



ANNO QUADRAGESIMO QUINTO ET QUADRAGESIMO
SEXTO

VICTORIÆ REGINÆ.

A.D. 1882.

No. 275.

An Act to amend the "Crown Lands Consolidation Act,"
"The Crown Lands Act, 1878," and "The
Crown Lands Amendment Act, 1880," and for
other purposes.

[Assented to, November 17th, 1882.]

WHEREAS it is desirable to afford certain selectors relief, and Preamble.
to amend the "Crown Lands Consolidation Act," "The
Crown Lands Act, 1878," and "The Crown Lands Amendment Act,
1880"—Be it therefore Enacted by the Governor of the Province
of South Australia, with the advice and consent of the Legislative
Council and House of Assembly of the said province, in this present
Parliament assembled, as follows:

1. This Act may be cited for all purposes as "The Crown Short title.
Lands Amendment Act, 1882."

2. Any person holding land under agreement on July the first, Existing agreements
may be surrendered.
one thousand eight hundred and eighty-one, may, on or before the first
day of December, one thousand eight hundred and eighty-three, with
the consent of the Commissioner, and subject to the regulations for
the time being in force under this Act, surrender the agreement under
which such person holds such land, by indorsing thereon a notice in
the form of Schedule A hereto. Should such person desire the land
to be offered for sale under section 7 hereof, he shall indorse on such
agreement a notice in form of Schedule B hereto.

3. The Commissioner shall, within fourteen days after the receipt Commissioner to give
notice in Government
Gazette.
of such surrendered agreement, give notice of such surrender in the
Government Gazette, and after the expiration of one month from the
publication

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publication of the said notice the agreement so surrendered shall become cancelled.

Surrendered lands to become Crown lands.

4. All lands included in any agreement so surrendered shall, subject to this Act, be deemed to have reverted to the Crown, and to have again become Crown lands: Provided that nothing herein contained shall prejudice the power of the Commissioner to allow the land comprised in any surrendered agreement to be offered for sale for the benefit of creditors under section 39 of the "Crown Lands Consolidation Act," in the same manner as if such agreement had not been surrendered, and provided that the application for such sale be made within one calendar month from the publication of notice in the *Government Gazette* provided for by section 3.

Person surrendering agreement may hold other land.

5. Every person whose agreement has become cancelled under the last section shall be entitled to again become the holder of land under agreement, in the same manner as if he had never held the land comprised in such surrendered agreement.

Allowances in respect of surrendered lands.

6. Every person so surrendering any agreement shall, in the event of his becoming the holder of other land direct from the Crown under agreement within one year of such surrender, be credited with any amount paid on account of purchase-money under such surrendered agreement as against the deposit and purchase-money payable under such new agreement; and all improvements made in pursuance of any agreement so surrendered shall, should such person so require, be valued by or under the direction of the Commissioner, and the amount of such valuation shall be allowed against the improvements required to be made upon the land held under such new agreement.

Surrendered agreements may be offered for sale by public auction.

7. Any person so surrendering any agreement may, if he think fit, at the time of such surrender, by notice in writing in form in Schedule B hereto, require the Commissioner to offer the land held thereunder for sale by public auction; and such land shall thereupon be offered for sale at public auction accordingly from time to time, until sold at such upset price, not being less than One Pound an acre, nor less in the case of the first auction than half the amount originally agreed to be paid, as the Commissioner shall in each case determine. The purchaser at such sale shall pay the purchase-money payable by him for the said land, both as to deposit and the balance thereof, at the same time and in the same proportions, and shall hold the said land upon the same terms and conditions in all respects as if at the date of the said sale he had become the purchaser of land sold on credit under the law in force for the time being regulating such sales. Before such sale the Commissioner shall cause the improvements on the said land to be valued in such manner as he shall think fit. The purchaser shall, immediately after such sale, pay in cash to the Commissioner, as purchase-money for the said improvements, three-fourths of the amount of the said valuation. The person so surrendering the said agreement

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ment shall be entitled to bid at the said sale, and in the event of his becoming the purchaser shall be credited with any sum previously paid by him on account of purchase-money, and shall not be required to pay any sum in respect of the improvements. In the event of any other person becoming the purchaser of the said land and improvements, the person surrendering shall be entitled to receive from the Commissioner, in respect of the said improvements, any sum which the Commissioner shall have received from the purchaser in respect of the same, and shall be credited with the other one-fourth of the value of improvements in the event of his exercising his right to select again within one year from date of surrender.

8. All fallow land not exceeding one-fifth of the land in surrendered selections under this Act shall be valued and allowed for as improvements.

Fallow lands,
improvements.

9. Every person holding land under agreement having complied with the terms of his agreement to the satisfaction of the Commissioner, may apply to the Commissioner for a remission of interest, and the Commissioner shall, upon proof to his satisfaction that the land cultivated by such person and reaped for cereals only for the last three successive seasons prior to the coming into operation of this Act has yielded less than an average crop of six bushels per acre yearly, credit such person with one year's interest payable in respect of the land under agreement held by him. If satisfied that such land has, during such period, yielded less than an average crop of five bushels per acre yearly, the Commissioner shall credit such person with two years' interest payable in respect of such land; and if satisfied that such land has, during such period, yielded less than an average crop of four bushels per acre yearly, he shall credit the person holding such land under agreement with three years' interest payable in respect of such land.

Remission of interest
to certain selectors.

10. Sections 3 and 4 of "The Crown Lands Amendment Act, 1880," shall not apply to the sale of any land sold upon credit after the coming into operation of this Act under the condition of personal residence.

Sections 3 and 4 of
"The Crown Lands
Amendment Act,
1880," not to apply
to future sales under
condition of personal
residence.

11. The purchaser of any such land shall be credited with the deposit of Ten Pounds per centum paid by him at the time of sale as a payment by him on account of his purchase-money, and shall, at the date of three years from the date of such purchase, pay a further sum of Ten Pounds per centum, and also at the expiration of every year thereafter, until the whole of his purchase-money shall be paid, pay to the Treasurer of the said province an amount equal to Five Pounds per centum of the purchase-money of the lands mentioned in his agreement, each of which payments shall be credited as a payment on account of his purchase-money.

Purchase-money, how
payable in future.

12. Every such purchaser who shall have *bonâ fide* resided upon and cultivated the land purchased by him as aforesaid, and shall

Purchase may be
completed at end of
tenth year.

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shall have made improvements thereon to the value of Ten Shillings per acre, and otherwise fulfilled the requirements of his agreement and of the "Crown Lands Consolidation Act" and of this Act, shall be at liberty to pay the balance remaining unpaid of his purchase-money at the end of the first ten years from the date, or at any time thereafter during the currency, of his agreement, and shall thereupon be entitled to a grant of the land in fee simple.

Interest to be paid on instalments of purchase-money in arrear.

13. Every such person who shall fail to pay any instalment on account of his purchase-money, either wholly or in part, within thirty days from any of the times hereinbefore appointed for the payment thereof, shall pay to the Treasurer interest upon the whole amount of such instalment, payable at the rate of Five Pounds per centum per annum; and on nonpayment of such instalment and interest, or either of them, for the period of two years. it shall be lawful for the Commissioner, by notice in the *Government Gazette*, to declare the agreement held by such purchaser to be forfeited, and thereupon such agreement shall become void, and the land therein mentioned shall revert to the Crown and again become Crown lands: Provided that nothing herein contained shall be held to affect the powers of the Commissioner under section 37 of the "Crown Lands Consolidation Act."

Form of agreement.

14. Every agreement for lands purchased under the condition of personal residence after the coming into operation of this Act shall be in the form of the Schedule hereto marked C, or to the like effect; and the "Crown Lands Consolidation Act" shall, as regards such lands, be read and construed as if the agreement therein referred to included the agreement mentioned in such Schedule.

Licences to search for minerals

15. The Commissioner may, on payment of a fee of Twenty Shillings, grant a licence to any person to search for and remove metals and minerals, except gold, from any Crown lands, for samples and analysis only, not exceeding one ton. Every such licence shall be in force for the period of twelve months from the date thereof, and shall, subject to any regulations made under the authority of this Act, authorise the person therein named, and his assigns, licencees, servants, and workmen, during the currency of such licence, to search, mine, and work for and remove from any portion of the Crown lands, not exceeding at any one time eighty acres in extent, any metals and minerals, except gold; and the holder of such licence shall have a preferential right during the currency of his licence to a lease of the land claimed by him under such licence, under Part V. of the "Crown Lands Consolidation Act."

Regulations as to licences.

16. The Governor may from time to time make, alter, repeal, and vary such regulations as may appear to him expedient for regulating the form of any licence and the mode of the issue thereof, the mode of application for the same, and the conditions on which the same shall

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shall be issued, held, and forfeited, and generally for carrying into effect the provisions of this Act relating to licences.

17. Whereas doubts have arisen as to the construction of section 33 of "The Waste Lands Alienation Act, 1872," and the 40th section of the "Crown Lands Consolidation Act," and it is expedient to declare the true intent and meaning of those sections: Now, therefore, it is declared that the true interpretation of the said two first mentioned sections is—

Declaration as to meaning of section 33 of "The Waste Lands Alienation Act, 1872," and section 40 of the "Crown Lands Consolidation Act."

- I. That the violation or evasion of the provisions of the 33rd section of "The Waste Lands Alienation Act, 1872," or of any of them, is a fraud under that Act:
- II. And that the violation or evasion of the provisions of the 40th section of the "Crown Lands Consolidation Act," or of any of them, is a fraud under that Act.

18. The 16th section of "The Crown Lands Act, 1878," shall be construed as if in the last line thereof the words "this Act" were struck out, and the words the "Crown Lands Consolidation Act" were inserted instead thereof: And the Ninth Schedule of the said "Crown Lands Consolidation Act" shall be amended by striking out all the words from "And further take notice, that if you furnish no such evidence" to the word "*Gazette*," and substituting therefor the following: "And further take notice, that if you furnish no such evidence, or if the evidence furnished by you fails to prove to my satisfaction that you have not (been guilty of such act) [*or* (been guilty of the above-mentioned fraud under this Act), *or* (violated or failed to perform the above-mentioned conditions of your agreement)] it will be lawful for me, the said Commissioner of Crown Lands, to revoke the said agreement, and resume the lands therein described after the expiration of one month from the publication thereof in the said *Gazette*."

Alteration of section 16 of Crown Lands Act, 1878, and Ninth Schedule of the "Crown Lands Consolidation Act."

19. Notwithstanding anything contained in the "Crown Lands Consolidation Act," or any Act heretofore incorporated therewith, the Commissioner may, in writing, wholly or partially remit the provision for cultivation contained in any agreement heretofore made or executed in any case where it shall be proved to his satisfaction that any land held under agreement is unsuitable for cultivation, and may also, in writing, whenever he shall consider it necessary, remit the condition or covenant for personal residence contained in any agreement for any period not exceeding six months at any one time; and shall cause a return of all such remissions, with the reasons therefor, to be annually laid before Parliament, within one month after the opening of Parliament for the dispatch of business.

Commissioner may, in certain cases, remit cultivation and residence conditions.

20. Notwithstanding anything contained in the "Crown Lands Consolidation Act," or any Act incorporated therewith, all country lands may, after they shall have been offered for sale at auction, and not sold, and shall have remained unsold for a period of two years,

Leases of land unselected for two years may be granted without being previously offered for sale.

be

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be leased in manner and on the terms specified in section 58 of the "Crown Lands Consolidation Act," without such lands being first offered for sale by public auction for cash, and without the proclamation in the *Government Gazette*, or a list of such lands being laid before Parliament provided for in section 58 of the "Crown Lands Consolidation Act."

Amendment of section 34 of "Crown Lands Consolidation Act."

21. Section 34 of the "Crown Lands Consolidation Act" shall, from and after the coming into operation of this Act, be read and construed as if there were inserted therein, instead of the words "five years," in the last line but one thereof, the words, "three years."

Governor may, before grant, revoke Proclamation dedicating lands.

22. It shall be lawful for the Governor, by Proclamation in the *Government Gazette*, to revoke any Proclamation, wholly or in part, whereby any Crown lands have been or may be dedicated under section 5 of the "Crown Lands Consolidation Act" to public purposes under the control of the Government, and to dedicate such lands to any other public purpose not being intended for ecclesiastical purposes, provided such land shall not at the time of such Proclamation have been granted in fee.

Governor may make regulations.

23. The Governor may, from time to time, make such regulations as he may think fit for further regulating the mode and conditions in and on which agreements under this Act may be surrendered, and generally for carrying out the purposes of this Act.

Mining under public roads, &c.

24. All lands under the surface of any street, road, highway, or reserve dedicated to or reserved for any public purpose, shall, for the purposes of mining, be deemed to be "Crown lands" within the meaning of the "Crown Lands Consolidation Act," and may be dealt with accordingly, subject, however, to such special terms and conditions as the Governor may, by regulation, from time to time impose.

Power to remove minerals.

25. The holder of any licence under clause 89 of the Crown Lands Consolidation Act, or clause 15 of the present Act, may obtain permission from the Commissioner of Crown Lands to remove any minerals or metals exceeding one ton, but not exceeding twenty tons.

Incorporation.

26. Except where inconsistent with this Act, the "Crown Lands Consolidation Act," and all Acts incorporated therewith, shall be read and construed herewith as forming one Act.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

WM. F. DRUMMOND JERVOIS, Governor.

SCHEDULES

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SCHEDULES REFERRED TO.

SCHEDULE A.

To the Commissioner of Crown Lands.

I, [*name, address, and occupation, as in agreement*] hereby surrender the within agreement.Dated the _____ day of _____ 18 ____ .
Witness— _____ Signature.

SCHEDULE B.

To the Commissioner of Crown Lands.

I, [*name, address, and occupation, as in agreement*] hereby surrender the within agreement, and require you to offer the land comprised therein for sale by public auction.

Witness— _____ Signature.

SCHEDULE C.

Form of Agreement for Sale and Purchase on Credit under Personal Residence Condition.

Memorandum of Agreement made the _____ day of _____ 18 ____, between the Commissioner of Crown Lands and Immigration of the Province of South Australia (hereinafter called the vendor), of the one part, and _____ of _____ (hereinafter called the purchaser) of the other part, whereby it is agreed between the parties hereto that the vendor shall sell, and the purchaser shall purchase, all that piece of land being section No. _____, situate in the Hundred of _____, County of _____, and containing _____ acres or thereabouts, in fee simple, at the price of _____, to be paid in manner hereinafter provided. It is also agreed by the said parties as follows, that is to say—

1. The purchaser shall and will take possession of the said land within three months from the date hereof, and shall and will during the first year of the currency of this agreement reside on the said land for three months at the least. After the first year the purchaser shall continue to reside on the said land during nine months out of every twelve months thereafter, until the payment of the last instalment of the purchase-money.

2. The purchaser shall and will make substantial improvements upon the said land before the end of the second year, to the extent of Five Shillings per acre; before the end of the third year, to the extent of Seven Shillings and Sixpence per acre; and before the end of the fourth year, to the extent of Ten Shillings per acre; such improvements to consist of all or any of the following, that is to say—erecting a dwelling-house or farm buildings, sinking wells, constructing water tanks or reservoirs, putting up fencing, draining and clearing and grubbing the said land.

3. No fence shall be deemed to be a fence within the meaning of this agreement unless the same shall be a wire fence, or constructed of posts and rails, or wires, or of stone, or other substantial material, and ordinarily capable of resisting the trespass of great cattle.

4. Any person authorised by the vendor may, at all reasonable times, enter upon the said land, to view the same, and any improvements made thereon.

5. The purchaser shall and will, during the first year, plough and have under cultivation at least one-tenth of such land, and during each and every subsequent year, until the whole of the purchase-money has been paid, plough and have under cultivation at least one-fifth of such land: Provided that on lands sold as drained lands the Governor in Council may at any time define, by Proclamation in the *Government Gazette*, that the cultivation of not less than two-fifths of such land with grasses not indigenous shall be allowed as such cultivation on such drained lands, such cultivation to be done in a husbandlike manner, and subject to the approval of the Commissioner. But if the purchaser shall be desirous of engaging in the cultivation of osiers, olives, mulberries, vines, apples, pears, oranges, figs, almonds, potatoes, onions, beetroot, mangold-wurtzel, hops, apricots, peaches, walnuts, sweet chesnuts, filberts, or cobnuts, or such other plants as the Governor in Council may at any time define by Proclamation in the *Government Gazette*, the planting and cultivating in a husbandlike manner of one acre of land with any of the above trees or plants shall, for all purposes of this agreement, be deemed to be equivalent to the cultivation of six acres of

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of such land as hereinbefore defined: Provided that such cultivation be *bonâ fide* continued and kept up to the satisfaction of the Commissioner until full payment of the purchase-money, but not otherwise.

6. The purchaser shall and will send into the vendor true returns, as provided by the Crown Lands Consolidation Act.

7. All improvements, ploughing, and cultivation made by the purchaser shall be subject to the valuation or inspection, as the case may be, of such officer as the vendor may appoint for that purpose, whose valuation shall be conclusive and binding on the parties hereto.

8. The vendor acknowledges to have received from the purchaser the sum of £ , being Ten Pounds per centum of the purchase-money. The purchaser shall and will pay the balance of the purchase-money by eighteen equal yearly instalments of £ (a), on the day of in every year, the first of which shall become due on the day of 18 (b). Should any instalment of purchase-money remain unpaid, in whole or in part, for the space of thirty days after the same shall have become due, the purchaser shall pay interest upon the whole amount of such instalment, computed at the rate of Five Pounds per centum per annum. On non-payment of such instalment and interest, or either of them, for the period of two years, it shall be lawful for the vendor, by notice in the *Government Gazette*, to declare the agreement held by the purchaser to be forfeited.

9. The purchaser may, at any time during the first ten years from the date of this agreement, pay in advance, in sums of not less than Fifty Pounds at any one time, any portion of the purchase-money, not exceeding, with all other payments on account of purchase-money during such ten years, £ (c); and may, at the expiration of such ten years, or at any time thereafter, pay off the whole or any part (not being less than Fifty Pounds at any one time) of the balance of purchase-money remaining unpaid. Upon every payment in advance of part of the purchase-money a proportionate reduction shall be made in the amount of future instalments payable under this agreement, but the purchaser shall not in any case be entitled to a grant of the land purchased until the expiration of ten years from the date of this agreement.

10. The purchaser shall and will not at any time, until he has paid the whole of his purchase-money, assign, transfer, or make over the said lands, or his rights under this agreement unless and until he has obtained the consent of the vendor for that purpose. The vendor will not consent to any transfer unless he is satisfied that all the conditions of the agreement have been complied with, and that the land included in this agreement was taken up *bonâ fide* for the use and benefit of the purchaser and not with the intention of evading the conditions of this agreement, and that the purchaser is unable to occupy such land from illness, physical incapacity, or necessary absence from the province, or unless it be satisfactorily shown that continued occupation would inflict a personal hardship upon, or be the occasion of great loss to, the purchaser [*if the purchaser be a woman, or unless the purchaser shall marry*]; and it is discretionary with the vendor in all cases to grant or withhold his consent.

11. This agreement is made subject to the provisions of the "Crown Lands Consolidation Act," and of any regulations made or to be made thereunder, and any such regulations which may hereafter be made shall be equally binding and obligatory on the parties hereto as if this agreement had been made subject thereto.

12. Upon breach of any of the foregoing conditions, or upon the publication of a notice in the *Gazette* that the Commissioner has revoked this agreement, or if the purchaser shall do any act declared by the "Crown Lands Consolidation Act" to be a fraud thereunder, or shall make default in payment of any of the several sums, or any part thereof, payable under this agreement for the space of two years after the same shall be payable, then, in either of such cases, the purchaser shall forfeit all moneys paid and all benefit under this agreement, and shall deliver up to the vendor, or whomsoever he may appoint, the said lands and all improvements thereon; and this agreement shall become void, and the purchaser may be dealt with under the "Crown Lands Consolidation Act" as a person in unauthorised occupation of such lands.

In witness, &c.,

(Signatures)

, Vendor (L.S.).

, Purchaser (L.S.).

(a) Five per cent. on the amount of purchase-money.

(b) In the year but one after the date of agreement.

(c) Nine-tenths of the purchase-money.