

No. , 1921.

A BILL

To provide for the subdivision of large holdings and for the resumption and appropriation of certain lands ; to amend certain Acts ; to provide for the imposition and payment of a tax in respect of certain areas of land ; and for purposes consequent thereon or incidental thereto.

[MR. LOUGHLIN ;—23 *November*, 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 "Large Holdings Subdivision Act, 1921." Short title.

Commence-
ment and
application.

2. This Act shall come into operation on a date to be notified by the Governor in the Gazette, but shall not apply to the Western Division or to lands within an irrigation area as defined in any Act administered by the Water Conservation and Irrigation Commission, and shall not come into operation in the land districts of Balranald South, Condobolin, Coonamble, Hay, Hillston, Moree, Nyngan, Walgett, or Warren until a date to be notified by the Governor in the Gazette. 5

Interpreta-
tion.

3. In this Act, unless the context otherwise requires, 10
the expression—

“Advisory Board” means an advisory board appointed under the Closer Settlement (Amendment) Act, 1907.

“Closer Settlement Acts” means the Closer Settlement Act, 1904, and any Acts amending the same. 15

“Crown land” means any land other than private land.

“Crown Lands Acts” means the Crown Lands Consolidation Act, 1913, and any Acts amending the same. 20

“Cultivable land” means land which in its then state can, or if improved could, be profitably used for the purposes of cultivation. 25

“District surveyor” means the district surveyor for the land district within which any holding is situate.

“Family holding” means a holding in which two or more persons who are related by blood or marriage are owners as joint tenants or tenants in common of a substantial interest. 30

“Fully improved” means improved to such an extent that the best results can be obtained from the land by applying it to the purposes for which it is reasonably adapted. 35

“Holding” means any area of private land or land held under any tenure from the Crown or partly of one and partly of the other worked as one property, and whether owned by one or more persons, or any area of such land which though not 40
not

not worked as one property is owned by one person or owned by more persons than one as joint tenants or tenants in common.

5 "Home maintenance area" means an area which if fully improved would be sufficient for the maintenance in average seasons and circumstances of an average family.

10 "Improved value" means improved value as defined in the Valuation of Land Act, 1916, and where such value has been determined under the Valuation of Land Act, 1916, means the value so determined.

15 "Land district" and "Western Division" mean land district and Western Division as defined in the Crown Lands Acts.

"Minister" means Secretary for Lands.

"Municipality" means municipality as defined in the Local Government Act, 1919.

20 "Owner" means the person in whom the fee simple or the right to obtain the fee simple of land is vested, and in the case of Crown land includes the holder or holder subject to mortgage, and in the case of private land includes the owner of the equity of redemption or the mortgagee in possession.

25 "Person" includes a company or corporation.

30 "Private land" means land the fee simple of which is not vested in His Majesty the King, or any land which is held under the Crown Lands Acts or any Act dealing with Crown lands prior thereto, and which the holder is in course of purchasing or has the right to purchase from the Crown on conditions.

35 "Town" has the same meaning as in the Local Government Act, 1919.

40 "Unimproved value" means unimproved value as defined in the Valuation of Land Act, 1916, and where such value has been determined under the Valuation of Land Act, 1916, means the value so determined.

"Urban area" means that part of a shire declared to be an urban area under the Local Government Act, 1919.

Holdings

Holdings to which the Act applies.

Holdings to which the Act applies, and exceptions.

- 4.** This Act shall apply to all holdings except—
- (a) holdings within the boundaries of any municipality or town or urban area; and
 - (b) holdings the private land on which if fully improved would not exceed in value as freehold the sum of twenty thousand pounds exclusive of the value of all buildings: **5**

Provided that, in the event of any person becoming the owner, after this Act comes into operation, of any holding on which the private land if fully improved would exceed in value as freehold the sum of twenty thousand pounds exclusive of the value of all buildings, the provisions of this Act shall apply thereto, except that the time for complying with the provisions of section six shall run from the date of his becoming such owner: **15**

Provided also that the Minister may from time to time exclude from the provisions of this Act for any period or periods any holding or part of any holding which, in the opinion of an advisory board, is being mainly used for the purpose of breeding stud sheep or cattle, or is being cultivated to its full capacity, but nothing herein contained shall be deemed to excuse any owner from complying with the provisions of section six. **20**

Holding within boundaries of municipality or town or urban area.

- 5.** A holding shall be deemed to be within the boundaries of a municipality or town or urban area, if the greater part in area of such holding is within such boundaries. **25**

Duties of owners of holdings.

Duty of owner to forward sketch as prescribed.

- 6.** (1) The owner of any holding to which this Act applies shall within three months after this Act comes into operation forward to the district surveyor a sketch showing to the best of his knowledge and ability—

- (a) the boundaries of his holding and the boundaries numbers and areas of all measured portions thereon; **35**
- (b) the character and position of all improvements which he claims as owner or in which he has tenant right;
- (c) such other information as may be prescribed. **40**

(2)

(2) The owner shall mark on such sketch the suggested acreage and position of the area which he desires to retain as the retention area. Such retention area shall consist only of private land which shall not exceed in value the sum of twenty thousand pounds, such value being computed as if the area were freehold and fully improved but exclusive of the value of all buildings:

Retention area.

Provided that the Minister may, if satisfied that any holding is a family holding, extend the retention area by an additional area of land of three thousand pounds in value computed as aforesaid for each member of the family above one who is a joint owner in the holding.

Power of Minister to extend retention area in case of family holding.

Only one retention area shall be allowed in respect of each holding, and such retention area shall be in as compact a form as possible and shall in every case include the homestead if there be one.

(3) That part of the holding other than the retention area as determined in the manner hereinafter provided shall be known as the open area; and should the owner not desire to retain any area, the open area shall include the whole holding, if the Minister, on the recommendation of an advisory board, so decides.

Open area.

(4) The owner shall furnish with such sketch a return in the prescribed form setting forth to the best of his knowledge and ability—

Duty of owner to forward declaration of value, &c.

(a) the improved and unimproved value of the private land within the open area of his holding;

(b) the value of his interest in such land;

(c) the value of the suggested retention area as if freehold and fully improved but exclusive of the value of all buildings;

(d) the area of cultivable land;

(e) the respective tenure or tenures upon which he holds all the land contained in his holding;

(f) the names and addresses of all persons interested in such land whether as beneficiaries, lessees, mortgagees, or otherwise, together with full particulars of their interests; and

(g) such other information as may be prescribed.

If

If the owner desires to have his holding or any part thereof excluded from the provisions of this Act under section four he shall set out fully the grounds of his application.

(5) The Minister may for sufficient reason extend 5
the time for complying with the provisions of this section.

Penalty for failure or neglect to supply sketch and declaration.

7. Any owner who without reasonable excuse fails or neglects to comply with the provisions of the last preceding section shall be liable to a penalty not exceeding *five* pounds for every day that he fails or 10
neglects to comply with such provisions.

Person in possession of land deemed to be owner.

8. Notwithstanding any conveyance, transfer, declaration of trust, settlement, or other disposition of land, whether made before or after the commencement of this Act, the person making the same shall, so long as 15
he remains or is in possession, or in receipt of the rents and profits of the land, be deemed (though not to the exclusion of any other person) to be the owner of the land.

Duty of district surveyor to make plan, &c.

9. Upon receipt of the sketch and return forwarded 20
by any owner the district surveyor shall prepare a plan from such sketch and note on such plan such further information as to the nature, quality, and natural features of the land, and such other information as he has in his possession, and shall forward such completed plan to the 25
chairman of an advisory board for the determination of the acreage and position of the retention area.

Should the owner of any holding fail to comply with the provisions of section six the district surveyor may prepare a plan of such holding, which for all the purposes 30
of this Act shall be deemed to have been supplied by the owner.

Determination of retention area and valuation of open area.

Determination of retention area.

10. (1) After receipt of the plan of any holding 35
from the district surveyor an advisory board shall determine the retention area of such holding, having regard to the provisions of subsection two of section six.

(2)

(2) The Minister may at any time direct such board to determine the improved and unimproved value of the land in the open area of such holding or in any part of such open area and the value of the respective estates or interests of all persons (other than the Crown) therein. The Minister may also direct such board to determine the extent and position of the cultivable land in the open area.

Value of open area or any part, and of different interests.

11. (1) Evidence may be given before an advisory board, by or on behalf of the parties concerned, in any matter coming before such board under subsection two of section ten or under section thirteen, but the chairman of the board may in his absolute discretion limit the number of witnesses to four on behalf of each party.

Power of chairman to limit number of witnesses.

15 (2) Such evidence shall be given in open court, and the procedure shall be the same as before a local land board sitting under the Crown Lands Acts; and the chairman shall have all the powers possessed by a chairman of a local land board for summoning and compelling the attendance of witnesses and enforcing the production of documents.

Procedure.

12. Where a proclamation has been made under section five of the Closer Settlement (Amendment) Act, 1907, an advisory board in determining the value of the interest of the owner or any other person in any land the subject of such a proclamation shall determine the value of the land in accordance with the provision of subsection two, paragraph (b), of that section.

Determination of value of land to be subject, in certain cases, to Closer Settlement (Amendment) Act, 1907, s. 5.

13. The Minister may at any time refer back to an advisory board any question referred to them.

Power of reference to advisory board.

Appropriation and resumption.

14. After the retention area of any holding has been determined by an advisory board the Minister may from time to time by notification in the Gazette declare that the whole or any part of the open area of such holding has been appropriated (if Crown land) or resumed (if private land). But where part only of an open area is appropriated or resumed, any such part

Power of Minister to appropriate or resume.

part or parts shall be taken with due regard to the order in which an advisory board considers will interfere least with the working of the rest of the holding. Upon the publication of such notification the lands described therein shall be vested in His Majesty the King for the purposes of this Act, the Crown Lands Acts, the Closer Settlement Acts, and the Returned Soldiers Settlement Acts for an estate in fee simple in possession, freed and discharged from all trusts, obligations, estates, interests, contracts, charges, rights-of-way or other easements whatsoever. 5 10

Gazette notification to be lodged with Registrar-General.

15. Wherever land is appropriated or resumed under this Act, a copy of the Gazette notification declaring such land to be appropriated or resumed, certified under the hand of the Minister, shall in every case be lodged with the Registrar-General, who shall, as the case may require— 15

- (a) file and record the same in the general registry of deeds; or
- (b) enter a memorial of the resumption upon the relevant folium of the register book under the Real Property Act without the production of the duplicate Crown grant or certificate of title affected thereby. 20

Notice of claim to be lodged.

16. (1) Within sixty days after the publication of such notification, or within such further time as the Minister may allow, every person claiming payment for any interest in land which has so vested shall lodge with the Minister a notice in the prescribed form setting forth the nature of his estate or interest in such land and an abstract of his title. 25 30

(2) (a) The Minister shall, after being satisfied, on the report of the Crown Solicitor, that the person claiming payment is entitled thereto, and that the land is not subject to any mortgage, encumbrance, or charge, pay to such person an amount, equal to the valuation made as hereinbefore prescribed, of his interest, and in addition interest at the prescribed rate on such amount from the date of the appropriation or resumption of such land until the date of payment hereunder. 35 40

(b)

(b) If the land immediately prior to vesting in His Majesty was subject to or formed part of the lands comprised in a mortgage, encumbrance, or charge, the amount of such valuation shall be paid by the Minister to the owner and the person entitled to such mortgage, encumbrance, or charge in such proportions as they may agree, or failing agreement the Minister may pay such amount into the office of the Master in Equity to abide the order of the Supreme Court in its equitable jurisdiction, which court may, upon the application by motion of any person entitled thereto, make such order in relation thereto or as to the costs of any such application as is just.

(3) If the land immediately prior to such vesting was held by any person not entitled to sell or convey the same, the amount of such valuation shall be paid into the office of the Master in Equity to be applied to some one or more of the purposes mentioned in subsection three of section fifty-four of the Public Works Act, 1912.

(4) Any amounts to be paid by the Minister under this section shall be paid—

(a) in cash ; or

(b) with the concurrence of the owner and mortgagee, if any, by closer settlement debentures.

For the purposes of such last-mentioned payment the Governor may issue debentures under and subject to the provisions of section 3A of the Closer Settlement (Amendment) Act, 1914, as inserted by section five of the Closer Settlement (Amendment) Act, 1916: Provided that where payment is by debentures any broken sums may be paid in cash.

(5) The receipt by the Master in Equity for any moneys paid into the office of the said Master shall be an effectual discharge to the Minister therefor, and the Minister shall not be required to see to the application thereof or to the performance of any trust.

17. The Minister may direct an advisory board to determine the improved value of any land which has been appropriated or resumed under section fourteen.

Disposal

Power of Minister to refer certain matters to chairman of advisory board.

Disposal of land.

Land to be disposed of under Closer Settlement Acts or Returned Soldiers Settlement Acts.

18. (1) Any land appropriated or resumed under this Act may, subject to the provisions hereinafter contained, be dealt with and disposed of under the provisions of the Closer Settlement Acts or the Returned Soldiers Settlement Acts, or the Crown Lands Acts, but shall not be available for the purpose of any application until a notification declaring it to be so available has been published by the Minister in the Gazette. 5

Classes of applicants for whom land may be made available.

(2) In any such notification the Minister may declare that any such lands may be dealt with and disposed of under the provisions of any of the said Acts so as to be available exclusively for one or more of the following classes of applicants:—

- (a) married men; or 15
- (b) persons who have unsuccessfully taken part in three or more Crown ballots; or
- (c) registered applicants.

(3) Any person desiring to become a registered applicant shall make application in the prescribed manner. 20

The Minister may after such inquiry as he may deem necessary cause to be issued a certificate to such person, who shall thereupon be deemed to be a registered applicant for the land district specified in the certificate. 25

Power of Minister to allow lessee or share farmer, &c., to remain in occupation in certain cases.

(4) Where at the time of appropriation or resumption any part of the land appropriated or resumed—

- (a) was held by a lessee from the then owner under a bona fide lease, made prior to the first day of November, one thousand nine hundred and twenty-one; or 30
- (b) was held by a person who was not a lessee but who held such land on terms of sharing profits with the owner (hereinafter referred to as a share farmer); or 35
- (c) was occupied by a person employed on such land and who had established his home and resided on any part thereof for at least two years,

the

the Minister may allow such lessee, share farmer, or employee to remain in occupation of such part of the land appropriated or resumed for such period and upon such terms as he thinks fit.

5 (5) At any time during such occupation the Minister may grant such lessee, share farmer, or employee a settlement purchase under the Closer Settlement Acts or a homestead farm under the Crown Lands Acts subject to an advisory board or the local
10 land board reporting that he is qualified and likely to satisfactorily work and develop the land.

Power of Minister to grant lessee, share farmer, or employee a preferential right to a settlement purchase.

(6) The Minister, on the recommendation of an advisory board, may also grant any holder of land which is not sufficient for a home-maintenance area an
15 additional holding out of any lands appropriated or resumed under this Act, such additional holding being within a reasonable working distance of the land already held by such holder. The terms and conditions as to
20 holding shall be as notified in the Gazette.

Power of Minister to grant right to apply for additional holding.

Reservation and dedication of lands.

19. The Minister may, by notice published in the Gazette, reserve or dedicate lands appropriated or resumed under this Act for any purpose notified in the
25 Gazette as a public purpose. Upon such notice being so published such lands shall become and be reserved or dedicated accordingly.

Reservation and dedication of lands.

The Minister shall have the same powers of revocation of any such reservation or dedication as are conferred
30 upon him by section twenty-five of the Crown Lands Consolidation Act, 1913, in respect of reservations and dedications of Crown lands.

Taxation of land in open area.

20. (1) A tax shall be levied upon the unimproved
35 value of the private land in the open area of every holding in every year, the first year commencing on the first day of July, one thousand nine hundred and twenty-two.

Taxation of private land in open area.

(2)

Large Holdings Subdivision.

(2) Such tax shall be paid by the owner (hereinafter referred to as the taxpayer) and shall be levied at the following rates on each pound of the unimproved value of such land which is owned by him on the first day of July in the year in respect of which the tax is assessed:—

- (a) For the first year, threepence.
- (b) For the second year, sixpence.
- (c) For the third year, ninepence.
- (d) For the fourth and each successive year, one shilling: 10

Provided that no tax shall be payable—

- (1) for the first year, if not less than one-fourth;
- (2) for the second year, if not less than one-half;
- (3) for the third and following years, if not less than three-fourths, 15

of the cultivable land in such open area is cultivated.

(3) For the purposes of this section land shall be deemed to be cultivated which is—

- (a) fallowed and farmed in alternate years; or 20
- (b) used bona fide for dairying purposes; or
- (c) used for a purpose which in the opinion of an advisory board is equally desirable in the public interest as cultivation; or
- (d) in the opinion of an advisory board, being prepared bona fide for the purpose of cultivation; or 25
- (e) leased for farming purposes on conditions approved by an advisory board to a person who at the time the land was so leased was not, either as owner, holder, or lessee, in occupation of more than a home-maintenance area; or 30
- (f) worked for farming purposes under a share-farming agreement. 35

(4) No tax shall be payable in respect of any land forming part of the open area if, upon reference by the Minister, or application by the taxpayer, to an advisory board, such board certifies in writing that in its opinion it would be inequitable for any stated period to require a tax to be paid in respect of such land, on account of the unsuitability of the soil or climate, or the remoteness 40

remoteness of the land from rail or market, or upon the ground that the cultivation of such land would necessitate the destruction of timber which should be conserved.

(5) Where the unimproved value has not been
5 determined under the Valuation of Land Act, 1916, the unimproved value of land for the purposes of this section shall be the unimproved value of such land as determined by an advisory board, and the assessment of the tax shall be made upon the value so determined; and pending
10 such determination the value of the land shall be assessed from the returns furnished by the owner in pursuance of section six; or, where no return has been furnished, from such other information as is in the possession of the Minister.

15 **21.** The Minister shall each year assess, or cause to be assessed, the amount of the tax for that year payable
by the taxpayer. Tax to be assessed each year.

22. (1) The Minister shall cause to be sent through
the post to every taxpayer a notice in writing (herein
20 called the assessment notice) of any assessment or amended assessment of tax payable by such taxpayer. Assessment and payment of tax.

(2) The tax shall become due and payable on the date specified in the assessment notice.

(3) If any taxpayer does not pay the tax within
25 one month after the date so specified he shall be liable to pay by way of fine *ten* pounds per centum upon the amount of such tax:

Provided that the Minister may in any particular case, for reasons which in his discretion he thinks
30 sufficient, extend the time for payment of the tax or permit the payment to be made by instalments or remit the fine wholly or in part.

(4) Any tax or fine when it becomes due and payable shall be deemed to be a debt due by the tax-
35 payer to the Crown and payable to the Minister in the manner and at the date prescribed.

(5) Any tax or fine unpaid may be sued for and recovered in any court of competent jurisdiction by the Minister on behalf of the Crown.

(6)

(6) The production of any notice of assessment or of any document under the hand of the Minister purporting to be a copy of a notice of assessment shall—

(a) be conclusive evidence of the due making of the assessment; and 5

(b) be conclusive evidence that the amount and all particulars of the assessment are correct, except in proceedings on appeal against the assessment when it shall be prima facie evidence only. 10

Application of tax.

23. The amount of any tax or fine paid under this Act shall be credited to the Closer Settlement Fund.

Alteration of assessment.

24. The Minister may at any time make all such alterations in or additions to any assessment as he thinks necessary in order to ensure its completeness and accuracy, notwithstanding that the tax as assessed may have been paid: 15

Provided that any alteration which imposes any fresh liability or increases any existing liability shall be notified to the taxpayer affected thereby, and unless made with his consent shall be subject to appeal as hereinafter provided. 20

Where any such alteration is made, any amount overpaid shall be refunded to the taxpayer and any amount underpaid shall be recoverable from him. 25

General provisions.

Appeal to Land and Valuation Court.

25. (1) Any person who is aggrieved by any determination of an advisory board as to the value of his land or as to the value of any estate or interest therein or by any assessment of tax payable by him may appeal therefrom to the Land and Valuation Court by giving notice in the prescribed form and manner and within the prescribed time. 30

(2) The fact that an appeal is pending shall not in the meantime interfere with the assessment appealed from, and the tax may be levied and recovered on the assessment as if no appeal were pending. 35

(3) If the assessment is altered on appeal a due adjustment shall be made, for which purpose any amount paid in excess shall be refunded and any amount short paid shall be recoverable as arrears. 40

(4)

(4) The costs of the appeal shall be in the discretion of the court.

(5) On the hearing of the appeal the court may make such order as it thinks fit, and may alter any determination of an advisory board, or reduce or increase the assessment.

26. Any member of an advisory board, or district surveyor, or other person authorised by the Minister may upon giving the prescribed notice enter any holding and remain thereon for such time as may be necessary to carry out their duties under this Act.

Power of authorised persons to enter and remain upon holdings.

27. (1) Where in pursuance of a notification in the Gazette under section fourteen any land is vested in His Majesty, and the owner or occupier of such land or any other person refuses to give up possession of the land or hinders any officer acting on behalf of the Minister from entering upon or taking possession of the land, the Minister may issue a warrant to the sheriff to deliver possession of the same to the person appointed in such warrant to receive the same.

Proceeding in case of refusal to deliver possession of land.

(2) Upon the receipt of such warrant the sheriff shall deliver possession of such land accordingly, and the costs accruing, by reason of the issuing and execution of such warrant, to be settled by the sheriff, shall be paid by the person refusing to give possession; and such costs shall be deducted and retained by the Minister from the amount, if any, then payable to such party, or if no such amount is payable to such party, or if the same is less than such costs, then such costs or the excess thereof beyond such amount, if not paid on demand, shall be levied by distress, and upon application to any justice for that purpose he shall issue his warrant accordingly.

Execution of warrant.
Costs.

28. Where portion only of any land held under lease from the Crown, or subject to payment in the nature of rent to the Crown, is taken from a holder under section fourteen a refund of part of the rent paid or payment made and an abatement of all future rents or payments shall be made proportionate to the rental value of the land taken.

Refund and abatement of rent where part only of holding taken.

29.

Trustee may mortgage land for payment of tax.

29. It shall be lawful for any person in whom any land is vested as a trustee to raise any sum necessary for payment of any tax levied upon the land under this Act by mortgage of such land in the same way as if a power to mortgage the land for such purpose had been contained in the instrument creating or declaring the trust. 5

Regulations.

Regulations.

30. (1) Whenever in any section of this Act the expression "prescribed" is used in connection with any matter referred to in the context the Governor may in every such case frame regulations for giving effect to the provisions of such section, and may also make regulations for the purpose of carrying this Act into full effect generally. 15

(2) Such regulations shall—

- (i) be published in the Gazette;
- (ii) take effect from the date of publication, or from a later date to be specified in such regulations; and 20
- (iii) be laid before both Houses of Parliament within fourteen days after publication if Parliament is in session, and if not, then within fourteen days after the commencement of the next session. If either House of Parliament passes a resolution, of which notice has been given at any time within fifteen sitting days after such regulations have been laid before such House, disallowing any regulation or part thereof, such regulation or part shall thereupon cease to have effect. 25 30