

VICTORIA.



ANNO VICESIMO QUINTO

VICTORIÆ REGINÆ.

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No. CXLV.

An Act to consolidate and amend the Laws relating  
to the Sale and Occupation of Crown Lands.

[18th June, 1862.]

**W**HEREAS it is expedient to amend and consolidate the laws relating Preamble.  
to Crown Lands in Victoria and to give increased facilities for the  
sale and settlement of such lands and otherwise to provide for the good  
order and management of the same Be it therefore enacted by the  
Queen's Most Excellent Majesty by and with the advice and consent of  
the Legislative Council and the Legislative Assembly of Victoria in  
this present Parliament assembled and by the authority of the same as  
follows—

PART I.—INTRODUCTORY.

I. The Acts mentioned in the First Schedule hereto from the Repeal of existing  
laws and saving of  
Gold Fields Act.  
times therein mentioned and all Orders of Her Majesty in Council and  
all Regulations respecting the sale or other disposal of the waste lands  
of the Crown in force in Victoria at the time of the passing of this Act  
shall be and are hereby repealed but nothing herein contained shall No. 117, s. 88.  
alter or repeal the Act of the Parliament of Victoria numbered XXXII.  
or any part thereof.

II. Notwithstanding anything herein contained all proceedings Penalties and rights  
under Land Sales  
Act.  
civil or criminal of what nature or kind soever for the enforcement of  
any forfeitures or penalties in regard to any land alienated or demised  
under the authority of the Act No. CXVII. shall be commenced and  
prosecuted as if this Act had not been passed and nothing herein con-  
tained shall be deemed to affect any estate right or interest created or  
existing under or by virtue of the said Act.

III. Under and subject to the provisions of this Act but not Governor to convey  
only under this  
Act.  
otherwise the Governor in the name and on behalf of Her Majesty shall  
grant convey or otherwise dispose of Crown lands for such estate or No. 117, ss. 1, 8.  
interest as in each case is hereby authorised and for none other.

IV. Where

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Existing engage-  
ments to be ful-  
filled.

No. 117. ss. 6, 7.

IV. Where the sale of any land has prior to the passing of this Act been lawfully effected or where prior to the passing of the Act of the Parliament of Victoria numbered CXVII. any right of pre-emption had accrued and had been applied for and would but for the passing of such Act have been recognised according to its usual practice by the Board of Land and Works the Governor notwithstanding anything in this Act contained may complete or give effect to any such sale or right and may execute the proper conveyances accordingly.

Lands reserved from  
sale. •

No. 117, s. 2.

V. The Governor in Council may from time to time reserve from sale either temporarily or permanently any Crown lands which in his opinion are required for any public purpose whatsoever or for quays landing places tramways railways and railway stations roads canals or other internal communications or for reservoirs aqueducts or water courses or for the use or benefit of the aboriginal inhabitants or the sites of markets abattoirs public baths or washhouses schools reformatories colleges places of public worship dwelling houses for the ministers of any religious denomination mechanics institutes libraries museums or other institutions for public instruction experimental farms gardens parks or hospitals asylums or infirmaries or places for the interment of the dead or for the recreation convenience or amusement of the people.

Lands may be  
granted for public  
purposes to trus-  
tees.

No. 117, ss. 4, 5.

VI. Where before the commencement of this Act any Crown lands have been promised and set apart for any of the purposes hereinbefore mentioned if possession thereof have been given or if trustees thereof have been appointed or if a written promise to grant the same have been given by the Government and if such promise be established to the satisfaction of the Board of Land and Works and the fulfilment thereof be claimed within twelve months from the passing of this Act and if notice of such claim have been published in the *Government Gazette* for four consecutive weeks and where under the authority of the Act of the Parliament of Victoria numbered CXVII. or after the commencement of this Act any Crown lands are lawfully reserved from sale for any such purpose the Governor may convey any such land in fee or for any lesser estate to trustees for any of the purposes aforesaid.

Reserved lands not  
to be sold.

VII. After any land has been temporarily reserved from sale the same shall not be sold until such temporary reservation be revoked by the Governor in Council and after any land has been permanently reserved from sale every conveyance or alienation thereof except for the purpose for which such reservation has been made shall be absolutely void as well against Her Majesty as all other persons whomsoever.

Notice of permanent  
reservation of land  
to be published in  
the *Government  
Gazette* before such  
reservation.

VIII. Before any land is permanently reserved as hereinbefore mentioned notice of the intention to reserve the same shall be published in the *Government Gazette* for four consecutive weeks before the same shall be so reserved and in every such notice the land proposed to be reserved and the purpose for which it is to be reserved shall be fully described and stated.

Notice of temporary  
reservation to be  
published in *Go-  
vernment Gazette*  
after such reserva-  
tion.

IX. When any land has been temporarily reserved as hereinbefore mentioned notice of such reservation shall be published in the *Government Gazette* for four consecutive weeks and before any temporary reservation is revoked as hereinbefore mentioned notice of the intention to make such revocation shall be published in the *Government Gazette* for four consecutive weeks.

Escheated and for-  
feited lands may  
be conveyed.

X. When Her Majesty has become or may hereafter become entitled to any lands either by escheat for want of heirs or by reason of any forfeiture or by reason that the same had been purchased by or for the use of or in trust for any alien or aliens if the Governor in Council  
thinks

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thinks fit so to do the Governor may grant such lands 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 whose estate the same had been or of carrying into effect any intended grant conveyance or devise of such last-mentioned person in relation thereto or of rewarding any person making discovery of such escheat or of Her Majesty's right and title thereto and every such grant heretofore made shall anything in any Act to the contrary notwithstanding be valid and effectual as well against Her Majesty as against all other persons.

XI. Notwithstanding any law or usage to the contrary all Crown grants and leases which are issued after the commencement of this Act shall bear date on the day when the persons named therein as grantees or lessees respectively first became entitled to such grants or leases and shall be of the same force and validity as if they had been enrolled on the day on which the same bear date and the eighty-sixth section of the said Act numbered CXVII. shall be read and construed with reference to any grant issued under it while in force as if the words "and enrolled" had been inserted after the word "sealed."

Crown grants and leases to be ante-dated.

No. 117, s. 86.

## PART II.—ESTATES IN FEE AND LEASES WITH COVENANTS OF PRE-EMPTION.

### 1.—SALE OF LANDS BY SELECTION.

XII. The lands comprising ten millions of acres and upwards delineated on the map signed and with the boundaries initialed by the President of the Board of Land and Works and deposited with the clerk of the Parliaments shall be reserved for proclamation in Agricultural Areas as hereinafter provided and not less than four millions of acres shall be open for selection in such areas within three months of the passing of this Act and there shall constantly be kept open for selection in such areas at least two millions of acres while so much of the lands delineated in the aforesaid map remains unsold.

What lands to be sold by selection.

XIII. The Board of Land and Works shall from time to time cause to be surveyed agricultural areas taken from the aforesaid lands and such areas shall be as much as possible in defined and extensive districts and not in isolated or scattered portions and shall be surveyed in allotments of not less than forty nor more than six hundred and forty acres and the board shall cause plans of the lands so surveyed to be prepared and on such plans each allotment shall be divided into two equal subdivisions.

Survey of agricultural areas.

XIV. When the survey of any area is completed the Governor in Council shall forthwith proclaim that all the lands therein situated will within a period of not more than three months from the date of such proclamation be open for selection After the expiration of such period such lands may be selected by the first applicant in the manner upon the terms and to the extent herein set forth.

Agricultural lands after proclamation to be open for selection.

XV. Every such proclamation shall distinguish the area by a name and shall state some proper officer (hereinafter called the Land Officer) to whom and some Land-office at which applications for the lands so proclaimed may be made and the purchase money paid.

Proclamation of land-office and land officer.

XVI. And no such land officer shall directly or indirectly purchase any land in relation to which such proclamation has been made

Land officer not to be a purchaser.

XVII. Where any person desires to select any allotment in any agricultural area if he make a written application to the land officer for such allotment and a declaration according to the circumstances of his case

Mode of selecting agricultural lands.

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case in the form contained in the second schedule hereto and if he pay to such officer the purchase money for the whole allotment or as the case may be the purchase money for one moiety thereof and one year's rent for the other moiety and if no prior applicant have made such payment such person shall thereby become the selector of such allotment.

Applicants' register  
book to be kept at  
land-office.

XVIII. The land officer on receiving any such application shall endorse thereon the day and hour of its receipt and shall enter the same in an Applicants' Register Book and such book shall during office days and hours be open without charge to public inspection.

Priority of applica-  
tion to be deter-  
mined by lot.

XIX. Where two or more applications and payments for the same allotment are received on the same day during the ordinary hours in which the office is open for the transaction of business the land officer in such manner as the Board of Land and Works may direct shall determine by lot which of the said applicants shall have priority and such determination shall be conclusive between the applicants.

Certificate of pur-  
chase and issue of  
Crown grant.

XX. The land officer anything in the Act of the Parliament of Victoria numbered LXXXVI. to the contrary notwithstanding shall forthwith return to the unsuccessful applicants if any the money lodged with him by them and shall give to the selector a certificate stating the receipt of the consideration and the allotment in respect of which it was paid and the selector shall thereupon be entitled to go into possession of such allotment but shall not receive any Crown grant thereof before the expiration of one month from the date of such certificate.

Mode of payment for  
agricultural lands.

XXI. Every selector of any such allotment shall be entitled either to purchase the fee of the whole allotment at the price of one pound for each acre or fractional part of an acre therein or to purchase in like manner and at like price the fee of one moiety thereof and receive a lease of the remaining moiety on the terms herein contained.

Duration and Cove-  
nant of lease.

XXII. Every such lease shall be for a term of eight years at a rent payable yearly in advance of two shillings and sixpence for each acre or fractional part of an acre so demised and shall contain the usual covenant for the payment of rent and a condition for re-entry on non-payment thereof and upon the payment of the last sum due on account of the rent so reserved or at any time during the term upon payment of the difference between the amount of rent actually paid and the entire sum of one pound for each acre the purchaser of the first moiety his heirs or assigns shall be entitled to a grant of the remaining or leased moiety as real estate and the enrolment on record of the grant of the remaining or leased moiety shall have relation back to and shall take effect from the time when the grant of the first moiety took effect.

Former purchasers of  
land to be entitled  
to select under this  
Act.

XXIII. Every person not being a mortgagee seised at law of or seised of an equity of redemption in lands in fee simple within the Colony of Victoria purchased previously to the coming into operation of this Act shall be entitled to select an allotment of Crown lands in any agricultural area and hold the same under lease on the same terms and in the same manner as hereinbefore provided for selectors of land in an agricultural area and the payment of one year's rent shall constitute such person the selector of such land provided the quantity to be selected shall not exceed in extent the land of which he is so seised and in no case shall the said land so selected exceed three hundred and twenty acres Provided that no person shall be entitled to become a selector under this section unless he shall apply for this purpose within twelve months from the date of this Act or who has within twelve months previously become a selector in an agricultural area in the manner hereinbefore provided or who has rented agricultural lands under the Act of the Parliament of Victoria No. CXVII.

XXIV. No



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XXIV. No person shall become entitled to a lease of any allotment under the provisions of the last preceding section unless he produce his title deeds for the perusal of a solicitor to be appointed by the Governor in Council and upon approval of the title by him and payment of the taxed costs out of pocket of investigating the same and of such fee to the said solicitor as the Governor in Council may appoint (which fee the said solicitor is hereby empowered to retain for his own use and benefit) such person shall be entitled to obtain a certificate in the form contained in the sixth schedule to this Act.

Such selectors to produce title.

XXV. When any such lessee has been ejected the land so demised may be sold in fee simple by public auction unless it be included by the Governor in Council in any proclamation of lands open for selection issued after such ejectment and the lessee shall not be entitled to any compensation for any improvements effected upon such land.

Forfeited leaseholds may be sold by auction.

XXVI. No person shall be entitled either in his own name or in the name of any other person to select within a period of twelve calendar months more than six hundred and forty acres of land and no infant or married woman except a married woman who has obtained a decree for judicial separation binding according to the laws in force in Victoria or person not domiciled in Victoria at the time of application shall be entitled to select either directly or by trustees any such land.

Extent to which agricultural lands may be selected.

XXVII. After three years from the date of any such proclamation as aforesaid if any lands in any area so proclaimed remain unselected the Governor in Council may direct that such lands or any portion of them shall be sold in fee simple by public auction as hereinafter provided in relation to lands not reserved for proclamation in agricultural areas.

Unselected lands may be sold by auction.

XXVIII. Where any person desires to select any allotment in any agricultural area and is prevented from so doing by some person selecting such allotment in violation or evasion of the restrictions contained in this Act if within one month from the date of such undue selection he send to the land officer aforesaid a notice in the form given in the third Schedule hereto and also make application with the declaration aforesaid and pay the purchase money or the purchase money and rent for such allotment as if it were still open for selection the Crown grant of the disputed allotment shall not issue to the party claiming to be the selector thereof until the proceedings hereinafter directed have been taken.

Remedy for person injured by an undue selection.

XXIX. After the receipt of any such notice the land officer shall notify the same to the sheriff or deputy sheriff of the bailiwick in which the disputed allotment is situate and such sheriff or deputy sheriff shall thereupon so soon as may be require both parties to appear before him at some fixed time and place and shall then and there impanel four men from the special jury book of the jury district in or nearest to which such allotment is situated to try the matter of such dispute and the provisions of any Act now or hereafter in force for the regulating of juries shall apply to juries under this Act.

Sheriff to summon special jury of four.

XXX. The sheriff or deputy sheriff may administer the lawful oaths to the jurors and witnesses and may assess the costs of the proceedings so that the same do not exceed ten pounds and may award such costs to the person in whose favor the questions hereinafter mentioned are decided and shall grant and deliver to such person a certificate in the form contained in the fourth Schedule to this Act for the amount of such costs and such certificate may be filed in the Supreme Court and judgment may be signed thereupon and execution issue as in the case of a certificate of a judgment in the County Court filed in the Supreme Court.

And to administer oaths and assess costs.

XXXI. The sheriff or deputy sheriff and the jury shall hear and determine the following questions or some of them as the case may require

Questions to be tried by sheriff's court.

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require and none other that is to say whether the defendant did or did not select either in his own name or in the name of others more than six hundred and forty acres of land within a period of twelve calendar months or whether at the time of such selection the defendant was or was not an infant or a married woman not having obtained a decree for judicial separation binding according to the laws in force in Victoria or a person not domiciled in Victoria or a trustee for such infant or married woman as aforesaid or person not so domiciled or whether he was or was not the first selector in point of time or agent for any other person and the decision of the majority of them shall be final and conclusive.

Consequences of  
sheriff's decisions.

XXXII. The sheriff shall notify to the Board of Land and Works such decision and if the finding be for the defendant the Crown grant of the disputed allotment shall forthwith issue to him and if the finding be for the plaintiff such plaintiff shall be taken to be the selector of the allotment in the same manner as if on the day on which the decision was given he had selected the same in the usual manner and unless the Governor specially remit the forfeiture the defendant shall forfeit the purchase money or rent or any part thereof paid by him for such allotment.

Occupation licensees  
to be selectors  
under this Act.

XXXIII. When at the time of the passing of this Act any person holds or has been promised a license in accordance with the terms of notices published in the *Government Gazette* and dated respectively the sixteenth of May and the twenty-eighth of August One thousand eight hundred and sixty-one or a certificate in lieu of such license from the Board of Land and Works to reside upon and cultivate any Crown land if the conditions of the license or certificate published in those numbers of the *Government Gazette* specified in the fifth schedule to this Act have been duly fulfilled and if application be made within twelve months after the commencement of this Act every such person shall be entitled with the consent of the Board of Land and Works at his option either to select the land described or intended to be described in such license or certificate if he hold under such first mentioned license at such a price as the Board of Land and Works may determine upon not exceeding the average upset price lawfully fixed for the sale of lands by auction in the district within which the lands so occupied are situate and if he hold under such last mentioned license in the same manner and upon the same terms as if such land was an allotment of land in an agricultural area within the meaning of this Act and as if he were declared the selector and any sum paid as license fee for the said land shall be credited as part of the purchase money of the same or to remain in possession thereof for the period and upon the conditions specified in such license or certificate and every such license or certificate shall be taken to be valid and effectual in law.

Or to remain in  
possession on the  
conditions of his  
license.

Extension of right of  
selection to occu-  
pation licensees.

XXXIV. When any land occupied under any license or certificate issued or granted in accordance with the notice published in the *Government Gazette* dated the sixteenth of May One thousand eight hundred and sixty-one is contained within any allotment of land already surveyed by the Government if only one such license or certificate has been granted or issued upon such surveyed allotment such licensee or holder of certificate shall be entitled with the consent of the Board of Land and Works to purchase within twelve months after the passing of this Act the whole allotment and where two or more such licenses or certificates have been granted or issued in respect to any surveyed allotment as aforesaid such allotment may be as nearly as practicable equally subdivided in such manner that each licensee or holder of certificate shall be entitled with the consent of the said Board of Land and Works to purchase the subdivision containing the land held by him

under

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under such license or certificate But where a license or certificate as aforesaid has been granted or issued in respect to any unsurveyed lands if the Board of Land and Works consent thereto the licensee or holder of certificate of such land shall be entitled to purchase within the period aforesaid any adjacent unoccupied Crown land within an agricultural area Provided that every such purchase shall be made upon the same terms and in the same manner as is directed in the last preceding section of this Act in respect to licensees or holders of certificates under the notice as aforesaid of the said sixteenth day of May and provided also that no such licensee or holder of a certificate shall select in respect to such license or certificate more than one hundred and eighty acres Provided also that when any such land so held under license or certificate of the sixteenth of May aforesaid is contained within the lands delineated upon the map hereinbefore mentioned the holder of such license or certificate shall notwithstanding anything hereinbefore contained be entitled to select such land and the extension of the same authorised by this clause on the same terms and conditions as hereinbefore provided in the case of persons holding certificates or licenses obtained in accordance with the terms of the notice published in the *Government Gazette* and dated the twenty-eighth day of August One thousand eight hundred and sixty-one.

XXXV. When any land occupied under any such license or certificate as aforesaid is not surveyed in the manner and form which the regulations under which such license or certificate was issued prescribe or where the boundaries of such land are found not to conform to the design of subdivision adopted for the survey of the block comprising such land such irregularity of survey shall not in any way prejudice the right of the licensee but the Board of Land and Works may readjust the boundaries of such land so that the same may conform as nearly as may be in size and shape to the size and shape prescribed by the regulations aforesaid.

Readjustment of boundaries under occupation license.

XXXVI. Every selector of an allotment as aforesaid within one year after he becomes a selector shall cultivate at least one acre out of every ten acres thereof or shall erect thereon a habitable dwelling or shall enclose such allotment with a substantial fence.

Obligations of selector.

XXXVII. Every person who under the provisions of the Act of the Parliament of Victoria numbered CXVII. has been declared the selector of a subdivision of an allotment at the price of one pound for every acre contained in such subdivision and is the holder of a lease of the remaining subdivision of such allotment shall be entitled at any time within twelve months after the passing of this Act to surrender such lease and to receive in lieu thereof a lease under the provisions of this Act of the land comprised in such first-mentioned lease for the term of eight years from the date of such surrender and at the same rate and containing the same covenants and conditions and with the same right of pre-emption as if he had been the selector of an allotment under this Act.

Lessees under Act No. 117 may surrender and receive leases under this Act.

XXXVIII. There shall be appropriated to the purposes of assisted immigration into Victoria in every year after the thirty-first of December One thousand eight hundred and sixty-two one-fourth of the net moneys received in such year from the sale or the leasing of land or from licenses for the use thereof under this Act and the Governor in Council may from time to time make regulations for promoting and directing such immigration which regulations shall be first submitted to both Houses of Parliament but the division of the said moneys shall be made in such a manner that the immigrants shall be selected during the first nine months of

Assisted immigration.



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of the year from England Scotland Ireland and Wales in proportion to the population of such countries respectively according to the last Census for the time being.

## 2.—SALE OF LAND BY AUCTION AND VALUATION.

What lands sold by  
auction.

XXXIX. All lands not delineated in the map hereinbefore mentioned and reserved for proclamation in agricultural areas shall be sold subject to such covenants conditions exceptions and reservations as the Governor in Council may direct in fee simple by public auction at an upset price of one pound for each acre or at such higher upset price as the Governor in Council may direct and no such lands shall be sold otherwise except as hereinafter provided.

Quarterly auction  
and notice thereof.

XL. Once at the least in every quarter of the year there shall be holden one or more public sales by auction of lands in fee simple and any person authorised by the said board may hold such sales without having an auctioneer's license or incurring on that account any penalty and notice of every such sale shall be given in the *Government Gazette* within three months and before one month thereof and every such notice shall declare with all practicable precision the time and place at which such auction will be held and the lands to be offered for sale thereat and the lots in which the same will be offered and the upset price for each lot and the amount of the deposit required.

XLI. It shall be a condition of sale at every such auction that the purchaser pay at the time of the sale a deposit of such amount as the Board of Land and Works may from time to time require but in no case less than twenty-five per cent. of the whole price and further pay the residue of the price within one month next after the time of such sale by auction and on failure of such payment the deposit shall be forfeited and the contract shall thereupon be void.

XLII. When any lands have been put up to auction and remain unsold thereat the Governor in Council may direct that such lands continue to be set up to auction at any reduced price not less than one pound per acre and until such direction be given all such lands shall be open for sale to the first applicant at the upset price or in case of an increased price having been offered for the same then at the highest price which shall have been offered.

XLIII. Where a road adjoins any purchased land and is required for access to such lands only and not otherwise for public use or convenience if the owner of such land make application to close such road and if the local authority lawfully appointed for the management of the roads of the district or in case there be no such local authority the Board of Land and Works approve thereof and if notice be given in the *Government Gazette* and in the local newspapers if any of such application and if an adequate money consideration according to the determination of an appraiser appointed by the said board be paid for the same the Governor in Council at any period not less than six months after the first publication of such notice may order such road to be closed and the Governor may grant in fee the soil of the road so closed to the owner of such adjoining land.

XLIV. Where in the opinion of the Governor in Council there is no convenient access to any portion of Crown lands or where any such portion is insufficient in area for sale under this Act or lies between and adjoins any land (alienated before the commencement of this Act) and any highway which forms or should form the only convenient approach to such land or where buildings erected on lands alienated before the commencement of this Act encroach upon any portion of Crown

Conditions of sale at  
auction of lands.

No. 117, s. 51.

Upset price of lands  
unsold at auction  
to be reduced.

Closing and aliena-  
tion of unnecessary  
roads.

No. 117, s. 55.

Detached strips of  
land may be sold  
at a valuation.

No. 117, s. 56.

Gov. may  
forfeiture  
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Crown lands or where any other case of a like nature arises the Governor may grant in fee such portion of Crown lands not exceeding five acres to the owner of such adjacent lands at a price determined by an appraiser appointed by the Board of Land and Works.

XLV. Before any appraiser enters into the consideration of any matters referred to him under this Act he shall in presence of a justice of the peace make and subscribe the following declaration that is to say—

Declaration to be made by appraiser.

No. 117, s. 57.

“I do solemnly and sincerely declare that I have no interest either directly or indirectly in the matters in question and that I will faithfully and honestly and to the best of my skill and ability make any appraisal and valuation required of me under the provision of an Act intituled ‘The Land Act 1862.’”

XLVI. Notwithstanding anything hereinbefore contained the Governor in Council may withdraw from sale as being auriferous or mineral or as having a water frontage or as being in other respects improper either at that time or generally to be sold any land about to be selected rented or purchased.

Governor may sell or withhold from sale lands previously reserved or offered.

### PART III.—LEASES AND LICENSES FOR OTHER THAN AGRICULTURAL OR PASTORAL PURPOSES.

XLVII. When any person desires to make vineyards or oliveyards or mulberry or hop plantations or permanently to establish in Victoria any useful plant or industrial enterprise or process which was previously unknown or not generally known and used therein if he make application in a form prescribed by the Governor in Council for a lease of any Crown lands required for such purpose and if notice of such application and of the lands to be demised and the purposes for which such demise is sought be given for four consecutive weeks in the *Government Gazette* the Governor may grant to such person a lease of such Crown lands not exceeding thirty acres for any term not exceeding thirty years from the date thereof but not more than one hundred such leases shall be issued in one year and the conditions of every such lease shall within fourteen days after the execution thereof be laid before both Houses of Parliament if Parliament be then sitting or if Parliament be not then sitting within fourteen days after the next meeting thereof.

Leases for novel industrial enterprises.

XLVIII. Upon the expiration of any lease granted under the provisions of the next preceding section or at any time during the currency of such lease not less than five years from the commencement thereof if the covenants and conditions thereof have been fulfilled and if payment be made to Her Majesty at the rate of one pound for each acre comprised in such lease every such lessee his heirs or assigns shall be entitled to receive a grant in fee simple of the land so leased.

Pre-emption granted to the lessee.

XLIX. When any person desires to mine upon any Crown lands for any metal or mineral except gold if he apply for a lease of such lands and if notice of such application and of the lands sought to be demised and the purposes for which they are so sought be given for four consecutive weeks in the *Government Gazette* the Governor may grant to such person a lease of such Crown lands on or below or both on and below the surface not exceeding six hundred and forty acres for a term not exceeding thirty years from the date of such demise.

Mining Leases.

L. The Governor may grant leases of any Crown land not exceeding (except in the case of leases for guano or other manure) three acres for a term not exceeding seven years from the date thereof and

Leases for other purposes.

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and at a yearly rent of not less than five pounds for any of the following purposes that is to say—

1. For obtaining and removing therefrom guano or other manure
2. For obtaining and removing therefrom stone or earth
3. For sites of inns stores smithies bakeries or similar buildings in thinly populated districts
4. For sites of bathing houses bathing places bridges ferries toll or punt houses
5. For sites of tanneries or factories or saw or paper mills
6. For sites of quays and landing places or for sites for the depositing of materials
7. For the working of mineral springs
8. For sites for ship and boat-building or repairing
9. For the manufacture of salt.

Conditions of leases.

LI. Every lease so granted as aforesaid shall be subject to such covenants and conditions and to the payment of such rent or royalty as the Governor in Council thinks fit to impose and shall contain a condition that if the lessee his executors administrators or assigns fail at any time during the term to use the demised land *bonâ fide* for the purposes for which it has been demised the lease shall be voidable.

How priority of application for leases to be determined.

LII. Where several persons apply for a lease of the same land if one of them be the first discoverer in cases under the forty-ninth section of this Act of the metal or mineral in that locality or the first person who has actually introduced into Victoria for commercial purposes the plant enterprise or process in respect of which the application is made and if the fact of such discovery or introduction be established to the satisfaction of the Board of Land and Works and if such discovery or introduction have taken place within six months of the date of such application such person shall receive such lease but if there be no such person and in all other applications for leases the first applicant shall have the preference and in doubtful cases the priority of application shall be determined by lot in such manner as the Board of Land and Works may direct.

Purpose for which licenses may be issued.

LIII. The Governor or any person duly authorised by him in that behalf may from time to time grant to any applicant a license to enter upon any Crown lands not under lease for any of the following purposes (that is to say)—

1. To search for any metal or mineral except gold
2. To cut and construct upon and through the land described in such license or to deepen widen clean repair or otherwise improve any race drain dam or reservoir
3. To cut dig and take away any live or dead timber bark gravel stone limestone salt guano shell seaweed sand loam brick or other earth
4. To occupy the site of fishermen's residences and drying grounds
5. To occupy the sites of fellmongering establishments slaughter-houses brick or lime kilns
6. To erect pumps
7. To collect ballast
8. Or for any of the purposes for which leases may be granted under the fiftieth section of this Act.

Conditions of licenses.

LIV. Every such license shall bear date of the day on which it is issued and shall continue in force for a period not exceeding one year from such date and shall be subject to such restrictions limitations and conditions and to the payment of such reasonable fee as the Governor

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Governor in Council by general regulations published in the *Government Gazette* think fit to impose.

LV. It shall be lawful for the holder of any miner's right business license or carrier's license to cut and remove from any Crown lands not declared to be either temporarily or permanently reserved any live or dead timber except Blackwood or strip bark from any tree growing thereon or remove any stone or gravel therefrom for building for himself any place of residence or of business or for mining purposes or for fuel or otherwise for his personal use.

Holders of miner's right may cut timber, &c.

LVI. When at the time of any conveyance under this Act or the Act of the Parliament of Victoria numbered CXVII. any race drain dam or reservoir flows through or over or is upon the land so conveyed although no reservation or exception thereof be contained in the Crown grant of such land no person unless specially authorised thereto by the Board of Land and Works shall obstruct or interfere therewith.

Water easements reserved on purchased land.

No. 117, sec. 59.

LVII. The Board of Land and Works may grant licenses in respect to such last mentioned race drain dam or reservoir in the same manner as if the same were situated on Crown lands and the licensee may by the authority thereof and for the purposes therein expressed enter upon the land so conveyed but such licensee shall make compensation to the owner of such land for any damage occasioned by such entry.

Licenses for such easements.

No. 117, sec. 59.

LVIII. For the purpose of determining the amount of such compensation some competent person shall be appointed by the said board and another shall be appointed by the owner of such land or his agent and a third shall be appointed by the person to whom such license has been granted and it shall be the duty of such three valuers or of any two of them to determine the amount of such compensation and such amount when so determined may be recovered in a summary way before any two justices.

Amount of compensation to be determined by valuers.

No. 117 s. 59.

LIX. Upon any such reference as last aforesaid each party on the request of the other shall appoint a valuator by delivering to him an appointment signed by such party or his agent and if for one month after notice by one party (who has duly appointed a valuator) to the other party stating such request and accompanied by a copy of such appointment the party to whom notice is given fail to appoint a valuator the valuator appointed by the party giving the notice shall be deemed to be appointed by and shall act alone on behalf of both parties and the valuation of any valuator or valuers appointed in pursuance of this Act shall be binding final and conclusive to all intents and purposes whatsoever.

Proceedings on neglect to appoint a valuator.

No. 117 s. 60.

LX. If before such determination as aforesaid any valuator die or refuse or become incapable to act the person by whom such valuator was appointed shall appoint in like manner another in his stead and if such party fail so to do for the space of fourteen days after notice from the other party in that behalf the valuator appointed by the party giving the notice may proceed alone *ex parte* and every valuator so appointed shall have the same powers and authorities as were vested in the valuator in whose stead the appointment is made.

Death of valuator.

No. 117 s. 61.

LXI. Any appraiser or arbitrator appointed by virtue of this Act may require the production of such documents in the possession or power of either party as he may think necessary for determining the matters referred and may examine the parties and other persons as witnesses on oath.

Production of documents.

LXII. Notwithstanding anything hereinbefore contained the Governor in Council may by proclamation declare that no person although he be duly licensed or otherwise authorised shall cut or remove live or dead timber or bark or stone or gravel from such portions of Crown lands as are named in such proclamation or shall exercise on any

Governor may prohibit felling timber &c.

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any such portions the powers or any of them conferred by any license granted under the authority of the third part of this Act.

## PART IV.—COMMONS.

Saving of existing commons.

LXIII. Nothing in this Act contained shall affect except as expressly herein provided any commons proclaimed under the Act of the Parliament of Victoria No. CXVII. or the rights of any person entitled under the authority of the said Act to depasture his horses or cattle upon any such common from and after the passing of this Act.

Interpretation. clause

LXIV. In the following sections of this Act the following expressions shall have the meanings hereinafter assigned to them that is to say—

The word "cattle" shall mean and include horses mares geldings colts fillies asses mules cows oxen heifers steers calves and shall apply to any one or more animal or animals of the said several kinds.

The words "gold field" shall mean those parts of the Crown lands upon which any persons are actually engaged in mining for gold and which the Governor in Council shall by metes and bounds proclaim to be a gold field.

Five classes of commons under this Act.

LXV. When any Crown land remains unsold in or within five miles of any municipal district or upon or within five miles of any gold field or in or within five miles of any town not contained in any municipal district or within any agricultural area of which at least one-fourth part has been selected the Governor in Council may proclaim such land to be a municipal common or a gold fields common or a town common or a farmers' common respectively as the case may be.

Temporary common.

LXVI. When one-eighth part of any agricultural area has been selected as aforesaid or when any holders of miners' rights not less than fifty in number are mining on any auriferous land not proclaimed as a gold field the Governor in Council may proclaim any unselected portion of such agricultural area not exceeding twice the quantity so selected or any Crown lands not distant more than half-a-mile from such auriferous lands to be a temporary common for the respective use of such selectors or of such holders of miners' rights and of the holders of business licenses resident in the locality where such mining is being carried on and where no temporary common for the last mentioned purposes has been so proclaimed every such holder of a miner's right or of business license may depasture upon any land which might be included in such temporary common any number of cattle not exceeding one team.

Persons entitled to commonage.

LXVII. All householders of any municipal district and all holders of miners' rights and of business licenses and all householders of any town and all selectors of any land under this Act their heirs or assigns who are resident on the land so selected shall be entitled subject to the regulations hereinafter mentioned and free from all charges save the fee imposed by such regulations to depasture their cattle upon any common appropriated to them respectively and no other person except as herein expressly provided shall depasture any animals thereon.

Managers of commons.

LXVIII. Every common as aforesaid shall be governed by managers elected or appointed as hereinafter provided and all such managers shall be taken to have in respect of such common the authority of Crown Lands Commissioner under this Act.

Election of managers in municipal and gold fields commons.

LXIX. The municipal council of any municipal district within or in the vicinity of which any town common within the meaning of the Act of the Parliament of Victoria numbered CXVII. or any municipal common is situated or the mining board of the mining district within which any gold field common is situated shall elect annually



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annually in such manner as they may respectively by bye-laws prescribe three persons to be managers of such town or municipal or gold fields common respectively as the case may be and may at any time remove any one or more of such managers and elect others in their stead.

LXX. Until any town having a town common established under this Act become a municipal district or part of a municipal district and until farmers' commons or temporary commons or farmers' common within the meaning of the Act of the Parliament of Victoria numbered CXVII be placed under such other control as the Legislature may provide the Board of Land and Works may appoint and remove the managers of any such town common or farmers' common or temporary common respectively.

Appointment of managers in town and farmers' common.

LXXI. Where there are two or more neighbouring commons the Governor in Council may proclaim that the same shall be a common under the name of the "United Town and Gold Field [or as the case may be] Common of " for the benefit of all persons entitled to commonage on either.

Amalgamation of commons.

LXXII. In the case of any united common all the managers taken together of the separate commons therein included or a majority of such managers shall be the managers of such united common.

Management of united common.

LXXIII. Such managers shall not receive any remuneration whatever for their services and shall have the exclusive charge of the common in respect of which they have been elected and shall from time to time make rules for the proper management thereof and for determining the number of cattle which each person entitled to commonage may depasture thereon and the fees payable in respect hereof (which shall be recoverable in a summary way before some justice) and shall keep a registry of such cattle and shall appoint herdsmen and shall pay such herdsmen out of such fees and the residue of such fees if any shall be applied to such public purposes for the benefit of the town district gold field or agricultural area as the duly constituted local authorities if any or if no such local authority exist as the Board of Land and Works shall direct and all such rules as soon as they are made and all accounts of receipts and disbursements, once in every year when audited in such manner as the local authorities or the Board of Land and Works may direct shall be published in the *Government Gazette* or some newspaper circulating in the locality.

Managers to make regulations for commons.

LXXIV. The managers of any gold fields common or united town and gold fields common may grant to any person upon payment of such sum as shall be determined by them a special license to be called a "Dairyman's License" to depasture on any such common the number of cattle specified in such license for dairy purposes only and the holder of such license may depasture such cattle on such common accordingly.

Special license to dairymen.

LXXV. The managers of any town or gold field or united town and gold field common may grant to butchers or other persons engaged in the trade of slaughtering special licenses to depasture on any such common any number of horned cattle sheep or swine specified in such license and may appoint the fees payable for the same and the holders of such license may depasture such animals on such common accordingly.

Special licenses to butchers.

LXXVI. It shall be lawful for the managers of farmers commons to permit the commoners to depasture sheep thereon and to set apart if they think fit a special portion of such commons on which such sheep may be depastured.

Managers may permit commoners to depasture sheep.

LXXVII. Nothing herein contained shall prevent the sale by auction or selection or the leasing under this Act of any land comprised in any common proclaimed or subject to licenses granted as aforesaid before or after the passing of this Act and the Governor in Council

Governor may increase or diminish commons

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Council may at any time increase diminish alter or abolish any such common but no common except in the case of farmers' commons as hereinbefore provided shall be greater than may be sufficient to enable each person entitled to commonage thereon to depasture four head of cattle.

Privileges of travellers.

LXXVIII. Notwithstanding anything herein contained every traveller may while he is travelling depasture for any period not exceeding twenty-four hours his cattle and sheep unless the same be affected with any contagious or infectious disease upon any unsold Crown lands within one quarter of a mile on either side of any road or track commonly used as a thoroughfare or though not previously so used leading to any auriferous Crown lands on which persons are actually engaged in mining for gold and to which no road has been proclaimed whether such lands be or be not comprised in any common.

Privileges of public officers on duty and of holders of miners' rights.

No. 117, sec. 65.

LXXIX. Where any person is employed by the Board of Land and Works or is otherwise engaged in any public service or when any holder of a miner's right is actually engaged in searching upon Crown lands for gold if any such person or holder have with him in pursuance and for the purposes of his duty or in the reasonable prosecution of such search any cattle he may during the continuance of such employment or service depasture all such cattle upon any Crown lands not under lease whether commonable or otherwise and may encamp thereon.

PART V.—LICENSES FOR PASTORAL OCCUPATION.

1.—EXISTING RUNS.

Yearly licenses shall be issued.

To confer no greater privileges than previous pastoral licenses.

LXXX. The Governor shall in the same manner as heretofore issue to the persons who shall at the time of the passing of this Act be in the licensed occupation of runs for pastoral purposes and the executors administrators and assigns of such persons yearly licenses to occupy such runs for pastoral purposes but no such license heretofore or hereafter to be issued shall be deemed to prevent such run or any part thereof from being sold or leased proclaimed a common or occupied by virtue of any miner's right or license for other than pastoral purposes or from being otherwise dealt with under the authority of this or any other Act now in force or to confer any greater privilege upon the person to whom the same shall be issued than licenses to occupy for pastoral purposes have hitherto conferred. Provided that no such yearly license shall be dated after the first day of January One thousand eight hundred and seventy or be in force after the thirty-first day of December of that year.

First half-yearly instalment to be paid.

Afterwards rent substituted.

LXXXI. The half-yearly instalment of the assessment on the stock depastured on the Crown lands comprised in such runs which by virtue of the Act of the Parliament of Victoria numbered LXXIX. will become payable on or before the last day of June in the present year shall be paid in the same manner as in former years but the second instalment shall not be paid but in lieu thereof a rent shall be paid as hereinafter provided.

License fees payable only during 1862.

LXXXII. The license fees shall be paid during the present year at the same rate and in the same manner as heretofore and shall not be payable afterwards.

Rent to be according to grazing capabilities as determined by the Board of Land and Works or arbitrators as the case may be.

LXXXIII. The rent to be paid by every such licensee for his run shall be at the rate of eightpence for every sheep or two shillings for every head of cattle which it shall be determined to be capable of carrying by the Board of Land and Works or where the determination of such board shall be disputed by the arbitrators hereinafter mentioned.

Principle upon which the board is to determine the grazing capabilities of runs.

LXXXIV. In determining such capability the said board shall proceed as follows. It shall divide all runs into four classes according to their grazing capabilities each class including those runs which shall be estimated

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estimated to be capable of carrying a certain number of sheep or cattle for every hundred acres comprised therein. It shall ascertain as accurately as possible the number of acres comprised in each run and according to its class and area shall determine how many sheep or cattle it is capable of carrying but in arriving at such determination the said board may nevertheless make a deduction from the number of sheep or cattle which a run would according to the class in which it shall be ranked be determined to be capable of carrying in respect of any land comprised in such run which may be of such inferior quality that it would be ranked in a class lower than that in which the run as a whole is ranked or which may not be available for pastoral purposes.

Deductions may be made in respect of inferior class.

LXXXV. Where different parts of a run vary materially in quality the said board may if it think fit divide such run into two or more runs and shall in such case place the same in their proper classes and shall determine the grazing capabilities of each such run into which the original run shall have been so divided and a separate license shall in such case be issued for each such run.

Runs may be divided by the Board in order to facilitate the ascertainment of the amount of rent.

LXXXVI. In no case shall a run be determined to be capable of carrying a smaller quantity of stock than the quantity which was depastured thereon in the year One thousand eight hundred and sixty-one according to the return delivered to the commissioner of the district in compliance with the said Act numbered LXXIX. unless the grazing capabilities of such run shall since such delivery have been diminished in consequence of a portion thereof having been sold or leased or proclaimed a common or from some other such cause.

Rent not to be less than amount of assessment.

LXXXVII. When the said board shall have determined the grazing capabilities of the runs in any of the districts into which the colony has been heretofore divided in connection with the occupation thereof for pastoral purposes it shall cause to be inserted in the *Government Gazette* a notice of the amount of rent to be paid in respect of each run in such district in the form contained in the seventh schedule hereto and the amount therein mentioned shall be binding and conclusive upon every occupier of land for pastoral purposes unless he or his agent shall within two months after such publication send a notice to the said board intimating his intention to appeal against its determination as to the amount of rent to be paid in respect of his run and naming the person whom he appoints to be one of the three arbitrators hereinafter mentioned and shall at the time of his giving such notice deposit the sum of fifty pounds as a security to the said board for any costs incurred by it in connection with such appeal.

Except where part of a run has been sold, &c.

Rents as determined by the Board to be inserted in the *Government Gazette* and to be conclusive unless appealed against.

LXXXVIII. Every such appeal shall be decided by three arbitrators or the majority of them one of such arbitrators to be appointed by the said board the second by the person appealing or his agent and the third by the judge of the county court holden nearest to the principal building on the run.

Appeal to be heard by arbitrators.

LXXXIX. Such arbitrators shall have all the powers which by any Act now in force can be exercised by any arbitrator appointed by a rule of court including the power of examining witnesses upon oath.

How arbitrators appointed.

XC. Every such arbitrator shall previously to entering upon his duties take and subscribe before some justice of the peace for the colony or some part thereof the oath contained in the eighth Schedule hereto.

Arbitrators to take an oath.

XCI. Such arbitrators or a majority of them shall determine the amount of rent to be paid in respect of the run according to its grazing capabilities and shall have power to fix the rent at a higher or lower amount than that fixed by the board and the amount so determined shall be the rent to be paid in respect thereof and every such determination

Amount of rent.



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tion shall be made within four months after such publication in the *Government Gazette* as hereinbefore mentioned otherwise the same shall be of no effect.

Successful party to be entitled to costs

XCII. The arbitrators shall award that the unsuccessful party shall pay to the other party the reasonable costs attending such appeal and also the costs of the arbitrators but such last mentioned costs shall not exceed the sum of three pounds and three shillings for every day occupied by each arbitrator in going to and returning from the run and in inspecting the same and examining witnesses and in no case shall the costs to be paid to the arbitrators exceed thirty pounds.

Except where the rent is reduced only by one-tenth.

XCIII. If the amount of rent determined by the arbitrators shall be less than that determined by the said board by one-tenth only the party appealing shall not be entitled to recover any costs from the said board.

Deposit to be applied in payment of costs.

XCIV. If the said board be successful it shall be entitled to apply the deposit so to be paid as aforesaid towards satisfaction of its costs.

Death &c. of arbitrator.

XCV. If before the making of such determination as aforesaid any arbitrator die or refuse or become incapable to act the party or judge by whom such arbitrator was appointed as the case may be shall appoint another in his stead and if such party fail to do so for the space of fourteen days after notice from the other party in that behalf such other party may appoint an arbitrator in his stead and every arbitrator so appointed shall have the same powers and authorities as were vested in the arbitrator in whose stead such appointment shall have been made.

The Board may within one year increase the rent of any run.

XCVI. If on proper representation the said board shall have reason to believe that the amount originally determined as the rent to be paid in respect of any run or runs was fixed at too low an amount it shall be lawful for the said board at any time within twelve months after such determination to increase the amount of such rent Provided always that notice of the fact of such increase having been made shall within one month thereafter be inserted in the *Government Gazette* and that a copy of such notice be posted to the occupier of such run in a letter addressed to him at such run.

Appeal against increase.

XCVII. Such occupier may appeal against the determination of the board in making such increase and such appeal shall be decided in the same manner and such decision shall have the same consequences in all respects as is hereinbefore provided with regard to an appeal from the original determination of the board as to the amount of rent to be paid.

## 2.—NEW RUNS.

Unoccupied country and forfeited runs may be sold by auction.

XCVIII. All Crown land which at the time of the passing of this Act shall not be occupied by virtue of any lease license or other authority and all runs which may be forfeited or surrendered under the provisions of this Act may if the Governor in Council shall see fit be exposed to auction in runs of such extent as he shall approve provided that no such run shall be of a larger extent than will be sufficient according to the estimate of the said board to carry all the year round five thousand sheep or one thousand two hundred and fifty head of cattle.

Amount of rent to be fixed and notice of sale to be given.

XCIX. Before any run shall be so exposed the said board shall determine the amount of rent to be paid for the same and notice of such auction shall be given in the same manner in all respects as is hereinbefore enacted with regard to land about to be sold by auction in fee simple.

Highest bidder to be entitled to license.

C. The person who shall bid the highest sum by way of premium for any such run shall be entitled to receive a license to occupy the same for pastoral purposes for any period not exceeding fourteen years provided he shall pay such sum at the time of such auction and in default of such payment the run shall be forthwith again put up to auction.

CI. If



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CI. If there shall be no bidders at such auction the said board may reduce the amount of rent and the run shall be again exposed to auction after notice of the same shall have been given in manner hereinbefore provided and so on from time to time until the said run shall be sold.

If no bidder rent to be reduced and run again exposed to auction.

CII. It shall be lawful for the Governor in Council from time to time during the period any such license shall be in force to order that one or more reserves for sale shall be made on any run exposed to auction so that the extent of such reserves shall not in the whole exceed one-fourth of the area of the run and no part of such reserves shall be sold until after three months' notice in that behalf shall have been given to the licensee and no part of such run not situated within such reserves shall be sold during the period for which the license to occupy the same has been granted but nothing herein contained shall be deemed to prevent such run or any part thereof from being leased or occupied by virtue of any miner's right or license for other than pastoral purposes.

Reserves for sale on new runs.

CIII. Any person who during the years one thousand eight hundred and sixty or one thousand eight hundred and sixty-one received a license to occupy for pastoral purposes any run which had not been previously occupied under any such license or the license for which had been forfeited may at any time within twelve months after the passing of this Act surrender such run and every such person shall upon such surrender be entitled to receive a license to occupy such portion of such run not exceeding an extent sufficient according to the estimate of the said board to carry all the year round five thousand sheep or one thousand two hundred and fifty head of cattle at a rent to be determined by the said board according to the grazing capabilities of such portion and every such license may be granted for the same period and the same provisions shall be applicable to the run occupied by virtue thereof as if such run was a run exposed to auction under the powers hereinbefore contained. Provided that the rent fixed by such board may be appealed against by such person and such appeal shall be decided in the same manner and shall have the same consequences in all respects as hereinbefore provided with regard to existing runs.

Runs taken up during 1860 and 1861 may be surrendered and new licenses issued.

### 3.—GENERAL PROVISIONS AS TO RUNS.

CIV. Every licensed occupier of a run for pastoral purposes may cultivate so much of the run as may be necessary to provide such grain hay vegetables or fruit as may be required for the use and supply of his family and establishment but not for the purposes of sale or barter and any licensee making such sale or barter shall be liable for every such offence to forfeit a penalty of not less than ten nor more than fifty pounds.

Licensee not to cultivate except for consumption on the run.

CV. Every such occupier may erect any buildings yards or fences and make such reservoirs for water and other improvements on the run as shall be necessary for the residence of himself his family and servants or for the more profitable occupation of such run for pastoral purposes but shall not be allowed any compensation for the same except as hereinafter provided and may dig stone or cut such timber as may be required for domestic uses for firebote fencing yards or other such purposes.

Licensee may make improvements and dig stone and cut timber for domestic use.

CVI. The occupier of any run may with the sanction of the said board and upon payment of a fee of ten pounds for every subdivision divide such run and the said board shall determine the amount of rent to be paid in respect of each subdivision of the original run so that the rent to be paid for the whole of such subdivisions shall not be less than the rent paid for the run when undivided and the Governor shall issue licenses authorising the occupation for pastoral purposes of each run into which the original run shall have been so divided at the rent so determined by the said board as last aforesaid.

Runs may be divided by the occupiers.

CVII. The

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License to confer a  
chattel interest.

Interest may be  
transferred.

Provisions in case  
part of a run shall  
be sold &c.

Compensation for  
certain improve-  
ments hereafter to  
be effected on runs  
not within agri-  
cultural areas.

Occupiers of new  
runs entitled to  
compensation for  
loss of buildings  
and yards.

CVII. The interest in a run held under a license to occupy for pastoral purposes shall be deemed to be a chattel interest for all purposes.

CVIII. Such interest may be transferred by writing attested by a justice and in such form (if any) as may be prescribed by the regulations hereinafter mentioned and the person to whom such interest shall be transferred shall be entitled upon payment of a fee of one pound to receive a license to occupy for pastoral purposes. Provided also that the person making such transfer shall be liable for the instalment of rent which shall become due next after such transfer.

CIX. In case the value of any run shall be diminished by reason of any portion thereof being sold leased proclaimed a common or otherwise rendered unavailable for the purposes of pastoral occupation the said board shall at the request of the occupier or his agent and upon payment of a fee of five pounds determine the amount of rent to be paid in future in respect of such run and such occupier may appeal against such determination and such appeal shall be decided in the same manner and such decision shall have the same consequences in all respects as is hereinbefore provided with regard to an appeal from the original determination of the said board as to the amount of rent to be paid.

CX. If the occupier of any run not being part of the lands delineated on the map hereinbefore mentioned and reserved for proclamation in agricultural areas shall after the passing of this Act desire to erect any substantial fence or to make any permanent reservoir of water on such run he may apply to the said board for permission so to do and the said board if they are of opinion that such erection or making will conduce to the more profitable occupation of the run for pastoral purposes may grant such application and cause the same to be registered in a book to be kept for the purpose and such occupier may within three months after the completion of such fence or reservoir make before a justice a declaration in the form or to the effect contained in the ninth schedule hereto and transmit the same to the said board and in case any portion of the run on which such fence or reservoir or any part thereof shall be situated shall be thereafter proclaimed a common or a reserve for any public purpose whatsoever or be leased under this Act he shall be entitled to receive out of the public revenue or if such portion shall be sold out of the purchase money as hereinafter provided the value of such fence or reservoir at the time such portion of the run shall be so proclaimed or shall be sold or leased to be fixed by the said board on the principle following—that is to say—if less than one year has elapsed since the erection or making of such fence or reservoir the value shall be fixed at nine-tenths of the fair and reasonable cost of erecting or making the same if more than one year and less than two years at eight-tenths of such cost and so on deducting one-tenth of such cost for every year which has elapsed since such erection or making and in case such occupier shall be dissatisfied with the amount at which the said board shall fix the value of such fence or reservoir the value of such fence or reservoir shall be determined by some appraiser to be appointed by the judge of the county court holden nearest to the portion of the run where such fence or reservoir is situated but such appraiser shall fix the value on the same principle as the said board are directed to fix the same and in no case shall the cost of such fence or reservoir be estimated at more than the amount mentioned in the declaration lastly hereinbefore mentioned.

CXI. The occupier of any run not occupied for pastoral purposes until after the passing of this Act may include in such application and declaration as lastly hereinbefore mentioned buildings yards

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yards and other such improvements and shall be entitled to receive the value of the same in the same manner as if they were fences or reservoirs but the value of such buildings yards and improvements shall never be estimated as exceeding five hundred pounds. Provided always that it shall be lawful for the Governor in Council to permit such occupier to purchase three hundred and twenty acres of the land on which such buildings yards or improvements shall be situated at the price of one pound an acre and when such permission shall be given such occupier shall not be entitled to receive the value of any of such buildings yards and improvements.

CXII. Where the portion of the run on which the improvements the value of which shall be allowed to the occupier as hereinbefore mentioned shall be sold such value (unless the occupier of the run shall himself be such purchaser) shall be paid by the purchaser in addition to the purchase money which he has to pay.

On sale value of improvements to be added to price.

CXIII. The rent payable in respect of any run shall be paid by two equal half-yearly instalments on the last day of June and the last day of December in every year.

Rent to be payable half-yearly.

CXIV. The payment of the assessment on stock payable on or before the last day of June in the present year and of the usual license fees shall be considered as equivalent to the payment of the first instalment of the rent for that year and whenever any increase or diminution shall be made as hereinbefore provided in the amount of rent payable in respect of any run such increase or diminution shall have no effect or operation as regards any instalment of rent already paid.

Assessment equivalent to rent.

Increase of rent not to affect instalment already paid.

CXV. The rent may be recovered in like manner as any other rent is or shall be recoverable by law and in case the same shall be levied by distress an order of the Governor in Council shall be a sufficient warrant and authority to distrain any enactment to the contrary notwithstanding.

How rent is recoverable.

CXVI. If the occupier of any run shall not pay each instalment within seven days after it shall become due he shall be liable to a penalty of two pounds for every day that such rent shall be in arrear after the day when it became due to be added to the amount of the rent due. Provided always that it shall be lawful for the Governor in Council to remit the whole or any part of such penalty.

Penalty for non-payment of rent.

CXVII. If such rent and penalty be not paid within one month after such rent became due the said board shall cause to be inserted in the *Government Gazette* a notice to the occupier of such run that the same is liable to forfeiture and if such rent together with the full amount of the penalty be not paid within one month after the date of such insertion it shall be lawful for the Governor in Council at any time thereafter to declare such run forfeited and after any such declaration the interest of such occupier in such run shall cease and determine.

Forfeiture of run for non-payment of rent.

CXVIII. When any difference or dispute exists or shall arise between the occupiers of adjoining runs as to the common boundary thereof the said board may by an order in writing direct that the same shall be ascertained by some competent person to be appointed in such order and by two other persons one to be appointed by each of the said occupiers and such three arbitrators or any two of them shall make their award in writing of and concerning the premises on or before the day named for that purpose in such order or on or before such further day as the said board shall by writing indorsed on the same order appoint and such award shall be transmitted to and deposited in the office of the said board and shall be binding and conclusive on Her Majesty and the said occupiers respectively and the costs of such arbitration

Boundaries to be fixed by arbitration.



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arbitration shall be borne by the said occupiers in such manner or proportions as the said arbitrators shall direct.

Marking of boundary  
by arbitrators.

CXIX. It shall be lawful for the arbitrators who may determine the boundary as aforesaid to mark on the ground such boundary and such boundary so marked shall be held to be the boundary of such runs. And it shall be lawful for the said arbitrators or any authorised officer chosen by the said board to certify by his or their signature duly attached to any plan representing such boundary the accuracy of such representation and such plan shall thenceforth become and be legal evidence of such boundary.

Attestation of maps  
and plans.

Area of runs to be  
ascertained.

CXX. When the area of any run has not hitherto been ascertained with sufficient accuracy the Board of Land and Works may cause such run to be surveyed for the purpose of ascertaining its area and in consideration of the expense of such survey may charge to the licensee of such run a sum not exceeding twenty pounds and the sum so charged shall be taken to form a part of the rent payable during that year in respect of such run and may be recovered in the same manner as such rent is recoverable.

No compensation if  
Act altered here-  
after.

CXXI. No occupier of land for pastoral purposes shall be entitled to any compensation by reason of this Act being hereafter repealed or altered.

## PART VI. TRESPASSES AND PENALTIES.

Governor may ap-  
point Commission-  
ers of Crown lands.

CXXII. The Governor in Council may from time to time appoint a sufficient number of persons to be Commissioners of Crown lands and every such commissioner shall during his continuance in office do on behalf of Her Majesty or in respect of any Crown lands all acts for preventing intrusion encroachment and trespass thereon or for such other purpose as any bailiff lawfully appointed may by law do in respect of any lands tenements or hereditaments of his employer.

Persons in unautho-  
rised occupation  
may be dispos-  
sessed.

No. 117, sec. 78.

CXXIII. Where any person is in the unauthorised occupation of any Crown lands or is in the occupation of any such lands in virtue or under color of any such lease as aforesaid although the term thereby created has expired or become forfeited or of any such license as aforesaid although such license has expired or been forfeited or revoked if any person authorised by the Governor in Council in that behalf prefer to any justice an information in writing setting forth such unlawful occupation such justice shall issue his summons for the appearance before any two justices at a place and a time therein to be specified of the person against whom any such complaint is made and the justices if on hearing the case they are satisfied of the truth of the complaint shall issue under their hands a warrant to dispossess and remove such person from such Crown lands as aforesaid and to take possession of the same on behalf of Her Majesty and every constable to whom any such warrant is directed shall forthwith execute the same according to the tenor and exigency thereof.

Penalty on land officer  
purchasing land,  
&c.

CXXIV. If any land officer directly or indirectly purchase any land declared open for selection in any proclamation in which he is named he shall thereby forfeit his office and shall also forfeit the sum of one hundred pounds with full costs of suit which may be recovered by any person who sues for the same in any court of competent jurisdiction.

False declaration a  
misdemeanor.

CXXV. If any person wilfully make any false statement in any declaration made in pursuance of this Act or if any appraiser wilfully act contrary to any declaration so made by him he shall be guilty of a misdemeanor.

Penalty for breach  
of selector's obli-  
gation.

CXXVI. If any selector of an allotment in any agricultural area under



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under this Act shall not within one year from the time of his having become the selector of the same cultivate at least one acre out of every ten thereof erect thereon a habitable dwelling or enclose the said allotment with a substantial fence he shall forfeit a penalty at the rate of five shillings for every acre comprised in such allotment but no proceedings to recover such penalty may be taken except by some person authorised in that behalf by the Board of Land and Works.

CXXVII. If any person be found in unauthorised occupation of any Crown lands or knowingly and wilfully depasture without authority in that behalf any cattle or sheep on any such land not being a common he shall be liable on conviction thereof to the penalties following (that is to say) for the first offence a sum not exceeding five pounds for the second offence after an interval of fourteen clear days from the date of the previous conviction a sum not exceeding twenty pounds and for any subsequent offence after a like interval a sum not exceeding fifty pounds but no proceedings to recover any such penalty may be taken except by some person authorised in that behalf by the Board of Land and Works.

Penalty for unauthorised occupation or depasturing on lands not commonable.

No. 117, sec. 79.

CXXVIII. If any person not licensed or otherwise authorised under this Act search upon any Crown land for any metal or mineral (except gold) or cut dig or take from any Crown lands (not under lease) any live or dead timber gravel stone limestone salt guano shell sand loam or brick-earth or strip or remove bark from any tree on any Crown lands every such person shall on conviction of any of the said offences forfeit and pay any sum not exceeding ten pounds.

Penalty for other trespasses on Crown lands.

No. 117, s. 80.

CXXIX. If any person infringe any regulation made by the Governor in Council under this Act or any rule so made by any managers for any common or depasture any cattle on any common without being entitled so to do or depasture any sheep on any common except as hereinbefore provided or depasture any cattle in excess of the number which he is entitled to depasture or knowingly and wilfully remove or unnecessarily disturb the cattle of any person or persons entitled to pasturage on such common he shall on conviction thereof forfeit and pay for every first offence a sum not exceeding five pounds and for every subsequent offence a sum not exceeding twenty pounds.

Penalty for improperly depasturing on commons.

No. 117, s. 81.

CXXX. If any person shall wilfully obliterate remove or deface any boundary mark which may have been made or erected by or under the direction of any authorised officer or arbitrators as aforesaid he shall be guilty of a misdemeanor.

Obliteration of boundary marks a misdemeanor.

CXXXI. No order or other proceeding made touching or concerning the matters aforesaid or touching or concerning the conviction of any offender or offenders against this Act shall be quashed or vacated for want of form only or be removed or removable by *certiorari* or any writ or process whatsoever into the Supreme Court.

Proceedings not to be quashed or removed.

No. 117, s. 83.

CXXXII. Any person who shall feel himself aggrieved by any conviction of any justice or justices under this Act may appeal therefrom to the next court of general sessions of the peace which shall be held nearest to the place where such conviction shall have been made and the execution of every such conviction so appealed from shall be suspended in case such person shall with two or more sufficient sureties immediately before such justice or justices enter into a bond or recognizance to Her Majesty in the sum of fifty pounds which bond or recognizance respectively such justice or justices is and are hereby authorised and required to take and such bond or recognizance shall be conditioned to prosecute such appeal with effect and to be forthcoming to abide the determination

Appeal given.

No. 117, s. 85.

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determination of the said court and to pay such costs as the said court shall award on such occasion and such court is hereby authorised and required to hear and determine the matter of the said appeal and the decision of such court shall be final to all intents and purposes.

Governor may make regulations.

CXXXIII. The Governor in Council shall have full power from time to time to make any rules and regulations for prescribing the form of leases and licenses and transfers of pastoral licenses to be issued under this Act and the conditions on which such leases shall be issued for imposing any reasonable charge or fee for any Crown grant or other document issued under the authority of this Act and for the more fully carrying out the objects and purposes of this Act and to rescind such rules and regulations and to make other rules and regulations in lieu thereof and all such rules and regulations shall be laid before both Houses of Parliament within fourteen days after the making thereof if Parliament be then sitting and if Parliament be not sitting then within fourteen days after the commencement of the next sitting of Parliament.

The Commissioner of Crown Lands to lay an annual report before Parliament.

CXXXIV. The Commissioner of Crown Lands and Survey shall annually lay before the Legislature a report of the proceedings taken under the provisions of this Act up to the month of December in the year preceding the date of such report.

Continuance of Act.

CXXXV. This Act shall continue in force until the thirty-first day of December in the year of our Lord One thousand eight hundred and seventy and no longer. Provided nevertheless that it shall be lawful after such day to do all such acts as may be necessary for fulfilling any contract or engagement theretofore legally made or entered into under this Act. And all proceedings civil or criminal by this Act authorised to be taken may be commenced or prosecuted after such day.

Short Title of Act.

CXXXVI. This Act shall be styled and may be cited as "*The Land Act, 1862.*"

## SCHEDULES.

### FIRST SCHEDULE.

Sec. 1.

Date of Act.	Title of Act.	
4 Wm. 4, No. 10	<i>An Act for protecting the Crown Lands of this Colony from encroachment intrusion and trespass.</i>	From the time of the passing of this Act.
5 Wm. 4, No. 12	<i>An Act to amend an Act intituled "An Act for protecting the Crown Lands of this Colony from encroachment intrusion and trespass."</i>	
11 Vict., No. 31	<i>An Act to enable Trustees of Commons in New South Wales to have perpetual succession and to empower them to regulate the use of such lands as may be granted as Commons within the said Colony and for other purposes relating thereto.</i>	
11 Vict., No. 61	<i>An Act for appointing Commissioners to examine and report upon disputes respecting boundaries of runs between the claimants of Leases under Her Majesty's Orders in Council of the ninth March One thousand eight hundred and forty-seven.</i>	
Act No. 117	<i>An Act for regulating the Sale of Crown Lands and for other purposes.</i>	
Act No. 79	<i>An Act for an Assessment on Stock.</i> —From the first of January A.D. 1863.	

SECOND

### *Sale and Occupation of Crown Lands.*

## SECOND SCHEDULE.

**Sec. 17.**

*Part First.—Where only one allotment has been selected.*

I the undersigned do hereby state my desire to become the selector of allotment  
No. \_\_\_\_\_ section No. \_\_\_\_\_ at [or in the parish of] \_\_\_\_\_  
containing \_\_\_\_\_ acres and to purchase the  
fee of the whole of the said allotment [or and to purchase the fee of one moiety of the  
said allotment and to apply for a lease of the other moiety according to law] and I here-  
with tender the sum of £ \_\_\_\_\_ in consideration thereof And I do solemnly and  
sincerely declare that my domicile is in Victoria and that I am above the age of twenty-  
one years and (*if the applicant be a female*) that I am not a married woman [or  
that I am a married woman but that I have obtained a decree for judicial separation  
binding according to the laws in force in Victoria] and that I apply for such allotment  
on my own behalf and for my own use and benefit only and not as agent or trustee for  
any other person whatsoever and that I have not selected any other allotment and that no  
other person with my knowledge and consent has selected any other allotment for me or  
on my own behalf or for my use and benefit within a period of twelve calendar months  
last past.

Signature  
Occupation  
Address

*Part Second.—Where several allotments have been selected.*

I the undersigned do hereby state my desire to become the selector of allotment  
No. \_\_\_\_\_ section No. \_\_\_\_\_ at [or in the parish of]  
\_\_\_\_\_ containing \_\_\_\_\_ acres and to purchase the  
fee of the whole of the said allotment [or and to purchase the fee of one moiety of the  
said allotment and to apply for a lease of the other moiety according to law] and I here-  
with tender the sum of £ \_\_\_\_\_ in consideration thereof And I do solemnly and  
sincerely declare that my domicile is in Victoria and that I am above the age of twenty-  
one years and (*if the applicant be a female*) that I am not a married woman [or that  
I am a married woman but that I have obtained a decree for judicial separation binding  
according to the laws in force in Victoria] and that I apply for such allotment on my  
own behalf and for my own use and benefit and not as agent or trustee for any other  
person whatsoever and that the only other allotments which have been selected by me are  
the allotments numbered \_\_\_\_\_ and that I have not selected any other allotments  
than those above mentioned and that no other person has with my knowledge and con-  
sent selected any other allotments than those above mentioned for me or on my behalf or  
for my use or benefit within a period of twelve calendar months last past.

Signature  
Occupation  
Address

### THIRD SCHEDULE.

**Sec. 28.**

I the undersigned being an applicant for the allotment hereinafter named and having duly deposited the purchase money for the same hereby give notice that I object to the issue of a Crown grant to A.B. of \_\_\_\_\_ in respect of allotment No. \_\_\_\_\_ section No \_\_\_\_\_ at \_\_\_\_\_ (or in the parish of \_\_\_\_\_) and I allege that the said A.B. is not the lawful selector of the said allotment for the following reasons (that is to say)—because the said A.B. or [*here insert name addition and address of the alleged selector*] with his knowledge and consent on his behalf or for his use and benefit has within a period of twelve calendar months last past selected other country lands the total amount of which and of the said allotment exceeds 640 acres

or

Because at the time of the said pretended selection the said A.B. was an infant (*or* a trustee in respect of such allotment for an infant) (*or*) was a married woman not having obtained a decree for judicial separation binding according to the laws in force in Victoria (*or* a trustee in respect of such allotment for a married woman not having obtained such decree as aforesaid) (*or*) was a person (*or* a trustee in respect of such allotment for a person) not domiciled in Victoria.

FOURTH

*Sale and Occupation of Crown Lands.*

FOURTH SCHEDULE.

Sec. 30.

This is to certify to the Supreme Court that at an inquiry held before me and four special jurors under the provisions of "*The Land Act of 1862*" the sum of £  
was awarded to be paid by \_\_\_\_\_ to \_\_\_\_\_ and that the whole [or  
pounds part] of the said sum is still due by virtue of said award.

Given under my hand and seal this

day of  
(L.S.)

Sheriff (or Deputy Sheriff) of

FIFTH SCHEDULE.

*Schedule of Gazettes containing Regulations and Conditions for Occupation of Crown Lands for Agricultural purposes.*

Sec. 33.

<i>Gazettes—</i> 23rd May, 1861. Limit—2 acres to 20 acres.	Schedule of Fees for Occupation Licenses for Residence and Cultivation on the Gold Fields.
8th July, 1861. Limit—2 acres to 20 acres.	Regulations and Conditions under which the Residence and Cultivation Licenses specified in the Schedule of 23rd of May 1861 would be issued by the Board of Land and Works.
28th August, 1861 Limit—40 acres to 160 acres.	Regulations and Conditions under which Residence and Cultivation Licenses for occupation of <i>Country Lands</i> would be issued by the Board of Land and Works.
27th September, 1861	General directions relative to applications for Licenses to occupy <i>Country Lands already surveyed</i> . (Modification of previous notice.)
7th October, 1861	Defining the term " <i>existing</i> gold workings," as used in the two preceding notices, and further notifying the conditions under which miners would be allowed to enter upon land held under Residence and Cultivation License.
22nd October, 1861	Notifying that each application for Residence and Cultivation License must be accompanied with a deposit equivalent to one quarter's license fee for the land proposed to be occupied; and also notifying that non-occupation within three months from issue of license would involve forfeiture of the land.
8th November, 1861	Notifying that all Residence and Cultivation Licenses would be issued on the understanding that the owner or owners of any improvements erected on land applied for under the regulations of 23rd May, 1861, or those of 28th August, 1861, shall be allowed one month from the date of any such license being granted for removal of the same.

SIXTH SCHEDULE.

Sec. 24.

I hereby certify that A. B. is seised at law of (*or as the case may be* seised of an equity of redemption in) lands in fee simple within the Colony of Victoria purchased previously to the coming into operation of the Land Act of 1862, and of which he was seised previous to the coming into operation of the said Act and that such lands amount in extent to \_\_\_\_\_ acres.

Signed

Solicitor.

Dated this

day of

in the year of our Lord 18 .

SEVENTH



Sale and Occupation of Crown Lands.

SEVENTH SCHEDULE.

Sec. 87.

Name of Run.	Name of Occupier.	Area.	Class.	Number of acres deducted as being of an inferior class, and class in which they are ranked.	Grazing capabilities of Run.	Rent.	Quantity of Stock depastured on Run in 1861.	General Observations.

EIGHTH SCHEDULE.

Sec. 90.

I A.B. of being an arbitrator appointed by under the provisions of "The Land Act 1862" do solemnly and sincerely declare that I will to the best of my knowledge skill and ability determine the amount of rent which should be paid in respect of the run named according to its grazing capabilities and upon the principles upon which according to such Act the grazing capabilities of runs are to be determined and that I will act in the discharge of my duties as such arbitrator without favor or affection to either party.

So help me God  
[Signature]

Sworn and subscribed

NINTH SCHEDULE.

I of do solemnly and sincerely declare that Sec. 110.  
I have expended the sum of pounds in erecting a fence and the sum of pounds in making a reservoir on my run called and that such fence and reservoir are the same as are referred to in my application to the Board of Land and Works dated the day of and that I believe that the prices paid by me for such fence and reservoir were fair and reasonable [where the work has been done by hired servants then the declaration is to be varied as follows] the fence and reservoir erected and made by me on my run called being the same as are referred to in my application to the Board of Land and Works dated the day of were erected and made by my hired servants and that I believe that if the same had been erected and made under a contract the erection of such fence would have cost me pounds and the making of such reservoir would have cost me pounds and I make this declaration conscientiously believing &c. (as in the schedule to 9 Vict. No. 9).

MELBOURNE:

By Authority : JOHN FERRES, Government Printer.