

Mr Burke

LAND PURCHASE

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No. 129—1

Price 60c

A BILL INTITULED

An Act to prevent the undue aggregation of farm land, to control the acquisition of farm land for forestry purposes, and to control the acquisition of certain land by overseas corporations and persons who are not New Zealand residents 5

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

1. Short Title and commencement—(1) This Act may 10
be cited as the Land Purchase Act 1979.

(2) This Act shall come into force on the 1st day of July 1980.

2. Interpretation—In this Act, unless the context otherwise requires,— 15

“Commercial exotic forestry” means exotic forestry the prime purpose of which is the extraction of timber for commercial gain:

“Court” means the Administrative Division of the Supreme Court, including the additional members 20 holding office under the Land Valuation Proceedings Act 1948, in the exercise of its jurisdiction under that Act:

“Crown land” means Crown land within the meaning of the Land Act 1948: 25

“Farm land” means land that, in the opinion of the Tribunal or, as the case may be, the Court, is or should be used exclusively or principally for the production of food products or other useful products of the soil or for horticultural or pastoral purposes 30 or for the keeping of pigs, bees, or poultry; but shall not include land that is used for commercial exotic forestry or land that, in the opinion of the Tribunal or, as the case may be, the Court, should be used principally or exclusively for other purposes: 35

“Land Settlement Board” means the Land Settlement Board established under the Land Act 1948:

“Land Valuation Tribunal” or “Tribunal” means a Land Valuation Tribunal established under the Land Valuation Proceedings Act 1948; and the term “the 40 Land Valuation Tribunal” or “the Tribunal”, when

5 used in relation to any land or any transaction,
means the particular Land Valuation Tribunal to
which any application or matter arising under this
Act and relating to that land or that transaction
has been made or referred:

“Minister” means the Minister of Lands:

“Persons” includes a corporation sole, and also a body
of persons, whether corporate or incorporate:

10 “Separated person” means a married person who is in
fact separated from his or her spouse, whether pur-
suant to a decree, order, or judgment of any Court,
or pursuant to an agreement for separation, or by
reason of the desertion of one of the parties by the
other, or otherwise:

15 “Transfer” includes a conveyance, assignment, or other
disposition:

Cf. 1952, No. 34, s. 2; 1968, No. 42, s. 15

PART I

20 UNDUE AGGREGATION OF FARM LAND AND CONTROL OF
ACQUISITION OF FARM LAND FOR FORESTRY PURPOSES

3. Interpretation—(1) For the purposes of this Part of
this Act—

25 (a) A person shall be deemed to have a substantial in-
terest in any farming company or forestry company
in any case where that person—

(i) Holds 25 percent or more of the paid-up
capital, or of the nominal value of the allotted
shares, or the voting power in the company; or

30 (ii) Would, by reason of his shareholding in the
company, be entitled to 25 percent or more of any
dividends declared by the company:

35 (b) Where a nominee of any person holds any paid-up
capital, or any allotted shares, or any voting power
in a company, or is entitled to a share of profits
distributed by a company, that paid-up capital,
or those allotted shares, or that voting power, or
that title to profits, as the case may be, shall be
deemed to be held by that person:

40 (c) Shares in one company held by another company
shall be deemed to be held also by each of the
shareholders in the last-mentioned company:

- (d) The term “nominee”, in relation to any person, includes—
- (i) Any person who may be required to exercise his voting power in relation to any company in accordance with the direction of the first-mentioned person, or who holds shares or debentures directly or indirectly on behalf of the first-mentioned person; and 5
 - (ii) The spouse and child (including a stepchild and a foster-child) of that first-mentioned person, 10
being a child under the age of 17 years, and a trustee for the spouse or for any such child;—
but does not include the spouse of that first-mentioned person in any case where the Land Valuation Tribunal is satisfied that the spouse is 15
a separated person:
- (e) The term “farming company” means any company, not being a company listed on any Stock Exchange in New Zealand, that has any freehold or leasehold estate or interest, whether legal or equitable, in 20
farm land in excess of 5 hectares; and includes any other company, not being a company listed on any Stock Exchange in New Zealand, that has a substantial interest in any farming company:
- (f) The term “forestry company” means any company, 25
not being a company listed on any Stock Exchange in New Zealand, that has any freehold or leasehold estate or interest, whether legal or equitable, in land in excess of 5 hectares that is used for commercial exotic forestry; and includes any other company, not 30
being a company listed on any Stock Exchange in New Zealand, that has a substantial interest in any forestry company:
- (g) The term “urban area” means any borough, any district that is under the jurisdiction of a district 35
council and to which the Municipal Corporations Act 1954 applies pursuant to section 143 of the Local Government Act 1974, or a community under the Local Government Act 1974.
- (2) For the purposes of this Part of this Act an application 40
may be made to the Land Valuation Tribunal for an order declaring whether or not any land is farm land within the meaning of this Act, and the Tribunal may make such an order effective for 12 months from the date thereof or until a

named purchaser or lessee shall complete a purchase or lease of the land, whichever is the sooner, whether or not there is before the Tribunal any objection or application for consent to a transaction in respect of that land.

5 Cf 1952, No. 34, s. 2 (3); 1955, No. 31, s. 2

Consent of Tribunal Required to Certain Transactions

4. **Transactions to which this Part applies**—(1) Subject to this section, this Part of this Act shall apply to every contract or agreement—

- 10 (a) For the sale or transfer of any freehold estate or interest in farm land whether legal or equitable:
(b) For the leasing of any farm land for an unexpired term of more than 5 years:
15 (c) For the sale or transfer of any leasehold estate or interest in farm land, whether legal or equitable, for a term of more than 5 years:
(d) For the sale or transfer of a lease of Crown land (being farm land) where, by virtue of section 208 of the
20 Land Act 1924 or the corresponding provisions of any former Land Act, the consent of the Land Settlement Board is not required to the sale or transfer:
(e) For the granting of an option to purchase or otherwise acquire any freehold or leasehold estate or interest
25 in farm land as aforesaid or to take any lease as aforesaid:
(f) For the sale or transfer of any shares in a farming company:
(g) For the granting of an option to purchase or otherwise
30 acquire any shares in a farming company.
- (2) Where any lease or any contract or agreement for a lease contains a provision enabling the lease or the contract or agreement for a lease to be renewed for any period or successive periods upon the expiration of the original term
35 thereof, the period or periods for which the lease or contract or agreement may be so renewed shall, for the purposes of this Part of this Act, be deemed to be part of the original term thereof.
- (3) Nothing in this Part of this Act shall apply with
40 respect to—
(a) Any contract or agreement for the transfer of any estate or interest in farm land or in shares in a farming company without any valuable consideration in money or money's worth:

- (b) Any contract or agreement for the transfer of any estate or interest in farm land or in shares in a farming company by way of security only or for the re-transfer of property so transferred on the discharge of the security: 5
- (c) Any contract or agreement for the sale or transfer of any estate or interest in farm land or in shares in a farming company to the spouse of the transferor or to the transferor and his spouse as joint tenants or tenants in common or to any child or grandchild 10 of the transferor aged 17 years or more.
- (d) Any contract or agreement for the sale or transfer of any estate or interest in farm land or in shares in a farming company to a trustee for the benefit of the wife or husband or a child or children or 15 a grandchild or grandchildren of the vendor or transferor:
- (e) Any contract or agreement for the transfer of any estate or interest in farm land or in shares in a farming company from a trustee to a trustee on the 20 appointment of a new trustee or the retirement of a trustee:
- (f) Any contract or agreement for the transfer by a trustee, executor, or administrator to a beneficiary of any estate or interest in farm land or in shares 25 in a farming company to which the beneficiary is entitled under any trust, will, or intestacy:
- (g) Any contract or agreement for the sale or transfer of any estate or interest in farm land or in shares in a farming company by a trustee, executor, or 30 administrator to a purchaser pursuant to an option given in any trust or will:
- (h) Any contract or agreement for the sale or transfer of any estate or interest in farm land or in shares in a farming company by or to the Crown: 35
- (i) Any contract or agreement for a lease of farm land pursuant to section 54 or section 56 of the Reserves Act 1977 or the sale or transfer of any leasehold estate or interest in any such lease:
- (j) Any transaction for which the consent of the Land 40 Settlement Board is required under any Act or regulations:

- 5 (k) Any transaction in respect of which the confirmation of the Maori Land Court is required under Part XIX or Part XXIII of the Maori Affairs Act 1953, or any transaction which is effected by an order of the Maori Land Court or of the Maori Appellate Court:
- 10 (l) Any contract or agreement for the sale or transfer of any estate or interest in farm land or in shares in a farming company by direction of the Maori Land Board or to that Board:
- 15 (m) Any transaction for which the approval, consent, or permission of the Minister of Maori Affairs or of the Maori Land Board or of both that Minister and that Board is required under any Act or regulations:
- 20 (n) Any alienation of any estate or interest in land by the Maori Trustee as agent for the owner or owners under Part XXV of the Maori Affairs Act 1953:
- (o) Any contract or agreement for the dedication of a road or street:
- 25 (p) Any contract or agreement for the sale or transfer of any estate or interest in farm land or in shares in a farming company by the Government of a foreign State to the Government of any other foreign State:
- 30 (q) Any contract or agreement for the granting of an option where the exercise of the option would result in a transaction of a class to which this Part of this Act does not apply:
- (r) Any contract or agreement for the sale or transfer of any estate or interest in farm land or in shares in a farming company pursuant to an option to which the consent of the Land Valuation Tribunal has been granted under this Act:
- 35 (s) Any contract or agreement for the sale or transfer of any estate or interest in farm land of an area of not more than 5 hectares:
- 40 (t) Any transaction of a class for the time being exempted from this Part of this Act by regulations made under this Act.
- (4) For the purposes of this section—
“Transfer”, in relation to farm land, includes a lease:

“Transfer”, in relation to shares in a farming company, includes an allotment:

“Allotment”, in relation to shares in a farming company, does not include any allotment of those shares which is made to all shareholders in the company, or to all shareholders of any class of shares in the company, in the same proportion as their shareholding or, as the case may be, their shareholding of that class in the company. 5

Cf. 1952, No. 34, s. 23; 1955, No. 31, s. 3; 1972, No. 75, s. 2 (a) 10

5. Consent of Tribunal not required in certain cases—

(1) Notwithstanding anything in this Part of this Act, the consent of the Land Valuation Tribunal shall not be required to any contract or agreement to which this Part of this Act applies where— 15

(a) The purchaser or lessee enters into the transaction solely on his own behalf as the person beneficially entitled thereunder and—

(i) Does not own, lease, hold, or occupy in fee simple or under any tenure of more than 5 years’ duration, whether severally, jointly, or in common with any other person, any farm land outside an urban area or land used for commercial exotic forestry; and 20 25

(ii) Does not have a substantial interest in a farming company or forestry company owning, leasing, holding, or occupying in fee simple or under any tenure of more than 5 years’ duration, whether severally, jointly, or in common with any other person, any farm land outside an urban area or, as the case may be, land used for commercial exotic forestry; and 30

(b) Where the purchaser or lessee is a company, no shareholder who has a substantial interest in the company— 35

(i) Owns, leases, holds, or occupies in fee simple or under any tenure of more than 5 years’ duration, whether severally, jointly, or in common with any other person any farm land outside an urban area or land used for commercial exotic forestry; or 40

- 5 (ii) Owns any other substantial interest in a farming company or forestry company owning, leasing, holding, or occupying in fee simple or under any tenure of more than 5 years' duration, whether severally, jointly, or in common with any other person, any farm land outside an urban area or, as the case may be, land used for commercial exotic forestry; and
- 10 (c) The purchaser or lessee has not after the 16th day of October 1952, being the date of the passing of the Land Settlement Promotion and Land Acquisition Act 1952, transferred, granted, leased, or otherwise disposed of any estate or interest in farm land to any person as a trustee for any person or created any trust in respect of any estate or interest in farm land; and
- 15 (d) The purchaser or lessee has not, on or after the 1st day of July 1980, transferred, granted, or otherwise disposed of any substantial interest in a farming company or forestry company to any person as a trustee for any person or persons or created any trust or trusts in respect of such shares; and
- 20 (e) The transaction is not subject to Part II of this Act, or the transaction is subject to that Part and the purchaser or lessee makes and files a declaration under section 19 of this Act within the time specified in that section, or a consent has been given under that Part; and
- 25 (f) In the case of a transaction relating to land, the purchaser or lessee makes a statutory declaration as to the matters provided in paragraphs (a) to (e) of this subsection, and deposits that declaration with the District Land Registrar or the Registrar of Deeds, as the case may require, within 3 months after the date of the transaction; and
- 30 (g) In the case of a transaction relating to shares in a farming company, the purchaser or lessee makes a statutory declaration as to the matters provided in paragraphs (a) to (e) of this subsection, and deposits that declaration at the registered office of the company within 3 months after the date of the transaction:
- 35
- 40

Provided that nothing in this subsection shall apply in any case where the contract or agreement is a sale or transfer or lease by several persons of several estates or interests in land or a sale or transfer or lease or allotment by several persons of any estate or interest in shares in more than one company, unless those persons are owners of those estates or interests as joint tenants or tenants in common. 5

(2) If a true copy of the declaration referred to in subsection (1) (f) of this section is presented to the Registrar or a true copy of the declaration referred to in subsection (1) (g) of this section is presented to the Secretary of the company, he shall, without payment of any fee, certify on that copy that the original has been duly presented in accordance with the provision of the said subsection (1) (f) or, as the case may be, subsection (1) (g). 10 15

(3) For the purposes of subsection (1) of this section—

- (a) The interest of a Maori in any Maori land where that interest has not been partitioned shall not be deemed to be land owned, leased, held, or occupied by him:
- (b) Land owned, leased, held, or occupied by a husband or wife, as the case may be, of any person shall be deemed to be owned, leased, held, or occupied by that person: 20
- (c) No account shall be taken of any land or shares owned, leased, held, or occupied by any person as a mortgagee, trustee, executor, or administrator only: 25
- (d) Land owned, leased, held, or occupied by a parent of any child under the age of 17 years shall be deemed also to be owned, leased, held, or occupied by that child: 30
- (e) Shares in a farming company or forestry company held by a parent of any child under the age of 17 years shall be deemed also to be held by that child:
- (f) Land or shares in which any person has any estate or interest, whether legal or equitable and whether vested or contingent, under any trust or will or intestacy shall be deemed to be owned by that person: 35
- (g) No account shall be taken of any land owned, leased, held, or occupied by any person, or of any shares in a farming company or forestry company held by any person, or the husband or wife, as the case may be, of any person where that person or, as the case may be, the husband or wife of that person has 40

entered into a contract or agreement for the sale or transfer of the whole of his or her estate or interest in the land or, as the case may be, the shares and, except in the case of shares in a forestry company, the Land Valuation Tribunal has granted an unconditional consent to the transaction, or the purchaser thereof has filed the statutory declaration referred to in subsection (1) of this section:

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- 10 (h) No account shall be taken of any estate or interest in shares in a farming company or forestry company held by any other company where that other company has entered into a contract or agreement for the sale of the whole of that estate or interest and, except in the case of shares in a forestry company, the Land Valuation Tribunal has granted an unconditional consent to the transaction, or the purchaser thereof has filed the statutory declaration referred to in subsection (1) of this section.
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20 Cf. 1952, No. 34, s. 24; 1955, No. 31, s. 4; 1959, No. 33, s. 3; 1963, No. 94; s. 2; 1969, No. 87, s. 6 (1), (2) (a)

6. Prohibiting transactions without consent of Tribunal—

(1) Where any transaction to which this Part of this Act applies is entered into, the transaction shall be deemed to be entered into in contravention of this Part of this Act, unless—

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- (a) Application for the consent of the Land Valuation Tribunal to the transaction is made within 3 months after the date of the transaction or within such further time as may be allowed by the Tribunal; or
- 30 (b) In any case to which section 5 of this Act applies, the statutory declaration referred to in that section is deposited with the District Land Registrar or the Registrar of Deeds or with the registered office of the company within the time specified in that section.
- 35 (2) No person shall—
- (a) Enter into any transaction in contravention of this Part of this Act whether as vendor, purchaser, lessor, lessee, or other party, and whether as principal or agent; or
- 40 (b) Procure or induce any other person to enter into any transaction in contravention of this Part of this Act.
- (3) No person shall be entitled to any commission, reward, or other valuable consideration in respect of any transaction entered into in contravention of this Part of this Act.

(4) Where any transaction is entered into in contravention of this Part of this Act, or where any condition upon or subject to which the Land Valuation Tribunal grants its consent to any transaction is not complied with, the transaction shall be deemed to be unlawful and shall have no effect : 5

Provided that nothing in this subsection shall prevent any relief being granted under the Illegal Contracts Act 1970.

(5) Where any transaction to which this Part of this Act applies is entered into, the transaction shall not have any effect unless the Tribunal consents to it and the conditions upon or subject to which the consent is granted are complied with. 10

(6) The Land Valuation Tribunal shall not grant an extension of time within which to make application for the consent of the Tribunal to a transaction, unless the Tribunal is satisfied that the delay in making the application was due to mistake (whether of fact or of law) of the parties or any of them or of any other person or to circumstances beyond the control of the parties or of any of them, and that the delay has not been used for the purpose of contravening the provisions of this Act. 15 20

Cf. 1952, No. 34, s. 25; 1963, No. 94, s. 3

7. Registration of instruments—(1) The District Land Registrar or the Registrar of Deeds, on receipt of the statutory declaration in the prescribed form as to the matters provided in paragraphs (a) to (e) of section 5 (1) of this Act, or on being satisfied by such evidence as he deems necessary that this Part of this Act does not apply to the transaction, shall, if the instrument or instruments relating to the transaction are otherwise in order, accept the same for registration. 25

(2) Notwithstanding anything in the articles of association of a company, it shall not be lawful for a farming company to register any allotment or transfer of shares in the company unless the company is satisfied that a statutory declaration in the prescribed form as to the matters provided in paragraphs (a) to (e) of section 5 (1) of this Act has been deposited at the registered office of the company or that, subject to section 10 (3) of this Act, the Tribunal has consented to the transaction, or that this Part of this Act does not apply to the transaction. 30 35

Cf. 1952, No. 34, s. 26; 1968, No. 42, s. 6 (2) (b) 40

Applications for Consent

8. **Applications for consent**—(1) Applications for the consent of the Land Valuation Tribunal to any transaction may be made in accordance with the Land Valuation Proceedings Act 1948 by or on behalf of any party to the transaction.

(2) Subject to section 22 (2) of the Land Valuation Proceedings Act 1948, every such application shall be heard and determined by the Tribunal.

Cf. 1952, No. 34, s. 27

Granting or Refusal of Consent

9. **Consent without hearing in certain cases**—If in any case the Land Valuation Tribunal is satisfied that, having regard to the provisions of this Part of this Act, any application for the consent of the Tribunal to any transaction should be granted, the Tribunal may consent to the transaction in accordance with the application without calling on the applicant or hearing evidence.

Cf. 1952, No. 34, s. 28

10. **Consent after hearing**—(1) If the Land Valuation Tribunal, upon considering an application for consent and after hearing such evidence as it thinks fit, is satisfied—

(a) That the completion of the transaction will not cause an undue aggregation of farm land; and

(b) That the completion of the transaction will not result in an undue acquisition of farm land for forestry purposes; and

(c) In any case to which section 11 of this Act applies, that the transaction should be exempted from the provisions of subsection (1) of that section; and

(d) In any case to which Part II of this Act applies, that a consent has been given under that Part—

the Tribunal shall consent to the transaction, either absolutely or subject to such conditions not inconsistent with the purposes of this Part of this Act, as the Tribunal thinks fit, but, if it is not so satisfied, it shall refuse the application.

(2) Where (whether before or after the commencement of this Act) the Tribunal has consented to the transaction subject to conditions that are to be fulfilled before the completion of the transaction, the District Land Registrar or the Registrar of Deeds shall not register any instrument relating

to the transaction unless he is satisfied, by statutory declaration made by a party to the transaction or by notice from the Tribunal or otherwise, that those conditions have been fulfilled.

(3) Where the Tribunal has consented to the transaction subject to conditions that are to be fulfilled before the completion of the transaction, and the transaction relates to any estate or interest in shares in a farming company, it shall not be lawful for the company to allot or register any transfer of shares comprised in that transaction, unless the company is satisfied by statutory declaration made by a party to the transactions or by notice from the Tribunal or otherwise that those conditions have been fulfilled.

Cf. 1952, No. 34, s. 29; 1961, No. 21, s. 3; 1968, No. 42, s. 6 (2) (c), (3)

11. Transactions by trustees or by companies having infant shareholders—(1) Notwithstanding anything in this Act, where—

(a) The purchaser or lessee under any transaction is a trustee and any person beneficially entitled under the trust is under the age of 17 years at the date of the transaction; or

(b) The purchaser or lessee under any transaction is a company or a trustee for a company to be formed, and—

(i) Any member of the company or intended member of the company to be formed is under the age of 17 years at the date of the transaction and holds or will hold a substantial interest in the company; or

(ii) Any member of the company or intended member of the company to be formed holds or will hold a substantial interest in the company as a trustee under a trust and any beneficiary under the trust is under the age of 17 years at the date of the transaction—

the Land Valuation Tribunal shall not make an order consenting to the transaction unless, having regard to the matters specified in subsections (2) and (3) of this section, the Tribunal considers that the transaction should be exempted from the provisions of this subsection.

(2) The Tribunal may, at its discretion, exempt from the provisions of subsection (1) of this section any transaction to which paragraph (a) or paragraph (b) (ii) of that subsection applies, if it is satisfied that the trust has been created by an
5 instrument that sufficiently evidences the terms thereof, and—

(a) That the persons beneficially entitled to the land or shares under the trust (whether their interests are vested or contingent) are engaged in a farming occupation or are receiving a special education to fit
10 them for such an occupation, and the trust instrument provides that the land or shares shall ultimately vest in those persons or in such of them as fulfil the conditions of the trust; or

(b) That where—
15 (i) the owner of the land is a parent or grandparent of the persons beneficially entitled to the land or shares under the trust (whether their interests are vested or contingent); and

(ii) In any case to which the said paragraph (a) applies, the transaction would be exempt from this Part of this Act by virtue of section 4 (3) (d) of this Act but for the fact that interests (whether vested or contingent) are created under the trust in
20 favour of any child or wife or husband of the persons so beneficially entitled to the land or that interests are created under the trust contingent upon failure of any provision in favour of the persons so beneficially entitled to the land; and

(iii) In any case to which the said paragraph (b)
30 (ii) applies, the transaction would in like manner be so exempt if it were a disposition of the land to the trustee of the shares,—

the owner of the land is retaining or will have an interest in farm land (including an interest as a
35 shareholder in a company formed or to be formed) sufficient for the support of the owner and his or her spouse and such of the children of the owner as are dependent on the owner in a reasonable manner and in a reasonable standard of comfort, or that neither the owner nor his or her spouse has
40 any intention of acquiring any interest in other farm land or shares in a farming company; or

- (c) That the land is not suitable for the settlement or to facilitate the settlement of persons desirous of making a living from that land; or
- (d) That, having regard to the provisions of paragraphs (a), (b), and (c) of this subsection, to the terms of the trust, and to all the circumstances of the case, it is equitable that such an exemption should be granted. 5
- (3) The Tribunal may, at its discretion, exempt from the provisions of subsection (1) of this section any transaction to which paragraph (b) (i) of that subsection applies, if it is satisfied that— 10
- (a) The member of the company or intended member of the company to be formed is engaged in a farming occupation or is receiving a special education to fit him for such an occupation; or 15
- (b) That where the owner of the land is a parent or guardian of that member or intended member the owner of the land is retaining or will have an interest in farm land (including an interest as a shareholder in the company or in the company to be formed) sufficient for the support of the owner and his or her spouse and such of the children of the owner as are dependent on the owner in a reasonable standard of comfort, or that neither the owner nor his or her spouse has any intention of acquiring any interest in other farm land or any shares in a farming company; or 20
- (c) That the land is not suitable for the settlement or to facilitate the settlement of persons desirous of making a living from that land; or 30
- (d) That, having regard to the provisions of paragraphs (a), (b), and (c) of this subsection, and to all the circumstances of the case, it is equitable that such an exemption should be granted. 35

Cf. 1952, No. 34, s. 29A; 1961, No. 33, s. 5

12. Matters to be considered in determining whether undue aggregation—(1) In considering whether the acquisition of the land or shares affected by any application to the Land Valuation Tribunal for its consent will cause undue aggregation, the Tribunal shall have regard to the following matters: 40

- 5 (a) Whether the acquisition would be in or against the public interest, and, without limiting the matters to be taken into consideration, it is hereby declared that for the purposes of this paragraph it is in the public interest—
- 10 (i) To ensure and preserve the diversification of the ownership of farm land, whether individual or family units, or, in the case of farming companies, the diversification of the ownership of shares in such companies:
- 15 (ii) That farm land below productive capacity be acquired by persons competent and able to bring that land up to its productive capacity:
- 20 (iii) That the acquisition of land or shares by any person will result in substantially increased production for agricultural purposes; and
- 25 (b) Whether having regard to the farm land already owned, leased, held, or occupied in fee simple or under any tenure of more than 5 years' duration by the purchaser or lessee, whether severally, jointly, or in common with any other person, the acquisition of additional farm land would, judged by ordinary and reasonable standards, be considered excessive; and
- 30 (c) Where shares are being acquired, whether, having regard to the shares in farming companies held by the purchaser, whether or not those shares comprise a substantial interest in any company and whether those shares are held severally, jointly, or in common with any other person, the acquisition of the additional shares would, judged by ordinary and reasonable standards, be considered excessive; and
- 35 (d) The nature of the use to which the purchaser or lessee proposes to devote the land and his ability to achieve that purpose; and
- 40 (e) Whether a refusal of consent would result in an unavoidable and substantial hardship to the owner of the land, or of the shares:
- Provided that—
- (i) Where the additional farm land to be acquired is, in the opinion of the Tribunal, substantially underdeveloped, the Tribunal shall only have

regard to the ability of the purchaser or lessee to bring the land up to its productive capacity as farm land or land used for commercial exotic forestry and whether the proposed use will be beneficial or detrimental to the interests of the community in which the land is situated: 5

(ii) Where the additional farm land to be acquired is, in the opinion of the Tribunal, to be worked in conjunction with any other farm unit owned or leased by the purchaser or lessee, the Tribunal shall have regard as to whether that additional land is necessary for the more efficient management of that farm unit. 10

(2) For the purposes of this section,—

(a) Any estate or interest in farm land that after the 16th day of October 1952, being the date of the passing of the Land Settlement Promotion and Land Acquisition Act 1952, the purchaser or lessee has transferred, granted, leased, or otherwise disposed of to any person as trustee for any person or in respect of which after that date the purchaser or lessee has created any trust shall be deemed to continue to be owned by the purchaser or lessee unless the Tribunal has consented to the transaction and nothing in the application before the Tribunal substantially differs from or conflicts with any statement made by the purchaser or lessee for the purpose of obtaining that consent: 15 20 25

(b) Any shares in a farming company that on or after the 1st day of July 1980 the purchaser or lessee has transferred, or otherwise disposed of to any person as trustee for any person or in respect of which on or after that date the purchaser or lessee has created any trust shall be deemed to continue to be owned by the purchaser or lessee unless the Tribunal has consented to the transaction and nothing in the application before the Tribunal substantially differs from or conflicts with any statement made by the purchaser or lessee for the purpose of obtaining that consent: 30 35 40

(c) The interest of a Maori in any Maori land where that interest has not been partitioned shall not be deemed to be land owned, leased, held, or occupied by him:

- (d) Farm land owned, leased, held, or occupied by a farming company shall be deemed to be owned, leased, held, or occupied in common by every person who has a substantial interest in the company; and land owned, leased, held, or occupied by any such person shall be deemed to be owned, leased, held, or occupied by the company:
- 5
- (e) Where any purchaser is acquiring a substantial interest in a farming company or sufficient shares that would constitute his total shareholding a substantial interest in a farming company, he shall be deemed to be acquiring the farm land owned, leased, held, or occupied by the company:
- 10
- (f) Land owned, leased, held, or occupied by a husband or wife, as the case may be, of any person shall be deemed to be owned, leased, held, or occupied by that person unless the Land Valuation Tribunal is satisfied that that husband or wife is a separated person:
- 15
- (g) Land owned, leased, held, or occupied by a parent of any child under the age of 17 years shall be deemed also to be owned, leased, held, or occupied by that child:
- 20
- (h) Shares in a farming company held by a parent of any child under the age of 17 shall be deemed also to be held by that child:
- 25
- (i) Land and shares in which any person has any estate or interest, whether legal or equitable and whether vested or contingent, under any trust or will or intestacy shall be deemed to be owned by that person:
- 30
- (j) Unavoidable and substantial hardship shall not be deemed to result solely because refusal of consent to a transaction would result in the owner of the land being unable to obtain the benefit of an excessive rent, sale price, or other consideration.
- 35
- (3) In considering for the purposes of this section the area of land already owned, leased, held, or occupied by any person or the shares held by him in any farming company, no account shall be taken of land or shares vested in him as a mortgagee, trustee, executor, or administrator only.
- 40

13. Matters to be considered in determining whether undue acquisition of farm land for forestry purposes—In considering whether the acquisition of the land or shares affected by any application to the Land Valuation Tribunal for its consent will cause undue acquisition of farm land for forestry purposes the Tribunal shall have regard to the following matters: 5

- (a) Whether the acquisition would be in or against the public interest, and, without limiting the matters to be taken into consideration, it is hereby declared that for the purposes of this paragraph it is in the public interest that farm land of good productive capacity is retained as farm land so far as this is compatible with other matters of public interest; and 10
- (b) The ability of the purchaser or lessee to achieve his purpose; and
- (c) Whether in the opinion of the Tribunal any proposed change of use of the land for commercial exotic forestry will be beneficial or detrimental to the interests of the community in which the land is situated; and 20
- (d) The appropriate operative or proposed regional and district schemes under the Town and Country Planning Act 1977; and 25
- (e) Whether a refusal of consent would result in an unavoidable and substantial hardship to the owner of the land or the shares: 30

Provided that where the farm land to be acquired is, in the opinion of the Tribunal, substantially underdeveloped, the Tribunal shall only have regard to the ability of the purchaser or lessee to bring the land up to its productive capacity and whether the proposed use will be beneficial or detrimental to the interest of the community in which the land is situated. 35

Cf. 1952, No. 34, s. 31; 1959, No. 33, s. 5

14. Power to revoke consent in certain cases—(1) The Land Valuation Tribunal may call upon any person to whom consent has been granted under this Part of this Act to show cause why that consent should not be revoked on the ground— 40

- (a) That a false or misleading statement has been made in connection with the application for consent; or

(b) That all the material facts in connection with the transaction were not submitted to the Land Valuation Tribunal.

5 (2) Where the Land Valuation Tribunal calls upon any person to show cause under this section, that person shall forthwith forward to the Tribunal the consent and shall not complete or proceed with the transaction to which the consent relates until the Tribunal has determined whether or not the consent should be revoked.

10 (3) Unless cause is shown to the Land Valuation Tribunal why the consent should not be revoked, the Tribunal may revoke the consent, which shall thereupon, for the purposes of this Act, be deemed not to have been obtained.

Cf. 1952, No. 34, s. 34

15 *Transfers of Leases and Licences of Crown Land*

15. Land Valuation Tribunal may consent to transactions on behalf of Land Settlement Board—(1) Where any transaction is, as to part of the land affected thereby, a transaction to which this Part of this Act applies and is also, as to any
20 other part of the land affected thereby, a transaction to which this Part does not apply as being a transaction for which the consent of the Land Settlement Board is required, an application for the consent of the Land Valuation Tribunal to the transaction may be made under this Part
25 of this Act, and in any such case the Tribunal may, if it thinks fit, deal with the application as if this Part of this Act applied to the whole of the transaction, but as if the Tribunal were bound by the provisions of any Act or regulations by which the Land Settlement Board would
30 have been bound in dealing with any part of the transaction.

(2) Where the Land Valuation Tribunal consents to the whole of any such transaction it shall not be necessary to obtain the consent of the Land Settlement Board to any part of the transaction.

35 Cf. 1952, No. 34, s. 35

PART II

CONTROL OF ACQUISITION OF LAND BY OVERSEAS INTERESTS

16. Interpretation—(1) In this Part of this Act—

40 “New Zealand citizen” includes the wife of a New Zealand citizen;

“Overseas corporation” means a body corporate that—

- (a) Is incorporated outside New Zealand; or
- (b) Is a company within the meaning of the Companies Act 1955 that is for the purposes of that Act a subsidiary of any company or body corporate incorporated outside New Zealand; or
- (c) Is a company (within the meaning of the Companies Act 1955) or a building society (within the meaning of the Building Societies Act 1965), in which—
 - (i) Twenty-five percent or more of any class of shares is held by persons who are not New Zealand citizens or are overseas corporations; or
 - (ii) The right to exercise or control the exercise of 25 percent or more of the voting power at any general meeting of the company or building society is held by persons who are not New Zealand citizens or are overseas corporations.

(2) For the purposes of this Part of this Act, a person, being an individual, shall be deemed to be ordinarily resident in New Zealand on any date if—

- (a) He has resided in New Zealand for not less than $2\frac{1}{2}$ years during the period of 3 years immediately preceding that date; and
- (b) In the opinion of the Land Valuation Tribunal he is likely to continue to reside permanently in New Zealand.

(3) For the purposes of this Part of this Act, a body corporate shall be deemed to be ordinarily resident in New Zealand if it is incorporated in New Zealand and is not an overseas corporation.

(4) For the purposes of this Part of this Act, where in any transaction there are 2 or more purchasers, then—

- (a) If one of the purchasers, being an individual, is not ordinarily resident in New Zealand, or, being a body corporate, is an overseas corporation, the provisions of this Part of this Act applicable to a purchase by persons or bodies corporate not ordinarily resident in New Zealand shall apply to the transaction:
- (b) If one of the purchasers is an individual ordinarily resident in New Zealand and no person referred to in paragraph (a) of this subsection is a purchaser under the transaction, the provisions of this Part

applicable to a purchase by a person ordinarily resident in New Zealand shall apply to the transaction.

(5) For the purposes of this Part of this Act, where the purchaser in any transaction is a trustee, the provisions of this Part of this Act shall apply as if each beneficiary were a purchaser.

Cf. 1952, No. 34, s. 35A; 1968, No. 42, s. 5

17. **Transactions to which this Part applies**—(1) Notwithstanding anything in this Act, and subject to sections 18 and 19 of this Act, this Part of this Act shall apply to every contract or agreement—

- (a) For the sale or transfer of any freehold estate or interest in land, whether legal or equitable:
 - 15 (b) For the leasing of any land for a term of more than 3 years:
 - (c) For the sale or transfer of any leasehold estate or interest in land, whether legal or equitable, of which not less than 3 years is unexpired:
 - 20 (d) For the granting of an option to purchase or otherwise acquire any freehold or leasehold estate or interest in land as aforesaid,—
- in any case where—
- 25 (e) The purchaser or lessee,—
 - (i) Being an individual and not being a trustee, is not a New Zealand citizen; or
 - (ii) Being a body corporate and not being a trustee, is an overseas corporation; or
 - 30 (iii) Is a trustee under a trust any beneficiary of which is not a New Zealand citizen or is an overseas corporation; and
 - (f) The transaction relates to—
 - 35 (i) Any land of 4000 m² or over in area that under any operative regional planning scheme or proposed or operative district scheme under the Town and Country Planning Act 1953 is designated or zoned as a reserve, or as a public park, or for recreation purposes, or as private open space, or for preservation as a place of or containing an object
 - 40 of historical or scientific interest or natural beauty, or any proposed such purpose; or

(ii) Any land of 2 hectares or over in area that under any such proposed or operative district scheme is zoned for rural purposes or is so zoned that farming of any kind is a predominant or conditional use in that zone; or 5

(iii) Any land of 4000 m² or over in area that is not included in any proposed or operative district scheme provided and maintained by any Council or other local authority under that Act; or

(iv) Any land being or forming part of any island (except the North Island and the South Island) that is less than 150 kilometres from the nearest part of the coast of the North Island or of the South Island; or 10

(v) Any land being or forming part of any island of the Chatham Islands: 15

Provided that the Governor-General may from time to time on the recommendation of the Minister declare any transaction relating to any land or any class or classes of land not exceeding 4000 m² in area, referred to in the foregoing provisions, not to be subject to this paragraph. 20

(2) Where any lease or any contract or agreement for a lease contains a provision enabling the lease or the contract or agreement for a lease to be renewed for any period or successive periods upon the expiration of the original term thereof, the period or periods for which the lease or contract or agreement may be so renewed shall, for the purposes of this Part of this Act, be deemed to be part of the original term thereof. 25

Cf. 1952, No. 34, s. 35B; 1968, No. 42, s. 5; 1969, No. 87, s. 2; 1972, No. 75, s. 2 (b) to (d) 30

18. Transactions exempt from this Part—Nothing in this Part of this Act shall apply with respect to—

(a) Any transaction of any of the kinds specified in paragraphs (b) to (p) and paragraph (t) of section 4 (3) of this Act: 35

(b) Any transaction of a class for the time being exempted from this Part of this Act by regulations made under this Act:

(c) Any transaction consented to in writing by the Minister of Lands with the concurrence of the Minister of Finance, not being a transaction in respect of which 40

the Land Valuation Tribunal has refused, on the merits, to grant its consent.

Cf. 1952, No. 34, s. 35c; 1968, No. 42, s. 5

5 **19. Registration of dealings**—Notwithstanding anything in this Act or in any other Act, the District Land Registrar or the Registrar of Deeds shall not register any dealing to give effect to any contract or agreement specified in paragraphs (a) to (d) of section 17 (1) of this Act, unless—

- 10 (a) The transaction is exempt from this Part of this Act under section 18 of this Act; or
- (b) The Land Valuation Tribunal has consented to the transaction or, pursuant to section 20 of this Act, the consent of the Tribunal is not required; or
- 15 (c) The District Land Registrar or the Registrar of Deeds, as the case may be, is satisfied by a statutory declaration in the prescribed form made by every purchaser or lessee, or, where any purchaser or lessee is a body corporate, by a director or the secretary or other principal officer, that this Part
- 20 of this Act does not apply to the transaction:

Provided that the District Land Registrar or Registrar of Deeds may accept as sufficient proof that this Part of this Act does not apply to the transaction a certificate to that effect endorsed on the memorandum of transfer or lease

25 or instrument of conveyance and signed by the solicitor for the purchaser or lessee.

Cf. 1952, No. 34, s. 35D; 1968, No. 42, s. 5

20. Consent of Tribunal not required in certain cases—

(1) Notwithstanding anything in this Part of this Act, the

30 consent of the Land Valuation Tribunal shall not be required to any transaction to which this Part applies where—

- (a) The purchaser or lessee—
- (i) Is a British subject who is not a New Zealand citizen, or is a British protected person; and
- 35 (ii) Has resided in New Zealand for not less than $2\frac{1}{2}$ years during the period of 3 years immediately preceding the date of the transaction and intends to continue to reside permanently in New Zealand; and
- 40 (b) The purchaser or lessee makes a statutory declaration as to the matters provided in paragraph (a) of this subsection and deposits that declaration with the

District Land Registrar or the Registrar of Deeds, as the case may require, within 3 months after the date of the transaction.

(2) If a true copy of the declaration referred to in subsection (1) (b) of this section is presented to the Registrar, he shall, without payment of any fee, certify on that copy that the original has been duly deposited in accordance with that paragraph. 5

Cf. 1952, No. 34, s. 35E; 1968, No. 42, s. 5

21. Prohibiting transactions without consent of Tribunal— Section 6 of this Act shall, with any necessary modifications, apply with respect to transactions to which this Part of this Act applies, as if references in that section to Part I of this Act were references to this Part and the reference to section 5 of this Act in subsection (1) (b) were a reference to section 20. 10 15

Cf. 1952, No. 34, s. 35F; 1968, No. 42, s. 5

22. Applications for consent and consent without hearing in certain cases—Sections 8 and 9 of this Act shall, with any necessary modifications, apply with respect to transactions to which this Part of this Act applies, as if the reference in section 9 to Part I of this Act were a reference to this Part of this Act. 20

Cf. 1952, No. 34, s. 35G; 1968, No. 42, s. 5

23. Matters to be considered where purchaser or lessee is not New Zealand citizen or is overseas corporation—(1) Notwithstanding anything in this Act, where any transaction is subject to this Part of this Act, the Land Valuation Tribunal shall not grant its consent to the transaction unless, having regard to the matters specified in subsections (2) and (3) of this section, the Tribunal is of the opinion that consent should be granted. 25 30

(2) The Land Valuation Tribunal shall grant its consent to the transaction where it is satisfied that—

- (a) The purchaser or lessee, being an individual and not being a trustee, is a person who is ordinarily resident in New Zealand; or 35
- (b) In any case where the purchaser or lessee is a trustee, every beneficiary under the trust who is identifiable

and living and who is not a New Zealand citizen is ordinarily resident in New Zealand.

(3) Subject to subsection (2) of this section, where the purchaser or lessee, being an individual, is a person who in
5 the opinion of the Tribunal is not a person who is ordinarily resident in New Zealand or, being a body corporate, is an overseas corporation, the Tribunal shall not grant its consent, unless it is satisfied—

10 (a) That the land is not designated or zoned as a reserve or as a public park, or for recreation purposes, or as private open space, or for preservation as an object or place of historical or scientific interest or natural beauty, or any proposed such purpose, under any operative regional planning scheme or proposed or
15 operative district scheme under the Town and Country Planning Act 1953; and

(b) That the land is not an island or part of an island that—

20 (i) Not being the North Island or the South Island, is less than 150 kilometres from the nearest part of the coast of the North Island or of the South Island; or

(ii) Forms part of the Chatham Islands; and

25 (c) That, where the land is not designated or zoned for any of the purposes specified in paragraph (a) of this subsection, the land is unlikely to be required for any such purpose. For the purposes of this paragraph the Tribunal may accept as sufficient evidence that the land is likely or unlikely to be
30 used for any purpose specified in paragraph (a) of this subsection a certificate by the Commissioner of Works or by a local authority within the meaning of the Town and Country Planning Act 1977 that any land comprised in the transaction, although not
35 designated or zoned for that purpose, may be required for any of the purposes specified in either of those paragraphs; and

40 (d) That, where the land is zoned for rural purposes or is so zoned that farming of any kind is a predominant or conditional use, the purchaser or lessee intends—

(i) To conduct experimental or research work on the land that will be of benefit to the development of agricultural industries in New Zealand and be in the interests of the community generally; or

(ii) To use the land for purposes other than agricultural purposes with greater advantage to the community generally; or

(iii) In the case of an individual, to reside permanently in New Zealand and farm the land exclusively for his own use and benefit,—
and that the purchaser or lessee has the ability and the means to achieve those purposes. 5

(4) Notwithstanding anything in the foregoing provisions of this section, but without limiting any discretion of the Land Valuation Tribunal under any other provision of this section, the Tribunal shall grant its consent to the transaction where it is satisfied that— 10

(a) The purchaser is a mortgagee who has become the purchaser of the land at a sale conducted by a Registrar of the Supreme Court in the exercise of the mortgagee's power of sale under the mortgage; and 15

(b) The principal sum secured by the mortgage was advanced by the mortgagee in good faith for investment purposes or in the ordinary course of business of the mortgagee; and 20

(c) The purchase price does not exceed by more than \$100 the aggregate of the amount due and owing under the mortgage, the reasonable expenses incurred by the mortgagee in connection with the sale, and any other money expended by the mortgagee up to the date of the sale on or about the land in the protection of his security. 25

Cf. 1952, No. 34, s. 35H; 1968, No. 42, s. 5; 1969, No. 87, s. 3 30

24. Power to revoke consent in certain cases—Section 14 of this Act shall apply where consent to any transaction has been granted under this Part of this Act, as if it had been granted under Part I of this Act. 35

Cf. 1952, No. 34, s. 35I; 1968, No. 42, s. 5

PART III

MISCELLANEOUS

25. Service of notices or documents—(1) In any case where it is provided by this Act that any notice or document is to 40

be served on any person, the notice or document shall be delivered to that person, and may be delivered to him either personally or by posting it by registered letter addressed to that person at his last known place of abode
5 or business in New Zealand. A notice or document so posted shall be deemed to have been served at the time when the registered letter would in the ordinary course of post be delivered.

10 (2) If the person is absent from New Zealand the notice or document may be delivered as aforesaid to his agent in New Zealand. If he is deceased the notice or document may be delivered as aforesaid to his personal representatives.

15 (3) If the person is not known, or is absent from New Zealand and has no known agent in New Zealand, or is deceased and has no personal representatives, the notice or document shall be delivered in such manner as may be directed by an order of the Land Valuation Tribunal.

20 (4) Notwithstanding anything in the foregoing provisions of this section, the Tribunal may in any case make an order directing the manner in which any notice or document is to be delivered, or dispensing with the delivery thereof.

Cf. 1952, No. 34, s. 36

26. Death of vendor or lessor not to affect application or order for consent—(1) In the event of the death of the vendor
25 or lessor in a transaction in respect of which an application for consent is pending under Part I or Part II of this Act, the application and all proceedings in respect thereof shall enure and be continued as if it had been made by or in respect of the personal representatives of the deceased person.

30 (2) In the event of the death of the vendor or lessor in a transaction to which consent has been granted under Part I or Part II of this Act, the order granting consent shall enure as if it had been granted to or in respect of the personal representatives of the deceased person.

35 Cf. 1952, No. 42, s. 37

27. Power to award costs—Subject to this Act and to any regulations made under this Act and to any rules of Court, the Land Valuation Tribunal or Court, upon the hearing of any proceedings, may order that the whole or any portion of
40 the costs of the proceedings or of any party thereto shall be paid by the Crown or by any of the parties to the proceedings.

Cf. 1952, No. 42, s. 38

28. Exemptions from registration fees—No fees shall be payable to any District Land Registrar or Registrar of Deeds for registering any order of the Court or the Land Valuation Tribunal or on the deposit of any statutory declaration under section 5 or section 20 of this Act. 5

Cf. 1952, No. 34, s. 41; 1971, No. 51, s. 100

29. Regulations—The Governor-General may from time to time, by Order in Council, make all such regulations as are necessary or expedient for giving full effect to this Act and for the due administration thereof. 10

Cf. 1952, No. 34, s. 42

30. Offences—(1) Every person commits an offence against this Act who— 15

(a) Without lawful excuse acts in contravention of or fails to comply in any respect with any provision of this Act or of any regulations, order, or condition made or imposed under this Act: 15

(b) With intent to deceive makes any false or misleading statement or any material omission in any communication with or application to the Court or any Land Valuation Tribunal or any person (whether in writing or otherwise) for the purposes of this Act. 20

(2) Every person who commits an offence against this Act shall be liable on summary conviction—

(a) In the case of an individual, to imprisonment for a term not exceeding 3 months, or to a fine not exceeding \$1,000, or to both: 25

(b) In the case of a body corporate, to a fine not exceeding \$5,000. 30

(3) Section 14 of the Summary Proceedings Act 1957 shall not apply with respect to a prosecution for an offence against this Act. 30

Cf. 1952, No. 34, s. 43

31. Repeals and savings—(1) The enactments specified in the Schedule to this Act are hereby repealed. 35

(2) The enactments hereby repealed shall continue to apply, as if they had remained in force, to any transaction entered into before the date of commencement of this Act and to the exercise of any option granted before that date.

SCHEDULE

Section 31

ENACTMENTS REPEALED

- 1952, No. 31—The Land Settlement Promotion and Land Acquisition Act 1952. (Reprinted 1969, Vol. 3, p. 2277.)
- 1959, No. 33—The Land Settlement Promotion and Land Acquisition Amendment Act 1959. (Reprinted 1969, Vol. 3, p. 2278.)
- 1961, No. 21—The Land Settlement Promotion and Land Acquisition Amendment Act 1961. (Reprinted 1969, Vol. 3, p. 2279.)
- 1963, No. 94—The Land Settlement Promotion and Land Acquisition Amendment Act 1963. (Reprinted 1969, Vol. 3, p. 2279.)
- 1968, No. 42—The Land Valuation Proceedings Amendment Act 1968: So much of the Second Schedule as relates to the Land Settlement Promotion and Land Acquisition Act 1952.
- 1968, No. 152—The Land Settlement Promotion and Land Acquisition Amendment Act 1968. (Reprinted 1969, Vol. 3, p. 2280.)
- 1969, No. 87—The Land Settlement Promotion and Land Acquisition Amendment Act 1969. (Reprinted 1969, Vol. 3, p. 2282.)
- 1971, No. 51—The Stamp and Cheque Duties Act 1971: So much of the Second Schedule as relates to the Land Settlement Promotion and Land Acquisition Act 1952.
- 1972, No. 75—The Land Settlement Promotion and Land Acquisition Amendment Act 1972.
- 1977, No. 15—The Land Valuation Proceedings Amendment Act 1977: Section 6 (5) and Part V of the Schedule thereto.
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