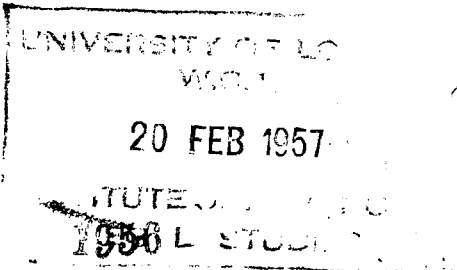


~~abt. 66~~

28, 1956



IN THE PRIVY COUNCIL.

No. of 195

~~7 of 1956~~

**ON APPEAL FROM THE SUPREME COURT OF
WESTERN AUSTRALIA.**

46045

BETWEEN:

**THE MIDLAND RAILWAY COMPANY OF WESTERN AUSTRALIA
LIMITED, Appellant (Plaintiff)**

and

**THE STATE OF WESTERN AUSTRALIA, Respondent (Defendant).
THE STATE OF WESTERN AUSTRALIA, Appellant (Defendant)**

and

**THE MIDLAND RAILWAY COMPANY OF WESTERN AUSTRALIA
LIMITED, Respondent (Plaintiff).**

RECORD OF PROCEEDINGS.

Consolidated by order dated the 4th day of July, 1955.

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WRIT (STATEMENT OF CLAIM ONLY).*Issued 16th July, 1954.*

1. The plaintiff is a company duly incorporated in England and registered in Western Australia under the provisions of Part XI. of the Companies Act, 1943-1953.

2. By an indenture dated the 27th day of February, 1886, between Sir Frederick Napier Broome, Knight Commander of the Most Distinguished Order of Saint Michael and Saint George, Governor and Commander-in-Chief in and over the Colony of Western Australia and its Dependencies, etc., etc., etc., acting for and on behalf of the Government and Colony of Western Australia of the one part and John Waddington of the City of London of the other part (hereinafter called the Waddington agreement) it was agreed and declared that for the considerations therein mentioned the Government of Western Australia agreed to grant in fee

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simple to the said Waddington or his assigns by Crown Grants in the form prescribed by the Land Regulations of the Colony a subsidy in land as therein mentioned. The Waddington agreement was confirmed by the Act of Parliament of Western Australia 50 Victoria No. 24. The rights and interests of the said Waddington under the Waddington agreement were duly assigned to the plaintiff by an indenture dated the 23rd June, 1890.

3. At the date of the Waddington agreement the Land Regulations in force in Western Australia were those made and published on the 11th October, 1882. Such regulations prescribed the form of Crown Grant which reserved to the Crown mines of gold, silver and other precious metals, but not petroleum or mineral oils, or any minerals other than those previously mentioned. 10

4. Pursuant to the Waddington agreement, Crown Grants in the form prescribed by the Land Regulations, 1882, were made to the plaintiff by Her Majesty Queen Victoria and her successors of various lands in Western Australia between Perth and Geraldton. 20

From time to time portions of such lands were sold and transferred by the plaintiff, but except in a few isolated instances, every such transfer contained a reservation in favour of the plaintiff of all minerals, including petroleum and mineral oil.

5. By an agreement made the 29th day of June, 1893, between Sir Malcolm Fraser, of No. 15 Victoria Street, in the City of Westminster, K.C.M.G., Agent General for the Government of the Colony of Western Australia of the first part, The Trustee, Executors and Securities Insurance Corporation Limited of the second part, Edward Vivian Harvey Keane, of Perth, in the said Colony, Contractor, of the third part, and the plaintiff of the fourth part, for securing the repayment to the Government of Western Australia of all moneys which might be paid by it under or in respect of its Guarantee of a certain issue of debentures by the plaintiff and of any other moneys which were or might be otherwise owing to the Government under the said agreement, it was agreed that certain lands therein called the "mortgaged lands" to which the plaintiff was entitled under the Waddington agreement should be vested in persons nominated by the Government to be held subject to the charge given in favour of the Government by the plaintiff in trust for the plaintiff, their successors and assigns. 30 40

6. Pursuant to such agreement, Crown Grants in the form prescribed by the Land Regulations, 1882, were made by Her said Majesty Queen Victoria, and her successors, of various lands in Western Australia between Perth and Geraldton to the Commissioner of Crown Lands and subsequently to the Minister for Lands respectively, as the nominees of the Government.

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1954.

7. Portions of the lands referred to in paragraph 6 hereof were from time to time sold by the plaintiff with the
10 consent of the Government. The Minister for Lands or the Commissioner for Crown Lands (as the case might be), at the request of the plaintiff, thereupon executed transfers thereof to the purchasers, but excepting and reserving unto the respective transferor and his successors in office and his and their transferees all metals, ores and minerals (including petroleum and mineral oil) in, upon and under the several parcels of land so sold and transferred.

8. By transfer registered in the Land Titles Office, Perth, on the 2nd day of August, 1911, No. 4286/1911, the then
20 Minister for Lands, in his own capacity and as the successor in office of the Commissioner of Crown Lands, as the registered proprietor of the excepted metals, ores and minerals so reserved, transferred to the plaintiff all metals, ores and minerals in, upon and under the lands transferred to purchasers as mentioned in paragraph 7 hereof.

9. By transfer registered in the Land Titles Office, Perth, on the 11th day of March, 1911, No. 1268/1911, all lands which had been granted to the Minister for Lands or the Commissioner of Crown Lands, as mentioned in paragraph 6 hereof
30 (other than the lands sold and transferred as mentioned in paragraph 7 hereof) were transferred to the plaintiff by the then Minister for Lands in his own capacity and as the successor in office of the Commissioner of Crown Lands.

10. The lands referred to in paragraph 4 hereof granted to the plaintiff and the lands referred to in paragraph 6 hereof granted to the Minister for Lands or the Commissioner of Crown Lands and subsequently transferred to the plaintiff are hereinafter referred to as "the lands granted to the plaintiff." Such expression does not include any lands
40 transferred by the plaintiff without any reservation of minerals in favour of the plaintiff as mentioned in paragraph 4.

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11. On or about the 23rd October, 1952, a "Permit to Explore" was granted under the provisions of the Petroleum Act, 1936, to the defendant company over (*inter alia*) the lands granted to the plaintiff.

The plaintiff claims:

(1) A declaration that—

- (a) the Petroleum Act, 1936, and in particular sections 9 and 10 thereof, has no application to the lands granted to the plaintiff; 10
- (b) all minerals (other than gold and silver and other precious metals), including petroleum and mineral oil in, under or on the lands granted to the plaintiff (whether since alienated by the plaintiff or not) belong to and are the exclusive property of the plaintiff and that the plaintiff has the sole right to explore and search for and remove such minerals; 20
- (c) that the "Permit to Explore" referred to in paragraph 11 hereof insofar as it purports to extend to the lands granted to the plaintiff is void and of no effect;
- (d) that any permit, license, lease or other authority granted by the Minister under the authority of the Petroleum Act or any other Act of Parliament of the State of Western Australia insofar as it purports to authorise any person 30 or company to explore, search for, or take minerals (other than gold, silver and other precious metals) in, under or on the lands granted to the plaintiff, is void and of no effect.

- (2) An injunction restraining the defendant company, its servants, agents or assignees from exercising any right purporting to have been given or conferred by the said Permit to Explore over any of the lands granted to the plaintiff. 40

T. S. LOUCH,
Counsel.

DEFENCE OF DEFENDANT STATE.

No. 2.
Defence of
Defendant
State. 25th
August, 1954.

1. The above firstnamed defendant, the State of Western Australia, admits the facts alleged in the Statement of Claim but says that the Land Regulations published on the 11th day of October, 1882, and which were reprinted with amendments to October, 1885, in that month and which regulations are referred to in paragraph 3 of the Statement of Claim contained, *inter alia*, the following provisions:—

10 “3. The Governor is authorised, in the name
and on behalf of Her Majesty, to dispose of the Crown
lands within the Colony in the manner and upon the
conditions prescribed by these Regulations, or by
any Regulations amending or substituted for the
same, and all grants and other instruments dispos-
ing of any portion of Crown lands, in fee simple or
for any less estate made in accordance with such
regulations shall be valid and effectual in the law to
transfer to and vest in possession in the purchasers
the land described in such grants or other instru-
20 ments for the estate or interest therein mentioned.

The Governor is authorised to make such grants
and other instruments upon such terms and condi-
tions as to resumption of the land or otherwise as
to him shall seem fit.”

And

30 “8. The Governor in Council may from time to
time by order under his hand, to be published in
the *Government Gazette*, prescribe the forms of
Crown grants, leases, licenses and other instruments
requisite for carrying these Regulations into effect.

Until otherwise notified, Crown grants, leases
and licenses will be issued in the forms given in the
Schedules hereto, with such variations as may be
necessary to meet the circumstances of any particu-
lar case.”

2. The firstnamed defendant says further that the said
Land Regulations of 1882 were revoked by Land Regulations
proclaimed on the 2nd day of March, 1887, but that the
latter regulations contained in Regulations numbered 3 and
40 5 respectively provisions substantially similar to those con-
tained in Regulations 3 and 8 of the 1882 Land Regulations.

No. 2.
Defence of
Defendant
State. 25th
August, 1954.

3. The firstnamed defendant says further that none of the Crown grants referred to in paragraphs 4 and 6 of the Statement of Claim was made before the year 1893.

4. The firstnamed defendant further says that the Statement of Claim discloses no cause of action and that the plaintiff is not entitled to relief as claimed or at all.

R. V. NEVILLE,
Counsel.

No. 3.
Reply to
Defendant
State.
17th
September,
1954.

REPLY TO DEFENDANT STATE.

1. The plaintiff admits the allegations in paragraphs 10 1 and 2 of the defence, but says that the Land Regulations of 1887 referred to in paragraph 2 of the defence provided—

“1. The regulations proclaimed on the 11th day of October, 1882, and all other regulations heretofore in force affecting the waste lands of the Crown in Western Australia are hereby revoked; but nothing herein contained shall affect or be construed to affect any contracts, or to prevent the fulfilment of any promises or engagements made by or on behalf of Her Majesty, under such regulations, with respect to any lands situate within the said Colony, in cases where such contracts, promises, or engagements have been lawfully made before the time at which these regulations shall take effect therein.” 20

2. The plaintiff will contend—

(a) that on the true and proper construction of the Waddington agreement and the Guildford-Greenough Flats Railway Act, 1886, the plaintiff when entitled to call for grants of land had the right to receive and the defendant State was bound to issue or procure the issue to it of Crown Grants in the form prescribed by the Land Regulations of 1882; 30

(b) that in the form of Crown Grant prescribed by the Land Regulations of 1882 and by the Land Regulations of 1887 there was no reservation to the Crown of mineral oil, and the only reservation of minerals was of “mines of gold, silver and other precious metal” in and under the land the subject of the Grant; 40

- 10 (c) that it was beyond the power of the Governor or the Governor-in-Council by amending the Land Regulations of 1882 or 1887 or otherwise to vary the form of the Crown Grant to which the plaintiff was entitled;
- (d) that the plaintiff's right to receive Crown Grants in accordance with the Waddington agreement and the Guildford-Greenough Flats Railway Act, 1886, in the form prescribed by the Land Regulations of 1882 or 1887 was preserved to it by section 4 of the Western Australia Constitution Act, 1890 (Imperial), 53 and 54 Vic., c. 26;
- (e) that it was and is beyond the power of the Parliament of Western Australia to affect, abrogate or vary the plaintiff's rights in respect of land granted to it pursuant to the Waddington agreement and preserved to it by section 4 of the Western Australia Constitution Act;
- 20 (f) that as clause 2 of the Petroleum Act, 1936, provides that that Act shall be read and construed subject to section 4 of the Western Australia Constitution Act (Imperial) as far as the same may be applicable, that Act has no application to the lands granted to the plaintiff pursuant to the Waddington agreement and the Guildford-Greenough Flats Railway Act, 1886;
- 30 (g) that the defendant State had no power to grant any permit to the defendant company to explore, search for, or take mineral oil from any lands granted to the plaintiff pursuant to the Waddington Agreement;
- 40 (h) that any exercise or attempted exercise by the defendant company of the rights purported to be granted to it by the defendant State by the permit of 23rd October, 1952 over the lands mentioned in the preceding paragraph will be an invasion of and affect the plaintiff's rights under the Crown Grants made to it pursuant to the Waddington agreement and the Guildford-Greenough Flats Act.

3. The plaintiff will further contend that the defendant State has at all times accepted and adopted the view that on the proper construction of the Waddington agreement and the relevant legislation the right of the plaintiff was to receive grants under the Land Regulations of 1882 which entitled it to all minerals and mineral oil (except gold, silver and other precious metals) on the lands so granted to the plaintiff and has consistently acted in accordance with such view.

No. 3.
Reply to
Defendant
State.
17th
September,
1954.

Particulars.

- (a) As to Crown Grants made direct to the plaintiff, the plaintiff repeats paragraph 4 of the Statement of Claim.
- (b) As to Crown Grants made to the Commissioner of Crown Lands or to the Minister for Lands pursuant to the agreement referred to in paragraph 5 of the Statement of Claim, the plaintiff repeats that paragraph and paragraph 6 of the Statement of Claim.
- (c) As to transfers by the Minister for Lands or the Commissioner of Crown Lands to purchasers from the plaintiff and the reservation thereover of the rights to minerals (including petroleum and mineral oil), the plaintiff repeats paragraph 7 of the Statement of Claim. 10
- (d) As to the transfer of the rights so reserved from the Minister for Lands to the plaintiff, the plaintiff repeats paragraph 8 of the Statement of Claim.
- (e) There was no reservation of minerals or mineral oils in the transfer from the Minister for Lands to the plaintiff mentioned in paragraph 9 of the Statement of Claim. 20
- (f) When the Bill for the Petroleum Act, 1936, was introduced into the Parliament of the State, the plaintiff protested to the Government that such Bill was an infringement of its rights under the Waddington agreement and the Western Australia Constitution Act and the Government thereupon introduced into the Bill section 2 and the Act when passed by the Legislature included such section. 30
- (g) At the end of 1951 the plaintiff applied for the issue of Crown Grants to 41,872 acres of land to which it was entitled under the Waddington agreement and approval notices were issued by the Under Secretary for Lands for grants to be issued in the form prescribed by the Land Act, 1933-1948, which reserved to the Crown (*inter alia*) mineral oil. The plaintiff protested, and the Under Secretary for Lands thereupon admitted that the approval notices had been issued in that form in error and Crown Grants were subsequently made to the plaintiff in the form prescribed by the Land Regulations of 1882. The plaintiff will refer particularly to a letter written to it on the 22nd February, 1952, by the Under Secretary for Lands. 40

- (h) On the 12th May, 1950, the defendant State, by notice in the *Government Gazette* pursuant to the State Housing Act, 1946, and the Public Works Act, 1902-1945, resumed for housing purposes four half-acre blocks of land at Moora over which the plaintiff held the mineral rights. After negotiation between the plaintiff and the Under Secretary for Works, representing the defendant State, it was eventually agreed that the plaintiff should sell its rights to the minerals and mineral oil on the said lands to the State Housing Commission for a consideration of £1 and such consideration was duly paid. The plaintiff will refer to Transfer Number 13935/1951.
- (i) In 1947, for the considerations therein mentioned, the plaintiff transferred and surrendered to His Majesty King George VI. its rights to minerals and mineral oils over certain lands more particularly described in various transfers from the plaintiff to His Majesty in the same form as Transfer Number 8815/1947, to which the plaintiff will refer.

4. The plaintiff denies each and every allegation in paragraph 3 of the defence. A number of grants were made to the plaintiff prior to 1893 and the plaintiff will refer particularly to Crown Grant registered volume 48, folio 13, in respect of Avon Location 1881.

5. The plaintiff joins issue on paragraph 4 of the defence.

6. The expression "lands granted to the plaintiff" has the same meaning as in paragraphs 10 and 11 of the Statement of Claim.

ORDER OF THE HONOURABLE THE CHIEF JUSTICE.

Before The Honourable The Chief Justice in Chambers.

The 29th Day of September, 1954.

UPON hearing Mr. R. V. Nevile, Q.C., and Mr. R. D. Wilson, of Counsel, for the first defendant, and Mr. P. H. Atkins, of Counsel, for the second defendant, and Mr. T. S. Louch, Q.C., and Mr. R. I. Ainslie, of Counsel, for the plaintiff, it is ordered that the first defendant be at liberty to file a rejoinder herein within 10 days from the day of the date

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State.
17th
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No. 4.
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Honourable
the Chief
Justice.
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No. 4.
Order of The
Honourable
the Chief
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29th
September,
1954.

hereof and that if no such rejoinder be filed the facts alleged in paragraphs 2 and 3 of the reply of the plaintiff filed herein shall be deemed to be denied and the contentions of law therein set out shall be deemed to be contested. And that the costs of and incidental to this application be costs in the cause.

N. J. MALLEY,
Associate.

No. 5.
Admission of
facts by de-
fendant State
(Formal parts
omitted).
29th
October,
1954.

ADMISSION OF FACTS BY DEFENDANT STATE (FORMAL PARTS OMITTED). 10

FACTS ADMITTED.

1. That the rights and interests of John Waddington under the "Waddington Agreement" were effectively assigned to the plaintiff by deed dated the 23rd June, 1890.

2. That the reservation in favour of the plaintiff in the transfers from the plaintiff to purchasers referred to in paragraph 4 of the statement of claim was as follows:—

"Except and reserving unto the Midland Railway Company of Western Australia Limited and its transferees all mines of copper, tin, lead, coal, iron-
stone, phosphatic rock and other metals ores or
minerals whatsoever and all substances containing
minerals or phosphates and all gems and precious
stones and mineral oil in, upon and under the said
land with full liberty at all times to search, dig,
mine, bore for and carry away the same and for
that purpose to enter upon the said land or any
part thereof and that without paying to the said
or his transferees any compen-
sation therefor." 30

3. That all Crown Grants made by Her Majesty Queen Victoria and her successors as alleged in paragraphs 4 and 6 of the Statement of Claim were in the form prescribed by the Land Regulations, 1882, and in the same form as that of the form of grant specified in the notice to admit documents of the plaintiff bearing date the 21st October, 1954.

4. That all transfers referred to in paragraph 7 of the Statement of Claim from either the Commissioner of Crown Lands or the Minister for Lands to purchasers contained the following reservation:— 40

10 “Except and reserving unto the Minister for Lands and his successors in office and his and their transferees subject to the abovementioned agreement all mines of copper, tin or other metals, ore and mineral or other substances containing metals and all gems or precious stones and coal or mineral oil in, upon and under the said land with full liberty at all times to search and dig for and carry away the same and for that purpose to enter upon the said land or any part thereof.”

7. The facts alleged in paragraphs (f), (g), (h) and (i) of the particulars to paragraph 3 of the reply of the plaintiff to the defence of the firstnamed defendant.

8. That where mineral rights were transferred by the plaintiff to His Majesty where the land was required for War Service Land Settlement purposes the operative words in the transfer were the same as in transfer 8815/1947.

NOTES OF EVIDENCE OF THE HONOURABLE THE CHIEF JUSTICE.

20 EVIDENCE AS TO PERMIT OVER COMPANY'S LANDS.

Albert H. Amour, Sworn:

I have prepared list of lands in which Company claims certain mineral rights and plan of same.

The Company has reserved the rights, but State gave permit.

JUDGMENT OF THE HONOURABLE THE CHIEF JUSTICE.

30 *Before the Honourable the Chief Justice, Sir John Patrick Dwyer, K.C.M.G.*

Monday, the 8th day of November, 1954.

Tuesday, the 9th day of November, 1954.

THIS action coming on for trial before the Honourable the Chief Justice, Sir John Patrick Dwyer, K.C.M.G., on the 8th day of November, 1954, in the presence of Mr. T. S. Louch, Q.C.; Mr. R. I. Ainslie and and Mr. R. Blanckensee, of counsel for the plaintiff; Mr. R. V. Nevile, Q.C. and Mr. G. J. Ruse,

No. 5.
Admission of
facts by de-
fendant State
(Formal parts
omitted).
29th
October,
1954.

No. 6.
Notes
of evidence
of the
Honourable
the Chief
Justice.
8th
November,
1954.

No. 7.
Judgment
of the
Honourable
the Chief
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10th June,
1955.

No. 7.
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1955.

of counsel for the defendant State; and Mr. O. J. Negus, Q.C., and Mr. G. Gwynne, of counsel for the defendant Company, and His Honour having been informed by counsel that the "Permit to Explore" granted to the defendant Company under the provisions of the Petroleum Act, 1936, had expired on the 27th day of October, 1954, ordered that all proceedings against the defendant Company be stayed and that all questions of costs be reserved and the action having proceeded in the presence of counsel for the plaintiff and the defendant State on the 8th and 9th days of November, 1954, 10 and His Honour having ordered the action to stand for judgment and the same having stood for judgment on the 2nd day of June, 1955, in the presence of counsel for the plaintiff and the defendant State and the defendant Company, it is this day adjudged and declared—

(1) that—

- (i) Sections 9 and 10 of the Petroleum Act, 1936, have no application to lands granted by Her Majesty to the plaintiff after the commencement thereof 20 namely—

		Acres.	Roods.	Perches.	
Avon Location	27429				
containing	....	195	1	26	
Swan Location	5329				
containing	....	194	2	36	
Victoria Location	2024				
containing	....	14,716	—	—	
Victoria Location	9980				
containing	....	639	—	31	30
Victoria Location	9981				
and 3 containing	....	885	—	—	
Victoria Location	9982				
containing	....	352	1	38	
Victoria Location	9984				
containing	....	640	—	—	
Victoria Location	9999				
containing	....	24,242	3	30	

- (ii) all minerals (other than gold, silver and other precious metals) including 40 petroleum and mineral oil in, under or on the said lands granted to the plaintiff (whether such lands have since been alienated by the plaintiff or not) belong to and are the exclusive property of the plaintiff;
- (iii) that any permit, license, lease or other authority granted by the Minister under the authority of the Petroleum Act or any other Act of Parliament of the State of Western Australia insofar 50

as it purports to authorise any person or company to explore, search for or take minerals (other than gold, silver and other precious metals) in, under or on the said lands granted to the plaintiff is void and of no effect;

No. 7.
Judgment
of the
Honourable
the Chief
Justice.
10th June,
1955.

(2) and this Court doth further order and adjudge that—

- 10 (i) the plaintiffs claims be dismissed in relation to—
- (a) all land granted by Her Majesty to the plaintiff prior to the commencement of the Petroleum Act, 1936;
- 20 (b) all lands granted by Her Majesty to the Minister for Lands or the Commissioner of Crown Lands in trust for the plaintiff which were subsequently transferred to the plaintiff by transfer registered in the Land Titles Office No. 1268/1911;
- 30 (c) all lands granted by Her Majesty to the Minister for Lands or the Commissioner of Crown Lands as aforesaid and subsequently transferred to various purchasers subject to the reservation of all metals, ores and minerals (including petroleum and mineral oil) in, upon and under such lands. Such reserved metals, ores and minerals having been transferred to the plaintiff by transfer registered in the Land Titles Office No. 4286/1911;
- 40 (ii) (a) this judgment be post dated to the 10th day of June, 1955;
- (b) the defendant State do pay to the plaintiff its costs to be taxed. Liberty to apply as to the scale or basis on which such costs are to be taxed. No order as to costs with relation to the defendant Company.

REASONS FOR JUDGMENT.

Thursday, 2nd June, 1955.

Coram: Dwyer, C. J.

JUDGMENT.

DWYER, C.J.: In 1936 the Legislature of the State of Western Australia passed an Act relating to petroleum (No. 36 of 1936) which contained provisions as follows:—

Section 9: Notwithstanding anything to the contrary contained in any Act, or in any grant, lease, or other instrument of title, whether made or issued before or after the commencement of this Act, all petroleum on or below the surface of all land within this State, whether alienated in fee simple or not so alienated from the Crown is and shall be deemed always to have been the property of the Crown. 10

Section 2: This Act shall be read and construed subject to the provisions of section four of the Western Australia Constitution Act, 1890 (Imperial), so far as the same may be applicable. 20

The Act also empowered the Minister for Mines to issue permits to explore for petroleum and mineral oil and such a permit was issued to the West Australian Petroleum Pty. Ltd. authorising operations on the plaintiff's lands. The period permitted thereunder expired however a few days before trial of the issues in this case.

The plaintiff brings this action for a declaration that the Act mentioned does not apply to lands of which it was grantee from the Crown under an agreement made in 1886 known as the Waddington agreement; that petroleum and mineral oil in such lands remain its property; and that the permit issued to the Petroleum Co. is void in so far as it relates to those lands. 30

The lands referred to comprise about 2,750,000 acres.

The grounds on which the plaintiff's claim is based appear to be that the plaintiff acquired its estate and interest in the lands under the agreement of 1886 before the era of self government in West Australia; that under such agreement it was entitled to receive Crown grants without any reservation of the right to and in petroleum and mineral oil or any minerals other than gold, silver and precious metals; and that such right was preserved by section 4 of Western Australia Constitution Act, 1890, of the Imperial 40

Parliament (53 and 54 Vic. Ch. 26); it asserts that it is, therefore, *ultra vires* the Western Australian Legislature to abrogate or prejudice such right, that section 2 of the Petroleum Act preserves that right and that the State has recognised and admitted that right in its dealings with the plaintiff before and since the Act of 1936; and it claims that the action of the Minister in granting a permit to explore on its lands is wrongful.

The salient facts relating to the claim are not in controversy; they are set out in the pleadings in some detail and need not, I think, be recapitulated at length.

The agreement of 1886 which was made before the above-mentioned Act of the Imperial Parliament, provided for the construction and working of a railway (now known as the Midland Railway) on the land grant system and for Crown Grants to be issued by the State Government to it as construction proceeded (see clauses 45, 46 and 49). The form of Crown Grant was prescribed by regulation, the then existing reservation being of gold, silver and precious metals, in the form then usual. In my opinion the plaintiff became entitled to Crown Grants in that form.

Section 4 (2) of the Imperial Act mentioned is as follows:—

Nothing in this Act shall affect any contract or prevent the fulfilment of any promise or engagement made before the time at which this Act takes effect in the colony of Western Australia on behalf of Her Majesty with respect to any lands situate in that colony, nor shall disturb or in any way interfere with or prejudice any vested or other rights which have accrued or belong to the licensed occupants or lessees of any Crown lands within that colony.

In my opinion the State was bound by the agreement to fulfil its engagement which was to issue Grants in the form agreed, and it would have been *ultra vires* the State to alter or extend its reservation without the plaintiff's assent.

In 1893 an agreement was made between the Western Australian Government and the plaintiff whereby the former guaranteed payment of the plaintiff's debentures amounting to £500,000. As part of that transaction it was agreed that until redemption, all lands to which the plaintiff became entitled should be vested in a Government nominee, who would, on certain conditions, execute transfers to those to whom the plaintiff agreed to sell portions of such lands.

No. 8.
Reasons for
Judgment.
2nd June,
1955.

In 1898 a Land Act was enacted by the Western Australian Legislature; it provided for further reservations including mineral oil in future Crown grants. Section 15 provided:—

An application for a Crown grant may be in the form or to the effect of the First Schedule, and all Crown grants issued under this Act shall contain a reservation of all gold, silver, copper, tin, or other metals, ore, mineral, or other substances containing metals and all gems or precious stones and coal or mineral oil in or upon the land comprised therein, and shall be in the form or to the effect of the Second or Third Schedules, as the case may be, subject to the variations required to meet special circumstances. 10

Crown grants, leases, or licenses issued under this Act for lands which, before the commencement of this Act, were not in fact sold, nor were held at the commencement of this Act by the grantee or his predecessors in title under any lease or license from the Crown, may be issued for an estate in the land to a limited depth only, and reserving to the Crown all land below such depth. 20

Notwithstanding such limitation of depth and reservation, the grantee, his heirs and assigns shall have the right to enjoy all wells and springs of water which may at any time be upon the land, and to bore and sink wells for water through such land to any depth and to enjoy the same.

But this was not to interfere with existing contractual obligations. 30

Section 2 provided:—

. . . . but such repeal shall not affect—Any right, interest, or liability already created, existing, or incurred, nor anything lawfully done or suffered under any enactment or regulation hereby repealed

As a fact the State Government has in practice conceded the right of the plaintiff to have its Crown grants in substantially the original form and has issued them in that form. In my opinion the defendant State has fulfilled its contract with the plaintiff and not acted in contravention of section 4 of the Imperial Act. 40

During the pendency of the 1893 agreement certain circumstances occurred which perhaps require notice. When transfers were made to the plaintiff's buyers the reservation was presumably made in the more extended form. How this came about is not clear. None of the Crown grants or transfers have been produced. But in 1911 on redemption of the debentures, the Government nominee, purporting to act on behalf of the Government transferred to the plaintiff the mineral rights retained other than precious metals. This
 10 was effected by Transfer No. 4286/1911 as set out in the statement of claim and appears to have been made at plaintiff's request.

Section 9 of the Petroleum Act, the meaning and intention of which is clear, must be regarded as effecting confiscation by the State without compensation and a preliminary question which seems to arise is whether the State has the general constitutional power by appropriate legislation, and not by arbitrary administrative act, to resume land within its boundaries. That such general legislative power
 20 exists has not been contested. If it exists the purposes of the resumption and questions of compensation are irrelevant for there are no such limitations as are present in the Federal Constitution, and if there is power to retake the fee simple, there must be power to retake any lesser estate or interest. If it does not exist I should be forced to conclude that all State legislation authorising resumptions of land for public works is invalid; but it is, I think, impossible to place such a limitation on the constitutional powers of the State Legislature.

30 The plaintiff, however, asserts that the general power of resumption is limited in the particular case by the provisions contained in the Waddington agreement, viz.: that the State should grant title to lands with a reservation confined to precious metals only, leaving petroleum and mineral oils and base metals generally in the ownership of the grantee; and that section 4 (2) of the Imperial Act prevents any interference by the State with the mineral rights so acquired by the plaintiff under its Crown grants.

40 If this contention is correct, then it would seem that all land owners who had entered into agreements before 1890 to acquire Crown lands would have similar rights, and, furthermore, that if the State is so precluded from acquiring by resumption such a restricted interest in the mentioned land, it would follow that it is also precluded from resuming either the entirety or any less estate or interest therein and presumably permanently.

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2nd June,
1955.

In my opinion no such limitation or abrogation of the powers of the State is to be implied from the agreement or otherwise. Section 4 (2) goes no further than to require the State to carry out its contractual obligation which is to issue Crown grants in the proper form, with this qualification implied, that they are to be effective in that form when issued.

The remaining contention of the plaintiff is that the rights of the parties are to be interpreted by their course of conduct, the illuminating acts being as follows:— 10

- (1) In 1911 the State through its accredited nominee (then the Minister for Lands) transferred certain reserved petroleum and other mineral rights to the plaintiff apart from the freehold, and also transferred to the plaintiff the remaining lands vested in him without any reservation of petroleum or mineral oil. This was before enactment of the Petroleum Act.
- (2) In June, 1947, the State paid to the plaintiff a monetary consideration for a surrender of its 20 rights to minerals and mineral oil in parts of Melbourne locations and in 1950 a State authority, viz., the Housing Commission, paid a separate compensation to the plaintiff for rights to mineral oil in lands it had resumed under the Public Works Act, in addition to the compensation it was bound to pay for the land resumed. This was after the Petroleum Act became law.
- (3) In 1951 the plaintiff having become entitled to additional Crown grants of 41,872 acres a dispute 30 arose as to the wording of the appropriate reservation which was resolved by Crown grants being issued in the original form, the State Authorities admitting that they should be without reservation of petroleum or mineral oil.

The plaintiff contends that these matters establish that the proper interpretation of the agreement should be that claimed to have been consistently accepted by both parties, viz., that the plaintiff was not to be deprived of its right to mineral oil in and under its lands. 40

The matters mentioned in paragraphs 1 and 3 seem to be neutral and explicable on the basis that the Crown grants should be in the form of the original reservation: those mentioned in paragraph 2 are obviously in settlement of particular claims by payment of nominal sums and I cannot

regard them as being an agreed adoption of any special interpretation of the plaintiff's rights under the 1886 agreement affecting future cases. The transactions are mere examples of paying the price of peace without prejudicing either party in the future.

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The matters mentioned in paragraphs 1 and 3 above seem, however, to require some consideration from another angle regarding which I regret I have been unable to have the views of counsel.

10 Section 9 of the Petroleum Act is confiscatory and therefore, should be construed with strictness.

It may perhaps have been argued that its provisions were not intended to apply where the freehold had been originally alienated in fee simple, but subject to a reservation of petroleum and base metals and these having been so retained by the Crown had never been part of any alienated land and had been subsequently dealt with as a separate entity apart from the freehold. This appears to have been the case with the rights purporting to be transferred to the plaintiff by the Minister under transfer 4286/1911. The object of section 9, is, I suppose, to enable the estate and interest in petroleum to be dealt with separately in that manner and the somewhat curious expression "shall be deemed always to have been the property of the Crown" may have been adopted to cover any such transaction. However, I have no information about the details of Grants during the period from 1893 to 1911 or the reservations in transfers to the plaintiff's purchasers and as the plaintiff has raised no claim based on the particular circumstances I have come to the
20 conclusion that I should not pursue that path of inquiry.
30

But I think rights claimed by the plaintiff under Crown grants in respect of lands granted after 1936 stand on another footing for the following reasons:—

- (a) Section 9 declares that petroleum in land alienated is and shall be deemed always to have been Crown property and section 10 provides that grants and leases issued after the passing of the Act shall contain a reservation of petroleum.

40 The phraseology of section 9 appears to me to be appropriate only to land already alienated and is not appropriate to future grants, section 10 making provision for these. It therefore should not be held to apply to the area of 41,872 acres the subject of later Crown grants issued

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to the plaintiff in 1951 in which there is no reservation of petroleum rights. The limited reservation in these grants was not the result of mistake or misrepresentation and it is not suggested that the grant should be rectified; and in any case I have formed the opinion that the grant was properly issued in that form.

- (b) As I think the plaintiff was entitled to such grant in its present form by reason of the provisions of the original agreement and section 4 (2) of the Imperial Act and section 2 of the Petroleum Act, I am of opinion that sections 9 and 10 of the latter Act should not be held applicable to the lands the subject of the 1951 grants, for if the Act were interpreted as applicable to Crown grants to which the plaintiff became entitled after 1936 such grants would not be in the form the 1886 agreement required and would be in breach of the State's contract and engagement and an interference with plaintiff's rights, and so *ultra vires* the Western Australian Legislature by reason of section 4 (2) of the Imperial Act. 10 20

For the reasons mentioned I conclude that the plaintiff is entitled to the relief sought in respect of the lands the subject of the 1951 Crown grants mentioned containing 41,872 acres and any other lands the subject of Crown grants issued after 1936 but not further or otherwise.

Judgment accordingly with costs.

No. 9.
Order
granting
final leave
to appeal
to Her
Majesty in
Council.
15th
December,
1955.

ORDER GRANTING FINAL LEAVE TO APPEAL TO HER MAJESTY IN COUNCIL. 30

Consolidated by order dated the 4th day of July, 1955.

Before the Honourable Mr. Justice Jackson.

Thursday, the 15th day of December, 1955.

UPON motion made this day on behalf of the abovenamed plaintiff appellant and the abovenamed defendant respondent, the State of Western Australia, on notice dated the 25th day of November, 1955, for special leave to appeal to Her Majesty in Council against the judgment of this honourable Court dated the 10th day of June, 1955, and upon reading the order of this honourable Court made the 4th day of July, 1955, granting leave to appeal to Her Majesty 40

in Council subject to the due performance by the plaintiff appellant and the defendant respondent, the State of Western Australia and the defendant respondent, West Australian Petroleum Pty. Limited, of the conditions therein mentioned and the certificates of compliance of the Master of this Honourable Court dated respectively the 25th day of November, 1955, and the 14th day of December, 1955, and the said notice of motion and the affidavit of John Frederic Martin Gillett sworn the 25th day of November, 1955, and filed herein
 10 and the affidavit of William Arthur Petterson sworn the 14th day of December, 1955, and filed herein, and upon hearing Mr. R. I. Ainslie of counsel for the plaintiff appellant and Mr. K G. Walsh of counsel for the defendant respondent, the State of Western Australia, this Court doth order that—

No. 9.
 Order
 granting
 final leave
 to appeal
 to Her
 Majesty in
 Council.
 15th
 December,
 1955.

(a) the plaintiff appellant have special leave to appeal to Her Majesty in Council from so much of the judgment herein of the Honourable the Chief Justice of Western Australia, Sir John Patrick Dwyer, K.C.M.G., given on the 10th day of June, 1955, as dismisses the plaintiff appel-
 20 lant's claims in relation to—

(a) land granted by Her Majesty to the plaintiff appellant prior to the commencement of the Petroleum Act, 1936;

(b) lands granted by Her Majesty to the Minister for Lands or the Commissioner of Crown Lands in trust for the plaintiff appellant which were subsequently transferred to the plaintiff appellant by transfer registered in the Land Titles Office No. 1268/1911;

 30

(c) lands granted by Her Majesty to the Minister for Lands or the Commissioner of Crown Lands as aforesaid and subsequently transferred to various purchasers subject to the reservation of all metals, ores and minerals (including petroleum and mineral oil) in, upon and under such lands. Such reserved metals, ores and minerals having been transferred to the plaintiff appellant by transfer registered in the Land Titles Office No. 4286/1911;

 40

(b) the defendant respondent, the State of Western Australia have special leave to appeal to Her Majesty in Council from so much of the said judgment as declares that—

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Order
granting
final leave
to appeal
to Her
Majesty in
Council.
15th
December,
1955.

- (i) sections 9 and 10 of the Petroleum Act, 1936, have no application to lands granted by Her Majesty to the plaintiff appellant after the commencement thereof, namely—

		Acres.	Roods.	Perches.	
Avon Location	27429				
containing	....	195	1	26	
Swan Location	5329				
containing	....	194	2	36	10
Victoria Location	2024				
containing	....	14,716	—	—	
Victoria Location	9980				
containing	....	639	—	31	
Victoria Location	9981				
and 3 containing	....	885	—	—	
Victoria Location	9982				
containing	....	352	1	38	
Victoria Location	9984				
containing	....	640	—	—	20
Victoria Location	9999				
containing	....	24,242	3	30	

- (ii) all minerals (other than gold, silver and other precious metals), including petroleum and mineral oil in, under or on the said lands granted to the plaintiff appellant (whether such lands have since been alienated by the plaintiff appellant or not) belong to and are the exclusive property of the plaintiff appellant; 30
- (iii) any permit license, lease or other authority granted by the Minister under the authority of the Petroleum Act or any other Act of Parliament of the State of Western Australia insofar as it purports to authorise any person or company to explore, search for or take minerals (other than gold, silver and other precious metals) in, under 40 or on the said lands granted to the plaintiff appellant is void and of no effect;

And it is further ordered that the title of this action be amended by deleting all references to West Australian Petroleum Pty. Limited as a party to such proceedings and the reference to the appeal by the said Company.

And it is further ordered that the costs of and incidental to this application and order herein be costs of the appeal.

By the Court,

G. J. BOYLSOON,
Registrar.

EXHIBITS.

EXHIBIT "A" (PLAINTIFF).

THIS Indenture made the twenty-seventh day of February, 1886, between Sir Frederick Napier Broome, Knight Commander of the Most Distinguished Order of Saint Michael and Saint George, Governor and Commander-in-Chief in and over the Colony of Western Australia and its Dependencies, etc., etc., etc., acting for and on behalf of the Government and Colony of Western Australia of the one part, and John
 10 Waddington, of No. 35 King William Street, in the City of London, Esquire, acting in this behalf by Richard Price-Williams, Civil Engineer, now temporarily residing in Perth in the said Colony of Western Australia, his true and lawful attorney duly authorised in this behalf under and by virtue of a deed poll or power of attorney under the hand and seal of the said John Waddington bearing date the twenty-sixth day of November, 1885 (hereinafter called the contractor) of the other part:

Whereas the Government of Western Australia (herein-
 20 after called the Government) are about to construct a railway (hereinafter called the Geraldton-Greenough Railway) from Geraldton in the said Colony to the Greenough Flats, which railway it is proposed shall have its southern terminus at or near Walkaway on the said Greenough Flats:

And whereas the Government is desirous of promoting the immigration of Europeans into the Colony:

And whereas the Contractor has laid proposals before the Government with a view to arrangements being made for the construction, working and management of a railway
 30 from Guildford aforesaid to the said southern terminus of the Geraldton-Greenough Railway and also as to immigration as aforesaid and the Government has entertained and approved of such proposals and it has accordingly been agreed that these presents shall be entered into by way of contract to carry out the said proposals and to do all other things necessary to insure the formation, construction, working and management of the said railway, and also for purposes relating to the immigration of Europeans into the Colony and other purposes herein appearing.

40 45. The contractor will procure the introduction into the Colony from Europe within seven years from the date of this contract of 5,000 adults of European extraction. Children of 12 years of age to count as an adult, under that age as half an adult, that is two children under 12 being reckoned as one adult. The immigrants to be selected and

**Exhibits:
 Portions of
 Exhibit "A,"
 Parties,
 recitals and
 clauses 45-49,
 51-56, 67, 69,
 77, and 79 of
 contract for
 construction
 of Guildford
 to
 Greenough
 Railway
 (Waddington
 Agreement).
 27th
 February,
 1882.**

**Exhibits:
Portions of
Exhibit "A,"
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construction
of Guildford
to
Greenough
Railway
(Waddington
Agreement).
27th
February,
1882.**

approved in such a manner as may be mutually agreed upon by the Government and the contractor, but the number of immigrants to be introduced in any one year to be specially arranged between the Government and the contractor.

46. The Government will at the expiration of three calendar months from the arrival in the Colony of any such immigrants grant to the contractor or his nominees in fee simple for each such statute adult 50 acres of land to be selected as next herein- 10
after provided in blocks of not less than 10,000 acres each in extent, to be held in accordance with and in the form prescribed by the Land Regulations of the Colony.

47. The blocks of land to be selected as afore-
said shall be selected out of the residue of the lands within the areas hereinafter defined in clause 50 remaining after selection of lands to be granted to the contractor as a subsidy for railway construction, maintenance and equipment, provided that no such 20
selection shall be made in advance of the line of railway at the time being completed and open for traffic, and that no such selections be taken out of the frontage blocks reserved for the Government in accordance with subsections of clause 50.

48. The boundaries of the blocks so selected shall (except where they shall be bounded by land taken for the purpose of the construction of the railway) be at right angles with and in the direction of the meridian respectively. 30

49. In consideration of the premises the Government agrees to grant in fee simple to the contractor by Crown Grants in the form prescribed by the Land Regulations of the Colony a subsidy in land for and in respect of each section or deviated section as hereinbefore defined at the rate of 12,000 acres for every mile of the Railway which shall be duly completed and open for traffic in accordance with the provisions of these presents and a proportionate quantity for and in respect of such length 40
of line less than 20 miles which shall be over from the end of the last of such sections to the actual completion of the line.

10 51. Whenever the contractor shall pay compensation for lands taken in town sites for the purposes of the railway he shall be entitled to select lands at the rate of one acre for every 10s. so paid by him. Such selection shall be confined to the area from which the contractor has to select lands as a subsidy for the line and in blocks of not less than 5,000 acres unless a smaller quantity of land will cover such compensation, in which latter case the land shall be taken in one block. If a fractional part remain over and above any one or more block or blocks of 5,000 acres such fractional part may be at the option of the contractor taken in a separate block. Provided that no lands to be selected by the contractor in respect of compensation shall be taken from the frontage blocks reserved to the Government on each side of the railway.

20 52. On the completion and opening as aforesaid of each section and as soon as the contractor shall have selected the lands to be granted to him in respect thereof the Government will issue to the contractor land certificates or deeds of grant of one moiety of the lands so selected the portions to be comprised in such certificates or grants to be approved of by the Government but so as to give, if required, a reasonably fair proportion of such frontage to the railway as the whole of the lands so selected shall have.

30 53. On the completion and opening of the whole of the railway within the time limited for that purpose as aforesaid, the Government will issue to the contractor like certificates or deeds of grant for the remaining moiety of the lands so selected.

40 54. If the railway shall not be completed and opened within the time limited in that behalf the said remaining moiety of the lands to which the contractor would otherwise have become entitled as aforesaid shall be absolutely forfeited to the Government unless such non-completion shall arise from some inevitable cause or from some act of the Government.

55. The Government will not during the time hereby limited for the construction and opening of the railway make any grants or sales of land within any of the areas aforesaid, provided always that this

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1882.**

provision shall not limit or affect any rights of lessees or others existing at the date of the publication in the *Government Gazette* of the notice reserving the said land for the purposes of the railway and which rights the Government may be advised are legal or equitable, and provided also that this contract shall still remain in force.

56. In case any part of the land selected as aforesaid shall be in the occupation of any lessees or licensees from the Government the contractor shall pay to them fair compensation for all improvements made by them or their predecessors upon their holdings such compensation to be assessed by arbitration in case of difference. 10

67. Nothing herein or in the Act for the incorporation of any such company as aforesaid shall be deemed or construed to exempt the railways to be constructed under these presents, or the contractor or such company from the provisions of any general Act relating to railways now in force or which may hereafter be passed by the Legislative Council of the Colony, but nothing in such Acts shall in any manner operate against the contractor or his syndicate or company so as to limit the advantages granted to him under the contract. 20

69. Immediately each and every section of the line shall be completed, equipped in working order and opened for traffic, the lands taken for the purpose of the construction of the railway under clause 3 of these presents shall, subject to the provisions of clause 58, vest in and be granted to the contractor in fee simple. 30

77. Nothing herein contained shall in any manner affect the rights of Her Majesty or any person, company or corporation except such only as are herein expressly mentioned.

79. The Government shall, if requested thereto by the contractor, exercise in respect of lands required for the construction of the railway under this contract all the powers of entry and resumption reserved to the Crown by the deeds of grant or other deeds whereby the said lands have been alienated and the lands so resumed shall be available for the purposes of the railway. 40

EXHIBIT "B" (PLAINTIFF).**"ARMS."****GOVERNMENT GAZETTE EXTRAORDINARY
OF WESTERN AUSTRALIA.****(Published by Authority.)****Exhibits:
Exhibit "B,"
Proclamation
in Govern-
ment Gazette
of 11/10/1882.
7th
October,
1882.****No. 45.] PERTH: WEDNESDAY, OCTOBER 11. [1882.****PROCLAMATION**

10 WESTERN AUSTRALIA, } By His Excellency Sir William Cleaver Francis
TO WIT, } Robinson, Knight Commander of the Most Dis-
WILLIAM C. F. } tinguished Order of Saint Michael and Saint
ROBINSON, } George, Governor and Commander-in-Chief in
Governor. } and over the territory of Western Australia and
[L.S.] } its Dependencies, etc., etc., etc.

No. 1275—C.S.O.

20 WHEREAS by an Act of the Imperial Parliament of Great
Britain, passed in the 18th and 19th years of the reign
of Her present Majesty, intituled "An Act to repeal the Acts
of Parliament now in force respecting the disposal of the
Waste Lands of the Crown in the Australian Colonies, and to
30 make other provisions in lieu thereof": It is provided that it
shall be lawful for Her Majesty, by instructions under Her
Signet and Sign Manual, or thorough one of Her Principal
Secretaries of State, to regulate the Sale, Letting, Disposal,
and Occupation of Waste Lands of the Crown in Western
Australia, and the disposal of the proceeds arising therefrom,
until Parliament shall otherwise provide: and whereas Her
Majesty's Principal Secretary of State for the Colonies has
authorised and instructed me to publish the following Regu-
lations for the Sale, Letting, Disposal, and Occupation of
the Waste Lands of the Crown within the said Colony: Now,
30 therefore I, the said Governor, pursuant to the authority
vested in me in that behalf, do hereby proclaim and issue
the following Regulations, to take effect on and after
Wednesday next, the 11th day of October, 1882.

Given under my hand, and issued under the Public
Seal of the said Colony, this 7th day of October,
One thousand eight hundred and eighty-two.

By His Excellency's Command,

40 **GIFFORD,**
Colonial Secretary.

GOD SAVE THE QUEEN ! !

EXHIBIT "C" (PLAINTIFF).**LAND REGULATIONS FOR THE COLONY OF
WESTERN AUSTRALIA.***Proclaimed 11th October, 1882.*

Reprinted October, 1885, with Amendments to date.

REGULATIONS.

**Exhibits:
Exhibit "C,"
Land
Regulations
of Western
Australia,
proclaimed
11/10/1882,
as reprinted
in October,
1885, with
amendments
to that date.
October, 1885.**

Former
regulations
revoked.

Saving exist-
ing rights.

Interpreta-
tion.

The Gover-
nor may
dispose of
Crown lands
according to
the Regula-
tions.

1. The Regulations proclaimed on the 14th September, 1878, and all other Regulations heretofore in force affecting the waste lands of the Crown in Western Australia are hereby revoked; but nothing herein contained shall affect or be construed to affect any contracts, or to prevent the fulfilment of any promises or engagements made by or on behalf of Her Majesty, under such Regulations, with respect to any lands situate within the said Colony, in cases where such contracts, promises, or engagements have been lawfully made before the time at which these Regulations shall take effect therein. 10

2. In these Regulations, unless the context otherwise indicates:—

"Governor" means the officer for the time being administering the Government of the Colony of Western Australia. 20

"Governor in Council" means the Governor acting with the advice of the Executive Council of the Colony.

"Crown Lands" means the waste lands of the Crown within the Colony.

"Crown Grant" means a deed of grant issued in the name of Her Majesty, conveying to the grantee some portion of Crown lands in fee simple. 30

"Person" includes a partnership, company, or corporation.

The masculine includes the feminine, and the plural the singular.

General Administration.

3. The Governor is authorised, in the name and on behalf of Her Majesty, to dispose of the Crown lands within the Colony in the manner and upon the conditions prescribed by these Regulations, or by any Regulations amending or substituted for the same, and all grants and other instru- 40

ments disposing of any portion of Crown lands in fee simple or for any less estate made in accordance with such regulations shall be valid and effectual in the law to transfer to and vest in possession in the purchasers the land described in such grants or other instruments for the estate or interest therein mentioned.

Effect of
instrument^a

**Exhibits:
Exhibit "C,"
Land
Regulations
of Western
Australia,
proclaimed
11/10/1882,
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1885, with
amendments
to that date.
October, 1885.**

The Governor is authorised to make such grants and other instruments upon such terms and conditions as to resumption of the land or otherwise as to him shall seem fit.

10 4. There shall be a Commissioner of Crown Lands for the Colony.

Commis-
sioner of
Crown
Lands.

5. It shall be the duty of the Commissioner of Crown Lands to superintend the preparation, custody, and delivery of Crown grants, leases, licenses, and other instruments disposing of Crown lands, except where otherwise by law provided, and subject to the provisions of any law relating thereto, and subject also to instructions from the Governor or other officer authorised in that behalf by the Governor.

His duties.

20 6. Every Crown grant signed by the Governor shall be dated on the day of signature, and sealed with the seal of the Colony, and such date shall be deemed the date of issue, and every grant shall be entered of record in the office of the Commissioner of Crown Lands and also in the office of the Registrar of Deeds.

Signature
and date of
Crown
grants.

7. All leases, licenses, and instruments disposing of Crown lands other than Crown grants shall be signed by the Commissioner of Crown Lands, or other officer authorised in that behalf by the Governor.

Signature of
other instru-
ments.

30 8. The Governor in Council may from time to time by order under his hand, to be published in the *Government Gazette*, prescribe the forms of Crown grants, leases, licenses, and other instruments requisite for carrying these Regulations into effect.

Form of
Crown
grants and
other instru-
ments.

Until otherwise notified, Crown grants, leases, and licenses will be issued in the forms given in the Schedules hereto, with such variations as may be necessary to meet the

**Exhibits:
Land
Regulations
of Western
Australia,
proclaimed
11/10/1882,
as reprinted
in October,
1885, with
amendments
to that date.
October, 1885.**

circumstances of any particular case. The forms given in the Schedules hereto for applications and other matters under these Regulations may be used with such variations as circumstances may render necessary in any particular case.

Expenses of
survey and
manage-
ment.

9. All expenses of the survey and management of Crown lands, or for effecting sales thereof, or otherwise for carrying these Regulations into effect, shall in the first instance be chargeable upon and be defrayed from the proceeds of the sale and occupation of such lands unless the Legislature shall make other provision for such expenses. After deducting such expenses, if chargeable, the remaining proceeds of all sales, leases, and licenses of land shall be carried to the credit of the general revenue of the Colony, until Parliament shall otherwise provide. 10

Rules for
survey, etc.

10. The Governor in Council may, from time to time, make rules, regulations, and orders for the purpose of providing for the mode in which any land or allotment shall be surveyed and boundaries adjusted, and may fix and decide upon rates of payment to be made for the work done or to be done, and may alter or amend any such rules, regulations, or orders. All such rules, regulations, or orders shall be publicly notified in the *Government Gazette*. 20

Restrictions
upon Public
Officers
acquiring
Crown lands

11. No Public Officer shall hereafter be allowed to purchase or lease Crown lands (other than town or suburban lots) without the previous permission of the Governor in writing; and no officer of the Survey Department, or Contract Surveyor shall hereafter be permitted, under any circumstances, to purchase or lease, or to acquire directly or indirectly any interest in such land. 30

Forfeited
lands, how
dealt with.

12. All land, of any class, except land under mineral lease, which may from time to time become forfeited, either by failure of payment of rent, or by reason of the terms and conditions as to improvements or stocking not having been complied with, shall be offered by auction for the remainder of the term of years for which such land may have been held, at a rental to be determined by the Commissioner of Crown Lands, and approved by the Governor, not being less than that payable thereon by the original tenant. The same public notice shall be given as for auction sales of Crown lands. 40

Regulations respecting Crown Grants.

13. For preparing every Crown grant there shall be charged one uniform fee of twenty shillings, and for recording there shall be charged a fee of ten shillings. Both fees are to be paid with the purchase money, or with the last payment of rent, as the case may require.

Fees on
Crown
grants.

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14. After payment of the purchase money for any Crown land, and the fees for the deed of grant and recording, the purchaser shall receive from the Commissioner of Crown
10 Lands a permit to occupy. The form of permit will be found in Schedule No. 3. In the event of any variance between the survey and the application in the cases specified in No. 52 of these Regulations, the permit will be amended, and the Crown grant made out in accordance therewith. In all cases the permit shall be delivered up upon receipt of a Crown grant of the land purchased.

Permit to
occupy.

15. In any grant where the ocean, sea, or any sound, bay, or creek, or any part thereof, affected by the ebb or flow of the tide, shall be described as forming the whole or part
20 of the boundary of the land to be granted, such boundary or part thereof shall be deemed and taken to be the line of high water mark at ordinary tides.

Boundaries,
etc.

16. The name of the Surveyor from whose survey the plan on any grant has been made shall in every case be attached to such plan on the grant, as well as that of the Surveyor-General; but the omission of such name shall not affect the validity of the grant.

Surveyor to
sign plans.

17. In every case where a correction of the plan on a grant is required, the expense of a new survey (if requisite)
30 and of the correction of the grant shall be paid by the surveyor or draughtsman by whose mistake or negligence the error requiring correction was made; and the amount of such expenses may be recovered by the Commissioner of Crown Lands in any court of law having jurisdiction in respect of the amount sought to be recovered.

Expenses of
new surveys.

18. Whenever it shall be made to appear to the satisfaction of the Governor that any error exists in the name of any person inserted in a Crown grant as that of the intended grantee, it shall be lawful for the Governor to cancel such
40 grant, and to issue a new grant of the land comprised in the

Erroneous
grants.

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Grants by
mistake, how
to be dealt
with.

cancelled grant in the correct name of such intended grantee. Prior to the cancellation of any such grant, a statutory declaration shall be made by the Commissioner of Crown Lands, to the effect that the name in the grant to be cancelled is erroneous, and that the correct name of the person to whom such grant was originally intended to have been and should be issued is that stated in the declaration aforesaid.

19. Whenever the name of any person not entitled to the land comprised in any Crown grant has been or hereafter may be inserted by mistake in such grant, instead of the name of the person really entitled thereto, a reconveyance of such land to Her Majesty, her heirs and successors, shall be indorsed on the grant and executed by the person to whom the land has been or may be erroneously granted. If such reconveyance cannot be obtained, a statutory declaration shall be made by the Commissioner of Crown Lands, setting forth the existence and causes of the error, the reasons wherefore the reconveyance is not obtainable, the name of the person entitled to the grant, and the nature of his title, and thereupon it shall be lawful for the Governor to cancel the erroneous grant and issue a new grant of the same land to the person entitled thereto.

Erroneous
descriptions.

20. Whenever it shall be made to appear to the satisfaction of the Governor that any error exists in any Crown grant in the description of the land intended to be conveyed thereby, it shall be lawful for the Governor to cause a correct description of the said land to be indorsed on the grant or inserted in the margin thereof, and such correct description shall be signed by the Governor.

Governor to
sign correc-
tions.

21. In all cases of grants requiring correction, the Commissioner of Crown Lands, or other officer employed in the administration of Crown lands and the preparation of Crown grants, shall furnish such further or other evidence of the errors as the Governor may require, and the requisite correction thereof shall be signed by the Governor.

Effect of cor-
rection upon
other instru-
ments con-
taining er-
roneous des-
cription.

22. Every grant on or in which any such description shall have been indorsed or inserted and signed as aforesaid, and every deed and instrument in writing containing the erroneous description founded on and executed subsequently to the date of the said grant, shall have the same force and effect as though such correct description instead of an erroneous description had been inserted in such grant, deed or instrument, before the issuing or execution thereof.

23. The Governor may in special cases, on the recommendation of the Commissioner of Crown Lands, in lieu of causing any erroneous Crown grant to be corrected as aforesaid, cause the same to be cancelled, and issue a new grant in lieu thereof of the land comprised in the original grant, with a correct description thereof.

New grants in lieu of erroneous grants.

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24. Every entry in the books of the Registrar of Deeds relating to any land comprised in any grant cancelled under these Regulations shall be cancelled by writing opposite thereto or across the face thereof the words "Cancelled by authority of 'The Land Regulations of 11th October, 1882'"; and such writing shall be signed by the Registrar of Deeds; and such entry shall be thereby cancelled and thereafter be of no force or effect whatever.

Mode of cancelling entries relating to erroneous grants.

25. With respect to any grant cancelled under the provisions of these Regulations, on account of any error in the name of the grantee, it shall be lawful for the Registrar aforesaid, at his discretion, in lieu of cancelling the entries in his books relating to the land comprised in the grant, to correct the name of the grantee wherever it occurs in such entries, in accordance with the name in the new grant issued in lieu of the cancelled grant; and every entry so corrected shall be signed in the margin by the said Registrar with his name or initials, and shall be of the same force and effect as if it had been originally made in such corrected form.

Registrar may insert correct name of grantee.

26. Every cancellation of a grant under these Regulations shall be effected by a statement thereof on the face of the copy of the grant to be cancelled, in the register of the grants in the Office of the Commissioner of Crown Lands, which statement shall be signed by the Governor and countersigned by the Commissioner of Crown Lands and sealed with the seal of his office.

Mode of cancellation of grants.

27. Before such cancellation of the register copy of a grant, the grant itself shall be delivered to the Commissioner of Crown Lands, and having been so cancelled shall be destroyed.

Grants to be destroyed after cancellation.

28. Every such cancellation shall have the same force and effect in annulling and making void the cancelled grant as if the same were repealed by process of *scire facias*.

Cancellation to have the effect of a *scire facias*.

Public Reserves.

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Governor
may make
reserves for
public pur-
poses.

29. The Governor is hereby authorised, subject to such conditions and limitations as he may think fit, to sell or to except from sale, and either to reserve to Her Majesty, her heirs and successors, or to dispose of in such other manner as for the public interest may seem best, such lands, whether surveyed or not, as may be required for the following objects and purposes:

1. For the use or benefit of the aboriginal inhabitants. 10
2. Military or naval defence.
3. Railways, tramways, and canals.
4. Quays, landing places, and ferries.
5. Sites for churches and chapels, with not exceeding 100 acres of glebe land attached, and sites for parsonages.
6. Sites for schools and other buildings for the purposes of education, and land for the endowment of schools and other educational institutions of a public character. 20
7. Sites for mechanics' institutes, hospitals, and institutions for charitable purposes, markets, court-houses, prisons, or other edifices for public use or purposes for the Colony or any borough or road board.
8. Cemeteries.
9. Places necessary for the embellishment of towns, or for the health, recreation, or amusement of the inhabitants.
10. For the endowment of municipal corporations 30 within the Colony.
11. For sinking shafts and digging for coal, iron, copper, lead, or other minerals and metals.
12. Resting places and commonage for horses, cattle and sheep.
13. Any purpose of safety, public utility, convenience, or enjoyment, or for otherwise facilitating the improvement and settlement of the Colony.

Reserves to
be publicly
notified.

30. A full and complete description of every such reserve, and of the purposes for which it is made, shall, so 40 soon as possible, be published in the *Government Gazette*, and set forth on the authenticated maps in the Lands Office.

31. The Commissioner of Crown Lands may temporarily reserve land for such purpose, and if such temporary reserve be not confirmed by the Governor making the same a reserve within six months from the date at which such temporary reserve was made, such land shall thereupon cease to be so reserved.

Temporary reserves.

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32. The specified purposes for which any reserve is made may be changed, and any such reserve may be leased or sold, either in whole or in part, by order of the Governor; and
10 notice of such change or sale or lease shall be published in the *Government Gazette* at least thirty days before such change or sale. The Governor may order that the rents, profits, or proceeds arising from any reserve, or the sale or disposition thereof, be paid to any person having the management of such reserve, otherwise all monies received shall go to the credit of the land fund.

Governor may change purpose of the reserve.

33. The Governor may from time to time, by order, under his hand and published in the *Government Gazette*, direct that any such reserve shall vest in and be held by any
20 corporation, to be named in the order, in trust for the like or other public purposes, to be specified in such order, and with powers of leasing for any term not exceeding twenty-one years from the date of the lease.

In whom reserves may be vested.

34. Reserves for roads, public highways, water works, and drains shall be made by the Commissioner of Crown Lands, with the approval of the Governor, and shall be set forth on the authenticated maps in the Land Office of the Colony.

Reserves for roads, etc., by the Commissioner of Crown Lands.

Division of the Colony.

30 35. For the purposes of these Regulations, the Colony is divided into five districts:—

Districts.

40 1. The Central District.—Bounded on the west and south by the sea coast, including the Islands adjacent to it; on the north by the Murchison River; on the east by a line from Bompas Hill in the Great Northern bend of the Murchison River, through Wongan Hills and Mount Stirling to the mouth of the Fitzgerald River, and including a strip of land five miles wide along the south coast, and a block of land at Eucla measuring 20 miles along the coast by ten miles in depth.

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2. The South Eastern District.—Bounded on the south and east by the northern boundary of part of the Central District, viz., the strip of land along the coast above described; on the west by a line from the mouth of the Fitzgerald River to Mount Stirling; and on the north by a line due east from Mount Stirling to the aforesaid strip of land.
3. The Central Eastern District.—Bounded on the south by the northern boundary of the South Eastern District; on the west by the eastern boundary of the Central District to the Murchison River; on the north-west by that river upwards to Mount Murchison; on the north by a line due east through the summit of Mount Murchison to the eastern boundary of the Colony; on the east by the eastern boundary of the Colony to the boundary of the Central District in the block at Eucla; and on the south-east by the boundary of the Central District. 10 20
4. The Northern District.—Bounded on the south by the northern boundary of the Central Eastern District; on the south-west by the River Murchison to the sea coast; on the west by the sea coast, and including the Islands adjacent to it; on the north by the parallel of 19deg. 30min. south latitude to the eastern boundary of the Colony; and on the east by the eastern boundary of the Colony. 30
5. The Kimberley District.—So much of the Colony as lies to the north of the parallel of 19deg. 30min. south latitude.

No protec-
tion or gov-
ernment
guarantee in
certain dis-
tricts.

36. No protection or Government establishment in the South Eastern, Central Eastern, Northern, or Kimberley District will be guaranteed to the public until deemed expedient by the Government.

Convicts not
allowed in
the Northern
or Kimberley
District.

37. No convict or person holding a ticket-of-leave, and no person under sentence or orders of transportation or of penal servitude, shall be introduced into or allowed to remain within the Northern or the Kimberley District, without the permission of the Government Resident of the District. 40

Classification of Crown Lands.

38. The Crown lands are classed severally as towns, suburban, and rural lands. Rural include mineral and pastoral lands.

Classifica-
tion.

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The Governor from time to time may classify any Crown lands, and may cause maps or plans to be prepared, showing such classification, and may vary such classification as he may deem advisable.

Alienation of Lands in Fee Simple.

10 39. Town lands in all districts of the Colony, and suburban lands in all districts, except the Kimberley District, will be offered for sale by public auction at an upset price to be determined by the Governor in Council.

Sales by
auction.

20 40. Such lands may be put up for sale by order of the Commissioner of Crown Lands after notice twice published in the *Government Gazette* and in one newspaper circulating in the district in which the lands are situated. Such notice shall specify the time and place of sale, the number of lots to be sold and the respective areas of the same, and the upset price thereof.

Notice of
auction.

41. Any person may apply to the Commissioner of Crown Lands to put up for sale by auction any portion of town or suburban lands already surveyed; and at the time of application shall deposit with the Collector of Revenue ten per cent. of the upset price. A form of application will be found in Schedule No. 4, and a fee of two shillings and sixpence must accompany the application.

Application
to put land
up for
auction.

30 42. At all sales by auction, an amount equal to ten per cent. of the purchase money shall be paid on the fall of the hammer; and any such deposit as above mentioned shall be considered as payment thereof, so far as the same will extend. In every case the balance shall be paid within thirty days from the day of sale, and in default thereof the purchaser shall forfeit his purchase money and all right of title to the land.

Payment of
purchase
money.

43. Any lands put up for auction and not sold may thereafter be open for purchase by selection by any person at the upset price.

Lands not
sold may be
selected.

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- Rural lands. 44. Rural lands in all districts of the Colony, and suburban lands in the Kimberley District, subject to any preemptive rights affecting the same, are open for sale in fee simple, and may be sold by auction or by private contract, as the Governor may from time to time direct.
- Price. 45. The minimum price of rural lands in fee simple shall be ten shillings an acre in the Central and Kimberley Districts, and five shillings an acre in the other districts of the Colony.
- Size of sections. 46. The minimum acreage of ordinary sections of rural lands shall be—
 In the Central Districts, forty acres;
 In the Kimberley District, two hundred acres;
 In the other districts of the Colony, four hundred acres;
 except where the section is so shut in by private lands or other bounds as not to contain the full area.
- Form of sections.
Boundaries. 47. Every section of rural land shall be in one block, and, if possible, a right-angled parallelogram. The proportion of breadth to depth in any section bounded by a frontage line shall be as one to three, unless by approval of the Commissioner of Crown Lands in special cases. 20
- Frontage lines. 48. A frontage line shall be taken to mean the boundary of a road, river, public reserve, or any sea-coast, permanent stream, or lake.
- Irregular sections. 49. When, from the frontage not being a straight line, or from the interference of other frontage lines, natural features, or the boundaries of private lands, the foregoing rules in respect of form cannot be accurately observed, the form of the section shall be determined as nearly in accordance therewith as circumstances permit. 30
- Applications to purchase. 50. Every application for the purchase of rural land in fee simple, if made before the land has been permanently surveyed by the Crown, shall be accompanied by a sketch of the proposed boundaries, which shall be fixed wherever possible with reference to some natural or permanent artificial object, and also showing the position of the land with refer-

ence to any lake, river, or main stream, and also to land held by or in the occupation of any other person; and also showing all permanent water-holes and springs within its area. The form of application will be found in Schedule No. 4. Every application must be accompanied by a fee of two shillings and sixpence.

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51. The expenses of survey, if so required by the Commissioner of Crown Lands, shall be borne by the applicant, and in the event of his becoming the purchaser be repaid to him by the Crown, at rates to be fixed by the Surveyor General or his Deputy in the district, but not exceeding in any case one-half the amount of the purchase money. The boundaries of lands fronting on lakes, rivers, and main streams shall be limited in every case where possible by straight lines, which shall be plainly marked on the ground by surveyors.

Survey.

52. If any section, when surveyed, prove to differ in any respect from that intended by the purchaser, the Government will not be responsible for any loss or inconvenience which the purchaser may experience, nor will the purchase money be returned. If the land is found to be in excess, such excess may either be retained by the Government or paid for by the purchaser at the same price as the rest, at the discretion of the Commissioner of Crown Lands. If the whole extent of land in the selected locality falls short of the quantity paid for by the purchaser, so much of the purchase money as exceeds the price of the land to be conveyed shall be returned to him by the Receiver of Revenue, upon a voucher certified to by the Commissioner of Crown Lands.

If the survey varies from the application, how to be dealt with.

53. In all Districts of the Colony access to waterholes and springs on a section of rural land, with roads leading thereto, may be provided for by the survey and in the deed of grant.

Access to water in all Districts.

54. All holders of tillage leases under any regulations previously existing may, upon application, obtain the fee simple of the land upon the following terms. A cash payment is to be made of the balance between the total amount of rents paid and the whole price of land, estimated at twelve shillings and sixpence for each acre; or, if rent is paid at the rate of one shilling and threepence for each acre, until such rent with that already paid amounts in the aggregate to twelve shillings and sixpence per acre. Provided that no rent paid at a period prior to 1864 be computed in payment for such tillage land. The form of application will be found in Schedule No. 5. Every application must be accompanied by a fee of two shillings and sixpence.

Tillage leases.

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Special oc-
cupation
lands.

55. Rural lands may be taken up for special occupation in sections of not less than one hundred acres upon conditions of deferred payment and improvements; and at the price of ten shillings per acre.

Licenses of
occupation.

56. Any person desiring *bona fide* to occupy such lands may apply to the Commissioner of Crown Lands for a license to occupy any quantity not less than one hundred acres. The form of application will be found in Schedule No. 6. Every application must be accompanied by a fee of two shillings and sixpence. Upon receipt of any such application a license 10
for ten years in the form in Schedule No. 7 may be issued on the following conditions:—

1. An annual fee at the rate of one shilling an acre, or fractional part of an acre, shall be paid in advance on or before the first of March in each year; the first payment to be made at the time of granting the application.
2. The licensee shall not, during the currency of the license, sub-let, or transfer his interest therein, except by permission of the Commis- 20
sioner of Crown Lands, and on payment of a fee of ten shillings. The license shall become absolutely void upon any sub-letting or transfer of the licensee's interest in the license without such permission or on failure of payment of rent, unless within sixty days after such is due it is paid together with an additional sum equal to twenty-five per cent. added as fine.
3. The licensee shall, within the term of his license, or before he can claim the Crown grant, either 30
by payment or otherwise, enclose the land described in his license with a good and substantial fence, and shall have cleared and cropped at least one-fourth of the whole area.
4. Upon payment of the last sum due on account of the rent, or at any time during the term, upon payment of the difference between the amount of rent actually paid—such being calcu- 40
lated at the rate of one shilling a year per acre—and the entire sum of ten shillings for each acre, the licensee or his representatives, if he or they have fulfilled all the foregoing provisions in regard to improvements, shall be entitled to a Crown grant of the lands licensed; and every such grant shall be subject to such covenants, conditions, exceptions, or reservations as the Governor may direct.

5. If the aforesaid improvements have not been made before the end of the license, the licensee or his representatives may continue to hold the land at the same annual rental, but no Crown grant will be issued until the improvements have been duly made.

10 *6. With respect to lands within the Greenough and Irwin Commonages which already have been or may hereafter be taken up for Special Occupation, the licensee, notwithstanding subsection 3 of No. 56 of the General Regulations, shall not be required to clear or crop any portion of the land described in his license as a condition precedent to claiming the Crown grant.

57. For the encouragement of planting vineyards, orchards, and gardens, the Governor may dispose of rural land by private contract, in blocks of not less than ten acres, at not less than ten shillings per acre.

Vineyards,
orchards,
and gardens.

20 58. If at any time within five years after these Regulations come into force any person shall apply for the purchase in fee simple of land in the Kimberley District, and at the same time notify his intention of growing thereon tea, sugar, coffee, rice, cotton, tobacco, or any other merchantable tropical or semi-tropical product, and if such person shall, within five years from the date of such application being approved, prove to the satisfaction of the Governor in Council, or of any officer appointed by the Governor in that behalf, that such products or any of them have in any one year
30 been grown on such land and exported from the district, and have been sold for not less than five hundred pounds, he or they shall be entitled to a Crown Grant of five hundred acres of rural land, to be selected in the first instance in immediate contiguity to the land on which such products shall have been grown, and if there shall be no such land available, then to be selected from any rural land in the district. Such selections shall be made within three calendar months after the Governor shall have notified in the *Government Gazette* that such person is entitled to a Crown grant
40 in pursuance of this Regulation.

Bonus on
products in
the Kimber-
ley District.

59. Each of the first two persons who shall prove that he has effected such sale as aforesaid shall be entitled to a grant of one thousand acres.

Preferential
bonus to
first two
persons en-
titled.

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Resumption
of land for
townships in
the Kimber-
ley District.

60. If at any time after these Regulations come into force, the Governor in Council shall deem it necessary to resume any portion of land in the Kimberley District for the purpose of being included within the limits of a township, he may resume such lands for that purpose, and notice thereof shall be published in the *Government Gazette*. Upon such resumption the owner of such land shall be compensated for such resumption, either by a grant of the fee simple of land in the district, equal in area to that resumed, or by a refund of the original price of the resumed portion. And 10
in the event of any improvements having been made on the resumed portion he shall be entitled to compensation from the Crown, to be assessed in the manner prescribed in No. 79 of these Regulations.

Pastoral Lands, Leases, Licenses.

Classifica-
tion of pas-
toral lands.

61. Pastoral lands are rural lands for pastoral purposes, and are divided into first class and second class. The first class comprehends all pastoral lands in the Central District, except so much as lie to the east of the Fitzgerald River. The second class comprehends all other pastoral lands in the 20
Colony.

Application
for pastoral
lands.

62. Any person desiring to occupy pastoral lands may apply to the Commissioner of Crown Lands for a lease; or if the lands are in the first class for a license to occupy for one year. Every application must be accompanied with a fee of two shillings and sixpence, and with the first year's rent of the land applied for. The form of application will be found in Schedule No. 8

Surveys.

63. Applicants for land, either by lease or license, or by purchase in the exercise of a pre-emptive right, will be 30
liable to a charge for survey, should such be required; and if an applicant be unwilling to await the convenience of the Government to make the necessary survey, such charge shall be fixed at the time of approving the application, and shall be deposited before the required survey will be made.

Licenses of
first class
lands.

64. Annual licenses in the form in Schedule No. 9 will be granted to occupy blocks of land in the first class of not less than three thousand acres on payment of one pound for each thousand acres or part of a thousand acres. If a block of land is so shut in by other holdings as not to contain 40
three thousand acres, a license may be granted for such lesser quantity; but in no case will a license be issued for a less sum than one pound.

65. Applications for renewal of licenses must be deposited at the Land Office, on or before the last day of January in each year, accompanied with a fee of two shillings and sixpence. A form of application will be found in Schedule No. 10.

Renewal of licenses.

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10 66. Pastoral leases in the form in Schedule No. 11 will be granted of land in the first class in blocks of not less than ten thousand acres, at the rent of one pound per annum for each thousand acres, or part of a thousand acres. The duration of such leases shall in no case extend beyond the 31st December, 1887. If a block of land is so shut in by other holdings as not to contain ten thousand acres, a lease may be granted for such lesser quantity, but in no case will a lease be issued for a less sum than three pounds per annum.

Leases of first class lands.

20 67. Pastoral leases in the form in Schedule No. 11 will be granted of land in the second class, situate in the South Eastern, Central Eastern, or Northern District, in blocks of not less than twenty thousand acres, at the rent for each thousand acres or part of a thousand acres of five shillings for each year of the first half of the lease and ten shillings for each year of the remainder of the lease, but the duration of such leases shall in no case extend beyond the 31st December, 1893.

Leases of second class lands.

68. A lessee of lands mentioned in the last preceding Regulation may at any time, during the first seven years of his lease, select from his run any land which he desires to hold under an unconditional pre-emptive right to purchase on the following terms:—

Pre-emptive rights.

- 30
1. All unconditional pre-emptive rights to be for the term of the lease or until purchased sooner.
 2. The land to be so selected to be in blocks of not less than one thousand acres.
 3. The rent to be five pounds for each thousand acres, paid in advance annually.
 4. All such unconditional pre-emptive rights may be redeemed in fee, on the following terms:—

40

In the Northern District, if within the first seven years of the lease, by payment of five shillings, and during the remainder of the term, of ten shillings, for each acre redeemed.

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Surveys of
pre-emption.

In the Central Eastern, and South Eastern Districts, if within the first seven years of the lease, by payment of two shillings and sixpence, and during the remainder of the term, of five shillings, for each acre redeemed.

69. All surveys of pre-emptive rights shall be made at the expense of the holder.

Leases in the Kimberley District.

Leases in the
Kimberley
District.

70. Pastoral leases in the form in Schedule No. 11 will be granted of land in the Kimberley District in blocks of not less than fifty thousand acres when on a frontage, nor less than twenty thousand acres when no part of the boundary is on a frontage, at the rent of ten shillings per annum for each thousand acres or part of a thousand acres. 10

The Governor may, for special reasons, if he so think fit, authorise the issue of a lease for a frontage block of less extent, than fifty thousand acres.

The lessee of a frontage block may, with the approval of the Governor, obtain a lease of any contiguous pastoral land in a block of not less than ten thousand acres, on the same conditions and for the same term as his original block. 20

Frontage
blocks.

71. A frontage block is such as has its lesser boundary on a lake, river, or main stream, or other water channel, or on an estuary or the seashore. Its boundaries shall be rectangular, so far as the area and shape of the land will allow, and its mean depth shall not be less than three times its mean breadth.

Duration of
leases.

72. The duration of pastoral leases in the Kimberley District shall in no case extend beyond the 31st December, 1893. 30

Leases in the
Kimberley
District.

*73. Subject always to the provisions of Clause 72, but notwithstanding any other regulations to the contrary, every Pastoral Lessee in the Kimberley District shall be required before the expiration of four years from the commencement of his lease to have in his possession, within the said district, at least one head of large stock or ten head of sheep for every one thousand acres contained in his lease; and such stock or sheep shall not be diminished during the term of the

* Substituted for original regulations by Proclamation of 18th July, 1884.

said lease. Any lease, in respect of which this requirement is not fulfilled, shall be *ipso facto* absolutely and indefeasibly forfeited to the Crown, and such forfeiture shall forthwith be notified in the *Government Gazette*. Provided always that in lieu of such forfeiture, the said lessee shall be allowed, upon application to the Commissioner of Crown Lands, at any time before the expiration of the aforesaid four years, to pay an additional rent of 10s. (ten shillings) per annum, for any further period not exceeding three years, for every one
 10 thousand acres contained in any lease in respect of which the aforesaid stocking conditions have not been fulfilled, until such time as the required number of stock are within the district. In the event of the required number of stock not being in the district at the expiration of the aforesaid extension of three years, the land comprised in the lease shall be absolutely forfeited.

**Exhibits:
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 Land
 Regulations
 of Western
 Australia,
 proclaimed
 11/10/1882,
 as reprinted
 in October,
 1885, with
 amendments
 to that date.
 October, 1885.**

*74. Every tenant in the Kimberley District shall make and send, not later than the 31st day of December in each year, to the officer named by the Governor for such purposes,
 20 a return verified by declaration under the Act 18th Victoria No. 12, of all cattle, horses, sheep, and other stock in his actual possession, depasturing within the district, with a full description thereof, including ownership and brands; and any person knowingly making a false return shall forfeit all his pastoral lands in the district and be debarred from having any further application approved for such land.

Returns of
 Stock.

General Conditions of Pastoral Leases.

75. No pastoral lessee shall assign or sub-let the whole or any portion of his lands to any person without the consent
 30 in writing thereto, endorsed on the lease by the Commissioner of Crown Lands, or his Deputy for the district, for which consent a fee of ten shillings shall in each case be payable. The form of transfer will be found in Schedule No. 18.

No assign-
 ment or
 sub-letting,
 except with
 consent.

76. The names of lessees and a description of their lands shall be from time to time notified in the *Government Gazette* as soon as practicable after the approval of appli-
 cations.

Names of
 lessees to be
 published in
*Government
 Gazette.*

77. All pastoral rents are calculated as from the 1st of January to the 31st of December, and are to be paid in advance
 40 on or before the 1st of March in each year.

Rents.

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Licenses or leases granted during the year may be dated as from the 1st of January or 1st of July preceding, and if granted during the first half of the year, a proportion of the year's rent will be payable as from the date of granting; if granted on or after the 1st of July, a half-year's rent will be required.

Forfeiture
for non-pay-
ment.

78. Any pastoral lessee who fails to pay his rent will forfeit all right to the land and the improvements thereon, unless within 60 days after such rent is due it is paid, together with an additional sum equal to 25 per cent. added as fine. 10

Lessees en-
titled to
value
of improve-
ments on
land taken
from them.

79. A pastoral lessee in the occupation of his lease shall be entitled to claim from the purchaser of any portion of the demised lands, or from the licensee of special occupation land who may occupy any portion of such demised land, the fair value of any lawful improvements effected on such portion, provided these improvements have been properly and concisely described with their cost, and registered in the records of the Land Office; for which purpose a report may be made by the lessee at the commencement of any work, and again within three months after completion. The value 20 of such improvements shall, in no case, be estimated at more than the actual outlay made by the lessee, and shall be ascertained by one competent person appointed by the purchaser, and one by the lessee. Any difference of opinion between such valuers to be determined by an umpire, to be appointed by themselves, or, in case they shall not agree in such appointment, by the Governor.

General
Conditions
of Pastoral
Leases.

*79a. Any pastoral lessee of Crown Lands may at any time within three months previous to the expiration of his lease apply to the Commissioner of Crown Lands, or other 30 officer appointed for the purpose of receiving such applications, for a renewal of his lease; and if on the expiry of the lease the land be open to lease, the lessee so applying shall have a prior claim to a renewal of his lease over any other application for a lease on the whole or part of the same land. Every such application must be accompanied with a fee of two shillings and sixpence. Applications may be made in the form in Schedule No. 8 to the general Regulations, with such variations as are required. Every renewed lease will be subject to the Regulations in force for the time being for the 40 sale, letting, and disposal of Crown Lands.

80. In the event of any lessee not obtaining, on application, a renewal of his lease, he shall be entitled to compensation from the purchaser or succeeding lessee for all improvements made by him; the amount of such compensation to be determined by arbitration, as above mentioned.

Outgoing lessee entitled to value of improvements.

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81. Improvements may be considered to be either buildings, wells, tanks, dams, cultivation, grass paddocks, fencing, the eradication of poison plants, or any beneficial work done on the run to increase its productiveness and
10 powers of carrying stock.

What constitute improvements.

82. A pastoral license or lease shall give no right to the soil, or to the timber, and shall immediately determine over any land which may be reserved, sold, or otherwise disposed of under these Regulations.

Pastoral tenants have no right to soil or timber.

83. The Commissioner of Crown Lands is authorised to insert in any lease such conditions and clauses as may seem to him to be required for the public interest; as also a clause permitting the lessee or licensee to cut such timber as may be required for domestic uses, for the construction of buildings, fences, stockyards, or other improvements on the lands so occupied, but not for any other purpose, and the Commissioner of Crown Lands may, after any survey has been made which shows the boundaries of any lease to require adjustment, recall such lease for the purpose of amendment accordingly.
20

Commissioner of Crown Lands may insert clauses of forfeiture and of limited right to timber.

†83a. The Commissioner of Crown Lands is authorised to give to any holder of Fee Simple Lands, not exceeding in the aggregate two hundred (200) acres, permission to cut from any unimproved Crown Lands such timber as may be
30 required for domestic uses, for the construction of buildings, fences, stockyards, or other improvements on the land so held, but not for any other purpose.

General Conditions.

84. The position of runs and the arrangement of boundary lines shall be subject to the approval of the Commissioner of Crown Lands; and any description furnished by an applicant for pastoral land shall be full and particular, and shall refer to some fixed point or object which can be recognised by the Survey Office. The Government will not be responsible for any errors in descriptions so furnished; but any erroneous description, if found to interfere with other parties, may be rectified if practicable, on approved application, in such a manner as not to disturb the boundaries of any lease previously granted.
40

Position of runs, etc., to be approved by Commissioner of Crown Lands.

† Additional regulation, proclaimed 30th October, 1883.

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Power to sell
portion of
runs, to
make roads,
cut timber,
etc., thereon.

85. The right is reserved to the Governor to lay out, declare open, and make, either permanently or for temporary use, public roads through any land leased or licensed. Also to take away any indigenous produce, rock, or soil required for public purposes; to cut and remove timber, sandalwood, and other woods from lands under pastoral lease or license, or to issue licenses for cutting and removing the same therefrom; to sell any mineral land comprised within the limits of any pastoral lease whatever; and to sell any other portion of such lease, subject to the rights of the lessee, at any time, and with a right of immediate entry; to depasture on any unenclosed, or enclosed but otherwise unimproved land, any horses or cattle in the employ of the Government while working on or passing over the said land, together with a right for any person to pass over such unenclosed or enclosed but otherwise unimproved land, with or without horses, stock or vehicles, on all necessary occasions. 10

Poisoned Lands.

Definition of
poisoned
land.

86. Land shall be considered as "Poisoned land" when it is infested with poisonous indigenous plants, so that sheep or cattle cannot be depastured on it without producing fatal effects. Poisonous plants shall not be considered as entirely eradicated until it has been proved to the satisfaction of the Commissioner of Crown Lands that such plants have not existed on any part of the land for at least three years previous to the claim for a Crown grant. 20

Lease of
poisoned
land.

87. The Governor in Council, on the recommendation of the Commissioner of Crown Lands, supported by sufficient proof that the land applied for is "Poisoned land," and after a proper survey has been made, may grant a lease of such land in the form in Schedule No. 12 for the term of twenty-one years, with right of pre-emption, on the following conditions:— 30

1. That not less than one thousand acres be taken up.
2. That one pound be paid every year on or before the first of March, in advance, for each thousand acres, or part of a thousand acres.
3. That all expenses incurred in survey and in production of necessary evidence have been previously deposited with the Receiver of Revenue, or paid to the parties concerned and employed. 40

- 10 4. That if the land so leased shall be completely fenced in to the satisfaction of the Commissioner of Crown Lands with a good and substantial fence, of the ordinary height and of the construction generally in accord with the provisions of the statute law of the Colony dealing with fencing, and the poisonous indigenous plants entirely eradicated therefrom, the occupier shall, at the expiration of the aforesaid term of years, be entitled to receive, on payment of such fees as are required by these regulations, a Crown grant of the land.
5. That if all the foregoing conditions are complied with, and the full balance of rent be paid at any time during the lease, the Crown grant may thereupon be issued.

Pre-emptive right.

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88. No lands held under lease or license for pastoral purposes are to be included in the provisions of the preceding clause.

Pastoral lands not to be included.

- 20 89. Any person who proves to the satisfaction of the Commissioner of Crown Lands that any lands are poisoned, may obtain a license to occupy the same for a period of twenty-one years, at the rent of two shillings and sixpence per annum for every thousand acres or part of a thousand acres; but in no case will a license be issued for a less sum than one pound per annum, but any such license shall determine on application being made to lease the land for pastoral purposes under the foregoing Regulations. The form of license will be found in Schedule No. 13 .

License to occupy poisoned land.

30

Mineral Lands.

90. Nothing in these Regulations contained shall apply to auriferous lands.*

Auriferous lands.

91. Mineral lands are all rural lands open to general selection for purchase, lease, or license, and all lands under pastoral lease or license, except homesteads lawfully selected under these or any other Regulations, and except gardens, stockyards, and buildings on runs.

Mineral lands.

- 40 92. Any adult male person, on application to the Commissioner of Crown Lands, or to the Collector of Revenue of the district, may, on approval, and on payment of one pound,

How to obtain mineral permit.

* Regulation for auriferous lands proclaimed 17th April, 1884, and published separately.

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obtain a permit in the form in Schedule No. 14, to search, for a period of one year, for minerals in any mineral lands. During the currency of a permit to search the holder shall be entitled to remove not more than five tons of ore for purpose of testing, but no person shall hold more than one permit at the same time.

Mining
leases for
seven years.

93. Leases, in the form in Schedule No. 15, of portions of mineral land not exceeding two hundred acres, nor less than twenty acres, will, on application to the Commissioner of Crown Lands, be granted for purposes of mining for any metal or mineral, excepting precious metals, for a term of seven years, at a rental of five shillings per annum for each acre. Every lease issued during the year shall be dated as from the first of January preceding. 10

Applications
for mining
leases.

94. Every application for a mining lease shall contain a full description and boundaries of the land asked for. Such land must be in the form of a parallelogram, and in no case shall the length be more than three times the breadth.

The form of application will be found in Schedule No. 16. 20

An application for a mining lease must also be accompanied by a receipt showing that the first year's rent has been paid to the Treasury on account.

Mining
leases of
lands in
special oc-
cupation.

95. A mining lease of land within the limits of a special occupation license, or of an occupied tillage lease, may only be granted to the holder of such license or lease, or to other persons with his written consent.

Forfeiture of
deposits and
instalments
on non-com-
pletion of
leases.

96. All deposits and instalments which may have been paid on account of mineral lands shall be forfeited, together with all claims to the land, if by any default of an applicant 30 for the same a lease shall not be duly completed.

Forfeiture
of lease.

97. If the holder of any mining lease allow the minerals to remain unworked for a period of twelve months, such lease shall be liable to forfeiture.

Rents, when
and to whom
payable.

98. The rent on a mining lease shall be paid to the Collector, or to a Sub-Collector of Revenue, on or before the first of January in each year, in advance; and not less than one year's rent shall be received.

If the rent is not paid within fifteen days after the first of January the lease shall be absolutely and indefeasibly forfeited unless on or before the thirty-first of January the lessee shall duly pay the full amount of the annual rent, together with an additional sum equal to one-half of the same. But the Governor in Council, on the recommendation of the Commissioner of Crown Lands, may cancel any such forfeiture, on sufficient grounds shown, and on the lessee duly paying, on or before the first of March, a sum equal to
 10 twice the established rent for the current year.

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A lessee may determine his lease by giving three months' notice in writing, but no rent shall in any case be refunded.

99. The holder of a mining lease may transfer or sublet the same on approval of the Commissioner of Crown Lands, and on payment of a fee of ten shillings. The form of transfer will be found in Schedule 18.

Transfer of
 mining
 leases.

100. Every lessee of a mining lease shall furnish to the Commissioner of Crown Lands an annual return of ores raised.

Annual
 returns.

20 101. Any holder of a mining lease, who shall show to the satisfaction of the Commissioner of Crown Lands that he has erected on the land held under such lease all the plant, buildings, and machinery necessary for the due and proper working of the mine, or who shall enter into a bond with sureties to put up such permanent buildings and machinery within a certain time, shall be entitled to a Crown grant of the land on payment of three pounds for each acre. Payment may be made, if desired, in three annual instalments of one pound an acre; but the Crown grant will in no case
 30 be issued until the whole payment be completed and the fees for grant and recording paid. The quantity of land to be so sold and granted shall not be less than twenty acres, but in case such a quantity does not exist the price at which the plot may be sold shall be fixed by the Commissioner of Crown Lands and approved by the Governor in Council, provided the same be not less than three pounds an acre.

Purchase of
 mineral
 lands.

40 102. The lessee of a mining lease shall pay to the lessee of any pastoral lease full compensation, to be ascertained by agreement or by arbitration, as prescribed in No. 79 of these Regulations, for all lawful improvements made by such pastoral lessee on any portion of his run comprised in such mining lease.

Mining
 lessee to
 compensate
 pastoral
 lessee.

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Right of
way.

103. There shall be no right of way or thoroughfare through or over any enclosed portion of land held under mining lease except by recognised roads, or for Government purposes, but in all other respects the rules for the sale, letting, and disposal of Crown lands shall apply to mineral lands.

Removal of
machinery,
etc., at end
of lease.

104. If a mining lease be forfeited or not renewed the lessee may remove or otherwise dispose of all machinery, improvements, and minerals brought to the surface. If he fails to remove the same within three months the same will be liable to forfeiture to the Crown. 10

No compen-
sation on
forfeiture or
abandon-
ment of
holding.

105. In no case shall the holder of a mining lease upon the abandonment or forfeiture of his holding be entitled to any compensation for improvements, or for outlay of any description.

Disposal of
forfeited or
abandoned
lease.

106. The Governor may grant to any applicant the unexpired term of any forfeited or abandoned mining lease, upon such terms as to payment of any sum in addition to the established rent as the Governor may direct.

Fencing of
shafts on
forfeiture or
abandon-
ment.

107. Before the occupant of any mineral lands abandons the same, or withdraws from them if forfeited, he shall enclose, by a substantial fence, all shafts and dangerous cuttings made by him during his occupancy. 20

—
Alluvial Deposits, Gems and Jewels.

Alluvial de-
posits, in-
ferior
metals,
gems, and
jewels may
be reserved
to the
Crown.

108. In addition to any powers of resumption and to any rights of entry, and of cutting and taking timber, and of searching and digging for building and other materials, and to any reservation of mines of gold, silver and other precious metals ordinarily contained in Crown grants, the Governor in Council may, from time to time, by order under his hand, direct whether any of the precious metals existing in the form of alluvial deposits, or any inferior metals, or any gems or jewels, shall be in like manner reserved to the Crown, in which case the forms of deeds of grant will be modified accordingly. 30

109. The Governor in Council may also, from time to time, grant licenses on such terms and conditions as he thinks sufficient, as well for the purposes of such license as for the protection of the owner or occupier of the land, to enter, remain on and examine any lands, freehold or leasehold, and to search, dig for, and carry away any metals, gems, or jewels reserved to the Crown. The Governor in Council may also in like manner sell by auction or private contract, in whole or in part, the subject of any such reservation, not being
 10 gold or silver.

Licenses to search for reserve metals, gems, etc.

Power to sell any of the reserve rights.

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Timber Regulations.

110. Any person or a pair of sawyers, splitters, or cutters, requiring a license to fell, cut, split, and remove, either by himself or by an agent or servant authorised in writing by him, any timber, sandal, jam, fire, and other wood growing or being on Crown lands, may apply to the Commissioner of Crown Lands, to the Collector or to any Sub-Collector of Revenue, or to any Resident Magistrate, who shall thereupon issue the required license, after payment in
 20 advance of the fees in that behalf herein mentioned.

Timber Licenses.

	Per Month.			Fees charge- able for licenses to cut timber.
	£	s.	d.	
To fell and hew timber to be used or exported as piles or balks, for each man	3	0	0	
Or in the case of a pair being employed	5	0	0	
<small>Such license includes all men employed in removing timber in balk or for piles during the currency of the license.</small>				
To fell, cut and remove timber, or split and remove fencing, firewood, or shingles, for each man	0	5	0	
To cut sandalwood outside proclaimed areas, and wattle or other bark, for each man	0	2	6	

30 No such license shall be issued for a period less than one nor more than twelve months. The names of the parties applying for a license shall be inserted therein, and no such license shall be transferable; but all timber marked, branded, or otherwise described by its licensed owner may remain on
 40 Crown land for a period not exceeding six months after the expiration of a license.

111. Persons engaged in cutting down trees in any shape, so long as the same are cut and removed simply and *bona fide* for the purpose of being split or sawn up, and not for use or shipment as piles or balks, will have to take out a license for such cutting down, for which they will have to pay five shillings per month for each person engaged, and every person engaged in the removal of such timber will have to take out a similar license before he can assist in its removal.

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Persons holding a five shilling license may cut down a tree and remove it as a log or balk to their saw pit; and persons having saw mills at a distance from the place where the trees are to be found, may, on taking out a five shilling license for every person engaged in cutting down or removing such trees, lawfully cut down and remove them in balk or as logs to their saw mills, so long as they do this solely for the purpose of splitting or sawing them up, and not for the purpose of using or exporting them as piles or balks.

Stacking of
Debris.

112. It shall be obligatory on all persons cutting jam or other small timbers for fencing or for firewood, to stack up in heaps, and at distances of not less than one chain apart, all branches and other debris left by them. Any breach of this Regulation shall render the offender liable on summary conviction to a penalty not exceeding ten pounds, and to forfeiture of his license. 10

Penalty on
default.

Special
license for
the year.

113. Applications for special licenses for one year to fell, remove and sell the timber growing or being on any particular Crown lands may be addressed to the Commissioner of Crown Lands by letter, fully describing the quantity, position and boundaries of the land required, and the date from which a license is to commence. Any such application shall be accompanied by a deposit of five pounds, or by the receipt of any Collector of Revenue for that amount. The land applied for shall be selected and described according to the rules laid down in Nos. 47-50 of these Regulations. 20

Preparation
of special
licenses.

114. Special licenses shall be prepared in the Office of the Commissioner of Crown Lands, in the form in Schedule No. 17, and shall be deliverable by any Collector of Revenue, or by the Resident Magistrate of the District in which the land may be situate, on payment of any balance due thereon, according to the following scale:— 30

	Per Annum.
	£ s. d.
For any quantity not exceeding 640 acres of land	20 0 0
For any quantity exceeding 640 but not exceeding 1,280 acres of land	40 0 0

But such license shall not permit the cutting, hewing, and removing of logs and piles.

40

Duration.

115. Every such license shall be for one year; and if not taken up at Albany within two calendar months, or at Perth and other districts within one calendar month from the date of deposit, the license shall be forfeited, together with the deposit, and the land shall be open to fresh applicants. The license shall not be transferable.

116. No rights or privileges shall be conveyed by any such license beyond those of felling, cutting up, and removing by the licensee, his servants or agents, any indigenous timber growing or being on the land specified in the license; and at the expiration of the license all timber left on the ground shall be the property of the Government, unless otherwise arranged by special application in writing, addressed to the Colonial Secretary, or by a renewal of the license for a further term, to which an existing licensee shall
 10 be considered to have a preferable claim.

Rights conveyed.

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117. In order to promote the introduction and establishment of new industries and commercial undertakings of public utility, the Governor in Council may grant special licenses to cut and remove timber from Crown lands for such period as may be deemed necessary, and such licenses shall be subject to such rents, fees, conditions and reservations as the Governor in Council may prescribe, but shall not entitle the licensees to any right of renewal at the expiration of the term.

Special licenses for promoting public undertakings.

20 118. Any timber license already granted or agreed to be granted, for a longer period than twelve months with a right of renewal or otherwise, not in conformity with these Regulations, shall not on that account be deemed to be invalid, but may be held and renewed according and subject to the terms and stipulations on which the license was granted or agreed to be granted.

Validating timber licenses issued not in accordance with existing Regulations.

30 119. The Governor in Council may from time to time, by order published in the *Government Gazette*, regulate the cutting and disposal of timber and other trees, shrubs and plants, whether for use in the Colony or for exportation, living or dead, being or growing on lands held otherwise than in fee simple.

Timber, shrubs, etc.

Commonages, Pensioners, Immigrants.

40 120. The Governor may at any time proclaim any Crown lands as a common; and at any time alter, add to, diminish, revoke or abolish such common; and may place any common under the management of any person or persons, and direct the manner in which any fees shall be imposed, paid, collected and disposed of for depasturing thereon; or may delegate the power of regulating such fees to any local board, trust, municipality or officer.

Commonages.

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Grants to pensioners.

121. A lot of rural land not exceeding twenty acres may be granted to each pensioner introduced with the sanction of Her Majesty's Government into the Colony, who has faithfully and soberly served upon the Duty Force continuously for a period of three years. Such lots may be assigned to the pensioners by occupation certificates, which shall be exchanged for Crown grants, on proof being made to the satisfaction of the Commissioner of Crown Lands that the pensioners have fulfilled all such conditions as to improvements on the land as the Governor may from time to time make and publish in the *Government Gazette*. 10

*121a. (1) Deeds of Grant of Town Lots, the locality and extent of which will be fixed in each case by the Governor, and will depend upon the land which may be available, will be issued to Military Pensioners to whom lots have not been already assigned or granted, on satisfactory proof being given of seven years faithful service in the Enrolled Force. Military Pensioners to whom Town Lots have already been assigned, but not granted, may also obtain their deeds on satisfactory proof of service. 20

(2) In the case of Military Pensioners who arrived in the Colony by the ship "Naval Brigade," proof of three years faithful service in the Enrolled Force will be sufficient.

Immigrants.

122. In any case where the occupancy of a town lot has been allowed in lieu of rural land, to any immigrant entitled to a free grant under any previous regulations, the occupation certificate shall be exchanged for a Crown grant on proof being made to the satisfaction of the Commissioner of Crown Lands that the occupant has fulfilled all such conditions as to improvements on the land as are provided in the said certificate. 30

* Additional Regulation proclaimed 24th November, 1883.

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as reprinted
in October,
1885, with
amendments
to that date.
October, 1885.

First Schedule.

FORM OF CROWN GRANT FOR TOWN AND SUBURBAN LANDS.

20 Grant under "Land Regulations" of
Commissioner of Crown Lands. }

VICTORIA, by the Grace of God, of the United Kingdom of Great Britain and Ireland Queen, Defender of the Faith, Empress of India, etc., etc., etc. To all to whom these Presents shall come, Greeting:

Know Ye that We, of Our especial Grace, certain knowledge, and mere motion, have given and granted, and We do by these Presents, for Us, Our heirs and successors, in consideration of paid to the satisfaction of Our Governor of Our Colony of Western Australia, Give and Grant unto All that

30 Piece or Parcel of Land situate and being in the Town of
in Our said Colony, containing acres,
roads, perches, more or less, and marked and
distinguished in the Maps and Books of the Survey Office of Our said
Colony as and as the same is delineated in the
plan drawn in the margin hereof; Together with all Profits, Com-
modities, Hereditaments, and Appurtenances whatsoever thereunto
belonging, or in anywise appertaining. To Have and to Hold the said
Piece or Parcel of Land, and all and singular the Premises hereby
granted, with their appurtenances, unto the said

Exhibits:
Exhibit "C,"
Land
Regulations
of Western
Australia,
proclaimed
11/10/1882,
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October, 1885.

heirs and assigns for ever; and they yielding and paying for the same to Us, Our heirs and successors, one pepper-corn of yearly rent on the twenty-fifth day of March in each year, or so soon thereafter as the same shall be lawfully demanded. Provided, Nevertheless, that it shall (at any time within Twenty-one Years from the date of these Presents) be lawful for Us, Our heirs and successors, or for any person or persons acting in that behalf by Our or their authority, to resume and enter upon possession of any part of the said Piece or Parcel of Ground which it may at any time by Us, Our heirs or successors, be deemed necessary to resume for making roads, canals, bridges, towing-paths, or other works of public utility or convenience, and such Lands so resumed to hold to Us, Our heirs and successors, as of Our or their former estate; so, nevertheless, that no such resumption be made without compensation of any part of the same Piece or Parcel of Ground upon which any expenditure or improvement shall have been made by the said

10

heirs and assigns. And we do hereby save and reserve to Us, Our heirs and successors, all mines of Gold, Silver, and other precious metals, in or under the said Piece or Parcel of Ground hereby granted, with full liberty at all times to search and dig for, and carry away, the same; and, for that purpose, to enter upon the said Piece or Parcel of Ground, or any part thereof.

20

In Witness whereof We have caused our trusty and well-beloved Governor and Commander-in-Chief of Our said Colony, to affix to these Presents the Public Seal of the said Colony.

Sealed this _____ day of
one thousand eight hundred and _____

Second Schedule.

FORM OF CROWN GRANT FOR RURAL LANDS. 30

Grant under "Land Regulations" of
..... *Commissioner of Crown Lands.* }

VICTORIA, by the Grace of God, of the United Kingdom of Great Britain and Ireland Queen, Defender of the Faith, Empress of India, etc., etc., etc. To all to whom these Presents shall come, Greeting:

Know Ye that We, of Our especial Grace, certain knowledge, and mere motion, have given and granted, and We do by these Presents, for Us, Our heirs and successors, in consideration of

paid to the satisfaction of Our Governor of Our Colony of Western Australia, Give and Grant unto All that Tract or Parcel of Land situate and being in the District

40

of in Our said Colony containing more or less, and marked and distinguished in the Maps and Books of the Survey Office of Our said Colony as and Bounded as the same is delineated in the plan drawn in the margin hereof: Together with all Profits, Commodities, Hereditaments, and Appurtenances whatsoever thereunto belonging, or in anywise appertaining. To Have and to Hold the said Tract or Parcel of Land, and all and singular the Premises hereby granted, with their appurtenances, unto the said heirs

Exhibits:
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Land
Regulations
of Western
Australia,
proclaimed
11/10/1882,
as reprinted
in October,
1885, with
amendments
to that date.
October, 1885.

10 and assigns, for ever; and they yielding and paying for the same to Us, Our heirs and successors, one pepper-corn of yearly rent on the twenty-fifth day of March in each year, or so soon thereafter as the same shall be lawfully demanded. Provided, Nevertheless, that it shall at all times be lawful for Us, Our heirs and successors, or for any person or persons acting in that behalf by Our authority, to resume and enter upon possession of any part of the said Lands which it may at any time by Us, Our heirs and successors be deemed necessary to resume for making roads, tramways, railways, railway stations, canals, bridges, towing-paths, or
20 other works of public utility or convenience, and such lands so resumed to hold to Us, Our heirs and successors, as of Our or their former estate, without making to the said heirs and assigns, any compensation in respect thereof; so, nevertheless, that the Lands so to be resumed shall not exceed one-twentieth part, in the whole, of the Lands aforesaid, and that no such resumption be made of any Lands upon which any buildings may have been erected, or which may be in use as gardens, or otherwise, for the more convenient occupation of any such buildings; and provided also, that it shall be lawful, at all times, for Us, our heirs
30 and successors, or for any person or persons acting in that behalf by Our or their authority, to cut and take away any such indigenous timber, and to carry away, search, and dig for any stones or other materials, which may be required for making or keeping in repair any roads, bridges, canals, towing-paths or other works of public convenience and utility. And we do hereby save and reserve to Us, Our heirs and successors, all mines of Gold, Silver, and other precious metals, in and under the said Land, with full liberty at all times to search and dig for, and carry away the same; and, for that purpose, to enter upon the said Lands or any part thereof.

40 In Witness whereof We have caused our trusty and well-beloved Governor and Commander-in-Chief of Our said Colony, to affix to these Presents and Public Seal of the said Colony.

Sealed this _____ day of
one thousand eight hundred and _____

Exhibits:
Exhibit "C,"
Land
Regulations
of Western
Australia,
proclaimed
11/10/1882,
as reprinted
in October,
1885, with
amendments
to that date.
October, 1885.

Land Regulations.

Third Schedule.

A.

Western Australia.

FORM OF PERMIT TO OCCUPY TOWN OR SUBURBAN
LANDS.

I hereby certify that _____ of _____ has been
duly declared the purchaser of the land des-
cribed in the annexed Permit, and that £—, _____
being the purchase money thereof, has been
duly paid.

Colonial Treasurer.
Date

WHEREAS _____ of _____ entitled to receive a grant
from the Crown of an estate in fee simple in all that
section of land situate in _____ in the town of _____
in the Colony of Western Australia, marked No. _____ 10
in the authenticated map of the said town in the
Land Office at Perth in the said Colony, and con-
taining _____ or thereabouts, but the said grant has
not yet been prepared; Now know all men and these
presents witness that I _____ in pursuance of the
powers in me vested as Commissioner of Crown
Lands for the said Colony, do hereby authorise, em-
power, and permit the said _____ his heirs or
assigns, at any time after the date hereof, to enter 20
upon the said section of land, and to hold and enjoy
the same for his and their absolute use and benefit.

Given under my hand at _____ on the _____ day
of _____ 188 .

..... Commissioner of Crown Lands.

*This Permit is to be given up on the receipt of the
Crown Grant.*

B.

Western Australia.

FORM OF PERMIT TO OCCUPY RURAL LANDS.

Exhibits:
Exhibit "C,"
Land
Regulations
of Western
Australia,
proclaimed
11/10/1882,
as reprinted
in October,
1885, with
amendments
to that date.
October, 1885.

10 I hereby certify that of has been
duly declared the purchaser of the land des-
cribed in the annexed Permit, and that £—,
20 being the purchase money thereof, has been
duly paid.

Colonial Treasurer.

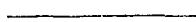
Date

WHEREAS of is entitled to receive a grant from the Crown of an estate in fee simple in all that piece or parcel of land hereinafter described, that is to say Location The boundaries of which are as shown on the authenticated maps of the Land Office at Perth, in the Colony of Western Australia, and containing or thereabouts, but the said grant has not yet been prepared; Now know all men and these presents witness that I in pursuance of the powers in me vested as Commissioner of Crown Lands for the said Colony, do hereby authorise, empower, and permit the said his heirs or assigns, at any time after the date hereof, to enter upon the said section of land and to hold and enjoy the same for his and their absolute use and benefit; subject nevertheless to the laws and Regulations now in force for the letting, disposal, and occupation of the Crown Lands of Western Australia.

Given under my hand at on the day
of 188 .

Commissioner of Crown Lands.

This Permit is to be given up on the receipt of the Crown Grant.



Fourth Schedule.

Exhibits:
Exhibit "C,"
Land
Regulations
of Western
Australia,
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11/10/1882,
as reprinted
in October,
1885, with
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to that date.
October, 1885.

FORM OF APPLICATION TO PURCHASE A (Town or Suburban)
SECTION OF CROWN LANDS.

Name at full length, address, and calling of Applicant.	No.	Acres.	Town.	Amount of Purchase Money.			Name at full length, address, and calling of person to whom Purchaser wishes Grant to issue.	Office References (Applicants are requested not to write in this space.)
				£	s.	d.		

I hereby apply to purchase the land described above, according to existing Regulations.

Signature of Applicant

Date 188...

To the Commissioner of Crown Lands, Perth, Western Australia.

Received this application, at o'clock on the day of 188 , with fee of two shillings and sixpence.

..... Commissioner of Crown Lands. 20

Application approved, for sale by Auction at on the day of 188 . Upset Price £ .

..... Commissioner of Crown Lands.

Date 188...

Received £ , the full amount of fees and purchase money.

..... Collector of Revenue.

Date 188

Deed of Grant issued, date 188 .

Received £ deposit on this application.
..... Commissioner of Crown Lands.
Date 188 .

Fifth Schedule.

Exhibits:
Exhibit "C,"
Land
Regulations
of Western
Australia,
proclaimed
11/10/1882,
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in October,
1885, with
amendments
to that date.
October, 1885.

FORM OF APPLICATION FOR CROWN GRANT OF LAND
COMPRISED IN TILLAGE LEASE No.

Name at full length, address and calling of person to whom applicant wishes Grant to issue.	No.	Acres.	District.	Office References. (Applicants are requested not to write in this space.)

I hereby apply for a Crown Grant as above.

Signature of Applicant 10

Date 18

To the Commissioner of Crown Lands, Perth, Western Australia.

Received this application o'clock on the day of 18 ,
with fee of two shillings and sixpence.

..... Commissioner of Crown Lands.

Application approved, provided that twelve shillings and sixpence an acre has been paid.

..... Commissioner of Crown Lands.

Date 18

I hereby certify that £ , being the full amount of fees and 20 purchase money, has been paid.

..... Collector of Revenue.

Date 18

Land Regulations.
Sixth Schedule.

Exhibits:
Exhibit "C,"
Land
Regulations
of Western
Australia,
proclaimed
11/10/1882,
as reprinted
in October,
1885, with
amendments
to that date.
October, 1885.

FORM OF APPLICATION FOR LICENSE OF LANDS FOR SPECIAL
OCCUPATION.

Place Date 188 ..

I HEREBY hereby apply for a License of acres of Special Occupa-
tion Land in the District, from the day of 188 .., to
the day of 188 .., in accordance with the Regulations for the
occupation of the same.

10 The position and boundaries are as shown below:—

Signature

To the Commissioner of Crown Lands, Perth, Western
Australia.

Plan No.....

Office
References.

Applicants
are
requested
not to write
in this
space.

Name at full length, address and calling of person to whom appli- cant wishes License to issue.	No. of License.	No. of Acres.	District.	Annual Rent.		
				£	s.	d.

20

Received £ deposit of rent on this
application.
Commissioner of Crown Lands.
Date

Received this Application at o'clock on the day of
188 .., with fee of two shillings and sixpence.

..... Commissioner of Crown Lands.

Application approved, as shown above, this day of
188 ..,

..... Commissioner of Crown Lands.

Received £ Rent due.

..... Collector of Revenue.

Date 188 ..

License signed. Date

Issued to Date

Seventh Schedule.

Western Australia.

FORM OF LICENSE FOR SPECIAL OCCUPATION OF CROWN LANDS.

No.....

District of.....

KNOW all men that I the Commissioner of Crown Lands, do hereby, in pursuance of the Land Regulations now in force, give to of full license and authority to enter upon and occupy all that allotment of Crown Land delineated on the plan 10 hereon, and containing for a period of ten years from the date hereof, subject to the conditions hereunder specified, and to be determined, annulled, forfeited, revoked, made void, or rescinded in accordance with the provisions of the said Regulations.

CONDITIONS.

1. An annual fee at the rate of one shilling an acre, or fractional part of an acre shall be paid in advance on or before the first of March in each year; the first payment to be made at the time of granting the application.

2. The licensee shall not, during the currency of the license, sub- 20 let or transfer his interest therein, except by permission of the Commissioner of Crown Lands, and on payment of a fee of ten shillings; and the license shall become absolutely void upon any sub-letting or transfer of the licensee's interest in the license without such permission.

3. The licensee shall, within the term of his license, or before he can claim the Crown grant either by payment or otherwise, enclose the land described in his license with a good and substantial fence, and shall have cleared and cropped at least one-fourth of the whole area. 30

4. Upon payment of the last sum due on account of the rent, or at any time during the term, upon payment of the difference between the amount of rent actually paid—such being calculated at the rate of one shilling a year per acre—and the entire sum of ten shillings for each acre, the lessee or his representatives, if he or they have fulfilled all the foregoing provisions in regard to improvements, shall be entitled to a Crown grant of the lands licensed; and every such grant shall be subject to such covenants, conditions, exceptions or reservations as the Governor in Council may direct.

5. If the aforesaid improvements have not been made before 40 the end of the license, the licensee or his representatives may continue to hold the land at the same annual rental, but no Crown grant will be issued until the improvements have been duly made.

Given under my hand, at Perth, on the day of

18

..... Commissioner of Crown Lands.

Exhibits:
Exhibit "C,"
Land
Regulations
of Western
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to that date.
October, 1885.

Land Regulations.
Eighth Schedule.

Exhibits:
Exhibit "C,"
Land
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of Western
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11/10/1882,
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in October,
1885, with
amendments
to that date.
October, 1885.

Class.....

FORM OF APPLICATION FOR LEASE OR LICENSE OF
PASTORAL LANDS.

Place Date

I HEREBY apply for a _____ of _____ acres of Crown
Land in the _____ District, from the _____ day of
_____ 188____, to the _____ day of _____ 188____,
10 in accordance with the Regulations for the occupation of the same.

The position and boundaries are as shown below:—

Signature.....

To the Commissioner of Crown Lands,
Perth, Western Australia.

Office
References
—
Applicants
are
requested
not to write
in this space.

Plan No.....

Name in full, address and calling of person to whom applicant wishes Lease or License to issue.	No. of Lease or License.	Acres.	District.	Annual Rent.	
				1st term.	2nd term.

20 Received £ deposit of rent on this
application.
Commissioner of Crown Lands.
Date

Received this application at _____ o'clock on the _____ day
of _____ 188____, with fee of two shillings and sixpence.

..... Commissioner of Crown Lands.

Application approved, as shown above, this _____ day
of _____ 188____.

..... Commissioner of Crown Lands.

Received £ _____ Rent due.

..... Collector of Revenue.

Date 188____.

Lease or License signed, Date.....

Issued to..... Date.....

Ninth Schedule.

Exhibits:
Exhibit "C,"
Land
Regulations
of Western
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to that date.
October, 1885.

Western Australia.

FORM OF LICENSE TO OCCUPY PASTORAL LANDS.—CLASS I.

No. _____ District of _____

WHEREAS _____ of _____ hath been declared to be entitled to depasture stock upon the Crown Lands within the Colony of Western Australia, hereinafter specified, upon the terms and conditions hereinafter mentioned; Now therefore, I, Commissioner of Crown Lands for the said Colony, do hereby grant to the _____ the exclusive license, from and after the date hereof until the _____ day of _____ next, to depasture stock upon the land situate and bounded as shown in the diagram below; but excepting all reserves, purchased lands, unexpired tillage leases, and lands set apart for special occupation or otherwise under the existing, or any previous regulations, and within such boundaries:

_____ and containing _____ acres or thereabouts; subject, nevertheless, to all the provisions and conditions contained in the laws and regulations now in force for the letting, disposal and occupation of the Crown lands of Western Australia.

Applications for renewal of licenses must be deposited at the Land Office, on or before the last day of January in each year, accompanied with a fee of two shillings and sixpence.

Given under my hand, at Perth, on the _____ day of _____ 188

Commissioner of Crown Lands.

Land Regulations.
Tenth Schedule.

Exhibits:
Exhibit "C,"
Land
Regulations
of Western
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to that date.
October, 1885.

FORM OF APPLICATION FOR RENEWAL OF PASTORAL
LICENSE.

Place Date 188

I HEREBY apply for a renewal of the following Pastoral Licenses,
for the year 188 , under the existing Land Regulations, viz:—

10	Name in full and address of licensee.	No.	Acres.	District.	Rent.			Remarks.
					£	s.	d.	
								Applicants are requested not to write in this space.
					TOTAL £			

Signature

To the Commissioner of Crown Lands,
Perth, Western Australia.

Received this application, at o'clock on the day of
18 , with fee of two shillings and sixpence.

20 Commissioner of Crown Lands.

Received £ , being Rents due.
..... Collector of Revenue.

Date 18

Approved as shown above.
..... Commissioner of Crown Lands.

Date 18

Eleventh Schedule.

Exhibits:
Exhibit "C,"
Land
Regulations
of Western
Australia,
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11/10/1882,
as reprinted
in October,
1885, with
amendments
to that date.
October, 1885.

FORM OF PASTORAL LEASE.

No.

District of Western Australia.

VICTORIA, by the Grace of God, of the United Kingdom of Great Britain and Ireland Queen, Defender of the Faith, Empress of India, etc., etc., etc. To all to whom these Presents shall come, Greeting: Know Ye that We of our especial Grace, and in consideration of the sum of _____ to our Collector of Revenue for the Colony of Western Australia, already paid by _____ in the said Colony, hereinafter called the Lessee, and also in consideration of the rents hereinafter reserved on the part of the said Lessee, his _____ executors, administrators, and allowed assigns to be paid, and in exercise of the powers in this behalf to Us given by an Act of the Imperial Parliament, intituled "An Act to repeal the Acts of Parliament now in force respecting the disposal of the Waste Lands of the Crown in the Australian Colonies, and to make other provisions in lieu thereof," and by certain Regulations for the sale, letting, disposal, and occupation of the waste lands of the Crown within the said Colony, proclaimed and published by Our Governor of Our said Colony, made in pursuance of the provisions of the said Imperial Act, do by these Presents demise and lease unto the said lessee, ALL THAT piece or parcel of land described in the Schedule hereunder written, with the appurtenances; EXCEPT and always reserved to Us Our Heirs and Successors, full power during the term hereby granted, from time to time to sell to any person or persons all or any unsold portion of the said demised Premises, subject to any claim for improvements that may be lawfully made in pursuance of the said Regulations; also full power and absolute authority, at any time during the continuance of this demise, to make grants or sales of all or any part or parts of the said demised premises for public purposes; and also to except from sale, and reserve to Us, Our Heirs and Successors, or to resume and enter upon and dispose of in such other manner as for the public interest to Us, Our Heirs and Successors, may seem best, such part or parts of the said demised premises as may be required for public roads, or other internal communications by land or water, or for the use and benefit of the Aboriginal inhabitants of the country, or for purposes of Military defence, or as the sites of places of public worship, schools, or parsonages, or other public buildings, or as places for the interment of the dead, or places for the recreation and amusement of the inhabitants of any town or village, or as the sites of public quays or landing places on the sea coast or shores of navigable streams, or for the construction of railways or railway stations, or for the purpose of sinking shafts and digging for gems and jewels, and for coal, iron, copper, lead, or other minerals and metals, or for any other purposes of public defence, safety, utility, convenience, or enjoyment, or for

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30

40

otherwise facilitating the improvement and settlement of the Colony; and also permanently or for temporary use to lay out, declare open, and make public roads into, through, and out of or over any part of the said demised Premises; with the liberty to Our-selves, Our servants, agents, and workmen, to enter upon the said demised Premises, and dig for, quarry, and take away any indigenous produce, rock, soil, or other material required for public purposes; and to fell, cut, and remove all or any timber, sandalwood, or other woods growing or being thereon, and to issue licenses to any person
10 or persons, authorising him or them to cut, remove, and cart away the same, with full and free liberty to such licensed persons, at all reasonable times, of ingress, egress, and regress for such purposes; also to sell any mineral land comprised within the said demised Premises; and, subject to any rights of the Lessee aforesaid, to license, to occupy, or to sell any other portion of the said Premises at any time, with a right of immediate entry; also to depasture on the unenclosed or enclosed but otherwise unimproved portions of the said demised Premises any horses or cattle in the employment of the Government, working on or passing over the said demised
20 Premises; also for any person or persons to enter, pass over, through and out of any such part of the said demised Premises, while passing from one part of the country to another, with or without horses, stock, teams, or other conveyances, on all necessary occasions; and full right to the Aboriginal natives of the said Colony at all times to enter upon any unenclosed or enclosed but otherwise unimproved part of the said demised Premises for the purpose of seeking their subsistence therefrom in their accustomed manner; and also full right to any person or persons to enter on any part of the said demised Premises to examine the mineral capabilities thereof, and
30 to do all things necessary for the purpose of effectually making such examinations, but paying, nevertheless, full compensation for any damage arising therefrom. To HAVE AND TO HOLD the Premises hereby demised (except as aforesaid, and subject to the powers, reservations, and conditions herein and in the said Regulations contained, and with all the rights, powers, and privileges conferred by such of the said Regulations as are applicable hereto), unto the said Lessee, his Executors, Administrators, and allowed Assigns, for the term of _____ to be computed from the first day of _____ of _____ 18____, YIELDING AND PAYING for the
40 same, always in advance, during the said term, unto Us, Our Heirs and Successors, on or before the first day of March in each year, the sum of _____
[In the form of Lease of 2nd Class Lands
the following words to be added: "for each of the first seven years, and the sum of _____ for each of the last
years of this demise"] without deduction, except such deduction as the said Lessee, his Executors, Administrators, or allowed Assigns may be entitled to under the present existing or any future Land Regulations; the first of such annual payments to be made on or before the first day of March next, and all of such annual payments
50 to be made to the Collector of Revenue of Our said Colony at Perth, or to the Sub-Collector of Revenue residing nearest to the said demised Premises. Provided, nevertheless, and it is hereby declared,

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Land
Regulations
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October, 1885.**

Exhibits:
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 Land
 Regulations
 of Western
 Australia,
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 in October,
 1885, with
 amendments
 to that date.
 October, 1885.

that if the said rent be not paid in advance as aforesaid, on or before the first day of March in each and every year, then these Presents shall become void, and the term hereby granted shall be absolutely and indefeasibly forfeited, and it shall thereupon be lawful for Us, Our Heirs and Successors, into and upon the said demised Premises, or any part thereof in the name of the whole, to re-enter, and the same to have again, re-possess, and enjoy, as if this deed-poll had never been executed, without making any compensation to the said Lessee, his Executors, Administrators, or allowed Assigns. Provided that the said Lessee, his Executors, Administrators, or allowed Assigns, may at all times, during this demise, on any part of the [said Premises, or, Waste Lands of the Crown] fell, cut, and use any timber for his domestic and farm purposes, or for the construction of any building, fences, stockyards, or other improvements, and use any other materials for the like purposes, but so, nevertheless, that the said Lessee, his Executors, Administrators, and allowed Assigns, shall not sell the said timber or material, or use the same, or suffer it to be used, except on the said demised Premises. Provided, and it is hereby declared, that the term hereby demised shall not be transferable without the written approval of Our Commissioner of Crown Lands, and unless such transfer, when so approved, shall be made in the form provided in Schedule No. 18 of the Land Regulations of 1882; and that any transfer made or attempted to be made, without such consent, or in any other form than last aforesaid, shall be altogether inoperative at law and in equity, and shall not confer any right or interest to or in the said demised Premises upon the transferee; And that We, Our Heirs and Successors, are not, nor shall be liable or responsible for any error in the descriptive boundaries of the land hereby demised, which may be shown by any survey hereafter to be made of the said lands, nor for any deficiency in the quantity and acreage of the lands hereby demised caused by any such error as aforesaid, nor in respect of any claims which may be set up by any other person or persons to any part or parts of the said demised Premises. Provided, lastly, and it is hereby declared, that we, Our Heirs or Successors, shall not be liable to compensate the said Lessee, his Executors, Administrators, or allowed Assigns, for any loss or damage arising from the exercise of all or any of the powers or rights hereby reserved to Us, Our Heirs and Successors, save and except in so far as the same may be provided for by the said Regulations.

SCHEDULE HEREIN REFERRED TO.

In witness whereof We have caused Our Commissioner of Crown Lands to affix hereto his Seal and set his hand this
 day of 18 .

.....Commissioner of Crown Lands.

Twelfth Schedule.

FORM OF LEASE OF POISONED LANDS.

No.

District of Western Australia.

VICTORIA, by the Grace of God, of the United Kingdom of Great Britain and Ireland Queen, Defender of the Faith, Empress of India, etc., etc., etc. To all to whom these presents shall come, Greeting:

Whereas it has been represented to Us that the piece or parcel of land described in the Schedule hereunder written is "Poisoned land" within the meaning of the Regulations hereinafter mentioned; Now Know Ye that We, of Our especial Grace, certain knowledge and mere motion, and in consideration of _____ to our Collector of Revenue for the Colony of Western Australia, already paid by _____ in the said Colony, hereinafter called the lessee, and also in consideration of the rents hereinafter reserved on the part of the said lessee, his _____ executors, administrators, and allowed assigns, to be paid, and in exercise of the powers in this behalf to Us given by an Act of the Imperial Parliament, intituled "An Act to repeal the Acts of Parliament now in force respecting the disposal of the Waste Lands of the Crown in the Australian Colonies, and to make other provisions in lieu thereof," and by certain Regulations for the sale, letting, disposal, and occupation of the waste lands of the Crown within the said Colony, proclaimed and published by Our Governor of Our said Colony, made in pursuance of the provisions of the said Imperial Act, do by these Presents demise and lease unto the said lessee, All That piece or parcel of land described in the Schedule hereunder written, with the appurtenances; Except and always reserved to Us, Our Heirs and Successors, full power and absolute authority, at any time during the continuance of this demise, to make grants or sales of all or any part or parts of the said demised premises for public purposes; also to except from sale, and reserve to Us, Our Heirs and Successors, and to enter upon and dispose of in such other manner as for the public interest to Us, Our Heirs and Successors, may seem best, such part or parts of the said demised premises as may be required for public roads, or other internal communications by land or water, or for the use and benefit of the Aboriginal inhabitants of the country, or for purposes of military defence, or as the sites of places of public worship, schools, or parsonages, or other public buildings, or as places for the interment of the dead, or places for the recreation and amusement of the inhabitants of any town or village, or as the sites of public quays or landing places on the sea coast or shores of navigable streams, or for the construction of railways or railway stations, or for the purpose of sinking shafts, and digging for gems and jewels, coal, iron, copper, lead, or other minerals and metals, or for any other purposes of public defence, safety, utility, convenience, or enjoyment, or for otherwise facilitating the improvement and settlement of the Colony; and also permanently or for temporary use to lay out, declare open, and make public roads into, through, and out of or over

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any part of the said demised premises; with liberty to Ourselves, Our servants, agents, and workmen, to enter upon the said demised premises, and dig for, quarry, and take away any indigenous produce, rock, soil, or other material required for public purposes; and to fell, cut, and remove all or any timber, sandalwood, or other woods growing or being thereon, and to issue licenses to any person or persons, authorising him or them to cut, remove, and cart away the same, with full and free liberty to such licensed persons at all reasonable times of ingress, egress, and regress, for such purposes; also to sell any mineral land comprised within the said demised premises; with a right of immediate entry; also to depasture on the unenclosed or enclosed but otherwise unimproved portions of the said demised premises any horses or cattle in the employment of the Government, while working on or passing over the said demised premises; also for any person or persons to pass over, through, and out of any such part of the said demised premises, while passing from one part of the country to another, with or without horses, stock, teams, or other conveyances on all necessary occasions; also full right to the Aboriginal natives of the said Colony at all times to enter upon any unenclosed or enclosed but otherwise unimproved part of the said demised premises for the purpose of seeking their subsistence therefrom in their accustomed manner; also full right to any person or persons to enter on any part of the said demised premises to examine the mineral capabilities thereof, and to do all things necessary for that purpose; paying nevertheless full compensation for any damage arising therefrom. To Have and to Hold the Premises hereby demised except as aforesaid (and subject to the powers, reservations, and conditions herein and in the said Regulations contained), unto the said Lessee, his Executors, Administrators, and Allowed Assigns, for the term of Twenty-one years, to be computed from the first day of January, 18 : Yielding and Paying for the same, always in advance, during the said term, unto Us, Our Heirs and Successors, on or before the first day of March in each year, the rent or sum of without deduction, except such deduction as the said Lessee, his Executors, Administrators, or Allowed Assigns may be entitled to under the present existing or any future Land Regulations; the first of such annual payments to be made on or before the first day of March next, and all of such annual payments to be made to the Collector of Revenue of Our said Colony, at Perth, or to the Sub-Collector of Revenue residing nearest to the said demised premises. Provided nevertheless, and it is hereby declared, that if the said rent be not paid in advance as aforesaid, on or before the first day of March in each and every year, then these Presents shall become void, and the term hereby granted shall be absolutely and indefeasibly forfeited, and it shall thereupon be lawful for Us, Our Heirs and Successors, into and upon the said demised Premises, or any part thereof in the name of the whole, to re-enter, and the same to have again, re-possess, and enjoy as if this deed-poll had never been executed, without making any compensation to the said Lessee, his Executors, Administrators, or Allowed Assigns. Provided also, and it is hereby declared, that the said Lessee, his Executors, Administrators, or Allowed Assigns, may at all times,

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during this demise, on any part of the said premises, fell, cut, and use any timber for his domestic and farm purposes, or for the construction of any buildings, fences, stockyards, or other improvements, and use any other material for the like purposes, but shall not sell nor remove the same off the said demised Premises. Provided also, and it is hereby declared, that the said Lessee, his Executors, Administrators, and allowed Assigns shall be entitled at any time during the continuance, or on the expiration of the term hereby granted, to have a grant made in fee simple to him or them, subject to these
10 Regulations, of and in the said Premises (not being mineral land). Provided that the whole thereof shall be then completely fenced in with a good and substantial fence and the poisonous indigenous plants entirely eradicated therefrom according to the true intent and meaning of the said Regulations. Provided, also, and it is hereby further declared, that the term hereby demised shall not be transferable without the written approval of Our Commissioner of Crown Lands, nor unless such transfer, when so approved, shall be made in the form provided in Schedule No. 18 of the Land Regulations of 1882; and that any transfer made or attempted to be made, without such
20 consent, or in any other form than last aforesaid, shall be altogether inoperative at law and in equity, and shall not confer any right or interest to or in the said demised Premises upon the transferee; And that We, Our Heirs and Successors, are not, nor shall be liable or responsible for any error in the descriptive boundaries or quantity of land hereby demised, or in respect of any claims which may be set up by any other person or persons to any part or parts of the said demised Premises. Provided, lastly, and it is hereby declared, that We, Our Heirs or Successors, shall not be liable to compensate the said Lessee, his Executors, Administrators, or allowed Assigns, for any loss
30 or damage arising from the exercise of all or any of the powers or rights hereby reserved to Us, Our Heirs and Successors, save and except in so far as the same may be provided for by the said Regulations.

Schedule Herein Referred To.

In witness whereof We have caused Our Commissioner of Crown Lands to affix hereto his Seal and set his hand this day
of 18 .
..... Commissioner of Crown Lands.

Thirteenth Schedule.

Western Australia.

40

LICENSE TO OCCUPY POISONED LANDS FOR PASTORAL PURPOSES.

No.....

District of.....

WHEREAS , of , hath been declared to be entitled to depasture stock upon the Crown Lands within the Colony of Western Australia hereinafter specified, upon the terms and

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conditions hereinafter mentioned; Now therefore I,
Commissioner of Crown Lands for the said Colony, do hereby grant
the said the exclusive license from and after the
date hereof until the day of next,
to depasture stock upon the land situate and bounded as shown in
the diagram below; but excepting all reserves, purchased lands, un-
expired tillage leases, and any or other reservations lawfully made
under existing or any previous regulations, and within such
boundaries; and subject to the conditions more particularly set forth
in No. 89 of the Land Regulations of 1882:
and containing acres or thereabouts; and
subject, nevertheless, to all and any of the provisions and conditions
contained in the laws and regulations in force for the letting, dis-
posal, and occupation of the Crown Lands of Western Australia.

10

Given under my hand, at Perth, on the 18. of

..... Commissioner of Crown Lands.

Fourteenth Schedule.

Western Australia.

No.....

£1 0s. 0d. 20

FORM OF PERMIT TO SEARCH FOR MINERALS.

KNOW all men that I Commissioner of Crown
Lands, do hereby, in pursuance of the Land Regulations now in force,
give to of in consideration of
the sum of One pound by him duly paid, full license and authority
to enter upon the Crown Lands of Western Australia for the following
purpose, that is to say: For searching for Minerals. And this Permit
shall be in force for twelve calendar months from the date hereof,
unless the same is forfeited or rendered void, and shall be subject to
the restrictions, limitations, and conditions expressed in the aforesaid
Regulations. 30

Witness my hand this day of

18 .

..... Commissioner of Crown Lands.

Fifteenth Schedule.

No.....

FORM OF MINING LEASE.

District of..... Western Australia.

VICTORIA, by the Grace of God, of the United Kingdom of Great
Britain and Ireland Queen, Defender of the Faith, Empress of India, 40
etc., etc., etc. To all to whom these Presents shall come, Greeting:
Know Ye that We, of Our especial Grace, and in consideration of the
sum of to Our Collector of Revenue for the

Colony of Western Australia, already paid by (hereinafter called the Lessee), and also in consideration of the rents and stipulations hereinafter reserved and contained on the part of the said Lessee, his Executors, Administrators, and allowed Assigns, to be paid and done, and in exercise of the powers in this behalf to Us given by an Act of the Imperial Parliament, intituled "An Act to repeal the Acts now in force respecting the disposal of Waste Lands of the Crown in the Australian Colonies, and to make other provisions in lieu thereof," and by certain Regulations for the sale, letting, disposal, and occupation of the Waste Lands of the Crown within the said Colony, proclaimed and published by Our Governor of Our said Colony, and made in pursuance of the provisions of the said Act, and of all other powers enabling us in this behalf, do by these Presents grant and demise unto the said Lessee, his Executors, Administrators and allowed Assigns, All copper and lead mines, and veins, beds, nets, and bunches of copper and lead ore, and all other mines and minerals whatsoever (except the precious metals and coal, and gems and jewels) lying within or under All That Piece or Parcel of Land specified in the Schedule hereunder written, together with the said land, with full liberty, power, and authority, by themselves and their agents and servants, to enter upon the said lands hereby demised, or any part thereof, and there to break the surface and search for, work, win, and obtain, the said ores and minerals, and for that purpose to dig, sink, drive, and make pits, shafts, drifts, headways, levels, adits, soughs, trenches and sluices, and to build and make engines, furnaces, smelting houses, stamping mills, ore and store houses, hovels and stables, and other erections, and to sell, convert, and carry away, and otherwise appropriate such copper, lead, and other minerals to his and their own use and benefit, as well as all ores and minerals raised by him or them during any license held at the commencement of the term hereby granted; and to do all other things necessary or convenient as well for working the said mines as for refining the metals or minerals, and carrying off and removing all the water, slag, rubbish, and other annoyances from the works, and for the accommodation of the persons employed thereon; and to turn, change, or alter the course of water and rivulets within and on the said demised land and premises. And also liberty of access, ingress, egress, and passage at all times to the said Lessee, his Executors, Administrators, and allowed Assigns, and their servants, agents, and workmen, with or without horses or other animals and carriages and materials of all kinds. Except and reserved to Us, Our Heirs, and Successors, full power from time to time during the term hereby created, and the continuance of this demise, to make grants or sales of all or any part or parts of the said demised premises for public purposes, and also to except from sale and to reserve to Us, Our Heirs and Successors, and to enter upon, and dispose of in such other manner as for the public interest to Us, Our Heirs and Successors, may seem best, such part or parts of the said demised premises as may be required for Public roads, or other internal communications by land or water, or for the use and benefit of the Aboriginal inhabitants of the Country, or for purposes of Military defence, or as the sites of places of public worship, schools, or parsonages, or other Public buildings, or as places

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for the interment of the dead, or as places for the recreation and amusement of the inhabitants of any town or village, or as the sites of public quays or landing places on the sea coast or shores of navigable rivers or streams, or for the construction of railways or railway stations, or for purposes of Public defence, safety, utility, convenience, or enjoyment, or for digging for the precious metals, or for otherwise facilitating the improvement and settlement of the Colony; and also permanently or for temporary use to lay out, declare open, and make Public Roads into, through, and over any part of the said demised premises, with liberty to Ourselves, Our agents, and workmen, to enter upon the said demised premises to dig for, quarry, and take away any indigenous produce, rock, gravel, stone, soil, or other material required for Public purposes; and to fell, cut, and remove all or any timber, sandalwood, or other woods growing or being thereon, and to issue licenses to any person or persons, authorising him or them to cut, remove, and cart away the same, with full liberty to such licensed persons at all reasonable times of ingress, egress, and regress, for such purposes; and with the written consent of the said Lessee, his Executors, Administrators, and allowed Assigns, and notwithstanding the existence of any pre-emptive right to sell as mineral land any portion of the said demised land from time to time; also to depasture on the unenclosed portions of such lands any horses or cattle in the use of the Local Government, whilst working on or passing over the said lands; also liberty for any person or persons to enter, pass over, through, or out of any unenclosed part of the said lands on which there is a recognised road, whilst passing from one part of the Country to another, with or without horses, stock, teams, or other conveyances, on all necessary occasions; also full power and right to the Aboriginal natives at all times to enter upon any unenclosed or enclosed but otherwise unimproved part of the said land for the purpose of seeking their subsistence therefrom in their accustomed manner. To hold, use, and enjoy the said lands, minerals, ores, metals, powers, and premises, subject in all respects to the said Regulations, unto the said Lessee, his Executors, Administrators, and allowed Assigns, for the full term of seven years from the First day of January, 18 , Yielding and Paying for the same, always in advance, during the said term, the sum of five shillings per acre, on the First day of January in each year, without deduction, except such as may be made under the said Regulations; the said annual payments in advance to be made to Our Collector of Revenue, or to Our Sub-Collector of Revenue residing nearest to the said demised lands. Providing always, and it is hereby declared, that if the said rent be not paid in advance as aforesaid on the first day of January in each and every year, or within fifteen days next after such day, unless in that case within thirty days after the said first day of January in each year the said Lessee, his Executors, Administrators, and allowed Assigns, shall without demand duly pay to the said Collector of Revenue the full amount of such annual rent, with an additional sum equal in amount to one-half of the said annual rent; or if the said Lessee, his Executors, Administrators, or allowed Assigns, shall at any time during the term hereby created in any manner cultivate, break, or dig up any part of the said land, or use the same for any other purpose

than strictly and exclusively for mining purposes according to the true intent and meaning of these Presents, except for the purpose of growing fruit, vegetables, or garden produce, or if at any time during the continuance of this demise the said Lessee, his Executors, Administrators, or Assigns shall for the space of twelve calendar months fail or neglect to work and develop the mineral resources of the said demised lands, or if any clause, proviso, or condition of this Lease, or of the said Regulations, shall be infringed or broken by the said Lessee, his Executors, Administrators, or allowed Assigns; then, and

10 in either or any of such cases, it shall be lawful for Our Governor aforesaid, by a notice published in the *Government Gazette* of Our said Colony, to declare that this demise and the term hereby created is forfeited, and thereupon these Presents shall become void and the term hereby created shall be absolutely and indefeasibly forfeited; and it shall be lawful for Us, Our Heirs, and Successors, into and upon the said demised land, or any part thereof in the name of the whole, to re-enter and have again in Our and their former estate, without making to the said Lessee, his Executors, Administrators, or allowed Assigns, any compensation for any improvement or outlay thereon,

20 except the same shall be adjudged by Our Governor aforesaid. Provided that the said Lessee, his Executors, Administrators, and allowed Assigns, may at all times during this present demise depasture any horses and cattle working on the said demised land for such purposes, and shall and may use any indigenous timber, firewood, rock, and soil, growing and being on such land, for the construction of fences, buildings, implements, machinery, shafts, dams, sluices, stockyards, and other works and improvements thereon connected with mineral purposes (but shall not sell, or remove the same respectively from off such land). And it is declared that these Presents, and the term

30 hereby granted, shall not be transferable without the written consent of Our Commissioner of Crown Lands in the form provided in Schedule No. 18 of the Land Regulations of 1882, nor unless he shall be satisfied that mining operations on the said land have been carried on by the said Lessee, his Executors, Administrators, or allowed Assigns, and that all fees on any such transfer have been paid; and it is further declared that We, Our Heirs and Successors, are not nor shall be liable or responsible for any error in the descriptive boundaries, quantity, or qualities of the land hereby demised, or in respect of any claims which may be set up by any other person or persons to

40 any part or parts of the said lands; and shall not be liable to compensate the said Lessee, his Executors, Administrators, or allowed Assigns, for any loss or damage which may arise from the exercise of all or any of the powers hereby reserved, save and except in so far as may be provided for by the said Regulations: And provided, lastly, that these Presents, and the term hereby created, shall be subject to all the powers, provisos, and clauses set forth and contained in such Regulations above referred to, which relate to the leasing and disposal of mineral lands, as if the same had been particularly expressed and set forth herein.

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Schedule Herein Referred to.

In witness whereof we have caused Our Commissioner of Crown Lands to affix hereto his seal and set his hand this 18 . day of Commissioner of Crown Lands.

Land Regulations.
Sixteenth Schedule.

FORM OF APPLICATION FOR A MINING LEASE.

Place..... Date..... 188.....

I HEREBY apply for a Mining Lease of the portion of Crown Land 10 hereunder described, for the term of years under the Regulations applicable thereto.

Description of Boundaries are as shown below:—

Signature of Applicant

(If the land applied for is included within any existing pastoral lease or mining license, the particulars of such must here be stated, and a Certificate added that the land is known or supposed to contain minerals.)

To the Commissioner of Crown Lands,
Perth, Western Australia.

Office
References.
—
Applicants
are
requested
not to write
in this space.

20

Plan No.

Name in full length, address and calling of person to whom applicant wishes Lease to issue.	No. of Lease.	No. of Acres.	District.	Annual Rent.

Received £ deposit of rent on this application.
Commissioner of Crown Lands.
Date

Received this Application at o'clock on the day of , 18 .. , with fee of two shillings and sixpence.

..... Commissioner of Crown Lands.

Approved, as shown above, this day of , 18 .. .

..... Commissioner of Crown Lands.

Received £ , Rent due.

..... Collector of Revenue.

Date 18 ..

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Seventeenth Schedule.

10

Western Australia.

FORM OF SPECIAL TIMBER LICENSE.

No.....

WHEREAS of , has made application for a license to cut, saw, split, and remove Timber from all that piece or parcel of Crown Lands situate at in the District, in the Colony of Western Australia, containing acres, and has paid into the hands of Collector of Revenue for the said Colony, the sum of pounds shillings and pence; Now therefore I do hereby license
20 the said himself, his servants, and agents, to cut, saw, split, and remove Timber on and from the said land for the term of subject to the provisions of the laws and regulations now in force for the sale, letting, and disposal of the Crown Lands of Western Australia; but this license shall not authorise the said to remove timber in balk or for piles from the said piece or parcel of land.

Given under my hand, at on the day of 18 .. .

.....
Commissioner of Crown Lands.

Land Regulations.
Eighteenth Schedule.

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FORM OF TRANSFER OF A LEASE OR LICENSE OF CROWN
LANDS.

No.....

IN consideration of the payment to _____ of the sum of _____
hereby transfer all _____ right, title, and interest in _____
No. _____ to _____ as shown below.

(In cases where a portion of a Lease or License is transferred, the
position and boundaries of such portion must be clearly shown
at the foot of this form.)

10

Dated this _____ day of _____ 188 _____ .

Witness..... Signature.....

Name in full and Address of present Lessee or Licensee.	No. of Lease or License.		Acreage.		District.	Name in full and Address of Person to whom transferred.	Name and Address of Person to whom Certificate of Transfer is to be forwarded.
	Original.	Portion transferred.	Original.	Portion transferred.			

20

Received this transfer at _____ o'clock the _____ day of _____
188 _____, with fee of Ten shillings.

..... Commissioner of Crown Lands.

I approve the said Transfer, _____ Commissioner of Crown Lands.
Date.....

Transfer registered..... Certificate of Transfer issue to.....
Date.....

30

Stamp duty payable under the provisions of
"The Stamp Act, 1882."

Transfer or assignment of a lease of any lands { For every £5 and also for any fractional part of £5 of the amount or value of the consideration over £100 ... 6d.

Exemption.

Transfers or assignments of any lease of land issued under the Crown Land Regulations, in any case in which the amount or value of the consideration for such transfer or assignment does not exceed £100.

40

See section 45.

FORM OF CERTIFICATE OF TRANSFER OF A LEASE OR LICENSE OF CROWN LANDS.

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No. Crown Lands Office,
Perth, 188

THIS is to certify that, in accordance with application dated
, No. has this day been transferred from
to and that it now stands in the
latter name in the Records of this Office, as shown below:—

10	Name.	No.	Acres.	District.	Annual Rent.	
					1st term.	2nd term.

To Commissioner of Crown Lands.

EXHIBIT "C" (DEFENDANT).

LAND REGULATIONS.

1. The Regulations proclaimed on the 11th of October, 1882, and all other Regulations heretofore in force affecting the waste lands of the Crown in Western Australia are hereby revoked; but nothing herein contained shall affect or be construed to affect any contracts, or to prevent the fulfilment of any promises or engagements made by or on behalf of Her Majesty, under such Regulations, with respect to any lands situate within the said Colony, in cases where such contracts, promises, or engagements have been lawfully made before the time at which these Regulations shall take effect therein.

Former
Regulations
revoked.
Saving
existing
rights.

Exhibits:
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Regulations
1-3, 5, 16, 17,,
and second
schedule of
Land
Regulations
of Western
Australia.
Proclaimed
2/3/1887.

2. In these Regulations, unless the context necessarily requires a different meaning, the expression:—

Interpreta-
tion of
terms.

"Agricultural Area" means any Crown land set apart and declared as such by order of the Governor in Council.

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Australia.
Proclaimed
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"City or Town"—A city or town shall be such as shall have been declared to be so by order of the Governor in Council, notified in the *Government Gazette*.

"Commissioner" means the Commissioner of Crown Lands for the time being, or other officer appointed in that behalf by the Governor, charged with the administration of these Regulations or any part thereof.

"Crown Grant" means a deed of grant issued in the name of Her Majesty, conveying to the grantee some portion of Crown land in fee simple. 10

"Crown Lands" means the Waste Lands of the Crown within the Colony, that is to say, lands vested in Her Majesty, and not for the time being dedicated to any public purpose or granted or lawfully contracted to be granted in fee simple or with a right of purchase, under these or any previous Regulations.

"Fence" means any substantial fence, not being a brush fence, proved to the satisfaction of the Commissioner sufficient to resist the trespass of great stock. 20

"Frontage" means abuttal on or frontage to any sea-coast, lake, inlet, river, creek, stream, water-course, railway, road, or intended or designed road, as the Commissioner shall consider necessary to be considered a frontage.

"Governor" means the Officer for the time being administering the Government of the Colony of Western Australia. 30

"Governor in Council" means the Governor, acting with the advice of the Executive Council.

"Local Newspaper" means a newspaper published or circulated in the particular district or place in reference to which the expression is used.

"Minerals" means and includes coal, kerosene, shale, and any of the following metals, or any ore containing the same, *viz.*, copper, lead, tin, iron, and other substance which may from time to time be declared a mineral, within the meaning of these Regulations, by proclamation of the Governor in the *Government Gazette*. 40

"Pastoral Lease" means the lease of an area to any person for grazing purposes.

“Pastoral Lessee” means any person now or hereafter holding pastoral lands under lease from the Crown for pastoral purposes.

“Person” includes a partnership, company, or corporation.

“Prescribed” means prescribed by these Regulations.

10 “Public Purpose” means and includes, in addition to any purpose specified in these Regulations, any purpose declared by the Governor by notification in the *Government Gazette*, to be a public purpose within the meaning of these Regulations.

“Representatives” means the executors or administrators of the person with reference to whom the word is used and includes all persons in whom the estate or interest of such person is vested.

20 “Special Area” means any Crown lands set apart and declared as such by order of the Governor in Council.

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and second
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Proclaimed
2/3/1887.**

Part I.—General Administration.

30 3. The Governor is authorised, in the name and on behalf of Her Majesty, to dispose of the Crown lands within the Colony in the manner and upon the conditions prescribed by these Regulations, or by any Regulation amending or substituted for the same, and all grants and other instruments disposing of any portion of Crown lands in fee simple or for any less estate made in accordance with such Regulations shall be valid and effectual in law to transfer to and vest in possession in the purchasers the land described in such grants or other instruments for the estate or interest therein mentioned. The Governor is authorised to make such grants and other instruments upon such terms and conditions as to resumption of the land or otherwise as to him shall seem fit.

The Governor may dispose of Crown lands according to these Regulations.

Effect of Instruments.

40 5. All leases, licenses, and instruments disposing of Crown lands other than Crown grants shall be signed by the Commissioner, or other officer authorised in that behalf by the Governor. The Governor in Council may from time to time, by order to be notified in the *Government Gazette*, prescribe the forms of Crown grants, leases, licenses, and other instruments requisite for carrying these Regulations

Signature of instruments.

Form of Crown grants and other instruments.

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Australia.
Proclaimed
2/3/1887.**

into effect, and may make rules for all or any of the matters necessary for the due carrying out of the provisions of these Regulations; such rules not being contrary to the provisions of these Regulations. Until otherwise notified, the forms given in the Schedules hereto for Crown grants, leases, licenses, applications and other matters under these Regulations may be used, with such variations as circumstances may render necessary in any particular case.

Reservation of gold in grants.

16. All Crown grants issued under these Regulations shall contain a reservation of all gold, silver, and other precious metals in or under the land comprised therein. 10

Alluvial deposits, inferior metals, gems, and jewels may be reserved to the Crown.

17. In addition to any powers of resumption and to any rights of entry, and of cutting and taking timber, and of searching and digging for building and other materials, and to any reservation of mines of gold, silver, and other precious metals ordinarily contained in Crown grants, the Governor in Council may, from time to time, by order under his hand, direct whether any of the precious metals existing in the form of alluvial deposits, or any inferior metals, or any gems or jewels, shall be in like manner reserved to the Crown: in which case the forms of deeds of grant shall be modified accordingly. 20

Second Schedule.

FORM OF CROWN GRANT FOR RURAL LANDS.

**Exhibits:
Exhibit "C,"
Regulations
1-3, 5, 16, 17,
and second
schedule of
Land
Regulations
of Western
Australia.
Proclaimed
2/3/1887.**

Grant under "Land Regulations" of Western }
Australia. }
..... *Commissioner of Crown Lands.* }

VICTORIA, by the Grace of God, of the United Kingdom of Great Britain and Ireland Queen, Defender of the Faith, Empress of India, etc., etc., etc. To all to whom these Presents shall come, Greeting: 30
Know Ye that We, of Our especial Grace, certain knowledge, and mere motion, have given and granted, and We do by these Presents, for Us, Our heirs and successors, in consideration of paid to the satisfaction of Our Governor of Our Colony of Western Australia, Give and Grant unto

All that Tract or Parcel of Land situate and being in the District of in Our said Colony containing more or less, and marked and distinguished in the Maps and Books of the Survey Office of Our said Colony as and Bounded as the same is delineated in the plan 40 drawn in the margin hereof: Together with all Profits, Commodities, Hereditaments, and Appurtenances whatsoever thereunto belonging,

or in anywise appertaining. To Have and to Hold the said Tract or Parcel of Land, and all and singular the Premises hereby granted, with their appurtenances, unto the said heirs and assigns, for ever; and they yielding and paying for the same to Us, Our heirs and successors, one pepper-corn of yearly rent on the twenty-fifth day of March in each year, or so soon thereafter as the same shall be lawfully demanded. Provided, Nevertheless, that it shall at all times be lawful for Us, Our heirs and successors, or for any person or persons acting in that behalf by Our or their
 10 authority, to resume and enter upon possession of any part of the said Lands which it may at any time by Us, Our heirs and successors, be deemed necessary to resume for making any roads, tramways, railways, railway stations, bridges, canals, towing paths, or other works of public utility or convenience, and such lands so resumed to hold to Us, Our heirs and successors, as of Our or their former estate, without making to the said heirs and assigns, any compensation in respect thereof; so, nevertheless, that the Lands so to be resumed shall not exceed one-twentieth part, in the whole, of the Lands aforesaid, and that no such resumption be made of any
 20 Lands upon which any buildings may have been erected, or which may be in use as gardens, or otherwise, for the more convenient occupation of any such buildings; and provided, also, that it shall be lawful, at all times, for Us, Our heirs and successors, or for any person or persons acting in that behalf by Our or their authority, to cut and take away any such indigenous timber, and to carry away, search, and dig for any stones or other materials, which may be required for making or keeping in repair any roads, tramways, railways, railway stations, bridges, canals, towing paths, or other works of public utility or convenience. And we do hereby save and reserve to Us,
 30 Our heirs and successors, all mines of Gold, Silver, and other precious metals, in and under the said Land, with full liberty at all times to search and dig for, and carry away the same; and, for that purpose, to enter upon the said Lands or any part thereof.

In Witness whereof We have caused our trusty and well-beloved
 Governor and Commander-in-Chief of Our
 said Colony, to affix to these Presents the Public Seal of the said Colony.

Sealed this _____ day of _____ one
 thousand eight hundred and _____

40 **EXHIBIT "D" (PLAINTIFF).**

PRECIS OF AGREEMENT DATED 29th JUNE, 1893.

(Referred to in paragraph 5 of the statement of claim.)

The agreement recites the Waddington agreement dated the 27th February, 1886; the assignment of that agreement to the appellant dated the 23rd June, 1890; the agreement for the construction of the railway between the appellant and the contractor Keane, dated the 23rd June, 1890; an indenture between the appellant and an Insurance Corporation

**Exhibits:
 Exhibit "C,"
 Regulations
 1-3, 5, 16, 17,
 and second
 schedule of
 Land
 Regulations
 of Western
 Australia.
 Proclaimed
 2/3/1887.**

**Exhibits:
 Portion of
 Exhibit "D,"
 Debenture
 agreement
 between
 plaintiff and
 defendant
 State and
 others (agree-
 ment epitom-
 ized and
 certain
 clauses only
 reproduced).
 29th June,
 1893.**

**Exhibits:
Portion of
Exhibit "D,"
Debenture
agreement
between
plaintiff and
defendant
State and
others (agree-
ment epitom-
ised and
certain
clauses only
reproduced).
29th June,
1893.**

dated the 8th October, 1890, to secure debentures then to be issued by the appellant and various agreements relating to the issue of debentures by the appellant; that the appellant was indebted as therein mentioned; that the appellant had stopped all work in connection with the construction of the railway and had applied to the respondent to assist the appellant to raise further moneys to complete the railway and that by the Midland Railway Loan Act, 1893 (56 Vict. No. 19) the Colonial Treasurer was authorised to guarantee debentures to be issued by the appellant for £500,000.

10

The agreement provides that the appellant shall forthwith issue debentures for £500,000 in London and the respondent will execute a guarantee thereof and that by way of security for the payment by the appellant to the respondent of all moneys which may be paid by it under or in respect of such guarantee or which are or may be otherwise owing to the respondent under the agreement, the respondent shall have and be entitled to a first charge on inter alia 2,400,000 acres of land (thereinafter referred to as "the mortgaged lands") which the appellant was or might be entitled to select 20 by way of a subsidy for the construction and equipment of the railway.

The agreement then provided:—

"8. The mortgaged lands shall be vested in such persons or person as the Government may from time to time nominate, and the Government may execute grants of such lands accordingly, but so that the said nominee or nominees shall be deemed to be the Agent or Agents, not of the Company, but of the Government, and so also that subject to the 30 charge hereby given in favour of the Government, the mortgaged lands shall be held in trust for the Company, their successors and assigns. Provided that the vesting of the mortgaged lands in manner aforesaid shall not render the Government liable as mortgagee in possession of such lands. So long as the Government is under any liability in respect of the guarantee or so long as any moneys are owing to it under this agreement, none of the mortgaged lands shall, except under the last proviso to this clause, 40 be sold without the previous consent in writing of the Government and the proceeds of every sale of the mortgaged lands or any of them and all rents or profits arising from such of the same lands as shall for the time being remain unsold shall, subject to a deduction of 5 per cent. from the gross amount

thereof, be paid to the Government or as it may direct and shall from time to time be applied by the Government in the first place in or towards satisfaction of any moneys for the time being owing to it under this agreement, and in the next place and subject to the application aforesaid in or towards payment of the principal or interest for the time being or from time to time payable in respect of the New Debentures according to the tenor and conditions thereof and shall, as to any balance thereof remaining after the payments aforesaid, be invested by the Government in any of the investments hereinafter authorised and be held by the Government as an additional security for moneys paid under the guarantee or owing to it under this Agreement. Provided always that during any time or times when there shall not be owing from the Company to the Government any moneys under this agreement or by reason of any payment by the Government under the guarantee, the Company shall be entitled to call on the Government to apply any such balance as aforesaid or any part thereof or any investments representing the same at the option of the Company either in the redemption of the Debentures at par under the provisions thereof or in the purchase of the Debentures in the open market at prices not above par, to be approved by the Company. Provided also that if there shall at any time or from time to time be a danger of the Company incurring a forfeiture under the next succeeding clause by reason of the payments made by and owing to the Government coming to exceed the amount in such next clause mentioned or by reason of the Company not being able to pay before the expiration of the notice in such next clause mentioned, the moneys therein particularly mentioned then and in such case and so often as the same shall happen the Company shall be entitled for the purpose of avoiding such forfeiture (and so far only as may be reasonably necessary for such purpose) to sell any part or parts of the mortgaged lands either in blocks or in parcels at such prices as may from time to time be approved by the Government and the purchase money for the lands so sold shall be applicable solely for the purpose of avoiding forfeiture either by preventing the moneys owing to the Government from exceeding the amount in the next clause mentioned or by assisting to pay the moneys which have to be paid by the Company before the expiration of the aforesaid notice."

**Exhibits:
Portion of
Exhibit "D,"
Debenture
agreement
between
plaintiff and
defendant
State and
others (agree-
ment epitom-
ised and
certain
clauses only
reproduced).
29th June,
1893.**

**Exhibits:
Portion of
Exhibit "D,"
Debenture
agreement
between
plaintiff and
defendant
State and
others (agree-
ment epito-
mised and
certain
clauses only
reproduced).
29th June,
1893.**

"26. When and so soon as all liability of the Government under the guarantee has ceased and the Company shall have repaid to the Government any moneys paid by the Government under the guarantee or otherwise owing to the Government by the Company and secured by these presents, the Government shall, upon the request and at the cost of the Company, their successors and assigns, but subject always and without prejudice to the provisions of clause 9 hereof in case of a previous entry 10 by and forfeiture to the Government re-convey to the Company, their successors or assigns, the Railway undertaking and the mortgaged lands or so much thereof as shall not have been sold and any other property subject to this present security freed and discharged from any incumbrances or claim by the Government or any person or corporation claiming through or under the Government. Provided that nothing contained in this clause shall prejudice any rights or claims of the Government under the 20 original contract to or in respect of the said deposit."

Note.—Clause 9 (referred to in clause 26) provides that in case of default by the appellant the respondent shall have power to enter upon and take possession of the Railway undertaking and also so much of the mortgaged lands for the time being remaining unsold and that the deposit paid to the respondent in accordance with the agreement and all other moneys of the appellant in the hands of the respondent are to be forfeited to the respondent.

EXHIBIT "E" (PLAINTIFF).

30

Western Australia.

The Transfer of Land Act, 1893.

TRANSFER OF LAND.

WHEREAS by an agreement made and entered into the 29th day of June, 1893, between Sir Malcolm Fraser, of No. 15 Victoria Street, in the City of Westminster, K.C.M.G., Agent General for the Government of the Colony of Western Australia, of the first part; The Trustee, Executors and Securities Insurance Corporation Limited, of the second part; Edward Vivian Harvey Keane, of Perth, in the said Colony, 40 Contractor, of the third part, and The Midland Railway Company of Western Australia Limited (hereinafter called the Company), of the fourth part, for securing the repayment to the Government of Western Australia of all moneys which might be paid by it under or in respect of its guarantee of a certain issue of debentures by the Company and of any

**Exhibits:
Exhibit "E,"
Transfer No.
4286/1911
from Minister
for Lands to
plaintiff
(excluding
the
schedule).**

other moneys which were or might be otherwise owing to the Government under the said agreement, it was agreed that certain lands therein called the "mortgaged lands" to which the Company were entitled should be vested in persons nominated by the Government to be held subject to the charge given in favour of the Government by the Company in trust for the Company, their successors and assigns; and whereas grants from the Crown have been made of part of the said lands to the Minister for Lands and to the Commissioner of Crown Lands respectively as the nominees of the Government, and portions of the lands so granted have from time to time been sold by the Company with the consent of the Government and the Minister for Lands and the Commissioner for Crown Lands have at the request of the Company respectively executed transfers thereof to the purchasers but excepting and reserving unto the respective transferors and his successors in office and his and their transferees subject to the abovementioned agreement of the twenty-ninth day of June, 1893, certain mines, metals, ores, minerals and other substances and things hereinafter referred to as "mines and premises" in, upon and under the several parcels of land so sold and transferred as more particularly is expressed in the said several transfers by the said Minister and Commissioner; and whereas I, James Mitchell, am the present Minister for Lands and the successor in office of the Commissioner of Crown Lands and the registered proprietor of the said excepted mines and premises; and whereas I am satisfied that all the debentures issued by the Company under the said agreement have been redeemed by the said Company:

Now, therefore, I do at the request of the Company and in pursuance of the said agreement hereby transfer to the Midland Railway Company of Western Australia Limited all such mines and premises in, upon and under the lands respectively mentioned in the schedule to this transfer as have been excepted and reserved to the Minister for Lands or the Commissioner of Crown Lands by the transfers of such lands respectively which are respectively registered as stated in the same schedule and are now the subject of the respective certificates of title registered as also stated in the same schedule with all such powers, liberties and privileges relating to the said mines and premises as are contained or referred to in such transfers respectively, and all the estate, right, title, claim and demand of me, the said James Mitchell, as registered proprietor in, to and upon the same or any part thereof or in anywise relating thereto freed and absolutely discharged from all moneys secured or intended to be secured by the abovementioned agreement of the 29th June, 1893, and from all encumbrances or claims by the Government of Western Australia or any person or corporation claiming through or under the said Government.

Dated the 22nd day of February, 1911.

**Exhibits:
Exhibit "E,"
Transfer No.
4286/1911
from Minister
for Lands to
plaintiff
(excluding
the
schedule).**

EXHIBIT "F" (PLAINTIFF).

Western Australia.

The Transfer of Land Act, 1893.

TRANSFER OF LAND.

**Exhibits:
Exhibit "F,"
Transfer of
Land No.
1268/1911
from Minister
for Lands to
plaintiff
(excluding
the
schedules).
22nd
February,
1911.**

I, JAMES MITCHELL, of Perth, in the State of Western Australia, Esquire, Minister for Lands, in the said State, being registered as the proprietor of an estate in fee simple in the several pieces or parcels of land intended to be hereby transferred upon the trusts and subject to the terms and conditions contained in an agreement made and entered into the twenty- 10
ninth day of June, One thousand eight hundred and ninety-
three, between Sir Malcolm Frazer, of Number 15, Victoria Street, in the City of Westminster, K.C.M.G., Agent General for the Government of the Colony of Western Australia, of the first part; The Trustees Executors and Securities Insurance Corporation Limited, of the second part; Edward Vivian Harvey Keane, of Perth, in the said Colony, Contractor, of the third part, and The Midland Railway Company of Western Australia Limited, of the fourth part, for securing the repayment to the Government of Western Australia of all 20
moneys which might be paid by it under or in respect of its guarantee of a certain issue of debentures by the said Company and of any other moneys which were or might be otherwise owing to the Government under the said agreement; And being satisfied that all the debentures issued by the Company under the said agreement have been redeemed by the said Company do hereby in pursuance of the said agreement transfer to the said Midland Railway Company of Western Australia Limited all my estate and interest in all those 30
several pieces or parcels of land mentioned in the first
schedule to this transfer and the certificates of title of which lands are registered in the Register of Titles as stated in the same schedule, and also so much of all those several pieces or parcels of land mentioned in the second and third schedules respectively as remaining the subject of the several respective certificates of title thereof registered in the Register of Titles as stated in the said second and third schedules freed and absolutely discharged from all moneys secured or intended to be secured by the abovementioned agreement and from all incumbrances or claims by the Government of West- 40
ern Australia or any person or corporation claiming through or under the said Government.

Dated the 22nd day of February, 1911.

EXHIBIT "G" (PLAINTIFF).

The Midland Railway Company of Western Australia
Limited.

3rd December, 1951.

Under Secretary for Lands,
Department of Lands and Surveys,
Cathedral Avenue, Perth.

Exhibits:
Exhibit "G,"
Letter
plaintiff to
Under
Secretary for
Lands.
3rd
December,
1951.

Dear Sir,

Re Land Claims under Waddington Contract.

10 THIS Company's land claims under the Waddington
Contract will be fully satisfied by the issue of Crown Grants
for the following land:—

Victoria Location 9980.

Victoria Location 9981.

Victoria Location 9982.

Victoria Location 9983.

Victoria Location 9984.

Victoria Location 9999 (new selection West of
Watheroo).

20 Victoria Location 2024 (Arrowsmith).

Avon Location 27429.

Swan Location 5329.

It is understood that the forms of Grant have altered
since the last Grant was made to this Company in that lesser
minerals are being reserved to the Crown.

As you are no doubt aware, the Company at present
reserves mineral rights on all land transferred from its
original Grants by the inclusion of the following clause in its
transfers under the Transfer of Land Act, viz.:—

30 "Except and reserving unto The Midland Railway
Company of Western Australia Limited and its
transferees all mines of copper, tin, lead, coal, iron-
stone, phosphatic rock and other metals, ores or
minerals whatsoever and all substances containing
minerals or phosphates and all gems and precious
stones and mineral oil in, upon and under the said
land with full liberty at all times to search, mine,
bore for and carry away the same and for that
purpose to enter upon the said land or any part
40 thereof, and that without paying to the said
or his transferees any compensation
therefor."

Would you please advise the present intention regarding
the lesser minerals and whether it will be possible for this
Company to make the same reservations from the Crown
Grants now due to issue.

Yours faithfully,
Lands Superintendent.

EXHIBIT "H" (PLAINTIFF).

Department of Lands and Surveys,
Perth, 22nd February, 1952.

The General Manager,
Midland Railway Company of W.A. Ltd.,
81 St. George's Terrace,
Perth.

Dear Sir,

Re: Victoria Locations 9980, 9982
and Avon Location 27429.

10

Further to the call at this Department by your representative (Mr. Amoores) relative to the issue of the Crown Grants for the above lands, I regret that the Notices of Approval issued to you on the 7th instant were not framed in a manner suitable to the special circumstances of this case.

Certain restrictions as to depth limitation in the grant, and mineral reservations to the Crown and the Grantee Company, were embodied incorrectly in the notices.

It is recognised that the Company is entitled to a Crown 20 Grant under the conditions prevailing in 1895, that being the year of the completion of the Midland Railway line, and the grant of that period does not provide a depth limit, and definitely only reserves to the CROWN all mines of gold, silver and other precious metals.

The original Approval Notices having been handed in by Mr. Amoores, I am enclosing herewith new ones to rectify the position. Immediate action is being taken to prepare the Crown Grants, and notice should, shortly, be sent you that the documents have been forwarded to the Office of Land 30 Titles.

Yours faithfully,

E. R. DENNEY,
For Under Secretary for Lands.

28th February, 1952.

Under Secretary for Lands,
Department of Lands and Surveys,
Perth.

Dear Sir,

Re: Victoria Locations 9980 and 9982 and
Avon Location 27429.

40

I wish to acknowledge receipt of your letter 3606/92, Vol. 2, of 22nd inst., enclosing new Notice of Approval covering this Company's applications for the above-noted locations.

Your attention to this matter is appreciated and I desire to thank you for both the notices and for confirmation of the fact that this Company is entitled to the Crown Grants under the same conditions as its previous grants, i.e., pursuant to the provisions of the Guildford-Greenough Flats Railway Act, 1886.

Yours faithfully,
General Manager.

Exhibits:
Exhibit "H,"
Letter Under
Secretary for
Lands to
plaintiff and
letter in
reply.
22nd and 28th
February,
1952.

EXHIBIT "J" (PLAINTIFF).

10

Western Australia.

Transfer of Land Act, 1893-1946.

TRANSFER.

Registered 24th June, 1947.

THE MIDLAND RAILWAY COMPANY OF WESTERN AUSTRALIA LIMITED, of 81 St. George's Terrace, Perth, being registered as the proprietor of an estate or interest in all rights to all mines of copper, tin, lead, coal, ironstone phosphatic rock and other metals, ores or minerals whatsoever and all substances containing minerals, phosphates and
20 all gems, precious stones and mineral oil as reserved unto the said Company in the land hereinafter described in consideration of the sum of one shilling (1s.) paid to it by the Government of Western Australia, do hereby transfer and surrender unto His Majesty King George the Sixth all its said estate and interest in all those pieces of land being:—

(Here follows description of lands.)

Exhibits:
Exhibit "J,"
Transfer No.
8815/1947
from
plaintiff to
His Majesty
the King
(description
of lands
omitted).
12th June,
1947.

EXHIBIT "K" (PLAINTIFF).

Western Australia.

Transfer of Land Act.

30

TRANSFER.

Date of Registration, 4th September, 1953.

THE MIDLAND RAILWAY COMPANY OF WESTERN AUSTRALIA LIMITED, of 81 Saint George's Terrace, Perth, in the State of Western Australia, being registered as the proprietor of an estate or interest in all rights to all mines of copper, tin, lead, coal, ironstone and other metals, ores or minerals whatsoever and all substances containing minerals and all gems and precious stones and mineral oil as reserved unto the said Company in Transfer number 8550/1950 in

Exhibits:
Exhibit "K,"
Transfer No.
15179/1953
from
plaintiff to
the State
Housing
Commission.
2nd
September,
1953.

Exhibits:
Exhibit "K"
Transfer No.
15179/1953
from
plaintiff to
the State
Housing
Commission.
2nd
September,
1953.

the land hereinafter described in consideration of the sum of five pounds (£5) paid to it by the State Housing Commission, of Perth, do hereby transfer to the said the State Housing Commission all its said estate and interest in all those pieces of land being:—

Portion of Melbourne Location 908 and being lots 48 to 52 inclusive on Plan 2838, being part of the land comprised in Certificate of Title Volume 931, Folio 50.

Dated the second day of September, one thousand nine hundred and fifty-three. 10

EXHIBIT "L" (PLAINTIFF).

Department of Public Works,
Perth, 18th May, 1950.

The Manager,
Midland Railway Co. (W.A.) Ltd.,
81 St. George's Terrace, Perth.

Dear Sir,

Herewith please find an extract from the *Government Gazette* of the 12th May, 1950, giving notice of the resumption 20 of land for the purposes of State Housing at Moora.

Yours faithfully,

G. COCK,
Under Secretary for Works.

12th May, 1950.

Government Gazette, W.A.

State Housing Act, 1946; Public Works Act, 1902-1945.

LAND RESUMPTION.

State Housing at Moora.

NOTICE is hereby given and it is hereby declared that the 30 several pieces or parcels of land described in the schedule hereto—being all in the Melbourne District—have, in pursuance of the written approval and consent of His Excellency the Governor, acting by and with the advice of the Executive Council, dated the 10th day of May, 1950, been set apart, taken or resumed for the purposes of the following public work, namely:—State Housing at Moora.

And further notice is hereby given that the said pieces or parcels of land so set apart, taken, or resumed are marked off and more particularly described on Plan P.W.D., W.A. 40 32221, which may be inspected at the office of the Minister for Works, Perth.

Exhibits:
Exhibit "L,"
File of
correspond-
ence with
Government
of Western
Australia
concerning
mineral
rights on
land resumed
for State
Housing.
18th May,
1950 to 26th
July, 1951.

And it is hereby directed that the said lands shall vest in The State Housing Commission for an estate in fee simple in possession for the public work herein expressed, freed and discharged from all trusts, mortgages, charges, obligations, estates, interests, rights-of-way, or other easements whatsoever.

Exhibits:
Exhibit "L,"
File of
correspondence with
Government
of Western
Australia
concerning
mineral
rights on
land resumed
for State
Housing.
18th May,
1950 to 26th
July, 1951.

		Schedule.		
	No. on Plan P.W.D., W.A. No. 32221.	Owner or Reputed Owner.	Description	Area. a. r. p.
10	1 and 2	The Midland Railway Company of West- ern Australia Lim- ited.	Mineral Rights in portions of Melbourne Location 908, being lots 11 and 14 on L.T.O. Plan 2838 (Cer- tificate of Title Volume 172, Folio 44)	0 2 0
20	3 and 4	The Midland Railway Company of West- ern Australia Lim- ited.	Mineral Rights in portions of Melbourne Location 908, being lots 46 and 47 on L.T.O. Plan 2838 (Cer- tificate of Title Volume 931, Folio 50)	0 2 1.1

Certified correct this 9th day of May, 1950.

D. BRAND,
Minister for Works.

JAMES MITCHELL,
Governor in Executive Council.

Dated this 10th day of May, 1950.

31st May, 1950.

30 The Under Secretary for Works,
Public Works Department, Perth.

Dear Sir,

I have for acknowledgment your letter of the 18th May, reference P.W. 486/50, enclosing an extract from the *Government Gazette* of the 12th May, 1950, for which I thank you.

It would appear from the Notice of Resumption that the land concerned is to be used for erecting houses on, and if this is so, the question arises of the payment to this Company of compensation for the mineral rights resumed, and I shall
40 be pleased to receive information from you on this point.

Yours faithfully,

Lands Superintendent.

Exhibits:
Exhibit "L,"
File of
correspond-
ence with
Government
of Western
Australia
concerning
mineral
rights on
land resumed
for State
Housing.
18th May,
1950 to 26th
July, 1951.

Department of Public Works,
Perth, 20th June, 1950.

The Lands Superintendent,
Midland Railway Co. of W.A. Ltd.,
81 St. George's Terrace, Perth.

Dear Sir,

I have for acknowledgment your letter of the 31st May, reference 732/665, and have to advise that this resumption is subject to section 15 of the Public Works Act, which provides that only such parts of mineral rights "as shall be necessary for the proper and effectual construction, support and maintenance" of the public works are taken. 10

In these circumstances it is suggested that no claim for compensation is warranted.

Yours faithfully,
W. WILLIAMS,
Under Secretary for Works.

26th June, 1950.

The Under Secretary for Works,
Public Works Department, Perth.

20

Dear Sir,

Resumption of Mineral Rights.

I have for acknowledgment your letter P.W. 486/50, dated 20th June, for which I thank you.

Would you please advise me the nature of the public works which it is proposed to erect on lots 11, 14, 46 and 47, all shown on Lands Titles Office Plan 2838.

Yours faithfully,
Lands Superintendent.

Department of Public Works,
Perth, 19th July, 1950.

30

Lands Superintendent,
Midland Railway Company of W.A.,
81 St. George's Terrace, Perth, W.A.

Dear Sir,

With reference to your letter of the 26th ultimo regarding your enquiry as to the nature of the proposed erections on lots 11, 14, 46 and 47, I have to advise that this land has been resumed on behalf of the State Housing Commission for the purpose of the erection of houses thereon. 40

Yours faithfully,
W. WILLIAMS,
Under Secretary for Works.

2nd August, 1950.

Under Secretary for Works,
Department of Public Works, Perth, W.A.

Dear Sir,

Resumption of Mineral Rights.

I am in receipt of your letter P.W. 486/50 of the 19th ultimo and note that it is proposed to erect houses on behalf of the State Housing Commission on Moora Lots 11, 14, 46 and 47.

- 10 As you are aware, section 15 clause (1) of the Public Works Act reads fully as follows:—

“When any land is taken by the Governor or by any local authority for the construction or providing of any public works, the right to any mines of coal or other minerals under such land shall not be included in such taking, except only such parts thereof as shall be necessary for the proper and effectual construction, support, and maintenance of such works.”

- 20 It is suggested in this instance that housing is not in a strict sense a public work in terms of the Public Works Act. I therefore maintain that this Company has a right to compensation for the mineral rights resumed.

Your further reply to this matter would be appreciated.

Yours faithfully,

A. H. AMOORE,
Lands Superintendent.

Department of Public Works,
Perth, 19th September, 1950.

- 30 The Lands Superintendent,
Midland Railway Company of Western Australia Limited,
81 St. George's Terrace, Perth.

Dear Sir,

In reply to your letter of the 2nd August regarding resumption of land at Moora for State Housing, I have to inform you that it is not denied that the Midland Railway Company has a right to claim compensation for mineral rights taken.

**Exhibits:
Exhibit "L,"
File of correspond-
ence with
Government
of Western
Australia
concerning
mineral
rights on
land resumed
for State
Housing.
18th May,
1950 to 26th
July, 1951.**

Exhibits:
Exhibit "L,"
File of
correspond-
ence with
Government
of Western
Australia
concerning
mineral
rights on
land resumed
for State
Housing.
18th May,
1950 to 26th
July, 1951.

The taking of mineral rights is, however, restricted by section 15 of the Public Works Act, as stated in our correspondence and subject to such restricted resumption the mineral rights in the land will remain vested in the Company by registration at the Titles Office.

As the work proposed is presumably identical with the purpose for which the land was subdivided and sold by the Company, it is logical to suggest that no monetary loss has been sustained in this respect.

In other words, are not the mineral rights still capable 10
of exploitation to the same extent as they would have been if the land had remained in the titles of, and had been built upon by, the purchasers from the Company?

To my mind it would be extremely difficult for the Company to establish a basis for assessment of compensation and in the circumstances it is felt that the Company might see fit not to claim.

Yours faithfully,
W. WILLIAMS,
Under Secretary for Works. 20

21st November, 1950.

Under Secretary for Works,
Department of Public Works, Perth.

Dear Sir,

I acknowledge receipt of your letter No. P.W. 486/50, dated 19th September, 1950, regarding the mineral rights on four (4) town lots at Moora acquired by the State Housing Commission.

Paragraph 2 of your above-quoted letter is not understood. Reference to the Titles Office discloses that the 30
mineral rights on the blocks in question now vest fully with the State Housing Commission and do not appear to have been reserved to this Company as stated by you.

In the circumstances, it is considered that compensation for the loss of mineral rights, as originally claimed by this Company, is payable. It is this Company's intention, however, to claim only nominal compensation and you are asked to accept a debit, in this connection, of 5s. per block as per statement herewith.

I should be pleased to receive payment of this amount 40
in due course.

Yours faithfully,
General Manager.

Under Secretary for Works,
Department of Public Works, Perth.
(Incorporated in England.)

To:

Nominal Compensation for loss of mineral rights on
four (4) Town Lots at Moora, at 5s. per lot £1 0 0

Perth, W.A., 21st November, 1950.

Department of Public Works,
Perth, 19th February, 1951.

- 10 The General Manager,
Midland Railway Company of W.A. Ltd.,
81 St. George's Terrace, Perth.

Dear Sir,

I refer to your letter of 21st November, 1950, regarding mineral rights on four Town Lots at Moora resumed for State Housing and have to point out that I am still of the opinion that the Company has not suffered any assessable loss through the resumption.

- 20 However, I am prepared to give further consideration to payment as requested, particularly if your Company is agreeable to transfer the whole of the mineral rights on the lots concerned.

This may provide some justification for the payment of compensation as it would facilitate subsequent dealings in the land under the State Housing Act.

Yours faithfully,
W. WILLIAMS,
Under Secretary for Works.

10th March, 1951.

- 30 Under Secretary for Works,
Department of Public Works, Perth.

Dear Sir,

Mineral Rights—Moora Town Lots.

I acknowledge receipt of your letter P.W. 486/50 of the 19th ultimo regarding mineral rights on four Town Lots at Moora.

Further consideration has been given to this matter and I now wish to advise you that this Company would be prepared to transfer the whole of the mineral rights on Moora Lots

**Exhibits:
Exhibit "L,"
File of
correspond-
ence with
Government
of Western
Australia
concerning
mineral
rights on
land resumed
for State
Housing.
18th May,
1950 to 26th
July, 1951.**

Exhibits:
Exhibit "L,"
File of
correspond-
ence with
Government
of Western
Australia
concerning
mineral
rights on
land resumed
for State
Housing.
18th May,
1950 to 26th
July, 1951.

11, 14, 46 and 47 to the State Housing Commission on payment of the nominal compensation of 5s. per lot, as detailed in the statement attached to my letter of the 21st November last.

Should your Department be agreeable to this procedure, I would be pleased to sign the necessary transfer in due course.

Yours faithfully,
General Manager.

Crown Law Department,
Perth, 8th May, 1951.

10

General Manager,
The Midland Railway Company of Western Australia,
81 St. George's Terrace, Perth.

Dear Sir,

Mineral Rights—Moora Town Lots.

Further to your letter AHA/JMB 2468/665 of 10th March to the Under Secretary for Works, I have been instructed to submit to you a transfer of the mineral rights of lots 11, 14, 46 and 47 in favour of the State Housing Commission for 20 execution by the Attorney for the Company.

On completion of the form I will attend to registration and pay the costs incidental thereto.

A cheque for £1 will be forwarded in settlement on registration of transfer.

Yours faithfully,
KEVIN G. WALSH,
Asst. Crown Solicitor.

30th May, 1951.

Assistant Crown Solicitor,
Crown Law Department, Perth.

30

Dear Sir,

Mineral Rights—Moora Town Lots.

Further to your letter of 1719/51 of the 8th inst., I now enclose transfer executed by this Company covering mineral rights on Moora Lots 11, 14, 46 and 47 in favour of the State Housing Commission.

Settlement will be anticipated following the registration of the transfer.

Yours faithfully,
A. H. AMOORE,
Lands Superintendent.

40

20th July, 1951.

Assistant Crown Solicitor,
Crown Law Department, Perth, W.A.

Dear, Sir,

Mineral Rights—Moora Town Lots.

Further to my letter of the 30th May last and to your correspondence 1719/51, may I remind you that cheque in settlement of the agreed consideration for these mineral rights has not yet been received.

10 *Mineral Rights—Lots M292, M62 and M63.*

It is also noted reference your correspondence 426/47 that settlement of the consideration for the mineral rights on the above lots has not yet been effected.

I shall be pleased if you will arrange for settlement as soon as possible.

Yours faithfully,
A. H. AMOORE,
Lands Superintendent.

Crown Law Department,
Perth, 26th July, 1951.

20 The Manager,
Midland Railway Company of Western Australia,
81 St. George's Terrace, Perth.

Dear Sir,

Mineral Rights—Moora Town Lots.

I acknowledge receipt of your letter of 20th instant and in reply enclose herewith my cheque for 19s. 11d. (being £1 less receipt duty 1d.) in settlement of the purchase of the above rights from your Company.

30 Some delay has been occasioned by the necessity for the State Housing Commission to obtain a new certificate of title for the land held in fee simple in order that the mineral rights may be included therein.

In respect of the payment of one shilling for the mineral rights for lots M292, M62 and M63, I have to advise that the file is at present in the possession of the Lands Department to effect the closure of certain roads in that area, and a settlement will be effected as soon as possible after its return to me.

40 Yours faithfully,
KEVIN G. WALSH,
Asst. Crown Solicitor.

Exhibits:
Exhibit "L,"
File of correspond-
ence with
Government
of Western
Australia
concerning
mineral
rights on
land resumed
for State
Housing.
18th May,
1950 to 26th
July, 1951.

Exhibits:
Exhibit "M,"
Transfer No.
13935/1951
from plaintiff
to State
Housing
Commission.
25th May,
1951.

EXHIBIT "M" (PLAINTIFF).

Western Australia.

Transfer of Land Act, 1893-1950.

TRANSFER.

THE MIDLAND RAILWAY COMPANY OF WESTERN AUSTRALIA LIMITED, of 81 St. George's Terrace, Perth, being registered as the proprietor of an estate or interest in all mines of copper, tin or other metals, ore and minerals or other substances containing metals and all gems, precious stones and coal or mineral oil or phosphatic rock as reserved 10
unto the Midland Railway Company of Western Australia Limited by virtue of Transfers numbered 3012/1907, 4286/1911 and 5182/1933 in the land hereinafter described in consideration of the sum of One pound (£1) paid to it by The State Housing Commission, of Plain Street, East Perth, do hereby transfer unto The State Housing Commission all its said estate and interest in all those pieces of land being:—

Portion of Melbourne Location 908 being lots 11 and 14 on Plan 2838 being portion of the land comprised in Certificate of Title, Volume 172, Folio 44. 20

Portion of Melbourne Location 908 being lots 46 and 47 on Plan 2838 being portion of the land comprised in Certificate of Title, Volume 932, Folio 50.

Dated this twenty-fifth day of May, 1951.

Exhibits:
Exhibit "N."
Specimen
form of
Crown Grant
to plaintiff
under Land
Regulations.

EXHIBIT "N" (PLAINTIFF).

Form of Crown Grant of Land granted to the Plaintiff Company by the Governor of the State of Western Australia. Crown Grants made to the Plaintiff Company by the Governor were substantially in this form.

GRANT UNDER "LAND REGULATIONS OF WESTERN AUSTRALIA." 30

Grant under
Land Regu-
lations of
Western Aus-
tralia."

VICTORIA, by the Grace of God, of the United Kingdom of Great Britain and Ireland Queen, Defender of the Faith, Empress of India, etc., etc., etc. To all to whom these presents shall come, GREETING: Know Ye that We, of Our especial Grace, certain knowledge, and mere motion, have given and granted, and We do by these Presents, for Us, Our heirs and successors, in pursuance of a certain Contract made and entered into on the twenty-seventh day of February, One thousand eight hundred and eighty-six, between the Govern- 40
ment of Our Colony of Western Australia and John Waddington, for the construction of a Railway from Guildford to the

Greenough Flats on the Land Grant System (which said Contract has been assigned to the MIDLAND RAILWAY COMPANY OF WESTERN AUSTRALIA, LIMITED) and in consideration of the due performance of certain of the terms and conditions of the said Contract to the satisfaction of the Government of Our said Colony, Give and Grant unto the MIDLAND RAILWAY COMPANY OF WESTERN AUSTRALIA, LIMITED, ALL THAT Tract

or Parcel of Land situate and being in the District of.....

10 in Our said Colony containing..... acres, more or less, and marked and distinguished in the Maps and Books of the Survey Office of Our said Colony as

..... and Bounded

as the same is delineated in the plan drawn in the margin hereof; TOGETHER with all Profits, Commodities, Hereditaments, and Appurtenances whatsoever thereunto belonging, or in anywise appertaining. TO HAVE AND TO HOLD the

20 said Tract or Parcel of land, and all and singular the Premises granted, with their appurtenances, unto the said MIDLAND RAILWAY COMPANY OF WESTERN AUSTRALIA, LIMITED, their successors and assigns, for ever; they yielding and paying for the same to Us, Our heirs and successors, one pepper-corn of yearly rent on the twenty-fifth day of March in each year, or so soon thereafter as the same shall be lawfully demanded. PROVIDED, NEVERTHELESS, that it shall at all times be lawful for Us, Our heirs and successors, or for any person or persons acting in that behalf

30 by Our or their authority, to resume and enter upon possession of any part of the said Lands which it may at any time by Us, Our heirs and successors, be deemed necessary to resume for making any roads, tramways, railways, railway stations, bridges, canals, towing-paths, or other works of public utility or convenience, and such Lands so resumed to hold to Us, Our heirs and successors, as of Our or their former estate without making to the said MIDLAND RAILWAY COMPANY OF WESTERN AUSTRALIA, LIMITED, their successors and assigns, any compensation in respect thereof; so, nevertheless, that the Lands so to be resumed shall not

40 exceed one-twentieth part, in the whole, of the Lands aforesaid, and that no such resumption be made of any Lands upon which any buildings may have been erected, or which may be in use as gardens, or otherwise, for the more convenient occupation of any such buildings; and provided, also, that it shall be lawful, at all times, for Us, Our heirs and successors, or for any person or persons acting in that behalf by Our or their authority, to cut and take away any such indigenous timber, and to carry away, search, and dig for any stones or other materials, which may be required for making or keeping

50 in repair any roads, tramways, railways, railway stations, bridges, canals, towing-paths, or other works of public

Exhibits:
Exhibit "N."
Specimen
form of
Crown Grant
to plaintiff
under Land
Regulations.

Commis-
sioner of
Crown
Lands.

**Exhibits:
Exhibit "N."
Specimen
form of
Crown Grant
to plaintiff
under Land
Regulations.**

utility or convenience. And we do hereby save and reserve to Us, Our heirs and successors, all mines of Gold, Silver, and other precious metals, in and under the said Land, with full liberty at all times to search and dig for and carry away the same; and, for that purpose, to enter upon the said Lands or any part thereof.

Scale
Chains to
an Inch.

IN WITNESS whereof We have caused Our trusty and well-beloved Governor and Commander-in-Chief of Our said Colony, to affix to these presents the Public Seal of the said Colony.

10

Surveyed by

Sealed this day of One thousand eight hundred and

**SURVEYOR
GENERAL.**

**Exhibits:
Exhibit "O,"
Crown Grant
volume 1170
folio 174 to
plaintiff
(diagram
omitted).
20th May,
1951.**

EXHIBIT "O" (PLAINTIFF).

**GRANT UNDER "LAND REGULATIONS OF
WESTERN AUSTRALIA."**

(Sgd.) E. K HOAR,
Minister for Lands.

Volume 1170, Folio 174.

ELIZABETH THE SECOND, by the Grace of God, of Great Britain, Ireland, and the British Dominions beyond the Seas, Queen, Defender of the Faith: To all to whom these Presents shall come Greeting: Know ye that We, of our especial Grace, certain knowledge, and mere motion, have given and granted, and We do by these Presents, for Us, our heirs and successors, in consideration and in pursuance of a certain contract made and entered into on the twenty-seventh day of February, One thousand eight hundred and eighty-six between the Government of our Colony of Western Australia and John Waddington, for the construction of a railway from Guildford to the Greenough Flats on the Land Grant System (which said Contract has been assigned to the Midland Railway Company of Western Australia, Limited), and in consideration of the due performance of certain of the terms and conditions of the said Contract to the satisfaction of the Government of Our said Colony, Give and Grant unto the Midland Railway Company of Western Australia Limited all that Tract or Parcel of Land situate and being in the District of Victoria in Our State of Western Australia, containing fourteen thousand seven hundred and sixteen acres,

20

30

40

more or less, and marked and distinguished in the Maps and Books of the Survey Office of Our said State as Victoria Location 2024 and as the same is delineated in the plan drawn in the margin hereof: Together with all Profits, Commodities, Hereditaments, and Appurtenances whatsoever thereunto belonging, or in anywise appertaining to Have and to Hold the said Tract or Parcel of Land, and all and singular the Premises hereby granted, with their appurtenances unto the said Midland Railway Company of Western Australia

10 Limited, their successors and assigns, for ever; they yielding and paying for the same to Us, Our heirs and successors, one pepper-corn of yearly rent on the twenty-fifth day of March in each year, or so soon thereafter as shall be lawfully demanded Provided Nevertheless, that it shall at all times be lawful for Us, Our heirs and successors, or for any person or persons acting in that behalf by Our or their authority to resume and enter upon possession of any part of the said lands which it may at any time by Us, Our heirs and successors, be deemed necessary to resume for making any roads,

0 tramways, railways, railway stations, bridges, canals, towing-paths, or other works of public utility or convenience, and such Lands so resumed to hold to Us, Our heirs and successors, as of Our or their former estate without making to the said Midland Railway Company of Western Australia, Limited, their successors or assigns, any compensation in respect thereof; so, nevertheless, that the Lands so to be resumed shall not exceed one-twentieth part, in the whole, of the Lands aforesaid, and that no such resumption be made of any lands upon which any buildings may have been

30 erected, or which may be in use as gardens, or otherwise, for the more convenient occupation of any such buildings; and provided also that it shall be lawful, at all times, for Us, Our heirs and successors, or for any person or persons acting in that behalf by Our or their authority, to cut and take away any such indigenous timber, and to carry away, search, and dig for any stones or other materials which may be required for making or keeping in repair any roads, tramways, railways, railway stations, bridges, canals, towing-paths or other works of public utility and convenience. And we

40 do hereby save and reserve to Us, Our heirs and successors, all mines of Gold, Silver and other precious metals, in and under the said Land with full liberty at all times to search and dig for and carry away the same; and for that purpose, to enter upon the said lands or any part thereof.

Exhibits:
Exhibit "O,"
Crown Grant
volume 1170
folio 174 to
plaintiff
(diagram
omitted).
20th May,
1951.

In witness whereof We have caused Our trusty and well-beloved Lieutenant General Sir Charles Henry Gairdner, Knight Commander of the Most Distinguished Order of Saint Michael and Saint George, Companion of the Most Honourable Order of the Bath, Commander of the Most

Exhibits:
Exhibit "O,"
Crown Grant
volume 1170
folio 174 to
plaintiff
(diagram
omitted).
20th May,
1951.

Excellent Order of the British Empire, Governor of Our said State, to affix to these Presents the Public Seal of the said State.

Sealed this twentieth day of May, one thousand nine hundred and fifty-three.

(Sgd.) CHARLES GAIRDNER,
Governor.

*Certificate of Title under the Transfer of Land Act,
1893-1950.*

The abovenamed Grantee is now the registered 10
Proprietor of an estate in fee simple subject to easements
and encumbrances notified hereunder in all the land
described in this Grant.

Dated this twenty-first day of May, One thousand nine
hundred and fifty-three.

(Sgd.) L. F. SYMES,
Assistant Registrar of Titles.

EXHIBIT "Q" (PLAINTIFF).

Western Australia.

The Petroleum Act, 1936-1949.

20

PERMIT TO EXPLORE.

No. 27H

Fee, £100.

In accordance with the provisions of Part IV. of "The Petroleum Act, 1936," as amended by No. 8 of 1940, I have this day issued to WEST AUSTRALIAN PETROLEUM PTY. LIMITED this Permit to Explore for Petroleum within the area described on back hereof. (This permit will expire on 22nd October, 1954, unless renewed in accordance with section 35.)

Dated at Perth the 23rd day of October, 1952.

30

G. F. FLANAGAN,
Officer authorised to issue.

This Permit is Not Transferable.

Description of Ground.—Commencing at the point of inter-
section of the 115° 40' meridian of east longitude and the
26° 25' parallel of south latitude; thence south-easterly
to the intersection of the 116° 29' meridian of east longi-
tude and the 35° 3' parallel of south latitude; thence
north-westerly to the intersection of the 116° meridian
of east longitude and the 34° 57' parallel of south latitude; 40
thence north-westerly to the intersection of the 115° 6'
meridian of east longitude and the 34° 28' parallel of
south latitude; thence north-westerly to the intersection

Exhibits:
Exhibit "Q,"
Permit to
explore for
petroleum
date 23/6/1954
(expired
prior to date
of hearing:
Chief Justice
directed pro-
ceedings
against West
Australian
Petroleum
Pty. Limited
to be stayed
and question
of costs re-
served with
liberty to
West
Australian
Petroleum
Pty. Limited
to apply to
remove stay
at any
time).

10 of the 114° 56' meridian of east longitude and the 34° 16' parallel of south latitude; thence due north to the 33° 25' parallel of south latitude; thence north-easterly to the intersection of the 115° 25' meridian of east longitude and the 31° 48' parallel of south latitude; thence north-westerly to the intersection of the 115° 6' meridian of east longitude and the 31° 35' parallel of south latitude; thence north-westerly to the intersection of the 114° 18' meridian of east longitude of the 28° 33' parallel of south latitude; thence north-westerly to the intersection of the 113° 53' meridian of east longitude and the 28° 15' parallel of south latitude; thence due north to the 27° 27' parallel of south latitude; thence north-westerly to the intersection of the 113° 18' meridian of east longitude and the 26° 42' parallel of south latitude and thence north-easterly to the point of commencement—including all islands and submerged areas beyond the high tide line and within the above boundaries.

**Exhibits:
Exhibit "Q,"
Permit to
explore for
petroleum
date 23/6/1954
(expired
prior to date
of hearing:
Chief Justice
directed pro-
ceedings
against West
Australian
Petroleum
Pty. Limited
to be stayed
and question
of costs re-
served with
liberty to
West
Australian
Petroleum
Pty. Limited
to apply to
remove stay
at any
time).**

EXHIBIT "I" (DEFENDANT).

20 ADMISSION OF FACT.

Admission of Facts, Pursuant to Notice.

THE plaintiff in this cause, for the purposes of this cause only, hereby admits the fact hereunder specified, saving all just exceptions to the admissibility of such fact, as evidence in this cause.

Provided that this admission is made for the purposes of this action only, and is not an admission to be used against the plaintiff on any other occasion, or by anyone other than the first-named defendant, the State of Western Australia.

30 Delivered the 3rd day of November, One thousand nine hundred and fifty-four.

STONE JAMES & CO.,
47 St. George's Terrace, Perth,
Solicitors for the Plaintiff.

To the first-named Defendant:
The State of Western Australia.

And to its Solicitor:
The Crown Solicitor, Perth.

Fact Admitted.

40 That none of the Crown Grants referred to in paragraphs 4 and 6 of the Statement of Claim were made prior to 21st October, 1890.

**Exhibits:
Admission
of fact by
plaintiff
(Formal parts
omitted).
Exhibit 1.
3rd
November,
1954.**

List of
documents
omitted from
Record.

LIST OF DOCUMENTS OMITTED FROM THE RECORD.

No.	Description of Document.	
1.	Defence of West Australian Petroleum Pty. Limited.	
2.	Reply to West Australian Petroleum Pty. Limited.	
3.	Summons dated 23/9/1954 by defendant State to strike out portions of reply.	
4.	Summons dated 27/9/1954 by plaintiff to strike out portions of the respective defences of West Australian Petroleum Pty. Limited and the defendant State.	
5.	Summons dated 28/9/1954 by West Australian Petroleum Pty. Limited to strike out portion of reply.	10
6.	Notice and entry for trial.	
7.	List (discovery) of documents filed by defendant State.	
8.	Notice to admit facts filed by defendant State.	
9.	Associate's Certificate.	
10.	Motion by plaintiff for leave to appeal.	
11.	Motion by defendant State for leave to appeal.	
12.	Motion by West Australian Petroleum Pty. Limited for leave to appeal.	
13.	Minutes of proposed order granting conditional leave to appeal.	20
14.	Order granting conditional leave to appeal.	
15.	Summons to determine security.	
16.	Order fixing security.	
17.	Receipt for payment into Court for security.	
18.	Undertaking by defendant State as to costs.	
19.	Master's certificates of compliance with order granting conditional leave to appeal.	
20.	Chief Justice's notes of argument.	
21.	Exhibit "P":—Notice of intention to take action.	
22.	Exhibit "R":—Schedule of Crown Grants held by plaintiff.	30
23.	Exhibit "S":—Plan showing plaintiff's holdings.	
24.	Exhibit "A":—Those portions not included in document in transcript record.	
25.	Exhibit "C":—Those portions not included in document in transcript record.	
26.	Exhibit "D":—Those portions not included in document in transcript record.	
27.	Exhibit "E":—Those portions not included in document in transcript record.	
28.	Exhibit "F":—Those portions not included in document in transcript record.	40
29.	Exhibit "J":—Those portions not included in document in transcript record.	
30.	Exhibit "O":—Those portions not included in document in transcript record.	
31.	Exhibits "T (1)" and "T (2)":—Notice to admit documents and admission of documents.	
32.	Motion for final leave to appeal.	
33.	Affidavits in support of motion for final leave to appeal.	