

NEW ZEALAND.

ANNO VICESIMO SEXTO

VICTORIÆ REGINÆ.

No. 23.

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An Act for amending the Law relative to the Unlawful Occupation of Demesne Lands of the Crown and for appointing Commissioners of Crown Lands.

[15th September, 1862.]

WHEREAS it is expedient to amend the Law relative to the Administration of the Waste Lands of the Crown in New Zealand :

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled and by the authority of the same as follows :

1. The Short Title of this Act shall be "The Crown Lands Act 1862."

II. This Act shall come into operation in each Province of New Zealand on and from a day to be fixed by the Governor in Council to be notified in the *Government Gazette* of the Colony and also of the Province to which such notification shall apply.

III. The several Ordinances specified in the Schedule A hereunto annexed are hereby repealed Provided nevertheless that such Repeal shall not take effect in any Province until this Act shall come into operation in such Province as provided by this Act Provided also that in any Province in which the provisions of the said repealed Ordinances relating to the creation of Hundreds the granting of licenses the appointment of Wardens of Hundreds

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and the Assessment of Stock shall be in force at the time of the passing of this Act such provisions shall continue in force within such Province until the same shall be duly repealed or altered by law and all contracts and agreements made or which may be made under such provisions shall remain in force in like manner as if this Act had not been passed.

Governor may appoint Commissioner.

IV. The Governor may by Warrant under his hand appoint in and for each Province of the Colony the Chief Commissioner of the Waste Lands Board or if there be no such Chief Commissioner then some Commissioner duly appointed under any Waste Land Laws or Regulations for the time being in force in such Province or if there be no such Commissioner then some fit and proper person to be a Commissioner to perform the duties and exercise the functions specified in this Act and who shall be termed "The Commissioner of Crown Lands for the Province of _____" and such person is herein referred to as 'the Commissioner' Provided that every Commissioner appointed under any law repealed by this Act shall be deemed to be appointed under the authority of this Act.

Tenure of office.

V. The Commissioner shall hold office during the pleasure of the Governor or until he shall have ceased to be a Commissioner under the Waste Land Laws or Regulations of the Province.

Notification of appointment.

VI. The appointment of the Commissioner shall be notified in the *Government Gazette* of the Colony and also of the Province to which the same shall relate.

Powers and duties of Commissioner.

VII. The powers and duties of the Commissioner shall be as follows viz. for and on behalf of the Crown

- a. To manage and superintend the custody preparation and and issue of Crown Grants Leases Licenses and other Instruments of Disposition relative to Crown Lands subject to such provision as is or shall be made by Law relating thereto.
- b. To perform and exercise all such duties and functions as by any Laws for the time being in force in any Province relating to the sale disposal or management of Crown Lands are required or authorised to be performed and exercised by a Commissioner of Crown Lands.
- c. To prevent unlawful trespassing or intrusion upon or occupation of Crown Lands.
- d. To remove and expel all trespassers and intruders on and persons unlawfully occupying Crown Lands and to remove or cause to be removed therefrom all cattle stock

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goods chattels and effects whatsoever of such persons and such cattle stock goods chattels and effects to impound in some public pound and sell by Public Auction if the same be not replevied or redeemed within twenty one days after being so impounded by payment of all expenses incurred by the removal and impounding thereof and incidental thereto and also of all penalties which may have been incurred in consequence of the trespass or intrusion by such cattle stock goods chattels and effects and the proceeds of any sale after payment of the costs thereof of the removal and impounding of such cattle and incidental thereto and of all penalties aforesaid shall be paid to the party entitled thereto on application to the Commissioner.

- e. To ascertain the limits and define according to the Laws in force relating thereto the boundaries of all Crown Lands held under or affected by any Lease or License.
- f. To settle all disputes and differences whatever arising out of or in relation to Leases or Licenses of or affecting Crown Lands or between Lessees and Licensees or persons claiming to be Lessees or Licensees of such Lands in relation to such Leases or Licenses.
- g. To enter on any Crown Lands in order to take possession thereof in the name of the Crown.
- h. To distrain sue for and recover money due to the Crown for rent or for use and occupation in respect of any Crown Lands.
- j. To enforce contracts respecting Sales Leases Licenses or other disposition of Crown Lands and to compel payment of money due to the Crown in respect thereof.
- k. To determine any determinable contracts respecting Crown Lands.
- l. To resume possession of Crown Lands on non-performance of Contracts.
- m. To recover and receive rents purchase moneys and other moneys due to the Crown in respect of any sales licenses leases or other dispositions of Crown Lands.

VIII. All actions suits and proceedings by or on behalf of Her Majesty respecting Crown Lands within any Province or respecting any contract relating thereto or any breach of any such contract or any trespass on such land or any damages accruing by reason of such trespass or for the recovery of any rents pur-

Commissioner may prosecute or defend Crown Suits, &c.

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chase moneys or other moneys in respect of such land or in respect of any damages or wrongs whatsoever in any way suffered by the Crown in respect of Crown Lands may be commenced prosecuted and carried on by and in the name of the Commissioner on behalf of Her Majesty and the Commissioner may be Plaintiff or Defendant as the case may require in any such Action Suit or Proceedings.

Burden of proof to lie on Defendant.

IX. In any action suit or proceeding against any person for or in respect of any alleged unlawful occupation trespass or use of or upon any Crown Lands the proof that the occupation or use in question was authorized by the provisions of this Act or of any order or regulation made in pursuance thereof shall lie on the defendant And the averment that any lands in question are Crown Lands shall be sufficient without proof of such fact unless the defendant prove the contrary and all maps plans licenses certificates and office copies certified as true under the hand of the Chief or Principal Surveyor or of any Commissioner of Crown Lands shall in all matters relating to the said respective Offices be sufficient evidence of their contents without production of original records and without the personal attendance of such officers or proof of their signature.

Decrees therein shall bind Crown.

X. All Decrees Orders and Judgments in any such last-mentioned proceedings shall be binding on Her Majesty Her Heirs and Successors.

Costs may be awarded

XI. The Commissioner in any such Action shall recover and be liable to costs and damages as any Plaintiff or Defendant in ordinary course of Law and the Commissioner may be indemnified in respect of such costs and damages by the Governor.

Penal rent for unlawful occupation.

XII. In case any person at any time heretofore shall have unlawfully intruded upon or occupied or shall hereafter unlawfully intrude upon or occupy any Crown Lands every such person shall be liable to pay to Her Majesty for the use and occupation of such Land during such unlawful occupation such sum of money as shall be fixed by the Commissioner for the Province not exceeding the sums specified in the Schedule B to this Act which sums so fixed shall be payable on demand to the Commissioner and shall be recoverable by Distress and Sale Action or otherwise in like manner as Rent in arrear Provided that nothing in this Clause shall be deemed to give any right or title to such land or to prejudice any other proceedings whatsoever.

Service of such demand.

XIII. Service of such demand in the same manner as is or may for the time being be provided for the service of Writs of Summons from the Supreme Court shall be deemed to be good service.

Crown Lands.

XIV. If in any Action Suit or Proceeding touching or concerning any Crown Lands or any Grant Lease or License relating thereto any question shall arise as to the limits or extent or as to the boundary of any Land comprised in any Grant Lease or License it shall be competent for the Court before which such Action Suit or Proceeding may be pending to order and direct that such question shall be referred to any person or persons whom the Court shall think fit subject to such terms and conditions as the Court shall think fit and the award order and determination of such person or persons shall be conclusive in such action suit or proceeding as to the matter so referred and shall be binding on the parties and may be enforced as a rule of the Court and the Court may make such rule or order as to it shall seem fit touching such reference or the costs thereof.

In questions of boundary Court may refer to Surveyors and adopt their Report.

XV. All rents recovered under this Act shall be deemed to be Land Revenue of the Province within which the same shall arise and shall be paid to the Receiver of Land Revenue thereof.

Rents recovered deemed Land Revenue of the Province.

SCHEDULES REFERRED TO IN THE FOREGOING ACT. Schedules.

SCHEDULE A.

Ordinance and Acts repealed.

Session and No.	By what Legislature passed.	Title.	Extent of repeal.
Sess. X, No. 1	Governor & Legislative Council.	Crown Lands Ordinance, New Ulster.	The whole.
Sess. XI, No. 10	Same.	An Ordinance to amend the Crown Lands Ordinance Sess. X., No. 1, and to extend the operation thereof to the Islands of New Zealand.	The whole

Crown Lands.

SCHEDULE B.

Rates payable.

The rate payable for *Town Land* shall be any sum to be fixed by the Commissioner not exceeding one hundred pounds per acre per annum and so in proportion for any quantity more or less than an acre.

For Suburban Land.

The rate of payment shall be any sum to be fixed as aforesaid not exceeding 5*l.* per acre per annum and so on in proportion for any quantity more or less than an acre.

For Rural or Pastoral Land.

If the quantity shall be 100 acres or less the rate of payment shall be any sum to be fixed as aforesaid not exceeding 1*l.* per acre per annum and so in proportion for any quantity more or less.

If the quantity shall exceed 100 acres but shall not exceed 500 acres the rate of payment shall be any sum to be fixed as aforesaid not exceeding 10*s.* per acre per annum.

If the quantity shall exceed 500 acres the rate of payment shall be any sum to be fixed as aforesaid not exceeding 5*s.* per acre per annum.

For Timber Land.

For every acre of land upon which timber or underwood shall be unlawfully cut the rate of payment shall be any sum to be fixed as aforesaid not exceeding 40*l.* per acre and so in proportion for any quantity more or less and in addition thereto a sum not exceeding the sum of 2*l.* for each tree cut of whatever kind whose girth in any part shall be 30 inches in diameter or upwards.