

Hon. Mr. Ballance.

LAND ACQUISITION.

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A BILL INTITULED

Title.	AN ACT to authorize the Acquisition of Private Land for Division and Settlement.	
	BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—	5
Short Title.	1. The Short Title of this Act is "The Land Acquisition Act, 1887."	
Interpretation.	2. In this Act, if not inconsistent with the context,— "Association" means an association formed for acquiring land under this Act : "Commissioner" means the Commissioner of Crown Lands of the district wherein any land proposed to be dealt with under this Act is situate : "Commissioners" mean the Commissioner and the Surveyor- General. "Court" means the Land Court constituted under this Act : "District" means the district under "The Land Act, 1885," wherein is situate land proposed to be acquired under this Act : "Improvements" mean substantial improvements of a per- manent character as defined in "The Land Act, 1885 :" "Judge" means the Judge of the Court : "Owner" means any person who has individually or several persons who have among them the fee-simple in possession of land, and guardians, committees, or trustees of any such persons : "Land" means any land in New Zealand outside the boundary of a borough or town district when not owned by the Crown or by aboriginal natives of New Zealand.	10 15 15 20 25

ACQUISITION OF LAND.

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Any persons not less
than twenty in
number may become
an association.

3. Persons not less than twenty in number may form themselves into an association with the object of procuring land to be divided into areas suitable for small farms, and, as such, to be occupied by individual members of the association.

Such persons may frame rules for the conduct of the affairs of their association, and the same, being put into writing and setting out in full the names, residences, and occupation of, and being signed by each person, each signature being attested by a Justice of the Peace, may be submitted to the Governor in Council for approval.

Rules so submitted may be approved, or may be referred back for amendment and again submitted for approval.

Such rules, when approved, shall be deposited with the Minister of Lands, who shall thereon cause the fact of such deposit to be notified in the *Gazette*.

Upon such notification the persons signing such rules shall be an "association" under this Act by such name as may be provided in the rules.

Approved rules may be required by the Governor in Council at any time or times to be amended, and they shall be amended ac-

cordingly. Any amendment in such rules desired by the association may be made on the Governor in Council assenting thereto.

Voluntary Acquisition.

4. An association may contract with the owner for the purchase of any land, and may thereon petition the Governor in Council to be permitted to acquire such land for division into farm allotments under the provisions of this Act, having first deposited with the Receiver of Land Revenue a sum equal to one-fourth of the price agreed to be paid for the land.
- 5 of any land, and may thereon petition the Governor in Council to be permitted to acquire such land for division into farm allotments under the provisions of this Act, having first deposited with the Receiver of Land Revenue a sum equal to one-fourth of the price agreed to be paid for the land. Association may contract for purchase of land, and may petition Governor to give effect to their agreement.
- 10 Such petition shall—
- (1.) Be signed by each member of the association, and set out his name in full, place of abode, and occupation; Deposit to be made.
- (2.) Give a description of the land, its area, locality, quality, and the price agreed to be paid; and
- 15 (3.) Be accompanied by the certificate of the Receiver of Land Revenue that the deposit aforesaid has been made.
- The Governor may, if he think fit, remit such petition to the Commissioners.
5. If a petition be so remitted the Commissioners shall, by such public notice in the district as they deem sufficient to give proper publicity to the same, fix a time and place in such district when they will hold public inquiry into the matter of such petition. Petitions to be referred to Commissioners.
- On any such inquiry there shall be considered by the Commissioners— Notice of inquiry to be given.
- 25 (1.) If the land proposed to be acquired be suitable for small-farm settlement; Objections to be heard.
- (2.) If the members of the association will be able permanently and beneficially to so occupy the land;
- (3.) If the agreed price be fair, or be not in excess of the value of the land;
- 30 (4.) And such other matters as the Commissioners may think pertinent to the petition and to any dealings with the matter thereof to be had or proposed under this Act.
- The Commissioners shall give their decision thereon in writing, and transmit the same to the Governor.
- 35 If the Commissioners do not agree, each shall give and transmit his several decision as aforesaid.
6. Upon such decision, the Governor in Council may, if deemed fit, give effect to any such petition, and acquire such land under the provisions of this Act, but shall not be obliged so to do; or the question of such acquisition may be deferred. Acquisition of land to be at discretion of Governor in Council.
- 40 (1.) If the Governor in Council refuse to acquire the land desired, such refusal shall be certified to the association, and no further action shall be taken in the matter of the petition.
- 45 But such refusal shall not preclude the association from petitioning for the acquisition of other land.
- (2.) If the owner has agreed to sell and the Governor in Council consent to acquire the land the Commissioner shall give notice of such consent to the owner and in the *Gazette*.
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Compulsory Acquisition.

Land excepted from Act.

7. The following lands may not be compulsorily acquired :—

- (1.) Any parcel of land the property of a person not the beneficial owner of more than one thousand acres of land, unless such parcel be waste, unfenced, and unimproved ; 5
- (2.) Land being the site of the dwelling-house of the beneficial owner, and lands together not more than one thousand acres in extent around or adjacent thereto ; and
- (3.) Land mentioned in "The Public Works Act, 1882," as not to be taken thereunder. 10

If association cannot agree with owner, may petition Governor in Council to take land.

8. An association, if it cannot agree with the owner of land for the sale thereof and as to the price therefor, or such owner has not power to sell, or is absent from, and has no known agent in, the colony authorized to sell, may petition the Governor in Council to acquire such land. 15

Such petition shall—

- (1.) Be signed by each member of the association, and set out his name in full, place of abode, and occupation ;
- (2.) Give a description of the land, its locality, area, and quality ; and 20
- (3.) State the price the association offered, and why, if known to the association, such offer had not been accepted.

Thereupon Governor may direct valuation of land to be made.

9. Thereupon the Governor may direct the Property-tax Commissioner to appoint some fit person as an Assessor to make, at the expense of the association, a valuation of the land proposed to be acquired and of any improvements thereon. Such assessor shall take the valuation of the land then last made under "The Property Assessment Act, 1885," as the basis for his valuation, with ten per centum added. 25

Deposit to be made.

10. The Governor may notify the amount of such valuation to the association, and require it to lodge with the Receiver of Land Revenue a deposit equal to one-fourth of such amount ; and, on being notified by the said Receiver that the aforesaid deposit has been made, the Governor may transmit the petition to the Commissioners. 30

Thereon petition referred to Commissioners.

Commissioners to make inquiry.

11. On receipt of such petition the Commissioners shall, by such public notice as aforesaid, fix a time and place when they will hold public inquiry into the matter of such petition. 35

On such inquiry there shall be considered by the Commissioners—

- (1.) If the land proposed to be acquired be suitable for small-farm settlement ; 40
- (2.) If the members of the association will be able permanently and beneficially to so occupy the land ;
- (3.) Whether it be desirable or not to compulsorily acquire such land ;
- (4.) Such other matters as the Commissioners may think pertinent to the petition and to any dealings with the matter thereof to be had or proposed under this Act. 45

The Commissioners shall give and transmit their joint or several decision in like manner as directed in section *five*.

Taking of land to be at discretion of Governor in Council.

12. Upon such decision, the Governor in Council may, or may not, give effect to the petition. 50

5 If the Governor in Council decide to acquire land compulsorily, notice thereof, and that the matter will be referred to the Court for decision, shall be given to the owner and to the association. Thereafter all matters and questions in relation to the acquisition of such land shall be dealt with by the Court.

Owner to be served with notice if land taken, and matter to be referred to Land Court.

THE LAND COURT.

10 13. There shall be within the colony a Court of Record, to be called "The Land Court," having jurisdiction to investigate and determine all matters in dispute relating to the compulsory acquisition of land under this Act.

Land Court constituted. Jurisdiction.

14. The Court shall have in the custody of the Judge a seal of the Court for sealing documents which may require to be sealed.

Seal of Court.

15 15. The Governor in Council may from time to time appoint a Judge of the Court and such other officers as may be required for carrying out its business, each of whom shall hold office during the Governor's pleasure, and be paid such salaries as may be appropriated by the General Assembly for the purpose.

Judge and officers of Court.

20 The Judge, before proceeding to act, shall take and subscribe before a Judge of the Supreme Court the judicial oath prescribed by "The Promissory Oaths Act, 1873," or an affirmation to the like effect.

25 16. The Judge shall have like power to compel the attendance of witnesses and production of books, documents, and papers as possessed by Judges of the Supreme Court, and may issue warrants and processes accordingly, and may administer oaths.

Judge may compel attendance of witnesses and production of papers.

If the Judge be interested in a matter to be heard, or is absent or incapable of acting, the Governor may appoint some fit person to act in his stead.

30 17. The Governor in Council may from time to time make, alter, or revoke rules touching the practice and procedure of the Court, and for the conduct of all business under this Act, and for fixing the fees to be paid in respect of applications to or proceedings in the Court, the time and mode of payment, and for enforcing the payment thereof, as may be deemed advisable.

Rules of Court.

35 Such rules shall be gazetted, and thereon have the force of law.

40 18. The Court, in any proceedings before it, may receive such evidence as it thinks fit, whether the same is legal evidence or not; and no decision of the Court shall be void through any error or omission in matter of form.

Court may receive other than legal evidence.

In a case before the Court where any question of law arises, the Judge may, if he think fit, state a case for the decision of the Supreme Court thereon.

45 Such decision shall be followed by the Court in its dealing with the case.

19. The Court by its decision,—

Court may award whole or part only of land.

(1.) May award to the association the whole or part only of the land described in the petition; or,

(2.) With the consent of the association and the owner, may award to the association part of the land applied for, and part of other land belonging to the same owner;

May fix price of land and compensation.

(3.) Shall name a day when any land awarded may be taken possession of by Her Majesty.

(4.) Shall determine on the basis of the valuation thereof as mentioned in section *nine*; and state the value of the land awarded to the association, and the amount of any damage which it may find the owner of the land will suffer by the taking of such land and not covered by the value aforesaid. 5

In determining the amount of such damage the Court shall take into account the extent to which any lands in which the owner has an interest, and not taken under this Act, may be injuriously or beneficially affected by anything done under this Act; and shall also take into account, by way of deduction from the amount of the said compensation, any increase in the value of such adjacent lands likely to be caused by the settlement of the lands taken. 10

Decision of Court final.

20. The decision of the Court shall be final as regards the amount to be paid, but shall not be deemed to be final as regards the right of any person to such amount or any part thereof. 15

Decision to be in writing and filed in Supreme Court.

21. The Court shall give its decision in writing, signed by the Judge, and sealed with the seal of the Court. The Judge shall transmit such writing to the Registrar of the Supreme Court for the district wherein the land is situate, to be by him filed in the said Supreme Court, and shall transmit a copy of such writing to the Governor. 20

Power to order costs.

22. The Court may fix the costs in any proceeding before it, as between party and party, and direct by and to whom such costs shall be paid, or may refuse to award costs. 25

Costs against land-owner or association, how paid.

23. Costs payable by the owner of the land may be deducted from any moneys payable to him under this Act.

Costs payable by an association shall be deemed to form part of the purchase-money of the land, and may be paid out of any moneys which are applicable for the acquisition of land under this Act. 30

PAYMENT FOR LAND.

Colonial Treasurer may borrow money for the purposes of this Act, within limits.

24. For the purpose of providing funds out of which may be made all payments authorized by this Act, the Colonial Treasurer, as often as occasion requires, and upon being authorized so to do by the Governor in Council, may in each financial year borrow money from any fund or funds under the control of such Treasurer, but not exceeding fifty thousand pounds in any one such year. 35

And may issue land bonds as security.

25. The Colonial Treasurer may also from time to time issue such land bonds for the amount of any moneys to become payable by him under this Act, as may be prescribed by the Governor in Council, and may deliver such bonds as security for money borrowed as aforesaid, or may sell such bonds. 40

Nature and currency of bonds.

26. Bonds shall—

(1.) Be signed by the Colonial Treasurer and by the Controller and Auditor-General, and be for not less than twenty pounds, payable to bearer, and bear interest at a rate not exceeding five pounds per centum per annum; 45

Bonds bearing interest at more than four pounds per centum per annum shall have a currency of not longer than seven years, but may be sooner paid off and may be reissued; and 50

Bonds bearing interest not exceeding four pounds per centum per annum shall be current for such time from the issue thereof as the Governor in Council shall appoint, and may be issued with or without taking power of redemption earlier than the time so appointed;

- 5 (2.) Be payable, both as to principal and interest, at such places within the colony, or in Australia or Tasmania, as shall be named in the bond;
- 10 (3.) Be numbered consecutively in series of bonds of the same value, so that no two bonds of the same value shall at any time bear the same number.

Such bonds and the interest thereon shall be a charge upon and shall be paid out of the Consolidated Fund.

15 27. All moneys received under this Act shall be paid into the Public Account, to an account, to be called "The Land Acquisition Account," and such moneys may be applied for paying all expenses incident to the administration of this Act, or for refunding into the Public Account, or into any fund in such account under the control of the Colonial Treasurer, any moneys paid thereout for the purposes of this Act, including payments under the last section, and shall not be applicable to any purpose other than is provided by this Act.

Money received to be paid into Public Account.

20 28. The Colonial Treasurer may, without further appropriation, pay out of any moneys to become available under this Act all such sums as shall become payable under this Act, whether for purchase- or compensation-money or for cost of survey or division of land or for laying off and making roads.

Colonial Treasurer may pay moneys payable under Act.

25 29. If doubt or dispute arise as to the person entitled to receive any purchase- or compensation-money agreed for or awarded under this Act, or if any person entitled thereto is under disability, or if the land be subject to settlement, mortgage, or other charge, such money may be paid in manner provided respectively by sections sixty-four to thirty, both inclusive, of "The Public Works Act, 1882," which sections shall for the purposes of this Act, and, *mutatis mutandis*, be deemed to be incorporated herewith: the words "Colonial Treasurer" being read in the place of the words "respondent" and "Minister or local authority" where they respectively occur in the said section sixty-four.

Provision as to payment of money when title is disputed or owner is under disability.

VESTING OF LAND.—RESERVES.

30 30. Land acquired under this Act shall respectively be deemed to be Crown lands, and shall become absolutely vested in fee-simple in Her Majesty, discharged from all mortgages, claims, estates, or interests whatsoever, as from the dates following, that is to say,—

Land acquired to be deemed Crown lands and vested in the Crown.

45 (1.) Land acquired with consent of the owner, as from the day when the purchase-money shall be paid by the Colonial Treasurer;

(2.) Land acquired through the Court, as from the date named by the Court for taking possession thereof on payment being made.

50 31. The Governor in Council shall have the right of taking for the use of Her Majesty at the price mentioned in section *thirty-four*, and setting apart for public purposes, such part or parts of every

Reserves may be taken at proportionate cost.

block of land acquired under this Act as he shall think fit, not together exceeding in area ten per centum of the area acquired.

SURVEY AND COST OF LAND.

Lands to be divided into farm allotments not exceeding one hundred acres.

32. The Governor when and as he thinks fit may within each block of land acquired under this Act cause to be laid off roads and reserves, and the residue of the land to be laid off, and divided into farm sites of convenient sizes, not exceeding one hundred acres each, as shall be most in accordance with the wishes of the association; and may contract with any surveyor approved by the Surveyor-General for the necessary surveys. 5

Expense of survey to be added to price paid for land.

33. The expense of the surveys aforesaid, and the estimated expense of marking-off and making such roads as aforesaid, shall be added to the amount of purchase- and compensation-money paid for the land, and the total shall be the cost of such land, herein called the "cost price." 10

Apportionment of "cost price" of land amongst allotments and reserves.

34. The Commissioner shall apportion the "cost price" as he may deem fair among the allotments and reserves into which land is divided, according to the area, quality, and situation thereof respectively. 15

The sum so apportioned to each allotment and reserve as aforesaid shall be the price of such allotment and reserve; and, the said price of an allotment being apportioned amongst the acres therein, the value so apportioned to each acre shall be the price of such acre. 20

Apportionment of deposit amongst allotments.

35. The Commissioner also shall apportion amongst the various allotments (exclusive of reserves) into which any block of land is divided, according to the cost apportioned to the allotments respectively as aforesaid, the whole amount of deposit made by the association as mentioned in sections *four* and *ten* respectively in respect of such land, and so that the deposit in respect of the several allotments (exclusive of reserves) taken together shall be equivalent to the total amount of deposit paid in respect of such land. 25

What deemed deposit paid on each allotment.

The deposit apportioned to each allotment as aforesaid shall be deemed to be the amount of the deposit paid in respect of such allotment, and such deposit shall be deemed to have been made by the person to whom the said allotment is apportioned as hereinafter mentioned. 30

TENURE OF LAND.

Allotments to be apportioned among members of association.

36. The allotments in a block shall be apportioned among the members of the association either by ballot or otherwise as fixed by the rules of the association, but no member shall be entitled to hold more than one allotment. 40

No person to hold more than one allotment.

37. Each allotment acquired under this Act shall be held subject as follows:—

Terms of holding.

(1.) Subject in all respects to such provisions of Part IV. of "The Land Act, 1885," relating to the occupation of land held on perpetual lease, and to penalties for breach of conditions, and otherwise as are not inconsistent with the special provisions of this Act; and 45

(2.) Subject to the provision that no lessee of an allotment shall be entitled to acquire the fee-simple thereof; and 50

(3.) Subject to an upset yearly rent which shall be equivalent to five pounds per centum on so much of the said cost price as may be apportioned to such allotment as hereinbefore provided.

5 Provided that, until a refund is made as herein mentioned of the deposit made as aforesaid, the said cost price shall for the purpose of apportioning rent be deemed to be abated by the amount of such deposit.

10 38. A lessee may transfer his lease to a person not a member of the association on obtaining the approval of the Land Board. Occupier may transfer.

39. No person shall be allowed to occupy land under this Act who has not attained the age of *seventeen* years, nor any person until he has made and deposited with the Commissioner a declaration to the following effect :— Declaration to be made.

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

1. That I have attained the age of *seventeen* years :

2. That I desire to acquire an allotment under “The Land Acquisition Act, 1887,” solely for my own use, and not, directly or indirectly, for the use or benefit of any other person :

3. That, excluding the allotment for which I am now applying, I am not under the said Act the owner, tenant, or occupier, directly or indirectly, either by myself or jointly with any other person, of any land.

And I make this solemn declaration conscientiously believing the same to be true, and by virtue of “The Justices of the Peace Act, 1882.” A.B.

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

Justice of the Peace.

15 A person who shall make a false statement in a declaration as above, shall forfeit all right to any allotment or to have one apportioned to him, and all money paid in respect thereof, and the land shall be again open for lease under this Act. Forfeiture for breach of conditions.

20 40. Whenever any person shall, subsequently to his entry into occupation of an allotment of land under this Act, have made improvements thereon to the value of the whole amount of the deposit paid in respect of such allotment, he shall, on application to the Commissioner, and provided that at the time of such application the said improvements are unexhausted, be entitled to a refund of the amount Deposit may be refunded when equivalent permanent improvements made on land by lessee.

25 of such deposit ; and the Colonial Treasurer is hereby authorized to make such refund accordingly.

30 41. In the event of an allotment becoming vacant by reason of death, forfeiture, or otherwise, the vacating tenant may be succeeded in ownership and occupation by such person as the Commissioner may deem entitled thereto, or approve and authorize in writing to assume occupation ; and the person so authorized shall be entitled as if he had originally occupied instead of such vacating tenant. How vacated allotment to be dealt with.

MISCELLANEOUS.

35 42. For the purposes of this Act Commissioners shall have all the powers and authorities conferred by “The Commissioners’ Powers Act, 1867;” and on any inquiry held by them under this Act may adjourn the same from time to time, and may call upon the Crown or other parties to appear and take part in the procedure. If one Com- Powers to Commissioners.

missioner is unable to appear on the day appointed for the inquiry to be held, or for an adjournment, the other Commissioner may adjourn the inquiry to a date fixed by him, or the two Commissioners may by public notice notify that the day fixed for hearing an inquiry on an adjournment thereof is adjourned to a future day.

Negotiations stayed if deposit not paid. Deposit to be returned if land not acquired.

43. In default of deposit by an association as required by this Act, no further action shall be taken on their petition. A deposit made by an association shall, if land be not acquired, be returned to it, less the amount of any expenses incurred on behalf of Her Majesty on a petition aforesaid.

Colonial Treasurer to furnish annual accounts to the General Assembly.

44. The Colonial Treasurer shall, as soon as may be after the commencement of each session, present to both Houses of the General Assembly a statement of all transactions carried on under this Act during the preceding financial year, and of the accounts relating thereto.

Minister of Lands to report annually as to settlements under Act.

The Controller and Auditor-General shall certify to the correctness of such statement, and shall append to such certificate any exception he may take to any part of the same.

45. The Minister of Lands shall, in the same manner, present to both Houses of the General Assembly an annual report on the condition and settlement of all lands acquired under this Act.

Service of notices.

46. A notice required by this Act to be sent to any person may be sent to the last known place of abode or business of such person by messenger or by post.

(1.) If such person is absent from the colony, the notice may be sent to his agent.

(2.) If such person is not known, or has no known agent in the colony, and the notice relates to any land, the notice shall be deemed to be sent if it is affixed in a conspicuous place on such land.

Governor in Council may make regulations for the better administration of Act.

47. The Governor in Council may from time to time make, alter, or revoke such regulations as he shall think fit for the purpose of giving due effect to the administration of this Act and to the occupation of land thereunder.