

AS REPORTED FROM THE WASTE LANDS COMMITTEE,
22ND AUGUST, 1872.

* * * *Amendments of the Committee are underlined.*

(Hon. Mr. Ormond.)

Hawke's Bay Special Settlements.

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A BILL INTITULED

AN ACT to provide for the Sale of Land in the Province of Hawke's Bay on Deferred Payments, and for the setting apart of Land in the Province for Special Settlement. Title.

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

1. The Short Title of this Act shall be "The Hawke's Bay Special Settlements Act, 1872;" and it is divided into two Parts as follows:— Short Title.

PART I.—Land on Deferred Payments.

PART II.—Special Settlements.

PART I.

LAND ON DEFERRED PAYMENTS.

2. It shall be lawful for the Superintendent for the time being of the Province of Hawke's Bay, with the consent of the Provincial Council, from time to time, by Proclamation in the Government Blocks may be set apart for sale on deferred payments.

No. 45—2.

Gazette of the said Province, to set apart out of the Waste Lands of the Crown in the said Province one or more block or blocks of land, not exceeding in the whole twenty thousand acres, for the purposes of this Part of this Act.

Waste Lands Regulations not to apply to such blocks.

3. Immediately upon the publication of any such Proclamation, the regulations for the time being in force relating to the sale letting or occupation of Waste Lands of the Crown in the said Province shall cease to apply to the land defined in such Proclamation, except so far as such regulations relate to the form and dimensions of the sections into which such land shall be divided. 5 10

Mode and terms of sale.

4. The land in every block set apart by Proclamation as aforesaid, shall be sold in the manner and upon the terms following :—

- (1.) The price shall be such price not less than five shillings nor more than forty shillings per acre, as the said Superintendent, with the consent of the Provincial Council, shall fix, and such price shall be named in the Proclamation setting apart any such block except as hereinafter provided. 15
- (2.) No person shall be allowed to purchase less than forty acres nor more than two hundred acres in any one such block, either in his own name or in the name of any other person: Provided that the blocks shall be as far as possible of a rectangular shape, the circumscribing lines of which shall be directed to the cardinal points of the compass. 20
- (3.) Every person applying to purchase any such lands shall deliver to the Commissioner of Crown Lands for the Province of Hawke's Bay a written application in the form A in the First Schedule to this Act, and shall at the same time pay to the Receiver of Land Revenue for the said Province a deposit equal to one-fifth of the price of the land for which he applies. 25 30
- (4.) If there shall only be one applicant for any piece of land, and he shall be qualified to purchase land in such block to the extent applied for, the said Commissioner shall accept the application upon payment of the deposit, and shall issue to the applicant a license to occupy in the form B in the said Schedule. 35
- (5.) If there shall be more than one such applicant at the same time for the same piece of land, the Commissioner of Crown Lands shall receive the applications, and the Receiver of Land Revenue shall receive the deposits and shall pay them into the Bank at which the Public Account of the Colony is for the time being kept to a deposit account: And the said Commissioner shall fix a convenient time and place for a sale by auction of the land between the several applicants applied for, and shall give notice thereof in the *Government Gazette* of the Province. 40 45
- (6.) At the same time and place so appointed, the said Commissioner, by himself or some person appointed by him, shall sell the said land by auction to the highest bidder. If the purchaser thereof shall be a person other than one of the applicants, he shall pay the Receiver of Land Revenue a deposit of one-fifth of the price bid by him for such land. If the purchaser shall be one of the said applicants, he shall pay to the Receiver of Land Revenue such sum, if any, as shall be needed to make up, together with his original deposit, one-fifth of the price bid by him, and in each case the purchaser shall be entitled to have a license to occupy in the same manner as if he had purchased without auction. 50 55 60

(7.) The deposit of every applicant for land put up to auction and not bought by him shall be returned to him by the Receiver of Land Revenue forthwith after the auction.

(8.) No person who has already purchased any land in any such block shall be permitted to bid in his own name or for his own benefit at any auction of land in such block (unless the extent of land for which he bids shall, together with his previous purchase, make up not more than two hundred acres); and if he shall so bid, his bidding shall not be received, and if received shall be void.

(9.) If any land put up for sale by auction under the preceding provisions of this Act shall remain unsold for want of bidders, the same shall be again open for purchase on the day next after the holding of the auction, and the applications already delivered for the same shall be deemed to have lapsed.

(10.) In order to prevent the same person buying more than two hundred acres of land in any one block, the said Commissioner of Crown Lands shall keep for each block a register of the names and descriptions of all persons who have purchased any land in such block, showing the extent of land purchased by each person, and such register shall be kept in alphabetical order.

5. The conditions set forth in the form of license to occupy, in the First Schedule to this Act, shall be binding upon the purchaser, his heirs executors administrators and assigns, in the same manner as if embodied in this Act.

Conditions of license to occupy to be binding.

6. At the end of two years from the day of purchase of any land under this Part of this Act, or as soon as conveniently may be thereafter, some person appointed by the Superintendent shall report to the Commissioner of Crown Lands whether or not the purchaser thereof has, during the said two years, fulfilled the conditions of his license to occupy; and if upon such report it shall appear that such purchaser has fulfilled the said conditions, the said purchaser shall be entitled to the land with respect to which the report is made, on payment of the residue of the purchase money as provided by this Act.

Report as to compliance with conditions.

7. If upon such report it shall appear that the purchaser has, with respect to any piece of land purchased by him, failed to fulfil the conditions of his license to occupy, and no appeal against such report shall be had within the time herein limited for such appeal, the purchase by such purchaser shall be deemed void from the expiration of the last-mentioned time; and the deposit paid by such purchaser and the land purchased shall, with all improvements thereon, be forfeited to Her Majesty.

Unfavourable report to annul purchase.

8. Immediately upon the receipt by the said Commissioner of Crown Lands of any such report as is mentioned in the last preceding section, he shall send by post or otherwise to the person against whom such report is made, at his address if any be known to the said Commissioner, and if none then at the land purchased by him, a notice in the form C in the said First Schedule or to the like effect; and if the purchaser shall deem such report false, he may, within fourteen days after the delivery or posting of the said notice, appeal to any Resident Magistrate holding a Court near the place where the land is situate, by giving a written notice to such Resident Magistrate in the form D in the said Schedule or to the like effect. The said Resident Magistrate shall forthwith appoint a time and place for hearing the said appeal, and shall give notice thereof to the appellant and to the said Commissioner of Crown Lands. At the time and place so appointed, he shall sit to hear the appeal, and shall examine upon

Appeal against report.

oath all such persons as shall be tendered as witnesses by either party, and shall determine whether or not the appellant has, within the said period of two years, fulfilled the conditions of his license to occupy. The said Resident Magistrate shall have power to administer oaths and to adjourn the sitting from time to time and from place to place. 5
The decision of the said Resident Magistrate shall be final, and there shall be no appeal therefrom, and the proceedings shall not be removable by *certiorari* either by the purchaser or by the Commissioner of Crown Lands or Her Majesty the Queen.

Effect of decision on appeal.

9. The Resident Magistrate shall give written notice of his decision to the said Commissioner of Crown Lands and to the appellant. If such decision shall be that the appellant has not, within the said period of two years fulfilled the conditions of his license to occupy, the Commissioner of Crown Lands shall proceed in the same manner as if the appellant had submitted to the original report. If such decision shall be that the appellant has within the said period fulfilled the said conditions, the appellant shall be entitled to the land in respect whereof such decision is made in the same manner as if the report had originally been to the same effect as the decision. 10 15

Payment of further instalments.

10. Immediately after the making of a report in favour of any purchaser of land under this Act, or in case of an appeal immediately after the decision in favour of any purchaser, such purchaser shall pay to the said Receiver of Land Revenue the second instalment of purchase money being a sum equal to the whole deposit originally paid by him on purchasing the said land, and he shall pay a like sum in like manner at the end of the third, fourth, and fifth year from the day on which he purchased such land, or at such earlier time not before the time when the said second instalment falls due as the purchaser shall think fit. 20 25

Forfeiture on non-payment.

11. If any purchaser of land under this Part of this Act shall fail to pay any sum of money in the manner required by this Part of this Act on or before or within three calendar months after the day on which the same ought to be paid, the said land and all improvements thereon, and all sums of money already paid for the same, shall be forfeited to Her Majesty. 30 35

Issue of grant.

12. When the whole of the purchase money of any land purchased under this Part of this Act has been paid in the manner prescribed by this Act, the Governor shall issue to the purchaser thereof a grant from the Crown thereof, the purchaser paying such fee and sums of money as shall for the time being be payable in respect of such grant and of the registration of the title of the purchaser under "The Land Transfer Act, 1870." The title conferred by every such grant shall be deemed to relate back to the day when the payment of the purchase money was completed, and that day shall be inserted in the *habendum* of the grant. 40 45

Sale of forfeited lands.

13. When any land purchased under this Part of this Act has been forfeited to Her Majesty, the Commissioner of Crown Lands shall sell the same and the improvements thereon by public auction for cash, at such time and place as he shall appoint, but not at a price less than ten shillings per acre. At such sale any person may bid and purchase, notwithstanding his having purchased land in the same block to the extent of two hundred acres. 50

Interest of purchase not assignable, except under provisions of this Act.

14. The interest of a purchaser in land under this Part of this Act who has not paid the whole of his purchase money shall not be assignable at law or in equity except under the provisions of this Act, and shall not be capable of being charged encumbered extended or taken in execution in any manner whatever. 55

Substitution of person for purchaser.

15. If any purchaser of land under this Part of this Act who has not paid the whole of his purchase money, or his executors or administrators shall desire to assign his interest in land occupied by him under 60

one license to occupy, he or they may apply to the said Commissioner of Crown Lands to accept instead of himself some one person as purchaser, and if the said Commissioner shall think fit to accept such person, and such person shall not be disqualified to purchase land in the same block to the extent of the land proposed to be transferred, the said Commissioner shall cancel the existing license to occupy upon the same being produced to him, or if the destruction or loss thereof be proved to his satisfaction he may dispense with the production thereof, and shall issue to the person accepted a new license, on payment of a fee of one pound, to occupy, in the same terms and of the same date as the original license, but with the name of such person substituted as purchaser, and thereupon such person shall be deemed to be and to have been from the date of the original purchase the purchaser of the land mentioned in such license, and his name shall be entered into the register of purchasers, and he shall thereafter be disqualified from purchasing land in the same block in the same manner as if he had been the original purchaser.

16. If any purchaser of land under this Part of this Act who has not paid the whole of his purchase money shall become bankrupt or under the provisions of any Act for the time being in force vest his property in a trustee for the benefit of his creditors, the trustee or other person in whom his property shall be vested may transfer the interest of such purchaser therein, with the assent of the said Commissioner of Crown Lands, in the same manner as the purchaser might have done if he had not become bankrupt or vested his property as aforesaid.

Substitution in case of insolvency.

PART II.

SPECIAL SETTLEMENTS.

17. It shall be lawful for the Superintendent of the Province of Hawke's Bay, with the consent of the Provincial Council, by Proclamation in the Government Gazette of the said Province, to set aside out of the Waste Lands within the Province of Hawke's Bay the Native title of which has been extinguished, any block or blocks for the purpose of special settlement, not exceeding in the whole thirty thousand acres, on such terms as may be sanctioned by the Governor in Council, anything in the existing regulations for the management or disposal of the Waste Lands in the Province to the contrary notwithstanding: Provided always that no land shall be sold at a less price than land of a similar description is now sold at under "The Waste Lands Regulations Act, 1858," and that the proceeds thereof shall be subject to any lien already imposed thereon by any Act of the General Assembly.

Blocks may be set apart for special settlement.

18. Neither the whole nor any part of any block of land so set aside shall continue so set aside, for a period of more than two years from the date of the Proclamation whereby the same shall be set aside; but every contract made with respect to any such block or any part thereof whilst the same remains so set aside shall be performed, notwithstanding that the block has ceased to be so set aside.

Limitation of time for which blocks shall remain set apart.

19. It shall be lawful for the said Superintendent from time to time to contract with any person or persons company or companies that such person or persons company or companies shall, with respect to the whole or any part of any one or more of the said blocks of land, place upon any land with respect to which such contract shall be made persons desirous to settle thereon: Provided that the person or persons company or companies with whom such contract shall be made shall be bound thereby to perform and observe and to cause the persons placed by them upon such land to perform and observe the terms sanctioned by the Governor in Council under this Part of this Act and the provisions of this Part of this Act.

Superintendent may contract for settlement of blocks.

Schedule.

SCHEDULE.

FORM A.

APPLICATION FOR LAND ON DEFERRED PAYMENT.

I [*Name in full*] hereby apply to purchase the land hereinafter described, that is to say [*Insert description of land and name of block*], under the provisions of the First Part of "The Hawke's Bay Waste Lands Act, 1872."

And I declare that I have not purchased, either in my own name or in the name of any other person, any land in the said block (except _____ acres held by me under license to occupy, dated _____).

Date.

Signature.

To the Commissioner of Crown Lands, Hawke's Bay.

FORM B.

LICENSE TO OCCUPY.

[*Name in full*] having purchased the land described at the foot hereof, and paid the deposit of £ _____ for the same, is hereby authorized to occupy the said land, so long as he shall observe the conditions indorsed herein.

[*Description of land.*]

Signature.

Commissioner of Crown Lands.

Date [*the day on which the deposit was made, or, in case of sale by auction, the day of such sale.*]

Conditions to be Indorsed on Licenses to Occupy.

1. The purchaser must, before the _____ day of _____ [*Two years from date*] build on the said block a house of the value of at least £10, and must, within the same period fence or clear crop or lay down in grass one tenth part of the said land.

2. An officer appointed by the Superintendent will, as soon as may be after the last mentioned period, report whether the previous conditions have been fulfilled. If his report is unfavourable to the purchaser, the purchaser may appeal to a Resident Magistrate in the manner provided by the First Part of "The Hawke's Bay Waste Lands Act, 1872." When it has been decided that the purchaser has fulfilled the previous condition, the purchaser shall pay the residue of the purchase money by instalments, as follows:—£ _____ immediately after the decision, and a like sum on each of the following days: 18 _____, 18 _____, 18 _____, or earlier if he thinks fit.

3. If the purchaser fails to perform the above conditions, or to pay any instalment within three calendar months after it falls due, the land and all improvements and all money already paid will be forfeited.

4. If the purchaser or his executors or administrators, or a trustee under his bankruptcy, shall desire to transfer his land before paying all his purchase money, he or they may apply to the Commissioner of Crown Lands to accept another fit person in his place.

FORM C.

To [*Name in full*]. Take notice that Mr. _____ has reported that you have not fulfilled the Condition No. 1 of your license to occupy land in _____ Block, dated _____.

If you are dissatisfied with the report you may, within thirty days after this notice shall be posted, appeal to any Resident Magistrate holding a Court near the land mentioned in your license, by delivering to him the notice, a form whereof is annexed properly filled up by you. [*Form D to be annexed.*]

Signature.

Date.

Commissioner of Crown Lands.

FORM D.

NOTICE OF APPEAL.

To _____ Esquire, Resident Magistrate.

TAKE notice that Mr. _____, having reported under the First Part of "The Hawke's Bay Waste Lands Act, 1872," that I have not fulfilled the condition numbered 1 of my license to occupy land in the _____ Block, dated _____ 18 _____, I hereby appeal against the said report, and require you to fix a time and place for hearing the said appeal.

My address is _____

Signature.