

Act No. 20, 1897.

An Act to vest the Church and School Lands in Her Majesty, free from all trusts and provisions affecting the same; to validate certain dealings with those lands; and to provide for the appropriation of moneys at credit of the Public Instruction Endowment Account; to make better provision for dealing with the said lands, and with the money derived therefrom; and for purposes incidental to the above objects. [2nd December, 1897.]

CHURCH AND SCHOOL  
LANDS.

**B**E it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. The Church and School Lands are hereby vested in Her Majesty, free from all trusts and provisions affecting the same, but subject to the provisions of the Crown Lands Act of 1884, and any Acts amending the same, and of the Mining Act, 1874, and any Acts amending the same, and of this Act, and shall be dealt with under the said Acts as Crown lands (as respectively defined in the Crown Lands Act of 1884 and the Mining Act, 1874) are respectively dealt with under the said Acts:

Church and School  
lands to vest in Her  
Majesty, and to be  
subject to Crown  
Lands and Mining  
Acts.

Provided that nothing in this section shall affect any right, title, or interest to or in any such lands existing on the day when this Act takes effect except in so far as such right, title, or interest may be affected by the exercise of any power conferred by the Mining Act of 1874, or any Acts amending the same:

Provided also that, until a notification in respect of Church and School Lands has been published in the Gazette under the provisions of section ten of the Crown Lands Act of 1895, no such lands shall be dealt with under the provisions of the Crown Lands Act of 1884, or any Acts amending the same, except by—

Lands vested in Her  
Majesty not to be  
dealt with until  
classified.

- (a) reserving or dedicating the same for any purpose;
- (b) issuing licenses; or
- (c) granting special or annual leases.

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Validation of grants  
and leases.

**2.** All reservations, dedications, leases, and agreements made or entered into under the Church and School Lands Dedication Act, 1880, or any Act amending the same, by the "Minister" as defined by that Act, before the day on which this Act takes effect of or in respect of any such lands, and all leases granted or renewed before the said day under the said Acts by the Minister aforesaid in pursuance of such leases and agreements shall, notwithstanding any prerogative rights of the Crown, be deemed to have been and to be good, valid, and effectual to all intents and purposes whatsoever.

Revocation of  
existing reserves.

**3.** The Governor, by notification in the Gazette, may revoke wholly or in part any reservation or dedication of any such lands made before the commencement of this Act.

Conversion of leases  
into holdings under  
Crown Lands Acts.

**4.** The holder of a lease or leases granted by the Crown or in pursuance of Letters Patent, bearing date the ninth day of March, one thousand eight hundred and twenty-six, or of the Church and School Lands Dedication Act, 1880 (other than a lease for mining purposes), existing on the day on which this Act takes effect of any Church and School Lands may, within six months after the said day, apply to the person and in the manner prescribed to convert the lease or leases into any of the following holdings under the Crown Lands Act of 1884, and any Acts amending the same (subject, however, to the provisions of section nine of this Act in respect of rental), namely—

- (a) a homestead selection;
- (b) a settlement lease;
- (c) a special lease;
- (d) an improvement lease; or
- (e) where the land which is the subject of the application consists of suburban lots not exceeding in the whole ten acres in area, or town lots not exceeding in the whole two acres in area, a special purchase under the provisions of sections sixty-six and sixty-eight of the Crown Lands Act of 1884: Provided that nothing in section sixty-six of that Act shall be held to limit the sale of land under this Act to the proprietor or proprietors in fee-simple of adjacent lands.

Every applicant as aforesaid shall forward with his application the fee prescribed, and the Minister shall notify in the Gazette the receipt of every such application. Any person interested in the land which is the subject of the application may, within one month, lodge with the person and in the manner prescribed any objections to the confirmation of the application.

Application to be  
referred to land  
board for report.

**5.** Every application as aforesaid shall be referred by the Minister to the local land board for report, and the said board shall thereupon, after inquiry, report whether the application shall or shall not be confirmed, and may recommend the confirmation of the application as to the whole or any part of the land the subject of the application;

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application; and if the board recommend that the application be confirmed as to part only of the said land, they may, subject to the provisions of the next succeeding section, recommend that the balance of the land be set apart for a holding of the kind applied for, or for some other kind of holding under the Crown Lands Act of 1884, and the Acts amending the same.

The board shall also recommend the conditions which shall attach to any holding mentioned in their report.

6. When any such application as aforesaid is for the conversion of the lease or leases aforesaid into a homestead selection or settlement lease, the local land board shall also report as to the area of such land, which with the area of any other adjoining land held by the applicant under conditional purchase or conditional lease, they deem would be sufficient to enable the applicant to establish and maintain a home thereon by the use of the land.

Report on application for homestead selections and settlement leases.

7. On any application as aforesaid for the conversion of any lease or leases into a special lease, the local land board may recommend the leasing of any area not exceeding three hundred and twenty acres, and shall recommend the annual rent to be paid and the conditions which shall be attached to the said lease, but it shall not be necessary for the board to recommend the granting of, or for the Governor to grant, the special lease for a special purpose.

Report on application for special leases.

8. (1) On receipt of a report by a local land board in respect of any application for conversion of any lease or leases into a holding under this Act, the Minister shall determine whether the application shall or shall not be confirmed, and to what extent and subject to what conditions it shall be confirmed, and shall forthwith notify his decision to the applicant, who shall within three months notify his acceptance or refusal to accept the said decision to the Minister in the prescribed manner; and the omission of the applicant to notify his acceptance within the said three months or within such further period as the Minister may allow shall be taken to be a refusal to accept:

Minister shall refuse or confirm application.

Provided that no application as aforesaid shall be confirmed for the conversion of any lease or leases into a homestead selection or settlement lease of a larger area than taken with any other adjoining land held by the applicant under conditional purchase or conditional lease is sufficient to enable the applicant to establish and maintain a home thereon by the use of the land; and no application as aforesaid shall be confirmed for the conversion of any lease or leases into a holding of any class unless or until all rents due to the Crown at the rate reserved for the original term of the lease are paid to the Colonial Treasurer.

9. Upon the date of the acceptance by the applicant of the decision of the Minister the existing lease of the whole of the land in respect of which the application was made shall determine, and the title

Conversion and determination of leases.

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title to every holding into which the lease or leases is or are converted under this Act shall commence, and every homestead selection and settlement lease into which the lease or leases has or have been so converted shall be deemed to have been confirmed within the meaning of the Crown Lands Act of 1895, and any Acts amending the same.

Where, on the conversion of any lease or leases into a homestead selection or settlement lease, it is shown to the satisfaction of the Minister that the applicant has bonâ fide resided and desires to continue to so reside in an adjacent village or town, or on land adjacent to the land comprised in the homestead selection or settlement lease, and has held or used and desires to continue to hold or use the said lands in conjunction, and that the area of the adjacent land as aforesaid taken with the area of the land comprised in the homestead selection or settlement lease is not more than sufficient to enable the applicant to establish and maintain a home thereon by the use of the land, the Minister may allow the applicant to continue his residence in an adjacent village or town or on the adjacent land, and such residence shall, for the purpose of the performance of any conditions as to residence required by the Crown Lands Act of 1895, or by the provisions of any lease made thereunder, be deemed, for the period during which it continues, to be a residence on the homestead selection or settlement lease as the case may be.

Rental of converted holdings.

The annual rental of any holding converted under this Act into a holding under the Crown Lands Acts, in respect of which rent is payable, shall for the first period of ten years after acceptance of the decision of the Minister be appraised and determined (irrespective of improvements the property of the holder) in accordance with the provisions of section six of the Crown Lands Act of 1889, and shall in like manner be appraised and determined for every succeeding period of ten years, or lesser period, for which rent is payable in respect of the holding.

Tenant-right.

**10.** Tenant-right in improvements as defined by the Crown Lands Act of 1895 shall accrue upon the determination of any lease, or agreement for a lease, of Church and School Lands granted or entered into before the day on which this Act takes effect, or of any lease granted or renewed after the said day in pursuance of a lease or agreement for a lease granted before the said day, and shall entitle the outgoing tenant to the rights conferred by section fifty-one of the Crown Lands Act of 1895 on the determination of any lease by reason of which tenant-right is by that Act conferred: Provided that nothing in this section shall entitle the outgoing tenant to receive a greater amount as the value of the improvements than the cost of the improvements.

Conversion of mining leases.

**11.** (1) The holder of a lease for mining purposes of any Church and School Lands may within six months after the commencement of this

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this Act apply to the prescribed person and in the prescribed manner to convert the lease into a lease for the purpose of mining for gold or a lease for the purposes of mining for metals and minerals other than gold under the Mining Act, 1874, and any Acts amending the same.

(II) Every such application shall be dealt with in the prescribed manner, and the Minister may refuse the application, or may confirm the same as to the whole or any part of the land, the subject of the application, with or without such exemptions and conditions as he may think fit, and shall notify his refusal or confirmation to the applicant.

(III) Upon the notification of confirmation of an application, and upon its acceptance by the applicant the lease for mining purposes shall determine, and shall, subject to the provisions of this Act, be converted into a lease for the purpose of mining for gold, or of mining for metals or minerals other than gold respectively, under the provisions of the Mining Act, 1874, and any Acts amending the same; and the provisions of the said Acts shall apply to any lease converted as aforesaid.

12. Where a lease of Church and School lands (other than a lease for mining purposes) is not converted under the provisions of this Act, the holder of the lease may within twelve months after the day on which this Act takes effect make application in the prescribed manner, accompanied by the prescribed fee, to have the rent appraised and determined in accordance with the provisions of section six of the Crown Lands Act of 1889. The rent shall thereupon be appraised and determined, and shall from the time when the application was made, and until the expiry or other determination of the lease in respect of which the application was made, be the rent payable under the said lease, or any renewal thereof, made in pursuance of the instrument creating the lease.

a Application of leaseholder to have rent appraised.

And the Minister may, in respect of any period for which a lease is renewed, and which period is current at the time when an application for appraisal is made, remit in whole or in part any amount which, at the time of such application, is due as rent in excess of the amount of the rent which would for the said period and up to the time of the said application have been payable, if the rent for that period and up to that time had been the rent determined as aforesaid.

13. It shall be lawful for the Governor to give effect to any exchange of Church and School land for Crown land or private land by directing such grants, conveyances, leases, or other assurances to be issued and made in such form and subject to such conditions and reservations as he may think proper or necessary: Provided that, in the case of the exchange of any Church and School land under lease, and in the case of the exchange of any private land, the consent of the lessee and owner respectively shall be obtained:

Exchange of Church and School lands for Crown lands or private lands.

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Provided

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Provided also that where the values of the lands exchanged are considered by either party to the exchange to be unequal, the respective values may be determined by the Local Land Board, and the difference between the values so determined shall be paid—

- (a) In the case of the exchange of Church and School lands for Crown land to or by the Colonial Treasurer.
- (b) In the case of the exchange of Church and School lands for private land to or by the private individual: Provided further that the land granted in exchange for private land may be granted on the same terms and conditions to all intents and purposes as are contained in the grants on which such private lands are held, anything in the Crown Lands Act of 1884 to the contrary notwithstanding.

And any moneys paid to or by the Colonial Treasurer shall be carried by him to the credit of or charged against the Consolidated Revenue Fund, as the case may be.

Lands so exchanged for Crown lands shall, upon the completion of such exchange, become Crown lands for the purposes of the Crown Lands Acts, but shall not be available for the purposes of any application until a notification to that effect has been published in the Gazette. And such exchanged lands may, by notice in the Gazette, be added to the adjoining lease or license or conditional purchase or homestead selection (notwithstanding that such lease, license, purchase, or selection may or may not already contain the maximum area prescribed by law), subject to such conditions as to payment of purchase money or rental as may be determined by the Governor, and consented to by the lessee, licensee, purchaser, or selector.

Public Instruction  
Endowment Account  
to be closed and  
future income paid to  
Consolidated  
Revenue Fund.

**14.** On and after the day of the commencement of this Act, the Public Instruction Endowment Account shall be closed, and all moneys at credit of the said account at the said date shall be applied firstly towards meeting any claims upon the said account, and secondly, towards the erection and maintenance of public school buildings. And the whole of the moneys to be derived from the Church and School Lands, whether accrued due before or after the said day, shall be paid to the Colonial Treasurer, to be by him carried to the credit of the Consolidated Revenue Fund.

Regulations.

**15.** The Governor may, with the advice of the Executive Council, make regulations for carrying into effect the provisions of this Act, and any regulations made as aforesaid shall be published in the Gazette, and shall thereupon, if not repugnant to this Act, have the force of law. All regulations on being gazetted shall be laid before both Houses of Parliament within fourteen days thereafter if Parliament be then sitting, and if not sitting, then within fourteen days after the next meeting of Parliament.

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16. The Church and School Lands Dedication Act, 1880, the <sup>Repeal.</sup> Church and School Lands Mining Act, Walsh's Grant Act of 1884, and the Church and School Lands Mining Act, 1889, are hereby repealed: Provided that such repeal shall not—

- (a) affect the previous operation of any enactment so repealed, or anything duly done, suffered, or commenced to be done under the enactment so repealed; or
- (b) affect any right, privilege, obligation, or liability acquired, accrued, or incurred under any enactment so repealed; or
- (c) affect any investigation, legal proceeding, or remedy in respect of any such right, privilege, obligation, liability, as aforesaid; or
- (d) affect any order, rule, application, affidavit, or award made, or any summons, writ, or precept issued, or any warrant granted, or any notice or certificate given under the said Acts or any of them before the commencement of this Act.

And any such investigation, legal proceeding, or remedy may be instituted, continued, or enforced as if this repealing enactment had not been passed.

17. In this Act and in any regulations made thereunder, unless <sup>Definitions.</sup> the context otherwise require—

“Church and School Lands” mean lands granted to or vested in a corporation styled “The Trustees of the Clergy and School Lands in the Colony of New South Wales,” by or in pursuance of Letters Patent, bearing date the ninth day of March, one thousand eight hundred and twenty-six, and unsold on the day on which this Act takes effect.

“Lease for mining purposes” means a lease granted for those purposes under any authority, statutory or otherwise, existing at any time before the day on which this Act takes effect.

“Local Land Board” means the local land board established under the Crown Lands Act of 1884, and any Acts amending the same, for the Land District in which any Church and School Lands, in respect of which any application under this Act is made, are situate, or, in which the greater part of such lands are situate.

“Minister” means the Minister charged with the administration of this Act or any part thereof.

“Prescribed” means prescribed by this Act or any regulations made thereunder.

18. This Act may be cited as the “Church and School Lands <sup>Short title.</sup> Act, 1897.”