

the rural land of the waste lands of the Crown open for sale or selection in the province in which the trees are planted. The form of land-order in the schedule simply authorises the person named in it to purchase to the amount of so many pounds in value any waste lands of the Crown in the province open for sale without payment in cash. The order, in short, is, for land-purchasing purposes, equivalent to cash, and no limit is specified of the quantity of land that may be purchased with it.

The 4th section goes on to enact that, wherever in the Act of 1871 reference is made to a free grant of land, the Act is to be read as if such land-order had been referred to. The section further enacts that the certificate of the Superintendent shall not certify the quantity of land for which a free grant is to be made, but shall certify the sum of money for which the land-order is to be given, and that the Commissioner of Crown Lands, upon production of the certificate, is to give the land-order to the person entitled. The 8th section of the Act of 1872 enacts that the provisions of the Act of 1871, so far as inconsistent with or repugnant to the Act of 1872, are repealed. We are of opinion that the provisions of the Act of 1872 are clearly inconsistent with the limitation of the area to be granted contained in the 5th section of the Act of 1871. The whole scope of the Act of 1872 is to substitute an order representing money for a grant of land. Grants are no longer to be issued under the Act within the meaning of section 5 of the Act of 1871, and, that being so, the limitation of the area included in the grant becomes inoperative. There is nothing in the Act of 1872 to indicate the slightest intention on the part of the Legislature to limit the amount for which a land-order may be given. It is out of the question to suggest that an order may issue for any amount, but that its purchasing power is nevertheless limited by the 5th section of the earlier Act, which has nothing to do with land purchased with an order. The intention of the Legislature to get rid of the limitation is, in our opinion, plain.

The provisions of section 7 of the Act of 1872 give additional strength to this construction. If there had been any desire to limit the amount of money for which an order could be issued, nothing could have been easier than to have expressed it. This, in our opinion, is the only possible construction to place on these two Acts, and any person who planted trees after the Act of 1872 came into operation was justly entitled to rely on the promise of the Legislature that for every acre planted, whatever the number of acres, he was to receive an order representing a fixed amount of money not exceeding £4, which he could make use of to purchase land.

This gives the key to the interpretation of the later Acts, as the Legislature must not be supposed to have passed any enactment which would constitute a breach of faith unless the terms are beyond all question clear enough to show that no other possible construction can be placed upon it. The present plaintiffs had planted their lands before "The State Forests Act, 1885," came into operation.

The 29th section of that Act repeals the earlier Acts, but provides that, notwithstanding, they shall remain in full force so far as relates to anything done or commenced, right or privilege accrued or accruing, &c., under their authority before the passing of the Act of 1885. It was not, and could not be, questioned that the rights of the parties in the present case were thus efficiently preserved. Section 30 of the Act of 1885 in no way affected the rights of the parties. It was evidently framed to meet the case of there being no land in the province available for selection, and to give the person who had planted, if he could not get land, money in lieu of it.

From any point of view, the section was not intended to limit, but to add to, the rights of persons who had planted.

The section is carelessly drafted, but of course it must be construed with reference to the previous legislation. Section 3 of the Act of 1871 is alone mentioned in section 30, but section 3 had been amended by section 4 of the Act of 1872, and the reference to section 3 in the Act of 1885 must be to section 3 as it stood when that Act was passed, viz., as so amended. On this construction, if there was no rural land in the province available to satisfy a land-order, the Commissioner might have paid the holder in cash a sum not exceeding £2 for every acre which could have been bought with such land-order if there had been any land to buy. This seems the only possible construction, as, owing to the passing of the Act of 1872 in the year following, no right to a grant as distinguished from an order under the 3rd section of the Act of 1871, apart from the Act of 1872, could have ever accrued.

Whatever may be the construction of section 30, it is, however, clear that it was not intended to restrict existing rights, but to enlarge them, and it is clear also that the intention of section 29 was to preserve all existing rights. When, therefore, by the 3rd section of "The State Forests Amendment Act, 1888," section 30 is repealed, and other provisions are expressly stated to be in lieu of it, the presumption is that these provisions will not affect rights existing apart altogether from section 30, but will substitute other rights for the additional rights which section 30 certainly gave.

There can be no doubt that all the subsections of section 3 must be read together.

The first subsection gives the holders of land-orders an option before the 30th of June, 1889, with the sanction of the Minister, to have the orders indorsed so as to purchase Crown lands, whether town or rural, in any part of the colony, at any time on or before the 31st of December, 1890.

This is, of course, framed to meet the difficulty suggested by section 30 of the Act of 1885, of there been no rural land in the province available, the right being by the earlier Acts confined to rural lands in the province in which the trees were planted. Subsection (1), however, having given this privilege, subsection (2) proceeds to limit its extent to land of the value of £500. What is limited is the privilege of acquiring "Crown lands as aforesaid in any part of the colony," which clearly refers to the preceding subsection, and not to the right to purchase land in the province, which exists altogether apart from subsection (1) and from section 30 of the Act of 1885, for which the various subsections of section 3 are substituted. The words "as aforesaid" and "in any part of the colony" refer as clearly as language can make them to the right to acquire Crown lands in