

Hon. Mr. Carroll.

MAORI LAND SETTLEMENT.

ANALYSIS.

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A BILL INTITULED

AN ACT to amend the Law relating to Maori Lands.

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

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| <p>5</p> <p>10</p> <p>15</p> <p>20</p> <p>25</p> | <p>1. The Short Title of this Act is "The Maori Land Settlement Act, 1905"; and it shall form part of and be read together with "The Maori Land Administration Act, 1900" (hereinafter referred to as "the principal Act").</p> <p>2. There shall be for each district a Maori Land Board (hereinafter referred to as "the Board"), which shall consist of three members, to wit,—</p> <p style="padding-left: 40px;">A President, to be appointed by the Governor, who shall hereinafter be called "the President"; and two members to be appointed by the Governor, of whom one at least shall be a Maori:</p> <p style="padding-left: 40px;">Provided that no member of the General Assembly shall be appointed President or a member of the Board.</p> <p>3. (1.) Any Maori Land Board constituted under the provisions of this Act shall be the successor in office of the Council constituted for the same district under the provisions of the principal Act, and on the appointment of any such Board such Council shall cease to exist.</p> <p style="padding-left: 40px;">(2.) The principal Act shall be read as if the word "Board" were substituted for the word "Council" wherever such last-mentioned word occurs.</p> <p>4. Notwithstanding anything to the contrary in the principal Act, elected members of any Council who held office immediately prior to the thirteenth day of August, one thousand nine hundred and</p> | <p>Title.</p> <p>Short Title.</p> <p>Constitution of Boards.</p> <p>Existing Councils.</p> <p>Councillors' tenure of office continued.</p> |
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five, shall be deemed to have continued to hold office, and shall, unless removed in accordance with law, continue to hold office until the appointment of a Board under this Act. No act of any Council shall be called in question merely on the ground that the statutory term of office of the Council or of any member thereof expired on the said thirteenth day of August. 5

Orders, &c., of Board, how made.

5. All orders and other instruments made by the Board shall be sealed with its seal and signed by the President and one member of the Board.

Facilitating issue of papakainga certificates.

6. For the purpose of enabling the issue of papakainga certificates the Native Minister shall cause to be compiled from the records of the Native Land Court or otherwise a list showing the lands or interests in lands held or owned by each Maori. 10

Native Land Court to ascertain owners.

7. The Native Minister may apply to the Native Land Court to investigate the title to and ascertain and determine the owners, according to Native custom, of any papatupu land, and thereupon the said Court shall proceed in all respects as if the application had been made by some person claiming an interest in such land. 15

Maori land for settlement.

8. Any surplus Maori land in such of the districts constituted under the provisions of the principal Act as are described in the Schedule of this Act which in the opinion of the Native Minister is not required or not suitable for occupation by the Maori owners may be dealt with in the manner and subject to the conditions following, that is to say:— 20

(a.) The Governor may by Order in Council declare that the land is vested in the Board for an estate in fee-simple in possession, subject nevertheless to all valid incumbrances, liens, and interests affecting the same, to be held and administered by the Board for the benefit of the Maori owners in accordance with the provisions of this Act; and the said land shall vest in the Board accordingly. 25 30

(b.) For the purposes of this section the Registrar, whenever requested by the Native Minister so to do, is empowered and directed to do all things necessary in order to call in outstanding instruments of title, issue new instruments of title, and duly record the title of the Board in such manner as is prescribed. 35

(c.) The Board may reserve and render inalienable any portion of the land for the use and occupation of the Maori owners, or for papakaingas, burial-grounds, eel-pas, fishing-grounds, bird-reserves, timber or fuel reserves, or for such other purposes as it may consider expedient. 40

(d.) The Board shall cause the balance of the land to be classified into first-, second-, third-, or fourth-class land as follows:— 45

First-class land, comprising agricultural land;

Second-class land, comprising mixed agricultural and pastoral land;

Third-class land, comprising pastoral land of a character that can be profitably worked in areas of five thousand acres or less; and 50

Fourth-class land, comprising pastoral land of a character that cannot be profitably worked in areas of five thousand acres or less.

(e.) The Board shall, under the direction of the Native Minister, cause the land to be surveyed and subdivided into allotments in areas not exceeding—

In the case of first-class land, six hundred and forty acres ;

In the case of second-class land, two thousand acres ;

In the case of third-class land, five thousand acres ; or

In the case of fourth-class land, fifteen thousand acres :

Provided that if in the opinion of the Board the land is of such poor quality that it cannot be profitably worked in areas of fifteen thousand acres or less, the land may be surveyed and subdivided into allotments in such areas exceeding fifteen thousand acres as will insure the taking-up of such lands.

(f.) Such allotments may be disposed of by the Board by way of lease for any term or terms not exceeding in the whole fifty years.

(g.) The Board may set aside any number of such allotments for application in the first instance by the Maori owners of the land.

(h.) All lands proposed to be dealt with under this section shall be included in a schedule showing the area, locality, and quality of each block, to be laid before both Houses of the General Assembly within fourteen days of the commencement of the session in each year.

9. With respect to every such lease the following provisions shall apply :— Provisions as to leases.

(a.) Leases may be offered by public auction or public tender, or in such other manner as may be prescribed.

(b.) The upset rental in every case shall be at the rate of not less than *five* per centum per annum on the capital value of the land.

(c.) Such capital value shall be fixed by the Board ; and, in addition to the capital value of the land as assessed under " The Government Valuation of Land Act, 1896," may cover the cost or any portion of the cost of survey, roading, subdivision, and other works and operations done on the land, and the estimated cost of administration.

(d.) The lease shall contain such powers, conditions, and covenants as, subject to regulations, the Board thinks fit.

10. The Board may, with the consent of the Native Minister, raise moneys by way of mortgage on the security of any land so vested in it as aforesaid, and may apply the moneys so borrowed in or towards discharging valid incumbrances or liens affecting the land, and in cutting up, surveying, roading, opening up, preparing, and advertising such land for lease, or generally improving such land. Board may borrow money.

11. For the purpose of laying off or forming roads, or for making surveys, or for opening up for settlement any land so vested in the Board as aforesaid, or for the purpose of discharging any valid incumbrance by way of mortgage, lien, or charge to which such land is subject, the Colonial Treasurer (with the consent of the Native Minister) may in his discretion authorise advances to be made Moneys for roads, &c.

to the Board out of moneys to be appropriated by Parliament out of the Public Works Fund :

Provided that the total amount which under this section may be advanced to any one Board in any one year shall not exceed ten thousand pounds.

Repayment of
advances for roads,
&c.

12. With respect to all such advances the following provisions shall apply :—

(a.) The amount of such advance, together with interest thereon at the rate of *five* pounds per centum per annum, shall by force of this Act be a charge upon the income derived from the lands so vested in the Board as aforesaid, such charge being so adjusted as to be proportionate to the benefit.

(b.) The amount of such advances shall be repayable in the manner following, that is to say :—

(i.) The amount of the advance, together with the interest thereon at the rate of *five* pounds per centum per annum, shall, out of the income upon which the same is charged as aforesaid, be repayable by the Board to the Colonial Treasurer on behalf of His Majesty by half-yearly instalments extending over such term of years not exceeding *forty-two* as is agreed on between the Board and the Colonial Treasurer, and the first instalment shall be payable six months after the commencement of such term.

(ii.) Such term shall commence on such date as is agreed on, being in no case later than *four* years after the date of the advance :

Provided that, for the period elapsing between the date of the advance and the commencement of such term, the Board shall at such intervals as the Native Minister directs (in no case exceeding half-yearly intervals) pay interest at the rate aforesaid on the amount of the advance.

(iii.) Every such instalment shall consist partly of principal and partly of interest, and shall be calculated and paid according to a table to be prescribed by regulations under this Act.

(iv.) Such prescribed table shall be computed and framed in the same mode and on the same principle as the table set out in the Second Schedule to "The Government Advances to Settlers Act, 1894."

(c.) Notwithstanding anything in the *last preceding* subsection the whole or any part of any such advance may be repaid at any time before the same becomes payable under that subsection, and in every such case a proper adjustment of the interest payable shall be made.

Application of
income.

13. All sums derived by way of income in respect of lands vested in the Board as aforesaid shall from time to time be applied by the Board—

(a.) In defraying the costs of administration ;

(b.) In repaying advances as hereinbefore provided ;

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(c.) So much thereof as the Board determines in or towards discharging any valid mortgage, lien, charge, or liability affecting the land;

5 (d.) In paying the remainder to the owners of the land in proportion to their individual interests therein.

14. Upon the expiry of the period of fifty years hereinbefore prescribed, and upon discharge of all incumbrances affecting the land or the income thereof, the Board shall, if requested in writing so to do by the Maori owners possessing a majority of the interests in the said land, recommend the Governor to annul by Order in Council the title of the Board; and upon the issue of such Order in Council the land shall be re-vested in the Maori owners.

On expiry of lease land to revert to Maori owners.

15. For the purpose of carrying into effect the provisions of this Act relating to the disposition and administration of land vested in the Board, but for no other purpose, all restrictions, conditions, and limitations created in respect of such land by any Act or by any instrument of title shall be deemed to be removed.

When restrictions may be removed.

16. (1.) Except as hereinafter provided, all restrictions, conditions, or limitations against the alienation by lease of any lands owned by Maoris, whether such restrictions, conditions, or limitations are contained in any Act or any instrument of title, shall, immediately upon the coming into operation of this Act, be deemed to be removed:

Removal of restrictions against alienation by lease.

25 Provided that no lease of any land owned by Maoris shall be valid unless there is indorsed thereon the approval of the Board of the terms thereof.

(2.) Such approval shall not be granted unless and until the Board is satisfied—

30 (a.) That the rent proposed is adequate, being not less than at the rate of five per centum per annum on the capital value of the land as assessed under "The Government Valuation of Land Act, 1896":

35 (b.) That each Maori alienating has a papakainga, or sufficient other land for the purposes of a papakainga, or (with the rent payable under such proposed lease) an income sufficient for his support:

(c.) That the proposed lease is for the benefit of the Maori owners of the land:

40 (d.) That such lease takes effect in possession and not in reversion.

(3.) No lease of any land owned by Maoris shall be for a term exceeding fifty years, nor for an area exceeding that specified for the respective classes mentioned in section *six* hereof.

45 (4.) Every lease granted under the powers hereinbefore contained shall be executed by the Maori lessors as required by clauses (d) and (e) of subsection two of section fifty-three of "The Native Land Court Act, 1894," but the minute of approval of the Board on any lease shall be sufficient authority for the registration of such lease, and further confirmation by the Native Land Court shall not be

50 necessary.

(5.) The provisions of this section shall not apply to lands owned by Maoris in the Middle Island or Stewart Island, or lands vested as Native reserves in the Public Trustee.

Administration of
land on request of
Maori owners

17. Any Maoris may apply to the Board to dispose by way of lease of any land owned by them upon such terms and conditions as may be stated in the application, and in respect of any such application the following provisions shall apply:—

- (a.) The application shall be in the prescribed form and shall be attested in the prescribed manner. 5
- (b.) Where the number of owners exceeds *ten* the application may be signed on behalf of the whole of the owners by such of the owners as may be selected in manner provided by section twenty of "The Maori Land Laws Amendment Act, 1903." 10
- (c.) If the Board consents to the application, the President shall publish in the *Gazette* and *Kahiti* a notice of such application and of the intention of the Board to deal with the said land in terms of the said application. 15
- (d.) If no objection be received within one month from the date of the publication of such notice, the Board may in its discretion proceed to advertise such land for lease by public tender, and thereupon no lease of the said land shall be valid except by the Board acting for and on behalf of the Maori owners: 20

Provided that if the Board, at any time prior to the granting of a lease, shall by notice in the *Gazette* and *Kahiti* renounce and disclaim any right to act on behalf of the Maori owners, the provisions of this section shall cease to have any force or effect. 25

- (e.) Anything in any Act or instrument of title to the contrary notwithstanding, such land may be disposed of by the Board by way of lease for any term or terms not exceeding in the whole fifty years. 30
- (f.) For the purposes of this section all instruments of alienation shall be executed by the Board on behalf of the Maori owners. 35
- (g.) The lease shall contain such powers, conditions, and covenants, as, subject as hereinbefore provided, the Board thinks fit.
- (h.) All rents payable in respect of leases granted under the provisions of this section shall be paid by the lessees to the Board; and, after deduction of the costs of administration as hereinafter provided, shall from time to time be paid by the Board to the Maori owners according to their proportionate shares or interest in the land: 40
- (i.) The costs of administration shall be such sum as may be agreed upon between the Board and the Maori owners, but shall in no case exceed *five* per centum of the amount of the rents received by the Board in respect of such leases. 45

Advances out of
the Land for
Settlements
Account.

18. The Minister of Lands may, out of any moneys available for the purposes of "The Land for Settlements Consolidation Act, 50

1900," advance by way of mortgage to the owners, or registered proprietors in the case of a body corporate, of any land owned by Maoris any sum not exceeding *one-third* of its unimproved value for the purpose of stocking, improving, or farming the same :

5 Provided that for the purposes of a mortgage under this section any restrictions heretofore imposed or hereafter to be imposed may be removed by the Native Minister.

10 19. In respect of any moneys advanced under section *eighteen* of this Act, the Minister may make such conditions as he may deem necessary to secure the proper expenditure thereof for the purposes named therein. Application of moneys advanced.

15 20. (1.) Notwithstanding the provisions of any law now in force to the contrary, the Governor may acquire any Native lands by purchase from the Native owners, or from a majority in value of such owners if more than ten, or from a Committee duly appointed under the provisions of Part II. of Division II. of "The Native Land Court Act, 1894." Governor may acquire Native lands by purchase.

20 (2.) Upon such majority duly executing a deed of transfer to His Majesty the land may be dealt with as Crown lands under "The Land Act, 1892," and a list of all owners who have not so executed a deed of transfer certified as correct by a Judge of the Native Land Court, and the receipt of the Chief Land Purchase Officer for the amount of consideration due in respect of their shares or interests in the land, shall complete the title of the Crown for registration and Governor may acquire Native lands by purchase.

25 all other purposes. (3.) The provisions of this section shall not apply to any lands in the districts described in the Schedule of this Act until the first day of January, one thousand nine hundred and eight.

30 21. The provisions of sections one hundred and twenty-seven to one hundred and twenty-nine of "The Native Land Court Act, 1894," shall not apply to the acquisition of any land under the provisions of the *last preceding* section. Certain provisions of Native Land Court Act not to apply.

35 22. (1.) Before the completion of any sale and conveyance to His Majesty, the Governor shall ascertain whether any of the Natives having shares and interests in the block or parcel of land proposed to be acquired have other land sufficient for their maintenance ; and, if not, then there shall be reserved, for the use of such of the said Natives who have no other land, such area of the whole of the block or parcel of land as the Governor thinks sufficient ; or the Governor Before purchase sufficient land to be reserved for owner's use.

40 may acquire the whole block, and, in lieu of reserving any land out of the land acquired, set apart out of Crown land such land as he thinks fit for the maintenance of such Natives : Provided always that no land reserved for the support and maintenance of the Natives shall be considered a sufficiency for Before purchase sufficient land to be reserved for owner's use.

45 such purpose if the quantity so set apart for every Native man, woman, or child is less than twenty-five acres per head of first-class land, and fifty acres per head of second-class land, and one hundred acres per head of third-class land. (2.) Any land so reserved or set apart may be vested in such Before purchase sufficient land to be reserved for owner's use.

50 Natives for such estate, shares, and interests therein, and subject to such restrictions, limitations, and conditions as the Governor thinks fit ; or the Governor may vest such land in any corporate body having

by law the duty of administering Native reserves, to be administered by such corporate body for the benefit of such Natives.

Power to borrow
£200,000

23. For the purpose of providing funds for the acquisition of land under this Act, the Colonial Treasurer, upon being authorised by the Governor in Council so to do, is hereby empowered to raise from time to time by way of loan under the provisions of "The New Zealand Loans Act, 1904," such sums of money, not exceeding in the whole two hundred thousand pounds, as he thinks fit. 5

Advances
pending
payment of
purchase-
money.

24. (1.) Pending the payment of the purchase-money for any land so purchased the Native Minister may advance to or for the benefit of the owners of the land such sum or sums as he thinks fit for the roading, fencing, clearing, erection of buildings, or other improvements on any other land belonging to the said owners : 10

Provided that in the case of any owner who has not executed the transfer to His Majesty such advances shall not exceed one-half of the value of the share or interest of such owner in the land. 15

(2.) In the case of owners who have executed the transfer aforesaid the sums so advanced shall be deducted from their shares or interests in the purchase-money, and in the case of owners who have not executed such transfer the sums so advanced shall be secured to the satisfaction of the Native Minister as a first charge on the share or interest of such owners in the land. 20

Land not to be
purchased for less
than assessed
value.

25. The purchase-money to be paid for any land acquired under the provisions of the *five last preceding* sections shall be not less than the capital value of the land as assessed under "The Government Valuation of Land Act, 1896." 25

Cost of
administration
of Act.

26. Notwithstanding anything to the contrary in any Act, the costs of administration of the principal Act and this Act may be defrayed out of moneys appropriated by Parliament for that purpose.

Modification of
other Acts.

27. The provisions of the principal Act and of every other Act that are in any way in conflict with the provisions of this Act are hereby modified or repealed in so far as such conflict exists, but not further or otherwise. 30

Schedule.

SCHEDULE.

The Tokerau Maori Land District.
The Tairāwhiti Maori Land District.