

Hon. Mr. Carroll.

WEST COAST SETTLEMENT RESERVES ACT
AMENDMENT.

ANALYSIS.

<p>Title.</p> <p>1. Short Title.</p> <p>2. Interpretation.</p> <p>3. Definition of "Improvements" and "Cultivation."</p> <p>4. Special provisions for leasing reserves to Natives.</p> <p>5. Surrender of lease for purpose of subdivisinal leases.</p>	<p>6. Regulations made declared valid.</p> <p>7. Definite settlement of shares of land.</p> <p>8. Lease conclusive evidence of its validity.</p> <p>9. Faults or informalities in good faith not to invalidate lease.</p> <p>10. Meetings informally convened not to be invalid.</p> <p>11. Public Trustee's acts in good faith not to be questioned.</p>
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A BILL INTITULED

AN ACT to amend "The West Coast Settlement Reserves Act, Title. 1892."

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

1. The Short Title of this Act is "The West Coast Settlement Reserves Act Amendment Act, 1893." Short Title.

2. In this Act, if not inconsistent with the context, "the said Act" means the West Coast Settlement Reserves Act, 1892, and includes the Schedule thereto and this Act. Interpretation.

3. The following definitions in section two of the said Act, shall, for the purposes of the said Act, from and after the coming into operation of "The Land Act, 1892," be deemed to have had the following meanings, that is to say:— Definition of "Improvements" and "Cultivation."

"Improvements" and "substantial improvements" in the said Act to have the same meaning as "substantial improvements of a permanent character" in "The Land Act, 1892:"

"The Land Act, 1885," to have meant "The Land Act, 1892," and all amendments of that Act, and any Act passed in substitution of that Act:

The terms "cultivate" and "cultivation" respectively, in the said Act, shall, as from the coming into operation of "The Land Act, 1892," have the meanings given to those expressions by that Act.

Special provisions
for leasing reserves
to Natives.

4. Notwithstanding any of the provisions of the said Act as to the leasing of land by tender or otherwise, the Public Trustee may, in his absolute discretion,—

- (1.) Lease land to Natives in possession and not in reversion :
 Provided that no Native shall solely, nor shall two or 5
 more Natives jointly, become lessees of or hold or own
 whether as lessees or otherwise under this section more
 than acres, unless the same shall come to or
 devolve upon him or them by intestacy, will, or marriage:
 Any instrument whereby a Native becomes a lessee of, 10
 holds, or owns more than such limited acreage shall be
 void, so far as it contravenes this section :
- (2.) The rent, covenants, conditions, and provisions of leases
 under this section shall be as fixed by the Public Trustee,
 either generally or in any particular case: Provided that 15
 the rent shall not be less than five pounds per centum
 per annum on a valuation of the land for an estate in
 fee-simple as determined by the Public Trustee, and
 whose determination shall be final and conclusive :
- (3.) Leases under this section shall be for twenty-one years, and 20
 shall be renewable in like manner, and subject to the like
 conditions, as is provided by the said Act, subject, never-
 theless, to any restrictions or conditions made by regula-
 tions which the Public Trustee may make, and is hereby
 authorised to make, relative thereto : 25
- (4.) The Public Trustee may, in his absolute discretion, by regu-
 lation, impose conditions restraining Natives, being lessees,
 or claiming by through or under lessees, or holding or
 owning a lease under this section, or any estate or inter- 30
 est therein or thereunder, from alienating any lease
 granted thereunder, or any land comprised therein, or any
 estate or interest under a lease, except as provided by such
 regulations : Such regulations shall, as to the conditions
 imposed, be as valid as if such conditions were enacted 35
 by statute :
- (5.) No Native, being a lessee under this section, or claiming by
 through or under a lessee, or holding or owning a lease
 under this section, or having any estate or interest in a
 lease, shall have any right at law or in equity to alienate 40
 the lease or the land comprised therein, or any part thereof,
 or any estate or interest therein or thereunder, contrary
 to the provisions of this section or to any conditions
 imposed by regulations made by the Public Trustee, and
 all alienations or attempted alienations contrary thereto 45
 shall be void: Provided that the Public Trustee may in
 writing, but not otherwise, from time to time alter, vary,
 release, or waive any of such provisions or conditions as
 to alienation.
- (6.) No Native, being a lessee, or owning or holding a lease or 50
 any estate or interest in or under a lease, shall dispose
 thereof by gift or will otherwise than to or in favour of a
 Native.

5 (7.) Natives being lessees under this section, and Natives holding or owning a lease under this section or any estate or interest therein or thereunder, 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.

10 (8.) The share, estate, or interest of Natives under a lease shall not (except so far as the Public Trustee is concerned) be liable to be seized, sold, attached, or levied upon by any process whatever, or become vested in any Official Assignee or creditor's trustee in bankruptcy, or be subject to any law relating to bankruptcy or insolvency, or be assets in bankruptcy.

15 (9.) "Alienate," "alienating," and "alienation" for the purposes of this section respectively include a limited disposal as well as an absolute one, and any mortgage, charge, lien, or encumbrance.

20 5. When, as to any lease (other than a lease made under an award) heretofore or hereafter made by the Public Trustee under the said Act, or the Acts repealed thereby, the land demised is when this Act comes into operation or shall thereafter become as to different portions thereof vested in several persons for the whole term, 25 or when two or more persons shall hold for the whole term the land comprised in one or more leases, and the whole of such persons desire to surrender and take separate leases of separate portions of the land leased, and agree as to the apportionment of the rent and the covenants, conditions, provisions, and agreements to be contained in 30 such separate leases, and the Public Trustee agrees to accept such surrenders and to grant separate leases of such separate portions at the apportioned rents, covenants, conditions, provisions, and agreements, then the Public Trustee may accept such surrenders and grant such separate leases accordingly; or, when any person owning the 35 whole of the land comprised in a lease for the whole term subdivides the leased land, desires to obtain separate leases for the subdivisions, then the Public Trustee may accept a surrender, and grant separate leases for each subdivision to such person, or to an approved nominee, and may apportion the rent, covenants, conditions, and 40 provisions reserved and contained in the surrendered lease to and amongst the separate leases, in such manner as the Public Trustee thinks just:

Surrender of lease for purpose of subdivisinal leases.

45 Provided that all costs, charges, and expenses 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.

50 6. Regulations heretofore made, purporting to be made by the Governor, or the Public Trustee, under the said Act are hereby declared to have been from the making thereof valid. All acts, matters, and things heretofore done or omitted by the Public Trustee, or by any person acting under his authority express or implied, under the authority or presumed authority of the said Act are hereby confirmed.

Regulations made declared valid.

Definite settlement
of shares of land.

7. It is declared by way of affirmance that, as from the respective times when the shares of grantees or beneficiaries of any lands were determined and settled as provided by the fifteenth section of "The West Coast Settlement Reserves Act 1881 Amendment Act, 1884," such grantees or beneficiaries, or their successors upon death, were for all purposes, whether under the said Act or the Acts repealed thereby, and shall be and be deemed to have been, entitled to the shares as so determined and settled; and such determination and settlement shall be deemed to have been final and conclusive, and no order of the Native Land Court or a Judge thereof, made after such determination and settlement, which varies or attempts to vary such shares, and no order of partition or subdivision or any order which defines relative shares or interests or affects the determination and settlement so made as aforesaid, shall be deemed to have had or to have any force or effect in so far as it affects the determination and settlement made as aforesaid.

Provided that if heretofore the Public Trustee has in any case acted on any such partition or subdivision order, or other order as aforesaid, and has made payments in pursuance thereof, then such partition or subdivision order or orders as aforesaid shall be and be deemed to have been valid, and to have varied so far as they do vary the shares of grantees or beneficiaries so determined and settled as aforesaid.

The list or record in the Public Trust Office, when "The West Coast Settlement Reserves Act, 1892" came into operation, containing the names of the grantees or beneficiaries (or their successors in case of death) whose shares were determined and settled as aforesaid, shall, as from that time, with such alterations or corrections therein as may from time to time have been made by the Public Trustee, be and be deemed to have been conclusive evidence that the persons whose names appear on, by, or from such list or record, were and are rightfully entitled to the respective shares set forth therein or appearing therefrom:

All payments heretofore made and acts and things done or omitted by the Public Trustee shall be valid and effectual as if this section had then been in force.

Lease conclusive
evidence of its
validity.

8. A lease (except under an award) heretofore or hereafter executed by the Public Trustee, if purporting to be made under the authority of the said Act, shall be conclusive evidence that all acts, matters, and things necessary or required to be done, omitted, or to happen, to render such lease valid, were done or omitted or had happened prior thereto.

Faults or
informalities in
good faith not to
invalidate lease.

9. No defect, irregularity, or informality, whether in form or substance, in any notice, appointment, valuation, proceeding, or meeting heretofore or hereafter given, made, taken, or held under the said Act shall vitiate any lease, or any act, deed, matter, or thing heretofore or hereafter made, done, or omitted by the Public Trustee, or any other person acting under the Public Trustee's authority (express or implied), in good faith; and the Public Trustee or such other person shall not be liable to an action, suit, or other proceeding by reason thereof.

10. No meeting under section eight of the said Act, and no proceedings thereat, shall be invalid by reason of any informality or irregularity in convening such meeting or otherwise, or in the proceedings thereat, or that Natives or persons not entitled to take part
 5 in such proceedings did take part therein; and meetings and proceedings thereat, and acts, matters, and things done or omitted upon or in consequence of such meetings or proceedings, shall, notwithstanding any informality or irregularity, or that Natives or persons not entitled to take part in proceedings at meetings did take part therein,
 10 be valid :

Meetings informally convened not to be invalid.

Provided that nothing hereinbefore contained shall prevent the Public Trustee, if he thinks fit, from convening a further meeting, and which further meeting he is hereby authorised to convene, and in which case all proceedings at the previous meeting shall be deemed
 15 of no effect.

This section shall be deemed to have been in force when the said Act came into operation.

11. Where by the said Act the Public Trustee is authorised to do or omit any act or thing, such authority, if not otherwise expressly
 20 provided, shall, as from the time when the said Act came into operation, be and be deemed to have conferred upon the Public Trustee discretionary authority to do or omit to do such act or thing, and any act or thing done or omitted by the Public Trustee in good faith shall not be called in question.

Public Trustee's acts in good faith not to be questioned.