

*Ordnance Lands*

WESTERN AUSTRALIA

ANNO VICESIMO QUINTO

VICTORIÆ REGINÆ

No. 2

An Ordinance for vesting the Ordnance Lands and Buildings in the Principal Secretary of State for the War Department.

*[Assented to 18th November, 1861.]*

Preamble

WHEREAS it is expedient to vest the lands belonging to the Ordnance Department in the Principal Secretary of State for the War Department: Be it therefore enacted by His Excellency the Governor of Western Australia and its Dependencies, by and with the advice and consent of the Legislative Council thereof:—

All lands vested in the Secretary of State

1. That immediately from and after the passing of this Ordinance, all lands, hereditaments, estates and property whatsoever which by virtue of any conveyance, surrender, or other assurance, or of any law, usage, or custom whatsoever, at the time of passing this Ordinance shall be vested in the principal officers of the Ordnance on behalf of Her Majesty, or which have been at any time before the passing of this Ordinance held, used, or occupied, or purchased, vested, or taken, by or in the name of or by any person or persons in trust for Her Majesty, for the use and service of the said department, or for the defence and security of the said Colony, and which have not been sold, aliened, or parted with, and all erections or buildings which now are or which shall or may hereafter be erected and built thereon, together with the rights, members, and appurtenances to the same respectively belonging, shall be and become and remain and continue vested in Her Majesty's Principal Secretary of State for the time being, to whom Her Majesty shall think fit to intrust the Seals of the War Department, on behalf of Her said Majesty; and when and so often as the said last-mentioned Principal Secretary of State and any succeeding Principal Secretary of State to whom Her Majesty shall have intrusted the Seals of the War Department, shall cease to hold such office, the said several lands, hereditaments, estates, and property, and all lands, hereditaments, estates and property, which hereafter shall be purchased or otherwise acquired by any such last-mentioned Principal Secretary of State for the time being, on behalf of Her said Majesty, shall by virtue of this Ordinance be absolutely divested out of such Secretary of State so ceasing to hold such office as aforesaid, and shall, by virtue of this Ordinance, be transferred to and vested in his successor in the said office, immediately upon his receiving the seals of the said department, absolutely; and the said lands, hereditaments, estates and property hereby vested and hereafter to be vested in the said last-mentioned Principal Secretary of State and his successors shall, as to such of them as were or shall have been purchased, or are or shall be held, for an

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estate of inheritance in fee simple, be so vested in such last-mentioned Principal Secretary of State and his successors in the same manner as if the fee simple thereof had been originally conveyed to such Principal Secretary of State as a corporation sole and his successors; and as to all lands, hereditaments and property purchased or held for any less estate than an estate of inheritance in fee simple, as if the same lands, hereditaments, and property had been originally conveyed, surrendered, demised, or otherwise assured to such Principal Secretary of State as a corporation sole, and his successors, for all the existing estates or interests therein respectively, and so from time to time.

2. That from and after the purchase and conveyance, grant, or demise thereof, all other lands, hereditaments, estates and property, which shall at any time hereafter be purchased or taken by such Principal Secretary of State for the time being, or by any other person or persons by his order for the service of the War Department, and all erections and buildings which shall then or which may thereafter be erected and built thereon, with the rights, members and appurtenances to the same respectively belonging, by whatsoever mode of conveyance either unto or in the name of Her Majesty, her heirs or successors, or otherwise, the same shall be purchased or taken, shall in like manner be, and become, and remain and continue vested in such Principal Secretary of State for the time being and his successors in office as aforesaid, according to the nature and quality of the said lands, hereditaments, estates and property, and the several and respective interests of and in the same respectively, in trust as aforesaid.

Lands hereafter  
purchased vested  
in Secretary of  
State for War

3. That it shall be lawful for such Principal Secretary of State for the time being to sell, exchange or in any manner dispose of or to let or demise any of the said lands, hereditaments, estates and property respectively which shall be vested in him under and by virtue of this present Ordinance, with their respective appurtenances, either by public auction or private contract, and in due form of law, to convey, assign or make over or cause to be conveyed, assigned or made over or to grant or demise the same respectively, or cause the same to be granted or demised (as the case may require) to any person or persons who shall be willing to purchase or take the same in exchange or otherwise respectively; and also to do any other act, matter or thing in relation to any such lands, hereditaments, estates and property, which shall by such Principal Secretary of State be deemed beneficial to the public service in relation thereto or for the better management thereof, which might be done by any person having a like interest in any such like lands, hereditaments, estates or property.

Lands may be  
sold, exchanged  
or let

4. That it shall be lawful for the Governor, upon receipt of a written requisition to that effect from such Principal Secretary of State for the time being or from any person or persons on his behalf, and by his authority, to convey in the name and on behalf of Her Majesty, the said lands, hereditaments, estates or property so purchased, exchanged or let by deed to a *bonâ fide* purchaser or lessee, and the purchaser's title (after the payment of the purchase money, and the execution of the conveyance and the enrolment thereof as hereinafter provided) shall be good and valid, the same as if the said lands, hereditaments, estates or property so purchased, exchanged or leased as aforesaid, were waste Crown Lands, and sold, exchanged or conveyed under the authority of

Conveyances to  
be executed by  
the Governor  
See 25 Vic., No. 19

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any Act of Parliament in that behalf ; and shall be freed and discharged of and from all manner of prior estates and encumbrances whatsoever (save and except such estates and encumbrances as shall be excepted in any such conveyance or assignment) : Provided that such deed shall be duly enrolled in the office of the Registrar of Deeds within three months from the execution thereof.

*Enrolment*

The usual deeds  
for waste lands  
may be adopted

5. That lands, hereditaments, estates and property sold or exchanged under the authority of this Ordinance may be conveyed by a deed of like form or as near thereto as circumstances permit, as the deed now and heretofore commonly used for the conveyance of waste lands of the Crown, and subject to the reservation contained in the original grant from the Crown of such lands, hereditaments, estates and property of the precious metals, and of a right of entry for certain public purposes.

Purchase moneys  
shall be paid to  
Commissariat

6. That the moneys to arise and be produced by the sale or exchange of any of the said lands, hereditaments, estates and property, which shall be so sold or exchanged under the provisions of this present Ordinance, shall be paid by the respective purchaser or purchasers thereof or the person or persons making such sale or exchange, unto the respective or other Chief Officer or Officers of the Commissariat in the said Colony for the time being or the Commanding Royal Engineer for the time being in the said Colony or to such other person or persons as such Principal Secretary of State for the time being shall direct or appoint to receive the same for the use of Her Majesty, her heirs and successors ; and that the receipt of the said respective or other Chief Officer or Officers or of the other person or persons so appointed as aforesaid, for such moneys (such receipt to be endorsed on every such conveyance as aforesaid), shall effectually discharge the purchaser or purchasers or person or persons by whom or on whose account the same shall be paid, from all responsibility as to the application thereof or for any irregularity in the sale or exchange : Provided that no Public Officer or other Agent of the Imperial Government concerned in the negotiating or completing the sale or exchange of any land, hereditaments, estate or property under this Ordinance, shall be deemed or taken to be in any way responsible for the goodness or sufficiency of the title of Her Majesty, her heirs and successors to the same.

Action of eject-  
ment may be  
brought

7. That it shall be lawful for such Principal Secretary of State for the time being, and for the said respective or other Chief Officer or Officers for the time being, in the name of such Principal Secretary of State, and they are respectively hereby authorised and empowered to bring, prosecute and maintain any action or actions of ejectment or other proceedings at law or in equity in the Supreme Court in the said Colony or in any other Court there of competent jurisdiction, for recovering possession of any lands, hereditaments, estates and property by this Ordinance vested in such Principal Secretary of State as aforesaid, and to distrain or sue for any moneys or arrears of rent which shall have become or shall become due for or in respect thereof under any parol or other demise from such Principal Secretary of State for the time being or other Chief Officer or Officers or other person or persons and also to bring, prosecute and maintain in the name of Her Majesty, her heirs and successors, any other action or suit in respect of or in

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relation to the said lands, hereditaments, estates and property or of any trespass or encroachment committed thereon or damage or injury done thereto.

8. That in every contract, conveyance, surrender, lease or other assurance of any lands, hereditaments, estates or property with, unto or by the last-mentioned Principal Secretary of State for the time being, and in every other deed or instrument relating to any lands, hereditaments, estates or property, or in anywise to the public service, to which the last-mentioned Principal Secretary of State for the time being shall be or shall be intended to be a party, it shall be sufficient to call or describe him by the style or title of 'Her Majesty's Principal Secretary of State for the War Department,' without naming him; and every such contract, conveyance, surrender, lease, assurance, deed or instrument may be executed by such last-mentioned Principal Secretary of State or by any other of Her Majesty's Principal Secretaries of State for the time being by signing his name thereto, and if the instrument so executed be in the form of a deed by setting or affixing a seal thereto and delivering the same as his deed; and whenever any contract, conveyance, surrender, lease, assurance, deed or instrument shall be executed by any other Principal Secretary of State than the Principal Secretary of State for the War Department, the Principal Secretary of State so executing the same shall for that time and on that occasion, and for the purposes thereof, be deemed to be the Principal Secretary of State for the War Department.

Such Secretary of State to be described in conveyances, &c., as 'Her Majesty's Principal Secretary of State for the War Department'

A. E. KENNEDY,  
GOVERNOR AND COMMANDER-IN-CHIEF.

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