

111

New South Wales.



ANNO QUARTO

EDWARDI VII REGIS.

Act No. 37, 1904.

An Act to repeal the Closer Settlement Act, 1901 ; to authorise the acquisition by purchase or by resumption for purposes of settlement of private lands ; to constitute and appoint authorities for reports and other purposes under this Act ; to provide for the dealing with and the disposal of acquired lands and adjacent Crown lands ; to apply certain of the provisions of the Crown Lands Acts, and of the Acts to be read and construed therewith, for the purpose of regulating closer settlement under this Act ; and to amend the Crown Lands Acts. [Assented to, 31st December, 1904.]

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

1. This Act may be cited as the "Closer Settlement Act, Short title. 1904."

2.

Closer Settlement.

Repeal.

2. The Closer Settlement Act, 1901, is hereby repealed, but such repeal shall not prejudice or affect any proceeding, matter, or thing lawfully done or commenced, or contracted to be done, under the authority of that Act.

Application of Crown
Lands Acts to this
Act.

3. The provisions of the Crown Lands Acts, and of the Acts to be read and construed therewith, shall only apply to operations under this Act so far as is expressly provided herein.

Interpretation.

Definitions.

4. In this Act unless the context otherwise requires—

“Acquired” means purchased or resumed.

“Closer Settlement Board” means the board constituted under this Act.

“Crown lands” means lands so defined under the Crown Lands Act of 1884.

“Design plan” means the design plan of subdivision and sale values of a settlement purchase area as determined by the Closer Settlement Board.

“Minister” means the Secretary for Lands.

“Owner” means the person or persons in whom the fee-simple of, or the right to obtain the fee-simple of, the land to be acquired is vested.

“Prescribed” means prescribed by this Act or by any regulation made under it.

“Private land” means land the fee-simple of which is not vested in His Majesty the King and Crown lands held under any tenure which gives a right to purchase the fee-simple.

“Settlement purchase” means a residential conditional purchase under this Act both before and after the issue of the grant.

“Settlement purchase area” means an area of land as notified in the Gazette for the purposes of this Act.

The terms “Land Appeal Court,” “land board,” “local land board,” “chairman,” “land district” shall have the same meaning in this Act as in the Crown Lands Acts, and in the Judicial Offices Act of 1892.

Closer Settlement.

PART I.

PURCHASE OF PRIVATE LAND.

5. Any owner of private land may by writing addressed to the Minister, or to some person appointed by the Minister in that behalf, offer to surrender the same to His Majesty in consideration of the payment of a price named in the offer; and, except as hereinafter provided, such offer shall be binding on such owner and shall not be withdrawn by him sooner than nine months after the receipt of the offer except with the consent of the Minister in writing under his hand. Provided that such owner may from time to time and for such periods as may be agreed upon between the Minister and himself renew such offer.

Owner may offer to sell land.

6. Any such offer may be reported on by any person or persons appointed by the Minister for that purpose and may also be referred by the Minister to the Closer Settlement Board for inquiry in open court and for report on any or all of the following matters, namely—

Offer how dealt with.

- (a) The fair market value of the land and of the improvements thereon respectively.
- (b) The average prices per acre of the land, grazing and agriculture, respectively, which might reasonably be expected under a closer settlement subdivision.
- (c) The valuation of the land as shown by the books of the Commissioners of Taxation.
- (d) The suitability of the land for closer settlement and the approximate area and quality of grazing and agricultural land respectively.
- (e) The extent to which existing improvements may be utilised in connection with any closer settlement subdivision.
- (f) The area and character of Crown land in the neighbourhood, and its suitability for closer settlement.
- (g) The maximum and the minimum areas for a settlement purchase for grazing and agriculture respectively.
- (h) The demand for land for closer settlement in the neighbourhood of the land, and generally.
- (i) The probability of the immediate disposal of the land under the provisions of this Act.
- (j) The distance to the nearest railway station, port, or town by any means of access.
- (k) The water supply to the land and to land in its neighbourhood.
- (l) The bona fides of any mortgage or charge on the land and the amount thereof,

and any other matters that the Minister may see fit to include in the reference.

Closer Settlement.

Minister may
submit offer to
Parliament.

7. If such offer has been referred to the Closer Settlement Board, and the report of that board shows that the land offered is suitable, and is likely to be immediately utilised for closer settlement, the Minister may submit to Parliament that the land or any part thereof together with the improvements thereon be acquired—

- (a) at the price asked by the owner ; or
- (b) at the values reported by the Closer Settlement Board ; or
- (c) at a price less than either of the foregoing.

Contract may be
made.

8. The Minister, with the sanction of the Governor and the approval of both Houses of Parliament, may, if agreed to by the owner, make a contract for the purchase of such land or any part thereof at the price approved by Parliament as expressed in a resolution by both Houses thereof.

Deductions.

9. The said price shall be subject to deduction in the case of incomplete purchases from the Crown of the balances due to the Crown on such purchases. Conditional leases under the Crown Lands Acts shall be treated as incomplete conditional purchases.

Powers to carry out
contract.

10. The Governor and the Minister may do all things necessary to carry out any such contract.

Vesting of land.

11. Upon completion of the contract for the purchase the land shall vest in His Majesty, free from all trusts and conditions affecting the same, and shall be deemed to be reserved from sale, selection, and lease until otherwise notified by the Governor.

PART II.

RESUMPTION OF PRIVATE LAND.

Limitation.

12. The compulsory provisions of this Act shall only apply where the private land intended to be set apart for closer settlement exceeds twenty thousand pounds in value, without taking into account any improvements thereon.

Minister may order
inspection and report,
and notify owner.

13. (1) The Minister for the purpose of closer settlement may order any person or persons whom he appoints to report to him on any private land, and may under his own hand notify to the owner thereof on the prescribed form that he has made an order for an inspection with the object of asking Parliamentary authority for the resumption of the same.

Restriction on
disposition of
the land.

(2) After the date of such notification no disposition of such land, or any part thereof, shall operate to defeat the power of the Governor to resume the same for the purposes of this Act.

When restriction
on disposition to
cease.

(3) Such restriction on the disposition of the land shall cease to have effect if the land is not resumed within twelve months after the date of such notification, or if the Governor at any time removes the restriction.

Closer Settlement.

14. The person or persons appointed to report as aforesaid with such assistants as he or they may deem necessary, may at any time enter any private land, and may remain thereon for such time as may be necessary to enable sufficient information to be obtained for the preparation of a report on such land:

Authority to enter, inspect, and report.

Provided that not less than four weeks' notice of intention to enter on such land shall be given to the owner thereof or his manager or agent.

Notice of intended entry.

15. After report as aforesaid the matter may by the Minister be referred to the Closer Settlement Board for a valuation of the land and the improvements after inquiry in open Court. Before such reference four weeks' notification of the intention to refer with the object aforesaid shall be given to the owner on the prescribed form.

Owner to be given one month's notice of reference to Closer Settlement Board for report and valuation.

16. (1) The owner of any private lands referred to the Closer Settlement Board shall have the right to retain out of such lands, if resumed, a part thereof the value of which (without taking into account any improvements thereon) does not exceed ten thousand pounds. Where more than one person is the owner of such lands only one such right may be exercised.

Right of owner to retain part.

(2) Such right shall be deemed to be waived unless the owner asserts the same in the way provided in the fourth subsection hereof, and also specifies the area, situation, boundaries and value of the land (without taking into account any improvements thereon) which he proposes to retain.

(3) The area, situation, and boundaries of the land to be so retained shall be determined by the Closer Settlement Board: Provided that in the event of the owner being dissatisfied with the determination of the Closer Settlement Board in this respect, he shall be entitled to waive the exercise of his right of retainer by notifying the Minister to that effect within one week of such determination.

Determination of part to be retained.

(4) If the land referred to the Closer Settlement Board comprises part only of that held by an owner in one contiguous area, such owner shall have the right to require that the whole of such area be referred as aforesaid, provided that he asserts such right on the prescribed form within four weeks of notification of the intention to refer. In such a case not less than the whole of such area (if any) shall be resumed.

Right to require whole estate to be taken.

17. (1) After the valuation by the Closer Settlement Board as aforesaid, the matter may by the Minister be referred to Parliament.

Reference to Parliament.

(2) If Parliament, by resolution of each House, approves of the resumption of the land, the Governor shall, by notification in the Gazette, declare that the land described in such notification has been resumed under and for the purposes of this Act, and the land so described shall thereupon become vested in His Majesty.

Resumption and vesting.

Closer Settlement.

Price.	18. (1) The valuation of the land and improvements, as reported by the Closer Settlement Board shall, subject to appeal as hereinunder provided, be the purchase price thereof.
Appeal.	(2) If the owner or mortgagee be dissatisfied with such price, either or both may, within twenty-eight days of the notification of resumption as in this Act provided, lodge with the Minister a notice of appeal on the prescribed form.
Court of Appeal.	(3) Such appeal shall be heard by a Court consisting of one of the Judges of the Supreme Court, appointed for the purpose by the Governor within fourteen days of such notice of appeal, and two assessors, one of whom shall be appointed by the Governor, and the other by the appellant within the aforesaid period.
Decision.	(4) The decision of the said Judge and one of such assessors as to price shall be final, whether such price be greater or less than the Closer Settlement Board's reported valuation.
Temporary retention of estate by owner after resumption.	19. After the notification of resumption hereinbefore provided, the owner may retain the whole or any part of his estate for such period as shall be agreed upon between himself and the Minister, and upon such conditions as the Minister shall determine.

PART III.

PAYMENTS.

Time for lodging claim to payment.	20. Every person claiming payment for land acquired under this Act shall, within sixty days of the date of the determination of, or decision as to price lodge with the Minister a notice in the prescribed form setting forth the nature of the estate or interest of the claimant in such land, and an abstract of his title.
Payment.	21. The Minister shall, within three months after being satisfied on the report of the Crown Solicitor that the valid title is in the claimant, pay to such claimant the price of the land and the improvements as determined: Provided that if the land be under mortgage the amount due thereunder shall be paid to the mortgagee.
Payment of costs.	22. (1) All reasonable costs of proceedings for resumption under this Act shall, subject to taxation by the Prothonotary of the Supreme Court, be paid by the Crown, save in the case of an appeal. (2) The costs of appeal, subject to a like taxation, shall be paid by the unsuccessful party to the appeal.
Interest.	23. The price determined shall bear interest at the rate of four per centum per annum from the date of the vesting as aforesaid, but for no longer period than twelve months from such date.

PART

Closer Settlement.

PART IV.

DISPOSAL OF THE LAND.

24. Before disposal of the land a plan of designed subdivision Design plan. showing the areas and values per acre of the proposed settlement purchases shall be submitted to the Minister by the Closer Settlement Board, and shall, subject to the provisions of section thirty-eight hereof, be the design plan of the settlement area conclusive as to sale value and area for each settlement purchase. The design plan shall include the lands acquired, and any adjacent Crown lands set apart by the Minister to become part of the same settlement purchase area.

25. (1) All land acquired under this Act, and such adjacent Disposal—classification—notification. Crown lands as have been set apart as aforesaid, shall be dealt with and disposed of as in this Act provided, and in no other way, any provision of the Crown Lands Acts or of the Acts to be read and construed therewith to the contrary notwithstanding.

(2) Such acquired land with the adjacent Crown lands as aforesaid (if any) shall be declared a settlement purchase area or areas by notification in the Gazette.

(3) Every such settlement purchase area shall be notified for disposal under the design plan and may be notified in three classes, namely—

- (a) agricultural lands;
- (b) grazing lands;
- (c) township settlement allotments.

(4) Such notification shall describe the lands and declare them to be available for application, and shall set out inter alia the class of land, the capital value for the purposes of each class of holding, and the area in each class which may be applied for, to be held in one or two areas.

26. Any male person not being under the age of eighteen years, Qualifications to apply for land under this Act. and any female person not being under the age of twenty-one years, and not being the holder of any land except—

- (a) town or suburban land as defined in the Crown Lands Acts; or
 - (b) land under lease as provided for in this Act or a settlement township allotment thereunder; or
 - (c) land held as a tenant from a private holder,
- may apply for a settlement purchase under this Act, subject to the following provisions:—

- (1) Such person shall not for the purpose of applying under this Act have divested himself or herself of any land held by him or her within twelve months before the date of application under this Act.

(2)

Closer Settlement.

- (2) Such person if a female shall be unmarried, or widowed, or if married, be living apart from her husband under an order for judicial separation made by a court of competent jurisdiction.

Lodgment of applications.

27. Any person so qualified as aforesaid may lodge, either in person or by authorised agent, or by registered post, with the land agent of the district in which the land is situated, or with any other officer duly appointed in that behalf, an application on the prescribed form for a settlement purchase. Such application shall be accompanied by a deposit of five per centum of the notified value of such settlement purchase.

Applications, inquiry, and disposal by land board appeal barred.

28. Applications received by the land agent or by the officer duly appointed as aforesaid during office hours of any day of the week from Monday to the next succeeding Saturday, both days inclusive, shall, for the purposes of this Act, be deemed to have been lodged simultaneously; and the local land board shall in open court hear and inquire into the merits of each, and may, subject to regulations made hereunder, allow or refuse any of them, or permit withdrawal thereof at any time prior to the board's determination thereon, and may impose a penalty on such withdrawal or refusal by retaining the whole or such portion of the deposit money as shall after due inquiry be determined by them, and may, at their discretion, disqualify such applicant from making any fresh application under this Act for a period to be determined by such board. No allowance or refusal of an application under this section shall be a ground of appeal to the Land Appeal Court.

Settlement purchase, title, and general conditions.

29. The title of a settlement purchase under this Act shall commence from the date of application therefor, if valid, and every such purchase before grant shall be subject to the following covenants and conditions, and to such other conditions and restrictions relating to mining, cultivation, destruction of vermin and noxious weeds, insurance against fire, or other matter or matters as may be prescribed:—

Instalments, rate of interest.

- (a) At the end of the first year from the date of application, or within three months thereafter, there shall be paid an instalment on the purchase money at the rate of five per centum of the capital value of the land, and thereafter in like manner a like instalment annually until the balance of the purchase money, together with interest at the rate of four per centum per annum thereon, shall have been paid; but two or more instalments may be paid at the same time.

Residence.

- (b) A condition of residence for ten years shall attach to every settlement purchase, and shall commence within twelve months after the date of the land board's decision allowing the purchase: Provided that the commencement of residence may be extended to any date within five years of allowance of purchase, on such terms and conditions as to improvements and cultivation as may be agreed upon between the local land

Closer Settlement.

land board and the purchaser. For the purposes of this Act, residence shall be taken to mean continuous and bona fide living, as the purchaser's usual home, without any other habitual residence, upon any settlement purchase or upon any township settlement allotment in the same settlement purchase area. On application on the prescribed form the land board may permit the residence condition to be performed in any adjacent village or town. Such permission may be conditional or unconditional. The land board or the chairman for the land board may, at any time after application on the prescribed form, and for due cause shown, suspend the condition of residence either unconditionally or on conditions.

- (c) If the land be unimproved the purchaser shall make substantial and permanent improvements thereon to the value of ten per centum of the capital value thereof, within two years from the date of commencement of the purchase, and to an additional five per centum of the said value within five years of the said commencement, and to a further additional ten per centum within ten years from the same date. Existing improvements on the land shall to the amount of their value be held to fulfil this condition. Boundary fencing shall be deemed to be an improvement within the meaning of this section: Provided that nothing in this subsection shall limit the power of the local land board to prescribe the value of improvements to be effected under the provisions of subsection (b). Improvements.

30. No person unless qualified under section twenty-six hereof shall make or acquire by transfer or otherwise a settlement purchase under this Act, nor shall any person whosoever make, hold, or acquire more than one settlement purchase. No transfer or conveyance or assignment in contravention of the provisions of this section shall be valid for any purpose whatsoever: Restriction on purchase.

Provided that—

- (1) This section shall not apply to transfers by way of mortgage.
(2) If a settlement purchase devolve under a will or intestacy upon a person who is not qualified under this Act to hold the same, such person may nevertheless hold such purchase for a period of three years, or such further period as the Minister may permit, and if before the expiration of such period or periods the said person shall become qualified as aforesaid, such person shall be deemed to have been so qualified as from the date of such devolution.

31. No holder of a settlement purchase before grant shall transfer, convey, assign, or lease such purchase or mortgage, or charge Transfer and mortgage.
the

Closer Settlement.

the same with the repayment of moneys advanced on the security thereof without first having obtained the written consent of the Minister thereto. And before giving such consent the Minister shall be satisfied that all conditions imposed by this Act (except the payment of balance of purchase money) have been and are being duly complied with.

Mortgagee or
judgment creditor
may go into
possession.

32. Any mortgagee who has under the powers of the mortgage submitted any settlement purchase for sale by public auction, and any execution creditor who has seized under process of any court any such purchase, and has so offered the land for sale, if the mortgagor's or debtor's interest in the land is not then sold to a bona fide purchaser, who must be a person qualified to apply for or hold a settlement purchase under section twenty-six of this Act, may, in the prescribed manner, go into possession of the land. During such time as the condition of residence attaches such condition shall for a period of two years after the commencement of such possession, or for such further period as shall be approved by the Minister, be deemed to be fulfilled, if a nominee of such mortgagee or of such creditor, to be approved by the chairman of the local land board, reside upon the land. The said mortgagee or said creditor shall, within two years after the commencement of such possession, or within such further period as shall be approved by the Minister, sell the said mortgagor's or said debtor's interest in the land to a bona fide purchaser. Such purchaser must be a person qualified to hold a settlement purchase under this Act, and shall be subject to all conditions affecting the original holder. In default of sale within such period or periods the settlement purchase shall be liable to forfeiture: Provided that before any person shall avail himself of the provisions of this section he shall register at the Crown land agent's office of the land district in which the land is situated the total amount of his mortgage or judgment debt and other particulars as prescribed, and any person qualified as previously in this Act recited may thereafter, prior to the exercise of the power of forfeiture aforesaid, apply to the local land board to purchase the said holding for the amount of such debt. The board may grant such application, and upon payment to the mortgagee or judgment creditor of the amount then due the applicant shall become the holder of such land free of such debt, but subject to all unfulfilled conditions attaching to such land.

Death or lunacy.

33. In the event of the death or declared lunacy of any person holding under this Act land to which conditions attach, such conditions shall be performed by the representatives of the deceased person or lunatic holder, either personally or by an agent approved by the chairman of the local land board.

Closer Settlement.

34. The Governor may issue a grant after the residence ^{Grant.} condition has been fulfilled and after the balance of the purchase money has been paid, on the finding of the local land board that the conditions attaching to the settlement purchase have been fulfilled to the date of such finding.

35. The local land board may at any time and from time to time hold an inquiry in open court as to whether the conditions and covenants imposed by this Act on a settlement purchase have been or are being complied with, and in the event of the board finding they have not been or are not being complied with they shall so report to the Minister. The board's finding shall be subject to appeal to the Land Appeal Court in the same manner and within the same time as provided for cases of appeal under the Crown Lands Acts. ^{Inquiries as to fulfilment of conditions.}

36. Any holding under this Act shall be liable to forfeiture ^{Forfeiture.} if all or any of the conditions or covenants attached to it have not been or are not being complied with; but the Minister may waive incurred forfeiture either unconditionally or on such conditions as he thinks fit. The Governor, by notification in the Gazette, may declare forfeiture of a holding and of all moneys paid in connection therewith. On such notification the title to the land shall vest in His Majesty the King, and the land shall not be open to application for settlement purchase until again notified for the purpose. By like notification the Governor may reverse any forfeiture.

37. A settlement purchase under this Act may be in two ^{Settlement purchase} separate parts, and may consist partly of agricultural and partly of ^{may be in two parts.} grazing land.

38. The Governor may by notification in the Gazette set apart ^{Township settlement areas.} out of lands declared by him a settlement purchase area any area necessary for township settlement. The Minister may cause to be prepared a suitable design, and under it he may sell at auction allotments, each of which shall not exceed half an acre in extent. No person shall hold more than three of such allotments, except by way of mortgage. The Governor may also set apart out of a settlement purchase area for any purpose which he shall previously have notified in the Gazette as a public purpose, any area necessary, either within or without the boundaries of the township settlement.

39. It shall be lawful for the Governor to set apart lands ^{Leases.} under this Act, and to lease the same in areas not exceeding three hundred and twenty acres. The said leases shall be applied for in the prescribed form and shall be subject to such conditions as may be determined by the Governor, and to the following provisions:—

- (a) No improvements shall be effected on the land leased without the consent of the Minister or the chairman of the local land board having been first obtained in writing.

(b)

Closer Settlement.

- (b) Every such lease shall be for the then current year, and shall expire on the thirty-first day of December; but may be renewed from year to year by the lessee paying the yearly rent in advance not later than the tenth day of December of the next preceding year.
- (c) The annual rent shall be appraised by the land board.
- (d) The granting of a lease under this section shall not exempt the land held thereunder from being granted as a settlement purchase under this Act. On a valid application for a settlement purchase the lease of so much of the land as is applied for thereby shall cease and determine from the date of that application, and the rent shall be adjusted or any balance refunded as the case may be.
- (e) The Minister may at any time cancel a lease granted under this Act by giving not less than three months' notice in the Gazette of his intention to do so, such notice to terminate the lease at the end of the then current year.

PART V.

MISCELLANEOUS.

Disposition of
purchase money, &c.

40. All moneys received in respect of sales by auction, or of leases, or of settlement purchases of land acquired under this Act shall be paid into the Treasury and carried to a special account, and shall be applied in the first place in payment of the interest and charges upon any money borrowed and paid for land purchased under this Act, and the surplus shall be accumulated to form a fund for repaying the money so borrowed and paid.

Closer Settlement
Board.

41. (1) The Closer Settlement Board shall consist of the president and the commissioners of the Land Appeal Court and the chairman and members of the local land board for the land district in which the land under inquiry is situated, and shall sit where the Minister directs.

(2) The President of the Land Appeal Court if present shall act as chairman; in his absence the senior member of the Land Appeal Court present shall so act.

(3) Not less than four of the members of the Closer Settlement Board shall constitute a quorum.

(4) If the number of members sitting shall be either four or six the chairman of the Closer Settlement Board, or the acting chairman thereof, shall have a casting vote in addition to his original vote.

(5)

Closer Settlement.

(5) If the land under inquiry is situated in more than one land district the Minister shall specify the local land board, the chairman and members of which shall form part of the Closer Settlement Board for that inquiry.

42. The Land Appeal Court and the local land boards shall respectively have and may exercise under this Act the powers and authorities conferred by the Acts constituting them.

Powers of Land Appeal Court and local land board.

43. Any land acquired under the Closer Settlement Act, 1901, and not set apart for settlement prior to the passing of this Act shall be disposed of under the provisions hereof and under a design plan which shall be submitted to the Minister by the Closer Settlement Board, subject mutatis mutandis to the provisions of section twenty-four hereof.

Land acquired before the passing of this Act.

44. Whenever land is acquired under this Act a copy of the Gazette notification declaring such land to be acquired, certified under the hand of the Minister, shall in every case be lodged with the Registrar-General and be registered by him in the general register of deeds unless the land so acquired is wholly or in part comprised in a grant or a certificate of title under the Real Property Act, in which case, upon production of such notification so certified as aforesaid, it shall be the duty of the Registrar-General to deal with and give effect to such notification as if the same were a memorandum of transfer duly executed under the said Act.

Registration of acquisition.

45. (1) If the owner or occupier of any lands acquired under this Act or any other person refuses to give up possession thereof or hinders any officer acting on behalf of the Minister from entering upon or taking possession of the same the Minister may cause a warrant to issue to the Sheriff to deliver possession of such lands to the person appointed in such warrant to receive them.

Refusal to deliver up acquired lands.

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

46. The local land board or the chairman for such board, on application being made in the prescribed form by the holder of any purchase or lease under this Act, may grant permission under his hand to the said holder to enclose wholly or in part any road traversing or bounding such holding, subject to payment of such annual rent as may

Enclosure of roads.

Closer Settlement.

may be determined, and shall direct that gates or suitable substitutes, such as the board or the chairman for such board may consider necessary, shall be erected or made so as not to unnecessarily interfere with any traffic, and upon complaint being made in the prescribed form with the prescribed deposit the local land board may for any sufficient reason cancel any permission granted as aforesaid, and may order any fence, gate, or other structure on any road to be removed by such holder, and within such period as the board may determine.

Common boundary.

47. Where permission to enclose a boundary road is granted as aforesaid, the fenced side of such road shall be deemed to be a common boundary line for all purposes of fencing and contribution by the holders of land on either side thereof.

Give-and-take fences.

48. The land board or the chairman for such board may, on application in the prescribed manner, authorise a give-and-take fence as a common boundary line between holdings, and such fence when erected shall be deemed to be, and shall for all purposes be, the boundary between the holdings: Provided that the land board may, on application as prescribed, and accompanied by the prescribed deposit made by any of the owners of such holdings, give permission to alter or vary the position of such fence.

Contributions to cost of erection and maintenance of boundary fences.

49. The holder under this Act, who shall fence his settlement purchase, may demand and enforce from the holder of an adjoining like holding, or from the holder of an incomplete purchase under the Crown Lands Acts, or from a leaseholder thereunder, who at the date of the demand shall have a tenure of not less than five years, a contribution toward the cost of such fencing to the extent of one-half of the appraised value thereof, but so far only as the said fencing marks a common boundary-line; and while such fence is maintained in good repair and condition by such person every holder of the adjoining lands shall be and remain liable as a contributory towards the cost of so maintaining such fence to the extent of one-half the cost thereof.

Contributions to maintenance of fencing enclosing roads.

50. Where permission is granted to enclose a road situated between lands held by different persons, and the person to whom such permission is granted derives, in the opinion of the local land board, a benefit from or uses any fence on or adjoining such road, such person (or any transferee of the land held by him) shall, so long as such permission remains unrevoked, be liable as a contributory towards the cost of maintaining in good repair such part of the fence as benefits, or is used by him.

Powers of local land board as to contributions.

51. The local land board shall, subject to appeal, have power to hear and determine all disputes and claims arising under sections forty-nine and fifty hereof as to contributions, and to appraise all values and estimate all costs in connection therewith.

Closer Settlement.

52. In any case where a local land board, pursuant to the provisions of this Act, shall make any adjudication or award, and to give effect to such adjudication or award, shall make any order for the payment of money whether as compensation, costs, appraised value, or otherwise howsoever, such order shall be under the hand of the chairman, and may be enforced by distress and sale of the goods and chattels of the person ordered to pay such money in the manner prescribed by the regulations, or the same may be recovered in a summary way before any two justices of the peace by the person to whom such money is ordered to be paid. The Land Appeal Court and the local land board shall have power to award costs in any case within their respective jurisdictions under this Act.

Orders of local
land board, how
enforced.

53. Whenever in this Act the word "prescribed" is used in connection with any matter referred to in the context, and whenever, in any section of this Act, "regulations" are mentioned in connection with any such matter the Governor may in every such case frame regulations for the purpose of giving effect to the provisions of such section. And, for the purpose of carrying this Act into full effect generally, the Governor may make regulations, which shall, upon being published in the Gazette, be good and valid in law: Provided that a copy of all such regulations 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.

Power to make
regulations and
rules.

54. This Act shall be administered by the Secretary for Lands, who for the purpose of such administration or whenever he deems it necessary for his guidance and information, shall have power to refer any matter for inquiry and report to the local land board, and the said board shall upon such reference proceed accordingly.

Administration.

52. In any case where a local land board, pursuant to the provisions of this Act, may make any adjustment or award, and to give effect to such adjustment or award, shall make any order for the payment of money, whether as compensation, costs, appraised value, or otherwise, such order shall be signed by the chairman of the board and may be enforced by distress and sale of the goods and chattels of the person ordered to pay such money in the manner provided by the regulations, or the same may be recovered in a summary way before any two justices of the peace by the person to whom such money is ordered to be paid. The Land Appeal Court and the local land board shall have power to award costs in any case within their respective jurisdictions under this Act.

53. Whenever in this Act the word "prescribed" is used in connection with any matter referred to in the context, and whenever in any section of this Act "regulations" are mentioned in connection with any matter the Governor may in every such case frame regulations for the purpose of giving effect to the provisions of such section. And for the purpose of carrying this Act into full effect generally, the Governor may make regulations, which shall, upon being published in the Gazette, be good and valid in law: Provided that a copy of all such regulations 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.

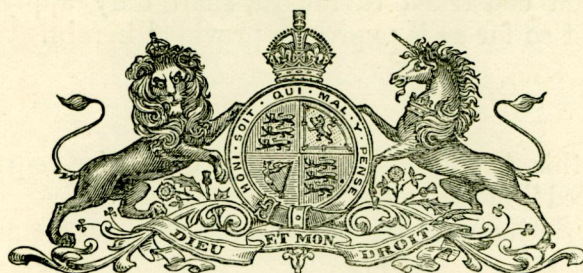
54. This Act shall be administered by the Secretary for Lands, who for the purpose of such administration or whenever he deems it necessary for his guidance and information, shall have power to refer any matter for inquiry and report to the local land board, and the board shall upon such reference proceed accordingly.

I Certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

*Legislative Assembly Chamber,
Sydney, 20 December, 1904. }*

*RICHD. A. ARNOLD,
Clerk of the Legislative Assembly.*

New South Wales.



ANNO QUARTO

EDWARDI VII REGIS.

Act No. 37, 1904.

An Act to repeal the Closer Settlement Act, 1901 ; to authorise the acquisition by purchase or by resumption for purposes of settlement of private lands ; to constitute and appoint authorities for reports and other purposes under this Act ; to provide for the dealing with and the disposal of acquired lands and adjacent Crown lands ; to apply certain of the provisions of the Crown Lands Acts, and of the Acts to be read and construed therewith, for the purpose of regulating closer settlement under this Act ; and to amend the Crown Lands Acts. [Assented to, 31st December, 1904.]

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

1. This Act may be cited as the "Closer Settlement Act, Short title. 1904." 2.

I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.

*W. P. CRICK,
Chairman of Committees of the Legislative Assembly.*

Closer Settlement.

Repeal.

2. The Closer Settlement Act, 1901, is hereby repealed, but such repeal shall not prejudice or affect any proceeding, matter, or thing lawfully done or commenced, or contracted to be done, under the authority of that Act.

Application of Crown
Lands Acts to this
Act.

3. The provisions of the Crown Lands Acts, and of the Acts to be read and construed therewith, shall only apply to operations under this Act so far as is expressly provided herein.

Interpretation.

Definitions.

4. In this Act unless the context otherwise requires—
- "Acquired" means purchased or resumed.
 - "Closer Settlement Board" means the board constituted under this Act.
 - "Crown lands" means lands so defined under the Crown Lands Act of 1884.
 - "Design plan" means the design plan of subdivision and sale values of a settlement purchase area as determined by the Closer Settlement Board.
 - "Minister" means the Secretary for Lands.
 - "Owner" means the person or persons in whom the fee-simple of, or the right to obtain the fee-simple of, the land to be acquired is vested.
 - "Prescribed" means prescribed by this Act or by any regulation made under it.
 - "Private land" means land the fee-simple of which is not vested in His Majesty the King and Crown lands held under any tenure which gives a right to purchase the fee-simple.
 - "Settlement purchase" means a residential conditional purchase under this Act both before and after the issue of the grant.
 - "Settlement purchase area" means an area of land as notified in the Gazette for the purposes of this Act.
- The terms "Land Appeal Court," "land board," "local land board," "chairman," "land district" shall have the same meaning in this Act as in the Crown Lands Acts, and in the Judicial Offices Act of 1892.

Closer Settlement.

PART I.

PURCHASE OF PRIVATE LAND.

5. Any owner of private land may by writing addressed to the Minister, or to some person appointed by the Minister in that behalf, offer to surrender the same to His Majesty in consideration of the payment of a price named in the offer; and, except as hereinafter provided, such offer shall be binding on such owner and shall not be withdrawn by him sooner than nine months after the receipt of the offer except with the consent of the Minister in writing under his hand. Provided that such owner may from time to time and for such periods as may be agreed upon between the Minister and himself renew such offer. Owner may offer to sell land.

6. Any such offer may be reported on by any person or persons appointed by the Minister for that purpose and may also be referred by the Minister to the Closer Settlement Board for inquiry in open court and for report on any or all of the following matters, namely— Offer how dealt with.

- (a) The fair market value of the land and of the improvements thereon respectively.
- (b) The average prices per acre of the land, grazing and agriculture, respectively, which might reasonably be expected under a closer settlement subdivision.
- (c) The valuation of the land as shown by the books of the Commissioners of Taxation.
- (d) The suitability of the land for closer settlement and the approximate area and quality of grazing and agricultural land respectively.
- (e) The extent to which existing improvements may be utilised in connection with any closer settlement subdivision.
- (f) The area and character of Crown land in the neighbourhood, and its suitability for closer settlement.
- (g) The maximum and the minimum areas for a settlement purchase for grazing and agriculture respectively.
- (h) The demand for land for closer settlement in the neighbourhood of the land, and generally.
- (i) The probability of the immediate disposal of the land under the provisions of this Act.
- (j) The distance to the nearest railway station, port, or town by any means of access.
- (k) The water supply to the land and to land in its neighbourhood.
- (l) The bona fides of any mortgage or charge on the land and the amount thereof,

and any other matters that the Minister may see fit to include in the reference.

Closer Settlement.

Minister may submit offer to Parliament.

7. If such offer has been referred to the Closer Settlement Board, and the report of that board shows that the land offered is suitable, and is likely to be immediately utilised for closer settlement, the Minister may submit to Parliament that the land or any part thereof together with the improvements thereon be acquired—

- (a) at the price asked by the owner; or
- (b) at the values reported by the Closer Settlement Board; or
- (c) at a price less than either of the foregoing.

Contract may be made.

8. The Minister, with the sanction of the Governor and the approval of both Houses of Parliament, may, if agreed to by the owner, make a contract for the purchase of such land or any part thereof at the price approved by Parliament as expressed in a resolution by both Houses thereof.

Deductions.

9. The said price shall be subject to deduction in the case of incomplete purchases from the Crown of the balances due to the Crown on such purchases. Conditional leases under the Crown Lands Acts shall be treated as incomplete conditional purchases.

Powers to carry out contract.

10. The Governor and the Minister may do all things necessary to carry out any such contract.

Vesting of land.

11. Upon completion of the contract for the purchase the land shall vest in His Majesty, free from all trusts and conditions affecting the same, and shall be deemed to be reserved from sale, selection, and lease until otherwise notified by the Governor.

PART II.

RESUMPTION OF PRIVATE LAND.

Limitation.

12. The compulsory provisions of this Act shall only apply where the private land intended to be set apart for closer settlement exceeds twenty thousand pounds in value, without taking into account any improvements thereon.

Minister may order inspection and report, and notify owner.

13. (1) The Minister for the purpose of closer settlement may order any person or persons whom he appoints to report to him on any private land, and may under his own hand notify to the owner thereof on the prescribed form that he has made an order for an inspection with the object of asking Parliamentary authority for the resumption of the same.

Restriction on disposition of the land.

(2) After the date of such notification no disposition of such land, or any part thereof, shall operate to defeat the power of the Governor to resume the same for the purposes of this Act.

When restriction on disposition to cease.

(3) Such restriction on the disposition of the land shall cease to have effect if the land is not resumed within twelve months after the date of such notification, or if the Governor at any time removes the restriction.

14.

Closer Settlement.

14. The person or persons appointed to report as aforesaid with such assistants as he or they may deem necessary, may at any time enter any private land, and may remain thereon for such time as may be necessary to enable sufficient information to be obtained for the preparation of a report on such land:

Authority to enter, inspect, and report.

Provided that not less than four weeks' notice of intention to enter on such land shall be given to the owner thereof or his manager or agent.

Notice of intended entry.

15. After report as aforesaid the matter may by the Minister be referred to the Closer Settlement Board for a valuation of the land and the improvements after inquiry in open Court. Before such reference four weeks' notification of the intention to refer with the object aforesaid shall be given to the owner on the prescribed form.

Owner to be given one month's notice of reference to Closer Settlement Board for report and valuation.

16. (1) The owner of any private lands referred to the Closer Settlement Board shall have the right to retain out of such lands, if resumed, a part thereof the value of which (without taking into account any improvements thereon) does not exceed ten thousand pounds. Where more than one person is the owner of such lands only one such right may be exercised.

Right of owner to retain part.

(2) Such right shall be deemed to be waived unless the owner asserts the same in the way provided in the fourth subsection hereof, and also specifies the area, situation, boundaries and value of the land (without taking into account any improvements thereon) which he proposes to retain.

(3) The area, situation, and boundaries of the land to be so retained shall be determined by the Closer Settlement Board: Provided that in the event of the owner being dissatisfied with the determination of the Closer Settlement Board in this respect, he shall be entitled to waive the exercise of his right of retainer by notifying the Minister to that effect within one week of such determination.

Determination of part to be retained.

(4) If the land referred to the Closer Settlement Board comprises part only of that held by an owner in one contiguous area, such owner shall have the right to require that the whole of such area be referred as aforesaid, provided that he asserts such right on the prescribed form within four weeks of notification of the intention to refer. In such a case not less than the whole of such area (if any) shall be resumed.

Right to require whole estate to be taken.

17. (1) After the valuation by the Closer Settlement Board as aforesaid, the matter may by the Minister be referred to Parliament.

Reference to Parliament.

(2) If Parliament, by resolution of each House, approves the resumption of the land, the Governor shall, by notification in the Gazette, declare that the land described in such notification has been resumed under and for the purposes of this Act, and the land so described shall thereupon become vested in His Majesty.

Resumption and vesting.

Closer Settlement.

- Price.** 18. (1) The valuation of the land and improvements, as reported by the Closer Settlement Board shall, subject to appeal as hereinunder provided, be the purchase price thereof.
- Appeal.** (2) If the owner or mortgagee be dissatisfied with such price, either or both may, within twenty-eight days of the notification of resumption as in this Act provided, lodge with the Minister a notice of appeal on the prescribed form.
- Court of Appeal.** (3) Such appeal shall be heard by a Court consisting of one of the Judges of the Supreme Court, appointed for the purpose by the Governor within fourteen days of such notice of appeal, and two assessors, one of whom shall be appointed by the Governor, and the other by the appellant within the aforesaid period.
- Decision.** (4) The decision of the said Judge and one of such assessors as to price shall be final, whether such price be greater or less than the Closer Settlement Board's reported valuation.
- Temporary retention of estate by owner after resumption.** 19. After the notification of resumption hereinbefore provided, the owner may retain the whole or any part of his estate for such period as shall be agreed upon between himself and the Minister, and upon such conditions as the Minister shall determine.

PART III.

PAYMENTS.

- Time for lodging claim to payment.** 20. Every person claiming payment for land acquired under this Act shall, within sixty days of the date of the determination of, or decision as to price lodge with the Minister a notice in the prescribed form setting forth the nature of the estate or interest of the claimant in such land, and an abstract of his title.
- Payment.** 21. The Minister shall, within three months after being satisfied on the report of the Crown Solicitor that the valid title is in the claimant, pay to such claimant the price of the land and the improvements as determined: Provided that if the land be under mortgage the amount due thereunder shall be paid to the mortgagee.
- Payment of costs.** 22. (1) All reasonable costs of proceedings for resumption under this Act shall, subject to taxation by the Prothonotary of the Supreme Court, be paid by the Crown, save in the case of an appeal. (2) The costs of appeal, subject to a like taxation, shall be paid by the unsuccessful party to the appeal.
- Interest.** 23. The price determined shall bear interest at the rate of four per centum per annum from the date of the vesting as aforesaid, but for no longer period than twelve months from such date.

PART

Closer Settlement.

PART IV.

DISPOSAL OF THE LAND.

24. Before disposal of the land a plan of designed subdivision showing the areas and values per acre of the proposed settlement purchases shall be submitted to the Minister by the Closer Settlement Board, and shall, subject to the provisions of section thirty-eight hereof, be the design plan of the settlement area conclusive as to sale value and area for each settlement purchase. The design plan shall include the lands acquired, and any adjacent Crown lands set apart by the Minister to become part of the same settlement purchase area. Design plan.

25. (1) All land acquired under this Act, and such adjacent Crown lands as have been set apart as aforesaid, shall be dealt with and disposed of as in this Act provided, and in no other way, any provision of the Crown Lands Acts or of the Acts to be read and construed therewith to the contrary notwithstanding. Disposal—classification—notification.

(2) Such acquired land with the adjacent Crown lands as aforesaid (if any) shall be declared a settlement purchase area or areas by notification in the Gazette.

(3) Every such settlement purchase area shall be notified for disposal under the design plan and may be notified in three classes, namely—

- (a) agricultural lands ;
- (b) grazing lands ;
- (c) township settlement allotments.

(4) Such notification shall describe the lands and declare them to be available for application, and shall set out inter alia the class of land, the capital value for the purposes of each class of holding, and the area in each class which may be applied for, to be held in one or two areas.

26. Any male person not being under the age of eighteen years, and any female person not being under the age of twenty-one years, and not being the holder of any land except— Qualifications to apply for land under this Act.

- (a) town or suburban land as defined in the Crown Lands Acts ; or
 - (b) land under lease as provided for in this Act or a settlement township allotment thereunder ; or
 - (c) land held as a tenant from a private holder,
- may apply for a settlement purchase under this Act, subject to the following provisions :—

- (1) Such person shall not for the purpose of applying under this Act have divested himself or herself of any land held by him or her within twelve months before the date of application under this Act.

(2)

Closer Settlement.

Lodgment of
applications.

- (2) Such person if a female shall be unmarried, or widowed, or if married, be living apart from her husband under an order for judicial separation made by a court of competent jurisdiction.

27. Any person so qualified as aforesaid may lodge, either in person or by authorised agent, or by registered post, with the land agent of the district in which the land is situated, or with any other officer duly appointed in that behalf, an application on the prescribed form for a settlement purchase. Such application shall be accompanied by a deposit of five per centum of the notified value of such settlement purchase.

Applications,
inquiry, and
disposal by land
board appeal barred.

28. Applications received by the land agent or by the officer duly appointed as aforesaid during office hours of any day of the week from Monday to the next succeeding Saturday, both days inclusive, shall, for the purposes of this Act, be deemed to have been lodged simultaneously; and the local land board shall in open court hear and inquire into the merits of each, and may, subject to regulations made hereunder, allow or refuse any of them, or permit withdrawal thereof at any time prior to the board's determination thereon, and may impose a penalty on such withdrawal or refusal by retaining the whole or such portion of the deposit money as shall after due inquiry be determined by them, and may, at their discretion, disqualify such applicant from making any fresh application under this Act for a period to be determined by such board. No allowance or refusal of an application under this section shall be a ground of appeal to the Land Appeal Court.

Settlement purchase,
title, and general
conditions.

29. The title of a settlement purchase under this Act shall commence from the date of application therefor, if valid, and every such purchase before grant shall be subject to the following covenants and conditions, and to such other conditions and restrictions relating to mining, cultivation, destruction of vermin and noxious weeds, insurance against fire, or other matter or matters as may be prescribed:—

Instalments, rate of
interest.

- (a) At the end of the first year from the date of application, or within three months thereafter, there shall be paid an instalment on the purchase money at the rate of five per centum of the capital value of the land, and thereafter in like manner a like instalment annually until the balance of the purchase money, together with interest at the rate of four per centum per annum thereon, shall have been paid; but two or more instalments may be paid at the same time.

Residence.

- (b) A condition of residence for ten years shall attach to every settlement purchase, and shall commence within twelve months after the date of the land board's decision allowing the purchase: Provided that the commencement of residence may be extended to any date within five years of allowance of purchase, on such terms and conditions as to improvements and cultivation as may be agreed upon between the local land

Closer Settlement.

land board and the purchaser. For the purposes of this Act, residence shall be taken to mean continuous and bona fide living, as the purchaser's usual home, without any other habitual residence, upon any settlement purchase or upon any township settlement allotment in the same settlement purchase area. On application on the prescribed form the land board may permit the residence condition to be performed in any adjacent village or town. Such permission may be conditional or unconditional. The land board or the chairman for the land board may, at any time after application on the prescribed form, and for due cause shown, suspend the condition of residence either unconditionally or on conditions.

- (c) If the land be unimproved the purchaser shall make substantial and permanent improvements thereon to the value of ten per centum of the capital value thereof, within two years from the date of commencement of the purchase, and to an additional five per centum of the said value within five years of the said commencement, and to a further additional ten per centum within ten years from the same date. Existing improvements on the land shall to the amount of their value be held to fulfil this condition. Boundary fencing shall be deemed to be an improvement within the meaning of this section: Provided that nothing in this subsection shall limit the power of the local land board to prescribe the value of improvements to be effected under the provisions of subsection (b). Improvements.

30. No person unless qualified under section twenty-six hereof shall make or acquire by transfer or otherwise a settlement purchase under this Act, nor shall any person whosoever make, hold, or acquire more than one settlement purchase. No transfer or conveyance or assignment in contravention of the provisions of this section shall be valid for any purpose whatsoever: Restriction on purchase.

Provided that—

- (1) This section shall not apply to transfers by way of mortgage.
- (2) If a settlement purchase devolve under a will or intestacy upon a person who is not qualified under this Act to hold the same, such person may nevertheless hold such purchase for a period of three years, or such further period as the Minister may permit, and if before the expiration of such period or periods the said person shall become qualified as aforesaid, such person shall be deemed to have been so qualified as from the date of such devolution.

31. No holder of a settlement purchase before grant shall transfer, convey, assign, or lease such purchase or mortgage, or charge Transfer and mortgage.
the

Closer Settlement.

the same with the repayment of moneys advanced on the security thereof without first having obtained the written consent of the Minister thereto. And before giving such consent the Minister shall be satisfied that all conditions imposed by this Act (except the payment of balance of purchase money) have been and are being duly complied with.

Mortgagee or
judgment creditor
may go into
possession.

32. Any mortgagee who has under the powers of the mortgage submitted any settlement purchase for sale by public auction, and any execution creditor who has seized under process of any court any such purchase, and has so offered the land for sale, if the mortgagor's or debtor's interest in the land is not then sold to a bona fide purchaser, who must be a person qualified to apply for or hold a settlement purchase under section twenty-six of this Act, may, in the prescribed manner, go into possession of the land. During such time as the condition of residence attaches such condition shall for a period of two years after the commencement of such possession, or for such further period as shall be approved by the Minister, be deemed to be fulfilled, if a nominee of such mortgagee or of such creditor, to be approved by the chairman of the local land board, reside upon the land. The said mortgagee or said creditor shall, within two years after the commencement of such possession, or within such further period as shall be approved by the Minister, sell the said mortgagor's or said debtor's interest in the land to a bona fide purchaser. Such purchaser must be a person qualified to hold a settlement purchase under this Act, and shall be subject to all conditions affecting the original holder. In default of sale within such period or periods the settlement purchase shall be liable to forfeiture: Provided that before any person shall avail himself of the provisions of this section he shall register at the Crown land agent's office of the land district in which the land is situated the total amount of his mortgage or judgment debt and other particulars as prescribed, and any person qualified as previously in this Act recited may thereafter, prior to the exercise of the power of forfeiture aforesaid, apply to the local land board to purchase the said holding for the amount of such debt. The board may grant such application, and upon payment to the mortgagee or judgment creditor of the amount then due the applicant shall become the holder of such land free of such debt, but subject to all unfulfilled conditions attaching to such land.

Death or lunacy.

33. In the event of the death or declared lunacy of any person holding under this Act land to which conditions attach, such conditions shall be performed by the representatives of the deceased person or lunatic holder, either personally or by an agent approved by the chairman of the local land board.

Closer Settlement.

34. The Governor may issue a grant after the residence ^{Grant.} condition has been fulfilled and after the balance of the purchase money has been paid, on the finding of the local land board that the conditions attaching to the settlement purchase have been fulfilled to the date of such finding.

35. The local land board may at any time and from time to ^{Inquiries as to} time hold an inquiry in open court as to whether the conditions and ^{fulfilment of} covenants imposed by this Act on a settlement purchase have been ^{conditions.} or are being complied with, and in the event of the board finding they have not been or are not being complied with they shall so report to the Minister. The board's finding shall be subject to appeal to the Land Appeal Court in the same manner and within the same time as provided for cases of appeal under the Crown Lands Acts.

36. Any holding under this Act shall be liable to forfeiture ^{Forfeiture.} if all or any of the conditions or covenants attached to it have not been or are not being complied with; but the Minister may waive incurred forfeiture either unconditionally or on such conditions as he thinks fit. The Governor, by notification in the Gazette, may declare forfeiture of a holding and of all moneys paid in connection therewith. On such notification the title to the land shall vest in His Majesty the King, and the land shall not be open to application for settlement purchase until again notified for the purpose. By like notification the Governor may reverse any forfeiture.

37. A settlement purchase under this Act may be in two ^{Settlement purchase} separate parts, and may consist partly of agricultural and partly of ^{may be in two parts.} grazing land.

38. The Governor may by notification in the Gazette set apart ^{Township settlement} out of lands declared by him a settlement purchase area any area ^{areas.} necessary for township settlement. The Minister may cause to be prepared a suitable design, and under it he may sell at auction allotments, each of which shall not exceed half an acre in extent. No person shall hold more than three of such allotments, except by way of mortgage. The Governor may also set apart out of a settlement purchase area for any purpose which he shall previously have notified in the Gazette as a public purpose, any area necessary, either within or without the boundaries of the township settlement.

39. It shall be lawful for the Governor to set apart lands ^{Leases.} under this Act, and to lease the same in areas not exceeding three hundred and twenty acres. The said leases shall be applied for in the prescribed form and shall be subject to such conditions as may be determined by the Governor, and to the following provisions:—

- (a) No improvements shall be effected on the land leased without the consent of the Minister or the chairman of the local land board having been first obtained in writing.

(b)

Closer Settlement.

- (b) Every such lease shall be for the then current year, and shall expire on the thirty-first day of December; but may be renewed from year to year by the lessee paying the yearly rent in advance not later than the tenth day of December of the next preceding year.
- (c) The annual rent shall be appraised by the land board.
- (d) The granting of a lease under this section shall not exempt the land held thereunder from being granted as a settlement purchase under this Act. On a valid application for a settlement purchase the lease of so much of the land as is applied for thereby shall cease and determine from the date of that application, and the rent shall be adjusted or any balance refunded as the case may be.
- (e) The Minister may at any time cancel a lease granted under this Act by giving not less than three months' notice in the Gazette of his intention to do so, such notice to terminate the lease at the end of the then current year.

PART V.

MISCELLANEOUS.

Disposition of
purchase money, &c.

40. All moneys received in respect of sales by auction, or of leases, or of settlement purchases of land acquired under this Act shall be paid into the Treasury and carried to a special account, and shall be applied in the first place in payment of the interest and charges upon any money borrowed and paid for land purchased under this Act, and the surplus shall be accumulated to form a fund for repaying the money so borrowed and paid.

Closer Settlement
Board.

41. (1) The Closer Settlement Board shall consist of the president and the commissioners of the Land Appeal Court and the chairman and members of the local land board for the land district in which the land under inquiry is situated, and shall sit where the Minister directs.

(2) The President of the Land Appeal Court if present shall act as chairman; in his absence the senior member of the Land Appeal Court present shall so act.

(3) Not less than four of the members of the Closer Settlement Board shall constitute a quorum.

(4) If the number of members sitting shall be either four or six the chairman of the Closer Settlement Board, or the acting chairman thereof, shall have a casting vote in addition to his original vote.

(5)

Closer Settlement.

(5) If the land under inquiry is situated in more than one land district the Minister shall specify the local land board, the chairman and members of which shall form part of the Closer Settlement Board for that inquiry.

42. The Land Appeal Court and the local land boards shall respectively have and may exercise under this Act the powers and authorities conferred by the Acts constituting them. Powers of Land Appeal Court and local land board.

43. Any land acquired under the Closer Settlement Act, 1901, and not set apart for settlement prior to the passing of this Act shall be disposed of under the provisions hereof and under a design plan which shall be submitted to the Minister by the Closer Settlement Board, subject mutatis mutandis to the provisions of section twenty-four hereof. Land acquired before the passing of this Act.

44. Whenever land is acquired under this Act a copy of the Gazette notification declaring such land to be acquired, certified under the hand of the Minister, shall in every case be lodged with the Registrar-General and be registered by him in the general register of deeds unless the land so acquired is wholly or in part comprised in a grant or a certificate of title under the Real Property Act, in which case, upon production of such notification so certified as aforesaid, it shall be the duty of the Registrar-General to deal with and give effect to such notification as if the same were a memorandum of transfer duly executed under the said Act. Registration of acquisition.

45. (1) If the owner or occupier of any lands acquired under this Act or any other person refuses to give up possession thereof or hinders any officer acting on behalf of the Minister from entering upon or taking possession of the same the Minister may cause a warrant to issue to the Sheriff to deliver possession of such lands to the person appointed in such warrant to receive them. Refusal to deliver up acquired lands.

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

46. The local land board or the chairman for such board, on application being made in the prescribed form by the holder of any purchase or lease under this Act, may grant permission under his hand to the said holder to enclose wholly or in part any road traversing or bounding such holding, subject to payment of such annual rent as may Enclosure of roads.

Closer Settlement.

may be determined, and shall direct that gates or suitable substitutes, such as the board or the chairman for such board may consider necessary, shall be erected or made so as not to unnecessarily interfere with any traffic, and upon complaint being made in the prescribed form with the prescribed deposit the local land board may for any sufficient reason cancel any permission granted as aforesaid, and may order any fence, gate, or other structure on any road to be removed by such holder, and within such period as the board may determine.

Common boundary.

47. Where permission to enclose a boundary road is granted as aforesaid, the fenced side of such road shall be deemed to be a common boundary line for all purposes of fencing and contribution by the holders of land on either side thereof.

Give-and-take fences.

48. The land board or the chairman for such board may, on application in the prescribed manner, authorise a give-and-take fence as a common boundary line between holdings, and such fence when erected shall be deemed to be, and shall for all purposes be, the boundary between the holdings: Provided that the land board may, on application as prescribed, and accompanied by the prescribed deposit made by any of the owners of such holdings, give permission to alter or vary the position of such fence.

Contributions to cost of erection and maintenance of boundary fences.

49. The holder under this Act, who shall fence his settlement purchase, may demand and enforce from the holder of an adjoining like holding, or from the holder of an incomplete purchase under the Crown Lands Acts, or from a leaseholder thereunder, who at the date of the demand shall have a tenure of not less than five years, a contribution toward the cost of such fencing to the extent of one-half of the appraised value thereof, but so far only as the said fencing marks a common boundary-line; and while such fence is maintained in good repair and condition by such person every holder of the adjoining lands shall be and remain liable as a contributory towards the cost of so maintaining such fence to the extent of one-half the cost thereof.

Contributions to maintenance of fencing enclosing roads.

50. Where permission is granted to enclose a road situated between lands held by different persons, and the person to whom such permission is granted derives, in the opinion of the local land board, a benefit from or uses any fence on or adjoining such road, such person (or any transferee of the land held by him) shall, so long as such permission remains unrevoked, be liable as a contributory towards the cost of maintaining in good repair such part of the fence as benefits, or is used by him.

Powers of local land board as to contributions.

51. The local land board shall, subject to appeal, have power to hear and determine all disputes and claims arising under sections forty-nine and fifty hereof as to contributions, and to appraise all values and estimate all costs in connection therewith.

Closer Settlement.

52. In any case where a local land board, pursuant to the provisions of this Act, shall make any adjudication or award, and to give effect to such adjudication or award, shall make any order for the payment of money whether as compensation, costs, appraised value, or otherwise howsoever, such order shall be under the hand of the chairman, and may be enforced by distress and sale of the goods and chattels of the person ordered to pay such money in the manner prescribed by the regulations, or the same may be recovered in a summary way before any two justices of the peace by the person to whom such money is ordered to be paid. The Land Appeal Court and the local land board shall have power to award costs in any case within their respective jurisdictions under this Act. Orders of local land board, how enforced.

53. Whenever in this Act the word "prescribed" is used in connection with any matter referred to in the context, and whenever, in any section of this Act, "regulations" are mentioned in connection with any such matter the Governor may in every such case frame regulations for the purpose of giving effect to the provisions of such section. And, for the purpose of carrying this Act into full effect generally, the Governor may make regulations, which shall, upon being published in the Gazette, be good and valid in law: Provided that a copy of all such regulations 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. Power to make regulations and rules.

54. This Act shall be administered by the Secretary for Lands, Administration, who for the purpose of such administration or whenever he deems it necessary for his guidance and information, shall have power to refer any matter for inquiry and report to the local land board, and the said board shall upon such reference proceed accordingly.

In the name and on the behalf of His Majesty I assent to this Act.

HARRY H. RAWSON,
Governor.

State Government House,
Sydney, 31st December, 1904.

CLOSER SETTLEMENT BILL.

SCHEDULE of the Amendments referred to in Message of 20 December, 1904.

- Page 4, clause 8, line 10. *After* "may" *insert* "if agreed to by the owner"
- Page 4, clause 12, line 28. *Omit* "fifteen" *insert* "twenty"
- Page 5, clause 14, line 6. *Omit* "one" *insert* "four"
- Page 5, clause 16, line 26. *After* "Board" *insert* "Provided that in the event of the
"owner being dissatisfied with the determination of the Closer Settlement
"Board in this respect he shall be entitled to waive the exercise of his
"right of retainer by notifying the Minister to that effect within one
"week of such determination"
- Page 6, clause 18, line 4. *After* "owner" *insert* "or mortgagee"
- Page 6, clause 18, line 5. *Omit* "he" *insert* "either or both"
- Page 6, clause 21. At end of clause *add* "Provided that if the land be under
"mortgage the amount due thereunder shall be paid to the mortgagee"
- Page 9, clause 30, lines 30 and 31. *Omit* "provided that this section shall not apply to a
"transfer by way of mortgage"
- Page 9, clause 30. At end of clause *add*—
"Provided that—
"(1) This section shall not apply to transfers by way of mortgage.
"(2) If a settlement purchase devolve under a will or intestacy upon a person
"who is not qualified under this Act to hold the same, such person may
"nevertheless hold such purchase for a period of three years or such
"further period as the Minister may permit, and if before the expiration
"of such period or periods the said person shall become qualified as
"aforesaid, such person shall be deemed to have been so qualified as
"from the date of such devolution"
- Page 10, clause 32, line 16. *Omit* "twelve months" *insert* "two years"
- Page 10, clause 32, lines 24 and 25. *Omit* "under section twenty-six of this Act"
- Page 10, clause 32, line 25. *Omit* "hereunder" *insert* "under this Act"
- Page 10, clause 32, line 27. *Omit* "such"
- Page 10, clause 32, line 27. *After* "sale" *insert* "within such period or periods"
- Page 14, clause 48, line 17. *After* "holdings" *omit* remainder of clause *insert* "Provided
"that the land board may, on application as prescribed, and accompanied
"by the prescribed deposit made by any of the owners of such holdings,
"give permission to alter or vary the position of such fence"

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, 12 December, 1904. }*

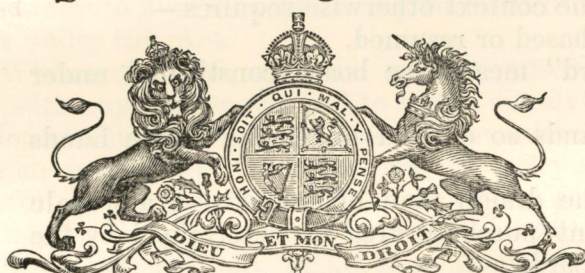
*RICHD. A. ARNOLD,
Clerk of the Legislative Assembly.*

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

*Legislative Council Chamber,
Sydney, 20th December, 1904. }*

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

New South Wales.



ANNO QUARTO

EDWARDI VII REGIS.

Act No. , 1904.

An Act to repeal the Closer Settlement Act, 1901 ; to authorise the acquisition by purchase or by resumption for purposes of settlement of private lands ; to constitute and appoint authorities for reports and other purposes under this Act ; to provide for the dealing with and the disposal of acquired lands and adjacent Crown lands ; to apply certain of the provisions of the Crown Lands Acts, and of the Acts to be read and construed therewith, for the purpose of regulating closer settlement under this Act ; and to amend the Crown Lands Acts.

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 1. This Act may be cited as the "Closer Settlement Act, Short title.
1904."

46036

119—

2.

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

Closer Settlement.

2. The Closer Settlement Act, 1901, is hereby repealed, but such repeal shall not prejudice or affect any proceeding, matter, or thing lawfully done or commenced, or contracted to be done, under the authority of that Act.

5 3. The provisions of the Crown Lands Acts, and of the Acts to be read and construed therewith, shall only apply to operations under this Act so far as is expressly provided herein.

Application of Crown
Lands Acts to this
Act.

Interpretation.

4. In this Act unless the context otherwise requires—
- 10 "Acquired" means purchased or resumed.
- "Closer Settlement Board" means the board constituted under this Act.
- "Crown lands" means lands so defined under the Crown Lands Act of 1884.
- 15 "Design plan" means the design plan of subdivision and sale values of a settlement purchase area as determined by the Closer Settlement Board.
- "Minister" means the Secretary for Lands.
- 20 "Owner" means the person or persons in whom the fee-simple of, or the right to obtain the fee-simple of, the land to be acquired is vested.
- "Prescribed" means prescribed by this Act or by any regulation made under it.
- 25 "Private land" means land the fee-simple of which is not vested in His Majesty the King and Crown lands held under any tenure which gives a right to purchase the fee-simple.
- "Settlement purchase" means a residential conditional purchase under this Act both before and after the issue of the grant.
- 30 "Settlement purchase area" means an area of land as notified in the Gazette for the purposes of this Act.
- The terms "Land Appeal Court," "land board," "local land board," "chairman," "land district" shall have the same meaning in this Act as in the Crown Lands Acts, and in the Judicial Offices Act of 1892.

Definitions.

Closer Settlement.

PART I.

PURCHASE OF PRIVATE LAND.

5. Any owner of private land may by writing addressed to the Minister, or to some person appointed by the Minister in that behalf, offer to surrender the same to His Majesty in consideration of the payment of a price named in the offer; and, except as hereinafter provided, such offer shall be binding on such owner and shall not be withdrawn by him sooner than nine months after the receipt of the offer except with the consent of the Minister in writing under his hand.

10 Provided that such owner may from time to time and for such periods as may be agreed upon between the Minister and himself renew such offer.

Owner may offer to sell land.

6. Any such offer may be reported on by any person or persons appointed by the Minister for that purpose and may also be referred by the Minister to the Closer Settlement Board for inquiry in open court and for report on any or all of the following matters, namely—

Offer how dealt with.

- (a) The fair market value of the land and of the improvements thereon respectively.
- 20 (b) The average prices per acre of the land, grazing and agriculture, respectively, which might reasonably be expected under a closer settlement subdivision.
- (c) The valuation of the land as shown by the books of the Commissioners of Taxation.
- 25 (d) The suitability of the land for closer settlement and the approximate area and quality of grazing and agricultural land respectively.
- (e) The extent to which existing improvements may be utilised in connection with any closer settlement subdivision.
- 30 (f) The area and character of Crown land in the neighbourhood, and its suitability for closer settlement.
- (g) The maximum and the minimum areas for a settlement purchase for grazing and agriculture respectively.
- (h) The demand for land for closer settlement in the neighbourhood of the land, and generally.
- 35 (i) The probability of the immediate disposal of the land under the provisions of this Act.
- (j) The distance to the nearest railway station, port, or town by any means of access.
- (k) The water supply to the land and to land in its neighbourhood.
- 40 (l) The bona fides of any mortgage or charge on the land and the amount thereof,

and any other matters that the Minister may see fit to include in the reference.

Closer Settlement.

7. If such offer has been referred to the Closer Settlement Board, and the report of that board shows that the land offered is suitable, and is likely to be immediately utilised for closer settlement, the Minister may submit to Parliament that the land or any part thereof together with the improvements thereon be acquired—

Minister may submit offer to Parliament.

- (a) at the price asked by the owner; or
- (b) at the values reported by the Closer Settlement Board; or
- (c) at a price less than either of the foregoing.

8. The Minister, with the sanction of the Governor and the approval of both Houses of Parliament, may, if agreed to by the owner, make a contract for the purchase of such land or any part thereof at the price approved by Parliament as expressed in a resolution by both Houses thereof.

Contract may be made.

9. The said price shall be subject to deduction in the case of incomplete purchases from the Crown of the balances due to the Crown on such purchases. Conditional leases under the Crown Lands Acts shall be treated as incomplete conditional purchases.

Deductions.

10. The Governor and the Minister may do all things necessary to carry out any such contract.

Powers to carry out contract.

11. Upon completion of the contract for the purchase the land shall vest in His Majesty, free from all trusts and conditions affecting the same, and shall be deemed to be reserved from sale, selection, and lease until otherwise notified by the Governor.

Vesting of land.

PART II.

RESUMPTION OF PRIVATE LAND.

12. The compulsory provisions of this Act shall only apply where the private land intended to be set apart for closer settlement exceeds ~~fifteen~~ twenty thousand pounds in value, without taking into account any improvements thereon.

Limitation.

13. (1) The Minister for the purpose of closer settlement may order any person or persons whom he appoints to report to him on any private land, and may under his own hand notify to the owner thereof on the prescribed form that he has made an order for an inspection with the object of asking Parliamentary authority for the resumption of the same.

Minister may order inspection and report, and notify owner.

(2) After the date of such notification no disposition of such land, or any part thereof, shall operate to defeat the power of the Governor to resume the same for the purposes of this Act.

Restriction on disposition of the land.

(3) Such restriction on the disposition of the land shall cease to have effect if the land is not resumed within twelve months after the date of such notification, or if the Governor at any time removes the restriction.

When restriction on disposition to cease.

Closer Settlement.

14. The person or persons appointed to report as aforesaid with such assistants as he or they may deem necessary, may at any time enter any private land, and may remain thereon for such time as may be necessary to enable sufficient information to be obtained for the preparation of a report on such land:

Authority to enter, inspect, and report.

Provided that not less than ~~one~~ four weeks' notice of intention to enter on such land shall be given to the owner thereof or his manager or agent.

Notice of intended entry.

15. After report as aforesaid the matter may by the Minister be referred to the Closer Settlement Board for a valuation of the land and the improvements after inquiry in open Court. Before such reference four weeks' notification of the intention to refer with the object aforesaid shall be given to the owner on the prescribed form.

Owner to be given one month's notice of reference to Closer Settlement Board for report and valuation.

16. (1) The owner of any private lands referred to the Closer Settlement Board shall have the right to retain out of such lands, if resumed, a part thereof the value of which (without taking into account any improvements thereon) does not exceed ten thousand pounds. Where more than one person is the owner of such lands only one such right may be exercised.

Right of owner to retain part.

(2) Such right shall be deemed to be waived unless the owner asserts the same in the way provided in the fourth subsection hereof, and also specifies the area, situation, boundaries and value of the land (without taking into account any improvements thereon) which he proposes to retain.

(3) The area, situation, and boundaries of the land to be so retained shall be determined by the Closer Settlement Board: Provided that in the event of the owner being dissatisfied with the determination of the Closer Settlement Board in this respect, he shall be entitled to waive the exercise of his right of retainer by notifying the Minister to that effect within one week of such determination.

Determination of part to be retained.

(4) If the land referred to the Closer Settlement Board comprises part only of that held by an owner in one contiguous area, such owner shall have the right to require that the whole of such area be referred as aforesaid, provided that he asserts such right on the prescribed form within four weeks of notification of the intention to refer. In such a case not less than the whole of such area (if any) shall be resumed.

Right to require whole estate to be taken.

17. (1) After the valuation by the Closer Settlement Board as aforesaid, the matter may by the Minister be referred to Parliament.

Reference to Parliament.

(2) If Parliament, by resolution of each House, approves of the resumption of the land, the Governor shall, by notification in the Gazette, declare that the land described in such notification has been resumed under and for the purposes of this Act, and the land so described shall thereupon become vested in His Majesty.

Resumption and vesting.

Closer Settlement.

18. (1) The valuation of the land and improvements, as ^{Price.} reported by the Closer Settlement Board shall, subject to appeal as hereinunder provided, be the purchase price thereof.

(2) If the owner or mortgagee be dissatisfied with such ^{Appeal.} price, he either or both may, within twenty-eight days of the notification of resumption as in this Act provided, lodge with the Minister a notice of appeal on the prescribed form.

(3) Such appeal shall be heard by a Court consisting of one ^{Court of Appeal.} of the Judges of the Supreme Court, appointed for the purpose by the Governor within fourteen days of such notice of appeal, and two assessors, one of whom shall be appointed by the Governor, and the other by the appellant within the aforesaid period.

(4) The decision of the said Judge and one of such assessors ^{Decision.} as to price shall be final, whether such price be greater or less than the Closer Settlement Board's reported valuation.

19. After the notification of resumption hereinbefore provided, ^{Temporary retention of estate by owner after resumption.} the owner may retain the whole or any part of his estate for such period as shall be agreed upon between himself and the Minister, and upon such conditions as the Minister shall determine.

20

PART III.

PAYMENTS.

20. Every person claiming payment for land acquired under ^{Time for lodging claim to payment.} this Act shall, within sixty days of the date of the determination of, or decision as to price lodge with the Minister a notice in the prescribed form setting forth the nature of the estate or interest of the claimant in such land, and an abstract of his title.

21. The Minister shall, within three months after being satisfied ^{Payment.} on the report of the Crown Solicitor that the valid title is in the claimant, pay to such claimant the price of the land and the improvements as determined: **Provided that if the land be under mortgage the amount due thereunder shall be paid to the mortgagee.**

22. (1) All reasonable costs of proceedings for resumption ^{Payment of costs.} under this Act shall, subject to taxation by the Prothonotary of the Supreme Court, be paid by the Crown, save in the case of an appeal.

(2) The costs of appeal, subject to a like taxation, shall be paid by the unsuccessful party to the appeal.

23. The price determined shall bear interest at the rate of four ^{Interest.} per centum per annum from the date of the vesting as aforesaid, but for no longer period than twelve months from such date.

PART

Closer Settlement.

PART IV.

DISPOSAL OF THE LAND.

24. Before disposal of the land a plan of designed subdivision Design plan. showing the areas and values per acre of the proposed settlement purchases shall be submitted to the Minister by the Closer Settlement Board, and shall, subject to the provisions of section thirty-eight hereof, be the design plan of the settlement area conclusive as to sale value and area for each settlement purchase. The design plan shall include the lands acquired, and any adjacent Crown lands set apart by the Minister to become part of the same settlement purchase area.

25. (1) All land acquired under this Act, and such adjacent Disposal—classification—notification. Crown lands as have been set apart as aforesaid, shall be dealt with and disposed of as in this Act provided, and in no other way, any provision of the Crown Lands Acts or of the Acts to be read and construed therewith to the contrary notwithstanding.

(2) Such acquired land with the adjacent Crown lands as aforesaid (if any) shall be declared a settlement purchase area or areas by notification in the Gazette.

(3) Every such settlement purchase area shall be notified for disposal under the design plan and may be notified in three classes, namely—

- (a) agricultural lands ;
- (b) grazing lands ;
- (c) township settlement allotments.

(4) Such notification shall describe the lands and declare them to be available for application, and shall set out inter alia the class of land, the capital value for the purposes of each class of holding, and the area in each class which may be applied for, to be held in one or two areas.

26. Any male person not being under the age of eighteen years, Qualifications to apply for land under this Act. and any female person not being under the age of twenty-one years, and not being the holder of any land except—

- (a) town or suburban land as defined in the Crown Lands Acts; or
 - (b) land under lease as provided for in this Act or a settlement township allotment thereunder; or
 - (c) land held as a tenant from a private holder,
- may apply for a settlement purchase under this Act, subject to the following provisions:—

(1) Such person shall not for the purpose of applying under this Act have divested himself or herself of any land held by him or her within twelve months before the date of application under this Act.

(2)

Closer Settlement.

(2) Such person if a female shall be unmarried, or widowed, or if married, be living apart from her husband under an order for judicial separation made by a court of competent jurisdiction.

5 27. Any person so qualified as aforesaid may lodge, either in person or by authorised agent, or by registered post, with the land agent of the district in which the land is situated, or with any other officer duly appointed in that behalf, an application on the prescribed form for a settlement purchase. Such application shall be accompanied by a deposit of five per centum of the notified value of such
10 settlement purchase.

Lodgment of applications.

28. Applications received by the land agent or by the officer duly appointed as aforesaid during office hours of any day of the week from Monday to the next succeeding Saturday, both days inclusive, shall, for the purposes of this Act, be deemed to have been lodged simultaneously ;
15 and the local land board shall in open court hear and inquire into the merits of each, and may, subject to regulations made hereunder, allow or refuse any of them, or permit withdrawal thereof at any time prior to the board's determination thereon, and may impose a penalty on such withdrawal or refusal by retaining the whole or such portion of
20 the deposit money as shall after due inquiry be determined by them, and may, at their discretion, disqualify such applicant from making any fresh application under this Act for a period to be determined by such board. No allowance or refusal of an application under this section shall be a ground of appeal to the Land Appeal Court.

Applications, inquiry, and disposal by land board appeal barred.

25 29. The title of a settlement purchase under this Act shall commence from the date of application therefor, if valid, and every such purchase before grant shall be subject to the following covenants and conditions, and to such other conditions and restrictions relating to mining, cultivation, destruction of vermin and noxious weeds, insurance
30 against fire, or other matter or matters as may be prescribed :—

Settlement purchase, title, and general conditions.

(a) At the end of the first year from the date of application, or within three months thereafter, there shall be paid an instalment on the purchase money at the rate of five per centum of the capital value of the land, and thereafter in
35 like manner a like instalment annually until the balance of the purchase money, together with interest at the rate of four per centum per annum thereon, shall have been paid; but two or more instalments may be paid at the same time.

Instalments, rate of interest.

(b) A condition of residence for ten years shall attach to every
40 settlement purchase, and shall commence within twelve months after the date of the land board's decision allowing the purchase: Provided that the commencement of residence may be extended to any date within five years of allowance of purchase, on such terms and conditions as to improvements and cultivation as may be agreed upon between the local
45 land

Residence.

Closer Settlement.

land board and the purchaser. For the purposes of this Act, residence shall be taken to mean continuous and bona fide living, as the purchaser's usual home, without any other habitual residence, upon any settlement purchase or upon any township settlement allotment in the same settlement purchase area. On application on the prescribed form the land board may permit the residence condition to be performed in any adjacent village or town. Such permission may be conditional or unconditional. The land board or the chairman for the land board may, at any time after application on the prescribed form, and for due cause shown, suspend the condition of residence either unconditionally or on conditions.

(c) If the land be unimproved the purchaser shall make substantial and permanent improvements thereon to the value of ten per centum of the capital value thereof, within two years from the date of commencement of the purchase, and to an additional five per centum of the said value within five years of the said commencement, and to a further additional ten per centum within ten years from the same date. Existing improvements on the land shall to the amount of their value be held to fulfil this condition. Boundary fencing shall be deemed to be an improvement within the meaning of this section: Provided that nothing in this subsection shall limit the power of the local land board to prescribe the value of improvements to be effected under the provisions of subsection (b).

30. No person unless qualified under section twenty-six hereof shall make or acquire by transfer or otherwise a settlement purchase under this Act, nor shall any person whosoever make, hold, or acquire more than one settlement purchase; ~~provided that this section shall not apply to a transfer by way of mortgage.~~ No transfer or conveyance or assignment in contravention of the provisions of this section shall be valid for any purpose whatsoever: Restriction on purchase.

Provided that—

- (1) This section shall not apply to transfers by way of mortgage.
- (2) If a settlement purchase devolve under a will or intestacy upon a person who is not qualified under this Act to hold the same, such person may nevertheless hold such purchase for a period of three years, or such further period as the Minister may permit, and if before the expiration of such period or periods the said person shall become qualified as aforesaid, such person shall be deemed to have been so qualified as from the date of such devolution.

31. No holder of a settlement purchase before grant shall transfer, convey, assign, or lease such purchase or mortgage, or charge the Transfer and mortgage.

Closer Settlement.

the same with the repayment of moneys advanced on the security thereof without first having obtained the written consent of the Minister thereto. And before giving such consent the Minister shall be satisfied that all conditions imposed by this Act (except the payment
5 of balance of purchase money) have been and are being duly complied with.

32. Any mortgagee who has under the powers of the mortgage submitted any settlement purchase for sale by public auction, and any execution creditor who has seized under process of any court any
10 such purchase, and has so offered the land for sale, if the mortgagor's or debtor's interest in the land is not then sold to a bona fide purchaser, who must be a person qualified to apply for or hold a settlement purchase under section twenty-six of this Act, may, in the prescribed manner, go into possession of the land. During such time
15 as the condition of residence attaches such condition shall for a period of ~~twelve months~~ **two years** after the commencement of such possession, or for such further period as shall be approved by the Minister, be deemed to be fulfilled, if a nominee of such mortgagee or of such creditor, to be approved by the chairman of the local land board, reside upon the
20 land. The said mortgagee or said creditor shall, within two years after the commencement of such possession, or within such further period as shall be approved by the Minister, sell the said mortgagor's or said debtor's interest in the land to a bona fide purchaser. Such purchaser must be a person qualified ~~under section twenty-six of this~~
25 ~~Act to hold a settlement purchase hereunder~~ **under this Act**, and shall be subject to all conditions affecting the original holder. In default of such sale **within such period or periods** the settlement purchase shall be liable to forfeiture: Provided that before any person shall avail himself of the provisions of this section he shall register at the
30 Crown land agent's office of the land district in which the land is situated the total amount of his mortgage or judgment debt and other particulars as prescribed, and any person qualified as previously in this Act recited may thereafter, prior to the exercise of the power of forfeiture aforesaid, apply to the local land board to purchase the
35 said holding for the amount of such debt. The board may grant such application, and upon payment to the mortgagee or judgment creditor of the amount then due the applicant shall become the holder of such land free of such debt, but subject to all unfulfilled conditions attaching to such land.

40 33. In the event of the death or declared lunacy of any person holding under this Act land to which conditions attach, such conditions shall be performed by the representatives of the deceased person or lunatic holder, either personally or by an agent approved by the chairman of the local land board.

Closer Settlement.

34. The Governor may issue a grant after the residence Grant.
condition has been fulfilled and after the balance of the purchase
money has been paid, on the finding of the local land board that the
conditions attaching to the settlement purchase have been fulfilled to
5 the date of such finding.

35. The local land board may at any time and from time to Inquiries as to
time hold an inquiry in open court as to whether the conditions and fulfilment of
covenants imposed by this Act on a settlement purchase have been conditions.
or are being complied with, and in the event of the board finding
10 they have not been or are not being complied with they shall so
report to the Minister. The board's finding shall be subject to appeal
to the Land Appeal Court in the same manner and within the same
time as provided for cases of appeal under the Crown Lands Acts.

36. Any holding under this Act shall be liable to forfeiture Forfeiture.
15 if all or any of the conditions or covenants attached to it have not
been or are not being complied with; but the Minister may waive
incurred forfeiture either unconditionally or on such conditions as he
thinks fit. The Governor, by notification in the Gazette, may declare
forfeiture of a holding and of all moneys paid in connection therewith.
20 On such notification the title to the land shall vest in His Majesty
the King, and the land shall not be open to application for settlement
purchase until again notified for the purpose. By like notification the
Governor may reverse any forfeiture.

37. A settlement purchase under this Act may be in two Settlement purchase
25 separate parts, and may consist partly of agricultural and partly of may be in two parts.
grazing land.

38. The Governor may by notification in the Gazette set apart Township settlement
out of lands declared by him a settlement purchase area any area areas.
necessary for township settlement. The Minister may cause to be
30 prepared a suitable design, and under it he may sell at auction
allotments, each of which shall not exceed half an acre in extent. No
person shall hold more than three of such allotments, except by way
of mortgage. The Governor may also set apart out of a settlement
purchase area for any purpose which he shall previously have notified
35 in the Gazette as a public purpose, any area necessary, either within
or without the boundaries of the township settlement.

39. It shall be lawful for the Governor to set apart lands Leases.
under this Act, and to lease the same in areas not exceeding three
hundred and twenty acres. The said leases shall be applied for in
40 the prescribed form and shall be subject to such conditions as may
be determined by the Governor, and to the following provisions:—

- (a) No improvements shall be effected on the land leased without
the consent of the Minister or the chairman of the local land
board having been first obtained in writing.

(b)

Closer Settlement.

- 5 (b) Every such lease shall be for the then current year, and shall expire on the thirty-first day of December; but may be renewed from year to year by the lessee paying the yearly rent in advance not later than the tenth day of December of the next preceding year.
- (c) The annual rent shall be appraised by the land board.
- 10 (d) The granting of a lease under this section shall not exempt the land held thereunder from being granted as a settlement purchase under this Act. On a valid application for a settlement purchase the lease of so much of the land as is applied for thereby shall cease and determine from the date of that application, and the rent shall be adjusted or any balance refunded as the case may be.
- 15 (e) The Minister may at any time cancel a lease granted under this Act by giving not less than three months' notice in the Gazette of his intention to do so, such notice to terminate the lease at the end of the then current year.

PART V.

MISCELLANEOUS.

- 20 40. All moneys received in respect of sales by auction, or of leases, or of settlement purchases of land acquired under this Act shall be paid into the Treasury and carried to a special account, and shall be applied in the first place in payment of the interest and charges upon any money borrowed and paid for land purchased under this Act, and
- 25 the surplus shall be accumulated to form a fund for repaying the money so borrowed and paid.
- 30 41. (1) The Closer Settlement Board shall consist of the president and the commissioners of the Land Appeal Court and the chairman and members of the local land board for the land district in which the land under inquiry is situated, and shall sit where the Minister directs.
- (2) The President of the Land Appeal Court if present shall act as chairman; in his absence the senior member of the Land Appeal Court present shall so act.
- 35 (3) Not less than four of the members of the Closer Settlement Board shall constitute a quorum.
- (4) If the number of members sitting shall be either four or six the chairman of the Closer Settlement Board, or the acting chairman thereof, shall have a casting vote in addition to his original
- 40 vote.

(5)

Closer Settlement.

(5) If the land under inquiry is situated in more than one land district the Minister shall specify the local land board, the chairman and members of which shall form part of the Closer Settlement Board for that inquiry.

- 5 42. The Land Appeal Court and the local land boards shall respectively have and may exercise under this Act the powers and authorities conferred by the Acts constituting them. Powers of Land Appeal Court and local land board.

- 10 43. Any land acquired under the Closer Settlement Act, 1901, and not set apart for settlement prior to the passing of this Act shall be disposed of under the provisions hereof and under a design plan which shall be submitted to the Minister by the Closer Settlement Board, subject mutatis mutandis to the provisions of section twenty-four hereof. Land acquired before the passing of this Act.

- 15 44. Whenever land is acquired under this Act a copy of the Gazette notification declaring such land to be acquired, certified under the hand of the Minister, shall in every case be lodged with the Registrar-General and be registered by him in the general register of deeds unless the land so acquired is wholly or in part comprised in a grant or a certificate of title under the Real Property Act, in which case, upon production of such notification so certified as aforesaid, it shall be the duty of the Registrar-General to deal with and give effect to such notification as if the same were a memorandum of transfer duly executed under the said Act. Registration of acquisition.

- 25 45. (1) If the owner or occupier of any lands acquired under this Act or any other person refuses to give up possession thereof or hinders any officer acting on behalf of the Minister from entering upon or taking possession of the same the Minister may cause a warrant to issue to the Sheriff to deliver possession of such lands to the person appointed in such warrant to receive them. Refusal to deliver up acquired lands.

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

- 45 46. The local land board or the chairman for such board, on application being made in the prescribed form by the holder of any purchase or lease under this Act, may grant permission under his hand to the said holder to enclose wholly or in part any road traversing or bounding such holding, subject to payment of such annual rent as may Enclosure of roads.

Closer Settlement.

may be determined, and shall direct that gates or suitable substitutes, such as the board or the chairman for such board may consider necessary, shall be erected or made so as not to unnecessarily interfere with any traffic, and upon complaint being made in the prescribed form with
 5 the prescribed deposit the local land board may for any sufficient reason cancel any permission granted as aforesaid, and may order any fence, gate, or other structure on any road to be removed by such holder, and within such period as the board may determine.

47. Where permission to enclose a boundary road is granted as Common boundary.
 10 aforesaid, the fenced side of such road shall be deemed to be a common boundary line for all purposes of fencing and contribution by the holders of land on either side thereof.

48. The land board or the chairman for such board may, on Give-and-take fences.
 application in the prescribed manner, authorise a give-and-take fence
 15 as a common boundary line between holdings, and such fence when erected shall be deemed to be, and shall for all purposes be, the boundary between the holdings ~~so long as the parties consent thereto.~~
Provided that the land board may, on application as prescribed, and accompanied by the prescribed deposit made by any of the owners of
 20 **such holdings, give permission to alter or vary the position of such fence.**

49. The holder under this Act, who shall fence his settlement Contributions to cost of erection and maintenance of boundary fences.
 purchase, may demand and enforce from the holder of an adjoining like holding, or from the holder of an incomplete purchase under the
 25 Crown Lands Acts, or from a leaseholder thereunder, who at the date of the demand shall have a tenure of not less than five years, a contribution toward the cost of such fencing to the extent of one-half of the appraised value thereof, but so far only as the said fencing marks a common boundary-line; and while such fence is maintained
 30 in good repair and condition by such person every holder of the adjoining lands shall be and remain liable as a contributory towards the cost of so maintaining such fence to the extent of one-half the cost thereof.

50. Where permission is granted to enclose a road situated Contributions to maintenance of fencing enclosing roads.
 35 between lands held by different persons, and the person to whom such permission is granted derives, in the opinion of the local land board, a benefit from or uses any fence on or adjoining such road, such person (or any transferee of the land held by him) shall, so long as such permission remains unrevoked, be liable as a contributory towards the
 40 cost of maintaining in good repair such part of the fence as benefits, or is used by him.

51. The local land board shall, subject to appeal, have power to Powers of local land board as to contributions.
 hear and determine all disputes and claims arising under sections forty-
 nine and fifty hereof as to contributions, and to appraise all values
 45 and estimate all costs in connection therewith.

Closer Settlement.

52. In any case where a local land board, pursuant to the provisions of this Act, shall make any adjudication or award, and to give effect to such adjudication or award, shall make any order for the payment of money whether as compensation, costs, appraised value, or otherwise howsoever, such order shall be under the hand of the chairman, and may be enforced by distress and sale of the goods and chattels of the person ordered to pay such money in the manner prescribed by the regulations, or the same may be recovered in a summary way before any two justices of the peace by the person to whom such money is ordered to be paid. The Land Appeal Court and the local land board shall have power to award costs in any case within their respective jurisdictions under this Act.

Orders of local
land board, how
enforced.

53. Whenever in this Act the word "prescribed" is used in connection with any matter referred to in the context, and whenever, in any section of this Act, "regulations" are mentioned in connection with any such matter the Governor may in every such case frame regulations for the purpose of giving effect to the provisions of such section. And, for the purpose of carrying this Act into full effect generally, the Governor may make regulations, which shall, upon being published in the Gazette, be good and valid in law: Provided that a copy of all such regulations 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.

Power to make
regulations and
rules.

54. This Act shall be administered by the Secretary for Lands, who for the purpose of such administration or whenever he deems it necessary for his guidance and information, shall have power to refer any matter for inquiry and report to the local land board, and the said board shall upon such reference proceed accordingly.

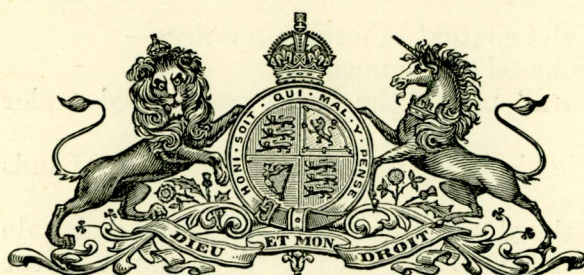
Administration.

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, 12 December, 1904. }*

*RICHD. A. ARNOLD,
Clerk of the Legislative Assembly.*

New South Wales.



ANNO QUARTO

EDWARDI VII REGIS.

Act No. , 1904.

An Act to repeal the Closer Settlement Act, 1901 ; to authorise the acquisition by purchase or by resumption for purposes of settlement of private lands ; to constitute and appoint authorities for reports and other purposes under this Act ; to provide for the dealing with and the disposal of acquired lands and adjacent Crown lands ; to apply certain of the provisions of the Crown Lands Acts, and of the Acts to be read and construed therewith, for the purpose of regulating closer settlement under this Act ; and to amend the Crown Lands Acts.

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 1. This Act may be cited as the "Closer Settlement Act, Short title. 1904."

Closer Settlement.

2. The Closer Settlement Act, 1901, is hereby repealed, but such repeal shall not prejudice or affect any proceeding, matter, or thing lawfully done or commenced, or contracted to be done, under the authority of that Act.

5 3. The provisions of the Crown Lands Acts, and of the Acts to be read and construed therewith, shall only apply to operations under this Act so far as is expressly provided herein.

Application of Crown
Lands Acts to this
Act.

Interpretation.

4. In this Act unless the context otherwise requires—
- 10 "Acquired" means purchased or resumed.
- "Closer Settlement Board" means the board constituted under this Act.
- "Crown lands" means lands so defined under the Crown Lands Act of 1884.
- 15 "Design plan" means the design plan of subdivision and sale values of a settlement purchase area as determined by the Closer Settlement Board.
- "Minister" means the Secretary for Lands.
- 20 "Owner" means the person or persons in whom the fee-simple of, or the right to obtain the fee-simple of, the land to be acquired is vested.
- "Prescribed" means prescribed by this Act or by any regulation made under it.
- 25 "Private land" means land the fee-simple of which is not vested in His Majesty the King and Crown lands held under any tenure which gives a right to purchase the fee-simple.
- "Settlement purchase" means a residential conditional purchase under this Act both before and after the issue of the grant.
- 30 "Settlement purchase area" means an area of land as notified in the Gazette for the purposes of this Act.
- The terms "Land Appeal Court," "land board," "local land board," "chairman," "land district" shall have the same meaning in this Act as in the Crown Lands Acts, and in the Judicial Offices Act of 1892.

Definitions.

Closer Settlement.

PART I.

PURCHASE OF PRIVATE LAND.

5. Any owner of private land may by writing addressed to the Minister, or to some person appointed by the Minister in that behalf, offer to surrender the same to His Majesty in consideration of the payment of a price named in the offer; and, except as hereinafter provided, such offer shall be binding on such owner and shall not be withdrawn by him sooner than nine months after the receipt of the offer except with the consent of the Minister in writing under his hand.

10 Provided that such owner may from time to time and for such periods as may be agreed upon between the Minister and himself renew such offer.

Owner may offer to sell land.

6. Any such offer may be reported on by any person or persons appointed by the Minister for that purpose and may also be referred by the Minister to the Closer Settlement Board for inquiry in open court and for report on any or all of the following matters, namely—

Offer how dealt with.

- (a) The fair market value of the land and of the improvements thereon respectively.
- (b) The average prices per acre of the land, grazing and agriculture, respectively, which might reasonably be expected under a closer settlement subdivision.
- (c) The valuation of the land as shown by the books of the Commissioners of Taxation.
- (d) The suitability of the land for closer settlement and the approximate area and quality of grazing and agricultural land respectively.
- (e) The extent to which existing improvements may be utilised in connection with any closer settlement subdivision.
- (f) The area and character of Crown land in the neighbourhood, and its suitability for closer settlement.
- (g) The maximum and the minimum areas for a settlement purchase for grazing and agriculture respectively.
- (h) The demand for land for closer settlement in the neighbourhood of the land, and generally.
- (i) The probability of the immediate disposal of the land under the provisions of this Act.
- (j) The distance to the nearest railway station, port, or town by any means of access.
- (k) The water supply to the land and to land in its neighbourhood.
- (l) The bona fides of any mortgage or charge on the land and the amount thereof,

and any other matters that the Minister may see fit to include in the reference.

Closer Settlement.

7. If such offer has been referred to the Closer Settlement Board, and the report of that board shows that the land offered is suitable, and is likely to be immediately utilised for closer settlement, the Minister may submit to Parliament that the land or any part thereof together with the improvements thereon be acquired—

Minister may submit offer to Parliament.

- (a) at the price asked by the owner ; or
- (b) at the values reported by the Closer Settlement Board ; or
- (c) at a price less than either of the foregoing.

8. The Minister, with the sanction of the Governor and the approval of both Houses of Parliament, may make a contract for the purchase of such land or any part thereof at the price approved by Parliament as expressed in a resolution by both Houses thereof.

Contract may be made.

9. The said price shall be subject to deduction in the case of incomplete purchases from the Crown of the balances due to the Crown on such purchases. Conditional leases under the Crown Lands Acts shall be treated as incomplete conditional purchases.

Deductions.

10. The Governor and the Minister may do all things necessary to carry out any such contract.

Powers to carry out contract.

11. Upon completion of the contract for the purchase the land shall vest in His Majesty, free from all trusts and conditions affecting the same, and shall be deemed to be reserved from sale, selection, and lease until otherwise notified by the Governor.

Vesting of land.

PART II.

RESUMPTION OF PRIVATE LAND.

12. The compulsory provisions of this Act shall only apply where the private land intended to be set apart for closer settlement exceeds fifteen thousand pounds in value, without taking into account any improvements thereon.

Limitation.

13. (1) The Minister for the purpose of closer settlement may order any person or persons whom he appoints to report to him on any private land, and may under his own hand notify to the owner thereof on the prescribed form that he has made an order for an inspection with the object of asking Parliamentary authority for the resumption of the same.

Minister may order inspection and report, and notify owner.

(2) After the date of such notification no disposition of such land, or any part thereof, shall operate to defeat the power of the Governor to resume the same for the purposes of this Act.

Restriction on disposition of the land.

Closer Settlement.

(3) Such restriction on the disposition of the land shall cease to have effect if the land is not resumed within twelve months after the date of such notification, or if the Governor at any time removes the restriction.

When restriction on disposition to cease.

5 14. The person or persons appointed to report as aforesaid with such assistants as he or they may deem necessary, may at any time enter any private land, and may remain thereon for such time as may be necessary to enable sufficient information to be obtained for the preparation of a report on such land :

Authority to enter, inspect, and report.

10 Provided that not less than one week's notice of intention to enter on such land shall be given to the owner thereof or his manager or agent.

Notice of intended entry.

15 15. After report as aforesaid the matter may by the Minister be referred to the Closer Settlement Board for a valuation of the land and the improvements after inquiry in open Court. Before such reference four weeks' notification of the intention to refer with the object aforesaid shall be given to the owner on the prescribed form.

Owner to be given one month's notice of reference to Closer Settlement Board for report and valuation.

20 16. (1) The owner of any private lands referred to the Closer Settlement Board shall have the right to retain out of such lands, if resumed, a part thereof the value of which (without taking into account any improvements thereon) does not exceed ten thousand pounds. Where more than one person is the owner of such lands only one such right may be exercised.

Right of owner to retain part.

25 (2) Such right shall be deemed to be waived unless the owner asserts the same in the way provided in the fourth subsection hereof, and also specifies the area, situation, boundaries and value of the land (without taking into account any improvements thereon) which he proposes to retain.

30 (3) The area, situation, and boundaries of the land to be so retained shall be determined by the Closer Settlement Board.

Determination of part to be retained.

35 (4) If the land referred to the Closer Settlement Board comprises part only of that held by an owner in one contiguous area, such owner shall have the right to require that the whole of such area be referred as aforesaid, provided that he asserts such right on the prescribed form within four weeks of notification of the intention to refer. In such a case not less than the whole of such area (if any) shall be resumed.

Right to require whole estate to be taken.

40 17. (1) After the valuation by the Closer Settlement Board as aforesaid, the matter may by the Minister be referred to Parliament.

Reference to Parliament.

 (2) If Parliament, by resolution of each House, approves of the resumption of the land, the Governor shall, by notification in the Gazette, declare that the land described in such notification has been resumed under and for the purposes of this Act, and the land so described shall thereupon become vested in His Majesty.

Resumption and vesting.

Closer Settlement.

18. (1) The valuation of the land and improvements, as ^{Price.} reported by the Closer Settlement Board shall, subject to appeal as hereinunder provided, be the purchase price thereof.

(2) If the owner be dissatisfied with such price, he may, ^{Appeal.} within twenty-eight days of the notification of resumption as in this Act provided, lodge with the Minister a notice of appeal on the prescribed form.

(3) Such appeal shall be heard by a Court consisting of one ^{Court of Appeal.} of the Judges of the Supreme Court, appointed for the purpose by the Governor within fourteen days of such notice of appeal, and two assessors, one of whom shall be appointed by the Governor, and the other by the appellant within the aforesaid period.

(4) The decision of the said Judge and one of such assessors ^{Decision.} as to price shall be final, whether such price be greater or less than the Closer Settlement Board's reported valuation.

19. After the notification of resumption hereinbefore provided, ^{Temporary retention of estate by owner after resumption.} the owner may retain the whole or any part of his estate for such period as shall be agreed upon between himself and the Minister, and upon such conditions as the Minister shall determine.

20

PART III.

PAYMENTS.

20. Every person claiming payment for land acquired under ^{Time for lodging claim to payment.} this Act shall, within sixty days of the date of the determination of, or decision as to price lodge with the Minister a notice in the prescribed form setting forth the nature of the estate or interest of the claimant in such land, and an abstract of his title.

21. The Minister shall, within three months after being satisfied ^{Payment.} on the report of the Crown Solicitor that the valid title is in the claimant, pay to such claimant the price of the land and the improvements as determined.

22. (1) All reasonable costs of proceedings for resumption ^{Payment of costs.} under this Act shall, subject to taxation by the Prothonotary of the Supreme Court, be paid by the Crown, save in the case of an appeal.

(2) The costs of appeal, subject to a like taxation, shall be paid by the unsuccessful party to the appeal.

23. The price determined shall bear interest at the rate of four ^{Interest.} per centum per annum from the date of the vesting as aforesaid, but for no longer period than twelve months from such date.

PART

Closer Settlement.

PART IV.

DISPOSAL OF THE LAND.

24. Before disposal of the land a plan of designed subdivision Design plan. showing the areas and values per acre of the proposed settlement purchases shall be submitted to the Minister by the Closer Settlement Board, and shall, subject to the provisions of section thirty-eight hereof, be the design plan of the settlement area conclusive as to sale value and area for each settlement purchase. The design plan shall include the lands acquired, and any adjacent Crown lands set apart by the Minister to become part of the same settlement purchase area.

25. (1) All land acquired under this Act, and such adjacent Disposal—classification—notification. Crown lands as have been set apart as aforesaid, shall be dealt with and disposed of as in this Act provided, and in no other way, any provision of the Crown Lands Acts or of the Acts to be read and construed therewith to the contrary notwithstanding.

(2) Such acquired land with the adjacent Crown lands as aforesaid (if any) shall be declared a settlement purchase area or areas by notification in the Gazette.

(3) Every such settlement purchase area shall be notified for disposal under the design plan and may be notified in three classes, namely—

- (a) agricultural lands ;
- (b) grazing lands ;
- (c) township settlement allotments.

(4) Such notification shall describe the lands and declare them to be available for application, and shall set out inter alia the class of land, the capital value for the purposes of each class of holding, and the area in each class which may be applied for, to be held in one or two areas.

26. Any male person not being under the age of eighteen years, Qualifications to apply for land under this Act. and any female person not being under the age of twenty-one years, and not being the holder of any land except—

- (a) town or suburban land as defined in the Crown Lands Acts ; or
 - (b) land under lease as provided for in this Act or a settlement township allotment thereunder ; or
 - (c) land held as a tenant from a private holder,
- may apply for a settlement purchase under this Act, subject to the following provisions:—

(1) Such person shall not for the purpose of applying under this Act have divested himself or herself of any land held by him or her within twelve months before the date of application under this Act.

Closer Settlement.

(2) Such person if a female shall be unmarried, or widowed, or if married, be living apart from her husband under an order for judicial separation made by a court of competent jurisdiction.

27. Any person so qualified as aforesaid may lodge, either in person or by authorised agent, or by registered post, with the land agent of the district in which the land is situated, or with any other officer duly appointed in that behalf, an application on the prescribed form for a settlement purchase. Such application shall be accompanied by a deposit of five per centum of the notified value of such settlement purchase.

Lodgment of applications.

28. Applications received by the land agent or by the officer duly appointed as aforesaid during office hours of any day of the week from Monday to the next succeeding Saturday, both days inclusive, shall, for the purposes of this Act, be deemed to have been lodged simultaneously; and the local land board shall in open court hear and inquire into the merits of each, and may, subject to regulations made hereunder, allow or refuse any of them, or permit withdrawal thereof at any time prior to the board's determination thereon, and may impose a penalty on such withdrawal or refusal by retaining the whole or such portion of the deposit money as shall after due inquiry be determined by them, and may, at their discretion, disqualify such applicant from making any fresh application under this Act for a period to be determined by such board. No allowance or refusal of an application under this section shall be a ground of appeal to the Land Appeal Court.

Applications, inquiry, and disposal by land board appeal barred.

29. The title of a settlement purchase under this Act shall commence from the date of application therefor, if valid, and every such purchase before grant shall be subject to the following covenants and conditions, and to such other conditions and restrictions relating to mining, cultivation, destruction of vermin and noxious weeds, insurance against fire, or other matter or matters as may be prescribed:—

Settlement purchase, title, and general conditions.

(a) At the end of the first year from the date of application, or within three months thereafter, there shall be paid an instalment on the purchase money at the rate of five per centum of the capital value of the land, and thereafter in like manner a like instalment annually until the balance of the purchase money, together with interest at the rate of four per centum per annum thereon, shall have been paid; but two or more instalments may be paid at the same time.

Instalments, rate of interest.

(b) A condition of residence for ten years shall attach to every settlement purchase, and shall commence within twelve months after the date of the land board's decision allowing the purchase: Provided that the commencement of residence may be extended to any date within five years of allowance of purchase, on such terms and conditions as to improvements and cultivation as may be agreed upon between the local land

Residence.

Closer Settlement.

- land board and the purchaser. For the purposes of this Act, residence shall be taken to mean continuous and bona fide living, as the purchaser's usual home, without any other habitual residence, upon any settlement purchase or upon any township settlement allotment in the same settlement purchase area. On application on the prescribed form the land board may permit the residence condition to be performed in any adjacent village or town. Such permission may be conditional or unconditional. The land board or the chairman for the land board may, at any time after application on the prescribed form, and for due cause shown, suspend the condition of residence either unconditionally or on conditions.
- (c) If the land be unimproved the purchaser shall make substantial and permanent improvements thereon to the value of ten per centum of the capital value thereof, within two years from the date of commencement of the purchase, and to an additional five per centum of the said value within five years of the said commencement, and to a further additional ten per centum within ten years from the same date. Existing improvements on the land shall to the amount of their value be held to fulfil this condition. Boundary fencing shall be deemed to be an improvement within the meaning of this section: Provided that nothing in this subsection shall limit the power of the local land board to prescribe the value of improvements to be effected under the provisions of subsection (b). Improvements.
- 30.** No person unless qualified under section twenty-six hereof shall make or acquire by transfer or otherwise a settlement purchase under this Act, nor shall any person whosoever make, hold, or acquire more than one settlement purchase; provided that this section shall not apply to a transfer by way of mortgage. No transfer or conveyance or assignment in contravention of the provisions of this section shall be valid for any purpose whatsoever. Restriction on purchase.
- 31.** No holder of a settlement purchase before grant shall transfer, convey, assign, or lease such purchase or mortgage, or charge the same with the repayment of moneys advanced on the security thereof without first having obtained the written consent of the Minister thereto. And before giving such consent the Minister shall be satisfied that all conditions imposed by this Act (except the payment of balance of purchase money) have been and are being duly complied with. Transfer and mortgage.
- 32.** Any mortgagee who has under the powers of the mortgage submitted any settlement purchase for sale by public auction, and any execution creditor who has seized under process of any court any such purchase, and has so offered the land for sale, if the mortgagor's Mortgagee or judgment creditor may go into possession.
- or

Closer Settlement.

or debtor's interest in the land is not then sold to a bona fide purchaser, who must be a person qualified to apply for or hold a settlement purchase under section twenty-six of this Act, may, in the prescribed manner, go into possession of the land. During such time
5 as the condition of residence attaches such condition shall for a period of twelve months after the commencement of such possession, or for such further period as shall be approved by the Minister, be deemed to be fulfilled, if a nominee of such mortgagee or of such creditor, to be approved by the chairman of the local land board, reside upon the
10 land. The said mortgagee or said creditor shall, within two years after the commencement of such possession, or within such further period as shall be approved by the Minister, sell the said mortgagor's or said debtor's interest in the land to a bona fide purchaser. Such purchaser must be a person qualified under section twenty-six of
15 this Act to hold a settlement purchase hereunder, and shall be subject to all conditions affecting the original holder. In default of such sale the settlement purchase shall be liable to forfeiture: Provided that before any person shall avail himself of the provisions of this section he shall register at the Crown land agent's office of the land district in which
20 the land is situated the total amount of his mortgage or judgment debt and other particulars as prescribed, and any person qualified as previously in this Act recited may thereafter, prior to the exercise of the power of forfeiture aforesaid, apply to the local land board to purchase the said holding for the amount of such debt. The board
25 may grant such application, and upon payment to the mortgagee or judgment creditor of the amount then due the applicant shall become the holder of such land free of such debt, but subject to all unfulfilled conditions attaching to such land.

33. In the event of the death or declared lunacy of any person Death or lunacy.
30 holding under this Act land to which conditions attach, such conditions shall be performed by the representatives of the deceased person or lunatic holder, either personally or by an agent approved by the chairman of the local land board.

34. The Governor may issue a grant after the residence Grant.
35 condition has been fulfilled and after the balance of the purchase money has been paid, on the finding of the local land board that the conditions attaching to the settlement purchase have been fulfilled to the date of such finding.

35. The local land board may at any time and from time to Inquiries as to fulfilment of conditions.
40 time hold an inquiry in open court as to whether the conditions and covenants imposed by this Act on a settlement purchase have been or are being complied with, and in the event of the board finding they have not been or are not being complied with they shall so report to the Minister. The board's finding shall be subject to appeal
45 to the Land Appeal Court in the same manner and within the same time as provided for cases of appeal under the Crown Lands Acts.

Closer Settlement.

36. Any holding under this Act shall be liable to forfeiture ^{Forfeiture.} if all or any of the conditions or covenants attached to it have not been or are not being complied with; but the Minister may waive incurred forfeiture either unconditionally or on such conditions as he 5 thinks fit. The Governor, by notification in the Gazette, may declare forfeiture of a holding and of all moneys paid in connection therewith. On such notification the title to the land shall vest in His Majesty the King, and the land shall not be open to application for settlement purchase until again notified for the purpose. By like notification the 10 Governor may reverse any forfeiture.

37. A settlement purchase under this Act may be in two ^{Settlement purchase} separate parts, and may consist partly of agricultural and partly of ^{may be in two parts.} grazing land.

38. The Governor may by notification in the Gazette set apart ^{Township settlement} out of lands declared by him a settlement purchase area any area ^{areas.} necessary for township settlement. The Minister may cause to be prepared a suitable design, and under it he may sell at auction allotments, each of which shall not exceed half an acre in extent. No 15 person shall hold more than three of such allotments, except by way 20 of mortgage. The Governor may also set apart out of a settlement purchase area for any purpose which he shall previously have notified in the Gazette as a public purpose, any area necessary, either within or without the boundaries of the township settlement.

39. It shall be lawful for the Governor to set apart lands ^{Leases.} 25 under this Act, and to lease the same in areas not exceeding three hundred and twenty acres. The said leases shall be applied for in the prescribed form and shall be subject to such conditions as may be determined by the Governor, and to the following provisions:—

- 30 (a) No improvements shall be effected on the land leased without the consent of the Minister or the chairman of the local land board having been first obtained in writing.
- 35 (b) Every such lease shall be for the then current year, and shall expire on the thirty-first day of December; but may be renewed from year to year by the lessee paying the yearly rent in advance not later than the tenth day of December of the next preceding year.
- (c) The annual rent shall be appraised by the land board.
- 40 (d) The granting of a lease under this section shall not exempt the land held thereunder from being granted as a settlement purchase under this Act. On a valid application for a settlement purchase the lease of so much of the land as is applied for thereby shall cease and determine from the date of that application, and the rent shall be adjusted or any balance refunded as the case may be.

(e)

Closer Settlement.

- (e) The Minister may at any time cancel a lease granted under this Act by giving not less than three months' notice in the Gazette of his intention to do so, such notice to terminate the lease at the end of the then current year.

5

PART V.

MISCELLANEOUS.

40. All moneys received in respect of sales by auction, or of leases, or of settlement purchases of land acquired under this Act shall be paid into the Treasury and carried to a special account, and shall be applied in the first place in payment of the interest and charges upon any money borrowed and paid for land purchased under this Act, and the surplus shall be accumulated to form a fund for repaying the money so borrowed and paid.

Disposition of purchase money, &c.

41. (1) The Closer Settlement Board shall consist of the president and the commissioners of the Land Appeal Court and the chairman and members of the local land board for the land district in which the land under inquiry is situated, and shall sit where the Minister directs.

Closer Settlement Board.

(2) The President of the Land Appeal Court if present shall act as chairman; in his absence the senior member of the Land Appeal Court present shall so act.

(3) Not less than four of the members of the Closer Settlement Board shall constitute a quorum.

(4) If the number of members sitting shall be either four or six the chairman of the Closer Settlement Board, or the acting chairman thereof, shall have a casting vote in addition to his original vote.

(5) If the land under inquiry is situated in more than one land district the Minister shall specify the local land board, the chairman and members of which shall form part of the Closer Settlement Board for that inquiry.

42. The Land Appeal Court and the local land boards shall respectively have and may exercise under this Act the powers and authorities conferred by the Acts constituting them.

Powers of Land Appeal Court and local land board.

43. Any land acquired under the Closer Settlement Act, 1901, and not set apart for settlement prior to the passing of this Act shall be disposed of under the provisions hereof and under a design plan which shall be submitted to the Minister by the Closer Settlement Board, subject mutatis mutandis to the provisions of section twenty-four hereof.

Land acquired before the passing of this Act.

44.

Closer Settlement.

44. Whenever land is acquired under this Act a copy of the Gazette notification declaring such land to be acquired, certified under the hand of the Minister, shall in every case be lodged with the Registrar-General and be registered by him in the general register of deeds unless the land so acquired is wholly or in part comprised in a grant or a certificate of title under the Real Property Act, in which case, upon production of such notification so certified as aforesaid, it shall be the duty of the Registrar-General to deal with and give effect to such notification as if the same were a memorandum of transfer duly executed under the said Act.

Registration of acquisition.

45. (1) If the owner or occupier of any lands acquired under this Act or any other person refuses to give up possession thereof or hinders any officer acting on behalf of the Minister from entering upon or taking possession of the same the Minister may cause a warrant to issue to the Sheriff to deliver possession of such lands to the person appointed in such warrant to receive them.

Refusal to deliver up acquired lands.

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

46. The local land board or the chairman for such board, on application being made in the prescribed form by the holder of any purchase or lease under this Act, may grant permission under his hand to the said holder to enclose wholly or in part any road traversing or bounding such holding, subject to payment of such annual rent as may be determined, and shall direct that gates or suitable substitutes, such as the board or the chairman for such board may consider necessary, shall be erected or made so as not to unnecessarily interfere with any traffic, and upon complaint being made in the prescribed form with the prescribed deposit the local land board may for any sufficient reason cancel any permission granted as aforesaid, and may order any fence, gate, or other structure on any road to be removed by such holder, and within such period as the board may determine.

Enclosure of roads.

47. Where permission to enclose a boundary road is granted as aforesaid, the fenced side of such road shall be deemed to be a common boundary line for all purposes of fencing and contribution by the holders of land on either side thereof.

Common boundary.

Closer Settlement.

48. The land board or the chairman for such board may, on application in the prescribed manner, authorise a give-and-take fence as a common boundary line between holdings, and such fence when erected shall be deemed to be, and shall for all purposes be, the boundary between the holdings so long as the parties consent thereto.

49. The holder under this Act, who shall fence his settlement purchase, may demand and enforce from the holder of an adjoining like holding, or from the holder of an incomplete purchase under the Crown Lands Acts, or from a leaseholder thereunder, who at the date of the demand shall have a tenure of not less than five years, a contribution toward the cost of such fencing to the extent of one-half of the appraised value thereof, but so far only as the said fencing marks a common boundary-line; and while such fence is maintained in good repair and condition by such person every holder of the adjoining lands shall be and remain liable as a contributory towards the cost of so maintaining such fence to the extent of one-half the cost thereof.

50. Where permission is granted to enclose a road situated between lands held by different persons, and the person to whom such permission is granted derives, in the opinion of the local land board, a benefit from or uses any fence on or adjoining such road, such person (or any transferee of the land held by him) shall, so long as such permission remains unrevoked, be liable as a contributory towards the cost of maintaining in good repair such part of the fence as benefits, or is used by him.

51. The local land board shall, subject to appeal, have power to hear and determine all disputes and claims arising under sections forty-nine and fifty hereof as to contributions, and to appraise all values and estimate all costs in connection therewith.

52. In any case where a local land board, pursuant to the provisions of this Act, shall make any adjudication or award, and to give effect to such adjudication or award, shall make any order for the payment of money whether as compensation, costs, appraised value, or otherwise howsoever, such order shall be under the hand of the chairman, and may be enforced by distress and sale of the goods and chattels of the person ordered to pay such money in the manner prescribed by the regulations, or the same may be recovered in a summary way before any two justices of the peace by the person to whom such money is ordered to be paid. The Land Appeal Court and the local land board shall have power to award costs in any case within their respective jurisdictions under this Act.

53. Whenever in this Act the word "prescribed" is used in connection with any matter referred to in the context, and whenever, in any section of this Act, "regulations" are mentioned in connection with any such matter the Governor may in every such case frame regulations

Give-and take fences.

Contributions to cost of erection and maintenance of boundary fences.

Contributions to maintenance of fencing enclosing roads.

Powers of local land board as to contributions.

Orders of local land board, how enforced.

Power to make regulations and rules.

Closer Settlement.

regulations for the purpose of giving effect to the provisions of such section. And, for the purpose of carrying this Act into full effect generally, the Governor may make regulations, which shall, upon being published in the Gazette, be good and valid in law: Provided
5 that a copy of all such regulations 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.

10 **54.** This Act shall be administered by the Secretary for Lands, Administration.
who for the purpose of such administration or whenever he deems it necessary for his guidance and information, shall have power to refer any matter for inquiry and report to the local land board, and the said board shall upon such reference proceed accordingly.

