

CHAPTER 172.

CROWN LANDS RESUMPTION.

[No. XXX of 1905.]

[14th July, 1906.]

Short title.

1.—(1) This Ordinance may be cited for all purposes as the Crown Lands Resumption Ordinance.

(2) "The Commissioner" means the Commissioner of Lands and Mines.

Notice calling upon owners of abandoned lands to prefer their claims.

2. When any land in the colony which has been or is hereafter alienated by or on behalf of the Crown appears to the Commissioner to have been abandoned by the owner thereof for eight years or upwards, and the owner, or any one lawfully claiming under him, cannot be ascertained, notwithstanding every reasonably diligent inquiry made by the Commissioner, he may with the sanction of the Governor declare, by a notice which shall be published six times at least in the Gazette and in any two local newspapers and posted on that land, containing a description thereof which will enable it to be identified by reference to a survey or natural features, that if no claim thereto is made to him by or on behalf of anyone able to establish a title thereto within the period, not being less than six months, specified in the notice, the land will be resumed by the Crown.

Order by the Governor in Council for resumption by the Crown.

3. If no claim is made in pursuance of the notice the Commissioner shall make a report to the Governor of the proceedings taken by him, containing the description of the land, together with the boundaries thereof, and shall state that no claim has been made thereto; and upon receipt of the report, the Governor in Council may make order that the land shall be resumed by the Crown, and thereupon it shall be resumed by and become the property of the Crown free from all incumbrances.

Procedure when claim is made.

4.—(1) If, within the period specified in the notice, a claim is made, the Commissioner shall call upon the claimant to establish it within the time appointed by him, and

shall inquire into it and record any evidence adduced before him in support thereof.

(2) The Commissioner shall thereafter make a report to the Governor of the proceedings taken by him, containing a description of the land, with the boundaries thereof, and setting forth the nature of the claim made in respect thereof, the evidence taken in support of the claim, and the finding of the Commissioner thereon.

5.—(1) If the Governor in Council, upon the report, or after any further inquiry he deems expedient, is satisfied that a primâ facie right to the land has been established, all further proceedings under this Ordinance in respect of the land shall cease; but if the Governor in Council entertains any doubt as to that right, the Governor shall refer the claim to the Supreme Court, and a judge of that Court shall thereupon fix a day for the investigation of the claim, with notice thereof to the claimant and to the Attorney General.

When further proceedings shall cease.

When claim is doubtful.

(2) After hearing any evidence adduced by the claimant or the Attorney General, or called for by the Court, the judge shall decide whether in his opinion the right has or has not been established, and shall make such order as to costs as he deems just. The decision shall be subject to an appeal to the Full Court by the Attorney General or by the claimant, and the appeal shall be subject to the same rules which govern appeals to the Full Court in civil causes.

Appeal.

6. If the decision of the judge or, in the event of an appeal, of the Full Court, is that the right has been established, all further proceedings in respect of the land under this Ordinance shall cease, and the judge or the Full Court may thereupon grant to the claimant a declaration of his title to the land, or any part thereof, as the case may be, but if the decision is that the right has not been made out by the claimant, the Governor in Council may make order that the land be resumed by the Crown, and it shall thereupon be vested in and become the property of the Crown free from all incumbrances.

Procedure on decision by Supreme Court. Proceedings to cease or order of resumption to be made.

7. Whenever the Governor in Council makes an order of resumption under section three or section six, of this Ordinance, a notification to that effect shall be published in

Resumption to be notified in Gazette, and notification proof of resumption.

the Gazette and posted on the land; and the production of the Gazette containing the notification shall be evidence of the resumption in all legal proceedings whatsoever.

Writ of possession in favour of the Commissioner upon production of notification of resumption.

8. Upon the Commissioner producing or causing to be produced the notification of resumption before the Supreme Court the Court is hereby required forthwith to issue a writ of possession, directing the registrar or a marshal to put and place the Commissioner, or anyone whom he names in writing, in possession of the land for and on behalf of the Crown, and if need be, to remove therefrom any person or persons refusing to vacate it.

Resumed land to be appraised.

9. Land resumed by the Crown under section three or section six, of this Ordinance, shall be appraised without delay by some person or persons appointed for that purpose by the Governor, and the appraised value shall be recorded in the office of the Commissioner.

Appraised value payable to owner within ten years.

10. If within ten years from the date of the notification of resumption being published in the Gazette, anyone establishes to the satisfaction of the Governor in Council, that he is entitled to be paid the appraised value or any part thereof, it shall be paid to him by the Colonial Treasurer out of funds provided for the purpose by the Legislative Council.

Power of judge at investigation of claims.

11. The judge, when investigating a claim under this Ordinance shall have the same power of adjournment and of summoning and enforcing the attendance of claimants or witnesses, and of examining them on oath or affirmation, and of enforcing answers, and of calling for and enforcing the production of documents, as he has when dealing with cases in his ordinary civil jurisdiction, and everyone who wilfully gives false evidence at any investigation held by a judge under this Ordinance shall be liable to the pains and penalties of perjury.

Power of Commissioner at inquiries into claims.
Chapter 15.

12. The Commissioner while holding an inquiry under section four of this Ordinance may exercise all or any of the powers vested in a magistrate acting under the provisions of the Summary Jurisdiction (Petty Debts) Ordinance; and everyone who wilfully gives false evidence before him shall be liable to the pains and penalties of perjury.

13. Every claim made under this Ordinance to the Commissioner shall be in writing, signed by the person making it, and shall set forth the name and address of the claimant in full and a place within some district wherein there is a regular postal house to house delivery at which he is willing to accept service of notices; and any notice put in the post addressed to the claimant at that place shall be deemed to have been duly served at the time when in due course of post it would be delivered at that address.

Form of claim under this Ordinance. Claimant to name place for service of notices.

14. Anyone who wilfully and knowingly inserts anything that is false in any statement of claim made to the Commissioner, and anyone who, for the purpose of setting up a false claim to any land subject to the provisions of this Ordinance, wilfully and knowingly makes any false statement (not on oath or affirmation) to the Commissioner at any inquiry held under the provisions of this Ordinance, shall be guilty of an offence and shall be liable to a fine not exceeding fifty dollars, or to imprisonment with or without hard labour for any period not exceeding six months, or to both the fine and imprisonment.

False statements.

Penalty.

15. No informality nor irregularity occurring in any proceedings taken under this Ordinance shall be held to invalidate or affect the title of the Crown, or any purchaser or grantee from the Crown, to any land resumed under this Ordinance:

Defect in proceedings not to affect title of the Crown:

Provided that nothing herein contained shall prevent anyone from claiming damages against the Crown if he has been substantially prejudiced by the informality or irregularity.

Proviso.

16. The Commissioner may appoint the Assistant Commissioner of Lands and Mines or other officer of the department of lands and mines to inquire into any claim made under the provisions of section four of this Ordinance, and any officer so appointed shall have and may exercise, for the purpose of holding the inquiry, all the powers vested in the Commissioner under the provisions of sections four and twelve of this Ordinance, and all the provisions of section twelve shall apply to any inquiry so held.

Power of Commissioner to delegate certain duties.