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(Hon. Mr. G. F. Richardson.)

[AS REPORTED FROM THE WASTE LANDS COMMITTEE.]

LAND ACT AMENDMENT.

ANALYSIS.

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A BILL INTITULED

AN ACT to amend "The Land Act, 1885."

Title.

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

5 1. The Short Title of this Act is "The Land Act Amendment Act, 1887." It shall be read together with and be deemed to form part of "The Land Act, 1885" (hereinafter referred to as "the said Act").

Short Title.

10 2. The Governor may from time to time, by notification in the *Gazette*, declare (anything in the several Appendices to the said Act, or in the said Act, to the contrary notwithstanding) that any pieces or parcels of rural land within the colony, including land now open for selection, shall be open for sale or selection in the manner and upon the conditions mentioned in this Act: Provided always that this

15 section shall not apply to lands now or hereafter to be open under

Governor by notification in *Gazette* may declare all rural lands open for selection for cash.

Exceptions.

Parts V. or VII. of the said Act: Provided also that, before causing any notification to be published, the Governor shall require the Surveyor-General to report, and it shall be his duty to report, upon the nature and value of such lands.

3. The notification mentioned in section two shall fix the price at which, and the time when, the land mentioned therein shall be open for selection, but such price shall not be less than twenty shillings per acre for ordinary *first-class* land, or ten shillings per acre for second-class land, ~~except in the case of lands within land districts, where the same may, by virtue of the said Act or its Appendices, be sold at a less price; in which case the minimum price may be less than the foregoing prices, but shall not be less than the minimum price at which the same may be sold in terms of the said Act or Appendices.~~ *or five shillings per acre for third-class land, anything in the said Act or its Appendices to the contrary notwithstanding.*

The Governor may, in such notification, assign a price to each section within a block, and he may, subject to a new notification being given, and to the provisions of this Act, raise or reduce such price. He may also, where the land within a block is declared open at the same price per acre, by a subsequent notification or notifications raise or reduce such price.

4. The time to be mentioned in any notification aforesaid at which the land mentioned therein shall be open for selection at the price or prices mentioned therein shall be a time not less than ~~thirty~~ *forty-five* days after the first publication of the *public* notification aforesaid ~~thereof~~.

5. All lands notified as aforesaid shall, at the time mentioned in the *public* notification, be open for purchase for cash at the price or prices mentioned therein, or (at the option of the person seeking to purchase or select the same) for selection on deferred payments or on perpetual lease at their respective equivalents in prices, to be arrived at as provided for by the said Act.

6. No person shall be entitled to select land under the provisions of this Act under the deferred-payment system or by way of perpetual lease who is disqualified by the said Act from acquiring the same under such systems respectively; and any person so acquiring land under either of such systems shall hold the same subject to the conditions in the said Act with regard to such systems as modified by this Act.

7. All applications for sections of surveyed land shall be deemed to be simultaneous if made on the same day, but ~~priority of applications on the same day for unsurveyed land shall determine the right thereto.~~ *if made during the same hour on the same day.*

8. All rural lands which at any time heretofore have been proclaimed, or which may hereafter be proclaimed, open for selection on deferred payments or on perpetual lease shall be open either for purchase for cash, subject as in this Act mentioned, or for selection on deferred payments or perpetual lease, at the option of the applicant. The cash price per acre to be paid for any such land shall be estimated from the price at which the same shall have been open for selection according to the respective equivalents mentioned in the said Act.

9. The Governor, on being satisfied by the certificate of the Surveyor-General that any rural lands in the colony are of inferior quality and not capable of being profitably worked in small holdings, may, by notification in the *Gazette*, from time to time declare any such lands to be second-class lands.

Price of land to be stated in notification.

Land may be selected forty-five days after notification.

Lands to be open for cash, or on deferred payments, or perpetual lease, at option of applicant.

Disqualifications under principal Act to apply.

Definition of simultaneous application.

Rural lands now open on deferred payments or perpetual lease declared open for sale for cash or occupation on either tenure.

Second-class lands may be declared defined on certificate of Surveyor-General.

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10. No person shall be entitled to purchase for cash within any one ~~survey~~ land district more than six hundred and forty acres of ordinary ~~first-class~~ land and two thousand acres of second-class land, or five thousand acres of third-class land, but no person shall be entitled to acquire more than the maximum area of any two classes under this Act. And every person applying for land for cash shall, before at the time he makes his application ~~or within three days thereafter~~, make and lodge a statutory declaration in a the form ~~be prepared by the Commissioner set forth as follows~~ :—

Limitation of cash purchases.

Declaration.

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“I, A. B. [*insert occupation and place of abode*], do solemnly and sincerely declare that I am purchasing the under-mentioned land solely for [my own use and benefit], or [the use and benefit of C. D. and E. F. for whom I am trustee], and not directly or indirectly for the use or benefit of any other person or persons whomsoever, and that [I am not the holder either in my own name], or [the said C. D. and E. F. are not the holders either in their own names], or in the name of any other person of freehold land in the Land District of _____, to an extent which, added to the acreage comprised in this present application, would exceed 640 acres of first-class land, and 2,000 acres of second-class land. 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.’”

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Trustee in this section includes the Public Trustee or the guardian of an infant, but does not include any Trustee in Bankruptcy, or person to whom the estate of another has been assigned within the meaning of any such Act.

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11. In the event of any of the statements in such declaration being false, the purchaser shall forfeit all right to the land, and all moneys paid in respect thereof; *and the land shall be again open for sale as if it had never been sold*; or if he shall have parted with the said land, then he shall be held subject to a penalty equal to twenty-five per cent. upon the purchase money, to be recovered summarily.

Forfeiture in case of false statement in declaration.

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12. Every purchaser of rural lands under this Act or the said Act, or any of the Appendices thereto, for cash, shall lodge a written application for the same with the Commissioner, in such form as may be prescribed, together with a deposit of one-fourth fifth of the estimated price of the land described in such application, and shall pay the whole remainder of the purchase-money thereof immediately upon the granting of his application, and if not paid within thirty days his deposit shall be forfeited, and the lands shall be again open for sale or occupation forthwith.

Application and payment for cash lands.

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13. All second-class lands taken up under this Act either on deferred payment or on perpetual lease shall be held subject to the conditions following, that is to say,—

Conditions of occupation of second-class lands on deferred payment.

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(1.) Subsections five to eight, both inclusive, of section one hundred and fourteen, and subsections one to three, both inclusive, of section one hundred and forty-nine of the said Act, shall not apply in respect thereto; but, instead thereof respectively, each selector of such lands on deferred payments, or lessee thereof on perpetual lease, shall put on

the land comprised in his license or lease, as the case may be, substantial improvements to a value equal to ten per centum of the price of the land within one year from the date of his license or lease, and to a value equal to another ten per centum within two years from the date of his license or lease, and thereafter, but within six years from the date of his license or lease, to a value equal to another ten per centum on the price of the land.

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(2.) The declarations in sections one hundred and thirteen and one hundred and forty-three of the said Act shall, with respect to second-class lands, be amended by the substitution of "two thousand acres" for "three hundred and twenty acres" and "six hundred and forty acres" therein respectively.

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As to dealing with simultaneous applications.

14. Where simultaneous applications are made under this Act for the same land by persons wishing to have land on the same tenure or on different tenures, then the priority of choice between them shall be decided by lot.

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(1.) By persons wishing to have the land on the same tenure, the priority of choice between them shall be determined as provided in the said Act;

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(2.) By persons wishing to have the land on different tenures, then the land shall be put up to auction between the applicants at its upset cash price, and the highest price bid at such auction for the land shall be the value thereof. If the land is to be held on deferred payments, twenty-five per centum upon such value added thereto shall be the price of the land; and, if the land is to be held on perpetual lease, the annual rent shall be estimated upon the aforesaid value.

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Freehold of deferred-payment or perpetual-lease lands may be acquired as soon as prescribed improvements effected.

15. Every person who, at any time now or hereafter, may be the holder of land on deferred payment or perpetual lease under the said Act or this Act, shall be entitled to acquire the freehold of such land so soon as he has carried out all such improvements, if any, as are required to be made by his license, and if he shall have fulfilled all the conditions of his license except the condition for payment of his fees or rent on the land which are required by his license or lease, on application to the Commissioner for the purpose, and paying the full price of the land, or so much thereof, in the case of land held on deferred payment, as shall not have been paid by him during his occupation thereof, anything contained to the contrary in Part III. or Part IV. of the said Act notwithstanding.

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Applications for purchase of land in mining districts to be published.

16. Every present or future holder of land within any mining district held on perpetual lease may apply for the purchase thereof to the Warden of the district, who shall, at the cost of the applicant, publicly advertise, in such manner as he shall think best fitted to give publicity thereto, that such application has been made, and that any objections to the purchase may be lodged with him. At the expiration of thirty days from the date of the first publication of the aforesaid advertisement the Warden shall forward the application, together with the objections thereto, if any, and his own report, to the Commissioner, who shall send the same to the Minister for his decision thereon.

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Objections thereto.

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If the prescribed improvements have been made thereon, and the full price of the land be paid by the applicant, it shall be lawful for the Minister to grant the application, and to cause all necessary things to be done to give effect to the same.

5 All land acquired under this section shall be subject to the provisions relating to resumption of lands for mining purposes contained in any present or future Act relating thereto.

17. The Commissioner, on the estimated cost of the survey being deposited with him, may allow any applicant for the purchase of unsurveyed land to have such land surveyed, at his own expense, by a surveyor employed by the Surveyor-General in that behalf, and an allowance in the amount of purchase-money for the same shall be made to the purchaser for the cost of the survey at any rate not exceeding the ordinary rate for the survey of rural lands which may be prescribed by the survey regulations for the time being in force. Should the land be reserved or withdrawn from sale, the applicant shall be paid the cost of the survey at the aforesaid rate; but, should the applicant in any case refuse or delay to complete the purchase of the land after survey, if open for sale, he shall forfeit the cost of such survey.

Applications for unsurveyed lands.

18. All public reserves sold on deferred payments since the commencement of the said Act, or to be hereafter sold on deferred payments under the authority of "The Public Reserves Sale Act, 1878," or any other Act authorising the sale of reserves on deferred payments, shall be deemed to be sold under the provisions of Part III. of the said Act.

Public reserves sold on deferred payments to be sold under said Act.

New clauses.

19. Any selector of rural land on deferred payments holding a license under section one hundred and fourteen of the said Act may, on application to the Commissioner, obtain an extension of his license for a period of four years, and in any such case,—

- (1.) The license of such selector extended as aforesaid in respect of such land shall be deemed to be for a period of fourteen years from the date of the original license :
- (2.) The yearly fee in respect of the license so extended shall be deemed to be an amount equal to one-fourteenth of the price of the land payable from the date of the original license in equal parts, half-yearly in advance, on the first day of January and the first day of July in each year, to the Receiver of Land Revenue :
- (3.) The payments made in respect of the original license up to the date of the extension thereof shall be retained as so many back payments, and payments in advance under the extended license commencing from the date of the original license as the payments represent.

20. Any holder of bush lands on deferred payment (including those of special settlements) under section one hundred and fourteen of the said Act or any regulations under Part V. thereof, shall be exempt from the conditions of residence therein contained, so soon as he has brought into cultivation and has put permanent improvements of a substantial nature on the lands in his holding to twice the amount

actually required by the said section or regulations respectively, anything contained therein to the contrary notwithstanding.

Adjustment between local authorities of thirds of price of land.

19. 21. The third of the price or value of land, or of the rental thereof, disposed of on deferred payments or perpetual lease, required to be paid to local bodies under sections one hundred and twenty-seven, one hundred and twenty-eight, one hundred and thirty, and one hundred and sixty of the said Act, and under clause nine of Appendix C to the said Act, shall be paid as follows, that is to say,—

- If the land in respect whereof the money to be allocated arises—
- (1.) Is situate within a borough or town district, it shall be paid to the Borough Council or Town Board thereof; but, if the land be outside of a borough or town district, then the money shall be paid to the Council of the county or to the Road Board of the road district wherein the land is situate, as the Minister shall determine it would most advantageously be expended in each case;
 - (2.) Is situate within either of the Counties of Kawhia, West Taupo, East Taupo, Sounds, Fiord, or Stewart Island, which are excepted from the operation of "The Counties Act, 1886," and wherein there are no road districts, it shall be expended, under the direction of the Minister or any person whom he appoint, for the objects directed by the aforesaid section.

It is hereby declared that the provisions of section one hundred and twenty-seven of the said Act, relating to the payment of the third of the price of deferred-payment lands to local bodies, shall apply, and shall be deemed to have applied from the date of the enactment of the said section, in respect of all lands held on deferred payments within any special settlement and village settlement, in the same manner as it applies to such lands outside of the said settlements; ~~but this shall apply only to land so taken prior to the passing of this Act.~~

Money authorised for roads may be spent for supply of water.

20. 22. Any moneys, as mentioned in the *last preceding* section, which by the said Act are directed to be expended in the construction of roads within any lands, or for the opening-up of any particular lands, may from time to time be expended in or towards the construction or contributing towards the construction of water-races for the supply of water, *or for the drainage of*, to such lands, if the Minister shall think the said lands would be more benefited by such last-mentioned expenditure, and he gives his written consent thereto.

Holders of pastoral deferred-payment licenses may exchange for leases of small grazing-farms.

21. 23. Notwithstanding the provisions of section one hundred and thirty-two of the said Act, any holder of a pastoral deferred-payment license may, with the consent of the Minister, surrender his license, and obtain from the Commissioner in exchange a lease of the same land as a small grazing-run under Part VII. of the said Act, subject as follows:—

- (1.) The lease shall be antedated to the date of the license which is surrendered.
- (2.) The rent under the lease shall be an amount equal to two and a half pounds per centum on the price paid for the land under the license, and shall be computed from the commencement of the license.

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(3.) The payments made in respect of the license up to the time of surrender shall be retained as so much back-rent and rent in advance under the lease as the said payments represent. :

5 (4.) Provided always that all applications under this section must be made before the *first* day of January, one thousand eight hundred and *ninety*.

22. 24. Part VII. of the said Act shall hereafter be read as if the limit of the area of any run had been twenty thousand acres instead of 10 five thousand acres, and where the words "five thousand acres" occur in such Part "twenty thousand acres" shall hereafter be read.

Area of small-grazing runs extended.

New clause.

15 25. Any holder of land on perpetual lease under Part IV. of the said Act may exchange his lease for a license, to hold the land on deferred payments under Part III. of the said Act.

23. 26. The said Act is hereby amended as follows, that is to say,—

Amendments of said Act. As to illegal occupation of forfeited lands.

20 (1.) Section twenty-five, relating to the recovery of the possession of Crown lands or reserves from any person in the unlawful occupation thereof, is hereby amended by the substitution of the following words in place of the second paragraph of the said section, that is to say,—

25 If, on the hearing of such plaint, the defendant does not appear, or appears but fails to establish in himself an absolute right or title to the possession of the land, or if it is shown by or on behalf of the plaintiff, to the satisfaction of the Court hearing the plaint, that the title under which the defendant claims has, as between himself and Her Majesty, expired or become liable to forfeiture or cancellation, the Court shall declare 30 such title to be extinguished, and may order that possession of the land sought to be recovered be given by the defendant to the plaintiff, either forthwith, or on or before such a day as the Court thinks fit to name, and that the defendant do pay the costs.

35 (2.) Section one hundred and nineteen shall not be construed as being limited to the protection of the interests of the selector of land on deferred payments, but no such land, nor any Crown lands of any sort held under any other tenure less than freehold under the said Act, shall be capable of 40 being sold for non-payment of rates by the occupier thereof.

Crown lands not to be sold for non-payment of rates by occupier.

New subsection.

45 (3.) Section one hundred and twenty-three is hereby repealed, and the following words substituted in lieu thereof:—

The sum received for improvements at such sale shall be returned to the original selector less all costs and expenses incident to the recovery of the possession of the land and the sale thereof.

50 3. (4.) Section one hundred and seventy-two is hereby amended by the omission of subsection two, and the substitution of the following in lieu thereof:—

As to rent of runs to be paid in advance.

The amount to be paid in advance at the time of auction by the purchaser of the license of any run shall be ~~one~~ a half year's rent.

New subsection.

Abatement of rent when run diminished.

Renewal of education reserves leases to be subject to approval of Minister.

Rents of Clutha River Trust lands may be applied towards road-making.

Retrospective power of applying proceeds of sales of Clutha River Trusts lands towards road-making.

Special provisions as to Kermadec Islands.

- (5.) Subsection one of section one hundred and eighty is hereby amended by the addition thereto of the words following:—
Or five times such amount in cases where the annual rent does not exceed fifty pounds. 5
4. (6.) Section one hundred and eighty-three shall be read and construed as if the words "has not been so revoked" had been originally inserted therein, in the place of the words "has been so revoked," where the latter words occur in the said section. 10
5. (7.) ~~Section two hundred and forty-five:~~ Notwithstanding anything ~~in the said section~~ contained in *section two hundred and forty-five*, no renewal of any lease of any endowment or educational reserve shall be granted under the authority of the said section unless the previous consent of the Minister to such renewal has been obtained. 15
24. 27. The Board constituted under "The Clutha River Conservators' Board Act, 1875," shall be deemed to have had conferred on it, as from the date of the passing thereof, power to apply any proportion of the rents, license-fees, or other moneys arising from the lands in the said section mentioned, or any accumulation thereof respectively, in payment for the survey of such lands or in road-making for the improvement thereof: Provided that all sums to be hereafter expended in such road-making shall be subject to the approval of the Governor, and shall not exceed the sum of five shillings per acre. 20
25. 28. Section twelve of "The River Boards Act 1884 Amendment Act, 1885," shall be deemed to have, and to have had from the passing of the said Act, retrospective operation so as to have permitted and to permit the Trustees therein named to deal, as in the said section mentioned, with one-third of the price of land which had been sold, as therein mentioned, prior to the passing of the said Act. 25
26. 29. The Kermadec Islands shall, for purposes of administration of the said Act and this Act, be deemed to be included within the Land District of Auckland; but the Governor may, from time to time, make special provision as to such administration, and bring into force within the said islands such parts of the aforesaid Acts as he shall think fit, or make other provisions as he shall think best suited to the circumstances of the islands and the occupation of the Crown lands therein; and may make a special grant in freehold, free of cost, of not exceeding one hundred acres to Thomas Bell, who was residing on the islands at the time of their becoming annexed to the colony, the said land to include the homestead and cultivations of the said Thomas Bell on Sunday Island; and may also grant to the said Thomas Bell a special occupation-license for pastoral purposes over not more than twelve hundred acres on the same island, for a term not exceeding twenty-one years, subject to such conditions as he shall think fit, with power to revoke any such license. 30 35 40 45 50

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27. All Land Boards constituted under the said Act are hereby abolished, and shall be dissolved as from and after the *thirty-first* day of *December* in the now current year.

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(1.) The Commissioner of Crown Lands of a land district, by virtue of his office as such Commissioner, after the dissolution of the Land Board of such district,—

(a.) Shall, subject to the approval or confirmation by the Minister, exercise, do, and perform all the powers, duties, and functions which, previous to the dissolution of the Board, were vested in or to be exercised, done, or performed by such Board under the authority of the following sections of the said Act and of the several Appendices thereto, that is to say, sections 49, 92, 95, 96, 98, 100, 115, 116, 123, 124, 132, so much of section 143 as relates to fixing the capital value of land, sections 147, 152, 156, 170, 171, 173, 175, 176, 178, 196, 210, 221, 222, 223, 225, 238; also Appendix A, clauses 1, 3, 4; Appendix B, clauses 1, 3, 4; Appendix C, clauses 2, 3, 10, 11, 12, 15, 16, 19, 20, 22; Appendix D, clauses 2, 4; Appendix F, clause 14; Appendix G, clause 15 :

(b.) Shall, exercise, do, and perform all powers, duties, and functions which, previous to the dissolution of the Board, were vested in or to be exercised, done, or performed by such Board under the authority of any sections of the said Act and of the several Appendices thereto, other than those enumerated above, and also all such as were to be done under the said Act by the Commissioner as Chairman of the Land Board, or as member of the Board, or by direction of or on behalf of the Board.

(2.) All contracts, engagements, or undertakings made or entered into by or on behalf of or with the Land Board of any district, and subsisting at the time of its dissolution, or then incomplete, shall be deemed to have been respectively made or entered into by or on behalf of or with the Minister, and may be completed or carried out with him or as he shall direct. All forfeitures or surrenders of any land shall be made to the Commissioner on behalf of Her Majesty, instead of to the Board.

(3.) All powers, duties, and functions which, immediately before the dissolution of a Land Board, were vested in or to be exercised, done, or performed by such Board under the authority of any Act other than the said Act, or under the authority of any Proclamation, Order in Council, or other instrument of power, shall, after the dissolution of such Board, be exercised, done, or performed in such manner or by such persons as the Governor may from time to time appoint by warrant under his hand.

(4.) The said Act and all other Acts, and all Proclamations, Orders in Council, warrants, and other authorities, shall, after the dissolution of Land Boards, be read and construed, *mutatis mutandis*, in manner so as to give effect to the provisions of this Act and the several provisions thereof.

28. 30. The Governor in Council may from time to time make, Governor may make regulations under Act.
 revoke, and alter regulations in order to provide for the carrying out of any matter or thing necessary to be done under the provisions of the said Act, as altered by this Act, in cases where, through the alterations made by this Act, the same may be deemed necessary.

5 29. 31. The following sections and parts of sections of the said Act are hereby repealed, that is to say,— Repeals.

10 Sections ~~thirty six to forty two, both inclusive~~; one hundred and forty-two, the proviso to section two hundred and thirty-seven, the proviso to section two hundred and forty, section two hundred and forty-nine, and clauses five and six of Appendix C; and also

15 All enactments, words, phrases, and references throughout the said Act and the Appendices thereto which shall be inapplicable in the construction of or inconsistent with the context of the said Act as amended by this Act, or which have been rendered nugatory by this Act.

30. 32. No provisions of the said Act shall be deemed to be restricted, annulled, or repealed by this Act further than herein is provided. Saving of said Act.