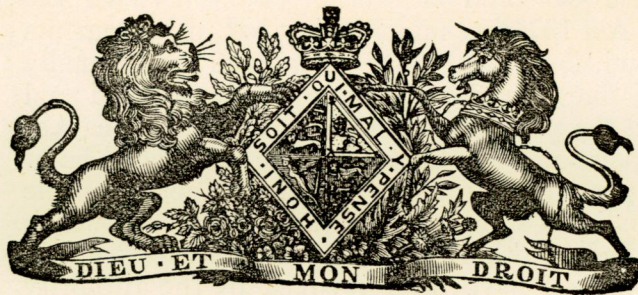


This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

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

STEPHEN W. JONES,
Clerk of Legislative Assembly.

New South Wales.



ANNO QUADRAGESIMO TERTIO

VICTORIÆ REGINÆ.

No.

(As amended in Committee of the Whole.)

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"Lands Acts Amendment Act of 1875" and the twenty-fifth section of the "Crown Lands Alienation Act of 1861" are hereby repealed Repeal of enactments.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.

1. The fifteenth eighteenth thirty-first and fortieth sections of the "Lands Acts Amendment Act 1875" and the twenty-fifth section of the "Crown Lands Alienation Act of 1861" are hereby repealed Repeal of enactments.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 any person already lawfully acquired thereunder And

64—

whereas

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

Lands Acts further Amendment.

whereas doubts have arisen as to the true intent and meaning of the said thirty-first section it is therefore hereby declared and enacted that no application or purchase thereunder made in virtue of a leased area of not less than twenty-five square miles shall be deemed to have been
 5 valid unless such leased area shall have comprised one or more square blocks included by right lines five miles in length Provided that nothing herein shall be held to apply to or affect any case in which a purchase under the said section came in question either directly or indirectly in any litigation pending on the first day of February one
 10 thousand eight hundred and eighty Provided also that such repeal shall not be held to prevent the due completion of any application or purchase already lawfully made in pursuance of the said section as hereby interpreted.

2. So much of sections one thirteen and eighteen of the "Crown
 15 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 it shall be sufficient for all the purposes of the said Acts or of this Act
 20 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 have been declared forfeited or otherwise finally dealt with except in cases where such forfeiture shall have been revoked by the authority
 25 of the Government.

Reduction of value for improvements to ten shillings per acre.

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
 30 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 two years and if the Minister shall be satisfied that the several other conditions of such purchase have been duly performed and that improve-
 35 ments 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 per acre such holder shall become entitled to a grant as provided by the said Acts Provided that during such extended term the conditional
 40 purchase shall continue to be the residence *bond 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
 45 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 purchaser upon such land and the improvement thereof as by the said Acts and this Act required Provided that every conditional purchaser
 50 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 *bond fide* residence continuously from within three months of such purchase and that fixed and durable improvements of a value not less than six
 55 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 secondly hereinbefore mentioned Provided also that any such land which shall at any time within five years from the purchase thereof
 cease

Time for residence and improvement.

Lands Acts further Amendment.

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 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.

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 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 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 conditional purchases.

Limitation of transfers.

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 of 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 draughting 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.

Lands Acts further Amendment.

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.

11. ~~10. 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 appraisement 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 appraisement 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 sold by public auction and not otherwise and the estimated value of such improvements shall in that case be added to the upset price or the land may be retained for public purposes. 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. 11. 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 appraisement 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

Limitation as to improvements.

in

Lands Acts further Amendment.

in virtue of improvements having a frontage shall be measured in a rectangular form with a depth of not less than sixty chains.

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 thereof 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.

12. In the event of the sale conditional or otherwise of any portion of land held under lease or promise of lease from the Crown for pastoral purposes or in the event of the conferring of any pre-emptive right of lease over land so held the lessee holding under such first-mentioned lease or promise of lease may separate remove and carry away from the land so sold or leased or under pre-emptive right any fencing or other improvements which may be upon or may adjoin the lands so sold or leased (and which shall be capable of being separated removed and carried away from the said land) and for this purpose he may either for himself personally or for his agents and servants have such right of entry on and over the lands so sold or leased as may be reasonable and required for the purpose of such removal. Provided that all such improvements may be removed within three months after notice in writing has been given to such lessee of the cancellation of the pastoral tenure either by sale or otherwise. Provided also that no improvement on the said land which shall not be or which is not capable of being so separated removed and carried away shall be destroyed damaged or disturbed by the holder of such lease or promise of lease but he shall be entitled to be paid and recover in the nearest Court of Petty Sessions from the person purchasing or obtaining a pre-emptive lease of the said land compensation for such improvement in respect of such conditional purchase and pre-emptive lease respectively such compensation to be assessed according to the value of the same to a conditional purchaser.

Pastoral tenant may remove improvements from land selected or pre-emptively leased.

13. Whenever it shall become necessary or desirable that any price rent value or sum of money should be fixed or ascertained by appraisalment under the hereinbefore recited Acts or this Act such appraisalment shall be made by one or more appraisers appointed by the Minister anything in the said Acts to the contrary notwithstanding and every appraisalment so made shall unless altered or vetoed by the Minister after the receipt of a report and recommendation from a Board consisting of three such appraisers be binding final and conclusive as if made by appraisers or an umpire appointed in the manner in the said Acts provided and all the provisions of the said Acts as to an appraisalment by a single appraiser shall apply to such appraisalment and every appraiser so appointed shall have the like powers except as to awarding costs.

Appointment of appraisers.

14. No appraisalment 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 excepting

Minimum rent of runs.

Lands Acts further Amendment.

excepting in the case of any appraisement of a run made for the first and second leases thereof and in any such case the appraisement shall not be at a lower rate than ten shillings per section.

16. 15. 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 or shall be of less extent than six hundred and forty acres 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. 16. 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. 17. 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. 18. 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. 19. 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. 20. 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 devisee executors or administrators as the case may be subject to the fulfilment by them of all unfulfilled conditions 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 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 other

Devolution of conditional purchase.

Lands Acts further Amendment.

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
5 as aforesaid.

21. Except under the twenty-first and twenty-second section of the "Crown Lands Alienation Act of 1861" no person who has made a conditional purchase shall be capable of making another within three years of the date of such purchase unless with the written permission of the Minister to be first had and tendered to the land agent along with the application.
10

Restriction upon second conditional purchases.

22. Upon application by members of any religious denomination the Governor with the advice of the Executive Council may sell and grant lands for church purposes without competition in areas of not more than one acre for church and one acre for minister's residence at a price to be fixed by appraisement but not less than the upset price of the class of land to be sold.
15

Sale of land for church purposes in certain cases.

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 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 him may withdraw any such lands from selection and may again submit them to public auction.
20

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 road or any part thereof may with his consent be granted in full or part 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.
25

Where new road opened old to be taken as compensation.

25. Notwithstanding anything contained in section two of the "Lands Acts Amendment Act of 1875" in reference to sales in consideration 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 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 land and improvements such value to be determined by appraisement.
30

Improvement purchases on Gold Fields.

26. Any Crown land within a proclaimed gold-field which may after the passing of this Act be sold by auction or in virtue of improvements or otherwise shall be subject to the following provisions— Any person specially authorized by the Minister in that behalf shall be at liberty to dig and search for gold within such land and should the same be found to contain auriferous deposits it shall be in the power of the Governor in Council to annul the sale and thereupon the purchaser or his alienee shall be entitled to compensation for the value other than auriferous of the land and improvements such value to be determined by appraisement.
35

Crown land within proclaimed gold-field.

Lands Acts further Amendment.

27. The Governor in Council may make and proclaim regulations not inconsistent with the provisions of this Act for carrying this Act into full effect so as to provide for all proceedings matters and things arising under this Act and not herein expressly provided for
- 5 And all such regulations shall upon publication in the Gazette be valid in law Provided that a copy of every such regulation shall be laid before both Houses of Parliament within one month from the issue thereof if Parliament be then in session or otherwise within one month after the commencement of the then next ensuing session.
- 10 ~~26.~~ 28. This Act may be cited for all purposes as the "Lands Acts further Amendment Act 1879~~80~~" 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 enacted be construed to abridge prejudice or affect any power authority
- 15 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.

Governor in
Council may make
regulations.

Short title.

LANDS ACTS FURTHER AMENDMENT BILL.

SCHEDULE of the Amendments referred to in Message of 4th March, 1880.

JOHN J. CALVERT,
Clerk of the Parliaments.

- Page 1, clause 1. *Omit* clause 1 *insert* new clause
- Page 2, clause 2, lines 3 and 4. *Omit* "should be made by the conditional purchaser"
- " " line 5. *Omit* "to" *insert* "should be of"
- " " line 12. *Omit* "Government" *insert* "Governor"
- " *After* clause 3 *insert* new clause 4.
- Page 3, clause 7 8, line 26. *Omit* "of"
- " " line 29. *After* "supply" *insert* "and for stations for trigonometrical survey"
- " " 8 9, lines 36 to 44. *Omit* all the words commencing with "and such person" down to "such road and" inclusive.
- " " 8 9, line 44. *After* "and" *insert* "provided"
- " " line 47. *After* "possible" *omit* remainder of clause.
- Page 4, clause 10. *Omit* clause 10 *insert* new clause 11.
- " " 11 12, lines 23 to 27. *Omit* "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"
- " clause 12, line 28. *Omit* "such"
- " " line 29. *After* "improvements" *insert* "not less than ten shillings per acre in value"
- " clause 12, line 30. *After* "be" *omit* all the words commencing with "conditionally purchased" down to "second section of this Act" inclusive *insert* "sold by public auction and not otherwise and the estimated value of such improvements shall in that case be added to the upset price or the land may be retained for public purposes Provided that nothing in this clause shall prevent the Governor from selling by appraisement under the second clause of the 'Lands Act Amendment Act 1875' any improved reserved land the improvements upon which were made before the reservation thereof"
- " 4, clause 12 13, lines 54 and 55. *Omit* "unless the Minister be satisfied"
- " " line 57. *Omit* "before any such land is submitted for appraisement"
- " " line 57. *After* "may" *insert* "in any case"
- " " line 59. *After* "clause" *insert* "and the land may be sold at such price without appraisement unless the Minister shall deem an appraisement advisable"
- Page 5, clause 13. *Omit* clause 13 *insert* new clause 14.
- " " 14 15, line 59. *After* "Minister" *insert* "charged with such appraisement"
- Page 6 " line 2. *Omit* "the" *insert* "such"
- " " line 2. *After* "Minister" *insert* "after the receipt of a report and recommendation from a Board consisting of three such appraisers."
- " " 14 15, line 5. *After* "and" *insert* "all the provisions of the said Acts as to an appraisement by a single appraiser shall apply to such appraisement and"
- " " 15 16. At end of clause *add* "excepting in the case of any appraisement of a run made for the first and second leases thereof and in any such case the appraisement shall not be at a lower rate than ten shillings per section."
- " " 16 17, line 18. *After* "purpose" *insert* "or shall be of less extent than six hundred and forty acres."
- " " 17 18. At end of clause *add* "Proviso."
- " " 20. *Omit* "clause 20."
- Page 7, clause 22, line 11. *After* "his" *insert* "devisee."
- " " 22, line 11. *After* "administrators" *insert* "or his or their assigns."
- " " 22, line 26. *Omit* "as aforesaid."

- Page 7. *After* clause 22 *insert* new clauses 23 and 24.
" clause 24 26, line 55. *After* "road" *insert* "or any part thereof."
" " 24 26, line 55. *After* "full" *insert* "or part."
Pages 7 & 8. *After* clause 24 26, *insert* new clause 27.
Page 8, clause 25 28, line 9. *After* "Act" *insert* "of 1875."
" " 25 28, line 13. *After* "other" *omit* proviso.
" " *After* clause 25 28, *insert* new clauses 29 and 30.
" " 26 31, line 41. *Omit* "79" *insert* 80.
" " 26 31, line 42. *After* "Acts" *omit* proviso.
-

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.* }

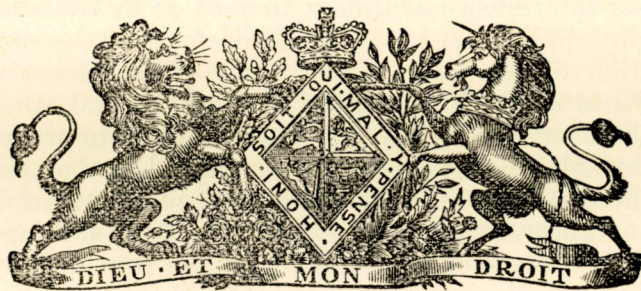
STEPHEN W. JONES,
Clerk of Legislative Assembly.

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

*Legislative Council Chamber,
Sydney, 4th March, 1880.* }

JOHN J. CALVERT,
Clerk of the Parliaments.

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.

1. The fifteenth, eighteenth, thirty-first and fortieth sections of the "Lands Acts Amendment Act 1875" and the twenty-fifth section of the "Crown Lands Alienation Act of 1861" are hereby repealed. Provided that such repeal shall not prejudice or affect any rights of the Crown or of any person already lawfully acquired thereunder.

64—

2.

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

Lands Acts further Amendment.

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~~ ⁵ ~~should be~~ of the value of one pound per acre is hereby repealed and 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 ¹⁰ 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~~ **Governor**.

Reduction of value for improvements to ten shillings per acre.

3. The holder of any conditional purchase who either by himself or those through whom he claims shall have resided upon his ¹⁵ 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 ²⁰ 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 ²⁵ 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. When any land shall be purchased within any pastoral lease- ³⁰ hold by any person other than the leaseholder the land agent shall within one week of the date of such purchase notify the same through the post to the pastoral tenant within whose leasehold such purchase shall have been made. And no person making such purchase shall ³⁵ acquire any rights of impoundage as regards the stock (unless herded) the property of or depastured by the pastoral tenant upon such leasehold until two months after the date of such purchase. Provided that if the land so purchased shall within the said period of two months be enclosed with a substantial fence then such poundage rights ⁴⁰ shall accrue upon the completion of such fence.

Notification to pastoral tenants.

5. 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 ⁴⁵ "Lands Acts Amendment Act 1875" for the residence of the conditional 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 ⁵⁰ under the first-mentioned section that such land has been his *bonâ fide* 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 ⁵⁵ money inclusive of interest required by the eighth section of the Act 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

Time for residence and improvement.

as

Lands Acts further Amendment.

as hereinafter provided or which shall not have been duly improved 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.

5- 6. 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 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- 7. 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 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

Limitation of transfers.

7- 8. 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 and for stations for trigonometrical survey may be excluded from any measurement.

Modification of boundaries &c.

8- 9. 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~~ **Provided** 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.

Lands Acts further Amendment.

9. 10. 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.
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.
11. No Crown Land which after having been conditionally purchased may have reverted to Her Majesty by forfeiture or otherwise shall be open to be again conditionally purchased until the expiration of thirty days after such reversion or forfeiture shall have been duly notified in the *Gazette*.
12. 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 not less than ten shillings per acre in value 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 appraisement 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 appraisement 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 sold by public auction and not otherwise and the estimated value of such improvements shall in that case be added to the upset price or the land may be retained for public purposes Provided that nothing in this clause shall prevent the Governor from selling by appraisement under the second clause of the "Lands Act Amendment Act 1875" any improved reserved land the improvements upon which were made before the reservation thereof Provided also that no temporary reservation of any such lands shall be revoked until after survey by way of subdivision thereof.
13. 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 appraisement the Minister may in any case fix a higher minimum price than that provided by the said clause and the land may be sold at such price without appraisement

No waiver by acceptance of interest purchase money or rent.

Proviso.

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

Forfeited selections.

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

Limitation as to improvements.

Lands Acts further Amendment.

appraisement unless the Minister shall deem an appraisement advisable 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
 5 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 im-
 10 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
 15 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
 20 blocks not exceeding four in number Provided that land purchased in virtue of improvements having a frontage shall be measured in a
 25 rectangular form with a depth of not less than sixty chains.

13. The land contained within any pre-emptive lease granted or
 15 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
 20 defined by the authority of the Minister adjoining the freehold or conditionally purchased land shall be available for pre-emptive lease in
 25 virtue of any conditional purchase made therefrom And notwithstanding anything to the contrary contained in the thirty-fifth section
 30 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
 35 pastoral lease to admit of the cancellation thereof from 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
 40 available adjoining land within the original pastoral lease shall have first been exhausted.

14. In the event of the sale conditional or otherwise of any
 45 portion of land held under lease or promise of lease from the Crown for pastoral purposes or in the event of the conferring of any pre-emptive
 50 right of lease over land so held the lessee holding under such first-mentioned lease or promise of lease may separate remove and carry
 55 away from the land so sold or leased or under pre-emptive right any fencing or other improvements which may be upon or may adjoin the
 lands so sold or leased (and which shall be capable of being separated removed and carried away from the said land) and for this purpose he
 60 may either for himself personally or for his agents and servants have such right of entry on and over the lands so sold or leased as may be
 65 reasonable and required for the purpose of such removal Provided that all such improvements may be removed within three months after
 notice in writing has been given to such lessee of the cancellation of
 70 the pastoral tenure either by sale or otherwise Provided also that no improvement on the said land which shall not be or which is not
 75 capable of being so separated removed and carried away shall be destroyed damaged or disturbed by the holder of such lease or promise
 80 of lease but he shall be entitled to be paid and recover in the nearest
 85 Court of Petty Sessions from the person purchasing or obtaining a pre-emptive lease of the said land compensation for such improvement in
 respect of such conditional purchase and pre-emptive lease respectively such compensation to be assessed according to the value of the same to
 a conditional purchaser.

14. 15. Whenever it shall become necessary or desirable that any
 90 price rent value or sum of money should be fixed or ascertained by appraisalment under the hereinbefore recited Acts or this Act such
 95 appraisalment shall be made by one or more appraisers appointed by the Minister charged with such appraisalment anything in the said Acts to
 100 the

Limit of exclusive pre-emptive lease.

Pastoral tenant may remove improvements from land selected or pre-emptively leased.

Appointment of appraisers.

Lands Acts further Amendment.

the contrary notwithstanding and every appraisalment so made shall unless altered or vetoed by the such Minister after the receipt of a report and recommendation from a Board consisting of three such appraisers be binding final and conclusive as if made by appraisers or an umpire
 5 appointed in the manner in the said Acts provided and all the provisions of the said Acts as to an appraisalment by a single appraiser shall apply to such appraisalment and every appraiser so appointed shall have the like powers except as to awarding costs.

15. 16. No appraisalment made for the purpose of determining the
 10 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 excepting in the case of any appraisalment of a run made for the first and second leases thereof and in any such case the appraisalment shall not be at a lower rate than ten shillings per section.

15 16. 17. 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 or shall be of less extent than six hundred
 and forty acres it shall be lawful for the Minister to let such land by
 20 public auction on an annual license at a minimum upset price of not less than one pound per section.

17. 18. 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
 25 under the sea or land under the waters of any harbour bay lake river creek or navigable stream Provided always that no such lease shall be made of land adjoining the frontage of any proprietor of land who is within the meaning of the ninth section of the "Crown Lands Alienation Act of 1861" except to or with the consent of such pro-
 30 prietor Provided also that no such lease shall be made which shall be calculated in any way to interrupt or interfere with the right of navigation or with the rights or interests of proprietors of land having frontages adjoining to the land so proposed to be leased And provided also that the intention to grant a lease of such land shall have been
 35 previously announced in the Gazette for four consecutive weeks before such lease is granted.

18. 19. 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.

40 19. 20. 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*.

45 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
 50 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.

21. It shall be lawful for the Governor to correct or alter the
 55 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

Minimum rent of runs.

Lands may be let by public auction in certain cases.

Leasing of lands for erection of wharfs and jetties.

Meaning of words "the then last census."

No sale of land reserved until reservation revoked.

What marked roads shall be deemed to be dedicated roads.

Alteration of plan of town or village.

Lands Acts further Amendment.

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.

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 devisee executors or administrators or his or their assigns as the case may be subject to the fulfilment by them of all unfulfilled conditions 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 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 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.

Devolution of conditional purchase.

23. Except under the twenty-first and twenty-second sections of the "Crown Lands Alienation Act of 1861" no person who has made a conditional purchase shall be capable of making another within three years of the date of such purchase unless with the written permission of the Minister to be first had and tendered to the land agent along with the application.

Restriction upon second conditional purchases.

24. Upon application by members of any religious denomination the Governor with the advice of the Executive Council may sell and grant lands for church purposes without competition in areas of not more than one acre for church and one acre for minister's residence at a price to be fixed by appraisement but not less than the upset price of the class of land to be sold Provided that no such land shall be resold or otherwise realienated.

Sale of land for church purposes in certain cases.

25. 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 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 him may withdraw any such lands from selection and may again submit them to public auction.

Lands put up and not sold.

26. 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 road or any part thereof may with his consent be granted in full or part 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.

Lands Acts further Amendment.

27. If at any time it shall be deemed expedient to open a road through any land conditionally purchased it shall be lawful for the Governor in Council by notice in the Gazette to resume so much of the land as may be required for the purpose as such road Provided that the several provisions of the Act fourth William Fourth number eleven shall apply to any land so resumed as in the case of ordinary freehold land.

Resumption for Road.

25. 28. Notwithstanding anything contained in section two of the "Lands Acts Amendment Act of 1875" in reference to sales in consideration 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 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 land and improvements such value to be determined by appraisalment.

Improvement purchases on Gold Fields.

29. Any Crown land within a proclaimed gold-field which may after the passing of this Act be sold by auction or in virtue of improvements or otherwise shall be subject to the following provisions— Any person specially authorized by the Minister in that behalf shall be at liberty to dig and search for gold within such land and should the same be found to contain auriferous deposits it shall be in the power of the Governor in Council to annul the sale and thereupon the purchaser or his alienee shall be entitled to compensation for the value other than auriferous of the land and improvements such value to be determined by appraisalment.

Crown land within proclaimed gold-field.

30. The Governor in Council may make and proclaim regulations not inconsistent with the provisions of this Act for carrying this Act into full effect so as to provide for all proceedings matters and things arising under this Act and not herein expressly provided for And all such regulations shall upon publication in the Gazette be valid in law Provided that a copy of every such regulation shall be laid before both Houses of Parliament within one month from the issue thereof if Parliament be then in session or otherwise within one month after the commencement of the then next ensuing session.

Governor in Council may make regulations.

26. 31. This Act may be cited for all purposes as the "Lands Acts further Amendment Act 187980" 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 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.

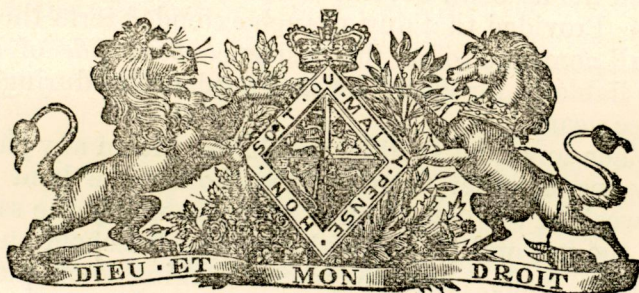
Short title.

LANDS ACTS FURTHER AMENDMENT BILL.

SCHEDULE showing the Legislative Assembly's disagreements from, and Amendments upon, the Legislative Council's Amendments in this Bill.

Page 2, clause	4.	Omit new clause 4.
Page 3,	8.	9, lines 57, 58, and 59. <i>Re-insert</i> Proviso.
Page 4,	11,	line 18. <i>Omit</i> "No"
"	"	line 19. <i>After</i> "Majesty" <i>insert</i> "or may have been forfeited"
"	"	line 19. <i>Omit</i> "by forfeiture or otherwise"
"	"	line 20. <i>After</i> "shall" <i>insert</i> "not"
"	"	line 20. <i>Omit</i> "conditionally"
"	"	line 20. <i>After</i> "purchased" <i>insert</i> "conditionally or otherwise"
"	"	line 20. <i>After</i> "until" <i>insert</i> "after"
"	"	At end of clause <i>add</i> "And no improvements effected during "the said thirty days on such reverted or "forfeited lands shall constitute a title to "purchase the same as improved lands Pro- "vided that no such land shall revert to the "run until after the expiration of thirty days "anything in law to the contrary notwith- "standing."
Page 4, clause 11 12,	line 29.	<i>Omit</i> "ten" <i>insert</i> "twenty"
"	"	line 30. <i>Re-insert</i> "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 appraisement 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 <i>Gazette</i> of the amount "fixed in such appraisement or forfeit his con- "ditional 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"
Page 4, clause 11 12,	line 40.	<i>After</i> "Act" <i>insert</i> "or may be"
"	"	line 40. <i>Omit</i> "and not otherwise"
"	"	line 42. <i>After</i> "price" <i>insert</i> "and be paid into the Conso- "lidated Revenue"
"	"	lines 44 and 45. <i>Omit</i> "under the second clause of the Lands "Act Amendment Act 1875"
"	"	line 46. <i>After</i> "thereof" <i>insert</i> "or before the first day of "July one thousand eight hundred and seventy- "six"
Page 5, clause 13		<i>Re-insert</i> clause 13.
Page 6, clause 14 15,	line 3.	<i>Omit</i> "a Board consisting of"
"	"	15 16, line 12. <i>Omit</i> "excepting" <i>insert</i> "but"
"	"	line 13. <i>Omit</i> "and in any such case"
"	"	lines 13 and 14. <i>Omit</i> "shall not be at a lower rate" <i>insert</i> "may be at a rate lower than one pound but "not lower"
"	"	16 17, lines 18 and 19. <i>Omit</i> "or shall be of less extent than six "hundred and forty acres"
"	"	17 18, line 27. <i>After</i> "proprietor" <i>omit</i> "of land"
Page 7,	23,	line 27. <i>After</i> "the" <i>insert</i> "nineteenth"
"	"	" 28. <i>After</i> "who" <i>insert</i> "after the passing of this Act"
"	"	" 30. <i>Omit</i> "three" <i>insert</i> "five"
"	"	lines 30, 31, and 32. <i>Omit</i> "unless with the written permission of "the Minister to be first had and tendered to "the land agent along with the application"
"	"	24. <i>Omit</i> new clause 24.

New South Wales.



ANNO QUADRAGESIMO TERTIO

VICTORIÆ REGINÆ.

No. XXIX.

An Act further to amend the Lands Acts of 1861 and the Act of 1875. [Assented to, 25th May, 1880.]

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 fifteenth eighteenth thirty-first and fortieth sections of the "Lands Acts Amendment Act 1875" and the twenty-fifth section of the "Crown Lands Alienation Act of 1861" are hereby repealed Provided that such repeal shall not prejudice or affect any rights of the Crown or of any person 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 upon land conditionally purchased should be of the value of one pound per acre is hereby repealed and 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

Lands Acts further Amendment.

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

Extension of time
for improvements.

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 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 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.

Notification to
pastoral tenants.

4. When any land shall be purchased within any pastoral leasehold by any person other than the leaseholder the land agent shall within one week of the date of such purchase notify the same through the post to the pastoral tenant within whose leasehold such purchase shall have been made And no person making such purchase shall acquire any rights of impoundage as regards the stock (unless herded) the property of or depastured by the pastoral tenant upon such leasehold until fourteen days after the date of such purchase.

Time for residence
and improvement.

5. 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 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* 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 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 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.

The like as to mining
conditional purchases.

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

Lands Acts further Amendment.

7. 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 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 conditional purchases.

Limitation of transfers.

8. 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 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 and for stations for trigonometrical survey may be excluded from any measurement.

Modification of boundaries &c.

9. 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 Provided 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 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.

10. 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.

11. Crown Land which after having been conditionally purchased may have reverted to Her Majesty or may have been forfeited shall not be open to be again purchased conditionally or otherwise until after the expiration of thirty days after such reversion or forfeiture shall have been duly notified in the *Gazette* And no improvements effected during the said thirty days on such reverted or forfeited lands shall constitute a title to purchase the same as improved lands Provided that no such land shall revert to the run until after the expiration of thirty days anything in law to the contrary notwithstanding.

Forfeited selections.

12. Whenever the temporary reservation of any lands shall be revoked by the Governor the land upon which any improvements not less than twenty shillings per acre in value 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

Improvements upon Reserves declared to be of no effect.

Lands Acts further Amendment.

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 or may be sold by public auction and the estimated value of such improvements shall in that case be added to the upset price and be paid into the Consolidated Revenue or the land may be retained for public purposes. Provided that nothing in this clause shall prevent the Governor from selling by appraisalment any improved reserved land the improvements upon which were made before the reservation thereof or before the first day of July one thousand eight hundred and seventy-six. Provided also that no temporary reservation of any such lands shall be revoked until after survey by way of subdivision thereof.

Limitation as to improvements.

13. 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 that the alienation of such lands is not likely to prejudice or affect injuriously the value of adjacent Crown land. And the Minister may in any case fix a higher minimum price than that provided by the said clause and the land may be sold at such price without appraisalment unless the Minister shall deem an appraisalment advisable. 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.

Pre-emptive leases.

14. 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.

Pastoral tenant may remove improvements from land selected or pre-emptively leased.

15. In the event of the sale conditional or otherwise of any portion of land held under lease or promise of lease from the Crown for pastoral purposes or in the event of the conferring of any pre-emptive right of lease over land so held the lessee holding under such first-mentioned lease or promise of lease may separate remove and carry away from the land so sold or leased or under pre-emptive right any fencing or other improvements which may be upon or may adjoin the lands so sold or leased (and which shall be capable of being separated removed and carried away from the said land) and for this purpose he may either for himself personally or for his agents and servants

Lands Acts further Amendment.

servants have such right of entry on and over the lands so sold or leased as may be reasonable and required for the purpose of such removal Provided that all such improvements may be removed within three months after notice in writing has been given to such lessee of the cancellation of the pastoral tenure either by sale or otherwise Provided also that no improvement on the said land which shall not be or which is not capable of being so separated removed and carried away shall be destroyed damaged or disturbed by the holder of such lease or promise of lease but he shall be entitled to be paid and recover in the nearest Court of Petty Sessions from the person purchasing or obtaining a pre-emptive lease of the said land compensation for such improvement in respect of such conditional purchase and pre-emptive lease respectively such compensation to be assessed according to the value of the same to a conditional purchaser.

16. Whenever it shall become necessary or desirable that any price rent value or sum of money should be fixed or ascertained by appraisalment under the hereinbefore recited Acts or this Act such appraisalment shall be made by one or more appraisers appointed by the Minister charged with such appraisalment anything in the said Acts to the contrary notwithstanding and every appraisalment so made shall unless altered or vetoed by such Minister after the receipt of a report and recommendation from three such appraisers be binding final and conclusive as if made by appraisers or an umpire appointed in the manner in the said Acts provided and all the provisions of the said Acts as to an appraisalment by a single appraiser shall apply to such appraisalment and every appraiser so appointed shall have the like powers except as to awarding costs.

Appointment of appraisers.

17. No appraisalment 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 but in the case of any appraisalment of a run made for the first and second leases thereof the appraisalment may be at a rate lower than one pound but not lower than ten shillings per section.

Minimum rent of runs.

18. 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.

19. 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 Provided always that no such lease shall be made of land adjoining the frontage of any proprietor who is within the meaning of the ninth section of the "Crown Lands Alienation Act of 1861" except to or with the consent of such proprietor Provided also that no such lease shall be made which shall be calculated in any way to interrupt or interfere with the right of navigation or with the rights or interests of proprietors of land having frontages adjoining to the land so proposed to be leased And provided also that the intention to grant a lease of such land shall have been previously announced in the *Gazette* for four consecutive weeks before such lease is granted.

Leasing of lands for erection of wharfs and jetties.

20. 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."

21. 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.

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Alteration of plan of town or village.

22. 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.

Devolution of conditional purchase.

23. 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 devisee executors or administrators or his or their assigns as the case may be subject to the fulfilment by them of all unfulfilled conditions 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 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 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.

Restriction upon second conditional purchases.

24. Except under the nineteenth twenty-first and twenty-second sections of the "Crown Lands Alienation Act of 1861" no person who after the passing of this Act has made a conditional purchase shall be capable of making another within five years of the date of such purchase.

Lands put up and not sold.

25. 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 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 him may withdraw any such lands from selection and may again submit them to public auction.

Where new road opened old to be taken as compensation.

26. 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 road or any part thereof may with his consent be granted in full or part 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.

Resumption for road.

27. If at any time it shall be deemed expedient to open a road through any land conditionally purchased it shall be lawful for the Governor in Council by notice in the *Gazette* to resume so much of the

Lands Acts further Amendment.

the land as may be required for the purpose as such road Provided that the several provisions of the Act Fourth William Fourth number eleven shall apply to any land so resumed as in the case of ordinary freehold land.

28. Notwithstanding anything contained in section two of the "Lands Acts Amendment Act of 1875" in reference to sales in consideration 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.

Improvement
purchases on Gold
Fields.

29. Any Crown land within a proclaimed gold field which may after the passing of this Act be sold by auction or in virtue of improvements or otherwise shall be subject to the following provisions— Any person specially authorized by the Minister in that behalf shall be at liberty to dig and search for gold within such land and should the same be found to contain auriferous deposits it shall be in the power of the Governor in Council to annul the sale and thereupon the purchaser or his alienee shall be entitled to compensation for the value other than auriferous of the land and improvements such value to be determined by appraisement.

Crown land within
proclaimed gold
field.

30. The Governor in Council may make and proclaim regulations not inconsistent with the provisions of this Act for carrying this Act into full effect so as to provide for all proceedings matters and things arising under this Act and not herein expressly provided for And all such regulations shall upon publication in the *Gazette* be valid in law Provided that a copy of every such regulation shall be laid before both Houses of Parliament within one month from the issue thereof if Parliament be then in Session or otherwise within one month after the commencement of the then next ensuing Session.

Governor in Council
may make Regula-
tions.

31. This Act may be cited for all purposes as the "Lands Acts further Amendment Act 1880" and shall be read with and as forming part of the said firstly hereinbefore cited Acts.

Short title.

