

Hon. Mr. Carroll.

NATIVE RESERVES ADMINISTRATION.

ANALYSIS.

Title.	MISCELLANEOUS.
GENERAL PROVISIONS.	
1. Short Title. 2. Interpretation. 3. Definition of lands to be vested in Public Trustee by the Act. 4. Certain reserves to be subject to this Act. Act not to apply to Confiscated Territory. 5. Vesting of real and personal property vested under repealed Acts.	22. Natives over seventeen years may give valid discharges for moneys. 23. No Native owner to alienate except by will in favour of a Native. 24. The Public Trustee not to be liable except for wilful neglect, default, or omission. Expenses incurred to be chargeable on land in respect of which they arise. 25. Conditions regulating actions or proceedings against the Public Trustee.
AS TO BRINGING RESERVES AND LAND OWNED BY NATIVES UNDER ACT.	
6. Governor in Council may vest in Public Trustee land reserved for benefit of Natives. 7. Owners of Native hereditaments may bring same under Act with consent of Governor in Council.	26. Lands may be taken under "The Public Works Act, 1882." 27. Public Trustee may appoint person to receive moneys payable to Native owner who is under any disability. 28. Governor may make regulations. 29. Public Trustee to keep a register showing the names of Native owners.
<i>By-laws and Regulations.</i>	
8. Public Trustee may make by-laws and regulations. 9. Governor's approval establishes validity of by-law or regulation. 10. By-laws and regulations may provide for penalties.	30. Native Land Court to forward to Public Trustee duplicate of orders of Court respecting lands. 31. Receipt of person named in register to discharge Public Trustee of all liability. 32. Public Trustee may require Native Land Court to determine interests of Native owners.
ADMINISTRATION.	
11. The Public Trustee to have power to carry out provisions of Schedule to Act, acting with concurrence of the Board. 12. How power to carry out contracts may be exercised. 13. Public Trustee may compound. 14. Lands vested in Public Trustee under Act to be administered by Public Trustee under provisions of Act and Schedule. 15. Public Trustee may carry out any contract valid when land becomes vested. 16. Interpretation of "benefit." 17. Restrictions to be removed for certain purposes. 18. Powers of Public Trustee. 19. Public Trustee may survey lands, lay off roads, and make advances.	33. Public Trustee may require Native Land Court to ascertain title to land. Proviso that no partition without consent of Public Trustee. 34. Native Land Court to have jurisdiction over land, but subject to this Act. 35. Governor may make special regulations for practice and procedure under Act of Native Land Court. 36. Investment of moneys not being income, and distribution of income. 37. Public Trustee to become trustee in place of all trustees under "The Maori Real Estate Management Act, 1888." 38. Governor may by warrant direct District Land Registrar to issue to Public Trustee certificate of title.
<i>Special Provisions relating to Leases and Contracts in force prior to Land being vested in Public Trustee.</i>	
20. Public Trustee may accept surrender of leases in force before and when land vested by Act, and may grant new leases.	39. Any person under disability to be bound by contract or obligation authorised by Act. 40. Validation of leases heretofore granted by Public Trustee. 41. Public Trustee may accept surrender of any lease for purpose of subdivision of land. 42. Accounts of Public Trustee to be prepared, and laid with report before the General Assembly.
<i>Special Provisions as to leasing to Natives.</i>	
21. Lands may be leased to Natives under provisions, &c., required by Public Trustee.	43. Disqualification Acts not to apply to Natives appointed under this Act.

44. Governor in Council may extend period for performing of any act, matter, or thing required by this Act.	49. District Land Registrar to register without production of Crown grant.
45. Exemption from payment of land- or income-tax.	REPEALS.
46. Exemption from assessment by local authority.	50. Acts repealed. Provisions of repealed Acts to remain in force for purposes of carrying out obligations authorised by repealed Acts.
47. Seventeen years to be deemed of full age.	Schedule.
48. No covenants in conveyance, &c., by Public Trustee to be implied against him.	

A BILL INTITULED

Title.

AN ACT to consolidate the Law relating to the Administration of Native Reserves.

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

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GENERAL PROVISIONS.

Short Title.

1. The Short Title of this Act is "The Native Reserves Administration Act, 1893."

Interpretation.

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

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"Alienate" and "alienation" respectively include a limited disposition as well as an absolute one, whether by sale, lease, mortgage, charge, incumbrance, or otherwise:

"Appraiser" means any person appointed to make any valuation under this Act:

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"Authorised surveyor" means any surveyor acting for or under the direction of the Surveyor-General or his deputy, or any surveyor appointed by the

"Board" means the Board constituted under "The Public Trust Office Act, 1872," together with two Natives to be from time to time appointed by the Governor to hold office during pleasure:

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"Cultivation" includes drainage, the felling of bush, or the clearing of land for cropping, or clearing and ploughing for and laying down with artificial grasses:

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"Forfeiture" or "forfeited" means forfeiture or forfeited to the Public Trustee:

"Land vested in the Public Trustee" means land which by virtue of the provisions of this Act vests in the Public Trustee:

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"Lease" includes license:

"Lessee" includes licensee, and includes the executors, administrators, and assigns of the lessee or licensee:

"Local authority" means the Council or Board of any borough, town district, county, road district, or other district authorised to levy rates respectively; and includes any body of persons, corporate or incorporate:

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"Minister" means the Colonial Treasurer:

"Native hereditaments" means all lands (except Native lands) owned by Natives under any title whatever otherwise than by purchase originally from the Crown or any person or Corporation:

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"Native lands" means lands owned by Natives under their customs or usages, but which ownership has not been ascertained by the Native Land Court:

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"Natives" means aboriginal natives of New Zealand, and includes half-castes and their descendants:

- 5 "Original holder" means the person to whom any lease or license was first granted:
- "Owners" means Native owners:
- 5 "Pastoral lands" includes all lands vested in the Public Trustee occupied as or adapted for runs, as herein defined:
- "Pasturage lease" means a lease authorising the occupation of pastoral lands as runs:
- "Public Trustee" means the Public Trustee incorporated under "The Public Trust Office Act, 1872":
- 10 "Residence" wherever required by this Act means the home of a lessee of any land vested in the Public Trustee, or, with the consent of the Public Trustee, the home of the family of such lessee, and such home shall be a habitable house, to be approved of by the Public Trustee:
- 15 "Run" means any land occupied by virtue of a lease for depasturing purposes, or adapted for but not occupied for such purposes:
- 20 "Substantial improvements of a permanent character" means and includes reclamation from swamps, clearing of bush, gorse, broom, sweetbriar, or scrub, cultivation, planting with trees or live hedges, the laying-out and cultivating of gardens, fencing, draining, making roads, sinking wells or water-tanks, constructing water-races, sheep-dips, making embankments or protective works of any kind, in any way
- 25 improving the character or fertility of the soil, or the erection of any building:
- "Surveyor-General" means the principal officer of the Department of Lands and Survey or his deputy:
- 30 "Tenderer" means a person tendering under this Act:
- "The Native Land Court Act, 1886," includes that Act and all the amendments of that Act, and any Act passed in substitution for that Act:
- 35 "The Native Reserves Act, 1882," includes that Act and all the amendments of that Act:
- "The Westland and Nelson Native Reserves Act, 1887," and "The South Island Native Reserves Act, 1883," includes those Acts and any amendments of those Acts:
- 40 "This Act" includes all Schedules thereto, and any by-laws or regulations made under this Act; and where in the Schedule to this Act the term "this Act" is used such term shall include the body of this Act as well as the Schedule, unless a different intention shall be manifested:
- 45 "Town" means any parcel of land outside a borough divided into areas for building purposes.

The title to land (being land reserved for the benefit of Natives) shall be deemed to be ascertained when the title has been ascertained by the Native Land Court.

3. All land within any of the definitions following shall for the purposes of this Act be and become vested in the Public Trustee, as provided by this Act:—

Definition of lands to be vested in Public Trustee by the Act.

- 55 (1.) Land which has been or shall hereafter be excepted or reserved by or for Natives on the cession or surrender of land to the Crown, and specified as so excepted or reserved in the conveyance, cession, or surrender:

- (2.) Land which has been or shall hereafter be reserved or excepted for the benefit of Natives upon sale by them to the Crown of any land :
- (3.) Land comprised in blocks guaranteed to or set apart for the benefit of Natives by Colonel McLeverty, or according to the directions of any Commissioner appointed to investigate purchases of land made from Natives by the New Zealand Company : 5
- (4.) Land reserved for the benefit of Natives by the New Zealand Land Company or the New Zealand Company : 10
- (5.) Land reserved or set apart for the benefit of Natives under the authority of any Act of the General Assembly of New Zealand now or hereafter passed, unless otherwise specially provided :
- (6.) Land vested in the Public Trustee by "The Native Reserves Act, 1882," or the control and management whereof is given by that Act to the Public Trustee; land the control and management of which is vested in or given to the Public Trustee by "The Westland and Nelson Native Reserves Act, 1887," or "The South Island Native Reserves Act, 1883;" land which by virtue of the provisions of any of the Acts repealed by this Act, or by any of the Acts repealed by the Acts repealed by this Act, have become Native reserves, or which is by the said Acts vested in the Public Trustee or placed under his management or control : 15 20 25
- (7.) Land which the Governor in Council may, for the purposes of this Act, and under the authority thereof, declare to be vested in the Public Trustee :
- (8.) Lands vested by or to become vested in the Public Trustee by this Act. 30

Nothing herein contained shall be deemed to apply to land granted under "The Poverty Bay Grants Act, 1869," and "The Poverty Bay Grants Act Amendment Act, 1871," or to reserves affected by or vested in the Public Trustee by "The West Coast Settlement Reserves Act, 1892," or any of the Acts thereby repealed. 35

If doubts arise whether or not any land comes within the provisions of this section, the Governor, by Order in Council, gazetted in the *Gazette* and *Kahiti*, may settle such doubts, and declare whether or not such land comes within such provisions. Such order shall be final and conclusive. 40

Land which by virtue of this section is or is to become vested in the Public Trustee shall become so vested as follows:—

- (a.) As to land which is at the time of the passing of this Act within any of the definitions from (1) to (8) inclusive, such land shall, by virtue of and as from the coming into operation of this Act, become vested in the Public Trustee : 45
- (b.) As to land which, after the coming into operation of this Act, comes within any of the definitions from (1) to (8) inclusive, such land shall immediately upon the same coming within any of such definitions, and without any grant, conveyance, or other assurance, become vested in the Public Trustee. 50 55

4. All Native reserves made within the territory described in the Schedule referred to in the fourth section to "The Native Reserves Act, 1882," and which at the commencement of that Act were subject to the provisions of any Act thereby repealed, shall be subject to the provisions of this Act. 60

Except as hereinbefore provided, this Act shall not have any operation in that part of the colony known as the "Confiscated Territory," described in the Schedule referred to in the fifth section to "The Native Reserves Act, 1882."

Act not to apply to Confiscated Territory.

5 5. All real and personal property which at the time this Act comes into operation is vested in or held by the Public Trustee under or by virtue of any of the Acts hereby repealed shall become vested in the Public Trustee under this Act.

Vesting of real and personal property vested under repealed Acts.

AS TO BRINGING RESERVES AND LAND OWNED BY NATIVES UNDER ACT.

10 6. After the Native title to any land heretofore or hereafter reserved for the benefit of Natives is ascertained, and which land is not vested in the Public Trustee by this Act, and notwithstanding any other of the provisions of this Act, the Governor may by Order in Council vest such land in the Public Trustee for the purposes of this
15 Act. Such order shall be published in the *New Zealand Gazette* and the *Kahiti*, and shall be conclusive upon all points, and particularly upon the following:—

Governor in Council may vest in Public Trustee land reserved for benefit of Natives.

- (1.) That the land has been reserved for the benefit of Natives ;
20 (2.) That the title to such land has been ascertained ;

(3.) That such land is vested in the Public Trustee.

7. Native hereditaments, whether subject to restrictions against alienation or not, may, by the majority in number of the owners thereof, with the consent of the Governor, be brought under the provisions of this Act ; and, if the Governor gives such consent,
25 then an Order in Council may be made vesting such land in the Public Trustee, and thereupon such land shall vest in the Public Trustee in terms of such order.

Owners of Native hereditaments may bring same under Act with consent of Governor in Council.

Trustees or committees for infants, lunatics, or others under any disability may, on behalf of such persons, and notwithstanding the
30 terms of the trust, give any consent or do or omit any act or thing to vest Native hereditaments in the Public Trustee. Married women without the consent of their husbands may give any consent or do or omit to do any act or thing to vest Native hereditaments in the Public Trustee under this Act.

35 A Native over the age of seventeen years shall for the purpose of this section be deemed of full age.

The Order in Council shall be published in the *New Zealand Gazette* and also in the *Kahiti*, and, when so published, be conclusive evidence that such land is vested in the Public Trustee.

40 Before the Governor gives any consent, or any order as aforesaid is made, the Governor shall refer the application to the Native Land Court for the purpose of ascertaining—

- (a.) Whether a majority in number of the owners consent to such land being brought under the provisions of this Act ;
45 (b.) Whether there are any circumstances which render it advisable or not that such land should be brought under the provisions of this Act.

The Court shall thereupon proceed to ascertain whether or not such majority do so consent, and whether it is advisable or not that
50 such land should be brought under the provisions of this Act, and shall report to the Governor accordingly.

Upon such reference the Court shall ascertain the names of the persons having shares or interests in such land and the respective

shares and interests of each of such persons therein, and whether or not any dealings have taken place with such land and the nature thereof, and shall report to the Governor accordingly.

By-laws and Regulations.

Public Trustee may make by-laws and regulations.

8. The Public Trustee may, with the concurrence of the Board, make, alter, and revoke by-laws or regulations for regulating the general conduct of business and proceedings under this Act, and for carrying into effect the objects of this Act and the administration thereof, and for all such other purposes as the Public Trustee is by this Act empowered to make by-laws or regulations. Such by-laws and regulations shall not be repugnant to the provisions of this Act, nor to any regulations made by the Governor, and they shall not come into operation until approved of by the Governor. 5 10

Governor's approval establishes validity of by-law or regulation.

9. A copy of any by-law or regulation sealed with the common seal of the Public Trustee, if purporting to be approved of by the Governor, shall be received as conclusive evidence of the same having been made and approved of as by this Act required, and shall be judicially noticed without further proof. 15

By-laws and regulations may provide for penalties.

10. Any by-law or regulation may provide for a penalty for every breach thereof, of an amount which shall be in the discretion of the Court inflicting the same, and shall in no case exceed *twenty pounds*. 20

ADMINISTRATION.

The Public Trustee to have power to carry out provisions of Schedule to Act, acting with concurrence of the Board.

11. The Public Trustee shall have and may exercise, in addition to all other powers, duties, and functions given by this Act, all the powers, duties, and functions set forth in the Schedule hereto, and may do or omit all acts and things, and enter into all contracts, to give effect to such powers, duties, and functions. 25

All powers, duties, and functions given to or vested in the Public Trustee by this Act shall be exercised by the Public Trustee with the concurrence of the Board, but, so far as concerns the validity of any act, deed, matter, or thing done or omitted under this Act, any person dealing with the Public Trustee shall not be concerned to inquire whether such act, deed, matter, or thing was or was not done with the concurrence of the Board, or be affected by notice, express or implied, that it was not done with such concurrence; and, notwithstanding the absence of such concurrence, the same shall, as regards such person, be as valid and effectual as if the Board had concurred therein. 30 35

The Governor may authorise the Public Trustee to exercise, without the Board's concurrence, any of the powers, duties, and functions given to or vested in the Public Trustee by this Act which require the Board's concurrence, and in such case the Public Trustee may exercise such powers, duties, and functions as if by this Act the Board's concurrence thereto had not been requisite. 40

The Board may from time to time by resolution, either generally or in any particular case or class of cases, authorise the Public Trustee to do or omit to do any act or thing which requires the Board's concurrence without such concurrence, and in such case the Public Trustee may do or omit to do such act or thing as if by this act the Board's concurrence had not been required thereto, and the Board may revoke such authority. 45 50

When any act or thing is required to be done or omitted by the Board, or any power or authority is vested in the Board, such act or thing may be done or omitted, or such power exercised, at any meet-

ing of the Board at which a quorum is present, by a majority of the members of the Board present.

Until otherwise fixed a quorum shall be _____ members, and the Governor may from time to time alter the quorum.

5 At meetings of the Board the Chairman or presiding member shall be the same as in cases of a Board meeting under "The Public Trust Office Act, 1872," and shall have in cases of equality of votes a casting-vote as well as a deliberative one.

10 12. The Public Trustee may enter into contracts as follows, that is to say:—

How power to carry out contracts may be exercised.

(a.) Any contract which if made between private persons would be by law required to be in writing, under seal, the Public Trustee may make in writing, signed by the Public Trustee and by two members of the Board, and sealed with the corporate seal of the Public Trustee, and such contract may in the same manner be varied or discharged.

15 (b.) Any contract which if made between private persons would by law require to be in writing, signed by the parties to be charged therewith, the Public Trustee may, without the corporate seal, make in writing.

20 (c.) Any contract which if made between private persons would be by law valid, although made by parol only and not reduced into writing, may be made by the Public Trustee by parol only without writing, and such contract may in the same manner be varied or discharged.

25 13. The Public Trustee may compound with any person for such sum of money or other recompense as he thinks fit in respect of the breach of any contract, or any penalty thereunder, or of any debt due to the Public Trustee, or of any tort, whether before or after any action or suit is brought.

Public Trustee may compound.

30 14. Land which by virtue of this Act is or becomes under the provisions thereof vested in the Public Trustee shall be so vested, subject to all valid leases and contracts affecting the same, upon trust for the owners, upon the same trusts, if any, as such land was subject to at the time it is so vested in the Public Trustee, but to be managed, dealt with, and disposed of by the Public Trustee under the provisions of this Act and the Schedule hereto, and not otherwise. Land so vested shall, subject to the provisions of this Act, be used, and the rents, income, and proceeds thereof be applied, for and towards the purposes or objects to which the same are applicable respectively, and none other:

Lands vested in Public Trustee under Act to be administered by Public Trustee under provisions of Act and Schedule.

35 Provided that where any of such purposes or objects have become obsolete, or no longer possible of attainment, the Public Trustee, with the consent of the Governor in Council, may direct for what purpose or object similar to the original purposes and objects such land or moneys may be applied.

40 If by death or otherwise there is no person entitled to the share or interest of any owner of land vested in the Public Trustee, or any moneys arising therefrom, the Public Trustee shall hold the same upon trust for such purposes as the Governor in Council may from time to time appoint.

50 15. When at the time any land becomes vested in the Public Trustee such land shall be subject to any valid contract, the Public Trustee may carry out such contract, and may do, execute, and perform all such acts, deeds, matters, and things as may be necessary to carry out or perform the same, and may agree to rescind, alter, or vary such contract, upon such terms and conditions as he thinks fit.

Public Trustee may carry out any contract valid when land becomes vested.

Interpretation of
"benefit,"

16. Where in or by any instrument in writing constituting the trusts of any Native reserve heretofore or hereafter made any trust shall be expressed as being for "the benefit of" or "in trust for the benefit of" any Natives, whether individually or collectively, the said word "benefit" in such writing shall be construed to include the physical, social, moral, or pecuniary benefit of such Natives, and shall extend to include the providing of medical assistance and medicines; and the proceeds of any such reserve may be applied accordingly. 5

Restrictions to be
removed for certain
purposes.

17. For the purposes of this Act, all trusts, restrictions, conditions, and limitations subject to which owners derive title to land vested in the Public Trustee shall not be deemed to exist; otherwise such trusts, restrictions, conditions, and limitations shall remain and continue. 10

Powers of Public
Trustee.

18. The Public Trustee shall for the purposes of this Act, and subject thereto, be deemed to be the owner in fee-simple of all land vested in him by virtue of this Act, and, in addition to any other powers, shall, as regards land so vested, also have the following powers:— 15

- (1.) To recover possession thereof by action, suit, or other proceeding; to enforce, by action, suit, distress, or otherwise, the payment of all moneys and damages, the performance or observance of any contract; and to enforce the liability in respect of any tort; 20
 - (2.) To give time for the payment of any rents, income, moneys, or profits payable or arising out of or in respect thereof, without being responsible for any loss occasioned thereby; 25
 - (3.) To give notices, make demands, and do all acts, deeds, matters, and things necessary for the purpose of carrying into effect any of the covenants, agreements, powers, or provisions contained in any lease or tenancy thereof, or any of the powers or provisions conferred by this Act or by law for the purpose of enforcing payment of money or damages, or for enforcing the observance of any contract or obligation, or any right arising thereout; 30
 - (4.) To enforce, both civilly and criminally, all rights and remedies arising thereout; 35
 - (5.) To let the same to any person, whether a Native or not, for any reasonable rent upon a tenancy from year to year, determinable upon three months' notice on either side, 40
- as if the Public Trustee was the absolute owner thereof.

No Native owner in possession of land vested in the Public Trustee shall, in an action in which the Public Trustee seeks to recover possession thereof, be entitled to set up as against the Public Trustee a right to such possession grounded only upon such Native owner being a person entitled to a share or interest in such land. 45

Public Trustee may
survey lands, lay off
roads, and make
advances.

19. The Public Trustee, subject to the regulations of the Survey Department of the colony, may, as regards land vested in him,—

- (1.) Make surveys thereof, and subdivide the same as he thinks fit; 50
- (2.) Lay off any portions thereof for public roads, and may make such roads. Any road so laid off shall, upon a notice being published in the *New Zealand Gazette* that the same has been laid off as a road, be deemed a public highway, and shall vest in Her Majesty as from such publication. 55

Out of any moneys standing to the credit of his account the Public Trustee may from time to time advance or pay such moneys

as may be necessary for the purpose of giving effect to and carrying out the provisions of this section.

Any moneys so advanced or paid shall be a charge upon the lands surveyed or lands benefited by such expenditure in such proportions as the Public Trustee shall determine, and shall be repayable, with interest thereon not exceeding seven pounds per centum per annum, out of the rents received by the Public Trustee: Provided that it shall be optional with the Public Trustee to make such repayments out of the first year's rents, or to extend the same respectively over a period not exceeding seven years.

Special Provisions relating to Leases and Contracts in force prior to Land being vested in the Public Trustee.

20. If land vested in the Public Trustee shall when such land is so vested be subject to any valid lease, the Public Trustee, if he thinks fit, at any time within two years after such land shall become so vested, may accept a surrender thereof and grant a new lease of the land comprised in the surrendered lease or any part thereof under the provisions hereof, subject to the conditions following:—

Public Trustee may accept surrender of leases in force before and when land vested by Act, and may grant new leases.

(a.) The lessee shall, in such manner and form as shall be provided by the Public Trustee by regulations, make application for a new lease.

(b.) If the Public Trustee in his discretion considers the application ought to be given effect to, then a valuation shall be made by an appraiser appointed by the Public Trustee of the land included in the lease to be surrendered as for an estate in fee-simple, without the substantial improvements of a permanent character thereon, and also a valuation of all substantial improvements of a permanent character in existence at the time of such valuation on the land comprised in such lease, and which improvements would at the end or other sooner determination of the term become the property of the landlord. When by or under any lease surrendered as aforesaid, or by any statute under which the lease was made, provisions are made for the renewal of the term, and the lessee would under such provisions be entitled, if he does not become under the renewal provision the lessee, to have paid to him by a new lessee the value of any improvements on the land, or where by or under any such lease or statute provisions are made for renewing the term at a rack-rent of the land demised without the improvements thereon, then such valuations as are by this subsection directed to be made shall be made, but the lessee shall not pay for the value of such improvements. After the making and publishing of the above-mentioned valuations, which shall be effected by serving a copy of the same on the lessee and another copy on the Public Trustee, the Public Trustee may, at his discretion, grant to the lessee a lease of such land with a right of perpetual renewal, as provided by this Act, upon the following terms and conditions:—

(1.) The lessee shall pay to the Public Trustee the value of all substantial improvements so ascertained as aforesaid, or if unable to pay the same the Public Trustee may if he thinks fit take security therefor over the new lease at a rate of interest of not less than five pounds per centum per annum, as fixed by the Public Trustee.

- (2.) The rent shall be five pounds per centum per annum on the value of the land as fixed by the valuation, and shall be payable half-yearly in advance.
- (3.) The lease shall contain such covenants, conditions, and provisions as the Public Trustee may think proper. 5
- (4.) If the land is within any city, town, or borough, no lease shall be granted to any one lessee or to two or more lessees jointly or in partnership of more than two acres of land.
- (5.) If the land is outside any city, town, or borough, and is in the opinion of the Public Trustee rural or suburban land, no lease shall be granted to one lessee or to two or more lessees jointly or in partnership of more than five acres of suburban land or six hundred and forty acres of rural land. 10
- (6.) If the land is not within any city, town, or borough, and is not rural or suburban land, then no lease shall be granted to one lessee or two or more lessees jointly or in partnership of more than five thousand acres of land. 15
- (7.) Any person who would be disqualified under any of the other provisions of this Act from holding any lease thereunder shall be disqualified from holding a lease under the provisions of this section. 20
- (8.) No lessee shall, under the provisions of this section, unless the same is otherwise expressly provided, be entitled to hold any greater area of land than he would be entitled to hold under the other provisions of this Act; and all the provisions of this Act which limit the area of land or the number of leases to be held by any one person or by two or more persons jointly or in partnership shall extend and apply to leases to be granted under this section. 25
- (9.) If the land to be leased is within any city, town, or borough, then the term of the lease shall be the same as in cases where under the other provisions of this Act land in any city, town, or borough is leased, and such lease shall be perpetually renewable in like manner and subject to the like conditions. If such land is in the opinion of the Public Trustee rural or suburban land, then the term of the lease shall be the same as in cases where under the other provisions of this Act rural or suburban land is leased, and such lease shall be perpetually renewable in like manner and subject to the like conditions. Where the land is not within any city, town, or borough, and is not rural or suburban land, the term of the lease shall be the same as in cases where under the other provisions of this Act land is leased as small grazing-runs, and such lease shall be perpetually renewable in like manner and subject to the like conditions. 30 35 40 45
- (10.) If any doubt arises as to which of the classes of land hereinbefore mentioned in subsections *four*, *five*, and *six* of this section any land to be leased comes under, the Public Trustee shall decide the doubt, and his decision shall be final and conclusive. 50
- (11.) The Public Trustee shall notify to the lessee, who under the provisions of this section becomes entitled to a new lease, that he is prepared, upon the lessee complying with the provisions of this section and surrendering his lease, and executing the new lease, to grant to him a new lease as provided by this section. 55

- 5 (12.) Within twenty-one days after the Public Trustee has given the notification under subsection *eleven*, the lessee may, by notice delivered at the principal office of the Public Trustee, notify that he declines to take a new lease, whereupon the application for a new lease shall be at an end, and all moneys paid or deposited with the Public Trustee under the provisions of this section, and any regulations made under the provisions of this Act relating thereto, shall be forfeited to the Public Trustee and shall be applied to the general administration of this Act.
- 10 (13.) The lessee shall pay the first half-year's rent payable under the new lease before the Public Trustee executes such new lease, and shall pay the like costs and charges as in cases where leases are granted under the other provisions of this Act, together with any stamp duty required.
- 15 (14.) The lease, if registerable, shall be registered under "The Land Transfer Act, 1885," or "The Deeds Registration Act, 1868," according to the title, by the Public Trustee before being delivered to the lessee.
- 20 (15.) If any lessee under this section shall, within thirty days after being required by notice so to do, fail to execute the new lease, then the Public Trustee may by notice (given in such manner, either personally or by advertisement, or otherwise, as the Public Trustee thinks proper) to the lessee notify that his right to the grant of such lease is forfeited, and thereupon such right shall be absolutely forfeited, and all moneys paid by the lessee under the provisions of this section shall be absolutely forfeited to the Public Trustee, and such moneys shall be applied to the general administration of this Act.
- 25 (16.) No lessee shall be entitled to make application for a new lease under this section until he shall have paid to the Public Trustee all rent due under his lease up to the date of the commencement of such new lease, nor shall he be entitled to make such application until he has performed all the covenants, conditions, and provisions contained in his lease.
- 30 (17.) The term of every new lease, if granted under this section, shall commence from the day when the application for the new lease is delivered at the office of the Public Trustee.
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All the provisions of this Act which are not inconsistent with the provisions of this section shall extend and apply to leases made under the provisions of this section.

45 *Special Provisions as to leasing to Natives.*

21. Notwithstanding any of the provisions of this Act relating to the disposal of lands by tender or otherwise, the Public Trustee may in his absolute discretion—

- 50 (1.) Lease in possession, and not in reversion, to Natives any land vested in the Public Trustee.

Lands may be leased to Natives under provisions, &c., required by Public Trustee.

- (2.) No lease shall be made,—
- (a.) In the case of land situated in any town, borough, or city, of more than acres;
 - (b.) In the case of suburban land, of more than five acres;
 - (c.) In the case of rural land, of more than six hundred and forty acres;
 - (d.) In the case of pastoral land, of more than five thousand acres:
- And the Public Trustee shall be the sole judge as to whether or not land to be leased under this section comes within one or other of the classes referred to.
- (3.) The rent, conditions, covenants, and provisions of leases under this section shall be such as shall be fixed by the Public Trustee: Provided that the rent to be reserved shall not be less than five pounds per centum per annum on a valuation, to be determined by the Public Trustee, of the land to be leased as for an estate in fee-simple.
- (4.) Every lease granted under this section shall be for the like terms of years as in cases of leases granted under the provisions contained in the Schedule to this Act, and shall be renewable in like manner and subject to the like conditions as is provided by the said Schedule in the case of renewals of leases thereunder, subject nevertheless to any provisions, limitations, and restrictions which the Public Trustee may by regulations prescribe.
- (5.) The Public Trustee may in his discretion, by regulations, limit and restrict the rights and powers of Natives to alienate such leases, or the land comprised therein, or any estate or interest therein; and such limitations and restrictions shall have the same force as if enacted by Statute.
- (6.) No Native shall have any right at law or in equity to alienate any lease, or the land comprised therein, or any estate or interest therein or thereunder, if such alienation is contrary to the provisions of this Act, or to any provisions, limitations, or restrictions made by the Public Trustee; and all alienations or attempted alienations which shall be contrary to any provisions of this Act, or to any provisions, limitations, or restrictions made by regulations as aforesaid, shall be absolutely void:
- Provided that the Public Trustee may from time to time by writing, but not otherwise, alter, vary, waive, or release any of the provisions, restrictions, or limitations contained in any lease or made by the Public Trustee.
- (7.) Native lessees under this section, and Natives holding or owning a lease under this section or any estate or interest therein, notwithstanding any exemption contained in any Act or law now or hereafter in force to the contrary, shall be liable to the same obligations, duties, taxes, rates, charges, and assessments with respect to the land demised as would be the case if the Natives were Europeans.

(8.) The lessee shall pay the first half-year's rent payable under the lease before the Public Trustee executes such lease, and shall pay the like costs and charges as in cases where leases are granted under the other provisions of this Act, together with any stamp-duty required.

(9.) The lease, if registerable, shall be registered at the cost of the lessee under "The Land Transfer Act, 1885," or "The Deeds Registration Act, 1868," according to the title, by the Public Trustee before being delivered to the lessee.

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MISCELLANEOUS.

22. Natives over seventeen years of age, whether under cover-
 ture or not, may give valid discharges for moneys which they
 are entitled to, or may by writing under their hands, attested
 by a Judge of the Native Land Court, Justice of the Peace,
 solicitor of the Supreme Court, or Postmaster, authorise any Native,
 being an adult person, to receive and give discharges for any moneys
 due when such authority is given; but no Native shall give any
 authority before such moneys are actually due and payable, and
 any authority so given shall be void: Provided that, so far as con-
 cerns any payment made under any authority, such payment shall be
 valid unless the person making the payment has received previous
 notice in writing that the authority was given before the moneys were
 actually due and payable. Any authority as aforesaid shall not be
 liable to any stamp duty.

Natives over seven-
 teen years may give
 valid discharges for
 moneys.

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23. Except as by this Act provided, no Native shall alienate
 or dispose of his estate or interest in any land vested in the
 Public Trustee, or in the rents, income, profits, or other moneys
 arising thereout, except by will in favour of a Native; but no
 disposition by will shall be valid if contrary to the conditions,
 restrictions, and limitations of any instrument or title under
 which such Native derives title. The share, estate, and interest of
 any Native in such land, or in the rent, income, profits, or other
 moneys arising therefrom, or the estate or interest of any Native
 under a lease, shall not (except so far as the Public Trustee is con-
 cerned) be liable to be seized, sold, attached, or levied upon by any
 process whatever, or become vested in any Official Assignee or
 creditors' trustee in bankruptcy, or be subject to any law relating to
 bankruptcy or insolvency, or be assets in bankruptcy: Provided that
 Natives being lessees under this Act, or owning or holding a lease
 thereunder, or any estate or interest therein, may alienate the same
 subject to any other provisions of this Act; but no Native shall
 dispose of such lease or of any estate or interest therein by will
 except to or in favour of a Native.

No Native owner to
 alienate except by
 will in favour of a
 Native.

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24. The Public Trustee shall not, nor shall any of his officers,
 be liable for any act or thing wrongfully done or omitted by him or
 them under this Act, or under the presumed authority of this Act,
 unless the Public Trustee or his officers have been guilty of actual
 wilful neglect, default, or omission; and no person shall recover from
 the Public Trustee or his officers any loss or damage unless the
 Court in which the action or proceeding is brought certifies that
 such loss or damage was occasioned by or through the actual wilful
 neglect, default, or omission of the Public Trustee or of his officers.
 If, in any action or proceeding against the Public Trustee or his
 officers for any loss or damage occasioned by the actual wilful

The Public Trustee
 not to be liable ex-
 cept for wilful
 neglect, default, or
 omission.

neglect, default, or omission of the Public Trustee or his officers, judgment shall be recovered against the Public Trustee or his officers, then such judgment shall be paid out of the consolidated revenue, out of any moneys appropriated by the General Assembly for that purpose, but otherwise no such judgment shall be capable of being given effect to. All costs and expenses incurred by the Public Trustee or his officers in carrying into effect any of the provisions of this Act shall be deducted out of any moneys which shall come to his hands under the provisions of this Act, and arising out of the land vested in the Public Trustee with respect to which such costs and expenses shall have been incurred. 5 10

Expenses incurred to be chargeable on land in respect of which they arise.

Conditions regulating actions or proceedings against the Public Trustee.

25. No action or proceeding shall be brought against the Public Trustee or any of his officers, or any person acting under the authority of the Public Trustee (either expressed or implied), in the exercise or intended exercise of the provisions of this Act, or in pursuance thereof, for any alleged irregularity or trespass, or any act or thing done or omitted under this Act, unless notice in writing specifying the cause of action or proceeding, and the name and residence of the intended plaintiff or prosecutor, or other person instituting such action or proceeding, and of his solicitor or agent in the matter, is given by the plaintiff or prosecutor, or other person as aforesaid, to the defendant or person against whom such action or proceeding is intended to be taken, one month at least before the commencement of the action or proceeding, nor unless the action or proceeding is commenced within three months next after the act or thing complained of is done or omitted, or, in case of a continuation of damage, within three months next after the doing of such damage has ceased. 15 20 25

In any such action or proceeding, the defendant or person against whom the same is taken may plead generally that the act or thing complained of was done or omitted by him in the *bona fide* belief that he was acting rightly under the authority of this Act, and may give the special matter in evidence; and if the Court shall be of opinion that such defence is proved, the action or proceeding shall be dismissed. 30 35

On the trial or hearing the plaintiff or person prosecuting the claim shall not be permitted to go into evidence of any cause of action not stated in the notice.

The plaintiff or person prosecuting the claim shall not succeed if tender of sufficient amends is made by the defendant, or person against whom the proceeding is taken, before the commencement of the action or proceeding; and, in case no tender has been made, the defendant or person against whom the claim is made may, by leave of the Court in which the action or proceeding is brought, at any time pay into Court such sum of money as he thinks fit, whereupon such proceeding and order shall be had and made in and by the Court as may be had and made on the payment of money into Court in an ordinary action. 40 45

Nothing hereinbefore contained shall apply to any action or proceeding by any of the Native owners against the Public Trustee for or arising out of a breach of trust. 50

Lands may be taken under "The Public Works Act, 1882."

26. Land vested in the Public Trustee may be taken for a public work and compensation paid therefor in the same manner as where

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land is taken for a public work and compensation paid under the authority of "The Public Works Act, 1882," and for such purpose such land shall be deemed to be land within the meaning of "The Public Works Act, 1882"; and when such land or portions thereof shall require to be taken the Public Trustee shall be deemed, for the purpose of such taking and payment of compensation, to be the absolute owner in fee-simple thereof; and all acts and things required to be done or omitted by the owner of land under "The Public Works Act, 1882," may be done or omitted by the Public Trustee; and all notices to be given by or to the owner of land under "The Public Works Act, 1882," where land is taken, shall be given by or to the Public Trustee; and in all claims for compensation the Public Trustee shall be the claimant, and all moneys payable for compensation shall be payable to the Public Trustee. All compensation-moneys shall be held by the Public Trustee in trust for the Native owners of the land taken, and shall be invested upon such securities as are authorised by section ten of "The Public Trust Office Acts Amendment Act, 1891," and the income arising therefrom shall be applied in the same manner as the rents and income of the land taken could have been applied. "Public work," for the purposes of this section, has the meaning given to that expression by "The Public Works Act, 1882," and also includes public schools, public libraries, public cemeteries, and public recreation-grounds.

27. If any Native or person is a minor or lunatic, sick, or infirm, or under any disability, the Public Trustee may from time to time appoint some person to receive the moneys payable to such Native or person, and in like manner revoke such appointment; and the person so appointed shall apply such moneys in any manner he thinks fit for the maintenance, support, or education of such Native or person. Until such appointment the Public Trustee may exercise the powers which the person if appointed could or might exercise under this section.

Public Trustee may appoint person to receive moneys payable to Native owner who is under any disability.

28. The Governor may from time to time make, alter, and revoke regulations—

Governor may make regulations.

- (1.) For providing for the mode by which any land vested in the Public Trustee shall be subdivided and surveyed and boundaries adjusted, and for laying off roads;
- (2.) For imposing any reasonable charges for surveys or fees for any document issued or any act or thing done under the authority of this Act, and as to the person to pay the same;
- (3.) For providing for all proceedings of the Native Land Court, or any Judge thereof, or the Public Trustee or other person acting under the provisions of this Act;
- (4.) For providing for the payment to the Public Trustee of a commission not exceeding seven pounds ten shillings per centum upon moneys received by the Public Trustee, and for scales of charges and fees, to be paid out of moneys coming to the hands of the Public Trustee for defraying the cost of carrying into effect this Act;
- (5.) For regulating the protection of forests, bush, or growing timber, and the prevention of fire therein;

- (6.) For regulating the granting of licenses for felling or sawing timber, for digging gum, and for other licenses ;
- (7.) And for any purpose for the more fully carrying out the objects and purposes of this Act and the administration thereof, and not herein expressly or not sufficiently provided for. 5

Such regulations shall be published in the *New Zealand Gazette* and in the *Kahiti*, and, when so published, shall be valid as if enacted in this Act, and shall be judicially noticed without further proof. 10

Public Trustee to keep a register showing the names of Native owners.

29. The Public Trustee shall keep a register showing the names of the owners of any land or property vested in the Public Trustee, and the relative shares and interests of such owners therein, and the persons entitled to the rents, profits, and income thereof, and shall from time to time make such corrections in such register and such additions thereto as may be necessary to keep the same accurate. 15

Native Land Court to forward to Public Trustee duplicate of orders of Court respecting lands.

30. When with respect to any land or property vested in the Public Trustee the Native Land Court or any Judge thereof makes—

- (1.) An order for the partition thereof, or
- (2.) An order appointing any person to succeed to a share or interest of a deceased owner, or 20
- (3.) An order defining the shares or interests therein, or
- (4.) An order appointing a trustee for any Native owner, being an infant, lunatic, or under disability, or revoking the appointment of a trustee for a Native owner, being an infant, lunatic, or under disability, or 25
- (5.) An order in any way affecting such land or property or any estate or interest therein,

it shall be the duty of the Court or Judge to forthwith forward a duplicate of such order to the Public Trustee, and the Public Trustee shall make such additions or corrections in the register as may be thereby necessary. Any person whose name is not on such register who in any way becomes entitled to the share and interest of any owner in any land or property vested in the Public Trustee, or to the rents and profits thereof, shall not be deemed to be so entitled until he has produced to the Public Trustee such evidence of his being entitled as the Public Trustee may require, and his name has been entered in the register as being so entitled. 30 35

Receipt of person named in register to discharge Public Trustee of all liability.

31. The receipt of any person whose name appears in the register as entitled to a share or interest in any land or property vested in the Public Trustee, or as entitled to the moneys arising from any share or interest in such land or property, shall be a good and sufficient discharge to the Public Trustee for any moneys payable in respect thereof; and the Public Trustee shall not be answerable or accountable for the loss, misapplication, or non-application, or be obliged to see to the application, of the moneys by him so paid; nor shall the Public Trustee be affected by the knowledge, actual or constructive, that some other person than the person to whom such moneys are so paid is entitled thereto. 40 45

Public Trustee may require Native Land Court to determine interests of Native owners.

32. The Public Trustee may make application to the Native Land Court to determine the relative shares and interests of Native owners in land, property, or money vested in the Public Trustee; and the Court shall do so in the same manner as would be done upon 50

an application under "The Native Land Court Act, 1886," to determine the relative shares and interests of land under that Act; and all the provisions of that Act shall, *mutatis mutandis*, extend and apply accordingly. All costs and expenses incurred by the Public Trustee in carrying out this section and the next section shall be borne by the Native owners, according to their shares and interests, and shall be a charge upon such shares and interests.

33. Where the title to any land vested in the Public Trustee has not been ascertained by the Native Land Court, the Public Trustee may apply to the Court to have such title ascertained, and the Court shall thereupon ascertain such title in the same manner as it would ascertain the title to Native land under the provisions of "The Native Land Court Act, 1886." No partition shall be made of any land vested in the Public Trustee unless the Public Trustee consents thereto.

Public Trustee may require Native Land Court to ascertain title to land.

Proviso that no partition without consent of Public Trustee.

34. Subject to this Act, the Native Land Court shall have jurisdiction over any land vested in the Public Trustee, and proceedings may be taken and orders made with respect thereto as could be taken or made with respect to any land owned by Natives under their customs or usages, or over land owned by Natives otherwise than under their customs or usages: Provided that the Court shall not make partition of any land vested in the Public Trustee except with the consent in writing of the Public Trustee.

Native Land Court to have jurisdiction over land, but subject to this Act.

35. The Governor may, in addition to any other powers conferred by this Act, for the purpose of any of the provisions of this Act make special regulations for the practice and procedure of the Native Land Court or a Judge thereof, or otherwise in and about any of the matters, acts, and things by this Act to be done, exercised, or performed, and may make any regulations he thinks fit to carry into effect such provisions.

Governor may make special regulations for practice and procedure under Act of Native Land Court.

The power to make rules given by "The Native Land Court Act, 1886," shall extend and apply to any proceeding under the provisions of this Act, but no rules shall be inconsistent with any regulations made by the Governor under this Act. Any rules now or hereafter made, if not consistent with regulations made by the Governor, shall, for the purposes of this Act, be subordinate to such regulations.

36. All moneys may be invested by the Public Trustee in any of the securities authorised by the tenth section of "The Public Trust Office Acts Amendment Act, 1891," or may be invested upon the security of any lease granted under this Act. And the income may be paid to the Native owners entitled according to their shares, estates, and interests.

Investment of moneys not being income, and distribution of income.

The Public Trustee may apply income for the maintenance, education, or advancement of the Native owners, in such manner and in such proportions as he thinks just.

Income not required to be immediately applied may be invested in the like securities aforesaid.

Public Trustee to become trustee in place of all trustees under "The Maori Real Estate Management Act, 1888."

37. Upon this Act coming into operation, all trustees under "The Maori Real Estate Management Act, 1888," and under Acts repealed thereby, shall vacate their office, and the Public Trustee shall become trustee in their place. And all property, estate, rights, powers, duties, and functions vested in or exercisable by such trustees shall become vested in and be exercisable by the Public Trustee as trustee; and, as to appointments of trustees to be hereafter made, the Public Trustee shall be appointed the trustee, but the Public Trustee may in any case consent to the appointment of a trustee in his place. The Public Trustee shall be entitled to the same remuneration as trustees are entitled to under "The Maori Real Estate Management Act, 1888," which may be increased or diminished from time to time as the Governor may by regulations provide.

The Chief Judge of the Native Land Court shall forthwith, after this Act comes into operation, furnish to the Public Trustee—

- (1.) Certified copies of every order made under the said "Maori Real Estate Management Act, 1888," or under the Acts repealed by that Act;
- (2.) A statement showing which of such orders remain in force;
- (3.) A statement showing the specific land affected by each of such orders;
- (4.) The names, residences, and occupations as far as the same can be ascertained of the several trustees under such orders, and of the infants, lunatics, or other persons under disability whose property has by such orders been vested in trustees;
- (5.) And such other particulars relating to the matters aforesaid as the Public Trustee may from time to time require.

All trustees appointed under "The Maori Real Estate Management Act, 1888," or under any of the Acts repealed by that Act, shall forthwith, after this Act comes into operation,—

Pay, deliver, and give possession to the Public Trustee of all moneys and property belonging to the trust in their hands or under their control;

Furnish a detailed statement showing their administration of the trust, in such form, and containing such particulars, as the Public Trustee may from time to time require;

Furnish such other particulars concerning their administration of the trust property as the Public Trustee may from time to time require.

If any trustee so appointed as aforesaid shall fail or neglect to comply with the provisions aforesaid, after being requested by the Public Trustee so to do, the Public Trustee may, without issuing any writ of summons or filing any statement of claim, take out a summons in the Supreme Court against such trustee to compel him to comply with such provisions; and the Supreme Court or a Judge thereof may make such order in the matter, and as to costs, as it or he thinks fit. No costs shall be awarded against the Public Trustee unless the Court or a Judge is of opinion that the proceedings taken by the Public Trustee were taken without reasonable cause.

38. If any land vested in the Public Trustee is subject to the provisions of "The Land Transfer Act, 1885," and no grant or certi-

Governor may by warrant direct District Land Registrar

5 ficate of title shall have been issued therefor constituting a folium of
 the register under the aforesaid Act, then the Governor may, if the
 circumstances of the title are such as to warrant him in so doing,
 issue a warrant as is provided by such Act, directing the District
 10 Land Registrar to issue to the Public Trustee a certificate of title for
 such land for an estate in fee-simple, and such certificate shall be
 issued accordingly.

to issue to Public
 Trustee certificate
 of title.

15 39. When under this Act any person being an infant, married
 woman, or other person under any disability, is authorised by
 20 this Act to become lessee or licensee, or to contract or acquire
 or hold any land under this Act, or any estate or interest therein,
 such person shall be bound by his or her contract or obligation not-
 withstanding such disability; and in the case of a married woman
 it shall not be necessary that she should have property held to her
 25 separate use, and a married woman who enters into any contract or
 obligation shall be deemed to bind herself and her property present
 or future, and whether held to her separate use with or without power
 of anticipation or not, in every respect as would be the case of any
 other person not under disability.

Any person under
 disability to be
 bound by contract
 or obligation
 authorised by Act.

30 Where any person being an infant or married woman is a lessee
 or licensee, such person may, subject to the provisions of this Act,
 notwithstanding such disability, dispose of such lease or license as if
 no such disability existed: Provided always that nothing herein con-
 tained shall apply to an infant under the age of seventeen years.

35 40. All leases heretofore granted by the Public Trustee, and all
 covenants, conditions, and provisions contained in such leases, under
 or purporting to be granted under any of the Acts hereby repealed
 are hereby declared to be and to have been from the granting thereof
 good, valid, and effectual, notwithstanding that such leases, or any of
 40 the covenants, conditions, and provisions thereof, may not have been
 validly made or entered into under the provisions of the said repealed
 Acts.

Validation of leases
 heretofore granted
 by Public Trustee.

45 Nothing herein contained shall validate or invalidate any lease
 which at or prior to the time this Act comes into operation is or has
 50 been the subject of any action or proceeding in which the validity of
 such lease or of any of the provisions of such lease is or was in
 question.

55 41. When, as to any lease heretofore or hereafter made under
 this Act or any of the Acts hereby repealed, the land demised shall,
 60 as to different portions thereof, become vested in several persons, or
 where two or more persons shall hold as lessees the land comprised
 in one or more leases, and the whole of such persons desire to make a
 surrender and to take separate leases of separate portions of the land
 leased, and agree amongst themselves as to the apportionment of the
 65 rent, and the covenants, conditions, provisions, and agreements to
 be contained in such separate leases, and the Public Trustee agrees
 to accept such surrender and to grant separate leases of such separate
 portions at the apportioned rents, covenants, conditions, provisions,
 and agreements, then the Public Trustee may accept surrenders and
 70 grant separate leases at such apportioned rent, covenants, conditions,
 and provisions.

Public Trustee may
 accept surrender of
 any lease for pur-
 pose of subdivision
 of land.

When any lessee subdivides the leased land, and desires to obtain a separate lease for each subdivision, the Public Trustee may accept a surrender of the lease, and grant separate leases for each subdivision either to the lessee or an approved nominee, and may apportion the rent, covenants, conditions, and provisions reserved and contained in the surrendered lease to and amongst the separate leases in such manner as the Public Trustee thinks fit: 5

Provided that all costs, charges, and expenses incurred in and about the preparation of such surrenders and leases, and the execution, stamping, and registration thereof, shall be borne and paid by the persons desiring such surrenders and separate leases. 10

Accounts of Public Trustee to be prepared, and laid with report before the General Assembly.

42. In each year there shall be prepared by the Public Trustee and submitted to the Minister, on or before the day of accounts and a balance-sheet for the year ended on the day of preceding, accompanied by an estimate in detail of the probable expenditure of the Public Trustee during the next year. 15

Such accounts, balance-sheet, and estimate shall be certified as correct by two members of the Board, of whom the Public Trustee shall be one. With such accounts, balance-sheet, and estimate shall be a report signed by the Public Trustee and one other member of the Board, showing the general administration by the Public Trustee of all property vested in him under this Act, and such other particulars relating thereto as the Governor may from time to time require. 20

Such accounts, balance-sheet, estimate, and report shall be laid annually before both Houses of the General Assembly on or before the thirty-first day of July in every year, if the General Assembly shall then be sitting, and, if the General Assembly shall not then be sitting, then within fourteen days after the then next session of Parliament. 25

Disqualification Acts not to apply to Natives appointed under this Act.

43. Nothing in any Disqualification Act for the time being in force affecting members of Parliament shall be deemed to disqualify or impose any penalty upon any Native in consequence of his being appointed to or holding any appointment under this Act to which any salary, remuneration, or allowance is attached. 30

Governor in Council may extend period for performing of any act, matter, or thing required by this Act.

44. If any act, matter, or thing required by or under this Act to be made or done at or within a fixed time or period cannot be or is not so made or done, the Governor in Council may from time to time appoint a further or other time or period for making or doing the same, whether the time or period at or within which the same ought to have been made or done has or has not elapsed. And any act, matter, or thing made or done within or at the time provided by the Order in Council shall be as valid as if made or done at or within the period or time fixed by or under this Act. 35

Exemption from payment of land- or income-tax.

45. Notwithstanding anything contained in "The Land and Income Assessment Act, 1891," or any amendment of that Act now or hereafter made, or any Act passed in substitution of that Act, the Public Trustee shall not nor shall any Native, except as expressly provided by this Act, be liable to be assessed for or to pay any land-tax or income-tax in respect of any land or property vested in the Public Trustee under this Act, or in respect of any income derived by the Public Trustee or by Natives from such land or property. 45 50

46. The Public Trustee shall not nor shall any Native be liable to be assessed for or to pay any rate or tax to any local authority upon or in respect of any land or property vested in the Public Trustee under this Act, or upon or in respect of the rent or income thereof, otherwise than as expressly provided by this Act.

Exemption from assessment by local authority.

47. A person over the age of seventeen years shall for the purposes of this Act be deemed to be of full age although under full age.

Seventeen years to be deemed of full age.

48. In conveyances, leases, and other assurances made by the Public Trustee under this Act no covenants for title or quiet enjoyment shall be implied as against the Public Trustee. In such cases the only implied covenant shall be that the Public Trustee has not done or executed or been privy to any act or deed by means whereof the property comprised in the conveyance, lease, or other assurance has not by the Public Trustee been charged or encumbered in any way whatsoever.

No covenants in conveyance, &c., by Public Trustee to be implied against him.

49. Every District Land Registrar shall, without the production of the Crown grant or other instrument of title, register under "The Land Transfer Act, 1885," any lease or other instrument purporting to be made by the Public Trustee under this Act.

District Land Registrar to register without production of Crown grant.

REPEALS.

50. The several Acts following, namely, "The Native Reserves Act, 1882," "The South Island Native Reserves Act, 1883," "The Westland and Nelson Native Reserves Act, 1887," are hereby repealed.

Acts repealed.

Notwithstanding such repeal,—

(1.) The provisions of the said repealed Acts shall remain in force so far as concerns any license, lease, sublease, or contract, and as to the licensees, lessees, sublessees, or other persons claiming thereunder, and as to all Orders in Council, Proclamations, appointments of persons or places or times, and arbitrations, awards, valuations, orders, rules, regulations, by-laws, or conditions made under the said repealed Acts and in force at the time this Act comes into operation, and they shall continue and be in force, but may be revoked, altered, or varied under the authority of the said repealed Acts as if the same were not repealed.

Provisions of repealed Acts to remain in force for purposes of carrying out obligations authorised by repealed Acts.

(2.) When, under the authority of the repealed Acts or any Order in Council, Proclamation, rules, regulations, by-laws, awards, valuations, or orders made thereunder, or under any license, lease, sublease, or contract made under the provisions of the said Acts, any power, duty, or function is vested in or to be performed by the Public Trustee with or without the consent or concurrence of the Public Trust Office Board or any other body or person, then such power, duty, or function shall vest in or be performed by the Public Trustee under this Act in all respects as if such power, duty, or function had originally been vested in or was to be performed by the Public Trustee under this Act.

(3.) Nothing in this Act contained shall, except where otherwise expressly provided, be deemed to affect any estate, right, title, or interest created or existing under or by virtue of the said repealed Acts; and all the provisions of the said repealed Acts shall remain and continue in force for the purpose of giving effect thereto.

(4.) Save as provided expressly by this Act, all the provisions of "The Interpretation Act, 1888," respecting repeals of Acts, shall apply and extend to the repeal hereby effected.

Schedule.

SCHEDULE.

PART I.

GENERAL PROVISIONS.

1/ 32. When any person, without any right or title, or whose right or title has expired or been forfeited or cancelled, shall be in occupation of any lands vested in the Public Trustee, whether such lands be within or outside any mining district, the Public Trustee, or some person appointed in writing by him, may enter a plaint in the Resident Magistrate's Court in the district in which the land lies to recover possession thereof; and the jurisdiction of the Court or Magistrate shall not be ousted on the plea that a question of title to land is involved, or that the value of the premises or rental of which possession is sought to be recovered is in excess of the ordinary jurisdiction of such Court or Magistrate.

If, on the hearing, the defendant does not appear, or appears but fails to establish in himself an absolute right or title to the possession of the land, or if it is shown by or on behalf of the plaintiff, to the satisfaction of the Court or Magistrate, that the title under which the defendant claims has, as between himself and the Public Trustee, expired or become liable to forfeiture or cancellation, the Court shall declare such title to be extinguished, and order possession of the land to be given to the plaintiff, either forthwith or on such day as the Court thinks fit, and order the defendant to pay the costs.

If possession is not given pursuant to such order the Court or Magistrate or any Justice of the Peace may issue a warrant for possession of such lands.

The provisions of sections ninety-one, ninety-two, ninety-three, and ninety-five of "The Resident Magistrates Act, 1867," shall apply to any proceedings under this section.

2/ 35. In any civil proceeding for or in respect of any unlawful occupation, use of, or trespass upon lands vested in the Public Trustee, the proof that the occupation, use, or trespass in question was lawful shall lie on the defendant. And in such proceeding any lands in question shall be deemed to be vested in the Public Trustee without proof of such fact, unless the defendant prove the contrary; and all instruments, maps, plans, certificates, and copies thereof certified as true under the hand of the Surveyor-General or of the Chief Surveyor of the district within which such land is situated, or of the Public Trustee, shall be sufficient evidence of their contents without production of the originals, and without the personal attendance of such officers, or proof of their signature.

3/ 49. The Public Trustee shall be the sole judge whether the terms and conditions of any lease have been complied with, and shall have all the powers and authorities conferred upon any body or person by this Act or the Act under which any such lease was granted or by any other Act relating to forfeitures of leases, and may proceed in the manner indicated in that behalf by any of such Acts notwithstanding the repeal thereof, or may proceed under this Act, to enforce the fulfilment of the conditions of any such lease, or to obtain possession of any land, improvements, or money forfeited for breach of such conditions.

4/ 50A. When under this Act any land is to be valued, and where it is not otherwise provided, then the Public Trustee shall ascertain such value in any manner he thinks fit, and the value so ascertained shall be conclusive; but the Public Trustee may from time to time revalue any land.

TENDERS, DEPOSITS.

5/ 58. No tender for the disposal or other occupation of lands shall be valid unless in writing, made at some office or place appointed by the Public Trustee for that purpose during the hours fixed by the Public Trustee when such office or place is open to the public for the transaction of business, or is sent by letter through the post addressed to the Public Trustee at his principal office in the City of Wellington. If sent by post, the tender shall not be deemed to be made until it reaches the office or place appointed by the Public Trustee, or the principal office, as the case may be.

6/ 59. Where tender is made at an office or place other than the principal office, the officer or person receiving the same shall note the day and hour of the receipt thereof, and shall forthwith transmit such tender, with a note of the time when the same was received, to the principal office.

7/ 60. The Public Trustee shall at all times have power, in the interests of the Native owners or in the public interest, and in his discretion, to refuse to receive any tender.

8/ 62. To every tender for land under Parts III. and IV. of this Schedule there shall be annexed or appended a statutory declaration made and signed by the tenderer in such one of the forms set forth in this Schedule as shall be applicable to the case.

- (1.) All tenders for land made within the time limited shall be deemed to be simultaneous; but no tender, excepting under Part IV., shall be received from the same tenderer for any land of a greater area than two thousand acres of land, inclusive of not more than six hundred and forty acres of first-class rural land.
- (2.) All tenders shall be opened simultaneously on a day appointed by the Public Trustee for the purpose.
- (3.) Every tender shall be incapable of being accepted where the rental tendered is less than the upset rental fixed. And no tender shall be accepted unless the same is closed up and accompanied by a statutory declaration in the form or to the effect hereinbefore referred to, together with six months' rent at the rate mentioned in the tender, and such sum to pay for the costs of the lease and registration thereof as the Public Trustee may by by-laws or regulations have prescribed, together with stamp-duty; and such sums must be paid either in cash or by a marked cheque.
- (4.) The highest tenderer, if his tender shall equal or exceed the upset rental, shall, if the Public Trustee agrees to accept such tenderer, be declared the lessee, and be entitled to possession of the lands so soon as he has duly executed a lease thereof and has complied with all other conditions lawfully prescribed in that behalf.
- (5.) If the rent offered by two or more tenderers is the same amount, and higher than that offered by any other person, then the Public Trustee shall, after opening all the tenders, decide by lot, in such manner as he shall think fit, which of such two or more persons shall be declared the lessee.
- (6.) The deposits and fees paid by the unsuccessful tenderers for any lease shall be returned to them.
- (7.) All lands which have been notified as open for leasing under any Part of this Act, and which have not been let, shall, until withdrawn by the Public Trustee, remain open for leasing, and, in case of more than one tender on the same day for the same land, the right thereto shall be decided by lot.

Provided that the Public Trustee shall not be bound to accept the highest or any tender in any case.

VALUATION FOR IMPROVEMENTS.

9/ 72. Whenever lands vested in the Public Trustee are to be disposed of subject to a payment of the valuation of the improvements made on such lands, such valuation shall, in all cases where it is not otherwise provided by this Act, be made one month at least before the expiry of the existing lease (if any), in such manner as the Public Trustee shall direct; or

Whenever a lease is forfeited for breach of conditions the Public Trustee shall cause a valuation to be made of the improvements made on the land comprised in the lease by the lessee on recovering possession of the land; and

Payment of such valuation shall be made to the Public Trustee, by the purchaser of such lease, before he is admitted into possession.

10/ 73. Notwithstanding anything contained in the last-preceding section, the Public Trustee may reduce the original valuation of the land or the valuation of improvements upon any land which cannot be disposed of by reason of the aforesaid valuation being deemed excessive, and the Public Trustee may from time to time offer such land for leasing, with such reduction of the original valuation as he may deem expedient.

And no person shall have any claim against the Public Trustee, or any other body or person whatsoever, by reason of any reduction of such valuation.

11/ 74. The amount of the valuation of the improvements, when paid by the aforesaid purchaser, shall, if approved by the Public Trustee, be paid to the original lessee, or other person entitled, less any moneys due in respect of such land by the outgoing lessee or occupier, and, in case of forfeiture, less also the amount of expenses incurred in recovering possession of the land and the sale or other disposal thereof.

12/ 75. Whenever improvements have been made on any land the value of which ought, in the opinion of the Public Trustee, to be paid to the lessee or occupant thereof, the Public Trustee may provide that any person who acquires such land by lease from the Public Trustee shall pay to the Public Trustee such value.

13/ 77. No outgoing lessee or occupier shall have any right or claim against the Public Trustee in respect of the value of any improvements made by him in case any person shall fail to pay such value to the Public Trustee; but may sue for the value of such improvements, and take all proceedings for the recovery thereof, in the name of the Public Trustee, on giving an indemnity to the satisfaction of a Judge of the Supreme Court against costs.

COMPENSATION AND ARBITRATION.

14/ 78. Claims for compensation against the Public Trustee in respect of any matters arising under this Act, or for value of improvements or other matters, shall, unless otherwise specially provided, be settled in the manner provided in Part III. of "The Public Works Act, 1882," for which purpose the said Part III., and all other the provisions of that Act which are applicable thereto, shall be deemed to be incorporated with this Act.

In such claims the Public Trustee shall be the respondent.

15/ 79. Where it is provided that any matter arising under this Act shall be referred to arbitration, then such reference, unless herein otherwise provided, shall be to one or more arbitrators appointed by the parties on each side respectively, and an umpire to be appointed by such arbitrators.

(1.) If either party shall fail to appoint an arbitrator within twenty-one days after being requested in writing to do so by the other party, then the arbitrator appointed by the other party shall alone conduct the arbitration, and his decision shall be final and binding on both parties.

(2.) If the said arbitrators shall fail to agree upon the matter referred to them within twenty-eight days of the same having been so referred, then the matter so referred shall be decided by an umpire to be appointed by the said arbitrators, whose decision shall be final and binding on both parties.

(3.) Every such arbitration shall be carried on in the manner prescribed by "The Arbitration Act, 1890," and be subject to such last-mentioned Act in the same manner as if the reference to such arbitration had been made by consent of parties under a written agreement.

(4.) Each party shall pay his or its costs of such reference, and any costs incidental to the appointment of an umpire shall be paid equally by the parties to the arbitration.

16/ 80. Before any appraiser, arbitrator, or umpire enters into the consideration of any matters referred to him under this Act he shall make the following declaration:—

I, A.B., do declare that I have no interest, either directly or indirectly, in the matter of [Here state], and that I will faithfully and honestly, and to the best of my skill and ability, make the appraisement and valuation required under the provisions of "The Native Reserves Administration Act, 1893."

And I make this declaration conscientiously believing the same to be true, and by virtue of an Act of the General Assembly of New Zealand intituled "The Justices of the Peace Act, 1882."

LEASES, TRANSFERS, AND OTHER INSTRUMENTS.

17/ 81. Upon compliance with the provisions of this Act, the Public Trustee shall issue leases, and renewals or transfers thereof, and other instruments, subject to the provisions of this section and of the *eight* next following sections, which shall apply to all leases and renewals or transfers of leases and other instruments under this Act:—

(1.) Whenever the Public Trustee is authorised to issue or execute any lease or instrument, whatever may be its nature, the same may be in such form as shall be prescribed by regulations made by the Public Trustee.

Any form required under this Act may be varied to suit the circumstances of any case which may arise.

(2.) There shall be paid for every lease or other instrument issued or executed by the Public Trustee such fees and charges as the Public Trustee may

by regulations provide; and the Public Trustee may require such fees and charges to be paid before such lease or instrument is issued or executed; and the Public Trustee may refuse to proceed in any transaction if such fees and charges are not paid.

18/ 82. If any person or lessee fails to execute his lease within thirty days after being required by written notice (given in any manner the Public Trustee think fit) so to do, then his deposit and the sum paid for the lease and registration thereof shall, after a resolution of the Public Trustee to that effect has been passed, be absolutely forfeited to the Public Trustee, and the right of such person to obtain such lease shall absolutely cease.

19/ 83. Leases shall be prepared by the Public Trustee, and shall contain such covenants, conditions, and provisions, consistent with this Act, as the Public Trustee may think fit, and shall be subject to the stipulations following:—

- (1.) No lessee shall, except with the consent in writing of the Public Trustee, or except by will, dispose of his lease, or the land comprised therein or any part thereof, or the possession or occupation of the land leased to or occupied by him, or any part thereof, by transfer, mortgage, or otherwise.
- (2.) When a statutory declaration is required from any lessee, no transferee, and no purchaser of any lease under any power of sale vested in any mortgagee or assignee or trustee in bankruptcy, shall be admitted into possession or occupation of the land comprised in such lease until he has deposited with the Public Trustee a statutory declaration in the same form or to the same effect.
- (3.) Every transferee of a lease shall have all the rights and privileges, and be subject to the same obligations, as the original lessee after the date of approval of such transfer by the Public Trustee.
- (4.) No transfer of any lease shall be valid unless all the conditions of the lease or upon which the lease was granted have been complied with as to payment of rent or otherwise up to the date of such transfer.
- (5.) Before any transfer is approved of by the Public Trustee, he may require the transferor to make a statutory declaration to the effect that all the conditions of his lease have been fulfilled up to the date of the proposal to transfer, and in such declaration may require the transferor to declare to such other particulars respecting the land as the Public Trustee shall think fit.
- (6.) If any lessee shall fail to fulfil any of the provisions of his lease within thirty days after the day on which the same ought to be fulfilled, the lease shall be liable to be forfeited by a resolution of the Public Trustee after notice to the lessee, and he shall be deemed, upon such forfeiture, to be in illegal occupation of the land comprised in the lease.

The foregoing conditions as regards leases shall operate and be deemed to bind the Public Trustee and the lessee as fully and effectually as if they were set forth in the lease.

- (7.) No mortgagee under any Part of this Schedule shall be required to make a statutory declaration unless and until he shall become a purchaser under the provisions of the mortgage, but he shall make such a declaration before the Public Trustee sanctions the transfer to him.

20/ 86. Leases by the Public Trustee of land under "The Land Transfer Act, 1885," shall, if registerable, be registered by the Public Trustee under that Act, and, if the land is not under that Act, then in the manner provided by any law for the time being relating to the registration of deeds and instruments. The cost of such registration shall be paid by the lessee.

All dealings with or under leases in contravention of the provisions of section *eighty-three* of this Act as to transfers of leases shall be absolutely void, and the District Land Registrar shall not register any dealing with or under a lease until the production to him of a certificate signed by the Public Trustee that the said provisions have been complied with.

21/ 88. Every lessee (including Natives being lessees) shall be liable for all rates, taxes, or assessments of every nature or kind whatsoever imposed upon the lessee or occupier of the lands included in the lease during the term for which he is lessee.

22/ 89. All declarations made under this Act shall be exempt from duty under any Act now or hereafter passed relating to stamp duties.

23/ 90. The Public Trustee, if satisfied that any lease or other instrument issued by the Public Trustee has been lost or accidentally destroyed, may grant a new lease or instrument in confirmation thereof, upon such terms and conditions in each case as he thinks fit.

LESSEES, LIMITATIONS, PENALTIES, AND FORFEITURES.

24/ 92. Any person of seventeen years of age and upwards may become lessee under Parts III. and IV. of this Act; but no person who has forfeited the right to hold the land leased by him by reason of the wilful breach of any of the conditions of a lease, or who has committed a wilful breach of any of the provisions of this Act, shall, without the consent in writing of the Public Trustee, become the lessee, holder, or owner of a lease under this Act within a period not exceeding two years from such forfeiture or such wilful breach as aforesaid, as may be determined by the Public Trustee.

25/ 93. No married woman not having obtained a decree of judicial separation or protection order shall, except as hereinafter provided, become lessee under Parts III. or IV. of this Schedule.

The provisions of this section shall not apply to any married woman who may become entitled to a lease under a will or by intestacy.

26/ 95. No person shall, by himself or through any other person for him, be entitled to acquire, obtain, or hold, either by original tender, or by transfer, or otherwise in any manner, any land under any tenure under this Act unless it be exclusively for his own use or benefit.

And no person who at the time of tendering has made any promise or agreement, whether binding in law or not, to permit any other person to acquire, by purchase or otherwise, the land in respect of which tender is made, or any part thereof, or the tenderer's interest therein, shall be a lessee under this Act.

Any person who wilfully commits, incites, instigates, or employs any other person to commit, any breach of the provisions of this Act by obtaining any lease or license not exclusively for his own use or benefit, shall be liable to a penalty of not less than *one hundred* pounds nor exceeding *five hundred* pounds; and every one aiding and abetting in such breach shall be liable to the same penalty.

27/ 96. The Public Trustee shall declare every transaction null and void, and all deposit moneys to be forfeited, in any case where any person has acquired land under this Act in excess of the maximum area herein prescribed. Any declaration as aforesaid shall, if the same be entered in the minutes of the Public Trustee, be final and conclusive.

28/ 96A. Where any lessee or person forfeits his right to a lease in any manner, and as often is such a case shall occur, the land shall be again open for leasing, charged with the value of the improvements, if any, to be ascertained and dealt with as hereinbefore directed.

29/ 97. A director, attorney, or agent of a corporation may make on its behalf any of the declarations required by this Act, and forms may be altered accordingly.

30/ 98. Any person who, in any statutory declaration required under this Act, or under any regulations thereunder respectively, wilfully declares to anything which is false, shall be deemed to be guilty of a misdemeanour, and liable to a penalty not exceeding *two hundred* pounds or to be imprisoned for any term not exceeding one year with or without hard labour; and any right or title acquired through any such declaration shall become thereby absolutely forfeited.

31/ 99. When the Public Trustee has reason to believe that the statements contained in any declaration are false, or that any person in making the same has in any manner evaded or attempted to evade the requirements of this Schedule in their true intent and spirit, the Public Trustee may, in his discretion, hold an inquiry into the case, and may declare forfeited all the rights of such person to the land and all moneys paid in respect thereof.

Nothing in this section contained shall be deemed to exempt any such person from any prosecution or penalty he may have become liable to by reason of making a false declaration.

32/ 100. If any person wilfully makes any false declaration required by this Act in respect of the land comprised therein, any lease acquired thereby shall be liable at the option of the Public Trustee to be absolutely forfeited; and, if forfeited, the leased land, with all improvements thereon, shall revert to the Public Trustee, without any payment whatsoever to the lessee.

33/ 102. Upon the forfeiture of any lease, the Public Trustee shall send to the District Land Registrar a notice signed by the Public Trustee of such forfeiture, which shall be a sufficient authority to enter upon the register a note of the said forfeiture and of the cancellation of the lease.

34/ 104. In every case of the forfeiture of a lease, the lessee shall be liable for rent or other payments in respect of his lease, and for the breach of any of the provisions

thereof, up to the time when possession of the land comprised therein has been obtained by the Public Trustee, but not afterward.

CLASSIFICATION OF LANDS.

35/ 106. All lands vested in the Public Trustee shall be divided into four classes, as determined by the Public Trustee, namely,—

- (1.) Town land, being the sites heretofore reserved or which shall be hereafter reserved for towns or villages, and includes land in any borough or city :
- (2.) Suburban land, being land in the vicinity of any town land :
- (3.) Rural land, being lands not reserved for towns or villages or other public purposes.
- (4.) Pastoral land, being land not within any of the above classes.

36/ 108. The Public Trustee may from time to time, by notice in the *Gazette*, declare that any land not already classified shall belong to either of the said classes, and also that any land shall cease to belong to either of such classes and belong to other classes.

37/ 112. All rural lands may be classified by the Public Trustee into first- and second-class lands, and may be leased at the rentals following, that is to say,—

- (1.) First-class lands, at a rent not less than _____ per centum per annum on a value of not less than twenty shillings per acre ; and
- (2.) Second-class lands, at a rent not less than _____ per centum per annum on a value of not less than five shillings per acre.

38/ 113. The Public Trustee may, from time to time, reclassify such lands, and fix the value thereof, being a value not less than the minimum prescribed for land of the same class.

39/ 122. The Public Trustee may withdraw any land from leasing, notwithstanding that tenders may have been made to lease the same. No tenderer shall in such case have any claim against the Public Trustee.

40/ 124. No lands held under this Act under any tenure shall be capable of being sold for non-payment of rates due by the lessee or occupier thereof.

But the non-payment of any rates on land held from the Public Trustee for which the lessee is liable under any law shall be deemed to be a breach of the conditions of his lease, for which such lease shall be liable to forfeiture, as in the case of non-payment of rent.

If any lessee of land under this Act shall fail to pay to a local authority any rate thereon for which he is liable, for fourteen days after demand thereof by such authority, such authority may apply to the Public Trustee for redress, and the Public Trustee may, if such rate remain unpaid for thirty days after notice served by the Public Trustee, declare such lease to be absolutely forfeited ; and the Public Trustee shall pay such overdue rates to the local authority, and make this a charge against the land or out of any moneys received by them for improvements on the land.

The provisions of this section shall apply to all lessees under this Act or under any Act heretofore in force.

PART III.

LEASING OF LAND.

41/ 136. The Public Trustee may from time to time, by notification in the *Gazette*, and in such other manner as the Public Trustee thinks fit, offer any land, not being lands open under Part IV. of this Act, for lease by tender in areas not exceeding six hundred and forty acres, in the manner and upon the conditions mentioned in this Part of this Act.

42/ 137. Every such notification shall fix the upset rental at which, and the time and place when and where, the land mentioned therein shall be open for leasing.

The time shall not be less than thirty days after the date of the notification.

In the case of rural land the upset rental shall not be less than _____ per centum per annum upon a value not less than twenty shillings per acre for first-class land, and _____ per centum per annum upon a value of not less than five shillings per acre for second-class land.

The Public Trustee may, in any such notification, assign a price per acre to each block, or to each section within a block, and may, subject to a new notification

being given, and to the provisions of this Act fixing the minimum prices of land, raise or reduce such price.

43/ 111. All town and suburban lands—

- (1.) May be offered for lease in sections the size or extent and upset rental of which shall be fixed and determined by the Public Trustee, and subject to the condition that no town lands shall be let at a rate less than per centum per annum upon a value less than twenty pounds sterling per acre; and no suburban lands at less than per centum per annum upon a value of not less than two pounds per acre; or
- (2.) May, if not let within such time as the Public Trustee fixes, be let for any time not exceeding fourteen years, at a rent not less than five per centum on the value of such lands, subject that the lessee shall not have any right of compensation for improvements at the expiration of his lease.

44/ 157. Lands leased under this Part of this Schedule shall be held—

- (1.) For a term of twenty-one years. Such terms shall be reckoned from the next first day of January or July following the date thereof, and shall, in addition, include the period between the date of the lease and such day. Such leases shall be renewable as hereinafter provided.
- (2.) The yearly rental in respect of such lease shall be payable in equal parts, half-yearly in advance, on the first day of January and the first day of July in each year, to the Public Trustee.

45/ 158. No lessee shall be capable of becoming the lessee under more than one lease unless the lands are of different classes, or unless the lands comprised in the several leases adjoin each other. Lands shall be deemed to adjoin each other if only separated by a road or stream, or such interval of space as the Public Trustee may determine in each case.

No lessee shall be capable of holding, whether solely or jointly with any other person or in partnership, in the case of rural land, more than six hundred and forty acres; in the case of suburban land more than five acres, and in the case of town land more than two acres.

Any lease held by any person who shall hold or occupy by himself or by other persons under him more than one lease or more than the area aforesaid, except as aforesaid, shall be forfeited, and be deemed to be and to have been, from the issue thereof, absolutely void and of no effect.

The provisions of this section shall not apply to persons who may become lessees or sub-lessees by marriage, or under a will, or by virtue of an intestacy.

Compulsory Residence.

46/ 141. Residence on any land under this Part of this Schedule shall be compulsory, and shall commence in bush-lands or on swamp-lands within four years, and in open or partly open land within one year, from the date of the commencement of the term; and thereafter such residence shall be continuous for a term of ten years.

But these conditions of residence shall not apply to any person who has acquired an interest in any lease under an intestacy or by will.

Where two or more persons are lessees under one lease, then—

- (1.) One of the lessees only shall be required to reside on the land; but in all other respects each lessee shall be subject to the same conditions, limitations, restrictions, and disqualifications as prescribed in the case of any one lessee.
- (2.) Any lessee in a joint lease may transfer his interest in the land to a co-lessee or to some other person, as provided in section *one hundred and forty-seven*; and, in the event of the death of a lessee in a joint application, the executors or administrators shall have the same powers to transfer the land of the deceased lessee as is provided in the case of the decease of any lessee.

47/ 142. The Public Trustee may dispense with residence if the lessee reside and continue to reside on lands contiguous to the lands held under lease. Lands shall be deemed to be contiguous to each other if only separated by a road or stream, or by such interval of space as the Public Trustee may determine in each case.

48/ 143. Personal residence may also be dispensed with by the Public Trustee in the cases hereinafter mentioned:—

- (1.) Whenever two persons, being lessees under separate leases, have intermarried at some period not sooner than twelve months after the issue of the last of such leases, the Public Trustee may dispense with residence

upon the land comprised in one of such leases, and residence on the land in one of such leases as shall be required by the Public Trustee shall be deemed to be personal residence as regards both leases.

- (2.) The Public Trustee shall have a discretionary power to dispense with personal residence on sufficient and satisfactory grounds being shown for non-residence in any case whatever.

Improvements.

49/ 144. Every lessee of lands under this Part of this Schedule shall put on the land comprised in his lease substantial improvements—

- (a.) Within one year from the date of the commencement of his lease, to a value equal to ten per centum of the value of the land;
- (b.) Within two years from such date, to a value equal to another ten per centum of the value of the land;
- (c.) And thereafter, but within six years from such date, to a value equal to another ten per centum of the value of the land;

And in addition thereto shall, within six years from such date, put substantial improvements of a permanent character on first-class land to the value of one pound per acre, and on second-class land to an amount equal to the net value of every acre of such land: Provided that in no case shall the additional improvements required on second-class land be more than ten shillings per acre.

And every lessee shall, when so required by the Public Trustee, make and sign a statutory declaration as to his fulfilment of the conditions of occupation and improvement of the land leased or in his occupation up to the time of making the said declaration.

50/ 146. In the case of suburban lands the Public Trustee in his discretion may dispense with conditions as to improvements of special monetary value, where such substantial improvements have been effected as in the opinion of the Public Trustee are reasonable in the circumstances.

51/ 147. The Public Trustee, on compliance with the provisions of section *eighty-three*, or on his being satisfied by a statutory declaration that the transferor is unable or not in a condition to make the improvements on the land required by this Act, may sanction a transfer of any interest in such land held under this Part of this Act to any person not disqualified who shall make the declaration under the particular system under which the land is held, as given in the Forms to this Act.

LEASES OF SMALL AREAS.

52/ 61. Notwithstanding anything in this Act, the Public Trustee may from time to time set apart for lease with right of renewal, as provided by this Part of this Schedule, portions of rural lands not exceeding fifty acres each, to be open to all persons by tender to the Public Trustee in such manner as it thinks fit.

- (1.) Every tenderer shall, with his tender, enclose a statutory declaration in the form referred to in section *sixty-two* of this Schedule, or to the effect thereof, the form being amended to suit the case, and shall also deposit the amounts stated in the aforesaid section.
- (2.) If more persons than one tender whose tenders are equal for the same allotment, the right shall be determined by lot, in manner as the Public Trustee shall direct.
- (3.) Renewals of leases of land set apart as aforesaid shall be made as in other cases of leases under this Part of this Schedule.

Every lease under this provision shall be for a term of twenty-one years, renewable from time to time as hereinafter provided.

No lessee shall, either solely or jointly with any other person or in partnership, under this provision hold more than fifty acres. Any lease so held shall be absolutely void.

The rent shall not be less than five per centum per annum upon the value of the land, not being less than shillings per acre.

Except as hereinbefore mentioned, all the provisions of this Act shall apply in respect of land taken up under this section.

Surrenders.

53/ 159. Any lessee may, with the consent of the Public Trustee, surrender the lands comprised in his lease, upon such terms as the Public Trustee thinks fit. It

shall not be competent for the surrendering lessee for the period of one year from the date of such surrender to become the lessee of the new lease, either originally or by transfer or sub-lease, in case there should be any other applicant for such new lease, unless the Public Trustee consents in writing thereto.

PART IV.

SMALL RUNS.

54/ 172. Pastoral lands may from time to time by the Public Trustee, by notice in the *Gazette*, or in such other manner as he thinks fit, be set aside and subdivided into grazing-runs.

The area of a grazing-run shall not exceed five thousand acres.

The term shall be twenty-one years in possession, with right of renewal as hereinafter provided.

55/ 173. Runs may be declared open for lease by tender, at a rent of not less than two and a half per centum per annum on the value as determined by the Public Trustee, as the Public Trustee shall think fit, not being less than per acre.

56/ 174. No person shall be a lessee under this Part of this Act—

- (1.) Of more than one run; or
- (2.) Who owns any freehold land, or land held by lease or license of any kind whatever from the Crown or the Public Trustee, or land held by lease from any other person or from any company or corporation or local authority, whereby such person, either by himself or jointly with any other person or persons, would become the owner or occupier of lands anywhere in the colony which taken together would exceed in area one thousand acres exclusive of the lands comprised in the run for which he is an applicant; or
- (3.) Who is disqualified under any provision of this Act.

The provisions of this section shall not apply to persons who may become lessees or sub-lessees by marriage, or under a will, or by virtue of an intestacy.

Leases acquired or held by any person in contravention of this section shall be deemed to be and to have been from the issue thereof absolutely void and of no effect.

57/ 176. A lease shall entitle the lessee to the exclusive right of pasturage over the lands included in the lease, and to all crops which he may take off any part of the lands he may put into cultivation, in manner not in contravention of his lease or this Act or of regulations thereunder. No lease shall confer or give to the lessee any right to the timber or minerals on or under the land leased.

58/ 177. Every lease shall be subject to the following conditions :—

- (a.) Such roads and rights-of-way as are in common use shall remain open to the public, and the Governor or the Public Trustee may from time to time take, without compensation to the lessee, such other road or roads as may be deemed necessary through any part of the lands leased, not being part of lands immediately adjoining the homestead which the lessee shall previously have selected with the approval of the Public Trustee. Such roads as may be taken by the Governor or the Public Trustee may be either temporary or permanent, as may be expressed in any notice to that effect published in the *Gazette*.
- (b.) The lessee may, with the approval of the Public Trustee, select not exceeding one hundred and fifty acres of land immediately adjoining and including his homestead, through which no road may be taken without the lessee's consent, and on which he may cut timber to be used for fencing or building purposes only on the land leased.
- (c.) The lands comprised in the lease shall be subject to the provisions of any law relating to mining in force at the time when such lease was granted, and to all regulations made thereunder; and every holder of a miner's right or business license may exercise the same respectively over lands which may be leased under this Part of this Act.

59/ 178. Lessees shall reside on some portion of the land leased: if bush or swamp land, within three years; if open or partly open, within one year; and such residence shall be continuous to the end of the term, but the conditions of such residence may be relaxed by the Public Trustee.

60/ 179. Lessees shall put on the land leased substantial improvements of a permanent character to a value equal to the amount of one year's rent of the land within one year from commencement of the lease; and to a value equal to another year's rent within two years from such date; and thereafter, but within six years from such date, to a value equal to the amount of other two years' rent; and on bush land, in addition thereto, shall put substantial improvements of a permanent character on the land comprised in the lease, to the value of ten shillings for every acre of such land if first-class land, or of five shillings if second-class land.

Any money paid for value of improvements by a purchaser of a lease shall be allowed as substantial improvements put upon the land by such purchaser, to the amount of such value, within the meaning of this section.

61/ 180. The lessee shall pay the rent reserved by his lease to the Public Trustee by equal half-yearly instalments, in advance.

62/ 193. No person or company, either solely or jointly with any other person or in partnership, shall hold more than one run or lease under this Part of this Act.

63/ 199. Every lease under this Part shall be deemed to contain the following conditions:—

- (1.) A condition for the payment of the rent at the times herein mentioned;
- (2.) A condition that if the lessee, or any person claiming title or interest through or under the lessee, shall make or cause to be made any agreement or contract, or shall give or cause to be given or taken any negotiable security, for the purpose of defeating or evading the provisions of, or shall in any way whatsoever, directly or indirectly, commit or be privy to a fraud upon, this Act, the lease shall be liable to be forfeited and revoked;
- (3.) A condition that the lessee shall prevent the destruction or burning of timber or bush on the land comprised in his lease: Provided that the Public Trustee may grant authority to destroy timber or bush by burning or otherwise upon such terms as the Public Trustee thinks fit;
- (4.) A condition that the lessee shall prevent the growth or spread of gorse, broom, and sweetbriar on the land comprised in his lease:

And every lease shall contain such other conditions and provisions as the Public Trustee shall approve of and shall direct to be inserted therein.

64/ 204. Every transfer of the interest in a run held under a lease shall be registered at the principal office by lodging at such office a duplicate of such transfer, and until so registered shall have no effect or operation, and no interest, either at law or in equity, shall be transferred thereby. No transfer shall be registered in the Land Transfer register, or under any law relating to the registration of deeds and instruments, unless there is indorsed thereon or annexed thereto a certificate signed by the Public Trustee that the provisions of this section have been complied with.

65/ 215. If the rent of any run is not paid within thirty days after it shall become due, ten per centum on the amount unpaid shall be added thereto, and such rent, together with such addition, shall be recoverable in manner as provided in this Act for recovery of rent in arrear: Provided that, in case of the death of the lessee before the rent becomes due, the time of payment may be extended by the Public Trustee to not exceeding three months.

66/ 218. The Public Trustee may accept the surrender of any lease under this Part of this Act, upon such terms as he thinks fit.

PART V.

RENEWALS OF LEASES.

67/ 182. Every lease shall be renewable from time to time, upon the expiration of the term, for terms of twenty-one years. On the expiry of any lease a new lease shall be offered to the existing lessee at least twelve months before the expiration of the lease, at a rent to be ascertained as hereinafter specified.

(a.) A valuation shall be made by an appraiser to be appointed by the Public Trustee of the then value of the fee-simple of the lands then included in the lease, and also a valuation of all substantial improvements of a permanent character made and then in existence on the said land.

- (b.) After making and publishing the valuations as aforesaid, which shall be effected by serving a copy of the same on the lessee and on the Public Trustee, but not later than twelve months before the expiry of the term for which the lessee then holds the lands, the lessee shall elect, by notice in writing delivered to the Public Trustee, whether he will accept a fresh lease of the said lands for a further term of twenty-one years from the expiration of the then term, at a rental equal to not less than two and a half per centum of the value of the fee-simple as fixed, less the value of improvements, by the said valuation; such fresh lease to be subject to conditions similar to the previous lease, excepting as to the amount of rent payable thereunder.

In the event of an existing lessee not agreeing to the valuations made as aforesaid, then the rent to be paid shall be determined by arbitration, in manner provided by section *seventy-eight*.

68/ 183. If the lessee shall not elect to accept a renewal as above mentioned, or shall refuse or neglect to execute a lease within thirty days after the same is tendered to him for the purpose, then a lease of the said lands shall, not later than one month before the end of the term for which the existing lease was granted, be offered to tender for a further term of twenty-one years on the following terms and conditions:—

- (a.) The rent upset shall be such as shall be fixed by the Public Trustee, not being a greater sum than that at which the lease was offered to the existing lessee.
- (b.) The amount of such rent shall be stated in the advertisement, and it shall be a condition of tendering that the tenderer shall, together with his application, deposit the amount of one half-year's rent, which shall be returned to him if he fails to obtain the run.
- (c.) If any person other than the existing lessee be declared the purchaser, he shall within thirty days, and before being admitted into possession, pay over to the Public Trustee the amount of the value of the substantial improvements of a permanent character, as fixed by the valuation; and on failing to make such payment all his right to the lease shall be deemed to be forfeited, as well as any deposit he may have made in respect thereof.
- (d.) On the day of the expiry of the existing lease, or thereafter, if the Public Trustee has satisfied himself that the outgoing lessee has let the new lessee into quiet possession of the land to be leased, and that none of the improvements on the land which were thereon when the valuation mentioned was made have been destroyed or appreciably damaged, the Public Trustee shall pay over to the outgoing lessee the amount received by him from the incoming lessee as aforesaid.
- (e.) If any of the improvements have been destroyed or appreciably damaged, then the value of the improvements so destroyed, or the cost of repairing such damage, shall be decided by the Public Trustee or some person appointed by him; and the amount so fixed, with the costs attending such decision, shall be deducted from the amount payable as aforesaid to the outgoing lessee, and, save the amount so deducted for costs, shall be returned to the incoming lessee.

69/ 184. The Public Trustee in disposing of any new lease shall make provision that the right to take possession under such new lease shall commence on the first day of March in any year, and that no such disposal shall be made without the existing lessee having been given not less than one month's notice thereof, and that the tenant shall, during such period of notice, have a right to elect to accept a new lease as aforesaid.

70/ 185. If such lease shall not be disposed of as above mentioned to some person other than the lessee, or if such person fail to execute the lease within thirty days, or to pay the half-year's rent and the value of the improvements as aforesaid, then the lessee may again, within thirty days, elect in manner aforesaid to accept a fresh lease as aforesaid; and if he do not elect to accept the same, or refuse or neglect to execute such lease for thirty days as aforesaid, then he shall continue as tenant of the said lands, from year to year, and shall pay the rent reserved by his expired lease, and observe and perform the covenants and conditions contained in the same, or until the Public Trustee shall succeed in finding an applicant for the new lease, unless, prior to the finding of such applicant by the Public Trustee, he shall elect to accept a new lease for the said further period of twenty-one years as aforesaid.

71/ 186. No outgoing lessee or tenant shall have any right or claim against the Public Trustee in respect of the value of any improvements made by him on the lands in case any incoming lessee or tenant shall fail to pay such value to the Public Trustee; but such outgoing tenant may sue for the value of such improvements, and take all proceedings for the recovery thereof, in the name of the Public Trustee, on giving him an indemnity to the satisfaction of a Judge of the Supreme Court against costs.

PART VI.

LICENSES FOR CUTTING TIMBER, FLAX, AND OTHER PURPOSES.

72/ 222. The Public Trustee may issue licenses, in forms to be by the Public Trustee prescribed, upon such terms and conditions as the Public Trustee thinks fit, authorising the holders to occupy, for any period not exceeding seven years from the granting thereof, not exceeding eighty acres of land in any case, for any of the undermentioned purposes, namely:—

- Cutting, felling, or removing timber or bark;
- Cutting or removing flax;
- Digging for gum;
- Removal of clay for bricks or pottery;
- Removal of sand, gravel, or stone;
- Removal of guano or other substances;
- Working of quarries;
- Sites for saw-mills, flour-mills, flax-mills;
- Sites for tanneries, fellmongers' yards;
- Sites for slaughteryards, brick-kilns;
- Sites for potteries, ferries, jetties;
- Sites in thinly-inhabited districts for inns and accommodation-houses;
- Sites for tramways and for rope-walks.

73/ 226. The Public Trustee, in his discretion, may issue provisional licenses to occupy any rural land not exceeding two hundred acres for any of the purposes mentioned in section two hundred and twenty-two, for any term not exceeding three years, and the holder of a provisional license may at any time during the currency of the license apply for and, if the Public Trustee see no objection thereto, obtain a lease of the lands held under such license; and such lease shall be granted for any term not exceeding twenty-one years, at such annual rental, in such form, and subject to such conditions as the Public Trustee may determine.

74/ 227. The Public Trustee may, on the application of any saw-mill proprietor or other person, set aside any block or blocks of timber land, not exceeding in the whole six hundred acres, of which licenses of sections not exceeding two hundred acres each, having regard to the quality of the timber, may be granted to the applicant in terms of the last-preceding section, subject to such conditions as may from time to time be prescribed by regulations.

No license beyond the first shall be issued except on the certificate of some person appointed in that behalf by the Public Trustee, that the marketable timber has been properly cut and cleared off the section previously licensed.

All such timber licenses shall, if the Public Trustee thinks fit, contain a provision to the effect that young marketable-timber trees, not fewer in number than the trees felled by the licensee, shall be properly planted on the area under license.

75/ 229. Any unlicensed person occupying or using any lands vested in the Public Trustee for any of the purposes before mentioned in this Part of this Act shall, on conviction thereof, be liable to a penalty not exceeding twenty pounds, to be recoverable in a summary way, or imprisonment for a term not exceeding one month.

PART VII.

RESERVES.

76/ 235. The Public Trustee may, from time to time, either by a general or particular description, temporarily set apart as reserves any lands vested in the Public Trustee which, in his opinion, are required for any of the following purposes, namely:—

- (1.) For roads, bridges, ferries, reservoirs, watercourses, drains, embankments, quarries, gravel-pits, shingle-beds; or
- (2.) For sites of markets, abattoirs, public pounds, baths, wash-houses; or
- (3.) For sites and grounds for schools and hospitals; or
- (4.) For the growth and preservation of timber, or for the preservation of the native fauna; or
- (5.) For gardens, parks, domains, or commons, or for the health, recreation, convenience, or amusement of the people, or for burial-grounds or cemeteries; or
- (6.) Any land containing thermal, mineral, or other springs which he may think should be so reserved for the public health, or any land wherein or whereon natural curiosities or scenery may exist of a character to be of national interest.

77/ 236. When any land has been set apart temporarily, notice of such reservation shall be published in the *Gazette* and sent to the Minister.

At the expiration of one month, but not later than six months, after the publication of such notice, the lands described therein may, unless the Governor notifies to the Public Trustee that he objects to the setting-apart of such land, be permanently set apart, and notice of such permanent setting-apart shall be published in the *Gazette*, and failing such permanent setting apart, or in case the Governor objects thereto, any such temporary setting apart shall be void.

78/ 237. Upon such notices being duly published as aforesaid the lands described in such notices respectively shall become and be dedicated to the purposes for which they were set apart respectively, and may at any time thereafter be conveyed by the Public Trustee with the consent of the Governor in Council to any local authority for such purposes, or disposed of in such other manner as the Public Trustee, with the consent of the Governor in Council, in the public interest may deem best, subject to the condition that they shall be held in trust for the purposes for which they were set apart, unless such purpose be lawfully changed.

FORM

DECLARATION ON APPLYING FOR A LEASE UNDER PART III.

I, A.B., do most solemnly and sincerely declare—

1. That I am of the age of seventeen years and upwards.
2. That I am the person who, subject to the provisions of "The Native Reserves Administration Act, 1893," am applying for the purchase [or am desirous of becoming the transferee or sub-lessee] of a lease of all that [*Here describe the land with sufficient particularity to identify it.*]
3. That I am acquiring such lease solely for my own use and benefit, and not directly or indirectly for the use or benefit of any other person or persons whomsoever.
4. That, including the lands now applied for, I am not the owner, tenant, or occupier, directly or indirectly, either by myself or jointly with any other person or persons, of any lands anywhere in the colony exceeding in the whole 2,000 acres of land, inclusive of not more than 640 acres of first-class land.
5. That I have not, within one year from the date hereof, surrendered a lease of lands under the above-mentioned Act for a lease whereof I am now applying.

And I make this solemn declaration conscientiously believing the same to be true, and by virtue of an Act of the General Assembly of New Zealand intituled "The Justices of the Peace Act, 1882."

A.B.

Declared at _____, this _____ day of _____, 189____, before me, _____, a Justice of the Peace in and for the Colony of New Zealand.

FORM

DECLARATION ON TAKING A LEASE OF A SMALL GRAZING-RUN UNDER PART IV.

I, A.B., do solemnly and sincerely declare—

1. That I am of the age of seventeen years and upwards.
2. That I am the person who, subject to the provisions of "The Land Act, 1892," am desirous of becoming the purchaser [or am desirous of becoming the transferee] of a lease of the pastoral lands, being all that piece of land [*Here describe land with sufficient particularity as to identify it.*]

3. That I am purchasing such lease solely for my own use and benefit, and not directly or indirectly for the use or benefit of any other person or persons whatsoever.

4. That I am not already the holder of any lease of pastoral lands in any part of the colony, nor have I any interest in any such lease.

5. That I do not own any freehold land, or land held by lease or license of any kind whatever, anywhere in the colony, either by myself or jointly with any other person, which, exclusive of the land I am now purchasing the lease of, will exceed in area 1,000 acres.

And I make this solemn declaration conscientiously believing the same to be true, and by virtue of an Act of the General Assembly of New Zealand intituled "The Justices of the Peace Act, 1882."

Declared at _____, this _____ day of _____, 189____, before me, _____, a Justice of the Peace in and for the Colony of New Zealand.

A.B.