Queensland.

ANNO QUINQUAGESIMO OCTAVO

VICTORIÆ REGINÆ.

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No. 25.

An Act to further Amend "The Crown Lands Acts, 1884 to 1892."

[ASSENTED TO 11TH DECEMBER, 1894.]

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

Preliminary.

1. This Act may be cited as "*The Crown Lands Act of* 1894," and shall be read and construed with and as an amendment of "*The Crown Lands Acts,* 1884 *to* 1892"; and those Acts and this Act may together be cited as "*The Crown Lands Acts,* 1884 *to* 1894." Short title.

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

"The Principal Act"—"*The Crown Lands Act of* 1884";

"Grazing Homestead"—Land selected as a Grazing Homestead under the provisions of this Act.

Grazing Homesteads.

3. Every proclamation declaring country lands open for selection as Grazing Farms may specify that such lands are also open for selection as Grazing Homesteads; or may declare that such lands are open for selection as Grazing Homesteads only, as the case may be: Land may be offered for selection as Grazing Homesteads.

Provided that the maximum area of land which may be selected or held by any one person shall not in the case of a Grazing Homestead exceed two thousand five hundred and sixty acres.

Applicant to state that he desires to select as Grazing Homestead, and applicants to select Grazing Farms to have priority.

4. An applicant to select land as a Grazing Homestead shall state in his application that he applies for it as such.

And if applications to select Grazing Homesteads are lodged at the same time as applications to select Grazing Farms, the applications to select Grazing Homesteads shall be deemed to have been lodged first, and shall be entitled to priority accordingly.

Provisions with respect to Grazing Homesteads.

5. With respect to Grazing Homesteads the following provisions shall have effect, anything in "*The Crown Lands Acts*, 1884 *to* 1892," or in the proclamation declaring the land open for selection to the contrary notwithstanding:—

(1) The annual rent payable during the first ten years of the lease shall not exceed three farthings per acre;

(2) The lease shall be subject to a condition that until the expiration of the first ten years of the lease, or the death of the original lessee, whichever first happens, the lessee will not assign or transfer the lease, or his right, title, or interest thereunder to any other person. And that the lease shall be forfeited upon any such assignment or transfer, whether by operation of law or otherwise;

(3) Subject to the provisions hereinafter contained, until the expiration of the first ten years of the lease or until the death of the original lessee, whichever first happens, the condition of occupation shall be performed by the continuous and *bonâ fide* residence on the holding of the original lessee himself personally for not less than six consecutive months in each year:

Provided that if he becomes an insane person within the meaning of section four of "*The Insanity Act of* 1884" the Board may allow the condition of occupation to be performed in manner specified by section seventy-four of the Principal Act with respect to occupation by the lessee of an Agricultural Farm who becomes such an insane person;

(4) Upon the application of the selectors of two or more contiguous Grazing Homesteads, the Board may issue a special license authorising them to fence only the external boundaries of the whole area comprised in their several selections; and when such a special license has been issued, and while it is in force, the following consequences shall ensue—

(*a*) The condition of fencing prescribed by law shall be deemed to be sufficiently performed in respect of such several selections, respectively, if the external boundaries of the whole area comprised in such selections are so fenced:

(*b*) The condition of occupation may be performed in respect of such several selections, respectively, by the residence upon any one or more of such selections of any one or more of the selectors thereof:

Provided that the number of selectors in actual occupation of some one or more of such selections shall not at any time be less than one-half the whole number of selectors to whom such special license has been issued:

(5) Except as herein otherwise provided, the provisions of "*The Crown Lands Acts,* 1884 *to* 1892," relating to Grazing Farms, and to the rights, powers, and disabilities of the licensees and lessees thereof, shall apply to Grazing Homesteads and to the licensees and lessees thereof.

6. No person who is the licensee or lessee of a Grazing Farm may apply for or become or be the licensee or lessee of a Grazing Homestead.

No licensee or lessee of Grazing Farm may be licensee or lessee of Grazing Homestead.

7. The provisions of sections thirty-six and thirty-seven of the Principal Act are hereby repealed, and the following enactment is substituted therefor, that is to say,—

Repeal of s. 36 of Principal Act.

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

Rights of pasturage for travelling stock.

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

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

In this and the next succeeding section the term "drover" shall mean and include every person engaged in or employed for the purpose of driving stock;

The term "traveller" shall mean and include carriers, hawkers, and persons riding or driving stock other than sheep, but shall not include drovers; and

The term "stock" shall mean and include horses, cattle, sheep, and other live stock.

8. Any drover or traveller driving stock who—

Penalties for straying or loitering.

(*a*) Unlawfully depastures such stock upon any land comprised in a holding or occupation license beyond the limits in the last preceding section defined; or

(*b*) Fails to cause such stock to proceed towards their destination at least six miles within every successive period of twenty-four hours,

contrary to the provisions of the last preceding section, shall for every such offence forfeit and pay a sum not exceeding twenty pounds, to be recovered before any two justices of the peace at any court of petty sessions, and for every subsequent offence shall forfeit a like sum.

Amendments of "The Crown Lands Acts, 1884 *to* 1892."

Amendment of section 48 of 48 Vic. No. 28.

9. In section forty-eight of the Principal Act, the words "or who is not a natural born or naturalised subject of Her Majesty within the meaning of '*The Elections Act of* 1885'" shall be inserted after the words "eighteen years."

Amendment of section 57 of 48 Vic. No. 28.

10. In the last paragraph of section fifty-seven of the Principal Act, the words "an extension of not more than two years" shall be substituted for the words "an extension of twelve months."

Amendment of section 74 of 48 Vic. No. 28.

11. In section seventy-four of the Principal Act the word "acquired otherwise than as the trustee of the estate of a previous lessee under the laws relating to insolvency, or as the trustee of a settlement made in consideration of marriage, or as the legatee, executor, or administrator, or one of the next-of-kin of a deceased lessee" shall be substituted for the words "of which he is the original lessee" in subsection four thereof.

Holdings under 49 Vic. No. 7.

12. Notwithstanding the provisions of the third subsection of the seventy-fourth section of the Principal Act, any person who has acquired a homestead selection of less than one hundred and sixty acres under the provisions of "*The Crown Lands Alienation Act of* 1876" may acquire a deed of grant in fee-simple of an agricultural farm or agricultural farms contiguous to such homestead under the provisions of the said seventy-fourth section, provided that the joint area of such homestead and farm or farms does not exceed one hundred and sixty acres.

Amendment of section 67 of 48 Vic. No. 28.

13. In section sixty-seven of the Principal Act the words "twelve months" in the first subsection thereof are hereby repealed, and the words "three years" substituted therefor.

Amendment of section 45 of 48 Vic. No. 28.

14. In section forty-five of the Principal Act the words "three farthings per acre in other cases" are hereby repealed, and the following words substituted therefor: "one half-penny per acre in other cases."

Amendment of section 92 of 48 Vic. No. 28.

15. The following enactment shall be added to section ninety-two of the Principal Act:—

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

Amendment of section 94 of 48 Vic. No. 28.

16. In section ninety-four of the Principal Act, the words "provided that the annual rent shall not at any time be less than one pound per acre" are hereby repealed.

17. Part V. of "*The Crown Lands Act Amendment Act of* 1886," and the Second and Third Schedules thereto, are hereby repealed, except as to any rights, claims, penalties, and liabilities already accrued or incurred and in existence, such repeal to take effect on and from the first day of January, one thousand eight hundred and ninety-five.

Repeal of Part V. of 50 Vic. No. 33, and Schedules 2 and 3 thereto.

18. In sections nineteen and twenty of "*The Crown Lands Act Amendment Act of* 1886" the word "fifteen" shall be substituted for the word "ten."

Amendment of sections 19 & 20 of 50 Vic. No. 33.

19. The following words are hereby inserted in the second subsection of the thirtieth section of the Principal Act after the words "pastoral purposes," that is to say: "or is infested with the poisonous plant *Gastrolobium grandiflorum*, or desert poison-bush, to such an extent as to render it impossible to safely depasture stock thereon."

Amendment of section 30 of 48 Vic. No. 28.

20. The following words are hereby inserted in the one hundred and fifth section of the Principal Act after the words "in respect of such ringbarking," that is to say,—"or the eradication of the poisonous plant *Gastrolobium grandiflorum*, or desert poison-bush."

Amendment of section 105 of 48 Vic. No. 28.

21. In section eighteen of "*The Crown Lands Act of* 1891"—

Amendment of section 18 of 55 Vic. No. 19.

(1) The words "one hundred and sixty" shall be substituted for the word "eighty," in the first and tenth subsections thereof, respectively;

(2) The words "three hundred and twenty" shall be substituted for the words "one hundred and sixty," in the second subsection thereof.

22. When any person qualified to select an Agricultural Farm or a Grazing Homestead makes a request to the Minister that any specified area of land not exceeding one hundred and sixty acres in the case of an Agricultural Farm, and not exceeding two thousand five hundred and sixty acres in the case of a Grazing Homestead, be declared open to selection before survey, and it results from the request that the land is so declared open, the Minister shall notify to the Commissioner that it was declared open at the request of such person. And if on the day appointed as that on which the land will be open an application by such person to select such land is lodged at the same time as applications by other persons, the application of the person by whom the request was made shall be deemed to have been first lodged, and shall be entitled to priority accordingly:

Right of priority to select land in certain cases.

Provided that at the time of making such request such person has deposited with his request a sum equal to threepence in the case of an Agricultural Farm and three farthings in the case of a Grazing Homestead per acre of the area of the land, which sum shall, if the application be proceeded with, be accounted as part of the rent specified in the proclamation declaring the land open to selection, but, if the application be not so proceeded with, shall be absolutely forfeited to Her Majesty.

Minister may suspend condition of occupation in certain cases.

23. The Minister may, upon the recommendation of the Board, suspend the condition of occupation of any Agricultural or Grazing Farm for a period not exceeding six months in any one year for any of the following causes:—

(1) Devastation of the holding by flood, fire, or tempest;
(2) Accident to or illness of the holder;
(3) Absence from the holding while *bonâ fide* earning wages elsewhere;

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

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

Amendment of section 5 of 49 Vic. No. 7.

24. Notwithstanding anything contained in section five of "*The Crown Lands Act Amendment Act of* 1885," a lessee of an Agricultural Farm may, subject to the approval of the Board, take advantage of the provisions of section seventy-four of the Principal Act in respect of a farm or contiguous farms not exceeding one hundred and sixty acres, notwithstanding that he is or has been during the term of the lease of any of the farms the lessee of another contiguous farm or other contiguous farms: Provided that the aggregate area of the farms held by him at any time during the term of the lease of any of the farms did not exceed six hundred and forty acres.

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

25. Notwithstanding anything to the contrary in "*The Crown Lands Acts,* 1884 *to* 1894," contained, if any person who has obtained a deed of grant of a Homestead Selection under the provisions of any repealed Act, or of an Agricultural Farm under the provisions of section seventy-four of the Principal Act, and who has *bonâ fide* transferred the same to another person, proves to the satisfaction of the Board that such transfer arose from circumstances of disaster or misfortune, they may grant a certificate to that effect; and if such certificate is confirmed by the Minister, the person who has so transferred as aforesaid shall thereupon be competent to acquire a grant in fee-simple of an additional holding not exceeding one hundred and sixty acres under the provisions of the seventy-fourth section of the Principal Act.

Regulations may be made prescribing fees.

26. The Governor in Council may, from time to time, by proclamation, make regulations defining the fees which shall be payable in respect of the several matters hereinafter mentioned, that is to say—

(1) The inspection during office hours of the register of pastoral leases;
(2) The registration of an under-lease or of a transfer thereof;
(3) The registration of transmission by death or under the laws relating to insolvency;
(4) Entering up record of marriage of female selectors;
(5) Defraying the cost of inquiry and advertising in connection with applications for the opening and closing of roads.

Transmission without letters of administration.

27. It shall be lawful for the Minister, if satisfied that no will has been left by any deceased person being the holder of an Agricultural Farm having an area not exceeding one hundred and

sixty acres, and that no letters of administration of the lands or goods of such deceased person have been taken out within six calendar months after the death of such person, and if also satisfied that the value of the estate of such deceased person is not sufficient to justify the expense of taking out such letters of administration, to cause transmission of such holding to be entered up in the records of the Department of Public Lands in favour of the widow or child or children, as the case may be, of such deceased person, and thereupon the person or persons in whose favour such transmission shall be entered up shall have all the rights, powers, and liabilities in respect of such holding as he or she or they would have had if letters of administration of the estate of such deceased person had been granted to him, her, or them respectively.

Transmission without probate.

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

Removal of Doubts.

Meaning of "contiguous."

29. Whereas doubts have arisen as to the meaning of the word "contiguous" in "*The Crown Lands Acts*, 1884 *to* 1892": It is hereby declared that farms which are only separated by a road or roads, not being a main road or roads, or by a creek not being navigable, shall be deemed to be and to always have been contiguous within the meaning of the said Acts.

Power to grant lands promised to religious bodies by Government of New South Wales.

30. Whereas before the separation of the Colony of Queensland from New South Wales certain lands were promised by the Government of New South Wales to be granted to certain religious bodies, and doubts have arisen as to their right or title to the same: It is hereby enacted that every such religious body may apply to the Governor in Council to investigate their claim to any lands under any such promise; and if, after due inquiry, it is proved to the satisfaction of the Governor in Council that a grant in fee-simple of such lands was duly promised by the Government of New South Wales to such religious body, then, upon payment of the deed fee and assurance fee only, the Governor in Council may, in the name of Her Majesty, issue a deed of grant in fee-simple of such lands to the religious body to whom they were originally so promised.

By Authority: EDMUND GREGORY, Government Printer, William street, Brisbane.