

SECOND SCHEDULE.

Guns and arms of all kinds and the machinery for manufacturing them.

Ammunition and explosives of all kinds, the ingredients used in their manufacture and the machinery for manufacturing them.

Military stores of all kinds, including—

Clothing, equipments, accoutrements, harness, saddlery, implements and tools, wire, chemicals used in the manufacturing of explosives.

Signalling and searchlight equipment, telegraphic and electric light plant suitable for field use, limelight apparatus, heliographs, optical instruments used in military operations.

Naval stores of all kinds, including—

Materials used in ship construction, such as rivet-iron, angle-iron, round bars, rivets, sheet-plate iron, forgings and armour-plates; machinery used in constructing ships and torpedo-boats; marine engines and the component parts thereof, including screw propellers, paddle-wheels, cylinders, cranks, shafts, boilers, tubes for boilers, boiler-plates, fire-bars.

Every article whatsoever which is, can, or may become applicable for the manufacture of marine machinery:—

Anchors, chain cables, wire hawsers, capstans, windlasses, steam winches, masts, derricks, davits.

Torpedoes and their component parts and machinery for manufacturing them.

All apparatus for projecting inflammable materials or firing torpedoes.

Steam and other boats suitable for use for warlike purposes.

Submarine cables.

Submarine mines and apparatus appertaining to them.

Marconi apparatus.

Electrical fittings used on board ship.

LAND.

Ordinance No. 9 of 1903.

As amended by No. 7 of 1906.

[18th December, 1903.]

An Ordinance relating to Land.

Be it enacted by the Governor of the Colony of the Falkland Islands, with the advice and consent of the Legislative Council thereof, as follows:—

1. In this Ordinance, and in the construction of any lease or Crown grant— Interpretation.

“Land” includes islands, country, suburban and town land.

"Crown Lands" means any land not already granted in fee simple, and includes any land which has been or may hereafter become escheated or otherwise acquired by the Crown.

"Waste Land" means land in the possession of the Crown or land let on a lease which is within one year of expiring.

"Lot" means town land.

"Block" means 160 acres.

"Station" means the whole extent of land occupied in one lease.

"Inspector" means an Inspector appointed under the Live Stock Ordinance, 1901.

"Stock" means any horse, cow, pig, goat, sheep or their young.

"Boundary" means the line of junction of the land of one owner with the land of another owner or with Crown land.

"Sufficient Fence" means such fence as shall be prescribed in respect of country land, suburban land and town land respectively by any rules and regulations made or hereafter to be made under this Ordinance.

"Owner" includes a lessee from the Crown and the agent or manager of any absentee owner or lessee.

"Improvement" shall include buildings, drains, wells, tanks, dams, cultivation, fencing, filling up, laying down grass, and any beneficial work done upon any land, not being a reserve, to increase its value, productiveness, or power of carrying stock.

"Country" means land more than six miles from the Cathedral, or from the centre of any town.

"Suburban" means "Suburban Land" or "Suburbs" as defined in Section 28 of the Interpretation and General Law Ordinance, 1900.

"Town" means Stanley, or "Town" as defined in Section 28 of the Interpretation and General Law Ordinance, 1900.

"Reserve" means the land specified in Section 7 of this Ordinance, and any land declared a reserve under that section.

"Renewal" means the renewal of any lease granted under the provisions of this Ordinance.

2. The King's Majesty shall not at any time commence any action, suit, or other legal proceedings against any person for or in anywise concerning any lands, tenements, rents or hereditaments whatsoever (other than liberties or franchises) by reason of any right or title which hath not first accrued and grown or shall not hereafter first accrue and grow within the space of sixty years next before the commencement of such action, suit, or other legal proceedings.

Limitation of
the Crown's
right to sue for
land.

3. In the construction of the preceding section the right or title of the King's Majesty to any lands, tenements, or hereditaments which are now or shall at any time hereafter be subject to or comprised in any demise or lease for any term of years granted by or on behalf of His Majesty, or any of His Royal predecessors or successors, shall not be deemed to have first accrued or grown until the expiration or determination of such demise or lease as against any person whose possession, holding or enjoyment of such lands, tenements or hereditaments, or whose receipt of the rents, issues or profits thereof shall have commenced during the term of such demise or lease, or who shall claim from, by, or under any person whose possession, holding or enjoyment of such lands, tenements, or hereditaments or whose receipt of the rents, issues, or profits thereof shall have so commenced as aforesaid.

Reserving right
to reversionary
interest.

4. Crown lands shall not, save as hereinafter excepted, be dealt with or disposed of, without the special sanction of the Secretary of State, otherwise than in the manner hereinafter prescribed, and except as hereinafter mentioned, the waste lands of the Crown shall be sold in fee simple and by public auction only.

Crown lands,
how dealt with.

5. Any person who without the permission of the Governor in writing shall without lawful cause drive, hunt, wound, capture, decoy or destroy any wild cattle or wild stock on waste lands, and, if on lands in the lawful occupation of any other person,

Wild cattle.

without his authority, shall for each animal so killed, wounded, captured, decoyed or destroyed be liable to a fine not exceeding fifty pounds, and any person who shall receive any animal, or any part thereof, knowing the same to have been unlawfully captured and destroyed as aforesaid, shall be liable to a fine not exceeding five pounds. Any constable may stop, search and detain any boat in or upon which there shall be reason to suspect that such animal, or any part thereof, so unlawfully obtained may be found and, if upon search thereupon made, such animal or any portion thereof shall be found, then may convey the same before a Justice, and without a warrant may take into custody and carry before a Justice any person reasonably suspected of having committed any offence contrary to this section.

Reserving land
for public
purpose.

6. Nothing herein contained shall prevent the Governor in Council from reserving to His Majesty the right of disposing in such a manner as for the public interest may seem best of such lands as may be required for any purposes of public defence, safety, utility, convenience, or enjoyment, or for facilitating the improvement and settlement of the Colony or for any special purpose, and the Governor in Council is hereby empowered to refuse a lessee of any Crown lands the right of purchasing the freehold of any land which there is reason to believe may be required for the extension of Stanley, or for the establishment of another town.

Reserves.

7. The following lands which prior to the passing of this Ordinance have been "reserved" shall continue to be "reserves," that is to say:—

In Lafonia, near Bull Point	...	...	1,280 acres
In Section 8, Darwin Harbour	...	...	3,000 "
In Port Sussex (situate to the south of Port Sussex)	...	...	2,224 "
In Section 22A, West Cove	...	...	1,540 "
In Pebble Island, Elephant Bay	...	...	160 "
In Keppel Island, Bold Point	...	...	160 "
In New Island, Tigre Harbour	...	...	160 "
In Stanley Harbour, Navy Point	...	...	145 "

and the Governor in Council may, by publication in the *Gazette* and by giving notice to the occupier (if

any), at any time declare any Crown land a reserve, and such declaration shall show, in general terms, the nature of the purpose for which such land is declared a reserve and, if the land or any portion thereof so declared shall be comprised in any lease, the lease in so far as it relates to the land so reserved shall be determined at the expiration of three years from the date of the publication in the *Gazette* of such declaration, provided that, in cases where any leaseholder is deprived of the use of such reserved part of his holding, the Governor in Council may grant a corresponding abatement of rent to such leaseholder, and provided that it shall be lawful for the Governor in Council with the approval of the Secretary of State to declare any "reserve" no longer reserved and, upon the publication of such declaration in the *Gazette*, such land shall cease to be a reserve and may be dealt with as other lands of the Crown.

8. Any land reserved under the preceding section or prior to the passing of this Ordinance may be leased for any term not exceeding three years, provided that any such reserve shall not be leased without the sanction of the Secretary of State to any person whose land does not adjoin such reserve, unless the former lessee shall have refused to accept and upon his refusal all the other owners of land adjoining such reserve shall have refused to accept a lease thereof upon the terms prescribed by the Governor in Council, and if all the holders of land adjoining such reserve have refused to accept a lease as aforesaid then the lease of such reserve shall be put up to auction as provided for in Sections 9 and 10 in the case of other waste lands.

May be let.

9. The Governor may at any time cause, subject to the provisions of Section 15, a lease of any waste lands of the Crown to be put up to auction upon such terms and subject to such reservations, conditions and restrictions as may seem expedient to the Governor in Council and as shall be notified in the *Gazette*, and the Governor, with the approval of the Secretary of State, may, upon the application of the occupant of any land whose lease has expired or will

Leases.

Renewal of.	expire within two years, grant to him either a renewal of such lease or a new lease upon such terms and subject to such reservations, conditions and restrictions as may seem expedient to the Governor in Council, but such renewal shall not, and such new lease shall not, unless otherwise therein expressly provided, have effect until the determination of the then current lease and shall not—
Term.	
Country, 21 years.	In the case of country land (not being a reserve), exceed the term of twenty-one years.
Suburban, 3 years.	In the case of suburban land or a reserve, exceed the term of three years.
Town, 60 years.	In the case of town lands, exceed the term of 60 years,
	and whenever the Governor shall decline to renew any lease, and whenever the former lessee shall decline to accept a new lease on the terms offered by the Government, there shall be paid by the Government to the outgoing tenant the value of all improvements assessed as hereinafter prescribed, provided that no compensation shall be paid for any improvement in respect of land when the former lessee declines to accept the renewal of his lease or when such improvements are in respect of land held upon a lease which has become null and void.
Improvements to be paid for.	
Not to be paid for.	
Land reverting to Government, how dealt with.	10. (1) Whenever the holder of any lease which expires or is within one year of expiring after the passing of this Ordinance shall decline to accept a renewal of such lease; or, if the Government has refused to renew such lease, shall decline to accept a new lease of such land upon the terms approved by the Governor in Council with reference to such lease, and—
	(2) Whenever any lease shall become null and void, or shall be so declared under Section 13.
	The Governor shall cause a new lease of the land thus lapsing to the Crown to be put up to public auction unless the Governor in Council shall direct that such land be sold by auction as provided for in Section 15 of this Ordinance.
If Government deprives owner of one lease he may throw up all.	11. Whenever the Governor has refused to renew the lease of any station the lessee of such station may by application to the Colonial Secretary in writing elect that all the leases of Crown land held

by him shall expire upon the same day as the lease of the station which the Governor has refused to renew, and such leases shall thereupon be determined on that day, and in every such case the whole of the Crown land held by such lessee shall to all intents and for all purposes under this Ordinance be deemed to be leases which the Government has refused to renew.

12. The sum to be paid on account of improvements shall be determined by some one or more fit and proper persons appointed by the Governor or, should the lessee so request in writing, by two assessors, one of whom shall be appointed by the Governor and one by the lessee. Such assessors shall certify that every improvement of which they have assessed the value is to the best of their knowledge and belief suitable and appropriate to the station or lot or was authorised by the Governor in Council as witnessed by writing under the hand of the Governor, provided that the assessed value of such improvements shall never exceed the actual cost thereof. In the event of the assessors not being able to agree as to the amount to be paid, either of them may appeal to the Chief Justice, and the Chief Justice having heard the case and considered the evidence (if any) shall determine the amount at which the improvements shall be assessed.

Improvements,
how value to be
assessed.

13. Whenever any lessee shall fail to perform or observe any of the conditions of any lease held by him, or to pay any rent due to the Government in respect of any lease within three months after it has become due, every lease held by such lessee from the Crown shall be null and void, and whenever a lessee shall decline to accept a renewal of any lease held by him it shall be lawful for the Governor in Council to declare every lease held by such lessee from the Crown null and void.

When lease null
and void.

14. The holder of any country land may, at any time not less than one year before the termination of his lease (or soonest-to-expire lease if he have more than one), purchase the whole of the land rented by him in accordance with the acreage set forth in his

Lessee may
purchase all his
land, 10 per
cent. down,
balance in 30
years at 3 per
cent.

leases at the rate of three shillings an acre, and, if no acreage be specified in one or more of such leases, then in respect of the number of acres computed by the Governor as the acreage of any such leases, and ten per cent. of the purchase money in respect of any land dealt with under this section shall be paid at the time the lessee receives notice from the Government that his application to purchase has been registered, and upon each of the first thirty anniversaries of the day of the payment of such ten per cent. there shall be paid to the Government a sum at the rate of *£4. 11s. 10d. in respect of every £100 of the whole of the purchase money, and no rent shall be payable in respect of such land from the date on which the first instalment of the purchase money shall be paid :

Provided that if any purchaser under this section shall fail to pay any instalment of the purchase money on the day on which such instalment becomes payable, or within twenty-one days thereafter, the Governor may and if such default shall continue for three months from the day on which such instalment becomes payable the Governor shall declare every lease held by such purchaser determined, and upon such declaration all such leases shall be null and void, and all the instalments which such purchaser has already paid shall be forfeited to the Crown :

Provided always that with the approval of the Governor in Council a lessee may pay the whole of the moneys to be paid in respect of an application to purchase under this section as soon as he has received notice that his application has been registered or after payment of ten per cent. of the moneys to be paid in respect of such application may pay the balance in such annual instalments less than thirty, as may be approved by the Governor in Council on terms and conditions corresponding with those provided in this section for the payment of such balance in thirty annual instalments.

Sales and leases
by auction.

15. The Governor may at any time sell by auction any waste land not being a reserve, and lease by auction any waste land in such size or lot as

* Or stated otherwise £4. 11s. 10d. per year in respect of every 666 $\frac{2}{3}$ acres.

to the Governor in Council may seem expedient, and the upset price in the case of a sale shall not be lower than at the rate per acre of one hundred pounds for town land and two pounds for suburban land and three shillings for country land, and in the case of a lease the rent per acre per annum shall not be lower than at the rate of four pounds for town land, two-pence for suburban land, and one penny for country land, save when the Secretary of State shall authorise any specified land to be put up at a lower rate :

Upset price.

Provided that it shall be lawful for the Governor, if he shall deem it expedient, to dispose by private contract of any frontage or other lot of land in Stanley or any other town to the owner of the adjacent land at a price to be fixed by the Governor in Council, which price shall in no case be lower than at the rate of one hundred pounds per acre.

Frontage may be sold or let privately.

16. Every auction held under this Ordinance shall have been publicly advertised for not less than three months before the date of such auction, and such advertisement shall show as fully as may be—

Auctions to be advertised.

(1) The special reservations, restrictions and conditions which will be imposed in respect of the land to be put up to sale or to lease by auction, or that the land will be sold or leased subject to the reservations, restrictions and conditions set forth in the Land Ordinance, 1903.

(2) The situation, boundaries and acreage of the land and whether the acreage is the assessed number of acres or has been ascertained and determined by survey, and the names of the owners or lessees of the adjoining lands.

(3) If a town lot, the length of the boundary line between the lot and every adjoining lot.

(4) The mode in which the purchase money of the land or lease shall be paid and the price at which the land will be upset.

(5) In the case of sale, the date when possession will be given, which if the land be held on lease shall not be until the termination of the current lease.

(6) The value of the improvements as assessed and ascertained under Section 12.

(7) Whether the land has been surveyed or not, and when any land has been surveyed, that a copy of the plan is open to inspection at the Government offices, and stating the length of the boundary line between the property advertised and the land of each adjoining owner.

If not disposed
of at auction.

17. It shall be lawful for the Governor to lease or sell privately at not less than the upset price, any land not let or sold when put up to auction or to renew the lease of the former lessee, subject to the provisions of Section 9 of this Ordinance as to the renewal of leases.

Sales by auc-
tion, provisions
as to.

18. The following provisions shall have effect with respect to any land put up to sale by auction :—

Plan.

(1) A copy of the plan of the land (if surveyed) shall be exhibited at the sale by the auctioneer and given to the purchaser.

Purchase
money.

(2) The purchase money shall be payable by such number (not exceeding 15) of equal yearly instalments as the Governor in Council shall determine, and as shall be notified in the *Gazette* before the sale. The first instalment shall be paid at the conclusion of the sale and each subsequent instalment, together with interest at the rate of 2½ per centum per annum on the unpaid balance of the purchase money for the time being from the date of payment of the last previous instalment, shall be paid at the expiration of one year from the day on which the last previous instalment was payable. But the purchaser may at any time pay the whole of the purchase money remaining unpaid with the interest thereon which has accrued since the date of the last previous payment of an instalment.

Highest bidder.

(3) The highest or only bidder at or above the upset price shall be the purchaser.

Agreement to be
signed.

Immediately upon the conclusion of the sale the purchaser shall sign an agreement to complete the purchase and to fulfil the conditions of sale. If any purchaser, whether the original

purchaser or a purchaser substituted under this sub-section, shall fail to pay the first instalment or to sign the said agreement, the sale to him shall be void and the next highest bidder (if any) at or above the upset price shall be the purchaser.

(4) If any purchaser shall fail to pay the second or any subsequent instalment of purchase money or any interest for the time being payable by him on the day on which such instalment or interest becomes payable, or within twenty-one days thereafter, the Governor may and, if such default shall continue for three months from the day on which such instalment or interest becomes payable, shall cause the land purchased by such purchaser to be again put up for sale by public auction at the same upset price and on the same conditions as at the previous sale.

If broken.

(5) If any land shall be again put up for sale as aforesaid, the previous sale thereof shall henceforth become void and the purchaser at the previous sale shall give up possession thereof and shall have no further right or interest in or lien upon such land.

Second auction.

(6) If, after payment in full of the purchase money and interest payable by the purchaser at the second sale, the Government shall have received in respect of such purchase money and interest an amount exceeding the purchase money and interest which would have been received from the purchaser at the previous sale if he had complied with the conditions of sale, then out of such excess, after deducting therefrom the expenses of the second sale, the Government shall repay to the purchaser at the previous sale the amount of the instalments of purchase money and interest which he shall have actually paid, or so much thereof as such excess shall suffice to repay, but in no other event shall a purchaser have any claim for repayment of instalments of purchase money or interest paid by him.

When bidder at first auction may obtain a refund.

Possession,
when given.

(7) Every purchaser whether at a first or second sale shall be let into possession of the land purchased by him upon the date advertised in the conditions of sale and upon payment of the first instalment of purchase money and upon his signing the above-mentioned agreement, but no grant of the land shall be issued to him until he shall have paid the whole of the purchase money and all interest payable under the conditions of sale.

Improvements
to be paid for.

(8) The sum of money (if any) payable by the purchaser of any land put up for sale as the value of improvements thereon under Sections 9 and 12 shall be paid by the purchaser to the Government within thirty days from the date of the sale. If the purchaser at a first sale shall not pay the said sum of money within the said thirty days the land shall be again put up for sale by auction in the same manner, and with the same consequences as if such purchaser had made default for three months in payment of an instalment of purchase money.

Leasing by
auction.

19. The following provisions shall have effect with respect to any Crown land put up to lease by auction :—

Highest bidder.

(1) The highest or only bidder for every lease at or above the upset price shall be the lessee. Immediately upon the conclusion of the auction the lessee shall pay one-half of the amount bid for the lease and one-half of the value of the improvements as assessed and advertised, and where there are no improvements then one year's rent, and shall sign an agreement to fulfil the conditions as advertised for the letting of the land, and to pay the second moiety of the amount bid for the lease and the second half of the value of the improvements (if any) at the expiration of two months from the date of the first payment. If any lessee at the auction, whether the highest bidder or a bidder substituted under this sub-section, shall fail to pay the amount due at the close of the auction or to sign the said agreement, the lease

to him shall be void, and the next highest bidder (if any) at or above the upset price shall be the lessee.

(2) Every lessee at auction shall be let into possession of the land upon the date advertised in the conditions of sale and on completion of the payments specified in the preceding subsection and on payment of one year's rent.

Possession,
when given.

(3) If any lessee shall fail to pay the second moiety of the purchase money of the lease and of the value of the improvements on the day on which such payment becomes due the Governor may and, if such default shall continue for 60 days from the date on which such payment becomes due, the Governor shall cause the land leased to be again put up to public auction at the same upset price and on the same conditions as at the previous auction; and if the land shall be again put up for lease by auction as aforesaid the previous lease thereof shall become void and the lessee at the previous sale shall have no right, title, or interest in or lien upon the land leased.

Second auction.

(4) The Governor, whenever he is satisfied that the Government, after defraying the expenses of the subsequent auction and any other costs incurred, has received more money by reason of the default of a lessee than would have been received had no default been made, may cause to be refunded to the original lessee at auction so much of the sums paid by him to the Government as such surplus may suffice to repay, but in no other event shall any lessee at auction have any claim for repayment of any sums paid by him.

When bidder at
first auction
may obtain a
refund.

20. The Governor is hereby authorised, on behalf of His Majesty, to sign and execute from time to time any instruments to give effect to the provisions of this Ordinance.

Governor may
execute
instruments.

21. The Governor in Council may insert in any lease granted by him on behalf of the Crown such reservations, conditions and restrictions as may be

Reservations,
conditions and
restrictions as
to Crown grants
and leases.

(e) The Governor shall have power at any time to proclaim a public road through any station or part thereof, and to resume and enter upon any part of the lands which it may be deemed necessary to resume for making any work

of public utility or convenience without making to the lessee or owner any compensation in respect thereof, so nevertheless that the lands so to be resumed shall not exceed one-twentieth part of the whole of the station and that no such resumption as aforesaid shall be made under this section of any lands upon which any buildings shall have been erected, or which may be in use as gardens or otherwise for the more convenient occupation of any such buildings :

Provided that a proportionate abatement of rent shall be granted to the tenant of such resumed land, except where the resumption is for public roads of which such tenant will enjoy the benefit with others.

(f) The Governor and any one acting under his authority may search, dig for, and take away any stones or other materials which may be required for any purpose of public convenience or utility.

Government
may take
stones, etc.

(g) All diamonds and all mines of gold, silver and other metals and all mines of coal are reserved to the Government of the Falkland Islands with full liberty at all times either by themselves or by any person authorised by the Governor to search and dig for and carry away the same and for that purpose to enter upon the land or any part thereof.

Mines, etc.,
reserved.

(h) The right to kill and take seals is reserved to the Government of the Falkland Islands, and such persons as are duly licensed by the Government.

Seals reserved

(i) Rent shall be paid yearly and in advance.

Rent.

(j) The owner or lessee shall be entitled to kill and appropriate to his own use any wild cattle or wild stock that may be on the land.

Wild cattle.

(k) Any person authorised by the Governor shall be entitled to enter upon any land for the purpose of surveying or for inspecting fences, or for any other special purpose which the Governor shall specify in writing.

Surveying.

(l) The owner shall pay all rates, taxes, and assessments whatsoever.

Rates, owner to
pay.

Fences.

22. The following provisions shall have effect with respect to fences and fencing :—

Owners must
join in making.

(1) Where there shall be no sufficient natural boundary or no boundary fence to any part of any land or where any boundary fence is not a sufficient fence, any owner may by notice in writing call on the owner of the adjoining land to come to an agreement as to the extent or nature of the fence to be erected, or the repairs or work to be done to the existing fence, and such owners may agree, in writing, that such dividing fence shall not exactly follow the boundary of their lands when the physical features of the ground render a deviation necessary, and such owners may, without resorting to proceedings, arrange with each other for the erection of a dividing fence upon the basis of a claim for the improvements proportionate to the outlay incurred, and the lessee who pays the whole or more than half the cost shall stand in the place of the other as regards compensation on the determination of the lease of the other in proportion to so much of the amount so paid by him in excess of his own share as shall not then have been repaid to him.

Failing to agree.

(2) If the parties shall fail within fourteen days after the giving of such notice to come to such agreement as aforesaid, it shall be lawful for the party who gave the notice to apply to an Inspector to view the boundaries and to report upon the necessity for a fence, the line of such fence or what repairs or additions to the existing fence are necessary to make it sufficient, provided that, where an Inspector is called in, his reasonable expenses shall be borne by the parties.

And where an agreement has been made under the sub-section last preceding and one of the parties fails to complete his part thereof, the other party shall have power to call in an Inspector in the same manner as if the said parties had failed to come to an agreement.

Inspector to
report.

(3) The Inspector shall, when so applied to, carefully view and inspect the land and report

in writing upon the extent of fence that it is necessary to erect, or what repairs or improvements are necessary to make the existing fence sufficient, which report shall be delivered as soon as practicable to a Magistrate.

(4) Upon the receipt of the report, the Magistrate shall require the attendance of the parties interested, and in a summary way hear and determine the question at issue, and, if satisfied that an existing fence should be repaired or that a new fence is necessary, he shall issue an order to the owners of such land for the repair or erection of such fence within such period as shall be shown to the satisfaction of the Magistrate to be sufficient for the proper completion of the work.

Magistrate to
issue order.

(5) Any owner of land who shall wilfully neglect to complete his share of the work of repairing or erecting a dividing fence within the time named in an order issued under the preceding sub-section shall be liable to a penalty not less than ten pounds, and not more than twenty pounds for every month he shall remain in default.

Owner neglect-
ing to comply.

(6) In the event of its being proved to the satisfaction of the Magistrate before whom an inquiry is held that the owner of land who shall have failed to agree to fence has not the means to immediately pay his proportion of the cost of the work of repairing or erecting a dividing fence, then the Magistrate, upon the application of the other owner, may grant such other owner leave to erect or repair the whole of such dividing fence, and on a certificate of the Inspector that the work has been properly done, the owner who has done the work shall be entitled to recover from the other owner one-half of the cost of the work so done.

When owner too
poor to meet
expenses.

(7) The Magistrate hearing any action brought under the foregoing sub-section may, upon being satisfied that the defendant is unable from want of capital to immediately pay his

Time may be
granted.

proportion of the cost of the work, issue an order granting the defendant time, upon good and sufficient security being given to the satisfaction of the said Magistrate for the payment of the amount with interest at the rate of four pounds per centum per annum at such periods and by such instalments as shall be ordered by the Magistrate :

Provided, however, that it shall not be lawful to extend the time for payment in such cases beyond a period of three years from the date on which the work of repairing or erecting the dividing fence shall have been completed.

Default.

(8) If a defendant to whom time has been granted under the preceding sub-section shall fail to comply with the terms of the order made by the Magistrate, either by the non-payment of an instalment when due or otherwise, the plaintiff in the action shall be entitled to at once issue execution under the judgment for the full amount of the principal and interest which may at that time remain unpaid, and in the event of the Sheriff or other officer appointed to levy making a return after levy upon and sale of the defendant's property that this was not sufficient to satisfy the claim, the plaintiff shall be entitled to at once take proceedings to recover payment of the balance due against any surety or sureties who may have entered into bond before the Magistrate as security for the payment of the judgment debt by the defendant.

Real and
personal estate
bound by
judgment.

(9) The judgment in any action under the preceding sub-sections shall bind and affect all real and personal property of the defendant as to and against all subsequent purchasers, mortgagees or creditors, and when a bond shall have been entered into by sureties as security for the satisfaction of the judgment by the defendant at the period and time allowed by the Magistrate, such bond, when recorded, shall constitute a preferable lien on all property of such sureties, and shall not be in anywise extinguished by any subsequent sale, mortgage or other encumbrance whatsoever of such property.

(10) When any damage shall be done to a dividing fence which is a sufficient fence by any stock which is suffered by the owner of the land to be thereon, such owner shall bear the entire cost of repairing such fence, and if he refuses or neglects so to repair the said fence, the adjoining owner may at once proceed to repair the same, and shall be entitled upon completion of the work immediately to recover the cost thereof from the owner of the land on which the stock was suffered to remain in an action or suit before a Magistrate.

Person causing damage to repair.

(11) Any person who shall wilfully break down, injure or leave open any gate on any land, or break down or injure any fence erected thereon, shall be liable on conviction to imprisonment, with or without hard labour, for a period not exceeding six months, in addition to a fine not exceeding ten pounds.

Wilful damage or leaving gates open.

(12) In the case of Crown land occupied by Government or let by Government for any period not exceeding one year, the Chief of the Police shall be deemed to be the owner for the purposes of this section.

Chief of Police "owner" of Government land.

23. The owner of any town land shall erect and keep in repair, on the boundary line separating any such land from any Crown waste land or any public road, a sufficient fence or such other form of fence as the Governor in Council may approve and as shall be notified under the hand of the Colonial Secretary, and the Chief of Police is hereby authorised, empowered and required to act on behalf of and represent the Government in respect of such waste land or public road, and to take such steps as may be necessary to secure the erection or restoration of any such fence, and the procedure in respect of compelling the owner to erect or repair such fence shall be as nearly as may be that laid down in the preceding section, save that the whole cost of the erection of such fence shall be borne by the owner :

Fencing of town land.

Provided, however, that should any fence so erected be a sufficient fence and thereafter become the boundary fence between any two private owners,

the owner who paid for the erection of the fence shall be entitled to recover from the adjoining new owner one-half of the value of such boundary fence, such value to be ascertained at the time the new owner takes possession of his land, and if such owners cannot agree as to the value of such fence the value thereof shall be assessed as in the case of an improvement under this Ordinance :

Relief from.

Provided that whenever it shall be made to appear to the Governor in Council that it would be of public advantage or that there are other good and sufficient reasons to allow any lot to remain unfenced, and whenever the owner of any land intimates in writing to the Colonial Secretary that he desires to leave his lot an open space and will keep it free from rubbish, the Governor may grant the owner thereof a permit to leave such property unfenced wherever it abuts on waste land or any public road, and such permit shall be produced upon demand by the Colonial Secretary and shall continue in force until revoked by the Governor in Council.

Ownerless land
may be
forfeited.

24. Whenever, for the purposes of the two preceding sections, no owner to a property can be found in the Colony, and whenever any owner intimates in writing to the Colonial Secretary that he abandons all claim to any property, it shall be lawful for any Magistrate, upon proof, to declare such property provisionally escheated to the Crown, and such provisional forfeiture may be made absolute by the Supreme Court two years after notice of such provisional forfeiture shall have appeared in the *Gazette* or in every local paper :

Provided that no notice of appeal shall have been sooner given, and that a notice of such provisional forfeiture was affixed to the property affected and a copy thereof sent to the last known address (if any) of the owner not less than six months before application is made to the Supreme Court to make absolute such provisional forfeiture.

Government may
occupy owner-
less land.

25. The Government may take immediate possession of any property provisionally forfeited, and anyone appealing against such forfeiture shall repay

to the Government any necessary expenses incurred by the Government in respect of such property before he can obtain restitution thereof.

26. The Governor in Council may make rules and regulations with reference (amongst other things) to the forms of leases and Crown grants, the characteristics of a "sufficient fence," and generally with reference to any other matters incident to the carrying out of the provisions of this Ordinance.

Rules, forms.

27. This Ordinance may be cited as "The Land Ordinance, 1903."

Short title.

FLOGGING.

Ordinance No. 1 of 1904.

[28th January, 1904.]

An Ordinance to regulate the law relating to sentences of Flogging.

Be it enacted by the Governor of the Colony of the Falkland Islands, with the advice and consent of the Legislative Council thereof, as follows :—

1. When a person is convicted of any offence legally punishable by flogging, the sentence awarded by the Court for such offence shall not, anything to the contrary in any law of the Colony notwithstanding, exceed the number of twenty-four strokes in the case of adults and twelve strokes in the case of juvenile offenders.

Twenty-four strokes the maximum for an offence.

2. When a person is convicted at one trial of any two or more distinct offences, any two or more of which are legally punishable by flogging, the combined sentences awarded by the Court for any such offences shall not, anything to the contrary in any law present or future of the Colony notwithstanding,

Twenty-four strokes the maximum for combined offences.