

# The Colonial Herald,

AND

## PRINCE EDWARD ISLAND ADVERTISER.

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CHARLOTTETOWN, SATURDAY, MAY 9, 1840.

[No. 145.]

LEGISLATIVE COUNCIL CHAMBER, 29th APRIL, 1840.

**RESOLVED**, That the Bill intituled *An Act to authorize the Crown to purchase the Lands, and to regulate the settlement of the Inhabitants of this Island, and to repeal certain Sections of an Act intituled 'An Act for levying an Assessment on all Lands in this Island,'* rejected by this House in the present Session, be once inserted in the public Newspapers.

CHARLES DESBRISAY, D. C. C.

**AN ACT** to authorize the Crown to purchase the Lands, and to regulate the settlement of the Inhabitants of this Island, and to repeal certain Sections of an Act intituled *An Act for levying an Assessment on all Lands in this Island.*

**WHEREAS** the House of Assembly of this Colony hath for several years last past, endeavoured to procure a forfeiture of the several Townships in the same, on the grounds that the Grantees thereof, and their Heirs and Assigns, have not complied with the conditions of the original Grants from the Crown, and hath repeatedly solicited the Imperial Government to direct the establishment of a Court of Escheat in this Colony for that purpose: And whereas such solicitation and request of the House of Assembly hath been refused, and no other means appear at present feasible or attainable, to procure relief to the tenantry from the pressure of large arrears of rent, sought to be enforced against them by the said Grantees, their Heirs or Assigns, than by the purchase of the rights of the said Grantees, their Heirs or Assigns, by the Crown, to the intent that, after such purchase made, a settlement of the present Tenantry and occupiers of the land, on the several Townships within this Colony, may be had and made, in the manner hereinafter mentioned for the terms of payment; also, in the manner hereinafter expressed, in order that the Imperial Government, in the event of such purchase being made, may be reimbursed such sums of money as shall be by it expended and paid in the purchase of the rights of the said Grantees, their Heirs and Assigns, in so far as the same can be done by the sale of the said Lands to the present Tenantry and occupiers thereof, as hereinafter mentioned, and by the payment of the assessment or tax hereinafter expressed—to be levied thereon for the term of ten years from the passing hereof—and also by the appropriation for that purpose of such assessments or taxes as have been collected and received by the Treasurer of this Colony, under and by virtue of any Act of the Legislature thereof now in force therein: Be it therefore enacted, by the Lieutenant Governor, Council and Assembly, That for the peace and prosperity of the Inhabitants of this Colony, and also for the relief of the Tenantry therein of all arrears of rent that may now be due and owing, and of all rent that may hereafter accrue to their landlords, under and by virtue of any lease or leases, or of any agreement for any lease or leases, or how otherwise, and for the settlement of the lands therein, the Imperial Government be requested, authorized and empowered, and it is hereby requested, authorized and empowered, to purchase from the different Proprietors of the Land of this Colony, all the right, title and interest of such proprietors thereto, at such price as the Imperial Government may agree to give such proprietors therefor, for each and every acre of land held by him or them in this Colony, and thereby resume and assume to the Crown all title and interest in the lands held by said proprietors—which assumption in the Crown as aforesaid shall relieve and fully discharge the Tenantry from all arrears of rent that may be due and unpaid, and from all accruing rent, and from all obligations for rent whatsoever, whether by lease or how otherwise, to the said proprietors.

And be it enacted, That all and every tenant or tenants, and person or persons occupying lands in this Island, shall and may purchase from the Crown the lands which such tenant or tenants, person or persons occupying land, shall be possessed of, with the improvements that may have been made thereon, at or for the price of Six shillings for lands of a superior quality; Five shillings for lands of a good or medium quality; and for lands of an inferior quality, Four shillings, of current money of the said Island, per acre (together with the lawful interest thereon from the date of such purchase, yearly and every year, until the whole purchase money thereof shall be fully paid), and shall at once receive from the Commissioner to be hereafter appointed, and the Justice of the Peace as is hereafter enacted, a Deed of Conveyance, in fee simple thereof, in the form set forth in the Schedule to this Act annexed, and marked (A.); and such person or persons as shall have purchased lands as aforesaid, and received a Deed thereof as aforesaid, shall pay the purchase money thereof, with the interest thereon as aforesaid, into the Treasury of this Island, to and for the use of Her Majesty's Imperial Government.

And whereas the peace of the Island, and the future prosperity of the same, will be mainly dependent on the equitable settlement of the agriculturists, and no application of the Land Tax to any other purpose in this Island will be so essentially useful as to the settlement of the Inhabitants: Be it further enacted, That all persons holding Two hundred Acres of land, and under, in fee simple, by purchase prior to the passing of this Act, either from the Crown, the Sheriff or Coroner, or from any of the Grantees, their heirs or assigns, shall pay into the said Treasury the yearly sum of One Farthing of current money as aforesaid for each and every acre of land held and occupied by him, her or them as aforesaid; and that all persons in this Island holding a quantity of land over and above Two hundred Acres, in fee simple as aforesaid, and not exceeding Four hundred Acres, shall pay into the said Treasury the yearly sum of One Half-penny, of current money as aforesaid, for each and every Acre of land over and above the said Two hundred acres, held and occupied by him, her or them as aforesaid; and that all persons holding a greater quantity of land than Four hundred Acres as aforesaid, shall pay into the said Treasury the yearly sum of One Penny of current money as aforesaid, for each and every acre of land over and above the said Four hundred Acres of land held and occupied by him, her or them as aforesaid; and that all persons who may have received a Grant from the Crown, and all persons who may purchase and receive a Deed in fee simple of land under the provisions of this Act, shall pay into the said Treasury the yearly sum of One Penny, of current money as aforesaid, for each and every acre so granted to or held by him, her or them as aforesaid, or by his, her or their Assigns, which said several sums of money, or land taxes, shall be paid as aforesaid, for and during the next Ten years after the passing of this Act, and no longer, and shall be for the use and disposal of the Imperial Government.

Provided always, and be it further enacted, That if the said purchase money and interest, as aforesaid, be not paid within Ten years from the passing of this Act, or the several land taxes be not paid yearly and every year during the continuance of this Act, then, and in such case, it shall and may be lawful to and for the Treasurer of this Island to proceed against such land, for which the said purchase money and interest thereon shall not have been paid, in the same manner as is pointed out and set forth in the Colonial Statute of the Seventh William the Fourth, chapter Thirty-one, intituled *An Act for levying an Assessment on all Lands in this Island.*

And whereas an Act was made and passed in the Seventh year of the reign of His late Majesty King William the Fourth, intituled *An Act for levying an Assessment on all Lands in this Island:* Be it enacted, That so much of the said recited Act as relates to the levying an Assessment on Township Lands in this Island, and the several Islands belonging thereto, as well as Sections Eight, Nine, Thirteen, Fourteen, Fifteen, Twenty-one and Twenty-two of the said recited Act, be, and the same are hereby respectively repealed; and that all moneys that may have been collected under and by virtue of the said recited Act shall remain in the hands of the Treasurer of this Island, to and for the use and disposal of Her Majesty's Imperial Government, to liquidate in part the outlay and advances that may be made by the Crown in the purchasing of lands in this Island as aforesaid.

And be it enacted, That as much of the First Section of the before recited Act as relates to the levying the several rates of Assessment on the Town Lots, Pasture Lots, Common Lots, and Water Lots of Charlottetown, Georgetown and Princetown, as well as Sections Two, Three, Four, Five, Six, Seven, Ten, Eleven, Twelve, Sixteen, Seventeen, Eighteen, Nineteen, Twenty and Twenty-three of the said Act, shall remain in full force and effect, for and during the continuance of this Act—any thing in the said recited Act, or in this Act, to the contrary, notwithstanding.

And be it enacted, That when any Lands, in any of the Townships in this Island, shall have been purchased and revested in the Crown, under and by virtue of this Act, it shall and may be lawful for the Administrator of the Government of this Island to appoint, and he is hereby authorized and required to appoint, one Commissioner in each Electoral Dis-

trict in each County in this Island, wherein and where such Lands, so purchased and revested as aforesaid, are situated, and to administer an Oath to every such Commissioner that he shall faithfully discharge the duties pointed out to him in this Act—which Commissioner shall give such security for the faithful discharge of his duties as is imposed by this Act as may be required by the Administrator of the Government for the time being: And it shall be the duty of the Commissioner or Commissioners so appointed as aforesaid, on his or their accepting of such appointment, to proceed to each Township so purchased and revested in the Crown as aforesaid, and so contained in his said District as aforesaid, and with the aid and assistance of one of Her Majesty's Justices of the Peace, residing on or contiguous to such Township as aforesaid—who is hereby required to give his aid and assistance, and summon each and all of the Inhabitants in the occupation of the said Township, or a part thereof, to produce and shew to the said Commissioner and Justice of the Peace as aforesaid, the Titles (if any he or they may have) by virtue of which he, she or they is or are in the occupation and possession of the land, or any part thereof, contained within the said Township; and should any person or persons who may be an occupier or occupiers (that is to say—who may have a dwelling house and two acres cleared, and being in the actual occupation thereof, shall be deemed to be an occupier), refuse to produce and shew to the said Commissioner and Justice of the Peace his, her or their title as aforesaid, or to comply with the terms of this Act, then, and in such case, it shall and may be lawful to and for the said Commissioner and Justice of the Peace to eject such occupier or occupiers from the possession and occupation of his, her or their said lands as aforesaid.

And be it enacted, That after the said Commissioner and Justice of the Peace shall have examined the Title or Titles so produced as aforesaid by each and all of the Inhabitants of the Township aforesaid, it shall and may be lawful to and for such Commissioner and Justice of the Peace—and they are hereby required so to do—to make a statement setting forth the names of such Inhabitants, the Titles by which they hold or occupy the lands, and the number of acres thereof of which they are in possession or occupation—the name of the person from whom he, she or they received Title—the period of time he, she or they have been in possession or occupation of such lands as aforesaid, and whether or not his, her or their Title Deeds have been recorded or registered in the proper office, for that purpose—which said statement shall be according to the Schedule to this Act annexed, and marked (B.)

And be it enacted, That after the said Commissioner and Justice of the Peace shall have ascertained the title or titles so produced to them as aforesaid, and shall have completed and filed in the office of the Registrar of Deeds in this Island the statement as aforesaid, it shall and may be lawful to and for such Commissioner and Justice of the Peace to settle the small freeholders, and to secure the proprietors of large tracts of land in the lands they may have improved at their own expense, in the following manner (that is to say)—that such person or persons as may have actually purchased and received a deed or deeds, or other conveyance, in fee simple, of such tract or tracts of land, for the purpose of settlement, from the grantee or grantees, or his or their Assigns, or from any person or persons who may have been in the peaceable and undisturbed possession thereof Twenty years previous to such person or persons' assigning or conveying the same, or from any Sheriff or Coroner of this Island, duly empowered to grant the same, it shall and may be lawful to and for the said Commissioner and Justice of the Peace to grant and deliver to him or them a Certificate approving of the said Deed or Deeds so conveyed to him or them as aforesaid, in the form set forth in the Schedule annexed to this Act, and marked (C.); and to such proprietor or proprietors who may have improved lands as aforesaid at their own expense it shall and may be lawful to and for the said Commissioner and Justice of the Peace to grant, execute and deliver to such proprietor or proprietors, upon receiving from him or them the purchase money thereof—not being a less sum per Acre than the sum given to him or them by the Imperial Government, in accordance with the terms of this Act—a Deed in fee simple of such improved Lands as aforesaid, in the form set forth in the said Schedule to this Act annexed, and marked (A.) Provided always, that such Deeds in fee simple as aforesaid, shall not convey nor interfere with the improvements made by nor prevent the settlement of the Tenantry, Occupants or Squatters, according to the true intent and meaning of this Act, but shall include merely the improvements made by such proprietor or proprietors at his or their own expense.

And be it enacted, That the said Deed or Deeds of Conveyance, so executed and delivered as aforesaid, by the said Commissioner and Justice of the Peace, shall be good and valid in the law, to vest in such purchaser as aforesaid a Title in fee simple to the land therein and thereby conveyed; and the said Commissioner and Justice of the Peace shall charge no more for each Deed than the sum of Twelve Shillings, current money of this Island—which sum of money shall be divided between the said Commissioner and Justice of the Peace, in the proportion of Two-thirds thereof to the said Commissioner and the remaining One-third to the said Justice of the Peace.

And be it enacted, That in all cases where Tenants or Occupants are in possession or occupation of land which hath been improved, and for which such tenant or tenants, or their Assigns, have not paid for the value thereof, previous to any lease having been given or granted to them, or before they went into occupation or possession thereof, or in cases of dispute between the Inhabitants of the said Township, as to Boundaries or how otherwise, it shall and may be lawful to and for the said Commissioner and Justice of the Peace as aforesaid, as often as they shall see fit, to increase or reduce the price of the land as aforesaid, or to settle disputed boundaries of farms, and at the request of any person or persons interested, being made to them, to summon, or cause to be summoned, twelve good and lawful men, as a Jury, who shall be occupiers of land in the Township where such lands in dispute shall be situated, to be and appear before them at such time and place as they shall appoint, and shall give the said Jury at least Forty-eight hours' notice previous to the meeting thereof: and the said Commissioner and Justice of the Peace are hereby authorized and empowered to swear, or cause to be sworn, the said Jury so summoned as aforesaid, according to the form of the Schedule to this Act annexed, marked (D.); and that the said Jury, after hearing the evidence that may be adduced before them, shall pronounce a verdict—which verdict shall be entered by the said Commissioner and Justice of the Peace in a Book to be kept by them for that purpose, and which verdict shall be deemed to be final and conclusive between the parties, and shall, within Sixty days after being given in, be recorded in the Registry Office of this Island.

Provided always, and be it further enacted, That nothing in this Act contained shall authorize or empower, or be construed to authorize or empower, the said Commissioner and Justice of the Peace to grant a Deed or Deeds in fee simple as aforesaid of improved lands to any person or persons who may be in the possession or occupation thereof other than the rightful owner of such improvements, nor to any tenant or tenants who have mortgaged his, her or their title and interest to any lands whatsoever in this Island, nor shall interfere with the rights of any heir or heirs whomsoever, nor with any cause, suit or action relating to any lands whatsoever as aforesaid, now pending, or to be hereafter brought in any Court of Law or Equity in this Island.

And be it enacted, That any person or persons making or giving a false statement to the said Commissioner and Justice of the Peace, for the purpose of fraudulently obtaining from them a Deed as aforesaid, of improved lands or otherwise, every such person, so offending and acting fraudulently as aforesaid, shall forfeit all right, title and interest which he or she may have or be entitled to; and any such Deed so obtained shall be void and of none effect: and such person or persons as aforesaid shall be ousted and ejected from the possession and occupation of such lands occupied by him, her or them as aforesaid, by the said Commissioner and Justice of the Peace, who are hereby authorized to do the same.

And be it enacted, That the fees to be taken under and by virtue of this Act shall be as follows, (that is to say)—that the Commissioner of each District and Justice of the Peace shall be entitled to receive Three Shillings each, which is to be paid by those who are settled in accordance with the provisions of this Act, besides the expense of a Deed for each person whom they may have settled as aforesaid; and for every Oath they may administer, One Shilling; and that Jurors who may be summoned by the District Commissioner and Justice of the Peace shall be entitled to no fees whatsoever, save and except Three-pence per mile going and returning; and that each Juror shall be subject to a penalty of Two Pounds—to be recovered before any Justice of the Peace—if he refuse or neglect to attend after having been served with due notice as aforesaid.