

This Act is amended by Act No. 38, 1905; Act No 32, 1908; and
Act No. 18, 1909.

New South Wales.



ANNO PRIMO

EDWARDI VII REGIS.

Act No. 70, 1901.

An Act to vest the management and control of that portion of New South Wales known as the Western Division in a board, to be called the Western Land Board; to grant extension of leases in the said division and tenant-right in certain improvements; and for all purposes necessary and incidental thereto. [Assented to, 27th December, 1901.]

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

PART I.

Preliminary and general.

1. This Act shall come into force on the first day of January, Short title.
one thousand nine hundred and two, and may be cited as the "Western
Lands Act of 1901."

Western Lands.

Repeal of Acts.

2. The Crown Lands Act of 1884 and all Acts amending same, in so far as they relate to pastoral, homestead, improvement, and scrub leases, leases of inferior lands, and occupation licenses and vacant lands in the Western Division, are hereby repealed, except where exempted from such repeal under the provisions of this Act; but such repeal shall not of itself—

- (1) abate, prejudice, or affect any proceeding, civil or criminal, pending in any court or before arbitrators or any other authority at the commencement of this Act;
- (2) affect any application, grant, lease, license, reservation, dedication, proclamation, appointment, or notification lawfully made before the commencement of this Act; or
- (3) prejudice or affect any proceeding, matter, or thing lawfully done or contracted to be done, or commenced or contracted to be done under the authority of any enactment or regulation hereby repealed; or
- (4) apply to the disposition or dealing with any lands or interests therein not brought under the provisions of this Act: Provided that all vacant lands and lands the subject of annual lease or occupation license in the Western Division shall not (whether brought under this Act or not) be leased except under the provisions of this Act;
- (5) prevent the reservation or dedication, or the revocation wholly or in part of any reservation or dedication, made, before or after the commencement of this Act, of lands in the Western Division under the Crown Lands Acts, or the proclamation of any city, town, or village, or population area, or the definition or notification of suburban lands in the Western Division under such Acts as if this Act had not been passed.

And provided always that, notwithstanding such repeal,—

- (a) all offences, penalties, and forfeitures committed or incurred before the commencement of this Act may be respectively tried, punished, enforced, and dealt with as if this Act had not been passed;
- (b) all rights accrued and obligations incurred or imposed under or by virtue of any of the said repealed enactments shall, subject to any express provisions of this Act in relation thereto, remain unaffected by such repeal.

Interpretation.

3. In this Act, unless the context necessarily requires a different meaning, the expression—

“Crown Lands Acts” means the Crown Lands Act of 1884, and all amending Acts.

“Crown lands” means Crown lands within the meaning of the Crown Lands Acts, and includes land held under occupation license or annual lease.

“Pastoral

Western Lands.

“Pastoral holding” means pastoral holding as defined by the Crown Lands Acts, and the terms “occupation license,” “scrub lease,” “improvement lease,” “homestead lease,” and “lease of inferior lands” shall in this Act have the same meanings as they have in such Acts.

“Western Division” means the Western Division as defined by the Crown Lands Act of 1884.

PART II.
Western Land Commissioners.

4. For the purposes of this Act, there shall be a board of three ^{Appointment of} Commissioners, to be entitled “The Western Land Board of New ^{Commissioners.} South Wales.”

The Commissioners shall—

- (a) be appointed by the Governor, and any Commissioner may be removed for misbehaviour or incompetence; and
 - (b) have perpetual succession and a common seal;
- and they shall exercise all the powers and discharge all the duties hereinafter mentioned; and, on and after a date to be proclaimed in the Government Gazette, so far as the Western Division is concerned, for the purpose of giving effect to the provisions of the Crown Lands Acts, such Commissioners sitting in open court may and are hereby empowered to exercise all of the powers conferred upon Local Land Boards by the above-mentioned Acts, and for all purposes of the Crown Lands Acts shall be a local land board in all cases, as well as in any case that may be or is required to be referred to any Local Land Board under the provisions of any Act (other than the Crown Lands Acts) now or hereafter in force. On and after the date proclaimed as aforesaid the Local Land Boards as now constituted shall cease to have jurisdiction in the said Western Division.

5. The Commissioners, one of whom shall be appointed ^{Term of office.} Chief Commissioner and chairman, shall, subject to the provisions hereinafter contained, hold office for a term of seven years, and shall be eligible for reappointment, and any vacancy that shall occur shall be filled by the Governor for the unexpired portion of the existing term.

In the absence of any Commissioner the Governor may appoint some person to act as the deputy of such Commissioner during his absence, and every person so appointed shall, while so acting, have the powers and shall perform the duties and be subject to the liabilities of such Commissioner.

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Salaries.

6. The following salaries shall be paid to the Commissioners, namely—

Chief Commissioner, fifteen hundred pounds per annum.

Each of the other Commissioners, one thousand pounds per annum.

All such salaries are hereby charged upon the Consolidated Revenue Fund, and such fund, to the extent required for the payment of such salaries, is hereby permanently appropriated.

Disabilities of Commissioners.

7. No Commissioner shall, directly or indirectly, be interested in any land in the Western Division, or in any matter which may arise in connection therewith under this Act, and any contravention of this enactment shall render void as well the seat of such Commissioner as any adjudication or appraisalment in which he takes part and in which he is personally interested, and before acting each Commissioner shall take the prescribed oath, and any wilful violation of this section shall be a misdemeanour.

Time of Commissioners.

8. Each Commissioner shall devote the whole of his time and attention to his duties under this Act, and shall not be engaged in any live stock transactions for the sake of gain or any other business.

Attendance of witnesses.

9. The provisions of section nine of the Crown Lands Act of 1889 shall (mutatis mutandis) be applicable to any inquiry by the Commissioners, and authority is hereby given to enforce the application of such provisions.

Meeting of Commissioners.

10. The Chief Commissioner shall preside at all meetings of the Commissioners, but in his absence one of them, with the concurrence of the other, shall act as chairman of such meeting.

Two Commissioners shall constitute a quorum, and the presiding Commissioner shall have an original vote on any question under consideration: Provided always that such presiding Commissioner shall have a casting vote on any question on which the votes are equal, or at the discretion of such presiding Commissioner in cases where two Commissioners only are adjudicating, and they are not able to agree upon any matter, the further consideration of the case may be adjourned for the attendance of the three Commissioners.

Employees.

11. The Governor, on the advice of the Minister, may appoint or employ such officers to carry out the provisions of this Act as may be necessary, and such officers may be removed, or their services dispensed with in like manner, and such salaries and allowances shall be paid to such officers as Parliament shall appropriate for that purpose. Where any Commissioner or such officer was, immediately before such appointment or employment, in the Public Service and subject to the provisions of the Public Service Act of 1895, such Commissioner or officer, in case he retires from his employment under this Act, and it is thought fit to employ him again in the Public Service, may be so employed without examination or probation, and shall

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shall be entitled to the same rights as if his employment in such service, before and after his employment under this Act, had been continuous.

12. The Minister, the Commissioners, or any of them, or any person authorised by him or them, may at any time enter upon any Crown lands within the Western Division for the purpose of giving effect to the provisions of this Act or the Crown Lands Acts.

Right to enter on
Crown lands.

PART III.

Land may be brought under this Act.

13. Any registered holder under the Crown Lands Acts of a pastoral or homestead improvement or scrub lease or a lease of inferior lands or occupation license of land in the Western Division may apply, or in the event of any such holdings being mortgaged, then any owner of the equity of redemption in the same may also apply, as prescribed within six months after the commencement of this Act, to bring his lease or license under the provisions of this Act. If no such application is made such lease or license shall be dealt with as if this Act had not been passed; and where in the said Crown Lands Acts the words "Local Land Board" occur, the board constituted under section four hereof shall be the Local Land Board referred to. In respect of any application to bring an improvement or scrub lease or lease of inferior lands under this Act the Governor may, before granting such application, impose any new conditions or extend, alter, vary, or annul, any present conditions as may be deemed advisable in the public interest.

Land may be
brought under this
Act.

PART IV.

Extension, surrender, and issue of new lease.

14. On application in the prescribed manner, the Governor may extend the term of any lease or of any part thereof up to the thirtieth day of June, one thousand nine hundred and forty-three: Provided that—

Grant of lease.

- (a) No extension of any lease held by way of mortgage on or since the eleventh day of August, one thousand nine hundred, shall be granted unless and until a common agreement shall have been arrived at between the mortgagor, the mortgagee, and the Commissioners as to any adjustment or otherwise of the mortgage debt, and as to the terms and conditions to be entered into by such mortgagor and mortgagee in respect of such

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such debt, and for the purposes of this section the Commissioners shall be entitled to inspect, or cause to be inspected on their behalf, all or any books of accounts, mortgages, deeds, securities, conveyances, agreements, or any documents or instruments relating to the said mortgage debt or the security therefor.

Should the parties be unable to agree in the manner above mentioned within twelve months from the date of the application for extension, the matter shall be referred to the Minister whose decision if accepted shall be final. But in the event of the mortgagee refusing to accept such decision by notice in writing to the Minister in that behalf within one month after such decision is announced he shall be deemed not to have made the application provided for in section thirteen.

- (b) The acceptance of an extended lease by any mortgagee and mortgagor shall have the effect of discharging the mortgage debt in connection with such lease or other security worked in conjunction therewith to the extent determined upon in the common agreement referred to, and the mortgages and other instruments by which the repayment of the debt is secured shall have endorsed thereon the particulars of such agreement, and all parties thereto shall be bound by such agreement.

The provisions of this section shall extend to any lease which, although not held by way of mortgage, has been held since the eleventh day of August, one thousand nine hundred, as security, wholly or in part for any debt.

Acceptance of a
new lease.

15. The acceptance of a new lease shall be deemed to have released and discharged the Government from all claims or rights on the part of the lessee to a lease under any of the Crown Lands Acts, and from all claims for compensation whatsoever.

Particulars of
extension granted
and of new lease to
be laid before
Parliament.

16. Particulars of all extended and new leases issued in pursuance of this Act shall be laid before both Houses of Parliament within fourteen days after the extension of the new or the extended lease if Parliament is then in session, and within fourteen days after the commencement of the next session if Parliament is not in session.

Withdrawal for
auction sale and
small holdings.

17. The Governor after report by the Commissioners may withdraw any lands held under lease whenever it may be deemed expedient so to do for the purpose of sale by auction or providing small holdings; and every such withdrawal shall be notified in the Government Gazette and a local newspaper. The lease of land so withdrawn shall not extend beyond the thirtieth day of June, one thousand nine hundred and forty-three, and shall be dealt with as a new lease under this Act and any regulations made thereunder. The

total

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total area to be withdrawn under the exercise of this power shall be in one block and shall not exceed one-eighth of the area held under the original lease from which the withdrawal is made. The Governor shall, after report by the Commissioners, add to the remainder of the lease such term as may be considered reasonable as compensation for such withdrawal, but in no case shall such term exceed six years. After the exercise of such power, the land so withdrawn shall remain under preferential occupation license to the lessee at a rent to be fixed by the Commissioners until the said land shall be disposed of in the prescribed manner. Upon the sale or lease of the said land or any part thereof the lessee shall be entitled to tenant-right as defined in the Crown Lands Acts in all improvements effected or paid for by him on such land, payment for which shall be made to the said lessee in such manner and at such periods and subject to such conditions as the Commissioners shall direct; and any such sale or lease of the said land shall be liable to forfeiture by notification in the Government Gazette if such payments are not duly complied with. For the purposes of this section the words "small holdings" shall mean holdings the areas of which shall not exceed twenty thousand four hundred and eighty acres.

PART V.

Terms and conditions of leases.

18. All leases issued or brought under the provisions of this Act shall expire on the thirtieth day of June in the year one thousand nine hundred and forty-three, except leases extended in accordance with the provisions of the preceding section. Where an extension of lease has been granted under this Act, the lessee shall surrender his present lease and a new lease shall be issued to him from the date of such surrender, and such lease as well as every new lease shall contain the covenants, reservations, and exemptions set out in Schedule A hereto, or such of the same as the Governor may deem applicable, and shall be subject to any modifications or additions contained in the notification rendering the lands available for lease in the case of new leases, and as may be determined by the Governor in the case of extended leases or those granted in lieu of leases surrendered under the provisions of this Act, and no lease shall convey any authority to carry on mining operations thereon. Every such lease shall contain a provision to the satisfaction of the Commissioners for the destruction of rabbits, and any lease shall, in the discretion of the Minister, after report from the Commissioners, be liable to forfeiture for breach of any of the covenants therein contained.

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Western Lands.

PART VI.

Determination of rentals and license fees.

Rents how
determined.

19. The rentals on all leases issued or brought under the provisions of this Act in the prescribed manner shall be determined by the Commissioners in the manner described in the subsections hereto for the balance of the term of leases current at the date of the commencement of this Act. In the case of new leases for periods not exceeding ten years, and in the case of leases extended under the provisions of this Act, the rent shall be determined for the periods ending thirtieth of June, one thousand nine hundred and thirty, and thirtieth June, one thousand nine hundred and forty-three—

- (a) In the case of existing leases the Commissioners, subject to the provisions of this Act, shall, as aforesaid, determine the rent for the unexpired portion of such leases.
- (b) No rental or license fee shall in any case be less than two shillings and sixpence per square mile or part thereof, exclusive of the purchase money, interest, or rent for improvements, and in no case shall the rent or license fee be fixed at a higher rate than sevenpence per sheep on the carrying capacity, estimated on a sheep basis determined by the Commissioners.
- (c) The rent so fixed in the case of existing leases and in the case of new leases the rent fixed for the first term shall not on reappraisal as aforesaid be either increased or decreased more than twenty-five per centum at the first reappraisal, and this provision shall apply at each subsequent reappraisal to the rent last fixed.
- (d) The Commissioners shall, within six months, or as soon thereafter as practicable, from the date of application under section fourteen of this Act, determine the amount of provisional rental or license fee to be paid in connection with such lease or license, and the rent or fee so determined shall be notified in the Government Gazette, and the amounts so notified shall thereafter be paid to the Under Secretary for Finance and Trade in lieu of the rent or fee paid or payable for the year next succeeding the year current on the date this Act comes into force, and such rent or fee shall thereafter be paid yearly in advance on the due dates until the end of the year of the lease or license current on the thirty-first of December, one thousand nine hundred and four.
- (e) The Commissioners shall, before the end of the year one thousand nine hundred and four, determine the rent or license fee

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fee on each lease or license brought under the provisions of this section, and the rent or fee so determined shall, after notification in the Government Gazette, be payable on the due dates of payments of rents or fees for leases or licenses current on the first of January, one thousand nine hundred and five, and thereafter annually until the expiration of the lease or license current at the date of the passing of this Act. Should the rent so fixed exceed the provisional rent as fixed under the last preceding subsection, then the lessee or licensee shall pay the difference in the prescribed manner; should the said rent be less than the provisional rent, then the lessee or licensee shall be credited with the difference.

20. The Minister may after report from the Commissioners Power to remit rent. postpone the payment of any rent or other moneys due to the Crown under this Act to such dates as he may determine with or without fine or interest.

21. If during the term of any lease or extension thereof, or Increased rentals in certain cases. during the currency of any occupation license, any public works shall be executed by or on behalf of the Government on or in the vicinity of any lease or license and by reason thereof the value of such lease or license shall in the opinion of the Minister, after report by the Commissioners be enhanced, a revaluation of such lease or license or any part or parts thereof shall be made (the provision of the previous section to the contrary notwithstanding), and the amount of increase, if any, so determined and the date from which such increased rent shall be payable shall be notified in the Government Gazette, and the rent or fee so increased shall thereafter be payable yearly until the end of the period of the lease then current.

22. The provisions of subsection (b) of section nineteen shall Special values. not be held to apply to the determination of rentals of lands that have specific values for business or residential purposes near centres of settlement or elsewhere.

PART VII.

Disposal of Crown lands available for lease.

23. Before any Crown lands in the Western Division not held Areas to be determined. under lease shall become available for lease, the Commissioners shall recommend the areas and boundaries of the land to be offered for lease and the rent to be charged therefor, and if there are any improvements

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on the land they shall fix the amount to be paid therefor, which may be sued for in any Court of competent jurisdiction by the Crown or other the party entitled to be paid for such improvements.

Notice in Gazette.

24. The Minister may, by giving thirty days' notice in the Government Gazette, declare Crown lands in the Western Division open for lease under the provisions of this Act, and such notifications shall contain particulars as to the situation, area, rent, value of improvements, if any, upon such land, and shall also specify a period within which applications for leases may be lodged: Provided that the Minister on the report of the Commissioners may in like manner at any time withdraw such notification, and provided that applications may be made at any time after the period notified in the Gazette in cases where the land is not under lease or promise of lease.

Leases not applied for.

25. If any lands offered for lease in the manner provided in the previous section shall not be applied for within the period set apart for the receipt of applications, or should the applications be refused the particulars of such lands may be again notified from time to time on the same terms and conditions as upon the previous occasion, or upon such modified terms and conditions as the Minister on the report of the Commissioners may deem desirable.

Application for lease.

26. Applications for land notified in accordance with the provisions of the two preceding sections shall be made to the Commissioners on the prescribed form, accompanied by a deposit at the rate of twenty per centum on the amount of the first year's rent, as notified in the Government Gazette; and the Commissioners after inquiry shall recommend a lease to such applicant as they shall consider most entitled to it.

All applications received after the period mentioned in section twenty-four shall be dealt with as having been received at the same time, and if more than one application is received for the same land wholly or in part, the land may be apportioned between the applicants or any of them, and any application may be rejected.

Issue of lease.

27. Upon the issue of any lease under this Act, the name of the lessee, together with the particulars of the area, the rent, and the amount to be paid for improvements if any, shall be published in the Government Gazette, and all moneys deposited by any unsuccessful applicant for a lease or an extension of lease shall be refunded within twenty-one days from the date of refusal of his application.

First payment on lease.

28. Within one month after the notification in the Gazette referred to in the previous section the successful applicant shall pay to the Under Secretary for Finance and Trade the balance of the first year's rent, and, subject to the provisions contained in section twenty-nine, the purchase money for any improvements, at such time and in such manner as the Minister on the report of the Commissioners shall direct,

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direct, and shall execute the lease within the time and in the manner prescribed, and thereupon he shall be entitled to the issue of a lease, and upon failure to comply with the provisions of this section all moneys lodged in connection with the application shall be forfeited, together with all right to a lease of the lands in question without prejudice to any rights or remedies that might otherwise be enforced against him by the Crown or others by reason of such non-compliance.

PART VIII.

Improvements, ownership, and payment therefor.

29. Upon the expiration of any new or extended lease granted under the provisions of this Act, all the improvements thereon shall become the property of the Crown, and all improvements upon the land at the commencement of any new lease, not being an extension of an existing lease, issued hereafter shall be paid for at the rate specified in the notification in the Government Gazette provided for in section twenty-four of this Act, together with interest at the rate of five per centum per annum on all amounts overdue, and the purchase money with any accrued interest owing for such improvements shall be a debt due to the Crown or the owner, as the case may be, recoverable in any court of competent jurisdiction:

Improvements to become property of the Crown.

Provided, nevertheless, that the Minister on the report of the Commissioners may assure or grant tenant-right in the following improvements, viz.:—artesian and other wells, tanks and dams, scrubbing, clearing noxious growths, ringbarking, and fencing. No improvements of the class mentioned above, if effected without the consent in writing of the Minister, shall carry tenant-right therein, and the Minister, in giving such consent, shall fix the maximum amount that may be recoverable therefor from any incoming tenant on or after the expiration of the lease or license; such maximum amount shall not exceed the original cost of such improvements.

30. In the case of any lease or license brought under the provisions of this Act any moneys received for improvements shall be paid to the owner of such improvements less the costs of and incidental to the recovery thereof incurred by the Minister and less all moneys due to the Crown by the owner of such improvements, but it shall not be incumbent upon the Minister to enforce payment by any incoming tenant for improvements owned by any person other than the Crown, nor to protect the improvements or interests of any such person.

Payment for improvements.

Western Lands.

Payment by
instalments.

31. If the improvements are the property of the Crown the Minister may permit the lessee to pay for them by instalments including principal and interest thereon at the rate of five per centum per annum, to extend over the whole term of the lease or in his discretion to charge rent therefor; and additional covenants for the due payments of such instalments and for the maintenance, repair, and protection of such improvements shall be inserted in the lease, and whenever such purchase money or interest or part of either or both becomes overdue for a period of three months the purchase money and accrued interest remaining unpaid shall become due and payable and may be recovered by the Minister in any court of competent jurisdiction.

PART IX.

Extension of area.

Extension of present
areas.

32. The holder of any conditional purchase, conditional homestead or other lease, may apply on or before the thirtieth day of June next, on the prescribed form, for an additional area of land to enable him to make a livelihood thereby, provided that no increase of area will be permitted to any person—

- (a) Who has become possessed of the land upon which the application is based since the first day of January, one thousand nine hundred and one.
- (b) Who, in the opinion of the Minister after report by the Commissioners, is in occupation of a sufficient area of land to enable him to maintain his home or make a livelihood thereby.
- (c) Who is not in bona fide and exclusive occupation for grazing purposes of the land forming the basis of the application.
- (d) Who is the owner of lands elsewhere, which, taken singly or in conjunction with the lands held by him in the Western Division, are sufficient to enable him to maintain his home or make a livelihood thereby.

Lands need not
adjoin.

33. It shall be competent for the Minister after report by the Commissioners to allot an additional area of land to the applicant for an extended area in any part of the Western Division, notwithstanding the fact that the area so allotted does not adjoin any other lands held by him: Provided that any available Crown lands adjoining, or wholly within ten miles of any lands held by him in that division, must first be exhausted before the applicant shall be entitled to acquire land elsewhere. Any area added under the provisions of this section shall be subject to such terms and conditions, including payment for improvements, as the Minister after report by the Commissioners may determine.

34.

Western Lands.

34. It shall be competent for the holder referred to in section thirty-two, with the consent of the Minister, after report by the Commissioners, to acquire and hold—the provisions of the Crown Lands Acts to the contrary notwithstanding—in his own name one or more homestead leases, and notwithstanding that the term of residence has not been completed on any such homestead leases. Extended area may be held.

35. Notwithstanding anything to the contrary in the existing Crown Lands Acts, the holder of any homestead lease who has complied with the conditions of residence thereon may apply for and acquire, by way of conditional purchase, conditional lease, settlement or homestead selection, lands in the Eastern or Central Divisions of the State. Repeal of Acts.

PART X.

Regulations by the Governor.

36. Whenever in this Act the expression “prescribed” is used in connection with any matter, and whenever in this Act “regulations” are referred to, the Governor may frame regulations for the purpose of giving effect to the matters which may be so prescribed or in relation to which the regulations are referred to. Regulations by the Governor.

And the Governor may generally make regulations for the purpose of carrying this Act into effect, and may in those regulations provide for the enforcement thereof by penalties not exceeding in any case, ten pounds. Such regulations upon being published in the Gazette shall be valid in law. A copy of every such regulation shall be laid before both Houses of Parliament within fourteen days from the publication thereof, if Parliament be then in session, or otherwise within fourteen days after the commencement of the next ensuing session.

SCHEDULES.

SCHEDULE A.

COVENANTS, reservations, and exceptions referred to in section eighteen:—

- (a) To pay rent annually in advance.
- (b) To take, within a specified time, such steps and measures to destroy rabbits, dogs, and other vermin as the Commissioners shall from time to time direct, and to keep the lease free of vermin during the currency of the lease to the satisfaction of such Commissioners.
- (c) To destroy such noxious weeds as the Commissioners may from time to time direct.
- (d) Except for the purpose of building, fencing, or for firewood, not to destroy, or permit the destruction of any timber on the lease without the written consent of the Commissioners.

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(e)

Western Lands.

- (e) Not to obstruct or interfere with any reserves, roads, or tracks, or the use thereof by any person.
- (f) To foster and cultivate such edible shrubs and plants, and take such steps in this respect as the Minister may from time to time direct.
- (g) To furnish such returns or statements as the Commissioners may from time to time require in connection with any lease or license, or freeholds or conditional purchases in the Western Division, or worked in conjunction with any lease or license in the Western Division.
- (h) To furnish such returns or statements as the Commissioners may from time to time require in connection with any sheep or large stock, cost of improvements, working expenses, or any other matter relative to any holding in the Western Division, or to any of the matters herein mentioned in connection with any property worked in conjunction with any lease or license in the Western Division.
- (i) To permit the Commissioners and all persons authorised by the Minister or the Commissioners to enter and view the whole or any part of the lease or buildings or other improvements thereon.
- (j) To keep in reasonable repair all improvements on the lease.
- (k) Reservations in favour of the Crown of all minerals, metals, gems, precious stones, coal, and mineral oils, together with all rights necessary for ingress, egress, search, prosecution, and removal, and all incidental rights and powers.
- (l) The unrestricted right to proclaim travelling stock, camping or other reserves. The unrestricted right to withdraw any land for the purposes of roads or travelling stock, camping or other reserve.
- (m) The unrestricted right for the Minister, the Commissioners, or any persons authorised by him or them to enter upon and examine such land and the improvements thereon.
- (n) The right, if the rent or license fee be not paid on the due date, to impose a penalty not exceeding ten per cent. per annum on the amount unpaid.
- (o) A proviso that if rent shall be in arrear for more than six months after due date, or if there has been a breach or non-performance of any of the lessee's covenants or conditions the Minister may cancel the lease.
- (p) Provisions for resumption of lands for mining purposes, townships, or any public purpose under the provisions of the Crown Lands Acts; and for compensation for resumption.
- (q) Reservations in favour of the Crown necessary or proper for giving effect to any Act or regulation for the time being in force.

SCHEDULE B.

Form of oath.

I, A.B., Commissioner appointed under the Western Lands Act of 1901, do hereby swear that I am not, and shall not during my term of office under such Act be directly or indirectly interested in any land in the Western Division in any matter which may arise in connection therewith under this Act, and that I will well and truly, and without fear or favour, perform the duties of my office of such Commissioner.

By Authority : Reprinted by WILLIAM APPLIGATE GULLICK, Government Printer, Sydney, 1910.

[1s.]

New South Wales.



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- (1) abate, prejudice, or affect any proceeding, civil or criminal, pending in any court or before arbitrators or any other authority at the commencement of this Act;
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- (3) prejudice or affect any proceeding, matter, or thing lawfully done or contracted to be done, or commenced or contracted to be done under the authority of any enactment or regulation hereby repealed; or
- (4) apply to the disposition or dealing with any lands or interests therein not brought under the provisions of this Act: Provided that all vacant lands and lands the subject of annual lease or occupation license in the Western Division shall not (whether brought under this Act or not) be leased except under the provisions of this Act;
- (5) prevent the reservation or dedication, or the revocation wholly or in part of any reservation or dedication, made, before or after the commencement of this Act, of lands in the Western Division under the Crown Lands Acts, or the proclamation of any city, town, or village, or population area, or the definition or notification of suburban lands in the Western Division under such Acts as if this Act had not been passed.

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Interpretation.

3. In this Act, unless the context necessarily requires a different meaning, the expression—

“Crown Lands Acts” means the Crown Lands Act of 1884, and all amending Acts.

“Crown lands” means Crown lands within the meaning of the Crown Lands Acts, and includes land held under occupation license or annual lease.

“Pastoral

Western Lands.

“Pastoral holding” means pastoral holding as defined by the Crown Lands Acts, and the terms “occupation license,” “scrub lease,” “improvement lease,” “homestead lease,” and “lease of inferior lands” shall in this Act have the same meanings as they have in such Acts.

“Western Division” means the Western Division as defined by the Crown Lands Act of 1884.

 PART II.

Western Land Commissioners.

4. For the purposes of this Act, there shall be a board of three Appointment of Commissioners. Commissioners, to be entitled “The Western Land Board of New South Wales.”

The Commissioners shall—

(a) be appointed by the Governor, and any Commissioner may be removed for misbehaviour or incompetence; and

(b) have perpetual succession and a common seal;

and they shall exercise all the powers and discharge all the duties hereinafter mentioned; and, on and after a date to be proclaimed in the Government Gazette, so far as the Western Division is concerned, for the purpose of giving effect to the provisions of the Crown Lands Acts, such Commissioners sitting in open court may and are hereby empowered to exercise all of the powers conferred upon Local Land Boards by the above-mentioned Acts, and for all purposes of the Crown Lands Acts shall be a local land board in all cases, as well as in any case that may be or is required to be referred to any Local Land Board under the provisions of any Act (other than the Crown Lands Acts) now or hereafter in force. On and after the date proclaimed as aforesaid the Local Land Boards as now constituted shall cease to have jurisdiction in the said Western Division.

5. The Commissioners, one of whom shall be appointed Chief Term of office. Commissioner and chairman, shall, subject to the provisions hereinafter contained, hold office for a term of seven years, and shall be eligible for reappointment, and any vacancy that shall occur shall be filled by the Governor for the unexpired portion of the existing term.

In the absence of any Commissioner the Governor may appoint some person to act as the deputy of such Commissioner during his absence, and every person so appointed shall, while so acting, have the powers and shall perform the duties and be subject to the liabilities of such Commissioner.

6.

Western Lands.

Salaries.

6. The following salaries shall be paid to the Commissioners, namely—

Chief Commissioner, fifteen hundred pounds per annum.

Each of the other Commissioners, one thousand pounds per annum.

All such salaries are hereby charged upon the Consolidated Revenue Fund, and such fund, to the extent required for the payment of such salaries, is hereby permanently appropriated.

Disabilities of Commissioners.

7. No Commissioner shall, directly or indirectly, be interested in any land in the Western Division, or in any matter which may arise in connection therewith under this Act, and any contravention of this enactment shall render void as well the seat of such Commissioner as any adjudication or appraisalment in which he takes part and in which he is personally interested, and before acting each Commissioner shall take the prescribed oath, and any wilful violation of this section shall be a misdemeanour.

Time of Commissioners.

8. Each Commissioner shall devote the whole of his time and attention to his duties under this Act, and shall not be engaged in any live stock transactions for the sake of gain or any other business.

Attendance of witnesses.

9. The provisions of section nine of the Crown Lands Act of 1889 shall (*mutatis mutandis*) be applicable to any inquiry by the Commissioners, and authority is hereby given to enforce the application of such provisions.

Meeting of Commissioners.

10. The Chief Commissioner shall preside at all meetings of the Commissioners, but in his absence one of them, with the concurrence of the other, shall act as chairman of such meeting.

Two Commissioners shall constitute a quorum, and the presiding Commissioner shall have an original vote on any question under consideration: Provided always that such presiding Commissioner shall have a casting vote on any question on which the votes are equal, or at the discretion of such presiding Commissioner in cases where two Commissioners only are adjudicating, and they are not able to agree upon any matter, the further consideration of the case may be adjourned for the attendance of the three Commissioners.

Employees.

11. The Governor, on the advice of the Minister, may appoint or employ such officers to carry out the provisions of this Act as may be necessary, and such officers may be removed, or their services dispensed with in like manner, and such salaries and allowances shall be paid to such officers as Parliament shall appropriate for that purpose. Where any Commissioner or such officer was, immediately before such appointment or employment, in the Public Service and subject to the provisions of the Public Service Act of 1895, such Commissioner or officer, in case he retires from his employment under this Act, and it is thought fit to employ him again in the Public Service, may be so employed without examination or probation, and shall

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shall be entitled to the same rights as if his employment in such service, before and after his employment under this Act, had been continuous.

12. The Minister, the Commissioners, or any of them, or any person authorised by him or them, may at any time enter upon any Crown lands within the Western Division for the purpose of giving effect to the provisions of this Act or the Crown Lands Acts. ^{Right to enter on Crown lands.}

 PART III.

Land may be brought under this Act.

13. Any registered holder under the Crown Lands Acts of a pastoral or homestead improvement or scrub lease or a lease of inferior lands or occupation license of land in the Western Division may apply, or in the event of any such holdings being mortgaged, then any owner of the equity of redemption in the same may also apply, as prescribed within six months after the commencement of this Act, to bring his lease or license under the provisions of this Act. If no such application is made such lease or license shall be dealt with as if this Act had not been passed; and where in the said Crown Lands Acts the words "Local Land Board" occur, the board constituted under section four hereof shall be the Local Land Board referred to. In respect of any application to bring an improvement or scrub lease or lease of inferior lands under this Act the Governor may, before granting such application, impose any new conditions or extend, alter, vary, or annul, any present conditions as may be deemed advisable in the public interest. ^{Land may be brought under this Act.}

 PART IV.

Extension, surrender, and issue of new lease.

14. On application in the prescribed manner, the Governor may extend the term of any lease or of any part thereof up to the thirtieth day of June, one thousand nine hundred and forty-three: ^{Grant of lease.}
 Provided that—

- (a) No extension of any lease held by way of mortgage on or since the eleventh day of August, one thousand nine hundred, shall be granted unless and until a common agreement shall have been arrived at between the mortgagor, the mortgagee, and the Commissioners as to any adjustment or otherwise of the mortgage debt, and as to the terms and conditions to be entered into by such mortgagor and mortgagee in respect of such

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such debt, and for the purposes of this section the Commissioners shall be entitled to inspect, or cause to be inspected on their behalf, all or any books of accounts, mortgages, deeds, securities, conveyances, agreements, or any documents or instruments relating to the said mortgage debt or the security therefor.

Should the parties be unable to agree in the manner above mentioned within twelve months from the date of the application for extension, the matter shall be referred to the Minister whose decision if accepted shall be final. But in the event of the mortgagee refusing to accept such decision by notice in writing to the Minister in that behalf within one month after such decision is announced he shall be deemed not to have made the application provided for in section thirteen.

- (b) The acceptance of an extended lease by any mortgagee and mortgagor shall have the effect of discharging the mortgage debt in connection with such lease or other security worked in conjunction therewith to the extent determined upon in the common agreement referred to, and the mortgages and other instruments by which the repayment of the debt is secured shall have endorsed thereon the particulars of such agreement, and all parties thereto shall be bound by such agreement.

The provisions of this section shall extend to any lease which, although not held by way of mortgage, has been held since the eleventh day of August, one thousand nine hundred, as security, wholly or in part for any debt.

15. The acceptance of a new lease shall be deemed to have released and discharged the Government from all claims or rights on the part of the lessee to a lease under any of the Crown Lands Acts, and from all claims for compensation whatsoever.

16. Particulars of all extended and new leases issued in pursuance of this Act shall be laid before both Houses of Parliament within fourteen days after the extension of the new or the extended lease if Parliament is then in session, and within fourteen days after the commencement of the next session if Parliament is not in session.

17. The Governor after report by the Commissioners may withdraw any lands held under lease whenever it may be deemed expedient so to do for the purpose of sale by auction or providing small holdings; and every such withdrawal shall be notified in the Government Gazette and a local newspaper. The lease of land so withdrawn shall not extend beyond the thirtieth day of June, one thousand nine hundred and forty-three, and shall be dealt with as a new lease under this Act and any regulations made thereunder. The

total

Acceptance of a
new lease.

Particulars of
extension granted
and of new lease to
be laid before
Parliament.

Withdrawal for
auction sale and
small holdings.

Western Lands.

total area to be withdrawn under the exercise of this power shall be in one block and shall not exceed one-eighth of the area held under the original lease from which the withdrawal is made. The Governor shall, after report by the Commissioners, add to the remainder of the lease such term as may be considered reasonable as compensation for such withdrawal, but in no case shall such term exceed six years. After the exercise of such power, the land so withdrawn shall remain under preferential occupation license to the lessee at a rent to be fixed by the Commissioners until the said land shall be disposed of in the prescribed manner. Upon the sale or lease of the said land or any part thereof the lessee shall be entitled to tenant-right as defined in the Crown Lands Acts in all improvements effected or paid for by him on such land, payment for which shall be made to the said lessee in such manner and at such periods and subject to such conditions as the Commissioners shall direct; and any such sale or lease of the said land shall be liable to forfeiture by notification in the Government Gazette if such payments are not duly complied with. For the purposes of this section the words "small holdings" shall mean holdings the areas of which shall not exceed twenty thousand four hundred and eighty acres.

PART V.*Terms and conditions of leases.*

18. All leases issued or brought under the provisions of this Act shall expire on the thirtieth day of June in the year one thousand nine hundred and forty-three, except leases extended in accordance with the provisions of the preceding section. Where an extension of lease has been granted under this Act, the lessee shall surrender his present lease and a new lease shall be issued to him from the date of such surrender, and such lease as well as every new lease shall contain the covenants, reservations, and exemptions set out in Schedule A hereto, or such of the same as the Governor may deem applicable, and shall be subject to any modifications or additions contained in the notification rendering the lands available for lease in the case of new leases, and as may be determined by the Governor in the case of extended leases or those granted in lieu of leases surrendered under the provisions of this Act, and no lease shall convey any authority to carry on mining operations thereon. Every such lease shall contain a provision to the satisfaction of the Commissioners for the destruction of rabbits, and any lease shall, in the discretion of the Minister, after report from the Commissioners, be liable to forfeiture for breach of any of the covenants therein contained.

PART

Western Lands.

PART VI.

*Determination of rentals and license fees.*Rents how
determined.

19. The rentals on all leases issued or brought under the provisions of this Act in the prescribed manner shall be determined by the Commissioners in the manner described in the subsections hereto for the balance of the term of leases current at the date of the commencement of this Act. In the case of new leases for periods not exceeding ten years, and in the case of leases extended under the provisions of this Act, the rent shall be determined for the periods ending thirtieth of June, one thousand nine hundred and thirty, and thirtieth June, one thousand nine hundred and forty-three—

- (a) In the case of existing leases the Commissioners, subject to the provisions of this Act, shall, as aforesaid, determine the rent for the unexpired portion of such leases.
- (b) No rental or license fee shall in any case be less than two shillings and sixpence per square mile or part thereof, exclusive of the purchase money, interest, or rent for improvements, and in no case shall the rent or license fee be fixed at a higher rate than sevenpence per sheep on the carrying capacity, estimated on a sheep basis determined by the Commissioners.
- (c) The rent so fixed in the case of existing leases and in the case of new leases the rent fixed for the first term shall not on reappraisal as aforesaid be either increased or decreased more than twenty-five per centum at the first reappraisal, and this provision shall apply at each subsequent reappraisal to the rent last fixed.
- (d) The Commissioners shall, within six months, or as soon thereafter as practicable, from the date of application under section fourteen of this Act, determine the amount of provisional rental or license fee to be paid in connection with such lease or license, and the rent or fee so determined shall be notified in the Government Gazette, and the amounts so notified shall thereafter be paid to the Under Secretary for Finance and Trade in lieu of the rent or fee paid or payable for the year next succeeding the year current on the date this Act comes into force, and such rent or fee shall thereafter be paid yearly in advance on the due dates until the end of the year of the lease or license current on the thirty-first of December, one thousand nine hundred and four.
- (e) The Commissioners shall, before the end of the year one thousand nine hundred and four, determine the rent or license fee

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fee on each lease or license brought under the provisions of this section, and the rent or fee so determined shall, after notification in the Government Gazette, be payable on the due dates of payments of rents or fees for leases or licenses current on the first of January, one thousand nine hundred and five, and thereafter annually until the expiration of the lease or license current at the date of the passing of this Act. Should the rent so fixed exceed the provisional rent as fixed under the last preceding subsection, then the lessee or licensee shall pay the difference in the prescribed manner; should the said rent be less than the provisional rent, then the lessee or licensee shall be credited with the difference.

20. The Minister may after report from the Commissioners Power to remit rent, postpone the payment of any rent or other moneys due to the Crown under this Act to such dates as he may determine with or without fine or interest.

21. If during the term of any lease or extension thereof, or during the currency of any occupation license, any public works shall be executed by or on behalf of the Government on or in the vicinity of any lease or license and by reason thereof the value of such lease or license shall in the opinion of the Minister, after report by the Commissioners be enhanced, a revaluation of such lease or license or any part or parts thereof shall be made (the provision of the previous section to the contrary notwithstanding), and the amount of increase, if any, so determined and the date from which such increased rent shall be payable shall be notified in the Government Gazette, and the rent or fee so increased shall thereafter be payable yearly until the end of the period of the lease then current. Increased rentals in certain cases.

22. The provisions of subsection (b) of section nineteen shall not be held to apply to the determination of rentals of lands that have specific values for business or residential purposes near centres of settlement or elsewhere. Special values.

PART VII.

Disposal of Crown lands available for lease.

23. Before any Crown lands in the Western Division not held under lease shall become available for lease, the Commissioners shall recommend the areas and boundaries of the land to be offered for lease and the rent to be charged therefor, and if there are any improvements Areas to be determined.

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Western Lands.

on the land they shall fix the amount to be paid therefor, which may be sued for in any court of competent jurisdiction by the Crown or other the party entitled to be paid for such improvements.

Notice in Gazette.

24. The Minister may, by giving thirty days' notice in the Government Gazette, declare Crown lands in the Western Division open for lease under the provisions of this Act, and such notifications shall contain particulars as to the situation, area, rent, value of improvements, if any, upon such land, and shall also specify a period within which applications for leases may be lodged: Provided that the Minister on the report of the Commissioners may in like manner at any time withdraw such notification, and provided that applications may be made at any time after the period notified in the Gazette in cases where the land is not under lease or promise of lease.

Leases not applied for.

25. If any lands offered for lease in the manner provided in the previous section shall not be applied for within the period set apart for the receipt of applications, or should the applications be refused the particulars of such lands may be again notified from time to time on the same terms and conditions as upon the previous occasion, or upon such modified terms and conditions as the Minister on the report of the Commissioners may deem desirable.

Application for lease.

26. Applications for land notified in accordance with the provisions of the two preceding sections shall be made to the Commissioners on the prescribed form, accompanied by a deposit at the rate of twenty per centum on the amount of the first year's rent, as notified in the Government Gazette; and the Commissioners after inquiry shall recommend a lease to such applicant as they shall consider most entitled to it.

All applications received after the period mentioned in section twenty-four shall be dealt with as having been received at the same time, and if more than one application is received for the same land wholly or in part, the land may be apportioned between the applicants or any of them, and any application may be rejected.

Issue of lease.

27. Upon the issue of any lease under this Act, the name of the lessee, together with the particulars of the area, the rent, and the amount to be paid for improvements if any, shall be published in the Government Gazette, and all moneys deposited by any unsuccessful applicant for a lease or an extension of lease shall be refunded within twenty-one days from the date of refusal of his application.

First payment on lease.

28. Within one month after the notification in the Gazette referred to in the previous section the successful applicant shall pay to the Under Secretary for Finance and Trade the balance of the first year's rent, and, subject to the provisions contained in section twenty-nine, the purchase money for any improvements, at such time and in such manner as the Minister on the report of the Commissioners shall direct,

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direct, and shall execute the lease within the time and in the manner prescribed, and thereupon he shall be entitled to the issue of a lease, and upon failure to comply with the provisions of this section all moneys lodged in connection with the application shall be forfeited, together with all right to a lease of the lands in question without prejudice to any rights or remedies that might otherwise be enforced against him by the Crown or others by reason of such non-compliance.

PART VIII.

Improvements, ownership, and payment therefor.

29. Upon the expiration of any new or extended lease granted under the provisions of this Act, all the improvements thereon shall become the property of the Crown, and all improvements upon the land at the commencement of any new lease, not being an extension of an existing lease, issued hereafter shall be paid for at the rate specified in the notification in the Government Gazette provided for in section twenty-four of this Act, together with interest at the rate of five per centum per annum on all amounts overdue, and the purchase money with any accrued interest owing for such improvements shall be a debt due to the Crown or the owner, as the case may be, recoverable in any court of competent jurisdiction :

Provided, nevertheless, that the Minister on the report of the Commissioners may assure or grant tenant-right in the following improvements, viz. :—artesian and other wells, tanks and dams, scrubbing, clearing noxious growths, ringbarking, and fencing. No improvements of the class mentioned above, if effected without the consent in writing of the Minister, shall carry tenant-right therein, and the Minister, in giving such consent, shall fix the maximum amount that may be recoverable therefor from any incoming tenant on or after the expiration of the lease or license ; such maximum amount shall not exceed the original cost of such improvements.

30. In the case of any lease or license brought under the provisions of this Act any moneys received for improvements shall be paid to the owner of such improvements less the costs of and incidental to the recovery thereof incurred by the Minister and less all moneys due to the Crown by the owner of such improvements, but it shall not be incumbent upon the Minister to enforce payment by any incoming tenant for improvements owned by any person other than the Crown, nor to protect the improvements or interests of any such person.

Western Lands.

Payment by
instalments.

31. If the improvements are the property of the Crown the Minister may permit the lessee to pay for them by instalments including principal and interest thereon at the rate of five per centum per annum, to extend over the whole term of the lease or in his discretion to charge rent therefor; and additional covenants for the due payments of such instalments and for the maintenance, repair, and protection of such improvements shall be inserted in the lease, and whenever such purchase money or interest or part of either or both becomes overdue for a period of three months the purchase money and accrued interest remaining unpaid shall become due and payable and may be recovered by the Minister in any court of competent jurisdiction.

PART IX.

Extension of area.

Extension of present
areas.

32. The holder of any conditional purchase, conditional homestead or other lease, may apply on or before the thirtieth day of June next, on the prescribed form, for an additional area of land to enable him to make a livelihood thereby, provided that no increase of area will be permitted to any person—

- (a) Who has become possessed of the land upon which the application is based since the first day of January, one thousand nine hundred and one.
- (b) Who, in the opinion of the Minister after report by the Commissioners, is in occupation of a sufficient area of land to enable him to maintain his home or make a livelihood thereby.
- (c) Who is not in bona-fide and exclusive occupation for grazing purposes of the land forming the basis of the application.
- (d) Who is the owner of lands elsewhere, which, taken singly or in conjunction with the lands held by him in the Western Division, are sufficient to enable him to maintain his home or make a livelihood thereby.

Lands need not
adjoin.

33. It shall be competent for the Minister after report by the Commissioners to allot an additional area of land to the applicant for an extended area in any part of the Western Division, notwithstanding the fact that the area so allotted does not adjoin any other lands held by him: Provided that any available Crown lands adjoining, or wholly within ten miles of any lands held by him in that division, must first be exhausted before the applicant shall be entitled to acquire land elsewhere. Any area added under the provisions of this section shall be subject to such terms and conditions, including payment for improvements, as the Minister after report by the Commissioners may determine.

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34. It shall be competent for the holder referred to in section thirty-two, with the consent of the Minister, after report by the Commissioners, to acquire and hold—the provisions of the Crown Lands Acts to the contrary notwithstanding—in his own name one or more homestead leases, and notwithstanding that the term of residence has not been completed on any such homestead leases. Extended area may be held.

35. Notwithstanding anything to the contrary in the existing Crown Lands Acts, the holder of any homestead lease who has complied with the conditions of residence thereon may apply for and acquire, by way of conditional purchase, conditional lease, settlement or homestead selection, lands in the Eastern or Central Divisions of the State. Repeal of Acts.

PART X.

Regulations by the Governor.

36. Whenever in this Act the expression “prescribed” is used in connection with any matter, and whenever in this Act “regulations” are referred to, the Governor may frame regulations for the purpose of giving effect to the matters which may be so prescribed or in relation to which the regulations are referred to. Regulations by the Governor.

And the Governor may generally make regulations for the purpose of carrying this Act into effect, and may in those regulations provide for the enforcement thereof by penalties not exceeding in any case, ten pounds. Such regulations upon being published in the Gazette shall be valid in law. A copy of every such regulation shall be laid before both Houses of Parliament within fourteen days from the publication thereof, if Parliament be then in session, or otherwise within fourteen days after the commencement of the next ensuing session.

SCHEDULES.

SCHEDULE A.

COVENANTS, reservations, and exceptions referred to in section eighteen:—

- (a) To pay rent annually in advance.
- (b) To take, within a specified time, such steps and measures to destroy rabbits, dogs, and other vermin as the Commissioners shall from time to time direct, and to keep the lease free of vermin during the currency of the lease to the satisfaction of such Commissioners.
- (c) To destroy such noxious weeds as the Commissioners may from time to time direct.
- (d) Except for the purpose of building, fencing, or for firewood, not to destroy, or permit the destruction of any timber on the lease without the written consent of the Commissioners.

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(e)

Western Lands.

- (e) Not to obstruct or interfere with any reserves, roads, or tracks, or the use thereof by any person.
- (f) To foster and cultivate such edible shrubs and plants, and take such steps in this respect as the Minister may from time to time direct.
- (g) To furnish such returns or statements as the Commissioners may from time to time require in connection with any lease or license, or freeholds or conditional purchases in the Western Division, or worked in conjunction with any lease or license in the Western Division.
- (h) To furnish such returns or statements as the Commissioners may from time to time require in connection with any sheep or large stock, cost of improvements, working expenses, or any other matter relative to any holding in the Western Division, or to any of the matters herein mentioned in connection with any property worked in conjunction with any lease or license in the Western Division.
- (i) To permit the Commissioners and all persons authorised by the Minister or the Commissioners to enter and view the whole or any part of the lease or buildings or other improvements thereon.
- (j) To keep in reasonable repair all improvements on the lease.
- (k) Reservations in favour of the Crown of all minerals, metals, gems, precious stones, coal, and mineral oils, together with all rights necessary for ingress, egress, search, prosecution, and removal, and all incidental rights and powers.
- (l) The unrestricted right to proclaim travelling stock, camping or other reserves. The unrestricted right to withdraw any land for the purposes of roads or travelling stock, camping or other reserve.
- (m) The unrestricted right for the Minister, the Commissioners, or any persons authorised by him or them to enter upon and examine such land and the improvements thereon.
- (n) The right, if the rent or license fee be not paid on the due date, to impose a penalty not exceeding ten per cent. per annum on the amount unpaid.
- (o) A proviso that if rent shall be in arrear for more than six months after due date, or if there has been a breach or non-performance of any of the lessee's covenants or conditions the Minister may cancel the lease.
- (p) Provisions for resumption of lands for mining purposes, townships, or any public purpose under the provisions of the Crown Lands Acts; and for compensation for resumption.
- (q) Reservations in favour of the Crown necessary or proper for giving effect to any Act or regulation for the time being in force.

SCHEDULE B.

Form of oath.

I, A.B., Commissioner appointed under the Western Lands Act of 1901, do hereby swear that I am not, and shall not during my term of office under such Act be directly or indirectly interested in any land in the Western Division in any matter which may arise in connection therewith under this Act, and that I will well and truly, and without fear or favour, perform the duties of my office of such Commissioner.

By Authority: WILLIAM APPELEGATE GULLICK, Government Printer, Sydney, 1902.

[1s.]

WESTERN LANDS BILL.

SCHEDULE of the Amendments referred to in Message of 13th December, 1901.

- Page 2, clause 2, line 3. After "leases" insert "leases of inferior lands"
- Page 2, clause 2, line 10. After "any" insert "application"
- Page 2, clause 2. At end of clause add "Provided that all vacant lands and lands the subject of annual lease or occupation license in the Western Division shall not (whether brought under this Act or not) be leased except under the provisions of this Act"
- (5) prevent the reservation or dedication, or the revocation wholly or in part of any reservation or dedication, made, before or after the commencement of this Act, of lands in the Western Division under the Crown Lands Acts, or the proclamation of any city, town, or village, or population area, or the definition or notification of suburban lands in the Western Division under such Acts as if this Act had not been passed.
- And provided always that, notwithstanding such repeal,—
- (a) all offences, penalties, and forfeitures committed or incurred before the commencement of this Act may be respectively tried, punished, enforced, and dealt with as if this Act had not been passed;
- (b) all rights accrued and obligations incurred or imposed under or by virtue of any of the said repealed enactments shall, subject to any express provisions of this Act in relation thereto, remain unaffected by such repeal.
- Page 3, clause 3, line 2. After "Acts" insert "and the terms 'occupation license,' 'scrub lease,' 'improvement lease,' 'homestead lease,' and 'lease of inferior lands,' shall in this Act have the same meanings as they have in such Acts"
- Page 3, clause 4. At end of clause add "On and after the date proclaimed as aforesaid the local land boards as now constituted shall cease to have jurisdiction in the said Western Division"
- Page 3, clause 5, line 32. Omit "five" insert "seven"
- Page 3, clause 5, lines 32 and 33. Omit "on the expiration of such term they"
- Page 3, clause 5, lines 33 and 34. Omit "for a further term of five years"
- Page 4, clause 7, line 13. After "part" insert "and in which he is personally interested"
- Page 4, clause 7, line 15. After "any" insert "wilful"
- Page 4, clause 11. At end of clause add "Where any commissioner or such officer was, immediately before such appointment or employment, in the Public Service and subject to the provisions of the Public Service Act of 1895, such commissioner or officer, in case he retires from his employment under this Act, and it is thought fit to employ him again in the Public Service, may be so employed without examination or probation, and shall be entitled to the same rights as if his employment in such service, before and after his employment under this Act, had been continuous"
- Page 5, clause 12, line 6. After "lands" insert "within the Western Division"
- Page 5, clause 13, line 10. After "Any" insert "registered"
- Page 5, clause 13, line 11. After "lease" insert "or a lease of inferior lands"
- Page 5, clause 13, line 13. After "apply" insert "or in the event of any such holdings being mortgaged, then any owner of the equity of redemption in the same may also apply"
- Page 5, clause 13, line 21. After "lease" insert "or lease of inferior lands"
- Page 6, clause 14, line 7. After "decision" insert "if accepted"
- Page 6, clause 14, line 7. After "final" insert "But in the event of the mortgagee refusing to accept such decision by notice in writing to the Minister in that behalf within one month after such decision is announced he shall be deemed not to have made the application provided for in section thirteen"
- Page 6, clause 15, line 25. Omit "will" insert "shall"
- Page 6, clause 16, lines 29 and 30. Omit "Any extension granted under section fourteen and of any new lease" insert "all extended and new leases"
- Page 6, clause 16, line 31. Omit "the provisions of section twenty-six" insert "this Act"

- Page 6, clause 17, line 43. *After "The" insert "total"*
- Page 6, clause 17, line 44. *After "shall" insert "be in one block and shall"*
- Page 6, clause 17, line 46. *Before "lease" insert "original"*
- Page 7, clause 17, line 1. *Omit "of the Board" insert "by the Commissioners"*
- Page 7, clause 17, line 6. *Omit "Board" insert "Commissioners"*
- Page 7, clause 17, line 9. *After "improvements" insert "effected or paid for by him"*
- Page 7, clause 17, line 11. *After "periods" insert "and subject to such conditions"*
- Page 7, clause 17, line 13. *After "forfeiture" insert "by notification in the Government Gazette"*
- Page 7, clause 18, line 21. *After "forty-three" insert "except leases extended in accordance with the provisions of the preceding section"*
- Page 7, clause 18, line 26. *After "covenants" insert "reservations and exemptions"*
- Page 8, clause 19, line 7. *Omit "and"*
- Page 8, clause 19, line 23. *After "term" insert "shall not"*
- Page 8, clause 19, line 24. *Omit "shall not"*
- Page 8, clause 19, lines 29 to 31. *Omit "on the prescribed form for reduction of rental or license fee, on leases or licenses current at the date of the passing of this Act" insert "under section fourteen of this Act"*
- Page 8, clause 19, line 38. *After "year" insert "next succeeding the year"*
- Page 9, clause 19, line 12. *Omit "manner aforesaid" insert "the prescribed manner"*
- Page 9, clause 20, line 16. *After "rent" insert "or other moneys due to the Crown under this Act"*
- Page 9, clause 20, line 17. *After "determine" insert "with or"*
- Page 9, clause 22, line 31. *Omit "eighteen" insert "nineteen"*
- Page 10, clause 23. *At end of clause add "which may be sued for in any Court of competent jurisdiction by the Crown or other the party entitled to be paid for such improvements"*
- Page 10, clause 24, line 5. *Omit "lands" insert "Crown lands in the Western Division"*
- Page 10, clause 26, line 29. *Omit "two" insert "four"*
- Page 11, clause 28, line 7. *After "Crown" insert "or others"*
- Page 11, clause 29, line 10. *After "any" insert "new or extended"*
- Page 11, clause 29, line 16. *Omit "fourteen" insert "twenty-four"*
- Page 11, clause 29, line 17. *After "centum" insert "per annum"*
- Page 11, clause 29, line 18. *After "money" insert "with any accrued interest"*
- Page 11, clause 29, line 19. *Omit "Minister" insert "Crown or the owner, as the case may be"*
- Page 11, clause 29, lines 20 to 22. *Omit "all improvements on any lease extended under this Act shall become the property of the Crown on the termination of such lease"*
- Page 12, clause 31, line 4. *Omit "their" insert "his"*
- Page 12, clause 33, line 41. *After "conditions" insert "including payment for improvements"*
- Page 13, clause 34, line 2. *After "thirty" insert "two"*
- Page 13, clause 34, line 5. *After "leases" insert "and"*
- Page 13, Schedule A, line 30. *After "covenants" insert "reservations and exceptions"*
- Page 13, Schedule A, line 30. *Omit "seventeen" insert "eighteen"*
- Page 14, Schedule A, lines 19 and 20. *Omit "in addition to the foregoing covenants, the following exceptions and reservations in favour of the Crown"*
- Page 14, Schedule A, line 21. *Before "all" insert "Reservation in favour of the Crown of"*
- Page 14, Schedule A, line 25. *After "any" insert "land for the purposes of roads or"*
- Page 14, Schedule A, line 26. *Omit "or part thereof from lease or license"*
- Page 14, Schedule B, line 43. *After "not" insert "and shall not during my term of office under such Act be"*
- Page 14, Schedule B, lines 44 and 45. *Omit "vested in the management of the Commissioners for the purposes of that" insert "in the Western Division in any matter which may arise in connection therewith under this"*

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 December, 1901. }*

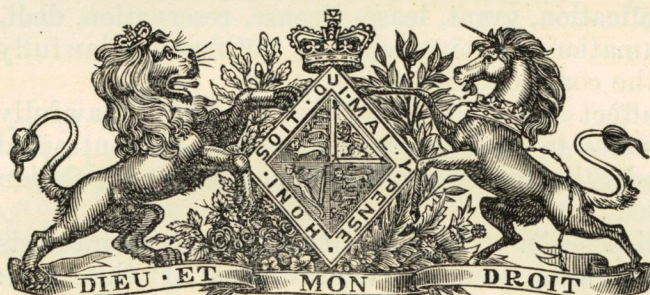
*F. W. WEBB,
Clerk of the Legislative Assembly.*

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

*Legislative Council Chamber,
Sydney, 13th December, 1901. }*

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

New South Wales.



ANNO PRIMO

EDWARDI VII REGIS.

Act No. , 1901.

An Act to vest the management and control of that portion of New South Wales known as the Western Division in a board, to be called the Western Land Board; to grant extension of leases in the said division and tenant-right in certain improvements; and for all purposes necessary and incidental thereto.

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

5

PART I.

Preliminary and general.

1. This Act shall come into force on the first day of January, Short title. one thousand nine hundred and two, and may be cited as the "Western Lands Act of 1901."

89735

529—A

2.

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

Western Lands.

2. The Crown Lands Act of 1884 and all Acts amending same, Repeal of Acts.
 in so far as they relate to pastoral, homestead, improvement, and scrub
 leases, leases of inferior lands, and occupation licenses and vacant
 lands in the Western Division, are hereby repealed, except where
 5 exempted from such repeal under the provisions of this Act; but such
 repeal shall not of itself—

- (1) abate, prejudice, or affect any proceeding, civil or criminal,
 pending in any court or before arbitrators or any other
 authority at the commencement of this Act;
- 10 (2) affect any application, grant, lease, license, reservation, dedi-
 cation, proclamation, appointment, or notification lawfully
 made before the commencement of this Act; or
- (3) prejudice or affect any proceeding, matter, or thing lawfully
 done or contracted to be done, or commenced or contracted
 15 to be done under the authority of any enactment or regulation
 hereby repealed; or
- (4) apply to the disposition or dealing with any lands or interests
 therein not brought under the provisions of this Act:
 20 **Provided that all vacant lands and lands the subject of
 annual lease or occupation license in the Western Division
 shall not (whether brought under this Act or not) be leased
 except under the provisions of this Act;**
- (5) prevent the reservation or dedication, or the revocation
 25 wholly or in part of any reservation or dedication, made,
 before or after the commencement of this Act, of lands in the
 Western Division under the Crown Lands Acts, or the
 proclamation of any city, town, or village, or population area,
 or the definition or notification of suburban lands in the
 Western Division under such Acts as if this Act had not
 30 been passed.

And provided always that, notwithstanding such repeal,—

- (a) all offences, penalties, and forfeitures committed or incurred
 before the commencement of this Act may be respectively
 35 tried, punished, enforced, and dealt with as if this Act had
 not been passed;
- (b) all rights accrued and obligations incurred or imposed under
 or by virtue of any of the said repealed enactments shall,
 subject to any expressed provisions of this Act in relation
 thereto, remain unaffected by such repeal.

40 3. In this Act, unless the context necessarily requires a different Interpretation.
 meaning, the expression—

“Crown Lands Acts” means the Crown Lands Act of 1884, and
 all amending Acts.

45 “Crown lands” means Crown lands within the meaning of the
 Crown Lands Acts, and includes land held under occupation
 license or annual lease. “Pastoral

Western Lands.

- 5 “Pastoral holding” means pastoral holding as defined by the Crown Lands Acts, and the terms “occupation license,” “scrub lease,” “improvement lease,” “homestead lease,” and “lease of inferior lands” shall in this Act have the same meanings as they have in such Acts.
- “Western Division” means the Western Division as defined by the Crown Lands Act of 1884.

PART II.

Western Land Commissioners.

- 10 4. For the purposes of this Act, there shall be a board of three Appointment of Commissioners. Commissioners, to be entitled “The Western Land Board of New South Wales.”

The Commissioners shall—

- 15 (a) be appointed by the Governor, and any Commissioner may be removed for misbehaviour or incompetence; and
- (b) have perpetual succession and a common seal;
- and they shall exercise all the powers and discharge all the duties hereinafter mentioned; and, on and after a date to be proclaimed in the Government Gazette, so far as the Western Division is concerned, 20 for the purpose of giving effect to the provisions of the Crown Lands Acts, such Commissioners sitting in open court may and are hereby empowered to exercise all of the powers conferred upon Local Land Boards by the above-mentioned Acts, and for all purposes of the Crown Lands Acts shall be a local land board in all cases, as well 25 as in any case that may be or is required to be referred to any Local Land Board under the provisions of any Act (other than the Crown Lands Acts) now or hereafter in force. On and after the date proclaimed as aforesaid the local land boards as now constituted shall cease to have jurisdiction in the said Western Division.

- 30 5. The Commissioners, one of whom shall be appointed Chief Term of office. Commissioner and chairman, shall, subject to the provisions hereinafter contained, hold office for a term of five seven years, and ~~on the expiration of such term they shall be eligible for re-appointment for a further term of five years,~~ and any vacancy that shall occur shall be filled by the 35 Governor for the unexpired portion of the existing term.

In the absence of any Commissioner the Governor may appoint some person to act as the deputy of such Commissioner during his absence, and every person so appointed shall, while so acting, have the powers and shall perform the duties and be subject to the liabilities of 40 such Commissioner.

Western Lands.

6. The following salaries shall be paid to the Commissioners, Salaries.
 namely—
 Chief Commissioner, fifteen hundred pounds per annum.
 Each of the other Commissioners, one thousand pounds per annum.
 All such salaries are hereby charged upon the Consolidated Revenue Fund, and such fund, to the extent required for the payment of such salaries, is hereby permanently appropriated.
7. No Commissioner shall, directly or indirectly, be interested Disabilities of Commissioners.
 10 in any land in the Western Division, or in any matter which may arise in connection therewith under this Act, and any contravention of this enactment shall render void as well the seat of such Commissioner as any adjudication or appraisal in which he takes part **and in which he is personally interested**, and before acting each Commissioner shall
 15 take the prescribed oath, and any wilful violation of this section shall be a misdemeanour.
8. Each Commissioner shall devote the whole of his time and attention to his duties under this Act, and shall not be engaged in any live stock transactions for the sake of gain or any other business. Time of Commissioners.
9. The provisions of section nine of the Crown Lands Act of Attendance of witnesses.
 20 1889 shall (mutatis mutandis) be applicable to any inquiry by the Commissioners, and authority is hereby given to enforce the application of such provisions.
10. The Chief Commissioner shall preside at all meetings of the Meeting of Commissioners.
 25 Commissioners, but in his absence one of them, with the concurrence of the other, shall act as chairman of such meeting.
- Two Commissioners shall constitute a quorum, and the presiding Commissioner shall have an original vote on any question under consideration: Provided always that such presiding Commissioner
 30 shall have a casting vote on any question on which the votes are equal, or at the discretion of such presiding Commissioner in cases where two Commissioners only are adjudicating, and they are not able to agree upon any matter, the further consideration of the case may be adjourned for the attendance of the three Commissioners.
11. The Governor, on the advice of the Minister, may appoint Employees.
 35 or employ such officers to carry out the provisions of this Act as may be necessary, and such officers may be removed, or their services dispensed with in like manner, and such salaries and allowances shall be paid to such officers as Parliament shall appropriate for
 40 that purpose. Where any Commissioner or such officer was, immediately before such appointment or employment, in the Public Service and subject to the provisions of the Public Service Act of 1895, such Commissioner or officer, in case he retires from his employment under this Act, and it is thought fit to employ him again in the Public
 45 Service, may be so employed without examination or probation, and shall

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shall be entitled to the same rights as if his employment in such service, before and after his employment under this Act, had been continuous.

12. The Minister, the Commissioners, or any of them, or any person authorised by him or them, may at any time enter upon any Crown lands ^{Right to enter on Crown lands.} within the Western Division for the purpose of giving effect to the provisions of this Act or the Crown Lands Acts.

PART III.

Land may be brought under this Act.

13. Any registered holder under the Crown Lands Acts of a pastoral or homestead improvement or scrub lease or a lease of inferior lands or occupation license of land in the Western Division may apply, or in the event of any such holdings being mortgaged, then any owner of the equity of redemption in the same may also apply, as prescribed within six months after the commencement of this Act, to bring his lease or license under the provisions of this Act. If no such application is made such lease or license shall be dealt with as if this Act had not been passed; and where in the said Crown Lands Acts the words "Local Land Board" occur, the board constituted under section four hereof shall be the Local Land Board referred to. In respect of any application to bring an improvement or scrub lease or lease of inferior lands under this Act, the Governor may, before granting such application, impose any new conditions or extend, alter, vary, or annul, any present conditions as may be deemed advisable in the public interest.

PART IV.

Extension, surrender, and issue of new lease.

14. On application in the prescribed manner, the Governor may extend the term of any lease or of any part thereof up to the thirtieth day of June, one thousand nine hundred and forty-three: Provided that—

(a) No extension of any lease held by way of mortgage on or since the eleventh day of August, one thousand nine hundred, shall be granted unless and until a common agreement shall have been arrived at between the mortgagor, the mortgagee, and the Commissioners as to any adjustment or otherwise of the mortgage debt, and as to the terms and conditions to be entered into by such mortgagor and mortgagee in respect of such debt, and for the purposes of this section the Commissioners shall be entitled to inspect, or cause to be inspected on their behalf, all or any books of accounts, mortgages, deeds,

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deeds, securities, conveyances, agreements, or any documents or instruments relating to the said mortgage debt or the security therefor.

5 Should the parties be unable to agree in the manner above mentioned within twelve months from the date of the application for extension, the matter shall be referred to the Minister whose decision if accepted shall be final. **But in the event of the mortgagee refusing to accept such decision by notice in writing to the Minister in that behalf within one month after such decision is announced he shall be deemed not to have made the application provided for in section thirteen.**

10 (b) The acceptance of an extended lease by any mortgagee and mortgagor shall have the effect of discharging the mortgage debt in connection with such lease or other security worked in conjunction therewith to the extent determined upon in the common agreement referred to, and the mortgages and other instruments by which the repayment of the debt is secured shall have endorsed thereon the particulars of such agreement, and all parties thereto shall be bound by such agreement.

20 The provisions of this section shall extend to any lease which, although not held by way of mortgage, has been held since the eleventh day of August, one thousand nine hundred, as security, wholly or in part for any debt.

25 **15.** The acceptance of a new lease ~~will~~ shall be deemed to have released and discharged the Government from all claims or rights on the part of the lessee to a lease under any of the Crown Lands Acts, and from all claims for compensation whatsoever. Acceptance of a new lease.

30 **16.** ~~Particulars of any extension granted under section fourteen, and of any new lease all extended and new leases issued in pursuance of the provisions of section twenty-six, this Act,~~ shall be laid before both Houses of Parliament within fourteen days after the extension of the new or the extended lease if Parliament is then in session, and within fourteen days after the commencement of the next session if Parlia- Particulars of extension granted and of new lease to be laid before Parliament.

35 **17.** The Governor after report by the Commissioners may withdraw any lands held under lease whenever it may be deemed expedient so to do for the purpose of sale by auction or providing small holdings; and every such withdrawal shall be notified in the Withdrawal for auction sale and small holdings.

40 Government Gazette and a local newspaper. The lease of land so withdrawn shall not extend beyond the thirtieth day of June, one thousand nine hundred and forty-three, and shall be dealt with as a new lease under this Act and any regulations made thereunder. The total area to be withdrawn under the exercise of this power shall be in

45 **one block and shall not exceed one-eighth of the area held under the original lease from which the withdrawal is made.** The Governor shall, after

Western Lands.

after report of the Board, by the Commissioners, add to the remainder of the lease such term as may be considered reasonable as compensation for such withdrawal, but in no case shall such term exceed six years. After the exercise of such power, the land so withdrawn shall remain
 5 under preferential occupation license to the lessee at a rent to be fixed by the Board Commissioners until the said land shall be disposed of in the prescribed manner. Upon the sale or lease of the said land or any part thereof the lessee shall be entitled to tenant-right as defined in the Crown Lands Acts in all improvements effected or paid for by him on
 10 such land, payment for which shall be made to the said lessee in such manner and at such periods and subject to such conditions as the Commissioners shall direct; and any such sale or lease of the said land shall be liable to forfeiture by notification in the Government Gazette if such payments are not duly complied with. For the purposes of this
 15 section the words "small holdings" shall mean holdings the areas of which shall not exceed twenty thousand four hundred and eighty acres.

PART V.

Terms and conditions of leases.

18. All leases issued or brought under the provisions of this
 20 Act shall expire on the thirtieth day of June in the year one thousand nine hundred and forty-three, except leases extended in accordance with the provisions of the preceding section. Where an extension of lease has been granted under this Act, the lessee shall surrender his present lease and a new lease shall be issued to him from the date of
 25 such surrender, and such lease as well as every new lease shall contain the covenants, reservations, and exemptions set out in Schedule A hereto, or such of the same as the Governor may deem applicable, and shall be subject to any modifications or additions contained in the notification rendering the lands available for lease in the case of new
 30 leases, and as may be determined by the Governor in the case of extended leases or those granted in lieu of leases surrendered under the provisions of this Act, and no lease shall convey any authority to carry on mining operations thereon. Every such lease shall contain a provision to the satisfaction of the Commissioners for the destruction
 35 of rabbits, and any lease shall, in the discretion of the Minister, after report from the Commissioners, be liable to forfeiture for breach of any of the covenants therein contained.

PART

Western Lands.

PART VI.

Determination of rentals and license fees.

19. The rentals on all leases issued or brought under the provisions of this Act in the prescribed manner shall be determined by ^{Rents how determined.} the Commissioners in the manner described in the subsections hereto for the balance of the term of leases current at the date of the commencement of this Act. ~~and~~ In the case of new leases for periods not exceeding ten years, and in the case of leases extended under the provisions of this Act, the rent shall be determined for the periods ending thirtieth of June, one thousand nine hundred and thirty, and thirtieth June, one thousand nine hundred and forty-three—
- (a) In the case of existing leases the Commissioners, subject to the provisions of this Act, shall, as aforesaid, determine the rent for the unexpired portion of such leases.
- 15 (b) No rental or license fee shall in any case be less than two shillings and sixpence per square mile or part thereof, exclusive of the purchase money, interest, or rent for improvements, and in no case shall the rent or license fee be fixed at a higher rate than sevenpence per sheep on the carrying capacity, estimated on a sheep basis determined by the Commissioners.
- 20 (c) The rent so fixed in the case of existing leases and in the case of new leases the rent fixed for the first term **shall not** on reappraisal as aforesaid ~~shall not~~ be either increased or decreased more than twenty-five per centum at the first reappraisal, and this provision shall apply at each subsequent reappraisal to the rent last fixed.
- 25 (d) The Commissioners shall, within six months, or as soon thereafter as practicable, from the date of application ~~on the prescribed form for reduction of rental or license fee on leases or licenses current at the date of the passing of this Act,~~ **under section fourteen of this Act,** determine the amount of provisional rental or license fee to be paid in connection with such lease or license, and the rent or fee so determined shall be notified in the Government Gazette, and the amounts so notified shall thereafter be paid to the Under Secretary for Finance and Trade in lieu of the rent or fee paid or payable for the year **next succeeding the year** current on the date this Act comes into force, and such rent or fee shall thereafter be paid yearly in advance on the due dates until the end of the year of the lease or license current on the thirty-first of December, one thousand nine hundred and four.

(e)

Western Lands.

- (e) The Commissioners shall, before the end of the year one thousand nine hundred and four, determine the rent or license fee on each lease or license brought under the provisions of this section, and the rent or fee so determined shall, after notification in the Government Gazette, be payable on the due dates of payments of rents or fees for leases or licenses current on the first of January, one thousand nine hundred and five, and thereafter annually until the expiration of the lease or license current at the date of the passing of this Act. Should the rent so fixed exceed the provisional rent as fixed under the last preceding subsection, then the lessee or licensee shall pay the difference in ~~manner aforesaid~~ **the prescribed manner**; should the said rent be less than the provisional rent, then the lessee or licensee shall be credited with the difference.
- 5
- 10
- 15 **20.** The Minister may after report from the Commissioners Power to remit rent, postpone the payment of any rent or other moneys due to the Crown under this Act to such dates as he may determine with or without fine or interest.
- 20 **21.** If during the term of any lease or extension thereof, or Increased rentals in certain cases. during the currency of any occupation license, any public works shall be executed by or on behalf of the Government on or in the vicinity of any lease or license and by reason thereof the value of such lease or license shall in the opinion of the Minister, after report by the Commissioners be enhanced, a revaluation of such lease or license or any part
- 25 or parts thereof shall be made (the provision of the previous section to the contrary notwithstanding), and the amount of increase, if any, so determined and the date from which such increased rent shall be payable shall be notified in the Government Gazette, and the rent or fee so increased shall thereafter be payable yearly until the end of the
- 30 period of the lease then current.
- 22.** The provisions of subsection (b) of section ~~eighteen~~ **nineteen** Special values. shall not be held to apply to the determination of rentals of lands that have specific values for business or residential purposes near centres of settlement or elsewhere.

PART VII.

Disposal of Crown lands available for lease.

- 35 **23.** Before any Crown lands in the Western Division not held under lease shall become available for lease, the Commissioners shall recommend the areas and boundaries of the land to be offered for lease Areas to be determined. and the rent to be charged therefor, and if there are any improvements
- 40

Western Lands.

on the land they shall fix the amount to be paid therefor, which may be sued for in any court of competent jurisdiction by the Crown or other the party entitled to be paid for such improvements.

24. The Minister may, by giving thirty days' notice in the Notice in Gazette.
 5 Government Gazette, declare ~~lands~~ **Crown lands in the Western Division** open for lease under the provisions of this Act, and such notifications shall contain particulars as to the situation, area, rent, value of improvements, if any, upon such land, and shall also specify a period within which applications for leases may be lodged: Provided that the
 10 Minister on the report of the Commissioners may in like manner at any time withdraw such notification, and provided that applications may be made at any time after the period notified in the Gazette in cases where the land is not under lease or promise of lease.

25. If any lands offered for lease in the manner provided in the Leases not applied for.
 15 previous section shall not be applied for within the period set apart for the receipt of applications, or should the applications be refused the particulars of such lands may be again notified from time to time on the same terms and conditions as upon the previous occasion, or upon such modified terms and conditions as the Minister on the report of
 20 the Commissioners may deem desirable.

26. Applications for land notified in accordance with the Application for lease.
 provisions of the two preceding sections shall be made to the Commissioners on the prescribed form, accompanied by a deposit at the rate of twenty per centum on the amount of the first year's rent, as
 25 notified in the Government Gazette; and the Commissioners after inquiry shall recommend a lease to such applicant as they shall consider most entitled to it.

All applications received after the period mentioned in section ~~twenty-two~~ **four** shall be dealt with as having been received at the same
 30 time, and if more than one application is received for the same land wholly or in part, the land may be apportioned between the applicants or any of them, and any application may be rejected.

27. Upon the issue of any lease under this Act, the name of Issue of lease.
 the lessee, together with the particulars of the area, the rent, and the
 35 amount to be paid for improvements if any, shall be published in the Government Gazette, and all moneys deposited by any unsuccessful applicant for a lease or an extension of lease shall be refunded within twenty-one days from the date of refusal of his application.

28. Within one month after the notification in the Gazette First payment on Lease.
 40 referred to in the previous section the successful applicant shall pay to the Under Secretary for Finance and Trade the balance of the first year's rent, and, subject to the provisions contained in section twenty-nine, the purchase money for any improvements, at such time and in such manner as the Minister on the report of the Commissioners shall
 direct,

Western Lands.

direct, and shall execute the lease within the time and in the manner prescribed, and thereupon he shall be entitled to the issue of a lease, and upon failure to comply with the provisions of this section all moneys lodged in connection with the application shall be forfeited, together
 5 with all right to a lease of the lands in question without prejudice to any rights or remedies that might otherwise be enforced against him by the Crown or others by reason of such non-compliance.

PART VIII.

Improvements, ownership, and payment therefor.

10 **29.** Upon the expiration of any new or extended lease granted under the provisions of this Act, all the improvements thereon shall become the property of the Crown, and all improvements upon the land
 at the commencement of any new lease, not being an extension of an existing lease, issued hereafter shall be paid for at the rate specified
 15 in the notification in the Government Gazette provided for in section ~~fourteen~~ **twenty-four** of this Act, together with interest at the rate of five per centum **per annum** on all amounts overdue, and the purchase money **with any accrued interest** owing for such improvements shall be a debt due to the ~~Minister~~ **Crown or the owner, as the case may be,**
 20 recoverable in any court of competent jurisdiction: ~~All improvements on any lease extended under this Act shall become the property of the Crown on the termination of such lease:~~

Provided, nevertheless, that the Minister on the report of the Commissioners may assure or grant tenant-right in the following improve-
 25 ments, viz. :—artesian and other wells, tanks and dams, scrubbing, clearing noxious growths, ringbarking, and fencing. No improvements of the class mentioned above, if effected without the consent in writing of the Minister, shall carry tenant-right therein, and the Minister, in giving such consent, shall fix the maximum amount that may be
 30 recoverable therefor from any incoming tenant on or after the expiration of the lease or license; such maximum amount shall not exceed the original cost of such improvements.

30. In the case of any lease or license brought under the provisions of this Act any moneys received for improvements shall
 35 be paid to the owner of such improvements less the costs of and incidental to the recovery thereof incurred by the Minister and less all moneys due to the Crown by the owner of such improvements, but it shall not be incumbent upon the Minister to enforce payment by any incoming tenant for improvements owned by any person other
 40 than the Crown, nor to protect the improvements or interests of any such person. **31.**

Western Lands.

31. If the improvements are the property of the Crown the Minister may permit the lessee to pay for them by instalments including principal and interest thereon at the rate of five per centum per annum, to extend over the whole term of the lease or in their his discretion to charge rent therefor; and additional covenants for the due payments of such instalments and for the maintenance, repair, and protection of such improvements shall be inserted in the lease, and whenever such purchase money or interest or part of either or both becomes overdue for a period of three months the purchase money and accrued interest remaining unpaid shall become due and payable and may be recovered by the Minister in any court of competent jurisdiction.

Payment by
instalments.

PART IX.

Extension of area.

32. The holder of any conditional purchase, conditional home-
stead or other lease, may apply on or before the thirtieth day of June
next, on the prescribed form, for an additional area of land to enable
him to make a livelihood thereby, provided that no increase of area
will be permitted to any person—
- (a) Who has become possessed of the land upon which the
application is based since the first day of January, one
thousand nine hundred and one.
- (b) Who, in the opinion of the Minister after report by the
Commissioners, is in occupation of a sufficient area of land
to enable him to maintain his home or make a livelihood
thereby.
- (c) Who is not in bona-fide and exclusive occupation for grazing
purposes of the land forming the basis of the application.
- (d) Who is the owner of lands elsewhere, which, taken singly or
in conjunction with the lands held by him in the Western
Division, are sufficient to enable him to maintain his home or
make a livelihood thereby.

Extension of present
areas.

33. It shall be competent for the Minister after report by the
Commissioners to allot an additional area of land to the applicant for
an extended area in any part of the Western Division, notwithstanding
the fact that the area so allotted does not adjoin any other lands held by
him: Provided that any available Crown lands adjoining, or wholly
within ten miles of any lands held by him in that division, must first
be exhausted before the applicant shall be entitled to acquire land
elsewhere. Any area added under the provisions of this section shall
be subject to such terms and conditions, including payment for improve-
ments, as the Minister after report by the Commissioners may determine.

Lands need not
adjoin.

Western Lands.

34. It shall be competent for the holder referred to in section thirty-two, with the consent of the Minister, after report by the Commissioners, to acquire and hold—the provisions of the Crown Lands Acts to the contrary notwithstanding—in his own name one or more
5 homestead leases, and notwithstanding that the term of residence has not been completed on any such homestead leases.

Extended area may
be held.

35. Notwithstanding anything to the contrary in the existing
Crown Lands Acts, the holder of any homestead lease who has complied
with the conditions of residence thereon may apply for and acquire, by
10 way of conditional purchase, conditional lease, settlement or homestead selection, lands in the Eastern or Central Divisions of the State.

Repeal of Acts.

PART X.

Regulations by the Governor.

36. Whenever in this Act the expression “prescribed” is used
15 in connection with any matter, and whenever in this Act “regulations” are referred to, the Governor may frame regulations for the purpose of giving effect to the matters which may be so prescribed or in relation to which the regulations are referred to.

Regulations by the
Governor.

And the Governor may generally make regulations for the
20 purpose of carrying this Act into effect, and may in those regulations provide for the enforcement thereof by penalties not exceeding in any case, ten pounds. Such regulations upon being published in the Gazette shall be valid in law. A copy of every such regulation shall be laid before both Houses of Parliament within fourteen days from
25 the publication thereof, if Parliament be then in session, or otherwise within fourteen days after the commencement of the next ensuing session.

SCHEDULES.

SCHEDULE A.

30 COVENANTS, reservations, and exceptions referred to in section ~~seventeen~~ eighteen:—

- (a) To pay rent annually in advance.
 (b) To take, within a specified time, such steps and measures to destroy rabbits, dogs, and other vermin as the Commissioners shall from time to time direct, and to keep the lease free of vermin during the currency of the lease to the
35 satisfaction of such Commissioners.
 (c) To destroy such noxious weeds as the Commissioners may from time direct.
 (d) Except for the purpose of building, fencing, or for firewood, not to destroy, or permit the destruction of any timber on the lease without the written consent of the Commissioners.

Western Lands.

- (e) Not to obstruct or interfere with any reserves, roads, or tracks, or the use thereof by any person.
- (f) To foster and cultivate such edible shrubs and plants, and take such steps in this respect as the Minister may from time to time direct.
- 5 (g) To furnish such returns or statements as the Commissioners may from time to time require in connection with any lease or license, or freeholds or conditional purchases in the Western Division, or worked in conjunction with any lease or license in the Western Division.
- 10 (h) To furnish such returns or statements as the Commissioners may from time to time require in connection with any sheep or large stock, cost of improvements, working expenses, or any other matter relative to any holding in the Western Division, or to any of the matters herein mentioned in connection with any property worked in conjunction with any lease or license in the Western Division.
- 15 (i) To permit the Commissioners and all persons authorised by the Minister or the Commissioners to enter and view the whole or any part of the lease or buildings or other improvements thereon.
- (j) To keep in reasonable repair all improvements on the lease.
- In addition to the foregoing covenants, the following exceptions and reservations in
20 favour of the Crown—
- (k) Reservations in favour of the Crown of all minerals, metals, gems, precious stones, coal, and mineral oils, together with all rights necessary for ingress, egress, search, prosecution, and removal, and all incidental rights and powers.
- 25 (l) The unrestricted right to proclaim travelling stock, camping or other reserves. The unrestricted right to withdraw any land for the purposes of roads or travelling stock, camping or other reserve or part thereof from lease or license.
- (m) The unrestricted right for the Minister, the Commissioners, or any persons authorised by him or them to enter upon and examine such land and the improvements thereon.
- 30 (n) The right, if the rent or license fee be not paid on the due date, to impose a penalty not exceeding ten per cent. per annum on the amount unpaid.
- (o) A proviso that if rent shall be in arrear for more than six months after due date, or if there has been a breach or non-performance of any of the lessee's covenants or conditions the Minister may cancel the lease.
- 35 (p) Provisions for resumption of lands for mining purposes, townships, or any public purpose under the provisions of the Crown Lands Acts; and for compensation for resumption.
- (q) Reservations in favour of the Crown necessary or proper for giving effect to any Act or regulation for the time being in force.

40

SCHEDULE B.

Form of oath.

I, A.B., Commissioner appointed under the Western Lands Act of 1901, do hereby swear that I am not, and shall not during my term of office under such Act be directly or indirectly interested in any land vested in the management of the Commissioners
45 for the purposes of that in the Western Division in any matter which may arise in connection therewith under this Act, and that I will well and truly, and without fear or favour, perform the duties of my office of such Commissioner.

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 December, 1901.* }

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

New South Wales.



ANNO PRIMO

EDWARDI VII REGIS.

Act No. , 1901.

An Act to vest the management and control of that portion of New South Wales known as the Western Division in a board, to be called the Western Land Board; to grant extension of leases in the said division and tenant-right in certain improvements; and for all purposes necessary and incidental thereto.

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

5

PART I.

Preliminary and general.

1. This Act shall come into force on the first day of January, Short title. one thousand nine hundred and two, and may be cited as the "Western Lands Act of 1901."

89735

529—A

2.

Western Lands.

2. The Crown Lands Act of 1884 and all Acts amending same, ^{Repeal of Acts.} in so far as they relate to pastoral, homestead, improvement, and scrub leases and occupation licenses and vacant lands in the Western Division, are hereby repealed, except where exempted from such repeal under 5 the provisions of this Act; but such repeal shall not of itself—

- (1) abate, prejudice, or affect any proceeding, civil or criminal, pending in any court or before arbitrators or any other authority at the commencement of this Act;
- 10 (2) affect any grant, lease, license, reservation, dedication, proclamation, appointment, or notification lawfully made before the commencement of this Act; or
- (3) prejudice or affect any proceeding, matter, or thing lawfully done or contracted to be done, or commenced or contracted to be done under the authority of any enactment or regulation 15 hereby repealed; or
- (4) apply to the disposition or dealing with any lands or interests therein not brought under the provisions of this Act.

3. In this Act, unless the context necessarily requires a different ^{Interpretation.} meaning, the expression—

- 20 “Crown Lands Acts” means the Crown Lands Act of 1884, and all amending Acts.
- “Crown lands” means Crown lands within the meaning of the Crown Lands Acts, and includes land held under occupation license or annual lease.
- 25 “Pastoral holding” means pastoral holding as defined by the Crown Lands Acts.
- “Western Division” means the Western Division as defined by the Crown Lands Act of 1884.

PART II.

30 *Western Land Commissioners.*

4. For the purposes of this Act, there shall be a board of three ^{Appointment of Commissioners.} Commissioners, to be entitled “The Western Land Board of New South Wales.”

The Commissioners shall—

- 35 (a) be appointed by the Governor, and any Commissioner may be removed for misbehaviour or incompetence; and
- (b) have perpetual succession and a common seal;
- and they shall exercise all the powers and discharge all the duties hereinafter mentioned; and, on and after a date to be proclaimed in 40 the Government Gazette, so far as the Western Division is concerned, for the purpose of giving effect to the provisions of the Crown Lands Acts,

Western Lands.

Acts, such Commissioners sitting in open court may and are hereby empowered to exercise all of the powers conferred upon Local Land Boards by the above-mentioned Acts, and for all purposes of the Crown Lands Acts shall be a local land board in all cases, as well
5 as in any case that may be or is required to be referred to any Local Land Board under the provisions of any Act (other than the Crown Lands Acts) now or hereafter in force.

5. The Commissioners, one of whom shall be appointed Chief Term of office. Commissioner and chairman, shall, subject to the provisions hereinafter
10 contained, hold office for a term of five years, and on the expiration of such term they shall be eligible for re-appointment for a further term of five years, and any vacancy that shall occur shall be filled by the Governor for the unexpired portion of the existing term.

In the absence of any Commissioner the Governor may appoint
15 some person to act as the deputy of such Commissioner during his absence, and every person so appointed shall, while so acting, have the powers and shall perform the duties and be subject to the liabilities of such Commissioner.

6. The following salaries shall be paid to the Commissioners, Salaries.
20 namely—

Chief Commissioner, fifteen hundred pounds per annum.

Each of the other Commissioners, one thousand pounds per annum.

All such salaries are hereby charged upon the Consolidated
25 Revenue Fund, and such fund, to the extent required for the payment of such salaries, is hereby permanently appropriated.

7. No Commissioner shall, directly or indirectly, be interested Disabilities of Commissioners. in any land in the Western Division, or in any matter which may arise in connection therewith under this Act, and any contravention of this
30 enactment shall render void as well the seat of such Commissioner as any adjudication or appraisal in which he takes part, and before acting each Commissioner shall take the prescribed oath, and any violation of this section shall be a misdemeanour.

8. Each Commissioner shall devote the whole of his time and Time of Commissioners.
35 attention to his duties under this Act, and shall not be engaged in any live stock transactions for the sake of gain or any other business.

9. The provisions of section nine of the Crown Lands Act of Attendance of witnesses.
1889 shall (mutatis mutandis) be applicable to any inquiry by the Commissioners, and authority is hereby given to enforce the application
40 of such provisions.

10. The Chief Commissioner shall preside at all meetings of the Meeting of Commissioners. Commissioners, but in his absence one of them, with the concurrence of the other, shall act as chairman of such meeting.

Two Commissioners shall constitute a quorum, and the presiding
45 Commissioner shall have an original vote on any question under consideration :

Western Lands.

consideration: Provided always that such presiding Commissioner shall have a casting vote on any question on which the votes are equal, or at the discretion of such presiding Commissioner in cases where two Commissioners only are adjudicating, and they are not able
5 to agree upon any matter, the further consideration of the case may be adjourned for the attendance of the three Commissioners.

11. The Governor, on the advice of the Minister, may appoint ^{Employees.} or employ such officers to carry out the provisions of this Act as may be necessary, and such officers may be removed, or their services
10 dispensed with in like manner, and such salaries and allowances shall be paid to such officers as Parliament shall appropriate for that purpose.

12. The Minister, the Commissioners, or any of them, or any ^{Right to enter on Crown lands.} person authorised by him or them, may at any time enter upon any
15 Crown lands for the purpose of giving effect to the provisions of this Act or the Crown Lands Acts.

PART III.

Land may be brought under this Act.

13. Any holder under the Crown Lands Acts of a pastoral or ^{Land may be brought under this Act.} homestead improvement or scrub lease or occupation license of land in
20 the Western Division may apply, as prescribed within six months after the commencement of this Act, to bring his lease or license under the provisions of this Act. If no such application is made such lease or license shall be dealt with as if this Act had not been passed; and
25 where in the said Crown Lands Acts the words "Local Land Board" occur, the board constituted under section four hereof shall be the Local Land Board referred to. In respect of any application to bring an improvement or scrub lease under this Act, the Governor may, before granting such application, impose any new conditions or extend,
30 alter, vary, or annul, any present condition; as may be deemed advisable in the public interest.

PART IV.

Extension, surrender, and issue of new lease.

14. On application in the prescribed manner, the Governor ^{Grant of lease.}
35 may extend the term of any lease or of any part thereof up to the thirtieth day of June, one thousand nine hundred and forty-three: Provided that—

- (a) No extension of any lease held by way of mortgage on or since the eleventh day of August, one thousand nine hundred, shall
be

Western Lands.

5 be granted unless and until a common agreement shall have
 been arrived at between the mortgagor, the mortgagee, and
 the Commissioners as to any adjustment or otherwise of the
 mortgage debt, and as to the terms and conditions to be
 entered into by such mortgagor and mortgagee in respect of
 such debt, and for the purposes of this section the Commis-
 10 sioners shall be entitled to inspect, or cause to be inspected
 on their behalf, all or any books of accounts, mortgages,
 deeds, securities, conveyances, agreements, or any documents
 or instruments relating to the said mortgage debt or the
 security therefor.

Should the parties be unable to agree in the manner
 above mentioned within twelve months from the date of the
 application for extension, the matter shall be referred to the
 15 Minister whose decision shall be final.

(b) The acceptance of an extended lease by any mortgagee and
 mortgagor shall have the effect of discharging the mortgage
 debt in connection with such lease or other security worked
 in conjunction therewith to the extent determined upon in
 20 the common agreement referred to, and the mortgages and
 other instruments by which the repayment of the debt is
 secured shall have endorsed thereon the particulars of such
 agreement, and all parties thereto shall be bound by such
 agreement.

25 The provisions of this section shall extend to any lease which,
 although not held by way of mortgage, has been held since the
 eleventh day of August, one thousand nine hundred, as security,
 wholly or in part for any debt.

30 15. The acceptance of a new lease will be deemed to have
 released and discharged the Government from all claims or rights on
 the part of the lessee to a lease under any of the Crown Lands Acts, and
 from all claims for compensation whatsoever.

Acceptance of a
new lease.

35 16. Particulars of any extension granted under section fourteen,
 and of any new lease issued in pursuance of the provisions of section
 twenty-six, shall be laid before both Houses of Parliament within
 fourteen days after the extension of the new or the extended lease
 if Parliament is then in session, and within fourteen days after the
 commencement of the next session if Parliament is not in session.

Particulars of
extension granted
and of new lease to
be laid before
Parliament.

40 17. The Governor after report by the Commissioners may
 withdraw any lands held under lease whenever it may be deemed
 expedient so to do for the purpose of sale by auction or providing
 small holdings; and every such withdrawal shall be notified in the
 Government Gazette and a local newspaper. The lease of land so
 withdrawn shall not extend beyond the thirtieth day of June, one
 45 thousand nine hundred and forty-three, and shall be dealt with as a
 new

Withdrawal for
auction sale and
small holdings.

Western Lands.

new lease under this Act and any regulations made thereunder. The area to be withdrawn under the exercise of this power shall not exceed one-eighth of the area held under the lease from which the withdrawal is made. The Governor shall, after report of the Board, add to the
 5 remainder of the lease such term as may be considered reasonable as compensation for such withdrawal, but in no case shall such term exceed six years. After the exercise of such power, the land so withdrawn shall remain under preferential occupation license to the lessee at a rent to be fixed by the Board until the said land shall be
 10 disposed of in the prescribed manner. Upon the sale or lease of the said land or any part thereof the lessee shall be entitled to tenant right as defined in the Crown Lands Acts in all improvements on such land, payment for which shall be made to the said lessee in such manner and at such periods as the Commissioners shall direct; and
 15 any such sale or lease of the said land shall be liable to forfeiture if such payments are not duly complied with. For the purposes of this section the words "small holdings" shall mean holdings the areas of which shall not exceed twenty thousand four hundred and eighty acres.

PART V.

20

Terms and conditions of leases.

18. All leases issued or brought under the provisions of this Act shall expire on the thirtieth day of June in the year one thousand nine hundred and forty-three. Where an extension of lease has been granted under this Act, the lessee shall surrender his present lease and
 25 a new lease shall be issued to him from the date of such surrender, and such lease as well as every new lease shall contain the covenants set out in Schedule A hereto, or such of the same as the Governor may deem applicable, and shall be subject to any modifications or additions contained in the notification rendering the lands available
 30 for lease in the case of new leases, and as may be determined by the Governor in the case of extended leases or those granted in lieu of leases surrendered under the provisions of this Act, and no lease shall convey any authority to carry on mining operations thereon. Every such lease shall contain a provision to the satisfaction of the
 35 Commissioners for the destruction of rabbits, and any lease shall, in the discretion of the Minister, after report from the Commissioners, be liable to forfeiture for breach of any of the covenants therein contained.

PART

Western Lands.

PART VI.

Determination of rentals and license fees.

19. The rentals on all leases issued or brought under the provisions of this Act in the prescribed manner shall be determined by ^{Rents how} 5 the Commissioners in the manner described in the subsections hereto for the balance of the term of leases current at the date of the commencement of this Act, and in the case of new leases for periods not exceeding ten years, and in the case of leases extended under the provisions of this Act, the rent shall be determined for the periods 10 ending thirtieth of June, one thousand nine hundred and thirty, and thirtieth June, one thousand nine hundred and forty-three
- (a) In the case of existing leases the Commissioners, subject to the provisions of this Act, shall, as aforesaid, determine the rent for the unexpired portion of such leases. 61
- 15 (b) No rental or license fee shall in any case be less than two shillings and sixpence per square mile or part thereof, exclusive of the purchase money, interest, or rent for improvements, and in no case shall the rent or license fee be fixed at a higher rate than sevenpence per sheep on the carrying 20 capacity, estimated on a sheep basis determined by the Commissioners.
- (c) The rent so fixed in the case of existing leases and in the case of new leases the rent fixed for the first term on reappraisal 25 as aforesaid shall not be either increased or decreased more than twenty-five per centum at the first reappraisal, and this provision shall apply at each subsequent reappraisal to the rent last fixed. 33
- (d) The Commissioners shall, within six months, or as soon 30 thereafter as practicable, from the date of application on the prescribed form for reduction of rental or license fee on leases or licenses current at the date of the passing of this Act, determine the amount of provisional rental or license fee to be paid in connection with such lease or license, and the rent or fee so determined shall be notified in the Government Gazette, and the amounts so notified shall thereafter be 35 paid to the Under-Secretary for Finance and Trade in lieu of the rent or fee paid or payable for the year current on the date this Act comes into force, and such rent or fee shall thereafter be paid yearly in advance on the due dates until 40 the end of the year of the lease or license current on the thirty-first of December, one thousand nine hundred and four.

(e)

Western Lands.

- (c) The Commissioners shall, before the end of the year one thousand nine hundred and four, determine the rent or license fee on each lease or license brought under the provisions of this section, and the rent or fee so determined shall, after notification in the Government Gazette, be payable on the due dates of payments of rents or fees for leases or licenses current on the first of January, one thousand nine hundred and five, and thereafter annually until the expiration of the lease or license current at the date of the passing of this Act. Should the rent so fixed exceed the provisional rent as fixed under the last preceding subsection, then the lessee or licensee shall pay the difference in manner aforesaid; should the said rent be less than the provisional rent, then the lessee or licensee shall be credited with the difference.
- 5
- 10
- 15 **20.** The Minister may after report from the Commissioners Power to remit rent. postpone the payment of any rent to such dates as he may determine without fine or interest.
- 20 **21.** If during the term of any lease or extension thereof, or during the currency of any occupation license, any public works shall Increased rentals in certain cases. be executed by or on behalf of the Government on or in the vicinity of any lease or license and by reason thereof the value of such lease or license shall in the opinion of the Minister, after report by the Commissioners be enhanced, a revaluation of such lease or license or any part or parts thereof shall be made (the provision of the previous section to the contrary notwithstanding), and the amount of increase, if any, so
- 25 determined and the date from which such increased rent shall be payable shall be notified in the Government Gazette, and the rent or fee so increased shall thereafter be payable yearly until the end of the period of the lease then current.
- 30 **22.** The provisions of subsection (b) of section eighteen shall Special values. not be held to apply to the determination of rentals of lands that have specific values for business or residential purposes near centres of settlement or elsewhere.

PART VII.

35 *Disposal of Crown lands available for lease.*

- 23.** Before any Crown lands in the Western Division not held under lease shall become available for lease, the Commissioners shall Areas to be determined. recommend the areas and boundaries of the land to be offered for lease and the rent to be charged therefor, and if there are any improvements
- 40 on the land they shall fix the amount to be paid therefor.

Western Lands.

24. The Minister may, by giving thirty days' notice in the Government Gazette, declare lands open for lease under the provisions of this Act, and such notifications shall contain particulars as to the situation, area, rent, value of improvements, if any, upon such land, and shall also specify a period within which applications for leases may be lodged: Provided that the Minister on the report of the Commissioners may in like manner at any time withdraw such notification, and provided that applications may be made at any time after the period notified in the Gazette in cases where the land is not under lease or promise of lease.

Notice in Gazette.

25. If any lands offered for lease in the manner provided in the previous section shall not be applied for within the period set apart for the receipt of applications, or should the applications be refused the particulars of such lands may be again notified from time to time on the same terms and conditions as upon the previous occasion, or upon such modified terms and conditions as the Minister on the report of the Commissioners may deem desirable.

Leases not applied for.

26. Applications for land notified in accordance with the provisions of the two preceding sections shall be made to the Commissioners on the prescribed form, accompanied by a deposit at the rate of twenty per centum on the amount of the first year's rent, as notified in the Government Gazette; and the Commissioners after inquiry shall recommend a lease to such applicant as they shall consider most entitled to it.

Application for lease.

25 All applications received after the period mentioned in section twenty-two shall be dealt with as having been received at the same time, and if more than one application is received for the same land wholly or in part, the land may be apportioned between the applicants or any of them, and any application may be rejected.

30 27. Upon the issue of any lease under this Act, the name of the lessee, together with the particulars of the area, the rent, and the amount to be paid for improvements if any, shall be published in the Government Gazette, and all moneys deposited by any unsuccessful applicant for a lease or an extension of lease shall be refunded within twenty-one days from the date of refusal of his application.

Issue of lease.

28. Within one month after the notification in the Gazette referred to in the previous section the successful applicant shall pay to the Under Secretary for Finance and Trade the balance of the first year's rent, and, subject to the provisions contained in section twenty-nine, the purchase money for any improvements, at such time and in such manner as the Minister on the report of the Commissioners shall direct, and shall execute the lease within the time and in the manner prescribed, and thereupon he shall be entitled to the issue of a lease, and upon failure to comply with the provisions of this section all moneys

First payment on Lease.

Western Lands.

lodged in connection with the application shall be forfeited, together with all right to a lease of the lands in question without prejudice to any rights or remedies that might otherwise be enforced against him by the Crown by reason of such non-compliance.

5

PART VIII.

Improvements, ownership, and payment therefor.

29. Upon the expiration of any lease granted under the provisions of this Act, all the improvements thereon shall become the property of the Crown, and all improvements upon the land at the commencement of any new lease, not being an extension of an existing lease, issued hereafter shall be paid for at the rate specified in the notification in the Government Gazette provided for in section fourteen of this Act, together with interest at the rate of five per centum on all amounts overdue, and the purchase money owing for such improvements shall be a debt due to the Minister, recoverable in any court of competent jurisdiction. All improvements on any lease extended under this Act shall become the property of the Crown on the termination of such lease :

Improvements to
become property of
the Crown.

Provided, nevertheless, that the Minister on the report of the Commissioners may assure or grant tenant-right in the following improvements, viz. :—artesian and other wells, tanks and dams, scrubbing, clearing noxious growths, ringbarking, and fencing. No improvements of the class mentioned above, if effected without the consent in writing of the Minister, shall carry tenant-right therein, and the Minister, in giving such consent, shall fix the maximum amount that may be recoverable therefor from any incoming tenant on or after the expiration of the lease or license ; such maximum amount shall not exceed the original cost of such improvements.

30. In the case of any lease or license brought under the provisions of this Act any moneys received for improvements shall be paid to the owner of such improvements less the costs of and incidental to the recovery thereof incurred by the Minister and less all moneys due to the Crown by the owner of such improvements, but it shall not be incumbent upon the Minister to enforce payment by any incoming tenant for improvements owned by any person other than the Crown, nor to protect the improvements or interests of any such person.

Payment for
improvements.

31. If the improvements are the property of the Crown the Minister may permit the lessee to pay for them by instalments including principal and interest thereon at the rate of five per centum per

Payment by
instalments.

Western Lands.

per annum, to extend over the whole term of the lease or in their discretion to charge rent therefor; and additional covenants for the due payments of such instalments and for the maintenance, repair, and protection of such improvements shall be inserted in the lease, and whenever such purchase money or interest or part of either or both becomes overdue for a period of three months the purchase money and accrued interest remaining unpaid shall become due and payable and may be recovered by the Minister in any court of competent jurisdiction.

10

PART IX.

Extension of area.

32. The holder of any conditional purchase, conditional home-
stead or other lease, may apply on or before the thirtieth day of June
next, on the prescribed form, for an additional area of land to enable
him to make a livelihood thereby, provided that no increase of area
will be permitted to any person—

- (a) Who has become possessed of the land upon which the application is based since the first day of January, one thousand nine hundred and one.
- (b) Who, in the opinion of the Minister after report by the Commissioners, is in occupation of a sufficient area of land to enable him to maintain his home or make a livelihood thereby.
- (c) Who is not in bona-fide and exclusive occupation for grazing purposes of the land forming the basis of the application.
- (d) Who is the owner of lands elsewhere, which, taken singly or in conjunction with the lands held by him in the Western Division, are sufficient to enable him to maintain his home or make a livelihood thereby.

33. It shall be competent for the Minister after report by the Commissioners to allot an additional area of land to the applicant for an extended area in any part of the Western Division, notwithstanding the fact that the area so allotted does not adjoin any other lands held by him: Provided that any available Crown lands adjoining, or wholly within ten miles of any lands held by him in that division, must first be exhausted before the applicant shall be entitled to acquire land elsewhere. Any area added under the provisions of this section shall be subject to such terms and conditions as the Minister after report by the Commissioners may determine.

34. It shall be competent for the holder referred to in section thirty, with the consent of the Minister, after report by the Commissioners, to acquire and hold—the provisions of the Crown Lands Acts

Extension of present areas.

Lands need not adjoin.

Extended area may be held.

Acts

Western Lands.

Acts to the contrary notwithstanding—in his own name one or more homestead leases. Notwithstanding that the term of residence has not been completed on any such homestead leases.

35. Notwithstanding anything to the contrary in the existing Repeal of Acts.
5 Crown Lands Acts, the holder of any homestead lease who has complied with the conditions of residence thereon may apply for and acquire, by way of conditional purchase, conditional lease, settlement or homestead selection, lands in the Eastern or Central Divisions of the State.

PART X.

10

Regulations by the Governor.

36. Whenever in this Act the expression "prescribed" is used Regulations by the Governor.
in connection with any matter, and whenever in this Act "regulations" are referred to, the Governor may frame regulations for the purpose of giving effect to the matters which may be so prescribed or in relation
15 to which the regulations are referred to.

And the Governor may generally make regulations for the purpose of carrying this Act into effect, and may in those regulations provide for the enforcement thereof by penalties not exceeding in any case, ten pounds. Such regulations upon being published in the
20 Gazette shall be valid in law. A copy of every such regulation shall be laid before both Houses of Parliament within fourteen days from the publication thereof, if Parliament be then in session, or otherwise within fourteen days after the commencement of the next ensuing session.

25

SCHEDULES.

SCHEDULE A.

COVENANTS referred to in section seventeen:—

- (a) To pay rent annually in advance.
- 30 (b) To take, within a specified time, such steps and measures to destroy rabbits, dogs, and other vermin as the Commissioners shall from time to time direct, and to keep the lease free of vermin during the currency of the lease to the satisfaction of such Commissioners.
- (c) To destroy such noxious weeds as the Commissioners may from time direct.
- 35 (d) Except for the purpose of building, fencing, or for firewood, not to destroy, or permit the destruction of any timber on the lease without the written consent of the Commissioners.
- (e) Not to obstruct or interfere with any reserves, roads, or tracks, or the use thereof by any person.

(f)

Western Lands.

- (f) To foster and cultivate such edible shrubs and plants, and take such steps in this respect as the Minister may from time to time direct.
- 5 (g) To furnish such returns or statements as the Commissioners may from time to time require in connection with any lease or license, or freeholds or conditional purchases in the Western Division, or worked in conjunction with any lease or license in the Western Division.
- 10 (h) To furnish such returns or statements as the Commissioners may from time to time require in connection with any sheep or large stock, cost of improvements, working expenses, or any other matter relative to any holding in the Western Division, or to any of the matters herein mentioned in connection with any property worked in conjunction with any lease or license in the Western Division.
- 15 (i) To permit the Commissioners and all persons authorised by the Minister or the Commissioners to enter and view the whole or any part of the lease or buildings or other improvements thereon.
- (j) To keep in reasonable repair all improvements on the lease.
- In addition to the foregoing covenants, the following exceptions and reservations in favour of the Crown—
- 20 (k) All minerals, metals, gems, precious stones, coal, and mineral oils, together with all rights necessary for ingress, egress, search, prosecution, and removal, and all incidental rights and powers.
- (l) The unrestricted right to proclaim travelling stock, camping or other reserves. The unrestricted right to withdraw any travelling stock, camping or other reserve or part thereof from lease or license.
- 25 (m) The unrestricted right for the Minister, the Commissioners, or any persons authorised by him or them to enter upon and examine such land and the improvements thereon.
- (n) The right, if the rent or license fee be not paid on the due date, to impose a penalty not exceeding ten per cent. per annum on the amount unpaid.
- 30 (o) A proviso that if rent shall be in arrear for more than six months after due date, or if there has been a breach or non-performance of any of the lessee's covenants or conditions the Minister may cancel the lease.
- (p) Provisions for resumption of lands for mining purposes, townships, or any public purpose under the provisions of the Crown Lands Acts; and for compensation for resumption.
- 35 (q) Reservations in favour of the Crown necessary or proper for giving effect to any Act or regulation for the time being in force.

SCHEDULE B.

Form of oath.

- 40 I, A. B., Commissioner appointed under the Western Lands Act of 1901, do hereby swear that I am not directly or indirectly interested in any land vested in the management of the Commissioners for the purposes of that Act, and that I will well and truly, and without fear or favour, perform the duties of my office of such Commissioner.

Western Land Act

- (1) To forest and cultivate and otherwise use the land in accordance with the provisions of this Act.
- (2) To grant or lease or otherwise dispose of the land in accordance with the provisions of this Act.
- (3) To grant or lease or otherwise dispose of the land in accordance with the provisions of this Act.
- (4) To grant or lease or otherwise dispose of the land in accordance with the provisions of this Act.
- (5) To grant or lease or otherwise dispose of the land in accordance with the provisions of this Act.
- (6) To grant or lease or otherwise dispose of the land in accordance with the provisions of this Act.
- (7) To grant or lease or otherwise dispose of the land in accordance with the provisions of this Act.
- (8) To grant or lease or otherwise dispose of the land in accordance with the provisions of this Act.
- (9) To grant or lease or otherwise dispose of the land in accordance with the provisions of this Act.
- (10) To grant or lease or otherwise dispose of the land in accordance with the provisions of this Act.
- (11) To grant or lease or otherwise dispose of the land in accordance with the provisions of this Act.
- (12) To grant or lease or otherwise dispose of the land in accordance with the provisions of this Act.
- (13) To grant or lease or otherwise dispose of the land in accordance with the provisions of this Act.
- (14) To grant or lease or otherwise dispose of the land in accordance with the provisions of this Act.
- (15) To grant or lease or otherwise dispose of the land in accordance with the provisions of this Act.
- (16) To grant or lease or otherwise dispose of the land in accordance with the provisions of this Act.
- (17) To grant or lease or otherwise dispose of the land in accordance with the provisions of this Act.
- (18) To grant or lease or otherwise dispose of the land in accordance with the provisions of this Act.
- (19) To grant or lease or otherwise dispose of the land in accordance with the provisions of this Act.
- (20) To grant or lease or otherwise dispose of the land in accordance with the provisions of this Act.

WESTERN LANDS

The Western Land Commission is established under the Western Land Act, 1954, to administer the land in accordance with the provisions of that Act. The Commission is composed of members appointed by the Government and is empowered to grant or lease or otherwise dispose of the land in accordance with the provisions of the Act. The Commission is also empowered to make regulations for the better administration of the land in accordance with the provisions of the Act.