

Crown Lands Purchase Validation Bill.

This is a small Bill to validate an additional conditional purchase applied for by John Kane which was omitted from the Crown Lands Purchases and Leases Validation Act, 1915, by which other additional conditional purchases of the same series were validated.

The circumstances which necessitate validation are as follows :—

In January, 1862, an original conditional purchase of 100 acres was selected by John Quinlan, who died intestate on the 28th March, 1863, leaving a widow and two sons, the elder, named John, being his heir-at-law, and therefore entitled to the conditional purchase.

A few years afterwards Mrs. Quinlan married John Kane, who, on the 5th July, 1866, applied for a selection of 40 acres, which has been regarded as an additional conditional purchase taken up in virtue of the original conditional purchase selected by John Quinlan, senior.

John Kane died before the statutory conditions were fulfilled, and in 1869 Mary Kane, as his administratrix, made a declaration as to their fulfilment, and that she had performed the condition of residence on the original conditional purchase.

This declaration appears to be the foundation for the assumption that John Kane's selection was by way of additional conditional purchase.

Subsequently Mary Kane took up five additional conditional purchases in virtue of the original selected by her first husband, and the additional by her second husband. She died on the 10th January, 1903, and is stated to have devised all the lands previously mentioned to her son, Michael Quinlan.

The eldest son, John Quinlan, appears to have selected an independent series adjoining the lands in the name of his mother. The original conditional purchase selected by his father in 1862 is now registered in the son's name as heir-at-law, and he has recently signed a statement before a J.P., requesting that the additional conditional purchases taken up by his step-father, John Kane, and by his mother, Mary Kane, should be validated in the name of his brother, Michael Quinlan, to whom the lands were devised by the will of Mary Kane.

Section 44 of the Act 1895 empowers the Crown to validate a conditional purchase which appears to be voidable at the instance of the Crown, by reason of any breach or non-observance of the provisions of the repealed Acts, by referring the matter to the Local Land Board, and by a subsequent notification in the Gazette that the conditional purchase shall cease to be voidable by reason of any breach or non-observance of statutory provisions which may be specified in such notification.

On the assumption that the land selected by John Kane in 1866 was taken up in virtue of the original conditional purchase by John Quinlan, the Crown Solicitor is of opinion that the case does not come within the purview of section 44, as Kane was neither the registered holder of the original nor had he any interest therein, as it vested in John Quinlan, the heir-at-law of the original selector, and the additional conditional purchase by John Kane was therefore absolutely void ab initio.

The Crown Solicitor does not consider that the provisions of section 44 can be extended to such a case, and recommended that Parliament be asked to pass this Validating Bill.

A BILL

To validate a certain additional conditional purchase made by John Kane.

WHEREAS John Quinlan, on the twenty-eighth day Preamble. of July, one thousand eight hundred and sixty-two, took up an original conditional purchase of one hundred acres, and died intestate on the twenty-eighth day of March, one thousand eight hundred and sixty-three, leaving a widow, Mary Quinlan, who subsequently married John Kane: And whereas the said John Kane, on the fifth day of July, one thousand eight hundred and sixty-six, purported to take up an additional conditional purchase of forty acres in virtue of the said original conditional purchase of one hundred acres: And whereas it is desirable that the said additional conditional purchase should be validated: Be it therefore enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the "Crown Lands Short title. Purchase Validation Act, 1922."

2. The said additional conditional purchase shall be deemed to have been and to be as valid as if the said Validation of A.C.P. made by John Kane. original conditional purchase was at the time of the making of the additional conditional purchase held by the said John Kane.