

5-11-5

Hon. Mr. Rolleston.

LAND ACTS AMENDMENT.

ANALYSIS.

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A BILL INTITULED

AN Act to amend "The Land Act, 1877," and the Acts amending the same. Title.
 BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

5 I. The Short Title of this Act is "The Land Acts Amendment Act, 1883," Short Title.
 and it shall be deemed to be incorporated with "The Land Act, 1877."

No. 59—1.

Definition of
"lessee."

2. In this Act "lessee" means and includes every occupier of lands comprised in a lease, whether under an original lease, sub-lease, or through any transfer of a lease.

LEASES OF PASTORAL LANDS.

Governor in Council may proclaim pastoral lands for leasing in blocks not exceeding 5,000 acres each.

3. The Governor in Council may from time to time, by Proclamation in the *Gazette*, set apart any rural lands, which may be classified under section seventy-five of "The Land Act, 1877," as being pastoral lands not suited for agriculture, for leasing by the Board, subject to the provisions of this Act, in areas not exceeding five thousand acres each. 5

Any such Proclamation may be at any time revoked in whole or in part, and either the whole or any part of the said lands thereafter dealt with as if they had never been so proclaimed. 10

When any land has been so set apart no part of such land shall be capable of being sold or of being otherwise dealt with than by leasing under this Act, so long as the said Proclamation remains in force as to such land. 15

No person can be lessee who owns or occupies more than 5,640 acres in the colony.

4. No person shall be capable of becoming a lessee under this Act—

(1.) Who owns any freehold land, or land held under lease or license of any kind whatever under the Crown, whereby such person, either by himself or jointly with any other person or persons, may become the owner or occupier of lands anywhere in the colony which, taken together with the lands comprised in the lease, would exceed in area five thousand six hundred and forty acres; 20

(2.) Until he has deposited with the Commissioner a statutory declaration in the form or to the effect set forth in the Schedule hereto.

No person can take two leases.

5. No person shall be capable of becoming the lessee under more than one lease under this Act. 25

Except through marriage or bequest, &c.

6. The provisions of the last two preceding sections shall not apply to persons who may become lessees or sub-lessees by marriage, or under a will, or by virtue of an intestacy.

Forfeiture of lease in certain cases.

7. Any lease held by any person who shall hold or occupy by himself or by other persons under him more than one lease, except as provided in the case of section *six* of this Act, shall be forfeited, and be deemed to be and to have been from the issue thereof absolutely void and of no effect; and such lands may be dealt with forthwith by the Board as in the case of unoccupied Crown lands. 30

Conditions of lease as to reservation of roads and minerals.

8. Every lease under this Act shall be subject to the stipulations following:— 35

(1.) Such roads and rights-of-way as the Governor or the Board may deem necessary may, at any time, be taken through any part of the lands comprised in the lease, without compensation; 40

(2.) If any mineral, metal, or valuable stone is discovered on any lands comprised in the lease the Governor may, at any time, cancel the lease over any such lands as may from time to time be required for the proper working of mines, or for granting access thereto, and the lessee shall not be entitled to any compensation in respect of any such cancellation. 45

Lessee may cultivate land, but not remove timber, &c.

9. A lease under this Act shall entitle the lessee to free right of pasturage over all the lands included in the lease, and to all crops which he may choose to take off any part of the lands he may put into cultivation; but no lessee shall have any right to cut or remove any timber or bush growing on the land except by license from the Board. 50

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10. The following provisions of "The Land Act 1877 Amendment Act, 1882," are hereby incorporated with this Act, and every lease granted under this Act shall be subject thereto, that is to say,—

Conditions set forth or incorporated in Act to operate as if set forth in lease.

- 5 (1.) Sections five to twelve, both inclusive, as to tenders for leases and deposits ;
- (2.) Sections sixteen to nineteen, both inclusive, as to the preparation, cost, execution, and registration of leases ;
- (3.) Sections twenty-three to twenty-six, both inclusive, as to transfers, sub-leases, and sales by mortgagees.
- 10 (4.) Section thirty-nine as to special conditions when lands front a stream of water.

The conditions set forth or incorporated in this Act as regards leases shall operate and shall be deemed to bind the Board and the lessee as fully and effectually as if they were set forth in each lease.

15 11. Every lease under this Act (hereinafter referred to as a "lease") shall be put up to public competition by tender, at an upset rental equivalent to two pounds and ten shillings per centum on the capital value of the land proposed to be leased as shall be fixed by the Board :

Leases put up to tender at upset rental.

20 Provided that such value so fixed shall not be less than the price for which similar lands may be sold for cash under the law for the time being regulating the price of such land in the district.

12. All tenders for any land shall be opened by the Commissioner at the same time at a meeting of the Board duly notified for the purpose ; and they shall be subject to the provisions of sections five to twelve, both inclusive, of "The Land Act 1877 Amendment Act, 1882."

Requirements of tenders.

Any such tender shall be deemed to be informal and incapable of being accepted unless closed up and accompanied by—

- 30 (1.) A statutory declaration in the form or to the effect set forth in the Schedule hereto, together with six months' rent at the rate tendered, and the sum of thirty shillings to pay for the lease and registration thereof, paid either in cash or by a marked cheque ;
- (2.) A written undertaking to pay the value of all improvements (if any) assessed upon the lands tendered for within thirty days before the commencement of the lease.

35 13. Every lease shall be for a term fixed so as to expire on the *last* day of *February* which shall first ensue after the expiration of not less than fourteen years nor more than twenty-one years, as may be determined by the Board in each case, from the date of the commencement of the term, and shall be renewable by public tender in manner hereinafter mentioned.

Term of leases.

40 14. The lessee shall pay the rent reserved by his lease to the Receiver of Land Revenue of the district wherein the land leased by him is situate, by equal half-yearly instalments in advance, on the *first* day of the months of *March* and *September* in each year. The half-year's rent paid at the time of tendering shall be in discharge of the half-year's rent due on the first day of

45 January or the first day of July which shall first ensue after the commencement of the term.

Rent to be paid half-yearly in advance.

15. The lessee shall be liable for all rates, taxes, or assessments of every nature or kind whatsoever imposed upon the occupier of the lands included in his lease during the term for which he is lessee.

Lessee liable for rates.

50 16. Every lessee shall, within twelve months of the commencement of his term, and thereafter for a period of six consecutive years, reside on some portion of the lands leased by him.

Conditions as to residential occupation by lessee.

But the Board may dispense with the necessity of such residence if the lessee resides continuously during the six years aforesaid on any freehold or leasehold lands of not less than fifty acres in area in his own occupation situate within a radius of twenty miles from the lands leased.

When a lessee under this Act acquires by marriage, will, or under an intestacy, an interest in a lease under this Act of lands other than those comprised in his original lease, residence on the lands comprised in one of the leases shall be sufficient fulfilment in respect of the lands comprised in both leases of the condition of this section as to residence.

Lessee within six years to put improvements on land to value of four years' rent.

17. Each lessee shall put substantial improvements of a permanent character on the land, to a value equivalent to the amount of one year's rent of the land, within one year from the date of his lease; and to an equal value within two years from the date of his lease; and thereafter, but within six years from the date of his lease, to a value equivalent to the amount of two years' rent of the land.

Allowance made for value paid on entering.

Any money paid for value of improvements by a purchaser of a lease on entering into occupation shall be allowed and estimated to be substantial improvements, to the amount of such value, put upon the land by such purchaser within the meaning of this section.

Definition of "substantial improvements of a permanent character."

"Substantial improvements of a permanent character" shall, for all purposes under this Act, mean and include reclamation from swamps, clearing of bush or scrub, cultivation, planting with trees or live hedges, the laying-out and cultivating of gardens, fencing, draining, making roads, sinking wells or water-tanks, constructing water-races, in any way improving the character or fertility of the soil, or the erection of any necessary building.

On expiry of term lease to be sold subject to value of improvements.

18. Not later than six months before the expiration of the term of the lease, the Board shall appoint an appraiser to make a valuation of all the improvements of a substantial character made upon the lands by the lessee during his occupation; and so soon as such valuation is made the Board shall, with the approval of the Governor, cause the lands included in the lease, or so much thereof as it shall think fit, to be again offered for lease, in the same manner as the original lease was offered, for such further term as the Board shall decide.

Purchaser to pay value before term of lease commences.

19. The purchaser of the new lease shall be bound by all the conditions of a lease as in the case of an original lessee, and within thirty days before the commencement of the term of the lease shall pay to the Receiver of Land Revenue the full amount of the value awarded for improvements on the land to be leased to him, and if he fail to do so his right to obtain the lease shall be absolutely determined, and the same shall again be offered for disposal by public tender as aforesaid.

Review of appraisalment.

No such payment as aforesaid shall be required in any case where the outgoing tenant becomes the purchaser of the new lease and remains in occupation.

If any purchaser of a lease shall think the improvements deteriorated in value since the appraisalment, and shall, at the time of making such payment as aforesaid, require it, the Board shall, at such request and at the cost of the purchaser, cause a new appraisalment to be made of the value of the improvements at the time of such payment, and, if the amount then appraised be less than the amount paid by the purchaser, the difference shall be refunded to the purchaser by the receiver aforesaid, on the request of the Board to that effect.

Value to be paid to outgoing tenant, subject to arrears, &c.

20. The amount of the valuation for improvements received by the Receiver of Land Revenue as aforesaid shall, within one month after the receipt thereof, be paid by him to the outgoing tenant, unless there shall be any arrears of rent or other moneys due in respect of the lease by the outgoing

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tenant, in which case such rent or moneys shall be deducted from the amount aforesaid, and the balance only shall be paid to the said tenant.

21. If any lessee shall fail to fulfil any of the conditions of his lease within thirty days after the day on which the same ought to be fulfilled, and shall neglect or refuse to give up possession of the land on being required in writing so to do, the Commissioner of Crown Lands may proceed for recovery of possession of the land in manner provided by sections sixty-nine and seventy of "The Land Act, 1877," which sections shall be read for the purposes of this Act as if the word "lessee" had originally been inserted therein in the place of the word "selector," wherever the latter word occurs.

Procedure for recovery of land in case of breach of conditions.

22. On recovering possession the Board shall cause a valuation of the improvements, if any, upon the land to be made in manner as hereinbefore mentioned, and may dispose of the land as if the lease thereof had expired by effluxion of time.

After recovery land to be again leased at discretion of Board.

The amount of the valuation of the improvements, if paid by the purchaser of a new lease, may, at the discretion of the Board, with the approval of the Governor, be paid to the original lessee, less the amount of expenses incurred in recovering possession of the land, and less also any arrears of rent or other moneys due in respect of such land by the outgoing tenant :

23. In any case where it is determined that any lands included in a lease shall not again be offered for further lease, then the amount of the valuation for improvements shall be paid to the outgoing tenant, as mentioned and subject as provided in section twenty, by the Receiver of Land Revenue out of any moneys which may be appropriated by the General Assembly for that purpose, unless such outgoing tenant has forfeited his lease for breach of conditions, in which case all value of improvements shall be absolutely forfeited to the Crown.

If lease not renewed, value of improvements to be paid by the Crown, except when lease forfeited.

Except as in this section mentioned, no tenant shall have any right or claim against the Crown or the Board in respect of any improvements made by him on the lands in his occupation.

LANDS ON DEFERRED PAYMENTS.

24. Section nine of "The Land Act 1877 Amendment Act, 1879," is hereby repealed.

Original condition of six years' residence revived.

The provisions of subsection nine of section sixty-three of "The Land Act, 1877," are hereby revived, and shall have operation from and after the commencement of this Act as if the same had never been repealed, saving as to anything done prior to the commencement of this Act and subsequent to the commencement of "The Land Act 1877 Amendment Act, 1879."

PASTORAL LANDS ON DEFERRED PAYMENTS.

25. The provisions of this Act enumerated below, so far as the same may be applicable, shall apply to pastoral lands sold on deferred payments; that is to say,—

Conditions of this Act as to residence and improvements to apply to pastoral lands sold on deferred payments.

Section sixteen—in relation to the conditions of residential occupation; Section seventeen—as to improvements to be put upon the land.

All provisions of "The Land Act, 1877," or any Act amending the same, in contradiction of this section are hereby repealed.

LANDS ON PERPETUAL LEASES.

26. Section thirty-eight of "The Land Act 1877 Amendment Act, 1882," is hereby repealed, without prejudice, however, to any right, title, or claim which has already accrued thereunder.

Right of purchase within six years repealed.

SALES OF RESERVES.

On sale of reserves portions may be retained for public purposes.

27. Where any lands are discharged from reservation and are authorized to be sold for purposes of settlement, the Governor may, notwithstanding such authority, except such portions of the lands from sale as he shall think necessary, and may reserve the same for public purposes under the one hundred and forty-fourth section of "The Land Act, 1877."

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Schedule.

SCHEDULE.

DECLARATION ON TAKING A LEASE, OR BECOMING THE TRANSFEREE OR SUB-LESSEE OF A LEASE.

I, A.B., of [*Insert place of abode and occupation*], do solemnly and sincerely declare,

1. That I am of the age of eighteen years and upwards;
2. That I am the person who, subject to the provisions of "The Land Act 1877 Amendment Act, 1883," am tendering for the purchase [*or is desirous of becoming the transferee or sub-lessee*] of a lease of [*Here specify land*];
3. That I am purchasing such lease solely for my own use and benefit, and not directly or indirectly for the use or benefit of any other person whomsoever;
4. That I am not already the holder of any lease under this Act, nor have I any interest in any such lease;
5. That I am not, directly or indirectly, either by myself or jointly with any other person or persons,—

- (1.) Owner of any freehold lands anywhere in the colony to an area, inclusive of the lands comprised in the lease I am now tendering for, exceeding in the whole five thousand six hundred and forty acres;
- (2.) Occupier under lease or license from the Crown, with a right to purchase or otherwise acquire the freehold of, any lands to an area, inclusive of all freehold lands I may otherwise possess anywhere in the colony, and inclusive also of the lands comprised in the lease I am now tendering for, exceeding in the whole five thousand six hundred and forty acres:

And I make this solemn declaration conscientiously believing the same to be true, and by virtue of an act of the General Assembly of New Zealand intituled "The Justices of the Peace Act, 1882."

A.B.

Declared at _____, this _____ day of _____, 18____, before me,

Justice of the Peace.