

Amendment
of section 4
of the Act
of 1895.

6. In the first subsection of the fourth section of the Act of 1895 the words "one thousand eight hundred and ninety-eight" shall be substituted for the words "one thousand eight hundred and ninety-seven," wherever the last-mentioned words occur.

61 Vic. No. 25. **An Act to Consolidate and Amend the Laws relating to the Occupation, Leasing, and Alienation of Crown Lands.**

THE
LAND ACT,
1897.

[ASSENTED TO 20TH DECEMBER, 1897.]

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

PART I.—
PRELIMINARY.
Short title.

PART I.—PRELIMINARY.

1. This Act may be cited as "*The Land Act, 1897.*"

2. This Act is divided into Parts as follows:—

PART I.—PRELIMINARY:

PART II.—LAND COURT; APPEALS FROM LAND COURT; OFFICERS:

Subdivision I.—The Land Court;

Subdivision II.—Appeals from the Land Court;

Subdivision III.—Appeals from the Land Appeal Court to the Supreme Court;

Subdivision IV.—Commissioners and other Officers:

PART III.—PASTORAL LEASES:

PART IV.—SELECTIONS:

Subdivision I.—General Provisions relating to all Selections;

Subdivision II.—Agricultural Farms;

Subdivision III.—Agricultural Homesteads;

Subdivision IV.—Grazing Farms and Homesteads;

Subdivision V.—Scrub Selections;

Subdivision VI.—Unconditional Selections:

PART V.—OCCUPATION LICENSES:

PART VI.—SALES BY AUCTION:

Subdivision I.—Sale of Town and Suburban Lands;

Subdivision II.—Sale of Country Lands:

Division of
Act.
[Compare
48 Vic. No. 28,
s. 1.]

PART VII.—MORTGAGES; SPECIAL GRANTS AND LEASES; RESERVES AND COMMONS; RECLAMATION OF LANDS:

Subdivision I.—Mortgages of Holdings;

Subdivision II.—Special Grants and Leases;

Acquisition of Lands for Public Purposes;

Subdivision III.—Reserves and Commons;

Subdivision IV.—Reclamation of Lands by Local Authorities:

PART VIII.—RESUMPTION AND COMPENSATION:

PART IX.—PROVISIONS RELATING TO ROADS:

PART X.—GENERAL PROVISIONS:

Subdivision I.—Subdivision of Holdings;

Subdivision II.—Licenses to enter on Crown Lands and certain Holdings;

Subdivision III.—Travelling Stock;

Subdivision IV.—Offences, Forfeiture, and Legal Proceedings;

Subdivision V.—Miscellaneous Provisions:

PART XI.—REGULATIONS.

3. This Act, except when otherwise expressly provided, commences and takes effect on and from the first day of March, one thousand eight hundred and ninety-eight.

Commence-
ment of Act.
[Compare
48 Vic. No. 28,
s. 3.]

4. In this Act the following terms, unless the context otherwise indicates, have the several meanings set against them respectively:—

Interpreta-
tion of terms.
[Compare
48 Vic. No. 28,
s. 4; 55 Vic.
No. 19, s. 2;
58 Vic. No. 25,
ss. 2, 7, 29.]

"Crown Lands"—All lands vested in Her Majesty which are not for the time being dedicated to any public purpose, or subject to any deed of grant, lease, contract, promise, or engagement, made by or on behalf of Her Majesty; and all lands which are subject to a right of depasturing under Part III. of "*The Crown Lands Act of 1884*,"* or Part III. of this Act, or are held under an occupation license under Part V. of "*The Crown Lands Act of 1884*,"* or Part V. of this Act;

"Minister"—The Secretary for Public Lands or other Minister who for the time being performs his duties;

* 48 Vic. No. 28, *supra*, page 1137.

- "Court"—The Land Court constituted as herein-after provided, or one or more members of that Court, as the case may be;
- "Land Appeal Court"—The Land Appeal Court constituted as hereinafter provided;
- "Full Court"—The Full Court within the meaning of "*The Supreme Court Act of 1895*";*
- "District"—A District appointed under this Act or deemed to have been so appointed as hereinafter provided;
- "Commissioner"—The Land Commissioner for the District in which the land in question is situated;
- "Commissioner's Court"—The Court held by the Commissioner, as hereinafter provided;
- "Land Agent"—The Land Agent for the District in which the land in question is situated;
- "Town Lands"—All Crown lands which have heretofore been or shall hereafter be proclaimed as such;
- "Suburban Lands"—All Crown lands which have heretofore been or shall hereafter be proclaimed as such;
- "Country Lands"—All Crown lands which are not town lands or suburban lands;
- "Pastoral Tenant"—The holder of a lease or license under "*The Pastoral Leases Act of 1869*,"† or such lease extended under "*The Pastoral Leases Extension Act of 1890*";‡
- "Run"—The land comprised in any such lease or license;
- "Selection"—The making of an application for land under Part IV. of this Act, or the land selected, as the context may require;
- "Selector"—The person making such application or entitled for the time being to the land in question;
- "Lessee"—The holder of a lease under the provisions of this Act;
- "Holding"—The land held by any lessee;
- "Agricultural Selection"—An Agricultural Farm or an Agricultural Homestead;
- "Grazing Selection"—A Grazing Farm or a Grazing Homestead;

* 59 Vic. No. 21, *supra*, page 5721.† 33 Vic. No. 10, *supra*, page 1119.‡ 54 Vic. No. 14, *supra*, page 4010.

- "Scrub"—Brigalow (*Acacia harpophylla*), gidya (*Acacia homalophylla*), mallee (*Eucalyptus gracilis*), sandalwood (*Eremophila Mitchelli*), bendeo (*Acacia*, various), oak (*Casuarina*, various), zamia (*Cycadaceous* plants), wattle (*Acacia*, various), desert poison bush (*Gastrolobium grandiflorum*), currant bush (*Myoporum deserti*), wild rosemary (*Cassinia laevis*), prickly pear (*Opuntia*, various), or such other trees or plants as the Governor in Council may by Proclamation declare to be Scrub for the purposes of this Act;
- "Zamia"—*Cycadaceous* plants;
- "Desert Poison Bush"—*Gastrolobium grandiflorum*;
- "Scrub Selection"—Land held as a Scrub Selection under Part IV. of this Act;
- "Unconditional Selection"—Land selected under Part IV. of this Act without any conditions except the payment of rent;
- "Occupation License"—A license to occupy under Part V. of this Act;
- "Improvements"—Any head station, house, store, stable, hut, wool-shed, sheep-pen, drafting-yard, barn, stockyard, fence, well, dam, tank, bore, reservoir, trough, artificial watercourse or watering-place, pump, apparatus for raising water, garden, plantation, cultivation, or any building, erection, construction, or appliance, being a fixture for the working or management of a holding, or of any stock depastured thereon, or for maintaining or increasing the natural capabilities of the land;
- "Stock"—Horses, cattle, sheep, and other live stock;
- "Regulations"—Regulations made under this Act;
- "Prescribed"—Prescribed by this Act or by Regulations;
- The term "contiguous," when used with respect to holdings under this Act, extends to holdings which are only separated by a road or roads, or by a watercourse or other natural feature of such a character as to be insufficient to prevent the passage of stock;
- The terms "in writing" and "written" include partly in writing and partly in print.

Repeal of Acts.

Repeal of
Acts.
[Compare
48 Vic. No. 28,
s. 7 (1), (2).]

5. (1.) As soon as the Third Part of this Act becomes applicable to any run, "*The Pastoral Leases Act of 1869*"* and all Regulations made thereunder and "*The Pastoral Leases Extension Act of 1890*"† shall be repealed as to such run, except as to any rights, claims, penalties, and liabilities then already accrued or incurred and in existence.

Schedule I.

(2.) From and after the commencement of this Act the several Acts specified in the First Schedule to this Act are repealed.

Saving of
rights and
liabilities
under
repealed Acts.
[Compare
48 Vic. No. 28,
s. 7 (1), (2).]

6. The repeal of the said last-mentioned Acts (hereinafter called "*the repealed Acts*") shall not, except when it is in this Act otherwise expressly provided—

- (1) Affect the previous operation of any of the repealed Acts, or anything duly done or contracted to be done or suffered thereunder;
- (2) Affect any right, claim, privilege, obligation, penalty, or liability acquired, accrued, or incurred under any of the repealed Acts; or
- (3) Affect any inquiry, hearing, appeal, legal proceeding, or other remedy in respect of any such right, claim, privilege, obligation, penalty, or liability as aforesaid; but the same may be instituted, continued, or enforced as if this Act had not passed;

Proviso.

Provided always that the powers and duties assigned by the repealed Acts to the Land Board constituted under the provisions of "*The Crown Lands Act of 1884*"‡ shall be exercised and performed by the Land Court constituted under the provisions of this Act instead of the Land Board; and no appeal shall in any case lie from any decision of the Land Court except in the manner provided by this Act.

Saving of
rights and
liabilities
under "*The
Pastoral
Leases
Extension
Act, 1892 to
1897.*"

7. Nothing contained in this Act shall affect the provisions of "*The Pastoral Leases Extension Act, 1892 to 1897*,"§ or any right, power, obligation, or liability accrued, acquired, or incurred, or which may hereafter accrue or be acquired or incurred under any of such provisions; but the provisions of the said Acts shall not apply to land held under the provisions of this Act.

* 33 Vic. No. 10, *supra*, page 1112.

† 54 Vic. No. 14, *supra*, page 1010.

‡ 48 Vic. No. 28, *supra*, page 1137.

§ 56 Vic. No. 30, *supra*, page 1615; 58 Vic. No. 26, *supra*, page 1866; 59 Vic. No. 30, *supra*, page 5615; and 61 Vic. No. 14, last preceding Act.

8. (1.) All lands which are subject to the provisions of the repealed Acts, or any of them, at the time of such repeal as aforesaid, shall, unless this Act in any respect otherwise expressly provides, continue to be subject to the provisions thereof, until the same are surrendered or resumed, or the existing title thereto is otherwise determined.

(2.) For the purpose of dealing with any lands applied for, selected, or leased, under any of the repealed Acts before their repeal the Governor in Council may continue to appoint Commissioners and other officers, and may make, vary, and rescind Regulations, and do or cause to be done all such acts and things as may be necessary for carrying out and giving effect to any applications, contracts, or agreements, which have before such repeal been made or arisen under the repealed Acts or any of them.

9. All Proclamations published and appointments made, and all things lawfully done or contracted to be done, under the repealed Acts before the commencement of this Act, shall continue to be of the same force and effect in all respects as if this Act had not passed, except so far as they may be rescinded, altered, or amended by this Act, or by any Proclamation or notification under this Act, or may be inconsistent or repugnant thereto.

10. When this Act repeals and re-enacts, with or without modification, any provisions of a former Act, references in any other Act or in any document to the provisions so repealed shall, unless the contrary intention appears, be construed as references to the provisions so re-enacted.

11. When in any Act passed or document executed before the commencement of this Act any reference is made to the Land Board constituted under the provisions of "*The Crown Lands Act of 1884*,"* such reference shall, unless the contrary intention appears, be construed as a reference to the Land Court hereby constituted.

Grants and Leases.

12. The Governor in Council may, in the name of Her Majesty, subject to the provisions of this Act, grant in fee-simple, or demise for a term of years, any Crown lands within the Colony of Queensland.

* 48 Vic. No. 28, *supra*, page 1137.

The grant or lease shall be made subject to such reservations and conditions as are authorised by this Act, and shall be made in the prescribed form, and being so made shall be valid and effectual to convey to and vest in the person therein named, subject to the provisions of this Act, the land described in the grant or lease for such estate or interest as shall be set forth in the instrument.

Reservations
in grants.
[Compare
48 Vic. No. 28,
s. 110; 56 Vic.
No. 81, s. 4.]

13. All Crown grants issued under this Act shall contain a reservation of all gold and silver in or under the land comprised therein.

Reservations
in leases.
[48 Vic. No.
28, s. 109;
58 Vic. No. 14,
s. 12.]

14. All leases issued under this Act shall contain a reservation of all mines and minerals in the land comprised therein, and shall contain such other reservations and exceptions as may be prescribed, including a reservation of the right of access for the purpose of searching for or working any mines or minerals in any part of the land.

Fresh leases
may be issued
in certain
cases.
[Compare
48 Vic. No. 28,
s. 114.]

15. If after the issue of any lease it is found that the boundaries of the holding intended to be demised are not described with sufficient certainty, or if for any other sufficient reason it is expedient so to do, the Governor in Council may cancel such lease, and may issue a fresh lease for the remainder of the term with an amended description of the holding.

Registers.

Registers
of leases,
licenses,
mortgages,
&c., to be kept.
[Compare
48 Vic. No. 28,
s. 71.]

16. There shall be kept in the Department of Public Lands Registers, wherein shall be entered particulars of all licenses to occupy under Part IV. or Part V. of this Act, and all leases, transfers, mortgages, and underleases under this Act, and such other particulars as may be prescribed.

Such Registers shall be open for public inspection at any reasonable time during office hours upon payment of the prescribed fee.

Creation of Counties, Districts, &c.

Division of
lands into
counties and
parishes.
[48 Vic.
No. 28, s. 9.]

17. The Governor in Council may by Proclamation divide into counties any lands not already included in any county, and may divide any county already existing or hereafter proclaimed into parishes, and may distinguish such counties and parishes respectively by names.

After such Proclamation the lands comprised within such counties and parishes shall be recognised by such names as counties and parishes respectively.

18. The Governor in Council may by Proclamation appoint any portion or portions of the colony to be a District or Districts for the purposes of this Act, and alter the boundaries of any District.

The Districts proclaimed before the commencement of this Act under the repealed Acts shall, so far as may be necessary, be and remain Districts for the purposes of this Act, and be deemed to have been appointed under this Act. And the boundaries thereof may be altered as herein provided.

19. The Governor in Council may by Proclamation set apart any Crown lands as Town Lands, or Suburban Lands, or as Township Reserves or as Reserves for public purposes.

The Governor in Council may by Proclamation rescind either in whole or in part any previous Proclamation.

From the date of any such rescinding Proclamation the unalienated Town Lands and Suburban Lands and Reserves respectively affected thereby shall be deemed Crown lands as if the original Proclamation had not been made.

If any lands have been sold as Town Lands in pursuance of any Proclamation so rescinded, all Reserves for water within the Township shall be still reserved, and the streets and roads within the Township shall be kept as roads, but may be closed and sold to the adjoining owners in like manner as other roads may be closed and sold.

PART II.—LAND COURT; APPEALS FROM LAND COURT; OFFICERS.

Subdivision I.—The Land Court.

20. There shall be constituted for the purposes of this Act a Court, to be called the Land Court, consisting of three fit and proper persons, appointed from time to time by the Governor in Council by commission under his hand and the Great Seal of the colony.

This section takes effect from the passing of this Act.

21. The members of the Land Board constituted under the provisions of "The Crown Lands Act of 1884" holding office at the commencement of this Act shall be members of the Land Court from and after the commencement of this Act without a fresh commission.

Appointment
of Districts.
[Compare
18 Vic. No. 28,
s. 24.]

Existing
Districts.

Crown lands
may be set
apart as
Town Lands,
Suburban
Lands, or
Reserves.
[Compare
18 Vic. No. 28,
ss. 10, 121.]

Power
to rescind
proclamation.

Water
reserves and
streets to be
reserved.

PART II.—
LAND COURT;
APPEALS;
OFFICERS.

Constitution
of Land
Court.
[Compare
18 Vic. No. 28,
s. 11.]

Members of
Land Board
to continue
in office as
members of
Land Court.

Powers and
duties of
Court.
[Compare
48 Vic. No. 28,
s. 11.]

22. The Court shall, so far as may be necessary, exercise and perform the powers and duties assigned by the repealed Acts or by any other Act to the Land Board constituted under the provisions of "*The Crown Lands Act of 1884*,"* and shall also exercise and perform the powers and duties hereinafter prescribed.

Such powers and duties may and shall, except as hereinafter provided, be exercised and performed by one or more members thereof.

Salary
payable to
members of
the Court.
[Compare
48 Vic. No. 28,
s. 12.]

23. Each of the members of the Court shall, during his continuance in office, receive a clear annual salary of one thousand pounds, which shall be a charge upon and paid out of the Consolidated Revenue. No salary shall become due or payable to the members of the Court before the commencement of this Act.

Disabilities of
members of
the Court.
[Compare
48 Vic. No. 28,
s. 12.]

24. The members of the Court shall not be capable of being members of the Executive Council or of either House of Parliament, and shall not be allowed to act as directors or auditors or in any other capacity take part in the management of any bank, joint stock company, trade or business, or to acquire any interest in any land held under lease or license under this Act.

How member
of the Court
removed from
office or
suspended.
[Compare
48 Vic. No. 28,
s. 13.]

25. The members of the Court shall hold office during good behaviour, and shall not be removed therefrom unless an address praying for such removal shall be presented to the Governor by the Legislative Council and Legislative Assembly respectively in the same session of Parliament.

Provided that at any time when Parliament is not sitting the Governor in Council may suspend any member of the Court from his office for inability or misbehaviour, in which case a statement of the cause of suspension shall be laid before both Houses of Parliament within seven days after the commencement of the next session thereof.

If an address shall during that session be presented to the Governor by the Legislative Council or Legislative Assembly praying for the restoration of the suspended member to his office, he shall be restored accordingly; but if no such address shall be presented the Governor in Council may confirm such suspension, and declare the office of the member to be, and the same shall thereupon become and be vacant as if he were dead.

* 48 Vic. No. 28, *supra*, page 1137.

26. In the case of the illness, suspension, inability, or absence of any member of the Court, the Governor in Council may appoint some other person to act as the deputy of such member during such illness, suspension, inability, or absence, and every such person shall, while he acts as such deputy, have all the powers and perform all the duties of and be subject to the same disabilities as such member of the Court.

27. The Court shall have a seal which shall be judicially noticed in all courts, and shall from time to time hold public sittings in Brisbane or elsewhere, to be called Land Courts, at which all business required to be transacted by it in open court shall be transacted.

28. The Governor in Council shall appoint a Registrar of the Court and one or more Deputy Registrars.

Such officers shall keep Registers in which shall be entered minutes of the proceedings and records of the decisions of the Court, and shall perform such other duties as the Court may direct.

29. No decision of the Land Board constituted under the provisions of "*The Crown Lands Act of 1884*,"* pronounced at any time before the commencement of this Act under the provisions of the said Act, whereby the amount of any rent or compensation, or any other amount, has been determined, shall be deemed to be invalid by reason only that the valuation or report required in such cases to be furnished by the Commissioner was furnished by some person appointed by the Governor in Council other than the Commissioner.

Inquiries and Appeals before Land Court.

30. For the purposes of any inquiry or appeal held by or made to the Court, it shall have power to summon any person as a witness and examine him upon oath, and to punish him for not attending in pursuance of the summons or for refusing to give evidence, and for such purposes shall have such and the same powers as the Supreme Court or a Judge thereof.

Any party to any such inquiry or appeal may be represented by his counsel, solicitor, or agent.

* 48 Vic. No. 28, *supra*, page 1137.

The Court may call such witnesses and take such evidence on oath, affirmation, affidavit, or declaration as it thinks fit; and shall take notes of the evidence.

Every such inquiry and appeal shall be heard and determined and the decision thereon shall be pronounced in open court.

The Court may make such order as it thinks fit as to the costs of any inquiry, or appeal, heard and determined by it, including allowances to witnesses attending for the purpose of giving evidence at the hearing of the inquiry or appeal. Any such order may be made an order of the Supreme Court and enforced accordingly.

Every witness summoned on any such inquiry or appeal shall be entitled to a tender of his reasonable expenses by the party requiring his attendance.

Penalty for interrupting the proceedings of the Court.

31. Any person who wilfully insults the Court sitting in the exercise of its jurisdiction, or wilfully interrupts the proceedings of the Court so sitting, or otherwise misbehaves himself in the presence of the Court, may be excluded by order of the Court, and shall, whether he is so excluded or not, be liable to a fine, to be imposed by the Court, not exceeding ten pounds, and in default of immediate payment shall be liable to be imprisoned by order of the Court for a period not exceeding fourteen days.

No summons need be issued against the offender, nor need any evidence be taken on oath, but he may be taken into custody then and there by a police constable by order of the Court, and called upon to show cause why he should not be fined or otherwise dealt with under the provisions of this section.

Matters may be referred to Court by Governor in Council. [Compare 48 Vic. No. 28, s. 16.]

32. The Court shall inquire into all such matters connected with the administration of this Act as may be referred to it by the Governor in Council.

Decision of Court to be final unless otherwise expressly provided.

33. All decisions of the Court shall, except when it is otherwise in this Act expressly provided, be final and conclusive.

Certain matters to be determined by one member of the Court only, subject

34. For the purposes hereinafter specified in this Subdivision of this Part of this Act, and for the purpose of considering applications to select land under Part IV. of this Act, and in the case of an appeal from any decision of a Commissioner, the powers and duties conferred and

imposed upon the Court shall be exercised and performed by one member thereof only; but the decision of such member shall be subject, at the instance of the Crown or any party aggrieved, to appeal as hereinafter provided.

35. Whenever it is necessary to determine the amount of any rent or compensation payable under the repealed Acts or this Act, or to determine any other amount required by the repealed Acts or this Act to be determined, such amount shall, except when it is in this Act expressly provided that the same shall be determined by the Commissioner, be determined by the Court, and the following rules shall be observed:—

- (1) The Minister shall require the Commissioner, or some other fit and proper person appointed by the Governor in Council, to furnish the Court with a report and a valuation with respect to the land or improvements for which the rent or compensation is to be paid;
- (2) The Court shall require the pastoral tenant, or lessee, or other person, by or to whom the rent or compensation is or will be payable, to furnish it with a like valuation or a claim, as the case may be;
- (3) As soon as the last-named person has furnished a valuation or claim as aforesaid, he shall be entitled to apply for and obtain from the Registrar or Deputy Registrar a copy of the valuation of the Commissioner or such other person as aforesaid;
- (4) The Court shall, at some public sittings, on a day to be appointed by it for the purpose, hear the pastoral tenant or lessee or such other person as aforesaid, if he desires to be heard, and the other witnesses, if any, and shall thereafter pronounce its decision;
- (5) Any party affected by the decision of the Court shall, after the hearing, be entitled to see and take copies of the notes of the evidence and of the report and of any valuation or claim furnished to the Court as aforesaid.

36. When any dispute arises as to the boundaries of any lands held under the repealed Acts or this Act, the same shall be inquired into and determined by the Court.

Dispute as to boundaries to be settled by Court.

[Compare 48 Vic. No. 28, s. 19; 55 Vic. No. 19, s. 21.] In the case of any such dispute, whether it arises between the lessees or licensees of adjoining or neighbouring lands or between a lessee or licensee and Her Majesty, the Minister may direct that a survey of the boundaries of the respective lands with regard to which the dispute arises shall be made by a licensed surveyor appointed by the Minister for that purpose. And the Court may order that the cost of the survey, in accordance with the prescribed scale, shall be paid by either party to the dispute.

On the application of aggrieved person, Court may rehear matter.

[Compare 48 Vic. No. 28, s. 20; 55 Vic. No. 19, s. 22.]

37. Upon the application of any person aggrieved by any decision of the Court which is subject to an appeal under the provisions of this Act, the Court may, if it thinks fit, and upon such terms as it thinks reasonable, grant a rehearing of the matter in respect of which the decision was given.

The Court shall thereupon appoint a day for rehearing the matter, and shall proceed to a rehearing thereof accordingly.

The application shall be made within one month from the date of the decision.

Rules of Court.

Power to make Rules for proceedings in Land Court and Land Appeal Court.

38. The members of the Land Court and a District Court Judge may from time to time make Rules of Court prescribing forms for all matters or proceedings in the Land Court or the Land Appeal Court, and otherwise regulating the practice and proceedings of such Courts.

All such Rules of Court shall be approved by the Judges of the Supreme Court, and shall be published in the *Gazette*, and shall take effect one month after such publication.

Subdivision II.—Appeals from the Land Court.

Appeal to Land Appeal Court consisting of District Court Judge and two members of the Land Court.

[Compare 48 Vic. No. 28, s. 21.]

39. (1.) For the purpose of hearing appeals from the Land Court, there shall be a Land Appeal Court consisting of a Judge of the District Court and the members of the Land Court other than the member who pronounced the decision appealed against.

(2.) The Land Appeal Court shall sit at such times and places as shall be appointed from time to time by a District Court Judge and two members of the Land Court by notice published in the *Gazette* not less than twenty-one days before the times appointed.

(3.) The appellant shall serve notice of the appeal upon all persons directly affected by the decision not later than one month after the pronouncing of the decision, or not later than fourteen days after the refusal of the Court to rehear the matter, as the case may be; and shall pay to the Registrar or Deputy Registrar of the Land Court such fees as may be prescribed.

(4.) Any party to such appeal may be represented by his counsel, solicitor, or agent.

(5.) The appeal shall be in the nature of a rehearing, and shall be brought and the proceedings shall be had in such manner as may be prescribed by Rules of Court.

(6.) Evidence on an appeal to the Land Appeal Court may be taken in the same manner as is hereinbefore prescribed in the cases of matters heard and determined by the Land Court, and for the purposes of the appeal the Land Appeal Court shall have such and the same powers as the Land Court has under the provisions of this Act, and if on the hearing of an appeal the members do not agree, the decision of the majority shall be the decision of the Land Appeal Court.

(7.) The decision of the Land Appeal Court shall, except as hereinafter mentioned, be final and conclusive.

40. The Registrar or a Deputy Registrar of the Land Court shall act as Registrar of the Land Appeal Court.

Registrar of Land Appeal Court.

41. (1.) No person who, or whose predecessor in title, has obtained a lease of land under the provisions of the repealed Acts shall be entitled to appeal from a decision of the Court determining the amount of compensation payable to such person in respect of a resumption of such land or any part thereof or in respect of the value of improvements on the determination of the lease otherwise than by forfeiture; but such person, if dissatisfied with the decision of the Court, may, within one month after the pronouncing thereof, give written notice to the Minister that he objects to the decision.

(2.) If such notice of objection is given, the amount of compensation shall be determined in the manner prescribed by "*The Public Works Lands Resumption Acts*" for determining compensation for land taken under those Acts.

* 42 Vic. No. 5, *supra*, page 2527; and 52 Vic. No. 7, *supra*, page 2591.

Subdivision III.—Appeal from the Land Appeal Court to the Supreme Court.

Rehearing
before
Supreme
Court Judge
in cases of
existing
tenures.
[Compare
48 Vic. No. 28,
s. 21.]

42. (1.) Any person who, or whose predecessor in title, has acquired any interest in land under the provisions of the repealed Acts and who is aggrieved by a decision of the Land Appeal Court in respect of such land may appeal from the decision to the Supreme Court.

(2.) The appellant shall serve notice of the appeal upon all persons directly affected by the decision not later than one month after the pronouncing of the decision.

(3.) The appeal shall be in the nature of a rehearing, and shall be brought and the proceedings shall be had in such manner as may be prescribed by Rules of Court.

(4.) The appeal shall be heard and determined by a single Judge, but the Judge shall, if required by either party to the appeal, call in the aid of two assessors specially qualified, and shall hear and determine the matter with the assistance of such assessors. One assessor shall be nominated by each party, but such nomination shall be subject to the approval of the Judge.

(5.) An appeal shall lie to the Full Court from any decision of the Judge upon a question of law.

Appeal to
Full Court on
questions of
law.
[Compare
48 Vic. No. 28
s. 21.]

43. Any person aggrieved by a decision of the Land Appeal Court who desires to appeal therefrom on the ground that the decision is erroneous in point of law, or is in excess of jurisdiction, may, within six weeks after the pronouncing of the decision, apply in writing to such Court to state and sign a case setting forth the facts and the grounds of decision for appeal thereon to the Full Court.

The appellant shall, before a case is stated, enter into a recognizance before a member of the Land Court or a Justice of the Peace, with or without a surety or sureties, conditioned to prosecute the appeal without delay and pay such costs as the Full Court shall award, and the appellant shall also pay to the Registrar or Deputy Registrar of the Land Court such fees as may be prescribed.

The appellant shall within ten days after receiving the case transmit the same to the Registrar of the Supreme Court, first giving notice in writing of the appeal with a copy of the case so stated and signed to the other or respondent parties, if any.

A case may be stated by the Land Appeal Court at the instance of the Crown or of its own motion.

44. In any case in which the Land Appeal Court is of opinion that the application is merely frivolous, but not otherwise, it may refuse to state a case, and shall in such case, on the request of the applicant, sign and deliver to him a certificate of such refusal.

45. When the Land Appeal Court refuses to state a case, the applicant may apply to the Supreme Court or a Judge thereof, upon an affidavit of the facts, for an order calling upon such Court, and also upon any party interested in supporting the decision, to show cause why a case should not be stated.

The order may be made returnable on any day on which the Full Court is appointed to sit; and whether cause is then shown or not, the Full Court may make the order absolute, or discharge it with or without costs.

The Land Appeal Court, upon being served with an order absolute, shall state a case accordingly.

46. The Full Court, when a case is transmitted under this Act, shall hear and determine the question or questions of law arising thereon, and may remit the matter to the Land Appeal Court with the opinion of the Full Court thereon, or make such other order in relation to the matter as may seem just or expedient, and may make such order as to costs as to the Full Court may seem fit.

47. The Full Court may cause a case to be sent back to the Land Appeal Court for amendment, and thereupon the same shall be amended accordingly, and judgment shall be delivered by the Full Court after it is amended.

48. The Judges of the Supreme Court may make Rules of Court to regulate the practice and proceedings in reference to appeals to the Supreme Court under this Act.

Subdivision IV.—Commissioners and other Officers.

49. The Governor in Council may appoint such and so many Land Commissioners and Land Agents as may be necessary for carrying the provisions of this Act into effect; and may assign a District or Districts to such Commissioners and Land Agents.

All Commissioners, Land Agents, and other officers holding office at the commencement of this Act under the provisions of the repealed Acts shall continue to hold their several offices as if they had been appointed under this Act.

Commissioner, Land Agent, &c., need not take out auctioneer's license.

50. A Commissioner or Land Agent or other person authorised by the Minister may hold any auction under the provisions of this Act without taking out an auctioneer's license.

Powers and Duties of Commissioners.

Commissioner to hold a court once in each month. [Compare 48 Vic. No. 28, s. 25.]

51. The Commissioner shall once at least in each month, on a day of which notice shall be given in the *Gazette*, hold an open court, to be called the Commissioner's Court, at which all applications to select land under Part IV. of this Act shall be considered and accepted or refused or otherwise dealt with, and at which all such other matters as are by this Act declared to be within the cognizance of the Commissioner, and required to be dealt with in open court, shall be dealt with.

Proceedings in Commissioner's Court with respect to applications to select land, and other inquiries. [Compare 48 Vic. No. 28, s. 26.]

52. The Commissioner shall have power to hear and determine any question relating to the acceptance or refusal of any application to select land raised at any such court by himself or any other person, and to inquire into any objection made thereto, either on public or private grounds, and to examine witnesses on oath in relation thereto, and from time to time to postpone any application, or the hearing or decision of any question or objection.

The Commissioner shall also have power for the purposes aforesaid, or for the purposes of any other inquiry held by him under the provisions of this Act, to summon any person as a witness, and to examine him upon oath, and to punish him for not attending in pursuance of the summons or for refusing to give evidence, and for such purposes shall have the same powers and authorities as are conferred upon justices by "*The Justices Act of 1886.*"*

Any party to any such inquiry may be represented by his counsel, solicitor, or agent.

The Commissioner's decision on every such question or inquiry shall be pronounced in open court.

What decisions to be subject to appeal to the Court. [Compare 48 Vic. No. 28, s. 27.]

53. Every decision of a Commissioner shall be final, unless written notice of appeal to the Court from the decision is delivered at the office of the Commissioner whose decision is appealed against, within fourteen days after the pronouncing of the decision, or such further time or times as may be prescribed; and in such case the Court shall consider and may confirm, with or without variation, or may reverse the decision:

*50 Vic. No. 17, *supra*, page 1030.

Provided that no decision of the Commissioner accepting an application to select land under Part IV. of this Act shall be subject to such appeal as aforesaid; but no such decision shall be final unless and until the application is approved or rejected by the Court, and the Court shall forthwith consider and may confirm, with or without variation, or may reverse the decision. But the Court shall not give a decision reversing the Commissioner's acceptance of an application without giving the applicant notice and hearing him in open Court or otherwise if he desires to be heard; and every such decision shall be pronounced in open Court.

54. Any person who wilfully insults any Commissioner sitting in the exercise of his jurisdiction, or wilfully interrupts the proceedings of or otherwise misbehaves himself in the Commissioner's Court, may be excluded from the Court by order of the Commissioner, and shall, whether he is so excluded or not, be liable to a fine to be imposed by the Commissioner not exceeding five pounds, and in default of immediate payment shall be liable to be imprisoned by order of the Commissioner for a period not exceeding seven days.

No summons need be issued against the offender, nor need any evidence be taken upon oath, but he may be taken into custody then and there by a police constable by order of the Commissioner, and called upon to show cause why he should not be fined or otherwise dealt with under the provisions of this section.

Crown Lands Rangers.

55. The Governor in Council may from time to time appoint a sufficient number of persons as Crown Lands Rangers, and every such Ranger may and shall, during his continuance in office, do, on behalf of Her Majesty, or on behalf of the Governor or the Minister, in respect of any Crown lands, all necessary acts for preventing intrusion, encroachment, or trespass thereon, and may seize and brand timber in the prescribed manner, and may enter upon any lands held under this Act or the repealed Acts and view the same and observe the manner of the occupation thereof, and may do all such acts as may be necessary for recovering any rent or other sums payable in respect thereof, or for taking and recovering possession of any lands in case of forfeiture, or for such other purpose as any bailiff lawfully appointed may by law do in respect of any of his employer.

Licensed Surveyors.

Licensed
surveyors.
[Compare
48 Vic. No. 28,
s. 120.]

56. For the purpose of effecting surveys under the provisions of this Act, the Minister may cause licenses to be issued to such surveyors as on examination by a Board consisting of at least four members and the Surveyor-General, who shall be Chairman thereof, prove to be duly qualified. If any such surveyor wilfully neglects the proper execution of the surveys on which he is employed, or makes any false statement or misrepresentation in regard to any land surveyed or the measurement thereof, his license may be suspended or cancelled by the Minister.

Restriction on Officers Acquiring Land.

No Commis-
sioner, Land
Agent, Crown
Lands
Ranger, or
licensed
surveyor may
acquire
interest in
land in
respect of
which he is
employed.
[Compare
48 Vic. No. 28,
s. 125.]

57. If any Commissioner, Land Agent, Crown Lands Ranger, or licensed surveyor directly or indirectly acquires any interest in any lands proclaimed open for selection under this Act, in respect of which he acts as Commissioner, Land Agent, or Crown Lands Ranger, or in the survey of which he has been or is concerned, he shall forfeit his office or license, as the case may be, and shall also forfeit the sum of one hundred pounds with full costs of action, which may be recovered by any person who may sue for the same in the Supreme Court or in the District Court.

PART III.—PASTORAL LEASES.

PART III.—
PASTORAL
LEASES.

Application
of this Part
of this Act.
[Compare
48 Vic. No. 28,
ss. 6, 28.]

58. This Part of this Act applies only to the land comprised in any run (not being situate in any part or parts of the colony to which Part III. of "*The Crown Lands Act of 1884*"* has been or shall be applied or extended before the commencement of this Act) the pastoral tenant whereof gives notice to the Minister at any time after the commencement of this Act that he elects to take advantage of the provisions of this Act:

Provided that the Governor in Council may, by Proclamation, define any area of land (not being situate in any such part or parts of the colony as aforesaid) and limit the time within which such notice as aforesaid may be given by the pastoral tenant of any run situate within such defined area to a period of six months from the date of the Proclamation.

Schedule II:

The notice of election shall be in the form in the Second Schedule to this Act or to the like effect, and when received by the Minister shall be irrevocable.

Division of Runs.

59. Upon the receipt by the Minister of the notice of election hereinbefore mentioned, the Minister shall cause the run to be divided into two parts, one of which (hereinafter called "the resumed part") shall be thereafter deemed to be Crown lands (subject to the right of depasturing thereon hereinafter defined), and for the other part the pastoral tenant shall be entitled to receive a lease for the term and on the conditions hereinafter stated.

60. In the case of two or more conterminous runs held by the same pastoral tenant, the whole shall be dealt with as one run (hereinafter called a "consolidated run").

61. The proportion of a run to be included in the resumed part shall be determined by the following rules:—

- (1) If at the time of this Part of this Act becoming applicable to the run a period of twenty years or upwards has elapsed from the date of the issue of the first license to occupy the land comprised in the run for pastoral purposes, one-half is to be included;
- (2) If at that time a period of ten years, and less than twenty years, has elapsed from the date of the issue of such license, one-third is to be included;
- (3) If at that time a period of less than ten years has elapsed from the date of the issue of such license, one-fourth is to be included;
- (4) In the case of a consolidated run, the area to be resumed from each separate run is to be ascertained by the preceding rules, and the total quantity so ascertained will be the quantity to be included in the resumed part of the consolidated run.

62. (1.) For the purposes of making the division, the Commissioner or some other fit and proper person appointed by the Governor in Council shall be required to inspect the run and report as to the best mode of making a fair division thereof.

(2.) In making a division, the following rules are to be observed:—

- (a) The whole resumed part shall be in one block, and, when practicable, shall be separated from the remainder of the run by one straight line, and at least one-fourth of the external boundaries shall coincide with the original boundaries of the run.

Consequences
of surrender.
[Compare
48 Vic. No. 28,
s. 29 (1).]

Conterminous
runs to be
dealt with as
one run.
[48 Vic.
No. 28, s. 28.]

Proportion
of run to be
resumed.
[48 Vic.
No. 28, s. 29
(1), (II).]

Manner in
which division
is to be made
and confirma-
tion by Court.
[48 Vic.
No. 28, s. 29
(5) (6) (7)
(8); 50 Vic.
No. 33, s. 7.]

But this rule may, with the consent of the lessee, be departed from, if it appears to the Court to be in the public interest so to do.

- (b) The average quality and capabilities of the resumed part are to be, as far as practicable, the same as the average quality and capabilities of the whole run.
- (c) In cases where the quality and capabilities of different parts of a run are unequal, an allowance may be made in area, and the proportion to be included in the resumed part may be increased or diminished accordingly, so as to make the relative values of the resumed part and the remainder of the run bear the relative proportions hereinbefore prescribed.

(3.) Upon receipt of the report of the Commissioner or other person appointed as aforesaid, the Minister shall refer the same to the Court.

(4.) The Court shall by order confirm the division recommended with or without amendment, and the division so confirmed shall be forthwith notified by the Minister in the *Gazette*.

Term and Conditions of Lease.

Term and
commence-
ment of lease.
[Compare
48 Vic. No. 28,
s. 30.]

63. The pastoral tenant whose run has been brought under this Act in manner aforesaid shall be entitled to receive a lease from the Crown for the remainder of his run not included in the resumed part.

Every such lease shall be for the term of twenty-one years, from the first day of January or the first day of July nearest to the date of the notification in the *Gazette* of the order of the Court confirming the division.

Conditions of
lease.
[Compare
48 Vic. No. 28,
s. 30; 50 Vic.
No. 33, s. 8.]
Rent, when
and where
payable

64. Every such lease as aforesaid shall be subject to the following conditions:—

- (1) The lessee shall, during the continuance of the lease, pay a yearly rent at the rates hereinafter stated, and the rent shall be payable on or before the thirtieth day of September, in respect of the year ending on the thirtieth day of June following, at the Treasury, in Brisbane, or other place appointed by the Governor in Council:

Provided always that the rent for the first year of the term of the lease shall be payable upon the commencement of the lease:

Provided also that in cases in which the term of the lease is computed from the first day of January, the rent payable upon the thirtieth day of September in the first year of the term shall be in respect of the six months ending on the thirtieth day of June then next ensuing; and the rent payable on the thirtieth day of September in the last year of the term shall be in respect only of the six months ending on the thirty-first day of December then next ensuing.

- (2) The rent shall be computed according to the Rent, how number of square miles of land comprised in computed. the lease.
- (3) The rent payable for the first period of seven years of the term of the lease shall be determined by the Court in the manner prescribed in Part II. of this Act at a rate not exceeding ninety shillings, and not less than five shillings, per square mile.
- (4) The rent payable for each period of seven years after the first period shall be determined by Reassessment of rent. the Court:
- (5) In determining the rent regard shall be had to— Rent, how determined.
 - (a) The quality and fitness of the land for grazing purposes;
 - (b) The number of stock which it may reasonably be expected to carry in average seasons;
 - (c) The distance of the holding from railway or water carriage;
 - (d) The natural supply of water, and the facilities for the raising or storage of water; and
 - (e) Any other matters which in the opinion of the Court affect the rental value of the land.

Provided that in determining the rent regard shall not be had to any increase in the value of the holding attributable to improvements.

- (6) If default is made by the lessee in the payment of rent the lease shall be forfeited, but the lessee may defeat the forfeiture by payment of the rent within ninety days from the date hereinbefore appointed for payment thereof with the addition of a sum by way of penalty calculated as follows, that is to say—if the rent is paid within thirty days five per centum

Penalties for
default in
payment of
rent.

Rent to be
paid pending
re-assessment.

- is to be added, if the rent is paid within sixty days seven and a-half per centum is to be added, and if the rent is paid after sixty days ten per centum is to be added; but unless the whole of the rent together with the penalty is paid within ninety days from the appointed day, the holding shall be absolutely forfeited.
- (7) When the rent of a holding is to be determined by the Court, the lessee shall, until it is determined, continue to pay at the prescribed time and place the same amount of rent per square mile as theretofore, or the minimum rent hereby prescribed, whichever is the greater amount; and when the amount of rent is determined by the Court, the lessee shall, on the next thirtieth day of September, pay at the prescribed place any arrears of rent found due by him at the rate so determined, so as to adjust the balance due to the Crown; and any excess of payment by the lessee shall be credited to him in payment of rent which may subsequently become due in respect of the holding.

Right of Depasturing on the Resumed Part.

Right of
depasturing
on resumed
part on
making
annual
payment.
[Compare
48 Vic. No. 28,
s. 31.]

65. When any part of a run is resumed under the provisions of this Part of this Act, the lessee of the remainder may, if he desires to exercise the right of depasturing his stock upon the resumed part, or any specified portion thereof, give notice in writing to that effect to the Minister within six months after the division of the run has been confirmed by the Court.

If such notice is given and the lessee makes an annual payment at the time and place appointed for payment of the rent of his holding at a rate per square mile of the whole or such portion of the resumed part to be determined by the Court, he shall, so long as he continues to make such payment, have the right of depasturing his stock upon the land in respect of which the payment is made until the same is selected or disposed of under the provisions of this Act; but shall not be entitled to exclude any person from entering thereon for the *bona fide* purpose of examination or inspection thereof.

If the payment is not made at the time and place appointed, the right of depasturing shall be forfeited, but the forfeiture may be defeated subject to the same conditions as are hereinbefore provided in the case of the lease.

66. When any portion of the land over which a right of depasturing is exercised under the provisions of the last preceding section, or under any provision of the repealed Acts, is selected under Part IV. of this Act or otherwise disposed of under the provisions hereof, the right of depasturing shall as to such portion be thereby determined, and a reduction shall be made in the annual payment proportionate to the area so selected or disposed of, and any payment made in advance in respect of such area shall be refunded to the lessee.

67. If in the opinion of the Court any lessee exercising the right of depasturing is injuriously using the land over which the right to depasture is exercised by overstocking it, the Court may require him to reduce the number of his stock thereon to such an extent as the Court may think fit; and if the lessee fails to comply with such requisition within three months after the receipt thereof, his right of depasturing shall be determined.

68. In the case of any lessee under the repealed Acts who exercises a right of depasturing over the resumed part of his run, or any portion thereof, the right of depasturing shall be determined or shall be deemed to have been determined as soon as a portion of the resumed part, equal in area to the area in respect of which, as being available land, the original rent paid by him for such right was computed, has been selected or otherwise disposed of under the provisions of this Act or of the repealed Acts.

Improvements on the Resumed Part.

69. When a lessee of a holding under this Part of this Act, who exercises the right of depasturing his stock upon the resumed part of his run, proposes to make an improvement on the resumed part, consisting of a fence, well, bore, dam, tank, reservoir, or artificial watercourse or watering place, he may make application to the Court for a license to make the improvement, stating the nature of the proposed improvement and its probable cost.

The Court may thereupon grant to the lessee a license specifying the maximum value which shall be attributed to the improvement in the event of compensation being claimed in respect thereof as hereinafter provided.

When a lessee makes an improvement in accordance with the license, he shall send to the Commissioner a detailed statement of the work done in making the improvement and of the expenditure in respect thereof. The

statement shall be examined by the Commissioner, and if found correct shall be certified by him and retained in his office.

When the land upon which the improvement is made is selected or otherwise disposed of, the lessee shall be entitled to receive as compensation in respect of the improvement such sum as would fairly represent its value to an incoming selector, but not exceeding the amount specified in the license.

Other Provisions.

Use of timber
or material
by lessees.
[48 Vic.
No. 28, s. 35.]

70. Lessees under this Part of this Act may cut and use such timber and material as may be required by them for the purposes of their holdings.

Description
of leased
lands.
[48 Vic.
No. 28, s. 34.]

71. In any lease under this Part of this Act it shall be sufficient if the land comprised therein be defined according to the best description of such land and of the boundaries thereof which may be procurable, notwithstanding that such description may not have been prepared after actual survey, and no such lease shall be liable to be set aside by reason only of the imperfection of any such description if the land is defined in the lease with reasonable certainty.

Sale by Auction of Forfeited Leases.

Forfeited
leases may
be offered at
auction.
[Compare
48 Vic. No. 28,
ss. 39, 40.]

72. If any lease under this Part of this Act or under Part III. of "*The Crown Lands Act of 1884*"* is forfeited or otherwise determined, or if the lease, under "*The Pastoral Leases Act of 1869*,"† of any run situated in any part of the colony in which Part III. of "*The Crown Lands Act of 1884*"* is in force for the time being, or any such lease extended under the provisions of "*The Pastoral Leases Extension Act of 1890*,"‡ is forfeited or vacated, the holding or the run, as the case may be, may be offered for sale by public auction for the residue of the term of the lease computed from the nearest first day of July in the case of runs, and the nearest first day of January or first day of July, as the case may be, in the case of holdings. The upset price shall not be less than five shillings per square mile of the estimated area, and the highest amount bid shall be the annual rent to be paid for the residue of the term. If there are upon the land any improvements, the new lessee shall pay to the Land Agent or other prescribed officer the value of the same, as determined by the Commissioner.

* 48 Vic. No. 28, *supra*, page 1137. † 33 Vic. No. 10, *supra*, page 1119.
‡ 54 Vic. No. 14, *supra*, page 4010.

Or the land comprised in the holding or the run, as the case may be, may be dealt with under any other provisions applicable thereto.

Provisions Applicable upon the Expiration of Certain Leases under the Repealed Acts.

73. At any time within six months after the commencement of this Act the Court may certify to the Governor in Council, with respect to lands comprised or formerly comprised in any holding under Part III. of "*The Crown Lands Act of 1884*,"* the term whereof is by the thirtieth section of that Act prescribed to be ten years, that such lands or any part thereof are not likely to be required for the purposes of settlement. A notification of such certificate shall be forthwith published in the *Gazette*.

74. At any time after the date of such publication the lessee or former lessee, if still in possession of such holding, may apply to the Minister for an extension of the former lease, and if such application is approved by the Governor in Council the applicant shall be entitled to receive a new lease from the Crown for the whole of the lands comprised in the former lease or the part with respect to which the certificate has been given, as the case may be, subject to the following conditions:—

- (1) The term of the lease shall be five years, computed from the date of the expiration of the former lease; Term of extension.
- (2) The lessee shall during the continuance of the lease pay a yearly rent at a rate fixed by the Minister on the recommendation of the Court, and such rent shall be payable at the same time and place as that at which the rent under the previously subsisting lease was payable. Rent how fixed.

If default is made by the lessee in the payment of rent, the lease shall be forfeited, but the lessee may defeat the forfeiture by payment of the rent within ninety days from the prescribed date of payment with the addition of a sum by way of penalty calculated as follows: that is to say,—If the rent is paid within thirty days five per centum is to be added, if the rent is paid within sixty days seven and a half per centum is to be added, and if the rent

* 48 Vic. No. 28, *supra*, page 1137.

is paid after sixty days ten per centum is to be added; but unless the whole of the rent, together with the penalty, is paid within ninety days from the appointed day the lease shall be absolutely forfeited.

PART IV.—SELECTIONS.

*Subdivision I.—General Provisions relating to all Selections.**Proclamation of Lands for Selection.*

75. The Governor in Council may, by Proclamation, declare any Country Lands to be open for selection either as unsurveyed lands or as surveyed lands under the provisions of this Part of this Act, and may, by Proclamation, withdraw any lands from being so open :

Governor may proclaim lands open for selection, and may withdraw same.
[Compare 48 Vic. No. 28, s. 42; 55 Vic. No. 19, s. 23.]

Minister may withdraw lands from selection in urgent cases.

Provided that the Minister may, if he deems it necessary so to do, withdraw any lands from being open for selection by notification in the *Gazette*; and upon ratification by the Governor in Council by Proclamation within one month after such notification has been published, the withdrawal shall have the same force and effect as if the lands had been withdrawn from selection by the Governor in Council at the time at which they were withdrawn by the Minister.

76. When any land is proclaimed open for selection as unsurveyed lands, the following provisions shall have effect by way of modification of the provisions hereinafter contained in respect of land which is proclaimed open for selection as surveyed lands :—

Proclamation of unsurveyed lands.
[Compare 49 Vic. No. 7, s. 2; 53 Vic. No. 14, s. 7; 55 Vic. No. 19, s. 32.]

Application.

Selections to be marked.

When applicant may employ a licensed surveyor.

- (1) The application to select any such land shall give a clear description of the locality and boundaries of the land applied for, and shall state that it is unsurveyed.
- (2) Every selection applied for shall, before the application is lodged, be marked on the ground in the manner prescribed by the Regulations.
A statement that the marking has been duly effected shall accompany the application.
- (3) If any selection is not surveyed by order of the Minister within three months from the date of the acceptance of the application by the Commissioner, the applicant may request the

Minister to refund the part of the survey fee lodged with his application as hereinafter provided, and, if the survey is not made within two months from the date of such request, may, at his own cost, employ a licensed surveyor to effect the survey, and on such survey being made and approved by the Minister the part of the survey fee so lodged shall be refunded to the applicant.

- (4) If upon the survey it appears that, by reason of a prior application or for any other reason, the applicant cannot obtain the whole of the land applied for, he may, by writing under his hand, withdraw the application and demand back the amount deposited by him in respect of rent as hereinafter provided and the part of the survey fee lodged by him.
- (5) The application shall not be approved by the Court until the land has been surveyed.
- (6) The land which the applicant shall be entitled to occupy on receiving from the Commissioner the license hereinafter mentioned shall be the land comprised in the application according to the boundaries as defined by the survey.

In other respects the provisions of this Act with respect to land which is proclaimed open for selection as surveyed lands shall be applicable.

77. Before any land is proclaimed open for selection as surveyed lands it shall be surveyed under the direction of the Minister, and divided into portions of convenient area for selection, with proper roads and reserves for public purposes wherever necessary. The portions shall be marked on the ground in the manner prescribed by the Regulations.

78. With respect to land which it is practicable to divide into portions without actual survey, and to indicate the position of such portions by means of maps or plans and by reference to known or marked boundaries or starting points, the following provisions shall have effect :—

- (1) The Governor in Council may suspend the operation of so much of the last preceding section as requires the land to be actually surveyed and marked on the ground before it is

When application may be withdrawn.

Application not to be approved before survey.

What land applicant is entitled to occupy.

Provisions affecting surveyed lands to apply.

Proclamation of surveyed lands.

[Compare 48 Vic. No. 28, s. 13.]

Power to suspend the provisions of the last preceding section.

[Compare 48 Vic. No. 28, s. 11; 51 Vic. No. 33, s. 13.]

proclaimed open for selection, and may require the Surveyor-General to divide the land into portions and to indicate the position of such portions on proper maps or plans;

- (2) The land may thereupon be proclaimed open for selection in the same manner as if it had been surveyed, and the delineation of the portions on the maps or plans shall be deemed to be a survey thereof, and the portions shall be deemed to be surveyed portions for the purposes of this Part of this Act;
- (3) The application shall not be approved by the Court until the land has been actually surveyed;
- (4) The land which the applicant shall be entitled to occupy on receiving from the Commissioner the license hereinafter mentioned shall be the land comprised in the application according to the boundaries as defined by the actual survey;

Requisites of the Proclamation.

79. (1.) Every Proclamation declaring land open for selection shall appoint a place and a time (not being less than four weeks from the date of the Proclamation) at which the land will be open for selection: and at and after the time so notified the land shall be open for selection accordingly.

What to be specified in Proclamation.
[Compare 48 Vic. No. 28, s. 45 (1), (2), (4), (6); 50 Vic. No. 33, s. 14; 55 Vic. No. 19, s. 5.]

Maximum areas of selections.

(2.) The Proclamation shall also specify for what mode or modes of selection the land is open, and shall declare the maximum area of land which may be selected in each mode by any one person in the whole area to which the Proclamation has reference.

Rent. (3.) The Proclamation shall also specify the numbers of the portions, and their respective areas, and the annual rent per acre to be paid for each portion.

Purchasing price. (4.) In the case of Agricultural Farms or Unconditional Selections, the Proclamation shall further specify the price at which the lessee may purchase the land in fee-simple as hereinafter provided.

Term of lease of Grazing selections. (5.) In the case of a Grazing Selection, the Proclamation shall further state whether the term of the lease is to be fourteen years, twenty-one years, or twenty-eight years as hereinafter provided.

(6.) In the case of a Grazing Selection wholly or partly situated within any District now or hereafter constituted under the provisions of "*The Rabbit Boards Act, 1896*,"* the Proclamation may impose the condition that the selection shall be enclosed with a fence of such character as to prevent the passage of rabbits.

(7.) The Proclamation may also state the value of any improvements upon a portion.

Condition as to rabbit-proof fencing.
Value of improvements.

80. The maximum area declared by any Proclamation shall not—

- (1) In the case of land which may be selected as an Agricultural Farm, exceed one thousand two hundred and eighty acres;
- (2) In the case of land which may be selected as an Agricultural Homestead, exceed one hundred and sixty acres, three hundred and twenty acres, or six hundred and forty acres, according as the price specified in the Proclamation as being the purchasing price of the land, if selected as an Agricultural Farm, is not less than twenty shillings, or is less than twenty shillings but not less than fifteen shillings, or is less than fifteen shillings, respectively, per acre of the land;
- (3) In the case of land which may be selected as a Grazing Selection, exceed twenty thousand acres;
- (4) In the case of land which may be selected as a Scrub Selection, exceed ten thousand acres;
- (5) In the case of land which may be selected as an Unconditional Selection, exceed one thousand two hundred and eighty acres.

Limit of maximum areas.
[Compare 48 Vic. No. 28, s. 45 (3); 50 Vic. No. 19, s. 2, 15, 24; 55 Vic. No. 25, s. 3.]

81. The specified rent of any portion proclaimed open for selection shall be—

- (1) One fortieth part of the purchasing price specified in the Proclamation in the case of Agricultural Farms;
- (2) Three pence per acre in the case of Agricultural Homesteads;

Rules with regard to rent.
[Compare 48 Vic. No. 28, s. 15 (4); 55 Vic. No. 19, s. 5; 58 Vic. No. 25, ss. 6 (1), 14.]
Rent of Agricultural Farms.
Rent of Agricultural Homesteads.

* 60 Vic. No. 34, *supra*, page 6071.

Rent of
Grazing
Selections.
Rent of
Unconditional
Selections.

- (3) Not less than one halfpenny per acre in the case of Grazing Selections; and
(4) One twentieth part of the purchasing price specified in the Proclamation in the case of Unconditional Selections.

Minimum
purchasing
price.
[Compare
48 Vic. No. 28,
s. 45 (5);
55 Vic. No. 19,
ss. 5, 24 (2).]

82. (1.) In the case of Agricultural Farms, the price at which the lessee may purchase the land in fee-simple as hereinafter provided shall not be less than ten shillings per acre.

(2.) In the case of Unconditional Selections, the price at which the lessee may purchase the land in fee-simple as hereinafter provided shall not be less than thirteen shillings and fourpence per acre.

What lands
may be
selected as
Agricultural
Homesteads
or
Unconditional
Selections.
Maps to be
exhibited.
[Compare
48 Vic. No. 28,
s. 46.]

83. No portion shall be proclaimed open for selection as an Agricultural Homestead, or as an Unconditional Selection, which is not also proclaimed open for selection as an Agricultural Farm.

84. When any land is proclaimed open for selection, maps shall be prepared and exhibited to the public at the office of the Land Agent and at the Department of Public Lands in Brisbane showing the land so open, its distance from railway or water carriage, the rent and purchasing price, if any, per acre, the maximum area that may be selected in each mode of selection by any one person in the whole area to which the Proclamation has reference, and such other information as may be prescribed.

Disqualifications.

Disqualifica-
tions.
[Compare
48 Vic. No. 28,
ss. 48, 63;
55 Vic. No. 19,
s. 9; 58 Vic.
No. 25, s. 9.]
Minor.
Alien.

85. Subject to the provisions hereinafter contained, no person who is—

- (1) Under the age of sixteen years; or
(2) Not a natural born or naturalised subject of Her Majesty within the meaning of "*The Elections Act of 1885*";* or
(3) In respect of the land applied for or held, or any part thereof, or interest therein, an agent or servant of or for any other person; or

Agent or
servant.

* 49 Vic. No. 13, *supra*, page 640.

- (4) In respect of the land applied for or held, or interest therein, a trustee of or for any other person;

shall be competent to apply for or acquire any land under the provisions of this Part of this Act.

But nothing herein contained shall prejudice the saving rights of acquisition of any selection by any person who becomes trustee of the estate of a previous selector under the laws relating to insolvent persons, or as the committee of an insane selector, or as the trustee of a settlement made in consideration of marriage, or as the legatee, executor, or administrator, or one of the next-of-kin of a deceased selector.

Proof that the stock of any person other than the selector are ordinarily depastured on a selection shall be *prima facie* evidence that the selector is a trustee of the selection for the owner of the stock.

The provisions of this section shall not apply to persons making application to select land as a Scrub Selection or as an Unconditional Selection.

86. A married woman shall not be competent to apply for any land as an Agricultural Homestead or Grazing Homestead, or to acquire any such selection, unless she has selected the same before her marriage or becomes entitled thereto as the legatee, executrix, administratrix, or one of the next-of-kin of a deceased selector, whether before or after her marriage:

Provided that the disqualification hereby imposed may be removed by the Court if it thinks fit in the case of a married woman who proves to the satisfaction of the Court that she has obtained an order for judicial separation, or an order protecting her separate property, or that she is living apart from her husband, and (in the case of a married woman who desires to become the selector of an Agricultural Homestead) that her husband has never acquired a Homestead Selection under "*The Crown Lands Alienation Act of 1876*,"* or any of the Acts thereby repealed, or an Agricultural Farm under section seventy-four of "*The Crown Lands Act of 1884*,"† or an Agricultural Homestead under this Act, and (in the case of a married woman who desires to become the selector of a

* No. 40 Vic. No. 15, "*Cooper's Statutes*," page 695.

† 48 Vic. No. 28, *supra*, page 1137.

Grazing Homestead) that her husband has never acquired a Grazing Homestead under "The Crown Lands Act of 1894"* or under this Act.

Restrictions.

Proportion of frontage to watercourses or main roads. [Compare 48 Vic. No. 28, s. 50; 55 Vic. No. 19, s. 25.]

87. Subject to such Regulations concerning surveys, roads, or the prevention of a monopoly of permanent water, or otherwise, as may be made under this Act, land having frontage to a main watercourse, or in the case of Agricultural Selections to a main road, shall not have a greater breadth of frontage thereto than two-thirds of the depth, except in cases where the land applied for comprises the whole of the land available for selection in the immediate neighbourhood.

Proclamation of maximum areas for Districts.

88. The Governor in Council may from time to time, by Proclamation, declare the maximum areas of land (not exceeding the several maximum areas hereinbefore prescribed) which may be held in any District named in the Proclamation by any one person in any mode of selection therein mentioned.

No person to apply for or hold more than maximum area in District. [Compare 48 Vic. No. 28, s. 53.]

89. No person shall at the same time, except as hereinafter provided, apply for or hold in the same District—

- (1) Two or more selections of the same character the aggregate area of which is greater than the maximum area of land for the time being permitted to be selected as a selection of that character in that District; or
- (2) Two or more Agricultural Selections the aggregate area of which is greater than the maximum area of land for the time being permitted to be selected as an Agricultural Farm in that District.

But any alteration of the boundaries of a District or any declaration of a maximum area within a District shall not prejudice any rights accrued with respect to a then existing selection.

Maximum area which may be held in the colony. [Compare 48 Vic. No. 28, s. 53.]

90. No person shall at the same time, except as hereinafter provided, hold in the colony two or more Agricultural Selections the aggregate area of which is greater than one thousand two hundred and eighty acres, or two or more Grazing Selections the aggregate area of which is greater than twenty thousand acres.

Applications.

91. Any person desiring to select land shall himself, or by his duly constituted attorney, lodge with the Land Agent at the place appointed by the Proclamation an application in the prescribed form.

The application shall be for a portion, as specified in the Proclamation, and when the land is open for selection in alternative modes shall state precisely which mode of selection is desired.

The application shall be signed by the applicant, and shall be accompanied by the full amount in cash of the first year's rent, which shall be returned to the applicant if the application be not approved.

92. The person making application to select land shall, at the time of making his application, lodge therewith in cash one-fifth part of the survey fee, which shall be returned to the applicant if the application be not approved.

In the event of the application being approved, the remainder of the survey fee shall be payable in equal annual instalments, without interest, on the thirty-first day of March in the four next following years.

In the case of lands proclaimed open for selection under the provisions of the repealed Acts after the twenty-third day of December, one thousand eight hundred and ninety-five, other than selections of an area not exceeding one hundred and sixty acres, no interest shall be or be deemed to have been payable on the part of the survey fee remaining unpaid after confirmation of the application to select such lands, and any interest paid to the Crown shall be credited to the selector who paid the same.

93. Every application for a selection shall be made in good faith.

An application shall be deemed to be made in good faith when the sole object of the applicant in making the application is to obtain the land or the license or lease thereof in order that he may hold and use the land for his own exclusive benefit according to law.

The fact that two or more applications are made by different applicants for the benefit of one person shall be conclusive evidence that none of such applications are made in good faith.

An application shall not be accepted or approved unless the Commissioner or the Court, as the case may be, is satisfied that the application is made in good faith.

Applications to be lodged with deposit of first year's rent. [Compare 48 Vic. No. 28, s. 19.]

Survey fee may be paid in instalments without interest. [Compare 48 Vic. No. 28, s. 49; 50 Vic. No. 33, s. 15 (1); 59 Vic. No. 31, s. 6.]

Remission of interest paid in certain cases.

Applications to be made in good faith.

In any case in which the Commissioner or the Court, as the case may be, is satisfied that an application has been made otherwise than in good faith, the Commissioner or the Court may declare that any moneys lodged with the application, or any part of such moneys, shall be forfeited to the Crown, and the same shall be forfeited accordingly.

Land Agent
to keep
registers of
applications.
[Compare
48 Vic. No. 28,
s. 47; 65 Vic.
No. 19, s. 8.]

94. The Land Agent shall keep registers in which he shall enter particulars of all applications to select land in the order of their receipt and the day and hour on which they were lodged, and each applicant shall himself, or by his duly constituted attorney, sign his name to such entry.

When an application is accepted or refused, or otherwise dealt with by him, the Commissioner shall make a memorandum of such acceptance or refusal opposite the entry of the application in the register.

Such registers shall be open for public inspection at any reasonable time during office hours on payment of the prescribed fee.

Priority of Applications.

General rule
for
determining
priority.
[Compare
48 Vic. No. 28,
s. 49.]

95. Applications shall take priority according to the order of their being lodged with the Land Agent:

Provided that if two or more applicants are present at the Land Agent's office at or before the time appointed by the Proclamation, the applications lodged by them shall be deemed to be lodged at the same time. In such case, save as hereinafter provided, the right of priority shall be determined by lot in the prescribed manner.

Applicants
for
Agricultural
Homesteads
have priority.

96. When lands are open for selection as Agricultural Farms and alternatively as Agricultural Homesteads, and applications to select the same lands both as Agricultural Farms and as Agricultural Homesteads are lodged at the same time, the applications to select the lands as Agricultural Homesteads shall be entitled to priority.

Applicants
for Grazing
Homesteads
have priority.
[Compare
58 Vic. No. 25,
s. 4.]

97. When lands are open for selection as Grazing Selections, and applications to select the same lands both as Grazing Farms and as Grazing Homesteads are lodged at the same time, the applications to select the lands as Grazing Homesteads shall be entitled to priority.

Applicants
for
Agricultural
Farms have
priority.
[55 Vic.
No. 19, s. 10.]

98. When lands are open for selection as Agricultural Farms, and alternatively as Unconditional Selections, and applications to select the same lands, both as Agricultural Farms and as Unconditional Selections, are lodged at the same time, the applications to select the lands as Agricultural Farms shall be entitled to priority.

99. When any person qualified to select any land as an Agricultural Homestead, makes a request in writing to the Minister that any specified area of unsurveyed land be declared open for selection, and the land is thereupon declared open, the Minister may notify to the Commissioner that it was declared open at the request of such person, and if at or before the time appointed by the Proclamation an application by such person to select such land is lodged at the Land Agent's Office such application shall be entitled to priority:

Provided that such person has deposited with his request a sum equal to three pence per acre, which sum shall, if the request is not granted, be repaid to the person making the request; and if the request is granted, and if the application is proceeded with, be accounted as part of the rent specified in the Proclamation declaring the land open for selection, but, if no application to select is lodged by the person making the request, or if the application is not proceeded with, be absolutely forfeited to Her Majesty.

100. Subject to the provisions affecting the priority of applicants hereinbefore contained, any person making an application to select land as a Grazing Selection or as an Unconditional Selection may, in accordance with the Regulations in that behalf, when making such application, lodge in a closed envelope a tender for the selection, specifying an annual rent for the first period of the lease higher than the annual rent per acre specified in the Proclamation; but the annual rent specified in any tender shall not comprise any fractional part of a penny other than one-eighth, or a multiple of one-eighth.

If two or more applications to select the same land are lodged at the same time, the Commissioner or Land Agent shall forthwith open such tenders as may have been lodged as aforesaid; and the applicant (being otherwise competent to select the land) who has lodged the highest tender for the land, and who pays the balance of the first year's rent in accordance with the tender to the Land Agent, shall, at the time appointed for considering the applications, be declared to be the successful applicant, and the annual rent payable by him during the first period of the term of the lease shall be the amount so specified by him in his tender, instead of the rent specified in the Proclamation declaring the land open for selection.

If two or more applicants have specified the same amount in their respective tenders, and no other applicants have specified any higher amount, the right of priority as between such applicants shall be determined by lot in the prescribed manner:

Approval.

Notice of approval to be given to applicant. [Compare 48 Vic. No. 28, s. 51.]

101. When the Court has approved of the application, notice of such approval shall be given to the applicant. The notice shall specify the conditions to be fulfilled by the selector, and the consequences of non-fulfilment thereof.

Improvements.

Improvements on selection. [Compare 50 Vic. No. 33, s. 14.]

102. When there are upon a selection any improvements the value of which has not been stated in the Proclamation, such value shall be determined by the Commissioner, and shall be paid by the selector to the Land Agent or other prescribed officer within twenty-one days after notice of the value has been given to him.

If the value of the improvements has been stated in the Proclamation, such value shall be paid by the selector to the Land Agent or other prescribed officer within twenty-one days after notice of approval has been given to him.

If the value of the improvements is not paid as hereby prescribed, the selector shall have no further right or title to the land or the occupation thereof, and all moneys paid by him in respect thereof shall be forfeited.

Issue and Conditions of License of Agricultural and Grazing Selections.

On approval license to issue. [Compare 48 Vic. No. 28, s. 54.]

103. When the application has been approved by the Court, and the applicant has paid the value of the improvements (if any), the applicant shall be entitled to receive from the Commissioner a license to occupy the land.

The license shall not be capable of being mortgaged or be transferable except by operation of law, but shall be capable of transmission on the death of the licensee.

Upon the insolvency of the licensee of an Agricultural Homestead or Grazing Homestead, the license shall be forfeited.

Title of selector to relate back to the acceptance of his application by Commissioner.

104. When an application to select any land over which a right of depasturing is exercised by any lessee under Part III. of this Act, or Part III. of "*The Crown Lands Act of 1884*,"* has been accepted by the Commissioner, the depasturing by such lessee of any stock in excessive numbers so as to result in the undue diminution

* 48 Vic. No. 28, *supra*, page 1137.

of or injury to the water, grass, or herbage thereon shall, if a license to occupy such land is issued to the selector, be and be deemed to be a trespass committed by the lessee against the selector; and for the purposes of any action in respect thereof, the title of the selector shall be deemed to relate back to the date of the acceptance of the application by the Commissioner:

Provided that no selector shall take advantage of this section unless he gives notice to the lessee that his application has been accepted within seven days after such acceptance or within such other time as may be prescribed.

The notice may be given by personally serving the lessee or by leaving it with some person for the lessee at the head station, or in such other manner as may be prescribed.

105. Upon the issue of a license the licensee may enter upon the land and take possession thereof, but shall not be entitled to impound any stock of the last pastoral tenant or lessee found trespassing on any part of the land which is not enclosed with a good and substantial fence except in the case of wilful trespass.

106. Within six months after the issue of a license the licensee shall enter upon the land and take possession thereof, and thereafter, during the currency of the license, he shall occupy the land continuously and *bona fide* in the manner prescribed by this Act with respect to occupation by a lessee of a similar selection.

In the event of his failing to perform the condition of occupation hereby prescribed, the same consequences shall ensue with respect to the license as are prescribed in the case of the lease upon the like default.

107. During the currency of the license the licensee shall pay the annual rent at the same time and place as hereinafter prescribed in the case of rent reserved by and payable under the lease of a similar selection, and in the event of his failing to make such payment the same consequences shall ensue with respect to the license as are prescribed in the case of the lease upon the like default.

108. In the case of Grazing Selections the selector shall within three years from the issue of the license enclose the land with a good and substantial fence.

Where the Selection is wholly or partly situate within any District now or hereafter constituted under the provisions of "*The Rabbit Boards Act, 1896*,"* the fence shall

* 60 Vic. No. 34, *supra*, page 6071.

be of such character as to prevent the passage of rabbits, if such condition is imposed by the Proclamation declaring the land open for selection.

Condition of
fencing or
other
improvement
on Agricultural
Selections.
[Compare
48 Vic. No. 28,
s. 57.]

109. In the case of Agricultural Selections the selector shall within five years from the issue of the license either enclose the land with a good and substantial fence or make substantial and permanent improvements on the land of a value equal to the cost of such a fence.

Fencing or
improvement
of contiguous
selections.
[Compare
48 Vic. No. 28,
s. 57.]

110. If the same person is the selector of two or more contiguous selections, it shall be sufficient to enclose the whole area comprised in the selections, or to make the prescribed improvements upon any part of such whole area; and in the case of Grazing Selections the condition of maintenance of fencing imposed by the terms of the lease as hereinafter prescribed shall be deemed to be satisfied if the whole area is kept enclosed by the selector.

Fencing of
contiguous
Grazing
Selections.
[Compare
58 Vic. No. 25,
s. 5 (4) (a).]

111. In the case of two or more contiguous Grazing Selections held under the repealed Acts or this Act the aggregate area of which does not exceed twenty thousand acres, the Court may, upon the application of the selectors, issue a Special License modifying the condition of fencing, and unless and until such Special License is revoked by the Court it shall be sufficient to enclose the whole area comprised in the Selections; and if the whole area is kept enclosed by the selectors, the condition of maintenance of fencing imposed by the terms of the several leases of the Selections as hereinafter prescribed shall be deemed to be satisfied.

Fencing of
contiguous
Grazing
Selections
in Rabbit
Board
Districts.
[Compare
58 Vic. No. 28,
s. 5; 59 Vic.
No. 30, s. 6.]

112. In the case of two or more contiguous Grazing Selections not exceeding eight in number, or the total area of which does not exceed two hundred square miles, held under the repealed Acts or this Act, and situate wholly or partly within any District now or hereafter constituted under the provisions of "*The Rabbit Boards Act, 1896*,"* the Court may, upon the application of the selectors, issue a Special License modifying the condition of fencing to which the selections or any of them are subject, and unless and until such Special License is revoked by the Court it shall be sufficient to enclose the whole area comprised in the selections with a fence of such a character as to prevent the passage of rabbits; and if the whole area is kept enclosed by the selectors, the condition of maintenance of

* 60 Vic. No. 34, *supra*, page 6071.

fencing imposed by the terms of the several leases of the selections as hereinafter prescribed shall be deemed to be satisfied.

113. Any dividing fence erected on or for the advantage of a selection under the provisions of "*The Fencing Act of 1861*,"* or "*The Fencing Act of 1861 Extension Act of 1897*,"† shall be sufficient to satisfy the conditions of fencing and maintenance of fencing respectively imposed by this Act in respect of any such selection or the part thereof on or for the advantage of which the dividing fence has been erected, so long as such fence continues to be available for the purpose for which it was erected.

When the boundary of a selection is a road, or when neighbouring selections are separated only by a road, if the Court is of opinion that it is not necessary in the public interest that the road should be fenced on both sides, the Court may, on the application of the licensee or lessee of the selection or on the joint application of the licensees or lessees of the selections, as the case may be, issue a license authorising him or them, subject nevertheless to the Acts in force relating to Local Authorities and to the Enclosure of Roads, and to the several provisions of such Acts dealing with licensed gates, to enclose the road and to use a fence erected wholly on one side of the road, or partly on one side and partly on the other, as a boundary fence of the selection or selections, as the case may be.

If an existing fence is proposed to be so used, the owner of the fence shall be heard by the Court before the license is granted.

Every such license shall be for such time and shall be subject to such conditions as to payment to the owner of an existing fence or otherwise as the Court may impose, and may be revoked by the Court upon six months' notice.

During the subsistence of any such license, the condition of fencing shall be deemed to be sufficiently performed so far as regards the boundary on which the actual erection of the fence is excused.

114. Every dividing fence or boundary fence within the meaning of the last preceding section shall be of such character as to prevent the passage of rabbits in all cases where a fence of such character is necessary under the conditions prescribed by this Act; and in the case of a dividing fence, notwithstanding anything contained in

* 25 Vic. No. 12, *supra*, page 761. † 61 Vic. No. 9, *supra*, title "Fencing."

"The Fencing Act of 1861," judgment may be given under any of the provisions of that Act, although such judgment may involve an expense in the erection of the dividing fence equal to the fair and usual price charged for the erection of a fence of such character as aforesaid.

This section shall not entitle any selector to recover any portion of the cost of any wire-netting forming part of any dividing fence and the affixing thereof from the lessee of any adjoining or neighbouring holding or run, unless and until such adjoining or neighbouring holding or run has been enclosed with a substantial and permanent fence of such a character as to prevent the passage of rabbits; but half the cost thereof may be recovered in every case within six months after such adjoining or neighbouring holding or run has been so enclosed.

Where fence unnecessary. [Compare 48 Vic. No. 28, s. 57.]

115. When the Proclamation imposes the condition that the selection shall be enclosed with a fence of such a character as to prevent the passage of rabbits, it shall not be necessary to erect a fence upon any boundary which is formed by a natural feature of such a character as to be sufficient to prevent the passage of rabbits. In other cases it shall not be necessary to erect a fence upon any boundary which is formed by a natural feature of such a character as to be sufficient to prevent the passage of stock.

Certificate of fulfilment of condition. [Compare 48 Vic. No. 28, s. 57; 58 Vic. No. 25, s. 10.]

116. The selector shall also within the period of three years or five years respectively hereinbefore mentioned apply to the Commissioner for a certificate that he has performed the condition of improvement. Upon such application being made, the Commissioner, or some other fit and proper person appointed by the Governor in Council, shall inspect the selection; and if it is found that the whole of the land has been so enclosed or improved, and that the condition of occupation has been performed, the Commissioner shall certify those facts to the Minister, and shall in any case pronounce his decision on the application in open court.

Consequences of not fulfilling condition.

If the selection is not enclosed or improved within the time hereinbefore prescribed the license shall forthwith become inoperative, and the selector shall have no further right or title to the land or the occupation thereof; but the Court may, if the selector has from any unavoidable cause been prevented from so enclosing or improving the selection, grant an extension of not more than two years' further time to make the enclosure or improvement, and

to apply for the certificate; but if the fencing or improvement is not completed within such extended time, the license shall become inoperative as aforesaid.

If the Commissioner refuses to give a certificate in favour of the selector he may, within the prescribed time, appeal to the Court from the decision of the Commissioner, and if the appeal is allowed the Commissioner shall give the certificate.

117. The Commissioner may permit the selector of an Agricultural Selection to ringbark trees upon the selection upon such terms and in such manner as he may think fit, and may allow the cost of such ringbarking at a rate not exceeding two shillings and sixpence per acre in computing the value of the improvements effected on the selection for the purpose of granting such certificate as aforesaid.

No appeal shall lie from any decision of the Commissioner under this section.

Provisions dispensing with Condition of Occupation of Agricultural and Grazing Selections.

118. The Court may suspend the condition of occupation of any Agricultural or Grazing Selection for a period not exceeding six months in any one year in any of the following cases:—

- (1) Devastation of the selection by flood, fire, or tempest;
- (2) Accident to or illness of the selector;
- (3) Absence of the selector from the selection while *bona fide* earning wages elsewhere;
- (4) Any other case in which the Court thinks that it is proper so to do;

and may, further, in the case of Grazing Selections, suspend such condition for a period not exceeding one year in any two years if the selection has been subjected to the effects of drought to such an extent as to render its temporary abandonment unavoidable.

During the period of any such suspension the condition of occupation shall be deemed to have been fulfilled in the manner prescribed by this Act.

119. If after the expiration of six months from the commencement of the term of the lease of an Agricultural Homestead the selector, being a woman, marries the selector of an Agricultural Homestead in the same or an adjoining District, the Court may allow the condition of occupation

Appeal from Commissioner to the Court.

Improvement by ringbarking on Agricultural Selections. [Compare 48 Vic. No. 16, s. 2.]

Court may suspend condition of occupation in certain cases. [Compare 48 Vic. No. 28, s. 58 (9); 58 Vic. No. 25, s. 23.]

Privilege of married woman who has selected Agricultural Homestead before marriage.

[Compare 56 Vic. No. 16, s. 7.] to be performed in respect of both selections by the residence of the husband or wife on either of the selections for such portion of the term of the lease of either selection as the Court thinks fit.

Privilege of lease of two or more neighbouring Agricultural Selections.

[Compare 50 Vic. No. 88, s. 19; 58 Vic. No. 25, s. 18.]

120. If the same person is the selector of two or more Agricultural Selections, each of which is at a distance not exceeding fifteen miles from each of the others, the residence of the selector or another person, being his manager or agent as hereinafter defined, upon one of the selections shall be equivalent to the residence of the selector or that person upon each of the selections, and shall confer on the selector in respect of each selection the same rights (if any) as his own residence or the residence of that person, as the case may be, would have conferred.

Privilege in case of occupiers of neighbouring country land.

[Compare 49 Vic. No. 7, s. 3; 50 Vic. No. 33, s. 20; 58 Vic. No. 25, s. 18.]

121. When the selector of an Agricultural Farm personally resides upon any country lands or land which if it were not alienated or held under license or lease from the Crown would be country lands, situated at a distance not exceeding fifteen miles from the nearest part of the Farm, such residence shall be equivalent to the residence of the lessee upon the Farm, and shall confer on him the same rights in respect of the Farm as his residence on the Farm itself would have conferred.

In case of contiguous selections held by the same selector one only need be occupied.

[Compare 48 Vic. No. 28, s. 75.]

122. If the same person is the selector of two or more selections which are contiguous, the residence of the selector or another person, being his manager or agent as hereinafter defined, upon one of the selections shall be equivalent to the residence of the selector or that person upon each of the selections, and shall confer on the selector in respect of each selection the same rights (if any) as his own residence or the residence of that person, as the case may be, would have conferred.

Privilege to continue notwithstanding acquisition of freehold.

[Compare 48 Vic. No. 28, s. 76.]

123. If a lessee acquires the freehold of an Agricultural Farm or Homestead and continues to reside thereon, such residence shall continue to confer on him the same rights and privileges as are by the last preceding section declared with respect to other selections held by him contiguous to the land on which he so resides in the same manner and to the same extent as if the Farm or Homestead so acquired were still a selection under this Part of this Act.

Cases to which Disqualifications and Restrictions do not apply.

124. The disqualifications and restrictions hereinbefore or hereinafter imposed against any person acquiring a selection, or against any one person holding more than the prescribed area of land as a selection or selections, shall not apply to any person who becomes entitled to any such selection or selections as the trustee of the estate of a previous selector under the laws relating to insolvent persons or as the committee of an insane selector, or as the trustee of a settlement made in consideration of marriage, or as the legatee, executor, or administrator, or one of the next-of-kin of a deceased selector.

Forfeiture.

125. If at any time during the term of a lease it is proved to the satisfaction of the Commissioner in open court that the lessee is holding the selection in violation of any of the provisions of this Act, the Minister may, if an appeal is not made to the Court from the decision of the Commissioner within the prescribed time, or if on appeal the decision of the Commissioner is confirmed by the Court, by notification in the *Gazette*, declare the lease absolutely forfeited and vacated, and thereupon the selection shall revert to Her Majesty.

126. No forfeiture of any lease under this Part of this Act for any cause other than non-payment of rent shall be declared until after a notice in writing has been served on the lessee, either personally or by posting it addressed to him at the selection.

The notice shall specify the alleged cause of forfeiture, and shall call upon the lessee to show cause against it at the next sitting of the Commissioner's Court held after the expiration of sixty days from the service of the notice.

A copy of the notice shall be published in the *Gazette* and a local newspaper six weeks at least before the sitting of the Court at which cause is to be shown.

127. If the lease of any selection is determined by forfeiture or otherwise before the expiration of the term thereof, the land comprised therein may be proclaimed open for selection for the remainder of the term of the lease on the same terms as those then applicable thereto, or may be proclaimed open for selection or occupation in any manner in which Crown lands may be selected or occupied:

Disqualifica-
tion of lessee
who forfeits.

But the former lessee shall not, in case the lease was determined by forfeiture, be competent to select the land or any part thereof, or to become the lessee thereof or of any part thereof by assignment, for a period of five years from the time of forfeiture.

Compensation
for improve-
ments.

If the land is applied for and selected, the new lessee shall pay to the Land Agent or other prescribed officer a sum by way of compensation for any improvements upon the land. The amount of such compensation shall be determined by the Commissioner.

The new lessee shall not be entitled to receive his lease until he has paid the said amount of compensation to the Land Agent or other prescribed officer.

Underleases.

Conditions
on which
selections
may be
underlet.
[48 Vic.
No. 28, s. 69.]

128. A lessee under this Part of this Act may underlet the whole or any part of his selection, and an underlease may be transferred, subject to the following conditions, but not otherwise, that is to say,—

- (1) The under-lessee or transferee shall be a person who is himself qualified to become the lessee under this Part of this Act of a similar selection in the same District, and of the same area, as the land included in the underlease;
- (2) The approval of the Court shall be obtained to the underlease or transfer;
- (3) Such approval shall not be given to an under-lease unless special grounds are shown by the lessee to the satisfaction of the Court for granting such approval;
- (4) The underlease or transfer shall be in writing and in duplicate, and one copy thereof shall, upon payment of the prescribed fee, be registered in the Department of Public Lands.

Consequence
of non-
observance of
conditions.
[48 Vic.
No. 28, s. 70.]

129. If a lessee underlets the whole or any part of his selection otherwise than in accordance with this Act, or if the condition of occupation is not performed in the prescribed manner by any under-lessee of the whole of a selection, the lessee shall be deemed to have failed to comply with the condition of occupation, and his lease may be dealt with accordingly.

Provision with respect to Selections under Repealed Acts.

130. With respect to lands selected under the repealed Acts and not brought under the operation of this Act as hereinafter provided, subsection two of section fifty-eight of "The Crown Lands Act of 1884"* and section sixteen of "The Crown Lands Act Amendment Act of 1886"† shall be read and construed as if the word "ten" were substituted for the word "five" in that subsection and section respectively.

Land Orders Available for Payment of Rent.

131. Land Orders issued under Part V. of "The Crown Lands Act Amendment Act of 1886"‡ shall be available for payment of the rent of any selection under this Part of this Act, not being an Unconditional Selection; but they shall not be transferable, and in all other respects shall be held subject to the conditions under which they were issued.

Subdivision II.—Agricultural Farms.

Conditions of Lease.

132. Upon the receipt by the Minister of a certificate that an Agricultural Farm has been fenced or improved as hereinbefore prescribed, the selector shall be entitled to a lease thereof from Her Majesty, subject to the following conditions:—

- (1) The term of the lease shall be twenty years, computed from the first day of January or the first day of July nearest to the date of the license.
- (2) The annual rent reserved under the lease shall be, during the whole term thereof, the rent specified by the Proclamation declaring the land open for selection.
- (3) The rent shall be payable in respect of the year ending on the thirty-first day of December, at the Treasury, in Brisbane, or at any other place appointed by the Governor in Council, on or before the thirty-first day of March in each year:

Provided that in cases where the term of the lease is computed from the first day of July the rent payable on the thirty-first day of

* 48 Vic. No. 28, *supra*, page 1137.

† 50 Vic. No. 33, *supra*, page 1174.

March in the first year of the term shall be in respect only of the six months ending on the thirty-first day of December then next ensuing, and the rent payable on the thirty-first day of March in the last year of the term shall be in respect only of the six months ending on the thirtieth day of June then next ensuing.

Penalties for
default in
payment.

- (4) If default is made by the lessee in the payment of rent the lease shall be forfeited, but the lessee may defeat the forfeiture by payment of the rent within ninety days from the date hereinbefore appointed for payment thereof with the addition of a sum by way of penalty, calculated as follows, that is to say—if the rent is paid within thirty days five per centum is to be added, if the rent is paid within sixty days seven and a half per centum is to be added, and if the rent is paid after sixty days ten per centum is to be added; but unless the whole of the rent together with such penalty is paid within ninety days from the appointed day, the selection shall be absolutely forfeited:

Provided that notwithstanding such forfeiture the Minister may waive the forfeiture and reinstate the selector upon payment of the arrears of rent due at the date of the forfeiture and the accrued penalty.

Occupation to
be by personal
residence or
residence of
manager or
agent.

- (5) The lessee shall occupy the land continuously and *bonâ fide* during the term of the lease;

Such occupation shall be by the continuous and *bonâ fide* residence on the land of the lessee himself or of some other person who is the actual and *bonâ fide* manager or agent of the lessee for the purpose of the use and occupation of the land, and who is himself qualified to select a similar selection;

Every appointment of a manager or agent by the lessee shall be in writing signed by the parties or their agents, and shall be in duplicate; and one copy thereof shall be registered in the office of the Commissioner;

Occupation by a person under an unregistered appointment shall not be recognised.

- (6) If at any time during the term of the lease it is proved to the satisfaction of the Commissioner that there has been a failure to perform the condition of occupation, the Minister may (subject to the provisions in respect of forfeiture hereinbefore contained), by notification in the *Gazette*, declare the lease absolutely forfeited and vacated, and thereupon the selection shall revert to Her Majesty.

Bringing Existing Agricultural Farms under the Act.

133. Any selector of an Agricultural Farm under the provisions of the repealed Acts, other than a Farm which a lease has been received under the provisions of the seventy-second section of "The Crown Lands Act of 1884,"* or an Unconditional Selection, who has obtained a lease and has not done or failed to do anything whereby such lease may be forfeited, may, within two years after the commencement of this Act, or, if the lease has not been issued before the commencement of this Act, then within two years after the issue of the lease, deliver to the Minister a notice, in the form in the Third Schedule to this Act, signifying that he elects to bring the selection under the operation of this Act.

Upon the receipt of such notice by the Minister the following consequences shall ensue:—

- (1) The lease of the selection shall be deemed to be surrendered as from the first day of January or the first day of July nearest to the date of the receipt of the notice.
- (2) A lease shall be forthwith issued to the selector for a term to be ascertained as hereby provided, computed from such first day of January or first day of July as aforesaid, which lease shall be subject to all the conditions prescribed in the case of an Agricultural Farm issued under this Act, except as hereby modified.
- (3) If the annual rent payable by the selector at the time of the receipt of the notice as aforesaid is more than one-fortieth part of the purchasing price specified by the Proclamation which declared the land open for selection, the rent shall be reduced so as to bear that proportion to the purchasing price:

* 48 Vic. No. 28, *supra*, page 1137.

Annual rent reserved under lease.

Reduction of purchasing price.

Purchasing price on acquiring freehold.

Term of lease.

Fee-simple of Agricultural Farm may be acquired after five or ten years. [Compare 48 Vic. No. 28, s. 78; 53 Vic. No. 14, s. 8 (4).]

The rent payable at such time as aforesaid, or the rent as so reduced, as the case may be, shall be the annual rent reserved under the lease.

- (4) If the purchasing price is more than forty times the annual rent payable by the selector at such time as aforesaid, the purchasing price shall be reduced so as to bear that proportion to the annual rent:

Provided that where the purchasing price is more than twenty shillings per acre it shall not be reduced by more than ten shillings per acre, and where the purchasing price is not more than twenty shillings per acre it shall not be reduced by more than five shillings per acre.

The original purchasing price, or the purchasing price as so reduced, shall be the price payable by the lessee applying to acquire the freehold as hereinafter provided.

- (5) The term of the lease shall be ascertained by subtracting the expired period of the term of the lease which was issued to the selector, under the provisions of the repealed Acts, from the period of twenty years.

Acquisition of the Freehold.

134. The original selector (or the executor or administrator of a deceased original selector), or any subsequent selector who has been the selector continuously for a period of five years, may, at any time after the expiration of five years from the commencement of the term of the lease of an Agricultural Farm selected under this Act, or from the commencement of the term of the original lease of an Agricultural Farm selected under the repealed Acts and brought under the operation of this Act as hereinbefore provided, make application to the Commissioner in open court for a certificate to the effect that the conditions of the license and lease or leases respectively have been duly performed.

Any other selector may, at any time after the expiration of ten years from such respective times, make such application as aforesaid.

If the Commissioner refuses to give the certificate the applicant may, within the prescribed time, appeal to the Court from the decision of the Commissioner, and if the appeal is allowed the Commissioner shall give the certificate.

Any applicant who obtains such certificate as aforesaid shall, upon payment at the Treasury, in Brisbane, or other place appointed by the Governor in Council, within two months after the date of the certificate or such other time as may be prescribed, of the prescribed price and the deed fee and assurance fee, be entitled to a Deed of Grant of the land in fee-simple.

The purchase money shall be the price specified by the Proclamation which declared the land open for selection, or such price reduced as hereinbefore provided, as the case may be.

135. When a selector of an Agricultural Farm, whether originally selected under the provisions of this Act or not, applies to take advantage of the provisions of the last preceding section entitling him to a Deed of Grant of the land in fee-simple, all sums of money which have been paid in respect of the rent of the selection in accordance with the provisions of this Act or the repealed Acts shall be credited to the applicant in part payment of the prescribed price, and the amount to be paid by him in respect of such price shall be reduced accordingly.

136. If the selector of an Agricultural Farm selected under this Act, or selected under the repealed Acts and brought under the operation of this Act as hereinbefore provided, shall not, within twelve months after the expiration of the term of the lease, become the purchaser of the Farm, the Farm shall be forfeited and shall revert to Her Majesty.

Subdivision III.—Agricultural Homesteads. *Conditions of Lease.*

137. Upon the receipt by the Minister of a certificate that an Agricultural Homestead has been fenced or improved as hereinbefore prescribed, the selector shall be entitled to a lease thereof from Her Majesty, subject to the following conditions:—

- (1) The term of the lease shall be ten years, computed from the first day of January or the first day of July nearest to the date of the license.
- (2) The annual rent reserved under the lease shall be, during the whole term thereof, the rent specified by the Proclamation declaring the land open for selection.

When rent to be treated as purchase money.

[Compare 50 Vic. No. 33, s. 17.]

If conditions not fulfilled, land to revert to the Crown.

Issue and conditions of lease of Agricultural Homestead. [Compare 18 Vic. No. 28, ss. 58, 74; 53 Vic. No. 14, s. 3 (3); 56 Vic. No. 16, ss. 4, 5.]

Term of lease.

Annual rent.

Rent, when
and where
payable.

Proviso for
adjustment.

Penalties for
default in
payment.

Occupation
to be by
personal
residence.

- (3) The rent shall be payable in respect of the year ending on the thirty-first day of December, at the Treasury, in Brisbane, or other place appointed by the Governor in Council, on or before the thirty-first day of March in each year:

Provided that in cases where the term of the lease is computed from the first day of July the rent payable on the thirty-first day of March in the first year of the term shall be in respect only of the six months ending on the thirty-first day of December then next ensuing, and the rent payable on the thirty-first day of March in the last year of the term shall be in respect only of the six months ending on the thirtieth day of June then next ensuing.

- (4) If default is made by the lessee in the payment of rent the lease shall be forfeited, but the lessee may defeat the forfeiture by payment of the rent within ninety days from the date hereinbefore appointed for payment thereof with the addition of a sum by way of penalty calculated as follows, that is to say—if the rent is paid within thirty days five per centum is to be added, if the rent is paid within sixty days seven and a half per centum is to be added, and if the rent is paid after sixty days ten per centum is to be added; but unless the whole of the rent together with such penalty is paid within ninety days from the appointed day, the selection shall be absolutely forfeited:

Provided that notwithstanding such forfeiture the Minister may waive the forfeiture and reinstate the selector upon payment of the arrears of rent due at the date of the forfeiture and the accrued penalty.

- (5) The lessee shall occupy the land continuously and *bonâ fide* during the term of the lease:

Such occupation shall be by the continuous and *bonâ fide* personal residence of the lessee on the land:

Provided that if the original lessee dies before the expiration of the term of the lease, the condition of occupation may be performed by the continuous and *bonâ fide* residence on the selection for the remainder of the term of

some person beneficially interested in the selection under the will, or as one of the next-of-kin, or as the widow or widower of the original lessee, or of some other person who is the actual and *bonâ fide* manager or agent of some person so interested for the purpose of the use and occupation of the land, and whose appointment is made and registered in manner hereinbefore prescribed in the case of an Agricultural Farm, whether such other person is or is not himself qualified to select a similar selection:

Provided further that if the original lessee becomes insane before the expiration of the term of the lease, the Court may allow the condition of occupation to be performed by the continuous and *bonâ fide* residence upon the selection of the wife or husband or some other member of the family of such lessee, or of some other person who is the actual and *bonâ fide* manager or agent of his wife or other member of his family, and whose appointment is made and registered in manner hereinbefore prescribed, whether such other person is or is not himself qualified to select a similar selection.

- (6) If at any time during the term of the lease it is proved to the satisfaction of the Commissioner that there has been a failure to perform the condition of occupation, the Minister may (subject to the provisions in respect of forfeiture hereinbefore contained), by notification in the *Gazette*, declare the lease absolutely forfeited and vacated; and thereupon the selection shall revert to Her Majesty.
- (7) The lessee shall not mortgage, assign, or transfer the lease or his right, title, or interest thereunder to any other person. Upon any such mortgage, assignment, or transfer, whether by operation of law or otherwise (except in case of the insanity of the lessee), the selection shall be forfeited.

Acquisition of the Freehold.

138. The selector of an Agricultural Homestead, or Free-sample of (in case of the death of the selector) the executor or administrator of the selector, or, where probate or letters of administration have not been taken out, the person

may be
Acquired after
five years.

[Compare
48 Vic. No.
28, s. 74.]

entitled to entry of transmission of the Homestead in the records of the Department of Public Lands as hereinafter provided, or (in case of the insanity of the selector) the committee of the selector, may, at any time after the expiration of five years from the commencement of the term of the lease, make application to the Commissioner in open court for a certificate to the following effect:—

- (1) That the conditions of the license and lease respectively have been duly performed; and
- (2) That a sum at the rate of ten shillings, five shillings, or two shillings and sixpence, respectively, per acre has been expended in substantial and permanent improvements on the land according as the purchasing price of the Homestead was stated in the Proclamation declaring the land open for selection to be a sum not less than twenty shillings, or less than twenty shillings but not less than fifteen shillings, or less than fifteen shillings respectively.

If the Commissioner refuses to give the certificate the applicant may, within the prescribed time, appeal to the Court from the decision of the Commissioner, and if the appeal is allowed the Commissioner shall give the certificate.

Any applicant who obtains such certificate as aforesaid shall, upon payment at the Treasury, in Brisbane, or other place appointed by the Governor in Council, within two months from the date of the certificate or such other time as may be prescribed, of a sum which together with the rent already paid will make up the sum of two shillings and sixpence per acre, together with the deed fee and assurance fee, be entitled to a Deed of Grant of the land in fee-simple.

If conditions
not fulfilled,
land to revert
to the Crown.

139. If the selector or such other person as aforesaid shall not, within six months after the expiration of the term of the lease, become the purchaser of the Homestead, the Homestead shall be forfeited and shall revert to Her Majesty.

Loss of Homestead through Misfortune.

Right to
acquire
fee-simple in
certain cases,
although
fee simple of
other land

140. Notwithstanding anything to the contrary in this Act contained, if any person who has obtained a Deed of Grant of a Homestead Selection under "*The Crown Lands Alienation Act of 1876*"* or any of the Acts thereby

* 40 Vic. No. 15, "Cooper's Statutes," page 695.

repealed, or of an Agricultural Farm under section seventy-four of "*The Crown Lands Act of 1884*,"* or of an Agricultural Homestead under the provisions of this Act, and who has *bona fide* transferred the same to another person, proves to the satisfaction of the Minister that such transfer arose from circumstances of disaster or misfortune, the person who has so transferred as aforesaid shall thereupon be competent to apply for an Agricultural Homestead under the provisions of this Part of this Act.

Restrictions with respect to Agricultural Homesteads.

141. No person shall, save as is herein otherwise expressly provided, apply for or acquire in his own right more than one Agricultural Homestead.

But a qualified person may apply for or acquire two or more contiguous Agricultural Homesteads the aggregate area whereof does not exceed—

- (1) One hundred and sixty acres, if the purchasing price of any part of the aggregate area was stated in the Proclamation declaring such part open for selection to be a sum not less than twenty shillings per acre;
- (2) Three hundred and twenty acres, if the purchasing price of no such part was stated to be a sum not less than twenty shillings per acre, but the purchasing price of some such part was stated to be a sum not less than fifteen shillings per acre;
- (3) Six hundred and forty acres, if the purchasing price of no such part was stated to be a sum not less than fifteen shillings per acre.

142. No person who has selected or acquired a Homestead Selection under "*The Crown Lands Alienation Act of 1876*,"† or any of the Acts thereby repealed, or an Agricultural Farm under section seventy-four of "*The Crown Lands Act of 1884*,"* the purchasing price whereof was specified in the Proclamation declaring the land open for selection to be not less than twenty shillings per acre, shall, save as is herein otherwise expressly provided, be competent to apply for an Agricultural Homestead, or to acquire the same in his own right:

Provided nevertheless that any person who has acquired such a Homestead Selection or Agricultural Farm of an area not exceeding one hundred and sixty acres in either

* 48 Vic. No. 28, *supra*, page 1137.

† 40 Vic. No. 15, "Cooper's Statutes," page 695.

case may select or acquire an Agricultural Homestead or Homesteads contiguous to such Homestead Selection or Agricultural Farm if the aggregate area of such Homestead Selection or Agricultural Farm and such Agricultural Homestead or Homesteads does not exceed one hundred and sixty acres.

Privileges of Holders of certain Agricultural Farms under the repealed Acts.

Privilege of holders of certain Agricultural Farms under repealed Acts.

143. Any licensee or lessee of an Agricultural Farm under "*The Crown Lands Act of 1884*,"* the area whereof does not exceed one hundred and sixty acres, and the purchasing price whereof was specified in the Proclamation declaring the land open for selection to be less than twenty shillings per acre, may select one or more Agricultural Homesteads within a distance of five miles from his Farm; but the total area of such Farm and Homesteads shall not exceed three hundred and twenty acres, and no Homestead shall be so selected unless the purchasing price thereof is stated in the Proclamation declaring the land open for selection to be a sum less than twenty shillings per acre.

The Farm and Homestead or Homesteads shall be deemed to be parts of the same selection, so that the condition of occupation of those selections may be performed by the residence of the selector upon any of them.

Privilege of holder of Farm in Agricultural Township under repealed Acts. [Compare 50 Vic. No. 33, s. 22.]

144. Any person who has selected an Agricultural Farm of an area not exceeding eighty acres, under section twenty-two of "*The Crown Lands Act Amendment Act of 1886*,"† may select an additional area within five miles of such Farm as an Agricultural Homestead; but the total area of such Farm and Homestead shall not exceed one hundred and sixty acres.

The portion of land in the Agricultural Township to which the selector is entitled under the provisions of that section and the Farm and Homestead shall be deemed to be parts of the same selection, so that the condition of occupation of the Farm or Homestead may be performed by the residence of the selector either upon the Homestead or Farm or upon the portion in the Township.

Privileges of Selectors of Agricultural Homesteads.

Right of holders of Agricultural Homesteads to select Grazing Farms.

145. Any selector of an Agricultural Homestead may select a Grazing Farm of an area not exceeding six hundred and forty acres situated within a distance of fifteen miles from his Homestead, and he shall in such case, but for

* 48 Vic. No. 28, *supra*, page 1137.

† 50 Vic. No. 33, *supra*, page 1174.

so long only as he continuously and *bonâ fide* resides on the Agricultural Homestead, be exempt from the condition of occupation in respect of the Grazing Farm. [Compare 53 Vic. No. 14, s. 3 (2).]

146. It shall be lawful for the Minister, if satisfied that a will has been left by any deceased person being the selector of an Agricultural Homestead, and that no probate of such will and no letters of administration with the will annexed of the lands or goods of such person has or have been taken out within six months after the death of such person, or that no will has been left by such deceased person, and that no letters of administration of the lands or goods of such deceased person have been taken out within such time as aforesaid, and if also satisfied that the value of the estate of such person is not sufficient to justify the expense of taking out such probate or letters of administration with the will annexed, or such letters of administration, as the case may be, to cause transmission of such selection to be entered up in the records of the Department of Public Lands in favour of the person or persons who would have been entitled upon the grant of such probate or letters of administration with the will annexed, or such letters of administration, as the case may be, to be entered up as the selector of such Agricultural Homestead. And thereupon the person or persons in whose favour such transmission shall be entered up shall have all the rights, powers, and liabilities in respect of such selection as he, she, or they would have had if probate of the will or letters of administration with the will annexed, or letters of administration of the estate of such deceased person had been granted to him, her, or them respectively.

Transmission without probate or letters of administration in cases of Agricultural Homesteads. [Compare 58 Vic. No. 25, ss. 27, 28.]

Co-operative Selectors of Agricultural Homesteads.

147. (1.) If it is proved to the satisfaction of the Commissioner in open court that the selectors of a group of two or more Agricultural Homesteads are *bonâ fide* associated together for mutual assistance, and for the purpose of the *bonâ fide* occupation and improvement of the Homesteads, the Commissioner may, if he thinks fit, issue a Special License enabling any one of the selectors of the Homesteads specified in the License to perform the conditions of occupation and improvement in respect of any of those Homesteads on behalf of any other or others of the selectors as well as on his own behalf, but the number of selectors in actual occupation of some one or more of the Homesteads shall not at any time be less than half the whole number of selectors. [Compare 55 Vic. No. 19, s. 18; 58 Vic. No. 25, s. 21.]

(2.) When a Special License has been issued, and while it is in force with respect to any Homesteads, the condition of occupation may be performed in respect of any of the Homesteads with respect to which the Special License is in force, by the residence upon any one of those Homesteads of any one or more of the selectors of the Homesteads, not being less than the proportionate number aforesaid.

(3.) When a Special License has been issued, if the value of the substantial and permanent improvements effected upon any one of the Homesteads while the Special License is in force with respect to it exceeds a sum equal to ten shillings per acre of the land comprised in that Homestead, the surplus value may be attributed to any other of the Homesteads, and shall be attributed to such Homestead or Homesteads as the selector of the Homestead on which the improvements are effected notifies to the Commissioner.

(4.) If a selector named in a Special License dies, the Special License shall nevertheless continue in force with respect to his Homestead.

(5.) A selector of a Homestead named in a Special License may withdraw from the association; and upon his notifying to the Commissioner that he has so withdrawn, the Special License shall cease to have effect so far as regards him or his Homestead.

(6.) If a Homestead named in a Special License is forfeited, the Special License shall cease to have effect so far as regards that Homestead.

(7.) No appeal shall lie to the Court from any decision of the Commissioner under this section.

148. For the purposes of the last preceding section selectors of Agricultural Farms under the repealed Acts who have taken advantage of the provisions of section eighteen of "*The Crown Lands Act of 1891*,"* as amended by "*The Crown Lands Act of 1894*,"† shall be deemed selectors of Agricultural Homesteads under this Act.

supersede
with selectors
under this
Act.

Subdivision IV.—Grazing Farms and Grazing Homesteads.

Conditions of Lease.

Issue and
conditions
of lease of
Grazing Farm
or Homestead.

149. Upon the receipt by the Minister of a certificate that a Grazing Farm or Homestead has been fenced as hereinbefore prescribed, the selector shall be entitled

* 55 Vic. No. 19, *supra*, page 4288.

† 58 Vic. No. 25, *supra*, page 4976.

to a lease thereof from Her Majesty, subject to the conditions following and (in the case of a Grazing Homestead) to the modifications of such conditions hereinafter prescribed, that is to say,—

- (1) The term of the lease shall be fourteen years, twenty-one years, or twenty-eight years as may be stated in the Proclamation declaring the land open for selection, and shall be computed from the first day of January or first day of July nearest to the date of the license.
- (2) The annual rent reserved under the lease shall be, during the first period of seven years of the term of the lease, the rent specified by the Proclamation declaring the land open for selection, or the amount specified by the selector in his tender under the provision in that behalf hereinbefore contained, as the case may be;

[Compare
48 Vic. No. 28,
s. 58; 50 Vic.
No. 33, s. 16;
53 Vic. No. 14,
s. 3 (3).]
Term of lease.

Annual rent
for first
period.

Re-assess-
ment of rent.
- (3) The rent shall be payable in respect of the year ending on the thirty-first day of December, at the Treasury, in Brisbane, or at any other place appointed by the Governor in Council, on or before the thirty-first day of March in each year:

Rent, when
and where
payable.

Provided that in cases where the term of the lease is computed from the first day of July the rent payable on the thirty-first day of March in the first year of the term shall be in respect only of the six months ending on the thirty-first day of December then next ensuing, and the rent payable on the thirty-first day of March in the last year of the term shall be in respect only of the six months ending on the thirtieth day of June then next ensuing.

- (4) In determining a re-assessment of rent the Court shall have regard to—

Re-assess-
ment, how
determined.
- (a) The quality and fitness of the land for grazing purposes;

Penalties for
default in
payment.

- (b) The number of stock which the selection may reasonably be expected to carry in average seasons;
 - (c) The distance of the selection from railway or water carriage;
 - (d) The natural supply of water, and the facilities for the raising or storage of water; and
 - (e) Any other matters which, in the opinion of the Court, affect the rental value of the land.
- (5) If default is made by the lessee in the payment of rent the lease shall be forfeited, but the lessee may defeat the forfeiture by payment of the rent within ninety days from the date hereinbefore appointed for payment thereof with the addition of a sum by way of penalty calculated as follows, that is to say—if the rent is paid within thirty days five per centum is to be added, if the rent is paid within sixty days seven and a half per centum is to be added, and if the rent is paid after sixty days ten per centum is to be added; but unless the whole of the rent together with such penalty is paid within ninety days from the appointed day, the selection shall be absolutely forfeited:

Provided that notwithstanding such forfeiture the Minister may waive the forfeiture and reinstate the selector upon payment of the arrears of rent due at the date of such forfeiture and the accrued penalty.

- (6) The lessee shall occupy the land continuously and *bond fide* during the term of the lease;

Such occupation shall be by the continuous and *bond fide* residence on the land of the lessee himself or of some other person who is the actual and *bond fide* manager or agent of the lessee for the purpose of the use and occupation of the land, and who is himself qualified to select a similar selection;

Every appointment of a manager or agent by the lessee shall be in writing signed by the parties or their agents, and shall be in duplicate; and one copy thereof shall be registered in the office of the Commissioner;

Occupation by a person under an unregistered appointment shall not be recognised.

Occupation
to be by
personal
residence or
residence of
manager
or agent.

- (7) The lessee shall keep the land fenced with a good and substantial fence during the whole term of the lease:

Provided that any fencing which is necessary and sufficient to satisfy the conditions of fencing in respect of Grazing Selections hereinbefore imposed shall be necessary, and shall, if maintained, be sufficient to satisfy this condition.

- (8) If at any time during the term of the lease it is proved to the satisfaction of the Commissioner that the lessee has failed in regard to the performance of the condition of occupation or fencing, the Minister may (subject to the provisions in respect of forfeiture hereinbefore contained), by notification in the *Gazette*, declare the lease absolutely forfeited and vacated; and thereupon the selection shall revert to Her Majesty.
- (9) When the rent of a selection is to be determined by the Court the lessee shall, until it is determined, continue to pay at the prescribed time and place the same amount of annual rent as theretofore; and when the amount of rent is determined by the Court the lessee shall, on the next thirty-first day of March, pay at the prescribed place any arrears of rent found due by him at the rate so determined, so as to adjust the balance due to the Crown.

Forfeiture
for non-per-
formance of
conditions of
occupation or
fencing.

Rent to be
paid pending
re-assessment.

Restrictions with respect to Grazing Selections.

150. No person who—

- (1) Is a lessee of, or beneficially interested or interested as mortgagee or mortgagor in, a holding under Part III. of this Act or Part III. of "*The Crown Lands Act of 1881*";* or
- (2) Is a trustee for any such lessee otherwise than under a will; or
- (3) Is a servant of any such lessee—

Lessees under
Part III.
not to hold
Grazing Farm
or Homestead
in same
locality.
[Compare
18 Vic. No. 28,
s. 59.]

may apply for or acquire or hold a Grazing Farm or Homestead which is situated on the resumed part of the run, or within fifteen miles of the holding.

Pastoral
tenants not
to hold
Grazing
Farm or
Homestead in
same locality.
[Compare
48 Vic. No.
28, s. 59.]

151. No person who—

- (1) Is a pastoral tenant, or is beneficially interested or interested as mortgagee or mortgagor in any run; or
- (2) Is a trustee for any pastoral tenant otherwise than under a will; or
- (3) Is a servant of any pastoral tenant—

may apply for or acquire or hold a Grazing Farm or Homestead which is situated within fifteen miles of the run.

Limitation
of right to
acquire
Grazing
Farms.

152. No person who is or has been the licensee or lessee of a Grazing Farm shall, within three years after the acquisition thereof, apply for or acquire any other Grazing Farm than a Grazing Farm situated within the same District, the area of which, together with the area of the first-mentioned farm, does not exceed the maximum area of land for the time being permitted to be selected as a Grazing Farm in that District.

Co-operative Selectors of Grazing Selections.

Co-operative
selectors of
Grazing
Selections.

153. (1.) If it is proved to the satisfaction of the Commissioner in open court that the selectors of a group of two or more Grazing Selections, none of such Selections having an area exceeding two thousand five hundred and sixty acres, are *bonâ fide* associated together for mutual assistance, and for the purpose of *bonâ fide* occupation and improvement of the Selections, the Commissioner may, if he thinks fit, issue a Special License enabling any one of the selectors of the Selections specified in the license to perform the conditions of occupation in respect of any of those Selections on behalf of any other or others of the selectors as well as on his own behalf, but the number of selectors personally residing on some one or more of the Selections shall not at any time be less than half the whole number of selectors.

(2.) When a Special License has been issued and while it is in force with respect to any Selections, the condition of occupation may be performed in respect of any of the Selections with respect to which the Special License is in force by the residence upon any one of those Selections of any one or more of the selectors, not being less than the proportionate number aforesaid.

(3.) If a selector named in a Special License dies, the Special License shall nevertheless continue in force with respect to his Selection.

(4.) A selector named in a Special License may withdraw from the association; and upon his notifying the Commissioner that he has so withdrawn, the Special License shall cease to have effect so far as regards him or his Selection.

(5.) If a Selection named in a Special License is forfeited, the Special License shall cease to have effect so far as regards that Selection.

(6.) No appeal shall lie to the Court from any decision of the Commissioner under this section.

Grazing Homesteads.

154. With respect to Grazing Homesteads, the following provisions shall have effect by way of modification of the conditions of lease hereinbefore prescribed:—

- (1) The lessee shall occupy the land continuously and *bonâ fide* during the term of the lease:—

Such occupation shall during the first five years of the term of the lease be by the continuous and *bonâ fide* personal residence of the lessee on the land:

Provided that if the original lessee dies before the expiration of such period of five years the condition of occupation may be performed by the continuous and *bonâ fide* residence on the Selection for the remainder of the term of some person beneficially interested in the Selection under the will, or as one of the next-of-kin, or as the widow or widower of the original lessee, or of some other person who is the actual and *bonâ fide* manager or agent of some person so interested for the purpose of the use and occupation of the land, and whose appointment is made and registered in manner hereinbefore prescribed, whether such other person is or is not himself qualified to select a similar selection:

Provided further that if the original lessee becomes insane before the expiration of such period, the Court may allow the condition of occupation to be performed by the continuous and *bonâ fide* residence upon the Selection of the wife or husband or some other member of the family of such lessee, or of some other person who is the actual and *bonâ fide* manager or agent of his wife or other member of his

Modification
of conditions
of lease
of Grazing
Homesteads.
[Compare
58 Vic. No. 25,
s. 5 (2) (b).]
Occupation
for first five
years to be
by personal
residence.

Prohibition
of mortgage
or transfer
for five years.

- family, and whose appointment is made and registered in manner hereinbefore prescribed, whether such other person is or is not himself qualified to select a similar selection.
- (2) The lessee shall not, before the expiration of five years from the commencement of the lease or the death of the original lessee, whichever first happens, mortgage, assign, or transfer the lease or his right, title, or interest thereunder to any other person. Upon any such mortgage, assignment, or transfer, whether by operation of law or otherwise (except in case of the insanity of the lessee), the Selection shall be forfeited.

Subdivision V.—Scrub Selections.

What lands
may be
proclaimed as
Scrub
Selections.

155. Any Country Lands which are entirely or extensively overgrown by scrub may be proclaimed open for selection as Scrub Selections in the following classes, that is to say,—

Classification
of scrub lands.

The First Class—consisting of land overgrown by scrub to the extent of not more than one fourth part of its area;

The Second Class—consisting of land overgrown by scrub to the extent of not more than one half of its area;

The Third Class—consisting of land overgrown by scrub to the extent of not more than three fourth parts of its area;

The Fourth Class—consisting of land overgrown by scrub to the extent of more than three fourth parts of its area:

Provided that the Governor in Council may, when proclaiming any land open for selection as a Scrub Selection, assign to such land a higher or lower classification, as the case may require, than would be assigned to such land by the operation of this section.

Issue and
conditions
of lease of
Scrub Selection.

156. When an application to select land as a Scrub Selection has been approved by the Court, and the applicant has, within the prescribed time, paid the value of the improvements (if any), the applicant shall be entitled to a lease of the land from Her Majesty, subject to the following conditions:—

Term of lease.

- (1) The term of the lease shall be thirty years, computed from the first day of January or the first day of July nearest to the date of the approval.

- (2) The annual rent reserved under the lease shall be as follows:—

- (a) In the case of Scrub Selections of the first class, a peppercorn for the first five years, one halfpenny per acre for the next succeeding ten years, and one penny per acre for the remaining fifteen years;
- (b) In the case of Scrub Selections of the second class, a peppercorn for the first ten years, one halfpenny per acre for the next succeeding ten years, and one penny per acre for the remaining ten years;
- (c) In the case of Scrub Selections of the third class, a peppercorn for the first fifteen years, one halfpenny per acre for the next succeeding seven years, and one penny per acre for the remaining eight years;
- (d) In the case of Scrub Selections of the fourth class, a peppercorn for the first twenty years, and one penny per acre for the remaining ten years.

- (3) During the period of the lease during which the lessee pays a peppercorn rent he shall in every year clear a portion of the scrub upon his Selection bearing the same proportion to the whole of the scrub as one year bears to the whole number of years in that period, until the whole has been cleared, and shall keep clear of scrub every part of the Selection upon which the scrub has been previously cleared.

Selection to
be cleared;
penalty for
default.

The condition hereby imposed shall be deemed to be sufficiently performed if the scrub on the Selection is killed by ringbarking or otherwise and the land kept clear of scrub and undergrowth.

If it is proved to the satisfaction of the Commissioner that the lessee has in any year failed to perform the condition hereby imposed upon him, the Minister may (subject to the provisions in respect of forfeiture hereinbefore contained) declare the lease absolutely forfeited and vacated, and thereupon the Selection shall revert to Her Majesty.

Selection to
be fenced ;
penalty for
default.

(4) During the period of the lease during which the lessee pays a peppercorn rent he shall enclose the whole of the Selection with a good and substantial fence, and on proof of default to the satisfaction of the Commissioner, the Minister may (subject to the provisions in respect of forfeiture hereinbefore contained) declare the lease absolutely forfeited and vacated, and thereupon the Selection shall revert to Her Majesty.

Rent, when
and where
payable.

(5) The rent shall be payable at the Treasury, in Brisbane, or at any other place appointed by the Governor in Council, on or before the thirty-first day of March in each year.

Penalties for
default in
payment.

(6) If default is made by the lessee in payment of rent, the lease shall be forfeited, but the lessee may defeat the forfeiture on payment of the rent within ninety days from the date hereinbefore appointed for payment thereof, with the addition of a sum by way of penalty calculated as follows, that is to say—if the rent is paid within thirty days five per centum is to be added, if the rent is paid within sixty days seven and a half per centum is to be added, and if the rent is paid after sixty days ten per centum is to be added; but unless the whole of the rent together with such penalty is paid within ninety days from the appointed day, the Selection shall be absolutely forfeited.

No compensa-
tion for
clearing of
scrub, except
in case of
resumption.

157. In awarding compensation for improvements upon Scrub Selections under Part VIII. of this Act to the lessee on the determination of the lease, the Commissioner shall not have regard to the clearing of scrub.

But where compensation for such improvements is awarded upon resumption of the selection or any part thereof, the Court in determining the amount of such compensation shall have regard to the clearing of scrub on the Selection or on such part.

Subdivision VI.—Unconditional Selections.

Proportion of
purchasing
price under
alternative
modes of
selection.
[55 Vic. No.
19, s. 6.]

158. When land is proclaimed open for selection as an Agricultural Farm and alternatively as an Unconditional Selection, the purchasing price to be paid by a person who selects the land as an Unconditional Selection shall be greater by one-third than the purchasing price to be paid by a person who selects the land as an Agricultural Farm.

159. When an application to select land as an Unconditional Selection has been approved by the Court, and the applicant has within the prescribed time paid the value of the improvements (if any), the applicant shall be entitled to a lease of the land from Her Majesty subject to the following conditions:—

- (1) The term of the lease shall be twenty years, computed from the first day of January or the first day of July nearest to the date of the approval. Term of lease.
- (2) The annual rent reserved by the lease shall be the rent specified by the Proclamation declaring the land open for selection, or the amount specified by the selector in his tender under the provision in that behalf hereinbefore contained, as the case may be. Annual rent.
- (3) The rent shall be payable in respect of the year ending on the thirty-first day of December, and shall be payable at the Treasury, in Brisbane, or at any other place appointed by the Governor in Council, on or before the thirty-first day of March in each year: Rent, when and where payable.

Provided that in cases where the term of the lease is computed from the first day of July, the rent payable on the thirty-first day of March in the first year of the term shall be in respect only of the six months ending on the thirty-first day of December then next ensuing, and the rent payable on the thirty-first day of March in the last year of the term shall be in respect only of the six months ending on the thirtieth day of June then next ensuing. Proviso for readjustment.

- (4) If default is made by the lessee in the payment of rent the lease shall be forfeited, but the lessee may defeat the forfeiture by payment of the rent within ninety days from the date hereinbefore appointed for payment with the addition of a sum by way of penalty, calculated as follows, that is to say—if the rent is paid within thirty days five per centum is to be added, if the rent is paid within sixty days seven and a half per centum is to be added, and if the rent is paid after sixty days ten per centum is to be added; but unless the whole of the rent together with such penalty is paid within ninety days from the appointed day, the selection shall be absolutely forfeited. Penalties for default in payment.

Acquisition of the freehold during the term.

(5) At any time during the term of the lease the lessee may pay at the Treasury, in Brisbane, or other place appointed by the Governor in Council for the payment of the rent, a sum equal to the whole amount of the rent that would be payable during the unexpired portion of the term of the lease, together with the deed fee and assurance fee, and shall thereupon be entitled to a Deed of Grant of the land in fee-simple.

Acquisition of the freehold on payment of last year's rent.

(6) If the lessee does not, during the term of the lease, take advantage of the last preceding provision he shall, on payment of the last year's rent with the deed fee and assurance fee, be entitled to a Deed of Grant of the land in fee-simple.

Consequence of forfeiture. [55 Vic. No. 19, s. 13.]

160. If the lease of an Unconditional Selection is determined by forfeiture before the expiration of the term of the lease, the land shall become Crown lands, and may be dealt with in any way in which Crown lands may be dealt with under this Act.

Impounding. [55 Vic. No. 19, s. 14.]

161. A lessee of an Unconditional Selection shall not be entitled to impound any stock found trespassing on any part of the land which is not enclosed with a good and substantial fence, except in the case of wilful trespass.

Conversion of Agricultural Farms and Unconditional Selections.

Lessee of Agricultural Farm may come under the preceding provisions. [Compare 55 Vic. No. 19, s. 16.]

162. (1.) Any lessee of an Agricultural Farm selected under this Act or selected under the repealed Acts and brought under the operation of this Act as hereinbefore provided may, at any time after the issue of his lease under this Act surrender the lease, and shall upon such surrender be entitled to a lease of the land as an Unconditional Selection under the provisions of this Act. The term of the new lease shall be from the first day of January or first day of July nearest to the date of the surrender, and the purchasing price shall be the same as in the surrendered lease.

Lessee of Unconditional Selection may obtain lease of land as an Agricultural Farm.

(2.) Any lessee of an Unconditional Selection selected under this Act or the repealed Acts may at any time surrender the lease. Upon such surrender the selector shall be entitled to receive a lease of the land as an Agricultural Farm.

The term of the new lease shall be twenty years, and shall be computed from the first day of January or the first day of July nearest to the date of the surrender. The purchasing price under the new lease shall be the same as in the surrendered lease, and the rent payable shall be one-fortieth part of such purchasing price.

When the selector applies to take advantage of the provisions entitling him to a Deed of Grant of the land in fee-simple, all sums of money which have been paid in respect of the rent of the selection, whether under the original lease or under the new lease, shall be credited to the selector in part payment of the prescribed price, and the amount to be paid by him in respect of such price shall be reduced accordingly.

PART V.—OCCUPATION LICENSES.

163. The Minister may grant licenses to occupy, from year to year, any Crown lands not subject to a right of depasturing under Part III. of this Act or Part III. of "The Crown Lands Act of 1884,"* and not held under an occupation license under Part V. of the last-mentioned Act. Licenses from year to year may be granted. [Compare 48 Vic. No. 28, s. 77.]

164. (1.) The land shall be declared open for such occupation by the Minister by notification in the *Gazette*, specifying the areas to be occupied and the rent per square mile, and appointing a place and a time (not being less than four weeks from the date of the notification) at which the land will be so open; and at and after the time so notified the land shall be open for occupation accordingly. Conditions with respect to occupation licenses. [Compare 48 Vic. No. 28, s. 77; 53 Vic. No. 14, s. 3 (5) & 55 Vic. No. 19, s. 27.]

(2.) Applications for licenses shall be made to the Commissioner. Applications to be made to Commissioner.

(3.) The first applicant shall be entitled to the license: Provided that when two or more applications for the same area are lodged at the same time, the Commissioner shall, at the time appointed for considering them, cause such area to be offered at auction to the several applicants and to no other persons; and the applicant who makes the highest bid for such area, and pays the amount of the rent to the Land Agent, shall be declared the successful applicant, and the annual rent payable by him in respect of such area shall be the amount so bid by him instead of the sum specified in the notification as aforesaid: When two or more applicants, highest bidder to be declared successful applicant.

* 48 Vic. No. 28, *supra*, page 1137.

Priority in
case of
application
by person at
whose request
the land was
declared open.

Provided nevertheless that when any person makes a request in writing to the Minister that any specified area of land may be declared open for occupation, and the land is thereupon so declared open, the Minister may notify to the Commissioner that it was declared open at the request of such person; and if at or before the time appointed by the Proclamation an application by such person for a license is lodged at the Land Agent's office, the application of such person shall be entitled to priority:

Priority of
lessees for ten
years under
Part III. of
"The Crown
Lands Act of
1884."

Provided always that when within one year after the expiration of the term of a lease for ten years under Part III. of "The Crown Lands Act of 1884,"* or one year after the commencement of this Act, whichever shall be later, the land formerly held by the lessee or any part thereof is declared open for occupation, and such lessee duly makes application for the license, he shall be entitled to priority over all other applicants.

Term of
license.

(4.) Every such license shall expire on the thirty-first day of December of the year in which it is granted, unless renewed as hereinafter provided.

Annual rent.

(5.) The annual rent shall be the amount specified by the notification or bid by the licensee, as the case may be, until increased as hereinafter provided, and shall be paid at the time of the application or auction.

If the date of the application is after the thirtieth day of June, one-half of the annual rent only shall be payable. If that date is after the thirtieth day of September, the whole of the next year's rent shall also be paid at the time of application.

Renewal of
license.

(6.) The license may be renewed for another year, and so on from year to year, upon payment, on or before the thirtieth day of September, at the Treasury, in Brisbane, or other place appointed by the Governor in Council in that behalf, of the next year's rent.

Penalty for
non-payment
of rent.

(7.) If default is made by the licensee in the payment of rent the license shall be forfeited, but the licensee may defeat the forfeiture by payment of the full amount of rent within ninety days from the date hereinbefore appointed for payment thereof, with the addition of a sum by way of penalty calculated as follows, that is to say—if the rent is paid within thirty days five per centum is to be added, if the rent is paid within sixty days seven and a half per

centum is to be added, and if the rent is paid after sixty days ten per centum is to be added; but unless the whole of the rent together with the penalty is paid within ninety days from the appointed day, the land comprised in the license shall be absolutely forfeited.

(8.) The land comprised in any license may be pro- Land may be claimed open for selection under the provisions of Part IV. of this Act. proclaimed open for selection.

(9.) If any part of the land is selected, the rent shall abate in proportion. Abatement of rent.

(10.) The Minister may at any time before the first day of September in any year give notice to the licensee that the next year's rent will be increased by an amount not exceeding twenty-five per centum of the rent then fixed, and the rent shall be increased accordingly. Increase of rent.

(11.) The license shall be determinable at the end of any year by six months' notice given by the Minister to the licensee. Determination of license.

(12.) If, in the opinion of the Court, any licensee is injuriously using the land comprised in the license by overstocking it, the Court may require him to reduce the number of his stock thereon to such an extent as the Court may think fit; and if the licensee fails to comply with such requisition within three months after receipt thereof, the license shall be determined. Provision in case of overstocking.

(13.) A licensee may, before making any improvements on the land comprised in the lease, make application in writing to the Court for its approval, specifying the nature of the proposed improvements and the part of the land on which he proposes to make them, and the Court may refuse to grant its approval, or may grant it upon such conditions as it thinks fit. Court may approve of improvements to be made by licensee. [Compare 56 Vic. No. 16, s. 8.]

(14.) When a licensee has, with the approval of the Court, made improvements upon the land comprised in the license, he shall, in the event of the land on which the improvements are made being selected, be entitled to receive as compensation in respect of the improvements such sum as fairly represents the value of them to the selector. Such sum shall be paid by the selector before the issue to him of a license to occupy, under the provisions of this Act. Compensation for such improvements. [Compare 56 Vic. No. 16, s. 8.]

PART VI.—SALES BY AUCTION.

Subdivision I.—Sale of Town and Suburban Lands.

Governor may
cause town
or suburban
lands to be
sold by
auction.
[48 Vic.
No. 28, s. 78.]

165. The Governor in Council may cause any town or suburban lands to be offered for unconditional sale by public auction by any Land Agent, auctioneer, or other person authorised by the Minister, and may cause maps of such lands to be prepared, which maps shall show and specify the counties, parishes, or towns in which the lands are situated, and all reserves intended to be made, and the boundaries and areas of the lands intended to be sold, and shall also show the lengths and bearings of all boundary lines comprised therein, and such maps shall be deposited as public maps at the Department of Public Lands in Brisbane.

Classes of
land to be
stated.
[48 Vic.
No. 28, s. 79.]

166. All such lands shall be distinguished as town or suburban lots, according to their respective positions, and shall be offered as nearly as may be in areas according to the following scale:—

Town lands in allotments of from one rood to one acre;

Suburban lands within one mile from town lands in lots of from one acre to five acres;

Suburban lands over one mile from town lands in lots of from one acre to ten acres.

Proclamation
of land for
sale.
[48 Vic.
No. 28, s. 80.]

167. The place and time of sale shall be notified by Proclamation published in the *Gazette* not less than four weeks or more than three months prior to the day of sale, and the Proclamation shall specify the numbers of the lots and the area and upset price of each lot: But any lot may be withdrawn from sale by the Minister at any time prior to the same being actually offered for sale and bid for.

Special con-
ditions may be
imposed.

The Proclamation may impose any special conditions with respect to the sale of any specified lot or lots, and may add the value of improvements on any land to the upset price.

Upset price.
[48 Vic.
No. 28, s. 81.]

168. The upset price shall not be less than—

Eight pounds per acre for town lands, and

Two pounds per acre for suburban lands:

But the upset price may be fixed at any larger sum.

Conditions to
be read.
[48 Vic.
No. 28, s. 82.]

169. The Land Agent, auctioneer, or other person authorised by the Minister shall before the commencement of the sale read the terms and conditions of sale, and all

persons bidding at the sale shall be bound by the terms and conditions so read.

170. The highest bidding for each lot, together with the name of the purchaser, shall be announced by the Land Agent, auctioneer, or such other person as aforesaid before he proceeds to offer the next lot, and the purchaser shall thereupon pay a deposit of one-fifth of the purchase money.

171. The balance of the purchase money and any further sum which may have been fixed as the value of the improvements on the land, together with the deed fee, assurance fee, and survey fee, shall be paid to the Land Agent at his office within one month from the date of the sale, and upon such payment being duly made the purchaser shall be entitled to a Deed of Grant of the land in fee-simple.

If the purchaser of Crown lands sold at auction assigns his interest in the land before the payment of the balance of the purchase money, the assignment may be registered at the Department of Public Lands, upon payment of a fee of twenty shillings, or such other fee as may be prescribed, and the assignee shall thereupon succeed to all the rights of the assignor with respect to the land, and may in like manner assign his interest therein.

172. If the balance of the purchase money, and the sum (if any) payable in respect of improvements, together with the deed fee, assurance fee, and survey fee, are not paid to the Land Agent within one month from the day of the sale, the deposit shall be absolutely forfeited, and the depositor shall have no further claim to the land on account thereof.

173. Notwithstanding anything to the contrary in the three last preceding sections, the Governor in Council may, by the Proclamation notifying the sale of any land by public auction, vary the conditions with respect to the times at which payment of the purchase money of land sold by auction is to be made, and may impose such other conditions with respect to the amount of the deposit to be paid in cash, and the time or times for payment of the balance of the purchase money, as the Governor in Council may think fit; but so that the time for payment of such balance shall not be extended beyond three years from the time of the sale.

Value of improvements may be paid to owner or person in possession. [48 Vic. No. 28, s. 56.]

174. The Governor in Council may, by Proclamation, direct that the value of any improvements on any lot which were made thereon before the land was surveyed shall be paid to the owner or person in possession of such improvements at the time of the sale, and in such case it shall be sufficient that the purchaser, instead of paying the value of the improvements to the Land Agent, produce to the Land Agent a receipt in full for such value signed by the owner or person in possession.

Proclamation of sale may notify land not bid for open to purchase by first applicant. [48 Vic. No. 28, s. 87; 55 Vic. No. 19, s. 29.]

175. Any Proclamation of lands for sale by auction may specially declare that any lands therein mentioned which shall not be bid for or shall not be withdrawn from sale either before or after offer at auction shall be open to purchase by the first applicant at the upset price: and in every such case all such lands shall be open to purchase accordingly on payment to the Land Agent of the full upset price, together with the deed fee, assurance fee, and survey fee, and any further sum which may have been fixed as the value of improvements on the land.

The price may be paid in the same instalments and at the same periods as if the land had been bought at the auction, and the purchaser may assign his interest, and the assignment may be registered in the same manner.

Subdivision II.—Sale of Country Lands.

Sale of country lands by auction. [50 Vic. No. 33, s. 26; 53 Vic. No. 14, s. 10.]

176. The Governor in Council may cause country lands to be offered for sale by public auction:

Limit of area to be sold annually.

Provided that no more than one hundred and fifty thousand acres of country lands shall be sold in any one year.

Area and price.

[54 Vic. No. 19, s. 33.]

177. The area of any portion of country lands so sold shall not exceed three hundred and twenty acres. The upset price in the case of land which in the opinion of the Court is agricultural land shall be not less than one pound per acre, and in the case of other lands shall be not less than ten shillings per acre.

Provisions on sale of town lands to apply. [50 Vic. No. 33, s. 26.]

178. In all other respects the provisions of this Part of this Act, relating to the sale of town and suburban lands by auction, shall apply to the sale of country lands by auction.

PART VII.—MORTGAGES; SPECIAL GRANTS AND LEASES; RESERVES AND COMMONS; RECLAMATION OF LANDS

Subdivision I.—Mortgages of Holdings.

179. When any holding under Part III. of this Act, Mortgages of or Part III. of "The Crown Lands Act of 1884,"* or any certain holdings holding under Part IV. of this Act, or under Part IV. of under this "The Crown Lands Act of 1884,"* is intended to be Act and charged or made security for the payment of any sum of repealed money, the lessee, in the case of a holding under Part [Compare 48 Vic. No. 28, III. of this Act, or under Part III. of "The Crown Lands s. 65.] Act of 1884,"* may, and in the case of a holding under Part IV. of this Act, or under Part IV. of "The Crown Lands Act of 1884,"* shall execute a memorandum of mortgage in the form in the Fourth Schedule to this Act Schedule IV. or to the like effect.

Every memorandum of mortgage shall be in duplicate, and one copy thereof shall be registered at the Department of Public Lands.

A mortgage may be transferred or discharged, and a duplicate of every transfer and discharge shall be registered at the Department of Public Lands.

In the case of several mortgages of the same holding or several transfers of the same mortgage, the mortgage or transfer shall take effect according to priority of registration.

A fee of five shillings, or such other fee as may be prescribed, shall be payable upon the registration of every such memorandum of mortgage, transfer, or discharge in respect of every holding comprised in or affected by the instrument.

180. A memorandum of mortgage shall have effect Effect of only as a security for the sum of money intended to be mortgage. secured by it, and shall not take effect as an assignment [48 Vic. No. 28, s. 66.] of the lease.

181. If default is made in the payment of the money Rights of secured by memorandum of mortgage according to the mortgagee. tenor thereof, or upon the happening of any event which [Compare 48 Vic. No. 28, s. 67.] according to the terms of the memorandum entitles the mortgagee so to do, the mortgagee may, whether the memorandum of mortgage was made under the provisions of this Act, or under "The Crown Lands Act of 1884,"*—

- (1) Enter upon and take and retain possession of the holding, giving notice of such entry to the Minister within thirty days thereafter;

* 48 Vic. No. 28, *supra*, page 1137.

- (2) Sell the holding by public auction or private contract after not less than thirty days' notice of the intended sale published in the *Gazette* and a local newspaper:

Provided that no person shall take possession or become the purchaser of a holding under this section unless he is qualified to be the lessee of the land under the provisions of this Act, and the person taking possession or becoming the purchaser of the holding shall perform all the conditions by this Act required to be performed by the original lessee of the holding.

Transfer on
sale.
[48 Vic.
No. 23, s. 69.]

182. Upon the sale of a holding under the power of sale hereby conferred upon a mortgagee he may transfer the lease to the purchaser, and the transfer shall be registered at the Department of Public Lands upon payment of the prescribed fee.

Subdivision II.—Special Grants and Leases; Acquisition of Lands for Public Purposes.

Powers to
grant in case
of escheat, &c.
[49 Vic.
No. 28, s. 88.]

183. In any case in which Her Majesty has become or may hereafter become entitled to any land, either by escheat for want of heirs, or by reason of any forfeiture for treason, felony, or otherwise, or by reason that the same has upon inquisition been found to have been granted or otherwise vested unto the use of, or in trust for any alien or aliens, the Governor in Council, on behalf of Her Majesty, may grant such land or any part thereof in fee-simple, or for any less estate, to any person, for the purpose of restoring the same to any of the family of the person in whom, or for whose benefit, the same had been vested, or of carrying into effect any intended grant, conveyance, or devise of such last-mentioned person in relation to such land, or of rewarding any person making discovery of such escheat or forfeiture, or of Her Majesty's right and title thereto: Provided that before any land under escheat is so granted notice of the intended grant shall be advertised for two consecutive months in the *Gazette*.

Special Grants.

Sales without
competition
in special
cases.
[Compare
48 Vic.
No. 28, s. 92.]

184. In any case in which there is no convenient way of access to any portion of Crown lands, or in which any portion is insufficient in area for sale by auction, or in which a portion of Crown lands lies between land already granted and a street or road which forms, or should form, the way of approach to such granted land, or in which

buildings erected on lands already granted extend over Crown lands, or in any other case of a like kind, or in any case in which the Court certifies that special reasons exist, the Governor in Council may sell and grant such Crown lands to the holder or holders of the adjoining lands, without competition, at a price to be determined by the Court.

185. When a grantee of land from the Crown, or a licensee or lessee of any land under this Act, proves to the satisfaction of the Minister that, owing to danger from floods or for any other reason, it would be or is unsafe to human life or impracticable to reside thereon, the Governor in Council may, out of the nearest convenient and available Crown lands, sell and grant to such grantee, licensee, or lessee, without competition, at a price to be determined by the Court, an area not exceeding ten acres; and in the case of a selection under Part IV. of this Act the condition of occupation required by law to be fulfilled in respect of the selection shall be deemed to have been fulfilled by residence on the area so sold and granted to him as aforesaid.

Sales without
competition
when
residence area
liable to be
flooded, &c.
[Compare
58 Vic.
No. 25, s. 15.]

186. The determination of the Court in any case under either of the two last preceding sections shall be final and conclusive.

Determina-
tion of the
Court to be
final.

187. Upon application made within twelve months after the Proclamation in the *Gazette* of the first sale of any town lands situated within any new city, town, village, or reserve, upon which there are improvements, the Governor in Council may sell and grant the allotment or allotments containing such improvements to the owner of the improvements without competition at the fair value thereof in an unimproved state, not being less than twice the minimum upset price as fixed in accordance with the provisions of Part VI. of this Act.

Sale in
consideration
of improve-
ments.
[18 Vic.
No. 28, s. 91.]

Special Leases.

188. The Governor in Council may issue leases of any portion of land, not exceeding twenty-five acres, to any person for the erection of wharves, store-houses, slips for building or repairing vessels, baths, works for supplying water, gas, or electricity to any town, or market gardens, or for any manufacturing, industrial, residential, or business purposes, or in any case in which the Court certifies that special reasons exist, for such term, not exceeding thirty years, and upon such conditions as to rent and otherwise as the Governor in Council shall think fit:

Governor may
issue leases
for special
purposes.
[Compare
18 Vic. No. 28,
s. 94; 55 Vic.
No. 49, s. 30;
58 Vic. No. 25,
s. 16.]

Provided nevertheless that in the case of land on an island situated off the coast of Queensland—

- (1) The area comprised in the lease may be fifty acres, but shall in no case include the foreshore of the island;
- (2) The annual rent shall not be less than two shillings and sixpence per acre, and the total annual rent shall not be less than five pounds.

Acquisition of Lands for Public Purposes.

Power to
purchase
or exchange.
[Compare
48 Vic. No. 28,
s. 93.]

189. The Governor in Council, on behalf of Her Majesty, may acquire any land of any tenure which may be required for any public purpose, either by way of purchase or by granting any Crown lands of equal value in fee-simple or for any less estate in exchange for such land. In any such case the value of the land so acquired or granted, and of any improvements on such respective lands, shall be determined by the Court in the manner prescribed in Part II. of this Act.

Subdivision III.—Reserves and Commons.

Grants and Reservations for Public Purposes.

Power to
grant or
reserve lands
for public
purposes.
[48 Vic.
No. 28, s. 95.]

190. The Governor in Council may from time to time grant in trust, or by Proclamation reserve from sale or lease, either temporarily or permanently, any Crown lands which, in the opinion of the Governor in Council, are or may be required for State forests or for quays, landing places, tramways, railways, railway stations, roads, bridges, ferries, canals, or other internal communications, or for the approaches or other purposes necessarily appertaining to any such works, or for camping places for travelling stock, or for reservoirs, aqueducts, or watercourses, or for the use or benefit of the aboriginal inhabitants of the colony, or for the sites of markets, abattoirs, public baths, or washhouses, mechanics' institutes, schools of arts, libraries, museums, or other institutions for public non-scholastic instruction, public gardens or experimental farms and parks, agricultural and horticultural societies, grammar schools, State schools, hospitals, asylums, infirmaries, establishments for the relief of indigent persons, lockups, police stations, or police paddocks, prisons, places for the interment of the dead, or for the recreation, convenience, health, or amusement of the people, or for any other purpose of public defence, safety, utility, convenience, or enjoyment, or for otherwise facilitating the

improvement and settlement of the colony, or for any special purpose which may be approved by resolution of both Houses of Parliament.

191. The Governor in Council may, by Proclamation, and without issuing any Deed of Grant, place any lands reserved, either temporarily or permanently, for any such purpose, under the control of trustees; and may declare the style or title of such trustees and the trusts of any land placed under their control, and may empower them to make by-laws for carrying out the objects of the trust and to impose penalties not exceeding in any case five pounds for any breach thereof. No such by-laws shall have effect until they are approved by the Governor in Council and published in the *Gazette*. Upon such approval and publication they shall have the force of law.

Power to
place reserved
lands under
control of
trustees.
[48 Vic.
No. 28, s. 96.]

192. A Local Authority may be appointed trustees under the provisions of either of the two last preceding sections.

Local
Authority
may be
trustees.
[55 Vic.
No. 19, s. 31.]

193. For the purposes of any action or proceeding in any court it shall be sufficient to describe such trustees by such style or title without naming any of them, and in any indictment or information it shall be sufficient to describe them by such style or title as owners of any property, real or personal, and they may by such style or title sue and be sued, and they shall for the purposes of any such action or proceeding be deemed to be the absolute owners of the land placed under their control; and no such action or proceeding shall abate by reason of the death, removal, or retirement of a trustee.

Trustees
shall be
deemed to be
owners for
the purpose of
legal
proceedings.
[48 Vic.
No. 28, s. 97.]

194. The Governor in Council may grant licenses to mine for coal on temporary or permanent reserves on such terms as to securing the surface, license fees, royalties, or otherwise, as he shall think fit.

Licenses to
mine for coal.
[48 Vic.
No. 28,
s. 98; 53 Vic.
No. 14,
s. 3 (6).]

Applications for such licenses shall be made to the Secretary for Mines.

Commons.

195. The Governor in Council may by Proclamation resume any Crown lands which have heretofore been proclaimed as a Common.

Commons
may be
resumed.
[48 Vic.
No. 28, s. 99.]

196. The Governor in Council may make Regulations for the management of any existing Common and for giving effect to commonage rights, subject to the following conditions:—

- (1) That commonage rights shall appertain solely to residents in the township or district for which the common was proclaimed;
- (2) That the depasturing of sheep and also of entire male animals over six months old, except under special conditions, shall be prohibited;
- (3) That payment be made for the depasturing of cattle at a rate of not less than two shillings per head per annum, and that in no case shall any one person be allowed to run more than twenty head on the same Common.

But nothing herein contained shall prevent *bonâ fide* travellers from depasturing their stock on any Common. Provided that no person travelling with stock shall be deemed a *bonâ fide* traveller unless such stock are driven towards their destination at least six miles within every successive period of twenty-four hours unless prevented by rain, flood, or other unavoidable cause.

Commons
may be placed
under
municipal
councils.
[48 Vic.
No. 28,
s. 101.]

197. In the case of any Common proclaimed for the use of the inhabitants of a municipality, the Governor in Council may place such Common under the control of the council of such municipality, and may authorise the council to make by-laws, subject to the conditions aforesaid, for the management thereof and the giving effect to commonage rights therein.

Subdivision IV.—Reclamation of Lands by Local Authorities.

Reclamation
of land by
Local
Authority.

198. Notwithstanding anything to the contrary contained in "*The Harbour Boards Act, 1892*,"* or in any special Act within the meaning of that Act, the following provisions shall take effect with respect to the reclamation of land by a Local Authority as hereinafter mentioned.

Application
may be made
by Local
Authority to
Governor in
Council.

199. Any Local Authority within whose boundaries there is situated any land having a frontage to the sea, or to any tidal water, may make application in writing to the Governor in Council for permission to reclaim any land adjoining such land as aforesaid and lying below high-water mark.

* 56 Vic. No. 26, *supra*, page 4575.

200. The Local Authority, at or about the time of making the application, shall cause a copy thereof to be published in the *Gazette* and in a local newspaper once in each week for four consecutive weeks, and shall furnish proof of such publication to the Governor in Council before such permission to reclaim is granted.

201. At any time within one month after such last publication as aforesaid, or within such other time as may be prescribed, any person aggrieved may lodge a statement at the Department of Public Lands setting forth objections against the proposed reclamation, and shall deposit therewith such sum of money as may be prescribed.

Statement of
objections
may be
lodged by
any person
aggrieved.

202. The objections set forth in the statement shall be inquired into by the Court in the manner prescribed in Part II. of this Act with respect to inquiries held by the Court, and the Local Authority and the person so objecting shall be deemed to be the parties to the inquiry.

Court to
decide
between the
Local
Authority
and the
person
lodging the
statement of
objections.

The Court shall consider the objections set forth in the statement and give its decision. If the objections are not sustained, the Court may, if it thinks fit, order the deposit or any part thereof to be paid to the Local Authority. Any such order may be made an order of the Supreme Court and enforced accordingly.

203. The Governor in Council may, if the reclamation is not likely to interrupt or interfere with navigation, and if the Court certifies that it is expedient so to do, give the permission so applied for as aforesaid, subject to such terms and conditions as may appear desirable in the public interest.

Governor in
Council may
give
permission
to reclaim.

204. If the Local Authority completes the reclamation to the satisfaction of the Court, the Court shall grant a certificate to that effect; and in such case the Governor in Council may, upon payment of the deed fee and assurance fee by the Local Authority, issue a Deed of Grant of the reclaimed land to the Local Authority for the purposes mentioned in the grant, or may, by Proclamation, reserve such lands and place the same either temporarily or permanently for the purposes therein mentioned under the control of the Local Authority.

After land
reclaimed
Deed of
Grant may
issue, or land
may be
proclaimed as
a reserve.

205. Notwithstanding the issue of a Deed of Grant the reclaimed land or any portion thereof may be resumed for public purposes by the Governor in Council at any time, under the provisions of "*The Public Works Lands Resumption Acts*."*

Provision as
to resumption.

* 42 Vic. No. 5, *supra*, page 2527; and 52 Vic. No. 7, *supra*, page 2591.

PART VIII.—RESUMPTION AND COMPENSATION.

Extension of
meaning of
term "lease",
&c., in this
Part.

206. In this Part of this Act, unless the context otherwise indicates, the term "lease" includes a license to occupy issued under the provisions of Part IV. of this Act, and the term "lessee" includes the holder of such a license, and the term "holding" includes the land held under such a license.

Resumption.

Resumption
from holdings.
[Compare
48 Vic. No. 28,
s. 102; 50 Vic.
No. 33, s. 10;
53 Vic. No. 14,
s. 4.]

207. Subject to the special provisions hereinafter contained with respect to holdings under Part III. of this Act, and the provisions with respect to Resumptions for Roads in Part IX. of this Act, the whole or any part of any holding under this Act, whether held under Part III. of this Act or otherwise, may be resumed from lease by the Governor in Council, subject to the following provisions, that is to say,—

- (1) A notice signed by the Minister shall be published in the *Gazette*, and served on the lessee personally or by post letter addressed to him at the holding six months at least before the expiration of some year of the tenancy;
- (2) The resumption shall take effect at the expiration of that year;
- (3) Upon resumption of the whole or part of a holding the lessee shall be entitled to compensation for the loss thereof, the amount of which shall be determined by the Court in the manner prescribed in Part II. of this Act.

Compensation upon Resumption.

Amount of
compensation
for holdings
on resump-
tion.
[48 Vic. No.
28, s. 103.]

208. The amount of compensation in respect of the whole or part of a holding shall, irrespective of the compensation payable in respect of the improvements thereon (if any), be such sum as would fairly represent the value of the whole or of the part resumed, to an incoming lessee or purchaser of the whole or that part for the remainder of the term of the lease:

Provided that upon resumption of part of a holding the lessee shall also be entitled to a proportionate reduction of rent in respect of the part resumed, and in respect of any depreciation of the value to him of the residue of the holding, caused by the withdrawal of that part from the holding, or by the use to be made thereof; and the amount of that reduction shall be determined by the Court in the manner prescribed in Part II. of this Act.

Resumption and Compensation with respect to Holdings under Part III. of this Act.

209. If at any time after the expiration of fifteen years from the commencement of the term of any lease granted under the provisions of Part III. of this Act the Governor in Council resumes from lease any part or parts of the holding, not exceeding one-fourth of the area thereof, no compensation shall be payable to the lessee in respect of such resumption, except for improvements on the part or parts of the holding so resumed.

One-fourth of
holding under
Part III. of
this Act may
be resumed
without
compensation
after fifteen
years.
[Compare
50 Vic. No. 33,
s. 5 (5).]

When any greater extent than one-fourth of the whole area of a holding under Part III. of this Act is so resumed, no compensation, except as aforesaid, shall be payable except in respect of the excess above one-fourth of such whole area:

Provided that the part which may be so resumed without compensation except for improvements shall not comprise the head station or the principal woolshed or washpool or reservoir upon the holding, and shall be in one block, or if it is resumed at different times shall be in contiguous blocks, unless the lessee otherwise agrees.

Compensation for Improvements on Runs or Holdings.

210. When there are upon a run or holding any improvements, the pastoral tenant or lessee shall be entitled, subject to the provisions of this Act, upon the resumption under the provisions of this Act of the part of the run or holding on which the improvements are, or in the case of a holding on the determination of the lease otherwise than by forfeiture or by acquisition of the freehold, to receive as compensation in respect of the improvements such sum as would fairly represent the value of the improvements to an incoming lessee or purchaser of the part of the run or holding on which the improvements are, but in no case shall such sum exceed the fair cost of making the improvements, less depreciation in value from use or otherwise.

Compensation
for improve-
ments.
[Compare
48 Vic.
No. 28, s. 104;
50 Vic. No. 33,
s. 5 (6).]

The amount of compensation for improvements to be paid to a lessee upon resumption under the provisions of this Part of this Act shall be determined by the Court in the manner prescribed in Part II. of this Act, but the amount of compensation for improvements to be paid in such other cases as aforesaid shall be determined by the Commissioner.

Compensation
to be assessed
by Court or
Commissioner.
[Compare
48 Vic. No. 28,
s. 106.]

Ringbarking, &c., on Holdings.

Expenses of
ringbarking,
eradication,
&c., may be
allowed.

[Compare
48 Vic. No. 28,
s. 105; 69 Vic.
No. 31,
ss. 3-5.]

211. (1.) Any lessee of a holding under Part III. of this Act or of a Grazing Farm or Homestead who desires to improve his holding by ringbarking trees or eradicating zamia, desert poison-bush, or prickly pear, as the case may be, may make application to the Commissioner in the prescribed form, specifying the part or parts of the holding with respect to which he desires permission.

(2.) Upon receipt of the application, it shall be the duty of the Commissioner to inquire into the matter, and he may, after such inquiry, refuse permission or may grant it upon such conditions as may be prescribed, or if no conditions are prescribed as he thinks fit.

(3.) When the lessee has incurred any expenditure in respect of such ringbarking or eradication as aforesaid, in accordance with the Commissioner's permission, he may, at any time within twelve months after he has incurred the expenditure, apply to the Commissioner to allow and certify the same.

(4.) The Commissioner may, upon proof of the expenditure being made in open court, allow and certify such expenditure as he may think fit, but in the case of ringbarking at a rate not exceeding two shillings and sixpence per acre.

(5.) No appeal shall lie to the Court from any decision of the Commissioner under this section.

Compensation
for
ringbarking,
&c.

212. (1.) Any such ringbarking or eradication as aforesaid done in accordance with the permission of the Commissioner, and any ringbarking done by the licensee of an Agricultural Selection in accordance with the permission of the Commissioner, shall be deemed to be an improvement in respect of which the lessee or selector may be entitled to compensation.

(2.) In the event of compensation being claimed in respect of such improvements under this Part of this Act, the value of such improvement shall not be estimated at an amount exceeding the sum so certified by the Commissioner.

Compensation when Payable.

Compensation,
when
payable.
[48 Vic.
No. 28,
s. 107.]

213. The amount awarded to any pastoral tenant or lessee for compensation under the provisions of this Act shall not, except in the case of the resumption of an entire holding, be payable to him until he is actually deprived of the use of the land or of the improvements in respect of which the compensation is awarded.

In the case of the resumption of an entire holding the amount awarded shall be payable when the resumption takes effect.

Compensation by Extension of Lease.

214. Upon the resumption of part of a holding under the provisions of this Part of this Act, the lessee may, instead of claiming or receiving compensation as hereinbefore provided, give notice in writing to the Minister that he desires to take advantage of the following provisions of this Part of this Act, and thereupon the Governor in Council may, if he thinks fit, grant an extension of the lease with respect to the unresumed part of the holding; and if such extension of lease is granted, the following consequences shall ensue:—

- (1) The lessee shall not be required to pay any rent in respect of the resumed part of the holding from the date upon which the resumption takes effect;
- (2) The annual rent to be paid in respect of the lease for the added period shall be determined by the Court upon or before the expiration of the original term of the lease; unless the added period is less than three years, in which case the annual rent payable for the added period shall be the same as the annual rent payable for the last preceding period;
- (3) In other respects the conditions of the lease shall be unaltered;
- (4) The lessee may, if he thinks fit, surrender his lease, and have a fresh lease issued to him setting forth the conditions of his tenure as altered.

215. The period to be added to the term of a lease under the provisions of the last preceding section shall be computed so that the added period shall bear the same ratio to the unexpired period as the area resumed bears to the area unresumed.

In computing any area as aforesaid, fractional parts of an acre shall be disregarded.

216. The Minister shall notify in the *Gazette* the length of the period to be added to the term of the lease as aforesaid, and the date at which the added period will expire; and the added period shall determine upon the date so notified.

PART IX.—PROVISIONS RELATING TO ROADS.

Resumption of Land for Roads.

Opening
roads, and
compensation
therefor.
[Compare
50 Vic. No. 33,
s. 10; 53 Vic.
No. 14,
s. 4, 6.]

217. When land is required for the purpose of opening a public road through any holding under Part III. or selection under Part IV. of this Act, such land may be resumed by the Governor in Council, subject to the following provisions:—

- (1) A notice signed by the Minister shall be published in the *Gazette* and a local newspaper, and served on the licensee or lessee personally, or by post letter addressed to him at the holding or selection; and the resumption shall take effect two months after the date of such service;
- (2) The licensee or lessee shall, before the date when the resumption takes effect, forward by post letter to the Minister his claim for compensation, and in default thereof shall be held to make no claim;
- (3) The lessee of a holding under Part III. of this Act shall be entitled to a proportionate reduction of rent in respect of the part resumed, and shall be entitled to compensation for improvements thereon, but shall not be entitled to any other compensation;
- (4) The licensee or lessee of a holding under Part IV. of this Act shall not be entitled to compensation for the value of any land resumed for opening a road through his selection where the area of such road does not exceed any area which may be reserved by the lease or license for road purposes; but he shall be entitled to compensation for all other loss sustained by him in consequence of such road being opened;
- (5) The amount of the compensation shall be determined by the Court in the manner prescribed in Part II. of this Act.

Lessee may
erect Licensed
Gates.
[Compare
50 Vic. No. 33,
s. 11; 53 Vic.
No. 14, s. 5.]

218. When land is resumed under this Part of this Act from a holding or selection for the purpose of a public road, the lessee or the selector shall be entitled to erect and maintain Licensed Gates across such road on payment of the fees prescribed in that behalf by the By-laws of the Local Authority within the boundaries of which the road is situated, and on compliance with the provisions of the laws in force for the time being relating to the dimensions and quality of Licensed Gates.

Closing of Roads.

219. The owner of any purchased lands or the occupier of any lands other than purchased lands adjoining a road which is required for access to such lands only, and which is not otherwise required for public use or convenience, may make application, in writing, to the Minister that the road may be closed either permanently or temporarily.

On the receipt of such application the Minister shall cause notice thereof to be inserted in the *Gazette* and in such local newspapers, if any, as he thinks advisable, and also to be conspicuously posted on the road proposed to be closed, and at the nearest land office, police office, and post office, for a period of not less than two nor more than six months consecutively.

At the expiration of such period the Governor in Council may approve of such application with or without modification.

220. When the application is for the permanent closure of the road, and is approved without modification—

- (1) If the applicant is the owner of adjoining lands the Governor in Council may order the closure of the road upon payment of such price as he may think reasonable (not being less than the original upset price of the adjoining lands), in which case, upon payment of such price together with the deed fee and assurance fee, a Deed of Grant in fee-simple of the soil of the road shall be issued to the owner, or rateably to the several owners of the adjoining lands, or as they may request, in the same manner as if the road had been purchased by him or them at auction under the provisions contained in Part VI. of this Act;
- (2) If the applicant is the occupier of adjoining lands the Governor in Council may order the closure of the road, and the Minister shall thereupon issue, or procure to be issued, to the occupier, or rateably to the several occupiers of the adjoining lands, a license or lease of the land comprised in such road in the same manner as if the road had formed part of the land occupied by such person or persons.

When
temporary
enclosure only
may be
authorised.
[48 Vic.
No. 28, s. 90.]

221. When the application is for the temporary closure of the road and is approved, or if on the application for the permanent closure of the road the Governor in Council approves of a temporary closure thereof only, the Minister shall issue to the applicant a license in the prescribed form authorising him and his successors in the occupation of the adjoining lands to enclose the road and keep it enclosed for so long as he or they shall pay the yearly rent of one shilling per annum for every acre or part of an acre of the land comprised therein, which rent shall be payable in advance at the Treasury, in Brisbane, or other place appointed by the Governor in Council, on the first day of January in every year.

Property
vested in
licensee.

Forfeiture for
non-payment
of license fee.

During the currency of the license the holder thereof shall be deemed the lessee of the land comprised therein.

If the annual license fee is not paid when due the license shall be forfeited, but the licensee may at any time within ninety days thereafter defeat the forfeiture by payment of the rent, together with an additional sum equal to one fourth part thereof by way of penalty; but in default of such payment of rent and penalty within such period of ninety days the license shall be absolutely forfeited.

Re-opening of Roads.

Power to re-
open roads.
[48 Vic.
No. 28, s. 90.]

222. If at any time it appears to the Governor in Council expedient to re-open any road in respect of which any such last-mentioned license has been issued, the Governor in Council may cancel the license upon giving six months' notice to the holder thereof, and upon such cancellation the road so enclosed shall again become open as a public highway.

Other Provisions.

Lands
reserved for
roads in
grants may be
sold to
grantee.
[53 Vic.
No. 14, s. 16.]

223. In any case in which land has been or may hereafter be granted by the Crown in fee-simple, and by the Deed of Grant a portion of such land has been reserved for public roads, the Governor in Council may, if the land so reserved, or any part thereof, is not required for public roads, sell to the grantee or to his successor in title the whole of the reserved land, or any part thereof, without competition and at a price to be determined by the Court, and may issue a Deed of Grant of the same.

Reservations
for roads not
defined in
grant, lease,
&c.
[Compare
55 Vic. No. 19,
s. 20.]

224. In all cases in which deeds of grant, leases, or licenses, are issued, containing reservations of a portion of the land comprised therein for the purpose of making roads or for other purposes therein mentioned, and specifying the area of the land reserved, but not specifying the

part of the land intended to be reserved, the Governor in Council may, for the purposes mentioned in the reservation, resume possession, from the person for the time being entitled thereto, of any portion of the land comprised in the instrument of title, not exceeding in area the area specified in the reservation, and may make such resumption without compensation for the value of the land resumed, but compensation shall be payable for any other loss sustained by such person in consequence of the resumption.

225. All lands which have heretofore been, or may hereafter be, dedicated by the owner thereof, not being the Crown, to public use as roads may be dealt with in the same manner as any other roads which have been dedicated to public use by the Crown.

Roads
dedicated to
the public
by private
persons.
[Compare
53 Vic. No. 14,
s. 17.]

PART X.—GENERAL PROVISIONS.

Subdivision I.—Subdivision of Holdings.

226. Any holding under this Act or the repealed Acts, not being land leased for special purposes under Part VII. of this Act, or under Part VII. of "*The Crown Lands Act of 1884*,"* and any land over which a right of depasturing is exercised under Part III. of this Act or Part III. of "*The Crown Lands Act of 1884*,"* may be subdivided, with the permission of the Minister, upon such terms as to reassessment of rent or otherwise as the Minister thinks fit and upon payment of the prescribed fee.

Subdivision of
holdings and
resumed parts
of runs.
[Compare
48 Vic. No. 28,
s. 115; 50 Vic.
No. 33, s. 27.]

The application shall be accompanied by proper and correct plans and descriptions of the proposed subdivisions certified by a licensed surveyor.

Upon a subdivision of a holding the original lease shall be surrendered, and new leases shall thereupon be issued comprising the respective subdivisions.

The new leases shall be for the residue of the original term, and shall be issued in the name of the original lessee or such persons (qualified to be lessees) as he may direct.

Subdivision II.—Licenses to Enter on Crown Lands and certain Holdings.

227. The Commissioner may issue licenses to enter upon any Crown lands, or any holding under Part III. of this Act or Part III. of "*The Crown Lands Act of 1884*,"* or any Grazing Selection under this Act, and to cut thereon and take therefrom any timber, or to dig for and remove any stone, gravel, brick-earth, shells, guano, or

Commissioner
may issue
timber and
other licenses.
[Compare
48 Vic. No. 28,
s. 131; 53 Vic.
No. 14, s. 3
(7).]

* 48 Vic. No. 28, *supra*, page 1137.

other material, but not, in the case of any holding under Part III. of this Act or Part III. of "*The Crown Lands Act of 1884*,"* within two miles of any head station, unless with the consent of the lessee.

Such fee shall be imposed in respect of the license, and such royalty on any timber or other material so cut or removed, as may be prescribed by the Regulations.

In the case of a Grazing Selection as aforesaid, the determination of the Commissioner shall be subject to appeal to the Court in the manner prescribed in Part II. of this Act; but the decision of the Court shall be final.

Licensee may depasture animals used in removal of timber subject to Regulations.

Any person holding a license under this section may use animals and vehicles in the removal of such timber or other material, and may while so employed depasture the animals used by him upon any Crown lands or any such holding as aforesaid in such numbers, for such time, in such manner, and subject to such conditions and, in the case of a holding, to the payment to the lessee of such agistment fees as the Regulations may prescribe.

Lessee may object to entry by licensee within limited area.
[Compare 48 Vic. No. 28, s. 132.]

228. A lessee may, by notice in writing to that effect given to a licensee, forbid him to exercise his rights as licensee within any area on his holding mentioned in the notice and not exceeding two square miles, for a period not exceeding one month, and the licensee may within that period appeal to the Commissioner, who shall hear the matter, and shall determine to what extent, if any, the licensee may exercise such powers as aforesaid within the area mentioned in the notice.

The determination of the Commissioner shall be final and conclusive.

Penalty.

Any licensee who exercises or attempts to exercise any such powers as aforesaid within the area mentioned in the notice before the matter is determined, or contrary to the decision of the Commissioner, shall be liable, on conviction, to a penalty not exceeding twenty pounds.

Removal of timber and material by persons other than lessees.
[Compare 48 Vic. No. 28, s. 116.]

229. Except as herein provided, a lessee under Part III. of this Act, or Part III. of "*The Crown Lands Act of 1884*,"* or the holder of a Grazing Selection under this Act, shall not have power to restrict other persons duly authorised by the Commissioner either from cutting or removing timber or material for building or other purposes, or from searching for metal or mineral within his holding.

* 48 Vic. No. 28, *supra*, page 1187.

Subdivision III.—Travelling Stock.

230. Any drover driving stock or any traveller riding or driving stock other than sheep along any road ordinarily used for the purpose of travelling stock, and passing through land leased under Part III. of this Act or Part III. of "*The Crown Lands Act of 1884*,"* or comprised in an occupation license under Part V. of this Act or Part V. of "*The Crown Lands Act of 1884*,"* may depasture such stock on any part of the land which is within a distance of half-a-mile from the road and which is not part of an enclosed garden or paddock under cultivation, or within the distance of one mile from the principal homestead or head-station, notwithstanding that the land is leased under Part III. of this Act or Part III. of "*The Crown Lands Act of 1884*,"* or comprised in a license under Part V. of this Act or Part V. of "*The Crown Lands Act of 1884*,"*.

Rights of pasturage for travelling stock.
[58 Vic. No. 25, s. 7.]

Provided that where a fence has been erected on one side of the road, and there is between the fence and the nearest fence or barrier sufficient to prevent the passage of stock on the other side of the road a distance of not less than one clear mile, such stock may be depastured upon any part of the land which is within that mile, but shall not be depastured upon any part of the land which is separated from the road by any such fence or barrier.

Provided further that it shall be the duty of every drover, unless prevented by rain or flood, and of every traveller, unless prevented by rain, flood, or other unavoidable cause, to cause all stock in his possession, custody, or control to proceed at least six miles towards their destination within every successive period of twenty-four hours.

The term "drover" means and includes every person engaged in or employed for the purpose of driving stock;

The term "traveller" means and includes carriers, hawkers, and persons riding or driving stock other than sheep, but does not include drovers.

Subdivision IV.—Offences, Forfeiture, and Legal Proceedings. Offences.

231. (1.) No lessee under Part III. of this Act or Part III. of "*The Crown Lands Act of 1884*,"* and no selector of a Grazing Farm or Grazing Homestead under the repealed Acts or this Act, shall cut down or destroy, except for the purposes of the holding or selection, any

Penalty for ringbarking or destroying timber without Commissioner's permission.

* 48 Vic. No. 28, *supra*, page 1137.

[Compare 48 Vic. No. 28, s. 111; 50 Vic. No. 28, s. 24.] trees thereon without the permission of the Commissioner, and no such lessee or selector shall ringbark any trees upon the holding or selection without the like permission, or do any such act as aforesaid in any manner contrary to the terms of such permission.

(2.) No selector of an Agricultural Farm or Homestead under the repealed Acts or this Act, and no lessee of an Unconditional Selection under the repealed Acts or this Act, shall, during the first five years of the term of his lease, cut down or destroy, except for the purposes of the selection or the making of improvements thereon or for sale as firewood, or ringbark any trees upon the selection without the permission of the Commissioner, or do any such act as aforesaid in any manner contrary to the terms of such permission.

(3.) Any lessee or selector who offends against the provisions of this section shall, upon the information of the Commissioner or other prescribed officer, be liable to a penalty of not less than one shilling and not more than ten shillings for every tree so cut down, destroyed, or ringbarked, as the case may be.

Penalties for breach of Timber Regulations, &c. [Compare 48 Vic. No. 28, s. 133.]

232. (1.) Any person who, without authority from the Commissioner, removes any timber which has been seized and branded by any Crown Lands Ranger or other authorised person shall be liable, on conviction, to a penalty of not less than twice the value of such timber and not less than five pounds. Such value shall be taken to be the price which would ordinarily be paid for such timber at the place of seizure.

(2.) Any person who cuts or removes any timber in violation of any of the provisions of this Act or the Regulations shall, save as is hereinbefore provided, be liable, on conviction, to a penalty of not more than twenty pounds and not less than five pounds, and shall be disqualified from holding any timber license for such time, not exceeding twelve months, as the Minister may direct. The timber so cut or removed shall be forfeited.

(3.) Any person who wilfully obliterates a brand upon any timber which has been seized and branded by a Crown Lands Ranger or other authorised person shall be liable, on conviction, to a penalty of not more than twenty pounds and not less than five pounds.

Justices not to reduce penalty below minimum fixed.

233. When any person is convicted before any justices of any offence against the provisions of either of the last two preceding sections, the justices shall not have power to

reduce the penalty to be imposed in respect of such offence below the minimum amount fixed by those sections respectively, anything in the one hundred and seventy-third section of "*The Justices Act of 1886*"* to the contrary notwithstanding.

234. Any person who digs or removes any stone, gravel, brick-earth, shells, guano, or other material from Crown lands, or any holding under Part III. of this Act, or Part III. of "*The Crown Lands Act of 1884*,"† or any Grazing Selection under this Act, without a license authorising such digging or removal, shall be liable, on conviction, to a penalty of not more than five pounds, and shall be disqualified from holding any such license for such time, not exceeding twelve months, as the Minister may direct.

Penalty for unlawfully digging or removing material from land. [Compare 48 Vic. No. 28, s. 133.]

235. When any Commissioner or other prescribed officer has reason to believe that any person is in unlawful occupation of any Crown lands, or lands granted or reserved for any public purpose, or is in possession of any Crown lands under colour of any lease or license under this Act that has become forfeited, he may make complaint before justices, who shall hear and determine the matter in a summary way, and on being satisfied of the truth of the complaint, shall issue their warrant, addressed to the Commissioner, or to any police constable, requiring him forthwith to dispossess and remove such person from such land and to take possession of the same on behalf of Her Majesty, and the person to whom the warrant is addressed shall forthwith carry the same into execution.

Removal of trespassers. [Compare 48 Vic. No. 28, s. 123.]

A lessee or his manager or a licensee may in like manner lay a complaint against any person who shall be in unlawful occupation of any part of the land comprised in the lease or license, and the like proceedings shall thereupon be had.

236. Any person, not lawfully claiming under a subsisting lease or license or otherwise under this Act, who is found occupying any Crown lands or lands granted, reserved, or dedicated for public purposes, by residing or erecting any hut or building thereon, or clearing, digging up, enclosing, or cultivating any part of such lands, or cutting thereon or removing therefrom timber other than firewood not cut or removed for the purpose of sale, shall be liable, on conviction, to a penalty not exceeding five

Penalties for trespassing. [48 Vic. No. 28, s. 124.]

* 50 Vic. No. 17, *supra*, page 1030.

† 48 Vic. No. 28, *supra*, page 1137.

PART X.—
GENERAL
PROVISIONS.*Land Act.*

61 VIC. NO. 25,

pounds for the first offence, and not exceeding ten pounds for the second offence, and not exceeding twenty pounds for the third or any subsequent offence.

Removal of
boundary
mark to be a
misdemeanour.
[Compare
48 Vic. No. 28,
s. 126.]

237. Any person who wilfully obliterates, removes, or defaces any boundary mark which has been lawfully made or erected upon any holding or selection shall be guilty of a misdemeanour, and shall be liable, on conviction, to be imprisoned for a period not exceeding twelve months.

Penalties for
straying or
loitering.
[Compare
48 Vic. No. 28,
s. 38; 58 Vic.
No. 25, s. 8.]

238. Any drover or traveller driving stock who—

(1) Unlawfully depastures such stock upon any land comprised in a holding or occupation license contrary to the provisions of the last preceding Subdivision of this Part of this Act; or

(2) Fails to cause such stock to proceed towards their destination contrary to such provisions;

shall for every such offence be liable, on conviction, to a penalty not exceeding twenty pounds.

Time of
laying
complaint.

A complaint under this section shall be laid within five days from the time when the offence was committed.

Penalty for
offence
against
Regulations
relating to
public parks
or reserves.
[Compare
48 Vic. No. 28,
s. 130.]

239. Any person who offends against any Regulation made under the provisions of this Act relating to any public park or reserve may be apprehended by a police constable or by any prescribed officer, and shall be liable, on conviction, to a penalty not exceeding ten pounds.

Punishment
for fraud or
evasion, &c.
[48 Vic.
No. 28, s. 134.]

240. Any person who fraudulently evades, or attempts to evade, any of the provisions of this Act, or otherwise commits any fraud thereon with intent to acquire any land, shall be guilty of a misdemeanour, and, on conviction, shall be liable to be imprisoned with or without hard labour for a period not exceeding two years.

Punishment
of person
dealing with
land
fraudulently
acquired.
[48 Vic.
No. 28, s. 136.]

241. Any person who conveys, transfers, demises, assigns, or becomes assignee of any land acquired or held by any fraud upon the provisions of this Act, knowing the same to have been so acquired or held, shall be guilty of a misdemeanour, and, on conviction, shall be liable to be imprisoned with or without hard labour for a period not exceeding twelve months; and all his interest (if any) in the land shall be forfeited to Her Majesty.

1897.

*Land Act.*PART X.—
GENERAL
PROVISIONS.

242. Any person who wilfully offends against any of the provisions of the Regulations shall, save as is in this Act otherwise provided, be liable on conviction to a penalty not exceeding five pounds.

Penalty for
offences
against
Regulations.
[48 Vic. No.
28, s. 130.]

Forfeiture.

243. Lands acquired by any evasion of or fraud upon the provisions of this Act shall be forfeited to the Crown.

When land to
be forfeited.
[48 Vic. No.
28, s. 135.]

244. Every forfeiture for non-payment of any moneys required to be paid by this Act, or for breach of any condition imposed by this Act, or for breach of any other provision of this Act, shall be notified in the *Gazette*, and shall take effect from the date of the notification.

Forfeitures to
be notified in
the *Gazette*.
[48 Vic. No.
28, s. 138.]

245. When any holding or selection is forfeited under the provisions of this Act and there are upon the land any improvements, the lessee or selector whose holding or selection has been forfeited shall be entitled to receive the value of the improvements on the holding or selection which is received by the Crown from the incoming lessee, selector, or purchaser, after the amount of any moneys due by him to the Crown has been deducted.

Compensation
for improve-
ments in cases
of forfeiture.

Legal Proceedings.

246. All offences against this Act or the Regulations may, save as is in this Act otherwise provided, be prosecuted in a summary way before any two justices.

Offences may
be prosecuted
in a summary
way.
[48 Vic. No.
28, s. 139.]

247. Any person who feels himself aggrieved by the conviction or decision of any justices under any of the provisions of this Act may appeal therefrom to the District Court.

Appeal from
justices to
District
Court.
[Compare
48 Vic. No. 28,
s. 128.]

248. All actions, unless brought on behalf of the Crown, against any member of the Land Court or of the Land Appeal Court, or any Commissioner, Land Agent, Crown Lands Ranger, or other officer acting under the provisions of this Act, for anything done, or omitted to be done, in violation of the provisions of this Act, shall be commenced within twelve months after the cause of action arose, and not otherwise.

Limitation of
actions.
[Compare
48 Vic. No. 28,
s. 127.]

Notice in writing of the intended action shall be given to the defendant one month at least before the commencement of the action.

The plaintiff in any such action shall not recover if tender of sufficient amends is made before the commencement of the action, or if a sufficient sum of money is paid into court after the commencement of the action by or on behalf of the defendant, together with costs incurred up to that time.

If judgment is given for the defendant, or the plaintiff becomes nonsuited or discontinues his action, the defendant shall recover from the plaintiff his full costs of action as between solicitor and client, and shall have the like remedy for the same as a defendant has by law against the plaintiff in similar cases.

Subdivision V.—Miscellaneous Provisions.

249. The rent reserved by any lease or payable in respect of any license under this Act shall be a debt due to Her Majesty.

250. Subject to the provisions of this Act, leases under this Act and occupation licenses under Part V. hereof, may be transferred to qualified persons with the permission of the Minister; and upon payment of a fee of ten shillings or such other fee as may be prescribed, every such transfer shall be recorded in the proper register.

251. The marriage of every female licensee or lessee, and the transmission by operation of law or by death of the interest of any licensee or lessee in any lands held under this Act, shall be recorded in the proper register.

252. Save as is next hereinafter provided, nothing in this Act shall be deemed to affect, limit, or restrict the rights conferred upon the holder of a miner's right or mining license issued under the provisions of "*The Gold Fields Act 1874*"* or "*The Mineral Lands Act of 1882*"† respectively; and the term "Crown Lands," as defined by those Acts, shall for the purposes thereof be deemed to include all runs and all lands held under lease or subject to a right of depasturing under Part III. of this Act or Part III. of "*The Crown Lands Act of 1884*,"‡ and all selections under this Act or the repealed Acts (except Agricultural Farms, Agricultural Homesteads, and Unconditional Selections), and all lands held under an occupation license under Part V. of this Act or Part V. of "*The Crown Lands Act of 1884*,"‡ and all timber, camping, and other public reserves and commons.

* 38 Vic. No. 11, *supra*, page 1565.

† 46 Vic. No. 8, *supra*, page 1594.

‡ 48 Vic. No. 28, *supra*, page 1137.

253. Upon the Proclamation by the Governor in Council of a goldfield under the provisions of "*The Gold Fields Act 1874*"* or of a mining district under the provisions of "*The Mineral Lands Act of 1882*,"† upon or partly upon any land held under lease under Part III. of this Act or Part III. of "*The Crown Lands Act of 1884*,"‡ or upon or partly upon any Grazing Farm or Grazing Homestead under this Act or the repealed Acts, or any Scrub Selection, the Proclamation shall, in any case in which the lessee or licensee, within three months after the date of the Proclamation, serves on the Minister a notice in writing that he elects to treat the Proclamation as a notice of resumption, have the effect of a resumption, as from the date of the Proclamation, of that part of the holding comprised within the area of the proclaimed goldfield or mining district; and the lessee or licensee shall be entitled to compensation accordingly.

254. Nothing in this Act, or in any license or lease granted thereunder, shall be held to prejudice or interrupt the right of any officer duly authorised in that behalf by the Governor in Council, to go upon any lands comprised in any license or lease, or to make any survey, inspection, or examination of the same.

255. Any timber cut upon or removed from any lands contrary to the provisions of this Act or the Regulations may be seized by any Crown Lands Ranger or other prescribed officer, and upon seizure shall become forfeited to the Crown, and may be branded with the prescribed brand by such Ranger or other officer and sold.

256. The provisions of "*The Fencing Act of 1861*"§ or "*The Fencing Act of 1861 Extension Act of 1897*"|| shall apply to all lands included in any license to occupy under Part IV. of this Act or any lease under this Act, and the licensee or lessee shall be deemed the owner thereof for the purposes of the said Acts; and the granting of any such license or lease shall for the purposes of the said Acts be deemed an alienation of such land.

257. A lessee exercising the right of depasturing on the resumed part of a run under Part III. of this Act or Part III. of "*The Crown Lands Act of 1884*,"‡ or a licensee

* 38 Vic. No. 11, *supra*, page 1565.

† 46 Vic. No. 8, *supra*, page 1594.

‡ 48 Vic. No. 28, *supra*, page 1137.

§ 25 Vic. No. 12, *supra*, page 751.

|| 61 Vic. No. 9, *supra*, title "Fencing."

s. 119.]

under Part V. of this Act, or Part V. of "*The Crown Lands Act of 1884*,"* shall not be entitled to impound the horses or cattle (not being entire horses or bulls) of a selector of an Agricultural Farm under this Act or the repealed Acts, or of an Agricultural Homestead, found trespassing on any land which is subject to the right of depasturing or license respectively, and which is contiguous to the selection and is not separated therefrom by a sufficient fence, until after the expiration of three years from the date of the selector's license, except in cases of wilful trespass, or unless the selector depastures on his selection more horses or cattle than at the rate of one for every ten acres of the land comprised in the selection which are not so occupied as to be unavailable for depasturing such horses or cattle:

Provided always that this section shall not apply as against a lessee in favour of a selector whose selection is not situate on the resumed part of the run over which such lessee exercises the right of depasturing.

Governor in Council may forfeit certain lands purchased or selected with land-orders when conditions have not been fulfilled.

258. In any case in which land has been purchased or selected, either wholly or in part, with a non-transferable land-order, under the provisions of "*The Immigration Act of 1864*"† or "*The Immigration Act of 1869*,"‡ but the Deed of Grant has not been issued, by reason of the purchaser or selector having failed to perform any of the conditions precedent to the issue of the Deed of Grant prescribed by such Acts respectively, within the respective times thereby limited, the Governor in Council may, by Proclamation, declare the land to be absolutely forfeited, and thereupon the land shall revert to Her Majesty.

Amendment of 22 Vic. No. 1. [58 Vic. No. 14, s. 15.]

259. Section six of "*The Titles to Land Act of 1858*"§ shall be read and construed as if instead of the words "three" and "three months" therein inserted the words "two" and "thirty days" had been therein respectively inserted.

Further amendment of 22 Vic. No. 1.

Rectification of grant when defectively prepared, &c.

260. The following enactment shall stand as part of "*The Titles to Land Act of 1858*,"§ to follow the seventh section thereof, that is to say:—

The like proceedings may be taken in respect of any Crown Grant heretofore or hereafter issued or registered in which any person named as a grantee is not entitled to the grant, or in which the estate intended to be thereby

* 48 Vic. No. 28, *supra*, page 1187.

† 28 Vic. No. 17, "*Pring's Statutes*," page 131.

‡ 33 Vic. No. 9, *see* "*Historical Table*," vol. v.

§ 22 Vic. No. 1, *supra*, page 2142.

conveyed is erroneously stated, or which is otherwise defective by reason of any error or omission in the preparation thereof, and in every case where an instrument in writing shall have been so signed and enrolled as aforesaid, stating therein the matters intended to be corrected, altered, or added, and the name or estate intended to be substituted, such name or estate or other particulars shall be taken to have been inserted originally in the grant and in every deed and in every instrument under the provisions of the "*Real Property Act of 1861*"* respectively containing the erroneous name or estate or other defect, and such grant or deed or other instrument as aforesaid shall operate and be construed accordingly.

PART XI.—REGULATIONS.

261. The Governor in Council may make Regulations for all or any of the matters following, that is to say:—

Regulations.
[Compare
18 Vic. No. 28,
s. 130; 58 Vic.
No. 25, s. 26.]

- (1) Defining the manner of doing or performing any thing by this Act required to be done or performed;
- (2) Prescribing the forms of grants, leases, licenses, and other instruments, to be issued or used under or for the purposes of this Act;
- (3) Prescribing the reservations or exceptions which may be inserted in leases issued under this Act;
- (4) Prescribing the time within which and the manner in which notice of the acceptance of an application to select land shall be given by a selector to a lessee for the purposes of an action for trespass under the authority of this Act;
- (5) Prescribing the manner in which Registers shall be kept;
- (6) Prescribing the forms of applications, notices, and other documents to be used under or for the purposes of this Act;
- (7) Prescribing the qualifications, manner of appointment, and remuneration of members of the Board of Examiners for Surveyors, and the manner in which the business of the Board shall be conducted;

* 25 Vic. No. 14, *supra*, page 2148.

- (8) Prescribing the manner in which lands are to be surveyed under this Act;
- (9) Prescribing the information which shall be shown on maps of lands proclaimed open for selection;
- (10) Prescribing the mode of determining the priority of applicants by lot;
- (11) Prescribing the manner in which applicants for Grazing Selections and Unconditional Selections may lodge tenders;
- (12) Defining the duties of Commissioners, and the manner of conducting proceedings in Commissioners' Courts, and of appealing from the decision of the Commissioner;
- (13) Defining the duties of other officers employed in the Department of Public Lands;
- (14) Prescribing the time or times within which statements of objection may be lodged by any person objecting to permission being granted to reclaim lands under the provisions of Part VII. of this Act, and the amount to be deposited by any person lodging such statement;
- (15) Prescribing the conditions under which improvements may be permitted to be made, so as to entitle a lessee or licensee to compensation;
- (16) Prescribing the conditions under which timber may be cut or any material may be dug upon, and such timber or material may be removed from, Crown lands, or any holding in accordance with the provisions of this Act;
- (17) Prescribing rules for the care, protection, and management of public parks and reserves in cases not otherwise provided for by law;
- (18) Prescribing the fees (if any) which shall be payable in respect of the several matters hereinafter mentioned:—
 - (a) The inspection during office hours of any register kept under the provisions of this Act;
 - (b) Appeals from the Commissioner to the Land Court;

- (c) Appeals from the Land Court to the Land Appeal Court;
 - (d) Appeals from the Land Appeal Court to the Supreme Court;
 - (e) The registration of any mortgage, or any transfer or discharge thereof, or any under-lease, assignment, or transfer;
 - (f) The registration of transmission by death or under the laws relating to insolvency or insanity;
 - (g) Recording the marriage of female lessees and licensees;
 - (h) Applications, surveys, and subdivisions under this Act;
 - (i) Inquiries made, and advertisements published in connection with applications for the opening and closing of roads.
 - (j) Agistment of animals used to remove timber or other material from Crown lands and certain holdings and selections under the provisions of Subdivision II. of Part X. of this Act.
- (19) All other matters and things that may be necessary to give effect to this Act.

The Regulations shall be published in the *Gazette*, and, not being contrary to the provisions of this Act, shall upon such publication have the force of law.

A copy of all the Regulations shall be laid before Parliament within fourteen days from the publication thereof if Parliament is then sitting, and if it is not then sitting, within fourteen days from the commencement of the next session.

262. The Regulations and forms made under any of Regulations under the repealed Acts and in force at the commencement of this Act shall, except when they are inconsistent with this Act, continue to be in force under this Act unless and until rescinded by the Governor in Council.

Section 5.

THE FIRST SCHEDULE.

Date of Act.	Title of Act.
48 Vic. No. 28 ...	An Act to make better Provision for the Occupation and Use of Crown Lands.
49 Vic. No. 7 ...	An Act to Amend " <i>The Crown Lands Act of 1884</i> " with respect to the Selection of Land before Survey and in other respects.
50 Vic. No. 33 ...	An Act to further Amend " <i>The Crown Lands Act of 1884.</i> "
53 Vic. No. 14 ...	An Act to further Amend " <i>The Crown Lands Acts, 1884 to 1886,</i> " and for other purposes.
55 Vic. No. 19 ...	An Act to further Amend " <i>The Crown Lands Acts, 1884 to 1889.</i> "
56 Vic. No. 16 ...	An Act to further Amend " <i>The Crown Lands Acts, 1884 to 1891.</i> "
58 Vic. No. 25 ...	An Act to further Amend " <i>The Crown Lands Acts, 1884 to 1892.</i> "
59 Vic. No. 31 ...	An Act to Amend " <i>The Crown Lands Acts, 1884 to 1891</i> " with respect to certain Noxious Plants and the Payment of Survey Fees in certain cases, and to make further provision with respect to the Lands included in Holdings under the provisions of Part III. of " <i>The Crown Lands Act of 1884,</i> " the Term of the Leases whereof is prescribed to be Ten Years, and the Lands occupied therewith under a right of depasturing, and for other purposes.

Section 58.

THE SECOND SCHEDULE.

District of
Name of Run:
To the Minister for Lands.
I [or we], the undersigned, holding [or claiming] a lease [or license], under "*The Pastoral Leases Act of 1869*" [or extended under "*The Pastoral Leases Extension Act of 1890*"], of the run known as _____, in the above District, do hereby elect to take advantage of the provisions of "*The Land Act, 1897,*" with respect to such run.
Given under _____ hand at _____ this _____ day of _____ 18 ____.
Witness: J.P. _____ A.B.

Section 133.

THE THIRD SCHEDULE.

District of
To the Minister for Lands.
I [or we], the undersigned, holding a lease under "*The Crown Lands Acts 1884 to 1895*" of an Agricultural Farm No. _____ in the above District, do hereby elect to take advantage of the provisions of "*The Land Act, 1897,*" with respect to such selection.
Given under _____ hand at _____ this _____ day of _____ 18 ____.
Witness: J.P. _____ A.B.

THE FOURTH SCHEDULE.

Section 179.

MEMORANDUM OF MORTGAGE.

I, A.B., of _____, being the registered lessee of [describe the holding and number of the lease] under the provisions of Part III. [or Part IV., as the case may be] of "*The Land Act, 1897*" [or "*The Crown Lands Act of 1884*"], in consideration of the sum of _____ lent to me by [or due by me to] C.D., of _____, hereby mortgage the said holding to him. And I do hereby covenant and agree with the said C.D. that I will pay him the said sum on [here insert day appointed for payment, covenant for payment of interest, and such other covenants as may be agreed upon]. And in default of performance, on my part, of the above covenants, or any of them, I authorise the said C.D. to enter upon and take and retain possession of the holding or to sell the said holding in accordance with the provisions of the said Act.

In witness whereof I have hereto signed my name, this _____ day of _____ 18 ____ A.B.

Signed by the abovenamed A.B. as mortgagor, this _____ day of _____ 18 ____ in my presence.
E.F., J.P.

LANDS, DESTRUCTION OF MARSUPIALS AND DINGOES ON.

See MARSUPIALS.

LEASES, PASTORAL.

See LANDS.

LIQUOR.

An Act to Impose a Duty on Beer Manufactured in Queens- 61 Vic. No. 5.
land and to Provide for the Registration and Licensing THE BEER
of Breweries. DUTY ACT OF
1897.

[ASSENTED TO 7TH OCTOBER, 1897.]

WHEREAS we your Majesty's dutiful and loyal sub- Preamble.
jects, the Members of the Legislative Assembly of Queensland in Parliament assembled, have, towards raising the necessary supplies to defray the expenses of the Public Service, freely and voluntarily resolved to give and grant to your Majesty the duties hereinafter mentioned: And whereas it is expedient to make provision for the Registration of Breweries: We therefore humbly pray your Majesty that it may be enacted, and be it therefore enacted by the Queen's Most Excellent Majesty, by and with the