

CROWN LANDS BILL.

SCHEDULE of Amendments referred to in Message of 7th December, 1897.

- Page 1, clause 1. *Omit* clause 1.
- Page 1, clause 2, 1, line 13. *Omit* "land has"
- Page 1, clause 2, 1, line 13. *Omit* "day of the"
- Page 1, clause 2, 1, line 14. *After* "Act" *insert* "Crown Lands have"
- Page 1, clause 2, 1, line 17. *Omit* "the land" *insert* "such lands"
- Page 2, clause 2, 1, line 1. *Omit* "their" *insert* "the"
- Page 2, clause 2, 1, line 2. *After* "value" *insert* "of such improvements"
- Page 2, clause 2, 1, line 6. *Omit* "themselves"
- Page 2, clause 2, 1, line 7. *Before* "value" *insert* "agreed"
- Page 2, clause 2, 1, lines 7 and 8. *Omit* "as agreed to be paid"
- Page 2, clause 2, 1, line 11. *After* "the" *insert* "value of the"
- Page 2, clause 2, 1, line 12. *Omit* "are" *insert* "is at least"
- Page 2, clause 2, 1, line 14. *After* "lessee" *insert* "upon application within the prescribed time"
- Page 2, clause 3, 2, lines 19 to 22. *Omit* "such application lodged on or after the day of the commencement of this Act as well as to any such application now pending and not determined by the Minister or the Local Land Board before the said day" *insert* "land the value of which shall be determined after the commencement of this Act"
- Page 2, clause 3, 2, lines 27 and 28. *Omit* "in virtue of which he lodged his application upon the rescission of such reservation" *insert* "(where such applicant is the owner of such adjoining land")
- Pages 2 and 3, clauses 4, 5, and 6. *Omit* clauses 4, 5, and 6, *insert* new clauses 3, 4, 5, and 6.
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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, 4 August, 1897. }*

*F. W. WEBB,
Clerk of the Legislative Assembly.*

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

*Legislative Council Chamber,
Sydney, 7th December, 1897. }*

*JOHN J. CALVERT,
Clerk of the Parliaments.*

New South Wales.



ANNO SEXAGESIMO PRIMO

VICTORIÆ REGINÆ.

No. . (A.D. 1897.)

An Act to amend the law relating to the determination of values of improvements, the rescission of reservations of water frontage, and to appeals by the Minister to the Land Appeal Court; to provide for certain holdings within suburban or population boundaries; and to amend section 11 of the Crown Lands Act of 1895; and for other purposes.

BE it 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:—

5 1. Whenever it becomes necessary under the Crown Lands Acts that an appraisement or determination of the value of improvements shall be made (whether the land containing such improvements was applied for before or is applied for after the passing of this Act), the value that shall be appraised or determined and shall be payable shall
10 be the value of the improvements to an incoming tenant, but in no case shall exceed the fair cost of making the improvements, less depreciation in value from use or otherwise.

Basis of value of improvements.

2. 1. Where land has, before or after the day of the commencement of this Act, Crown lands have been set apart for any class of
15 holding under the Crown Lands Acts, it shall be deemed to have been and to be sufficient for the purposes of the said Acts, if the estimated value of any improvements upon the land such lands has been notified in the Gazette:

Provisional valuation of improvements and appraisement thereof.

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Provided

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

Crown Lands.

Provided that an appraisalment or determination of ~~their~~ the value of such improvements shall be made after the land has become the subject of an application for homestead selection or settlement lease, unless both the owner (other than the Crown) of the improvements and the incoming selector or lessee have agreed to dispense with such appraisalment, and have themselves agreed on the value to be paid, in which case the agreed value of the improvements as agreed to be paid shall be deemed to be the appraised value within the meaning of subsection (b) of section fifteen or subsection (b) of section twenty-five of the Crown Lands Act of 1895, as the case may be :

Provided that if in any case the value of the improvements as appraised or determined ~~are~~ is at least twenty per centum higher than their estimated value as notified in the Gazette, the Land Board may allow the incoming selector or lessee upon application within the prescribed time to withdraw his application, and to obtain a refund of any moneys paid in connection therewith.

3. 2. The expression "fair value" in section sixty-three of the Crown Lands Act of 1884, used in connection with applications for the rescission of reservations of water frontage, shall, in regard to any such application lodged on or after the day of the commencement of this Act, as well as to any such application now pending, and not determined by the Minister, or the Local Land Board, before the said day, land the value of which shall be determined after the commencement of this Act, be taken to mean the value of the land the subject of such reservation ascertained on the basis of the additional value which may reasonably be expected to accrue to the applicant in connection with the land adjoining the reservation in virtue of which he lodged his application, upon the rescission of such reservation, (where such applicant is the owner of such adjoining land), and such additional value shall be held to be the "fair value" within the meaning, and for all purposes, of the said sixty-third section.

Meaning of "fair value" in section 63 of Crown Lands Act of 1884.

4. On and after the day of the commencement of this Act section fifty-nine of the Crown Lands Act of 1895 shall be repealed. The Minister shall have full power to appeal, by way of reference, to the Land Appeal Court, from any recommendation, determination, decision, or award of a Local Land Board, whether made before or after the said day in any case in which he shall allege—

(I) that any such recommendation, determination, decision, or award has been made or given against evidence or the weight of evidence, or upon insufficient evidence; or

(II) that such recommendation, determination, decision, or award is not in accordance with law; or

(III) that the rights, revenues, or interests of the Crown have been, or may hereafter be, injuriously affected by such recommendation, determination, decision, or award; or

(IV) that a Local Land Board has failed or neglected to duly discharge its duty according to law, or has exceeded such duty:

References by the Minister to Court: Not under section 6 of Act of 1889.

Provided that nothing in this section shall apply to any case to which the provisions of section six of the Crown Lands Act of 1889 apply.

With the reference the Minister shall cause to be transmitted to the registrar of the said Court a document signed by him setting forth the grounds of the reference, and all papers connected with the case.

Subject to the provisions of this section the Land Appeal Court shall deal with every such reference, and the rights and liabilities of the Crown in respect thereof shall be the same as if such reference were an appeal by the Crown; and no provision of the Crown Lands Acts relating to appeals or the lodging of deposits shall, except as aforesaid, apply to any such reference.

Nothing

Crown Lands.

Nothing in this section shall prejudice or affect the right of the Crown or any person to apply for a writ of prohibition or mandamus, or in the nature of a mandamus.

The Land Appeal Court, upon the hearing of any such reference, may determine the same or may order the case to be sent back to the Local Land Board for further evidence, or may make any other order interlocutory or final which, to the said Court, may appear just.

The Land Appeal Court shall have full power of awarding costs on any such reference, and whether against or in favour of the Crown.

5. Nothing in the Crown Lands Acts shall be held to have prevented or to prevent lands within suburban or population boundaries being set apart and made available for homestead selection or settlement lease, provided that the lands shall not thereby be deemed to have been or to be made available for conditional purchase.

Holdings within suburban or population boundaries may be set apart.

6. Subsection (c) of section eleven of the Crown Lands Act of 1895 is hereby amended by inserting after the word "shall," where first used, the words "taken with such series."

Amendment of s. 11 of Crown Lands Act of 1895.

3. On and after the commencement of this Act section fifty-nine of the Crown Lands Act of 1895 shall be repealed.

References by the Minister to Court: Not under section 6 of Act of 1889.

The Minister may within three years after any recommendation, determination, decision, or award of a Local Land Board, whether made before or after the commencement of this Act, appeal, by way of reference, to the Land Appeal Court, from such recommendation, determination, decision, or award in any case in which it appears—

- (i) that the rights, revenues, or interests of the Crown have been, or may hereafter be, injuriously affected by such recommendation, determination, decision, or award; or
- (ii) that a Local Land Board has failed or neglected to duly discharge its duty according to law, or has exceeded such duty,
- (iii) that such recommendation, determination, decision, or award has been made or given against evidence or the weight of evidence, or upon insufficient evidence; or
- (iv) that such recommendation, determination, decision, or award is not in accordance with law.

Provided that nothing in this section shall apply to any case to which the provisions of section six of the Crown Lands Act of 1889 apply, nor to any case in which a certificate of conformity has been issued or ordered to issue under the provisions of section thirty-six of the Crown Lands Act of 1884.

The following provisions shall apply to appeals under this section:—

- (a) With the reference the Minister shall cause to be transmitted to the registrar of the said Court a document signed by him setting forth the grounds of the reference, and all papers connected with the case; and shall also cause to be served upon the parties to such case a notice of appeal setting forth the grounds of the reference as aforesaid, within such time and in such form as the said Land Court may by rule in that behalf prescribe.
- (b) Subject to the provisions of this section the Land Appeal Court shall deal with every such reference, and the rights and liabilities of the Crown in respect thereof shall be the same as if such reference were an appeal by the Crown; and no provision of the Crown Lands Acts relating to appeals or the lodging of deposits shall, except as aforesaid, apply to any such reference.
- (c) Nothing in this section shall prejudice or affect the right of the Crown or any person to apply for a writ of prohibition or mandamus, or in the nature of a mandamus.

(d)

Crown Lands.

- (d) The Land Appeal Court, upon the hearing of any such reference, may determine the same or may order the case to be sent back to the Local Land Board for further evidence, or may make any other order interlocutory or final which, to the said Court, may appear just.
- (e) The Land Appeal Court shall have full power of awarding costs on any such reference, and whether against or in favour of the Crown.
4. On and after the commencement of this Act section eleven of the Crown Lands Act of 1895 shall be repealed, and the following section enacted in place thereof. A notification that Crown lands are set apart for holdings of any kind shall render the lands in such notification specified, so long as the said lands remain so set apart, available for the purpose of an application for an additional conditional purchase or conditional lease of a series of which the original conditional purchase was made before the date of the notification in any case where—
- (a) the application is made not later than forty days after the date of the notification; and
- (b) the applicant has been for six months previously and still is in bona fide residence on some conditional purchase or conditional lease of the same series at the date of the notification.
- During the period within which, in pursuance of this section, application as aforesaid to add to any series may be made, the land in such notification specified shall not be available for any applications other than those by this section authorised, but the notification as aforesaid shall not affect the granting or renewing of occupation licenses and annual leases unless the same be expressly excluded.
- Provided that—
- (c) the area which may be added to any series by all such additional conditional purchases and conditional leases shall, together with such series, not exceed the area sufficient in the opinion of the Local Land Board to enable the holder thereof by agriculture, or by agriculture combined with any other ordinary pursuits, to maintain his home thereon, and shall not, in any case, exceed the area which may be taken under the Principal Act; and
- (d) such additional conditional purchases and conditional leases shall be taken so as to conform to the general design of the subdivision, if any, of such tract or area;
- (e) where the notified capital value of the land applied for is more than one pound per acre, the price to be paid for an additional conditional purchase applied for under this section or for an additional conditional purchase into which a conditional lease applied for under this section is converted shall be such notified capital value. In any case the deposit on any additional conditional purchase shall be ten per centum, and the annual instalments of purchase money shall be five per centum of the aforesaid capital value.
5. Section thirty-one of the Crown Lands Act of 1895 shall be deemed to have applied and shall apply to any conditional purchases and conditional leases, the applications for which were made before the day of the commencement of that Act, although such applications were not confirmed before that day.
- Where any application has already been disallowed or disposed of under the provisions of the section aforesaid, the Board may, at the request of the applicant, and on such terms as the Board may prescribe, deal with such application as if it had not been disallowed or disposed of.

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6. Any appraisement made after the commencement of this Act of the value of any improvements, the subject either of ownership or of tenant-right, upon land applied for as or held under any conditional or other purchase or homestead selection or any lease shall be subject 5 to the following provisions:—

- (a) The said value shall be the value to an incoming tenant.
- (b) The said value shall not include what may be justly due to the inherent capabilities of the land:

10 Provided that where the owner of the improvements or person having tenant right therein has derived no benefit from the use of the improvements in consequence of having been disturbed in the use thereof, such owner or person shall be entitled to receive in addition to the value assessed as aforesaid interest at a rate not exceeding five per centum per annum on the amount expended by him in effecting such 15 improvements calculated from the time of such expenditure. And such interest shall be paid and may be recovered in the manner provided in the Crown Lands Act for the payment and recovery of the value of improvements, the subject of ownership or tenant-right. But this proviso shall not apply where the improvements are the property of 20 the Crown.

7. This Act may be cited as the "Crown Lands Act, 1897," Short title. and shall be read with and as forming part of the Crown Lands Acts.

6. Any person who...
 7. Not of the value of any improvement...
 8. or of tenanted...
 9. or other person...
 10. to the following...
 (a) The value shall be the value...
 (b) The value shall be the value...
 11. the value shall be...
 12. Provided that...
 13. 10 having...
 14. improvements...
 15. thereof...
 16. the value...
 17. within...
 18. improvements...
 19. thereof...
 20. the Crown...
 21. improvements...
 22. proviso...
 23. of the...
 24. V. This...
 25. and shall...