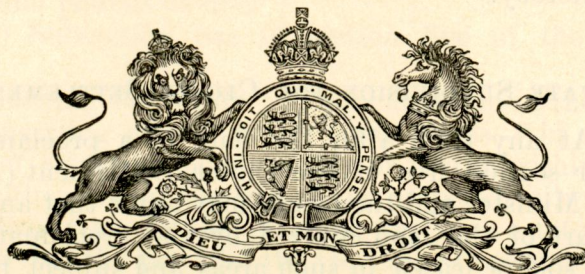


New South Wales.



ANNO NONO

EDWARDI VII REGIS.

Act No. 21, 1909.

An Act to regulate the sale of private land for closer settlement; to amend the Closer Settlement Act, 1904; the Closer Settlement (Amendment) Act, 1906; the Closer Settlement (Amendment) Act, 1907; and for purposes consequent thereon or incidental thereto. [Assented to, 20th December, 1909.]

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:—

PRELIMINARY.

1. This Act may be cited as the “Closer Settlement (Amend-Short title.
ment) Act, 1909,” and shall be construed with the Closer Settlement Act, 1904 (hereinafter referred to as the Principal Act), the Closer Settlement (Amendment) Act, 1906, and the Closer Settlement (Amendment) Act, 1907.

A

2.

Closer Settlement (Amendment).

Definition.

2. In this Act, unless the context otherwise requires,—
 “Home maintenance area” means area which, when used for the purpose for which it is reasonably fitted would be sufficient for the maintenance in average seasons and circumstances of an average family.

Cancellation of certain proclamations.

3. The Governor, by proclamation in the Gazette, may cancel or amend any proclamation under section four or section five of the Closer Settlement (Amendment) Act, 1907, as to all or any part of the land affected thereby.

PRIVATE SUBDIVISION FOR CLOSER SETTLEMENT.

Agreement for sale or lease of land by owner.

4. (1) At any time after the date of a proclamation under section four or section five of the Closer Settlement (Amendment) Act, 1907, the Minister and the owner may agree that any land, being the whole or part of the land covered by the proclamation, shall be subdivided and sold or leased in such areas and subject to such terms and conditions as may be agreed upon.

Suspension of power of resumption.

(2) Upon notification in the Gazette of such agreement, the Minister may further notify that in consideration of and subject to the fulfilment of the terms of such agreement, the power of resumption shall be suspended—

- (a) for such period of time not exceeding two years, and
- (b) for such area (being the whole or any part of the land covered by the proclamation)

as may be agreed upon between the Minister and the owner.

Upon such further notification being made, no resumption of the land referred to therein shall be lawful under the provisions of the Closer Settlement Act, 1904, the Closer Settlement (Amendment) Act, 1906, the Closer Settlement (Amendment) Act, 1907, or of this Act, until after the expiry of the period of suspension named in such aforesaid notification.

Sale, lease, &c., to be notified.

5. A sale or lease of land made under such agreement, and any subsequent sale, mortgage, transfer, or lease of such land, or any part thereof, made within five years after such first-mentioned sale or lease, shall, within a time to be prescribed, or within such further time as the Minister may allow, be submitted to the Minister by one of the parties to the same.

Minister may disallow sale or lease.

6. On any sale or lease by the owner being so submitted, the Minister may, within one month after such submission, refer the same to the local land board for inquiry as to whether the owner has carried out the terms and conditions agreed to as aforesaid; and in case it be decided that he has failed to fulfil the same, the suspension of the power of resumption shall cease.

AMENDMENT

Closer Settlement (Amendment).

AMENDMENT OF CLOSER SETTLEMENT ACT, 1904.

Appeals.

7. Section eighteen of the Principal Act is amended by adding at the end thereof the following subsections:—

(5) Where a judge has been appointed for the purposes of this section the Governor may, in the case of the death, illness, incapacity, or absence of such judge, or at the request of the Chief Justice, or for any other reasonable cause, at any time appoint in the place of the judge first mentioned any other judge of the Supreme Court. The judge so appointed shall have the powers and authorities of a judge appointed in pursuance of this section.

(6) Where an assessor appointed under this section dies or becomes incapable of acting in his office, the Governor or the appellant, as the case may be, may at any time appoint any person to be assessor in the place of the assessor who has died or become incapable of acting as agreed. The person so appointed shall have the powers of an assessor appointed in pursuance of this section.

Applications.

8. Section twenty-six of the Principal Act is repealed and the following is substituted:—

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 under any tenure other than annual tenure of any land except—

(a) land which, when added to the area applied for will not, in the opinion of the local land board, substantially exceed a home maintenance area; or

(b) land held as a tenant from a private holder without a right of purchase, and being less than a home maintenance area, may apply for a settlement purchase under this Act, subject to the following provisions:—

(c) If any person divests himself of any land for the purpose of so applying for a settlement purchase his application shall be disallowed unless he has obtained before or after such divesting the Minister's consent in writing to such application being made.

(d) The person applying, 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: Provided that with the Minister's consent a married woman not living apart from her husband may apply for a settlement purchase in which case the lands held

Amendment of s. 18 of Principal Act.

Qualification to apply for land.

Closer Settlement (Amendment).

held by her husband shall be considered in estimating whether the area as held together with that applied for exceeds the limitation of subsection (a) hereof and in considering any application by a married man not so living apart the total area held by husband and wife shall be similarly considered :

Provided that, in the case of conflicting applications and subject to any preference granted by or under this Act, or the Closer Settlement (Amendment) Act, 1906, the land board shall take into consideration all lands held by the applicants, and may give preference to the applicant who is substantially most in need of land, if he is otherwise eligible, and is likely to satisfactorily work and develop the land applied for.

Section 27 of Act of 1904.

9. Section twenty-seven of the Closer Settlement Act, 1904, is amended by omitting the word "registered."

Section 28 of Act of 1904.

10. Section twenty-eight of the same Act is amended—

- (a) by inserting after "simultaneously" the words "on the Monday aforesaid, or, if that day is a public holiday, on the first business day thereafter."
- (b) by inserting after "merits of each" the words "whether conflicting or not."
- (c) by inserting after "by such board" the words "No error, uncertainty, omission, or misdescription in any application for a settlement purchase, or in any declaration prescribed and made in connection with any such application, shall invalidate the application in any case where the board is satisfied that such error, omission, uncertainty, or misdescription was not wilful, or made with intent to deceive; and the board shall have full power to authorise the correction of any error or omission in any application or declaration, so as to bring the same into conformity with the statutory requirements. Where any prescribed declaration has not been lodged, the board may permit such omission, if not wilful, to be supplied. The provisions of this section shall extend to applications and declarations made before but not finally disposed of at the commencement of this Act."

Postponement of payment of instalments.

Section 29 of same Act.

11. Section twenty-nine of the same act is amended—

- (a) by omitting the word "thereon" in paragraph (a) and inserting in lieu thereof the words "on the amount owing from time to time" and
- (b) by adding at the end thereof the following subsections :—

(2) Provided that with respect to a settlement purchase made after the nineteenth day of December, one thousand nine hundred and seven, the payment of the instalment due at the end of the first year

Postponement of payment of instalments in certain cases.

Closer Settlement (Amendment).

year from the date of application for the purchase may be postponed by the Minister on application being made to him. Payment of any other instalment may also be so postponed on the purchaser satisfying the Minister of his inability to pay it.

With respect to a settlement purchase made before the said day, the payment of any instalment may be postponed as aforesaid, on the purchaser satisfying the Minister of his inability to pay it: Provided that not more than two such payments shall remain postponed and unpaid under this section in respect of a settlement purchase, whether made before or after the nineteenth day of December, one thousand nine hundred and seven.

In either such case the postponement of any such payment shall, unless the Minister otherwise determines, be on condition that improvements to the value of the amount of any instalment the payment of which has been postponed shall be made on the land within twelve months after the date of the postponement. Such postponement shall also be subject to such other conditions as the Minister may impose. The improvements aforesaid shall be in addition to those required by the Principal Act or any Act amending the same.

Where any such postponement has been granted interest shall be charged each year at the rate of four per centum per annum on the amount (including unpaid interest) owing at the end of the preceding year; and the balance of purchase money and interest owing at the end of the thirty-seventh year after the application for the purchase shall, together with interest thereon, be paid as follows:—

- (a) Where payment of one instalment has been postponed, by one payment at the end of the thirty-eighth year after the application for the purchase;
- (b) Where the payment of two instalments has been postponed, by two equal payments at the end of the thirty-eighth and thirty-ninth years after the application for the purchase.

But the postponement of the payment of any instalment shall cease upon the non-fulfilment of any condition attached to such postponement.

(3) Any holder of a settlement purchase may, at any time prescribed for the payment of any instalment in respect of his purchase, pay, in addition to the amount of the instalment, the whole or any part of any other instalment not then due; whereupon interest on the amount of such payment shall cease to be charged.

Restrictions on purchase or transfer.

12. Section thirty of the same Act is amended by adding the following at the end of the section:—

Section 30 of Act of 1904.

(3) If the said person does not become so qualified within such period or further period, the Minister may invite applications from

Closer Settlement (Amendment).

from qualified persons who desire to acquire the settlement purchase, and may approve of any one of such applications, and may, on behalf of the person on whom the settlement purchase has devolved as aforesaid, sell such settlement purchase to any person so qualified at a price and upon conditions to be determined by the Minister. The person upon whom the settlement purchase has devolved shall, upon payment to him of the purchase money, transfer the settlement purchase to the person whose application has been approved; failing such transfer the settlement purchase shall be forfeited.

Amendment of s. 31.

13. Section thirty-one of the same Act is amended by omitting the words "before grant."

Amendment of s. 34 of same Act.

14. Section thirty-four of the same Act is amended by adding the following at the end of the section :—" All grants of land issued under the authority of the Closer Settlement Acts shall contain a reservation of all minerals in such land, and shall contain such other reservations and exceptions as may by the Governor be deemed expedient in the public interest."

AMENDMENT OF CLOSER SETTLEMENT (AMENDMENT) ACT, 1906.

Section 3 of Act of 1906.

15. Section three of the Closer Settlement (Amendment) Act, 1906, is amended—

(a) by inserting the following subsection next after subsection one :—

(1A) The Minister may allow—

(a) any person who is not a lessee as aforesaid, but who holds any part of such land on terms of sharing profits with his landlord (hereinafter referred to as a share-farmer); or

(b) any person employed on such land, and who has established his home and resided on any part thereof for at least two years,

to remain in occupation of such part of the land acquired for such period and upon such terms as he thinks fit.

(b) in subsection two by inserting after "tenancy" the words "or occupation"; by inserting after "tenant" the words "share-farmer or employee"; and by adding, at the end of the subsection, the words "if the land board after inquiry reports that he is otherwise qualified and likely to satisfactorily work and develop the land."

Repeal of s. 5 of Act of 1906.

16. Section five of the same Act is repealed.

Section 7 of same Act

17. Section seven of the same Act is amended by inserting after "revoke" the words "alter or modify."

AMENDMENT

Closer Settlement (Amendment).

AMENDMENT OF CLOSER SETTLEMENT (AMENDMENT) ACT, 1907.

18. Section three of the Closer Settlement (Amendment) Act, Section 3 of Act of 1907. is amended by omitting the words in paragraph (a) within brackets, "not being, in the opinion of the board, of a value less than ten thousand pounds, exclusive of the value of the improvements thereon," and by inserting in paragraph (d) after "property" the words "it shall state if," and after "residue" the words "exceeds twenty thousand pounds or not."

19. (1) Subsection one of section five of the same Act is Section 5 (1) of Act of 1907. amended—

- (a) by omitting the words "by proclamation in the Gazette";
- (b) by inserting after "notify" the words "in the Gazette a list of estates situated, wholly or partly, within fifteen miles on either side of the line of the proposed railway, whereupon no disposition by the owner of any such estate shall operate to defeat the power of the Governor to resume such estate or any part thereof under this Act. Such proclamation shall cease to have effect after the expiration of six months from its date, except as to any land included in a proclamation made as hereinafter in this section mentioned :

Provided that a proclamation under this paragraph may at any time be rescinded or altered in whole or in part by the Minister by notice in the Gazette.

While such restriction is in force the Governor may, by proclamation in the Gazette, notify "

(2) Subsection two of the same section is amended by inserting at the end of paragraph (b) "or which has so accrued from the proposed construction of such line."

20. Section nine of the Closer Settlement (Amendment) Act, Section 9 of same Act. 1907, is amended by adding the following paragraphs:—

The owner or mortgagee shall set out in such notice of appeal the amount which he claims as the value of the land and of the improvements thereon.

Where such owner or mortgagee fails to set out the amount he claims as aforesaid, the valuation of the advisory board shall be deemed to be the fair market value of the land and of the improvements thereon.

AMENDMENT OF ACTS OF 1904 AND 1906.

21. (1) Land acquired under the Principal Act or any Act Setting apart for closer settlement. amending the same, together with any adjacent Crown lands, may be set apart by the Minister as a settlement purchase area by notification in the Gazette, and he may at any time in the like manner modify, alter, or revoke such setting apart. (2)

Closer Settlement (Amendment).

Approval of
subdivision and
price.

(2) Before disposal of any land under the said Acts a plan of subdivision showing the areas and value per acre of the proposed settlement purchases shall be approved by the Minister and shall be the design plan of the land.

Alteration of design
plan.

(3) The Minister may, at any time and in any respect, alter any design plan, whether made before or after the commencement of this Act and whether the land affected has or has not been disposed of: Provided that, if the land has been disposed of, the consent of the owner shall be obtained.

After measurement of the areas according to the design thereof, the plans may be approved by the Minister or any officer duly authorised in that behalf.

Disposal of land.

(4) Land acquired under the Principal Act or any Act amending the same and such adjacent Crown lands as may at any time have been set apart as aforesaid shall be dealt with and disposed of under the provisions of the said Acts, and in no other way, any provisions of the Crown Lands Acts to the contrary notwithstanding.

Notification of land
for disposal.

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

- (a) Agricultural land.
- (b) Grazing land.
- (c) Agricultural and grazing land.

Such notification shall describe the land and declare it to be available for application, and shall set out inter alia the class of land, the conditions and restrictions which shall attach thereto, the capital value and area of each farm which may comprise two separated portions.

Land unsuitable for
disposal under Acts.

(6) Any land within a settlement purchase area which for any reason is unsuitable for disposal under the provisions of this Act, or of any Act amending the same, may be disposed of by sale or lease, by auction or tender, upon such terms and conditions as may be determined by the Minister.

Any movable improvements on an area acquired for closer settlement may be disposed of in a similar manner separately from the land.

Repeal.

(7) Sections twenty-five and thirty-seven of the Closer Settlement Act, 1904, and section four of the Closer Settlement (Amendment) Act, 1906, are repealed.

Settlement purchase
sold as a site for
church, school of
arts, or cemetery.

22. (1) The holder of a settlement purchase may, with the consent of the Minister sell any part of the land included in such purchase as a site for a church, school of arts, or cemetery, or for any purpose approved by the Minister.

(2) On such sale—

- (a) the land so sold shall cease to form part of the settlement purchase, and the provisions of any Act so far as they relate to settlement purchases shall cease to apply to it; and

(b)

Closer Settlement (Amendment).

- (h) the balance of purchase money for such land shall forthwith be payable to the Crown, and on payment of such balance a Crown grant of such land may be issued.

GENERAL AND SUPPLEMENTAL.

23. (1) The following provisions shall apply to the costs of all proceedings by way of appeal for determining the value of land resumed under the Principal Act, or any Act amending the same:— Costs of proceedings on appeals as to value.

- (a) Where the value determined by the court hearing the appeal is equal to or less than the amount at which the Governor has offered to purchase the land, or where no such offer has been made, the amount of the valuation of the advisory board, the owner shall pay the costs of the appeal.
- (b) Where the value so determined is equal to or greater than the amount which the owner claims as the value of the land the Crown shall pay such costs.
- (c) Where the value so determined is greater than the amount of the offer or valuation referred to in paragraph (a), but is less than the amount of the claim of the owner aforesaid, the Crown shall pay to the owner as costs the amount to be fixed by multiplying the owner's taxed costs by a fraction of which the numerator is the amount by which the value determined by the court exceeds the offer or valuation aforesaid, and the denominator is the difference between the amount of the claim of the owner and the amount of the said offer or valuation.

(2) Subsection two of section twenty-two of the Principal Act is repealed.

(3) Provided that this section shall not apply to proceedings in any such appeal which has been commenced before the commencement of this Act.

24. With the consent of the owner of any land resumed under the Principal Act or the Closer Settlement (Amendment) Act, 1907, the Governor may, at any time, cancel such resumption as to the whole or part of the said land, or may modify the boundaries thereof. Governor may cancel resumption.

For that purpose the Governor may revoke any proclamation or notification made by him or by the Minister under any such Act.

25. The Governor may make regulations for the purpose of carrying this Act into effect and prescribing any procedure for that purpose; and in particular prescribing the form in which any application shall be submitted to the Minister for his approval and the particulars to be therein contained; and requiring and prescribing the verification of such particulars. Regulations.

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, 14 December, 1909. }*

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

New South Wales.



ANNO NONO

EDWARDI VII REGIS.

Act No. 21, 1909.

An Act to regulate the sale of private land for closer settlement; to amend the Closer Settlement Act, 1904; the Closer Settlement (Amendment) Act, 1906; the Closer Settlement (Amendment) Act, 1907; and for purposes consequent thereon or incidental thereto. [Assented to, 20th December, 1909.]

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:—

PRELIMINARY.

1. This Act may be cited as the "Closer Settlement (Amendment) Act, 1909," and shall be construed with the Closer Settlement Act, 1904 (hereinafter referred to as the Principal Act), the Closer Settlement (Amendment) Act, 1906, and the Closer Settlement (Amendment) Act, 1907. Short title.

2.

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

*JOHN J. COHEN,
Chairman of Committees of the Legislative Assembly.*

Closer Settlement (Amendment).

Definition.

2. In this Act, unless the context otherwise requires,—

“Home maintenance area” means area which, when used for the purpose for which it is reasonably fitted would be sufficient for the maintenance in average seasons and circumstances of an average family.

Cancellation of certain proclamations.

3. The Governor, by proclamation in the Gazette, may cancel or amend any proclamation under section four or section five of the Closer Settlement (Amendment) Act, 1907, as to all or any part of the land affected thereby.

PRIVATE SUBDIVISION FOR CLOSER SETTLEMENT.

Agreement for sale or lease of land by owner.

4. (1) At any time after the date of a proclamation under section four or section five of the Closer Settlement (Amendment) Act, 1907, the Minister and the owner may agree that any land, being the whole or part of the land covered by the proclamation, shall be subdivided and sold or leased in such areas and subject to such terms and conditions as may be agreed upon.

Suspension of power of resumption.

(2) Upon notification in the Gazette of such agreement, the Minister may further notify that in consideration of and subject to the fulfilment of the terms of such agreement, the power of resumption shall be suspended—

(a) for such period of time not exceeding two years, and

(b) for such area (being the whole or any part of the land covered by the proclamation)

as may be agreed upon between the Minister and the owner.

Upon such further notification being made, no resumption of the land referred to therein shall be lawful under the provisions of the Closer Settlement Act, 1904, the Closer Settlement (Amendment) Act, 1906, the Closer Settlement (Amendment) Act, 1907, or of this Act, until after the expiry of the period of suspension named in such aforesaid notification.

Sale, lease, &c., to be notified.

5. A sale or lease of land made under such agreement, and any subsequent sale, mortgage, transfer, or lease of such land, or any part thereof, made within five years after such first-mentioned sale or lease, shall, within a time to be prescribed, or within such further time as the Minister may allow, be submitted to the Minister by one of the parties to the same.

Minister may disallow sale or lease.

6. On any sale or lease by the owner being so submitted, the Minister may, within one month after such submission, refer the same to the local land board for inquiry as to whether the owner has carried out the terms and conditions agreed to as aforesaid; and in case it be decided that he has failed to fulfil the same, the suspension of the power of resumption shall cease.

AMENDMENT

Closer Settlement (Amendment).

AMENDMENT OF CLOSER SETTLEMENT ACT, 1904.

Appeals.

7. Section eighteen of the Principal Act is amended by adding at the end thereof the following subsections:—

Amendment of s. 18
of Principal Act.

(5) Where a judge has been appointed for the purposes of this section the Governor may, in the case of the death, illness, incapacity, or absence of such judge, or at the request of the Chief Justice, or for any other reasonable cause, at any time appoint in the place of the judge first mentioned any other judge of the Supreme Court. The judge so appointed shall have the powers and authorities of a judge appointed in pursuance of this section.

(6) Where an assessor appointed under this section dies or becomes incapable of acting in his office, the Governor or the appellant, as the case may be, may at any time appoint any person to be assessor in the place of the assessor who has died or become incapable of acting as agreed. The person so appointed shall have the powers of an assessor appointed in pursuance of this section.

Applications.

8. Section twenty-six of the Principal Act is repealed and the following is substituted:—

New section 26.

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 under any tenure other than annual tenure of any land except—

Qualification to
apply for land.

- (a) land which, when added to the area applied for will not, in the opinion of the local land board, substantially exceed a home maintenance area; or
 - (b) land held as a tenant from a private holder without a right of purchase, and being less than a home maintenance area,
- may apply for a settlement purchase under this Act, subject to the following provisions:—

- (c) If any person divests himself of any land for the purpose of so applying for a settlement purchase his application shall be disallowed unless he has obtained before or after such divesting the Minister's consent in writing to such application being made.
- (d) The person applying, 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: Provided that with the Minister's consent a married woman not living apart from her husband may apply for a settlement purchase in which case the lands held

Closer Settlement (Amendment).

held by her husband shall be considered in estimating whether the area as held together with that applied for exceeds the limitation of subsection (a) hereof and in considering any application by a married man not so living apart the total area held by husband and wife shall be similarly considered:

Provided that, in the case of conflicting applications and subject to any preference granted by or under this Act, or the Closer Settlement (Amendment) Act, 1906, the land board shall take into consideration all lands held by the applicants, and may give preference to the applicant who is substantially most in need of land, if he is otherwise eligible, and is likely to satisfactorily work and develop the land applied for.

Section 27 of Act of 1904.

9. Section twenty-seven of the Closer Settlement Act, 1904, is amended by omitting the word "registered."

Section 28 of Act of 1904.

10. Section twenty-eight of the same Act is amended—

- (a) by inserting after "simultaneously" the words "on the Monday aforesaid, or, if that day is a public holiday, on the first business day thereafter."
- (b) by inserting after "merits of each" the words "whether conflicting or not."
- (c) by inserting after "by such board" the words "No error, uncertainty, omission, or misdescription in any application for a settlement purchase, or in any declaration prescribed and made in connection with any such application, shall invalidate the application in any case where the board is satisfied that such error, omission, uncertainty, or misdescription was not wilful, or made with intent to deceive; and the board shall have full power to authorise the correction of any error or omission in any application or declaration, so as to bring the same into conformity with the statutory requirements. Where any prescribed declaration has not been lodged, the board may permit such omission, if not wilful, to be supplied. The provisions of this section shall extend to applications and declarations made before but not finally disposed of at the commencement of this Act."

Postponement of payment of instalments.

Section 29 of same Act.

11. Section twenty-nine of the same act is amended—

- (a) by omitting the word "thereon" in paragraph (a) and inserting in lieu thereof the words "on the amount owing from time to time" and
- (b) by adding at the end thereof the following subsections:—

Postponement of payment of instalments in certain cases.

(2) Provided that with respect to a settlement purchase made after the nineteenth day of December, one thousand nine hundred and seven, the payment of the instalment due at the end of the first year

Closer Settlement (Amendment).

year from the date of application for the purchase may be postponed by the Minister on application being made to him. Payment of any other instalment may also be so postponed on the purchaser satisfying the Minister of his inability to pay it.

With respect to a settlement purchase made before the said day, the payment of any instalment may be postponed as aforesaid, on the purchaser satisfying the Minister of his inability to pay it: Provided that not more than two such payments shall remain postponed and unpaid under this section in respect of a settlement purchase, whether made before or after the nineteenth day of December, one thousand nine hundred and seven.

In either such case the postponement of any such payment shall, unless the Minister otherwise determines, be on condition that improvements to the value of the amount of any instalment the payment of which has been postponed shall be made on the land within twelve months after the date of the postponement. Such postponement shall also be subject to such other conditions as the Minister may impose. The improvements aforesaid shall be in addition to those required by the Principal Act or any Act amending the same.

Where any such postponement has been granted interest shall be charged each year at the rate of four per centum per annum on the amount (including unpaid interest) owing at the end of the preceding year; and the balance of purchase money and interest owing at the end of the thirty-seventh year after the application for the purchase shall, together with interest thereon, be paid as follows:—

- (a) Where payment of one instalment has been postponed, by one payment at the end of the thirty-eighth year after the application for the purchase;
- (b) Where the payment of two instalments has been postponed, by two equal payments at the end of the thirty-eighth and thirty-ninth years after the application for the purchase.

But the postponement of the payment of any instalment shall cease upon the non-fulfilment of any condition attached to such postponement.

(3) Any holder of a settlement purchase may, at any time prescribed for the payment of any instalment in respect of his purchase, pay, in addition to the amount of the instalment, the whole or any part of any other instalment not then due; whereupon interest on the amount of such payment shall cease to be charged.

Restrictions on purchase or transfer.

12. Section thirty of the same Act is amended by adding the following at the end of the section:—

Section 30 of Act of 1904.

(3) If the said person does not become so qualified within such period or further period, the Minister may invite applications from

Closer Settlement (Amendment).

from qualified persons who desire to acquire the settlement purchase, and may approve of any one of such applications, and may, on behalf of the person on whom the settlement purchase has devolved as aforesaid, sell such settlement purchase to any person so qualified at a price and upon conditions to be determined by the Minister. The person upon whom the settlement purchase has devolved shall, upon payment to him of the purchase money, transfer the settlement purchase to the person whose application has been approved; failing such transfer the settlement purchase shall be forfeited.

Amendment of s. 31.

13. Section thirty-one of the same Act is amended by omitting the words "before grant."

Amendment of s. 34 of same Act.

14. Section thirty-four of the same Act is amended by adding the following at the end of the section:—"All grants of land issued under the authority of the Closer Settlement Acts shall contain a reservation of all minerals in such land, and shall contain such other reservations and exceptions as may by the Governor be deemed expedient in the public interest."

AMENDMENT OF CLOSER SETTLEMENT (AMENDMENT) ACT, 1906.

Section 3 of Act of 1906.

15. Section three of the Closer Settlement (Amendment) Act, 1906, is amended—

(a) by inserting the following subsection next after subsection one:—

(1A) The Minister may allow—

(a) any person who is not a lessee as aforesaid, but who holds any part of such land on terms of sharing profits with his landlord (hereinafter referred to as a share-farmer); or

(b) any person employed on such land, and who has established his home and resided on any part thereof for at least two years,

to remain in occupation of such part of the land acquired for such period and upon such terms as he thinks fit.

(b) in subsection two by inserting after "tenancy" the words "or occupation"; by inserting after "tenant" the words "share-farmer or employee"; and by adding, at the end of the subsection, the words "if the land board after inquiry reports that he is otherwise qualified and likely to satisfactorily work and develop the land."

Repeal of s. 5 of Act of 1906.

16. Section five of the same Act is repealed.

Section 7 of same Act

17. Section seven of the same Act is amended by inserting after "revoke" the words "alter or modify."

AMENDMENT

Closer Settlement (Amendment).

AMENDMENT OF CLOSER SETTLEMENT (AMENDMENT) ACT, 1907.

18. Section three of the Closer Settlement (Amendment) Act, 1907, is amended by omitting the words in paragraph (a) within brackets, "not being, in the opinion of the board, of a value less than ten thousand pounds, exclusive of the value of the improvements thereon," and by inserting in paragraph (d) after "property" the words "it shall state if," and after "residue" the words "exceeds twenty thousand pounds or not."

19. (1) Subsection one of section five of the same Act is amended—

- (a) by omitting the words "by proclamation in the Gazette";
- (b) by inserting after "notify" the words "in the Gazette a list of estates situated, wholly or partly, within fifteen miles on either side of the line of the proposed railway, whereupon no disposition by the owner of any such estate shall operate to defeat the power of the Governor to resume such estate or any part thereof under this Act. Such proclamation shall cease to have effect after the expiration of six months from its date, except as to any land included in a proclamation made as hereinafter in this section mentioned :

Provided that a proclamation under this paragraph may at any time be rescinded or altered in whole or in part by the Minister by notice in the Gazette.

While such restriction is in force the Governor may, by proclamation in the Gazette, notify "

(2) Subsection two of the same section is amended by inserting at the end of paragraph (b) "or which has so accrued from the proposed construction of such line."

20. Section nine of the Closer Settlement (Amendment) Act, 1907, is amended by adding the following paragraphs :—

The owner or mortgagee shall set out in such notice of appeal the amount which he claims as the value of the land and of the improvements thereon.

Where such owner or mortgagee fails to set out the amount he claims as aforesaid, the valuation of the advisory board shall be deemed to be the fair market value of the land and of the improvements thereon.

AMENDMENT OF ACTS OF 1904 AND 1906.

21. (1) Land acquired under the Principal Act or any Act amending the same, together with any adjacent Crown lands, may be set apart by the Minister as a settlement purchase area by notification in the Gazette, and he may at any time in the like manner modify, alter, or revoke such setting apart. (2)

Closer Settlement (Amendment).

Approval of
subdivision and
price.

(2) Before disposal of any land under the said Acts a plan of subdivision showing the areas and value per acre of the proposed settlement purchases shall be approved by the Minister and shall be the design plan of the land.

Alteration of design
plan.

(3) The Minister may, at any time and in any respect, alter any design plan, whether made before or after the commencement of this Act and whether the land affected has or has not been disposed of: Provided that, if the land has been disposed of, the consent of the owner shall be obtained.

After measurement of the areas according to the design thereof, the plans may be approved by the Minister or any officer duly authorised in that behalf.

Disposal of land.

(4) Land acquired under the Principal Act or any Act amending the same and such adjacent Crown lands as may at any time have been set apart as aforesaid shall be dealt with and disposed of under the provisions of the said Acts, and in no other way, any provisions of the Crown Lands Acts to the contrary notwithstanding.

Notification of land
for disposal.

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

- (a) Agricultural land.
- (b) Grazing land.
- (c) Agricultural and grazing land.

Such notification shall describe the land and declare it to be available for application, and shall set out inter alia the class of land, the conditions and restrictions which shall attach thereto, the capital value and area of each farm which may comprise two separated portions.

Land unsuitable for
disposal under Acts.

(6) Any land within a settlement purchase area which for any reason is unsuitable for disposal under the provisions of this Act, or of any Act amending the same, may be disposed of by sale or lease, by auction or tender, upon such terms and conditions as may be determined by the Minister.

Any movable improvements on an area acquired for closer settlement may be disposed of in a similar manner separately from the land.

Repeal.

(7) Sections twenty-five and thirty-seven of the Closer Settlement Act, 1904, and section four of the Closer Settlement (Amendment) Act, 1906, are repealed.

Settlement purchase
sold as a site for
church, school of
arts, or cemetery.

22. (1) The holder of a settlement purchase may, with the consent of the Minister sell any part of the land included in such purchase as a site for a church, school of arts, or cemetery, or for any purpose approved by the Minister.

(2) On such sale—

- (a) the land so sold shall cease to form part of the settlement purchase, and the provisions of any Act so far as they relate to settlement purchases shall cease to apply to it; and

(b)

Closer Settlement (Amendment).

- (b) the balance of purchase money for such land shall forthwith be payable to the Crown, and on payment of such balance a Crown grant of such land may be issued.

GENERAL AND SUPPLEMENTAL.

23. (1) The following provisions shall apply to the costs of all proceedings by way of appeal for determining the value of land resumed under the Principal Act, or any Act amending the same:— Costs of proceedings on appeals as to value.

- (a) Where the value determined by the court hearing the appeal is equal to or less than the amount at which the Governor has offered to purchase the land, or where no such offer has been made, the amount of the valuation of the advisory board, the owner shall pay the costs of the appeal.
- (b) Where the value so determined is equal to or greater than the amount which the owner claims as the value of the land the Crown shall pay such costs.
- (c) Where the value so determined is greater than the amount of the offer or valuation referred to in paragraph (a), but is less than the amount of the claim of the owner aforesaid, the Crown shall pay to the owner as costs the amount to be fixed by multiplying the owner's taxed costs by a fraction of which the numerator is the amount by which the value determined by the court exceeds the offer or valuation aforesaid, and the denominator is the difference between the amount of the claim of the owner and the amount of the said offer or valuation.

(2) Subsection two of section twenty-two of the Principal Act is repealed.

(3) Provided that this section shall not apply to proceedings in any such appeal which has been commenced before the commencement of this Act.

24. With the consent of the owner of any land resumed under the Principal Act or the Closer Settlement (Amendment) Act, 1907, the Governor may, at any time, cancel such resumption as to the whole or part of the said land, or may modify the boundaries thereof. Governor may cancel resumption.

For that purpose the Governor may revoke any proclamation or notification made by him or by the Minister under any such Act.

25. The Governor may make regulations for the purpose of carrying this Act into effect and prescribing any procedure for that purpose; and in particular prescribing the form in which any application shall be submitted to the Minister for his approval and the particulars to be therein contained; and requiring and prescribing the verification of such particulars. Regulations.

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

CHELMSFORD,
Governor.

State Government House,
Sydney, 20th December, 1909.

CLOSER SETTLEMENT (AMENDMENT) BILL.

SCHEDULE showing the Legislative Council's Disagreements from and Amendments upon the Legislative Assembly's Amendments, referred to in Message of 9th December, 1909.

E. A. GARLAND,
For the Clerk of the Parliaments.

Page 6, clause 9. *Omit* all the words *after* " same " (page 6, line 3) to end of clause.

Page 6, clause 10. *Omit* clause 10.

Page 6, clause 11. *Omit* clause 11 *insert* the following new clause:—"On any sale
" or lease by the owner being so submitted, the Minister may within one
" month after such submission refer the same to the local land board for
" inquiry as to whether the owner has carried out the terms and conditions
" agreed to as aforesaid; and in case it be decided that he has failed to
" fulfil the same, the suspension of the power of resumption shall cease "

CLOSER SETTLEMENT (AMENDMENT) BILL.

SCHEDULE showing the Legislative Assembly's Disagreements from and Amendments upon the Legislative Council's Amendments, referred to in Message of 11th December, 1909.

Clerk of the Legislative Assembly.

Page 5, clause 8. **4**, line 25. *After "time" insert "not exceeding two years"*

Page 5, new clause 5. *Omit new clause 5.*

Pages 5 and 6, clause **9**. *Reinsert clause 9, but omit "shall" (page 6, line 2) insert "may"; after "be" (page 6, line 3) insert "declared", and at end of clause add "by the Governor"*

Page 6, clause 10. *Reinsert clause 10, but (page 6, lines 7 and 8) omit the words "or as may be prescribed by the said Land Appeal Court"*

Page 6, clause 11. *Reinsert clause 11.*

Page 10, clause ~~13~~ **14**, paragraph (b). *Reinsert "and who has established his "home and resided on any part thereof for at least two years" omit "for "at least ten years immediately preceding the date of the resumption "proclamation"*

PROCEEDINGS OF THE

ANNUAL MEETING OF THE
SOCIETY OF AMERICAN HISTORIANS
HELD AT THE UNIVERSITY OF CHICAGO
CHICAGO, ILL., DECEMBER 29, 1900

THE MEETING WAS OPENED BY
THE READING OF THE
PROCEEDINGS OF THE
PREVIOUS YEAR.
THE PRESIDENT, DR. J. H. COOPER,
DELIVERED THE ANNUAL ADDRESS
ON THE HISTORY OF THE
UNITED STATES IN THE
LAST CENTURY.
THE MEETING WAS
CLOSED BY THE
READING OF THE
PRAYERS BY THE
CHURCH OF THE
UNITED METHODIST
CHURCH.

CLOSER SETTLEMENT (AMENDMENT) BILL.

SCHEDULE of the Amendments referred to in Message of 2nd December, 1909.

- Page 2, clause 2, lines 6 to 8. *Omit* " 'Town' means any city, town, or village that had a population of
" six hundred or over at the time of the taking of the then last census "
- Pages 2 to 4, clauses 3, 4, 5, and 6. *Omit* clauses 3, 4, 5, and 6.
- Page 4, clause ~~7~~ 3, lines 42 and 43. *Omit* " section three or section four of this Act or "
- Page 5, clause ~~8~~ 4, line 3. *Omit* " section four of this Act or "
- Page 5, clause ~~8~~ 4, subsection (2). *Omit* subsection (2).
- Page 5, clause ~~8~~ 4, line 17. *After* " agreement " *omit* remainder of clause *insert* " the Minister may
" further notify that in consideration of and subject to the fulfilment of the terms of such
" agreement, the power of resumption shall be suspended —
" (a) for such period of time; and
" (b) for such area (being the whole or any part of the land covered by the procla-
" mation),
" as may be agreed upon between the Minister and the owner.
" Upon such further notification being made, no resumption of the land referred to
" therein shall be lawful under the provisions of the Closer Settlement Act, 1904, the
" Closer Settlement (Amendment) Act, 1906, the Closer Settlement (Amendment) Act,
" 1907, or of this Act, until after the expiry of the period of suspension named in such
" aforesaid notification."
- Page 5. *After* clause ~~8~~ 4 *insert* new clause 5.
- Pages 5 and 6, clauses 9, 10, and 11. *Omit* clauses 9, 10, and 11.
- Page 6. *After* line 36 *insert* new clause 6.
- Page 7, clause ~~12~~ 7, line 22. *Omit* " having a term of less than five years to run " *insert* " being less
" than a home-maintenance area "
- Page 9, clause ~~15~~ 10, line 1. *Omit* " be " *insert* " remain "
- Page 9, clause ~~15~~ 10, line 2. *After* " postponed " *insert* " and unpaid "
- Page 10. *After* clause ~~17~~ 12, *insert* new clause 13.
- Page 10, clause ~~18~~ 14, lines 21 to 23. *Omit* " and who has established his home and resided on any part
" thereof for at least two years " *insert* " for at least ten years immediately preceding the
" date of the resumption proclamation "
- Page 10, clause ~~18~~ 14, line 25. *Omit* " such land " *insert* " the land acquired "
- Page 10, clause ~~18~~ 14, line 30. *After* " if " *insert* " the land board after inquiry reports that "
- Page 10, clause ~~21~~ 17. At end of clause *add* " and by inserting in paragraph (d) after ' property '
" the words ' it shall state if, ' and after ' residue ' the words ' exceeds twenty thousand
" ' pounds or not ' "
- Page 11, clause ~~22~~ 18. At end of clause *add* new subsection (2).
- Page 12, clause ~~24~~ 20, line 16. *Omit* " an area acquired for closer settlement " *insert* " a settlement
" purchase area "
- Page 12, clause ~~26~~ 22, line 41. *Omit* " before or after the commencement of this Act "
- Page 12, clause ~~26~~ 22, line 42. *Omit* " or this Act "
- Page 13, clause ~~26~~ 22, lines 20 and 21. *After* " the " *omit* remainder of clause; *insert* " commencement
" of this Act "
- Page 13, clause ~~27~~ 23, line 25. *Omit* " or this Act "
- Page 13, clause ~~27~~ 23, line 26. *After* " land " *insert* " or may modify the boundaries thereof "

CHAPTER IV. THE REVENUE AND THE DEBT.

The revenue of the Government is derived from the following sources:—

1. The land revenue, which is the principal source of income, and is levied on the land of the country. It is assessed on the basis of the value of the land, and is paid by the landowners to the Government.

2. The salt revenue, which is levied on the salt produced in the country. It is assessed on the basis of the quantity of salt produced, and is paid by the salt producers to the Government.

3. The opium revenue, which is levied on the opium produced in the country. It is assessed on the basis of the quantity of opium produced, and is paid by the opium producers to the Government.

4. The excise revenue, which is levied on the consumption of certain goods, such as alcohol and tobacco. It is assessed on the basis of the quantity of goods consumed, and is paid by the consumers to the Government.

5. The stamp revenue, which is levied on the use of certain documents, such as contracts and deeds. It is assessed on the basis of the value of the documents, and is paid by the users to the Government.

6. The income tax, which is levied on the income of certain individuals and corporations. It is assessed on the basis of the income, and is paid by the taxpayers to the Government.

7. The customs revenue, which is levied on the import and export of goods. It is assessed on the basis of the value of the goods, and is paid by the importers and exporters to the Government.

8. The lottery revenue, which is derived from the sale of lottery tickets. It is assessed on the basis of the number of tickets sold, and is paid by the ticket holders to the Government.

9. The miscellaneous revenue, which includes the revenue from the sale of government property, the revenue from the sale of government bonds, and the revenue from the sale of government securities.

The total revenue of the Government is estimated to be Rs. 1,00,00,00,000 per annum. The Government also has a large debt, which is estimated to be Rs. 5,00,00,00,000. The Government is working to reduce its debt by borrowing money from foreign countries and by selling government bonds.

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, 22 October, 1909, A.M. }*

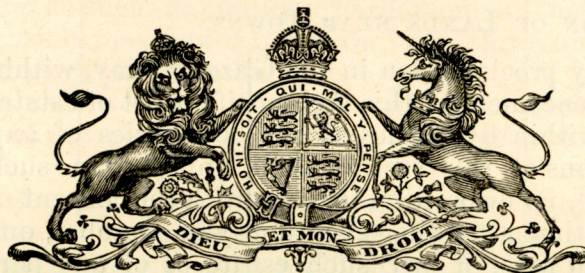
*RICHD. A. ARNOLD,
Clerk of the Legislative Assembly.*

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

*Legislative Council Chamber,
Sydney, 2nd December, 1909. }*

*E. A. GARLAND,
For the Clerk of the Parliaments.*

New South Wales.



ANNO NONO

EDWARDI VII REGIS.

Act No. , 1909.

An Act to regulate the sale of private land for closer settlement; to amend the Closer Settlement Act, 1904; the Closer Settlement (Amendment) Act, 1906; the Closer Settlement (Amendment) Act, 1907; and for purposes consequent thereon or incidental thereto.

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

5

PRELIMINARY.

1. This Act may be cited as the "Closer Settlement (Amend- Short title.
ment) Act, 1909," and shall be construed with the Closer Settlement
Act, 1904 (hereinafter referred to as the Principal Act), the Closer
Settlement (Amendment) Act, 1906, and the Closer Settlement
10 (Amendment) Act, 1907.

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61—A

2.

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

Closer Settlement (Amendment).

2. In this Act, unless the context otherwise requires,—

Definition.

“Home maintenance area” means area which, when used for the purpose for which it is reasonably fitted would be sufficient for the maintenance in average seasons and circumstances of an average family.

5

“Town” means any city, town, or village that had a population of six hundred or over at the time of the taking of the then last census.

RESUMPTION OF LANDS NEAR TOWNS.

10 3. The Governor, by proclamation in the Gazette, may, within thirty days after the commencement of this Act, notify a list of estates situate wholly or partly within five miles of the boundaries of any town to which the provisions of this section shall apply. On such proclamation being so made, no disposition (except with the consent of
15 the Minister) made at any time after the seventh day of October, one thousand nine hundred and nine, of any such estate or of any part thereof shall operate or shall be deemed to have operated to defeat the power of the Governor to resume the same or any part thereof under this Act. Such proclamation shall cease to have effect after
20 the expiration of six months from its date, except as to any land included in a proclamation under the next following section :

Notification of lists of estates near towns.

Provided that any proclamation under this section may be rescinded or altered in whole or in part by the Minister by proclamation in the Gazette.

25 4. (1) Where an advisory board reports to the Minister that the progress or expansion of settlement in or near any town is restricted or impeded by the fact that land in or within five miles of the boundaries of such town, and suitable for closer settlement, is privately owned, the Governor, by proclamation in the Gazette, may declare that the
30 provisions of this section shall apply to any such land, the property of one owner, and not being of less value than ten thousand pounds, exclusive of the value of the improvements thereon :

Proclamation applying provisions of this section to certain land.

35 Provided that the provisions of this and the next preceding section shall not apply to land held by trustees under a will or settlement which came into force and effect before the commencement of this Act or held by trustees under an authority which directs them to sell the land :

40 Provided also that a copy of any such proclamation shall be laid before both Houses of Parliament within fourteen days after it has been made, if Parliament is then sitting, or within fourteen days after the next meeting of Parliament if Parliament is not then sitting. If such proclamation is not approved, with or without amendment, by resolution of each House of Parliament within twenty-one days after being laid before it, such proclamation shall be of no effect. (2)

Closer Settlement (Amendment).

(2) After the date of such proclamation, no disposition of such land, unless made with the consent of the Minister as hereinafter in this Act provided, shall operate to defeat the power of the Governor to resume the same under this Act. Such restriction shall cease after 5 the expiration of the period of five years from the date aforesaid :

Provided that such period may be extended by the Governor by proclamation in the Gazette as follows :—

- (a) Where at the expiration of such period Parliament is sitting, such extension may be for not more than three months.
- 10 (b) Where at such expiration Parliament is not sitting, such extension may be for not more than three months after the next meeting of Parliament.

But in either case in counting such three months no account shall be taken of any period during which Parliament stands prorogued 15 or dissolved.

(3) As soon as practicable after the date aforesaid the Minister shall cause a copy of such proclamation and a plan showing the land described therein, and a notification of the value placed upon the land and improvements thereon by the advisory board to be served 20 on the owner of the land, or where such owner is absent from New South Wales on his agent in New South Wales, or where in such case there is no such agent in New South Wales known to the Minister, on the occupier, or, where the land is vacant, by notification to the owner in the Gazette. Such copy, plan, and notice may be served personally 25 or by post.

(4) Such owner shall within one month after the date of the Minister's notification of value as aforesaid, or where the owner at such date is absent from the Commonwealth, within three months after such date, or within such further time as the Minister or a Judge of 30 the Supreme Court on summary application to him may allow, notify, or cause to be notified in writing, to the Minister the amount which he claims as the value of the land and of the improvements thereon. In the event of any appeal following upon a subsequent resumption, the said amount shall be taken to be the value claimed by the owner.

35 5. (1) The Governor, at any time within the five years or extended period during which the restriction under the last preceding section has effect, may purchase, by agreement with the owner, the land, or any part of the land, subject to such restriction, or may resume it by notice in the Gazette :

40 Provided that the land so resumed shall not be of less value than five thousand pounds, without the value of the improvements thereon, unless the owner consents to the resumption, or unless the land consists or forms part of the unsold and unleased residue of an area as to which the Minister and the owner have come to an agreement 45 in pursuance of this Act that such area should be sold or leased by such owner.

(2)

Closer Settlement (Amendment).

(2) For the purposes of any resumption the value of the land shall be the fair market value of the land and the improvements thereon at the date of the said proclamation : Value to be fair market value.

Provided that if the owner obtains from the Land Appeal Court a certificate that he has used all available means to sell or lease the land to promote bona fide settlement, the value of the land shall, for the purposes of resumption under this Act, be the fair market value of the land and the improvements thereon at the date of the resumption :

Provided that where the owner fails to notify or cause to be notified to the Minister, in pursuance of the last preceding section, the amount which he claims as the value of the land and of the improvements thereon, such fair market value shall be the valuation of the advisory board :

Provided also that an additional amount shall be paid to the owner for improvements necessary for the profitable working of the land which have been effected between the date of the proclamation and that of the resumption, and that an amount equal to the extent of the depreciation of the value of the improvements on the land between the said dates may be deducted from the amount to be so paid.

(3) Every purchase or resumption under this Act of land of or above the value of two thousand five hundred pounds shall be subject to approval by both Houses of Parliament. Approval by Parliament.

(4) Land so purchased or resumed shall be disposed of or otherwise dealt with under the Principal Act and the Acts amending the same. Disposal of land.

6. Subject to this Act, the provisions of the Principal Act, and of the Closer Settlement (Amendment) Act, 1907, relating to the acquisition of land under those Acts and proceedings in relation thereto, shall so far as applicable apply to similar acquisitions and proceedings under the preceding provisions of this Act : Application of provisions of Acts 1904 and 1907.

Provided that in so applying section nine of the last-mentioned Act, the fair market value of the land and improvements to be determined by the court may be such value at the date of the proclamation under section four of this Act with the value of improvements as hereinbefore in this Act provided :

Provided also that in so applying sections twelve and thirteen of the same Act, the words "ten thousand" shall be read instead of the words "twenty thousand" in section twelve; and the words "five thousand" shall be read instead of the words "ten thousand" in section thirteen.

7. 3. The Governor, by proclamation in the Gazette, may cancel or amend any proclamation under section three or section four of this Act or section four or section five of the Closer Settlement (Amendment) Act, 1907, as to all or any part of the land affected thereby. Cancellation of certain proclamations.

PRIVATE

Closer Settlement (Amendment).

PRIVATE SUBDIVISION FOR CLOSER SETTLEMENT.

8. 4. (1) At any time after the date of a proclamation under ~~section four of this Act or~~ section four or section five of the Closer Settlement (Amendment) Act, 1907, the Minister and the owner may ^{Agreement for sale or lease of land by owner.} agree that any land, being the whole or part of the land covered by the proclamation, shall be subdivided and sold or leased in such areas and subject to such terms and conditions as may be agreed upon.

(2) In the event of the Minister and owner failing to agree within the time to be prescribed as to the terms and conditions, the Minister shall, within fourteen days thereafter refer the matter to the Land Appeal Court, who shall inquire into and decide the matters in dispute between the parties. The decision of such court shall be final and conclusive, and shall have the same effect as if the Minister had agreed with the owner under the provisions of this section, and such court shall have power if it thinks fit, to award such costs as in its opinion are just to the party finally successful.

(3) Upon notification in the Gazette of such agreement, ^{the Suspension of power of resumption.} provisions of this Act shall apply to any disposal of such land, and the Minister may further notify that in consideration of the said agreement the power of resumption shall be suspended as to the whole or part of such land for a period to be determined by the Minister. the Minister may further notify that in consideration of and subject to the fulfilment of the terms of such agreement, the power of resumption shall be suspended—

- 25 (a) for such period of time, and
- (b) for such area (being the whole or any part of the land covered by the proclamation)

as may be agreed upon between the Minister and the owner.

Upon such further notification being made, no resumption of the land referred to therein shall be lawful under the provisions of the Closer Settlement Act, 1904, the Closer Settlement (Amendment) Act, 1906, the Closer Settlement (Amendment) Act, 1907, or of this Act, until after the expiry of the period of suspension named in such aforesaid notification.

35 5. In order to facilitate an agreement between the Minister and the owner under section four of this Act, the Minister may invite the Commissioners of the Government Savings Bank of New Wales to make a valuation of the land as proposed to be subdivided, and to join in an arrangement for advances under section sixty-four of the 40 Government Savings Bank Act, 1906. ^{Section 64 of Government Savings Bank Act, 1906.}

9. A sale or lease of land made under such agreement, and any subsequent sale, mortgage, transfer, or lease of such land, or any part thereof, made within five years after such first mentioned sale or lease, shall, within a time to be prescribed, or within such further time as ^{Sale, lease, &c., to be notified.} the

Closer Settlement (Amendment).

the Minister may allow, be submitted to the Minister by one of the parties to the same, and if not so submitted within that time shall be void.

10. Every lease made under such agreement shall contain ^{Provisions to be} such provisions giving the lessee an option to purchase, or tenant-right ^{contained in leases.} in improvements and such other provisions and conditions as may be agreed upon by the Minister and owner as aforesaid or as may be prescribed by the said Land Appeal Court. The period within which an option to purchase may be exercised shall not exceed ten years.

11. (1) On any sale, lease, mortgage, or transfer being so ^{Minister may} submitted, the Minister may disallow the same if, after reference to ^{disallow sale,} the local land board, made within one month after such submission, ^{lease, &c.} such board recommends such disallowance on the ground—

(a) that the person to whom the land has been sold, leased, or transferred as aforesaid, already holds land (other than town or suburban land or land held under annual tenure) the value of which when added to the value of the land so sold, leased, or transferred to him exceeds the sum of three thousand five hundred pounds exclusive of the value of any improvements thereon; or

(b) that the sale, lease, or transfer was not made in good faith and to a person intending to hold and use the land for his own exclusive benefit; or

(c) that the person selling, transferring, or leasing such land has not carried out the terms and conditions agreed to or prescribed as aforesaid; or

(d) that the mortgage was not made in good faith.

(2) The fact that such sale, lease, or transfer was made to a son or daughter of the owner shall not be evidence that it was not made in good faith.

(3) If the Minister disallows any such sale, mortgage, transfer, or lease the same shall be void, and the Minister shall cause the vendor, mortgagor, transferee or lessor to be notified of the disallowance within twenty-one days after the recommendation of the ^{Effect of} ~~said board has been received.~~ ^{disallowance.}

AMENDMENT OF CLOSER SETTLEMENT ACT, 1904.

Appeals.

6. Section eighteen of the Principal Act is amended by adding at the end thereof the following subsections:— ^{Amendment of s. 18 of Principal Act.}

(5) Where a judge has been appointed for the purposes of this section the Governor may, in the case of the death, illness, incapacity, or absence of such judge or at the request of the Chief Justice

Closer Settlement (Amendment).

Justice or for any other reasonable cause, at any time appoint in the place of the judge first mentioned any other judge of the Supreme Court. The judge so appointed shall have the powers and authorities of a judge appointed in pursuance of this section.

- 5 (6) Where an assessor appointed under this section dies or becomes incapable of acting in his office, the Governor or the appellant, as the case may be, may at any time appoint any person to be assessor in the place of the assessor who has died or become incapable of acting as agreed. The person so appointed shall have the powers of
10 an assessor appointed in pursuance of this section.

Applications.

12: 7. Section twenty-six of the Principal Act is repealed and the following is substituted :— New section 26.

26. Any male person not being under the age of eighteen Qualification to
15 years, and any female person not being under the age of twenty-one apply for land.
years, and not being the holder under any tenure other than annual tenure of any land except—

- (a) land which, when added to the area applied for will not, in the opinion of the local land board, substantially exceed a
20 home maintenance area ; or
(b) land held as a tenant from a private holder without a right of purchase, and ~~having a term of less than five years to run~~
being less than a home maintenance area

may apply for a settlement purchase under this Act, subject to the
25 following provisions :—

- (c) If any person divests himself of any land for the purpose of so applying for a settlement purchase his application shall be disallowed unless he has obtained before or after such divesting the Minister's consent in writing to such application being made.
30
(d) The person applying, 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 : Provided that with the Minister's
35 consent a married woman not living apart from her husband may apply for a settlement purchase in which case the lands held by her husband shall be considered in estimating whether the area as held together with that applied for exceeds the limitation of subsection (a) hereof and in considering any
40 application by a married man not so living apart the total area held by husband and wife shall be similarly considered :

Provided that, in the case of conflicting applications and subject to any preference granted by or under this Act, or the Closer Settlement (Amendment) Act, 1906, the land board shall take into
consideration

Closer Settlement (Amendment).

consideration all lands held by the applicants, and may give preference to the applicant who is substantially most in need of land, if he is otherwise eligible, and is likely to satisfactorily work and develop the land applied for.

5 ~~13.~~ 8. Section twenty-seven of the Closer Settlement Act, 1904, Section 27 of Act of 1904.
is amended by omitting the word "registered."

~~14.~~ 9. Section twenty-eight of the same Act is amended—

Section 28 of Act of 1904.

- 10 (a) by inserting after "simultaneously" the words "on the Monday aforesaid, or, if that day is a public holiday, on the first business day thereafter."
- (b) by inserting after "merits of each" the words "whether conflicting or not."
- 15 (c) by inserting after "by such board" the words "No error, uncertainty, omission, or misdescription in any application for a settlement purchase, or in any declaration prescribed and made in connection with any such application, shall invalidate the application in any case where the board is satisfied that such error, omission, uncertainty, or misdescription was not wilful, or made with intent to deceive; and the board shall have full power to authorise the correction of any error or omission in any application or declaration, so as to bring the same into conformity with the statutory requirements. Where any prescribed declaration has not
- 20 been lodged, the board may permit such omission, if not wilful, to be supplied. The provisions of this section shall extend to applications and declarations made before but not
- 25 finally disposed of at the commencement of this Act."

Postponement of payment of instalments.

30 ~~15.~~ 10. Section twenty-nine of the same act is amended— Section 29 of same Act.
(a) by omitting the word "thereon" in paragraph (a) and inserting in lieu thereof the words "on the amount owing from time to time" and

(b) by adding at the end thereof the following subsections:—

35 (2) Provided that with respect to a settlement purchase Postponement of payment of instalments in certain cases.
made after the nineteenth day of December, one thousand nine hundred and seven, the payment of the instalment due at the end of the first year from the date of application for the purchase may be postponed by the Minister on application being made to him. Payment of any other instalment may also be so postponed on the purchaser satisfying

40 the Minister of his inability to pay it.

With respect to a settlement purchase made before the said day, the payment of any instalment may be postponed as aforesaid, on the purchaser satisfying the Minister of his inability to pay it:
Provided

Closer Settlement (Amendment).

Provided that not more than two such payments shall be remain postponed and unpaid under this section in respect of a settlement purchase, whether made before or after the nineteenth day of December, one thousand nine hundred and seven.

- 5 In either such case the postponement of any such payment shall, unless the Minister otherwise determines, be on condition that improvements to the value of the amount of any instalment the payment of which has been postponed shall be made on the land within twelve months after the date of the postponement. Such postponement
10 shall also be subject to such other conditions as the Minister may impose. The improvements aforesaid shall be in addition to those required by the Principal Act or any Act amending the same.

Where any such postponement has been granted interest shall be charged each year at the rate of four per centum per annum on the
15 amount (including unpaid interest) owing at the end of the preceding year; and the balance of purchase money and interest owing at the end of the thirty-seventh year after the application for the purchase shall, together with interest thereon, be paid as follows:—

- (a) Where payment of one instalment has been postponed, by
20 one payment at the end of the thirty-eighth year after the application for the purchase;
(b) Where the payment of two instalments has been postponed, by two equal payments at the end of the thirty-eighth and thirty-ninth years after the application for the purchase.

25 But the postponement of the payment of any instalment shall cease upon the non-fulfilment of any condition attached to such postponement.

(3) Any holder of a settlement purchase may, at any time prescribed for the payment of any instalment in respect of his purchase,
30 pay, in addition to the amount of the instalment, the whole or any part of any other instalment not then due; whereupon interest on the amount of such payment shall cease to be charged.

Restrictions on purchase or transfer.

16. 11. Section thirty of the same Act is amended by adding the
35 following at the end of the section:—

(3) If the said person does not become so qualified within such period or further period, the Minister may invite applications from qualified persons who desire to acquire the settlement purchase, and may approve of any one of such applications, and may, on
40 behalf of the person on whom the settlement purchase has devolved as aforesaid, sell such settlement purchase to any person so qualified at a price and upon conditions to be determined by the Minister. The person upon whom the settlement purchase has devolved shall,
61—B upon

Section 30 of Act of 1904.

Closer Settlement (Amendment).

upon payment to him of the purchase money, transfer the settlement purchase to the person whose application has been approved; failing such transfer the settlement purchase shall be forfeited.

17- 12. Section thirty-one of the same Act is amended by omitting Amendment of s. 31.
5 the words "before grant."

13. Section thirty-four of the same Act is amended by adding Amendment of s. 34
the following at the end of the section:—All grants of land issued under of same Act.
the authority of the Closer Settlement Acts shall contain a reservation
of all minerals in such land, and shall contain such other reservations
10 and exceptions as may by the Governor be deemed expedient in the
public interest.

AMENDMENT OF CLOSER SETTLEMENT (AMENDMENT) ACT, 1906.

18- 14. Section three of the Closer Settlement (Amendment) Act, Section 3 of Act of
1906, is amended—

15 (a) by inserting the following subsection next after subsection
one:—

(1A) The Minister may allow—

(a) any person who is not a lessee as aforesaid, but who holds
any part of such land on terms of sharing profits with his
20 landlord (hereinafter referred to as a share-farmer); or

(b) any person employed on such land, and who has established
his home and resided on any part thereof for at least two
years, for at least ten years immediately preceding the
date of the resumption proclamation,

25 to remain in occupation of such part of such land the land
acquired for such period and upon such terms as he thinks fit.

(b) in subsection two by inserting after "tenancy" the words
"or occupation"; by inserting after "tenant" the words
"share-farmer or employee"; and by adding, at the end of
30 the subsection, the words "if the land board after inquiry
reports that he is otherwise qualified and likely to satisfactorily
work and develop the land."

19- 15. Section five of the same Act is repealed.

20- 16. Section seven of the same Act is amended by inserting
35 after "revoke" the words "alter or modify." Repeal of s. 5 of Act
of 1906.
Section 7 of same
Act.

AMENDMENT OF CLOSER SETTLEMENT (AMENDMENT) ACT, 1907.

21- 17. Section three of the Closer Settlement (Amendment) Act, Section 3 of Act of
1907, is amended by omitting the words in paragraph (a) within
brackets, "not being, in the opinion of the board, of a value less than
40 ten thousand pounds, exclusive of the value of the improvements
thereon," and by inserting in paragraph (d) after "property" the
words "it shall state if," and after "residue" the words "exceeds
twenty thousand pounds or not."

Closer Settlement (Amendment).

22. 18. (1) Subsection one of section five of the same Act is amended— Section 5 (1) of Act of 1907.

(a) by omitting the words "by proclamation in the Gazette";

5 (b) by inserting after "notify" the words "in the Gazette a list of estates situated, wholly or partly, within fifteen miles on either side of the line of the proposed railway, whereupon no disposition by the owner of any such estate shall operate to defeat the power of the Governor to resume such estate or any part thereof under this Act. Such proclamation shall 10 cease to have effect after the expiration of six months from its date, except as to any land included in a proclamation made as hereinafter in this section mentioned :

15 Provided that a proclamation under this paragraph may at any time be rescinded or altered in whole or in part by the Minister by notice in the Gazette.

While such restriction is in force the Governor may, by proclamation in the Gazette, notify "

(2) Subsection two of the same section is amended by inserting at the end of paragraph (b) "or which has so accrued from 20 the proposed construction of such line."

23. 19. Section nine of the Closer Settlement (Amendment) Act, 1907, is amended by adding the following paragraphs :— Section 9 of same Act.

The owner or mortgagee shall set out in such notice of appeal the amount which he claims as the value of the land and of the 25 improvements thereon.

Where such owner or mortgagee fails to set out the amount he claims as aforesaid, the valuation of the advisory board shall be deemed to be the fair market value of the land and of the improvements thereon.

30 AMENDMENT OF ACTS OF 1904 AND 1906.

24. 20. (1) Land acquired under the Principal Act or any Act amending the same, together with any adjacent Crown lands, may be set apart by the Minister as a settlement purchase area by notification in the Gazette, and he may at any time in the like manner modify, 35 alter, or revoke such setting apart. Setting apart for closer settlement.

(2) Before disposal of any land under the said Acts a plan of subdivision showing the areas and value per acre of the proposed settlement purchases shall be approved by the Minister and shall be the design plan of the land. Approval of subdivision and price.

40 (3) The Minister may, at any time and in any respect, alter any design plan, whether made before or after the commencement of this Act and whether the land affected has or has not been disposed of: Provided that, if the land has been disposed of, the consent of the owner shall be obtained. Alteration of design plan.

45 After measurement of the areas according to the design thereof, the plans may be approved by the Minister or any officer duly authorised in that behalf.

(4)

Closer Settlement (Amendment).

(4) Land acquired under the Principal Act or any Act amending the same and such adjacent Crown lands as may at any time have been set apart as aforesaid shall be dealt with and disposed of under the provisions of the said Acts, and in no other way, any provisions of the Crown Lands Acts to the contrary notwithstanding.

Disposal of land.

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

Notification of land for disposal.

- (a) Agricultural land.
- (b) Grazing land.
- (c) Agricultural and grazing land.

Such notification shall describe the land and declare it to be available for application, and shall set out inter alia the class of land, the conditions and restrictions which shall attach thereto, the capital value and area of each farm which may comprise two separated portions.

(6) Any land within an area acquired for closer settlement a settlement purchase area which for any reason is unsuitable for disposal under the provisions of this Act or of any Act amending the same may be disposed of by sale or lease, by auction or tender, upon such terms and conditions as may be determined by the Minister.

Land unsuitable for disposal under Acts.

Any movable improvements on an area acquired for closer settlement may be disposed of in a similar manner separately from the land.

(7) Sections twenty-five and thirty-seven of the Closer Settlement Act, 1904, and section four of the Closer Settlement (Amendment) Act, 1906, are repealed.

Repeal.

25. 21. (1) The holder of a settlement purchase may, with the consent of the Minister sell any part of the land included in such purchase as a site for a church, school of arts, or cemetery, or for any purpose approved by the Minister.

Settlement purchase sold as a site for church, school of arts, or cemetery.

(2) On such sale—

- (a) the land so sold shall cease to form part of the settlement purchase, and the provisions of any Act so far as they relate to settlement purchases shall cease to apply to it; and
- (b) the balance of purchase money for such land shall forthwith be payable to the Crown, and on payment of such balance a Crown grant of such land may be issued.

GENERAL AND SUPPLEMENTAL.

26. 22. (1) The following provisions shall apply to the costs of all proceedings by way of appeal for determining the value of land resumed before or after the commencement of this Act, under the Principal Act, or any Act amending the same or this Act :—

Costs of proceedings on appeals as to value.

- (a) Where the value determined by the court hearing the appeal is equal to or less than the amount at which the Governor has

Closer Settlement (Amendment).

has offered to purchase the land, or where no such offer has been made, the amount of the valuation of the advisory board, the owner shall pay the costs of the appeal.

5 (b) Where the value so determined is equal to or greater than the amount which the owner claims as the value of the land the Crown shall pay such costs.

10 (c) Where the value so determined is greater than the amount of the offer or valuation referred to in paragraph (a), but is less than the amount of the claim of the owner aforesaid, the Crown shall pay to the owner as costs the amount to be fixed by multiplying the owner's taxed costs by a fraction of which the numerator is the amount by which the value determined by the court exceeds the offer or valuation aforesaid, and the denominator is the difference between the
15 amount of the claim of the owner and the amount of the said offer or valuation.

(2) Subsection two of section twenty-two of the Principal Act is repealed.

20 (3) Provided that this section shall not apply to proceedings in any such appeal which has been commenced before the seventh day of October, one thousand nine hundred and nine commencement of this Act.

25 ~~27.~~ 23. With the consent of the owner of any land resumed under the Principal Act or the Closer Settlement (Amendment) Act, 1907, or this Act, the Governor may, at any time, cancel such resumption as to the whole or part of the said land or may modify the boundaries thereof. Governor may cancel resumption.

For that purpose the Governor may revoke any proclamation or notification made by him or by the Minister under any such Act.

30 ~~28.~~ 24. The Governor may make regulations for the purpose of Regulations. carrying this Act into effect and prescribing any procedure for that purpose; and in particular prescribing the form in which any application shall be submitted to the Minister for his approval and the particulars to be therein contained; and requiring and prescribing
35 the verification of such particulars.

15

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, 22 October, 1909, A.M. }*

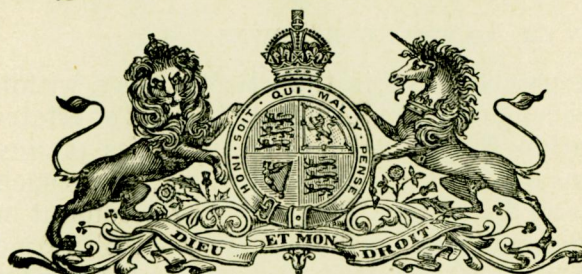
*RICHD. A. ARNOLD,
Clerk of the Legislative Assembly.*

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

*Legislative Council Chamber,
Sydney, December, 1909. }*

Clerk of the Parliaments.

New South Wales.



ANNO NONO

EDWARDI VII REGIS.

Act No. , 1909.

An Act to regulate the sale of private land for closer settlement; to amend the Closer Settlement Act, 1904; the Closer Settlement (Amendment) Act, 1906; the Closer Settlement (Amendment) Act, 1907; and for purposes consequent thereon or incidental thereto.

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

PRELIMINARY.

5

1. This Act may be cited as the "Closer Settlement (Amendment) Act, 1909," and shall be construed with the Closer Settlement Act, 1904 (hereinafter referred to as the Principal Act), the Closer Settlement (Amendment) Act, 1906, and the Closer Settlement (Amendment) Act, 1907.

10

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61—A

2.

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

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2. In this Act, unless the context otherwise requires,—

Definition.

“Home maintenance area” means area which, when used for the purpose for which it is reasonably fitted would be sufficient for the maintenance in average seasons and circumstances of an average family.

5

“Town” means any city, town, or village that had a population of six hundred or over at the time of the taking of the then last census.

RESUMPTION OF LANDS NEAR TOWNS.

10 3. The Governor, by proclamation in the Gazette, may, within thirty days after the commencement of this Act, notify a list of estates situate wholly or partly within five miles of the boundaries of any town to which the provisions of this section shall apply. On such proclamation being so made, no disposition (except with the consent of the Minister) made at any time after the seventh day of October, one thousand nine hundred and nine, of any such estate or of any part thereof shall operate or shall be deemed to have operated to defeat the power of the Governor to resume the same or any part thereof under this Act. Such proclamation shall cease to have effect after 15 the expiration of six months from its date, except as to any land included in a proclamation under the next following section :

Notification of lists of estates near towns.

Provided that any proclamation under this section may be rescinded or altered in whole or in part by the Minister by proclamation in the Gazette.

25 4. (1) Where an advisory board reports to the Minister that the progress or expansion of settlement in or near any town is restricted or impeded by the fact that land in or within five miles of the boundaries of such town, and suitable for closer settlement, is privately owned, the Governor, by proclamation in the Gazette, may declare that the 30 provisions of this section shall apply to any such land, the property of one owner, and not being of less value than ten thousand pounds, exclusive of the value of the improvements thereon :

Proclamation applying provisions of this section to certain land.

Provided that the provisions of this and the next preceding section shall not apply to land held by trustees under a will or 35 settlement which came into force and effect before the commencement of this Act or held by trustees under an authority which directs them to sell the land :

Provided also that a copy of any such proclamation shall be laid before both Houses of Parliament within fourteen days after it 40 has been made, if Parliament is then sitting, or within fourteen days after the next meeting of Parliament if Parliament is not then sitting. If such proclamation is not approved, with or without amendment, by resolution of each House of Parliament within twenty-one days after being laid before it, such proclamation shall be of no effect. (2)

Closer Settlement (Amendment).

(2) After the date of such proclamation, no disposition of such land, unless made with the consent of the Minister as hereinafter in this Act provided, shall operate to defeat the power of the Governor to resume the same under this Act. Such restriction shall cease after the expiration of the period of five years from the date aforesaid :

Provided that such period may be extended by the Governor by proclamation in the Gazette as follows :—

- (a) Where at the expiration of such period Parliament is sitting, such extension may be for not more than three months.
- 10 (b) Where at such expiration Parliament is not sitting, such extension may be for not more than three months after the next meeting of Parliament.

But in either case in counting such three months no account shall be taken of any period during which Parliament stands prorogued or dissolved.

(3) As soon as practicable after the date aforesaid the Minister shall cause a copy of such proclamation and a plan showing the land described therein, and a notification of the value placed upon the land and improvements thereon by the advisory board to be served on the owner of the land, or where such owner is absent from New South Wales on his agent in New South Wales, or where in such case there is no such agent in New South Wales known to the Minister, on the occupier, or, where the land is vacant, by notification to the owner in the Gazette. Such copy, plan, and notice may be served personally or by post.

(4) Such owner shall within one month after the date of the Minister's notification of value as aforesaid, or where the owner at such date is absent from the Commonwealth, within three months after such date, or within such further time as the Minister or a Judge of the Supreme Court on summary application to him may allow, notify, or cause to be notified in writing, to the Minister the amount which he claims as the value of the land and of the improvements thereon. In the event of any appeal following upon a subsequent resumption, the said amount shall be taken to be the value claimed by the owner.

5. (1) The Governor, at any time within the five years or extended period during which the restriction under the last preceding section has effect, may purchase, by agreement with the owner, the land, or any part of the land, subject to such restriction, or may resume it by notice in the Gazette :

40 Provided that the land so resumed shall not be of less value than five thousand pounds, without the value of the improvements thereon, unless the owner consents to the resumption, or unless the land consists or forms part of the unsold and unleased residue of an area as to which the Minister and the owner have come to an agreement in pursuance of this Act that such area should be sold or leased by such owner.

Closer Settlement (Amendment).

(2) For the purposes of any resumption the value of the land shall be the fair market value of the land and the improvements thereon at the date of the said proclamation : Value to be fair market value.

5 Provided that if the owner obtains from the Land Appeal Court a certificate that he has used all available means to sell or lease the land to promote bona fide settlement, the value of the land shall, for the purposes of resumption under this Act, be the fair market value of the land and the improvements thereon at the date of the resumption :

10 Provided that where the owner fails to notify or cause to be notified to the Minister, in pursuance of the last preceding section, the amount which he claims as the value of the land and of the improvements thereon, such fair market value shall be the valuation of the advisory board :

15 Provided also that an additional amount shall be paid to the owner for improvements necessary for the profitable working of the land which have been effected between the date of the proclamation and that of the resumption, and that an amount equal to the extent of the depreciation of the value of the improvements on the land between the said dates may be deducted from the amount to be so paid.

20 (3) Every purchase or resumption under this Act of land of or above the value of two thousand five hundred pounds shall be subject to approval by both Houses of Parliament. Approval by Parliament.

(4) Land so purchased or resumed shall be disposed of or otherwise dealt with under the Principal Act and the Acts amending Disposal of land.

25 6. Subject to this Act, the provisions of the Principal Act, and of the Closer Settlement (Amendment) Act, 1907, relating to the acquisition of land under those Acts and proceedings in relation thereto, shall so far as applicable apply to similar acquisitions and Application of provisions of Acts of 1904 and 1907.

30 proceedings under the preceding provisions of this Act :
Provided that in so applying section nine of the last-mentioned Act, the fair market value of the land and improvements to be determined by the court may be such value at the date of the proclamation under section four of this Act with the value of improve-

35 ments as hereinbefore in this Act provided :
Provided also that in so applying sections twelve and thirteen of the same Act, the words "ten thousand" shall be read instead of the words "twenty thousand" in section twelve ; and the words "five thousand" shall be read instead of the words "ten thousand"

40 in section thirteen.

7. 3. The Governor, by proclamation in the Gazette, may cancel or amend any proclamation under ~~section three or section four of this Act~~ Cancellation of certain proclamations.
or section four or section five of the Closer Settlement (Amendment) Act, 1907, as to all or any part of the land affected thereby.

PRIVATE

Closer Settlement (Amendment).

PRIVATE SUBDIVISION FOR CLOSER SETTLEMENT.

8. 4. (1) At any time after the date of a proclamation under ^{Agreement for sale or lease of land by owner.} ~~section four of this Act or~~ section four or section five of the Closer Settlement (Amendment) Act, 1907, the Minister and the owner may agree that any land, being the whole or part of the land covered by the proclamation, shall be subdivided and sold or leased in such areas and subject to such terms and conditions as may be agreed upon.

(2) In the event of the Minister and owner failing to agree within the time to be prescribed as to the terms and conditions, the Minister shall, within fourteen days thereafter refer the matter to the Land Appeal Court, who shall inquire into and decide the matters in dispute between the parties. The decision of such court shall be final and conclusive, and shall have the same effect as if the Minister had agreed with the owner under the provisions of this section, and such court shall have power if it thinks fit, to award such costs as in its opinion are just to the party finally successful.

(3) Upon notification in the Gazette of such agreement, the provisions of this Act shall apply to any disposal of such land, and the Minister may further notify that in consideration of the said agreement the power of resumption shall be suspended as to the whole or part of such land for a period to be determined by the Minister. the Minister may further notify that in consideration of and subject to the fulfilment of the terms of such agreement, the power of resumption shall be suspended—

- 25 (a) for such period of time, and
- (b) for such area (being the whole or any part of the land covered by the proclamation)

as may be agreed upon between the Minister and the owner.

Upon such further notification being made, no resumption of the land referred to therein shall be lawful under the provisions of the Closer Settlement Act, 1904, the Closer Settlement (Amendment) Act, 1906, the Closer Settlement (Amendment) Act, 1907, or of this Act, until after the expiry of the period of suspension named in such aforesaid notification.

35 5. In order to facilitate an agreement between the Minister and the owner under section four of this Act, the Minister may invite the Commissioners of the Government Savings Bank of New Wales to make a valuation of the land as proposed to be subdivided, and to join in an arrangement for advances under section sixty-four of the Government Savings Bank Act, 1906. ^{Section 64 of Government Savings Bank Act, 1906.}

40 9. A sale or lease of land made under such agreement, and any subsequent sale, mortgage, transfer, or lease of such land, or any part thereof, made within five years after such first mentioned sale or lease, shall, within a time to be prescribed, or within such further time as the ^{Sale, lease, &c, to be notified.}

Closer Settlement (Amendment).

the Minister may allow, be submitted to the Minister by one of the parties to the same, and if not so submitted within that time shall be void.

10. Every lease made under such agreement shall contain provisions to be such provisions giving the lessee an option to purchase, or tenant-right contained in leases. in improvements and such other provisions and conditions as may be agreed upon by the Minister and owner as aforesaid or as may be prescribed by the said Land Appeal Court. The period within which an option to purchase may be exercised shall not exceed ten years.

10 11. (1) On any sale, lease, mortgage, or transfer being so submitted, the Minister may disallow the same if, after reference to the local land board, made within one month after such submission, such board recommends such disallowance on the ground—

15 (a) that the person to whom the land has been sold, leased, or transferred as aforesaid, already holds land (other than town or suburban land or land held under annual tenure) the value of which when added to the value of the land so sold, leased, or transferred to him exceeds the sum of three thousand five hundred pounds exclusive of the value of any improvements thereon; or

20 (b) that the sale, lease, or transfer was not made in good faith and to a person intending to hold and use the land for his own exclusive benefit; or

25 (c) that the person selling, transferring, or leasing such land has not carried out the terms and conditions agreed to or prescribed as aforesaid; or

(d) that the mortgage was not made in good faith.

30 (2) The fact that such sale, lease, or transfer was made to a son or daughter of the owner shall not be evidence that it was not made in good faith.

(3) If the Minister disallows any such sale, mortgage, transfer, or lease the same shall be void, and the Minister shall cause the vendor, mortgagor, transferrer or lessor to be notified of the disallowance within twenty-one days after the recommendation of the said board has been received.

AMENDMENT OF CLOSER SETTLEMENT ACT, 1904.

Appeals.

6. Section eighteen of the Principal Act is amended by adding at the end thereof the following subsections:—

40 (1) Where a judge has been appointed for the purposes of this section the Governor may, in the case of the death, illness, incapacity, or absence of such judge or at the request of the Chief Justice

Closer Settlement (Amendment).

Justice or for any other reasonable cause, at any time appoint in the place of the judge first mentioned any other judge of the Supreme Court. The judge so appointed shall have the powers and authorities of a judge appointed in pursuance of this section.

- 5 (2) Where an assessor appointed under this section dies or becomes incapable of acting in his office, the Governor or the appellant, as the case may be, may at any time appoint any person to be assessor in the place of the assessor who has died or become incapable of acting as agreed. The person so appointed shall have the powers of
10 an assessor appointed in pursuance of this section.

Applications.

12. 7. Section twenty-six of the Principal Act is repealed and the following is substituted :— New section 26.

26. Any male person not being under the age of eighteen Qualification to apply for land.
15 years, and any female person not being under the age of twenty-one years, and not being the holder under any tenure other than annual tenure of any land except—

- (a) land which, when added to the area applied for will not, in the opinion of the local land board, substantially exceed a
20 home maintenance area ; or
(b) land held as a tenant from a private holder without a right of purchase, and ~~having a term of less than five years to run~~
being less than a home maintenance area

may apply for a settlement purchase under this Act, subject to the
25 following provisions :—

- (c) If any person divests himself of any land for the purpose of so applying for a settlement purchase his application shall be disallowed unless he has obtained before or after such divesting the Minister's consent in writing to such application being made.
30
(d) The person applying, 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 : Provided that with the Minister's
35 consent a married woman not living apart from her husband may apply for a settlement purchase in which case the lands held by her husband shall be considered in estimating whether the area as held together with that applied for exceeds the limitation of subsection (a) hereof and in considering any
40 application by a married man not so living apart the total area held by husband and wife shall be similarly considered.

Provided that, in the case of conflicting applications and subject to any preference granted by or under this Act, or the Closer Settlement (Amendment) Act, 1906, the land board shall take into consideration

Closer Settlement (Amendment).

consideration all lands held by the applicants, and may give preference to the applicant who is substantially most in need of land, if he is otherwise eligible, and is likely to satisfactorily work and develop the land applied for.

5 13. 8. Section twenty-seven of the Closer Settlement Act, 1904, is amended by omitting the word "registered." Section 27 of Act of 1904.

14. 9. Section twenty-eight of the same Act is amended—

10 (a) by inserting after "simultaneously" the words "on the Monday aforesaid, or, if that day is a public holiday, on the first business day thereafter." Section 28 of Act of 1904.

(b) by inserting after "merits of each" the words "whether conflicting or not."

15 (c) by inserting after "by such board" the words "No error, uncertainty, omission, or misdescription in any application for a settlement purchase, or in any declaration prescribed and made in connection with any such application, shall invalidate the application in any case where the board is satisfied that such error, omission, uncertainty, or misdescription was not wilful, or made with intent to deceive; and the board shall have full power to authorise the correction of any error or omission in any application or declaration, so as to bring the same into conformity with the statutory requirements. Where any prescribed declaration has not been lodged, the board may permit such omission, if not

20 wilful, to be supplied. The provisions of this section shall extend to applications and declarations made before but not finally disposed of at the commencement of this Act."

25

Postponement of payment of instalments.

15. 10. Section twenty-nine of the same act is amended—

30 (a) by omitting the word "thereon" in paragraph (a) and inserting in lieu thereof the words "on the amount owing from time to time" and

(b) by adding at the end thereof the following subsections:—

35 (2) Provided that with respect to a settlement purchase made after the nineteenth day of December, one thousand nine hundred and seven, the payment of the instalment due at the end of the first year from the date of application for the purchase may be postponed by the Minister on application being made to him. Payment of any other instalment may also be so postponed on the purchaser satisfying

40 the Minister of his inability to pay it.

With respect to a settlement purchase made before the said day, the payment of any instalment may be postponed as aforesaid, on the purchaser satisfying the Minister of his inability to pay it:

Provided

Section 29 of same Act.

Postponement of payment of instalments in certain cases.

Closer Settlement (Amendment).

Provided that not more than two such payments shall be remain postponed and unpaid under this section in respect of a settlement purchase, whether made before or after the nineteenth day of December, one thousand nine hundred and seven.

- 5 In either such case the postponement of any such payment shall, unless the Minister otherwise determines, be on condition that improvements to the value of the amount of any instalment the payment of which has been postponed shall be made on the land within twelve months after the date of the postponement. Such postponement
10 shall also be subject to such other conditions as the Minister may impose. The improvements aforesaid shall be in addition to those required by the Principal Act or any Act amending the same.

Where any such postponement has been granted interest shall be charged each year at the rate of four per centum per annum on the
15 amount (including unpaid interest) owing at the end of the preceding year; and the balance of purchase money and interest owing at the end of the thirty-seventh year after the application for the purchase shall, together with interest thereon, be paid as follows:—

- (a) Where payment of one instalment has been postponed, by
20 one payment at the end of the thirty-eighth year after the application for the purchase;
(b) Where the payment of two instalments has been postponed, by two equal payments at the end of the thirty-eighth and thirty-ninth years after the application for the purchase.

25 But the postponement of the payment of any instalment shall cease upon the non-fulfilment of any condition attached to such postponement.

(3) Any holder of a settlement purchase may, at any time prescribed for the payment of any instalment in respect of his purchase,
30 pay, in addition to the amount of the instalment, the whole or any part of any other instalment not then due; whereupon interest on the amount of such payment shall cease to be charged.

Restrictions on purchase or transfer.

16. 11. Section thirty of the same Act is amended by adding the
35 following at the end of the section:—

(3) If the said person does not become so qualified within such period or further period, the Minister may invite applications from qualified persons who desire to acquire the settlement purchase, and may approve of any one of such applications, and may, on
40 behalf of the person on whom the settlement purchase has devolved as aforesaid, sell such settlement purchase to any person so qualified at a price and upon conditions to be determined by the Minister. The person upon whom the settlement purchase has devolved shall,

Closer Settlement (Amendment).

upon payment to him of the purchase money, transfer the settlement purchase to the person whose application has been approved; failing such transfer the settlement purchase shall be forfeited.

17. 12. Section thirty-one of the same Act is amended by omitting Amendment of s. 31.
5 the words "before grant."

13. Section thirty-four of the same Act is amended by adding Amendment of s. 34 of same Act.
the following at the end of the section; All grants of land issued under
the authority of the Closer Settlement Acts shall contain a reservation
of all minerals in such land, and shall contain such other reservations
10 and exceptions as may by the Governor be deemed expedient in the
public interest.

AMENDMENT OF CLOSER SETTLEMENT (AMENDMENT) ACT, 1906.

18. 14. Section three of the Closer Settlement (Amendment) Act, Section 3 of Act of 1906.
1906, is amended—

15 (a) by inserting the following subsection next after subsection
one:—

(1A) The Minister may allow—

(a) any person who is not a lessee as aforesaid, but who holds
any part of such land on terms of sharing profits with his
20 landlord (hereinafter referred to as a share-farmer); or

(b) any person employed on such land, and who has established
~~his home and resided on any part thereof for at least two~~
years, for at least ten years immediately preceding the
date of the resumption proclamation.

25 to remain in occupation of such part of such land the land
acquired for such period and upon such terms as he thinks fit.

(b) in subsection two by inserting after "tenancy" the words
"or occupation"; by inserting after "tenant" the words
"share-farmer or employee"; and by adding, at the end of
30 the subsection, the words "if the land board after inquiry
reports that he is otherwise qualified and likely to satisfactorily
work and develop the land."

19. 15. Section five of the same Act is repealed.

20. 16. Section seven of the same Act is amended by inserting
35 after "revoke" the words "alter or modify." Repeal of s. 5 of Act of 1906.
Section 7 of same Act.

AMENDMENT OF CLOSER SETTLEMENT (AMENDMENT) ACT, 1907.

21. 17. Section three of the Closer Settlement (Amendment) Act, Section 3 of Act of 1907.
1907, is amended by omitting the words in paragraph (a) within
brackets, "not being, in the opinion of the board, of a value less than
40 ten thousand pounds, exclusive of the value of the improvements
thereon," and by inserting in paragraph (d) after "property" the
words "it shall state if," and after "residue" the words "exceeds
twenty thousand pounds or not."

Closer Settlement (Amendment).

22- 18. (1) Subsection one of section five of the same Act is amended— Section 5 (1) of Act of 1907.

(a) by omitting the words "by proclamation in the Gazette";

5 (b) by inserting after "notify" the words "in the Gazette a list of estates situated, wholly or partly, within fifteen miles on either side of the line of the proposed railway, whereupon no disposition by the owner of any such estate shall operate to defeat the power of the Governor to resume such estate or
10 any part thereof under this Act. Such proclamation shall cease to have effect after the expiration of six months from its date, except as to any land included in a proclamation made as hereinafter in this section mentioned.

15 Provided that a proclamation under this paragraph may at any time be rescinded or altered in whole or in part by the Minister by notice in the Gazette.

While such restriction is in force the Governor may, by proclamation in the Gazette, notify "

(2) Subsection two of the same section is amended by inserting at the end of paragraph (b) "or which has so accrued from
20 the proposed construction of such line."

23- 19. Section nine of the Closer Settlement (Amendment) Act, Section 9 of same Act. 1907, is amended by adding the following paragraphs:—

The owner or mortgagee shall set out in such notice of appeal the amount which he claims as the value of the land and of the
25 improvements thereon.

Where such owner or mortgagee fails to set out the amount he claims as aforesaid, the valuation of the advisory board shall be deemed to be the fair market value of the land and of the improvements thereon.

30 AMENDMENT OF ACTS OF 1904 AND 1906.

24- 20. (1) Land acquired under the Principal Act or any Act amending the same, together with any adjacent Crown lands, may be Setting apart for closer settlement. set apart by the Minister as a settlement purchase area by notification in the Gazette, and he may at any time in the like manner modify,
35 alter, or revoke such setting apart.

(2) Before disposal of any land under the said Acts a plan of subdivision showing the areas and value per acre of the proposed settlement purchases shall be approved by the Minister and shall be Approval of subdivision and price. the design plan of the land.

40 (3) The Minister may, at any time and in any respect, alter any design plan, whether made before or after the commencement of this Act and whether the land affected has or has not been disposed of: Provided that, if the land has been disposed of, the consent of the owner shall be obtained. Alteration of design plan.

45 After measurement of the areas according to the design thereof, the plans may be approved by the Minister or any officer duly authorised in that behalf.

Closer Settlement (Amendment).

(4) Land acquired under the Principal Act or any Act amending the same and such adjacent Crown lands as may at any time have been set apart as aforesaid shall be dealt with and disposed of under the provisions of the said Acts, and in no other way, any provisions of the Crown Lands Acts to the contrary notwithstanding.

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

- (a) Agricultural land.
- (b) Grazing land.
- (c) Agricultural and grazing land.

Such notification shall describe the land and declare it to be available for application, and shall set out inter alia the class of land, the conditions and restrictions which shall attach thereto, the capital value and area of each farm which may comprise two separated portions.

(6) Any land within an area acquired for closer settlement a settlement purchase area which for any reason is unsuitable for disposal under the provisions of this Act or of any Act amending the same may be disposed of by sale or lease, by auction or tender, upon such terms and conditions as may be determined by the Minister.

Any movable improvements on an area acquired for closer settlement may be disposed of in a similar manner separately from the land.

(7) Sections twenty-five and thirty-seven of the Closer Settlement Act, 1904, and section four of the Closer Settlement (Amendment) Act, 1906, are repealed.

25. 21. (1) The holder of a settlement purchase may, with the consent of the Minister sell any part of the land included in such purchase as a site for a church, school of arts, or cemetery, or for any purpose approved by the Minister.

(2) On such sale—

- (a) the land so sold shall cease to form part of the settlement purchase, and the provisions of any Act so far as they relate to settlement purchases shall cease to apply to it; and
- (b) the balance of purchase money for such land shall forthwith be payable to the Crown, and on payment of such balance a Crown grant of such land may be issued.

GENERAL AND SUPPLEMENTAL.

26. 22. (1) The following provisions shall apply to the costs of all proceedings by way of appeal for determining the value of land resumed before or after the commencement of this Act, under the Principal Act, or any Act amending the same or this Act:—

- (a) Where the value determined by the court hearing the appeal is equal to or less than the amount at which the Governor has

Closer Settlement (Amendment).

has offered to purchase the land, or where no such offer has been made, the amount of the valuation of the advisory board, the owner shall pay the costs of the appeal.

5 (b) Where the value so determined is equal to or greater than the amount which the owner claims as the value of the land the Crown shall pay such costs.

10 (c) Where the value so determined is greater than the amount of the offer or valuation referred to in paragraph (a), but is less than the amount of the claim of the owner aforesaid, the Crown shall pay to the owner as costs the amount to be fixed by multiplying the owner's taxed costs by a fraction of which the numerator is the amount by which the value determined by the court exceeds the offer or valuation aforesaid, and the denominator is the difference between the
15 amount of the claim of the owner and the amount of the said offer or valuation.

(2) Subsection two of section twenty-two of the Principal Act is repealed.

(3) Provided that this section shall not apply to proceedings
20 in any such appeal which has been commenced before the ~~seventh day of October, one thousand nine hundred and nine~~ commencement of this Act.

27. 23. With the consent of the owner of any land resumed under the Principal Act or the Closer Settlement (Amendment) Act, 1907, ^{Governor may cancel resumption,}
25 ~~or this Act,~~ the Governor may, at any time, cancel such resumption as to the whole or part of the said land or may modify the boundaries thereof.

For that purpose the Governor may revoke any proclamation or notification made by him or by the Minister under any such Act.

30 28. 24. The Governor may make regulations for the purpose of ^{Regulations.} carrying this Act into effect and prescribing any procedure for that purpose; and in particular prescribing the form in which any application shall be submitted to the Minister for his approval and the particulars to be therein contained; and requiring and prescribing
35 the verification of such particulars.

1909.

Legislative Council.

CLOSER SETTLEMENT (AMENDMENT) BILL, 1909.

(*Amendments proposed by HON. JOHN HUGHES, VICE-PRESIDENT.*)

Page 5, clause 8, line 19. *After* "of" *insert* "and subject to the
"fulfilment of the terms of"

Page 6. *After* line 16 *insert* the following short heading and new
section :—

Appeals.

11A. Section eighteen of the Principal Act is amended by
adding at the end thereof the following subsections :—

(5) Where a judge has been appointed for the purposes of
this section the Governor may, in the case of the death, illness,
incapacity, or absence of such judge, or at the request of the Chief
Justice, or for any other reasonable cause, at any time appoint in the
place of the judge first mentioned any other judge of the Supreme
Court. The judge so appointed shall have the powers and authorities
of a judge appointed in pursuance of this section.

(6) Where an assessor appointed under this section dies
or becomes incapable of acting in his office, the Governor or the
appellant, as the case may be, may at any time appoint any person to
be assessor in the place of the assessor who has died or become
incapable of acting as aforesaid. The person so appointed shall have
the powers of an assessor appointed in pursuance of this section.

Page 8, clause 15, line 8. *Omit* "be" *insert* "remain" *after* "post-
poned" *insert* "and unpaid"

Page 9, clause 17, line 11. *At the end of clause 17 insert new clause :—*

Section thirty-four of the same Act is amended by adding the
following at the end of the section :—

All grants of land issued under the authority of the Closer
Settlement Acts shall contain a reservation of all minerals in such
land, and shall contain such other reservations and exceptions as may
by the Governor be deemed expedient in the public interest.

Page 9, clause 18 (b), line 29. *After* "if" *insert* "the land board
"after inquiry reports"

Page 9, clause 21, line 39. *After* "thereon" *insert* "and by inserting
"in paragraph (d) after 'properly' the words 'it shall state
"if' and after 'residue' the words 'exceeds twenty thousand
"pounds or not'"

Page 10, clause 22. At end of clause *add* new subclause:—

(2) subsection two of the same section is amended by
inserting at the end of paragraph (b) "or which has so accrued from
the proposed construction of such line."

Page 11, clause 24 (b), line 14. *Omit* the words "an area required
"for closer settlement"; *insert* "a settlement purchase area"

Page 11, clause 26, line 39. *Omit* "before or after the commencement
"of the Act"; line 40, *omit* "or this Act"

Page 12, clause 26, lines 17 and 18. *Omit* "seventh day of October,
"one thousand nine hundred and nine"; *insert* "passing of
this Act"

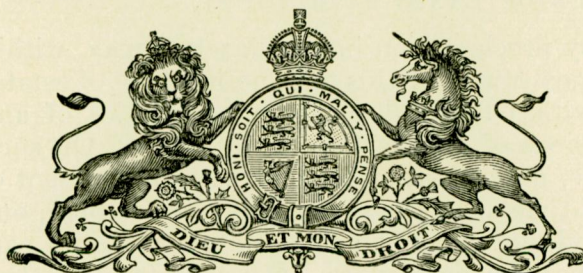
Page 12, clause 27, line 22. *After* "land" *insert* "or may modify
"the boundaries thereof"

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, 22 October, 1909, A.M. }*

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

New South Wales.



ANNO NONO

EDWARDI VII REGIS.

Act No. , 1909.

An Act to regulate the sale of private land for closer settlement; to amend the Closer Settlement Act, 1904; the Closer Settlement (Amendment) Act, 1906; the Closer Settlement (Amendment) Act, 1907; and for purposes consequent thereon or incidental thereto.

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

5

PRELIMINARY.

1. This Act may be cited as the "Closer Settlement (Amendment) Act, 1909," and shall be construed with the Closer Settlement Act, 1904 (hereinafter referred to as the Principal Act), the Closer Settlement (Amendment) Act, 1906, and the Closer Settlement (Amendment) Act, 1907.

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2.

Closer Settlement (Amendment).

2. In this Act, unless the context otherwise requires,—

Definitions.

“Home maintenance area” means area which, when used for the purpose for which it is reasonably fitted would be sufficient for the maintenance in average seasons and circumstances of an average family.

5

“Town” means any city, town, or village that had a population of six hundred or over at the time of the taking of the then last census.

RESUMPTION OF LANDS NEAR TOWNS.

10 3. The Governor, by proclamation in the Gazette, may, within thirty days after the commencement of this Act, notify a list of estates situate wholly or partly within five miles of the boundaries of any town to which the provisions of this section shall apply. On such proclamation being so made, no disposition (except with the consent of
15 the Minister) made at any time after the seventh day of October, one thousand nine hundred and nine, of any such estate or of any part thereof shall operate or shall be deemed to have operated to defeat the power of the Governor to resume the same or any part thereof under this Act. Such proclamation shall cease to have effect after
20 the expiration of six months from its date, except as to any land included in a proclamation under the next following section :

Notification of lists of estates near towns.

Provided that any proclamation under this section may be rescinded or altered in whole or in part by the Minister by proclamation in the Gazette.

25 4. (1) Where an advisory board reports to the Minister that the progress or expansion of settlement in or near any town is restricted or impeded by the fact that land in or within five miles of the boundaries of such town, and suitable for closer settlement, is privately owned, the Governor, by proclamation in the Gazette, may declare that the
30 provisions of this section shall apply to any such land, the property of one owner, and not being of less value than ten thousand pounds, exclusive of the value of the improvements thereon :

Proclamation applying provisions of this section to certain land.

Provided that the provisions of this and the next preceding section shall not apply to land held by trustees under a will or
35 settlement which came into force and effect before the commencement of this Act or held by trustees under an authority which directs them to sell the land :

Provided also that a copy of any such proclamation shall be laid before both Houses of Parliament within fourteen days after it
40 has been made, if Parliament is then sitting, or within fourteen days after the next meeting of Parliament if Parliament is not then sitting. If such proclamation is not approved, with or without amendment, by resolution of each House of Parliament within twenty-one days after being laid before it, such proclamation shall be of no effect. (2)

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(2) After the date of such proclamation, no disposition of such land, unless made with the consent of the Minister as hereinafter in this Act provided, shall operate to defeat the power of the Governor to resume the same under this Act. Such restriction shall cease after
 5 the expiration of the period of five years from the date aforesaid :

Restriction on disposal.

Provided that such period may be extended by the Governor by proclamation in the Gazette as follows :—

- (a) Where at the expiration of such period Parliament is sitting, such extension may be for not more than three months.
 10 (b) Where at such expiration Parliament is not sitting, such extension may be for not more than three months after the next meeting of Parliament.

But in either case in counting such three months no account shall be taken of any period during which Parliament stands prorogued
 15 or dissolved.

(3) As soon as practicable after the date aforesaid the Minister shall cause a copy of such proclamation and a plan showing the land described therein, and a notification of the value placed upon the land and improvements thereon by the advisory board to be served
 20 on the owner of the land, or where such owner is absent from New South Wales on his agent in New South Wales, or where in such case there is no such agent in New South Wales known to the Minister, on the occupier, or, where the land is vacant, by notification to the owner in the Gazette. Such copy, plan, and notice may be served personally
 25 or by post.

Service of valuation of advisory board.

(4) Such owner shall within one month after the date of the Minister's notification of value as aforesaid, or where the owner at such date is absent from the Commonwealth, within three months after such date, or within such further time as the Minister or a Judge of
 30 the Supreme Court on summary application to him may allow, notify, or cause to be notified in writing, to the Minister the amount which he claims as the value of the land and of the improvements thereon. In the event of any appeal following upon a subsequent resumption, the said amount shall be taken to be the value claimed by the owner.

Notification of owner's valuation.

35 5. (1) The Governor, at any time within the five years or extended period during which the restriction under the last preceding section has effect, may purchase, by agreement with the owner, the land, or any part of the land, subject to such restriction, or may resume it by notice in the Gazette :

Purchase or resumption by Governor.

40 Provided that the land so resumed shall not be of less value than five thousand pounds, without the value of the improvements thereon, unless the owner consents to the resumption, or unless the land consists or forms part of the unsold and unleased residue of an area as to which the Minister and the owner have come to an agreement
 45 in pursuance of this Act that such area should be sold or leased by such owner.

(2)

Closer Settlement (Amendment).

(2) For the purposes of any resumption the value of the land shall be the fair market value of the land and the improvements thereon at the date of the said proclamation : Value to be fair market value

5 Provided that if the owner obtains from the Land Appeal Court a certificate that he has used all available means to sell or lease the land to promote bona fide settlement, the value of the land shall, for the purposes of resumption under this Act, be the fair market value of the land and the improvements thereon at the date of the resumption :

10 Provided that where the owner fails to notify or cause to be notified to the Minister, in pursuance of the last preceding section, the amount which he claims as the value of the land and of the improvements thereon, such fair market value shall be the valuation of the advisory board :

15 Provided also that an additional amount shall be paid to the owner for improvements necessary for the profitable working of the land which have been effected between the date of the proclamation and that of the resumption, and that an amount equal to the extent of the depreciation of the value of the improvements on the land between the said dates may be deducted from the amount to be so paid.

20 (3) Every purchase or resumption under this Act of land of or above the value of two thousand five hundred pounds shall be subject to approval by both Houses of Parliament. Approval by Parliament.

(4) Land so purchased or resumed shall be disposed of or otherwise dealt with under the Principal Act and the Acts amending Disposal of land.

25 the same.

6. Subject to this Act, the provisions of the Principal Act, and of the Closer Settlement (Amendment) Act, 1907, relating to the acquisition of land under those Acts and proceedings in relation thereto, shall so far as applicable apply to similar acquisitions and Application of provisions of Acts of 1904 and 1907.

30 proceedings under the preceding provisions of this Act :

Provided that in so applying section nine of the last-mentioned Act, the fair market value of the land and improvements to be determined by the court may be such value at the date of the proclamation under section four of this Act with the value of improve-

35 ments as hereinbefore in this Act provided :

Provided also that in so applying sections twelve and thirteen of the same Act, the words "ten thousand" shall be read instead of the words "twenty thousand" in section twelve; and the words "five thousand" shall be read instead of the words "ten thousand"

40 in section thirteen.

7. The Governor, by proclamation in the Gazette, may cancel or amend any proclamation under section three or section four of this Act or section four or section five of the Closer Settlement (Amendment) Act, 1907, as to all or any part of the land affected thereby. Cancellation of certain proclamations.

PRIVATE

Closer Settlement (Amendment).

PRIVATE SUBDIVISION FOR CLOSER SETTLEMENT.

8. (1) At any time after the date of a proclamation under section four of this Act or section four or section five of the Closer Settlement (Amendment) Act, 1907, the Minister and the owner may agree that any land, being the whole or part of the land covered by the proclamation, shall be subdivided and sold or leased in such areas and subject to such terms and conditions as may be agreed upon.

(2) In the event of the Minister and owner failing to agree within the time to be prescribed as to the terms and conditions, the Minister shall, within fourteen days thereafter refer the matter to the Land Appeal Court, who shall inquire into and decide the matters in dispute between the parties. The decision of such court shall be final and conclusive, and shall have the same effect as if the Minister had agreed with the owner under the provisions of this section, and such court shall have power if it thinks fit, to award such costs as in its opinion are just to the party finally successful.

(3) Upon notification in the Gazette of such agreement, the provisions of this Act shall apply to any disposal of such land, and the Minister may further notify that in consideration of the said agreement the power of resumption shall be suspended as to the whole or part of such land for a period to be determined by the Minister.

9. A sale or lease of land made under such agreement, and any subsequent sale, mortgage, transfer, or lease of such land, or any part thereof, made within five years after such first mentioned sale or lease, shall, within a time to be prescribed, or within such further time as the Minister may allow, be submitted to the Minister by one of the parties to the same, and if not so submitted within that time shall be void.

10. Every lease made under such agreement shall contain such provisions giving the lessee an option to purchase, or tenant-right in improvements and such other provisions and conditions as may be agreed upon by the Minister and owner as aforesaid or as may be prescribed by the said Land Appeal Court. The period within which an option to purchase may be exercised shall not exceed ten years.

11. (1) On any sale, lease, mortgage, or transfer being submitted, the Minister may disallow the same if, after reference to the local land board, made within one month after such submission, such board recommends such disallowance on the ground—

(a) that the person to whom the land has been sold, leased, or transferred as aforesaid, already holds land (other than town or suburban land or land held under annual tenure) the value of which when added to the value of the land so sold, leased, or transferred to him exceeds the sum of three thousand five hundred pounds exclusive of the value of any improvements thereon; or

(b)

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- (b) that the sale, lease, or transfer was not made in good faith and to a person intending to hold and use the land for his own exclusive benefit ; or
- 5 (c) that the person selling, transferring, or leasing such land has not carried out the terms and conditions agreed to or prescribed as aforesaid ; or
- (d) that the mortgage was not made in good faith.
- (2) The fact that such sale, lease, or transfer was made to a son or daughter of the owner shall not be evidence that it was not
10 made in good faith.
- (3) If the Minister disallows any such sale, mortgage, transfer, or lease the same shall be void, and the Minister shall cause the vendor, mortgagor, transferrer or lessor to be notified of the disallowance within twenty-one days after the recommendation of the
15 said board has been received.
- Effect of
disallowance.

AMENDMENT OF CLOSER SETTLEMENT ACT, 1904.

Applications.

12. Section twenty-six of the Principal Act is repealed and the following is substituted :—
- 20 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 under any tenure other than annual tenure of any land except—
- 25 (a) land which, when added to the area applied for will not, in the opinion of the local land board, substantially exceed a home maintenance area ; or
- (b) land held as a tenant from a private holder without a right of purchase, and having a term of less than five years to run may apply for a settlement purchase under this Act, subject to the
30 following provisions :—
- (c) If any person divests himself of any land for the purpose of so applying for a settlement purchase his application shall be disallowed unless he has obtained before or after such divesting the Minister's consent in writing to such application being made.
- 35 (d) The person applying, 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 : Provided that with the Minister's consent a married woman not living apart from her husband
40 may apply for a settlement purchase in which case the lands held by her husband shall be considered in estimating whether the

Closer Settlement (Amendment).

the area as held together with that applied for exceeds the limitation of subsection (a) hereof and in considering any application by a married man not so living apart the total area held by husband and wife shall be similarly considered.

5 Provided that, in the case of conflicting applications and subject to any preference granted by or under this Act, or the Closer Settlement (Amendment) Act, 1906, the land board shall take into consideration all lands held by the applicants, and may give preference to the applicant who is substantially most in need of land,
10 if he is otherwise eligible, and is likely to satisfactorily work and develop the land applied for.

13. Section twenty-seven of the Closer Settlement Act, 1904, Section 27 of Act of 1904. is amended by omitting the word "registered."

14. Section twenty-eight of the same Act is amended— Section 28 of Act of 1904.

15 (a) by inserting after "simultaneously" the words "on the Monday aforesaid, or, if that day is a public holiday, on the first business day thereafter."

(b) by inserting after "merits of each" the words "whether conflicting or not."

20 (c) by inserting after "by such board" the words "No error, uncertainty, omission, or misdescription in any application for a settlement purchase, or in any declaration prescribed and made in connection with any such application, shall invalidate the application in any case where the board is
25 satisfied that such error, omission, uncertainty, or misdescription was not wilful, or made with intent to deceive; and the board shall have full power to authorise the correction of any error or omission in any application or declaration, so as to bring the same into conformity with the statutory
30 requirements. Where any prescribed declaration has not been lodged, the board may permit such omission, if not wilful, to be supplied. The provisions of this section shall extend to applications and declarations made before but not finally disposed of at the commencement of this Act."

35 *Postponement of payment of instalments.*

15. Section twenty-nine of the same act is amended—

Section 29 of same Act.

(a) by omitting the word "thereon" in paragraph (a) and inserting in lieu thereof the words "on the amount owing from time to time" and

40 (b) by adding at the end thereof the following subsections:—

(2) Provided that with respect to a settlement purchase made after the nineteenth day of December, one thousand nine hundred and seven, the payment of the instalment due at the end of the first
Postponement of payment of instalments in certain cases.
year

Closer Settlement (Amendment).

year from the date of application for the purchase may be postponed by the Minister on application being made to him. Payment of any other instalment may also be so postponed on the purchaser satisfying the Minister of his inability to pay it.

5 With respect to a settlement purchase made before the said day, the payment of any instalment may be postponed as aforesaid, on the purchaser satisfying the Minister of his inability to pay it: Provided that not more than two such payments shall be postponed under this section in respect of a settlement purchase, whether made
10 before or after the nineteenth day of December, one thousand nine hundred and seven.

In either such case the postponement of any such payment shall, unless the Minister otherwise determines, be on condition that improvements to the value of the amount of any instalment the
15 payment of which has been postponed shall be made on the land within twelve months after the date of the postponement. Such postponement shall also be subject to such other conditions as the Minister may impose. The improvements aforesaid shall be in addition to those required by the Principal Act or any Act amending the same.

20 Where any such postponement has been granted interest shall be charged each year at the rate of four per centum per annum on the amount (including unpaid interest) owing at the end of the preceding year; and the balance of purchase money and interest owing at the end of the thirty-seventh year after the application for the purchase
25 shall, together with interest thereon, be paid as follows:—

- (a) Where payment of one instalment has been postponed, by one payment at the end of the thirty-eighth year after the application for the purchase;
- (b) Where the payment of two instalments has been postponed,
30 by two equal payments at the end of the thirty-eighth and thirty-ninth years after the application for the purchase.

But the postponement of the payment of any instalment shall cease upon the non-fulfilment of any condition attached to such postponement.

35 (3) Any holder of a settlement purchase may, at any time prescribed for the payment of any instalment in respect of his purchase, pay, in addition to the amount of the instalment, the whole or any part of any other instalment not then due; whereupon interest on the amount of such payment shall cease to be charged.

40 *Restrictions on purchase or transfer.*

16. Section thirty of the same Act is amended by adding the following at the end of the section:—

Section 30 of Act of 1904.

(3) If the said person does not become so qualified within such period or further period, the Minister may invite applications
from

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from qualified persons who desire to acquire the settlement purchase, and may approve of any one of such applications, and may, on behalf of the person on whom the settlement purchase has devolved as aforesaid, sell such settlement purchase to any person so qualified
 5 at a price and upon conditions to be determined by the Minister. The person upon whom the settlement purchase has devolved shall, upon payment to him of the purchase money, transfer the settlement purchase to the person whose application has been approved; failing such transfer the settlement purchase shall be forfeited.

- 10 17. Section thirty-one of the same Act is amended by omitting Amendment of s. 31.
 the words "before grant."

AMENDMENT OF CLOSER SETTLEMENT (AMENDMENT) ACT, 1906.

18. Section three of the Closer Settlement (Amendment) Act, Section 3 of Act of
 1906, is amended—

- 15 (a) by inserting the following subsection next after subsection
 one:—

(1A) The Minister may allow—

- (a) any person who is not a lessee as aforesaid, but who holds
 any part of such land on terms of sharing profits with his
 20 landlord (hereinafter referred to as a share-farmer); or

- (b) any person employed on such land, and who has established
 his home and resided on any part thereof for at least two
 years,

25 to remain in occupation of such part of such land for such
 period and upon such terms as he thinks fit.

- (b) in subsection two by inserting after "tenancy" the words
 "or occupation"; by inserting after "tenant" the words
 "share-farmer or employee"; and by adding, at the end of
 the subsection, the words "if he is otherwise qualified and
 30 likely to satisfactorily work and develop the land."

19. Section five of the same Act is repealed.

20. Section seven of the same Act is amended by inserting
 after "revoke" the words "alter or modify."

Repeal of s. 5 of Act
 of 1906.
 Section 7 of same
 Act.

AMENDMENT OF CLOSER SETTLEMENT (AMENDMENT) ACT, 1907.

- 35 21. Section three of the Closer Settlement (Amendment) Act, Section 3 of Act of
 1907, is amended by omitting the words in paragraph (a) within 1907.
 brackets, "not being, in the opinion of the board, of a value less than
 ten thousand pounds, exclusive of the value of the improvements
 thereon."

Closer Settlement (Amendment).

22. Subsection one of section five of the same Act is amended— Section 5 (1) of Act of 1907.

- (a) by omitting the words “by proclamation in the Gazette”;
 (b) by inserting after “notify” the words “in the Gazette a list of estates situated, wholly or partly, within fifteen miles on either side of the line of the proposed railway, whereupon no disposition by the owner of any such estate shall operate to defeat the power of the Governor to resume such estate or any part thereof under this Act. Such proclamation shall cease to have effect after the expiration of six months from its date, except as to any land included in a proclamation made as hereinafter in this section mentioned.

Provided that a proclamation under this paragraph may at any time be rescinded or altered in whole or in part by the Minister by notice in the Gazette.

While such restriction is in force the Governor may, by proclamation in the Gazette, notify”

23. Section nine of the Closer Settlement (Amendment) Act, Section 9 of same Act. 1907, is amended by adding the following paragraphs:—

The owner or mortgagee shall set out in such notice of appeal the amount which he claims as the value of the land and of the improvements thereon.

Where such owner or mortgagee fails to set out the amount he claims as aforesaid, the valuation of the advisory board shall be deemed to be the fair market value of the land and of the improvements thereon.

AMENDMENT OF ACTS OF 1904 AND 1906.

24. (1) Land acquired under the Principal Act or any Act amending the same, together with any adjacent Crown lands, may be set apart by the Minister as a settlement purchase area by notification in the Gazette, and he may at any time in the like manner modify, alter, or revoke such setting apart. Setting apart for closer settlement.

(2) Before disposal of any land under the said Acts a plan of subdivision showing the areas and value per acre of the proposed settlement purchases shall be approved by the Minister and shall be the design plan of the land. Approval of subdivision and price.

(3) The Minister may, at any time and in any respect, alter any design plan, whether made before or after the commencement of this Act and whether the land affected has or has not been disposed of: Provided that, if the land has been disposed of, the consent of the owner shall be obtained. Alteration of design plan.

After measurement of the areas according to the design thereof, the plans may be approved by the Minister or any officer duly authorised in that behalf.

(4) Land acquired under the Principal Act or any Act amending the same and such adjacent Crown lands as may at any time have Disposal of land.

Closer Settlement (Amendment).

have been set apart as aforesaid shall be dealt with and disposed of under the provisions of the said Acts, and in no other way, any provisions of the Crown Lands Acts to the contrary notwithstanding.

(5) Every such settlement purchase area shall be notified ^{Notification of land for disposal.} for disposal under the design plan, and may be notified in three classes, namely :—

- (a) Agricultural land.
- (b) Grazing land.
- (c) Agricultural and grazing land.

10 Such notification shall describe the land and declare it to be available for application, and shall set out inter alia the class of land, the conditions and restrictions which shall attach thereto, the capital value and area of each farm which may comprise two separated portions.

15 (6) Any land within an area acquired for closer settlement which for any reason is unsuitable for disposal under the provisions of this Act or of any Act amending the same may be disposed of by sale or lease, by auction or tender, upon such terms and conditions as may be determined by the Minister. ^{Land unsuitable for disposal under Acts.}

20 Any movable improvements on an area acquired for closer settlement may be disposed of in a similar manner separately from the land.

(7) Sections twenty-five and thirty-seven of the Closer Settlement Act, 1904, and section four of the Closer Settlement (Amendment) Act, 1906, are repealed. ^{Repeal.}

25 **25.** (1) The holder of a settlement purchase may, with the consent of the Minister sell any part of the land included in such purchase as a site for a church, school of arts, or cemetery, or for any purpose approved by the Minister. ^{Settlement purchase sold as a site for church, school of arts, or cemetery.}

(2) On such sale—

- 30 (a) the land so sold shall cease to form part of the settlement purchase, and the provisions of any Act so far as they relate to settlement purchases shall cease to apply to it; and
- (b) the balance of purchase money for such land shall forthwith be payable to the Crown, and on payment of such balance
- 35 a Crown grant of such land may be issued.

GENERAL AND SUPPLEMENTAL.

26. (1) The following provisions shall apply to the costs of all proceedings by way of appeal for determining the value of land resumed before or after the commencement of this Act, under the Principal Act, or any Act amending the same or this Act :— ^{Costs of proceedings on appeals as to value.}

- 40 (a) Where the value determined by the court hearing the appeal is equal to or less than the amount at which the Governor has offered to purchase the land, or where no such offer has been made, the amount of the valuation of the advisory board, the owner shall pay the costs of the appeal.
- 45 (b)

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- (b) Where the value so determined is equal to or greater than the amount which the owner claims as the value of the land the Crown shall pay such costs.
- 5 (c) Where the value so determined is greater than the amount of the offer or valuation referred to in paragraph (a), but is less than the amount of the claim of the owner aforesaid, the Crown shall pay to the owner as costs the amount to be fixed by multiplying the owner's taxed costs by a fraction of which the numerator is the amount by which the value determined by the court exceeds the offer or valuation aforesaid, and the denominator is the difference between the amount of the claim of the owner and the amount of the said offer or valuation.
- 10 (2) Subsection two of section twenty-two of the Principal Act is repealed.
- 15 (3) Provided that this section shall not apply to proceedings in any such appeal which has been commenced before the seventh day of October, one thousand nine hundred and nine.
- 20 27. With the consent of the owner of any land resumed under the Principal Act or the Closer Settlement (Amendment) Act, 1907, or this Act, the Governor may, at any time, cancel such resumption as to the whole or part of the said land. Governor may cancel resumption.
- For that purpose the Governor may revoke any proclamation or notification made by him or by the Minister under any such Act.
- 25 28. The Governor may make regulations for the purpose of carrying this Act into effect and prescribing any procedure for that purpose; and in particular prescribing the form in which any application shall be submitted to the Minister for his approval and the particulars to be therein contained; and requiring and prescribing
- 30 the verification of such particulars. Regulations.