

AN ACT in supplement of "The West Coast Settlement (North Island) Act, 1880," to provide for the Administration of Reserves made for Natives within the Confiscated Territory.

WEST COAST SETTLEMENT RESERVES.

[24th September, 1881.]

WHEREAS by the fourth section of "The West Coast Settlement (North Island) Act, 1880," the Governor in Council is empowered to make and set apart reserves for Natives within the confiscated territory, to be inalienable by sale, lease, or other disposition, and to issue Crown grants for the same, subject to such terms, conditions, and limitations as he may think fit; also to make and set apart reserves for the benefit of Natives, to be alienable, but which shall be disposed of under the authority of an Act of the General Assembly to be passed for regulating such disposal, and not otherwise: And whereas it is expedient to make provision accordingly:

Preamble.

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

GENERAL PROVISIONS.

1. The Short Title of this Act is "The West Coast Settlement Reserves Act, 1881."

Short Title.

2. In this Act, if not inconsistent with the context,—

"Commissioner" means any Commissioner appointed or acting under "The West Coast Settlement (North Island) Act, 1880:"

Interpretation.

"Confiscated territory" means all that part of the colony described in the Schedule to this Act:

"Native" means an aboriginal native of New Zealand, and includes all half-castes and their descendants by Natives:

"Owner" means Native owner:

"Reserves" means reserves made by the Governor in Council under "The West Coast Settlement (North Island) Act, 1880," and includes all lands within the confiscated territory given back to Natives or granted to any of them for their benefit, except lands given to them under awards of the Compensation Courts, or by the Governor in respect of special services rendered by such Natives previously to the passing of the said Act:

"The said Act" means "The West Coast Settlement (North Island) Act, 1880:"

"Trustee" means the Public Trustee appointed under "The Public Trust Office Act, 1872;" and, wherever the Trustee

may under this Act give his consent to or join in any alienation or lease, means such Public Trustee and the Board established by the last-mentioned Act.

Operation of Act.

3. This Act shall have operation only in that part of the colony known as the confiscated territory, and described in the Schedule hereto.

Reserves excepted therefrom.

All reserves made for Natives within the aforesaid territory and which at the commencement of this Act were actually administered under the provisions of any Act relating to Native reserves are hereby excepted from the operation of this Act.

Validation of reserves and grants thereof.

4. All reserves of land within the confiscated territory made by the Governor in Council under the said Act, and all grants issued or to be issued for any such reserves containing therein respectively any conditions, restrictions, or limitations on alienation, shall, as regards such conditions, restrictions, and limitations, be and be deemed to be valid and of good effect, whether or not the said conditions, restrictions, or limitations, shall be in conformity with the specific terms of any award, promise, or engagement respectively, in fulfilment whereof any such reserve has been made or grant issued.

Power to frame regulations.

5. The Governor in Council may, from time to time, make, alter, and revoke regulations for the proper administration and management of West Coast settlement reserves, for the advertising, preparing, and issuing leases thereof, for the mode of application and expenditure of all revenues arising from the same, for the examination and audit of all accounts relating to the same, for defraying the cost of the management of the same, and generally for the more effectual administration of this Act, and for regulating the duties of all officers employed therein; and by any such regulations may, from time to time, appoint fees to be paid in respect of anything done under this Act in relation to any such reserves.

All such regulations on being gazetted shall have the same effect as if they had been included in this Act.

GENERAL ADMINISTRATION.

Reserves to be managed only under this Act.

6. Every alienation of reserves, whether partial or absolute, shall be made in accordance with the provisions of this Act, and not otherwise.

Alienable reserves not to be alienated except through Trustee.

7. No reserve which has been made alienable in any way, whether or not the same has been granted to Natives, or to any person in trust for any Natives, shall be so alienated except with the concurrence of the Trustee, who before giving his consent shall satisfy himself that the terms of any such alienation are fair and proper, and, in respect of leases, that the proposed lease is in all respects in conformity with the provisions of this Act.

Reserves Trustee appointed.

8. The Governor may, from time to time, appoint and remove such fit person as he shall approve to be a West Coast Settlement Reserves Trustee, who shall, subject to the direction of the Public Trustee, conduct all or any portion of the routine business relating to reserves devolving upon the Public Trustee by this Act.

Such Trustee shall have and exercise over all reserves which come within or are placed under his jurisdiction full power of management and disposition, subject to the provisions of this Act; and, subject to such provisions, and to any conditions, restrictions, or limita-

tions attached to any such reserves, may exchange, lease, or otherwise dispose of such reserves in such manner as he, in his discretion, shall think fit, with a view to the benefit of the Natives to whom such reserves belong and the promotion of settlement; and it shall be the duty of such Trustee, so far as conveniently may be, in the exercise of the powers given him under this Act, to consult and obtain the assistance of some Native or Natives who shall be best acquainted with the circumstances of any reserve which is being dealt with, and to act as far as possible in accordance with the wishes of the Natives interested in such reserve.

9. The Trustee shall be the receiver of all rents payable under any lease of any reserve, and may, in his own name, ask for and receive such rents when due, and give receipts for the same which shall be valid discharges. And, as soon as possible after the receipt of any such rents, the Trustee shall, after making therefrom any deductions authorized by law, pay over the residue to the Native owners, in such shares and proportions as he shall ascertain to be due to such owners respectively.

Trustee to be receiver of rents.

No lessee or other person paying money under the provisions of this Act to such Trustee shall be afterwards answerable for such money, or be bound to see to the application thereof.

10. All lands, moneys, goods, chattels, and effects whatever, the management whereof shall have been lawfully vested in the Trustee, shall for all purposes of proceedings in any Court, as well criminal as civil, in law or in equity, in anywise touching or concerning the same, be deemed or taken to be, and may in every such proceeding (where necessary) be stated to be, the property of the Trustee for the time being in his proper name without further description:

Powers of Trustee.

(1.) The said Trustee is hereby authorized to bring and defend, or cause to be brought or defended, any action, suit, prosecution, or other proceeding, criminal as well as civil, in law or equity, touching or concerning the land or property aforesaid, and shall and may in all cases concerning the said property sue and be sued, plead and be impleaded, in any Court of law or equity in his proper name as such Trustee without other description:

(2.) No such suit, action, prosecution, or other proceeding shall be discontinued or abate by the death of any such Trustee or his removal from office, but the same shall and may be proceeded with by the succeeding Trustee in the proper name of the Trustee commencing the same; and such succeeding Trustee shall pay or receive the same costs as if the action, suit, or other proceeding had been commenced in his name:

(3.) The Trustee shall not be personally liable except for his own act and deed, nor for anything done by him in the execution of his office as Trustee, except in cases where he shall be guilty of wilful neglect or default.

Liability of Trustee.

11. The Trustee may, from time to time, subdivide any of the reserves under his control, or which may be brought thereunder, into convenient areas not exceeding the maximum hereinafter stated, and may classify such areas, according to their respective locality

Power to lease.

and quality, into rural or suburban and agricultural or pastoral lands respectively, and may lease any portion of such reserves in respect of which no trust shall have been created inconsistent with the exercise of this power—

- (1.) For agricultural purposes, to any person or persons for any term not exceeding twenty-one years in possession, subject to such covenants and provisoes as shall seem fair and equitable; and
- (2.) For building purposes, for any period not exceeding forty-two years:
- (3.) No person, by himself or by or jointly with any other person on his behalf, shall be allowed to hold of suburban land more than forty acres, and of rural land more than six hundred and forty acres; but any person may occupy together suburban and rural lands not exceeding the maximum area thereof respectively.

Express provisions relating to leases.

Every such lease shall be subject to such regulations as may be prescribed under this Act, and also to the following conditions, that is to say:—

- (a.) Every lease shall be disposed of by public tender or by public auction, after due notification thereof has been given at least twice by advertisement in a newspaper having general circulation in the district wherein the land to be leased is situate, as the Trustee shall think the most fitting in each case.
- (b.) The rent to be reserved shall be the best improved rent obtainable at the time.
- (c.) No fine, premium, or foregift shall, in any case, be taken upon any lease.
- (d.) No person in any way concerned with the administration of this Act shall in any case be personally interested, directly or indirectly, in any lease, nor shall there be imported therein any provision or covenant for the private advantage of any such person.
- (e.) Every lease shall be prepared at the cost of the lessee, which shall be paid before any such lease shall be signed by the lessor.
- (f.) Every lease held by any person who shall be proved to the satisfaction of the Trustee by himself, or by or jointly with any other person on his behalf, to hold more land than the maximum area allowed in this Act to be held, shall be void and of no effect, and the land, the lease of which is so voided, may be again dealt with by the Trustee in terms of this Act:

Provided that all leases so rendered void and of no effect shall be proclaimed under the hand of the Trustee to be void and forfeited before the land affected shall be again dealt with, and such notification shall be a sufficient proof of forfeiture in any Court of competent jurisdiction.

If beneficiaries not known.

12. Wherever doubts shall arise as to the persons who may claim to be beneficially interested in any portion of the land comprised within

any reserve, the Trustee shall make inquiry into the case for the purpose of ascertaining the names of all persons who shall be deemed to be beneficially interested therein.

And the Trustee shall determine the question according to such evidence and in such manner as he shall think best, and shall make such order therein as to him shall seem fitting.

13. Notwithstanding anything hereinbefore contained, any Commissioner under the said Act may investigate and decide the right of succession to any lands the property of deceased Natives within the confiscated territory, and recommend the issue of Crown grants to the persons found by him to be so entitled to succeed, and any grant issued in pursuance of the recommendation of such Commissioner shall not be open to further investigation.

Commissioner may decide right of succession.

Nothing in this Act contained shall be deemed in any way to annul or to limit the jurisdiction of the Native Land Court in cases of succession to the property of deceased Natives.

Jurisdiction of Native Land Court not affected.

14. Where any reserve held by or for any Natives under Crown grant is subject to any conditions, restrictions, or limitations, the Trustee, or not fewer than one-half of the grantees if they are named, or, if not named, any persons not less than five in number claiming to be of the tribe for which a reserve has been granted, may apply through the Trustee to the Governor to have the same or any of them annulled and removed.

Restrictions may be varied or annulled by Governor.

The Governor, on proof in all cases being made of the consent of the Trustee to the application, may make such order in compliance therewith, either in part or in the whole, or otherwise, or reject such application, as he shall think fit.

Before altering or removing any conditions, restrictions, or limitations attached to any reserve, the Governor shall be satisfied that a final reservation has been made, or is about to be made, amply sufficient for the future wants and maintenance of the tribe, hapu, or persons to whom the reserve wholly or in part belongs.

This section shall not apply to any reserves which are made absolutely inalienable.

15. Every order removing any such conditions, restrictions, or limitations as aforesaid shall be effected by Order in Council, and shall have the effect of rendering the land described absolutely as free and clear of and from all conditions, restrictions, and limitations as if none had ever been attached thereto; and any order partially annulling or changing any conditions, restrictions, or limitations, shall operate and have effect according to the intent and meaning thereof.

Effect of order removing restrictions.

16. The Governor may from time to time appoint, besides the Trustee aforesaid, such other persons as he shall think necessary for the carrying into effect the administration of this Act.

Appointment of officers.

17. The Trustee shall require the owners of any reserve to appropriate a certain proportion of the rents or profits accruing therefrom respectively for the support and maintenance of Native schools in the neighbourhood of such reserves.

Portion of rents may be applied for Native schools.

The proportion to be so appropriated shall be at the discretion of the owners, and, when fixed, the amount thereof in each case may be deducted by the Trustee from any moneys received by him on behalf of the Natives making the appropriation, and shall be paid by the

Confirmation of
existing leases.

Trustee in such manner as the Governor may from time to time direct, for the purposes for which the same was appropriated respectively.

18. And whereas certain Natives entitled, or who may become entitled, to reserves granted or to be granted under the said Act have already leased the same or portions thereof for specified terms of years to various settlers, who have entered into possession, occupied, and improved the same, and the validity of such leases is doubtful: Be it therefore further enacted,—

The Governor in Council, on being satisfied by the report of any Commissioner under the said Act,—

- (1.) That any such lease was made *bond fide* and granted by the persons since shown to be entitled to the land described in the lease, or that, subsequent to the issue of a Crown grant for such land, the said persons have confirmed such lease:
- (2.) That the terms of such lease were fair and equitable to the Natives at the time when the lease was granted:
- (3.) That the rents and conditions have been duly paid and performed:

may confirm such lease for the term for which it has been made, notwithstanding anything contained in section eleven of this Act.

The power of confirmation hereby granted shall not extend to any lease which may have been granted since the passing of "The Confiscated Lands Inquiry and Maori Prisoners' Trials Act, 1879."

Commissioner may
prohibit sale of
liquor to Natives
during meetings.

19. When any Commissioner appointed under the said Act shall find that the selling of spirituous or fermented liquors to Natives by any person holding a publican's license is interfering with the business of his Commission, it shall be lawful for such Commissioner to issue an order under his hand directing that such person shall not sell any such liquors, or permit the same to be sold, to any Native in his licensed house, so long as the said Commissioner shall consider the same to be obstructive to the business of his Commission.

Any person disobeying such order, after the same shall have been served upon him or upon the person in charge of the bar or other part of his house where such liquor is sold, may be summoned before such Commissioner and fined by him, in any sum not less than ten pounds or more than fifty pounds for each such offence; and the conviction shall be indorsed by such Commissioner on the license of such publican.

Schedule.

SCHEDULE.

DESCRIPTION OF CONFISCATED TERRITORY.

ALL that part of the Colony of New Zealand comprised within the following boundaries, that is to say: Commencing at the tunnel at Parininihi, or the White Cliffs, and thence by a line running due East, 20 miles; thence by a line running in a South-westerly direction to the Ngaire Swamp; thence by a line known as the "Confiscated Line" to the point where it strikes the Waitotara River, and by that river to the sea; and thence towards the South and West by the sea to the commencing point,