

No. IX.

An Act to enable the Government to resume certain Lands between Macquarie-street and the Outer Domain. [22nd July, 1879.]

MACQUARIE-STREET
LAND RESUMPTION.

WHEREAS it is expedient that the Government should be enabled Preamble. to resume the lands hereinafter described situate between Macquarie-street and the Outer Domain in the City of Sydney or any portion thereof for public purposes and that due provision be made for the payment of compensation to the persons legally entitled thereto in consideration of such resumption. Be it therefore enacted by the Queen'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 "Macquarie-street Land Short title. Resumption Act."

2. In the construction and for the purposes of this Act and Interpretation of terms. the enactments incorporated with it the term "Government Railways Act" means the Act twenty-second Victoria number nineteen "Governor" means the Governor with the advice of the Executive Council "Land" means real estate held for any estate or interest whatsoever and includes any buildings or erections thereon "Lease" includes an agreement for a lease "Owner" includes all the persons or bodies corporate who under the Government Railways Act are enabled to sell and convey lands as thereby provided.

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certain lands between
Macquarie-street and
the Outer Domain.

3. It shall be lawful for the Governor by a notification of resumption to be published in the *Gazette* to declare that the whole of the lands described in the First Schedule hereto or that such portion thereof as may be described in the said notification have been resumed for the purposes of this Act. And upon such publication the land so described shall thereupon and thenceforth be vested in the Minister for Lands on behalf of Her Majesty for an estate of inheritance in fee simple in possession freed and discharged from all estates interests trusts encumbrances liens charges contracts agreements rights-of-way and other easements whatsoever. And the whole estate and interest of every person who but for such resumption would have been entitled to the said lands or any portion thereof and whether to the legal or the equitable estate therein shall by virtue of this enactment be deemed to have been as fully and effectually conveyed to the said Minister for and on behalf of Her Majesty for public purposes as if the same had been conveyed by the persons legally or equitably entitled by means of the most perfect assurances in the law. And every such estate and interest shall upon the publication of such notification be taken to have been converted into a claim for compensation in pursuance of the provisions hereinafter contained. And every person shall upon asserting his claim as herein-after provided and making out his title in respect of any portion of the said resumed lands be entitled to compensation on account of such resumption in manner hereinafter provided.

Notice of claim for
compensation.

4. Every person claiming compensation in respect of any land resumed under the authority of this Act shall within thirty days from the publication of such notification or within such extended time as a Judge of the Supreme Court shall upon the application and at the cost of the claimant appoint in that behalf serve a notice in writing upon the Minister for Lands and a like notice upon the Crown Solicitor which notice shall set forth the nature of the estate or interest of the claimant in such land together with an abstract of his title and if he claims in respect of damage the nature of the damage which he has sustained or will sustain by reason of such resumption and such notice may be in the form in the Second Schedule hereto.

Claim and report
thereon.

5. Within thirty days after the receipt of every such notice of claim by the Crown Solicitor he shall forward the same together with his report thereon to the Minister for Lands who shall thereupon (unless no *prima facie* case for compensation shall have been disclosed) cause a valuation of the land or of the estate or interest of the claimant therein to be made and shall inform the claimant as soon as practicable of the amount of such valuation by notice in the form of the Third Schedule hereto.

Compensation by
action in Supreme
Court.

6. If within ninety days after the service of notice of claim the claimant and the Minister for Lands shall not agree as to the amount of compensation the claimant shall be at liberty to institute proceedings in the Supreme Court in the form of an action for compensation against such Minister as nominal defendant. And any such action may be tried before a Judge of the said Court and a special jury of four persons to be summoned by the Sheriff from the Jurors District for Sydney in accordance with the law regulating the summoning of Jurors for the trial of civil issues. Provided always that upon proper application either of the said Minister or of the claimant a special jury of twelve may be so summoned for the trial of such action.

Issue in action of
compensation verdict
and costs.

7. The issue to be tried in any such action shall be whether the claimant is entitled to a larger sum by way of compensation than the amount of the valuation so made by the said Minister and notified to the claimant as aforesaid and if so to what sum. And if upon the trial of the said action the verdict shall be for a greater sum than the amount of the said valuation the costs of the action shall be borne by the

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the said Minister but if the verdict shall be for a sum equal to or less than such valuation then the cost shall be borne by the claimant And the power to direct a reference to arbitration shall not be exercised by the Judge before whom any such action shall be tried.

8. All moneys payable under this Act by way of compensation ^{As to payment of compensation.} to any claimant whether under the verdict of a jury or otherwise shall be paid together with costs (if any) by warrant of the Governor addressed to the Colonial Treasurer within one month after the determination of such compensation to the person lawfully entitled thereto or to his agent duly authorized in that behalf in writing but the claimant shall be bound to make out his title to the estate or interest claimed by him in all cases where the claim is in respect of the deprivation of some estate or interest in land.

9. In estimating or assessing the compensation to be paid under ^{Compensation how to be estimated.} this Act regard shall be had by the valuators and by the jury (on any issue) not only to the value of the land taken by the Minister but also to the damage (if any) to be sustained by the owner of the lands by reason of the severing of the lands taken from the other lands of such owner or otherwise injuriously affecting such other lands by the exercise of the powers expressed or incorporated in this Act and they shall assess the same according to what they shall find to have been the value of such lands estate or interest at the time of the resumption thereof.

10. The several sections of the Government Railways Act hereinafter specified together with the respective powers authorities duties liabilities obligations and other the provisions therein contained are hereby declared to be incorporated with and embodied in this Act to the intent that the same may be applied as fully and effectually to the lands taken under the authority of this Act as if the said sections had been specifically enacted herein Provided always that all conveyances releases or other instruments taken by the Minister for Lands from persons claiming interests in any lands taken hereunder under the sections hereby incorporated referring to land under mortgage or other incumbrance shall be deemed to be by way of acquittance or discharge only And that wheresoever in any section so incorporated the word "Commissioner" occurs there shall for the purposes of this Act be substituted in lieu of such word the expression "Minister for Lands" The following are the sections so declared to be incorporated with this Act—

- (1.) As to the deposit of compensation money in certain cases with the Master in Equity and the application and investment thereof ^{As to payment of such money in certain cases to trustees or to the parties themselves and the exoneration of the Minister for Lands in respect thereof after payment Sections forty-seven to fifty-two both inclusive.}
- (2.) As to the deposit and application of compensation money on refusal of the owner to accept the same or on his failing to make out a satisfactory title and as to presumption of ownership ^{Sections fifty-three to fifty-six both inclusive.}
- (3.) As to the procedure by the Minister for Lands in case the owner or occupier of any lands resumed under this Act shall refuse to give up possession thereof or hinder the Minister from entering upon or taking possession of the same ^{Section sixty-one.}
- (4.) As to the purchase or redemption of the interests of mortgagees and the deposit of principal and interest due on mortgages with the Master in Equity the procedure to be observed when the mortgaged lands are of less value than the mortgage debt and where part only of lands in mortgage are taken ^{Sections sixty-five to seventy both inclusive.}

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- (5.) As to the release of lands from rent charges and other incumbrances and procedure thereon Sections seventy-one to seventy-four both inclusive.
- (6.) As to the apportionment of rent where lands taken are under lease and as to compensation to tenants Sections seventy-five to seventy-eight both inclusive.

SCHEMES.

FIRST SCHEDULE.

Description.

One acre one rood thirty perches County of Cumberland parish of St. James
City of Sydney allotments 2 3 4A and 4B of section 50 being allotments granted to W.
C. Wentworth J. Buckley J. Wylde and Maurice O'Connell respectively Commencing
on the eastern building-line of Macquarie-street at a point where the northern side
of the wall forming the northern boundary of the land occupied by the Legislative
Chambers meets that building-line and bounded thence on the south by the northern
side of that wall bearing about north eighty-six degrees thirty minutes east five chains
twenty-four and a half links on the north-east by a line bearing north twenty-three
degrees thirty minutes west about three chains sixty-two and a half links to the south-
eastern corner of allotment five of about one acre seven perches resumed by the Crown
under Act of Council thirty-four Victoria number five on the north by lines dividing
it from that allotment bearing about south eighty-six degrees thirty minutes west two
chains eighteen links south three degrees thirty minutes east seventy-seven links and
thence south eighty-six degrees thirty minutes west two chains half link to the aforesaid
building-line of Macquarie-street and on the west by that building-line bearing about
south three degrees fifteen minutes east two chains sixty-four and three-quarter links
to the point of commencement.

SECOND SCHEDULE:

Notice of claim and abstract.

To the Minister for Lands (or Crown Solicitor).

IN pursuance of the "Macquarie-street Land Resumption Act" and of the enactments therewith incorporated I (or we) hereby give you notice that I (or we) claim compensation in respect of the land hereunder described which has been resumed under the said Act. The amount of such claim and other the particulars required by the said Act are stated in the subjoined abstract.

Abstract.

Names and descriptions of parties claiming and nature of their interests whether tenants for life in tail or otherwise.	Situation and description of property.	Quit rents payable if leasehold name of landlord term of lease and rent reserved.	Names of occupiers distinguishing whether tenants at will or under lease rent reserved terms &c.	Particulars of claim specifying separately the amount claimed for value of property and for compensation.	Dates and other short particulars of documents of title.	Names of persons having the custody of documents and place or places where the same may be inspected and name of claimants' solicitor or agent.

(Signature)

(Address)

(Date)

(Consolidated Fund) Appropriation.

THIRD SCHEDULE.

Notice of Valuation.

To A.B. claimant in respect of the land hereunder described resumed under the "Macquarie-street Land Resumption Act."

TAKE notice that the land hereunder described being that in respect of the resumption whereof under the authority of the aforesaid Act your claim for compensation has been lodged has been valued at the sum of £

T. H.
Minister for Lands.

Description of Land in respect of which claim has been made.

ALL that piece or parcel of land &c. &c. &c.
