



ANNO VICESIMO PRIMO

VICTORIÆ REGINÆ.

No. 5.

An Act for regulating the Sale and other disposal of Waste Lands belonging to the Crown in South Australia.

[Assented to, 19th November, 1857.]

WHEREAS, by virtue of the provisions of an Act of the Imperial Parliament, passed in the session of Parliament holden in the eighteenth and nineteenth years of the Reign of Her Majesty Queen Victoria, chapter fifty-six, the Acts of Parliament theretofore in force respecting the disposal of the Waste Lands of the Crown in the Province of South Australia are repealed, and it is lawful for the Legislature of the said Province to make laws for regulating the sale and other disposal of the Waste Lands of the Crown therein, and the disposal of the proceeds arising therefrom, but so as that no such law shall affect, or be construed to affect, any contract, or extend to prevent the fulfilment of any promise or engagement, lawfully made by or on behalf of Her Majesty, before the repeal of the said Acts: And whereas it is expedient to make provision for the future sale and other disposal of the Waste Lands of the Crown within the said Province, and for the disposal of the proceeds arising therefrom—Be it therefore Enacted by the Governor-in-Chief of the Province of South Australia, with the advice and consent of the Legislative Council and House of Assembly of the said Province, in this present Parliament assembled, as follows:

1. All the Waste Lands of the Crown, within the said Province, shall be disposed of in the manner and according to the regulations herein provided, and not otherwise.

Waste Lands of the Crown to be disposed of according to this Act.

2. The Waste Lands of the Crown in the said Province shall not, save as hereinafter is excepted, be conveyed or alienated by Her Majesty,

Not to be alienated except by sale in the manner hereinafter prescribed.

*Left to its operation
in Gazette of 18th Nov 1857*
Preamble
*There being no
any law by this
act for the
Crown and
it is not to be
effect from 24th
April 1857 the
first day of the
official*

Majesty, or by any person or persons acting on the behalf or under the authority of Her Majesty, either in fee simple or for any less estate or interest, unless such conveyance or alienation be made by way of sale, nor unless such sales be conducted in the manner and according to the regulations hereinafter prescribed.

Exception of lands required for public purposes.

3. Nothing in this Act contained shall extend to prevent the Governor, with the advice and consent of the Executive Council, in the name and on behalf of Her Majesty, from excepting from sale, and either reserving to Her Majesty, her Heirs, and successors, or disposing of in such other manner as for the public interests may seem best, such lands as may be required for public roads or other internal communications, whether by land or water, or for the use or benefit of the aboriginal inhabitants of the country, or for purposes of military defence, or as the sites of schools or other public buildings, not being intended for ecclesiastical purposes, or as places for the interment of the dead, or places for the recreation and amusement of the inhabitants of any town or village, or as the sites of public quays or landing places on the sea-coast or shores of navigable streams, or for any other purpose of public safety, convenience, health, or enjoyment: And provided also that nothing in this Act contained shall extend to prevent Her Majesty, or any person or persons acting on her behalf or under the authority of Her Majesty, from fulfilling any promise or engagement, made before the repeal of the said Acts, by or on the behalf of Her Majesty, in favor of any military or naval settlers in the said Province, in pursuance of any regulations made by Her Majesty's authority in favor of, or for the benefit of, any such settlers.

Lands to be surveyed before sold.

4. Save as hereinafter is excepted in reference to lands required for pastoral purposes, no Waste Lands of the Crown in the said Province shall be so conveyed or alienated as aforesaid until the same shall have been surveyed and shall have been delineated in the public maps in the Office of the Surveyor-General, in such lots as shall be subsequently offered and put up for sale, which lots shall in no case, save as aforesaid, contain an area exceeding six hundred and forty acres.

Governor authorized to convey the lands.

5. Under and subject to the various provisions and regulations hereinafter contained, the Governor is hereby authorized and required in the name and on the behalf of Her Majesty, to convey and alienate in fee simple or for any less estate or interest, to the purchaser or purchasers thereof, any Waste Lands of the Crown, in the said Province, which conveyances and alienations shall be made in such forms as shall from time to time be deemed expedient by the Governor with the advice and consent of the Executive Council, and shall be sealed with the public seal of the said Province, and being so made and sealed shall be valid and effectual in the law, to transfer to and to vest in possession in any such purchaser or purchasers any such lands as aforesaid, for any such estate or interest as by any such conveyance as aforesaid shall be granted to him, her, or them.

*See 27. 19. 1858
"Land Grants Act"
p. 3. which
particularly respects a
portion of this section*

6. Save

6. Save as hereinafter is excepted in reference to lands required for pastoral purposes, all Waste Lands of the Crown, within the said Province, before being so alienated or conveyed as aforesaid, shall be offered for sale by public auction, and the times and places at which such auctions will be holden, and what are the lands to be offered for sale at each of such auctions, shall be declared with all practicable certainty by notice in the *South Australian Government Gazette* not less than one month nor more than three months before the day of holding such auction.

Sales by auction, and notice thereof.

7. In every such notice as aforesaid the lands specified therein as about to be offered for sale, shall be distinguished into town lots and country lots; and within the town lots shall be comprised all lands situate within the limits of any existing town to be in that behalf especially named and described by the Governor, or within any locality to be designated by the Governor as the site of any town to be thereon erected; and within the country lots shall be comprised all other lands: Provided, nevertheless, that nothing herein contained shall extend to prevent the putting up for sale of lands of either of the said classes apart from lands of the other class.

The lands offered for sale to be distinguished into town and country lots.

8. None of the Waste Lands of the Crown within the said Province shall be sold in fee simple at any such auction, unless the sum of One Pound, at the least, for each acre of land be then and there offered for the same, which sum of One Pound per acre shall be the lowest upset price of any of the Waste Lands of the Crown in the said Province.

Lowest upset price.

9. In respect of any part of the country lots offered for sale at any such auctions as aforesaid, upon which improvements may have been lawfully made, it shall be lawful for the Governor, by any such notice as aforesaid, to name an upset price higher than the lowest upset price of Waste Lands in the said Province, and such excepted lands shall be designated as "Special Country Lots;" and in respect of any town lots, it shall be lawful for the Governor to fix the upset price of any such lots at any sum exceeding the lowest upset price of Waste Lands within the said Province, and from time to time to raise or lower, as to him may seem requisite for the public interests, the price of such town lots, so always that such upset price shall always exceed the lowest upset price of Waste Lands within the said Province.

The Governor may name a different upset price for the special country lots and town lots.

10. No town lots shall be sold otherwise than by public auction, but any country lots may be sold by the Governor by private contract, if the same shall first have been put up to public auction in manner aforesaid, and shall not have been sold at such auction: Provided that no such land shall be sold by any such private contract for less than the upset price at which the same was last put up for sale by auction, or if any bidding above that price was made for the same at such last preceding auction, then at less than the amount of such bidding: Provided also, that nothing herein contained shall prevent any such land as last aforesaid, from being withdrawn from sale

What lands may and may not be sold otherwise than by public auction

sale by private contract and again offered for sale by public auction in the same manner as other country lots not previously offered for sale.

Purchase-money,
when to be paid.

11. No Waste Lands of the Crown within the said Province shall be sold by any such private contract as aforesaid, except for ready money, to be paid at the making of such contract; and no such Waste Lands shall be sold at any such public auction as aforesaid, unless on condition of the purchaser's paying at the time of the sale, in ready money a deposit of, at least, Twenty Pounds per cent. of the purchase money, and of paying the residue of such purchase money within one calendar month next after the time of such sale by auction, and in case of the failure of such purchaser to pay the residue of such purchase money, within such one calendar month, the deposit shall be forfeited, and the sale of the said lands shall be null and void.

Pasture leases may be
granted to discoverer,
or first occupier.

12. And whereas, in order to encourage the development of the pastoral resources of the said Province, it is expedient that the discoverer or first occupier of Waste Lands thereof should be permitted to occupy such lands for a limited period for pastoral purposes, subject to the regulations hereinafter provided for, be it further Enacted, That it shall be lawful for the Governor to demise, for any period not exceeding fourteen years, for pastoral purposes, to the discoverer or first occupier of the same, any such Waste Lands as aforesaid, without previously offering the same for sale by public auction, and to reserve in any such demise such rent or pecuniary or other service, and to insert therein such conditions and clauses of forfeiture and of resumption as shall be prescribed by any regulations hereinafter authorized to be made touching the said Waste Lands of the Crown demised for pastoral purposes: Provided that, if any such demise shall terminate either by effluxion of time or otherwise, the land comprised therein shall not be relet for pastoral purposes, without the same having been first offered to be let to the person bidding the highest rent for the same at public auction.

Mineral leases.

13. It shall be lawful for the Governor to demise, for the purposes of mining for any metal or mineral excepting gold, to any person applying for the same, any portion of the waste lands of the Crown within the said Province, not exceeding eighty acres, for any period not exceeding fourteen years, at an annual rent of Ten Shillings per acre, with right of renewal for a further period of fourteen years by payment of a fine, the amount of which shall not be less than One Pound per acre of the area so leased, subject to such regulations for the granting of such leases and for the working and resumption of the same, as may from time to time be in that respect made by the Governor, with the advice and consent of the Executive Council, and published in the *South Australian Government Gazette*: Provided that nothing herein contained shall be construed to interfere with any promise heretofore made by or on behalf of Her Majesty, either absolutely or conditionally, relative to the granting of leases of auriferous lands.

14. It

14. It shall be lawful for the Governor, with the advice and consent of the Executive Council, from time to time, to make, vary, and alter regulations respecting the terms and conditions upon which leases of land shall be granted for pastoral purposes, and respecting all matters and things necessary to give effect to the same, and every such regulation, when published in the *South Australian Government Gazette*, shall have the force of law.

Governor may make regulations.

15. A copy of all regulations made under the authority of this Act shall be laid before the Parliament within fourteen days from the publication thereof if the Parliament shall be then sitting, and if the Parliament shall not be then sitting, then within fourteen days from its next sitting for the dispatch of business.

Regulations to be laid before Parliament.

16. Nothing herein contained shall prevent the Governor, with such advice and consent as aforesaid, from granting to any person, for any period not exceeding twelve calendar months, a licence to search for and remove gold, or other metals, and materials on and from the Waste Lands of the Crown within the said Province, or to cut, fell, and remove any timber growing upon the unsurveyed portions thereof.

Mineral and timber licences.

from the authority of the Governor to grant licences?

17. The words "Waste Lands of the Crown," as used in this Act, shall be held to comprise any lands within the said Province which now are, or shall hereafter be vested in Her Majesty, Her heirs, and successors, and which have not been already granted or lawfully contracted to be granted to any person or persons in fee simple, or for an estate of freehold, or for a term of years, and which have not been dedicated and set apart for public use.

Definition of the terms "Waste Lands of the Crown."

** Reg. Lands in Adelaide
of pastoral lands
are not Waste Lands
within this Act
Rights under existing contracts saved.
to do with
them by Regulation
without a further
act*

18. Nothing herein contained shall affect or be construed to affect any contract, or to prevent the fulfilment of any promise, or engagement, made by or on the behalf of Her Majesty with respect to any lands situate in the said Province, in cases where such contracts, promises, or engagements shall have been lawfully made before the repeal of the said Acts heretofore regulating the disposal of the Waste Lands of the Crown within the said Province.

Rights under existing contracts saved.

19. All moneys received on account or in respect of the said Waste Lands of the Crown, whether as purchase money, rent, licence fees, or otherwise, shall be paid to the Treasurer on account of the General Public Revenue of the said Province.

Appropriation of proceeds of Waste Lands.

20. In referring to this Act, it shall be sufficient to make use of the expression "The Waste Lands Act."

Short title.