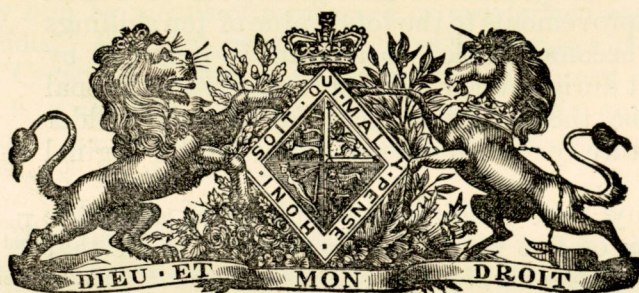


This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

*Legislative Assembly Chamber,
Sydney, 20 November, 1879. }*

*STEPHEN W. JONES,
Clerk of Legislative Assembly.*

New South Wales.



ANNO QUADRAGESIMO TERTIO

VICTORIÆ REGINÆ.

No. .

An Act further to amend the Lands Acts of 1861 and the Act of 1875.

WHEREAS it is expedient to amend the “Crown Lands Alienation Act of 1861” the “Crown Lands Occupation Act of 1861” and the “Lands Acts Amendment Act 1875” Be it therefore enacted by the Queen’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. The eighteenth and thirty-first sections of the “Lands Acts Amendment Act of 1875” and the twenty-fifth section of the “Crown Lands Alienation Act of 1861” are hereby repealed Repeal of enactments. Provided that such repeal shall not prejudice or affect any rights of the Crown or of the lessee already lawfully acquired thereunder.
2. So much of sections one thirteen and eighteen of the “Crown Lands Alienation Act of 1861” and of section twenty-two of the “Lands Acts Amendment Act 1875” as may require that improvements should be made by the conditional purchaser upon land conditionally purchased to the value of one pound per acre is hereby repealed and Reduction of value for improvements to ten shillings per acre. it

Lands Acts further Amendment.

it shall be sufficient for all the purposes of the said Acts or of this Act if such improvements upon land conditionally purchased shall be of the value of ten shillings per acre. Provided that the reduction of the value of improvements shall not apply to conditional purchases which

5 have been declared forfeited or otherwise finally dealt with except in cases where such forfeiture shall have been revoked by the authority of the Government.

3. The holder of any conditional purchase who either by himself or those through whom he claims shall have resided upon his conditional purchase for three years and shall have made or shall hereafter make due declaration of such residence and pay or have paid the balance of his purchase money or interest or instalment thereof as by the said Acts required may make application to the Minister for an extension of the time for completion of his improvements to a further term of

10 two years and if the Minister shall be satisfied that the several other conditions of such purchase have been duly performed and that improvements of a fixed and durable character of a value not less than six shillings per acre have been already made he shall grant such extension and on completion of the improvements to the total value of ten shillings

15 per acre such holder shall become entitled to a grant as provided by the said Acts. Provided that during such extended term the conditional purchase shall continue to be the residence *bonâ fide* of such holder and shall be liable to forfeiture for non-residence as during the original term of three years.

Extension of time for improvements.

4. In respect of any land conditionally purchased after the passing of this Act the term of five years shall be substituted for that of three years prescribed by the eighteenth section of the "Crown Lands Alienation Act of 1861" and the twenty-second section of the "Lands Acts Amendment Act 1875" for the residence of the conditional

25 purchaser upon such land and the improvement thereof as by the said Acts and this Act required. Provided that every conditional purchaser shall at the expiration of three years from the date of his conditional purchase or within three months thereafter make due declaration under the first-mentioned section that such land has been his *bonâ fide*

30 residence continuously from within three months of such purchase and that fixed and durable improvements of a value not less than six shillings per acre have been made thereon and shall duly pay and thereafter continue to pay the instalments of the balance of purchase money inclusive of interest required by the eighth section of the Act

35 secondly hereinbefore mentioned. Provided also that any such land which shall at any time within five years from the purchase thereof cease to be the *bonâ fide* residence of the lawful holder thereof for the time being otherwise than by reason of his decease or insolvency as hereinafter provided or which shall not have been duly improved

40 to the value of six shillings per acre within three years and of ten shillings per acre within five years after such purchase or in respect of which the payments for instalment of the purchase money and interest as hereinbefore recited shall not have been duly made shall be liable to forfeiture as in the said Acts respectively provided.

Time for residence and improvement.

5. The Minister may extend to five years the term within which the expenditure of two pounds per acre on mining operations other than gold mining shall be completed upon any conditional purchase under the nineteenth section of the "Crown Lands Alienation Act of 1861" on being satisfied that at the end of three years from the

50 date of the purchase not less than twenty-four shillings per acre has been expended thereon in mining operations other than for gold.

The like as to mining conditional purchases.

6. Except as hereinafter provided no conditional purchase made after the passing of this Act shall be transferable until the conditional purchaser shall have resided thereon for five years from the date of

such

Limitation of transfers.

Lands Acts further Amendment.

such purchase but if an additional conditional purchase the same may be transferred in conjunction with the original purchase after the expiration of the said five years from the date of such original purchase. Provided that nothing contained in this section shall apply to mineral

5 conditional purchases.

7. Whenever it shall appear to the Minister desirable portions of Crown lands may be measured across any frontage road or intended frontage road and may be so applied for by any conditional purchaser and notwithstanding anything in the thirteenth section of the Lands Acts Amendment Act of 1875 the Minister if it shall appear desirable may extend the length or breadth of the boundaries of any rectangular block beyond eighty chains and necessary roadways and sites for and sources of water supply may be excluded from any measurement.

Modification of boundaries &c.

8. Every purchaser of Crown lands and every holder of a lease or license shall be entitled to a road of access and also to free ingress and egress thereby to and from the lands held by him through and over any Crown lands whether under lease or not if no access to the lands held by him by means of a reserved or proclaimed road or track shall be provided. And such person may for the purposes of this section enter on any Crown lands and mark out thereon as a road of access to his holding a road over such lands one chain wide and following as direct a line as may be practicable to the nearest public road or other road of access leading thereto. Provided that notice in writing of the intention to mark out such road shall in every case be given to the lessee or his agent where such road passes over his leased land at least seven days before the marking out of such road. And that such road shall not interfere with any buildings garden stock or drafting yards belonging to such lessee and shall in every case follow such a direction and be so marked as to occasion as little damage or inconvenience to the lessee as may be possible. And upon notice in writing being served upon any such person by a Crown lessee requiring him to fix such road such person shall within three months from the date of service thereof mark out such road of access and shall not be entitled to use any other road of access over the lands of such lessee. In the event of any dispute between such person and any Crown lessee as to the position course or width of or any other matter connected with such road the matter in dispute shall be determined by arbitration. Provided that any roads so marked shall not be alienated under the tenth section of the "Crown Lands Alienation Act of 1861." Provided that the Minister shall have power to close roads provided for in this clause upon giving three months notice to that effect in the *Gazette*.

Road of access through leased land.

9. The acceptance by or on behalf of the Crown of any purchase money or part thereof in respect of any conditional purchase or of interest money on any balance thereof or of rent or other payment under any lease or license shall not be held to have operated or to operate hereafter as a waiver by the Crown of any forfeiture accruing by reason of the breach of any condition precedent or subsequent annexed by law to the estate or interest of a conditional purchaser lessee or licensee. But nothing herein contained shall affect any proceedings instituted in any Court before the commencement of this Act or any case where it shall be proved that the Crown through the Minister or any authorized officer has had full knowledge by notice or otherwise of the breach of any such condition before the acceptance of such money interest rent or other payment.

No waiver by acceptance of interest purchase money or rent.

Proviso.

10. No land the purchase of which has been cancelled shall be sold by auction within the period of three months after the cancellation thereof and the usual notification of auction sale in the *Gazette* and local newspapers.

Cancelled purchase not to be sold for three months after cancellation.

Lands Acts further Amendment.

11. After the passing of this Act it shall not be lawful for any pastoral tenant or other person to cause any improvements to be made upon any Crown lands which have been temporarily reserved from sale by the Governor under the provisions of the fourth clause of the "Crown Lands Alienation Act of 1861" And whenever the temporary reservation of any such lands shall be revoked by the Governor the land upon which any improvements are made may notwithstanding their existence be conditionally purchased And should an application be made to conditionally purchase such land so improved the applicant must state in his application that he is willing to purchase the improvements and pay for them the amount fixed by appraisalment and shall at the time of making the application pay a deposit of ten per cent. upon the supposed value of such improvements and shall pay the balance within three months of the notification in the *Gazette* of the amount fixed in such appraisalment or forfeit his conditional purchase and such improvements shall be held to be part of the improvements required to be made in conformity with the provisions of the second section of this Act Provided also that no temporary reservation of any such lands shall be revoked until after survey by way of subdivision thereof.

Improvements upon Reserves declared to be unlawful and of no effect.

12. After the passing of this Act no land shall be sold to any pastoral lessee under the second clause of the "Lands Acts Amendment Act 1875" in virtue of improvements upon his run unless the Minister shall be satisfied that such improvements are of a fixed and durable character erected constructed or effected *bonâ fide* for the working and beneficial occupation of the run for pastoral purposes and unless the Minister be satisfied that the alienation of such lands is not likely to prejudice or affect injuriously the value of adjacent Crown land And before any such land is submitted for appraisalment the Minister may fix a higher minimum price than that provided by the said clause And the total area to be sold in any run in virtue of improvements hereafter applied for shall not exceed one twenty-fifth part of the total area of such run on the first January one thousand eight hundred and seventy-eight or the commencement thereafter of the term of lease unless in the case of any run out of which purchases in virtue of improvements have not already been made to the extent of double the one twenty-fifth part aforesaid and in such cases up to double such twenty-fifth part in all of the area of the run Provided that the area to be sold in virtue of improvements as aforesaid shall be taken up in blocks not exceeding four in number Provided that land purchased in virtue of improvements having a frontage shall be measured in a rectangular form with a depth of not less than sixty chains.

Limitation as to improvements.

13. The land contained within any pre-emptive lease granted or renewed under the said Acts or this Act except as to an area of not exceeding one thousand nine hundred and twenty acres to be defined by the authority of the Minister adjoining the freehold or conditionally purchased land shall be available for pre-emptive lease in virtue of any conditional purchase made therefrom And notwithstanding anything to the contrary contained in the thirty-fifth section of the "Lands Acts Amendment Act of 1875" whenever a conditional purchaser of Crown lands situated within a pastoral lease shall apply for a pre-emptive lease in virtue of his conditional purchase and it shall appear that there is not sufficient adjoining land within such pastoral lease to admit of the cancellation therefrom of the area mentioned in the said section it shall be lawful for the Minister to approve of the withdrawal for the purpose of pre-emptive lease of any adjoining land out of any adjoining pastoral lease but not until all the available adjoining land within the original pastoral lease shall have first been exhausted.

Limit of exclusive pre-emptive lease.

Lands Acts further Amendment.

14. Whenever it shall become necessary or desirable that any price rent value or sum of money should be fixed or ascertained by appraisement under the hereinbefore recited Acts or this Act such appraisement shall be made by one or more appraisers appointed by the Minister anything in the said Acts to the contrary notwithstanding and every appraisement so made shall unless altered or vetoed by the Minister be binding final and conclusive as if made by appraisers or an umpire appointed in the manner in the said Acts provided and every appraiser so appointed shall have the like powers except as to awarding costs.

Appointment of appraisers.

15. No appraisement made for the purpose of determining the rent upon renewal of any existing lease of Crown lands shall be at a lower rate than one pound per section of six hundred and forty acres.

Minimum rent of runs.

16. When any portion of Crown lands not being forfeited or vacated runs shall have become vacant or abandoned or shall have been withdrawn from the pastoral lease for the site of a town or village or for any other purpose it shall be lawful for the Minister to let such land by public auction on an annual license at a minimum upset price of not less than one pound per section.

Lands may be let by public auction in certain cases.

17. For the purpose of the thirty-eighth section of the "Lands Acts Amendment Act of 1875" relative to the leasing of Crown lands for the erection of wharfs or jetties Crown lands shall mean any land under the sea or land under the waters of any harbour bay lake river creek or navigable stream.

Leasing of lands for erection of wharfs and jetties.

18. The words contained in section thirteen of the "Crown Lands Alienation Act of 1861" "the then last census" shall mean the then last census published by the authority of the Government.

Meaning of words "the then last census."

19. Crown lands temporarily reserved from sale under the provisions of the "Crown Lands Alienation Act of 1861" shall not be sold or otherwise disposed of before the expiration of thirty days after such reservation shall be revoked by the Governor by a notice published in the *Gazette*.

No sale of land reserved until reservation revoked.

20. All roads marked or shown or indicated as roads on an office plan of any subdivision made under the authority of the Minister at any time since the eighteenth day of October one thousand eight hundred and sixty-one and all such roads hereafter so marked or indicated shall be deemed to have been and to be lawfully reserved as roads and to have been and to be dedicated to the public as such But nothing in this section contained shall operate or prejudice or affect the rights of the owner of any building or improvements lawfully erected or placed on the line of any such road.

What marked roads shall be deemed to be dedicated roads.

21. It shall be lawful for the Governor to correct or alter the design or plan of any town or village and the limits of any suburban lands attached thereto in any case where the site of such town or village has been notified under the "Crown Lands Alienation Act of 1861" or shall be notified under this Act Provided that notice of the intention so to correct or alter such design plan or limits shall be published in the *Gazette* and in a local newspaper (if any) and that no such correction or alteration shall be carried into effect until the expiration of three months from such notification And provided further that every such correction or alteration shall be notified in the *Gazette* and that an abstract thereof shall be laid before Parliament within thirty days after such notification if Parliament be then in session and if not then within thirty days after the commencement of the then next session.

Alteration of plan of town or village.

22. If any conditional purchaser of Crown land shall die before the fulfilment of all the conditions hereinbefore prescribed his conditional purchase shall be held by his executors or administrators as the case may be subject to the fulfilment by them of all unfulfilled conditions

Devolution of conditional purchase.

Lands Acts further Amendment.

except the condition of residence but in trust for and for the benefit of the persons rightfully entitled And any sale transfer or other disposition whatsoever of the estate right title or interest of any such conditional purchaser by an official assignee or other lawful authority upon the
 5 insolvency of such purchaser or by a Sheriff or Registrar of a District Court or any other person by virtue or under the authority of any writ of execution or other process of any Court or by the trustees of any deed of assignment for the benefit of creditors or by any person under any decree or order of any Court shall pass to a purchaser or to any
 10 other person only such estate right title or interest as the conditional purchaser himself was entitled to at the date of sequestration writ process decree order or assignment respectively and subject to all conditions of a conditional purchaser remaining unfulfilled at such date as aforesaid.

15 23. Any Crown lands put up for sale by public auction and not sold may be again put up in like manner Provided that all lands other than town or suburban so put up and not sold shall be open for sale at the upset price or in case the land so put up is sold at the upset price or a higher price and the purchaser fails to comply with the
 20 provisions of the twenty-sixth section of the "Crown Lands Alienation Act of 1861" the Governor in Council may declare such sale and contract void and upon a notification to that effect in the *Gazette* the land so sold shall be open for sale at the price for which it was purchased Provided also that the Minister or an officer authorized by
 25 him may withdraw any such lands from selection and may again submit them to public auction.

Lands put up and not sold.

24. In any case where the opening of a new road or the diversion of an existing road through alienated land shall have rendered unnecessary any existing road through the same land such existing
 30 road may with his consent be granted in full satisfaction to the owner of the land or if the road so rendered unnecessary be a boundary road it may be granted in like manner in lieu of the new or diverted road. ✓

Where new road opened old to be taken as compensation.

25. Notwithstanding anything contained in section two of the "Lands Acts Amendment Act" in reference to sales in consideration
 35 of improvements of lands on proclaimed Gold Fields within areas reserved from conditional sale no person shall be entitled to make more than one of such purchases unless the second or any subsequent purchase shall be distant more than three miles from each other Provided also that with reference to land sold within a Gold Field any
 40 person specially authorized by the Minister shall be at liberty to dig and search for gold and should the land be found to contain auriferous deposits it shall be in the power of the Governor and Executive Council to annul such sale and thereupon the purchaser shall be entitled to compensation for the value other than auriferous of the
 45 land and improvements such value to be determined by appraisement.

Improvement purchases on Gold Fields.

26. This Act may be cited for all purposes as the "Lands
 Acts further Amendment Act 1879" and shall be read with and as forming part of the said firstly hereinbefore cited Acts Provided always that nothing herein contained shall except as herein specifically
 50 enacted be construed to abridge prejudice or affect any power authority title right claim application action suit or other proceeding matter or thing conferred by or claimed made instituted or done under the provisions of any of the said Acts.

Short title.

LANDS ACTS FURTHER AMENDMENT BILL.

New Clause to be moved by MR. DE SALIS.

The holder of any conditional purchase claiming or entitled to the benefit of clauses two three or four shall hereafter own no exclusive right to the grass of such purchase or pre-lease in virtue thereof against the legal occupants of adjoining lands until he shall have sufficiently fenced in his purchase and the fact of a selection so favoured remaining thus unfenced six months after selection being reported to the land agent by any adjoining occupant shall justify an immediate inquiry whether such selector be carrying out his condition of residence and further similar inquiries at intervals of six months during the currency of the conditions.

Alteration in Clause 2 to be moved by MR. DE SALIS.

Omit all of clause 2 after the word " Provided " in line 3, page 2, and
add the following provisoes :—

Provided that in all selections made previous to the passing of this Act any such conditional purchaser may claim the benefit of this clause after paying into the Treasury the full balance of money then due upon any such his conditional purchase Provided also that in the case of all previous conditional purchases forfeited solely on account of less than twenty shillings per acre having been expended thereon and when such forfeited lands have not been realienated by the Crown the party so dispossessed or his heirs may also claim the benefit of this clause by similar payment of balance due.

New Clause to be moved by MR. DE SALIS in lieu of Clause 13.

Conditional or other purchases made from the Crown after the passing of this Act shall not carry any right of prelease but all preleases hitherto granted or applied for may be continued under the provisions of the Lands Acts of 1861 and 1875 and the Regulations thereunder.

New Clause to be moved by MR. DE SALIS in lieu of Clause 15.

At the ensuing appraisement for the purpose of determining the rent of any run the appraiser and arbiters shall also determine the increased value of such run since its first occupation and such sum shall be considered after deducting the capitalized value of the rent as the tenant-right of the lessee on which to ground all claims for compensation to interference by the Crown with his run And the offer by the lessee at the expiration of each five years to increase his future rent at the rate of ten per centum for the ensuing five years according to the remaining size of his leasehold shall preclude the necessity of any appraisement for the term in question.
