

HUTT VALLEY LANDS SETTLEMENT AMENDMENT BILL.

EXPLANATORY MEMORANDUM.

By the Hutt Valley Lands Settlement Act, 1925, authority was given to the Minister of Railways to undertake the erection of dwellings on lands subject to that Act, and for the Superintendent of the State Advances Office to provide moneys required for the purpose.

Lands subject to the said Act can be disposed of only by way of sale by public auction, or by way of lease under the Land for Settlements Act, 1925.

A necessary feature of the scheme of settlement that has been carried out in the Hutt Valley by the Minister of Railways with the financial assistance of the State Advances Office is the disposal of dwellings to specially selected applicants, and for this purpose freedom of contract is essential. As this freedom was not available under the Hutt Valley Lands Settlement Act, the lands in question were set apart under Part I of the Housing Act, 1919.

The purpose of clause 3 of the Bill is to restore the original intention by making these lands subject to the Hutt Valley Lands Settlement Act from the dates when they became subject to the Housing Act.

Clause 4 gives the necessary authority to dispose of such lands by private contract to persons qualified to receive advances under Part III of the State Advances Act, 1913 (relating to advances to workers).

Under the scheme of settlement above referred to, applicants for dwellings have been selected by an honorary Advisory Committee, and in many cases the selected purchasers have been required to pay relatively small deposits. As the dwellings have in most cases, if not indeed in all cases, a market value in excess of their cost to the purchasers, it is considered desirable that restrictions should be imposed on alienation within a limited period, and that, where alienation is permitted within that period, the vendor should not be entitled as of right to receive more than a refund of what he has paid on account of the price, together with the value of improvements effected by him.

It is considered also that, save in exceptional circumstances, the purchaser of a dwelling should be required to live in it.

These matters are provided for in clauses 5, 6, and 7 of the Bill. To the subject-matter of the restrictions the purchasers have already substantially agreed, and the clauses of the Bill give legal effect to the terms of an informal agreement.

Hon. Mr. Rolleston.

HUTT VALLEY LANDS SETTLEMENT AMENDMENT.

<p>Title.</p> <p>1. Short Title.</p> <p>2. Interpretation.</p> <p>3. Declaring certain lands that have been set apart under Part I of the Housing Act, 1919, to be subject to the principal Act.</p> <p>4. Disposal by private contract of workers' dwellings erected on land subject to principal Act.</p>	<p>ANALYSIS.</p>	<p>5. Imposing restrictions on powers of alienation.</p> <p>6. Mortgagor to continue to reside on mortgaged premises.</p> <p>7. Application of proceeds of sale of mortgaged property pursuant to powers of sale conferred by mortgage.</p>
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A BILL INTITULED

AN ACT to amend the Hutt Valley Lands Settlement Act, 1925.

Title.

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows :—

1. This Act may be cited as the Hutt Valley Lands Settlement Amendment Act, 1927, and shall be read together with and deemed part of the Hutt Valley Lands Settlement Act, 1925 (hereinafter referred to as the principal Act).

Short Title.

2. In this Act—

Interpretation.

“Superintendent” means the State Advances Superintendent appointed under the State Advances Act, 1913 :

“Mortgage” means a mortgage securing to the Superintendent an advance out of moneys provided in terms of section nine of the principal Act or out of moneys otherwise available for the making of advances to workers :

“Mortgagor” means the person to whom an advance secured on mortgage as aforesaid has been granted by the Superintendent, and includes the successor in title of any such person.

3. The lands situated in the Hutt Valley Settlement and set apart for the purposes of Part I of the Housing Act, 1919, by Proclamations dated respectively the fourth day of August, nineteen hundred and twenty-six, and the twenty-eighth day of March, nineteen hundred and twenty-seven, are hereby declared to be subject to the provisions of the principal Act and to have been subject thereto since the coming into force of the aforesaid Proclamations. The said lands shall cease to be subject to Part I of the Housing Act, 1919, as from the passing of this Act.

Declaring certain lands that have been set apart under Part I of the Housing Act, 1919, to be subject to the principal Act.

4. Notwithstanding anything to the contrary in the principal Act, or in the Land for Settlements Act, 1925, in its application to lands subject to the principal Act, any land to which the last preceding section

Disposal by private contract of workers' dwellings erected on land subject to principal Act.

relates that has not heretofore been disposed of, and any other land that may at any time be subject to the principal Act, may, in cases where a dwellinghouse has been erected on such land for purposes of sale, be disposed of by private contract to any worker qualified to receive a loan from the Superintendent under Part III of the State Advances Act, 1913. 5

Imposing
restrictions on
powers of alienation.
Cf. 1909, No. 8, s. 21

5. Whereas on the passing of the principal Act an honorary Advisory Committee was appointed and continues in office for the purpose of supervising the erection on a portion of the lands comprised in the Hutt Valley Settlement of dwellinghouses suitable for workers' homes and of disposing of the same by sale to suitable applicants: And whereas, with the concurrence of the Government, the policy of the said Committee in disposing of applications has been to select those applicants most in need of housing-accommodation: And whereas, with the aid of financial assistance from the State Advances Superintendent, the Committee has already caused to be erected on the said lands more than one hundred and sixty dwellinghouses, which, with the lands on which they have been erected, have been sold to selected applicants at prices varying from eight hundred and ninety-five pounds to nine hundred and forty pounds, and other similar dwellinghouses are in course of erection or are in contemplation: And whereas, in consideration of the fact that such dwellinghouses have a selling-value in excess of the price at which they have been sold to the purchasers, and that the purchasers have been given possession on payment of a relatively small deposit, the purchasers agreed by writing signed by them to accept certain conditions as to compulsory residence and also agreed to certain restrictions being placed on their power to sell the said dwellinghouses: And whereas it is desirable that the material provisions of such agreements should be given the force of law to the extent hereinafter appearing, and that the like conditions and restrictions should apply with respect to dwellinghouses that may hereafter be similarly disposed of in the said settlement: Be it therefore enacted as follows:—

(1) This section applies only to lands subject to the principal Act on which dwellinghouses have, whether before or after the passing of this Act, been erected for purposes of sale, and in respect of which advances have been made by the Superintendent out of moneys provided in terms of section nine of the principal Act or out of moneys otherwise available for the making of advances to workers. 35

(2) Except with the prior consent in writing of the Minister of Finance, the mortgagor or any person claiming through or under him shall not at any time within *ten* years after the date of the mortgage be capable of alienating, mortgaging, charging, or leasing any land to which this section relates, or any part thereof, or of creating (otherwise than by will) any right, title, estate, or interest (whether legal or equitable) in such land or any part thereof. 45

(3) Nothing in the *last preceding* subsection shall take away or restrict any power of sale or transfer which would otherwise be vested in an executor, administrator, or trustee of the estate of any person deceased, or in the committee of the estate of any mentally defective person, or in the assignee in bankruptcy of the estate of any bankrupt. 50

(4) As a condition precedent to the granting of consent to any proposed disposition under this section the Minister of Finance may—

5 (a) In the case of lands proposed to be disposed of by way of sale, require that the mortgagor shall pay or agree to pay to the Superintendent the whole or a defined portion of the excess of the selling-price over and above the aggregate of the price paid or agreed to be paid by the mortgagor for the property and the value of any permanent improvements effected thereon by the mortgagor, to the extent to which

10 such improvements add to the selling-value of the property as a whole; or

15 (b) In the case of lands proposed to be disposed of otherwise than as provided in the *last preceding* paragraph, require that the mortgagor shall pay or agree to pay to the Superintendent the whole or a defined portion of the excess of any rent or other consideration agreed to be paid to the mortgagor over and above an amount computed by the Superintendent to be a fair rent, taking into consideration the cost of the property to the mortgagor and the value of any permanent improvements effected by him, to the extent to which such improve-

20 ments add to the selling-value of the property as a whole.

(5) All moneys received by the Superintendent under the *last preceding* subsection shall be paid into the Hutt Valley Lands Settlement Account.

25 (6) For the purposes of the foregoing provisions of this section the value of any improvements effected by the mortgagor shall be determined by agreement between the mortgagor and the Superintendent, and in default of agreement shall be determined by arbitration.

30 (7) Every certificate of title heretofore or hereafter issued in respect of any land to which this section relates shall have written thereon a memorandum to the effect that the land comprised therein is subject to the provisions of this section.

(8) On production of a certificate under the hand of the Superintendent to the effect that any land is subject to the provisions of

35 this section the District Land Registrar shall enter on the registered copy of the certificate of title a memorandum in accordance with the *last preceding* subsection, and shall take the necessary steps to have a like memorandum entered on any outstanding certificate of title.

40 6. (1) The mortgagor or other person for the time being entitled to the possession of any land to which the *last preceding* section relates shall, except so far as he is for the time being exempted by the consent in writing of the Superintendent or of some person acting on behalf of the Superintendent, continuously reside on the mortgaged premises for a period of *ten* years after the date of the mortgage.

45 (2) The breach by any person of the requirements of this section shall be deemed to be a breach of the covenants and conditions of the mortgage, and the Superintendent may thereupon exercise all powers of sale and all other powers vested in the Superintendent by the mortgage or otherwise howsoever in respect of any breach of the

50 covenants and conditions of the mortgage.

Mortgagor to continue to reside on mortgaged premises.
Cf. 1909, No. 8, ss. 22, 24

Application of
proceeds of sale of
mortgaged property
pursuant to powers
of sale conferred by
mortgage.

7. Notwithstanding anything to the contrary in paragraph (c) of section one hundred and eight of the Land Transfer Act, 1915 (providing for the application of the purchase-money of mortgaged property sold pursuant to any power of sale contained or implied in a mortgage), the mortgagor of any land to which section *five* of this Act relates shall, on the sale of such property by or on behalf of the mortgagee, be entitled as of right only to so much of the surplus referred to in the aforesaid paragraph (c) as is equal to the amount actually paid by him in respect of the property (exclusive of interest, rates, insurance premiums, and other like charges) together with the value of any improvements effected thereon by the mortgagor or a predecessor in title, to the extent to which such improvements have added to the selling-value of the property as a whole, and the whole or any defined portion of the balance of such surplus shall, if the Minister of Finance so determines, be paid into the Hutt Valley Lands Settlement Account.