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BY AUTHORITY.

ACT 42.

AN ACT TO AMEND SECTIONS 4, 30, 57, 71, 72, 73, 10, 20, 27, 55, 62 AND 69 OF LAND ACT OF 1895, RELATING TO PUBLIC LANDS.

Be it enacted by the Legislature of the Republic of Hawaii:

SECTION 1. Section 4 of Land Act 1895 is hereby amended by striking out the words, "except leases executed under the provisions of Parts 6 and 7 of this Act," so that the section as amended shall read as follows:

"Section 4. All future leases of Public Lands in the classes of agricultural, pastoral and pastoral-agricultural lands may contain a proviso that the Government may at any time with reasonable notice and without compensation, except for improvements taken, take possession of any part of the premises covered by such leases which may be required for laying out and constructing new roads or improving or changing the line or grade of old roads, and take from such premises soil, rock and gravel as may be necessary for the construction or improvement of such roads; provided that such privilege of taking without compensation shall not extend to such parts of such premises as are under cultivation with annual crops or sugar until such crops shall be harvested, nor to such parts of such premises as are planted and cultivated with coffee, fruit trees or other perennial crops, or occupied or improved with permanent improvements, except fences."

SECTION 2. Section 0 of Land Act 1895 is hereby amended so that the section as amended shall read as follows:

"Section 30. Such charts of survey shall be open to public inspection during business hours without charge. All applications for any of said lots shall be made in person by the applicant at the office of the Sub-Agent, and shall include a sworn declaration substantially according to the form of Schedule A. The applicant shall pay to be Sub-Agent a fee of two dollars at the time of making the application. Upon receiving any such application and the said fee the Sub-Agent shall endorse upon the application the day and hour of receiving the same and the receipt of the said fee. In case two or more persons apply for the same lot, the one whose application is first received shall have the preference; the fee deposited by the unsuccessful applicant shall be returned to him. No application not including a declaration of qualifications as above required or not accompanied with the said fee shall be received or considered. All fees collected shall be turned in and accounted for as Government Realizations.

Provided, however, that the Sub-Agent may in his discretion issue a certificate of occupation to any person qualified to apply for Homestead Leases according to the provision of Section 31 of the said Act, who has established and continuously maintained a home upon Public Land for a period beginning at any time before the publication of Land Act 1895, for such occupied land or a part thereof within the limitations set forth in Section 28 of the said Act, without the public notice provided in Section 29 of the said Act."

SECTION 3. Section 57 of the said Act is hereby amended to read as follows:

"Section 57. The Agent of Public Lands shall thereupon give public notice in the English and Hawaiian languages through newspapers and posters, and, if he deem it advisable, in any other language in which newspapers in the Republic are published, and shall post such notice at the Post Office and Court House of the District, declaring such lots to be open for occupation according to the provisions thereof in this part of this Act, or in his discretion, declaring such lots to be open for occupation according to the provisions thereof in this part of this Act, or according to the provisions of Section 17 of this Act relating to special agreements of sale, at the option of qualified applicants."

SECTION 4. Sections 71, 72 and 73 of Land Act 1895 are hereby amended by inserting before the words "Right of Purchase Leases and" immediately before the words "Cash Freeholds" (wherever the words "Cash Freeholds" occur in the said Sections), substituting the words "Executive Council" for the word "Cabinet" in said Section 71, and by inserting the words "Lessees and" immediately before the word "Freeholders" in said Section 72, so that the said sections as amended shall read as follows:

"Section 71. In case six or more persons who are qualified to apply for Right of Purchase Leases and Cash Freeholds under this Act, shall form themselves into a Settlement Association and apply for holdings in one block of land, the Commissioners may, with the approval of the Executive Council, cause to be surveyed lots in one block corresponding in number to the number of persons forming such Association, in agricultural or pastoral land or both according to the provisions of this Act."

"Section 72. The provisions of this Act relative to Right of Purchase Leases and Cash Freeholds shall be followed in the settlement of such block of land, and shall apply to all matters relating to the occupation thereof and the rights and obligations of the Government and Lessees and Freeholders under such occupation, provided that the notice by the Agent of Public Lands declaring such land open for settlement shall be directed to such Settlement Association and shall be in one language only; and further provided, that in case of the surrender or forfeiture of the holding of any member of such Association, such holding if declared open for settlement shall be open to any applicant under the provisions of this part of this Act.

"Section 73. If any lot of such block of land shall be left for three months after such block is declared open for settlement, without being taken up by any member of such Settlement Association, the same may be declared open for settlement by any applicant under the provisions of this Act relative to Right of Purchase Leases and Cash Freeholds, or may be disposed of in any other manner provided in this Act or may be reserved for public uses or otherwise at the discretion of the Commissioners.

SECTION 5. Sections 10, 20, 27, 55, 62 and 69 of Land Act 1895 are hereby amended by substituting the words "Executive Council" for the word "Cabinet," wherever the word "Cabinet" now occurs in the said sections, so that the said sections as amended shall read as follows:

"Section 10. The Commissioners with the approval of the Executive Council shall have power to purchase lands for homestead purposes with any fund that may be appropriated therefor.

"Section 20. Previous to the last two years of the term of any general lease the Commissioners shall with the ap-

proval of the Executive Council decide in regard to the premises covered by such lease whether the same shall be demised under a new lease or be reserved by the Government for other disposition thereof under this Act, or for forest improvements, or for the development of water supply, or other public uses or otherwise, or whether a part should be so reserved and a part demised under a new lease, and shall promptly notify the lessee of such lease of the nature of such decision."

"Section 27. The violation of any of the conditions of a General Lease to be performed by the lessee, shall be sufficient cause for the Commissioners with the approval of the Executive Council to take possession of the demised premises without notice, demand or previous entry and with or without legal process, and thereby determine the estate created by such lease."

"Section 55. The Commissioners of Public Lands with the approval of the Executive Council are hereby authorized and instructed to cause to be surveyed and set apart from time to time suitable portions of public lands for the occupation of such persons as may desire to obtain holdings under this part of this Act. Such lands shall be selected only from agricultural and pastoral lands and shall be laid out in lots of not over one hundred acres in first class agricultural land, not over two hundred acres in second class agricultural land, not over two acres in wet land, not over six hundred acres in first class pastoral land, not over twelve hundred acres in second class pastoral land, and not over four hundred acres in mixed agricultural and pastoral land. Convenient roads as to grade and direction shall be surveyed connecting such lots with a public road."

"Section 62. The violation of any of the foregoing conditions shall be sufficient cause for the Commissioners, with the approval of the Executive Council, to take possession of the demised premises without notice, demand or previous entry, and with or without legal process, and thereby determine the estate created by such lease."

"Section 69. In case of default in the payment of any of the said instalments for thirty days after the same are due respectively, or failure of performance of any other of the said conditions, the Commissioners, with the approval of the Executive Council may take possession of such premises without notice, demand or previous entry and with or without legal process, and thereby determine the estate created by such Freehold agreement."

SECTION 6. This Act shall take effect upon publication.

Approved this 15th day of June, A. D. 1898.

SANFORD B. DOLE,

President of the Republic of Hawaii.



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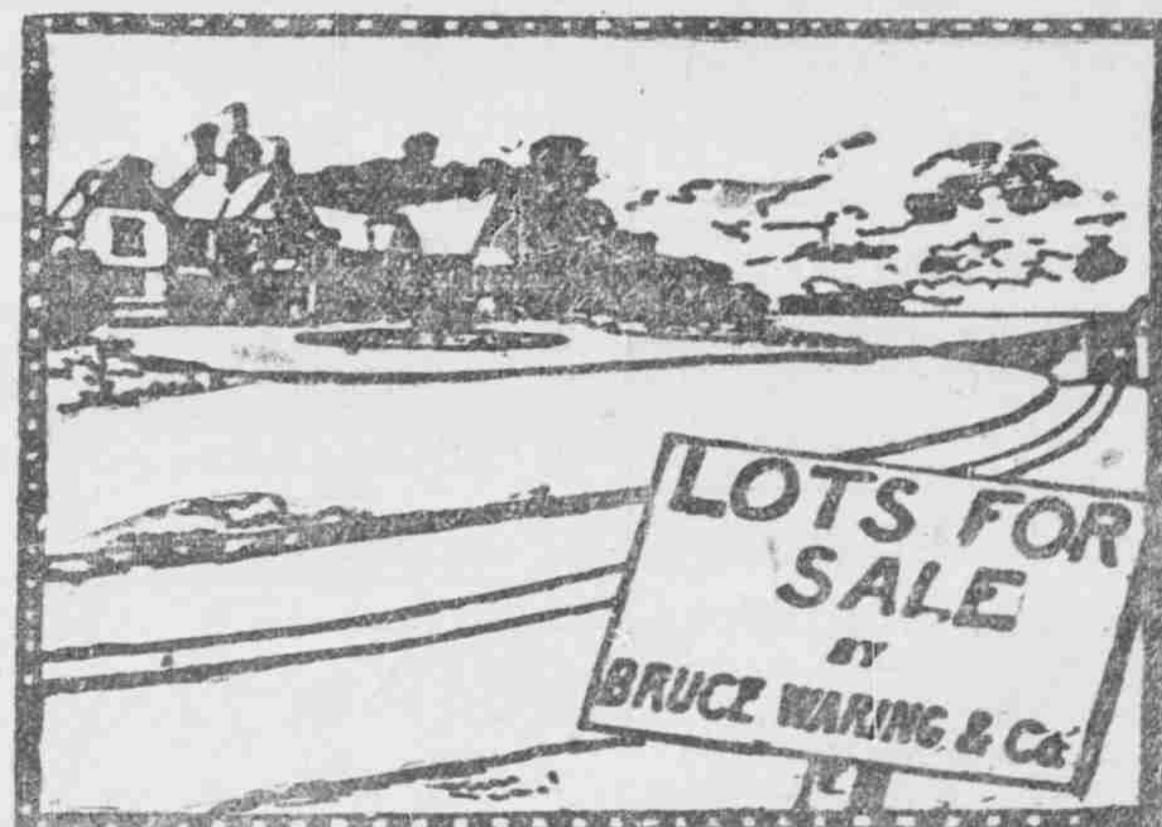
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