



ANNO PRIMO

GEORGII V REGIS.

A.D. 1910.

No. 1032.

An Act to make further provision for the Acquisition by the Crown of Lands for Closer Settlement, and for other purposes.

[Assented to, December 7th, 1910.]

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

1. This Act may be cited as "The Closer Settlement Act, 1910," and is incorporated and shall be read with "The Crown Lands Act, 1903" (hereinafter referred to as "the principal Act") and any Acts amending that Act, or with any Act substituted for that Act and any Acts amending such substituted Act. Short title and incorporation.

2. Sections 37, 69, 70, 73, 74, 95 to 109, both inclusive, and 111, 112, and 113, of "The Lands Clauses Consolidation Act," so far as applicable and not inconsistent with the provisions of this Act, are incorporated with and shall form part of this Act, and, for the purposes of this Act, the following expressions when used in the said sections, or any of them, shall have the following meanings, namely:—"The promoters of the undertaking" shall mean the Commissioner of Crown Lands; "the Special Act" shall mean this Act; and "the Bank" shall mean any bank carrying on business in South Australia in which trustees are by law permitted to deposit their trust funds. Partial incorporation of the Lands Clauses Consolidation Act (No. 6 of 1847.)

3. This Act shall come into operation on a day to be fixed by Proclamation. Commencement of Act.

4. In

The Closer Settlement Act.—1910.

Definitions.

4. In this Act—

“Commissioner” means the Commissioner of Crown Lands:

“Large estate” means the whole or any part or parts of the land, not being situated in the Northern Territory nor within the boundaries of any city, town, or township, owned in fee simple by the same owner or owners in a case in which the unimproved value of the aggregate of all the land so owned by such owner or owners exceeds Twenty Thousand Pounds, and of which land the owner is not at the time of the preliminary notice under section 7, according to the certificate of the Surveyor-General, cultivating annually at least one-third of the arable land:

“Owner” means the owner of a freehold estate in possession:

“The Real Property Act” means “The Real Property Act, 1886,” and all Acts amending that Act, or any Act substituted for that Act and all Acts amending such substituted Act:

In administering this Act lands shall not be deemed not to adjoin other lands merely because separated therefrom by a public or other road or by a stream or watercourse.

Act to apply
notwithstanding Real
Property Act.

5. The provisions of this Act shall apply notwithstanding anything contained in the Real Property Act.

Acquisition of land.

6. (1) Large estates, and any lands adjacent to the River Murray suitable for reclamation, except any lands already reclaimed or in course of being reclaimed by the construction of embankments capable of resisting the influx of ordinary flood waters, so as to render such lands fit for grazing or cultivation, may be taken and acquired by the Commissioner for the purposes of extension of agriculture and closer settlement in manner prescribed by this Act.

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

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

Preliminary notice of
intention to inspect.

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

(2) Such

The Closer Settlement Act.—1910.

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

(3) No such notice shall as regards any large estate be given until after the expiration of one year from the coming into operation of this Act.

8. After notice under section 7 has been given as to any large estate or other land, the Commissioner or any person authorised by him may enter at any time or times upon such large estate or other land and inspect the same and the improvements thereon, and may remain thereon for any reasonable time to acquire all necessary information for the purpose of making an inspection of such land and improvements.

Land may be entered upon for inspection. Vict., 1962, 1904, s. 17.

9. When the Commissioner intends to acquire any large estate, as to which a preliminary notice has been given under section 7, he shall send to the owner a further notice, stating that at the expiration of two years from the date of such last mentioned notice it is the Commissioner's intention to acquire the land, and what price he is prepared to give for it.

Notice of intention to acquire.

10. After notice under section 9 as to any land has been given, the Commissioner may send a copy of such notice to the Registrar-General, at the Lands Titles Registration Office, and the Registrar-General shall thereupon note the same in the Register Book if the land is under the Real Property Act, and if the land is not under the Real Property Act the Registrar-General shall register a Memorial of the said notice in the General Registry Office for Deeds.

Registrar-General to note in Register Book.

11. As regards land under the Real Property Act, when a notice under section 9 has been noted as provided by section 10, and as regards land not under that Act, when a Memorial of a notice given under section 9 has been registered as provided by section 10, such notice shall be deemed to have been duly given to all persons at the time of such noting or registration (as the case may be), or thereafter and within a period of two years as regards a large estate, or one year as regards other land, after the giving of the preliminary notice under section 7, having any right, estate, or interest in the land; and the Commissioner may, at any time within six months after the expiration of the said period of two years or one year, as the case may be, acquire the land under this Act, notwithstanding any disposition of such land or any part thereof, or of any right, estate, or interest in or over such land or any part thereof, or any other dealing with or in any way affecting such land or any part thereof, and notwithstanding the noting in the Register Book or registration in the General Registry Office for Deeds of any such disposition or dealing.

Notice to bind all persons interested.

12. When

The Closer Settlement Act.—1910.

Notice to acquire
land adjacent to
River Murray.

12. When the Commissioner intends to acquire any land adjacent to the River Murray, as to which a preliminary notice has been given under section 7, he shall send to the owner a further notice stating that at the expiration of one year from the date of such last-mentioned notice it is the Commissioner's intention to acquire the land and what price he is prepared to pay for it.

Owner may reserve
land not exceeding
Twenty Thousand
Pounds in value.

Vict., 1962, 1904,
s. 23, altered.

13. (1) At any time before the expiration of the notice given under section 9 as to any large estate, the owner thereof, unless he has in the meantime agreed in writing with the Commissioner for the sale thereof, shall have the right, by notice in writing given to the Commissioner, to select and retain out of such large estate, for the purpose of his residence or business, or both, land in one block where possible, and if land of the value of Twenty Thousand Pounds cannot be retained in one block, then in two or more blocks, specified in such notice: Provided that in no case shall the value of the land selected and retained, exclusive of the value of the improvements thereon, exceed in the aggregate Twenty Thousand Pounds.

(2) When a notice in accordance with subsection (1) of this section has been given, the land properly comprised in such notice shall cease to be affected by the notice given under section 9.

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

Owner may require
whole estate to be
taken.

Cf., Vict. 1962, 1904,
s. 23 (3).

14. (1) At any time before the expiration of the notice given under sections 9 or 12 as to any large estate or other land, the owner thereof, unless he has in the meantime agreed in writing with the Commissioner for the sale thereof, may, by notice in writing given to the Commissioner, require him to take all lands specified in the last mentioned notice of which he is the owner, and which adjoin and are occupied together with the land comprised in the said notice under sections 9 or 12.

(2) After a notice in accordance with subsection (1) of this section has been given, the land comprised in the said notice under sections 9 or 12 shall not, without the consent in writing of the owner thereof, be acquired under this Act, unless the land properly comprised in the said notice under subsection (1) of this section is also acquired, nor shall the last mentioned land be so acquired without such consent, unless the land comprised in the said notice under sections 9 or 12 is also so acquired.

(3) When a notice under subsection (1) of this section has been given as to any land the Commissioner shall, except for the purposes of section 13, be deemed to have duly given a notice under sections 9 or 12 of his intention to acquire such land. The Commissioner may send to the Registrar-General a notice in writing of his intention to acquire such land, and such notice shall be noted in the Register Book if the land is under the Real Property Act. Upon such noting, if the land is under the said Act, or
upon

The Closer Settlement Act.—1910.

upon the giving of the notice by the owner to the Commissioner, if the land is not under the said Act, the provisions of section 11 shall apply to such land.

15. (1) Subject to sections 13 and 14, at any time within six months after the expiration of the period of two years, as regards a large estate, or one year as regards other land, from the giving of the preliminary notice under section 7, if the amount of the purchase-money to be paid therefor has been ascertained by arbitration as mentioned in section 18, and the amount thereof has been paid or tendered, and the owner of such large estate or other land, as the case may be, has refused or failed to sign a conveyance or transfer thereof to His Majesty the King, it shall be lawful for the Governor, by proclamation published in the *Government Gazette*, to declare that the provisions of this Act shall apply to the land comprised in such notice, and that the same is thereby compulsorily taken and acquired.

Mode of acquiring the land.
Cf., *ibid.*, ss. 35 and 36.

(2) On and after the date of the publication of such proclamation in the *Government Gazette* the land therein specified shall, without further or other authority than this Act, become and be absolutely vested in His Majesty the King.

16. (1) When a proclamation has been made under section 15 as to any land the Commissioner shall furnish the Registrar-General with a copy of such proclamation.

Registrar-General to make necessary entries.

(2) Upon the receipt of such copy, or, if the land is acquired by agreement, upon the transfer or conveyance thereof being lodged with him, the Registrar-General shall make any entry in the Register Book or other book at the Lands Titles or General Registry Office necessary or proper to evidence the vesting of the land in His Majesty.

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

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

17. Where

The Closer Settlement Act.—1910.

Price to be determined by arbitration failing agreement.

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

Price.

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

Cf., Vict. 1962, 1904, s. 32.

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

Award of arbitrators.

Vict., 1962, 1904, s. 33.

19. (1) Either party to the arbitration shall have the right to appeal to the Supreme Court of the State, but only on a question of law, and the said Court may, on such appeal, make such order as it deems proper, and the arbitrators shall give effect to such order; but otherwise the decision of the arbitrators shall be final and not subject to any appeal.

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

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

Award may be made order of Supreme Court.

Ibid.

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

Orders as to costs.

Ibid.

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

Service of notices.

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

21. All

The Closer Settlement Act.—1910.

21. All land taken and acquired under this Act shall thereupon for all purposes be Crown lands, and may be dealt with as such under Part X. of the principal Act, or under any statutory provision in that behalf hereafter enacted and for the time being in force.

Land acquired to be deemed Crown lands.

22. This Act shall not apply to the Northern Territory nor to any land within the boundaries of any city, town, or township.

Northern Territory and town lands not affected.

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

DAY H. BOSANQUET, Governor.