

Lands for Military Defence.

No. X.

LANDS FOR MILITARY
DEFENCE.

An Act to authorize the resumption or occupation and use of any Lands required for purposes of Military Defence and to make Compensation to the Owners thereof. [4th August, 1854.]

Preamble.

WHEREAS it is expedient that the Governor of New South Wales should be authorized to resume permanently and that the military authorities of the Colony should have the power of occupying and using temporarily as the case may require any lands which it shall be considered important to the public service to take for the erection of fortifications or for any other permanent or any temporary purpose of military defence And whereas it is proper that compensation should be awarded and paid to the owners of such lands for such resumption occupation taking or use thereof and for any damage thereto Be it therefore enacted by His Excellency the Governor of New South Wales by and with advice and consent of the Legislative Council thereof as follows:—

Governor empowered to resume permanently and military authorities to occupy and use temporarily lands required for purposes of defence.

It shall be lawful for the Governor in the name and on behalf of Her Majesty to resume and take into Her Majesty's hands or to cause to be occupied and used temporarily any piece of land required for the erection of fortifications thereon or for any other purpose connected with the defence of the Colony against invasion or hostile or predatory attack and to treat and agree with the owner thereof or any person having any interest therein for the surrender thereof to the Crown or for the possession or use thereof during such time as the exigence of the public service shall require And in case the owner of any such land or any person having any interest therein shall refuse or decline to enter into such contract touching the same as shall be satisfactory to the said Governor or shall be unable to do so by reason of infancy coverture or other disability or cannot be found or treated with as expeditiously as the exigence of the public service shall require it shall be lawful for the Governor to notify in the *Government Gazette* that such piece of land has been resumed or is to be temporarily occupied or used for purposes of defence and thereupon the fee-simple of the said land or the right to the occupation or use thereof according to the exigence of the public service as the case may be shall immediately vest in Her Majesty and the amount of compensation to be made for the surrender resumption occupation or use of such land to the owners and other persons interested therein shall be determined in the Supreme Court by an action for damages to be brought by the claimant against the Colonial Treasurer or upon an issue agreed to by the claimant and the Colonial Treasurer Provided that in all cases in which an action shall be brought in the Supreme Court in respect of any such claim it shall be lawful for the Colonial Treasurer to plead in bar of such action any tender which may have been made by him on paying into Court in the usual way according to the practice of the Court the amount of the money tendered or to pay into Court such money as the Colonial Treasurer shall think fit and to plead such payment in bar of the further maintenance of such action and whichever party shall succeed in such action or upon such issue as aforesaid shall be entitled to costs to be awarded and recovered according to the practice of the Court.