CROWN LANDS ACT, 1929-1936.

BEING

CROWN LANDS ACT, 1929, No. 1923 OF 1929 [ASSENTED TO 4TH DECEMBER, 1929.]

AS AMENDED BY

CROWN LANDS (ADMINISTRATION) ACT, 1930, No. 1990 OF 1930 [ASSENTED TO 20TH NOVEMBER, 1930.]

CROWN LANDS AMENDMENT ACT, 1931, No. 2060 OF 1931 [ASSENTED TO 9TH DECEMBER, 1931.]

CROWN LANDS ACT AMENDMENT ACT, 1933, No. 2120 OF 1933 [ASSENTED TO 2ND NOVEMBER, 1933.]

STATUTE LAW REVISION ACT, 1935, No. 2246 OF 1935 [ASSENTED TO 19TH DECEMBER, 1935.]

CROWN LANDS ACT AMENDMENT ACT, 1935, No. 2256 OF 1935 [ASSENTED TO 21ST DECEMBER, 1935.]

STATUTE LAW REVISION ACT, 1936, No. 2293 OF 1936 [ASSENTED TO 8TH OCTOBER, 1936.]

AND

CROWN LANDS ACT AMENDMENT ACT, 1936, No. 2299 OF 1936 [ASSENTED TO 5TH NOVEMBER, 1936.]

An Act to consolidate certain Acts relating to Crown lands.

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

PART I.

PART I.

PRELIMINARY.

1. This Act may be cited as the "Crown Lands Act, 1929-1936."

Short title. Cf. U.K. 16 & 17 Geo. 5 c. 23.

2. The provisions of this Act are arranged as follows:—

Arrangement of Act. Amended by S.L.R. Act, 1935.

PART I.—Preliminary (Sections 1-4).

PART II.—Powers of the Governor (Sections 5-8A).

PART III.—Powers of the Commissioner (Section 9).

PART IV.—The Land Board (Sections 10-21)—
DIVISION I.—Constitution:
DIVISION II.—Powers in addition to all other powers.

PART V.—Perpetual Leases and Agreements (Sections 22-46)—
DIVISION I.—The Offering of Crown Lands:
DIVISION II.—Classification of Lands, and Applications:
DIVISION III.—Perpetual Leases:
DIVISION IV.—Agreements (under this Part).

PART VI.—Provisions applicable to Perpetual Leases and Agreements (Sections 47-66).

PART VII.—Leases other than Perpetual (Sections 67-81)—
DIVISION I.—Leases with Right of Purchase Granted under Repealed Acts:
DIVISION II.—Miscellaneous:
DIVISION III.—Various.

PART VIII.—The Lyrup Village Settlement (Sections 82-116)—
DIVISION I.—Interpretation and Application:
DIVISION II.—Constitution of the Lyrup Village Association:
DIVISION III.—Valuations:
DIVISION IV.—Leases:
DIVISION V.—Irrigation Works:
DIVISION VI.—Management of the Association.

PART IX.—Homestead Blocks (Sections 117-143)—
DIVISION I.—Acquirement and Re-offering of Lands:
DIVISION II.—Leases and Agreements:
DIVISION III.—Protected Homestead Blocks:
DIVISION IV.—Special Provisions:
DIVISION V.—Agreement or Lease on Surrender:
DIVISION VI.—Loans to Blockholders.

Amended by S.L.R. Act, 1935.

PART X.—Closer Settlement (Sections 144-204A)—
DIVISION I.—Power to Acquire Lands:
DIVISION II.—Compulsory Acquisition of Lands:
DIVISION III.—Purchase of Land by Arrangement:
DIVISION IV.—How Acquired Lands to be Dealt with:
DIVISION V.—Agreements for Sale and Purchase:
DIVISION VI.—The Collection and Recovery of Rents:

Amended by 2060, 1931, s. 2.

DIVISION VII.—Special Provisions with Regard to Closer Settlement Lands.

Amended by S.L.R. Act, 1935.

PART XI.—Surrenders (Sections 204B-224).

PART XII.—Transfers (Sections 225-227).

PART XIII.—Sales of Lands—Exchange of Lands—Granting of Sites for Buildings (Sections 228-243)—

DIVISION I.—Sales of Lands:
DIVISION II.—Exchange of Lands:
DIVISION III.—Granting of Sites for Buildings.

PART XIV.—Licences (Sections 244-246).

PART XV.—Special Provisions as to Lands Outside Goyder's Line of Rainfall (Sections 247-248).

PART XVI.—Miscellaneous (Sections 249-271).

PART XVII.—Offences and Penalties (Sections 272-277).

PART XVIII.—Regulations (Section 288).

PART XIX.—Arbitration—Evidence—Legal Procedure, Etc. (Sections 289-297).

Acts consolidated and repealed.

3. This Act is a consolidation of the Acts mentioned in the first schedule, and the said Acts are hereby repealed to the extent therein mentioned.

Interpretation. 1199, 1915, s. 4. 1405, 1919, s. 6.

4. In this Act, except where the subject matter or context or some other provision requires a different construction—

"agreement" means an agreement containing a covenant to purchase land made since the fourteenth day of November, nineteen hundred and two, but does not include any lease with a right of purchase:

"block" or "block of land" includes two or more pieces of land contiguous to each other, or separated from each other only by a road or roads:

"blockholder" includes the transferee, devisee, or personal representatives of the lessee to whom a perpetual lease, or a lease with right of purchase, of a homestead block has been granted pursuant to Part VII. of the Crown Lands Act, 1888, and the Acts incorporated therewith, or of the lessee or purchaser to whom a lease or agreement has been granted under Part IX. of the Crown Lands Act, 1903, or under Part IX. of the Crown Lands Act, 1915, or of the lessee or purchaser to whom a lease or agreement is granted under Part IX. of this Act, as well as the lessee or purchaser:

"board" means the Land Board:

"cattle" means camels, horses, geldings, mares, asses, mules, bulls, bullocks, and cows, and foals and calves over six months old:

"Commissioner" means the Commissioner of Crown Lands for the time being:

"Crown lands" means all lands in the State, except—

(*a*) lands reserved for or dedicated to any public purpose:

(*b*) lands lawfully granted, or contracted to be granted, in fee simple by or on behalf of the Crown:

(*c*) lands subject to any agreement, lease, or licence lawfully granted by or on behalf of the Crown:

and includes all lands which, having been granted or held under agreement or lease, have been or are surrendered, or, having been reserved or dedicated, have been or are lawfully resumed by proclamation, and all lands which, having been lawfully held by any person for any estate or interest, have been or are lawfully forfeited to or resumed by, or by any means whatsoever have reverted or revert to, or have been or are acquired by, the Crown:

"Crown Lands Acts" means this Act and all the repealed Acts:

"dedicated lands" means all lands dedicated for any purpose by proclamation under any of the Crown Lands Acts:

"fixed rate" means the annual rate of interest fixed by the Treasurer under section 190 which is in force at the time when the block in question is offered for sale:

"lease" includes any credit agreement granted before the eighth day of December, eighteen hundred and eighty-eight:

"lessee" includes the assignee or transferee of a lease from the Crown, and the devisee or personal representatives of the original lessee or of such assignee or transferee, as well as the original lessee:

"park lands" means lands adjacent to a town and reserved or dedicated for the use, benefit, or recreation of the inhabitants of that town:

s. 4. HUMPHRIS v. FOOT (1934) S.A.S.R. 25. Meaning of "land dedicated to any public purpose" in the definition of Crown lands discussed.

"public map" means map prepared under the direction of and officially certified by the Surveyor-General or the Deputy Surveyor-General, and delineating any of the lands of the Crown:

"purchaser" includes the person entitled to or holding lands under an agreement:

"receiver" means the Receiver of Rents under Part X.:

"repealed Act" means any Act repealed by this Act or by any Act heretofore repealed, which dealt with Crown lands or with closer settlement:

"repurchased lands" means lands acquired by the Crown under Part X. of this Act or under the corresponding provisions of any repealed Act, and whether acquired pursuant to agreement or compulsorily:

"reserved lands" means all lands reserved for any purpose by proclamation under any of the Crown Lands Acts:

"sheep" means rams, goats, wethers, and ewes, and lambs over six months old:

"suburban lands" means all Crown lands surveyed in sections of not greater area than twenty acres each situated within two miles of any town lands or park lands, or any lands set apart under paragraph (*h*) of section 5:

"swamp lands" means all lands which, in the opinion of the Commissioner, are liable to be wholly or partially flooded by overflow of a river or otherwise:

"town lands" means all Crown lands set apart, surveyed, or laid out in lots as the site for a town:

"unimproved value" means the actual value of any land less the amount of the value of all improvements (if any) on the land:

"vermin" means wallabies and all other marsupials (except kangaroos and rock wallabies), dingoes (or native dogs), dogs run wild, dogs at large, foxes, rabbits, hares, and any other animals which the Governor, by proclamation, declares to be vermin; but does not include any animal which, for the time being and on the particular land, is protected by the Animals and Birds Protection Act, 1919.

PART II.

PART II.

POWERS OF THE GOVERNOR.

Governor's powers. 1199, 1915, s. 5. 1882, 1928, s. 3.

5. The Governor may, subject to the provisions of this Act, from time to time—

(*a*) in the name and on behalf of the Crown, grant, lease, or otherwise alienate any Crown lands:

(*b*) for the public use or benefit—

I. exchange any Crown lands for any other lands in the State:

II. accept the surrender of or resume any lands granted after dedication for any public purpose:

III. authorise the exchange of any lands granted after dedication for other lands so granted:

(*c*) lease to any aboriginal native, or the descendant of any aboriginal native, any Crown lands not exceeding one hundred and sixty acres in area, for any term of years, upon such terms and conditions as he thinks fit:

(*d*) by proclamation dedicate any Crown lands for any of the following purposes:—

I. for the preservation of water supply:

II. for public roads or other internal communications, whether by land or water. The delineation of any public road in a public map shall be in itself a dedication of that road to the public use:

III. for quays, wharves, or landing-places:

IV. for public reservoirs, aqueducts, or water-courses:

V. for hospitals, asylums, or cemeteries:

VI. for market places or abattoirs:

VII. for institutions for public instruction or amusement:

VIII. for public buildings and schools not intended for ecclesiastical or denominational purposes:

S. 5 (*a*). THE QUEEN v. HUGHES AND STIRLING (1865) L.R. 1 P.C. 81; 1 S.A.L.R. 143; 6 Austn. Digest 134. Held that leases granted under The Waste Lands Act (No. 5 of 1857) were not in themselves records and, though bad on the face of them, could not be annulled by a writ of *scire facias*.

IX. for park lands or places for the recreation and amusement of the inhabitants of any city, town, or place:

X. for any purpose of public safety, convenience, health, or enjoyment:

XI. for any other public purpose that he may think fit, whether similar to any of those above mentioned or not;

and may, at any time after dedication, grant the fee-simple of any such lands (except foreshores and the lands mentioned in subdivision III. of this paragraph, which are hereby declared to be inalienable in fee-simple from the Crown) to secure the use thereof for the purpose for which the same were dedicated, and may, at any time before the grant of the fee-simple of any such lands, resume the same wholly or in part by proclamation:

(*e*) by proclamation cancel the grant of and resume any dedicated lands used, held, or dealt with for other than the purpose for which the same were dedicated, or which are not used or required for the dedicated purpose:

(*f*) by proclamation reserve any Crown lands for any of the following purposes:—

I. for the use and benefit of the aboriginal inhabitants of the State:

II. for the purposes of military defence:

III. for forest reserves:

IV. for travelling stock reserves:

V. for places for the recreation or amusement of the public:

VI. for tramways, railways, or railway stations. For the purposes of this paragraph such a proclamation shall thereby vest such lands as are proclaimed for railways or railway stations in the South Australian Railways Commissioner or other legally appointed head of the Railway Department in the State:

VII. for park lands:

VIII. for any other purpose that he may think fit;

and may by proclamation resume the whole or any portion of the lands so reserved. A statement setting forth the reasons for any such resumption

shall be laid before Parliament within thirty days after the proclamation, if Parliament is then sitting, and, if Parliament is not then sitting, then within thirty days after the next sitting of Parliament:

(*g*) by proclamation—

I. constitute and define the boundaries of new counties, hundreds, and towns, and distinguish each by a name:

II. declare that any county, hundred, or town shall cease to exist as such, and that all or any of the roads in any town so ceasing to exist shall be closed:

III. extend or diminish the area of any county, hundred, or town and declare that all or any of the roads in any land by which the area of a town is so diminished shall be closed:

IV. alter the boundaries, or name of any county, hundred, or town:

Inserted by S.L.R. Act, 1935.

IVa. distinguish by a name or alter the name of any place, whether a county, hundred, or town, or any other place whatsoever:

V. add the area taken away from one county or hundred to any adjacent county or hundred:

VI. divide any county or hundred into two or more counties or hundreds, and give each a distinguishing name:

Every such proclamation shall state the day from which the same is to take effect, and no proclamation constituting any new counties or hundreds shall be published unless a list and plans of the counties or hundreds intended to be constituted have been laid before Parliament for thirty days:

(*h*) by proclamation set apart any Crown lands as town lands or suburban lands:

(*i*) by proclamation except any suburban lands from being dealt with by the board, either altogether or for such period as he determines:

(*j*) by proclamation, divide the State into land districts and alter or vary the boundaries of any land districts, whether defined before or after the passing of this Act. Every such proclamation shall define the boundaries of every land district thereby constituted, and give a distinguishing name thereto.

Form of grants, leases, etc.
1199, 1915, s. 6.

6. All grants, leases, and other alienations, and all reservations and dedications under this Act, shall be made in such form as the Governor thinks fit.

Form of grants.
Cf. 19, 1858, ss. 1 and 3.
Inserted by S.L.R. Act, 1935.

6a. (1) Land grants shall be valid if signed by the Governor, the Commissioner, and the Registrar-General and also, if any monetary consideration is paid prior to the issue of the grant, by the Treasurer or the Under-Treasurer.

(2) The seal of the State shall be affixed to every land grant but any land grant issued before the first day of January, nineteen hundred and thirty-five, shall be valid notwithstanding that the seal of the State is not affixed thereto.

Power to exchange lands granted after dedication.
1199, 1915, s. 7.

7. Any lands granted in fee-simple for any public purpose after dedication may, with the consent of the Governor, be exchanged for other lands granted for any such purpose, or may be surrendered to the Crown freed from any trust, express or implied, or subject to such trusts as the Governor approves.

Revocation of certain reservations in grants.
7, 1849, s. 1.
Inserted by S.L.R. Act, 1936.

7a. If in any deed of grant or conveyance of any lands of the Crown made or issued on or before the sixteenth day of August, eighteen hundred and forty-eight, pursuant to regulations for the sale of waste lands belonging to the Crown in South Australia made on the third day of March, eighteen hundred and forty-six, there was inserted any provision or reservation for securing royalty or seignorage as provided by the said regulations, the said deed of grant or conveyance shall be construed as if no such provision or reservation was therein contained or expressed.

Grant of land to reserve gold, silver, and other metals, etc.
1199, 1915, s. 8.
Amended by S.L.R. Act, 1936.

8. The grant in fee-simple of land granted after the thirty-first day of January, eighteen hundred and eighty-nine (except grants in pursuance of any agreement for sale made before the seventeenth day of November, eighteen hundred and eighty-six), shall not be construed to include or to convey property in gold, silver, copper, tin, or other metals, ores or other substances containing metals, or minerals, or gems or precious stones, coal, or mineral oil upon, in, or under the said land, the same being reserved by the Crown: Provided that stone ordinarily used for building or road purposes shall be exempted from the said reservation.

Director of Lands and Assistant Director of Lands.
Inserted by 1990, 1930, s. 2, and amended by S.L.R. Act, 1935.

8a. (1) The Governor may appoint a Director of Lands and an Assistant Director of Lands.

(2) Every person appointed as aforesaid shall be appointed under and be subject to the provisions of any Act relating to the public service.

PART III.

PART III.

POWERS OF THE COMMISSIONER.

Special powers of the Commissioner.
1199, 1915, s. 9.
1882, 1928, s. 4.

9. The Commissioner, in addition to, but without limiting, any other right, power, or authority vested in him under this Act, may—

(*a*) cause auctions to be held at such times and places as he thinks fit, and appoint persons to preside over and regulate the same, after notifying in the *Government Gazette* the times and places and the lands to be offered thereat:

(*b*) authorise any person to conduct any sale without that person having an auctioneer's licence, or incurring any liabilty in connection therewith:

(*c*) withdraw from sale or lease any Crown lands, and re-offer any such lands for sale or lease after advertisement for one month in the *Government Gazette* notifying such re-offer for sale or lease:

(*d*) decline, notwithstanding anything contained in this Act, any application for the purchase or lease of lands containing or supposed to contain minerals, or which he deems it desirable to reserve for public purposes:

(*e*) receive, except where otherwise provided in this Act, any purchase-money, rent, instalment, or interest, or any notice after the time appointed for the payment or receiving of the same, and, where moneys are paid or notice is given as herein provided, the same shall be deemed to have been paid or given in due time:

(*f*) wholly or partially remit, except where otherwise provided, all or any of the covenants, agreements, or conditions contained in any lease or agreement, where, owing to special circumstances, compliance therewith would be impossible or would inflict great hardship upon the purchaser or lessee. A return of all such remissions, with the reasons therefor, shall be annually laid before Parliament within one month after the opening of Parliament for the dispatch of business:

(*g*) extend, except as otherwise provided, the time to the purchaser or lessee for performing the conditions contained in any agreement or lease liable to revocation for such period, and upon such terms and conditions, as he thinks fit; and the period,

terms, and conditions so extended shall be deemed to be inserted in the agreement or lease, and shall be binding upon the purchaser or lessee and all transferees, mortgagees, assignees, and other persons claiming through or under him:

(*h*) levy or recover any amounts due under any leases or agreements, except leases or agreements of repurchased lands, in like manner as any rent or fine is leviable or recoverable by law, and his written order shall be a sufficient authority to distrain where such rent is levied by distress:

(*i*) by himself, or any person authorised by him, enter leased lands to search for water, sink wells, construct dams, reservoirs, and embankments, and to do all acts necessary to search for and conserve water:

(*j*) authorise charges to be made for water supplied to any person or animal by the lessee of lands resumed by the Governor whereon water has been found or conserved:

(*k*) do all acts necessary to reclaim swamp lands and to construct public watering places thereon for cattle and sheep:

(*l*) cause any reclaimed land to be surveyed in such blocks and offered on lease on such terms and conditions as he determines, subject to the rent being fixed and the allotment being decided by the board:

(*m*) authorise any person to take possession of lands, messuages, or tenements belonging to the Crown whereon any person is in unauthorised possession or occupation, and to forcibly eject every person therefrom:

(*n*) give permission to any person to erect gates on any road or way, not being a main road or way, vested in His Majesty, and not being within any municipality or district council district; and may let the right of depasturing thereon:

(*o*) consent to a mortgage, transfer, or subletting of lands now or hereafter held under any Crown Lands Act:

s. 9 (*m*). LAFFER v. GILLEN (1927) A.C. 886; 40 C.L.R. 86; 6 Austn. Digest 923, reversing GILLEN v. LAFFER (1925) 37 C.L.R. 210, and affirming LAFFER v. GILLEN (1924) S.A.S.R. 514, which reversed GILLEN v. LAFFER (1924) S.A.S.R. 170. Held that an entry in the register under section 94 of The Real Property Act, 1886, upon notice from the Commissioner that an agreement under the Discharged Soldiers Settlement Acts, 1917 and 1919, had been lawfully determined, operated under that section as a determination, although, when the notice was given and the entry made, the only purported determination was unlawful, and that the respondent was in unauthorised possession of the land comprised in the agreement.

(*p*) correct, at the cost of the lessee, any clerical error, name wrongly spelt, or any incorrect or defective plan attached to any lease; and may attach a corrected plan to any such lease having his signature thereon, and, in every such case, the description of the parcels in the lease shall be taken to refer to the corrected plan, which shall form part of the lease:

(*q*) charge any person the fees prescribed under this Act, or if no fees are prescribed in relation to any matter under this Act, such fees as he fixes for that matter:

(*r*) appoint a sufficient number of persons to be Crown lands inspectors and rangers:

(*s*) forfeit any agreement, lease, or licence obtained by any false declaration or statement:

(*t*) notwithstanding the forfeiture of any agreement or lease under any of the Crown Lands Acts, or the Educational Lands Act, 1881, rescind or annul any such forfeiture, upon such terms as he thinks fit:

(*u*) lease aboriginal reserves on such terms and conditions as he deems advisable.

PART IV.

PART IV.

THE LAND BOARD.

DIVISION I.

DIVISION I.—CONSTITUTION.

Continuance of the Land Board.
1199, 1915, s. 10.

10. The Land Board constituted under the repealed Acts and existing at the passing of this Act is hereby continued, under the name of "The Land Board," subject to the provisions of this Act; and the members of the said board in office at the said passing are hereby continued in office, subject as aforesaid.

Constitution of the board.
Ibid., s. 11.
Proviso added 2299, 1936, s. 2.

11. The board shall consist of not less than three and not more than four members: Provided that the Governor may appoint any member or members of the Pastoral Board constituted under the Pastoral Act, 1936, to be an additional member or additional members of the board for any period

s. 9 (*t*). The Educational Lands Act, 1881, was repealed by the Statute Law Revision Act, 1936.

s. 11. The expression "Pastoral Acts, 1904 to 1935," altered to "Pastoral Act, 1936," pursuant to the Acts Republication Act, 1934.

during which he may be a member of the Pastoral Board, and the person or persons so appointed shall, whilst holding office under that appointment, have all the powers, duties and functions of ordinary members of the board.

Appointment of members.
1199, 1915, s. 12.

12. The Governor may from time to time appoint members of the board.

Term of office
Ibid., s. 13.
Amended by 2299, 1936, s. 3.

13. Every member shall hold office for not exceeding five years from the date of his appointment, and shall be eligible for re-appointment.

Appointment of chairman by Commissioner.
1199, 1915, s. 14.

14. The Commissioner shall nominate the chairman of the board, but the members present shall elect one of their number to be chairman for any meeting where the nominated chairman is absent.

Quorum.
Ibid., s. 15.

15. Any two members shall form a quorum, and may exercise all the powers and authorities vested in the board. The chairman shall have a casting as well as a deliberative vote.

Meetings of board.
Ibid., s. 16.

16. The board shall meet whenever required by the Commissioner.

Member of board not to be interested in application.
Ibid., s. 17.

17. (1) No person whilst a member of the board shall be eligible as an applicant, or be interested in any application, for a lease or agreement.

(2) No member of the board shall hear or deal with any application in which any partner or relative of that member is interested.

(3) If any member of the board acts contrary to any provision of this section he shall be guilty of an offence against this Act, and liable to a penalty not exceeding fifty pounds.

(4) Any allotment of land made or application granted contrary to any provision of this section shall be absolutely void, except as against any purchaser who is not a partner or relative of the member offending against the said provision, and who has purchased *bona fide* for value without notice of the offence having been committed.

DIVISION II.

DIVISION II.—POWERS OF BOARD IN ADDITION TO ALL OTHER POWERS.

General powers of the board.
Ibid., s. 18.
1882, 1928, s. 5.

18. (1) The board, in addition to and without prejudice to any other powers vested in it, shall—

(*a*) decide, except in the case of town lands, upon the area to be included in each separate block and the

area to be held by any one person, and the area of land included in each separate block which is to be cleared so as to render the same available for cultivation or so as to improve the grazing capacity thereof:

(*b*) fix the price or annual rent under any agreement or lease:

(*c*) consider, decide, and, if necessary, accept or reject applications, and thereupon report its decision to the Commissioner:

(*d*) require the personal attendance of and, when necessary, examine all applicants, objectors, and necessary witnesses:

(*e*) subdivide or alter the boundaries of any block where there is one or more than one applicant, and adjust the rentals or purchase-money:

(*f*) deal with all other matters referred to it by the Commissioner.

(2) Every such decision of the board, except when made pursuant to paragraph (*c*) or paragraph (*d*) of subsection (1) hereof, shall be subject to the approval of the Commissioner.

Power of board to enter lands.
1199, 1915, s. 19.

19. The board, any member thereof, or any person authorised by the board, may enter upon any lands leased or held under any agreement.

Valuation made by chairman or member to be effectual when confirmed by the board.
Ibid., s. 20.

20. Any valuation made by the chairman of the board or by any member thereof authorised by the board shall, when confirmed by the board, be deemed to be a valuation by the board.

Powers of board to require evidence to be on oath.
Ibid., s. 21.

21. (1) The board may require evidence given before it to be on oath or affirmation.

(2) Notwithstanding the provisions of any Act to the contrary, the chairman of the board, or any member or members thereof nominated by the board, are hereby authorised and empowered when obtaining evidence preliminary to the allotment or transfer of any lands to administer the prescribed oath or affirmation to any person.

(3) The evidence given by any such person shall be taken down in writing, and shall be signed by him, and be countersigned by the chairman or member taking the same.

(4) The oath may be in the following form:—"The evidence which you shall give before this board shall be the truth, the whole truth, and nothing but the truth—so help you God."

(5) Where any witness conscientiously objects to take an oath he may make the following affirmation:—"I, A.B., do declare and affirm that I will state the truth, the whole truth, and nothing but the truth to all questions that may be asked me." And the same shall be of the same effect as an oath taken in the form hereinbefore provided.

PART V.

PART V.

PERPETUAL LEASES AND AGREEMENTS.

DIVISION I.—THE OFFERING OF CROWN LANDS.

DIVISION I.

Offering of Crown lands, perpetual leases, or agreements. 1199, 1915, s. 22.

22. All Crown lands (except town lands) mentioned in the second schedule may be offered on perpetual lease or agreement, provided—

I. the said lands have been previously surveyed; or

II. the boundaries of the said lands have been delineated in the public maps.

DIVISION II.—CLASSIFICATION OF LANDS, AND APPLICATIONS.

DIVISION II.

Notice of land being open. Ibid., s. 23. 1882, 1928, s. 6.

23. The Commissioner, after approving the area, price, and rent recommended by the board of any Crown lands, may, by notice in the *Government Gazette,* specifying—

(*a*) the land;

(*b*) the area thereof which is to be cleared so as to render the same available for cultivation or so as to improve the grazing capacity thereof; and

(*c*) the payments to be made,

declare that the said lands may be applied for on perpetual lease or agreement.

Applications. 1199, 1915, s. 24.

24. Every application for any such land shall be made to the Commissioner in writing, giving the name, address, and occupation of the applicant, and specifying the land applied for.

Deposit. Ibid., s. 25. 1882, 1928, s. 7.

25. (1) Every application for a perpetual lease shall be accompanied by an amount equal to twenty per centum of the first year's rent (if any), as notified in the *Government*

Gazette: Provided that if twenty per centum of the said first year's rent is less than one pound no amount need be forwarded with the application.

(2) Every application for an agreement shall be accompanied by an amount equal to the first half-yearly instalment payable under the agreement whether of principal, interest, or both.

(3) If no rent or instalment of interest or principal is payable for the first four years of the lease or agreement applied for the application shall be accompanied by a deposit equal to the prescribed fee for the lease or agreement.

Reference of all applications to the board.
1199, 1915, s. 26.

26. All applications shall forthwith be referred by the Commisioner to the board, unless the land is withdrawn from leasing or sale.

Simultaneous applications.
Ibid., s. 27.

27. (1) All applications for the same land received up to and on the date named for receiving the same shall be dealt with as simultaneous applications. After that date all applications received on one and the same day for land not before applied for shall be considered and dealt with in like manner.

(2) Simultaneous applications may be decided by lot by the chairman of the board where any difficulty arises in deciding the successful applicant.

(3) Subject to the provisions of section 28 as to personal residence, whenever the number of simultaneous applications for the same lands is not more than three, or is reduced by the board to not more than three, and the qualifications and claims of the applicants are in the opinion of the board equal, then the applications shall be publicly decided by the chairman of the board by lot.

Lessee or purchaser to covenant to reside on land.
Ibid., s. 28.

28. The board shall, unless there is in their opinion good cause to the contrary, give preference to the applicant who agrees to take the block on condition of personal residence, and every lease or agreement granted to him shall contain a covenant to reside on the land for nine months in every year. Where the preference is given to an applicant who does not intend to reside on the block the reasons of the board for allotting the land shall be given.

Board to report and successful applicants to be gazetted.
Ibid., s. 29.

29. The Commissioner, upon receipt thereof, shall cause to be published in the *Government Gazette* the names of the successful applicants, the particulars of the lands allotted to them, and the rent or price payable in each case.

PART V.
DIVISION II.

Power of Commissioner to offer lands not taken up on reduced terms.
1199, 1915, s. 30.

30. If no application is made within three months from the date on and after which any lands were last declared to be open under this Part, or if all applications received before the lands are again offered on lease or agreement as herein provided are rejected or refused, the Commissioner may offer the lands at such reduced rent or purchase-money as he, with the advice of the board, deems proper.

Limitation of holdings.
Ibid., s. 31.
1882, 1928, s. 8.

31. No lease or agreement for Crown lands shall be granted to any person—

(*a*) of lands the unimproved value of which exceeds five thousand pounds; or

(*b*) so that the lessee or purchaser would hold lands under any tenure (except pastoral leases and miscellaneous leases and except lands within the limits of any city or town) the aggregate unimproved value whereof would, in the opinion of the board, exceed five thousand pounds,

except where the land to be included in the perpetual lease or agreement is, in the opinion of the Commissioner, suitable only for pastoral purposes; and in that case the lease or agreement shall not be granted if the carrying capacity of the lands unimproved and of all other lands held by the lessee or purchaser under any tenure would altogether exceed five thousand sheep, or, if the land is outside Goyder's line of rainfall, ten thousand sheep.

Power of corporations and district councils to apply.
1199, 1915, s. 32.

32. Any municipal corporation or district council may apply for and obtain lands under lease or agreement under this Part.

DIVISION III.

DIVISION III.—PERPETUAL LEASES.

Rent under perpetual leases.
Ibid., s. 33.

33. The board, in fixing the rents to be paid under any perpetual lease except—

I. a lease to which the Commissioner directs that section 48 shall apply; or

II. a lease granted by virtue of section 199; or

III. a lease granted under any provision of Part XI.; or

IV. in any case where the Commissioner directs to the contrary,

shall, as nearly as practicable and subject to section 47, fix the same for the first three years according to the following scale:—

For the first year, one-fifth of the amount which but for this section would be payable annually;

for the second year, one-third of the said amount; and for the third year, two-thirds of the said amount.

Duty of lessee to execute lease or forfeit. 1199, 1915, s. 34.

34. The lessee shall, within twenty-eight days after the publication in the *Government Gazette* under section 29, or within such further time as is allowed by the Commissioner, execute and deliver the lease at the Land Office, for execution by the Governor, and shall forward therewith the balance of the first year's rent (if any) and the prescribed fees, failing which the lessee shall forfeit any moneys paid by him, and his right to a lease; and the Commissioner may thereafter deal with such lands as if no application had been made.

Form and effect of perpetual lease Ibid., s. 35.

35. A perpetual lease shall vest the land leased in the lessee in perpetuity, and shall contain the provisions for rent and the reservations, covenants, and conditions set forth in the third schedule, subject to such modifications thereof or additions thereto as are required for giving effect to the provisions of this Act, or as the Governor thinks fit, and shall also contain such other provisions as the Governor thinks fit, together with a right of re-entry, and shall be read and construed as if any reservations, covenants, and conditions in the form in the third schedule had been expressed in the extended form in the fourth schedule, and the lessee and all persons entitled to any benefit of the lease shall be bound thereby.

Power of Commissioner to determine whether covenant to clear complied with. Ibid., s. 36, 1882, 1928, s. 9.

36. (1) The Commissioner shall determine whether the covenant to clear land contained in a lease, as the meaning of that covenant is set forth in the fourth schedule, has been complied with in any case, and if his decision is disputed by the lessee the matter shall be determined by arbitration in manner provided by section 289.

(2) Land shall be deemed to have been cleared for cultivation or so as to improve the grazing capacity thereof only when it has been rendered free from substantially the whole of the scrub growth thereon.

Liability to land tax of perpetual leases not subject to revaluation. 1199, 1915, s. 37.

37. All perpetual leases not subject to revaluation of rent shall be liable to the land tax, and the rent originally reserved shall be payable during the whole of the term.

Fixing of subsequent rent. Ibid., s. 38.

38. The rent for each period of fourteen years (except the first such period) of a perpetual lease, subject to revaluation, shall be fixed by the board at least twelve months before the expiration of the next preceding period of fourteen years thereof.

Improvements not to be considered on revaluation.
1199, 1915, s. 39.

39. In revaluations of rent under perpetual leases the value of the improvements made by the lessee shall not be considered.

Notice of revaluation to be given.
Ibid., s. 40.

40. Notice of the amount of revaluation shall forthwith be given by the Commissioner to the lessee.

Lessee not accepting revaluation to forfeit at expiry of then current fourteen years of his lease.
Ibid., s. 41.

41. (1) In case the lessee does not, within the period of six months after notice of any revaluation, signify to the Commissioner his willingness to pay the same, his lease shall determine at the expiration of the then current period of fourteen years of his lease, subject however to the provisions of subsections (3), (4), and (5) hereof.

(2) In case the lease is to determine under subsection (1) hereof, then after the expiration of the said period of six months the land comprised in the lease shall be offered in one or more blocks under this Part at the rental fixed by the board; and the improvements made by the outgoing lessee shall be paid for by the incoming tenant to the Commissioner at a price to be fixed by the board; and the amount so paid shall be paid by the Commissioner to the outgoing lessee, less any amount that may be due by him under the determined lease.

(3) If the land comprised in the lease, or any part of that land, has not been taken on perpetual lease or agreement when offered pursuant to subsection (2) hereof, the Commissioner may receive the lessee's signification of his willingness to pay the rent fixed under section 38 at any time not being later than two months from the determination of the lease.

(4) Any lease in respect of which the Commissioner exercises the power conferred by subsection (3) hereof shall, notwithstanding its previous determination, be deemed to have continued without interruption of the term thereof.

(5) Where part of the land has been taken when offered as mentioned in subsection (3) hereof, subsections (3) and (4) hereof shall apply only in respect of the part not so taken.

DIVISION IV.

DIVISION IV.—AGREEMENTS (UNDER THIS PART).

Agreement to contain covenant to purchase by instalments.
Ibid., s. 42.
1882, 1928, s. 10.

42. (1) In every agreement under this Part the purchaser shall covenant—

(*a*) to purchase his block at the price fixed by the board; and

(*b*) except in a case where section 48 applies, to pay the purchase-money and interest for land and improvements, if any, at not less than the rate of two

pounds per centum per annum by sixty equal half-yearly instalments, which instalments shall be paid in advance: Provided that if the Commissioner on the recommendation of the board so approves, the covenant for payment of purchase-money and interest may be as follows:—

(i.) For the first four years the purchaser shall pay in advance half-yearly instalments of interest only on the purchase-money, but no instalments of principal, and that interest shall be at the following rates:—

For the first year at one-fifth of the full rate of interest provided for in the agreement:

For the second year at one-third of the said full rate:

For the third year at two-thirds of the said full rate:

For the fourth year at the said full rate.

(ii.) During the subsequent thirty years the purchaser shall pay the purchase-money with interest thereon at the full annual rate provided for in the agreement in sixty equal half-yearly instalments of principal and interest, and the instalments shall be payable in advance.

(2) Notwithstanding subsection (1) hereof or anything contained in the agreement, the purchaser, having complied with the terms and conditions of his agreement, shall have the option of completing the purchase of his block at any time after the expiration of six years on paying the balance of the purchase-money and all interest due up to the time of purchase.

Personal residence. 1199, 1915, s. 43.

43. Where land is allotted on personal residence the agreement shall contain a covenant for personal residence by the purchaser on the lands purchased for nine months in every year.

Form of agreement. Ibid., s. 44. 1882, 1928, s. 11.

44. (1) The agreement shall contain all the conditions, covenants, and provisions set forth in the fifth schedule, subject to such modifications thereof or additions thereto as are required for giving effect to the provisions of this Act.

(2) In filling up the blank spaces in the form of covenant to clear land contained in the fifth schedule, the following directions shall be followed:—In the first, second, and third spaces there shall be inserted an area equal to one-eighth of the area which is to be cleared, as specified in the notice in the

Government Gazette declaring that the lands in question may be applied for on agreement. In the fourth space there shall be inserted an area equal to the total area to be cleared.

Commissioner to determine whether covenant to clear complied with. 1199, 1915, s. 45. 1882, 1928, s. 12.

45. (1) The Commissioner shall determine whether the covenant to clear land contained in an agreement has been complied with in any case, and if his decision is disputed by the purchaser, the matter shall be determined by arbitration in manner provided by section 289.

(2) Land shall be deemed to have been cleared for cultivation or so as to improve the grazing capacity thereof only when it has been rendered free from substantially the whole of the scrub growth thereon.

Agreement liable to forfeiture for breach of covenant. 1199, 1915, s. 46.

46. (1) An agreement shall be liable to forfeiture if any instalment thereunder is in arrear for six months, the purchaser having had at least three months previous notice in writing demanding its payment, or if any breach is made of the terms and conditions of the agreement.

(2) Upon any such forfeiture the right, interest, or claim, either at law or in equity, of the purchaser in and to the lands included in the forfeited agreement, and to any moneys paid on account of his purchase, shall be absolutely determined, and the lands may be dealt with as the Commissioner may determine.

PART VI.

PART VI.

PROVISIONS APPLICABLE TO PERPETUAL LEASES AND AGREEMENTS.

Rent or instalment of purchase-money not to be less than 5s. 1199, 1915, s. 48. 1882, 1928, s. 13.

47. (1) Notwithstanding anything in this Act, the annual rent under a perpetual lease, or a half-yearly instalment under an agreement, shall in no case be less than five shillings.

(2) In no case shall the purchase-money under an agreement be increased by reason of subsection (1) hereof, and where necessary in order that this subsection and the said subsection (1) may be complied with, the number of instalments shall be reduced; and notwithstanding that all the instalments of purchase-money may have been paid before the expiration of the period of six years fixed by section 42, section 48, or section 174, the purchase shall not be completed before the expiration of that period.

Rates of instalments and rent under agreements and leases, where Commissioner directs that this section shall apply.
1199, 1915, s. 49.
1405, 1919, s. 3.
1882, 1928, s. 14.

48. (1) The following provisions shall apply to every agreement (except an agreement under Part X.) and perpetual lease to which the Commissioner directs that this section shall apply, namely:—

I. No instalment or rent shall be payable for the first four years of the term:

II. From the end of the fourth to the end of the tenth year of the term, instalments or rents shall be paid, and the said instalments or rents shall be at the rate of two per centum per annum on the value of the land as stated in the advertisement in the *Government Gazette* declaring the land open for application. In the case of an agreement the instalments paid for the years mentioned in this subdivision shall be regarded as interest only, and not as part of the purchase-money:

III. From the end of the tenth year of the term, the interest included in the instalments, or the rent (as the case may be), shall be at the rate of four per centum per annum on the value stated as mentioned in subdivision II. hereof.

IV. The agreement shall be for a term of forty years, and the purchase-money shall be paid by sixty half-yearly instalments, at the rate of two pounds sixteen shillings and five pence for every one hundred pounds of the purchase-money, payable during the last thirty years thereof; so that from the end of the tenth year of the term the instalments shall include purchase-money in addition to interest as provided by subdivision III. of this subsection:

V. All instalments or rents shall be payable in advance:

VI. The purchaser under the agreement, having complied with the terms and conditions of his agreement, shall have the option of completing the purchase at any time after the expiration of the first six years of the term, on payment of the purchase-money, or the balance thereof, with interest, at the rate or rates charged by the agreement, on the purchase-money or on the balances thereof from time to time remaining unpaid, from the commencement of the term to the date of payment:

VII. Notwithstanding anything in this section, if the purchaser or lessee transfers his agreement or lease before the end of the tenth year of the term, instalments or rent shall, if the Commissioner on the recommendation of the board so directs, be paid as

from the time of the allotment of the land or any subsequent time not later than the time when the transfer takes effect; and, in the case of an agreement, the instalments shall be at the rate of four per centum per annum on the value stated as mentioned in subdivision II. hereof until the end of the said tenth year, and, in the case of a lease, the rent shall be as provided by subdivision III. hereof.

(2) In the case of any agreement or perpetual lease to which the Commissioner has directed that this section shall apply, where, in the opinion of the Commissioner, the enforcement of the provisions of the agreement or lease as to payment of instalments or rent would inflict great hardship upon the holder of the agreement or lease, the Commissioner may, by notice given to the holder, extend the period during which, under the agreement or lease, no instalment or rent is to be payable, for such further period, not exceeding four years, as he thinks fit.

(3) Upon the giving of any notice of extension, as mentioned in subsection (2) hereof, the said period shall be extended in accordance with the said notice, and all dates and periods mentioned in the agreement or lease shall be postponed and, in the case of an agreement, the term shall be extended, according to the period of the extension. The agreement or lease shall be construed so as to give effect to this subsection, and shall be binding on the parties as so construed.

Power in certain cases to surrender existing agreement or lease for agreement or lease under section 48.

1199, 1915, s. 51.

49. (1) Subject to subsection (6) hereof, in the case of any agreement (except an agreement under Part X. of the Crown Lands Act, 1903) or perpetual lease, entered into or granted before the nineteenth day of November, nineteen hundred and fourteen, to which the Commissioner, on the recommendation of the Surveyor-General, directs that this section shall apply, the board shall revalue the land comprised in the agreement or lease, and fix the purchase-money or annual rent for the purposes of an agreement or lease to be entered into or granted pursuant to this section.

(2) When the board has fixed the purchase-money or annual rent pursuant to subsection (1) hereof, the purchaser or lessee may surrender his agreement or lease in exchange for an agreement or perpetual lease to be entered into or granted in accordance with the provisions of section 48 of this Act at the purchase price or annual rent fixed as aforesaid: Provided that—

I. the surrender shall have no effect unless or until accepted by the Commissioner, who may, in his discretion, accept or reject the surrender in the name and on behalf of His Majesty:

II. only an agreement may be obtained in exchange for a surrendered agreement, and only a lease may be obtained in exchange for a surrendered lease.

(3) The term of the new agreement or the new lease shall commence on the date of the commencement of the term of the surrendered agreement or lease.

(4) When an agreement or lease has been obtained pursuant to this section, the amount of the instalments or rents (as the case may be) theretofore paid under the surrendered agreement or lease shall be credited against the instalments or rents (as the case may be) which have already fallen due in accordance with the new agreement or lease; and if there is any surplus, it shall be credited against the future instalments or rents.

(5) If the agreement or lease to be surrendered is subject to a mortgage, the provisions of section 224 shall apply.

(6) This section shall not apply to any agreement or lease of land situate within any of the following hundreds, namely, the Hundreds of Pygery, McLachlan, Wannamana, Wudinna, and Yaninee, and such other hundreds as the Commissioner directs.

Power to reduce purchase money or rent under certain agreements and leases. 1199, 1915, s. 53. 1311, 1917, s. 3. 1382, 1928, s. 15.

50. (1) In the case of any agreement (except an agreement under Part X. of the Crown Lands Act, 1903, Part X. of the Crown Lands Act, 1915, or Part X. of this Act) or perpetual lease, or lease with right of purchase, the Commissioner may, if he is satisfied that the purchase-money or rent (as the case may be) is too high, make such (if any) reduction thereof as, after reference by the Commissioner to the board, is recommended by the board.

(2) Every reduction of purchase-money or rent under this section shall take effect from such date as the Commissioner in each case determines and every reduction of rent may be for such period as the Commissioner in each case determines.

(3) The Commissioner may also in his discretion and for such period as he thinks fit reduce the interest payable under any agreement (except an agreement under Part X. of the Crown Lands Act, 1903, Part X. of the Crown Lands Act, 1915, or Part X. of this Act).

(4) Notice in writing of any such reduction shall be given to the purchaser or lessee who may, within two months after the giving of the notice, appeal in writing to the Commissioner for a further reduction; whereupon the Commissioner may make such (if any) further reduction as is recommended by the board.

(5) Notice in writing of the Commissioner's decision on the said appeal shall be given to the purchaser or lessee.

(6) If no appeal is made in the manner and within the time prescribed by subsection (4) hereof, then from the expiration of the said time, or if any appeal is so made, then from the day whereon the notice required by subsection (5) hereof is given—

(*a*) the agreement or lease shall be construed so as to give effect to the reduction, or further reduction (as the case may be) made as aforesaid, and shall be binding on the parties accordingly; and

(*b*) the instalments or rents fixed by the agreement or lease shall be adjusted as may be necessary to give effect to the reduction, or further reduction (as the case may be) and any amounts shown, as the result of the adjustment, to have been overpaid shall be credited against the liability to future payments.

(7) The powers of the Commissioner under this section may, in the case of any such agreement or lease as is hereinbefore referred to, be exercised from time to time as the Commissioner thinks fit, notwithstanding that one or more reductions have already been made by the Commissioner in respect of the same agreement or lease and notwithstanding that no appeal for a further reduction has been made to him.

Power to extend agreement. Inserted by 2120, 1933, s. 2.

50a. (1) In any case of an agreement (except an agreement under Part X. of the Crown Lands Act, 1903, Part X. of the Crown Lands Act, 1915, or Part X. of this Act) the Commissioner may direct the board to consider whether an extension of the term of the agreement should or should not be granted under this section.

(2) The board shall thereupon consider the matter, and—

(*a*) may recommend that the term be extended for such period (if any) as the board thinks fit, but not so as to extend it beyond sixty-five years from the commencement thereof as fixed by the agreement:

(*b*) for the purpose of fixing the amounts of the instalments under paragraph (*c*) hereof may capitalize, and add to the purchase-money, the whole or any part of such amounts of any instalments then in arrear as represent interest:

(*c*) if the board recommends an extension, shall fix the instalments of purchase-money to be paid during the remainder of the term (as so extended) and for such purpose may fix the instalments so that the

balance of the purchase-money and any arrears of interest capitalized as aforesaid, together with interest thereon, shall be paid in equal instalments throughout the balance of the said term so extended, or may fix the instalments at such amount as would be necessary to pay the purchase-money and interest thereon in equal instalments if the instalments were spread over the whole term of the agreement as so extended from the time when instalments of principal were first payable.

(3) If the Commissioner approves of the recommendations of the board he may grant the extension on the terms recommended, and from the time when notice in writing stating the period of the said extension and the terms on which it is granted is given to the purchaser, the agreement shall be construed so as to give effect to the said extension and terms, and shall be binding on the parties as so construed.

(4) Except so far as may be necessary to give effect to this section, the agreement shall not be affected by anything in or done under this section; and the terms, covenants, conditions, and provisions thereof shall continue in force subject to any variations which may be necessary to give effect to this section.

Lands suitable for pastoral purposes only. 1199, 1915, s. 54.

51. In respect of any lands which, on account of deficiency of rainfall, are, in the opinion of the board, only suitable for pastoral purposes, the rent shall be fixed at pastoral rates; and, in fixing the said rents, the board shall have regard to the rates of rental of pastoral lands under similar conditions of soil and climate.

Lease and agreement to be prepared. Ibid., s. 55.

52. (1) The Commissioner shall cause a perpetual lease or an agreement to be prepared in triplicate, and thereafter forward the same to the successful applicant.

(2) The said applicant shall forthwith sign and return the same to the Commissioner, together with the prescribed fee, failing which the lessee or purchaser shall forfeit all right to his lease or agreement.

Power to resume land for roads, tramways, railways, mining, or public purposes. Ibid., s. 56.

53. (1) The Commissioner, on giving three months notice to any lessee or purchaser, may resume lands included in the lease or agreement for roads, railways, tramways, sites for towns, park lands, mining purposes, or for any public purpose whatsoever.

s. 53. R. v. SOUTH-EASTERN LAND BOARD; *ex relatione* BOWMAN, 4th December, 1893, S.A. *Register* (newspr.); 6 Austn. Digest 935. As to the construction of a lease, where a condition for resumption therein included does not coincide with the provisions of the Act. As to the proper proceedings to prevent the Commissioner from resuming land. Construction of "purpose of public utility."

(2) The lessee or purchaser shall be entitled to compensation for any loss sustained by the said resumption. As to leases granted before the twenty-third day of December, eighteen hundred and ninety-three, the compensation shall, in case of dispute, be determined by the board, or, at the option of the lessee, as provided by section 289 of this Act. As to other leases and as to agreements, the compensation shall, in case of dispute, be determined by the board, or, at the option of the Commissioner, or of the lessee or purchaser, as provided by the said section 289.

(3) Nothing in this section shall affect or apply to the exercise of any power given to the Governor by the Mining Act, 1930.

Amended by S.L.R. Act, 1935.

54. Every lease and every agreement shall contain a reservation to the Crown of all gold, silver, copper, tin, and other metals, all ores and other substances containing metals, all minerals, and all gems and precious stones, coal, and mineral oil upon, in, or under the lands comprised in the lease or agreement.

Reservation of minerals, precious stones, etc. 1199, 1915, s. 57. Amended by S.L.R. Act, 1936.

55. The Commissioner and his authorised agents may at all times enter upon lands comprised in any grant, agreement, or lease to search and mine for minerals on the said lands and remove therefrom any minerals or other things reserved and belonging to the Crown.

Commissioner may search for minerals. 1199, 1915, s. 58.

56. (1) Where damage is sustained by the owner, lessee, or purchaser of any lands, through the holder of a mining lease or licence, or his agent or servant, searching for, mining, or removing minerals, compensation shall be made to the said owner, lessee, or purchaser by the said holder for the damage so sustained.

Mining lessee or licensee to compensate for damage done in searching for, mining, or removing minerals. Ibid., s. 59.

(2) If the amount of the compensation claimed at any one time—

(*a*) does not exceed twenty pounds the compensation shall be recoverable in a summary way before a court of summary jurisdiction, which shall assess the amount of compensation on the hearing of the complaint;

(*b*) exceeds twenty pounds, the claim shall be submitted in writing to the board, and the amount of compensation shall be assessed by the board,

or, in either case, the amount of compensation may be assessed in manner provided in section 289: Provided that the mining lessee or licensee shall, if the amount is to be

assessed in the last-mentioned manner, nominate one arbitrator in lieu of the Commissioner nominating one as provided in the said section.

Subletting. 1199, 1915, s. 61.

57. Any person who has a lease or agreement, may, with the consent of the Commissioner, at the end of six years from the date of his lease or agreement, sublet the whole or any part of the land included in his lease or agreement for a period not exceeding three years, and on such terms as he may think fit, within the terms of the lease or agreement.

Fines on non-payment under lease or agreement. Ibid., s. 62.

58. If the rent or any principal instalment or interest, payable under any lease or under any agreement for the sale of Crown lands granted or made under the authority of any Crown Lands Act, is not paid—

(*a*) on or before the day appointed for payment thereof, a penalty of five per centum may be added to the said rent, instalment, or interest:

(*b*) within one month after the day appointed for the payment thereof, together with any penalty added under subdivision (*a*) hereof, a further penalty of ten per centum may be added:

(*c*) within one month after the month mentioned in subdivision (*b*) hereof, the same, together with such penalty as aforesaid, shall be recoverable by the Commissioner by action in his own name in any court of competent jurisdiction.

Crown lease or agreement may be forfeited if rent or instalment in arrear for six months, or covenant broken. Ibid., s. 63.

59. (1) Where the rent of any lands or any money due under any agreement or loan agreement is in arrear for six months after the same is due, the lessee or purchaser (as the case may be) having had at least three months previous notice in writing demanding its payment, or where there has been a breach of any of the covenants or conditions contained in or implied by any such lease or agreement, the Commissioner may cancel the lease or agreement, and may thereupon insert a notice in the *Government Gazette* declaring the lease or agreement to be forfeited.

(2) Every such notice shall be taken to be *prima facie* evidence that the lease or agreement therein mentioned was legally cancelled and forfeited.

(3) The land comprised in any such lease or agreement may be dealt with in all respects as if the lease or agreement had never been granted.

---

s. 59. LAFFER v. GILLEN (1924) S.A.S.R. 514, reversing GILLEN v. LAFFER (1924) S.A.S.R. 170. Held that the section is of general application and not limited to agreements under Part V. and that it applies to agreements under the Discharged Soldiers Settlement Act, 1934-1935. As to the form of demand and burden of showing that an agreement is not legally cancelled.

Instead of forfeiture, a penalty may be imposed. 1199, 1915, s. 64.

60. (1) In any case in which the Commissioner has power, under section 59, to cancel a lease or agreement, he may, instead of exercising that power, by notice in writing to the lessee or purchaser, impose a penalty of such sum as is fixed by the board in the particular case.

(2) Any penalty imposed under this section shall be recoverable in the same manner as rents or instalments under the lease or agreement (as the case may be) are recoverable when in arrear.

Defaulting purchaser's or lessee's interest in land may be sold by auction. Ibid., s. 65. 1405, 1919, s. 5.

61. (1) In lieu of the forfeiture under section 59 of any agreement or lease, the Commissioner may, after two weeks' notice in the *Government Gazette,* offer the defaulting purchaser's or lessee's interest in the agreement or lease for sale by auction.

(2) If at the said offering the said interest is not sold, then the agreement or lease (as the case may be) may at any time thereafter be transferred by the Commissioner to any applicant at the upset price or rental fixed at the sale; and if there are more applicants than one, the transferee shall be decided by lot.

(3) Out of any premium paid at the sale, or for the transfer (as the case may be), after deducting therefrom all expenses attending the sale or offering, and all moneys then due by the defaulting purchaser or lessee to the Crown, the defaulting purchaser or lessee may be paid the value of any substantial improvements, consisting of buildings, fencing, dams, tanks, wells, clearing, cultivating, and planting, made by him on the land, which permanently increase the capital value thereof, and also all purchase-money paid by him, apart from interest, excepting thereout the first instalment.

(4) After notice has been given under subsection (1) hereof, the defaulting purchaser's or lessee's interest shall not be withdrawn from sale unless the said purchaser or lessee has paid to the Commissioner such penalty as is imposed by the Commissioner, in addition to the upset price at which his said interest was, or was to be, offered.

(5) The Commissioner may, in exercising the power to sell or transfer a defaulting purchaser's or lessee's interest in any agreement or lease conferred by this section, exercise any such power with respect to the whole or, from time to time, with respect to any part or parts of the land comprised in the agreement or lease, as he thinks fit.

(6) All the provisions of this Act with respect to the sale or transfer of the defaulting purchaser's or lessee's interest in the agreement or lease shall, *mutatis mutandis,* apply to the sale or transfer of his interest in part only of the land comprised in the agreement or lease.

(7) In case of the sale or transfer of the defaulting purchaser's or lessee's interest in part only of the land comprised in the agreement or lease, the Commissioner may cancel the agreement or lease as to the whole of the said land or as to any part thereof so sold, and may prepare and issue to the purchaser of such part a new agreement or lease therefor, and the new agreement or lease shall be effectual for all purposes as a transfer to the purchaser of the right, title, and interest of the defaulting purchaser or lessee in the part of the said land comprised in the new agreement or lease.

Liability of purchaser for future defaults.
1199, 1915, s. 66.

62. When a defaulting purchaser's or lessee's interest in an agreement or lease, or any part thereof, has been sold under section 61, the purchaser at the sale shall be liable for the payment of all instalments or rents (as the case may be) and other (if any) moneys falling due under the agreement or lease after the date of the sale in respect of the whole or of the part thereof sold (as the case may require), and from that date shall be bound by and subject to all the terms, covenants, conditions, and provisions of the agreement or lease.

Power to execute transfer of interests sold.
Ibid., s. 67.

63. (1) When the sale of any interest under an agreement or lease has been effected by the Commissioner, he may transfer all the right, title, and interest of the defaulting purchaser or lessee to the purchaser at the sale; and the Registrar-General shall, when requested and on payment of the necessary fees, register the transfer, whereupon the same shall be effectual for all purposes as if the purchaser or lessee to whom the transfer is made were the original purchaser or lessee of the lands described and comprised in the agreement or lease.

(2) If the agreement or lease cannot be obtained by the Commissioner, he may cancel the same and prepare a new agreement or lease in lieu thereof for the purchaser at the sale.

Service of notices.
Ibid., s. 68.

64. Any notice to be given to any lessee or purchaser shall be deemed to have been duly given if the same has been sent through the post office enclosed in an envelope addressed to the lessee or purchaser at—

(*a*) any address stated in any recent application, letter, or document received from the lessee or purchaser;

(*b*) the lessee's or purchaser's usual or last known place of abode in the State; or

(*c*) the care of any solicitor, attorney, or agent acting in the lessee's or purchaser's behalf in the particular matter in respect whereof the notice is given,

and notice as aforesaid shall be deemed to have been given on, and time shall run from, the day of the posting thereof.

65. No lessee or purchaser shall be entitled to impound any cattle or sheep trespassing on leased land or land under agreement forming portion of or adjoining a travelling stock reserve unless the said land is enclosed with a fence which is sufficiently substantial and close to ordinarily resist the trespass of cattle or sheep, as the case may be.

Duty of lessees and purchasers not to impound in certain cases.
1199, 1915, s. 69.

66. No statute of limitation shall bar or affect any action or remedy for the recovery of any principal, rent, interest, or instalments due under any lease or agreement.

Statute of limitation no bar to action.
Ibid., s. 70.

PART VII.

PART VII.

LEASES OTHER THAN PERPETUAL.

DIVISION I.—LEASES WITH RIGHT OF PURCHASE GRANTED UNDER REPEALED ACTS.

DIVISION I.

67. In the case of a lease with a right of purchase and right of renewal, granted under a repealed Act, the rent for the term of any renewed lease shall be fixed by the board by revaluation at least twelve months before the expiration of the original lease.

Rent.
1199, 1915, s. 71.

68. The renewed lease shall contain a right of purchase (subject to the provisions of section 265) at a price to be fixed by the board, exercisable at any time during the term of the renewed lease.

Price of purchase.
Ibid., s. 72.

69. In fixing the purchase-money and rent for a renewed lease the board, in cases of revalution, shall not consider the value of the improvements made.

Improvements not to be considered on revaluation.
Ibid., s. 73.

70. Notice of the amount of every revaluation shall forthwith be given by the Commissioner to the lessee.

Notice of revaluation of rent.
Ibid., s. 74.

71. In case the lessee does not within the period of six months after the giving of the notice of revaluation accept or refuse the revaluation, he shall forfeit his right to a renewal, subject, however, to the provisions of section 73.

Lessee not accepting to forfeit right to renewal of lease.
Ibid., s. 75.

PART VII.
DIVISION I.

On refusal to accept land to be offered at rent fixed by board.
1199, 1915, s. 76.

72. In case the right to renewal of a lease is forfeited under section 71, then after the expiration of the period of six months therein mentioned, the land shall be offered in one or more blocks under Part V., at the rental and price fixed by the board; and the improvements made by the outgoing lessee shall be paid for by the incoming tenant or purchaser to the Commissioner at a price to be fixed by the board; and the amount so paid shall be paid by the Commissioner to the outgoing lessee, less any amount that may be due by him under the expired lease.

Terms fixed on re-valuation may be accepted if land not taken when offered.
Ibid., s. 77.

73. (1) If the land comprised in a lease, or any part of that land, has not been taken on perpetual lease or agreement, when offered pursuant to section 72, the Commissioner may receive the lessee's acceptance of the revaluation under sections 67 and 68 at any time not being later than two months from the determination of the lease.

(2) Any lease in respect of which the Commissioner exercises the power hereby conferred shall, notwithstanding its previous determination, be deemed to have continued without interruption of the term thereof.

(3) Where part of the land has been taken when offered as mentioned in subsection (1) hereof this section shall apply only in respect of the part not so taken.

Extension of certain right of purchase leases.
Inserted by 2060, 1931, s. 3.
Subsec. (2) substituted by 2256, 1935, s. 2.

73a. (1) The Commissioner may on the recommendation of the board extend the term of any lease with a right of purchase granted under a repealed Act.

(2) Any such extension may be given from time to time on the recommendation aforesaid, but every such extension shall expire not later than five years after the passing of the Crown Lands Act Amendment Act, 1935.

(3) All the provisions, covenants, and conditions (including the right of purchase) of the lease shall be deemed to apply during such extended term.

DIVISION II.

DIVISION II.—MISCELLANEOUS LEASES.

Leases to discoverers.
1199, 1915, s. 80.

74. (1) Leases, on such terms and conditions as the Governor thinks fit, or as are prescribed, may be granted to any *bona fide* discoverer of any guano or other valuable substance or deposit (not being a metal, or metalliferous ore, or coal, or petroleum, or other mineral oil) of any Crown lands

or other lands belonging to or vested in the Crown on which the discovery has been made.

(2) No person shall hold under such leases at one and the same time more than six hundred and forty acres.

Power of Commissioner to resume place when water found, and one square mile contiguous.
1199, 1915, s. 81.

75. (1) The Commissioner may resume possession of any well or other place where water has been found or conserved, and also of not more than one square mile of land contiguous thereto, without prejudice to any other power of resumption. Where water so found or conserved is artesian the area resumed may be five square miles or less. The lessee of the land previous to resumption shall have a preferential right to any proposed lease of the said land.

(2) Compensation for resumption shall be payable as provided by subsection (2) of section 53, except in respect of any well or other improvement made by the Commissioner.

Leases of resumed lands.
Ibid., s. 82.

76. (1) The Governor may offer a lease of any such land by private contract or by public auction.

(2) Every such lease shall contain the conditions, on the part of the lessee, set forth in the sixth schedule, and such other covenants, terms, and conditions as the Governor thinks fit.

Miscellaneous leases.
Ibid., s. 83.
1882, 1928, s. 16.

77. Leases may be granted of any Government buildings not required for Government purposes, or of any Crown lands, or other lands belonging to or vested in the Crown, for any term not exceeding twenty-one years from the date thereof, at such rent, and upon such terms and conditions as the Commissioner thinks fit, for any of the following purposes, that is to say—

I. For obtaining and removing therefrom guano or other manure:

II. For obtaining and removing therefrom stone and clay, or other earth:

III. For sites for inns, stores, smithies, bakeries, or other buildings for business purposes which the Commissioner approves in thinly-populated districts:

IV. For sites for bathing-houses, bathing-places, mail stations, toll or punt houses:

s. 77. R. v. SOUTH-EASTERN LAND BOARD; *ex relatione* BOWMAN, 4th December, 1893, S.A. *Register* (newspr.). As to the validity of miscellaneous leases for grazing purposes granted in 1884. The purposes referred to in paragraph X. are not restricted to the same class of subject matter as the previous paragraphs.

v. For sites for tanneries, factories, sawmills, or paper-mills:

vi. For sites for wharves, quays, jetties, or landing places, and for sites for the depositing of materials or produce:

vii. For sites for ship or boat building, or repairing:

viii. For any purposes for which licences may be granted under this Act:

ix. For grazing and cultivation, or for grazing only, to be allotted by the board:

x. For any other purpose approved by the Commissioner, whether similar to any of the above-mentioned purposes or not:

Provided that only Crown lands shall be leased under subdivision IX. of this section.

Leases to be offered at auction. 1199, 1915, s. 84.

78. Every lease granted under section 77 shall—

(*a*) except in the case of a lease granted under subdivision IX. thereof, be offered for sale by auction to the highest bidder, at such time and place, and at such upset rental, as is fixed by the Commissioner by notice published in the *Government Gazette* not less than four weeks before the day of auction:

(*b*) contain, in addition to other covenants, a covenant by the lessee to use the land *bona fide* solely for the purpose for which it is leased:

(*c*) contain a provision for forfeiture upon breach of any covenant.

Lands so offered by auction and not sold may be leased at the upset rental fixed by the Commissioner, and in the case of more than one applicant the lessee shall be decided by lot.

Power to reduce rent under miscellaneous lease. Inserted by 2060, 1931, s. 4.

78a. (1) The Commissioner, if he is satisfied that the rent payable under any miscellaneous lease is too high, may make such (if any) reduction thereof as, after reference by the Commissioner to the board, is recommended by the board.

(2) Every reduction of rent under this section shall take effect from such date as the Commissioner in every case determines and every reduction of rent may be for such period as the Commissioner in every case determines.

(3) The powers of the Commissioner under this section may, in the case of any such lease, be exercised from time to time as the Commissioner thinks fit, notwithstanding that one or more reductions have already been made by the Commissioner in respect of the same lease.

DIVISION III.

DIVISION III.—VARIOUS.

Education lands to be dealt with by board. 1199, 1915, s. 85.

79. All leases of lands vested in the Commissioner of Educational Lands from and after the eighth day of December, eighteen hundred and eighty-eight, shall continue to be perpetual leases or agreements. All such lands which have not heretofore been dealt with shall hereafter be dealt with by the board under Part V.

Forest leases to be adjudicated upon by board. Ibid., s. 86.

80. Notwithstanding anything contained in the Woods and Forests Act, 1882, leases of lands comprised in any forest reserve under that Act (which leases may be for any term not exceeding forty-two years) shall, subject to the approval of the Commissioner of Forest Lands, be allotted, and the rent shall be fixed by the board in the same manner as lands within hundreds under Part V. of this Act.

Power of lessees of certain forest lands to surrender lease for perpetual lease or agreement. Ibid., s. 87.

81. (1) The lessee of any land held under a lease for grazing and cultivation or for grazing granted under Part V. of the Woods and Forests Act, 1882, may, with the consent of the Commissioner, surrender his lease, or portion thereof, for a perpetual lease or an agreement: Provided that this section shall not apply to any of the lands described in the seventh schedule to this Act, or to any lands which have been since the first day of January, nineteen hundred and four, or after the passing of this Act are proclaimed as forest reserves in the *Government Gazette*, and none of any such lands shall be dealt with by the Commissioner except by resolution of Parliament.

(2) Upon any such surrender and perpetual lease or agreement being executed as to lands vested in the Commissioner of Forest Lands, the lands affected shall revert to the Crown, and cease to be vested in the said Commissioner.

PART VIII.

PART VIII.

THE LYRUP VILLAGE SETTLEMENT.

DIVISION I.

DIVISION I.—INTERPRETATION AND APPLICATION.

Interpretation. 1199, 1915, s. 88.

82. In this Part, except where the subject matter or context, or some other provision requires a different construction—

"association" means the Lyrup Village Association mentioned in Division II. of this Part:

"district" means district of the association:

"improvements" means substantial and permanent improvements, consisting of buildings, fencing, dams, tanks, wells, drainage and irrigation works, clearing, grading, cultivating, planting with fruit trees, vines, grasses, or cereals:

"inspector" means the Inspector of Village Settlements:

"irrigation works" means all channels, watercourses, machinery, and other property and improvements constructed or erected in the district of the association for irrigation purposes, and belonging to the association:

"reserved lands" means the land reserved for or occupied by the association or by the members thereof:

"rules" means the rules prescribed for the management of the association:

"trustees" means the trustees for the time being of the association.

This Part to apply so far as repealed Acts not exhausted. Ibid., s. 89.

83. The provisions of this Part shall apply, in and with respect to the district, only to the extent to which the operation of the corresponding provisions of the repealed Acts has not been exhausted, with respect to the district, before the passing of this Act.

Passing of this Act not to affect operation of Irrigation Act. Ibid., s. 90. Amended by S.L.R. Act, 1935.

84. In case any of the provisions of this Part are inconsistent with anything lawfully done before the passing of this Act, or with the power to do anything after the said passing, in or with respect to the district or any lands in the district, under the Irrigation Act, 1930, the Irrigation Act, 1922, or any Act thereby repealed, the passing of this Act shall not be held to affect the validity of any such thing or to affect any such power.

DIVISION II.

DIVISION II.—CONSTITUTION OF THE LYRUP VILLAGE ASSOCIATION.

Continuance of Lyrup Village Association. 1199, 1915, s. 91.

85. The constitution and registration of The Lyrup Village Association are hereby further confirmed, and the association shall continue a body corporate, having perpetual succession and a common seal (of which the corporate name of the association shall form part) and the right and liability to sue and be sued, and shall have and be subject to the rights, authorities, duties, and liabilities hereinafter appearing.

Companies Act not to apply. Ibid., s. 92. Amended by S.L.R. Act, 1935.

86. The Companies Act, 1934, shall not apply to the association.

Lands to be set apart and subdivided. 1199, 1915, s. 93.

87. (1) Out of the reserved lands the Commissioner shall set apart for the purposes of this Part—

(*a*) such land as he considers fit for horticultural purposes, hereinafter termed "horticultural lands";

(*b*) such land as he considers fit for agricultural purposes, hereinafter termed "commonage lands"; and

(*c*) land whereon any irrigation works are situated.

(2) The Commissioner shall cause the lands so set apart to be subdivided as follows:—

I. The horticultural lands into blocks of as nearly as practicable equal unimproved value, and of about ten acres in extent; and

II. The commonage lands into one or more blocks of such area as he determines.

District of association. Ibid., s. 94.

88. The lands set apart shall form the district of the association.

Horticultural blocks. 1488, 1921, ss. 4, 5, 14 and 16. 1934, 1929, s. 4. 2120, 1933, s. 13. Inserted by S.L.R. Act, 1935.

88a. (1) The land described in the tenth schedule is hereby declared to be added to the district of the association.

(2) Out of the said land the Commissioner shall set apart for the purposes of this Part—

(*a*) such land as he thinks fit for horticultural purposes; and

(*b*) such land as he thinks fit for the purpose of the construction of irrigation works.

(3) The Commissioner shall cause the lands so set apart to be subdivided into nine blocks (hereinafter in this section referred to as "horticultural blocks") of as nearly as practicable equal unimproved value.

(4) The Commissioner may lease any horticultural block set apart under this section to any person who is eligible for membership of the association, and thereupon that person shall be deemed for all purposes to become a member of the association.

(5) Notice shall be given in the *Government Gazette* that any unleased blocks are open to application. The notice shall contain such particulars as the Commissioner thinks proper.

(6) The blocks shall be allotted by the board.

(7) The provisions of subsection (6) of section 94 shall not apply to any such block.

(8) The Commissioner may, on granting a lease, obtain from the lessee such premium (if any), not exceeding the sum of ten pounds, as he thinks fit, and such premium shall be the property of the association.

(9) All unleased horticultural blocks shall be under the control of the association, and the association shall keep all improvements thereon in good repair.

(10) All the provisions of this Part shall, *mutatis mutandis*, so far as they are not inconsistent with this section, apply to and in respect of the land referred to in this section as if the said land had formed part of the reserved lands referred to in this Part.

Determination of district and leases.
1199, 1915, s. 95.
Amended by S.L.R. Act, 1935.

89. The Governor may, by proclamation, rescind the proclamation of the district, and determine any lease granted under this Part, under the Lyrup Village Association (District Extension) Act, 1921, under Part VIII. of the Crown Lands Act, 1915, or under Part VIII. of the Crown Lands Act, 1903, if the conditions of the lease are not well and faithfully observed and performed to the satisfaction of the Commissioner.

DIVISION III.

DIVISION III.—VALUATIONS.

Valuations.
1199, 1915, s. 96.

90. (1) Upon a subdivision under Division II. of this Part, separate valuations shall be made of—

(*a*) the irrigation works in the district;

(*b*) the improvements (if any) on each of the horticultural blocks in the district;

(c) the improvements (if any) on each of the blocks of the commonage land in the district;

(d) all the personal estate belonging to the association.

(2) If the Commissioner and the association do not forthwith after such a subdivision agree as to valuation, the amount thereof shall be decided by arbitration, pursuant to the Arbitration Act, 1891; one arbitrator being appointed by the Commissioner and the other by the trustees, or, if no unanimous nomination is made then by a majority of the trustees.

Basis of valuation. 1199, 1915, s. 97.

91. No improvement shall be valued at a sum in excess of the value thereof considered solely in connection with its worth to the association or to the members thereof at the time of valuation.

Excess of debts over valuations to be written off. Ibid., s. 98.

92. The amount of the valuations in respect of the district of the association determined as aforesaid shall be deemed to be the total indebtedness of the association to the Commissioner, and the excess (if any) over the valuation due by the association to the Commissioner shall be deemed to be written off.

Sums so written off to be provided in estimates. Ibid., s. 99.

93. The aggregate amount of the sums written off, and also the total indebtedness of any settlement which is closed, shall be provided for in seven equal parts by the Treasurer on the Estimates during the seven years next following the year in which the decision of the arbitrators or umpire is given.

DIVISION IV.—LEASES.

DIVISION IV.

Determination of occupation. Ibid., s. 100.

94. (1) When the valuation in the district is agreed or fixed, the Governor may, by proclamation, determine the occupancy by any person or the association of the reserved land in the district, and the said land shall thereupon revert to the Crown free from encumbrance.

(2) The Commissioner shall forthwith lease such of the horticultural blocks in the district of the association whose occupation has been so determined as he thinks fit, to individual members of the association on perpetual lease, subject as hereinafter appears.

(3) The Commissioner may lease any of such blocks to a person not a member of the association, and thereupon that person shall be deemed for all purposes to become a member of the association.

(4) Notice shall be given in the *Government Gazette* that any unleased blocks are open to application, and the notice shall contain such particulars as the Commissioner thinks proper.

(5) The blocks shall be allotted by the board.

(6) No person shall hold more than two blocks, and every lessee shall hold his block for his individual use and enjoyment.

(7) The Commissioner may, on granting a lease, obtain from the lessee such premium (if any) as he may think fit, and the said premium shall be the property of the association.

(8) Commonage lands shall be leased to and held by the association on perpetual lease, subject as hereinafter appears.

(9) All unleased horticultural blocks shall be under the control of the association, and the association shall keep all improvements thereon in good repair, and shall pay to the Commissioner interest at the rate of five per centum per annum on the amount of the agreed valuation.

Power to transfer leases of commonage lands.
1803, 1927, s. 3.

95. The association may, subject to the consent of the Commissioner, transfer the whole or any part of any commonage lands held on lease as mentioned in section 94.

Rent of horticultural and commonage lands.
1199, 1915, s. 101.

96. The annual rent to be reserved by any lease, whether of horticultural blocks or commonage lands, shall be fixed by the board, and shall commence at a date to be fixed by the Commissioner.

Payment of value of improvements on each horticultural block, and interest thereon.
Ibid., s. 102.

97. The amount of the valuation of the improvements, which shall be valued separately on each horticultural block, together with interest on that amount at the rate of four pounds ten shillings per centum per annum (all hereinafter included in the term "the members' debt") shall be a first charge upon the blocks, and shall be deemed a debt due by the lessee thereof for the time being, and shall be paid to the Commissioner by the lessee by forty-two annual instalments to be calculated at the rate of five pounds six shillings and tenpence for each hundred pounds of the amount and interest, the first of such payments to be made at the expiration of twelve months from the date of commencement of the lease: Provided that the lessee may pay the whole or any portion of the balance due at any time.

Payment of value of irrigation works and of improvements on commonage lands and interest.
Ibid., s. 103.

98. (1) The amount of the valuation of the irrigation works, the improvements on the commonage lands, and the personal estate as aforesaid of or in the district of the association, together with interest on the said amount at the rate of

four pounds ten shillings per centum per annum (all hereinafter included in the term "the association's debt") shall be a first charge upon all the property of and shall be deemed a debt due by the association; and the said amount and interest shall be paid to the Commissioner by the association by forty-two annual payments, to be calculated at the rate of five pounds six shillings and tenpence for each hundred pounds of such amount and interest; the first payment to be made at the expiration of twelve months from the date of commencement of the lease.

(2) If and so often as the association fails to duly make the said annual payment, the same shall be recoverable from the members of the association, every member being liable to pay a proportion thereof, such proportion to be ascertained by dividing the amount of such annual payment (or the unpaid balance thereof) by the number of members of the association at the time when the default occurred; and the said proportion shall also be a charge upon the block of every such member, subject only to the charge created by section 97: Provided that the lessee may pay the whole or any portion of the said moneys at any earlier times than specified herein.

Provisions respecting lease of horticultural and commonage lands. 1199, 1915, s. 104.

99. Every lease of a horticultural block and of commonage lands shall be prepared by the Commissioner, and shall contain such covenants, conditions, and reservations as the Commissioner determines; and every lease of horticultural land shall contain the right to assign or sublet the same with the consent of the Commissioner.

Execution of leases. Ibid., s. 105. 1803, 1927, s. 4.

100. The leases shall be executed within the time and in the manner prescribed, and in the case of—

I. horticultural land, by the lessee:

II. commonage land, by the association,

or where the commonage land has been transferred, by the transferee thereof.

Power to forfeit lessee's interest. 1199, 1915, s. 106.

101. If the lessee fails to comply in any respect with the provisions of this Act or of his lease, the Commissioner may forfeit the interest of the lessee in the block, and cause that interest to be sold by auction or disposed of to any person qualified to become a member of the association, on such terms as he thinks fit. Any person so acquiring any such block shall be deemed to stand in the position of the original lessee, and, if not already a member, shall be deemed to be one.

DIVISION V.

DIVISION V.—IRRIGATION WORKS.

Vesting of irrigation works in Commissioner.
1199, 1915, s. 107.

102. (1) The property in all irrigation works is vested in the Commissioner for the purposes of this Act.

(2) When the charges imposed by sections 97 and 98 have been satisfied in respect of all the land in the district the Governor shall, by proclamation, vest in the association the irrigation works therein for the purposes of this Act, and the said irrigation works and the association shall no longer be subject to control by the Commissioner.

Vesting of water in irrigation works in association.
Ibid., s. 108.

103. All water in the said irrigation works shall be the property of the association, and shall be used by the association for the purposes of this Act.

Duty of association to manage irrigation works subject to Commissioner.
Ibid., s. 109.

104. (1) The control of the irrigation works, including all alterations and additions thereto, and the collection and distribution of the water, shall belong to the association, but subject to the direction of the Commissioner, who may assume the control thereof, to the exclusion of the association.

(2) The association shall keep the irrigation works within its district in thorough repair and maintain and renew the same as occasion requires, to the satisfaction of the Commissioner.

(3) The expenses incurred by the association or by the Commissioner in such control, management, maintenance, renewal, and repair (hereinafter termed the "irrigation expenses") shall be payable by the members of the association equally, as and when the Commissioner determines. In the event of dispute, the decision of the Commissioner as to the proportion of expenses to be paid by each member shall be final.

DIVISION VI.

DIVISION VI.—MANAGEMENT OF THE ASSOCIATION.

Management.
Ibid., s. 110.

105. The business and affairs of the association shall, subject in all things to the approval of the Commissioner and to this Act and to rules, be managed by a board to be appointed in manner prescribed.

Powers of Commissioner.
Ibid., s. 111.

106. The Commissioner shall have the following powers with respect to the association whilst the whole or any part of the debts or amounts referred to in sections 97 and 98 remains unpaid:—

1. He may expel any member from the association, and may summarily eject and remove any such member

s. 106. On 22nd March, 1937, general rules for the association had been approved by the Commissioner in January, 1904, and amendments thereof had been approved by the Commissioner on 2nd July, 1906, 3rd December, 1909, and 15th December, 1919.

from the district of the association: Provided that this power shall only be exercised in cases where notice has been given by the Commissioner to the trustees requiring the expulsion of the member under the rules, and default has been made in such expulsion for at least fourteen days after the giving of the said notice. If the association appeals against the decision of the Commissioner it shall be entitled to nominate an arbitrator, who, with one to be appointed by the Commissioner, shall have power to reconsider and may reverse the decision of the Commissioner. If they fail to agree, the arbitrators shall nominate an umpire, whose decision shall be final:

II. He may control and direct the expenditure of any moneys by the association:

III. He may call upon any trustee of the association to retire from office in any case where he deems it desirable for the welfare of the association that the trustee should so retire, and the trustee shall retire accordingly:

IV. He may require the association to increase the number of members, and if the said requisition is not complied with within six calendar months after the date of service of the requisition upon the association, may cancel the lease to the association:

V. He may make, amend, and repeal rules for the management of the association, and for the regulation, maintenance, and control of the irrigation works, and for the supply of water for irrigation and other purposes, and for the payment of all expenses incident thereto, and generally for the better carrying out of the purposes of this Part.

Restriction of further advance to association. 1199, 1915, s. 114.

107. No advances or allowances shall hereafter be made by the Commissioner to the association.

Duties of lessees not to remove, destroy, or injure improvements while moneys owing. Ibid., s. 115.

108. (1) While the debts or amounts referred to in sections 97 and 98, or any part thereof, remain unpaid the lessee of any horticultural block shall not—

(*a*) pull down or remove from the land whereon the same are; or

(*b*) knowingly suffer to be pulled down or removed; or

(*c*) wilfully or knowingly destroy, damage, or injure, or suffer to be destroyed, damaged, or injured,

any permanent building, erection, or irrigation work erected or made upon the land in the district of the association, without first obtaining the written consent of the Commissioner.

(2) Any person offending against any provision of this section shall forfeit his lease, and shall be guilty of a misdemeanour, and be punishable, on conviction, by imprisonment for any term not exceeding two years.

Appointment of inspector.
1199, 1915, s. 116.

109. The Governor may appoint an officer, to be styled "The Inspector of Village Settlements," to assist the Commissioner in the execution of this Act.

Management of commonage lands.
Ibid., s. 117.
1740, 1926, s. 38.
1803, 1927, s. 5.

110. (1) The commonage lands to be leased to the association shall be under the control of the association, but subject to the direction of the Commissioner, and shall be worked by the association for the common good and benefit of the members thereof upon the principles of co-operation and equitable division, and the said lands may be sublet or transferred by the association in whole or in part: Provided that the consent of the Commissioner to the subletting or transferring shall be obtained in accordance with section 225 of this Act.

(2) Every member of the association shall provide or contribute, towards the maintenance and working of the irrigation works and the care and cultivation of the commonage lands of the association whereof he is a member, such labour (not being less than thirty-six days during every successive period of six months while he is a member) as the Commissioner requires, or such sum in cash as the Commissioner considers the equivalent of such labour; and every such member shall be entitled to credit in the books of the association for the value of the said work as the said value is assessed by the Commissioner, or for the said cash, as the case may be: Provided that the Commissioner may by notice in writing to the association—

(*a*) suspend the operation of this subsection either for a definite period fixed by the notice, or until the giving of a further notice removing the suspension; or

(*b*) postpone the time for making any payment under this section for such period as is fixed by the notice.

A notice given under this proviso may suspend the operation of this subsection as regards all or any of the members of the association according to the tenor thereof.

Commonage lands, accounts. 1199, 1915, s. 118.

111. (1) The association shall cause an account to be prepared once in every year of the working of the commonage lands, showing therein all expenditure and income in connection therewith, including the amount of the assessed value of the members' labour, and after making provision to the satisfaction of the Commissioner for rent, working expenses of the commonage lands (including a proportion of the irrigation expenses), and for depreciation and renewal of the plant, tools, and live stock of, and the irrigation works in the district of the association, the surplus (if any), after deducting twenty-five per centum therefrom for a sinking fund for renewal of plant, *et cetera,* may be divided amongst those persons who are then members of the association, in proportion to the amount of their respective credits in the books of the association for earnings since the thirty-first day of December, nineteen hundred and three.

(2) A copy of every account, certified by the trustees, shall be forwarded to the Commissioner.

Arbitration. Ibid., s. 119.

112. All disputes of a civil nature between members arising out of the affairs of the association shall be settled by arbitration and umpirage of any three or more members, not parties to the disputes, in manner provided by the rules, and the parties thereto shall not be entitled to maintain any action in respect of the disputes except for the amounts determined by the award. The decision of a majority of such members shall be valid and effectual.

Service of proceedings on association. Ibid., s. 120.

113. Any process or document served upon a trustee of the association shall be deemed to have been served upon the association.

Annual instalments of charge and irrigation expenses recoverable by distress. Ibid., s. 121.

114. The proportion of irrigation expenses, and the annual instalments of the association's debts and of the members' debts payable by the association or by any member of the association, shall, amongst other ways, be recoverable by distress and sale of the goods and chattels of the association or person in default, together with such charges as are prescribed.

Power of association, with Commissioner's consent, to dispose of goods, etc., notwithstanding charge thereon. Ibid., s. 122.

115. Notwithstanding the charges imposed by sections 97 and 98, the association, with the prior consent, in writing, of the Commissioner (which he is hereby authorised to give on such terms as he thinks fit), may, in the ordinary course of business, sell or dispose of any of the goods, chattels, and effects of the association free from the said charges.

Public inspection of documents furnished to Commissioner. Ibid., s. 123.

116. A copy of the rules of the association, and all the accounts of the association rendered to the Commissioner, shall be open to public inspection on payment of the sum of two shillings for every such inspection.

PART IX.

PART IX.

HOMESTEAD BLOCKS.

DIVISION I.

DIVISION I.—ACQUIREMENT AND RE-OFFERING OF LANDS.

Lands may be acquired for blocks. 1199, 1915, s. 124.

117. The Commissioner may cause any Crown lands or lands reserved for the use of the aboriginal inhabitants of the State, except such lands as are reserved for the use and occupation of aboriginals at Point McLeay and Point Pearce, to be surveyed and offered as homestead blocks on perpetual lease or agreement; and may, subject to the approval of Parliament, by purchase, exchange, or otherwise, acquire lands suitable for homestead blocks, and cause the same to be surveyed and offered as homestead blocks on perpetual lease or agreement, as provided under Part V.: Provided that any lands so acquired shall not be sold for a sum less than the sum paid therefor by the Government, together with the cost of offering the same.

Value of blocks. Ibid., s. 125. 1882, 1928, s. 17.

118. Homestead blocks may be surveyed, offered, transferred, and held in any area.

Who may hold a block. 1199, 1915, s. 126.

119. A homestead block shall be held only by a person gaining his livelihood by his own labour.

Terms and conditions of lease. Ibid., s. 127.

120. Every such lease or agreement of a homestead block or blocks shall bind the lessee or purchaser to personally reside on the land for nine months in every year of the term, and shall contain such other terms and conditions as the Commissioner thinks fit.

Land not taken up as homestead blocks may be let on lease or sold. Ibid., s. 128.

121. If any land acquired for the purpose of homestead blocks remains unallotted for one year after first being offered, the same may be let on miscellaneous lease, or, if the board so recommends, such lands may, with the approval of the Commissioner, be sold by public auction for cash.

DIVISION II.

DIVISION II.—LEASES AND AGREEMENTS.

Lease or agreement may be granted of more than one block. Ibid., s. 129. 1882, 1928, s. 18.

122. A lease or agreement may include one or more block or blocks of land.

Receipts for rent or instalments to constitute holding title. 1199, 1915, s. 130.

123. The receipts for current rent or instalments shall be a sufficient holding title so long as the lessee or purchaser continues to reside on his land, but in case of transfer or mortgage a lease or agreement shall be taken out.

DIVISION III.—PROTECTED HOMESTEAD BLOCKS.

Commissioner may, at blockholder's request, make certain indorsement on lease or agreement, and land grant.

1199, 1915, s. 131.

124. If before or after the issue of his lease or agreement any blockholder, by notice in writing to the Commissioner, requests that the same be indorsed with the words "Protected homestead block" the Commissioner may, after causing notice of the request to be published twice, at least, in the *Government Gazette*, at the cost of the blockholder, cause the same to be so indorsed, and shall sign the same, and may also issue the land grant with the said indorsement thereon.

Effect of indorsement.

Ibid., s. 132. 1311, 1917, s. 4. 1882, 1928, s. 19.

125. The effect of every such indorsement shall be—

(*a*) that no subsequent encumbrance by the blockholder of the land or his estate or interest therein, or of any part thereof respectively, except the loan agreement provided for in Division VI. of this Part. shall have any validity;

(*b*) that the land, or any part thereof, or the estate or interest of the blockholder therein, or any part thereof, shall not be liable to be seized or taken in execution for debt under process of any court, except for the payment of rates and taxes; and shall not vest in the trustee of his estate, in case of the blockholder's insolvency, or unless otherwise expressly provided by the will of the blockholder, become, on his death, assets for the payment of debts: Provided that this subdivision shall not apply to the recovery of any such debt incurred by the blockholder prior to the date of indorsement, or to any legal proceedings that may be taken in respect thereof.

And the land, and the blockholder's interest or estate therein, shall, notwithstanding subsequent transfer, continue to be so protected unless before registration of the transfer the transferee subscribes upon the transfer a request that the protection may be removed, or unless the blockholder forwards to the Commissioner a request in writing that the protection may be removed; in either of which cases the Commissioner shall cancel the indorsement before the lease, agreement, land grant, or certificate of title, as the case may be, is issued or returned to the transferee or blockholder, and the protection shall cease to operate accordingly as from the date of the cancellation.

DIVISION IV.—SPECIAL PROVISIONS.

Allowance if block cultivated.

1199, 1915, s. 133.

126. If half of any block leased pursuant to Part VII. of the Crown Lands Act, 1888, is cultivated for seven years with vines or fruit trees, in manner prescribed and to the satisfaction of the Commissioner, the holder of the block shall be allowed two pounds for every acre so cultivated off his

PART IX.
DIVISION IV.

purchase-money. No such allowance shall in any case exceed one-half of the purchase-money of the said block; but where the land is held on perpetual lease a reduction in the annual rent shall be made of two shillings for each acre cultivated: Provided that no such reduction shall be made in excess of an amount equal to one-half of the annual rental.

Husband and wife.
1199, 1915, s. 134.

127. Either husband or wife may hold a homestead block, but both husband and wife shall not hold a homestead block at the same time.

Performance of personal residence condition.
Ibid., s. 135.

128. Personal residence by any member of the family of the blockholder shall be considered personal residence for the purposes of section 120.

When blockholder may assign or sublet.
Ibid., s. 136.

129. When the Commissioner is satisfied that the blockholder is unable to continue in occupation of his block, he may allow him to assign or sublet his block, together with the improvements thereon.

DIVISION V.

DIVISION V.—AGREEMENT OR LEASE ON SURRENDER.

Homestead lease may be surrendered for agreement.
Ibid., s. 137.

130. The lessee of any homestead lease, having complied with the provisions contained in his lease, and repaid all moneys due under his loan agreement, may make written application to surrender the lease under Part XI., and to obtain in lieu thereof an agreement or perpetual lease.

DIVISION VI.

DIVISION VI.—LOANS TO BLOCKHOLDERS.

Interpretation.
Ibid., s. 138.
1703, 1925, s. 72.

131. In this Division—

"permanent building" means a dwelling-house, workshop, or stable:

"the bank" means the State Bank of South Australia established by the State Bank Act, 1925:

"the fund" means the Blockholders' Loan Fund under this Act mentioned in section 132.

Constitution of "Blockholders' Loan Fund."
1199, 1915, s. 139.
1703, 1925, s. 72.

132. (1) The Blockholders' Loan Fund, as constituted under the Crown Lands Act, 1915, is hereby continued.

(2) The Treasurer shall set apart for the purposes of the fund, out of moneys to be provided by Parliament for the purpose, a sum or sums not exceeding, with the amount of the fund at the passing of this Act, the sum of ten thousand pounds.

(3) The Blockholders' Loan Fund under this Act shall be under the control of the bank.

Principal moneys repaid to form part of fund, but interest to be paid into the revenue.
1199, 1915, s. 140.
1703, 1925, s. 72.

133. All moneys received by the bank in repayment of any advances under this Part shall be placed to the credit of the fund, and form part thereof. Moneys received as interest shall be paid to the Treasurer in aid of the general revenue of the State.

Accounts.
1199, 1915, s. 141.
1703, 1925, s. 72.

134. The bank shall keep accounts showing all operations on the fund, as well as all moneys paid to and received from every blockholder to whom any advances are made under this Part.

Advances.
1199, 1915, s. 142.
1703, 1925, s. 72.

135. (1) Advances may be made by the bank out of the fund to assist blockholders who observe and perform the covenants and conditions of their leases or agreements to the satisfaction of the bank—

(*a*) in erecting or completing permanent buildings and making permanent improvements on their blocks:

(*b*) in the making of improvements which permanently increase the capital value of the land.

(2) Such last-mentioned improvements may consist of clearing the land or fencing the same, erecting or making thereon permanent water improvements, such as dams, wells, tanks, water-courses, windmills, and the like.

Conditions of advances.
1199, 1915, s. 143.
1703, 1925, s. 72.

136. (1) Advances under paragraph (*a*) of section 135 shall not exceed one-half of the cost to the blockholder of the permanent buildings and other permanent improvements (if any) which are then subsisting, in good repair and condition, on his block.

(2) Advances under paragraph (*b*) of section 135 shall not exceed one-half of the value of the improvements.

(3) The amount owing to the bank by any blockholder for moneys advanced under section 135, with interest, shall not at any time exceed in the whole fifty pounds.

Applications.
1199, 1915, s. 144.
1703, 1925, s. 72.

137. Every application for an advance shall be made in writing to the bank, and shall—

(*a*) be in a form prescribed by the bank; and

(*b*) be supported by—

I. the report of an inspector or other authorised officer;

II. vouchers, statutory declarations, and other evidence showing the cost of and condition of the permanent buildings and other permanent improvements (if any); and

III. such other evidence as the bank may require and to its satisfaction.

In computing the cost the labour of the blockholder may be taken into account.

Agreement to be executed by blockholder.
1199, 1915, s. 145.
1703, 1925, s. 72.

138. Every blockholder, on obtaining an advance under section 135, shall enter into a loan agreement with the bank in the form in the eighth schedule, and the loan agreement may contain such additional terms and conditions as the bank thinks necessary.

Repayment of moneys.
1199, 1915, s. 146.
1703, 1925, s. 72.

139. All moneys advanced to any blockholder shall be repaid to the bank, together with interest at the rate of four per centum per annum, by twenty equal instalments, to be calculated at the rate of seven pounds seven shillings and twopence per centum of the amount advanced, the first instalment to be paid at the expiration of twelve months from the date of the advance: Provided that the blockholder may pay the whole or any portion of the amount advanced at any time prior to the expiration of the time agreed for payment.

Breach of agreement to render holding liable to forfeiture.
1199, 1915, s. 147.

140. Any breach by the blockholder of any of the terms or conditions of his loan agreement shall be deemed a breach of the conditions of the lease or agreement, and shall render the lease or agreement liable to be cancelled and forfeited in the same manner as Crown leases or agreements where rent is in arrear. No grant shall issue for any land until all advances have been repaid.

Extension of time for repayment.
Ibid., s. 149.
1703, 1925, s. 72.

141. In cases of hardship the bank may extend the time for making any payment on account of any loan under this Part: Provided that the deferred payments shall bear interest at the rate of five pounds per centum per annum.

Duties of blockholders not to remove, destroy, or injure improvements while moneys owing in respect of advances.
1199, 1915, s. 150.
1703, 1925, s. 72.

142. (1) While any principal or interest moneys remain owing by any blockholder in respect of advances made, the blockholder shall not pull down or remove, or knowingly suffer to be pulled down or removed, or wilfully or knowingly destroy, damage, or injure, or suffer to be destroyed, damaged, or injured, any permanent building, erection, or water improvement erected or made upon the block: Provided that the bank may give its consent in writing for the removal of any structure.

(2) Any person offending against the provisions of this section shall forfeit his lease or agreement and shall be guilty of a misdemeanour, and be punishable, on conviction, by imprisonment for any term not exceeding two years.

PART IX. DIVISION VI.

Voiding of mortgages, etc., subject to advances.

1199, 1915, s. 151.

143. If any blockholder obtains an advance under this Part no sublease, mortgage, or other encumbrance (except the agreement provided for in the eighth schedule) subsequently executed by him shall have any validity until the advance and all interest in respect thereof have been fully repaid and satisfied.

PART X.

CLOSER SETTLEMENT.

PART X.

Cf. U.K., 21 & 22, Geo. 5, c. 41.

DIVISION I.—POWER TO ACQUIRE LANDS.

DIVISION I.

Acquisition of land by repurchase.

1199, 1915, s. 153.

144. The Commissioner may, by repurchase, acquire land for the purposes of this Part at a cost not exceeding six hundred thousand pounds in any period of two financial years (reckoning the first of such periods to have commenced on the first day of July, nineteen hundred and ten), subject to the following conditions, namely:—

I. That the repurchase is recommended and the improvements are valued by the board and the Surveyor-General:

II. That within thirty days after any repurchase, if Parliament is then in session, or if Parliament is not then in session, then within thirty days after the commencement of the next session, there shall be laid before both Houses copies of all recommendations and valuations pursuant to which the purchase has been made, and full particulars of—

(*a*) the locality, area, and quality of the land repurchased, and of the improvements thereon;

(*b*) the names of the vendors and of all persons interested in the sale; and

(*c*) the price paid and the land tax assessment.

Acquisition of land compulsorily.

Ibid., s. 154. 1231, 1915, s. 3. 1546, 1922, s. 123. Amended by 1990, 1930, s. 3.

145. The Commissioner may also acquire land for the purposes of this Part, as provided by Division II. of this Part.

The provisions of section 144, *mutatis mutandis*, shall apply in respect of the land so acquired, and the cost limited by that section shall include the cost of that land: Provided that—

I. with regard to—

(*a*) land acquired as being land adjacent to the River Murray suitable for reclamation or irrigation (and not as being a large estate or part thereof); and

(*b*) land acquired pursuant to section 153 or 154,

the condition imposed by subdivision I. of section 144 shall, for the purposes of this section, be read as a condition that the acquisition shall be recommended by the Surveyor-General and the Director of Lands; and

II. with regard to land acquired pursuant to section 155, the said condition shall, for the said purposes, be read as a condition that the acquisition shall be recommended by the Surveyor-General and the Engineer-in-Chief.

Registrar-General to make necessary entries and cancel certificates of title.
1199, 1915, s. 155.
Amended by S.L.R. Act, 1935.

146. (1) Upon the transfer or conveyance of any land acquired under this Part pursuant to agreement being lodged with the Registrar-General, or upon the Commissioner furnishing the Registrar-General with a copy of the proclamation under section 163 as to any land, the Registrar-General shall make any entry in the register-book or other book at the Lands Titles Registration Office or General Registry Office necessary or proper to evidence the vesting of the land in His Majesty.

(2) If any of such land is under the provisions of The Real Property Act, 1886, the Registrar-General shall, upon the lodging of the transfer with him, or receiving the said copy of the proclamation (as the case may be), make an entry on the folium relating thereto in the register-book as follows:—"Cancelled, the land (*or* part of the land) having been acquired by the Crown," and shall sign the entry. Thereafter the land referred to in this subsection shall, for the purposes of The Real Property Act, 1886, and until again alienated from the Crown, be dealt with and regarded in all respects as if it had never been alienated from the Crown.

(3) Upon receiving the grant, certificate of title, or other muniment or muniments of title of the land referred to in the next preceding subsection the Registrar-General shall cancel the same by indorsing thereon the words—"Cancelled, the within land (*or* part of the within land) having been acquired by the Crown," and shall sign the indorsement.

DIVISION II.

DIVISION II.—COMPULSORY ACQUISITION OF LANDS.

Interpretation.
1199, 1915, s. 156, 1231, 1915, s. 4.

147. In this Division—

"Crown lease" means—

(*a*) any agreement under any of the Crown Lands Acts containing a covenant to purchase; and

(*b*) any lease or agreement for a lease, and any licence, permit, right to occupy or use, or

similar right or interest, or agreement thereof, whether the same is in perpetuity or for a term of years or otherwise, and whether containing or not containing a right to purchase, and under whatever Act or other authority the same may have been granted or made,

before or after the passing of this Act granted or made by or on behalf of the Crown, or by or on behalf of any person or authority holding lands belonging to the Crown, or in whom or which lands belonging to the Crown were or are vested:

"large estate" means the whole or any part or parts of the land, not being situated within the boundaries of any city, town, or township, owned in fee simple by the same owner or owners in a case in which the unimproved value of the aggregate of all the land so owned by the said owner or owners exceeds twenty thousand pounds, and of which land the owner is not at the time of the preliminary notice under section 156, according to the certificate of the Surveyor-General, cultivating annually at least one-third of the arable land:

"owner," when used with reference to—

(*a*) a large estate, means the owner of a freehold estate in possession:

(*b*) other land, means the owner of a freehold estate in possession, except where the land is comprised in a Crown lease, in which case it means the lessee thereof:

"purchase-money" or "price" includes compensation for the resumption of a Crown lease or consideration to be paid for the surrender thereof:

"River Murray" includes every tributary, affluent, effluent, creek, ana-branch, or extension of, and every lake or lagoon connected with, the River Murray:

"sale" includes surrender of a Crown lease:

"transfer" includes surrender of a Crown lease.

148. Subject to subsection (5) of section 153, in administering this Division lands shall not be deemed not to adjoin other lands merely because they are separated therefrom by a public or other road or by a stream or water-course.

What lands to be deemed to be adjoining lands.
1199. 1915, s. 157.

149. The provisions of this Division shall apply notwithstanding anything contained in The Real Property Act, 1886.

Act to apply notwithstanding Real Property Act, 1886.
Ibid., s. 158.

PART X.
DIVISION II.

Incorporation of the Compulsory Acquisition of Land Act, 1925.
1199, 1915, s. 159.

150. The provisions of sections 10, 35, 36, 37, 40, 41, 55 to 63, both inclusive, 78, and subsection (11) of section 29 of the Compulsory Acquisition of Land Act, 1925, so far as applicable and not inconsistent with the provisions of this Division, are incorporated with and shall form part of this Division, and, for the purposes of this Division, the following expressions when used in the said Act shall have the following meanings, namely:—"promoters" shall mean the Commissioner of Crown Lands: and "special Act" shall mean this Division.

Power to acquire lands (other than large estates) which are subject to Crown leases.
Ibid., s. 160.

151. (1) When any land—

(*a*) is comprised in a Crown lease; and

(*b*) might, if it were held for a freehold estate, be acquired under the provisions of this Division otherwise than as being a large estate,

the said land may be acquired by the Commissioner under the provisions of this Division; and for the purpose of carrying out the acquisition thereof the Governor may accept the surrender of the said lease or resume the land comprised therein.

(2) Every reference in this Division to the acquiring or acquisition of land, other than a large estate, shall be read as including a reference to the acceptance on surrender of a Crown lease, or the resumption of the land comprised therein; and, for the purposes of anything to be done under this Division, in a case where the land is comprised in a Crown lease, the provisions of this Division shall be read as varied in such a manner as may be appropriate for dealing with land comprised in a Crown lease.

(3) For the purposes of sections 159, 160, and 162, land comprised in a Crown lease shall be regarded as land under The Real Property Act, 1886.

Acquisition of large estates and lands adjacent to River Murray.
Ibid., s. 161.
1311, 1917, s. 5 (1).
1546, 1922, s. 123.
Amended by 1990, 1930, s. 3.

152. (1) Large estates may be acquired by the Commissioner for the purposes of extension of agriculture and closer settlement in manner prescribed by this Division; and large estates and any lands adjacent to the River Murray suitable for reclamation or irrigation may be acquired by the Commissioner for the purposes of extension of agriculture and closer settlement in manner prescribed by this Division.

(2) A certificate signed by the Surveyor-General stating that any land therein specified is adjacent to the River Murray, and a certificate signed by the Director of Lands stating that any land therein specified is suitable for reclamation or irrigation, shall be conclusive as to the matters so stated.

(3) No land shall be acquired under this Division, as being land adjacent to the River Murray suitable for reclamation or irrigation, except on the written recommendation of the Surveyor-General and the Director of Lands: Provided that this subsection shall not apply to the acquisition of any land as being a large estate or part thereof.

Acquisition of lands required for working lands adjacent to River Murray.
1199, 1915, s. 162.
1311, 1917, s. 5 (2).
1546, 1922, s. 123.
Amended by 1990, 1930, s. 3.

153. (1) Subject to subsection (2) of this section, any land of any kind which adjoins land adjacent to the River Murray and suitable for reclamation or irrigation, may be acquired by the Commissioner under the provisions of this Division.

(2) No land shall be so acquired by virtue of the power conferred by this section unless—

(*a*) the land which it adjoins as aforesaid is at the same time or has previously been so acquired, or is otherwise vested in His Majesty the King or in some person on behalf of His Majesty;

(*b*) the Surveyor-General has signed a certificate stating that the land adjoins lands adjacent to the River Murray and the Director of Lands has signed a certificate stating that the lands are suitable for reclamation or irrigation;

(*c*) the Director of Lands has signed a certificate stating that the land is required for the convenient or better working or use of the said land which it adjoins;

(*d*) the Surveyor-General and the Director of Lands have recommended in writing that the land be so acquired; and

(*e*) the Commissioner has offered the occupier of the land the right to select a block of swamp or reclaimed or irrigable land and an area of other land in conjunction therewith.

(3) Any such certificate of the Surveyor-General or the Director of Lands shall be conclusive as to the matters stated therein.

(4) All the provisions of this Division as to lands adjacent to the River Murray suitable for reclamation or irrigation shall apply to land to be acquired, or land which has been acquired, by virtue of the power conferred by this section.

(5) Notwithstanding anything in this Division contained, no land shall, for the purposes of this section, be deemed to adjoin land from which it is separated by the main stream of

the River Murray, and not merely by a creek, affluent, effluent, ana-branch, or extension of, or lagoon connected with, the said river.

Land irrigable by waters from the River Murray.
1231, 1915, s. 5 (part). 1546, 1922, s. 123.
Amended by 1990, 1930, s. 3.

154. (1) Subject to subsection (2) of this section, any land which, by means of irrigation with water from the River Murray, is capable of being rendered suitable for closer settlement may be acquired by the Commissioner in manner prescribed by this Division, for the purposes of extension of agriculture and closer settlement, notwithstanding that the said land is neither adjacent to the River Murray nor adjoining land adjacent to that river, as mentioned in sections 152 and 153.

(2) No land shall be so acquired by virtue of the power conferred by this section, unless the Director of Lands has certified in writing that, by means of irrigation with water from the River Murray, the land is capable of being rendered suitable for closer settlement, and the Surveyor-General and the Director of Lands have recommended in writing that the land be so acquired.

(3) The certificates of the Surveyor-General and Director of Lands shall, for the purposes of this Division, be conclusive as to the matters stated therein.

(4) All the provisions of this Division as to lands adjacent to the River Murray suitable for reclamation or irrigation shall apply to the land to be acquired or acquired by virtue of the powers conferred by this section.

Land requiring drainage.
1231, 1915, s. 5 (part).

155. (1) Subject to subsection (2) of this section, any land which, by means of drainage works, is capable of being rendered suitable for closer settlement may be acquired by the Commissioner in manner prescribed by this Division, for the purposes of extension of agriculture and closer settlement.

(2) No land shall be so acquired by virtue of the power conferred by this section unless the Surveyor-General and the Engineer-in-Chief have certified in writing that, by means of drainage works, the land is capable of being rendered suitable for closer settlement, and have recommended in writing that the land be so acquired.

(3) The certificate of the Surveyor-General and the Engineer-in-Chief shall, for the purposes of this Division, be conclusive as to the matters stated therein.

(4) All the provisions of this Division as to lands adjacent to the River Murray suitable for reclamation or irrigation shall apply to land to be acquired or acquired by virtue of the power conferred by this section.

Preliminary notice of intention to inspect.
1199, 1915, s. 163.

156. (1) When the Commissioner considers it advisable to acquire any large estate or other land under this Division he may direct an inspection thereof to be made; and he shall, not less than four weeks prior to the date of the proposed inspection of the land, give a preliminary notice in writing to the owner thereof of his intention to inspect and of the date when an inspection of the land will be made.

(2) The notice shall specify the acreage, description, and boundaries of the land so far as the same are known to the Commissioner.

Power to enter land for inspection.
Ibid., s. 164.

157. After notice under section 156 has been given as to any large estate or other land, the Commissioner or any person authorised by him may enter at any time or times upon the large estate or other land and inspect the same and the improvements thereon, and may remain thereon for any reasonable time to acquire all necessary information for the purpose of making an inspection of the land and improvements.

Notice of intention to acquire.
Ibid., s. 165.

158. (1) When the Commissioner intends to acquire any large estate as to which a preliminary notice has been given under section 156, he shall send to the owner a further notice, stating that at the expiration of two years from the date of the last-mentioned notice it is the Commissioner's intention to acquire the land, and what price he is prepared to give for it.

(2) When the Commissioner intends to acquire any land adjacent to the River Murray, as to which land a preliminary notice has been given under section 156, he shall send to the owner a further notice, stating that at the expiration of one year from the date of the last-mentioned notice it is the Commissioner's intention to acquire the land and what price he is prepared to pay for it.

Duties of Registrar-General to note in register book.
Ibid., s. 166.
Amended by S.L.R. Act, 1935.

159. After notice under section 158 as to any land has been given, the Commissioner may send a copy of the notice to the Registrar-General, at the Lands Titles Registration Office, and the Registrar-General shall thereupon note the same in the register-book if the land is under The Real Property Act, 1886, and if the land is not under The Real Property Act, 1886, the Registrar-General shall register a memorial of the said notice in the General Registry Office for Deeds.

Effect of notice to bind all persons interested.
1199, 1915 s. 167.

160. As regards land under The Real Property Act, 1886, when a notice under section 158 has been noted as provided by section 159, and as regards land not under that Act, when

a memorial of a notice given under section 158 has been registered as provided by section 159, the said notice shall be deemed to have been duly given to all persons—

(*a*) at the time of the noting or registration, as the case may be; or

(*b*) after the said time and within a period of two years, as regards a large estate, or one year as regards other land, after the giving of the preliminary notice under section 156,

having any right, estate, or interest in the land; and the Commissioner may, at any time within six months after the expiration of the said period of two years or one year, as the case may be, acquire the land under this Division, notwithstanding any disposition of the land or any part thereof, or of any right, estate, or interest in or over the land or any part thereof, or any other dealing with or in any way affecting the land or any part thereof, and notwithstanding the noting in the register-book or registration in the General Registry Office for Deeds of any such disposition or dealing.

Rights of owner to reserve land not exceeding twenty thousand pounds in value.
1199, 1915, s. 168.
1231, 1915, s. 6.

161. (1) At any time before the expiration of the notice given under section 158 as to any large estate, the owner thereof, unless he has in the meantime agreed in writing with the Commissioner for the sale thereof, shall have the right, by notice in writing given to the Commissioner, to select and retain out of the large estate, for the purpose of his residence or business, or both, land in one block where possible, and if land of the value of twenty thousand pounds cannot be retained in one block, then in not more than two blocks specified in the notice: Provided that in no case shall the value of the lands selected and retained, exclusive of the value of the improvements thereon, exceed in the aggregate twenty thousand pounds.

(2) When a notice in accordance with subsection (1) of this section has been given, the land properly comprised in the notice shall cease to be affected by the notice given under section 158.

(3) This section shall not apply to any land on or adjacent to the River Murray suitable for reclamation, whether the land is or is not a large estate or part thereof.

Rights of owner to require whole estate to be taken.
1199, 1915, s. 169.

162. (1) At any time before the expiration of the notice given under section 158 as to any large estate or other land, the owner thereof, unless he has in the meantime agreed in writing with the Commissioner for the sale thereof, may, by notice in writing given to the Commissioner, require him to

take all lands specified in the last-mentioned notice of which he is the owner, and which adjoin and are occupied together with the land comprised in the said notice under section 158.

(2) After a notice in accordance with subsection (1) of this section has been given, the land comprised in the said notice under section 158 shall not, without the consent in writing of the owner thereof, be acquired under this Act, unless the land properly comprised in the said notice under subsection (1) of this section is also acquired, nor shall the last-mentioned land be so acquired without the said consent, unless the land comprised in the said notice under section 158 is also so acquired.

(3) When a notice under subsection (1) of this section has been given as to any land the Commissioner shall, except for the purposes of section 161, be deemed to have duly given a notice under section 158 of his intention to acquire that land. The Commissioner may send to the Registrar-General a notice in writing of his intention to acquire that land, and the said notice shall be noted in the register-book if the land is under The Real Property Act, 1886. Upon such noting, if the land is under the said Act, or upon the giving of the notice by the owner to the Commissioner, if the land is not under the said Act, the provisions of section 160 shall apply to the said land.

Mode of acquiring the land.
1199, 1915, s. 170.
1231, 1915, s. 7.
1311, 1917, s. 6.

163. (1) Subject to sections 161 and 162, at any time within six months after the expiration of the period of two years, as regards a large estate, or one year as regards other land, from the giving of the preliminary notice under section 156 if—

(*a*) the amount of the purchase-money to be paid therefor has been agreed between the Commissioner and the owner or has been ascertained by arbitration as mentioned in section 165; and

(*b*) the amount of the said purchase-money has been paid or tendered; and

(*c*) the owner of the large estate or other land, as the case may be, has refused or failed to sign a conveyance or transfer thereof to His Majesty the King,

it shall be lawful for the Governor, by proclamation published in the *Government Gazette,* to declare that the provisions of this Division shall apply to the land comprised in the notice, and that the same is thereby compulsorily taken and acquired.

(2) On and after the date of the publication of the proclamation in the *Government Gazette* the land therein specified shall, without further or other authority than this

Act, become and be absolutely vested in His Majesty the King, free and discharged from all leases, licences, contracts, trusts, obligations, estates, interests, charges, rates, and easements, whatsoever.

Amended by 1990, 1930, s. 3.

(3) For the purposes of this section, the tender of an order on the Treasurer of the State, signed by the Director of Lands, the Assistant Director of Lands, or the Surveyor-General for the amount of the purchase-money to be paid for a large estate or other land, shall be deemed to be a tender of the amount of the said purchase-money.

Copy of proclamation to be furnished to Registrar-General.
1199, 1915, s. 171.

164. When a proclamation has been made under section 163 as to any land the Commissioner shall furnish the Registrar-General with a copy of the proclamation.

Price to be determined by arbitration failing agreement.
Ibid., s. 172.

165. Where any land is acquired under this Division, the price to be paid for the same and the improvements thereon shall, failing agreement between the Commissioner and the owner within one month after notice in writing given by one party to the other of the price which he is willing to pay or accept in settlement, be determined by the arbitration of three arbitrators, one of whom shall be a Judge of the Supreme Court, who shall act as president and umpire, and one of whom shall be appointed by the Commissioner and one by the owner: Provided that if either party fails to appoint an arbitrator within one month after notice in writing by the other of the appointment of his arbitrator, the matter shall be determined by the Judge and the arbitrator already appointed.

Price.
Ibid., s. 173.

166. (1) The price to be paid for any land and improvements acquired by proclamation under this Division, if the price is fixed by arbitration, shall not, where the owner acquired the land by purchase for a money consideration, be less than that money consideration.

(2) Subject to subsection (1) hereof, where money has, prior to the twelfth day of January, nineteen hundred and eleven, been *bona fide* lent on the sole security by way of mortgage or other encumbrance of land acquired under this Division, no less sum shall, without the consent of the mortgagee or encumbrancee, be paid as the price of the land than the amount of the money so lent and unpaid at the time of so acquiring the land, together with any interest thereon due and unpaid at the time of the said acquisition.

Award of arbitrators.
Ibid., s. 174.

167. (1) Either party to the arbitration shall have the right to appeal to the Supreme Court, but only on a question of

law, and the said court may, on any such appeal, make such order as it deems proper, and the arbitrators shall give effect to the order; but otherwise the decision of the arbitrators shall be final and not subject to any appeal.

(2) Where an arbitrator has misconducted himself he may be removed by the Supreme Court or a Judge thereof.

(3) Where an award has been improperly procured the said court or a Judge thereof may set the award aside.

(4) The award may be made an order of the Supreme Court on the application of the Commissioner or the owner, and may thereafter be enforced accordingly.

(5) The arbitrators or, on appeal, the Supreme Court, may make such award and directions as to the costs of any parties concerned in the arbitration as he or they deem just.

Service of notices. 1199, 1915, s. 175.

168. All notices required to be given under this Division to any owner shall be deemed to be duly given when posted to or left at his usual or last known place of abode or business.

This Division not to apply to town lands. Ibid., s. 176.

169. This Division shall not apply to any land within the boundaries of any city, town, or township.

DIVISION III.

DIVISION III.—PURCHASE OF LAND BY ARRANGEMENT.

Purchase of land by arrangement with intending settlers. 1900, 1929, s. 2.

170. (1) If—

(*a*) the owner of any land suitable for subdivision into two or more blocks makes an offer in writing to the Commissioner offering to sell the said land to the Commissioner at a price named in the offer; and

(*b*) two or more persons (according to the number of blocks into which the land is suitable for subdivision) in writing request the Commissioner to purchase the land for the purpose of subdividing it into blocks for allotment to the said persons under agreement for sale and purchase, containing such terms and conditions as agreements under Division V. of this Part contain and submit to the Commissioner a scheme for subdividing and allotting the land in blocks,

the Commissioner may cause the said land to be valued by the board and the Surveyor-General with a view to purchasing the same as hereinafter mentioned.

(2) If—

(*a*) the values placed on the land by the board and the Surveyor-General are equal to or greater than the price required by the owner of the land and the applicants are willing to pay to the Commissioner a sum equal to one-tenth of the said price; or

(*b*) either or both of the values placed on the land by the board and the Surveyor-General are less than the price required by the owner of the land, but the applicants are willing to pay to the Commissioner a sum equal to one-tenth of the said values or if the said values are different, one-tenth of the lower value, and also the difference between the said values, or if the said values are different, the lower value and the said price, and the Commissioner consents thereto; and

(*c*) the value placed on the land by the board and the Surveyor-General is such that when the land is subdivided into the required number of blocks and allotted to the applicants no block (exclusive of the improvements thereon) will exceed in value the limit of value provided by this Act; and

(*d*) the board is satisfied that the applicants are eligible and suitable persons to hold the said land; and

(*e*) the Commissioner, on the recommendation of the board and the Surveyor-General, approves of the scheme for subdividing and allotting the land; and

(*f*) the applicants pay in every case where the said values are both equal to or greater than the price required by the owner, a sum equal to one-tenth of the said price and in any case where either of the said values is less than the said price, one-tenth of the said values, or if the said values are different one-tenth of the lower value and also the difference between the said values and the said price or if the said values are different, the difference between the lower of the said values and the said price, and make a deposit of the prescribed amount and severally agree—

I. to pay to the Commissioner each his due proportion of the cost of inspecting, surveying, and subdividing the land; and

II. to purchase the land from the Commissioner in blocks according to the scheme submitted, and comply with any conditions prescribed or imposed by the Commissioner,

the Commissioner may purchase the said land and, when purchased, the land shall be allotted to the applicants in accordance with the scheme, without any notice being published in the *Gazette*, as required by section 171.

The provisions of Divisions V. and VI. of this Part shall, with the necessary modifications, apply to land allotted and agreements issued under this section.

DIVISION IV.—HOW ACQUIRED LANDS TO BE DEALT WITH.

Land acquired, how dealt with.
1199, 1915, s. 177.
1231, 1915, s. 8 (2).
1882, 1928, s. 20.
1900, 1929, s. 3.

171. Subject to sections 170, 172 and 173, all land acquired under this Part, or under the provisions of any repealed Act dealing with closer settlement, shall be dealt with as follows:—

I. Town lands may be sold by auction for cash, and reserves may be dedicated by proclamation in like manner as Crown lands are dedicated:

II. The land, except such portions as may be required for town lands or for dedication or reservation for public purposes, shall be cut up into blocks, none of which shall, except as provided by paragraph III. hereof, exceed seven thousand pounds in unimproved value:

III. Where in cutting up the land improvements to a large value will necessarily be included in one or more blocks, and the value of the said improvements would be out of proportion to the value of the said block or blocks if the limitation of seven thousand pounds were not exceeded, the block or blocks may exceed the said limitation in unimproved value:

IV. When the board considers there are more improvements on any block than are required for working the block, then only the value of such improvements shall be added to the price of the block as, in the opinion of the board, are reasonable, having regard to the size and situation of the block; and the balance of the value of the said improvements shall be added to the price which has been paid for the whole estate of which the said block forms a part:

V. Before the blocks are offered the board, subject to the approval of the Commissioner, shall fix the value of every block and of the improvements thereon, including the reasonable cost of any work effected by the Government: Provided that the price so fixed shall not in the aggregate be less than the amount paid for the land, together with the cost of necessary accommodation works, and of offering the same for sale:

VI. Notice shall be given in the *Government Gazette* that the blocks are open to be purchased, and the notice shall contain particulars of the area of every block and the value of the improvements thereon, the area to be cleared so as to render the same available for cultivation or so as to improve the grazing capacity thereof, the annual instalments of principal and

interest to be paid in respect of the purchase-money of the block and improvements, and such other particulars as the Commissioner thinks proper:

VII. The blocks shall be allotted by the board.

Power to postpone allotment of closer settlement lands.
1199, 1915, s. 178.

172. (1) Any lands acquired for the purposes of closer settlement, as to which a resolution of both Houses of Parliament has been passed, whether before or after the acquisition thereof, to the effect that this section shall apply, may, until such time as the Governor by proclamation declares that they shall be used for closer settlement, be dealt with as provided by subsection (2) hereof as if they were Crown lands not acquired for the purposes of closer settlement.

(2) Any such land may be let on miscellaneous lease for any term not exceeding twenty-one years, subject, however, to a condition that after the publication in the *Government Gazette* of a proclamation under this section as to the said land, or as to the said land and any other land, the term of the said lease shall be determinable by the Commissioner by not less than six months' notice in writing to the lessee.

Occupation or lease of lands acquired, pending execution of drainage or other improvements.
1231, 1915, s. 8 (1).
1311, 1917, s. 7.

173. (1) When any land has been acquired for the purposes of closer settlement, but it is necessary or desirable for drainage, irrigation, or other works or improvements to be carried out, in order to render the land suitable or more suitable for closer settlement, the Commissioner may permit the person who, prior to the acquisition of the land, was the owner thereof, to remain in occupation thereof for such time, and, upon such terms and conditions as are agreed between the parties.

(2) If in such a case as mentioned in subsection (1) of this section the person therein referred to does not, within one month after the land is acquired, apply in writing to the Commissioner to be allowed to continue in occupation, or, if in any case no arrangement is made under the said subsection within two months after the land is acquired, the land may be let in one block or in such blocks as the Commissioner thinks proper, to such persons and for such terms and on such terms and conditions as the Commissioner thinks proper.

DIVISION V.

DIVISION V.—AGREEMENTS FOR SALE AND PURCHASE.

Covenants to be contained in the agreement.
1199, 1915, s. 179.
1405, 1919, s. 8.
1882, 1928, ss. 21 and 22.

174. (1) The blocks shall be offered for sale, and, subject to section 175, the purchaser shall enter into an agreement for the term of thirty-five years for sale and purchase (hereinafter called the "agreement") as follows:—

I. To purchase his block and the improvements (if any) thereon at the price fixed by the board, and to pay the purchase-money and interest thereon by the following half-yearly instalments, to be paid in advance,

namely:—The first ten half-yearly instalments shall be equal and shall be calculated at the fixed rate on the price fixed as aforesaid, and each of the subsequent sixty half-yearly instalments shall be equal and shall be calculated at a rate sufficient to repay during the said term of thirty-five years the price fixed as aforesaid together with interest at the fixed rate on the balance thereof from time to time remaining unpaid: Provided that the purchaser—

(*a*) shall have the option of completing the purchase of his block at any time after the expiration of six years from the date of the agreement on paying the balance of the purchase-money under the agreement and all interest due at the time of the completion of his purchase, and complying with all the terms, covenants, conditions, and provisions of the agreement:

(*b*) may, on the date appointed by the agreement for the payment of any of the half-yearly instalments, pay in advance any part (being the sum of fifty pounds or a multiple thereof) of the purchase-money under the agreement, whereupon interest on the amount so paid shall cease, and the amounts of the instalments subsequently falling due shall be decreased ratably to the amount so paid:

(*c*) may pay the whole or any part of the purchase-money for improvements at any time:

II. To spend on his block during every year of the first five years a sum equal to three pounds for every one hundred pounds of his purchase-money in substantial improvements, consisting of buildings, fencing, or water improvements: Provided that—

(*a*) the amount so spent by the purchaser in excess of the amount required to be expended in any one year shall be set off against the expenditure required in the next or following years; and

(*b*) so much of any amount of the purchase-money paid by him as was paid on account of improvements may be deducted from the amount to be expended under this section:

III. To clear so as to render available for cultivation or so as to improve the grazing capacity thereof, the area specified in that behalf in the notice in the *Government Gazette* declaring that the blocks are open to be

purchased. Any money spent on clearing land under this paragraph shall be deemed to be money spent on substantial improvements within the meaning of the last preceding paragraph.

(2) The provisions of section 47 apply to an agreement under this Part.

(3) In filling up the blank spaces in the form of the covenant in the ninth schedule which binds the purchaser to clear land so as to render the same available for cultivation or so as to improve the grazing capacity thereof, the following directions shall be followed:—In the first, second, and third spaces there shall be inserted an area equal to one-eighth of the area so specified in the notice in the *Government Gazette,* and in the fourth space an area equal to the full area so specified.

(4) The Commissioner shall determine whether the said covenant to clear has been complied with in any case, and if his decision is disputed by the purchaser the matter shall be determined by arbitration in manner provided by section 289. Land shall be deemed to have been cleared for cultivation or so as to improve the grazing capacity thereof only when it has been rendered free from substantially the whole of the scrub growth thereon.

Terms and covenants in certain cases.
1199, 1915, s. 180.
1405, 1919, s. 9.
1900, 1929, s. 4.

175. (1) In the case of an agreement to which the Commissioner directs that this section shall apply, the term shall be either fifty-five years or sixty-four years, as the Commissioner directs, and the purchase-money and the interest thereon shall be payable by the following half-yearly instalments, namely:—

I. During the first two and one-half years of the term of the agreement no portion of the purchase-money shall be payable, and only one-half of the interest at the fixed rate on the purchase-money shall be payable:

II. During the next two and one-half years of the said term no portion of the purchase-money shall be payable, and interest only at the fixed rate shall be payable:

III. Thereafter the purchase-money and interest thereon at the fixed rate (including the amounts of interest accruing during the first two and one-half years of the said term) over the whole of the term of the agreement shall be payable in such equal half-yearly instalments as will pay the full amount of the purchase-money and interest as aforesaid during the said term.

(2) The first of the said instalments shall be paid at the time of the application to purchase (as provided by section 180), and every subsequent instalment shall be paid at the close of the period in respect of which it is payable, and not in advance.

(3) In a case in which this section applies, the agreement shall contain the terms, covenants, conditions, and provisions provided for by section 174: Provided that the purchaser shall have the option of completing the purchase at any time after the expiration of six years from the date of the agreement, on paying the purchase-money, or the balance thereof, with interest at the fixed rate on the purchase-money or on the balances thereof from time to time remaining unpaid, from the date of the agreement to the date of completion, and complying with all the terms, covenants, conditions, and provisions of the agreement.

Extension of period for payment of certain limited instalments. Inserted by 2060, 1931, s. 5.

175a. (1) In the case of any agreement to which section 180 of the Crown Lands Act, 1915 (as enacted before the passing of the Crown Lands Act Amendment Act, 1929) applies, the Commissioner may direct that the number of instalments payable at the rate specified in paragraph I. of subsection (1) of the said section shall be increased from sixteen to such number, not exceeding twenty-six, as the Commissioner thinks fit.

(2) If the number of any such instalments payable as aforesaid is increased, the subsequent instalments payable under the agreement shall be re-calculated so as to provide that each of the subsequent instalments shall be equal and calculated at a rate sufficient to repay during the term of sixty-four years the price fixed by the board, together with interest on the balance thereof at the fixed rate for the whole of the said term.

Power to extend existing agreements to term not exceeding sixty-four years on recommendation of board. 1199, 1915, s. 181. 1900, 1929, s. 5.

176. (1) In the case of an agreement under Part X. of the Crown Lands Act, 1903, Part X. of the Crown Lands Act, 1915, or Part X. of this Act, the Commissioner may direct the board to consider whether an extension of the term of the agreement should or should not be granted under this section.

(2) The board shall thereupon consider the matter, and—

(*a*) may recommend that the term be extended for such period (if any) as they think fit, but not so as to extend it beyond sixty-four years from the commencement thereof, as fixed by the agreement:

(*b*) if the board recommends an extension, shall fix the amount of the instalments of purchase-money to be paid during the remainder of the term (as so extended), and may, if the board thinks proper, recommend that the said term be subdivided into

periods of any lengths respectively, fixing for the several periods different amounts of instalments of purchase-money, and, if the board thinks proper, different rates of interest to be included in the instalments:

Amended by 2120, 1933, s. 3.

(c) for the purpose of fixing the amounts of the instalments, may, in any case it thinks fit, assume that the provisions of subsection (1) of section 175 applied to the agreement at the time of the making thereof, and that the instalments payable during the first five years of the term of the agreement were as provided in the said subsection; and in any case to which this paragraph applies the amounts of the instalments fixed pursuant to this section shall be fixed accordingly:

(d) for the purpose of fixing the amounts of the instalments, may capitalize, and add to the purchase-money, the whole or any part of such amounts of any instalments then in arrear as represent interest.

(3) If the Commissioner approves of the recommendations of the board he may grant the extension on the terms recommended, and, from the time when notice in writing stating the period of the said extension and the terms on which it is granted is given to the purchaser, the agreement shall be construed so as to give effect to the said extension and terms, and shall be binding on the parties as so construed.

(4) Except so far as may be necessary to give effect to this section, the agreement shall not be affected by anything in or done under this section; and the terms, covenants, conditions, and provisions thereof shall continue in force subject to any variations which may be necessary to give effect to this section.

Power of board to capitalize arrears of interest on agreement. Inserted by 2060, 1931, s. 6.

176a. (1) In the case of any agreement under Part X. of the Crown Lands Act, 1903, Part X. of the Crown Lands Act, 1915, or Part X. of this Act, the board may capitalize the whole or any part of such amounts of any instalments then in arrear as represent interest.

(2) Any amount so capitalized shall be added to the purchase-money, and shall be payable at the times the instalments of the said purchase-money are payable. Each of such payments thereof shall be equal, and shall be calculated to repay during the period the said instalments are payable, the said capitalized amount together with interest at the fixed rate on the balance thereof from time to time remaining unpaid.

Personal residence. 1199, 1915, s. 182.

177. Where the land is allotted on personal residence the agreement shall contain a provision that the purchaser shall personally reside on the land for nine months in every year.

Form of agreement.
1199, 1915, s. 183.

178. Every agreement shall contain the terms, provisions, and conditions stated in the ninth schedule (subject to such modifications thereof or additions thereto as are required for giving effect to the provisions of this Act), which terms, provisions, and conditions shall be in the form set forth in the said schedule, or in a form to the like effect.

Execution of agreement.
Ibid., s. 184.

179. Every agreement shall be forwarded and executed in manner provided by section 52.

Application to be accompanied by instalment.
Ibid., s. 185.

180. Every application to purchase shall be accompanied by an amount equal to the first half-yearly instalment of the purchase-money of the land and improvements.

Limitation of value of holdings under agreement or by transfer or subletting.
Ibid., s. 186.
1900, 1929, s. 6.

181. (1) No agreement shall be made under this Part with any person who is already the holder of repurchased land of the unimproved value of seven thousand pounds, or who would thereby become the holder of repurchased land exceeding that value, except under the conditions provided in paragraph III. of section 171.

(2) No transfer of any agreement under this Part, and no subletting of any land comprised in any such agreement, shall be permitted except with the consent of the Commissioner, and on the recommendation of the board. No such consent shall be given to any transfer or subletting in favour of any lessee or owner of land who would thereby become the holder of repurchased land exceeding seven thousand pounds of unimproved value, except under the circumstances and conditions mentioned in paragraph III. of section 171.

(3) Provided the limit fixed by this section is not exceeded as to repurchased land, nothing in this section shall be deemed to prevent any person from holding repurchased and other lands up to the unimproved value of seven thousand pounds.

Lands unallotted may be let.
1199, 1915, s. 187.
1405, 1919, s. 10.
1740, 1926, s. 4.

182. When any block or blocks remain unallotted for one year after being first offered, as mentioned in section 174, the same may be let on miscellaneous lease at a rental and on terms to be fixed by the board, subject to the approval of the Commissioner; or if the board so recommends, the land may, with the approval of the Commissioner, be sold by public auction, a reserve price being fixed by the board, on the following terms, namely:—Twenty-five per centum of the purchase-money in cash, and the balance in five yearly instalments, bearing interest at the fixed rate on the amount paid for the land; or, with the like recommendation and approval, the land may be offered for sale under section 174 at a reduced price fixed by the board.

Power of lessees of certain perpetual leases to surrender for agreement under this Act.
1199, 1915, s. 188.

183. (1) The lessee of any perpetual lease of repurchased land granted under the provisions of any repealed Act, passed before the Crown Lands Act, 1903, dealing with closer settlement may, having fulfilled all the covenants and conditions contained in his lease, and given three months notice of his intention so to do, surrender the said lease, and obtain in lieu thereof an agreement under this Act.

(2) The purchase-money to be paid under any such agreement shall be the value of the block and improvements as fixed by the *Government Gazette* notice when the block was last allotted, after deducting therefrom all moneys paid on account of improvements thereon up to the date of the surrender of the lease; or, if the *Gazette* notice contains no value, then at a price to be fixed by the board, and approved by the Commissioner, but so that the price fixed shall not be less than the original price paid for the land and the cost of offering.

Power to surrender miscellaneous lease.
1882, 1928, s. 23.
Amended by 2256, 1935, s. 3.

184. (1) The lessee of any lease of repurchased land granted under the provisions of this Act or the Crown Lands Act, 1903, or any repealed Act passed after the latter Act, and the lessee of any miscellaneous lease of repurchased land may, having fulfilled all the covenants and conditions contained in his lease, apply in writing to surrender the lease and obtain in lieu thereof an agreement under this Part at a price to be fixed by the board, and approved by the Commissioner.

(2) The provisions of section 211, *mutatis mutandis,* shall apply to and in respect of the said application and surrender.

Power to surrender agreement as to lands purchased after 18th December, 1902.
1199, 1915, s. 189.

185. (1) The holder under agreement of any lands purchased by the Crown since the eighteenth day of December, nineteen hundred and two, may surrender his agreement for an agreement in terms of section 174, and the new agreement when executed shall be dated as and from the date of the surrendered agreement.

(2) The moneys (if any) remaining to the credit of the holder under the surrendered agreement shall, after deducting therefrom all interest, charges, and costs due in respect of the said land by the holder, be applied towards payment for the lands held by him under the new agreement: Provided that all moneys paid for improvements under the surrendered agreement shall be accepted as payment on account of those improvements under the new agreement.

Power of holder of existing agreement to pay part of purchase-money in advance.
Ibid., s. 190.

186. Notwithstanding anything in any of the Crown Lands Acts, the provisions of proviso (*b*) to subdivision I. of subsection (1), of section 174 shall also apply to agreements which have been made under Part X. of the Crown Lands Act, 1903.

Reservations as to growing timber.
1199, 1915, s. 191.
1882, 1928, s. 24.

187. No growing timber shall be cut or otherwise injured or destroyed during the first five years of the term of any agreement under this Part or under the corresponding provision of any repealed Act, except for the purposes of improvement on the land or for cultivation, and then only with the written consent of the Commissioner: Provided that this section shall not apply as regards cutting, injuring, or destroying any growing timber in accordance with any covenant which is contained in an agreement and requires the purchaser to clear any land.

Application of payments.
1199, 1915, s. 192.

188. All moneys received by the Commissioner from either lessees or purchasers of any repurchased lands shall be dealt with as follows:—

I. Moneys repaid on account of principal, whether for land or improvements, shall be paid to the credit of the Land Repurchase Loan Fund, and shall be used for the redemption of stock, or for the purchase of land under this Act:

II. Moneys paid as interest or rent, whether on the price of improvements or on the price of land, shall be paid into the general revenue.

Statement to be laid before Parliament.
Ibid., s. 193.
1311, 1917, s. 8.
Amended by 1990, 1930, s 3.

189. The Director of Lands shall, in the month of July in every year, prepare a statement containing the following particulars in connection with repurchased lands for the financial year ending on the thirtieth day of June immediately preceding the said month:—

I. The amount advanced from the loan fund and the amount of interest paid thereon:

II. The amount received as principal and interest from purchasers holding land under agreement:

III. The amount of arrears of principal and interest, if any.

Every such statement shall be laid before both Houses of Parliament, if Parliament is then sitting, and if Parliament is not then sitting, then within thirty days after the beginning of the next session of Parliament.

Power to fix annual rate of interest on closer settlement lands.
1405, 1919, s. 7.

190. (1) The Treasurer may, from time to time, by notice published in the *Government Gazette*, fix the annual rate of interest to be paid on the purchase price of blocks offered for sale under this Part, and may, in the same manner, annul any rate so fixed.

(2) Any rate so fixed shall come into force on the fourteenth day after the date of the *Government Gazette* in which the same is published, and shall continue in force until the fourteenth day after the date of the *Government Gazette* in which the notice annulling the same is published.

DIVISION VI.

DIVISION VI.—THE COLLECTION AND RECOVERY OF RENTS.

Receiver of rents.
1199, 1915, s. 194.

191. The collection of rents, instalments, and interest payable under the provisions of this Part, or under the provisions of any repealed Act dealing with closer settlement, shall be under the control, direction, and management of an officer employed in the Crown Lands Department, appointed by the Governor, and to be styled the "Receiver of Rents."

Action may be maintained in the name of the receiver.
Ibid., s. 195.

192. (1) If any rent, instalment, or interest is in arrear the receiver, without prejudice to his right to recover in any other way, may sue for the same, together with interest at the rate of five per centum per annum, and the costs attendant thereon, in any court of competent jurisdiction as a debt due to the receiver.

(2) Any such action may be maintained in the name of the receiver without specifying the name of the person holding the office, and shall not be liable to be abated by any vacancy or change in the office of the receiver or otherwise.

Extension of time for payment.
Ibid., s. 196.

Proviso added by 2120, 1933, s. 4.

193. The receiver may extend the time for payment of any amounts due under an agreement: Provided that on all such extensions interest shall be charged on the said amounts at the rate of five per centum per annum: Provided, further, that in any case of hardship the receiver may remit the whole or any part of such interest, whether chargeable before or after the passing of the Crown Lands Act Amendment Act, 1933.

Power of Commissioner to extend time for payment for improvements in certain cases.
1199, 1915, s. 197.

194. Where the board certifies that the improvements on any block allotted under the Closer Settlement Act, 1897, are greater than are required for working the block, or that the instalments payable for improvements under the said Act are in the opinion of the board too high, the Commissioner may extend the time allowed by the said Act for payment for the said improvements for any period not longer than ten years, and the yearly instalments payable by the allottee shall be readjusted accordingly.

Forfeiture.
Ibid., s. 198.

195. (1) An agreement shall be liable to forfeiture if any instalment thereunder is in arrear for six months, the purchaser having had at least three months previous notice in writing demanding its payment.

(2) Upon any such forfeiture all moneys paid to the State by the intending purchaser shall immediately and absolutely be the property of the State Government.

Power to cancel lease or agreement liable to forfeiture.

1199, 1915, s. 199. 1405, 1919, s. 5.

196. (1) Where—

(*a*) any lease or agreement is liable to forfeiture; or

(*b*) any instalment under any agreement is in arrear as mentioned in section 195; or

(*c*) there has been a breach of any of the covenants or conditions contained in or implied by any lease or agreement,

the Commissioner may, on the recommendation of the receiver, by notice in the *Government Gazette,* cancel the lease or agreement.

(2) The Registrar-General, at the request of the receiver, shall make the necessary entries in the register book for giving effect to the cancellation.

(3) Upon any such cancellation the purchaser shall have no further interest or title, either at law or in equity, in the land included in the lease or agreement, or in or to any money which may have been paid thereunder.

(4) The land included in the cancelled lease or agreement shall thereafter be dealt with as if it were a block newly offered under this Part: Provided that the Commissioner may, at the request of the receiver, offer the interest of any defaulting purchaser or lessee in the land held by him for sale, in manner provided by section 61, and execute a transfer as provided by section 63: Provided further that the Commissioner may in any case in which, on the recommendation of the board, he thinks fit, dispose of the land or any part thereof included in the cancelled lease or agreement in any manner provided in section 182 notwithstanding that the land has not remained unallotted for one year after being first offered.

Proviso added by 2120, 1933, s. 5.

(5) The Commissioner may, in exercising the power to sell or transfer a defaulting purchaser's or lessee's interest in any agreement or lease conferred by this section exercise any such power with respect to the whole or, from time to time, with respect to any part or parts of the land comprised in the agreement or lease, as he thinks fit.

(6) All the provisions of this Act with respect to the sale or transfer of the defaulting purchaser's or lessee's interest in the agreement or lease shall, *mutatis mutandis,* apply to the sale or transfer of his interest in part only of the land comprised in the agreement or lease.

(7) In case of the sale or transfer of the defaulting purchaser's or lessee's interest in part only of the land comprised in the agreement or lease, the Commissioner may cancel the

PART X.
DIVISION VI.

agreement or lease as to the whole of the said land or as to any part thereof so sold, and may prepare and issue to the purchaser of that part a new agreement or lease therefor, and the new agreement or lease shall be effectual for all purposes as a transfer to the purchaser of the right, title, and interest of the defaulting purchaser or lessee in the part of the said land comprised in the new agreement or lease.

Returns of cancellations to be placed before Parliament.
1199, 1915, s. 200.

197. The receiver shall cause a return of all cancellations, setting forth the reasons therefor, to be annually placed before Parliament before the first day of September.

DIVISION VII.

Heading amended by 2060, 1931, s. 7.

DIVISION VII.—SPECIAL PROVISIONS WITH REGARD TO CLOSER SETTLEMENT LANDS.

S. 198 repealed by 2060, 1931, s. 8.

* * * * * * * * * * *

Surrender of agreement for perpetual lease.
1199, 1915, s. 202.
Subsec. (1) amended by 2060, 1931, s. 9.

199. (1) The holder of any block under an agreement entered into under Part X. of the Crown Lands Act, 1903, Part X. of the Crown Lands Act, 1915, or Part X. of this Act, may, with the consent of the Commissioner, surrender the agreement for a perpetual lease of the said block.

Substituted by 2256, 1935, s. 4.

(2) Upon an application being made under this section the board, subject to the approval of the Commissioner, shall fix—

(*a*) the annual rent at which the lease may be obtained in perpetuity; and

(*b*) the annual rent at which the lease may be obtained for the first ten years after which the rent shall be fixed in perpetuity as hereinafter provided.

In fixing the rents pursuant to this section the board shall take into consideration any amount of purchase price paid on or before the date from which the lease issued in lieu of the surrendered agreement is granted or deemed to be granted.

Substituted by 2256, 1935, s. 4.

(3) The applicant may at his option obtain a perpetual lease at the rent fixed pursuant to paragraph (*a*) of subsection (2), or a perpetual lease of which the rent for the first ten years shall be as fixed pursuant to paragraph (*b*) of subsection (2) and of which the rent from the end of the first ten years shall be such amount as is fixed at the expiration of the said period by the board, subject to the approval of the Commissioner.

Inserted by 2256, 1935, s. 4.

(3A) The rent to be fixed under any such lease shall in no case exceed an amount equal to interest on the price at which

the applicant could have completed purchase at the time of the surrender of the agreement, calculated for one year at the rate of interest provided for in the agreement.

(3B) Any lease granted pursuant to this section may be granted as from any period not exceeding five years before the date of the approval to the surrender, and any lease so granted shall be deemed to have taken effect from the commencement of such period. The said period shall be fixed by the board subject to the approval of the Commissioner. Any amounts paid during any such period in respect of instalments under the agreement surrendered as aforesaid, which became due during the said period, shall be deemed to have been paid in pursuance of the covenants of the lease and shall be appropriated accordingly and, except for that purpose, the agreement shall be deemed to have been determined from the commencement of the said period.

Inserted by 2256, 1935, s. 4.

(4) The provisions of subsections (2), (3), and (4) of section 211, *mutatis mutandis,* shall apply to and in respect of any such application and surrender.

Substituted by S.L.R. Act, 1936.

(5) The holder of the block surrendered as aforesaid may at the time of making the application for surrender make application for the insertion in the perpetual lease of a provision for the purchase of the block. In any such case there shall be inserted in the perpetual lease a provision giving to the lessee a right to purchase at any time during the term of the lease the fee simple of the block comprised in the lease at the price at which he could have completed purchase at the time of the surrender of the agreement.

Inserted by 2120, 1933, s. 6 (b).

200. (1) The holder of any block under an agreement entered into under Part X. of the Crown Lands Act, 1903, Part X. of the Crown Lands Act, 1915, or Part X. of this Act may, instead of applying under section 199, apply to the Commissioner for a reduction of the purchase-money payable under his agreement.

Reduction of purchase money under agreement instead of surrendering for perpetual lease.
1199, 1915, s. 203.
1311, 1917, s. 9.

(2) Any such application shall be referred by the Commissioner to the Surveyor-General and the board for inquiry and report and to recommend what (if any) reduction of purchase-money should be made.

Subsec. (1) amended by 2060, 1931, s. 10.

(3) If the Surveyor-General and the board report that it is proved to their satisfaction—

Amended by 2256, 1935, s. 5.

(*a*) that the purchase-money payable under the agreement is too high; and

(*b*) that the enforcement of the agreement would inflict hardship upon the holder,

the Commissioner may grant a reduction of the purchase-money, not exceeding the reduction recommended by the

Surveyor-General and the board. Every such reduction shall take effect from such date as the Commissioner in each case determines.

(4) In any case where a reduction is granted under this section the Commissioner shall adjust the amounts of the instalments of purchase-money and interest payable under the agreement so as to give effect to the reduction; and the adjustment so made shall be binding on the holder, and the agreement shall be read so as to give effect thereto.

(5) If any holder of an agreement, the interest under which has been reduced under section 7 of the Crown Lands Act Amendment Act, 1910, obtains a reduction under this section, the reduction under the said section 7 and the adjustments consequent thereon shall cease as from the date when the reduction made under this section begins to run.

Power to grant privileges under sections 199 and 200 may be granted though rent or instalments in arrear.

1199, 1915, s. 204.

Subsec. (2) amended by 2120, 1933, s. 7.

201. (1) An application under section 199 to surrender an agreement for a perpetual lease, or under section 200 for a reduction of the purchase-money payable under an agreement, may be granted, notwithstanding that instalments payable under the agreement are in arrear.

(2) When in any such case the application is granted, the full amount of the arrears of interest shall be paid, together with interest on the said amount, at such rate not exceeding five pounds per centum per annum, in such instalments, and at such times, as are determined by the board when fixing the rents or by the Surveyor-General and the board when recommending a reduction of the purchase-money (according to the nature of the case), and shall be payable and recoverable in the same manner as the rents or instalments to become due and the payment of the said instalments of arrears of interest shall be deemed to be a covenant implied by the agreement, or, as the case may be, by the lease issued in place of the surrendered agreement.

Amended by 2060, 1931, s. 11, as amended by 2120, 1933, s. 14.

(3) When in any case the application is not granted, the Commissioner may, nevertheless, agree to accept payment of the arrears in such instalments, and at such times, as are recommended by the Surveyor-General and the board; and the instalments of arrears which the Commissioner so agrees to accept shall be payable and recoverable in the same manner as the instalments to become due.

Option of other relief where that provided by section 199 or 200 not obtainable.

1199, 1915, s. 205.

Amended by 2060, 1931, s. 12 (a).

202. (1) In any case of an agreement entered into under Part X. of the Crown Lands Act, 1903, Part X. of the Crown Lands Act, 1915, or Part X. of this Act, the Commissioner may, if he is satisfied that the strict enforcement of the agreement would inflict hardship upon the holder, refer the matter to the board to make such (if any) recommendation as they deem proper under this section.

(2) The board may recommend—

(*a*) such (if any) temporary reduction of the interest payable under the agreement as they think reasonable, and the period during which, in their opinion, the reduction should operate; and

* * * * * * * * * * *

Para. (b) repealed by 2060, 1931, s. 12 (b).

(3) The Commissioner may cause notice in writing of the recommendation (if any) of the board to be given to the applicant.

(4) If the applicant, within one month after the giving of the said notice, gives the Commissioner notice in writing of his desire to accept the recommendation, the Commissioner shall cause an adjustment to be made in the amounts of the instalments, and, in case of postponement as aforesaid, of the times of payment thereof, so as to give effect to the recommendation.

(5) Notice in writing of the terms of the adjustment shall be given to the applicant, and the same shall thereafter be binding upon the holder of the agreement, which shall be construed so as to give effect to the adjustment.

Conditional increase of limit of holding under Part X.
1199, 1915, s. 206.
Amended by 2060, 1931, s. 13.

203. An agreement may, notwithstanding subsection (1) of section 181, be made under Part X. with any person provided that he will not thereby become the holder of land exceeding eight thousand pounds in unimproved value, if, in the opinion of the Surveyor-General and the board, such an agreement is expedient to secure the beneficial allotment of any repurchased land.

Conditional increase of limit of holding by transfer.
1199, 1915, s. 207.
Amended by 2060, 1931, s. 13.

204. The Commissioner may, notwithstanding subsection (2) of section 181, consent to the transfer of any agreement under Part X. of the Crown Lands Act, 1903, Part X. of the Crown Lands Act, 1915, or Part X. of this Act, or to the subletting of land comprised in any such agreement, in favour of any lessee or owner of land who would thereby become the holder of land not exceeding eight thousand pounds in unimproved value if, in the opinion of the board, it would inflict a hardship on the holder of the agreement if such consent were refused in accordance with the provisions of the said subsection (2).

Application of sections 203 and 204.
Inserted by 2060, 1931, s. 14.

204a. Sections 203 and 204 shall apply only to—

(*a*) lands which are situated in the estates known or formerly known as Yallum, Binnum, Hynam, and Kybybolite;

(*b*) lands which are comprised in the estate known or formerly known as Mount Schank Estate, in the Hundred of Kongorong, and which were held under agreement on the nineteenth day of December, nineteen hundred and twelve; and

(*c*) such other lands as are by proclamation declared to be subject to the said provisions after a resolution by both Houses of Parliament approving of the making of the proclamation.

PART XI.

PART XI.

SURRENDERS.

Acceptance of surrenders. Inserted by 2120, 1933, s. 8.

204b. (1) No surrender under this Part of any lease or agreement shall be of any effect unless and until accepted by the Commissioner.

(2) The Commissioner is hereby authorised to accept any such surrender in the name and on behalf of His Majesty.

(3) Any surrender shall be in the prescribed form and be made and executed in the prescribed manner.

Power of lessee to surrender his lease. 1199, 1915, s. 208. Amended by and subsecs. (2) and (3) repealed by 2120, 1933, s. 9.

205. (1) Any lessee may surrender his lease.

* * * * * * * * * * *

Surrender for new lease. 1199, 1915, s. 209. Amended by 2256, 1935, s. 6.

206. (1) A lessee may surrender his lease or any part or parts thereof and the Governor may grant a lease or leases of the land so surrendered to such person or persons as are nominated in that behalf by the lessee surrendering: Provided that the transfers to the person or persons nominated have been approved in the usual manner.

(2) Every such new lease shall be granted for the unexpired period of the term of, and for the same purposes, terms, and conditions as the lease so surrendered.

Power to surrender agreement. 1882, 1928, s. 25 (part).

207. The purchaser under any agreement may surrender his agreement in the same manner and subject to the same provisions as are set forth in section 205 with reference to the surrender of a lease.

Surrender of agreement for new agreement.

Substituted by 2256, 1935, s. 7.

208. (1) The purchaser under an agreement may surrender his agreement, or any part or parts thereof, and the Commissioner may grant an agreement or agreements of the land so surrendered to the person or persons nominated in that behalf by the purchaser surrendering: Provided that the transfers to the person or persons nominated have been approved in the usual manner.

(2) If the agreement is wholly surrendered, and only one new agreement is granted in lieu of the surrendered agreement, it shall be granted for the unexpired period of the term of the surrendered agreement and for the balance unpaid of the purchase money thereof, but in other respects shall be subject to the same terms and conditions as the agreement surrendered.

(3) If the agreement is partially surrendered or if the agreement is surrendered in whole and two or more agreements are granted in lieu thereof each new agreement granted in lieu of the surrendered agreement or part thereof shall be granted for the unexpired period of the term of the surrendered agreement, and the balance unpaid of the purchase money mentioned in the original agreement shall be apportioned between each of the new agreements and the balance not surrendered, if any, by the Commissioner on the recommendation of the board. In other respects each such agreement shall be subject to the same terms and conditions as the agreement surrendered or partially surrendered.

Provisions on surrender.

Inserted by 2256, 1935, s. 7.

208aa. (1) Any surrender under section 206 or 207 may be accepted, notwithstanding that any rent payable under the lease or any instalment or part thereof payable under the agreement is in arrear. In any case where the lease or agreement is partially surrendered or where the lease or agreement is surrendered in whole and two or more leases or agreements are granted in lieu thereof, the amount of the said arrears shall be apportioned between each of the new leases or agreements, as the case may be, and the balance not surrendered, if any, by the Commissioner on the recommendation of the board. If the lease or agreement is wholly surrendered and only one lease or agreement is granted in lieu thereof, the whole of the amount of the arrears shall be payable in respect of the new lease or agreement. The amount of the said arrears or, as the case may be, the amount of arrears apportioned as aforesaid, together with interest thereon at such rate of interest not exceeding five pounds per centum per annum as is fixed by the board, subject to the approval of the Commissioner, shall be paid in such instalments, and at such times and within such period as is fixed by the board, subject

to approval of the Commissioner and shall be payable and recoverable in the same manner as the said rent or instalments to become due. The payment of the said instalments of arrears shall be deemed to be a covenant implied in the leases or agreements issued in place of the surrendered or partially surrendered lease or agreement and in the leases or agreements, if any, partially surrendered.

(2) If any such surrender comprises part only of any such lease or agreement, the lease or agreement shall upon registration of the surrender be deemed to be cancelled so far as regards the land comprised in the surrendered part, and the preceding sections of this Part so far as they relate to the term and conditions of the lease or agreement so partially cancelled, and to the fixing of the rent or purchase price thereunder shall, *mutatis mutandis,* be deemed to apply to the lease or agreement so partially cancelled.

Rights of surrender of mortgages, etc. Inserted by 2120, 1933, s. 10.

208a. (1) Any mortgagee or encumbrancee under any mortgage or encumbrance registered under The Real Property Act, 1886, of any lease or agreement who in the exercise of any power under the mortgage or encumbrance or the said Act, sells the lease or agreement or any part thereof may, for the purpose of giving effect to any such sale, exercise all the powers of surrender under the preceding sections in this Part which the mortgagor or encumbrancer could exercise or could have exercised.

(2) Notwithstanding the provisions of The Real Property Act, 1886, or section 224 of this Act, upon the registration, under The Real Property Act, 1886, of any surrender aforesaid, the estate or interest of the mortgagor or encumbrancer therein described shall pass to and vest in the person nominated in the surrender, freed and discharged from any liability in respect of the mortgage or encumbrance or of any mortgage or encumbrance registered subsequent thereto. Any lease or agreement issued consequent upon such surrender shall be issued free of the said mortgage or encumbrance and of any mortgage or encumbrance registered subsequent thereto but shall be issued and be subject to any mortgage or encumbrance registered prior to the said mortgage or encumbrance, and such prior mortgage or encumbrance shall be noted on the lease or agreement so issued and shall be of the same force and effect and be construed as if it were a mortgage or encumbrance of the lease or agreement so issued.

(3) If any such surrender comprises part only of any such lease or agreement, the lease or agreement comprised in the mortgage shall, upon registration of the surrender as aforesaid, be deemed to be cancelled so far as regards the land

comprised in the surrendered part, and the preceding sections of this Part so far as they relate to the term and conditions of the lease or agreement so partially cancelled, and to the fixing of the rent or purchase-price thereunder shall, *mutatis mutandis,* be deemed to apply to the lease or agreement so partially cancelled.

(4) Nothing in this section shall be deemed to authorise any mortgagee or encumbrancee to sell or transfer any lease or agreement or any part thereof except subject to the provisions of this Act.

Lands under any tenure may be surrendered. 1199, 1915, s. 210. Amended by S.L.R. Act, 1936.

209. Any person holding land under any tenure may surrender any portion of the said land on such terms as the board recommends subject to the consent of the Commissioner.

Power of lessee to surrender for perpetual lease or agreement. 1199, 1915, s. 212.

210. Any lessee under any Crown lease granted under any of the Crown Lands Acts, except Agricultural College endowed lands, may apply in writing to surrender his lease for a perpetual lease or an agreement under Part V.: Provided that this section shall apply only to any lease which—

(*a*) is solely used for pastoral or agricultural purposes, or both; or

(*b*) in the opinion of the Commissioner may not be required for subdivision or for public purposes.

Mode of obtaining perpetual lease or agreement. Ibid., s. 213. 1882, 1928, s. 26.

211. (1) Upon an application being made under section 210, the board, subject to the approval of the Commissioner, shall fix the annual rent or purchase-money at which the perpetual lease or agreement may be obtained: Provided that—

I. the price fixed for repurchased lands under an agreement shall not be less than the cost of the same to the State, together with the cost of offering the same:

II. the interest to be fixed under an agreement to be issued in lieu of a perpetual lease (not subject to revaluation) shall not exceed the rent then payable under the perpetual lease, except where the rent is equal to less than two pounds per centum per annum on the purchase-money, in which case the interest shall be at the said rate of two pounds per centum per annum.

Inserted by 2120, 1933, s. 11, and amended by S.L.R. Act, 1935.

(1A) Any application as aforesaid may be granted notwithstanding that any rent payable under the lease is in arrear. When in any such case the application is granted, the full amount of the said arrears of rent, together with interest

thereon at such rate of interest not exceeding five pounds per centum per annum as is fixed by the board, subject to the approval of the Commissioner, shall be paid in such instalments, and at such times, as are fixed by the board, subject to the approval of the Commissioner, when fixing the annual rent or purchase-money as aforesaid, and shall be payable and recoverable in the same manner as the said rent or purchase money to become due, and the payment of the said instalments shall be deemed to be a covenant implied in the perpetual lease or agreement issued in place of the surrendered Crown lease.

(2) Upon the annual rent or purchase-money being so fixed, notice in writing of the amount thereof shall be given to the applicant, and the applicant, upon surrendering the lease, may, subject to the approval of the Commissioner and subject to subsection (3) hereof, obtain a perpetual lease or agreement at the said rent or purchase-money.

(3) The applicant shall, within three months after the giving of notice under subsection (2) hereof, accept or refuse the terms offered; and in the event of his agreeing to purchase, he shall forward with the notification of his acceptance an amount equal to the first half-yearly instalment of purchase-money.

Amended by 2256, 1935, s. 8 (a).

(4) The Commissioner shall forthwith cancel the lease surrendered as aforesaid, so far as regards the land for which a perpetual lease or agreement has been granted, and the applicant shall, within the time and in manner prescribed, execute a new lease or agreement pursuant to Part V.

Inserted by 2256, 1935, s. 8 (b).

(5) Where a lease with a right of purchase is surrendered for a perpetual lease, the lessee may at the time of making the application for surrender, make application for the insertion in the perpetual lease of a provision for the purchase of the land. In any such case there shall be inserted in the perpetual lease a provision giving to the lessee a right to purchase at any time during the term of the lease the fee simple of the land comprised in the lease at the price at which he could have completed purchase at the time of the surrender of the lease with right of purchase.

Power for lessee to purchase leased land. 1882, 1928, s. 27.

212. (1) The lessee under any Crown lease granted under any of the Crown Lands Acts, except a lease of Agricultural College endowed lands, may apply in writing to surrender his lease and purchase the fee simple thereof: Provided that this section shall apply only to any lease of land which—

(*a*) is solely used for pastoral or agricultural purposes, or both; or

(*b*) in the opinion of the Commissioner will not be required for subdivision or for public purposes.

(2) Upon an application being made under this section the board shall, subject to the approval of the Commissioner, fix the sum at which the fee simple of the land may be purchased and shall give notice thereof in writing to the applicant.

(3) The applicant shall, within three months after the giving of the notice under subsection (2) of this section, notify the Commissioner whether he accepts or refuses the terms offered. If he accepts, and if within one month after the Commissioner receives notice of his acceptance he surrenders his lease and pays the purchase-money and all proper fees he shall be entitled to receive a land grant for the land: Provided that the Commissioner may extend the time for surrender and payment.

(4) No lessee shall be entitled to purchase any land under this section until after the expiration of six years from the time when that land was originally leased to him or to his predecessor in title, nor unless the Commissioner is satisfied either that all the conditions of the lease have been fulfilled, or that the lessee has made such permanent improvements on the land that strict compliance with the conditions of the lease should be dispensed with.

(5) No person shall be entitled under this section to purchase the fee simple of any land of greater value than the maximum amount of land which could lawfully be included in an agreement granted to that person and to which section 220 applies.

Annual statement of surrenders disallowed. 1199, 1915, s. 214.

213. The Commissioner shall once in every year lay before Parliament a statement of all cases in which he has declined to allow a surrender under sections 210, 211, or 212, stating in every case the reasons for the refusal.

Power of lessee under Agricultural College Endowment Act, 1886, to surrender lease for perpetual lease.

214. (1) The lessee under any lease granted under the provisions of the Agricultural College Endowment Act, 1886, may, with the consent of the Commissioner and if all the covenants and conditions thereof have been complied with, surrender the lease for a perpetual lease under this Act.

Ibid., s. 215.

(2) The application to surrender shall be in writing, and the provisions of section 211, *mutatis mutandis*, shall apply to and in respect of every such application and the surrender.

(3) The rent received in respect of any perpetual lease granted in any such case shall be deemed to be rent received

s. 214. The Agricultural College Endowment Act, 1886, has been repealed and superseded by the Agricultural College Act, 1936. Section 7 of the former Act has been superseded by section 10 of the latter Act.

in respect of a lease granted under the authority of the Agricultural College Endowment Act, 1886, within the meaning of section 7 of that Act.

Conditions of agreement or lease obtained in lieu of homestead lease.
1199, 1915, s. 216.

215. Where any lessee of a homestead lease heretofore has surrendered the same pursuant to section 174 of the Crown Lands Act, 1903, or section 212 of the Crown Lands Act, 1915, or hereafter surrenders the same pursuant to section 210 of this Act, and has obtained or obtains a perpetual lease or agreement in lieu thereof, the said perpetual lease or agreement shall, notwithstanding, be and remain subject to all the conditions relating to homestead leases, and the lessee or purchaser shall be and remain bound by all the covenants and provisions relating to those leases.

Allocation of moneys paid under scrub lease.
Ibid., s. 217.

216. Any person who surrenders lands under a scrub lease for an agreement shall be credited as against the instalments of purchase-money payable under the agreement with the whole amount paid by him to the Crown in respect of the purchase-money thereunder.

Powers of trustees and executors.
Ibid., s. 218.
Amended by S.L.R. Act, 1936.

217. If any person having a right to surrender a lease in exchange for a lease or agreement dies, or is adjudicated bankrupt, or executes a statutory deed of assignment for the benefit of his creditors, his executors or administrators, or the trustee or other person in whom the lease or agreement vests under his will, or by virtue of the bankruptcy or assignment, may exercise all powers of surrender and exchange, and powers incidental thereto, which the said person could have exercised.

Appeal from first decision of board.
1199, 1915, s. 219.

218. (1) Any person surrendering his lease for a lease or agreement under this Act shall have a right of appeal to the Commissioner against the decision of the board fixing the amount of rent and purchase-money, or either, as the case may be.

(2) The appeal shall be made within three months from the notification to the intending lessee or purchaser of the amount of the rent or purchase-money.

(3) The Commissioner shall refer the appeal to the board for reconsideration and a report thereon, and may, after receiving the report from the board, reduce the rent and purchase-money, or either: Provided that the purchase-money of any repurchased lands shall not be less than the cost of the same to the State, together with the costs of offering the same.

(4) The appellant shall, within three months after the decision of the appeal, accept or refuse the payment of the

rent or purchase-money as fixed by the Commissioner in deciding the appeal.

Power of lessee to apply to surrender from time to time.
1199, 1915, s. 220.

219. If a lessee does not accept, or if he refuses, the terms offered, or the payment of the rent or purchase-money, as provided by subsection (3) of section 211, or subsection (4) of section 218 (according to the nature of the case), the said lessee may make a fresh application under section 210, and may, in similar circumstances, if he so desires, make fresh applications under that section from time to time.

Conditions of surrender.
Ibid., s. 221, 1900, 1929, s. 7.

220. (1) Any lease surrendered for a perpetual lease, or for an agreement other than for repurchased lands, is surrendered subject to the following conditions:—

I. The unimproved value of the land to be included in the perpetual lease or agreement, and the unimproved value of all other lands held by the lessee or purchaser under any tenure, shall not altogether exceed five thousand pounds, or in the case of a surrender of a perpetual lease for an agreement, seven thousand pounds, except where the land to be included in the perpetual lease or agreement is, in the opinion of the Commissioner, suitable only for pastoral purposes:

II. If the land so to be included is, in the opinion of the Commissioner, suitable only for pastoral purposes, the carrying capacity thereof unimproved and of all other lands held by the lessee or purchaser under any tenure, shall not altogether exceed five thousand sheep, or if the land is outside Goyder's line of rainfall, ten thousand sheep: Provided that in making any computation as to carrying capacity, lands held under a lease granted under the Pastoral Act, 1904, shall not be included.

(2) For the purpose of paragraph I. of subsection (1) hereof the unimproved value of the land shall be determined by the board, subject to the approval of the Commissioner, according to the actual value, irrespective of the amount of the purchase-money mentioned in any right of purchase lease granted in respect thereof.

Surrender of agreement for lease.
1199, 1915, s. 222.
1882, 1928, s. 28.

221. (1) The purchaser under any agreement (except an agreement under Part X. of the Crown Lands Act, 1903, Part X. of the Crown Lands Act, 1915, or Part X. of this Act) may apply in writing to surrender his agreement for a perpetual lease of the land comprised therein.

s. 220 (1). The Pastoral Act, 1904, has been repealed and superseded by the Pastoral Act, 1936.

Substituted by 2256, 1935, s. 9.

(2) Upon an application being made under this section the board, subject to the approval of the Commissioner, shall fix—

(*a*) the annual rent at which the lease may be obtained in perpetuity; and

(*b*) the annual rent at which the lease may be obtained for the first ten years after which the rent shall be fixed in perpetuity as hereinafter provided.

In fixing the rents pursuant to this section the board shall take into consideration any amount of purchase price paid on or before the date from which the lease issued in lieu of the surrendered agreement is granted or deemed to be granted.

Inserted by 2256, 1935, s. 9.

(2AA) The applicant may at his option obtain a perpetual lease at the rent fixed pursuant to paragraph (*a*) of subsection (2), or a perpetual lease of which the rent for the first ten years shall be as fixed pursuant to paragraph (*b*) of subsection (2) and of which the rent from the end of the first ten years shall be such amount as is fixed at the expiration of the said period by the board, subject to the approval of the Commissioner.

Inserted by 2256, 1935, s. 9.

(2AB) The rent to be fixed under any such lease shall in no case exceed an amount equal to interest on the price at which the applicant could have completed purchase at the time of the surrender of the agreement calculated for one year at the rate of interest provided for in the agreement.

Inserted by 2256, 1935, s. 9.

(2AC) Any lease granted pursuant to this section may be granted as from any period not exceeding five years before the date of the approval to the surrender, and any lease so granted shall be deemed to have taken effect from the commencement of such period. The said period shall be fixed by the board subject to the approval of the Commissioner. Any amounts paid during any such period in respect of instalments under the agreement surrendered as aforesaid, which became due during the said period, shall be deemed to have been paid in pursuance of the covenants of the lease and shall be appropriated accordingly and, except for that purpose, the agreement shall be deemed to have been determined from the commencement of the said period.

Inserted by 2120, 1933, s. 12 (a).

(2A) Any application under this section may be granted notwithstanding that the instalments payable under the agreement are in arrear. When in any such case the application is granted, the full amount of the arrears of interest payable under the agreement, together with interest thereon at such rate not exceeding five pounds per centum per annum, as is

fixed by the board, shall be paid in such instalments, and at such times, as are determined by the board, subject to the approval of the Commissioner, when fixing the rent, and shall be payable and recoverable in the same manner as the rents to become due, and the payment of the said instalments shall be deemed to be a covenant implied by the lease issued in place of the surrendered agreement.

(3) The provisions of subsections (2), (3), and (4) of section 211, *mutatis mutandis*, shall apply to and in respect of any such application and surrender.

Inserted by 2120, 1933, s. 12 (b).

(4) The purchaser under any agreement surrendered as aforesaid may at the time of making the application for surrender make application for the insertion in the perpetual lease of a provision for the purchase of the land. In any such case there shall be inserted in the perpetual lease a provision giving to the lessee a right to purchase at any time during the term of the lease the fee simple of the land comprised in the lease at the price at which he could have completed purchase at the time of the surrender of the agreement.

Surrender of agreement or lease of a small estate of a deceased person.

1199, 1915, s. 223.

222. (1) The Commissioner may, upon the application—

(*a*) of the executor of any deceased lessee or purchaser under any Crown lease or agreement, who has left a will, or of any person entitled to obtain letters of administration of the estate of such deceased lessee or purchaser or of any part of such estate left unadministered; or

(*b*) of the widow, widower, or next of kin of any deceased lessee or purchaser under any Crown lease or agreement, who has died intestate,

permit the surrender of the lease or agreement by the said executor, person, widow, widower, or next of kin, in the name of the deceased lessee or purchaser without probate of his will or letters of administration of his estate or of any part thereof left unadministered having been granted, if the Commissioner is satified that—

I. the applicant is the person entitled to prove the will of the deceased, or to obtain letters of administration of his estate, or of the part thereof left unadministered;

II. the whole of the estate of the deceased does not exceed in value the sum of two hundred pounds;

III. all the lawful debts and funeral expenses of the deceased have been paid;

iv. all succession duties (if any) have been paid in respect of the deceased's estate; and

v. the will (if any) of the deceased has been filed in the Supreme Court;

and the Commissioner may accept the surrender, and the Governor may issue a new lease or agreement, of the same kind and subject to the same terms and conditions as the surrendered lease or agreement, to the applicant or to any person named by him: Provided that no such application shall be allowed until after notice thereof has been published for two weeks in the *Government Gazette,* nor until after the expiration of two months from the time of the death of the deceased.

(2) The Registrar-General shall register every such surrender without the production of any probate, or letters of administration, or requiring any transmission to any executor or administrator.

(3) Every such new lease or agreement shall be held, but so as not to affect the indefeasibility of a Real Property Act title, subject to the dispositions of the will or rights arising on intestacy as if probate or letters of administration, as the case may be, had been granted.

Surrender of several leases or agreements for one lease or agreement of the same class.
1199, 1915, s. 224.

223. (1) When a lessee or purchaser holds land under one lease or agreement, and also holds land under one or more other leases or agreements, and—

(*a*) the said leases or agreements are all of the same class, and all contain substantially the same covenants, conditions, and reservations; and

(*b*) the terms of the said leases and agreements all end on the same date, or within one period of twelve months,

the lessee or purchaser may apply in writing for leave to surrender the leases or agreements for one lease or agreement comprising the whole of the said lands.

(2) If the Commissioner approves of the application, the lessee or purchaser may tender a surrender of the leases or agreements in the prescribed form and executed in the prescribed manner; and the Commissioner may, if he thinks proper, accept the surrender in the name and on behalf of His Majesty.

(3) If the surrender is accepted, one lease or agreement shall be issued to the lessee or purchaser; and that lease or agreement shall—

(*a*) be of the same class as;

(*b*) comprise the whole of the lands comprised in; and

(*c*) contain substantially the same covenants, conditions, and reservations as are contained in,

the surrendered leases or agreements, and shall be for a term ending on the same date as the terms of those leases or agreements, or as such of those terms as ends on the latest date.

Mortgages of surrendered agreements and leases to continue in force. 1199, 1915, s. 225. 1882, 1928, s. 29.

224. No mortgaged lease, or agreement, shall be surrendered, wholly or partially, unless the written consent of the mortgagee to the proposed surrender has been first obtained; and unless the mortgagee otherwise directs, the new lease or agreement shall be issued and be subject to the mortgage, and the said mortgage shall be noted on the new lease or agreement, and shall be of the same force and effect and be construed as if it were a mortgage of the lease or agreement issued in lieu of the surrendered agreement or lease.

PART XII.

PART XII.

TRANSFERS.

In what circumstances transfers may be allowed. 1199, 1915, s. 227. 1882, 1928, s. 30.

225. (1) Subject to the provisions of subsections (7) and (8) of this section, no transfer of any lease or of any agreement, and no subletting of any land comprised in any lease or agreement, shall have any effect unless the consent of the Commissioner has been previously obtained in the following manner:—

1. Application for the transfer or subletting shall be made in writing to the Commissioner:

---

s. 225. In the matter of the Act to abolish forfeitures for Treason and Felony, 1874, and the Crown Lands Consolidation Act, 1877, and of the convict Christopher Wilton (1880) 14 S.A.L.R. 27; 6 Austn. Digest 932. As to the vesting of a lease or agreement of a convict in the Public Trustee pursuant to the Treason and Felony Forfeiture Act, 1874 (now Part X. of the Criminal Law Consolidation Act, 1935).

HENSLEY v. RESCHKE (1914) 18 C.L.R. 452; 6 Austn. Digest 930. As to the power of a lessee to enter into an executory contract for the sale of a lease and to deliver possession in anticipation of the Commissioner's consent. Since this decision section 227 has been enacted.

LANG v. CASTLE AND ANOTHER (1924) S.A.S.R. 255; 6 Austn. Digest 927, 931. "Subletting" includes leasing. The consent must be to the material terms of the contract and to the real disposition and the Commissioner is entitled to be informed of the proposed *terminus a quo* and *terminus ad quem*, and also as to all the relevant terms of the proposed transaction. Observations as to the nullity of consent where it is given upon misrepresentations by a party and upon a fictitious set of circumstances.

MAY v. DALY (1927) S.A.S.R. 428; 6 Austn. Digest 931. Where an agreement is not expressed as being subject to the Commissioner's consent but is an unconditional agreement for transfer, the duty of the transferor is to obtain that consent and, on consent being given, to transfer. An agreement to further the obtaining of the Commissioner's consent or to obtain such consent contrary to subsection (2) or (6) is an agreement for an illegal purpose and void.

II. Except in the case of transfers by executors or administrators to devisees under the wills under which they act, or transfers by the trustees of a settlement to the *cestuis que trustent* thereunder the consent shall not be granted until after notice of the application has been published for two weeks in the *Government Gazette*:

III. The application shall be referred by the Commissioner to the board:

IV. If any person places before the Commissioner or the board any objection to the granting of the application, the board shall give the objector an opportunity of attending personally before the board to substantiate his objection. The board shall not uphold any such objection unless it has first given the applicant and the intended transferee or sublessee an opportunity of answering the objection either in writing or by appearing personally before the board:

V. If the board recommends the granting of the application, but not otherwise, the Commissioner may, if he thinks proper, by writing signed by him, consent to the transfer or subletting.

(2) Subject to subsections (3) and (4) of this section, no recommendation or consent shall be given under this section of or to any transfer or subletting, if the effect thereof will be to increase the holding of the proposed transferee or sublessee, under any tenure, to land the unimproved value of the fee simple of which exceeds seven thousand pounds. If at the time when the application for consent is being dealt with by the board the proposed transferee or sublessee does not hold any land and is not entitled to any land under a transfer or sublease to which the Minister has given his consent, the board may recommend and the Commissioner may give his consent to the transfer or subletting although the unimproved value of the fee simple of the land proposed to be transferred or sublet exceeds the said amount.

(3) For the purposes of subsection (2) of this section, account shall not be taken of the value of lands within the limits of any city or town held by, or proposed to be transferred or sublet to, the proposed transferee or sublessee, nor of the value of lands held by him under any miscellaneous lease or under any lease granted under the Pastoral Act, 1904.

---

s. 225 (3). The Pastoral Act, 1904, has been repealed and superseded by the Pastoral Act, 1936.

(4) Notwithstanding anything in this section, the board may recommend, and the Commissioner may consent to, the transfer or subletting of any lands suitable only for pastoral purposes, if the effect thereof will not be to increase the holding of the proposed transferee or sublessee, under any tenure, to land which is capable of carrying more than five thousand sheep, or, if the land is situated wholly or partly outside Goyder's line of rainfall, more than ten thousand sheep: Provided that, in making any computation for the purposes of this subsection, lands held under a lease granted under the Pastoral Act, 1904, shall not be included.

(5) Notwithstanding anything in this section the board may recommend and the Commissioner may consent to the transfer or subletting of any land if owing to special circumstances it is in the opinion of the board and the Commissioner just and reasonable that the transfer or subletting should be permitted.

(6) Consent shall not be given to a transfer or subletting to take effect within the period of five years from the date of the lease or agreement, which period shall, in case the lease or agreement has been obtained on the surrender of another lease or agreement, be computed from the date of the original lease or agreement: Provided that this subsection shall not—

I. apply to transfers by executors or administrators to devisees under the wills under which they act:

II. prevent consent being given in any case where it is proved to the satisfaction of the Commissioner that the refusal thereof would inflict great hardship upon the person proposing to transfer or sublet.

(7) The provisions of this section shall not apply to—

(*a*) the transfer of, or the subletting of land comprised in any existing lease granted under any Act which was repealed by the Crown Lands Act, 1903, or granted under any earlier Crown Lands Act, provided that the said Act contained express provision contrary to the provisions of this section and applicable to the said lease:

(*b*) any subletting with the consent of the Commissioner pursuant to section 57.

(8) The provisions of this section other than subsections (1) and (6) do not apply to transfers of agreements under Part X. of the Crown Lands Act, 1903, Part X. of the Crown

s. 225 (4). The Pastoral Act, 1904, has been repealed and superseded by the Pastoral Act, 1936.

Lands Act, 1915, or Part X. of this Act, nor to the subletting of land comprised in those agreements. All such transfers and sublettings are regulated by subsection (2) of section 181.

(9) The Commissioner shall not capriciously withhold his consent to any proposed transfer or subletting.

Non-validity of certain agreements. 1199, 1915, s. 228.

226. Except in any cases as to which it is otherwise expressly provided by this Act no agreement, whether verbal or in writing, for the sale, transfer or subletting of—

(*a*) any perpetual lease;

(*b*) any lease with right of purchase;

(*c*) any other lease, where the agreement cannot be given effect to without the Commissioner's consent;

(*d*) any agreement for sale;

(*e*) any interest in any such lease or agreement as hereinbefore mentioned; or

(*f*) the land or any interest in the land comprised in any such lease or agreement as hereinbefore mentioned,

shall be of any validity or have any force or effect after the expiration of one year from the making of the agreement, unless before the said expiration the consent in writing of the Commissioner to the proposed dealing has been obtained: Provided that this section shall not apply to any agreement which was in existence on the seventh day of December, nineteen hundred and ten, nor to any agreement thereafter made in pursuance of any agreement which was in existence on that day and for the purpose of giving effect to that agreement.

Prohibition against transferring or subletting without consent to extend to every form of alienation without consent. 1311, 1917, s. 12.

227. (1) Notwithstanding any law or usage to the contrary, it is hereby declared that any prohibition, express or implied, contained in this Act, or in any lease or agreement issued under this Act or any repealed Act, against the transferring, assignment, or subletting of land comprised in any such lease or agreement without the consent of the Commissioner first

S. 226. LANG V. CASTLE AND ANOTHER (1924) S.A.S.R. 255; 6 Austn. Digest 931. Construction of "proposed dealing." The term is a compendious expression synonymous with "sale, transfer, or subletting."

MAY V. DALY (1927) S.A.S.R. 428. If a breach of the agreement for sale, etc. occurs within the year during which the consent of the Commissioner may be obtained, a right of action for damages is not lost or determined upon the expiry of the year.

S. 227. LANG V. CASTLE AND ANOTHER (1924) S.A.S.R. 255; 6 Austn. Digest 927. "Every form of alienation" is not limited to the disposition of a registered estate and means the act of an owner in disposing of an interest in the property. An executory contract for the alienation of a Crown lease cannot pass the beneficial

had in each case, shall be construed to extend to and to include the prohibition of—

(*a*) every form of alienation, or attempted alienation, without such consent as aforesaid, of the land comprised in the lease or agreement; and

(*b*) the mere parting, before such consent is actually obtained, with the possession of the land, or any part thereof, in pursuance of any agreement for the alienation thereof, whether the said agreement is executory or otherwise and whether the same is or is not enforceable in law, and whether or not the said alienation is thereby agreed to be made subject to such consent,

and upon any breach of any such prohibition as hereby extended the Commissioner shall have the same powers of re-entry and forfeiture as in the case of a breach of any such prohibition as hereinbefore first mentioned.

(2) Any person who gives or takes possession of any land, or any part of any land, comprised in any such lease or agreement contrary to such prohibition as aforesaid as hereby extended shall be liable to a penalty not exceeding fifty pounds, and in addition the lease or agreement comprising the land or part shall be liable to be absolutely forfeited without any compensation being payable to the holder thereof.

(3) In the case of any person transferring, assigning, or subletting contrary to such prohibition as hereby extended without such consent as aforesaid, any deed, written instrument, or other agreement whereby the transfer, sublease, or assignment is made, or for the occupation of any land so transferred, assigned, or sublet, shall be wholly null and void for all purposes whatsoever.

---

s. 227. (*contd.*) ownership until the consent of the Commissioner is obtained. *Semble*, the condition precedent of consent to a contract for alienation is to be taken as implied unless excluded by the language of the contract.

HABEL v. TILLER (1929) S.A.S.R. 170; 6 Austn. Digest 930, "Agreement" means agreement *de facto* and includes any illegal arrangement which is not merely unenforceable but is actually prohibited under penalty in subsection (2) and nullified by subsection (3). "In pursuance of" or "pursuant to" an agreement is capable of a wide meaning, which includes acts done in intended or substituted performance, as well as acts done strictly in performance of the contract.

PART XIII.

PART XIII.

SALES OF LANDS, EXCHANGE OF LANDS, GRANTING OF SITES FOR BUILDINGS.

DIVISION I.

DIVISION I.—SALES OF LANDS.

What lands may be sold.
1199, 1915, s. 229.

228. The following lands may be sold by auction for cash:—

I. Special blocks: Any single section of Crown lands which is surrounded by lands sold or contracted to be sold under any of the Crown Lands Acts, and has been withdrawn from sale or lease; also any section or block of land belonging to or vested in the Crown (not exceeding one hundred acres in area) which may be required for the establishment of any industry, trade, or business, or for any other purpose approved by the Governor:

II. Crown lands within hundreds which have been offered for lease under Part V. of the Crown Lands Act, 1903, Part V. of the Crown Lands Act, 1915, or Part V. of this Act, and have not been taken up within two years from the day when they were first open to be taken up:

III. Town lands:

IV. Suburban lands which the Governor, by proclamation, excepts from being dealt with by the board.

Power of Commissioner to fix upset prices.
Ibid., s. 230.

229. The Commissioner may fix an upset price at which any such lands may be offered at auction, and may raise or lower any such upset price.

Lands to be gazetted before auction.
Ibid., s. 231.

230. A statement setting forth the lands, the upset price, and the time and place of auction shall, prior to any sale, be published for not less than four consecutive weeks in the *Government Gazette.*

Purchase money of lands sold for cash, how payable.
Ibid., s. 232.

231. No Crown lands shall be sold for cash at public auction unless on condition that the purchaser shall, at the sale, pay in ready cash a deposit of at least twenty per centum of the purchase-money, and shall pay the residue within one month thereafter, or within such extended time as the Commissioner may allow.

Unselected or unsold Crown lands within hundreds to remain open.
Ibid., s. 233.

232. (1) All Crown lands, except town or suburban lands, proposed to be offered for sale may nevertheless be taken up on lease or agreement not less than thirty days prior to the auction; and lands so offered and not sold shall remain open for leasing or sale under agreement or may be sold by private contract for cash at the upset price at which the same were last offered.

Inserted by 2060, 1931, s. 15.

(2) Town and suburban lands offered for sale and not sold may be sold by private contract for cash at any price not less than the upset price at which the same were last offered.

Purchase moneys to be applied primarily to payment of public liabilities.

1199, 1915, s. 234.

233. Purchase-moneys from the sale of lands under this Division shall form a fund primarily applicable to the payment of such portion of the public liabilities as since the first day of January, nineteen hundred and four, has been specially charged thereon or as after the passing of this Act is specially so charged.

Town land may be sold subject to condition against alienation for six years.

Ibid., s. 235.

234. (1) Whenever any town land is sold under any of the provisions of this Act, that land may, if the Commissioner so directs, be sold subject to the condition that it is not to be transferred, mortgaged, or otherwise dealt with, within six years from the date of the sale thereof without the consent in writing of the Commissioner, and that upon any breach of the said condition the sale may be cancelled; and in such case the said condition, including the date when the same is to terminate, shall be expressed in the receipt for the purchase-money and in the land grant.

(2) When a certificate of title is issued in respect of any land comprised in any land grant in which the said condition is expressed, the Registrar-General shall cause a statement to be inserted in or indorsed on the certificate to the effect that the land is subject to the said condition, and setting forth the terms of the condition and the date when it will terminate.

(3) Upon any breach of the said condition in respect of any land the Governor may, by notice published in the *Government Gazette,* cancel the sale of the said land; whereupon the said sale shall become absolutely void, and the said land shall be forfeited to the Crown.

Amended by S.L.R. Act, 1936.

(4) Upon the filing in the Lands Titles Registration Office by the Commissioner of a copy of the *Government Gazette* containing any such notice, the Registrar-General shall make and sign an indorsement on the receipt for the purchase-money of the land filed in his office (if the same has been so filed) or on the land grant of the land (if the same has been issued), or on any certificate of title which may have been issued in respect of the land, or any part thereof, to the effect that the said receipt or land grant or certificate is cancelled to the extent that it applies to such land or such part, the same having been forfeited to the Crown. The receipt or land grant or certificate shall thereupon be cancelled to the said extent, and the said land shall thereafter, for the purposes of The Real Property Act, 1886, be dealt with and regarded as if

it had never been alienated from the Crown. The Registrar-General shall also call in and indorse in the same manner the duplicate of the land grant or certificate, which shall thereupon be cancelled to the said extent.

(5) The provisions of this section shall take effect notwithstanding anything in The Real Property Act, 1886, or any other Act or law to the contrary.

Limitation of number of town allotments that may be purchased.
1199, 1915, s. 236.

235. (1) Whenever any town lands are sold by auction, under any of the provisions of this Act, it may, if the Commissioner so directs, be made a condition of the sale that not more than a specified number of allotments thereof shall be purchased by or on behalf of any person.

(2) Where town lands are sold by auction subject to the said condition, and it is shown to the satisfaction of the Commissioner that more than the specified number of allotments thereof has been purchased by or on behalf of any person, the Governor may, by notice published in the *Government Gazette,* cancel the sale of all or any of the allotments purchased by or on behalf of that person (hereinafter called "the cancelled allotments"); whereupon the sale of the cancelled allotments shall become absolutely void, and the cancelled allotments shall be forfeited to the Crown.

(3) Upon the filing in the Lands Titles Registration Office by the Commissioner of a copy of the *Government Gazette* containing any such notice, the Registrar-General shall make and sign an indorsement on the receipts for the purchase-money of the cancelled allotments filed in his office (if the same has so been filed) or on the land grant of the cancelled allotments (if the same has been issued), or on any certificate of title which may have been issued in respect of the cancelled allotments or any of them, to the effect that that receipt or land grant or certificate is cancelled to the extent that it applies to the cancelled allotments or any of them, the same having been forfeited to the Crown. The receipt or land grant or certificate shall thereupon be cancelled to the said extent, and the cancelled allotments shall thereafter, for the purpose of The Real Property Act, 1886, be dealt with as if they had never been alienated from the Crown. The Registrar-General shall also call in and indorse in the same manner the duplicate of the said land grant or certificate, which shall thereupon be cancelled to the said extent.

(4) The provisions of this section shall take effect notwithstanding anything in The Real Property Act, 1886, or any other Act or law to the contrary.

236. Every agreement, whether in writing or otherwise, whereby any person promises or agrees, either directly or indirectly, to give or allow any sum of money, reward, benefit, or thing to any other person, in consideration of that other person not bidding at any auction under this Act, or of his not competing at any such auction, or in consideration of his bidding to a limited amount only, or of his withdrawing from competition at any such auction, or in consideration of his doing any other act or thing which in any way might tend to prevent free and open competition at any such auction, shall be wholly illegal and void.

Agreement preventing fair competition at auction to be void. 1199, 1915, s. 237.

237. Any agreement by any person to pay more than two and a half per centum on the purchase-money to any other person for bidding or acting for the said first-mentioned person at any auction under this Act shall be absolutely illegal and void.

Agreement to pay commission of more than two and a half per centum void. Ibid., s. 238.

DIVISION II.—EXCHANGE OF LANDS.

DIVISION II.

238. Any Crown lands, or, subject to section 128 of the Pastoral Act, 1904, any lands set apart, dedicated, or reserved for any of the purposes mentioned in section 5 (except lands dedicated under subdivision (*d*) of the said section 5, under subdivision (*d*) of section 5 of the Crown Lands Act, 1915, or under subdivision (*d*) of section 7 of the Crown Lands Act, 1903), or held under lease or agreement, may, notwithstanding any lease or agreement thereof, be exchanged for any other lands in the State, subject to the following provisions:—

Powers of the Government to make exchange of land. Ibid., s. 239.

I. The Commissioner shall cause plans and a valuation to be made of the lands proposed to be given and of the lands proposed to be taken in exchange:

II. The board shall report on the proposed exchange:

III. The said plans, valuation, and report, together with a statement of the terms of exchange, shall be laid before both Houses of Parliament for fourteen days, and resolutions approving of the exchange shall be adopted.

After such adoption as aforesaid the lands proposed to be given in exchange may be granted for an estate in fee simple, a perpetual lease or agreement, or such lesser estate as may have been agreed upon.

s. 238. The Pastoral Act, 1904, has been repealed and superseded by the Pastoral Act, 1936. Section 128 of the former Act has been superseded by section 136 of the latter Act.

PART XIII.
DIVISION II.

Leased lands may be exchanged.
1199, 1915, s. 240.

239. The land given in exchange may be sold or let by the Commissioner to the original lessee of the land exchanged for the unexpired term of his original lease, on terms to be agreed upon, and on the lessee or purchaser surrendering his original lease or agreement.

Lands acquired by the Government to be dedicated for same purposes (if any) as lands alienated.
Ibid., s. 241.

240. The lands taken in exchange shall be set apart, dedicated, or reserved (as the case may be) for the same purposes as those for which the lands given in exchange were set apart, dedicated, or reserved.

DIVISION III.

DIVISION III.—GRANTING OF SITES.

Power to grant sites for public and charitable purposes.
Ibid., s. 242.
1900, 1929, s. 8.

241. (1) The Governor may at any time, on the application in writing of the purchaser or lessee under any of the Crown Lands Acts, grant any of the land comprised in his agreement or lease—

(*a*) to any corporation or to trustees, to be used as a site for a school, church, chapel, institute, or hospital, or for any other public or charitable purpose whatsoever: Provided that the land granted for any one of the said purposes does not exceed two acres:

(*b*) to the holder, or lessee, or his nominee, to be used as a site for a blacksmith's shop, carpenter's shop, mill, store, or post office, or for any other purpose approved by the Governor: Provided that—

I. the land granted for any one of the said purposes does not exceed one acre;

II. the land is not situated within five miles of town lands; and

III. such security is given to the Governor as he thinks proper that the land will be used for one of the said purposes.

Amended by 2060, 1931, s. 16.

(2) Any lands granted pursuant to subsection (1) hereof may, with the consent of the Governor, be exchanged for other lands granted for the purpose for which the lands first mentioned were granted, or may be surrendered to the Crown freed from any trust, express or implied, or subject to such trusts as the Governor approves.

Purchase money for site to be paid on application.
1199, 1915, s. 243.

242. The purchaser or lessee shall, at or before making his application, pay to the Treasurer the purchase-money for the land, fixed (if the land is subject to a contract for a lease with right of purchase or to an agreement) at the rate per acre at which he has agreed to purchase or has the right to purchase the land; or (in other cases) by valuation in case of difference.

243. After the grant the lease or agreement shall be read as if the land comprised in the grant had been expressly excepted from the operation of the lease or agreement.

Lease or agreement to be read as excepting the granted land.

1199, 1915, s. 244.

PART XIV.

LICENCES.

244. The Commissioner or any person authorised by him may grant licences, as provided by this section, to persons to enter upon and occupy the lands described in the licences for the objects and purposes hereunder expressed:—

Licences may be granted.

1199, 1915, s. 245.

I. With respect to any Crown lands or any other lands belonging to or vested in the Crown (not being lands let on perpetual lease within hundreds, or on lease with right of purchase, or lands under agreement to purchase), or leased for miscellaneous purposes, or comprised in leases under the Pastoral Act, 1904, licences may be granted for the purpose of cutting, obtaining, and taking away any live or dead timber, gravel, stone, clay, earth, guano, manure, shell, or seaweed:

II. With respect to any Crown lands, dedicated or reserved lands, or lands leased for pastoral purposes, licences may be granted for—

(*a*) fishermen's residences and drying grounds:

(*b*) manufactories, fellmongering establishments, slaughter-houses, brick or lime kilns, or sawmills:

(*c*) except in the case of lands leased for pastoral purposes, depasturing the lands with cattle, sheep, or other animals:

(*d*) any other purpose approved by the Commissioner, whether similar to any of the above-mentioned purposes or not.

245. The Commissioner may, by notice in the *Government Gazette,* prohibit any licensed or unlicensed person from exercising, on any lands described in the notice, any one or

Commissioner may limit licences.

Ibid., s. 246.

---

s. 244. The Pastoral Act, 1904, has been repealed and superseded by the Pastoral Act, 1936.

more of the powers conferred by licence or other authority for any of the purposes mentioned in paragraph I. of section 244; and any person who commits any act in contravention of any such notice shall forfeit his licence.

Conditions of licences.
1199, 1915, s. 247.

246. Every licence shall continue in force for a period not exceeding one year from the date of issue, and shall be subject to the payment of such fee, and to such restrictions and conditions as are imposed by the Commissioner.

PART XV.

PART XV.

SPECIAL PROVISIONS AS TO LANDS OUTSIDE GOYDER'S LINE OF RAINFALL.

Transfer of leases outside Goyder's line.
1199, 1915, s. 248.

247. Notwithstanding anything contained in this Act, when the Commissioner consents to the transfer of any lease (not being a lease under the Pastoral Act, 1904), of land suitable only for grazing purposes, situate outside Goyder's line of rainfall, he may permit any rent then owing by the transferring lessee, together with interest at the rate of four per centum per annum, to be paid by the transferee by instalments extending over any period not exceeding five years.

Allotment in case of holdings outside Goyder's line.
Ibid., s. 249.

248. (1) Any lessee who has transferred a lease such as mentioned in section 247, and any lessee of any land suitable only for grazing purposes situated outside Goyder's line of rainfall, whose rent is in arrear and unpaid, and who is unable to transfer his lease, may, on application to and approval by the Commissioner, be allotted by the board any Crown lands within the said line of rainfall which are available; and in such case, notwithstanding anything contained in this Act, the allottee may, subject to the payment by him of interest, at the rate of four per centum per annum, on the rent or instalments (as the case may be) becoming due in respect of the land so allotted for the first three years of the lease or agreement, be allowed three years wherein to pay the rents or instalments (as the case may be) so becoming due for the said first three years.

(2) The lease or agreement shall not be issued, nor shall any transfer be permitted, in respect of the land so allotted, until the moneys due thereon have been paid.

---

s. 247. The Pastoral Act, 1904, has been repealed and superseded by the Pastoral Act, 1936.

PART XVI.

MISCELLANEOUS.

Powers of forfeiture, acceptance of surrender, and resumption of agreements and leases to be exercised by Commissioner.
1199, 1915, s. 250.

249. Wherever by any provision of this Act power is given—

(*a*) to cancel or forfeit an agreement or lease; or

(*b*) to accept the surrender of an agreement or lease; or

(*c*) to resume lands comprised in an agreement or lease,

that provision shall be read as conferring the said power upon the Commissioner, and not upon the Governor, unless the contrary is expressly provided.

Commissioner to have care and control of reserved and dedicated lands.
Ibid., s. 251.

250. (1) The care, control, and management of all lands reserved or dedicated by the Governor for or to any public purpose shall, in the interim between the reservation or dedication of the lands and the grant thereof in fee, be vested in the Commissioner.

(2) The said lands shall during the said interim be deemed Crown lands, except for the purpose of sale, or for the purpose of leasing under Part V.

(3) Nothing in this section shall affect any lands the care, control, and management of which have already been or are hereafter placed in a municipal corporation or district council.

Right of commonage.
Ibid., s. 252.

251. All Crown lands within hundreds, and not within any municipality or district council district, shall be subject to such rights of commonage as, with the consent of the Commissioner, are from time to time prescribed.

Disability of persons under eighteen to hold agreement, lease, or licence.
Ibid., s. 253.

252. (1) No person under the age of eighteen years shall be entitled to hold, directly or otherwise, any lands comprised in any agreement, lease, or licence under this Act, unless that person becomes entitled to the agreement, lease, or licence as the personal representative of a purchaser, lessee, or licensee.

Amended by 2256, 1935, s. 10.

(2) All covenants and conditions contained in or imposed by any agreement, lease, or licence granted, transferred or transmitted to any minor of the age of eighteen years or upwards shall be as binding upon the minor as if he were of full age.

s. 250. FOX v. ALLCHURCH (1927) 40 C.L.R. 135; 3 Austn. Digest 525. Affirming FOX v. ALLCHURCH (1927) S.A.S.R. 328; which reverses in part FOX v. ALLCHURCH (1926) S.A.S.R. 384. Observations as to the construction of section 250 with respect to land dedicated for the purposes of the Botanic Garden.

Duties of Crown lands ranger.
1199, 1915, s. 254.

253. Every Crown lands ranger shall do all acts for preventing intrusion, encroachment, and trespass on lands belonging to or vested in the Crown, and for taking possession of any such lands in case of forfeiture, and for such other purposes as the Commissioner generally or specially directs or authorises.

Powers of district council rangers.
Ibid., s. 255.
Amended by S.L.R. Act, 1935.

254. (1) The powers conferred upon Crown lands rangers by this Act, may be exercised within a district council district by any district council ranger appointed by the council thereof, in respect of Crown lands, roads, or reserves under the control of the council.

(2) All penalties incurred within the district, and recovered under this Part, shall be paid to the council.

Crown lands ranger may make claim or entry.
1199, 1915, s. 256.

255. (1) Any Crown lands ranger may give any notice, make any claim, and make, or authorise any person to make, any entry which is requisite to be given or made by the Crown.

(2) Every such notice or claim made in writing under the hand of any Crown lands ranger, and every such entry made by any Crown lands ranger or person authorised by him, shall be valid for all purposes whatsoever as if the same were respectively given or made by the Crown.

Power to impound cattle trespassing and to destroy pigs.
Ibid., s. 257.

256. (1) Cattle or sheep unlawfully trespassing upon Crown lands, or lands reserved for or dedicated to the public use, may be impounded by a Crown lands ranger or by any person authorised by the Commissioner or ranger.

(2) All pigs trespassing on Crown lands, or reserves or dedicated lands, may be destroyed by a Crown lands ranger, or by any person authorised by a Crown lands ranger, without compensation to the owner.

Unbranded wild cattle belong to the Crown.
Ibid., s. 258.
1882, 1928, s. 31.

257. (1) All unbranded wild cattle above the age of twelve months being on Crown lands, and having no apparent owner, shall be the property of the Crown.

(2) The Commissioner may cause any such cattle to be sold by public auction, or by tender, provided that the object, time, and place of the auction, or the time up to which such tender is to be made, is notified in the *Government Gazette* at least one month next preceding the time of auction or tender.

(3) The purchaser, on obtaining the written authority of the Commissioner, may enter with proper assistance upon the Crown lands where the cattle are and take possession of the same.

(4) If no bid is obtained at public auction or no tender received for any cattle offered for sale those cattle may be destroyed by any Crown lands ranger authorised by the Commissioner to do so.

258. Notwithstanding the provisions of any Act to the contrary, every agreement made under this Act shall be exempt from any charge for stamp duty.

Exemption of agreements from stamp duty.
1199, 1915, s. 259.

259. All rent payable in respect of any lands leased under this Act or any Act hereby repealed shall, except as otherwise provided herein, be paid annually in advance.

Annual payment of rent.
Ibid., s. 260.

260. (1) The Commissioner may, with the consent of the Governor, acquire, for an estate in fee simple, lands in any part of the State which in his opinion may conveniently be set apart as sites for towns and for purposes incidental thereto.

Power of Commissioner to acquire lands for towns.
Ibid., s. 262.

(2) Any such lands may be acquired either pursuant to agreement or compulsorily, and if the same are acquired compulsorily the provisions of Division II. of Part X. shall, *mutatis mutandis*, apply with respect to the acquisition thereof and all things incidental thereto or consequent thereon.

(3) All lands taken and acquired under this section shall thereupon for all purposes be Crown lands, and may by proclamation be set apart and dedicated as town lands or suburban lands under subdivision (*h*) of section 5, and for any of the purposes mentioned or referred to in subdivision (*d*) of that section.

261. (1) When any land has been set apart as a site for a town or for purposes incidental thereto, and part of that land has been laid out as roads or park lands, or roads and park lands, and the balance has been subdivided into allotments, some or all of which allotments have been alienated from the Crown, but no town has, in the opinion of the Commissioner been erected on the land, and the land is, in the opinion of the Commissioner, no longer required as a site for a town—

Power of Commissioner to resume land set apart as site for town.
Ibid., s. 263.
1882, 1928, s. 32.

(*a*) the Commissioner may, with the consent of the Governor, acquire for an estate in fee simple all or any of the said allotments which have been alienated from the Crown; and

(*b*) the Governor may by proclamation declare the said roads to be closed, and cancel, wholly or partially, the proclamation (if any) setting apart such land as aforesaid,

and thereupon the whole of the said land shall be deemed for all purposes to be Crown lands, and may be dealt with accordingly under Part X. or any other provisions of this Act.

(2) The said allotments may be acquired, either pursuant to agreement or compulsorily, and if the same are acquired compulsorily the provisions of Division II. of Part X. shall, *mutatis mutandis,* apply with respect to the acquisition thereof and all things incidental thereto or consequent thereon.

Provision of moneys for purposes of sections 260 and 261.
1199, 1915, s. 264.

262. The moneys required by the Commissioner for the purposes of sections 260 and 261 shall be supplied to him by the Treasurer out of moneys provided by Parliament for those purposes.

Power to dispose of surplus lands.
Cf. 1346, 1918, s. 19.
Inserted by 2256, 1935, s. 11.

262a. (1) Where it appears to the Governor that any land acquired for any public purpose which after such acquisition has become Crown lands, is not suitable for, or is not required for the said public purpose and is not required for any purpose of the Government of the State, he may—

(*a*) sell the land, or any estate, right, or interest therein, either by public auction or private contract; or

(*b*) exchange the land, or any estate, right, or interest therein, for any other land or property, or any estate, right, or interest therein; or

(*c*) dispose in any other way of the land, or any estate, right, or interest therein,

for such price or other consideration as may be recommended by the board and the Governor deems sufficient, and upon such (if any) terms and conditions as the board recommends and he deems proper.

(2) For the purpose of carrying out any such transaction as mentioned in subsection (1) of this section, the Governor may execute any and every assurance, deed, instrument, and writing, and do all such other things as may be deemed necessary or expedient.

(3) The Commissioner's receipt shall be a sufficient discharge for any moneys to be paid in pursuance of any such transaction, and it shall not be necessary for the person paying any such moneys to inquire whether or not a proper case has arisen for the exercise of any power conferred by this section.

(4) Nothing in this section shall be deemed to derogate from any other power vested in the Governor or any other person by this Act.

Provision for preservation of timber.
1199, 1915, s. 265.
1882, 1928, s. 33.

263. (1) Subject to subsection (2) of this section, it shall be a condition of every lease or agreement granted or entered into, after the eighteenth day of December, nineteen hundred and twelve, that at least five acres of every two hundred and

fifty acres of the land comprised therein shall be set apart and reserved for the growth of timber, and that no timber trees growing thereon shall be destroyed.

(2) The Commissioner may, when he deems it advisable so to do, grant an exemption in whole or in part from compliance with the said condition.

(3) This section shall not apply—

(*a*) to any lease or agreement granted or entered into under Part XI. of the Crown Lands Act, 1903, Part XI. of the Crown Lands Act, 1915, or Part XI. of this Act, unless the surrendered lease or agreement in lieu of which the lease or agreement first mentioned was granted, contained the condition mentioned in subsection (1) of this section, or unless that surrendered lease was a miscellaneous lease:

(*b*) to any lease or agreement which comprises a less area than two hundred and fifty acres.

264. Any person holding any land from the Crown under a lease with right of purchase, or (subject to anything contained in Part X.) under an agreement obtained on a surrender, may complete his purchase at the expiration of six years from the time when the land was originally taken up by the said person or his predecessors in title, or at any time thereafter during the currency of his lease or agreement; and shall, on payment of the purchase-money or the balance thereof then unpaid, and of the prescribed fee for the grant be entitled to the land in fee simple: Provided that the Commissioner may, in any case, prevent the exercise of the right herein expressed until he is satisfied that the conditions of the lease or agreement have been *bona fide* fulfilled.

Completion of purchase under lease with right of purchase or agreement obtained on surrender. 1199, 1915, s. 266.

265. No person holding a lease with a right of purchase or an agreement, whenever granted, shall be entitled to complete the purchase unless the conditions of the lease or agreement have been fully complied with, or the Commissioner is satisfied that the lessee or purchaser has made such permanent improvements on the land that strict compliance with the conditions of the lease or agreement should be dispensed with.

Right of purchase not exercisable until conditions have been complied with or equivalent improvements made. Ibid., s. 267.

265a. Notwithstanding anything contained in this or any other Act or anything contained in any lease or agreement under this Act or any other Act relating to Crown lands, if the person who is the lessee or purchaser under any such lease or agreement (whether the lease or agreement was issued before or after the passing of this Act) intimates, whether verbally

Cancellation of lease or agreement where holder abandons land. Cf. 1581, 1923, s. 3. Inserted by 2256, 1935, s. 12.

or by writing, to the Commissioner or any officer of the Department of Lands that he has abandoned the land comprised in the lease or agreement, or makes any intimation to the like effect, the Commissioner may, by writing under his hand, without notice to the said person, and without re-entry, forthwith determine the lease or agreement and thereupon the interest of the said person in the said land shall absolutely cease and determine.

Repeated notice of breach not necessary before forfeiture.
1199, 1915, s. 268.

266. Notwithstanding anything in any of the Crown Lands Acts or in any agreement or lease made or granted under any of the repealed Acts, if notice is given to the purchaser or lessee (as the case may be) of any breach of a covenant contained in or implied by such agreement or lease, no notice of any future breach of the same covenant, or of the continuance of the same breach thereof, shall be necessary before the exercise of the powers of forfeiture or cancellation expressed in or implied by the agreement or lease, whether so implied by such Acts as aforesaid, or any of them, or otherwise.

Land grant to be noted as subject to mortgages upon the land.
Ibid., s. 269.

267. When, on the completion of any purchase by the exercise of any right under any agreement or lease, a land grant is issued and the land is still subject to a mortgage, the particulars of the mortgage shall be noted on the land grant.

Cancellation of muniments of title when grant cancelled or land reverts to Crown.
Ibid., s. 270.
1405, 1919, s. 11.

268. (1) The Commissioner may from time to time, and upon the alienation of any of the lands hereinafter mentioned shall, forward to the Registrar-General, or other proper officer, the certificate, grant, or other muniment or muniments of title to all or any lands—

(*a*) the grant of which has been cancelled by the Governor under the Crown Lands Act, 1903, the Crown Lands Act, 1915, or this Act; or

(*b*) which, having been lawfully held by any person for any estate or interest, have been or are lawfully forfeited to or resumed by, or by any means whatsoever have reverted to or revert to or have been or are acquired by, the Crown,

and request the said Registrar-General or officer, in writing to forthwith cancel the said certificate, grant, or other muniment or muniments of title, either wholly or partially.

(2) The said Registrar-General, or other officer, shall thereupon enter on the folium relating to the land in the register-book and on the certificate, grant, or other muniment or muniments, a memorandum cancelling the same, either wholly or partially as the said writing may require, and shall sign

the said memorandum. Thereafter the land in respect of which the certificate, grant, or other muniment or muniments of title have been cancelled may, until again alienated from the Crown, be dealt with in all respects as if it had never been alienated from the Crown.

269. The Registrar-General shall, at the request of the Commissioner, make all entries in all register-books necessary or proper to be made for the purpose of giving effect to this Act.

Registrar-General to make necessary entries in registers.
1199, 1915, s. 271.

270. The Registrar-General shall, at the request of the Commissioner, on being satisfied that any Crown lease or agreement has either been lost or destroyed, issue a provisional copy of the lease or agreement at the cost of the applicant, which shall be valid and effectual for all purposes as if it were the original lease or agreement.

Registrar-General may issue certified copy of lease or agreement.
Ibid., s. 272.

271. No proclamation shall be invalid by reason of anything required as preliminary thereto not having been done, or not having been duly done.

Proclamation valid for all purposes.
Ibid., s. 273.

PART XVII.

PART XVII.

OFFENCES AND PENALTIES.

272. Any person who unlawfully occupies land belonging to or vested in the Crown, in any manner whatsoever, shall be liable to a penalty of not more than fifty pounds.

Unauthorised occupation of Crown property.
1199, 1915, s. 275.

273. (1) The owner or person in charge of cattle or sheep which—

Delaying with travelling stock.
Ibid., s. 276.

(*a*) are found upon Crown lands, or dedicated or reserved lands; and

(*b*) are not *bona fide* travelling either to the station of the owner or to market, or, if travelling *bona fide*, do not travel at least five miles a day in a direct line,

s. 272. DAVIS v. BAMBRICK (1875) 9 S.A.L.R. 156; 6 Austn. Digest 936. Held that the plaintiff, not being a Crown lands ranger was not entitled to lay the complaint. See also section 294.

s. 273. HUMPHRIS v. FOOT (1934) S.A.S.R. 25. Meaning of the words "dedicated lands" discussed.

shall be liable to a penalty of two shillings per head for every head of cattle, and one pound for every hundred sheep or part of every hundred sheep so found upon the said lands.

(2) Upon the hearing of the complaint the onus of proving that the cattle or sheep were so *bona fide* travelling, or that they *bona fide* travelled at least five miles a day, shall be upon the owner or person in charge of the cattle or sheep.

Depasturing cattle, etc.
1199, 1915, s. 277.

274. Whoever—

(*a*) depastures cattle, sheep, goats, or pigs upon Crown lands, or reserved or dedicated lands, or lands vested in the Commissioner of Educational Lands without licence or other lawful authority; or

(*b*) depastures on any such lands more cattle or sheep than authorised by his licence or authority,

shall be liable to a penalty of not more than one hundred pounds; and, in addition thereto, for every offence to a further penalty of three pence per head for every head of sheep, goats, or pigs, and one shilling and six pence for every head of cattle, so unlawfully depastured.

Injuring or removing timber, metals, etc., without licence.
Ibid., s. 278.
1882, 1928, s. 34.

275. (1) Any person who—

(*a*) injures or destroys any tree or sapling, or cuts, saws, removes, or sells any timber being on Crown lands, or lands leased or reserved under any of the Crown Lands Acts, or the Pastoral Act, 1904, or any Act incorporated therewith, without a licence or other valid authority, except on land so leased by him and for the purpose of making improvements on the said land; or

(*b*) unlawfully removes, or severs, excavates, quarries, or digs for, with intent to remove, any metal, or ore containing metal, or any stone, sand, gravel, or other material from any such lands, without a licence or other authority,

shall be liable to forfeit and pay, in addition to the value of the tree, sapling, timber, metal, or other material, a penalty of not less than two pounds nor more than five pounds or to be imprisoned for any period not exceeding two months.

s. 275. The Pastoral Act, 1904, has been repealed and superseded by the Pastoral Act, 1936.
BIRKS v. TAYLOR (1914) S.A.L.R. 148; 6 Austn. Digest 936. Where a perpetual lease does not reserve timber, the lease vests in the lessee the general property in the timber on the demised land.

(2) Any person found committing an offence against this section may be forthwith apprehended and taken before any justice of the peace by a Crown lands ranger, police constable, or person authorised by the ranger.

Injuring or removing landmarks. 1199, 1915, s. 279.

276. Whoever wilfully and unlawfully defaces, injures, destroys, removes, or obliterates any survey-picket or other land mark erected or being on any lands belonging to or vested in the Crown, shall be liable to a penalty of not more than fifty pounds.

Injuring monuments, records, etc., on Crown lands. Ibid., s. 280

277. Whoever wilfully defaces, injures, destroys, removes, cuts, scratches, or carves upon any monument, pedestal, carving, writing, ornamentation, or record placed, erected, or being upon any lands belonging to or vested in the Crown, or being dedicated or reserved lands, shall be liable to a penalty of not more than fifty pounds or to imprisonment for any period not exceeding six months.

Obstructing roads and ways. Ibid., s. 281.

278. (1) Whoever, by materials of any kind, except by gates approved by the Commissioner, wilfully obstructs or injures any road or way vested in the Crown, not being within the limits of any district council district, so as to hinder the free passage of any carriage thereon, shall be liable to a penalty of not less than two pounds nor more than ten pounds, in addition to the expense of removal.

(2) It shall be lawful for any Crown lands ranger or any person authorised in writing without any warrant, to forthwith summarily remove and prevent every such obstruction, at the cost of the party causing the same.

Leaving gates open. Ibid., s. 282.

279. Any person who injures or destroys any gate or opening erected by the authority of the Commissioner on any road or way, or does not close the same, shall for every such offence be liable to a fine of not more than fifty pounds, or to imprisonment for any period not exceeding six months.

Obstructing authorised persons from carrying out powers. Ibid., s. 283.

280. Any person who wilfully obstructs or hinders any member of the board, or any Crown lands ranger, or other authorised person, in the exercise of any right under this Act shall be liable to a penalty not exceeding fifty pounds, or to be imprisoned for any period not exceeding six months.

Any money or reward received under any illegal agreement to be forfeited, and recoverable by anyone suing for the same. Ibid., s. 284.

281. (1) Every person who directly or indirectly takes or receives any sum of money, or any thing whatsoever, in pursuance of any agreement hereinbefore declared to be void, or in consideration of any act on his part which would be illegal if agreed to be done, shall forfeit that sum of money or other thing.

(2) The said sum shall be recoverable by any person who sues for the same within twelve months from the time when the same was received.

Making illegal agreement.
1199, 1915, s. 285.

282. (1) Whenever any person—

(*a*) offers to any person, not being the principal for whom he is acting, intending purchaser, or lessee, to bid or not to bid at any auction except in some particular manner, or to bid for certain lands or leases only, in consideration of an intending purchaser or lessee bidding or not bidding for any land or lease to be offered for sale at the auction; or

(*b*) offers to enter into any agreement which would be illegal under this Act,

the first-mentioned person shall forfeit the full value of the lands or of the lease forming the subject of the agreement, or a sum of one hundred pounds, whichever is the higher in amount.

(2) The amount so forfeited may be sued for and recovered by any person who sues for the same within twelve months from the time of the offer or proposal.

Offering to enter into void agreements, etc.
Ibid., s. 286.

283. (1) Whenever any person—

(*a*) offers to any intending purchaser or lessee at any auction to enter into any agreement which would be void under this Act; or

(*b*) offers to make any agreement or arrangement for making which any forfeiture or penalty is provided; or

(*c*) makes any such offer as mentioned in section 282,

by means of threats or representations respecting the future biddings, purchases, or competition, or respecting any particular course of proceeding of such person at any such auction, he shall forfeit twice the full value of the lands or lease which formed the subject of the offer, proposal, or illegal agreement, or a sum of two hundred pounds, whichever is the higher in amount.

(2) The amount so forfeited may be sued for and recovered by any person who sues for the same within twelve months from the time of the offer or proposal.

s. 282. HAILES v. WHITE (1876) 10 S.A.L.R. 146; 6 Austn. Digest 926. As to the interests in land to which section 282 applies.

s. 283. HAILES v. WHITE (1876) 10 S.A.L.R. 146; 6 Austn. Digest 926. As to the interests in land to which section 283 applies.

284. Any person who knowingly makes any false statement with regard to commonage in hundreds shall be liable to a penalty of not more than fifty pounds.

False statement as to commonage. 1199, 1915, s. 287.

285. Whoever—

(*a*) forges, counterfeits, or alters, with intent to defraud; or

(*b*) with a like intent, utters, or makes use of, knowing the same to be forged, counterfeited, or altered,

any writing or document authorised to be made, issued, or granted under this Act and relating to any Crown lands, shall be guilty of a felony, and shall be liable to be imprisoned for any term not exceeding eight years.

Forgery and uttering a felony. Ibid., s. 288.

286. Any person who wilfully makes a false declaration, or who, upon oath or affirmation taken or made under the provisions of this Act, wilfully and corruptly gives any false evidence before the board, or any member thereof, shall be guilty of perjury, and may be imprisoned for any term not exceeding four years.

Perjury. Ibid., s. 289.

287. Any person who—

(*a*) by any manner of fraud or wilful misrepresentation, obtains or attempts to obtain any advance or loan under this Act from the Commissioner or the State Bank of South Australia; or

(*b*) by any false representation attempts to account for the expenditure of any moneys advanced as aforesaid,

shall be guilty of a misdemeanour, and shall be liable to be imprisoned for any term not exceeding twelve months.

Fraud or false representation. Ibid., s. 290.

PART XVIII.

PART XVIII.

REGULATIONS.

288. (1) The Governor may make regulations for fully and effectually carrying out and giving force and effect to the various objects, purposes, rights, powers, and authorities of this Act, including regulations for fees, and for penalties not exceeding twenty pounds for any one offence.

Regulations. 1199, 1915, s. 291.

(2) All such regulations shall be published in the *Government Gazette,* and shall be laid before both Houses of Parliament within fourteen days after the publication thereof, if Parliament is then sitting, and if not, then within fourteen days after the next session of Parliament begins; and if within sixty days of the laying before Parliament of any such regulations either House of Parliament passes a resolution objecting thereto, the same shall (so far as so objected to) thenceforth cease to have the force of law, and notice of every such resolution shall forthwith be published by the Commissioner in the *Government Gazette.*

(3) Subject to subsection (2) hereof, all such regulations shall have full force of law from the first date of publication thereof.

(4) The *Government Gazette* containing any such regulations purporting to be made by the Governor by virtue of this Act, shall be conclusive evidence of the making thereof; and the *Government Gazette* containing a notice of a resolution being passed by either House of Parliament objecting to any such regulation shall be conclusive evidence of the passing of that resolution.

PART XIX.

PART XIX.

ARBITRATION, EVIDENCE, LEGAL PROCEDURE, ETC.

Valuation for compensation to be determined by arbitration.
1199, 1915, s. 292.

289. (1) All valuations under any of the Crown Lands Acts (except valuations of rents and improvements to be made by the board), and valuations of improvements on resumed miscellaneous leased lands, shall be determined, in case of dispute, by two arbitrators, of whom one shall be nominated by the Commissioner, and the other by the person or persons entitled to compensation or payment; or, in case the arbitrators are not able to agree, by an umpire to be appointed by them before entering upon the consideration of the amount of compensation or payment.

(2) In case either of the parties entitled to nominate an arbitrator neglects so to do for fourteen days next after a notice in writing has been given him by the other party, or names an arbitrator who refuses or neglects to act, the arbitrator named by the other party may make a final decision alone.

Declarations, how to be made.
Ibid., s. 293.

290. All declarations required by this Act to be made by any person may be made before a member of the board, a justice of the peace, a notary public, or a commissioner for taking affidavits in the Supreme Court.

291. (1) In any proceedings under Part XVII. all parties to any agreement such as mentioned in section 236 or 237, made in connection with an auction, and all persons making or receiving any offer, with or without threats, to enter into such an agreement, shall be compellable to give evidence upon all matters relating to the agreement or offer.

Parties compellable to give evidence, but not to be prosecuted in certain cases.
1199, 1915, s. 294.

(2) No information shall be maintained against any person for conspiracy in consequence of any such agreement or offer, if the said person being summoned as a witness, answers all questions that may be asked of him concerning the matters in question; nor shall he be convicted of conspiracy if he at any time previous to any information being laid has fully disclosed such act on oath, under the compulsory process of any court, in any action or proceeding instituted under Part XVII. of this Act, Part XVII. of the Crown Lands Act, 1915, or Part XVII. of the Crown Lands Act, 1903.

292. The production of the *Government Gazette* containing any publication required to be published shall be conclusive evidence of the facts stated, recited, or assumed therein.

Gazette evidence of facts stated therein.
Ibid., s. 295.

293. In any action, suit, or proceeding under any of the Crown Lands Acts—

Burden of proof.
Ibid., s. 296, 1811, 1917, s. 11.

(*a*) the averment that any lands are Crown lands, dedicated lands, reserved lands, or lands belonging to or vested in the Crown, or that any person is a Crown lands ranger, or other person authorized to take any proceedings, or perform any duty, or sue for the recovery of any penalties or other moneys under any of the said Acts, shall be sufficient proof of that fact, unless the defendant proves the contrary:

(*b*) where the authority of the defendant to do any act is in question, the proof thereof shall lie upon the defendant:

(*c*) all licences, certificates, maps, plans, and office copies, purporting to be certified as true under the hand of the Director of Lands, the Assistant Director of Lands, or the Surveyor-General of the State, shall be sufficient evidence without production of original records, and without the personal attendance of those officers, or proof of their signatures.

Amended by 1990, 1930, s. 3.

294. (1) All proceedings may be had and taken and all complaints may be laid for any offence against this Act at the instance of the Commissioner, or any person authorized by him, or any Crown lands ranger; and all complaints shall be heard and determined, and all moneys, costs, and expenses shall be recovered, in a summary way.

Who may lay complaint, and hearing of same.
1199, 1915, s. 297.

(2) The court of summary jurisdiction may also, in case any penalty is imposed, order the defendant, in default of payment thereof, to be imprisoned for any period not exceeding six months.

Penalties. 1199, 1915, s. 298.

295. Except when otherwise provided, all penalties shall, when recovered, be paid to the Treasurer of the State.

Treasurer may provide for costs of officers. Ibid., s. 302.

296. The Treasurer may cause to be paid out of the Public Treasury the costs or charges of any action brought by or against any justice, Crown lands ranger, constable, or other person acting under the authority and in the execution of this Act.

Protection to persons acting in execution of this Act. Ibid., s. 303.

297. (1) All actions for anything done under any of the Crown Lands Acts shall be commenced within six months after the cause of action has arisen, and not afterwards.

(2) Notice in writing of every such action, and the cause thereof, shall be given to the defendant one month at least before the commencement of the action.

(3) In every such action the defendant may plead the general issue, and give this Act, or any Act hereby repealed, and the special matter in evidence at any trial to be had thereupon.

(4) No plaintiff shall recover in any such action if tender of sufficient amends has been made before action brought, or if a sufficient sum of money has been paid into court by or on behalf of the defendant after action brought, together with the costs incurred up to that time.

SCHEDULES.

THE FIRST SCHEDULE.

ACTS REPEALED.

Reference to Act.	Short Title.	Extent of Repeal.
No. 1199 of 1915.....	Crown Lands Act, 1915	The whole
No. 1206 of 1915.....	Crown Lands Act Suspensory Act, 1915	The whole
No. 1231 of 1915.....	Crown Lands Act Amendment Act, 1915	The whole
No. 1311 of 1917.....	Crown Lands Act Amendment Act, 1917	The whole
No. 1405 of 1919.....	Crown Lands Act Further Amendment Act, 1919	The whole
No. 1703 of 1925.....	State Bank Act, 1925.....	Section 72 and the Seventh Schedule
No. 1740 of 1926.....	Crown Lands Act Amendment Act, 1926	The whole
No. 1803 of 1927.....	Crown Lands Act Amendment Act, 1927	The whole
No. 1882 of 1928.....	Crown Lands Act Amendment Act, 1928	The whole
No. 1900 of 1929.....	Crown Lands Act Amendment Act, 1929	The whole

THE SECOND SCHEDULE.

Section 22.
1199, 1915, Second Schedule.

1. Land within any hundred.

2. Land situate within an average of twenty miles from the eastern boundaries of the hundreds of King, Rees, Tomkinson, Ketchowla, Hardy, Nackara, Paratoo, or Waroonee; or within ten miles from the northern boundaries of the hundreds of Waroonee, Minburra, and part of the hundred of Yalpara; or within the counties of Buccleuch and Chandos.

3. Land situate on either side of the line of railway between Coonalpyn and the eastern boundary of the State, and being not more than seven miles distant from that line.

4. Land situate upon Thistle Island, Flinders Island, Spilsby Island, Wedge Island, St. Peter's Island, Eba Island, and Eyre's Island.

THE THIRD SCHEDULE.

Section 35.
1199, 1915, Third Schedule.
1405, 1919, s. 4.
1882, 1928, s. 35.

South [Royal Arms] Australia.

CROWN LEASE (PERPETUAL).

His Majesty the King doth hereby lease to A.B., of [*address and occupation*] all that [*here describe land leased*] to be held in perpetuity at the following yearly rents namely:—[*here set out the rents in accordance with the appropriate section of the Act*], each of which yearly rents is to be paid in advance on the day of , with such penalties as are provided for by the Crown Lands Act, 1929, added thereto in case any of such rents is in arrear, and subject to the reservations, covenants, and conditions shortly stated below, and which are more fully set out in the Crown Lands Act, 1929.

Reservations.

1. There are reserved to the Crown all gold, silver, copper, tin, and other metals, all ores and other substances containing metals, all minerals, and all gems and precious stones, coal, and mineral oils, with incidental powers of search and mining.

Covenants.

2. The lessee must—

I. Enclose the land with a cattle-proof fence before the end of the fifth year of the lease;

II. Keep in good repair all Crown improvements (if any) on the land;

III. Clear so as to render available for cultivation, or so as to improve the grazing capacity thereof,.....acres of the land;

IV. Forthwith commence to destroy and to keep the land free from vermin to the satisfaction of the Commissioner of Crown Lands during the lease;

V. Insure and keep insured in the full insurable value thereof all buildings the property of the Crown upon the leased land in the joint names of the Commissioner and the lessee, in some insurance office to be approved of by the Commissioner, and forthwith lodge the policy of such insurance in the office of the Commissioner, and forward to the Commissioner the receipts for the premiums payable in respect of such policy within seven days after the same shall become due, with a power for the Commissioner to insure on default by the lessee, and to recover the amount paid for such insurance in like manner as the rent is recoverable.

And the lessee must not—

VI. Transfer, sublet, encumber, or mortgage without the written consent of the Commissioner first had in each case;

VII. Erect brush fence or suffer or permit the same to be erected or to remain on the land.

Conditions.

3. The lease shall be liable to forfeiture in the following cases and no others:—

I. If default be made in payment of any rent in arrear for six months after the same falls due, the lessee having had at least three months' previous notice in writing demanding its payment;

II. If default be made in the performance of any covenant; or

III. If the land shall be transferred, sublet, or mortgaged without the written consent of the Commissioner first had in each case.

4. The land may be resumed by the Crown for mining or for any public work or purposes, full compensation being made to the lessee for his loss.

Section 35. 1199, 1915, Fourth Schedule. 1405, 1919, s. 4. 1882, 1928, s. 36.

THE FOURTH SCHEDULE.

Reference to the Form in the Third Schedule.	Extended Meaning.
1. Reservations ..	Except and reserved out of this lease all gold, silver, copper, tin, and other metals. all ores and other substances containing metals, all minerals, and all gems and precious stones, coal, and mineral oils upon, in, or under the said land to His Majesty the King, His heirs and successors, and all persons lawfully claiming under or authorised by Him or them. And the Commissioner of Crown Lands and all persons lawfully claiming under or authorised by them, or either of them, shall have full and free liberty of access, ingress, egress, and regress, with or without horses, cattle, carts, drays, carriages, engines, and all other necessary implements and things, into, upon and from the said premises for all reasonable purposes, and to cut, dig, sink, try, search, work, remove and dispose of all or any of the said excepted and reserved things, full compensation being made to the lessee for any loss or damage sustained by him.
2. (I.) Covenant to fence	The lessee will during the first five years substantially fence the boundaries of the said land with a fence or wall ordinarily capable of resisting the trespass of cattle, and during the term of the lease maintain such fence or wall in good and substantial repair.
2. (II.) Covenant to keep Crown improvements in repair	The lessee will at his own cost during the said term, keep and maintain in good and tenantable repair and condition all improvements (if any) the property of the Crown on the land hereby leased.
2. (III.) Covenant to clear	The lessee will during the first two years clear so as to render available for cultivation or so as to improve the grazing capacity thereof not less than one-eighth of the area specified in that behalf in the lease, and will during the second two years clear as aforesaid not less than one-eighth of the area so specified, and will during each succeeding year clear as aforesaid not less than one-eighth of the area so specified until the whole of the area so specified has been cleared, and will at all times keep available for cultivation or grazing, as the case may be, the land so cleared.
3. Condition of forfeiture	Provided always, and this lease is upon this express condition, that if default shall be made in payment of any rent in arrear for six months after the same falls due, the lessee having had at least three months' previous notice in writing demanding its payment, or if default shall be made in the performance of any covenant on the part of the lessee; or if the lessee shall, without the written consent of the Commissioner first had and obtained, transfer, mortgage, encumber, or sublet the premises, or any part thereof, His Majesty or the Commissioner, after three months' written notice, may re-enter and take possession of the said lands; and it shall be lawful for the Commissioner, before or after re-entry, to cancel and determine this lease, and the Commissioner may thereupon insert a notice in the *Government Gazette* declaring this lease to be forfeited, and such notice appearing in the *Government Gazette* as having been published by the authority of the Commissioner shall, in all courts and elsewhere, and under all circumstances, be taken to be conclusive evidence that such lease has been legally cancelled and forfeited: Provided, however, that the Commissioner shall not (except in the case of rent being in arrear as aforesaid, or of the transfer, mortgage, encumbrance, or subletting of the premises without such consent as aforesaid) exercise the powers expressed in this clause in the case of default in the

THE FOURTH SCHEDULE—*continued.*

Reference to the Form in the Third Schedule.	Extended Meaning.
	performance of a covenant before the expiration of the period of three months after notice has been given to the lessee of such default and requiring the performance of the covenant: Provided nevertheless that if notice has been given to the lessee of any default in the performance of a covenant, no notice of any future default in the performance of the same covenant, or of the continuance of the same default, shall be necessary before the exercise of such powers.
4. Condition of resumption	Provided also, and it is expressly agreed, that the King shall, and may, at any time, or from time to time hereafter resume possession of all or any part of the said land hereby demised for roads, railways, tramways, or for sites for towns or for park lands, or for mining purposes, or for any public work or purpose upon the Commissioner giving three calendar months' notice to the lessee by publication in the *Government Gazette* of such intended resumption; and that immediately from and after the expiration of three calendar months after such notice shall have been given as aforesaid this lease and the demise hereby made shall cease, determine, and be void as to all or such parts of the said lands as shall be mentioned and described in such notice, anything in this lease to the contrary notwithstanding: Provided that, on any resumption, the lessee shall be paid compensation for the loss the lessee shall sustain thereby; and, in case of dispute, the amount of such compensation shall be determined by the Land Board, or, at the option of the Commissioner or the lessee, in the manner provided by section 289 of the Crown Lands Act, 1929.

Amended by 2060, 1931, s. 17.

THE FIFTH SCHEDULE.

Section 44.

1199, 1915, Fifth Schedule. 1405, 1919, s. 4. 1882, 1928, s. 37.

TERMS AND CONDITIONS IN AGREEMENT.

1. The vendor agrees to sell and the purchaser agrees to purchase for the sum of pounds being the price fixed by the Land Board all section of land situated in the Hundred of County of containing acres or thereabouts numbered and the improvements thereon except and reserved all gold, silver, copper, tin, and other metals, all ores and other substances containing metals, all minerals, and all gems and precious stones, coal, and mineral oils upon in or under the said land to the vendor and all persons lawfully claiming under or authorised by him with full and free liberty of access ingress egress and regress with or without horses cattle carts drays carriages engines and all necessary implements and things into upon and from the said land for all reasonable purposes and to cut dig sink try search work remove and dispose of all or any of the said excepted and reserved things.

2. The purchaser shall pay the purchase-money together with interest thereon at the rate of per centum per annum in sixty half-yearly instalments of payable in advance on the day of and the day of in each year until the whole of the purchase-money and interest shall be paid: Provided that the purchaser may complete the purchase of the said land at any time after six years from the time when such land was originally taken up on payment of the balance of the purchase-money and interest to the date of completion of the purchase.

3. The purchaser will pay and discharge all rates taxes assessments impositions and outgoings which shall become payable in respect of the said land.

4. The purchaser shall and will during the first five years from the date of this agreement substantially fence the boundaries of the said land with a fence or wall ordinarily capable of resisting the trespass of cattle and will until the completion of the purchase of the said land maintain and uphold such fence in good and substantial repair.

5. The purchaser will during this agreement keep and maintain in good and tenantable repair and condition all improvements on the said land.

6. The purchaser will during the first two years from the date of this agreement clear so as to render available for cultivation or so as to improve the grazing capacity thereof not less than acres of the said land and will during the second two years clear as aforesaid not less than acres of the said land and will during each succeeding year clear as aforesaid not less than acres of the said land until acres of the said land have been cleared, and will at all times keep available for cultivation or grazing, as the case may be, the land so cleared.

7. The purchaser will not without the consent of the vendor being first had and obtained transfer sublet encumber or mortgage the said land.

Amended by S.L.R. Act, 1935.

8. The purchaser will subject to the regulations in force for the time being under the Mining Act, 1930, or any other Act authorising the making of regulations permit every gold or mineral lessee or licensee holding a lease or licence under the Mining Act, 1930, or any other Act for the time being authorising the granting of gold or mineral leases or licences of or respecting any of the said land and all persons authorised by such lessee or licensee to have free and unrestricted access to and egress from the said land comprised in such gold or mineral lease or licence.

9. It shall be lawful for the vendor and all persons authorised by him at all times unrestrictedly to enter into and upon the said land before completion of the purchase thereof.

10. The vendor reserves unto himself and all persons and bodies authorised by him full right and liberty without any payment to the purchaser by way of compensation from time to time and at all times hereafter with or without beasts of draught or burden or any vehicles whatever to enter into and upon the said land for the purpose of laying pipes or a pipe track in, along, over, or under the said land, and to view the condition of and to cleanse, relay, repair, and maintain the said pipes or pipe track, and to allow water to be in and to flow through the said pipes or pipe track, and to construct drains and pipe tracks, and to lay pipes where required in, along, over, or under the said land, and to view the condition of and cleanse, relay, repair, and maintain the said drains and pipe tracks and pipes, and to allow water to be in and to flow through the said drains, pipe tracks, and pipes.

11. The purchaser will insure and during this agreement keep insured in the full insurable value thereof in some insurance office in Adelaide to be approved by the vendor all buildings and erections the property of the vendor upon the said land or which may thereafter be thereupon against loss or damage by fire such insurance to be in the joint names of the purchaser and the vendor and will forthwith lodge the policy of every such insurance in the office of the vendor and will forward to the vendor the receipts for the premiums payable in respect of every such policy within seven days after the same shall become due and if the foregoing covenant shall not be duly observed then the vendor shall be at liberty to insure the said improvements in manner aforesaid and it is agreed that all sums of money received under any such insurance shall be laid out in reinstating the premises in respect of which the same shall have been received.

Amended by S.L.R. Act, 1935.

12. The purchaser will destroy all rabbits on the said land and fill up their burrows to the satisfaction of the vendor and will forthwith commence to destroy all such other vermin on the said land as are by or under the Vermin Act, 1931, or by or under any other Act for the time being in force in the said State declared to be vermin and will keep the said land free of all vermin to the satisfaction of the vendor during this agreement and will destroy Bathurst burr and all other noxious weeds growing upon the said land and upon the half width of Government roads adjacent thereto.

13. The purchaser will neither allow to remain if now existing nor erect nor suffer the erection of any brush fence upon the said land.

14. And it is hereby declared that if any of the instalments hereby reserved shall be unpaid and in arrear for more than six months after the day whereon the same is hereby made payable the purchaser having had at least three months' previous notice in writing demanding its payment, or if the vendor shall be satisfied that there has been a breach in the performance of any of the covenants herein contained or that this agreement is liable to forfeiture the vendor may re-enter and take possession of the said land and it shall be lawful for the Commissioner of Crown Lands before or after re-entry to cancel and determine this agreement and the said Commissioner may thereupon insert a

notice in the *Government Gazette* declaring this agreement to be forfeited and such notice appearing in the *Government Gazette* shall in all courts and elsewhere and under all circumstances be taken to be conclusive evidence that this agreement has been legally cancelled and forfeited: Provided that the vendor or the said Commissioner shall not (except in the case of an instalment being unpaid and in arrear as aforesaid or of a breach of clause 7 hereof) exercise the powers expressed in this clause in case of a breach of covenant before the expiration of the period of three months after notice has been given to the purchaser of such breach and requiring the performance of the covenant: Provided nevertheless that if notice has been given to the purchaser of any breach of a covenant no notice of any future breach of the same covenant or of the continuance of the same breach thereof shall be necessary before the exercise of such powers.

15. And it is hereby expressly agreed that the said Commissioner may at any time or from time to time hereafter resume possession of all or any part of the said land for roads railways or tramways or for sites for towns or park lands or for mining purposes or for any public purpose whatsoever after the expiration of three calendar months from the giving by the said Commissioner to the purchaser of notice in writing of the intended resumption and that immediately upon the giving of such notice the right of the purchaser to complete the purchase shall cease and determine and be void as to all or such of the said lands as shall be specified in such notice and that immediately after the expiration of the said three calendar months this agreement and the right of the purchaser to possession shall cease and determine and be void as to all or such part of the said lands as shall be specified in such notice anything in this agreement to the contrary notwithstanding: Provided that on any resumption the purchaser shall be paid compensation for the loss the purchaser shall sustain thereby and in case of dispute the amount of such compensation shall be determined by the Land Board or at the option of the said Commissioner or the purchaser in the manner provided by section 289 of the Crown Lands Act, 1929.

Amended by 2060, 1931, s. 18.

16. And it is hereby expressly declared that any notice to be served or given to the purchaser under this agreement shall be deemed to have been duly served or given if the same be sent through the post office enclosed in an envelope addressed to the purchaser at any address stated in any recent application letter or document received from him or at his usual or last known place of abode in the said State or to the care of any solicitor attorney or agent acting in the purchaser's behalf in the particular matter in respect whereof such notice is given and such notice shall be deemed to have been served or given on and time shall run from the day of the posting thereof as aforesaid.

Amended by S.L.R. Act, 1936.

THE SIXTH SCHEDULE.

Section 76.

1199, 1915, Sixth Schedule.

CONDITIONS ON LEASE OF LANDS RESUMED FOR WATER.

(*a*) To pay the rent and taxes;

(*b*) To maintain in good order and tenantable condition and repair all buildings, wells, dams, reservoirs, embankments, erections, ditches, and watercourses upon the leased land;

(*c*) To erect, to the approval of the Commissioner, and maintain upon the land during the currency of the lease, a house of public accommodation, and therein afford accommodation to the public; and if the lessee shall obtain a licence in respect of the said house under any laws for the time being relating to licensed victuallers, to keep and conduct the licensed premises in a proper and orderly manner, so as to afford no just or reasonable cause for withholding or withdrawing the licence and from time to time without intermission to renew and keep such licence in force: Provided that this covenant shall not be inserted in any lease where the Commissioner shall determine that a house of accommodation is not required;

(*d*) To construct appliances for watering stock, either by shallow sinking, deep-seated sinking with surface appliances, or surface reservoirs; and

(*e*) Whenever thereunto reasonably required, to supply all cattle, sheep, and other stock with water.

Section 81.
1199, 1915, Seventh Schedule.

THE SEVENTH SCHEDULE.

SCHEDULE OF LANDS TO BE RESERVED FOR FOREST PURPOSES.

	Hundreds.	Forest Reserves.	Acres.
Res. H.A. and L.C. 16/10/23; *Gov. Gaz.*, 13/12/23, p. 1368.	Belalie, Yangya, and Bundaleer ..	No. 1	7,798
	Howe	No. 2	1,969
Res. H.A. and L.C., 7/12/05; *Gov. Gaz.*, 31/12/08, p. 1315.	Darling	No. 2	13,054
Res. H.A. 7/10/20, and L.C. 20/10/20; *Gov. Gaz.*, 17/12/25, p. 1605.	Riddoch	No. 6	9,083
	Hindmarsh	No. 6	4,258
	Glen Roy	No. 8	8,064
Res. H.A. and L.C. 10/11/16; *Gov. Gaz.* 1/3/17, p. 368.	Joanna and Jessie	No. 11	5,493
	Nangwarry	No. 14	6,505
	Penola	No. 14	1,690
Gov. Gaz. 24/9/25, p. 740; *Gov. Gaz.* 7/1/26, p. 2.	Woolundunga	No. 16	3,893
Res. H.A. and L.C. 19/12/11; Res. H.A. 3/12/12, and L.C. 10/12/12.	Riddoch	No. 17	326
	Mount Muirhead	No. 18	485
	Finniss	No. 24	16
	Kanmantoo and Macclesfield	No. 26	235
	Adelaide	No. 28	10
	Gregory	No. 32	12,172
Res. H.A. 13/12/27, and L.C. 21/12/27; *Gov. Gaz.* 26/1/28, p. 149.	Stirling	No. 33	8,098
	Wanilla	No. 36	744
Gov. Gaz. 19/6/24, p. 1360.	Barunga	No. 44	234
	Walloway	No. 45	48
	Kuitpo	Nos. 46, 47, 48, 57 ..	4,376
Gov. Gaz. 4/6/25, p. 1086.	Redhill	No. 54	86½
	Crystal Brook	No. 55	20
	Murtho	No. 58	5,050

NOTE.—Lands proclaimed since the first day of January, nineteen hundred and four, as forest reserves are also reserved for forest purposes.

Section 138.
1199, 1915, Eighth Schedule. 1703, 1925, s. 72.

THE EIGHTH SCHEDULE.

AGREEMENT BY BLOCKHOLDER OBTAINING ADVANCE.

I, , of being the holder under Homestead lease (*or* agreement) No. of [*describe land as in lease or agreement*], in consideration of the sum of £ now advanced to me by the State Bank of South Australia (the receipt of which sum I do hereby acknowledge) do hereby agree with the said bank, that I or other the blockholder for the time being of the said land shall well and truly repay to the said bank the said sum, together with interest thereon at four per centum per annum, by twenty equal annual instalments of £ each on the day of , 19 , and on the like day in every year thereafter until the said sum of £ and interest shall be fully paid and satisfied; and will within three months from the date hereof well and truly expend the said sum so advanced as aforesaid in or towards the erection or completion of the building or buildings (*or* in or towards making the improvements) mentioned in that behalf in my application dated the day of , 19 , and will not expend or employ the said sum or any part thereof for any other purpose whatsoever; and will, immediately upon the completion of the said building or buildings (*or* improvements) furnish to the said bank full and true details and particulars of the expenditure of the moneys advanced, with the original receipts and vouchers for all payments made; and will insure and keep insured, in the full insurable value thereof, all buildings and erections on the said block, whether the property of the Crown or otherwise, such insurance to be in the joint names of the said bank and the blockholder, in some office to be approved by the said bank, or such insurance to be effected in manner provided by section 78 of the State Bank Act, 1925; receipts for the premiums payable in respect of such policy to be forwarded to the said bank within seven days after the same shall become due.

On default by the blockholder the said bank shall have power to insure, and to recover the amount paid for such insurance in like manner as amounts due under the said lease or agreement are recoverable.

[*Add here such other conditions (if any) as the said bank shall think necessary.*]

And that if I, or the blockholder for the time being, shall make default in the observance or performance of these conditions, or any of them, such default shall for all purposes be deemed a breach of the covenants of the lease (*or* agreement) under which the block is held, and shall render such lease (*or* agreement) liable to forfeiture under section 59 of the Crown Lands Act, 1929.

As witness my hand this day of , 19 .
Witness—

Section 178.
1199, 1915, Ninth Schedule. 1405, 1919, s. 4. 1882, 1928, s. 38.

THE NINTH SCHEDULE.

TERMS AND CONDITIONS TO BE CONTAINED IN AGREEMENT.

1. The vendor agrees to sell and the purchaser agrees to purchase for the sum of pounds being the price fixed by the Land Board all section of land situated in the Hundred of County of containing acres or thereabouts numbered and the improvements thereon except and reserved all gold, silver, copper, tin, and other metals, all ores and other substances containing metals, all minerals, and all gems and precious stones, coal, and mineral oils, upon in or under the said land to the vendor and all persons lawfully claiming under or authorised by him with full and free liberty of access ingress egress and regress with or without horses cattle carts drays carriages engines and all necessary implements and things into upon and from the said land for all reasonable purposes and to cut dig sink try search work remove and dispose of all or any of the said excepted and reserved things.

2. The purchaser shall until the whole of the purchase-money and interest shall be paid pay the purchase-money together with interest thereon in seventy half-yearly instalments as follows:—The first ten half-yearly instalments shall each be the sum of and the subsequent sixty half-yearly instalments shall each be the sum of all of which instalments shall be payable in advance on the day of and the day of in each year: Provided that the purchaser may complete the purchase of the said land at any time after six years from the date of this agreement on payment of the balance of the purchase-money and interest to the date of completion of the purchase and complying with all the terms covenants conditions and provisions of this agreement. And provided that on any of the said days the purchaser may pay in advance any part (being the sum of fifty

pounds or a multiple thereof) of the purchase-money whereupon interest on the amount so paid shall cease and the amounts of the instalments subsequently falling due shall be decreased ratably to the amount so paid.

3. The purchaser will pay and discharge all rates taxes assessments impositions and outgoings which shall become payable in respect of the said land.

4. The purchaser shall personally reside on the said land for nine months at least in every year of this agreement.

5. The purchaser shall spend on the said land during each of the first five years from the date of this agreement a sum of money equal to three pounds for every one hundred pounds of the value of the said land as fixed by the Land Board in substantial improvements consisting of buildings fencing or water improvements being the sum of Provided that the amount so expended by the purchaser in excess of the amount required to be expended as aforesaid in one year shall be set off against the amount required to be expended in the next or following years: Provided also that so much of any amount of the purchase-money paid by the purchaser as shall have been paid on account of improvements on the said land may be deducted from the amount to be expended by the purchaser on improvements on the said land.

6. The purchaser shall and will during the first five years from the date of this agreement substantially fence the boundaries of the said land with a fence or wall ordinarily capable of resisting the trespass of cattle and will until the completion of the purchase of the said land maintain and uphold such fence in good and substantial repair.

7. The purchaser will during this agreement keep and maintain in good and tenantable repair and condition all improvements on the said land.

8. The purchaser will during the first two years from the date of this agreement clear so as to render available for cultivation or so as to improve the grazing capacity thereof not less than acres of the said land and will during the second two years clear as aforesaid not less than acres of the said land and will during each succeeding year clear as aforesaid not less than acres of the said land until acres of the said land have been cleared, and will at all times keep available for cultivation or grazing, as the case may be, the land so cleared.

9. The purchaser will not without the consent of the vendor being first had and obtained transfer sublet encumber or mortgage the said land.

Amended by S.L.R. Act, 1935.

10. The purchaser will subject to the regulations in force for the time being under the Mining Act, 1930, or any other Act authorising the making of regulations permit every gold or mineral lessee or licensee holding a lease or licence under the Mining Act, 1930, or any other Act for the time being authorising the granting of gold or mineral leases or licences of or respecting any of the said land and all persons authorised by such lessee or licensee to have free and unrestricted access to and egress from the said land comprised in such gold or mineral lease or licence.

11. It shall be lawful for the vendor and all persons authorised by him at all times unrestrictedly to enter into and upon the said land before completion of the purchase thereof.

12. The vendor reserves unto himself and all persons and bodies authorised by him full right and liberty without any payment to the purchaser by way of compensation from time to time and at all times hereafter, with or without beasts of draught or burden or any vehicles whatever to enter into and upon the said land for the purpose of laying pipes or a pipe track in, along, over or under the said land, and to view the condition of and to cleanse, relay, repair, and maintain the said pipes or pipe track, and to allow water to be in and flow through the said pipes or pipe track, and to construct drains and pipe tracks, and to lay pipes where required in, along, over or under the said land, and to view the condition of and cleanse, relay, repair, and maintain the said drains and pipe tracks and pipes, and to allow water to be in and to flow through the said drains, pipe tracks, and pipes.

13. The purchaser will insure and during this agreement keep insured in the full insurable value thereof in some insurance office in Adelaide to be approved by the vendor all buildings and erections the property of the vendor upon the said land or which may thereafter be thereupon against loss or damage by fire such insurance to be in the joint names of the purchaser and the vendor and will forthwith lodge the policy of every such insurance in the office of the vendor and will forward to the vendor the receipts for the premiums payable in respect of every such policy within seven days after the same shall become due and if the foregoing covenant shall not be duly observed then the vendor shall be at liberty to insure the said improvements in manner aforesaid and it is agreed that all sums of money received under any such insurance shall be laid out in reinstating the premises in respect of which the same shall have been received.

14. The purchaser will destroy all rabbits on the said land and fill up their burrows to the satisfaction of the vendor and will forthwith commence to destroy all such other vermin on the said land as are by or under the Vermin Act, 1931, or by or under any other Act for the time being in force in the said State declared to be vermin and will keep the said land free from all vermin to the satisfaction of the vendor during this agreement and will destroy Bathurst burr and all other noxious weeds growing upon the said land and upon the half width of Government roads adjacent thereto. **Amended by S.L.R. Act, 1935.**

15. The purchaser will neither allow to remain if now existing nor erect nor suffer the erection of any brush fence upon the said land.

16. And it is hereby declared that if any of the instalments hereby reserved shall be unpaid and in arrear for more than six months after the day whereon the same is hereby made payable the purchaser having had at least three months' previous notice in writing demanding its payment, this agreement may be cancelled by the Commissioner of Crown Lands or if the vendor shall be satisfied that there has been a breach in the performance of any other of the covenants herein contained or that this agreement is liable to forfeiture the vendor may re-enter and take possession of the said land and it shall be lawful for the said Commissioner before or after re-entry to cancel and determine this agreement and the said Commissioner may thereupon insert a notice in the *Government Gazette* declaring this agreement to be forfeited and such notice appearing in the *Government Gazette* shall in all courts and elsewhere and under all circumstances be taken to be conclusive evidence that this agreement has been legally cancelled and forfeited: Provided that the vendor or the said Commissioner shall not (except in the case of an instalment being unpaid and in arrears as aforesaid or of a breach of clause 9 hereof) exercise the powers expressed in this clause in the case of a breach of covenant before the expiration of the period of three months after notice has been given to the purchaser of such breach and requiring the performance of the covenant: Provided nevertheless that if notice has been given to the purchaser of any breach of a covenant no notice of any future breach of the same covenant or of the continuance of the same breach thereof shall be necessary before the exercise of such powers.

17. And it is hereby expressly agreed that the said Commissioner may at any time or from time to time hereafter resume possession of all or any part of the said land for roads railways or tramways or for sites for towns or park lands or for mining purposes or for any public purposes whatsoever after the expiration of three calendar months from the giving by the said Commissioner to the purchaser of notice in writing of the intended resumption and that immediately upon the giving of such notice the right of the purchaser to complete the purchase shall cease and determine and be void as to all or such of the said lands as shall be specified in such notice and that immediately after the expiration of the said three calendar months this agreement and the right of the purchaser to possession shall cease and determine and be void as to all or such part of the said lands as shall be specified in such notice anything in this agreement to the contrary notwithstanding: Provided that on any resumption the purchaser shall be paid compensation for the loss the purchaser shall sustain thereby and in case of dispute the amount of such compensation shall be determined by the Land Board or at the option of the said Commissioner or the purchaser in the manner provided by section 289 of the Crown Lands Act, 1929. **Amended by 2060, 1931, s. 19.**

18. And it is hereby expressly declared that any notice to be served or given to the purchaser under this agreement shall be deemed to have been duly served or given if the same be sent through the post office enclosed in an envelope addressed to the purchaser at any address stated in any recent application letter or document received from him or at his usual or last known place of abode in the said State or to the care of any solicitor attorney or agent acting in the purchaser's behalf in the particular matter in respect whereof such notice is given and such notice shall be deemed to have been served or given on and time shall run from the day of the posting thereof as aforesaid. **Amended by S.L.R. Act, 1936.**

THE TENTH SCHEDULE.

Section 88A.

Land added to the Lyrup Village Association District.

Inserted by S.L.R. Act, 1935.

Comprising all that portion of the hundred of Paringa bounded as follows:—Commencing at the northern corner of block 47, thence south-easterly along the north-eastern boundary of the said block and production to the eastern side of road east of said block; thence south-south-westerly and south-westerly along the eastern and south-eastern sides of road east and south-east of said block; westerly along the southern side of road south of blocks 47, 46 and portion of block 44, south-south-westerly along the south-eastern side of road south-east of

block 43, west-north-westerly and north-westerly along the south-western side of road south-west of block 43, generally northerly along the western side of road west of said block 43, blocks 42 and 40, north-easterly along the north-western side of road north-west of blocks 40 and 39, south-easterly along the north-eastern side of road north-east of block 39 to the north-western boundary of channel reserve, thence north-easterly and south-easterly along the north-west and north-eastern boundaries of said channel reserve to the western side of road west of block 33, thence generally south-westerly along said side of road and production to the northern corner of block 146, thence south-south-easterly along the eastern boundaries of blocks 146 and 45, south-easterly along the north-eastern boundaries of blocks 45 and 46 to the point of commencement.

Regulations.

The following regulations were in force under this Act on 22nd March, 1937:—

Gazette—26th February, 1891, p. 613.
22nd December, 1898, p. 1375.
13th February, 1902, p. 469.
12th May, 1904, p. 1090.
20th May, 1909, p. 954.
10th February, 1910, p. 207.
3rd April, 1919, p. 644.
30th March, 1922, p. 944.
18th March, 1923, p. 486.
25th November, 1926, p. 1339.
9th June, 1927, p. 1266.
16th February, 1928, p. 330.
3rd May, 1934, p. 1176.
29th October, 1936, p. 997.

CRUELTY TO ANIMALS

see Prevention of Cruelty to Animals.