

Indemnity Act 1868

Public Act 1868 No 71
Date of assent 20 October 1868

Contents

	Page
Title	1
Preamble.	
1 Short Title.	1
2 Who indemnified.	2
3 In cases of doubt Governor may declare indemnity.	3
4 Act not to abridge prerogative of Her Majesty.	4

An Act for indemnifying Persons acting in the Suppression of the Native Insurrection.

Preamble.

WHEREAS there have existed from time to time since the passing of “The Indemnity Act 1867” in various districts within this Colony armed Insurrections of certain of Her Majesty’s subjects of the Native Race made with the object of subverting Her Majesty’s authority And whereas military force has been employed to quell such Insurrections and acts have been done for the purpose of quelling the said Insurrections for which it is proper and expedient that the persons acting therein should be indemnified by law

Be it therefore enacted by the General Assembly of New Zealand in Parliament assembled and by the authority of the same as follows—

1 Short Title.

The Short Title of this Act shall be “The Indemnity Act 1868.”

2 Who indemnified.

All and singular the Officers of Her Majesty's Imperial or Colonial Forces and all and every Justices and Justice of the Peace of the Colony of New Zealand and all and every other persons and person acting under the authority of the Government of New Zealand or of any responsible civil authority in the said Colony in quelling the said insurrections and all and every other person and persons acting by the direction or under the orders of any officer of Her Majesty's Imperial or Colonial Forces or by the direction or under the orders of any Justice of the Peace as aforesaid or by the direction or under the orders of any such persons or person as aforesaid so acting under the authority of the Government of New Zealand or of any responsible civil authority in the said Colony in quelling the said Insurrections as aforesaid who shall at any time upon or since the tenth day of October one thousand eight hundred and sixty-seven and before the passing of this Act with the view or for the purpose of suppressing or quelling the said insurrections have done any act matter or thing or advised commanded ordered or directed any act matter or thing to be done in or about the suppressing or quelling the said insurrections or in or about the resisting apprehending detaining confining or imprisoning any person or persons concerned or suspected to be concerned therein or in or about the destroying or damaging of property belonging to any person or persons concerned or suspected to be concerned in the said insurrections or in or about the preserving or restoring of peace or good order in any part of the said Colony or the apprehension detention confinement or imprisonment of any dangerous or disloyal person or persons or of any person or persons believed or suspected to be dangerous or disloyal or the providing for the safety of Her Majesty's peaceable and loyal subjects shall be and they are hereby severally and respectively freed acquitted and indemnified of from and against the same and all actions suits indictments informations prosecutions proceedings and liabilities whatsoever and all judgments and orders if any there be against them or any of them or which they or any of them respectively may have been or may be or become liable or subject to for or by reason or by means of or in relation to any such act matter or thing as aforesaid by them respectively done or advised commanded ordered or directed to be done before the passing of this Act shall be discharged and made void and no such act matter or thing as aforesaid by any such officer or person as aforesaid done or advised commanded ordered or directed to be done shall be questioned in the Supreme Court or any other Court whatsoever And if any action suit indictment information prosecution or proceeding has been or shall be commenced or prosecuted against any such officer or person or persons as aforesaid for or in respect of any such act matter or thing as aforesaid by him or them done or advised commanded ordered or directed to be done as aforesaid he or they may plead a general denial and give this Act and the special matter in evidence and if the plaintiff or plaintiffs in any such action shall become nonsuit or forbear further prosecution or suffer or enter discontinuance or if a verdict shall be found against such plaintiff or

plaintiffs the defendant or defendants shall recover his or their costs for which he or they shall have the like remedy as in other cases in which costs are given by law to defendants or the defendant or defendants or any of them in any such action suit indictment information prosecution or proceeding may apply by notice or otherwise in a summary way to the Court or a Judge thereof in which the same hath been or shall be brought commenced preferred exhibited or had or shall be depending to stay all further proceedings and such Court or any Judge thereof is authorized and required to examine the matter of such application and upon proof by the oath or affidavit of the person or persons making such application or any of them or other proof to the satisfaction of such Court or Judge that such action suit indictment information prosecution or proceeding is brought commenced preferred exhibited or had for or on account of any such act matter or thing as aforesaid or upon production of a declaration signified in writing under the hand of the Governor made under the third section of this Act that any act matter or thing for or in respect of which any such action suit indictment information or proceeding hath been or shall be brought commenced preferred or exhibited comes within the provisions of this Act such Court or Judge is authorized and required to make an order for staying execution and all other proceedings in such action suit indictment information prosecution or proceeding in whatever state the same shall or may then be and although judgment may have been given or entered up and the Court or Judge making such order for stay of proceedings shall also order unto the defendant or defendants and he and they shall be entitled to his and their costs for all such proceedings as shall be had or carried on in any such action or suit and for which costs he and they shall have the like remedy as in cases where costs are by law given to defendants.

3 In cases of doubt Governor may declare indemnity.

In order to prevent any doubt which may arise whether any such person or persons as aforesaid have acted under the authority of the Government of New Zealand or of any responsible civil authority in the Colony in quelling the said insurrections or whether any such person or persons as aforesaid have acted by the direction or under the orders of any of Her Majesty's Imperial or Colonial Forces or by the direction or under the orders of any such Justice of the Peace as aforesaid or any person or persons acting under the authority of the Government of New Zealand or of any responsible civil authority in the Colony in quelling the said insurrections or whether any act matter or thing alleged to have been so done or advised commanded ordered or directed to be done as aforesaid in or about or with the view or for the purpose of quelling the said insurrections resisting apprehending detaining confining or imprisoning of any person or persons concerned or suspected to be concerned therein destroying or damaging property belonging to any person or persons concerned or suspected to be concerned in the said insurrections preserving or restoring peace or good order in any part of the said Colony the apprehension detention

confinement or imprisonment of any dangerous or disloyal person or persons or of any person or persons believed or suspected to be dangerous or disloyal or providing for the safety of Her Majesty's peaceable and loyal subjects shall have been done in or about or with the view or for the purpose of quelling the said insurrections and by or by the direction or under the orders of an officer of Her Majesty's Imperial or Colonial Forces or by or by the direction or under the orders of a person or of persons acting under the authority of the Government of New Zealand or any responsible civil authority in the Colony in quelling the said insurrections it shall be lawful for the Governor to declare any such act matter or thing to come within the provisions of this Act and such declaration signified by writing under the hand of the Governor (of which all Courts shall take judicial cognizance) shall be a sufficient discharge and indemnity to all and every person and persons concerned in any such act matter or thing and shall be conclusive evidence that such act matter or thing was done or advised commanded or directed to be done in or about or with the view or for the purpose of quelling the said insurrections or in or about some or all of the other matters aforesaid and by or by the direction or under the orders of an officer of Her Majesty's Imperial or Colonial Forces or by or by the direction or under the orders of a person or persons acting under the authority of the Government of New Zealand or of some responsible civil authority in the Colony in quelling the said insurrections.

4 Act not to abridge prerogative of Her Majesty.

Nothing in this Act shall be construed to interfere with Her Majesty's Royal Prerogative or to abridge the right of Her Majesty to do any act for the suppression of rebellion or treason.