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New Parliament.

This PUBLIC BILL originated in the LEGISLATIVE COUNCIL, and having this day passed as now printed, is transmitted to the HOUSE OF REPRESENTATIVES for its concurrence.

*Legislative Council,
5th November, 1879.*

Hon. Mr. Whitaker.

Leases and Sales of Settled Estates Act 1865 Amendment.

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A BILL INTITLED

AN ACT to extend and amend "The Leases and Sales of Settled Estates Act, 1865." Title.

WHEREAS it is expedient to extend and amend "The Leases and Sales of Settled Estates Act, 1865" (hereinafter referred to as "the said Act"); Preamble.

BE IT THEREFORE 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 is "The Leases and Sales of Settled Estates Act 1865 Amendment Act, 1879." Short Title.

2. The power conferred by the said Act on the Court to authorize leases of settled estates shall be deemed to extend to empower the Court to authorize leases containing covenants or powers, either compulsory or optional, obliging or entitling the lessee or his executors, administrators, or assigns, to purchase the fee-simple of the land demised for such price, and upon such terms and conditions, as the Court may think proper: Power to Court to authorize purchasing clauses in leases.

All the provisions of the said Act relating to conveyances to purchasers under the said Act, and to the application of the sale-moneys shall, as far as possible, extend and apply to sales made under the authority of this Act.

3. No authority to grant a lease containing any such covenant or power as aforesaid shall be granted unless the application shall set forth the terms of the intended covenant or power; and the Court, before granting such authority, shall be satisfied that the same is not inconsistent with a due regard for the interests of the parties entitled under the settlement. Application must set forth terms of the covenant.

In order made under section 10 no conditions to be inserted that lease shall be settled by Court, save in certain cases.

4. In orders to be hereafter made under the tenth section of the said Act for vesting any powers of leasing in any trustees or other persons, no conditions shall be inserted requiring that the leases thereby authorized should be submitted to or be settled by the said Court or a Judge thereof, or be made conformable with a model lease deposited in the Judge's chambers, save only in any case in which the parties applying for the order may desire to have such condition inserted, or in which it shall appear to the Court that there is some special reason rendering the insertion of such a condition necessary or expedient. 5

How Court to determine what are settled estates.

5. The Court, in determining what are settled estates within the meaning of the said Act, shall be governed by the state of facts and by the trusts or limitations of the settlement at the time of the said settlement taking effect. 10

In certain cases where consent to application is required and not given, notice to be given.

6. When under the said Act the concurrence or consent of any person in or to any application hereafter to be made under that Act is required, and such concurrence or consent shall not have been obtained, notice shall be given to such person in such manner as the Court to which such application shall be made shall direct, requiring him to notify, within a time to be specified in such notice, whether he assents or dissents from such application, or submits his rights or interests, so far as they may be affected by such application, to be dealt with by the Court; and every such notice shall specify to whom and in what manner such notice is to be delivered or left. 15 20

In case no notification shall be delivered or left in accordance with the notice, and within the time thereby limited, the person to or for whom such notice shall have been given or left shall be deemed to have submitted his rights and interests to be dealt with by the Court. 25

Order on application may be made without consent, but Court to have regard to number and interests of persons consenting or dissenting.

7. An order under the said Act may be made upon any such application, notwithstanding that the concurrence or consent of any such person as aforesaid shall not have been obtained or shall have been refused; but the Court, in considering the application, shall have regard to the number of persons who concur in or consent to the application and who dissent therefrom, or who submit or are to be deemed to submit their rights or interests to be dealt with by the Court, and to the estates or interests which such persons respectively have a claim to have in the estate as to which such application is made; and every order of the Court made upon such application shall have the same effect as if all such persons had been consenting parties thereto. 30 35

Applications otherwise dealt with as prescribed by the Act.

8. All such applications shall be otherwise dealt with in such manner as are prescribed by the said Act, or any order made in pursuance thereof with regard to the exercise of the powers conferred by that Act. 40

Married women may sufficiently consent by acknowledgment.

9. The concurrence or consent of a married woman resident in any place within Her Majesty's dominions, to any application under the said Act or this Act, may be signified by an acknowledgment made by her before, and certified by, a Commissioner duly appointed for taking the acknowledgments of married women at such place aforesaid. 45

Any concurrence or consent signified as aforesaid, shall be sufficient. 50