

WESTERN LANDS (AMENDMENT) BILL.

Schedule of the Amendments referred to in Message of 16th September, 1941.

- No. 1.—Page 2, clause 2, line 8. *Omit “any” insert “either”*
- No. 2.—Page 2, clause 2, paragraphs (c) and (d), lines 24 to 40 inclusive. *Omit all words on these lines.*
- No. 3.—Page 3, clause 2, line 13. *Omit the words “paragraphs (b), (c) and (d)” insert “paragraph (b)”*
- No. 4.—Page 3, clause 2. *After line 15 insert—*
“Provided that no land shall be withdrawn pursuant to subsection one of this section in any case where, at the date of the commencement of this Act,—
“(i) The only leases held in the same interest are leases which were granted as or have been extended to leases in perpetuity; or
“(ii) the lessee held no land under lease other than the land which might, but for this proviso, be withdrawn.”
- No. 5.—Page 3, clause 2, lines 33 and 34. *Omit the words “paragraphs (b), (c) and (d)” insert “paragraph (b)”*
- No. 6.—Page 4, clause 2, lines 38 to 40 inclusive. *After “as” on line 38 omit “may be considered reasonable, but in no case shall any such term be extended by more than three years” insert—*
“by actuarial calculation is the equivalent in value to the value of the term subsisting in the land so withdrawn at the commencement of this Act and for such further term as may justly compensate the lessee for disturbance or dislocation of the business carried on wholly or partly upon the land so withdrawn and for any loss whatsoever sustained by the lessee in respect of the lands held and occupied therewith by reason of such withdrawal.
The basis to be used in such actuarial calculation shall be a four per centum per annum compound interest basis with annual rests. Unless otherwise agreed the lessee shall be allowed not less than twelve months from the date of publication in the Gazette of the withdrawal within which to remove his stock and plant from the land so withdrawn.
Any lessee who is dissatisfied with the determination of the Minister under this subsection may appeal therefrom to the Land and Valuation Court whose decision shall be final and shall be given effect to by the Minister. The appeal shall be made in the manner prescribed by rules of the Land and Valuation Court.”
- No. 7.—Page 6, clause 2, lines 20 and 21. *Omit “in the opinion of the Minister”*
- No. 8.—Page 6, clause 2, line 22. *After “may” insert “on the recommendation of the local land board”*
- No. 9.—Page 7, clause 3, line 10. *Omit the words “paragraphs (b), (c) and (d)” insert “paragraph (b)”*
- No. 10.—Page 7, clause 4, line 26. *After “Minister” add—*
“but this subsection shall not extend to the grant of grazing rights for partnership stock on a lease held by a member of the partnership or to a grant of grazing rights or the agisting of stock for less than three months in any one year.”
- No. 11.—Page 8, clause 5, lines 7 to 9 inclusive. *Omit all words on these lines.*
- No. 12.—Page 8, clause 5, lines 35 and 36 *Omit “in the opinion of the Minister”*
- No. 13.—Page 9, clause 5, lines 1 and 2. *Omit “in the opinion of the Minister”*
- No. 14.—Page 9, clause 5, line 3. *After “may” insert “on the recommendation of the local land board”*
- No. 15.—Pages 10 and 11, clause 6. *Omit clause 6.*

This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

W. R. McCOURT,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 28 August, 1941.*

The LEGISLATIVE COUNCIL has this day agreed to this Bill with Amendments.

W. K. CHARLTON,
Clerk of the Parliaments.

*Legislative Council Chamber,
Sydney 16th September, 1941.*

New South Wales.



ANNO QUINTO

GEORGII VI REGIS.

Act No. , 1941.

An Act to make further provision for the withdrawal of lands held under lease and for the resumption of certain lands in the Western Division; to impose certain restrictions on dealings with and transactions affecting leases in perpetuity; to validate certain matters; for these and other purposes to amend the Western Lands Act of 1901, as amended by subsequent Acts; and for purposes connected therewith.

BE it enacted by the King'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
5 the same, as follows:—

1. (1) This Act may be cited as the “Western Lands (Amendment) Act, 1941.”

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(2)

Short title
and con-
struction.

NOTE.—The words to be *omitted* are ruled through; those to be *inserted* are printed in **black letter**.

Western Lands (Amendment).

(2) This Act shall be read and construed with the Western Lands Act of 1901, as amended by subsequent Acts, which Act, as so amended, is in this Act referred to as the Principal Act.

5 **2.** (1) The Minister may, at any time after the commencement of this Act, after report by the Commissioner, from time to time withdraw land from the area held under lease in ~~any~~ **either** of the following cases:—

With-
drawals
and
resump-
tions.

- 10 (a) where the lease is a lease the term of which has been extended pursuant to section 17c of the Principal Act;
- 15 (b) where an agreement or arrangement has, before the commencement of this Act, been made between the Minister (or the Commissioner on behalf of the Minister) and the lessee that the lease will be allowed to terminate on the expiration of the term of the lease current at the date of such agreement or arrangement, and that such
- 20 termination will be accepted in satisfaction or part satisfaction of the right of the Minister to withdraw lands pursuant to section 17c of the Principal Act;
- 25 (c) ~~where, in connection with the granting of an application under section 18e of the Principal Act, an agreement or arrangement has, before the commencement of this Act, been made between the Minister (or the Commissioner on behalf of the Minister) and the applicant that the lease~~
- 30 ~~will be allowed to terminate on the expiration of the term of the lease current at the date of the application;~~
- 35 (d) ~~where, in connection with the granting of an application under section 18e of the Principal Act, an agreement or arrangement has, before the commencement of this Act, been made between the Minister (or the Commissioner on behalf of the Minister) and the applicant that the lease should be granted to him under section~~
- 40 ~~28a of the Principal Act.~~

(2)

Western Lands (Amendment).

(2) The land which may be withdrawn pursuant to subsection one of this section—

- 5 (a) from any lease of the nature referred to in paragraph (a) of that subsection shall be the whole or any part of the land which is within the boundaries of the maximum area determined in accordance with section 17c of the Principal Act or within such boundaries as varied pursuant to that section, and which has not been withdrawn under that section before the commencement of this Act;
- 10 (b) from any lease of the nature referred to in paragraphs (b) (c) and (d) **paragraph (b)** of that subsection shall be the whole or any part of the area held under the lease.
- 15

Provided that no land shall be withdrawn pursuant to subsection one of this section in any case where, at the date of the commencement of this Act—

- 20 (i) **the only leases held in the same interest are leases which were granted as or have been extended to leases in perpetuity; or**
- (ii) **the lessee held no land under lease other than the land which might, but for this proviso, be withdrawn.**

(3) (a) Land may be withdrawn pursuant to this section from any lease of the nature referred to in paragraph (a) of subsection one of this section notwithstanding any transfer, conveyance, assignment or mortgage of or other dealing with the lease made after the date of determination of the boundaries of the maximum area in respect of such lease, and whether made before or after the commencement of this Act.

(b) Land may be withdrawn pursuant to this section from any lease of the nature referred to in ~~paragraphs (b) (c) and (d)~~ **paragraph (b)** of subsection one of this section notwithstanding any transfer, conveyance, assignment or mortgage of or other dealing with the lease made after the date of the agreement or arrangement and whether made before or after the commencement of this Act.

For

Western Lands (Amendment).

For the purposes of this paragraph the date of the agreement or arrangement shall be deemed to be the date upon which the approval of the Minister to the agreement or arrangement was given.

- 5 (4) Any lease of the nature referred to in paragraph (a) of subsection one of this section shall as from the commencement of this Act cease to be subject to the special conditions referred to in paragraphs (a) and (b) of subsection four of section 17c of the Principal Act.
- 10 (5) The Governor, by notification published in the Gazette, may, at any time after the commencement of this Act, resume the whole or any part of any land held in fee simple, or under conditional purchase or conditional lease, where such land, in pursuance of any agreement or
 Resump-
 tion of
 certain
 freehold,
 C.P. and
 C.L. land.
- 15 arrangement made between the Minister (or the Commissioner on behalf of the Minister) and the holder thereof is to be surrendered to the Crown in part satisfaction of the right of the Minister to withdraw land under the provisions of section 17c of the Principal Act.
- 20 Upon publication of any such notification the land therein described shall vest in His Majesty and shall be deemed to be Crown lands.
- Land may be resumed under this subsection notwithstanding any transfer, conveyance, assignment or
- 25 mortgage of or other dealing with the land made after the date of the agreement or arrangement and whether made before or after the commencement of this Act.
- For the purposes of this subsection the date of the agreement or arrangement shall be deemed to be the date
- 30 upon which the approval of the Minister to the agreement or arrangement was given.
- (6) No compensation shall be paid in respect of any land withdrawn or resumed in pursuance of this section.
 cf. Act No.
 70, 1901,
 s. 17c (11).
- 35 (7) The Minister, after report by the Commissioner, shall extend the term of all or any of the leases held in the same interest at the date of such withdrawal or resumption, for such period as ~~may be considered reasonable, but in no case shall any such term be~~
- 40 ~~extended by more than three years~~ by actuarial calculation is the equivalent in value to the value of the term subsisting

Western Lands (Amendment).

subsisting in the land so withdrawn at the commencement of this Act and for such further term as may justly compensate the lessee for disturbance or dislocation of the business carried on wholly or partly upon the land so withdrawn and for any
5 loss whatsoever sustained by the lessee in respect of the lands held and occupied therewith by reason of such withdrawal.

The basis to be used in such actuarial calculation shall be a four percentum per annum compound interest basis with annual rests. Unless otherwise agreed the lessee shall be
10 allowed not less than twelve months from the date of publication in the Gazette of the withdrawal within which to remove his stock and plant from the land so withdrawn.

Any lessee who is dissatisfied with the determination of the Minister under this subsection may appeal therefrom to the
15 Land and Valuation Court whose decision shall be final and shall be given effect to by the Minister. The appeal shall be made in the manner prescribed by rules of the Land and Valuation Court.

(8) Upon any such withdrawal or resumption, the
20 lessee or holder, as the case may be, shall be entitled to tenant right in accordance with the provisions of the Principal Act in improvements upon the land withdrawn or resumed: Provided that where at the date of withdrawal or resumption any sum is owing to the Crown
25 in respect of any such improvements the local land board, when determining the value of the improvements in accordance with the Principal Act, shall apportion such value between the Crown and the person having tenant right in such improvements in such manner as it may
30 deem reasonable.

cf. Act No. 70, 1901, s. 29 (3).

(9) Any land withdrawn or resumed in pursuance of this section shall be disposed of under the provisions of the Principal Act.

(10) Where the whole of the land within any lease
35 is withdrawn or resumed in pursuance of this section, the liability of the lessee for payment of rent shall cease as from the date of such withdrawal or resumption, as the case may be.

cf. Ibid. s. 17c (12).

Where part of the land within any lease is so with-
40 drawn or resumed, the rent for the remainder of the current period of the lease shall, as from the date of such

Western Lands (Amendment).

such withdrawal or resumption, be reduced in proportion to the area withdrawn or resumed or in proportion to the relative value of the area withdrawn or resumed to that of the remainder of the lease where the qualities and capabilities of the lease are not uniform, and any rent paid in advance shall be adjusted on the same basis.

(11) Subject to the provisions of this section, any land withdrawn or resumed under this section shall, until otherwise disposed of, be held by the lessee or holder, as the case may be, under preferential occupation license.

cf. Act No.
70, 1901,
s. 17c (13).

The fee payable in respect of any such preferential occupation license shall, in the case of any land withdrawn from lease, be at the same rate as was payable at the date of the withdrawal for the lease from which the land was withdrawn; and, in the case of any land resumed, at the rate payable at the date of resumption for the lease adjoining such land.

(12) If at any time during the currency of any such preferential occupation license stock are depastured on the land or any part thereof in numbers which, ~~in the opinion of the Minister,~~ substantially exceed the fair carrying capacity thereof, the Minister may, **on the recommendation of the local land board** by notification in the Gazette, cancel the preferential occupation license and the licensee shall be liable to a penalty not exceeding two hundred pounds.

(13) (a) Pending withdrawal of any land which the Minister is authorised by this Act to withdraw from the area held under any lease, the lease or any part thereof shall not be transferred except by way of mortgage or discharge of mortgage without the consent of the Minister being first obtained.

(b) Where the lease was transferable, immediately before the commencement of this Act, without the consent of the Minister being first obtained, the provisions of paragraph (a) of this subsection shall, in respect of such lease, cease to operate after a period of two years from such commencement.

(c) Where the right of withdrawal has been exercised in full in relation to any lease the provisions of

Western Lands (Amendment).

of paragraph (a) of this subsection shall, notwithstanding anything in paragraph (b) of this subsection, thereupon cease to have effect.

(14) Where the land held under any lease is withdrawn or resumed in pursuance of this section the Commissioner may make such endorsement on the instrument of lease as shall appear to him to be necessary or proper.

3. Every agreement or arrangement of the nature referred to in ~~paragraphs (b) (c) and (d)~~ **paragraph (b)** of subsection one of section two of this Act is hereby validated but nothing in this section shall affect the right of the Minister to withdraw or of the Governor to resume land pursuant to section two of this Act.

4. The Principal Act is amended—

(a) by inserting next after subsection ten of section 18E the following new subsection:—

(10A) A lease extended to a lease in perpetuity (whether before or after the commencement of the Western Lands (Amendment) Act, 1941) shall be liable to forfeiture if the holder sublets the lease or any part thereof, or grants any grazing rights over the lease or any part thereof, or agists stock on the lease or any part thereof, without having first obtained the written consent of the Minister **but this subsection shall not extend to the grant of grazing rights for partnership stock on a lease held by a member of the partnership or to a grant of grazing rights or the agisting of stock for less than three months in any one year.**

(b) (i) by omitting from subsection one of section 18G the words “of any portion thereof” and by inserting in lieu thereof the words and symbols “any portion thereof and no transfer, conveyance, or assignment of or other dealing (not being a mortgage) with a lease extended to a lease in perpetuity (whether before or after such commencement or after the commencement of the Western Lands (Amendment) Act, 1941) or any portion thereof”;

(ii)

Validation.
Amendment
of Act No.
70, 1901.
Sec. 18E
(Leases-in-
perpetuity)

Sec. 18a.
(Transfers.)

Western Lands (Amendment).

- (ii) by omitting from subsection three of the same section the words "the lease" and by inserting in lieu thereof the words "a lease applied for after the commencement of the Western Lands (Amendment) Act, 1934."

5. The Principal Act is further amended—

Further
amendment
of Act No.
70, 1901.

- (a) ~~(i)~~ by omitting from section forty-four the word ~~"Governor"~~ and by inserting in lieu thereof the word ~~"Minister"~~; Sec. 41.
(Power to
withdraw.)
- 10 ~~(ii)~~ (i) by omitting from the same section the words "Western Lands lease" where firstly occurring and by inserting in lieu thereof the words "lease under this Act";
- 15 ~~(iii)~~ (ii) by inserting in the same section after the word "acquisition" the following words "the land shall be deemed to be Crown lands, and";
- 20 ~~(iv)~~ (iii) by omitting from the same section the words "for purposes of agriculture" and by inserting in lieu thereof the words "for any other purpose";
- ~~(v)~~ (iv) by inserting in the same section after the word "withdrawn," where thirdly occurring, the words "or acquired";
- 25 ~~(vi)~~ (v) by omitting from the same section the words "at the same rate per acre as under the Western Lands lease" and by inserting in lieu thereof the words "for the use of the land so withdrawn at the same rate per acre as was payable under the lease immediately before the date of such withdrawal:
- 30

35 Provided that, if at any time during the period agreed to or allowed as aforesaid, stock are depastured on such land or any part thereof in numbers which, ~~in the opinion of the Minister,~~ substantially exceed the fair carrying capacity thereof, or the improvements on the land withdrawn or acquired

Western Lands (Amendment).

acquired are not, ~~in the opinion of the Minister~~, kept in reasonable maintenance and repair, the Minister may **on the recommendation of the local land board** by notification in the Gazette, terminate the lessee's occupancy, and upon such termination the lessee shall forthwith remove his stock and plant from such land, and the lessee shall be liable to a penalty not exceeding two hundred pounds:

Provided further that the lessee shall not be compelled to make good any damage caused by fire, flood, storm or other inevitable accident which, in the opinion of the Minister, is not due to any act, default or neglect of the lessee."

~~(vii)~~ (vi) by inserting at the end of the same section the following new subsections:—

(2) (a) Notwithstanding anything contained in this Act, but subject to the provisions of subsection three of this section, the total amount paid by the Minister as compensation for the withdrawal or acquisition of any land in pursuance of this section shall be charged upon any lease of such land thereafter granted under this Act, or, where more than one such lease is so granted, upon such leases in such proportions as the Minister may determine.

Charge on
lease.
cf. Act No.
46, 1919,
s. 12.

(b) In determining any such proportion, the Minister shall have regard to the qualities and capabilities of the land and to the improvements existing thereon.

(c) The provisions of section thirty-one of this Act shall not apply to any such lease.

(3) Upon the expiration, forfeiture, surrender or other determination of any such lease, the charge, if not previously vacated,

shall

Western Lands (Amendment).

shall be deemed to have been extinguished: Provided that upon any redisposal of the land the Minister, upon the recommendation of the Commissioner, shall determine the amount, if any, which shall be charged upon any lease granted in respect of the land, and thereupon such amount shall be charged accordingly.

The amount so determined shall not include the value of any improvements, but the provisions of section thirty-one of this Act shall apply upon any such redisposal.

(4) (a) Payment of the amount charged upon any lease pursuant to this section shall be made to the Colonial Treasurer within such period, by such instalments and with interest at such rate as the Minister may determine.

Payment of amount charged.
cf. Act No. 70, 1901, s. 31.

(b) The Colonial Treasurer may credit the whole or any part of any moneys so paid, to the Consolidated Revenue Fund or to such other fund or account as he may elect.

(c) If any such instalment or interest remains unpaid for a period of six months after the date for payment thereof the lease shall become liable to be forfeited.

cf. *Ibid.* s. 18.

(5) Any such charge shall have priority over any other charge, mortgage or encumbrance.

Priority of charge.
cf. Act No. 46, 1910, s. 12.

(b) by inserting in subsection one of section 44A before the word "value," where firstly occurring, the word "market";

Sec. 44A.
(Enhancement due to public works.)

(c) by omitting section forty-five.

Sec. 45.
(Appeal.)

6. The Principal Act is further amended—

(a) (i) by omitting from paragraph (a) of subsection nine of section 17 the words "subsections seven, eight and nine" and by inserting in lieu thereof the words "subsections seven and eight";

Further amendment of Act No. 70, 1901, Sec. 17 c.
(Extension of leases and withdrawals of areas from leases.)

(ii)

Western Lands (Amendment).

5 (ii) by omitting from subparagraph (ii) of paragraph (b) of the same subsection the words and figures "to subparagraph (xi), both inclusive, of paragraph (a) of subsection nine" and by inserting in lieu thereof the words "to subparagraph (iii) both inclusive of subsection eight";

10 (b) (i) by omitting subsections eight and nine of section 18^(8B), and by inserting in lieu thereof (Subst-
ing leases:
extension.) the following new subsection:—

15 (8) Where the lands of the applicant are entirely within the Western Division and are in the opinion of the local land board best adapted for grazing, a home maintenance area shall be an area which when reasonably improved will carry—

- 20 (i) within the Walgett North administrative district—3,000 sheep;
(ii) within the Brewarrina administrative district—3,500 sheep,
(iii) elsewhere in the Western Division—
not less than 4,000 and not more than 6,000 sheep.

25 For the purpose of this subsection one head of large stock shall be regarded as the equivalent of six sheep.

30 (ii) by omitting from subsection ten of the same section the words "which area when added to the area proposed to be acquired will in the opinion of the Minister substantially exceed a home maintenance area," and by inserting in lieu thereof the words "unless the consent of the Minister has been first obtained."

35 7. 6. The Principal Act is further amended—

40 (a) (i) by inserting at the end of subsection three of section six the words "or to any person who was such an officer at the time he was so appointed and who may be reappointed as Commissioner or chairman, as the case may be, or who, having been appointed as chairman, may be appointed or reappointed as Commissioner";

(ii)

Further amendment of Act No. 70, 1901.
Sec. 6.
(Public Service Act, 1902, not to apply to appointment of, or to Commissioner or chairman.)

Western Lands (Amendment).

- (ii) by inserting in subsection four of the same section after the word "appointed" the words "or any such person so reappointed or appointed";
- 5 (b) by omitting from section eight the word "Governor" wherever occurring, and by inserting in lieu thereof the word "Minister"; Sec. 8. (Appointment of deputy.)
- 10 (c) by omitting from subsection six of section twenty-four the words "any reserves or parts of reserves" and by inserting in lieu thereof the words "any reserves from lease or from license or from lease and license or parts of such reserves"; Sec. 24. (Power to set apart Crown lands.)
- 15 (d) by inserting next after section 28B the following new sections:— New sec. 28c.
- 28c. Wherever in this Act power is vested in the Minister to grant leases, it shall be lawful for the Minister to execute such leases on behalf of His Majesty. Execution of leases.
- 20 28d. Where by or under this or any other Act the Commissioner is required or authorised to make any endorsement on any instrument of lease, the Commissioner may, by notice in writing served personally or by post on the lessee, require the lessee to lodge such instrument of lease with the Commissioner not later than two months after the date of service of the notice. Power to require lodgment of instrument of lease.
- 25
- 30 If the instrument of lease be not so lodged the lease shall be liable to be forfeited.
- (e) by inserting at the end of subsection one of section forty-one the following words "and to such other conditions as may be agreed upon between the Minister and the lessee." Sec. 41. (Conditions of lease.)

This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

W. R. McCOURT,
Clerk of the Legislative Assembly.
Legislative Assembly Chamber,
Sydney, 28 August, 1941.

New South Wales.



ANNO QUINTO

GEORGII VI REGIS.

Act No. , 1941.

An Act to make further provision for the withdrawal of lands held under lease and for the resumption of certain lands in the Western Division; to impose certain restrictions on dealings with and transactions affecting leases in perpetuity; to validate certain matters; for these and other purposes to amend the Western Lands Act of 1901, as amended by subsequent Acts; and for purposes connected therewith.

BE it enacted by the King'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
5 the same, as follows:—

1. (1) This Act may be cited as the “Western Lands (Amendment) Act, 1941.”

Short title
and construction.

78061 6—A

(2)

Western Lands (Amendment).

(2) This Act shall be read and construed with the Western Lands Act of 1901, as amended by subsequent Acts, which Act, as so amended, is in this Act referred to as the Principal Act.

5 2. (1) The Minister may, at any time after the commencement of this Act, after report by the Commissioner, from time to time withdraw land from the area held under lease in any of the following cases:—

With-
drawals
and
resump-
tions.

10 (a) where the lease is a lease the term of which has been extended pursuant to section 17c of the Principal Act;

15 (b) where an agreement or arrangement has, before the commencement of this Act, been made between the Minister (or the Commissioner on behalf of the Minister) and the lessee that the lease will be allowed to terminate on the expiration of the term of the lease current at the date of such agreement or arrangement, and that such termination will be accepted in satisfaction or part satisfaction of the right of the Minister to withdraw lands pursuant to section 17c of the Principal Act;

20 (c) where, in connection with the granting of an application under section 18e of the Principal Act, an agreement or arrangement has, before the commencement of this Act, been made between the Minister (or the Commissioner on behalf of the Minister) and the applicant that the lease will be allowed to terminate on the expiration of the term of the lease current at the date of the application;

30 (d) where, in connection with the granting of an application under section 18e of the Principal Act, an agreement or arrangement has, before the commencement of this Act, been made between the Minister (or the Commissioner on behalf of the Minister) and the applicant that the lease should be granted to him under section 28a of the Principal Act.

(2)

Western Lands (Amendment).

(2) The land which may be withdrawn pursuant to subsection one of this section—

5 (a) from any lease of the nature referred to in paragraph (a) of that subsection shall be the whole or any part of the land which is within the boundaries of the maximum area determined in accordance with section 17c of the Principal Act or within such boundaries as varied pursuant to that section, and which has not been
10 withdrawn under that section before the commencement of this Act;

(b) from any lease of the nature referred to in paragraphs (b) (c) and (d) of that subsection shall be the whole or any part of the area held
15 under the lease.

(3) (a) Land may be withdrawn pursuant to this section from any lease of the nature referred to in paragraph (a) of subsection one of this section notwithstanding any transfer, conveyance, assignment or mortgage
20 of or other dealing with the lease made after the date of determination of the boundaries of the maximum area in respect of such lease, and whether made before or after the commencement of this Act.

(b) Land may be withdrawn pursuant to this
25 section from any lease of the nature referred to in paragraphs (b) (c) and (d) of subsection one of this section notwithstanding any transfer, conveyance, assignment or mortgage of or other dealing with the lease made after the date of the agreement or arrangement and whether
30 made before or after the commencement of this Act.

For the purposes of this paragraph the date of the agreement or arrangement shall be deemed to be the date upon which the approval of the Minister to the agreement or arrangement was given.

35 (4) Any lease of the nature referred to in paragraph (a) of subsection one of this section shall as from the commencement of this Act cease to be subject to the special conditions referred to in paragraphs (a) and (b) of subsection four of section 17c of the Principal Act.

(5)

Western Lands (Amendment).

(5) The Governor, by notification published in the Gazette, may, at any time after the commencement of this Act, resume the whole or any part of any land held in fee simple, or under conditional purchase or conditional
5 lease, where such land, in pursuance of any agreement or arrangement made between the Minister (or the Commissioner on behalf of the Minister) and the holder thereof is to be surrendered to the Crown in part satisfaction of the right of the Minister to withdraw land
10 under the provisions of section 17c of the Principal Act.

Resumption of certain freehold, C.P. and C.L. land.

Upon publication of any such notification the land therein described shall vest in His Majesty and shall be deemed to be Crown lands.

Land may be resumed under this subsection notwithstanding any transfer, conveyance, assignment or
15 mortgage of or other dealing with the land made after the date of the agreement or arrangement and whether made before or after the commencement of this Act.

For the purposes of this subsection the date of the
20 agreement or arrangement shall be deemed to be the date upon which the approval of the Minister to the agreement or arrangement was given.

(6) No compensation shall be paid in respect of any land withdrawn or resumed in pursuance of this
25 section.

cf. Act No. 70, 1901, s. 17c (11).

(7) The Minister, after report by the Commissioner, shall extend the term of all or any of the leases held in the same interest at the date of such withdrawal or resumption, for such period as may be considered
30 reasonable, but in no case shall any such term be extended by more than three years.

(8) Upon any such withdrawal or resumption, the lessee or holder, as the case may be, shall be entitled to tenant right in accordance with the provisions of the
35 Principal Act in improvements upon the land withdrawn or resumed: Provided that where at the date of withdrawal or resumption any sum is owing to the Crown in respect of any such improvements the local land board, when determining the value of the improvements in
40 accordance with the Principal Act, shall apportion such value

cf. *Ibid.* s. 29 (3).

Western Lands (Amendment).

value between the Crown and the person having tenant right in such improvements in such manner as it may deem reasonable.

(9) Any land withdrawn or resumed in pursuance of this section shall be disposed of under the provisions of the Principal Act.

(10) Where the whole of the land within any lease is withdrawn or resumed in pursuance of this section, the liability of the lessee for payment of rent shall cease as from the date of such withdrawal or resumption, as the case may be. cf. Act No. 70, 1901, s. 17c (12).

Where part of the land within any lease is so withdrawn or resumed, the rent for the remainder of the current period of the lease shall, as from the date of such withdrawal or resumption, be reduced in proportion to the area withdrawn or resumed or in proportion to the relative value of the area withdrawn or resumed to that of the remainder of the lease where the qualities and capabilities of the lease are not uniform, and any rent paid in advance shall be adjusted on the same basis.

(11) Subject to the provisions of this section, any land withdrawn or resumed under this section shall, until otherwise disposed of, be held by the lessee or holder, as the case may be, under preferential occupation license. cf. Ibid. s. 17c (13).

The fee payable in respect of any such preferential occupation license shall, in the case of any land withdrawn from lease, be at the same rate as was payable at the date of the withdrawal for the lease from which the land was withdrawn; and, in the case of any land resumed, at the rate payable at the date of resumption for the lease adjoining such land.

(12) If at any time during the currency of any such preferential occupation license stock are depastured on the land or any part thereof in numbers which, in the opinion of the Minister, substantially exceed the fair carrying capacity thereof, the Minister may, by notification in the Gazette, cancel the preferential occupation license and the licensee shall be liable to a penalty not exceeding two hundred pounds.

Western Lands (Amendment).

(13) (a) Pending withdrawal of any land which the Minister is authorised by this Act to withdraw from the area held under any lease, the lease or any part thereof shall not be transferred except by way of
 5 mortgage or discharge of mortgage without the consent of the Minister being first obtained.

(b) Where the lease was transferable, immediately before the commencement of this Act, without the consent of the Minister being first obtained, the provisions of paragraph (a) of this subsection shall, in respect
 10 of such lease, cease to operate after a period of two years from such commencement.

(c) Where the right of withdrawal has been exercised in full in relation to any lease the provisions
 15 of paragraph (a) of this subsection shall, notwithstanding anything in paragraph (b) of this subsection, thereupon cease to have effect.

(14) Where the land held under any lease is withdrawn or resumed in pursuance of this section the
 20 Commissioner may make such endorsement on the instrument of lease as shall appear to him to be necessary or proper.

3. Every agreement or arrangement of the nature referred to in paragraphs (b) (c) and (d) of subsection
 25 one of section two of this Act is hereby validated but nothing in this section shall affect the right of the Minister to withdraw or of the Governor to resume land pursuant to section two of this Act.

4. The Principal Act is amended—

30 (a) by inserting next after subsection ten of section 18E the following new subsection:—

(10A) A lease extended to a lease in perpetuity (whether before or after the commencement of the Western Lands (Amendment) Act, 1941)
 35 shall be liable to forfeiture if the holder sublets the lease or any part thereof, or grants any grazing rights over the lease or any part thereof, or agists stock on the lease or any part thereof, without having first obtained the written consent
 40 of the Minister.

(b).

Validation.
 Amendment
 of Act No.
 70, 1901.
 Sec. 18E.
 (Leases-in-
 perpetuity.)

Western Lands (Amendment).

- (b) (i) by omitting from subsection one of section 18g the words "of any portion thereof" and by inserting in lieu thereof the words and symbols "any portion thereof and no transfer, conveyance, or assignment of or other dealing (not being a mortgage) with a lease extended to a lease in perpetuity (whether before or after such commencement or after the commencement of the Western Lands (Amendment) Act, 1941) or any portion thereof";
- (ii) by omitting from subsection three of the same section the words "the lease" and by inserting in lieu thereof the words "a lease applied for after the commencement of the Western Lands (Amendment) Act, 1934."

5. The Principal Act is further amended—

- (a) (i) by omitting from section forty-four the word "Governor" and by inserting in lieu thereof the word "Minister";
- (ii) by omitting from the same section the words "Western Lands lease" where firstly occurring and by inserting in lieu thereof the words "lease under this Act";
- (iii) by inserting in the same section after the word "acquisition" the following words "the land shall be deemed to be Crown lands, and";
- (iv) by omitting from the same section the words "for purposes of agriculture" and by inserting in lieu thereof the words "for any other purpose";
- (v) by inserting in the same section after the word "withdrawn," where thirdly occurring, the words "or acquired";
- (vi) by omitting from the same section the words "at the same rate per acre as under the Western Lands lease" and by inserting in lieu

Further amendment of Act No. 70, 1901.

Sec. 44. (Power to withdraw.)

Western Lands (Amendment).

lieu thereof the words "for the use of the land so withdrawn at the same rate per acre as was payable under the lease immediately before the date of such withdrawal:

5 Provided that, if at any time during the
period agreed to or allowed as aforesaid,
stock are depastured on such land or any
part thereof in numbers which, in the
10 opinion of the Minister, substantially exceed
the fair carrying capacity thereof, or the
improvements on the land withdrawn or
acquired are not, in the opinion of the
Minister, kept in reasonable maintenance
and repair, the Minister may, by notification
15 in the Gazette, terminate the lessee's
occupancy, and upon such termination the
lessee shall forthwith remove his stock and
plant from such land, and the lessee shall
be liable to a penalty not exceeding two
20 hundred pounds:

 Provided further that the lessee shall not
be compelled to make good any damage
caused by fire, flood, storm or other
inevitable accident which, in the opinion
25 of the Minister, is not due to any act,
default or neglect of the lessee."

(vii) by inserting at the end of the same section
the following new subsections:—

30 (2) (a) Notwithstanding anything con- Charge on
tained in this Act, but subject to the lease.
provisions of subsection three of this cf. Act No.
section, the total amount paid by the 46, 1919,
Minister as compensation for the with- s. 12.
drawal or acquisition of any land in pur-
35 suance of this section shall be charged
upon any lease of such land thereafter
granted under this Act, or, where more
than one such lease is so granted, upon
such leases in such proportions as the
40 Minister may determine.

(b)

Western Lands (Amendment).

(b) In determining any such proportion, the Minister shall have regard to the qualities and capabilities of the land and to the improvements existing thereon.

(c) The provisions of section thirty-one of this Act shall not apply to any such lease.

(3) Upon the expiration, forfeiture, surrender or other determination of any such lease, the charge, if not previously vacated, shall be deemed to have been extinguished: Provided that upon any redisposal of the land the Minister, upon the recommendation of the Commissioner, shall determine the amount, if any, which shall be charged upon any lease granted in respect of the land, and thereupon such amount shall be charged accordingly.

The amount so determined shall not include the value of any improvements, but the provisions of section thirty-one of this Act shall apply upon any such redisposal.

(4) (a) Payment of the amount charged upon any lease pursuant to this section shall be made to the Colonial Treasurer within such period, by such instalments and with interest at such rate as the Minister may determine.

Payment
of amount
charged.
cf. Act No.
70, 1901,
s. 31.

(b) The Colonial Treasurer may credit the whole or any part of any moneys so paid, to the Consolidated Revenue Fund or to such other fund or account as he may elect.

(c) If any such instalment or interest remains unpaid for a period of six months after the date for payment thereof the lease shall become liable to be forfeited.

cf. *Ibid.*
s. 18.

(5) Any such charge shall have priority over any other charge, mortgage or encumbrance.

Priority of
charge.
cf. Act No.
46, 1919,
s. 12.

Western Lands (Amendment).

(b) by inserting in subsection one of section 44A before the word "value," where firstly occurring, the word "market";

Sec. 44A.
(Enhancement
due to public
works.)

(c) by omitting section forty-five.

Sec. 45.
(Appeal.)

5 **6.** The Principal Act is further amended —

Further amend-
ment of Act
No. 70, 1901.

(a) (i) by omitting from paragraph (a) of subsection nine of section 17c the words "subsections seven, eight and nine" and by inserting in lieu thereof the words "subsections seven and eight";

Sec. 17c.
(Extension of
leases and
withdrawals
of areas
from leases.)

10

(ii) by omitting from subparagraph (ii) of paragraph (b) of the same subsection the words and figures "to subparagraph (xi), both inclusive, of paragraph (a) of subsection nine" and by inserting in lieu thereof the words "to subparagraph (iii) both inclusive of subsection eight";

15

(b) (i) by omitting subsections eight and nine of section 18E, and by inserting in lieu thereof the following new subsection:—

Sec. 18E.
(Subsist-
ing leases:
extension.)

20

(8) Where the lands of the applicant are entirely within the Western Division and are in the opinion of the local land board best adapted for grazing, a home maintenance area shall be an area which when reasonably improved will carry—

25

(i) within the Walgett North administrative district—3,000 sheep;

(ii) within the Brewarrina administrative district—3,500 sheep;

30

(iii) elsewhere in the Western Division—
not less than 4,000 and not more than 6,000 sheep.

For the purpose of this subsection one head of large stock shall be regarded as the equivalent of six sheep.

35

(ii) by omitting from subsection ten of the same section the words "which area when added to the area proposed to be acquired will in the

Western Lands (Amendment).

the opinion of the Minister substantially exceed a home maintenance area," and by inserting in lieu thereof the words "unless the consent of the Minister has been first obtained."

5

7. The Principal Act is further amended—

Further amendment of Act No. 70, 1901.

- (a) (i) by inserting at the end of subsection three of section six the words "or to any person who was such an officer at the time he was so appointed and who may be reappointed as Commissioner or chairman, as the case may be, or who, having been appointed as chairman, may be appointed or reappointed as Commissioner";
- (ii) by inserting in subsection four of the same section after the word "appointed" the words "or any such person so reappointed or appointed";
- (b) by omitting from section eight the word "Governor" wherever occurring, and by inserting in lieu thereof the word "Minister";
- (c) by omitting from subsection six of section twenty-four the words "any reserves or parts of reserves" and by inserting in lieu thereof the words "any reserves from lease or from license or from lease and license or parts of such reserves";
- (d) by inserting next after section 28B the following new sections:—
- 28c. Wherever in this Act power is vested in the Minister to grant leases, it shall be lawful for the Minister to execute such leases on behalf of His Majesty.
- 28d. Where by or under this or any other Act the Commissioner is required or authorised to make any endorsement on any instrument of lease, the Commissioner may, by notice in writing

Sec. 6.

(Public Service Act, 1902, not to apply to appointment of, or to Commissioner or chairman.)

Sec. 8.

(Appointment of deputy.)

Sec. 24.

(Power to set apart Crown lands.)

New sec. 28c.

Execution of leases.

Power to require lodgment of instrument of lease.

Western Lands (Amendment).

writing served personally or by post on the lessee, require the lessee to lodge such instrument of lease with the Commissioner not later than two months after the date of service of the notice.

5

If the instrument of lease be not so lodged the lease shall be liable to be forfeited.

- (e) by inserting at the end of subsection one of section forty-one the following words "and to such other conditions as may be agreed upon between the Minister and the lessee." Sec. 41. (Conditions of lease.)

10

[10d.]

Sydney: Alfred Henry Pettifer, Acting Government Printer—1941.

No. , 1941.

A BILL

To make further provision for the withdrawal of lands held under lease and for the resumption of certain lands in the Western Division; to impose certain restrictions on dealings with and transactions affecting leases in perpetuity; to validate certain matters; for these and other purposes to amend the Western Lands Act of 1901, as amended by subsequent Acts; and for purposes connected therewith.

[MR. TULLY;—12 *August*, 1941.]

BE it enacted by the King'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. (1) This Act may be cited as the "Western Lands (Amendment) Act, 1941."

78061 6—A

(2)

Short title
and con-
struction.

Western Lands (Amendment).

(2) This Act shall be read and construed with the Western Lands Act of 1901, as amended by subsequent Acts, which Act, as so amended, is in this Act referred to as the Principal Act.

5 **2.** (1) The Minister may, at any time after the commencement of this Act, after report by the Commissioner, from time to time withdraw land from the area held under lease in any of the following cases:—

With-
drawals
and
resump-
tions.

10 (a) where the lease is a lease the term of which has been extended pursuant to section 17c of the Principal Act;

15 (b) where an agreement or arrangement has, before the commencement of this Act, been made between the Minister (or the Commissioner on behalf of the Minister) and the lessee that the lease will be allowed to terminate on the expiration of the term of the lease current at the date of such agreement or arrangement, and that such termination will be accepted in satisfaction or part satisfaction of the right of the Minister to withdraw lands pursuant to section 17c of the Principal Act;

20 (c) where, in connection with the granting of an application under section 18E of the Principal Act, an agreement or arrangement has, before the commencement of this Act, been made between the Minister (or the Commissioner on behalf of the Minister) and the applicant that the lease will be allowed to terminate on the expiration of the term of the lease current at the date of the application;

25 (d) where, in connection with the granting of an application under section 18E of the Principal Act, an agreement or arrangement has, before the commencement of this Act, been made between the Minister (or the Commissioner on behalf of the Minister) and the applicant that the lease should be granted to him under section 28A of the Principal Act.

(2)

Western Lands (Amendment).

(2) The land which may be withdrawn pursuant to subsection one of this section—

5 (a) from any lease of the nature referred to in paragraph (a) of that subsection shall be the whole or any part of the land which is within the boundaries of the maximum area determined in accordance with section 17c of the Principal Act or within such boundaries as varied pursuant to that section, and which has not been
10 withdrawn under that section before the commencement of this Act;

(b) from any lease of the nature referred to in paragraphs (b) (c) and (d) of that subsection shall be the whole or any part of the area held
15 under the lease.

(3) (a) Land may be withdrawn pursuant to this section from any lease of the nature referred to in paragraph (a) of subsection one of this section notwithstanding any transfer, conveyance, assignment or mortgage
20 of or other dealing with the lease made after the date of determination of the boundaries of the maximum area in respect of such lease, and whether made before or after the commencement of this Act.

(b) Land may be withdrawn pursuant to this
25 section from any lease of the nature referred to in paragraphs (b) (c) and (d) of subsection one of this section notwithstanding any transfer, conveyance, assignment or mortgage of or other dealing with the lease made after the date of the agreement or arrangement and whether
30 made before or after the commencement of this Act.

For the purposes of this paragraph the date of the agreement or arrangement shall be deemed to be the date upon which the approval of the Minister to the agreement or arrangement was given.

35 (4) Any lease of the nature referred to in paragraph (a) of subsection one of this section shall as from the commencement of this Act cease to be subject to the special conditions referred to in paragraphs (a) and (b) of subsection four of section 17c of the Principal Act.

(5)

Western Lands (Amendment).

(5) The Governor, by notification published in the Gazette, may, at any time after the commencement of this Act, resume the whole or any part of any land held in fee simple, or under conditional purchase or conditional lease, where such land, in pursuance of any agreement or arrangement made between the Minister (or the Commissioner on behalf of the Minister) and the holder thereof is to be surrendered to the Crown in part satisfaction of the right of the Minister to withdraw land under the provisions of section 17c of the Principal Act.

Resump-
tion of
certain
freehold,
C.P. and
C.L. land.

Upon publication of any such notification the land therein described shall vest in His Majesty and shall be deemed to be Crown lands.

Land may be resumed under this subsection notwithstanding any transfer, conveyance, assignment or mortgage of or other dealing with the land made after the date of the agreement or arrangement and whether made before or after the commencement of this Act.

For the purposes of this subsection the date of the agreement or arrangement shall be deemed to be the date upon which the approval of the Minister to the agreement or arrangement was given.

(6) No compensation shall be paid in respect of any land withdrawn or resumed in pursuance of this section.

cf. Act No.
70, 1901,
s. 17c (11).

(7) Upon any such withdrawal or resumption, the lessee or holder, as the case may be, shall be entitled to tenant right in accordance with the provisions of the Principal Act in improvements upon the land withdrawn or resumed: Provided that where at the date of withdrawal or resumption any sum is owing to the Crown in respect of any such improvements the local land board, when determining the value of the improvements in accordance with the Principal Act, shall apportion such value between the Crown and the person having tenant right in such improvements in such manner as it may deem reasonable.

cf. *Ibid.*
s. 29 (3).

(8) Any land withdrawn or resumed in pursuance of this section shall be disposed of under the provisions of the Principal Act.

(9)

Western Lands (Amendment).

(9) Where the whole of the land within any lease is withdrawn or resumed in pursuance of this section, the liability of the lessee for payment of rent shall cease as from the date of such withdrawal or resumption, as the case may be.

Where part of the land within any lease is so withdrawn or resumed, the rent for the remainder of the current period of the lease shall, as from the date of such withdrawal or resumption, be reduced in proportion to the area withdrawn or resumed or in proportion to the relative value of the area withdrawn or resumed to that of the remainder of the lease where the qualities and capabilities of the lease are not uniform, and any rent paid in advance shall be adjusted on the same basis.

(10) Subject to the provisions of this section, any land withdrawn or resumed under this section shall, until otherwise disposed of, be held by the lessee or holder, as the case may be, under preferential occupation license.

The fee payable in respect of any such preferential occupation license shall, in the case of any land withdrawn from lease, be at the same rate as was payable at the date of the withdrawal for the lease from which the land was withdrawn; and, in the case of any land resumed, at the rate payable at the date of resumption for the lease adjoining such land.

(11) If at any time during the currency of any such preferential occupation license stock are depastured on the land or any part thereof in numbers which, in the opinion of the Minister, substantially exceed the fair carrying capacity thereof, the Minister may, by notification in the Gazette, cancel the preferential occupation license and the licensee shall be liable to a penalty not exceeding two hundred pounds.

(12) (a) Pending withdrawal of any land which the Minister is authorised by this Act to withdraw from the area held under any lease, the lease or any part thereof shall not be transferred except by way of mortgage or discharge of mortgage without the consent of the Minister being first obtained.

(b) Where the lease was transferable, immediately before the commencement of this Act, without the consent

Western Lands (Amendment).

consent of the Minister being first obtained, the provisions of paragraph (a) of this subsection shall, in respect of such lease, cease to operate after a period of two years from such commencement.

5 (c) Where the right of withdrawal has been exercised in full in relation to any lease the provisions of paragraph (a) of this subsection shall, notwithstanding anything in paragraph (b) of this subsection, thereupon cease to have effect.

10 (13) Where the land held under any lease is withdrawn or resumed in pursuance of this section the Commissioner may make such endorsement on the instrument of lease as shall appear to him to be necessary or proper.

15 3. Every agreement or arrangement of the nature referred to in paragraphs (b) (c) and (d) of subsection one of section two of this Act is hereby validated but nothing in this section shall affect the right of the Minister to withdraw or of the Governor to resume land Validation.
20 pursuant to section two of this Act.

4. The Principal Act is amended—

(a) by inserting next after subsection ten of section 18E the following new subsection:—

Amendment
of Act No.
70, 1901.
Sec. 18E.
(Leases-in-
perpetuity.)

25 (10A) A lease extended to a lease in perpetuity (whether before or after the commencement of the Western Lands (Amendment) Act, 1941) shall be liable to forfeiture if the holder sublets the lease or any part thereof, or grants any grazing rights over the lease or any part thereof, 30 or agists stock on the lease or any part thereof, without having first obtained the written consent of the Minister.

35 (b) (i) by omitting from subsection one of section 18G the words "of any portion thereof" and by inserting in lieu thereof the words and symbols "any portion thereof and no transfer, conveyance, or assignment of or other dealing (not being a mortgage) with a lease extended to a lease in perpetuity (whether before before

Sec. 18G.
(Transfers.)

Western Lands (Amendment).

before or after such commencement or after the commencement of the Western Lands (Amendment) Act, 1941) or any portion thereof”;

- 5 (ii) by omitting from subsection three of the same section the words “the lease” and by inserting in lieu thereof the words “a lease applied for after the commencement of the Western Lands (Amendment) Act, 1934.”

10 5. The Principal Act is further amended—

Further amendment of Act No. 70, 1901.

Sec. 44. (Power to withdraw.)

- (a) (i) by omitting from section forty-four the word “Governor” and by inserting in lieu thereof the word “Minister”;

- 15 (ii) by omitting from the same section the words “Western Lands lease” where firstly occurring and by inserting in lieu thereof the words “lease under this Act”;

- 20 (iii) by inserting in the same section after the word “acquisition” the following words “the land shall be deemed to be Crown lands, and”;

- 25 (iv) by omitting from the same section the words “for purposes of agriculture” and by inserting in lieu thereof the words “for any other purpose”;

- (v) by inserting in the same section after the word “withdrawn,” where thirdly occurring, the words “or acquired”;

- 30 (vi) by omitting from the same section the words “at the same rate per acre as under the Western Lands lease” and by inserting in lieu thereof the words “for the use of the land so withdrawn at the same rate per acre as was payable under the lease immediately before the date of such withdrawal:

35

Provided that, if at any time during the period agreed to or allowed as aforesaid, stock are depastured on such land or any part

Western Lands (Amendment).

5 part thereof in numbers which, in the
opinion of the Minister, substantially exceed
the fair carrying capacity thereof, or the
improvements on the land withdrawn or
acquired are not, in the opinion of the
Minister, kept in reasonable maintenance
and repair, the Minister may, by notification
in the Gazette, terminate the lessee's
occupancy, and upon such termination the
10 lessee shall forthwith remove his stock and
plant from such land, and the lessee shall
be liable to a penalty not exceeding two
hundred pounds:

15 Provided further that the lessee shall not
be compelled to make good any damage
caused by fire, flood, storm or other
inevitable accident which, in the opinion
of the Minister, is not due to any act,
default or neglect of the lessee."

20 (vii) by inserting at the end of the same section
the following new subsections:—

25 (2) (a) Notwithstanding anything con- Charge on
tained in this Act, but subject to the lease.
provisions of subsection three of this cf. Act No.
section, the total amount paid by the 46, 1919,
Minister as compensation for the with s. 12.
drawal or acquisition of any land in pur-
suance of this section shall be charged
upon any lease of such land thereafter
30 granted under this Act, or, where more
than one such lease is so granted, upon
such leases in such proportions as the
Minister may determine.

35 (b) In determining any such propor-
tion, the Minister shall have regard to the
qualities and capabilities of the land and
to the improvements existing thereon.

(c) The provisions of section thirty-
one of this Act shall not apply to any such
40 lease.

(3)

Western Lands (Amendment).

5 (3) Upon the expiration, forfeiture, sur-
render or other determination of any such
lease, the charge, if not previously vacated,
shall be deemed to have been extinguished:
Provided that upon any redisposal of the
land the Minister, upon the recommendation
of the Commissioner, shall determine the
amount, if any, which shall be charged upon
any lease granted in respect of the land,
10 and thereupon such amount shall be charged
accordingly.

15 The amount so determined shall not
include the value of any improvements, but
the provisions of section thirty-one of this
Act shall apply upon any such redisposal.

20 (4) (a) Payment of the amount charged
upon any lease pursuant to this section shall
be made to the Colonial Treasurer within
such period, by such instalments and with
interest at such rate as the Minister may
determine.

25 (b) The Colonial Treasurer may
credit the whole or any part of any moneys
so paid, to the Consolidated Revenue Fund
or to such other fund or account as he may
elect.

30 (c) If any such instalment or interest
remains unpaid for a period of six months
after the date for payment thereof the lease
shall become liable to be forfeited.

(5) Any such charge shall have priority
over any other charge, mortgage or
encumbrance.

35 (b) by inserting in subsection one of section 44A
before the word "value," where firstly occur-
ring, the word "market";

(c) by omitting section forty-five.

6-B

Payment of amount
charged.
cf. Act No.
70, 1901,
s. 31.

cf. *Ibid.* s. 18.

Priority of
charge.
cf. Act No.
46, 1910,
s. 12.

Sec. 44A.
(Enhancement
due to public
works.)

Sec. 45.
(Appeal.)

*Western Lands (Amendment).***6. The Principal Act is further amended—**

- 5 (a) (i) by inserting at the end of subsection three of section six the words "or to any person who was such an officer at the time he was so appointed and who may be reappointed as Commissioner or chairman, as the case may be, or who, having been appointed as chairman, may be appointed or reappointed as Commissioner";
- 10 (ii) by inserting in subsection four of the same section after the word "appointed" the words "or any such person so reappointed or appointed";
- 15 (b) by omitting from section eight the word "Governor" wherever occurring, and by inserting in lieu thereof the word "Minister";
- 20 (c) by omitting from subsection six of section twenty-four the words "any reserves or parts of reserves" and by inserting in lieu thereof the words "any reserves from lease or from license or from lease and license or parts of such reserves";
- (d) by inserting next after section 28B the following new sections:—
- 25 28c. Wherever in this Act power is vested in the Minister to grant leases, it shall be lawful for the Minister to execute such leases on behalf of His Majesty.
- 30 28d. Where by or under this or any other Act the Commissioner is required or authorised to make any endorsement on any instrument of lease, the Commissioner may, by notice in writing served personally or by post on the lessee, require the lessee to lodge such instrument of lease with the Commissioner not later than two months after the date of service of the notice.

Further amendment of Act No. 70, 1901.

Sec. 6.

(Public Service Act, 1902, not to apply to appointment of, or to Commissioner or chairman.)

Sec. 8.

(Appointment of deputy.)

Sec. 24.

(Power to set apart Crown lands.)

New sec. 28c.

Execution of leases.

Power to require lodgment of instrument of lease.

If

Western Lands (Amendment).

If the instrument of lease be not so lodged
the lease shall be liable to be forfeited.

- 5 (e) by inserting at the end of subsection one of section forty-one the following words "and to such other conditions as may be agreed upon between the Minister and the lessee."
- Sec. 41.
(Condi-
tions of
lease.)

