, or any other Act which makes provision for the resumption or compulsory acquisition of land other than the Crown Lands Acts or the Closer Settlement Acts, and no agreement is come to between the claimant and the Resuming or Constructing Authority as to the amount of compensation payable, such claim shall be heard and determined in the following way, and not otherwise—

(a) where the claim does not exceed one hundred pounds, by a stipendiary or police magistrate or any two justices in petty sessions; and

(b) where the claim exceeds one hundred pounds, by the court without a jury:

Provided that for the purpose of any such determination the judge or magistrate or justices shall give effect to any provision of the Act; under which the land is acquired, which prescribes a basis for, or matters to be considered in, the assessment of compensation:

Provided further that where the claim exceeds one hundred pounds, the claim may be heard and determined in accordance with the provisions of paragraph (a) of this subsection if the claimant and the Resuming or Constructing Authority consent thereto in writing.

(2) Notwithstanding anything contained in the Public Works Act, 1912, the compensation claimed shall not in any case be settled by arbitrators, but in every case where land is taken or acquired, either by Gazette notification or by notice to the parties, and the claim exceeds one hundred pounds, and there is no such consent as aforesaid, any proceeding to determine the amount of compensation payable shall be instituted by action in the Supreme Court.

(3) After issue joined or after any interlocutory judgment, the action shall be remitted by the Prothonotary to the court for determination.

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(4) Notice of the time and place appointed by the judge for the hearing of the action shall be given by the registrar to the parties or their attorneys in the manner prescribed. Provided that the judge shall not be bound to appoint a place for the hearing in accordance with the venue laid in the action.

(5) After such hearing the registrar shall certify to the Prothonotary the finding of the judge, and subject to the provisions of section seventeen, the finding of the judge shall be final and conclusive and subject as aforesaid shall be deemed to be the verdict in the action, whether for the purposes of costs or otherwise.

(6) Except as provided by this section, the practice and procedure of the Supreme Court shall apply to any such action.

(7) This section shall come into operation upon a date to be notified by the Governor in the Gazette, and shall apply to all matters the hearing of which has not commenced prior to the date specified in the notification.

10. All proceedings before the court shall, unless the court otherwise orders, be heard in open court. Proceedings to be heard in open court.

11. Persons entitled to appear before the court may appear in person, or may be heard by counsel, or by attorney, or by agent authorised by such person in writing. Right of audience.

12. The Crown may appear before the court in any case in which the public interest or any right or interest of the Crown may be affected or involved. Appearance by Crown.

13. (1) A summons or other process issuing out of the court shall be under the seal of the court, and shall be signed by the judge or the registrar. Issue of process and judicial notice to be taken of signature of judge and registrar.

(2) All courts shall take judicial notice of the signature of the judge, deputy judge, registrar, or deputy registrar when attached to any document issuing out of the court.

14. (1) The judge shall have all such powers, rights, and privileges as are vested in the Supreme Court or a judge thereof, in respect of the following matters:— Powers of judge as to production of evidence.

(a) Compelling the attendance of witnesses, and examining them on oath, affirmation, or declaration.

(b)

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- (b) Compelling the production, discovery, and inspection of books, documents, and writings.
- (c) Compelling witnesses to answer questions which the judge deems to be relevant to any proceeding before him.
- (d) The punishment of persons guilty of contempt, or of disobedience of any order made by the judge, or of any summons issuing out of the court.
- (e) Directing witnesses to be prosecuted for perjury.

(2) Any warrant to apprehend and to detain and bring before the court, or to keep in any gaol or other place of detention, any person liable upon the order of the court to be so dealt with, shall be valid and effectual if it be in the form prescribed, or to the effect thereof; and the sheriff, his deputy, and assistants, and all officers of the police force and gaolers, to whom the same shall be addressed, shall obey the same:

Provided that no such warrant shall be issued against a person who fails to appear as a witness when called, unless it be proved to the satisfaction of the court that he has been duly served with a summons, and that payment or tender of his reasonable expenses has been made to him.

Power of court to allow further evidence to be given and to remit matters to land board.

15. (1) In any proceeding before the court the court may allow further evidence to be given upon such terms as to costs or otherwise as the court thinks fit.

(2) Any appeal, reference, or other matter in respect of which jurisdiction was conferred prior to the passing of this Act upon the Land Appeal Court may be remitted by the court to a land board for such action as may be directed, and the land board, after taking such action, may return the matter to the court or may uphold, reverse, alter, or amend its previous decision in any way that may be considered necessary, and any order made by the court may be remitted to a land board with a direction to the land board to enforce or carry out such order, and thereupon the land board shall be empowered and bound to act accordingly.

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16. In any proceeding before the court the court shall have power at any stage of the proceeding to order any amendments to be made which in the opinion of the court are necessary in the interests of justice, and upon such terms as to costs or otherwise as the court thinks fit. Power of amendment.

17. (1) When any question of law arises in any proceeding before the court the court shall, if so required in writing by any of the parties within the prescribed time and subject to the prescribed conditions, or may of its own motion, state a case for the decision of the Supreme Court thereon. Appeal by case stated to Supreme Court.

(2) The Supreme Court for the purpose of hearing any such case shall consist of three judges, and shall have power to make such order as it thinks fit in regard to the costs of and incidental to any case so stated.

(3) The judges of the Supreme Court, or any two of them, may make rules with regard to the setting down of any case for argument, and the hearing and decision of the same, and its return with the decision of the Supreme Court thereon.

(4) The decision of the Supreme Court upon the hearing of any such case shall be binding upon the court and upon all the parties to such proceeding.

(5) Subject to the provisions of this section and of section one hundred and sixty-six of the Crown Lands Acts the decision of the court shall be final and conclusive.

18. The court shall have power to make such order as to the costs of or incidental to any proceeding before the court as it may think fit : Costs.

Provided that the provisions of section twenty-three of the Closer Settlement (Amendment) Act, 1909, shall apply to the costs of proceedings referred to in that section to the extent therein stated.

19. (1) Any order of the court for payment of money as costs or otherwise shall be conclusive upon the parties, and have the force of a judgment in the Supreme Court at common law. Enforcement of order for payment of money.

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(2) The party in whose favour any such order is finally made may obtain from the registrar a certificate of the amount due thereunder, and, upon production thereof to the Prothonotary, shall be entitled to have judgment entered thereon without any judge's order, and to have execution for such amount and costs issued and enforced in the same way as may be done upon judgments at common law :

Provided that where a deposit has been made by an appellant, the same shall be available in payment or part payment of any sum he may be ordered to pay, and the balance, if any, shall be returned.

Power to
make rules.

20. (1) The judge may make rules to regulate the procedure of the court, and generally as to all matters necessary or convenient for giving effect to the provisions of this Act.

(2) Such rules upon being published in the Gazette shall be binding upon the court and the parties to any proceeding therein.

(3) A copy of such rules shall be laid before both Houses of Parliament within fourteen days after publication, if Parliament is then in session, and if Parliament is not then in session, within fourteen days after the commencement of the next session.

(4) If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after such rules have been laid before such House, disallowing any rule or part thereof, such rule or part thereof shall thereupon cease to have effect.

Amendment
of Closer
Settlement
Act, 1904.

21. Section eighteen of the Closer Settlement Act, 1904, as amended by section seven of the Closer Settlement (Amendment) Act, 1909, is further amended by omitting subsections three, four, five, and six and by inserting after subsection two the following new subsection :—

(3) Such appeal shall be heard by the Land and Valuation Court constituted by the Land and Valuation Court Act, 1921.

Amendment of
Closer
Settlement
(Amendment)
Act, 1907.

Section ten of the Closer Settlement (Amendment) Act, 1907, is amended by omitting all the words after the expression " Principal Act."

22.

22. Sections twenty-one and twenty-two of the Crown Lands Consolidation Act, 1913, and the Fifth Schedule to the said Act, are repealed with the exception of the following words in subsection two of section twenty-two:—"The Land Appeal Court shall have power to hear and determine all appeals and all matters referred to such court by the Minister or by a local land board."

23. The Valuation of Land Act, 1916, is amended as follows:—

- (1) By omitting section thirty-seven, and substituting therefor the following new section :—

37. The valuer-general shall, when objections to valuations in respect of land in any district or group of adjacent districts have been received by him, forward such objections to the registrar of the Land and Valuation Court as constituted by the Land and Valuation Court Act, 1921, for hearing and determination by that court;

- (2) by omitting section thirty-eight, and substituting therefor the following new section:—

38. The Land and Valuation Court as constituted by the Land and Valuation Court Act, 1921, shall be the valuation court for the purpose of this Act;

- (3) by omitting section forty; Sec. 40.
(4) by omitting section forty-one; Sec. 41.
(5) (a) by omitting in section forty-two the words Sec. 42.

“upon the appointment of any court” and the words “before such appointment”;

(b) by omitting in the same section the word "clerk" wherever occurring, and substituting therefor the word "registrar";

(c) by omitting in the same section the words "the president of the court" and substituting therefor the words "the judge of the court";

- (6) by omitting section forty-four; Sec. 44.
(7) by omitting section forty-five; Sec. 45.
(8) by omitting section forty-six. Sec. 46.

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Amendment of
Local Govern-
ment Act, 1919.

24. The Local Government Act, 1919, is amended as follows:—

Sec. 133 (3)

- (1) By omitting subsection three of section one hundred and thirty-three, and substituting therefor the following new subsection:—

(3) Where the valuation of the unimproved capital value of the land does not exceed five thousand pounds the appeal shall be made to the nearest court of petty sessions, and where such valuation exceeds five thousand pounds the appeal shall be made to the Land and Valuation Court as constituted by the Land and Valuation Court Act, 1921;

Sec. 133 (4).

- (2) (a) by omitting in subsection four of section one hundred and thirty-three the words “the district court” and substituting therefor the words “the Land and Valuation Court”;
- (b) by omitting in the same subsection the words “ten thousand pounds” and substituting therefor the words “five thousand pounds”;

Sec. 133 (7).

- (3) by omitting subsection seven of section one hundred and thirty-three, and substituting therefor the following new subsection:—

(7) Any person dissatisfied with the decision of any court of petty sessions as being erroneous in point of law may appeal therefrom to the Supreme Court in the manner provided for appeals from the determinations of justices in the exercise of their summary jurisdiction, and subject thereto the decision of such court shall be final and conclusive;

- (4) (a) by omitting in subsections three and four of section one hundred and seventy-one the words “the district court” and substituting therefor the words “the Land and Valuation Court”;

Sch. 3.

- (b) by omitting in paragraph (a) of subsection one of section nineteen of Schedule Three the figures “£10,000” and substituting therefor the figures “£5,000”; (c)

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- (c) by omitting paragraph (b) of the same subsection, and substituting therefor the following new paragraph :—
- (b) the Land and Valuation Court where the valuation exceeds £5,000;
- (5) by omitting subsection three of section nineteen of Schedule Three and substituting therefor the following new subsection :—
- (3) Except where the unimproved capital value as stated in the valuation notice does not exceed £500, a valuation court may make such order as it thinks fit for payment of the costs of any objection, and the order shall be enforceable as an order made by the Land and Valuation Court, or as a judgment under the Small Debts Recovery Act, 1912, as the case may be;
- (6) by omitting subsection five of section nineteen of Schedule Three;
- (7) by omitting section twenty of Schedule Three and substituting therefor the following new section :—
- (20) Any person dissatisfied with the decision of any court of petty sessions as being erroneous in point of law may appeal therefrom to the Supreme Court in the manner provided for appeals from the determinations of justices in the exercise of their summary jurisdiction, and subject thereto the decision of such court shall be final and conclusive;
- (8) by omitting paragraph (f) of section twenty-three of Schedule Three.

25. The Sydney Corporation Act, 1902, is amended as follows :—

- (1) By omitting sections one hundred and fourteen, one hundred and fifteen, and one hundred and sixteen;
- (2) by inserting after section one hundred and thirteen the following new section :—

114. (1) Where the valuation of the unimproved capital value of the ratable property, the

Appeals to
Supreme
Court.
cf. L.G. Act,
1906, s. 140.

Amendment of
Sydney
Corporation
Act, 1902.
Secs. 114,
115, 116.

New s. 114.

Hearing of
appeal.

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the subject of the assessment, does not exceed five thousand pounds, such appeal may be made to the nearest court of petty sessions, and where such valuation exceeds five thousand pounds, such appeal may be made to the Land and Valuation Court as constituted by the Land and Valuation Court Act, 1921.

(2) The person appealing shall, within the time mentioned in section one hundred and thirteen, give notice in writing of his intention to appeal, stating the grounds of such appeal to the clerk of the court of petty sessions or to the registrar of the Land and Valuation Court, as the case may require.

(3) Notice of the time when and of the place where the said courts will sit for the hearing of appeals shall be published in the Gazette and in one or more newspapers at least seven clear days before the time appointed for the hearing of appeals by such courts respectively.

(4) No appeal shall be entertained unless notice of appeal has been given as required by section one hundred and thirteen.

(5) An appellant may appear at the hearing of an appeal under this section by counsel, solicitor, or agent authorised in writing.

(6) The court hearing the appeal may confirm or alter the assessment, but the same shall not be reduced in amount by reason of the property assessed having decreased in value subsequently to the making of the assessment appealed from.

(7) Any person dissatisfied with the decision of any court of petty sessions as being erroneous in point of law may appeal therefrom to the Supreme Court in the manner provided for appeals from the determination of justices in the exercise of their summary jurisdiction.

(3)

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- (3) By omitting in section one hundred and seventeen, as amended by section seven of the Sydney Corporation Amendment Act, 1905, the words "by the district court " and substituting therefor the words "by the Land and Valuation Court."

26. Section ten of the Western Lands (Amendment) Act, 1918, is amended by omitting the words "by a district court judge appointed for the purpose by the Governor," and substituting therefor the words "by the Land and Valuation Court constituted by the Land and Valuation Court Act, 1921." Amendment of Western Lands (Amendment) Act, 1918.

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By Authority :

WILLIAM APPELGATE GULLICK, Government Printer, Sydney, 1921.

I certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

W. S. MOWLE,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 1 December, 1921.*

New South Wales.



ANNO DUODECIMO

GEORGII V REGIS.

Act No. 10, 1921.

An Act to provide for the dissolution of the Land Appeal Court; to provide for the constitution of a Land and Valuation Court, and to define the jurisdiction, powers, and procedure of such court; to amend the Crown Lands Consolidation Act, 1913, and certain other Acts; and for purposes connected therewith.
[Assented to, 10th December, 1921.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the "Land and Short title, Valuation Court Act, 1921."

2.

I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.

R. J. STUART-ROBERTSON,
Chairman of Committees of the Legislative Assembly.

Land and Valuation Court.

Definitions.

2. In this Act, unless the context otherwise requires,—

“Court” means the Land and Valuation Court constituted by this Act.

“Crown Lands Acts” means the Crown Lands Consolidation Act, 1913, and any Acts amending the same.

“Judge” means the judge of the court.

“Land Appeal Court” means Land Appeal Court as constituted by the Crown Lands Acts.

“Land board” means local land board under the Crown Lands Acts.

“Prescribed” means prescribed by this Act, or by rule made thereunder.

Dissolution of
Land Appeal
Court, and
savings.

3. (1) Upon the passing of this Act the Land Appeal Court shall be dissolved, the appointment of the members of the said court shall terminate, and the jurisdiction and powers of the said court shall cease and determine, except as to things done or commenced before the passing of this Act, which shall respectively be continued and dealt with under this Act.

(2) Any reference to the Land Appeal Court in the Crown Lands Acts, the Closer Settlement Acts, the Pastures Protection Act, 1912, the Public Roads Act, 1902, the Water Act, 1912, or any other Act, shall be construed as a reference to the court constituted by this Act.

(3) All decisions, determinations, orders, or directions made or given by the Land Appeal Court shall be deemed to have been made or given by the court constituted under this Act:

Provided that nothing in this section shall be deemed to confer any right of appeal from any such decision, determination, order, or direction, where such right of appeal would not have existed if this Act had not been passed.

(4) All rules, regulations, and notices made or given or published under the Crown Lands Acts in connection with proceedings before the Land Appeal Court, and in force at the passing of this Act, shall, in

Land and Valuation Court.

so far as they are not inconsistent with this Act, be deemed to have been made or given or published under this Act.

(5) The registrar and other officers of the Land Appeal Court holding office at the passing of this Act shall be deemed to have been appointed hereunder.

(6) All documents filed or deposited in the office of the registrar in connection with appeals or proceedings before the Land Appeal Court shall be handed over to and filed with the court constituted under this Act.

4. (1) There is hereby constituted a court to be called the Land and Valuation Court. It shall be a court of record, and have an official seal, which shall be judicially noticed. Constitution of Land and Valuation Court and appointment of judge.

(2) The court shall be constituted by a judge who shall be appointed by the Governor.

(3) In case of the absence, from whatever cause, of the judge, or in any case where the judge deems it not proper or desirable that he should adjudicate in any proceeding pending before the court, the Governor may appoint a deputy judge. The person so appointed shall, subject to the conditions or limitations, and for the period specified in his appointment have all the powers and privileges and fulfil all the duties of the judge.

(4) The person appointed as a judge, or deputy judge, shall be a Supreme Court or a district court judge, or a practising barrister of not less than five years standing, or a practising solicitor of not less than seven years standing.

(5) The judge shall be removable from office in the same manner and upon such grounds only as a Supreme Court judge is by law liable to be removed from such office.

5. (1) The judge shall have the same rank, title, status, and precedence, and the same salary and rights as judges of the Supreme Court. Salary and rights of judge.

(2) If the judge has served in the office of judge for fifteen years he shall, on retiring, be entitled to an annual pension at the rate of one-half of his salary. If the

Land and Valuation Court.

the judge retires on permanent disability or infirmity, or by reason of his attaining the age of seventy years, he shall, if he has served in such office for five years, be entitled on retiring to an annual pension at the rate of twenty one-hundredths of his salary, and at the additional rate of three one-hundredths of his salary for each complete year of his service after the expiration of the said five years to the date of his retirement, but so that the rate of his pension shall not exceed one-half of his salary.

(3) Such salary and pension shall be charged upon and payable out of the Consolidated Revenue Fund in every year.

(4) If after the assignment of such pension the judge accepts any new appointment under the Crown, such pension shall merge or be reduced pro tanto during the tenure of such appointment, according as the salary or emoluments of such appointment are greater or less than such pension.

(5) The judge shall retire when he attains the age of seventy years, unless he is granted retiring leave, in which case he shall retire on the expiration of such leave.

Appointment
of officers.

6. (1) The Governor may upon the recommendation of the Public Service Board, appoint a registrar and such other officers of the court as may be necessary.

(2) The registrar and such other officers so appointed shall be paid such salaries as may from time to time be approved, and shall be subject to the provisions of the Public Service Acts during their tenure of office.

(3) In the absence, from whatever cause, of the registrar, a person may be provisionally appointed as deputy registrar, and such person while so appointed may exercise the powers and discharge the duties of the registrar.

(4) The registrar and other officers shall have such powers and perform such duties as may be prescribed.

Court to sit at
places directed
by judge.

7. The court shall sit at such places as the judge shall direct.

8.

Land and Valuation Court.

8. The court shall have jurisdiction to hear and determine— Jurisdiction
of court,

- (a) appeals, references, or other matters under the Crown Lands Acts, the Pastures Protection Act, 1912, the Closer Settlement Acts, the Water Act, 1912, the Public Roads Act, 1902, or any other Act, in respect of which jurisdiction was conferred prior to the passing of this Act upon the Land Appeal Court, or appeals, references, or other matters which at the passing of this Act were pending before the Land Appeal Court ;
- (b) objections to or appeals against valuations under the Valuation of Land Act, 1916, including objections and appeals which are pending at the passing of this Act ;
- (c) appeals under section eighteen of the Closer Settlement Act, 1904, and section ten of the Closer Settlement (Amendment) Act, 1907 ;
- (d) objections or appeals under section one hundred and thirty-three, or Schedule Three, of the Local Government Act, 1919, or under Part IX of the Sydney Corporation Act, 1902, or any Act amending the same (including objections or appeals which are pending at the passing of this Act), except where the unimproved capital value of the land or ratable property does not exceed five thousand pounds ;
- (e) appeals under section one hundred and seventy-one of the Local Government Act, 1919 ;
- (f) appeals under section ten of the Western Lands (Amendment) Act, 1918 :—

Provided that upon the hearing under this section of any objection or appeal against any valuation of land, or the levying of any rate, or the assessment of ratable property, or upon the determination under the next following section of any claim for compensation, the court may elect to sit with two assessors, who shall be appointed by the court in the manner prescribed from persons nominated as prescribed.

Such

Land and Valuation Court.

Such assessors shall have power to advise, but not to adjudicate in any proceeding before the court. The assessors shall be paid such fees and allowances as are prescribed.

Hearing of
claims for
compensation
in resumption
cases.

9. (1) In any case in which a claim is made for compensation by reason of the acquisition of land for public purposes under the Public Works Act, 1912, or any other Act which makes provision for the resumption or compulsory acquisition of land other than the Crown Lands Acts or the Closer Settlement Acts, and no agreement is come to between the claimant and the Resuming or Constructing Authority as to the amount of compensation payable, such claim shall be heard and determined in the following way, and not otherwise—

- (a) where the claim does not exceed one hundred pounds, by a stipendiary or police magistrate or any two justices in petty sessions; and
- (b) where the claim exceeds one hundred pounds, by the court without a jury:

Provided that for the purpose of any such determination the judge or magistrate or justices shall give effect to any provision of the Act, under which the land is acquired, which prescribes a basis for, or matters to be considered in, the assessment of compensation:

Provided further that where the claim exceeds one hundred pounds, the claim may be heard and determined in accordance with the provisions of paragraph (a) of this subsection if the claimant and the Resuming or Constructing Authority consent thereto in writing.

(2) Notwithstanding anything contained in the Public Works Act, 1912, the compensation claimed shall not in any case be settled by arbitrators, but in every case where land is taken or acquired, either by Gazette notification or by notice to the parties, and the claim exceeds one hundred pounds, and there is no such consent as aforesaid, any proceeding to determine the amount of compensation payable shall be instituted by action in the Supreme Court.

(3) After issue joined or after any interlocutory judgment, the action shall be remitted by the Prothonotary to the court for determination.

(4)

Land and Valuation Court.

(4) Notice of the time and place appointed by the judge for the hearing of the action shall be given by the registrar to the parties or their attorneys in the manner prescribed. Provided that the judge shall not be bound to appoint a place for the hearing in accordance with the venue laid in the action.

(5) After such hearing the registrar shall certify to the Prothonotary the finding of the judge, and subject to the provisions of section seventeen, the finding of the judge shall be final and conclusive and subject as aforesaid shall be deemed to be the verdict in the action, whether for the purposes of costs or otherwise.

(6) Except as provided by this section, the practice and procedure of the Supreme Court shall apply to any such action.

(7) This section shall come into operation upon a date to be notified by the Governor in the Gazette, and shall apply to all matters the hearing of which has not commenced prior to the date specified in the notification.

10. All proceedings before the court shall, unless the court otherwise orders, be heard in open court. Proceedings to be heard in open court.

11. Persons entitled to appear before the court may appear in person, or may be heard by counsel, or by attorney, or by agent authorised by such person in writing. Right of audience.

12. The Crown may appear before the court in any case in which the public interest or any right or interest of the Crown may be affected or involved. Appearance by Crown.

13. (1) A summons or other process issuing out of the court shall be under the seal of the court, and shall be signed by the judge or the registrar. Issue of process and judicial notice to be taken of signature of judge and registrar.

(2) All courts shall take judicial notice of the signature of the judge, deputy judge, registrar, or deputy registrar when attached to any document issuing out of the court.

14. (1) The judge shall have all such powers, rights, and privileges as are vested in the Supreme Court or a judge thereof, in respect of the following matters:— Powers of judge as to production of evidence.

(a) Compelling the attendance of witnesses, and examining them on oath, affirmation, or declaration.

(b)

Land and Valuation Court.

- (b) Compelling the production, discovery, and inspection of books, documents, and writings.
- (c) Compelling witnesses to answer questions which the judge deems to be relevant to any proceeding before him.
- (d) The punishment of persons guilty of contempt, or of disobedience of any order made by the judge, or of any summons issuing out of the court.
- (e) Directing witnesses to be prosecuted for perjury.

(2) Any warrant to apprehend and to detain and bring before the court, or to keep in any gaol or other place of detention, any person liable upon the order of the court to be so dealt with, shall be valid and effectual if it be in the form prescribed, or to the effect thereof; and the sheriff, his deputy, and assistants, and all officers of the police force and gaolers, to whom the same shall be addressed, shall obey the same:

Provided that no such warrant shall be issued against a person who fails to appear as a witness when called, unless it be proved to the satisfaction of the court that he has been duly served with a summons, and that payment or tender of his reasonable expenses has been made to him.

Power of court to allow further evidence to be given and to remit matters to land board.

15. (1) In any proceeding before the court the court may allow further evidence to be given upon such terms as to costs or otherwise as the court thinks fit.

(2) Any appeal, reference, or other matter in respect of which jurisdiction was conferred prior to the passing of this Act upon the Land Appeal Court may be remitted by the court to a land board for such action as may be directed, and the land board, after taking such action, may return the matter to the court or may uphold, reverse, alter, or amend its previous decision in any way that may be considered necessary, and any order made by the court may be remitted to a land board with a direction to the land board to enforce or carry out such order, and thereupon the land board shall be empowered and bound to act accordingly.

16.

Land and Valuation Court.

16. In any proceeding before the court the court shall have power at any stage of the proceeding to order any amendments to be made which in the opinion of the court are necessary in the interests of justice, and upon such terms as to costs or otherwise as the court thinks fit. Power of amendment.

17. (1) When any question of law arises in any proceeding before the court the court shall, if so required in writing by any of the parties within the prescribed time and subject to the prescribed conditions, or may of its own motion, state a case for the decision of the Supreme Court thereon. Appeal by case stated to Supreme Court.

(2) The Supreme Court for the purpose of hearing any such case shall consist of three judges, and shall have power to make such order as it thinks fit in regard to the costs of and incidental to any case so stated.

(3) The judges of the Supreme Court, or any two of them, may make rules with regard to the setting down of any case for argument, and the hearing and decision of the same, and its return with the decision of the Supreme Court thereon.

(4) The decision of the Supreme Court upon the hearing of any such case shall be binding upon the court and upon all the parties to such proceeding.

(5) Subject to the provisions of this section and of section one hundred and sixty-six of the Crown Lands Acts the decision of the court shall be final and conclusive.

18. The court shall have power to make such order as to the costs of or incidental to any proceeding before the court as it may think fit : Costs.

Provided that the provisions of section twenty-three of the Closer Settlement (Amendment) Act, 1909, shall apply to the costs of proceedings referred to in that section to the extent therein stated.

19. (1) Any order of the court for payment of money as costs or otherwise shall be conclusive upon the parties, and have the force of a judgment in the Supreme Court at common law. Enforcement of order for payment of money.

(2)

Land and Valuation Court.

(2) The party in whose favour any such order is finally made may obtain from the registrar a certificate of the amount due thereunder, and, upon production thereof to the Prothonotary, shall be entitled to have judgment entered thereon without any judge's order, and to have execution for such amount and costs issued and enforced in the same way as may be done upon judgments at common law :

Provided that where a deposit has been made by an appellant, the same shall be available in payment or part payment of any sum he may be ordered to pay, and the balance, if any, shall be returned.

Power to
make rules.

20. (1) The judge may make rules to regulate the procedure of the court, and generally as to all matters necessary or convenient for giving effect to the provisions of this Act.

(2) Such rules upon being published in the Gazette shall be binding upon the court and the parties to any proceeding therein.

(3) A copy of such rules shall be laid before both Houses of Parliament within fourteen days after publication, if Parliament is then in session, and if Parliament is not then in session, within fourteen days after the commencement of the next session.

(4) If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after such rules have been laid before such House, disallowing any rule or part thereof, such rule or part thereof shall thereupon cease to have effect.

Amendment
of Closer
Settlement
Act, 1904.

21. Section eighteen of the Closer Settlement Act, 1904, as amended by section seven of the Closer Settlement (Amendment) Act, 1909, is further amended by omitting subsections three, four, five, and six and by inserting after subsection two the following new subsection :—

(3) Such appeal shall be heard by the Land and Valuation Court constituted by the Land and Valuation Court Act, 1921.

Amendment of
Closer
Settlement
(Amendment)
Act, 1907.

Section ten of the Closer Settlement (Amendment) Act, 1907, is amended by omitting all the words after the expression " Principal Act."

22.

22. Sections twenty-one and twenty-two of the Crown Lands Consolidation Act, 1913, and the Fifth Schedule to the said Act, are repealed with the exception of the following words in subsection two of section twenty-two:—"The Land Appeal Court shall have power to hear and determine all appeals and all matters referred to such court by the Minister or by a local land board."

(1) By omitting section thirty-seven, and substituting therefor the following new section :—

37. The valuer-general shall, when objections to valuations in respect of land in any district or group of adjacent districts have been received by him, forward such objections to the registrar of the Land and Valuation Court as constituted by the Land and Valuation Court Act, 1921, for hearing and determination by that court;

(2) by omitting section thirty-eight, and substituting therefor the following new section:—

38. The Land and Valuation Court as constituted by the Land and Valuation Court Act, 1921, shall be the valuation court for the purpose of this Act;

(3) by omitting section forty; Sec. 40.

(4) by omitting section forty-one; Sec. 41.

(5) (a) by omitting in section forty-two the words Sec. 42.
“upon the appointment of any court” and
the words “before such appointment”;

(b) by omitting in the same section the word "clerk" wherever occurring, and substituting therefor the word "registrar";

(c) by omitting in the same section the words "the president of the court" and substituting therefor the words "the judge of the court";

(6) by omitting section forty-four; Sec. 44.

(7) by omitting section forty-five; Sec. 45.

(8) by omitting section forty-six. Sec. 46.

Land and Valuation Court.

Amendment of
Local Govern-
ment Act, 1919.

24. The Local Government Act, 1919, is amended as follows:—

Sec. 133 (3).

- (1) By omitting subsection three of section one hundred and thirty-three, and substituting therefor the following new subsection:—

(3) Where the valuation of the unimproved capital value of the land does not exceed five thousand pounds the appeal shall be made to the nearest court of petty sessions, and where such valuation exceeds five thousand pounds the appeal shall be made to the Land and Valuation Court as constituted by the Land and Valuation Court Act, 1921;

Sec. 133 (4).

- (2) (a) by omitting in subsection four of section one hundred and thirty-three the words "the district court" and substituting therefor the words "the Land and Valuation Court";

(b) by omitting in the same subsection the words "ten thousand pounds" and substituting therefor the words "five thousand pounds";

Sec. 133 (7).

- (3) by omitting subsection seven of section one hundred and thirty-three, and substituting therefor the following new subsection:—

(7) Any person dissatisfied with the decision of any court of petty sessions as being erroneous in point of law may appeal therefrom to the Supreme Court in the manner provided for appeals from the determinations of justices in the exercise of their summary jurisdiction, and subject thereto the decision of such court shall be final and conclusive;

- (4) (a) by omitting in subsections three and four of section one hundred and seventy-one the words "the district court" and substituting therefor the words "the Land and Valuation Court";

Sch. 3.

- (b) by omitting in paragraph (a) of subsection one of section nineteen of Schedule Three the figures "£10,000" and substituting therefor the figures "£5,000"; (c)

Land and Valuation Court.

(c) by omitting paragraph (b) of the same subsection, and substituting therefor the following new paragraph :—

(b) the Land and Valuation Court where the valuation exceeds £5,000;

(5) by omitting subsection three of section nineteen of Schedule Three and substituting therefor the following new subsection :—

(3) Except where the unimproved capital value as stated in the valuation notice does not exceed £500, a valuation court may make such order as it thinks fit for payment of the costs of any objection, and the order shall be enforceable as an order made by the Land and Valuation Court, or as a judgment under the Small Debts Recovery Act, 1912, as the case may be ;

(6) by omitting subsection five of section nineteen of Schedule Three ;

(7) by omitting section twenty of Schedule Three and substituting therefor the following new section :—

(20) Any person dissatisfied with the decision of any court of petty sessions as being erroneous in point of law may appeal therefrom to the Supreme Court in the manner provided for appeals from the determinations of justices in the exercise of their summary jurisdiction, and subject thereto the decision of such court shall be final and conclusive ;

Appeals to
Supreme
Court.
cf. L.G. Act,
1906, s. 140.

(8) by omitting paragraph (f) of section twenty-three of Schedule Three.

25. The Sydney Corporation Act, 1902, is amended as follows :—

Amendment of
Sydney
Corporation
Act, 1902.
Secs. 114,
115, 116.

(1) By omitting sections one hundred and fourteen, one hundred and fifteen, and one hundred and sixteen ;

(2) by inserting after section one hundred and thirteen the following new section :—

114. (1) Where the valuation of the unimproved capital value of the ratable property, the

Hearing of
appeal.

Land and Valuation Court.

the subject of the assessment, does not exceed five thousand pounds, such appeal may be made to the nearest court of petty sessions, and where such valuation exceeds five thousand pounds, such appeal may be made to the Land and Valuation Court as constituted by the Land and Valuation Court Act, 1921.

(2) The person appealing shall, within the time mentioned in section one hundred and thirteen, give notice in writing of his intention to appeal, stating the grounds of such appeal to the clerk of the court of petty sessions or to the registrar of the Land and Valuation Court, as the case may require.

(3) Notice of the time when and of the place where the said courts will sit for the hearing of appeals shall be published in the Gazette and in one or more newspapers at least seven clear days before the time appointed for the hearing of appeals by such courts respectively.

(4) No appeal shall be entertained unless notice of appeal has been given as required by section one hundred and thirteen.

(5) An appellant may appear at the hearing of an appeal under this section by counsel, solicitor, or agent authorised in writing.

(6) The court hearing the appeal may confirm or alter the assessment, but the same shall not be reduced in amount by reason of the property assessed having decreased in value subsequently to the making of the assessment appealed from.

(7) Any person dissatisfied with the decision of any court of petty sessions as being erroneous in point of law may appeal therefrom to the Supreme Court in the manner provided for appeals from the determination of justices in the exercise of their summary jurisdiction.

(3)

Land and Valuation Court.

- (3) By omitting in section one hundred and seventeen, as amended by section seven of the Sydney Corporation Amendment Act, 1905, the words "by the district court" and substituting therefor the words "by the Land and Valuation Court."

26. Section ten of the Western Lands (Amendment) Act, 1918, is amended by omitting the words "by a district court judge appointed for the purpose by the Governor," and substituting therefor the words "by the Land and Valuation Court constituted by the Land and Valuation Court Act, 1921." Amendment of Western Lands (Amendment) Act, 1918.

In the name and on behalf of His Majesty I assent to this Act.

W. E. DAVIDSON,
Governor.
Government House,
Sydney, 10th December, 1921.

LAND AND VALUATION COURT BILL.

SCHEDULE of Amendments referred to in Message of 1st December, 1921.

- Page 3, clause 4, line 18. *Omit* "of his inability to" *insert* "in any case where the
"judge deems it not proper or desirable that he should"
- Page 5, clause 8. *Insert* new paragraph (e).
- Page 6, clause 9, line 11. *After* "the" secondly occurring *insert* "resuming or"
- Page 6, clause 9, line 25. *After* "the" *insert* "resuming or"
- Page 7, clause 14, line 39. *Omit* "In"
- Page 8, clause 14, lines 1, 3, 6, and 10. *Omit* "In"
- Page 9, clause 17, line 14. *Omit* "may consist of two judges only" *insert* "shall
"consist of three judges"
- Page 10, clause 21. At end of clause *add* "Section ten of the Closer Settlement
"(Amendment) Act, 1907, is amended by omitting all the words after
"the expression 'Principal Act.'"
- Page 11, clause 22. At end of clause *add* "with the exception of the following
"words in subsection two of section twenty-two:—'The Land Appeal
"Court shall have power to hear and determine all appeals and all
"matters referred to such court by the Minister or by a local land
"board.'"
- Page 11, clause 23, line 30. *After* "court" *add* "and the words 'before such
"appointment'";
- Page 12, clause 24, subclause (7). *Insert* new paragraph (a).
- Page 15, clause 25. *Insert* new subclause (3).

This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

W. S. MOWLE,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 18 November, 1921, A.M.*

The LEGISLATIVE COUNCIL has this day agreed to this Bill with Amendments.

W. L. S. COOPER,
Clerk of the Parliaments.

*Legislative Council Chamber,
Sydney, 1st December, 1921.*

New South Wales.



ANNO DUODECIMO

GEORGII V REGIS.

Act No. , 1921.

An Act to provide for the dissolution of the Land Appeal Court; to provide for the constitution of a Land and Valuation Court, and to define the jurisdiction, powers, and procedure of such court; to amend the Crown Lands Consolidation Act, 1913, and certain other Acts; and for purposes connected therewith.

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the "Land and Short title, Valuation Court Act, 1921."

39361

38—

2.

NOTE.—The words to be omitted are ruled through; those to be inserted are printed in black letter

Land and Valuation Court.

2. In this Act, unless the context otherwise Definitions.
requires,—

- “Court” means the Land and Valuation Court constituted by this Act.
- 5 “Crown Lands Acts” means the Crown Lands Consolidation Act, 1913, and any Acts amending the same.
- “Judge” means the judge of the court.
- 10 “Land Appeal Court” means Land Appeal Court as constituted by the Crown Lands Acts.
- “Land board” means local land board under the Crown Lands Acts.
- “Prescribed” means prescribed by this Act, or by rule made thereunder.

15 **3.** (1) Upon the passing of this Act the Land Appeal Court shall be dissolved, the appointment of the members of the said court shall terminate, and the jurisdiction and powers of the said court shall cease and determine, except as to things done or commenced before the passing
20 of this Act, which shall respectively be continued and dealt with under this Act.

Dissolution of
Land Appeal
Court, and
savings.

(2) Any reference to the Land Appeal Court in the Crown Lands Acts, the Closer Settlement Acts, the Pastures Protection Act, 1912, the Public Roads Act,
25 1902, the Water Act, 1912, or any other Act, shall be construed as a reference to the court constituted by this Act.

(3) All decisions, determinations, orders, or directions made or given by the Land Appeal Court
30 shall be deemed to have been made or given by the court constituted under this Act:

Provided that nothing in this section shall be deemed to confer any right of appeal from any such decision, determination, order, or direction, where such right of
35 appeal would not have existed if this Act had not been passed.

(4) All rules, regulations, and notices made or given or published under the Crown Lands Acts in connection with proceedings before the Land Appeal
40 Court, and in force at the passing of this Act, shall, in

Land and Valuation Court.

so far as they are not inconsistent with this Act, be deemed to have been made or given or published under this Act.

(5) The registrar and other officers of the Land Appeal Court holding office at the passing of this Act shall be deemed to have been appointed hereunder.

(6) All documents filed or deposited in the office of the registrar in connection with appeals or proceedings before the Land Appeal Court shall be handed over to and filed with the court constituted under this Act.

4. (1) There is hereby constituted a court to be called the Land and Valuation Court. It shall be a court of record, and have an official seal, which shall be judicially noticed.

Constitution of Land and Valuation Court and appointment of judge.

(2) The court shall be constituted by a judge who shall be appointed by the Governor.

(3) In case of the absence, from whatever cause, of the judge, or of his inability to in any case where the judge deems it not proper or desirable that he should adjudicate in any proceeding pending before the court, the Governor may appoint a deputy judge. The person so appointed shall, subject to the conditions or limitations, and for the period specified in his appointment, have all the powers and privileges and fulfil all the duties of the judge.

(4) The person appointed as a judge, or deputy judge, shall be a Supreme Court or a district court judge, or a practising barrister of not less than five years standing, or a practising solicitor of not less than seven years standing.

(5) The judge shall be removable from office in the same manner and upon such grounds only as a Supreme Court judge is by law liable to be removed from such office.

5. (1) The judge shall have the same rank, title, status, and precedence, and the same salary and rights as judges of the Supreme Court.

Salary and rights of judge.

(2) If the judge has served in the office of judge for fifteen years he shall, on retiring, be entitled to an annual pension at the rate of one-half of his salary. If the

Land and Valuation Court.

the judge retires on permanent disability or infirmity, or by reason of his attaining the age of seventy years, he shall, if he has served in such office for five years, be entitled on retiring to an annual pension at the rate of twenty one-hundredths of his salary, and at the additional rate of three one-hundredths of his salary for each complete year of his service after the expiration of the said five years to the date of his retirement, but so that the rate of his pension shall not exceed one-half of his salary.

(3) Such salary and pension shall be charged upon and payable out of the Consolidated Revenue Fund in every year.

(4) If after the assignment of such pension the judge accepts any new appointment under the Crown, such pension shall merge or be reduced pro tanto during the tenure of such appointment, according as the salary or emoluments of such appointment are greater or less than such pension.

(5) The judge shall retire when he attains the age of seventy years, unless he is granted retiring leave, in which case he shall retire on the expiration of such leave.

6. (1) The Governor may upon the recommendation of the Public Service Board, appoint a registrar and such other officers of the court as may be necessary.

(2) The registrar and such other officers so appointed shall be paid such salaries as may from time to time be approved, and shall be subject to the provisions of the Public Service Acts during their tenure of office.

(3) In the absence, from whatever cause, of the registrar, a person may be provisionally appointed as deputy registrar, and such person while so appointed may exercise the powers and discharge the duties of the registrar.

(4) The registrar and other officers shall have such powers and perform such duties as may be prescribed.

7. The court shall sit at such places as the judge shall direct.

Court to sit at places directed by judge.

8.

Land and Valuation Court.

8. The court shall have jurisdiction to hear and determine— Jurisdiction
of court,

- 5 (a) appeals, references, or other matters under the Crown Lands Acts, the Pastures Protection Act, 1912, the Closer Settlement Acts, the Water Act, 1912, the Public Roads Act, 1902, or any other Act, in respect of which jurisdiction was conferred prior to the passing of this Act upon the Land Appeal Court, or
- 10 (a) appeals, references, or other matters which at the passing of this Act were pending before the Land Appeal Court ;
- 15 (b) objections to or appeals against valuations under the Valuation of Land Act, 1916, including objections and appeals which are pending at the passing of this Act ;
- (c) appeals under section eighteen of the Closer Settlement Act, 1904, and section ten of the Closer Settlement (Amendment) Act, 1907 ;
- 20 (d) objections or appeals under section one hundred and thirty-three, or Schedule Three, of the Local Government Act, 1919, or under Part IX of the Sydney Corporation Act, 1902, or any Act amending the same (including
- 25 objections or appeals which are pending at the passing of this Act), except where the unimproved capital value of the land or ratable property does not exceed five thousand pounds ;
- 30 (e) appeals under section one hundred and seventy-one of the Local Government Act, 1919 ;
- (e f) appeals under section ten of the Western Lands (Amendment) Act, 1918 :—

25 Provided that upon the hearing under this section of any objection or appeal against any valuation of land, or the levying of any rate, or the assessment of ratable property, or upon the determination under the next following section of any claim for compensation, the court may

40 elect to sit with two assessors, who shall be appointed by the court in the manner prescribed from persons nominated as prescribed.

Such

Land and Valuation Court.

Such assessors shall have power to advise, but not to adjudicate in any proceeding before the court. The assessors shall be paid such fees and allowances as are prescribed.

- 5 **9.** (1) In any case in which a claim is made for com- Hearing of
claims for
compensation
in resumption
cases.
pensation by reason of the acquisition of land for public
purposes under the Public Works Act, 1912, or any
other Act which makes provision for the resumption or
compulsory acquisition of land other than the Crown
10 Lands Acts or the Closer Settlement Acts, and no agree-
ment is come to between the claimant and the **resuming or**
Constructing Authority as to the amount of compensation
payable, such claim shall be heard and determined in the
following way, and not otherwise—
15 (a) where the claim does not exceed one hundred
pounds, by a stipendiary or police magistrate or
any two justices in petty sessions; and
(b) where the claim exceeds one hundred pounds,
by the court without a jury :
20 Provided that for the purpose of any such determina-
tion the judge or magistrate or justices shall give effect
to any provision of the Act, under which the land is
acquired, which prescribes a basis for, or matters to be
considered in, the assessment of compensation :
25 Provided further that where the claim exceeds one
hundred pounds, the claim may be heard and determined
in accordance with the provisions of paragraph (a) of
this subsection if the claimant and the **resuming or**
Constructing Authority consent thereto in writing.
30 (2) Notwithstanding anything contained in the
Public Works Act, 1912, the compensation claimed shall
not in any case be settled by arbitrators, but in every
case where land is taken or acquired, either by Gazette
notification or by notice to the parties, and the claim
35 exceeds one hundred pounds, and there is no such
consent as aforesaid, any proceeding to determine the
amount of compensation payable shall be instituted by
action in the Supreme Court.
(3) After issue joined or after any interlocutory
40 judgment, the action shall be remitted by the Prothono-
tary to the court for determination.

(4)

Land and Valuation Court.

(4) Notice of the time and place appointed by the judge for the hearing of the action shall be given by the registrar to the parties or their attorneys in the manner prescribed. Provided that the judge shall not be bound
5 to appoint a place for the hearing in accordance with the venue laid in the action.

(5) After such hearing the registrar shall certify to the Prothonotary the finding of the judge, and subject to the provisions of section seventeen, the finding of the
10 judge shall be final and conclusive and subject as afore-said shall be deemed to be the verdict in the action, whether for the purposes of costs or otherwise.

(6) Except as provided by this section, the practice and procedure of the Supreme Court shall apply to any
15 such action.

(7) This section shall come into operation upon a date to be notified by the Governor in the Gazette, and shall apply to all matters the hearing of which has not commenced prior to the date specified in the notification.

20 **10.** All proceedings before the court shall, unless the court otherwise orders, be heard in open court. Proceedings to be heard in open court.

11. Persons entitled to appear before the court may appear in person, or may be heard by counsel, or by attorney, or by agent authorised by such person in
25 writing. Right of audience.

12. The Crown may appear before the court in any case in which the public interest or any right or interest of the Crown may be affected or involved. Appearance by Crown.

13. (1) A summons or other process issuing out of
30 the court shall be under the seal of the court, and shall be signed by the judge or the registrar. Issue of process and judicial notice to be taken of signature of judge and registrar.

(2) All courts shall take judicial notice of the signature of the judge, deputy judge, registrar, or deputy registrar when attached to any document issuing out of
35 the court.

14. (1) The judge shall have all such powers, rights, and privileges as are vested in the Supreme Court or a judge thereof, in respect of the following matters:— Powers of judge as to production of evidence.

(a) **14.** Compelling the attendance of witnesses, and examining them on oath, affirmation, or
40 declaration.

(b)

Land and Valuation Court.

- (b) ~~It~~ Compelling the production, discovery, and inspection of books, documents, and writings.
- (c) ~~It~~ Compelling witnesses to answer questions which the judge deems to be relevant to any proceeding before him.
- 5 (d) ~~It~~ The punishment of persons guilty of contempt, or of disobedience of any order made by the judge, or of any summons issuing out of the court.
- 10 (e) ~~It~~ Directing witnesses to be prosecuted for perjury.

(2) Any warrant to apprehend and to detain and bring before the court, or to keep in any gaol or other place of detention, any person liable upon the order of the court to be so dealt with, shall be valid and effectual if it be in the form prescribed, or to the effect thereof; and the sheriff, his deputy, and assistants, and all officers of the police force and gaolers, to whom the same shall be addressed, shall obey the same:

20 Provided that no such warrant shall be issued against a person who fails to appear as a witness when called, unless it be proved to the satisfaction of the court that he has been duly served with a summons, and that payment or tender of his reasonable expenses has been
25 made to him.

15. (1) In any proceeding before the court the court may allow further evidence to be given upon such terms as to costs or otherwise as the court thinks fit.

Power of
court to allow
further
evidence to
be given and
to remit
matters to
land board.

(2) Any appeal, reference, or other matter in respect of which jurisdiction was conferred prior to the passing of this Act upon the Land Appeal Court may be remitted by the court to a land board for such action as may be directed, and the land board, after taking such action, may return the matter to the court or
35 may uphold, reverse, alter, or amend its previous decision in any way that may be considered necessary, and any order made by the court may be remitted to a land board with a direction to the land board to enforce or carry out such order, and thereupon the land board
40 shall be empowered and bound to act accordingly.

16.

Land and Valuation Court.

16. In any proceeding before the court the court shall have power at any stage of the proceeding to order any amendments to be made which in the opinion of the court are necessary in the interests of justice, and upon such terms as to costs or otherwise as the court thinks fit. Power of amendment.

17. (1) When any question of law arises in any proceeding before the court the court shall, if so required in writing by any of the parties within the prescribed time and subject to the prescribed conditions, or may of its own motion, state a case for the decision of the Supreme Court thereon. Appeal by case stated to Supreme Court.

(2) The Supreme Court for the purpose of hearing any such case ~~may consist of two judges only;~~ shall consist of three judges, and shall have power to make such order as it thinks fit in regard to the costs of and incidental to any case so stated.

(3) The judges of the Supreme Court, or any two of them, may make rules with regard to the setting down of any case for argument, and the hearing and decision of the same, and its return with the decision of the Supreme Court thereon.

(4) The decision of the Supreme Court upon the hearing of any such case shall be binding upon the court and upon all the parties to such proceeding.

(5) Subject to the provisions of this section and of section one hundred and sixty-six of the Crown Lands Acts the decision of the court shall be final and conclusive.

18. The court shall have power to make such order as to the costs of or incidental to any proceeding before the court as it may think fit : Costs.

Provided that the provisions of section twenty-three of the Closer Settlement (Amendment) Act, 1909, shall apply to the costs of proceedings referred to in that section to the extent therein stated.

19. (1) Any order of the court for payment of money as costs or otherwise shall be conclusive upon the parties, and have the force of a judgment in the Supreme Court at common law. Enforcement of order for payment of money.

(2)

Land and Valuation Court.

(2) The party in whose favour any such order is finally made may obtain from the registrar a certificate of the amount due thereunder, and, upon production thereof to the Prothonotary, shall be entitled to have
 5 judgment entered thereon without any judge's order, and to have execution for such amount and costs issued and enforced in the same way as may be done upon judgments at common law :

Provided that where a deposit has been made by an
 10 appellant, the same shall be available in payment or part payment of any sum he may be ordered to pay, and the balance, if any, shall be returned.

20. (1) The judge may make rules to regulate the
 procedure of the court, and generally as to all matters
 15 necessary or convenient for giving effect to the provisions of this Act. Power to make rules.

(2) Such rules upon being published in the Gazette shall be binding upon the court and the parties to any proceeding therein.

20 (3) A copy of such rules shall be laid before both Houses of Parliament within fourteen days after publication, if Parliament is then in session, and if Parliament is not then in session, within fourteen days after the commencement of the next session.

25 (4) If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after such rules have been laid before such House, disallowing any rule or part thereof, such rule or part thereof shall thereupon cease
 30 to have effect.

21. Section eighteen of the Closer Settlement Act, 1904, as amended by section seven of the Closer Settlement (Amendment) Act, 1909, is further amended by
 omitting subsections three, four, five, and six and
 35 by inserting after subsection two the following new subsection :—

(3) Such appeal shall be heard by the Land and Valuation Court constituted by the Land and Valuation Court Act, 1921.

40 **Section ten of the Closer Settlement (Amendment) Act, 1907, is amended by omitting all the words after the expression "Principal Act."**

22.

Land and Valuation Court.

22. Sections twenty-one and twenty-two of the Crown Lands Consolidation Act, 1913, and the Fifth Schedule to the said Act, are repealed with the exception of the following words in subsection two of section 5 twenty-two:—"The Land Appeal Court shall have power to hear and determine all appeals and all matters referred to such court by the Minister or by a local land board."

Amendment of
Crown Lands
Consolidation
Act, 1913.

23. The Valuation of Land Act, 1916, is amended 10 as follows:—

Amendment of
Valuation of
Land Act, 1916.

(1) By omitting section thirty-seven, and substituting therefor the following new section:—

Sec. 37.

15 37. The valuer-general shall, when objections to valuations in respect of land in any district or group of adjacent districts have been received by him, forward such objections to the registrar of the Land and Valuation Court as constituted by the Land and Valuation Court Act, 1921, for hearing and determination by that court;

Valuer-general shall forward objections to the registrar of court.

20 (2) by omitting section thirty-eight, and substituting therefor the following new section:—

Sec. 38.

25 38. The Land and Valuation Court as constituted by the Land and Valuation Court Act, 1921, shall be the valuation court for the purpose of this Act;

Land and
Valuation
Court.

(3) by omitting section forty;

Sec. 40.

(4) by omitting section forty-one;

Sec. 41.

30 (5) (a) by omitting in section forty-two the words "upon the appointment of any court" and the words "before such appointment";

Sec. 42.

(b) by omitting in the same section the word "clerk" wherever occurring, and substituting therefor the word "registrar";

35 (c) by omitting in the same section the words "the president of the court" and substituting therefor the words "the judge of the court";

(6) by omitting section forty-four;

Sec. 44.

40 (7) by omitting section forty-five;

Sec. 45.

(8) by omitting section forty-six.

Sec. 46.

24.

Land and Valuation Court.

24. The Local Government Act, 1919, is amended as follows:—

Amendment of
Local Govern-
ment Act, 1919.

- (1) By omitting subsection three of section one hundred and thirty-three, and substituting therefor the following new subsection:—
- 5 (3) Where the valuation of the unimproved capital value of the land does not exceed five thousand pounds the appeal shall be made to the nearest court of petty sessions, and where
- 10 such valuation exceeds five thousand pounds the appeal shall be made to the Land and Valuation Court as constituted by the Land and Valuation Court Act, 1921;
- (2) (a) by omitting in subsection four of section one hundred and thirty-three the words
- 15 “the district court” and substituting therefor the words “the Land and Valuation Court”;
- (b) by omitting in the same subsection the words “ten thousand pounds” and substituting therefor the words “five thousand pounds”;
- 20 (3) by omitting subsection seven of section one hundred and thirty-three, and substituting therefor the following new subsection:—
- 25 (7) Any person dissatisfied with the decision of any court of petty sessions as being erroneous in point of law may appeal therefrom to the Supreme Court in the manner provided for appeals from the determinations of justices in the exercise of their summary jurisdiction, and subject thereto the decision of such court shall be final and conclusive;
- 30 (4) (a) by omitting in subsections three and four of section one hundred and seventy-one the words “the district court” and substituting therefor the words “the Land and Valuation Court”;
- 35 (a b) by omitting in paragraph (a) of subsection one of section nineteen of Schedule Three the figures “£10,000” and substituting therefor the figures “£5,000”; (b)
- 40

Land and Valuation Court.

(b c) by omitting paragraph (b) of the same subsection, and substituting therefor the following new paragraph :—

5 (b) the Land and Valuation Court
where the valuation exceeds £5,000;

(5) by omitting subsection three of section nineteen of Schedule Three and substituting therefor the following new subsection :—

10 (3) Except where the unimproved capital
value as stated in the valuation notice does
not exceed £500, a valuation court may
make such order as it thinks fit for payment
of the costs of any objection, and the order
shall be enforceable as an order made by the
15 Land and Valuation Court, or as a judgment
under the Small Debts Recovery Act, 1912,
as the case may be;

(6) by omitting subsection five of section nineteen of Schedule Three;

20 (7) by omitting section twenty of Schedule Three
and substituting therefor the following new
section :—

25 (20) Any person dissatisfied with the decision
of any court of petty sessions as being erroneous
in point of law may appeal therefrom to the
Supreme Court in the manner provided for
appeals from the determinations of justices in
the exercise of their summary jurisdiction, and
subject thereto the decision of such court shall
be final and conclusive;

30 (8) by omitting paragraph (f) of section twenty-
three of Schedule Three.

25. **26.** The Sydney Corporation Act, 1902, is amended
as follows :—

35 (1) By omitting sections one hundred and fourteen,
one hundred and fifteen, and one hundred and
sixteen;

(2) by inserting after section one hundred and
thirteen the following new section :—

40 114. (1) Where the valuation of the unim-
proved capital value of the ratable property,
the

Appeals to
Supreme
Court.
cf. L.G. Act,
1906, s. 140.

Amendment of
Sydney
Corporation
Act, 1902.
Secs. 114,
115, 116.

New s. 114.

Hearing of
appeal.

Land and Valuation Court.

5 the subject of the assessment, does not exceed five thousand pounds, such appeal may be made to the nearest court of petty sessions, and where such valuation exceeds five thousand pounds, such appeal may be made to the Land and Valuation Court as constituted by the Land and Valuation Court Act, 1921.

10 (2) The person appealing shall, within the time mentioned in section one hundred and thirteen, give notice in writing of his intention to appeal, stating the grounds of such appeal to the clerk of the court of petty sessions or to the registrar of the Land and Valuation Court, as the case may require.

15 (3) Notice of the time when and of the place where the said courts will sit for the hearing of appeals shall be published in the Gazette and in one or more newspapers at least seven clear days before the time appointed for the hearing of appeals by such courts respectively.

20 (4) No appeal shall be entertained unless notice of appeal has been given as required by section one hundred and thirteen.

25 (5) An appellant may appear at the hearing of an appeal under this section by counsel, solicitor, or agent authorised in writing.

30 (6) The court hearing the appeal may confirm or alter the assessment, but the same shall not be reduced in amount by reason of the property assessed having decreased in value subsequently to the making of the assessment appealed from.

35 (7) Any person dissatisfied with the decision of any court of petty sessions as being erroneous in point of law may appeal therefrom to the Supreme Court in the manner provided for appeals from the determination of justices in the exercise of their summary jurisdiction.

(3)

Land and Valuation Court.

- 5 (3) By omitting in section one hundred and seventeen, as amended by section five of the Sydney Corporation Amendment Act, 1905, the words "by the district court" and substituting therefor the words "by the Land and Valuation Court."

10 **26.** Section ten of the Western Lands (Amendment) Act, 1918, is amended by omitting the words "by a district court judge appointed for the purpose by the Governor," and substituting therefor the words "by the Land and Valuation Court constituted by the Land and Valuation Court Act, 1921." Amendment of Western Lands (Amendment) Act, 1918.

Land and Valuation Court

(2) By amending the section, as amended by section five of the act, approved April 1905, and substituting therein the words "by the district court, and substituting therefor the words "by the Land and Valuation Court."

36. Section ten of the Western Land (Amendment) Act, 1914, is amended by adding the words "by a district court judge appointed for the purpose by the Governor," and substituting therefor the words "by the Land and Valuation Court Act, 1917," and a shall read: "The Land and Valuation Court, established by the Governor."

37. Section eleven of the Western Land (Amendment) Act, 1914, is amended by adding the words "by a district court judge appointed for the purpose by the Governor," and substituting therefor the words "by the Land and Valuation Court Act, 1917," and a shall read: "The Land and Valuation Court, established by the Governor."

38. Section twelve of the Western Land (Amendment) Act, 1914, is amended by adding the words "by a district court judge appointed for the purpose by the Governor," and substituting therefor the words "by the Land and Valuation Court Act, 1917," and a shall read: "The Land and Valuation Court, established by the Governor."

39. Section thirteen of the Western Land (Amendment) Act, 1914, is amended by adding the words "by a district court judge appointed for the purpose by the Governor," and substituting therefor the words "by the Land and Valuation Court Act, 1917," and a shall read: "The Land and Valuation Court, established by the Governor."

40. Section fourteen of the Western Land (Amendment) Act, 1914, is amended by adding the words "by a district court judge appointed for the purpose by the Governor," and substituting therefor the words "by the Land and Valuation Court Act, 1917," and a shall read: "The Land and Valuation Court, established by the Governor."

41. Section fifteen of the Western Land (Amendment) Act, 1914, is amended by adding the words "by a district court judge appointed for the purpose by the Governor," and substituting therefor the words "by the Land and Valuation Court Act, 1917," and a shall read: "The Land and Valuation Court, established by the Governor."

42. Section sixteen of the Western Land (Amendment) Act, 1914, is amended by adding the words "by a district court judge appointed for the purpose by the Governor," and substituting therefor the words "by the Land and Valuation Court Act, 1917," and a shall read: "The Land and Valuation Court, established by the Governor."

Land and Valuation Court Bill.

THE undermentioned Acts are being amended so that appeals or claims for compensation will be dealt with by the Land and Valuation Court:—

Crown Lands Consolidation Act, 1913.

Closer Settlement Act, 1904.

Valuation of Land Act, 1916.

Local Government Act, 1919.

Public Works Act, 1900.

Sydney Corporation Act, 1902.

Western Lands (Amendment) Act, 1918.

For the information of hon. members the sections of the Acts which are being repealed or amended are herewith, except the Public Works Act, which is referred to in clause 9 of the Bill. If necessary, reference might be made to sections 97 to 100 of the Public Works Act, 1900.

Note particularly that appeals against valuations under the Local Government Act will still be dealt with by the local court of petty sessions where the unimproved value of the property does not exceed £5,000.

Sections of the Closer Settlement Acts which are being amended.

Closer Settlement Act, 1904, as amended by the Closer Settlement (Amendment) Act, 1909.

18. (1) The valuation of the land and improvements, as reported by the Closer Settlement Board, shall, subject to appeal as hereinafter provided, be the purchase price thereof.

(2) If the owner or mortgagee be dissatisfied with such price, either or both may, within twenty-eight days of the notification of resumption as in this Act provided, lodge with the Minister a notice of appeal on the prescribed form.

(3) Such appeal shall be heard by a Court consisting of one of the Judges of the Supreme Court, appointed for the purpose by the Governor within fourteen days of such notice of appeal, and two assessors, one of whom shall be appointed by the Governor, and the other by the appellant within the aforesaid period.

(4) The decision of the said Judge and one of such assessors as to price shall be final, whether such price be greater or less than the Closer Settlement Board's reported valuation.

(5) Where a Judge has been appointed for the purposes of this section the Governor may, in the case of the death, illness, incapacity, or absence, of such Judge, or at the request of the Chief Justice, or for any other reasonable cause, at any time appoint in the place of the Judge first mentioned any other Judge of the Supreme Court. The Judge so appointed shall have the powers and authorities of a Judge appointed in pursuance of this section.

(6) Where an assessor appointed under this section dies or becomes incapable of acting in his office, the Governor or the appellant, as the case may be, may at any time appoint any person to be assessor in the place of the assessor who has died or become incapable of acting as agreed. The person so appointed shall have the powers of an assessor appointed in pursuance of this section.

The subclauses (3), (4), (5), and (6) are being repealed by clause 21 of the Land and Valuation Court Bill, and the following is being substituted therefor:—

(3) Such appeal shall be heard by the Land and Valuation Court constituted by the Land and Valuation Court Act, 1921.

The new court will replace the Court of Appeal provided under the Closer Settlement Acts.

Sections of the Crown Lands Consolidation Act, 1913, which are being repealed.

Land Appeal Court.

21. There shall be a Land Appeal Court, which shall be a court of record, and have an official seal.

The said court shall consist of three members, who shall be appointed by the Governor; and in the absence through illness or otherwise of any member, the Governor may appoint any person to act temporarily as member.

It shall be lawful for the Governor to remove any member of the Land Appeal Court for inability or misbehaviour, provided that twenty-one days at least before the removal of such member he shall have notice of the intention to remove him, and he shall thereafter and before removal have the opportunity of being heard before the Governor and the Executive Council in his defence.

The Governor shall appoint one of the members of the Land Appeal Court to be President, and in his absence through illness or other sufficient reason any member may be authorized by the Governor to act temporarily as President, who, while so acting, shall have and exercise all the powers and authorities, and be subject to all the obligations, applicable to the office of President.

There shall be paid to the President of the Land Appeal Court the annual salary of two thousand pounds; and to each of the other members of the court (who shall be designated "Commissioners of the Land Appeal Court") the annual salary of one thousand pounds. And such salaries are hereby charged on the Consolidated Revenue Fund, which, to the extent required for the payment thereof, is hereby permanently appropriated.

General powers and procedure of Land Appeal Court.

22. The following provisions shall be applicable to the Land Appeal Court and its proceedings:—

(1) The President shall preside at all meetings of the court.

A majority of the members of the Land Appeal Court shall constitute a quorum.

Any member who shall sit or act in any case in which he is or has been directly or indirectly interested shall be liable to a penalty not exceeding five hundred pounds.

(2) The Land Appeal Court shall have power to hear and determine all appeals, and all matters referred to such court by the Minister or by a local land board (whether lodged or referred before or after the passing of this Act); and such appeals and matters shall, after the prescribed notice has been given to the parties, and at such times and places as the Land Appeal Court may appoint, be heard and determined in open court.

(3) All parties may be heard by counsel attorney or agent.

The Crown may, without having appeared before the local land board given notice of reference or taken any preliminary step other than may be prescribed by the rules of the Land Appeal Court, appear as a party in all proceedings in which its rights in interests or revenues may be concerned.

(4) The Land Appeal Court may at all times amend any defect or error in any notice of appeal reference notice to state a case or other proceeding before it, and may permit any omission therefrom to be supplied, and may also make all such amendments as might have been permitted by the local land board.

All such amendments may be made with or without costs, and upon such terms, as the Land Appeal Court deems fit.

(5) Whenever any question of law shall arise in a case before the Land Appeal Court, the Land Appeal Court shall, if required in writing by any of the parties within the prescribed time and upon the prescribed conditions, or may of its own motion, state and submit a case for decision by the Supreme Court thereon, which decision shall be conclusive. Every such case shall purport to be stated under this section, and shall state the names of the persons who are parties to the appeal reference or other proceeding, and shall be transmitted to the Prothonotary of the Supreme Court to be dealt with as to the setting down of the case for argument, and the hearing of the same, and its return with the decision of the Supreme Court thereon, as the Judges, or any two of them, shall direct. The Supreme Court for the purposes of this subsection may consist of two Judges only, and shall have power to deal with the costs of and incidental to any case stated under this subsection as it may think fit.

(6) The decision of the Land Appeal Court upon any appeal or reference shall, subject to the provisions of the last preceding subsection and of section one hundred and sixty-six hereof, be final and conclusive.

The Land Appeal Court may make such orders for the payment of costs incurred in appeals or references as it may think fit.

(7) Where the Land Appeal Court shall make any order or award for the payment of money, whether as costs or otherwise, the said order or award shall, save as provided in section one hundred and sixty-six hereof, be conclusive upon the parties, and have the force of a judgment of the Supreme Court at common law; and the party in whose favour any such order or award may have been finally or ultimately made may obtain a certificate of the amount due thereunder, which certificate shall be conclusive evidence of the facts therein stated, and he shall, upon production thereof to the Prothonotary, be entitled to have judgment entered up thereon without any Judge's order to that effect, and to have execution for such amount and costs issued and enforced in the same way as may be done upon judgments at common law:

Provided that in any case in which a deposit has been made by an appellant the same shall be available in payment or part payment of any sum which he may be ordered to pay, and the surplus, if any, shall be returned.

(8) It shall be lawful for the President, or in his absence any member of the Land Appeal Court, to summon and compel the attendance of any person, and to examine him, or allow him to be examined, upon oath, and to cause his examination to be reduced to writing and signed by him, and to require him to produce any document relating to the matter in question in his possession or control.

(9) Any summons or other process issuing out of the Land Appeal Court shall have the same force and effect as if issued out of the Supreme Court in any matter pending therein.

The Land Appeal Court shall have the same powers of dealing with witnesses who fail to appear when called, or refuse to answer questions, or otherwise misconduct themselves, and for repressing disorders or punishing contempts committed in the face of the said court, as are possessed by the Supreme Court or any Judge thereof upon the hearing of any cause or matter within the jurisdiction of the said Court.

Any warrant to apprehend and to detain and bring before the Land Appeal Court, or to keep in any gaol prison lock-up or other place of detention, any person liable upon the order of the Land Appeal Court to be so dealt with shall be valid and sufficient if it be in the form appropriate thereto contained in the Fifth Schedule to this Act or to the effect thereof; and the sheriff, his deputy and assistants, and all officers of the police force, and gaolers, to whom the same shall be addressed shall obey the same:

Provided that no such warrant shall be issued against a person who fails to appear as a witness when called, unless it be proved to the satisfaction of the Land Appeal Court that he has been duly served with a summons, and that payment or tender of his reasonable expenses has been made to him.

(10) No fresh evidence shall be adduced before the Land Appeal Court except with the sanction of such court.

If in any case it shall appear to the Land Appeal Court—

- (a) that any evidence tendered before such court ought to be taken before the local land board—or
- (b) that further evidence ought to be taken before the local land board—or
- (c) that the case is incomplete—or
- (d) that any case or matter has been improperly or insufficiently considered or determined by the local land board—

the Land Appeal Court may remit the case to the local land board for such action as may be directed, and the local land board, after taking such action, may uphold reverse alter or amend its previous decision in any way that may be considered necessary.

(11) The Land Appeal Court may remit to the local land board any case in which an order has been made by the Land Appeal Court, with a direction to the local land board to enforce or carry out such order, and thereupon the local land board shall be empowered and bound to act accordingly.

(12) It shall be lawful for the Governor to appoint a registrar of the Land Appeal Court and other necessary officers, who shall be paid such salaries as may from time to time be approved.

The registrar shall have the custody of the official seal of the court and of its records, and shall sit in the court, and keep and sign minutes of the court's proceedings, and make a report of the court's decision in each case to the Minister.

The registrar shall have power to seal with the official seal, and to sign and issue in the name of the court, summonses certificates orders notices and other documents; and the registrar shall perform the various matters and things in respect of which powers are hereinbefore conferred upon him, or which by any rule in that behalf made as hereinafter provided he may be ordered to do.

Any duties imposed or powers conferred upon the registrar as aforesaid may, in his absence or inability to act, be discharged or exercised by any person provisionally appointed as deputy registrar by the President or acting president of the Land Appeal Court.

(13) All courts of law and equity shall take judicial notice of the seal of the Land Appeal Court, and of the signature of the President acting president registrar or deputy registrar, when attached to any document issuing out of the said court.

(14) For the purpose of regulating proceedings before the Land Appeal Court, it shall be lawful for the Governor to make rules for the time and mode of procedure, and for the general practice of such court, which shall, upon being published in the Gazette, be binding upon such court and upon the parties to any proceedings therein, as the rules of the Court of Equity are binding upon that court and the parties suing therein: Provided that a copy of all such rules shall be laid before both Houses of Parliament within fourteen days after the publication thereof if Parliament be then in session, or otherwise within fourteen days after the commencement of the next ensuing session.

These are the sections (21 and 22) of the Crown Lands Consolidation Act, 1913, which provide for the Land Appeal Court, and which are being repealed by the Land and Valuation Court Bill. See clause 22. See also clause 3 dissolving the Land Appeal Court, and clause 4 constituting the Land and Valuation Court.

FIFTH SCHEDULE.

In the Land Appeal Court of New South Wales.

To the Sheriff of New South Wales, his deputy and assistants, and to all officers of the Police Force of New South Wales [and to the keeper of the gaol, prison, or lock-up at _____].

It having this day appeared to the Land Appeal Court sitting at _____ that A.B., of _____, having been duly served with a summons to attend and give evidence before the said court in the matter of [here state the nature of the proceedings], and having had tender or payment of his reasonable expenses duly made to him has failed to appear when called. These are therefore to command you forthwith to apprehend the said A.B. and to detain him in custody and bring him before the said court to abide the further order of the said court.

Given under my hand this _____ day of _____, 19____, at _____ aforesaid.

C.D., President.

(or) E.F., Acting-President.

(or) It having this day appeared to the Land Appeal Court sitting at _____ that A.B., of _____, has on the hearing of a certain matter [here state the nature of the proceedings] refused to make oath or declaration in lieu of an oath before the said court (or) to answer a certain question (or) to produce a certain document within his possession or control (or) to sign his examination reduced to writing (or) &c., &c., being lawfully required by the said court so to do, and such refusal being without lawful cause or excuse (or) that A.B., of _____ has obstructed the business of the said court (or) has committed a contempt in face of the said court (or) &c., &c. These are therefore to command you the said Sheriff and all the said officers as aforesaid to apprehend the said A.B., and to detain and convey him to the said gaol, &c., and to deliver him to the said keeper thereof, together with this warrant; and you the said keeper to receive him into your custody in the said gaol, &c., and him there safely to keep until the said A.B. shall have signified to the Land Appeal Court his submission to make the said oath or declaration (or) &c., and the further order of the said court in the premises shall have been made known to you under my hand (or) until the term of _____ days from the date hereof shall have expired (or) until a fine of £ _____ shall have been paid (or) until the said A.B. shall have been otherwise discharged in the due course of law.

Given under my hand this _____ day of _____, 19____, at _____ aforesaid.

C.D., President.

(or) E.F., Acting-President.

This is the Form of Warrant prescribed by subsection nine of section twenty-two of the Crown Lands Consolidation Act, 1913, which is being repealed by this Bill. This form will no longer be required.

Sections of the Valuation of Land Act, 1916, which are being repealed or amended.

PART IV.

VALUATION COURT.

37. The valuer-general shall, when objections to valuations in respect of land in any district or group of adjacent districts have been received by him, apply to the Attorney-General for the appointment of a valuation court for such district or group.

38. (1) The Governor, on the recommendation of the Attorney-General, may from time to time appoint for any district, or group of districts, a valuation court, to have jurisdiction as to any objections made before the appointment of the court in respect of land within such district or group of districts.

(2) A valuation court shall consist of a District Court Judge, or where a court is constituted in respect of land in the Western Division shall consist of a District Court Judge (who shall preside) and the chairman and one member of the Commission appointed under the Western Lands Act, 1901.

(3) A member of a valuation court shall not on account solely of his liability to be taxed or to pay rates under any Act for the time being in force be deemed to be interested in any matter on which he may be called upon to adjudicate or determine.

NOTE.—Vide clause 23 of the Bill. These sections are being repealed and new sections are being inserted providing for the hearing of objections by the Land and Valuation Court.

40. Such court shall sit at some place of petty sessions or district court, as the president may decide, convenient to such district or group of districts, but not necessarily within it, at such times and in such offices as he may, subject to any regulations in that behalf, decide, and may adjourn such sittings to another time and place: and the Attorney-General shall appoint the clerk of such court.

NOTE.—Vide clause 7 of the Bill. The court will sit at such places as the Judge directs.

41. Such court shall have all the powers of a district court for summoning witnesses, ordering the production of documents, examining witnesses, and committing for contempt; and shall not be bound by the forms of law in the conduct of its proceedings.

NOTE.—Vide clause 14 of the Bill. The Judge will have the powers, rights, &c., vested in the Supreme Court in regard to these matters.

42. (1) The valuer-general shall, upon the appointment of any court, furnish to the clerk registrar of such court a list of the objections lodged before such appointment; and such clerk registrar shall give notice of the date fixed for the hearing of objections to each objector, to the valuer-general, and to the official valuer for the district.

(2) ~~The president of the court~~ **The judge of the court** shall enter on the said list a record of all decisions given by such court and shall initial all such entries. The clerk registrar of the court shall furnish to the valuer-general a certified copy of such list, and the valuer-general shall amend the roll in accordance with such list.

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44. ~~The decision of the valuation court shall be final.~~

45. The valuation court may make such order as it thinks fit for the payment of costs, and such order shall be enforceable as and be deemed to be a judgment of the district court named in any such order.

46. The last preceding section shall not apply to appeals in respect of valuations in which the unimproved value of the land as appearing on the valuation roll does not exceed five hundred pounds.

Section 42 of the Valuation of Land Act is being amended as indicated; the words ruled through are being omitted and the words printed in heavy type inserted.

Sections 44, 45, 46 of the Valuation of Land Act are being repealed. Vide clause 23 of the Bill.

Amendments being made in the Local Government Act by clause 24.

133. (1) This section shall not apply in any area until valuations are furnished to the council of that area under the Valuation of Land Act, 1916.

(2) Within thirty days after the prescribed notice to pay any rate on any land has been served in accordance with this Act any person holding any estate or interest in the land may appeal against the levying of the rate thereon, on the ground that the land is not ratable or that it is not ratable to any particular rate.

(3) The appeal may where the valuation of the unimproved capital value of the land does not exceed ten thousand pounds be made to the nearest court of petty sessions, and where the valuation does exceed the said sum may be made to the nearest district court.

(4) Where an appeal is so made to the district court **Land and Valuation Court** the person appealing may also appeal to the said court in respect of any other lands in which he holds any estate or interest, although the valuation thereof does not exceed ~~ten thousand pounds~~ **five thousand pounds**.

(5) Such court may hear and determine the question.

(6) Any appellant may appear at the hearing of an appeal under this section by his counsel, solicitor, or agent, provided that such agent is authorised by the appellant in writing.

(7) Any person dissatisfied with the decision of any such court as being erroneous in point of law may appeal therefrom to the Supreme Court in the manner provided for appeals from the district court or from the determinations of justices in the exercise of their summary jurisdiction, as the case may be.

Vide clause 24 of the Land and Valuation Bill. Provision is made for appeals against valuations being heard by the Land and Valuation Court where the unimproved capital value exceeds £5,000.

Where the value does not exceed £5,000 the appeal is to be heard by the nearest court of petty sessions. As to this, note the proposed amendment of Schedule Three.

Local Government Act.

SCHEDULE THREE.

19. (1) The Valuation Court for the purposes of this Schedule shall be—

(a) the nearest court of petty sessions—where the valuation of the unimproved capital value of the land does not exceed ~~£10,000~~ **£5,000**; and

(b) ~~the nearest district court—where the valuation of the unimproved capital value of the land does exceed £10,000.~~

(b) **the Land and Valuation Court where the valuation exceeds £5,000.**

(2) The Valuation Court shall hear and determine all objections duly lodged, and if it upholds any objection it shall make such order as it deems necessary for giving effect thereto, and in particular may—

(a) alter any valuation to such amount as it deems proper;

(b) direct that lands be included in one valuation, and determine the amount of such inclusive valuation, or in lieu thereof direct that an inclusive valuation be made;

(c) direct that lands be not included in one valuation, and determine the amount of the separate valuations, or in lieu thereof direct that separate valuations be made;

(d) determine the correct apportionment of any valuation;

(e) direct that the name of the objector be struck out of any valuation on the ground that he is not a ratable person in respect of the land;

(f) direct that the valuation be struck out on the ground that the land is not ratable or declare that the land is not ratable to a particular rate.

(3) Except where the unimproved capital value as stated in the valuation notice does not exceed £500, a valuation court may make such order as it thinks fit for the payment of the costs of any objection, and the order shall be enforceable as and be deemed to be a judgment within the meaning of the District Courts Act, 1912, or the Small Debts Recovery Act, 1912, as the case may be.

(3) Except where the unimproved capital value as stated in the valuation notice does not exceed £500, a valuation court may make such order as it thinks fit for payment of the costs of any objection, and the order shall be enforceable as an order made by the Land and Valuation Court, or as a judgment under the Small Debts Recovery Act, 1912, as the case may be.

(4) An objector may appear at a valuation court personally or by counsel or solicitor, or by an agent authorised by the objector in writing.

(5) Subject to the provisions of this Act the decision of a valuation court shall be final and conclusive.

20. (1) Any person dissatisfied with the decision of a valuation court as being erroneous in point of law with relation to—

- (a) the principle on which any objection should be determined; or
- (b) the question whether the objector is a ratable person in respect of the land; or

20. Any person dissatisfied with the decision of any court of petty sessions as being erroneous in point of law may appeal therefrom to the Supreme Court in the manner provided for appeals from the determinations of justices in the exercise of their summary jurisdiction, and subject thereto the decision of such court shall be final and conclusive.

Sections of the Sydney Corporation Act, 1902, which are being amended.

114. (1) Such appeal shall be heard at a special sitting of the Metropolitan District Court to be holden not earlier than fourteen nor later than thirty days after the last day upon which notice of appeals may be lodged as hereinbefore provided, and notice of the time and place where such Court will be holden shall be published in the Gazette and in one or more newspapers at least seven clear days before the holding thereof.

(2) After hearing the appellant, or his agent duly authorised in writing in that behalf, the Judge may confirm or alter the assessment, but the same shall not be reduced in amount by reason of the premises so assessed having decreased in value subsequently to the making of the assessment appealed against.

(3) The determination of the Judge on the hearing of every such appeal shall be final and conclusive as to the amount of such assessment.

(4) Any person feeling dissatisfied with the determination of the Judge as to the principle of such assessment, may appeal to the Supreme Court, provided that he lodges a written notice of his appeal within fourteen days after such determination.

(5) The Supreme Court may make such order in the matter of the appeal as seems just, which order, if directed to the registrar of the District Court shall be carried out by him.

(6) The provisions of the District Courts Act, 1901, except so far as the right of appeal is thereby made to depend on the amount claimed, and the general rules thereunder in force for the time being relating to appeals to the Supreme Court, shall, subject to the provisions of this Act, govern and regulate all appeals permitted to the Supreme Court by this section.

115. (1) No appeal to the District Court shall be entertained unless such notice has been given as aforesaid.

(2) If, on the hearing of any such appeal, the Judge is of opinion that the same is frivolous and vexatious he may award such costs not exceeding two pounds, as he may think fit, against the appellant, which may be recovered by the town clerk in the same way as costs in any action in the District Court.

116. (1) In addition to the foregoing right of appeal against any assessment, any occupier or owner may appeal against the assessment for the time being on his property to the first Court holden in every year at the Metropolitan District Court, provided that he gives the town clerk fourteen days' notice in writing before the sitting of such Court of his intention to appeal.

(2) Such appeals shall be heard and determined according to the provisions relating to appeals hereinbefore contained, and the necessary alterations in the assessment books shall be made as herein provided.

For proposed new section, see clause 25 of the Land and Valuation Court Bill.

Amendment of Western Lands (Amendment) Act, 1918.

10. The Minister or the lessee if dissatisfied with the determination of the commissioners may appeal as prescribed, and such appeal shall be heard by a district court judge appointed for the purpose by the Governor by the Land and Valuation Court constituted by the Land and Valuation Court Act, 1921.

Section 9 of the Western Lands Amendment Act, 1918, provides for the withdrawal of land from leases in the land district of Walgett North only, and for the assessment by the Western Lands Commissioners of compensation. Section 10 of that Act provides for appeal to a district court judge. This Bill provides that such appeal shall be heard by the Land and Valuation Court.

The Department of the Interior has been advised by the Bureau of Land Management that the following lands are available for disposal:

1. A certain tract of land in the County of ... State of ... containing ... acres, more or less, as shown on the map attached hereto.

2. A certain tract of land in the County of ... State of ... containing ... acres, more or less, as shown on the map attached hereto.

3. A certain tract of land in the County of ... State of ... containing ... acres, more or less, as shown on the map attached hereto.

4. A certain tract of land in the County of ... State of ... containing ... acres, more or less, as shown on the map attached hereto.

5. A certain tract of land in the County of ... State of ... containing ... acres, more or less, as shown on the map attached hereto.

6. A certain tract of land in the County of ... State of ... containing ... acres, more or less, as shown on the map attached hereto.

7. A certain tract of land in the County of ... State of ... containing ... acres, more or less, as shown on the map attached hereto.

8. A certain tract of land in the County of ... State of ... containing ... acres, more or less, as shown on the map attached hereto.

9. A certain tract of land in the County of ... State of ... containing ... acres, more or less, as shown on the map attached hereto.

10. A certain tract of land in the County of ... State of ... containing ... acres, more or less, as shown on the map attached hereto.

11. A certain tract of land in the County of ... State of ... containing ... acres, more or less, as shown on the map attached hereto.

This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

W. S. MOWLE,
Clerk of the Legislative Assembly.
Legislative Assembly Chamber,
Sydney, 18 November, 1921, A.M.

New South Wales.



ANNO DUODECIMO

GEORGII V REGIS.

Act No. , 1921.

An Act to provide for the dissolution of the Land Appeal Court ; to provide for the constitution of a Land and Valuation Court, and to define the jurisdiction, powers, and procedure of such court ; to amend the Crown Lands Consolidation Act, 1913, and certain other Acts ; and for purposes connected therewith.

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

1. This Act may be cited as the “ Land and Valuation Court Act, 1921.”

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2.

Land and Valuation Court.

2. In this Act, unless the context otherwise Definitions.
requires,—

“Court” means the Land and Valuation Court constituted by this Act.

5 “Crown Lands Acts” means the Crown Lands Consolidation Act, 1913, and any Acts amending the same.

“Judge” means the judge of the court.

10 “Land Appeal Court” means Land Appeal Court as constituted by the Crown Lands Acts.

“Land board” means local land board under the Crown Lands Acts.

“Prescribed” means prescribed by this Act, or by rule made thereunder.

15 **3.** (1) Upon the passing of this Act the Land Appeal Court shall be dissolved, the appointment of the members of the said court shall terminate, and the jurisdiction and powers of the said court shall cease and determine, except as to things done or commenced before the passing
20 of this Act, which shall respectively be continued and dealt with under this Act.

Dissolution of
Land Appeal
Court, and
savings.

(2) Any reference to the Land Appeal Court in the Crown Lands Acts, the Closer Settlement Acts, the Pastures Protection Act, 1912, the Public Roads Act,
25 1902, the Water Act, 1912, or any other Act, shall be construed as a reference to the court constituted by this Act.

(3) All decisions, determinations, orders, or directions made or given by the Land Appeal Court
30 shall be deemed to have been made or given by the court constituted under this Act:

Provided that nothing in this section shall be deemed to confer any right of appeal from any such decision, determination, order, or direction, where such right of
35 appeal would not have existed if this Act had not been passed.

(4) All rules, regulations, and notices made or given or published under the Crown Lands Acts in connection with proceedings before the Land Appeal
40 Court, and in force at the passing of this Act, shall, in

so

Land and Valuation Court.

so far as they are not inconsistent with this Act, be deemed to have been made or given or published under this Act.

(5) The registrar and other officers of the Land
5 Appeal Court holding office at the passing of this Act shall be deemed to have been appointed hereunder.

(6) All documents filed or deposited in the office
of the registrar in connection with appeals or proceedings
before the Land Appeal Court shall be handed over to
10 and filed with the court constituted under this Act.

4. (1) There is hereby constituted a court to be called
the Land and Valuation Court. It shall be a court of
record, and have an official seal, which shall be judicially
noticed. Constitution
of Land and
Valuation
Court and
appointment
of judge.

15 (2) The court shall be constituted by a judge who shall be appointed by the Governor.

(3) In case of the absence, from whatever cause,
of the judge, or of his inability to adjudicate in any
proceeding pending before the court, the Governor may
20 appoint a deputy judge. The person so appointed shall,
subject to the conditions or limitations, and for the
period specified in his appointment, have all the powers
and privileges and fulfil all the duties of the judge.

(4) The person appointed as a judge, or deputy
25 judge, shall be a Supreme Court or a district court
judge, or a practising barrister of not less than five
years standing, or a practising solicitor of not less than
seven years standing.

(5) The judge shall be removable from office in
30 the same manner and upon such grounds only as a
Supreme Court judge is by law liable to be removed
from such office.

5. (1) The judge shall have the same rank, title,
status, and precedence, and the same salary and rights
35 as judges of the Supreme Court. Salary and
rights of
judge.

(2) If the judge has served in the office of judge
for fifteen years he shall, on retiring, be entitled to an
annual pension at the rate of one-half of his salary. If
the judge retires on permanent disability or infirmity,
40 or by reason of his attaining the age of seventy years,
he shall, if he has served in such office for five years,
be

Land and Valuation Court.

be entitled on retiring to an annual pension at the rate of twenty one-hundredths of his salary, and at the additional rate of three one-hundredths of his salary for each complete year of his service after the expiration of 5 the said five years to the date of his retirement, but so that the rate of his pension shall not exceed one-half of his salary.

(3) Such salary and pension shall be charged upon and payable out of the Consolidated Revenue 10 Fund in every year.

(4) If after the assignment of such pension the judge accepts any new appointment under the Crown, such pension shall merge or be reduced pro tanto during the tenure of such appointment, according as the salary 15 or emoluments of such appointment are greater or less than such pension.

(5) The judge shall retire when he attains the age of seventy years, unless he is granted retiring leave, in which case he shall retire on the expiration of such leave.

20 **6.** (1) The Governor may upon the recommendation Appointment of the Public Service Board, appoint a registrar and of officers. such other officers of the court as may be necessary.

(2) The registrar and such other officers so appointed shall be paid such salaries as may from time 25 to time be approved, and shall be subject to the provisions of the Public Service Acts during their tenure of office.

(3) In the absence, from whatever cause, of the registrar, a person may be provisionally appointed as 30 deputy registrar, and such person while so appointed may exercise the powers and discharge the duties of the registrar.

(4) The registrar and other officers shall have such powers and perform such duties as may be 35 prescribed.

7. The court shall sit at such places as the judge shall direct. Court to sit at places directed by judge.

8. The court shall have jurisdiction to hear and determine— Jurisdiction of court.

40 (a) appeals, references, or other matters under the Crown Lands Acts, the Pastures Protection Act,

Land and Valuation Court.

- 5 Act, 1912, the Closer Settlement Acts, the Water Act, 1912, the Public Roads Act, 1902, or any other Act, in respect of which jurisdiction was conferred prior to the passing of this Act upon the Land Appeal Court, or appeals, references, or other matters which at the passing of this Act were pending before the Land Appeal Court ;
- 10 (b) objections to or appeals against valuations under the Valuation of Land Act, 1916, including objections and appeals which are pending at the passing of this Act ;
- (c) appeals under section eighteen of the Closer Settlement Act, 1904, and section ten of the
- 15 Closer Settlement (Amendment) Act, 1907 ;
- (d) objections or appeals under section one hundred and thirty-three, or Schedule Three, of the Local Government Act, 1919, or under
- 20 Part IX of the Sydney Corporation Act, 1902, or any Act amending the same (including objections or appeals which are pending at the passing of this Act), except where the unimproved capital value of the land or ratable property does not exceed five thousand pounds ;
- 25 (e) appeals under section ten of the Western Lands (Amendment) Act, 1918 :—
- Provided that upon the hearing under this section of any objection or appeal against any valuation of land, or the levying of any rate, or
- 30 the assessment of ratable property, or upon the determination under the next following section of any claim for compensation, the court may elect to sit with two assessors, who shall be appointed by the court in the manner prescribed from persons nominated as prescribed.
- 35 Such assessors shall have power to advise, but not to adjudicate in any proceeding before the court. The assessors shall be paid such fees and allowances as are prescribed.
- 40 **9. (1)** In any case in which a claim is made for compensation by reason of the acquisition of land for public purposes

Hearing of
claims for com-
pensation in
resumption
cases.

Land and Valuation Court.

purposes under the Public Works Act, 1912, or any other Act which makes provision for the resumption or compulsory acquisition of land other than the Crown Lands Acts or the Closer Settlement Acts, and no agreement is come to between the claimant and the Constructing Authority as to the amount of compensation payable, such claim shall be heard and determined in the following way, and not otherwise—

- 10 (a) where the claim does not exceed one hundred pounds, by a stipendiary or police magistrate or any two justices in petty sessions; and
(b) where the claim exceeds one hundred pounds, by the court without a jury:

15 Provided that for the purpose of any such determination the judge or magistrate or justices shall give effect to any provision of the Act, under which the land is acquired, which prescribes a basis for, or matters to be considered in, the assessment of compensation:

20 Provided further that where the claim exceeds one hundred pounds, the claim may be heard and determined in accordance with the provisions of paragraph (a) of this subsection if the claimant and the Constructing Authority consent thereto in writing.

25 (2) Notwithstanding anything contained in the Public Works Act, 1912, the compensation claimed shall not in any case be settled by arbitrators, but in every case where land is taken or acquired, either by Gazette notification or by notice to the parties, and the claim exceeds one hundred pounds, and there is no such
30 consent as aforesaid, any proceeding to determine the amount of compensation payable shall be instituted by action in the Supreme Court.

(3) After issue joined or after any interlocutory judgment, the action shall be remitted by the Prothono-
35 tary to the court for determination.

(4) Notice of the time and place appointed by the judge for the hearing of the action shall be given by the registrar to the parties or their attorneys in the manner prescribed. Provided that the judge shall not be bound
40 to appoint a place for the hearing in accordance with the venue laid in the action.

(5)

Land and Valuation Court.

(5) After such hearing the registrar shall certify to the Prothonotary the finding of the judge, and subject to the provisions of section seventeen, the finding of the judge shall be final and conclusive and subject as afore-
5 said shall be deemed to be the verdict in the action, whether for the purposes of costs or otherwise.

(6) Except as provided by this section, the practice and procedure of the Supreme Court shall apply to any such action.

10 (7) This section shall come into operation upon a date to be notified by the Governor in the Gazette, and shall apply to all matters the hearing of which has not commenced prior to the date specified in the notification.

15 **10.** All proceedings before the court shall, unless the court otherwise orders, be heard in open court. Proceedings to be heard in open court.

11. Persons entitled to appear before the court may appear in person, or may be heard by counsel, or by attorney, or by agent authorised by such person in writing. Right of audience.

20 **12.** The Crown may appear before the court in any case in which the public interest or any right or interest of the Crown may be affected or involved. Appearance by Crown.

25 **13.** (1) A summons or other process issuing out of the court shall be under the seal of the court, and shall be signed by the judge or the registrar. Issue of process and judicial notice to be taken of signature of judge and registrar.

(2) All courts shall take judicial notice of the signature of the judge, deputy judge, registrar, or deputy registrar when attached to any document issuing out of the court.

30 **14.** (1) The judge shall have all such powers, rights, and privileges as are vested in the Supreme Court or a judge thereof, in respect of the following matters:— Powers of judge as to production of evidence.

35 (a) In compelling the attendance of witnesses, and examining them on oath, affirmation, or declaration.

(b) In compelling the production, discovery, and inspection of books, documents, and writings.

40 (c) In compelling witnesses to answer questions which the judge deems to be relevant to any proceeding before him.

(d)

Land and Valuation Court.

(d) In the punishment of persons guilty of contempt, or of disobedience of any order made by the judge, or of any summons issuing out of the court.

5 (e) In directing witnesses to be prosecuted for perjury.

(2) Any warrant to apprehend and to detain and bring before the court, or to keep in any gaol or other place of detention, any person liable upon the
10 order of the court to be so dealt with, shall be valid and effectual if it be in the form prescribed, or to the effect thereof; and the sheriff, his deputy, and assistants, and all officers of the police force and gaolers, to whom the same shall be addressed, shall obey the same:

15 Provided that no such warrant shall be issued against a person who fails to appear as a witness when called, unless it be proved to the satisfaction of the court that he has been duly served with a summons, and that payment or tender of his reasonable expenses has been
20 made to him.

15. (1) In any proceeding before the court the court may allow further evidence to be given upon such terms as to costs or otherwise as the court thinks fit.

Power of court to allow further evidence to be given and to remit matters to land board.

(2) Any appeal, reference, or other matter in
25 respect of which jurisdiction was conferred prior to the passing of this Act upon the Land Appeal Court may be remitted by the court to a land board for such action as may be directed, and the land board, after taking such action, may return the matter to the court or
30 may uphold, reverse, alter, or amend its previous decision in any way that may be considered necessary, and any order made by the court may be remitted to a land board with a direction to the land board to enforce or carry out such order, and thereupon the land board
35 shall be empowered and bound to act accordingly.

16. In any proceeding before the court the court shall have power at any stage of the proceeding to order any amendments to be made which in the opinion of the court are necessary in the interests of justice, and upon
40 such terms as to costs or otherwise as the court thinks fit.

Power of amendment.

Land and Valuation Court.

17. (1) When any question of law arises in any proceeding before the court the court shall, if so required in writing by any of the parties within the prescribed time and subject to the prescribed conditions, or may of its own motion, state a case for the decision of the Supreme Court thereon.

Appeal by
case stated
to Supreme
Court.

(2) The Supreme Court for the purpose of hearing any such case may consist of two judges only, and shall have power to make such order as it thinks fit in regard to the costs of and incidental to any case so stated.

(3) The judges of the Supreme Court, or any two of them, may make rules with regard to the setting down of any case for argument, and the hearing and decision of the same, and its return with the decision of the Supreme Court thereon.

(4) The decision of the Supreme Court upon the hearing of any such case shall be binding upon the court and upon all the parties to such proceeding.

(5) Subject to the provisions of this section and of section one hundred and sixty-six of the Crown Lands Acts the decision of the court shall be final and conclusive.

18. The court shall have power to make such order as to the costs of or incidental to any proceeding before the court as it may think fit:

Costs.

Provided that the provisions of section twenty-three of the Closer Settlement (Amendment) Act, 1909, shall apply to the costs of proceedings referred to in that section to the extent therein stated.

19. (1) Any order of the court for payment of money as costs or otherwise shall be conclusive upon the parties, and have the force of a judgment in the Supreme Court at common law.

Enforcement
of order for
payment of
money.

(2) The party in whose favour any such order is finally made may obtain from the registrar a certificate of the amount due thereunder, and, upon production thereof to the Prothonotary, shall be entitled to have judgment entered thereon without any judge's order, and to have execution for such amount and costs issued and enforced in the same way as may be done upon judgments at common law:

Land and Valuation Court.

Provided that where a deposit has been made by an appellant, the same shall be available in payment or part payment of any sum he may be ordered to pay, and the balance, if any, shall be returned.

5 **20.** (1) The judge may make rules to regulate the procedure of the court, and generally as to all matters necessary or convenient for giving effect to the provisions of this Act. Power to make rules.

(2) Such rules upon being published in the
10 Gazette shall be binding upon the court and the parties to any proceeding therein.

(3) A copy of such rules shall be laid before both Houses of Parliament within fourteen days after publication, if Parliament is then in session, and if
15 Parliament is not then in session, within fourteen days after the commencement of the next session.

(4) If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after such rules have been
20 laid before such House, disallowing any rule or part thereof, such rule or part thereof shall thereupon cease to have effect.

21. Section eighteen of the Closer Settlement Act, 1904, as amended by section seven of the Closer Settlement (Amendment) Act, 1909, is further amended by
25 omitting subsections three, four, five, and six and by inserting after subsection two the following new subsection :—

(3) Such appeal shall be heard by the Land and
30 Valuation Court constituted by the Land and Valuation Court Act, 1921.

22. Sections twenty-one and twenty-two of the Crown Lands Consolidation Act, 1913, and the Fifth Schedule to the said Act, are repealed. Amendment of Crown Lands Consolidation Act, 1913.

23. The Valuation of Land Act, 1916, is amended
35 as follows :— Amendment of Valuation of Land Act, 1916.

(1) By omitting section thirty-seven, and substituting therefor the following new section :— Sec. 37.

37. The valuer-general shall, when objections to valuations in respect of land in any
40 district or group of adjacent districts have been Valuer-general shall forward objections to the registrar of court.

Land and Valuation Court.

been received by him, forward such objections to the registrar of the Land and Valuation Court as constituted by the Land and Valuation Court Act, 1921, for hearing and determination by that court;

- (2) by omitting section thirty-eight, and substituting therefor the following new section:—

33. The Land and Valuation Court as constituted by the Land and Valuation Court Act, 1921, shall be the valuation court for the purpose of this Act;

- (3) by omitting section forty ;

- (4) by omitting section forty-one ;

- (5) (a) by omitting in section forty-two the words

“upon the appointment of any court” ;

- (b) by omitting in the same section the word “clerk” wherever occurring, and substituting therefor the word “registrar” ;

- (c) by omitting in the same section the words “the president of the court” and substituting therefor the words “the judge of the court” ;

- (6) by omitting section forty-four ;

- (7) by omitting section forty-five ;

- (8) by omitting section forty-six.

24. The Local Government Act, 1919, is amended as follows:—

- (1) By omitting subsection three of section one hundred and thirty-three, and substituting therefor the following new subsection:—

(3) Where the valuation of the unimproved capital value of the land does not exceed five thousand pounds the appeal shall be made to the nearest court of petty sessions, and where such valuation exceeds five thousand pounds the appeal shall be made to the Land and Valuation Court as constituted by the Land and Valuation Court Act, 1921 ;

- (2) (a) by omitting in subsection four of section one hundred and thirty-three the words “the

Land and Valuation Court.

- “the district court” and substituting therefor the words “the Land and Valuation Court”;
- 5 (b) by omitting in the same subsection the words “ten thousand pounds” and substituting therefor the words “five thousand pounds”;
- (3) by omitting subsection seven of section one hundred and thirty-three, and substituting therefor the following new subsection:—
10 (7) Any person dissatisfied with the decision of any court of petty sessions as being erroneous in point of law may appeal therefrom to the Supreme Court in the manner provided for appeals from the determinations of justices in the exercise of their summary jurisdiction, and subject thereto the decision of such court shall be final and conclusive;
- 15 (4) (a) by omitting in paragraph (a) of subsection one of section nineteen of Schedule Three the figures “£10,000” and substituting therefor the figures “£5,000”;
- 20 (b) by omitting paragraph (b) of the same subsection, and substituting therefor the following new paragraph:—
- 25 (b) the Land and Valuation Court where the valuation exceeds £5,000;
- (5) by omitting subsection three of section nineteen of Schedule Three and substituting therefor the following new subsection:—
30 (3) Except where the unimproved capital value as stated in the valuation notice does not exceed £500, a valuation court may make such order as it thinks fit for payment of the costs of any objection, and the order shall be enforceable as an order made by the Land and Valuation Court, or as a judgment under the Small Debts Recovery Act, 1912, as the case may be;
- 35 (6) by omitting subsection five of section nineteen of Schedule Three;
- 40

(7)

Land and Valuation Court.

- (7) by omitting section twenty of Schedule Three and substituting therefor the following new section :—

5 (20) Any person dissatisfied with the decision of any court of petty sessions as being erroneous in point of law may appeal therefrom to the Supreme Court in the manner provided for
 10 appeals from the determinations of justices in the exercise of their summary jurisdiction, and subject thereto the decision of such court shall be final and conclusive ;

- (8) by omitting paragraph (f) of section twenty-three of Schedule Three.

25. The Sydney Corporation Act, 1902, is amended
 15 as follows :—

- (1) By omitting sections one hundred and fourteen, one hundred and fifteen, and one hundred and sixteen ;

20 (2) by inserting after section one hundred and thirteen the following new section :—

114. (1) Where the valuation of the unimproved capital value of the ratable property, the subject of the assessment, does not exceed five thousand pounds, such appeal may be made to the nearest court of petty sessions, and where such valuation exceeds five thousand pounds, such appeal may be made to the Land and Valuation Court as constituted by the Land and Valuation Court Act, 1921.

30 (2) The person appealing shall, within the time mentioned in section one hundred and thirteen, give notice in writing of his intention to appeal, stating the grounds of such appeal to the clerk of the court of petty sessions or to the registrar of the Land and Valuation Court, as the case may require.

35 (3) Notice of the time when and of the place where the said courts will sit for the hearing of appeals shall be published in the Gazette and in one or more newspapers at

Land and Valuation Court.

least seven clear days before the time appointed for the hearing of appeals by such courts respectively.

5 (4) No appeal shall be entertained unless notice of appeal has been given as required by section one hundred and thirteen.

10 (5) An appellant may appear at the hearing of an appeal under this section by counsel, solicitor, or agent authorised in writing.

15 (6) The court hearing the appeal may confirm or alter the assessment, but the same shall not be reduced in amount by reason of the property assessed having decreased in value subsequently to the making of the assessment appealed from.

20 (7) Any person dissatisfied with the decision of any court of petty sessions as being erroneous in point of law may appeal therefrom to the Supreme Court in the manner provided for appeals from the determination of justices in the exercise of their summary jurisdiction.

25 **26.** Section ten of the Western Lands (Amendment) Act, 1918, is amended by omitting the words "by a district court judge appointed for the purpose by the Governor," and substituting therefor the words "by the Land and Valuation Court constituted by the Land and Valuation Court Act, 1921." Amendment of Western Lands (Amendment) Act, 1918.