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SCHEDULE.

CHAPTER 20.

ESCHEAT.

19 of 1886.
11 of 1899.
15 of 1905.
31 of 1908.
1 of 1922.

An Ordinance to provide for the appropriation of the casual revenue of the Crown arising from escheated estates, and to declare the law and practice in cases of Escheat.

[22ND DECEMBER, 1886.]

Preamble.

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WHEREAS by an Act of the Imperial Parliament passed in the Session holden in the 15th and 16th years of Her Majesty's Reign provision is made for the appropriation of any casual revenues arising within the Colonies or Foreign Possessions of the Crown (other than Droits of the Crown and Droits of the Admiralty) for or towards any public purposes within the Colonies or Possessions in which the same respectively may have arisen, and it is expedient to provide for the appropriation of such casual revenue, including the revenue to arise from the estates and effects of persons who have died intestate and without heirs or next of kin:

And Whereas it is necessary to establish a course of procedure in cases of escheat:

Short title.

1. This Ordinance may be cited as the Escheat Ordinance.

Appropriation to public purposes of casual revenue.

2. All the casual revenue of the Crown (other than droits of the Crown and droits of the Admiralty) arising within this Colony shall form part of the general revenue, and be appropriated as part of such revenue, and shall be applied to such public purposes as the Legislature shall from time to time think proper and direct, subject, however, as to revenue derived from escheats, to the provisions of this Ordinance.

Order by Governor in Council of payment to persons establishing claims there-to.

3. The Governor in Council may from time to time, after such appropriation, order the payment of any claim in respect of such casual revenues which, upon legal, equitable, or moral grounds, is established by any person to the satisfaction of the said Governor in Council, and thereupon the Governor may issue his warrant to the Accountant General for payment of the same out of the general revenue of the Colony. But no such claim shall be entertained after the expiration of five years from notice in the *Gazette* of such appropriation, nor unless three months' notice shall have been given in the said *Gazette* of the applicant's

* Her Majesty Queen Victoria.

intention to prefer such claim; and such notice shall state the place of residence of the claimant, and the grounds upon which, and the description of the property in respect of which, such claim is made, and any such notice or any order for payment of money or transfer of land made after any such notice given shall bar all other claims in respect of the same property which may be made subsequently to such order:

Provided that no claim shall be entertained by the Governor in Council in respect of any casual revenues consisting of moneys arising from the administration by the Official Administrator, under the provisions of the Administration of Estates Ordinance, and the Ordinances amending the same, of the estate of any person who has died intestate and without heirs or next-of-kin.

Cap. 45.

4. If any person preferring a legal or equitable claim to any money or land to be hereafter appropriated pursuant to the provisions of this Ordinance fails to prove any claim to the same, he may nevertheless, within three months after the rejection of his claim by the Governor in Council, present his petition to the Supreme Court, and a copy thereof shall be served on the Attorney General, in order that he may appear thereto; and if the said person verifies his claim by evidence to the satisfaction of the Court or Judge before whom the same shall be heard, the Court or Judge shall make such order in the premises, including any award of costs as justice shall require; and upon the application of such person, or any other claimant or person, or of the Attorney General, may vary such order from time to time as may be deemed expedient, and shall certify the same to the Governor in Council, to the intent that the claimant may have relief in the premises according to such order.

Petition to Supreme Court by claimant on failure to establish claim.

5. In any case where real property has by escheat or otherwise become part of the general revenue of the Colony, and by reason of any difficulty in procuring sale for the same or from any other cause, such property cannot be, or is not converted into money, the Governor may execute a deed of transfer thereof to the Accountant General for the time being, in the form set forth in Schedule A to this Ordinance annexed, and such deed shall be registered in the Office of the Registrar General and the property thereby transferred shall be held by the Accountant General and his successors for the public purposes of the Government, and shall be thereafter for that purpose let for hire, sold, or otherwise dealt with as the Governor may direct:

Transfer of escheated property to Accountant General or claimants.

Provided, however, that the Governor in Council, as hereinbefore provided, may from time to time after the appropriation of such real estate direct a transfer of the whole or any part thereof to be made to any person or persons who shall, under sections 2 or 3 of this Ordinance, establish a claim thereto, subject, however, to such terms, conditions and limitations as the Governor in Council may direct, and thereupon a transfer shall be made in the form set forth in Schedule B to this Ordinance.

Appointment
of Escheator.

6. The Governor may from time to time appoint a fit and proper person to be Escheator, and remove him, and appoint another person in his stead; and it shall be his duty to keep an account of all lands escheated, to ascertain and report all lands liable to escheat, and to keep an account of all costs and expenses incurred in or about the same and of all proceedings in respect thereof. And the said Escheator shall be an officer of the Supreme Court and shall receive such remuneration for his services as the Governor shall determine.

Payment of
fees, etc., to
Escheator.

7. The Governor may order, in such case as he shall see fit, that payment be made in advance, out of the general revenue, to the person appointed to act as Escheator, of any fees and costs incurred or paid, or to be paid, by him in the conduct of any case of escheat; and all such sums shall be duly accounted for by the said Escheator.

Chief Justice
to be Com-
missioner of
Escheat.

8. The Chief Justice, hereinafter called the Court, shall be Commissioner of Escheat within the Colony, and all proceedings necessary to be taken before the granting of lands and tenements, which may have escheated to the Crown, shall and may be had and taken before the said Judge as such Commissioner of Escheat as aforesaid.

In order to
escheat,
Attorney
General may
file a claim.

9. The Attorney General shall and may from time to time, whenever he shall think fit or be directed so to do, or be informed of any case in which lands or tenements have escheated or become forfeited to the Crown, file his claim on behalf of the Crown, in the form set forth in Schedule C to this Ordinance, or as near thereto as may be.

No escheat
after twenty
years'
possession.

10. No land shall be escheated to the Crown which has been in the undisturbed possession of any person or of such person and his predecessors for the term of twenty years immediately preceding the filing of any claim by the Attorney General.

11. After the Attorney General shall have filed his claim in the Supreme Court, a notice thereof in the form given in Schedule D, or in like manner, shall be affixed to the door of the Master's Office of the Supreme Court and three months' notice shall be given in the *Gazette* of the intended application, and a notice shall if possible be affixed to some portion of the lands claimed. Any person interested may enter an appearance at the Office of the Master of the Supreme Court, and the case shall not be heard unless such person has had due notice to the satisfaction of the Court. The Master of the Supreme Court shall keep a book in which appearances in cases under this Ordinance may be entered.

Notice of
filing of
claim by
Attorney
General.

12. At any sitting of the Supreme Court after the expiration of the three months' notice in the *Gazette* the Court may proceed to hear the case or adjourn the same. The Attorney General shall appear on behalf of the Crown and any person claiming to be entitled to the land may appear personally or by counsel, or solicitor. The Master of the Supreme Court shall in office hours inform any applicant as to when a case will probably be tried.

Hearing the
cause.

13. (1) It shall be lawful for the Court, by summons under its seal and issued by the Master of the Court on the application of any party or at the instance of the Judge himself, to require the attendance before the Court or any officer thereof, at a time and place to be mentioned in such summons, of all such persons as it may think fit to examine in relation to any matter depending before the Court and to require all such persons to produce before the Court or officer all deeds, books, papers and writings relating to such matter and to examine such persons upon oath, or, in case of persons allowed to make affirmations or declarations in lieu of an oath, upon affirmation or declaration, as the case may require.

Attendance
of persons.

(2) It shall be lawful for the Court or any officer appointed for that purpose, to administer such oath, affirmation or declaration, and every person required by such summons so to attend, who without reasonable cause, to be allowed by the Court, shall fail to appear according to the tenor of such summons, or shall refuse to be sworn or to make affirmation or declaration, as the case may be, or shall not make answer to all such questions as shall be lawfully put to him or her on such examination, or shall refuse or fail to produce before the Court or officer any such deed, book, paper or writing, being in, or under, his or her custody, possession or power, as shall be