

(Mr. Sheehan.)

Auckland Waste Lands.

ANALYSIS.

Title.

1. Short Title.
2. Act divided into Parts.

PART I.

PRELIMINARY INTERPRETATION AND REPEAL OF PREVIOUS ACTS.

3. Interpretation.
4. Repeal of existing Acts, and saving of existing rights.
5. Superintendent to act with advice of Executive.
6. "Crown Lands Act, 1862," not affected hereby.
7. Act, when to come into force.

PART II.

GENERAL PROVISIONS AFFECTING WASTE LANDS.

8. All waste lands to be dealt with under this Act.
9. Commissioner of Crown Lands of Province to be Waste Lands Commissioner.
10. Superintendent may appoint one or more Deputy Commissioners.
11. All revenues of waste lands to be paid to Receiver of Land Revenue.
12. Statement of country lands to be published annually.

Surveys.

13. Chief Surveyor and Assistant Surveyors.
14. Surveys to be made in accordance with Regulations.

Land Districts—Salaries.

15. Land districts may be created, and offices for sale and disposal may be appointed for such districts.
16. Salaries, how paid.

Classification of Lands.

17. Classification of lands.
18. No town or suburban land to be offered for sale until surveyed in accordance with this Act.

Reserves.

19. Reserves may be made for use of Provincial Government, and for public purposes.
20. Reserves for highways roads &c.
21. Reserves for places of worship.
22. Reserves for forest lands and mineral lands.
23. Reserves heretofore and hereafter made may be granted on recommendation of Superintendent.

PART III.

SALES OF TOWN VILLAGE AND SUBURBAN LANDS.

24. Town village and suburban lands to be sold by public auction.
25. Such lands to be advertised.
26. Sales to be held by person and at place appointed by Superintendent.
27. Conditions of payment and forfeiture for default.
28. Any person may within twelve months apply to purchase forfeited lot.
29. Any person may within twelve months apply privately for any lots offered at auction and not sold.
30. Before any sale, lots may be withdrawn temporarily or reserved.

31. Any lands temporarily withdrawn may be again put up to auction.

PART IV.

RURAL LANDS—CLASSIFICATION—CASH SALES AND LEASES—HOMESTEAD AND DEFERRED-PAYMENT LANDS.

32. Superintendent may proclaim blocks to be rural lands.
33. Classification of rural lands.

Third-class Lands.

34. Third-class lands may be sold or leased at auction subject to conditions.

First and Second Class Lands.

35. One-half of total area of first and second class lands to be sold for cash by auction.

Selections under the Homestead and Deferred Payment System.

36. Superintendent may set apart blocks of first or second class lands to be open under homestead or deferred-payment systems.
37. Superintendent to notify blocks so set apart.
38. Conditions of homestead selections.
39. Conditions of deferred-payment selections.
40. Timber on such selections not to be cut except for improvements or domestic use.
41. Simultaneous applications under deferred payment system.
42. On performance of all conditions within five years, grants may issue.
43. Rights may be assigned with consent of Commissioner.
44. Default of one or more joint selectors not to prejudice rights of remainder who comply with conditions.
45. Grants under homestead system to be applied for within twelve months after completion of conditions.
46. Applications to state names, &c.
47. Questions arising as to fulfilment of conditions how settled.
48. Regulations may be made for both systems.
49. When regulations to come into force.
50. Lands not selected within twelve months may be sold at auction.
51. Lands may be withdrawn from selection.
52. Any classification of lands under this Part of Act may be altered or amended.

PART V.

SPECIAL SETTLEMENT LANDS.

53. Blocks may be set apart for special settlements.
54. Agents for promoting immigration may be appointed.
55. Superintendent may contract for formation of special settlements.
56. Homestead system conditions to apply to special settlements.
57. Timber mineral and other reserves may be made on special settlement lands, and such lands may be withdrawn from operation of this Part of this Act.
58. Special conditions may be made with consent of Governor in Council.

| | |
|--|---|
| PART VI. | |
| TIMBER AND MINERAL LANDS. | |
| 59. Timber and mineral lands may be set apart. | 71. Applications for water rights to be notified in <i>Gazette</i> , and objections may be heard. |
| 60. Notification to give at least thirty days' notice. | 72. Lands acquired by Superintendent to be waste lands. |
| <i>Timber Lands.</i> | |
| 61. Timber lands, how to be dealt with. | 73. Resident occupiers in highway districts may graze cattle on waste lands. |
| 62. Superintendent may require Highway Boards to look after timber reserves. | 74. Non-residents and others running cattle liable for trespass. |
| <i>Mineral Lands.</i> | |
| 63. Mineral lands, how to be dealt with. | 75. Persons depasturing under these sections not liable for trespass, except where lands substantially fenced. |
| 64. Superintendent may make Regulations. | 76. Questions in dispute under this Act to be determined by Superintendent. |
| 65. This Part of Act not to apply to gold, or authorize gold mining. | 77. Fees may be charged in such cases. |
| PART VII. | |
| MISCELLANEOUS PROVISIONS. | |
| 66. Land scrip may be given in exchange for land taken for public purposes. | 78. Decision of Superintendent to be final, excepting in appeals under "Waste Lands Boards Appeal Act, 1867." |
| 67. Land Orders may be given to naval and military settlers in certain cases. | 79. Right of appeal under "Waste Lands Boards Appeal Act, 1867." |
| 68. Powers of Governor under "Waste Lands Act, 1858," preserved. | 80. Lands for settlement may be set apart in or near gold fields. |
| 69. Leases of right to cut flax may be granted. | 81. Clause 3 of "The Volunteer Land Act 1865 Amendment Act, 1873," amended. |
| 70. Governor may, on recommendation of Superintendent, make regulations for granting water rights. | 82. Land scrip and land orders, the conditions attached to which have not been fulfilled, made void, and lands selected thereunder open as waste lands. |
| | 83. Power to make general regulations. Schedule. |

A BILL INTITULED

Title. **AN ACT to consolidate and amend the Waste Lands Laws of the Province of Auckland.**

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

| | | |
|-------------------------|---|----|
| Short Title. | 1. The Short Title of this Act shall be "The Auckland Waste Lands Act, 1874." | 5 |
| Act divided into Parts. | 2. This Act is divided into Parts as follows:— | |
| | PART I.—Preliminary, Interpretation, and Repeal of Previous Acts. | |
| | PART II.—General Provisions affecting Waste Lands. | |
| | PART III.—Sales of Town, Village, and Suburban Lands. | 10 |
| | PART IV.—Rural Lands — Classification — Cash Sales and Leases—Homestead and Deferred-Payment Lands. | |
| | PART V.—Special Settlement Lands. | |
| | PART VI.—Timber Lands and Mineral Lands. | |
| | PART VII.—Miscellaneous Provisions. | 15 |

PART I.

PRELIMINARY INTERPRETATION AND REPEAL OF PREVIOUS ACTS.

| | | |
|-----------------|--|----|
| Interpretation. | 3. In the construction of this Act, the words and expressions following shall respectively have the meanings hereinafter assigned to them, unless such meanings be repugnant to or inconsistent with the context, that is to say,— | 20 |
| | "Waste lands" shall mean all such lands within the Province of Auckland (not being lands acquired by Her Majesty under "The New Zealand Settlements Act, 1863," or any Act amending the same) as are already or hereafter may be subject to the disposal of the Government of the said province. | 25 |
| | "Province" shall mean the Province of Auckland. | |
| | "Superintendent" shall mean the Superintendent of the said province, acting by and with the consent of his Executive Council. | 30 |
| | "Provincial Council" shall mean the Provincial Council of the said province. | |

“Receiver of Land Revenue” shall mean the Receiver of Land Revenue appointed for the said province.

“Provincial Government *Gazette*” shall mean the *Gazette* published by or under the authority of the Government of the said province.

“Gold field” shall mean any part of the said province proclaimed to be gold fields.

“Cultivation” shall mean planting any cereal or root crops, planting an orchard vineyard nursery or shrubbery, or planting forest trees, or laying down lands with artificial grasses.

“Proclamation” shall mean and include as well any Proclamation in any Provincial Government *Gazette* as in the *New Zealand Gazette*.

“Land Office” shall mean the principal Waste Lands Office at Auckland.

4. The Acts specified in the First Schedule to this Act annexed, and all Proclamations relating thereto respectively, are hereby repealed: Provided that nothing in this Act contained (except where otherwise expressly provided) shall affect any contract promise or agreement made with or by and on behalf of Her Majesty previously to the coming into operation hereof and then incomplete or unfulfilled; and nothing in this Act shall be deemed to affect any licenses or leases for the occupation of waste lands for depasturing or other purposes, granted or issued under any former Acts Ordinances or Regulations, and existing and being in force at the time of the coming into operation of this Act, or during the terms or currency of any such licenses or leases, the waste lands held thereunder, or the rights of the holders thereof, except when otherwise expressly provided; but such licenses or leases and the rights of the holders thereof and the waste lands held thereunder shall be, and continue to be, during the terms and currency of such licenses and leases, except as aforesaid, and all such contracts promises and agreements except as aforesaid, shall be regulated by and subject to the Acts Ordinances and Regulations to which the same were subject at the time of coming into operation of this Act, notwithstanding the repeal of such Acts Ordinances and Regulations respectively.

Repeal of existing Acts, and saving of existing rights.

5. Every act which the Superintendent is hereby authorized or required to perform, he shall perform solely in accordance with the advice and consent of his Executive Council for the time being.

Superintendent to act with advice of Executive.

6. Nothing in this Act contained shall be construed to repeal alter or in any way affect any of the provisions of “The Crown Lands Act, 1862.”

“Crown Lands Act, 1862,” not affected hereby.

7. This Act shall come into operation on and after the first day of one thousand eight hundred and seventy-four.

Act, when to come into force.

PART II.

GENERAL PROVISIONS AFFECTING WASTE LANDS.

8. All waste lands shall, from and after the day on which this Act shall come into operation, be sold let or otherwise disposed as in this Act provided and not otherwise.

All waste lands to be dealt with under this Act.

9. For the purpose of carrying out the provisions of this Act there shall be a Waste Lands Commissioner (hereinafter called “the Commissioner”); and the person who shall for the time being fill the office of Commissioner of Crown Lands for the province shall be the Waste Lands Commissioner.

Commissioner of Crown Lands of Province to be Waste Lands Commissioner.

10. It shall be lawful for the Superintendent from time to time to appoint one or more fit and proper persons to act as Deputy Waste Lands Commissioner at any place within the province; and any person

Superintendent may appoint one or more Deputy Commissioners.

so appointed shall have the same powers and authority as the Commissioner, and all acts done by such Deputy shall be as valid as if done by the Commissioner.

All revenues of waste lands to be paid to Receiver of Land Revenue.

11. All rents fees assessments purchase moneys and other sums of money payable under the provisions of this Act shall be paid to the Receiver of Land Revenue for the time being, unless otherwise expressly provided herein. 5

Statement of country lands to be published annually.

12. The Commissioner of Crown Lands shall cause a statement specifying the area and locality of all the surveyed lands of the province (excepting town and village lands) for the time being open for selection to be published in the Provincial Government *Gazette*, and circulated once in every twelve months; and every such statement shall specify as near as may be the distance and direction of such lands respectively from the nearest town village or navigable river or public road, and also the quality of the land, whether bush or open land, and, if open the distance from bush. 10
15

Surveys.

Chief Surveyor and Assistant Surveyors.

13. There shall be a Chief Surveyor, who shall be appointed and be removable by warrant under the hand of the Superintendent, and as many Assistant or District Surveyors as shall be necessary, who shall be appointed and be removable by the Superintendent upon the recommendation of the Chief Surveyor. 20

Surveys to be made in accordance with Regulations.

14. All surveys shall be conducted in such manner as the Superintendent by any regulation to be made in that behalf shall direct.

Land Districts—Salaries.

Land districts may be created, and offices for sale and disposal may be appointed for such districts.

15. It shall be lawful for the Superintendent, in his discretion, to create districts for the sale and disposal of land, and for the purposes of this Act such districts shall be called Land Districts. And it shall be lawful for the said Superintendent to appoint offices at such places as may be most convenient for the sale and disposal of land within such districts, and to appoint officers or other persons for conducting such sales, and for receiving applications for the sale letting disposal or occupation of waste lands, and for generally carrying into effect the provisions of this Act within such districts. 30

Salaries, how paid.

16. The salaries or remuneration of all persons appointed to any office or employment under this Act shall be paid by the Superintendent out of moneys to be set apart from time for that purpose by appropriation of the Provincial Legislature. 35

Classification of Lands.

Classification of lands.

17. The Superintendent shall from time to time divide such portions of the waste lands as are about to be offered for sale into the following or such of the said classes as he shall think fit:—

- (1.) Town lands,
- (2.) Suburban lands,
- (3.) Rural lands,
- (4.) Special settlement lands,
- (5.) Timber and mineral lands;

and may from time to time vary alter and annul any such division and make a new division thereof. 45

No town or suburban land to be offered for sale until surveyed in accordance with this Act.

18. No town or suburban land shall be offered for sale or disposed of by auction or otherwise until it shall have been properly surveyed and marked off on the ground, and a map thereof deposited in the Land Office as a record; and all reserves streets roads sections and allotments and other divisions of any such land, shall be so marked off on the ground, and distinguished on the map thereof as to be easily identified. 55

Reserves.

19. Reserves for the uses of the Provincial Government and for other public purposes of a specific character may, upon the recommendation of the Provincial Council, be made by the Superintendent
 5 out of any waste lands, and shall not be alienated from the specific purposes to which they shall have been severally dedicated, except under the provisions of "The Public Reserves Act, 1854;" and a full and complete description of every such reserve, and of the purposes to which it shall have been dedicated, shall forthwith be published in the
 10 Provincial Government *Gazette*, and shall also be set forth in the authenticated maps in the Land Office.

Reserves may be made for use of Provincial Government, and for public purposes.

20. Reserves for public highways bridle-paths and footpaths shall be made by the Superintendent, and shall be set forth on the authenticated maps of the Land Office, and the Superintendent and
 15 the Provincial Council may by Act alter the line of any such highways bridle-paths or footpaths, and may dispose of the land theretofore used for the same.

Reserves for highways roads &c.

21. In every town or village set apart, there shall be at least ten allotments, containing as nearly as may be half of an acre each, in the most eligible situations as sites for places of worship; and as soon as any allotments in any such town or village have been declared open for sale, the Superintendent shall, by notification in the Provincial Government *Gazette*, invite the representatives of the several religious bodies recognized as having officiating ministers residing within the
 25 province, and coming within the provisions of the Marriage Act, who may wish to obtain sites for places of worship, to make application to the Commissioner on or before a day to be named in the notification for one of such allotments, and at noon of the Monday following such day the priority of the right of selection shall be determined by lot by the
 30 Commissioner, in the presence of the applicants or their representatives if any shall attend: Provided always that such applications shall be made within six months from the date of reservation; and that if no such applications be made, the reserves shall be dealt with as if no such reserves had been made.

Reserves for places of worship.

35 22. Reserves of forest lands, and of lands known or supposed to contain coal or other valuable or usual minerals, shall be made out of waste lands in manner hereinafter provided.

Reserves of forest lands and mineral lands.

40 23. All reserves heretofore made under any of the repealed Acts, and which have not yet been granted, and any reserves hereafter to be made under this Act, may, upon the request of the Superintendent, be granted by the Governor to any body corporate or to any person or persons gratuitously, to be held in trust for the public uses for which the same were reserved, and no other.

Reserves heretofore and hereafter made may be granted on recommendation of Superintendent.

PART III.

45 SALES OF TOWN VILLAGE AND SUBURBAN LANDS.

24. Town village and suburban lands, excepting such as shall be reserved for public purposes or for any purpose in this Act specified, shall be offered for sale by public auction at such upset prices as shall from time to time be fixed by the Superintendent, with the advice and
 50 consent of his Executive Council.

Town village and suburban lands to be sold by public auction.

25. The Superintendent shall from time to time notify in the Provincial Government *Gazette*, and in such newspapers in the Colony of New Zealand or elsewhere as he shall think fit, what lands are to be sold at such public sales, and the upset prices thereof respectively;
 55 and such lands shall not be so offered for sale until at least one calendar month shall have elapsed after the first publication of each notification.

Such lands to be advertised.

Sales to be held by person and at place appointed by Superintendent.

Conditions of payment and forfeiture for default.

Any person may within twelve months apply to purchase forfeited lot.

Any person may within twelve months apply privately for any lots offered at auction and not sold.

Before any sale, lots may be withdrawn temporarily or reserved.

Any lands temporarily withdrawn may be again put up to auction.

26. Such public sale shall be held and conducted by such person at such times and in such places within the said province as the Superintendent shall, by notification in the Provincial Government *Gazette*, from time to time nominate and appoint.

27. The purchase money of each allotment of land sold at such sale shall be paid by the purchaser or his agent in manner following—namely, one-fourth of the price thereof at the time of sale by way of deposit, and the balance at any time within one calendar month after the sale. In the event of the second payment not being made within the said period of one calendar month, the sale shall be void and the deposit forfeited.

28. Subject to the proviso in clause twenty-nine contained, it shall be lawful for any person, within twelve calendar months after any such auction, to purchase any land in respect of which the deposit shall have been forfeited as aforesaid, by paying for the same in cash the price for which such land was knocked down at the auction.

29. Subject also to the said proviso, it shall be lawful for any person within twelve calendar months after any auction to become the purchaser by private contract of any land so put up for sale as aforesaid and not knocked down to any bidder, upon paying for the same in cash the price at which the same was put up for sale: Provided always that it shall be lawful for the Superintendent in his discretion, instead of permitting any land to be purchased as authorized by the last two clauses, to cause any such lands to be withdrawn from sale or to be put up again to auction in manner hereinbefore provided.

30. At any time before any such sale, the Superintendent may cause any allotments to be temporarily withdrawn from sale, or to be set apart as reserves in manner and for any of the purposes authorized by this Act.

31. Any such land temporarily withdrawn from sale may again be offered at auction in manner hereinbefore provided.

PART IV.

RURAL LANDS—CLASSIFICATION—CASH SALES AND LEASES—HOMESTEAD AND DEFERRED-PAYMENT LANDS.

Superintendent may proclaim blocks to be rural lands.

32. It shall be lawful for the Superintendent, by Proclamation in the Provincial Government *Gazette* to proclaim that such blocks of land as shall be described in any such Proclamation shall be rural lands, to be dealt with in manner provided by this Part of this Act, and every such Proclamation shall name a day not less than one month from the date thereof on and after which such land as shall be described therein shall be open to be dealt with as aforesaid.

Classification of rural lands.

33. All rural lands, before being so proclaimed, shall be divided according to quality into classes as follows:—

- (1.) First-class land.
- (2.) Second-class land.
- (3.) Third-class land.

And such classification shall be made by such persons and according to such regulations and conditions as the Commissioner shall with the approval of the Superintendent direct and appoint.

Third-class Lands.

Third-class lands may be sold or leased at auction subject to conditions.

34. Third-class lands shall be offered for sale or lease by auction in manner hereinbefore provided, in respect of town and suburban lands, in such areas as shall from time to time be approved by the Superintendent, subject to the following conditions:—

- (1.) The minimum price per acre, in case of sale, and the minimum rental per acre in case of lease, shall be such as shall from time to time be fixed for each such area by the Superintendent.
- 5 (2.) There shall be reserved to Her Majesty all minerals and mineral rights within every such area, and full and complete powers to enable such rights to be exercised and enjoyed.
- 10 (3.) Reserves may be made of all or any portion of the timber or forest land within such area; but liberty may be given to the purchaser or lessee to cut down and remove such portions of timber or forest as may be required for improvements or domestic use, upon the area so sold or leased.
- 15 (4.) No lease shall be for a longer term than thirty-five years.

First and Second Class Lands.

35. One half of the total quantity of first and second class land within any proclaimed block (exclusive of reserves) shall be set apart for sale for cash at auction in the same manner as is hereinbefore provided in the case of town and suburban lands, and the minimum prices per acre for first and second class lands shall be fifteen shillings and ten shillings respectively,

One-half of total area of first and second class lands to be sold for cash by auction.

Selection under the Homestead and Deferred-payment System.

36. Such portions as the Superintendent shall think expedient of first and second class lands, not set apart for sale by auction for cash as hereinbefore provided, may be declared open to be taken up in manner following:—

Superintendent may set apart blocks of first or second class lands to be open under homestead or deferred-payment systems.

- 30 (1.) Without payment, but subject to the provisions for cultivation and residence hereinafter set forth; and this method of dealing with waste lands is hereinafter called "the Homestead System."
- 35 (2.) Upon payment of the price of the land selected according to class at the end of a certain term, and subject to the provisions as to cultivation and other matters hereinafter set forth; and this method of dealing with waste lands is hereinafter called "the Deferred-payment System."

37. The Superintendent shall notify in the Provincial Government Gazette such lands as shall from time to time be declared open for selection under either the homestead system or the deferred-payment system; and every such notification shall appoint a day, not less than one month from the date thereof, on and after which day the lands referred to in such notification shall be open to be taken up under either of such systems respectively.

Superintendent to notify blocks so set apart.

- 45 38. The following conditions shall apply to all selections under the homestead system:—

Conditions of homestead selections.

- 50 (1.) The area allowed to be selected by each person of the age of eighteen years or upward, shall be of first-class lands fifty acres, or of second-class lands seventy-five acres. And for persons under eighteen years of age, of first-class lands twenty acres, or of second-class lands thirty acres: Provided that the total quantity to be selected by any one family or number of persons occupying the one household shall not exceed two hundred acres of first-class or three hundred acres of second-class lands.
- 55 (2.) Within three months after the selection has been approved by the Commissioner, the selector shall commence to reside

on his selection, and shall continue to reside continuously thereon for five years from the date of such approval as aforesaid.

- (3.) Within twelve months after such approval, the selector shall erect on his selection a permanent dwelling-house of wood or other materials, which shall be specified in regulations to be issued in reference to homestead system selections. 5
- (4.) In each year there shall be brought under cultivation one-tenth of the area of such selection if open land, and one-twentieth if bush land, so that at the end of the term of five years one-half of the selection if open land or one-fourth if bush land shall be under cultivation. 10
- (5.) Non-performance of any of the foregoing stipulations shall render the selection void, and the right of the selector therein and to all improvements thereon shall be forfeited. 15
- (6.) At the end of the said period of five years, a grant or grants shall issue for the land selected.

Conditions of deferred payment selections.

39. Selections under the deferred-payment system shall be subject to the following conditions:— 20

- (1.) The area to be selected shall be double the area allowed under the homestead system.
- (2.) The area to be brought under cultivation in each year shall bear the same proportion to the whole area of selection as in the case of a homestead selection. 25
- (3.) The price to be paid for such lands shall be the same as that hereinbefore fixed for rural lands of the same quality put up to auction, and it shall be payable at the end of five years after the date of approval of the selection by the Commissioner. 30
- (4.) There shall be paid by the selector a yearly rental in advance of five pounds per centum upon the amount of the purchase money until the expiration of the said term of five years.
- (5.) Within one month after the expiration of the said period of five years, the purchase money shall be paid by the selector to the Receiver of Land Revenue, and thereupon the grant or grants for such selection shall be issued to the persons entitled thereto. 35
- (6.) Non-performance of any of these conditions shall render the selection void, and the right of the selector thereunder, and to all moneys paid on account thereof, and to all improvements effected thereon, shall be forfeited. 40

Timber on such selections not to be cut except for improvements or domestic use.

40. No timber or forest growing upon any homestead or deferred-payment selection shall be allowed to be cut until final completion of the conditions under which such selection shall have been made, excepting such timber as shall be required and be necessary for improvements or for domestic purposes upon the selection, and any breach of this provision shall be deemed and taken to amount to an absolute forfeiture of the selection and of the rights of the selector therein. 45

Simultaneous applications under deferred-payment system.

41. When two or more simultaneous applications shall be made for any area or part thereof under the deferred-payment system, such area or part thereof shall be put up to auction as between the applicants only, at such time and place as the Commissioner shall appoint for that purpose; and the land in competition shall be allotted to the highest bidder. The difference between the upset price and the competition price shall be paid as follows:—One-half at the time of sale, and the other half at the same time when the upset price is being paid. 55

On performance of all conditions within five years, grants may issue.

42. If at any time before the expiration of the period of five years, any selector under either the homestead or deferred-payment system shall have brought under cultivation the whole quantity of land required to be under cultivation at the end of the said term, and shall have also fulfilled all the other conditions imposed by this Act, such selector shall be entitled to a grant or grants for his selection in terms of his application.

Rights may be assigned with consent of Commissioner.

43. Any selector under the homestead or deferred-payment systems may, subject to the approval of the Commissioner being first obtained, transfer all his right and interest in any selection to any other person or persons, and such transferee shall have the same rights privileges and liabilities as the original selector had.

Default of one or more joint selectors not to prejudice rights of remainder who comply with conditions.

44. In the case of any selection, under either system, by any family or number of persons occupying the one household, if some portion of the original occupants shall fail by themselves or their substitutes to continue to perform the conditions of selection, such failure shall not prejudice the right of the persons continuing in occupation and performing such conditions to their proportion of the land applied for; and in such case the Commissioner shall fix and determine what portion of the original application shall be cut off and deducted, but not so as to cut off any buildings or cultivations of such occupants.

Grants under homestead system to be applied for within twelve months after completion of conditions.

45. Grants for lands taken up under the homestead system shall be applied for within twelve months after the selectors shall become entitled thereto, otherwise the lands selected shall revert to the Crown, excepting such portions of such land as shall have been built upon or as shall be under cultivation.

Applications to state names, &c.

46. Every application for land, under either the homestead or the deferred-payment systems, shall state the names and ages of the persons on whose behalf such land is applied for, and to whom it is intended that a grant or grants of such land shall issue upon fulfilment of the conditions of selection.

Questions arising as to fulfilment of conditions, how settled.

47. If any question shall at any time arise as to whether any persons who shall have selected land under either the homestead or the deferred-payment system, shall at any time during the term of five years hereinbefore mentioned have failed or neglected to carry out and perform the conditions of selection or any one of them, such question shall be referred by the Commissioner to any two or more Justices of the Peace or to any Resident Magistrate, for inquiry, and such inquiry shall be conducted under oath, and the decision of such Justices or Resident Magistrate shall be final and binding, and shall not be liable to be questioned in any Court of law upon any ground whatsoever.

Regulations may be made for both systems.

48. It shall be lawful for the Superintendent in respect of lands opened under either the homestead or deferred-payment systems to make regulations not inconsistent with or repugnant to this Act, for providing for the laying out of lands to be open for selection, for directing the manner of making applications, for determining what shall constitute priority of application, for deciding simultaneous applications, for prescribing forms of receipts and certificates to be given to selectors, for providing for the inspection of the improvements made upon all selections, for requiring selectors to give all information required in respect of improvements and of the fulfilment of conditions of selection, for securing *bonâ fide* settlement and cultivation and generally for giving effect to this Part of this Act; and such regulations may provide for the imposition of penalties for the breach thereof: such penalties shall not exceed the sum of twenty pounds for any single offence. And any such penalties shall be recoverable summarily by a person to be appointed by the Superintendent, before any Resident Magistrate or two Justices of the Peace, in manner provided by "The Justices of the Peace Act, 1866."

When regulations to come into force.

Lands not selected within twelve months may be sold at auction.

Lands may be withdrawn from selection.

Any classification of lands under this Part of Act may be altered or amended.

49. Such regulations shall come into force on and after the day of their publication in the Provincial Government *Gazette*.

50. All lands set apart under the homestead system or the deferred payment system and which shall remain unselected at the expiration of twelve months from the time of their being thrown open, may be treated as cash lands, and may be sold at prices according to quality by public auction in manner hereinbefore provided. 5

51. All lands declared open for sale or selection under this Part of this Act may be withdrawn from sale or selection upon notification thereof being made by the Superintendent in the Provincial Government *Gazette*; and every such notification shall name a day, not less than thirty days from the date thereof, upon and after which the lands referred to in such notification shall be so withdrawn from sale or selection. 10

52. Any classification of lands made under this Part of this Act may be altered or amended, but such alteration or amendment shall be made public in the same manner as the original classification. 15

PART V.

SPECIAL SETTLEMENT LANDS.

Blocks may be set apart for special settlements.

Agents for promoting immigration may be appointed.

Superintendent may contract for formation of special settlements.

Homestead-system conditions to apply to special settlements.

Timber mineral and other reserves may be made on special settlement lands, and such lands may be withdrawn from operation of this Part of this Act.

Special conditions may be made with consent of Governor in Council.

53. It shall be lawful for the Superintendent, by notification in the Provincial Government *Gazette*, to set apart from time to time suitable blocks of first or second class lands, for occupation by persons forming special settlements under this Part of this Act. 20

54. And as it is expedient that the immigration to the province of persons desirous to settle at once upon suitable land should be encouraged, it shall be lawful for the Superintendent to appoint duly qualified persons to act as agents on behalf of the province in promoting such immigration, and in the formation of special settlement associations. 25

55. It shall be lawful for the Superintendent to contract with any person or persons, either within or without the province, or with any company or association for the occupation by special settlement parties or associations of such blocks of land as may be set apart for special settlement in manner hereinbefore provided, subject to the following conditions:— 30

(1.) No special settlement shall contain less than ten families or separate selectors. 35

(2.) The area to be settled shall not be less than one thousand acres.

56. The provisions of Part IV. of this Act relating to selections under the homestead system, excepting as provided by section fifty-eight, shall apply in all respects to selections within special settlement blocks. 40

57. All necessary timber, mineral, and other reserves authorized by other portions of this Act may be made within special settlement blocks, and lands may be withdrawn from the operation of this Part of this Act by notification in the same manner as is provided by clause fifty-one of this Act in respect of homestead and deferred-payment blocks. 45

58. Notwithstanding anything in this Part of this Act contained, it shall be lawful for the Superintendent in any contract made hereunder to make special conditions negating varying or modifying any conditions hereinbefore specified as applicable to special settlements, but all such special conditions shall be approved of by the Governor in Council before they shall have any force or effect. 50

PART VI.

TIMBER AND MINERAL LANDS.

59. It shall be lawful for the Superintendent, by notification in the Provincial Government *Gazette*, to set apart any waste lands containing growing timber or forest or containing or believed to contain coal or other valuable or useful minerals; to be dealt with in manner by this Part of this Act provided; and all reservations of timber and mineral lands and of timber and forest rights hereinbefore provided for, may be notified in a similar manner and dealt with hereunder.

Timber and mineral lands may be set apart.

60. Every such notification shall name a day not less than thirty days from the date thereof, on and after which all lands specified in such notification shall be open to be dealt with under this part of this Act.

Notification to give at least thirty days' notice.

Timber Lands.

61. All timber lands notified as aforesaid may be dealt with as follows:—

Timber lands, how to be dealt with.

(1.) Sufficient permanent forest reserves may be made, which reserves shall not be sold or leased or otherwise dealt with without the authority of an Act of the Provincial Legislature.

(2.) Local timber reserves may be made for the purpose of supplying timber and firewood for the use of ratepayers within any highway district; and such local reserves may be placed under the control of the Board of the district in which they shall be situated, to be managed and dealt with in such way as may from time to time be directed by any Act of the Provincial Legislature.

(3.) Areas of growing timber and forest lands may be offered for sale or lease either by public auction or public tender. No such area shall exceed fifty acres in extent; and when any such area shall be leased, it shall be for a premium or foregift at a nominal rental, and not by way of rack rent. And the term of any such lease shall not exceed ten years.

(4.) Excepting as by this clause provided, all such sales and leases shall be conducted in manner provided in the case of third-class lands, the like notice to be given in the case of public tender as of public auction.

(5.) Any other special conditions that the Superintendent may consider desirable in the public interest, and which shall not be inconsistent with these provisions, may be inserted in any such lease.

62. The Superintendent may require that the Board of any highway district shall take charge and supervision of any waste lands containing timber, or timber reserves situate within such district, with a view to prevent trespass or damage or destruction thereof by fire; and it shall be the duty of every such Highway Board so required by the Superintendent to take charge and supervision of such lands accordingly.

Superintendent may require Highway Boards to look after timber reserves.

Mineral Lands.

63. It shall be lawful for the Superintendent to grant leases of land for the purpose of mining and working the minerals therein, subject to the following terms and conditions:—

Mineral lands, how to be dealt with.

(1.) Every such lease shall comprise so much land as shall be necessary, in the opinion of the Superintendent, for the efficient working of the minerals, not being less than twenty acres, or more than eighty acres, in respect of all

minerals other than coal; and in respect of coal, any number of acres not being less than twenty acres or more than six hundred and forty acres.

- (2.) The term to be granted in each lease shall be any number of years, at the option of the lessee, not exceeding twenty-one, and with a right of renewal upon such terms as the Superintendent may decide, for a further period of twenty-one years. 5
- (3.) There shall be reserved such rents as the Superintendent shall think fit. 10
- (4.) Every such lease shall contain clauses in the usual form introduced into mining leases.
 - (a.) For securing the payment of the rent.
 - (b.) For enabling some person on the part of the lessor from time to time to enter and examine the demised premises and the works thereon. 15
 - (c.) For securing the regular proper and efficient working of the minerals.
 - (d.) For making void the lease on breach of the stipulations on the part of the lessee therein contained. 20
 - (e.) For delivering up the demised premises in good tenantable repair.
 - (f.) To enable the lessee to surrender the lease.

Superintendent may make regulations.

64. It shall be lawful for the Superintendent to make such regulations as he may think fit as to the form time and manner of making applications for leases, and all such other regulations as he may think fit, in order to facilitate and effectually carry out the provisions and objects of this Part of this Act. 25

This Part of Act not to apply to gold or authorize gold mining.

65. Nothing in this Part of this Act contained shall apply to gold, or authorize the lessees to mine or dig for gold upon any land demised under the powers herein contained; and it shall be lawful for the Governor of New Zealand, and for any delegate appointed by him, in exercise of the powers given by the Gold Fields Laws in force in the province, and by such delegation respectively, to constitute any of the land comprised in any such lease as may not be required by the lessee for efficiently and satisfactorily carrying on mining operations on the demised lands, to be a gold field under such Gold Fields Laws: Provided that provision shall at the same time be made for compensating and indemnifying the lessee from any loss or damage to be hereby occasioned. 30 35 40

PART VII.

MISCELLANEOUS PROVISIONS.

Land scrip may be given in exchange for land taken for public purposes.

66. It shall be lawful for the Superintendent and Provincial Council to authorize land scrip to be issued in payment for land taken under provisions of any law in force in the province, for roads or public works: Provided that nothing herein contained shall render it obligatory on the owner of any land so taken to accept such land scrip in lieu of money in payment for the same. 45

Land Orders may be given to naval and military settlers in certain cases.

67. It shall be lawful for land to the extent set forth in the clauses relating to naval and military settlers, in "The Auckland Waste Lands Act, 1858," to be granted to any naval or military settler who may have *bona fide* within twelve months prior to the first day of March, one thousand eight hundred and sixty-seven, retired from Her Majesty's service with a view to settling in New Zealand, notwithstanding that such settler may not have applied for a land order prior to the said date; but nothing herein contained shall 50 55

entitle military officers coming to New Zealand on duty to obtain land orders for themselves or their families.

68. The powers and authorities vested by "The Waste Lands Act, 1858," in the Governor, shall continue to be vested in the Governor in like manner as if this Act were included in the Schedule to the said "Waste Lands Act, 1858."

Powers of Governor under "Waste Lands Act, 1858," preserved.

69. It shall be lawful for the Commissioner, with the consent of the Superintendent, to lease by public tender the right to cut flax on any waste lands for a term not exceeding seven years; such right being determinable at any time at three months' notice, on the land being required for the purpose of sale or settlement under this Act.

Leases of right to cut flax may be granted.

70. It shall be lawful for the Governor, on the recommendation of the Superintendent and Commissioner, to make, and from time to time on such recommendation as aforesaid to rescind or alter, regulations for granting to any person the right to form any dam reservoir lead or flume and any embankment in connection therewith, in through or over any Crown lands, or in through or over the lands of the applicant, and for taking diverting or using the water of any stream for the purpose of such dam reservoir lead or flume, subject to such conditions as to the repairs of any such dams reservoirs leads flumes or embankments and the use of such water rights, and such other conditions, and upon payment of such rents or fees, as may be specified in such regulations; and the Governor may make grants in accordance with such regulations, provided such taking use or diversion shall not interfere with any use to which any other proprietor on the said stream had previously lawfully applied the water of the said stream.

Governor may, on recommendation of Superintendent, make regulations for granting water rights.

71. Upon any application being made for a water right as aforesaid, such application shall be publicly notified in each Provincial Government *Gazette* for two months prior to the recommendation of the grant; and any person objecting thereto shall be entitled to have such objection referred by the Superintendent to the Commissioner and two Justices of the Peace, and the decision of the Commissioner and Justices shall be final provided they are unanimous, otherwise no recommendation shall be made.

Applications for water rights to be notified in *Gazette*, and objections may be heard.

72. All lands heretofore or hereafter acquired or held by the Superintendent for the use of the province under an absolute conveyance shall be deemed and taken to be waste lands, and shall be dealt with in manner by this Act provided; and the Superintendent may convey or lease any such lands by deed under his hand and the seal of the province.

Lands acquired by Superintendent to be waste lands.

73. The resident occupiers of land within any highway district shall be entitled to depasture on the waste lands within such district such number and description of great cattle in proportion to their several holdings as the Trustees for such district shall prescribe, on payment to the Trustees of such annual fee, not exceeding two shillings and sixpence per head of such cattle over six months old, as the Trustees shall fix; and all fees received under this section shall be applied to local improvements within the district.

Resident occupiers in highway districts may graze cattle on waste lands.

74. Any person not being an occupier of land who shall depasture or permit to depasture any cattle upon waste lands within any highway district, or who, being an occupier, shall depasture or permit to depasture any cattle prohibited by the Trustees, or a greater number than prescribed, or without payment of the fees fixed, shall be liable to have such cattle impounded as for a trespass.

Non-residents and others running cattle liable for trespass.

75. No person depasturing cattle under section seventy-three of this Act shall be liable for any trespass by such cattle on any land within such district, unless such land shall be substantially fenced in accordance with the Fencing Laws in force within the province.

Persons depasturing under these sections not liable for trespass except where lands substantially fenced.

Questions in dispute under this Act to be determined by Superintendent.

Fees may be charged in such cases.

Decision of Superintendent to be final, excepting in appeals under "Waste Lands Boards Appeals Act, 1867."

Right of appeal under "Waste Lands Boards Appeal Act, 1867."

Lands for settlement may be set apart in or near gold fields.

Clause 3 of "The Volunteer Land Act 1865 Amendment Act, 1873," amended.

Land scrip and land orders, the conditions attached to which have not been fulfilled, made void, and lands selected thereunder open as waste lands.

76. Every dispute and difference relating or incident to the sale letting disposal and occupation of waste lands, or to any application for waste lands, or to anything done under this Act, or to the interpretation or meaning hereof, not otherwise hereinbefore provided for, shall be heard and determined by the Superintendent.

77. It shall be lawful for the Superintendent to charge and receive for the decision of any disputed question which he is authorized to determine by the provisions of this Act a fee not exceeding ten pounds, to be paid by the party against whom his decision may be given to be recovered in a summary way; and he may require such fee to be deposited by each party before entering on the question, and may return the fee deposited by the successful party.

78. The decision of the Superintendent on all matters to be by him heard and determined shall, subject to the next following clause hereof, be final and conclusive. But the Superintendent may, on the application of any person, grant a rehearing of any case decided by him, if he shall think that justice requires it, and on such rehearing may revise alter modify or confirm any decision previously given in the said case.

79. If any person shall be dissatisfied with the decision or determination of any question by the Superintendent, he may appeal in manner provided by "The Waste Lands Boards Appeal Act, 1867;" and the said Act shall apply to decisions given by the Superintendent in the same manner as if a Waste Lands Board had been created by this Act, and as if the decision of the Superintendent appealed against were the decision of such Waste Lands Board.

80. It shall be lawful for the Superintendent to set apart blocks of first-class land within or in the immediate vicinity of any gold field. Such lands shall be laid off in sections of from five to twenty acres, and such sections shall be open to be taken up by residents on such gold fields for occupation and cultivation in the same manner as in the case of lands opened under the deferred-payment system, excepting that no selection by any family or number of persons occupying one household shall exceed forty acres, and that within twelve months after selection a dwelling-house shall be erected on the land in the same manner as in the case of homestead selections.

81. Clause three of "The Volunteer Land Act 1865 Amendment Act, 1873," is hereby amended so far as the Province of Auckland is concerned by striking out the words "twelve months" in the third line thereof, and inserting the words "two years" in lieu thereof; and the said Act shall, so far as the said province is concerned, be read and construed as if the words "two years" had been originally inserted in the amended clause instead of the repealed words.

82. And whereas under various land laws heretofore in force in the province, land scrip or land orders have been issued to many persons who have exercised such scrip or orders in the selection of waste lands, but have failed to comply with conditions the performance of which was necessary to entitle such persons to Crown grants for the lands thus selected: Be it enacted that all persons who have failed to comply with the conditions under which they received such scrip or orders or selected such lands shall be deemed and taken to have forfeited all right and interest in such scrip or orders and in any lands selected thereunder; and all lands so selected shall be deemed and taken to have reverted to the province, and to be waste lands open to be dealt with under this Act: Provided, however, that in any case where it shall appear that the holder of any such scrip or order has acted in good faith, and has in substance complied with the conditions attached to his scrip or order, although he may not have fulfilled the strict legal requirements of such conditions, it shall be lawful for the Superintendent to recommend to the Governor the issue of a grant for any selection made or to

5

10

15

20

25

30

35

40

45

50

55

be made under such scrip or order, and the Governor may thereupon issue such grant accordingly.

83. In addition to and in furtherance of any powers already given in that behalf, it shall be lawful for the Superintendent, in order to facilitate and effectually carry out the objects of this Act, from time to time, by Proclamation in the Provincial Government *Gazette*, to make vary alter amend revoke and repeal regulations: And any such regulations may provide for the imposition of penalties for breaches thereof or any part thereof, not exceeding the sum of twenty pounds for any one breach; and any such penalty may be recoverable upon conviction in a summary manner before any Resident Magistrate or two Justices of the Peace in manner provided by "The Justices of the Peace Act, 1866:" Provided however that no regulations to be made hereunder shall be repugnant to the provisions of this Act, and that they shall receive the approval of the Governor in Council, and be notified in the Provincial Government *Gazette* for fourteen days before coming into force.

Power to make general regulations.

SCHEDULE.

"The Auckland Waste Lands Act, 1867."

"The Auckland Waste Lands Act 1867 Amendment Act, 1869."

"The Auckland Waste Lands Act, 1870."

"The Auckland Mineral Leases Act, 1871."

"The Auckland Waste Lands Act 1870 Amendment Act, 1872."

And all other Acts or portions of Acts of the General Assembly of New Zealand or the Provincial Legislature of the Province of Auckland inconsistent with or repugnant to the provisions of this Act.