

## New Zealand



### ANALYSIS.

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1892, No. 22.

AN ACT to repeal the West Coast Settlement Reserves Acts, and Title.  
to alter the Law relating to the Administration thereof.

[24th September, 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, 1892." Short Title.

## Interpretation.

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

“Confiscated territory” means all that part of the Colony of New Zealand described in the schedule to “The West Coast Settlement Reserves Act, 1881:”

“Native” means aboriginal native of New Zealand, and includes all half-castes and their descendants:

“The said Acts” mean “The West Coast Settlement Reserves Act, 1881,” “The West Coast Settlement Reserves Act 1881 Amendment Act, 1884,” “The West Coast Settlement Reserves Act 1881 Amendment Act, 1885,” and “The West Coast Settlement Reserves Acts Amendment Act, 1887:”

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

“Reserve,” or “each reserve,” shall, *prima facie*, mean the land comprised in one Crown grant, partition or subdivision order, or other foundation of title, but shall include any land being portions of reserves which the Governor may for the purposes of this Act declare to come or be within the meaning of this definition:

“The Public Trustee” means the Public Trustee incorporated under “The Public Trust Office Act, 1872:”

“The Native Land Court,” or “Court,” means the Native Land Court constituted under “The Native Land Court Act, 1886,” and its amendments:

“Improvements” and “substantial improvements” has the same meaning as the term “substantial improvements of a permanent character” in the third section of “The Land Act, 1885:”

“Native owners” means the Natives or persons having shares or interests in the reserves under Crown grants, partition or subdivision orders, or other instruments of title:

“Confirmed lease” means a lease confirmed by the Governor in Council under the provisions of the said Acts:

“The Land Act, 1885,” shall include all amendments thereof.

3. The said Acts are hereby repealed.

4. From and after the coming into operation of this Act, reserves shall become by virtue of this Act vested in the Public Trustee in fee-simple, subject to all valid leases and contracts affecting the same, upon trust for the Native owners, but to be managed, dealt with, and disposed of under the provisions of this Act, and not otherwise.

5. For the purpose of carrying into effect the powers of leasing and other the powers given by this Act, the restrictions, conditions, and limitations contained in the Crown grants of reserves shall not

Repeal.

Reserves vested in Public Trustee.

Restrictions removed for certain purposes.

be deemed to exist. Otherwise such restrictions, conditions, and limitations shall remain and continue.

For the purpose of this section the expression "Crown grants" shall include partition and subdivision orders, and every instrument under which Native owners derive their title to reserves.

6. Reserves may be leased by the Public Trustee, at his discretion, with the right of perpetual renewal, in the manner and under and subject to the provisions of this Act and those set forth in the Schedule hereto.

Public Trustee may grant perpetual leases of vacant reserves.

7. Leases heretofore granted by the Public Trustee (other than leases which have been granted pursuant to awards made in substitution for leases confirmed under the said Acts) are hereby validated as from the dates of such leases respectively; and all reductions heretofore made by the Public Trustee in the rental payable under any such leases shall to the extent and for the time for which such reductions were made be deemed to have been valid from the making of such reduction.

Validation of leases heretofore granted by Public Trustee (other than those granted pursuant to awards), and reduction of rent.

8. (1.) The following lessees of reserves (which term, for the purposes of this section, shall include the assignees referred to in this section) may obtain a new lease under the provisions of this section:—

Lessees under lease granted by Public Trustee (other than those granted pursuant to awards), and under confirmed leases, may obtain a new lease in lieu thereof, subject to conditions.

- (a.) The lessee under a lease validated by section seven of this Act, or the assignee of such lease, or the assignee of any part of the land comprised in such lease if for the whole term thereof.
- (b.) The lessee under a confirmed lease or the assignee of such lease, or the assignee of any part of the land comprised in such lease if for the whole term thereof.
- (c.) The lessee of a confirmed lease which has expired by effluxion of time, or the assignee of such lease, whether the assignment is made before or after such lease expired, or the assignee of any part of the land comprised in such expired lease if for the whole term thereof, whether the assignment is made before or after the lease expired.
- (d.) In any case where an award shall have been made purporting to be under the said Acts for the granting of a new lease thereunder in lieu of a confirmed lease, and such award shall have been assigned either wholly or in part, then the assignee for the purposes of this section shall, to the extent of the interest so assigned, be deemed to be an assignee of the confirmed lease in respect of which the award shall have been made: Provided always that such assignee shall not be deemed to have any greater right hereunder than he would have if he were the actual assignee of the confirmed lease. Any assignee of an award who elects to take advantage of this section shall thereby be deemed to have abandoned all rights (if any) under the award.
- (e.) The lessee under any lease heretofore granted by the Public Trustee in pursuance of an award purporting to be made under the authority of the said Acts, or the assignee of such lease, or the assignee of any part of the land comprised in such lease if for the whole term thereof, but subject to the following conditions:—

Terms under which lessee under lease granted pursuant to award may obtain new lease.

## Conditions.

Such lessee shall, within twelve months after this Act comes into operation, first surrender such lease, and thereupon he shall be deemed to be a lessee holding under the confirmed lease in respect of which the award was made and in pursuance of which the lease surrendered was granted :

Provided that with respect to any lease or award the validity of which is the subject of an action at the time this Act comes into operation the Public Trustee shall not, until such action is finally disposed of, entertain any application under this section in respect of such lease or award.

(2.) The lessee intending to avail himself of the provisions of this section shall notify in writing to the Public Trustee that he desires to obtain a new lease under the provisions of this section. If the lessee holds more than six hundred and forty acres, whether under one or more leases, he shall at the time of his application state accurately by metes and bounds what portion thereof not exceeding six hundred and forty acres he desires to obtain a new lease of, and his application shall be accompanied by a plan of such land: Provided that upon making a surrender as herein provided the lessee shall be bound to surrender the whole of the land he holds.

The term of any new lease granted under this section shall commence from the date when the Public Trustee receives the notification required by this subsection that such lessee desires to obtain a new lease, such date to be fixed by the Public Trustee.

(3.) The Public Trustee shall, if he in his discretion considers the application ought to be given effect to either wholly or in part, notify his decision to the lessee, whereupon the following course shall be adopted:—

(a.) The Public Trustee shall appoint a time and place at which a meeting between the lessee and the Native owners of the land comprised in the lessee's notification shall take place, for the purpose of fixing the rent to be paid for the first twenty-one years of the new lease.

(b.) The Public Trustee shall give notice of such meeting and the objects thereof by publication for three consecutive weeks in the *New Zealand Gazette* and the *Kahiti*, and in one newspaper (if any) published in the Maori language, and in the Maori and English languages in at least one local newspaper circulating in the district in which the land to be leased is situated, once in each week for three consecutive weeks, and in such other manner as the Public Trustee thinks fit.

(c.) The Native owners present at such meeting, either personally or by proxy, and the lessee shall fix the rent to be paid for the new lease for the first twenty-one years of the term. In fixing the rent the improvements on the land shall not be taken into account. The decision of a majority in number of the Native owners present at such meeting, personally or by proxy, shall, if the Public Trustee approves of the rent fixed, bind the whole of the Native

owners whether present or absent from such meeting, and whether under any disability or not. If at such meeting the lessee and the said Native owners agree as to such rent notification in writing thereof shall be given to the Public Trustee.

If the Public Trustee does not approve of the rent as so fixed, he shall fix the amount thereof, and his decision shall bind both the lessee and the Native owners, whether they shall be under any disability or not.

- (d.) If the Native owners and lessee do not agree as to the amount of rent to be paid, then the Public Trustee shall fix the amount of such rent, and his determination shall bind both the lessee and all the Native owners of such land whether present or absent at a meeting, and whether under any disability or not.
- (e.) If none of the Native owners shall be present at such meeting as aforesaid, or if those attending such meeting shall refuse to take any part in fixing such rent, then the Public Trustee shall fix such rent, and his determination shall bind both the lessee and all the Native owners of such land whether present or absent at a meeting, and whether under any disability or not.
- (f.) Where, under this section, the Public Trustee fixes the rent, he shall fix it at five pounds per centum upon the value of the land as for an estate in fee-simple, exclusive of the improvements thereon; such value shall be ascertained in pursuance of regulations made by the Governor, or, in the absence of the regulations, in such manner as the Public Trustee directs, but such value shall not be less than that ascertained for the assessment for the purposes of "The Land and Income Assessment Act, 1891." Howsoever such value may be arrived at it shall be conclusive.
- (g.) For the purposes of such meetings as aforesaid any Native owner over the age of sixteen years, and whether under coverture or not, may vote and act at such meeting as if he were of full age and not under coverture, and any Native owner over the said age of sixteen years, whether under coverture or not, may appoint some person as proxy to represent and act for him at such meetings. The appointment shall be in writing, and shall be attested by a Justice of the Peace, Licensed Native Interpreter, or Solicitor of the Supreme Court, or Postmaster.
- (h.) When the rent shall be fixed or approved by the Public Trustee under the provisions aforesaid he shall notify in writing to the lessee (by notice either served personally or posted by registered letter addressed to the lessee) the amount thereof, and the lessee within twenty-one days after the receipt of such notice may, in writing given to the Public Trustee personally or delivered at the Public Trust Office, withdraw his application. If he does not so withdraw, then he shall be bound, if the Public Trustee so requires him, to surrender his lease, pay for the

improvements as hereinafter provided, and accept a new lease under the provisions hereof. The notification to the lessee by the Public Trustee as to the amount of the rent fixed or approved of shall be conclusive evidence that the provisions of this Act relating thereto have been properly complied with, and that the rent so fixed has been lawfully and properly fixed.

- (i.) Before any lease shall be granted under the provisions contained in this section the lessee shall pay to the Public Trustee the value of all improvements on the land for which the new lease is to be granted in existence at the time of the valuation provided for by this subsection, and which would at the end or sooner determination of the lease belong to the lessor, or the Native owners, or the Public Trustee. With respect to leases granted by the Public Trustee under the said Acts, and which leases are validated by section seven of this Act, improvements shall be valued, but the lessee shall only pay such sum as such improvements shall be valued at in excess of five pounds for every acre or fraction of an acre of the land to be comprised in the new lease. Such valuation of improvements shall be made by the Public Trustee in such manner as may be prescribed by the Governor by regulations, or, in the absence of such regulations, in such manner as the Public Trustee thinks fit, and howsoever arrived at the same shall be conclusive. If the lessee shall be unable to pay in cash the value of the improvements aforesaid the Public Trustee may take security for the whole or any part of such value and interest thereon at a rate, not less than five per centum per annum, to be agreed upon by the Public Trustee over the new lease to be granted to the lessee.
- (j.) No lessee shall be entitled to a 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 the new lease.

In the case of a lease which has expired by effluxion of time, but where the lessee is entitled to take advantage of this section, such lessee shall not be entitled to a lease until he shall have paid to the Public Trustee such sum of money as shall be equivalent to a fair rent for the period from which the lease expired until the commencement of the new lease under this section as the Public Trustee shall determine.

- (k.) No lessee shall be entitled to take advantage of this section unless—

In the case of a lease which has expired before this Act comes into operation, he makes the application referred to in subsection two of this section within three months after this Act comes into operation :

In the case of a lease which is in force when this Act comes into operation but the term of which expires before

the thirty-first day of March, one thousand eight hundred and ninety-three, the lessee makes such application not later than the first day of January, one thousand eight hundred and ninety-three :

In the case of a lease (other than a lease validated by section seven of this Act) which is in force when this Act comes into operation but the term of which expires after the thirty-first day of March, one thousand eight hundred and ninety-three, the lessee makes such application three months before such term expires.

The Governor may, in respect of cases arising under paragraphs one and two of this subsection (*k*), extend the time for making an application, but not for more than six months after this Act comes into operation.

In the case of a lease validated by section seven, and which is in force when this Act comes into operation, the lessee makes such application within twelve months thereafter.

- (*l*.) If any lessee or any person on behalf of a lessee pays or gives any money or valuable consideration to any Native owner or other person for giving or withholding such Native owner or person's vote at any meeting held pursuant to this section, or for using his influence with any Native or person to give or withhold his vote at any such meeting, such lessee or person shall be liable to forfeit and pay to the Public Trustee double the sum so paid or the consideration given, to be recovered in a summary manner by the Public Trustee, and any vote so given shall be void and of no effect. The moneys so recovered shall be applied by the Public Trustee in payment of the costs and expenses incurred in the administration of this Act.

The costs of and incidental to a new lease shall be paid by the lessee.

The Public Trustee may from time to time make regulations for regulating proceedings at meetings under this section between the Native owners and the lessees, and who shall preside thereat, and how the votes of the Native owners shall be taken thereat, and how the proceedings at such meetings shall be recorded. In the absence of any regulation as to who shall preside at such meetings, some person appointed by the Public Trustee shall preside, but shall not be entitled to vote unless he is one of the Native owners, in which case he shall, in addition to his own vote, have a casting vote in case of equality of votes. The person so presiding may from time to time adjourn any meeting to such time and place as he thinks proper. Notice of the adjourned meeting shall be given in such manner as the person presiding thinks proper : Provided always that no meeting in pursuance of an adjournment shall be valid unless the same is held within such number of days from the date originally appointed by the Public Trustee for the first meeting as may be fixed by the Public Trustee by regulations, and no adjourned meeting shall be held after the expiry of the number of days so fixed from the first meeting appointed by the Public Trustee.

Upon surrender of lease and payment of rent and value of improvements lessee to receive perpetual lease.

9. Any lessee who, under the provisions of section eight of this Act, shall become entitled to a new lease shall, subject to the provisions of this Act, upon the surrender of his original lease or confirmed lease, and on his executing the new lease in triplicate, and paying the value of improvements and rent, or other money as aforesaid, be entitled to receive a perpetual lease under the provisions of this Act.

Conditions under which new leases to be granted.

10. No lease under this Act shall comprise more than six hundred and forty acres of land, nor shall any lessee have any right to acquire the freehold of the demised land.

No lessee or person, by himself or by or jointly with any other person on his behalf, shall hold at one time, whether as occupier, lessee, assignee, sub-lessee, or otherwise, more than six hundred and forty acres of land under this Act. Any occupation, lease, assignment, sub-lease, or other instrument in contravention of this section shall be illegal and void from the commencement:

Provided always that this section shall not apply to any person who acquires an interest in any lease of a reserve by bankruptcy, or under an intestacy, or by virtue of a will.

The term fixed by the lease shall be twenty-one years, to take effect in possession and not in reversion; but such lease shall be renewable as provided by this Act and the provisions of the Schedule hereto. Such lease shall contain such covenants, conditions, and agreements, not being inconsistent with this Act, or the regulations of the Governor made thereunder, or with the provisions contained in the Schedule hereto, as the Public Trustee may prescribe by regulations which he is hereby authorised to make, alter, amend, or revoke, and which may either be general or applicable to any particular case or class of cases.

Provisions in Schedule to apply to leases to be granted under this Act.

11. With respect to leases to be granted under this Act the provisions contained in the Schedule hereto shall apply and be deemed to be incorporated herein. With respect to leases to be granted under section eight of this Act, the provisions numbered fifty, fifty-one, fifty-two, fifty-three, fifty-four, and fifty-five of the Schedule hereto shall not apply, and the other provisions referred to in the said Schedule shall be so read as not to conflict with the said section eight but to give effect thereto; and, in so far as such provisions are inconsistent with section eight, they shall be read as subordinate thereto.

Powers of Public Trustee.

12. The Public Trustee, in addition to any other power, shall, as regards reserves, also have the following powers:—

- (1.) To recover possession of reserves by action, suit, or other proceeding whatever, and to enforce, by action, suit, distress, or otherwise, the payment of all rents, income, moneys, and profits, or the performance or observance of any covenant or obligation, arising out of or in respect of reserves;
- (2.) To give time for the payment of any rents, income, moneys, or profits payable or arising out of or in respect of reserves without being responsible for any loss occasioned thereby;
- (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 of a reserve, or any of the powers or provisions conferred by this Act, or by law for the purpose of enforcing payment of rent or damages, or for enforcing the observance of any contract or obligation, or any right arising out of or in respect of any such reserve ;

(4.) To enforce, both civilly and criminally, all rights and remedies arising out of a reserve ;

(5.) To let reserves 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,

as if the Public Trustee was the absolute owner thereof.

No Native owner in possession of a reserve shall, in an action in which the Public Trustee seeks to recover possession of such reserve, 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 reserve.

13. All moneys which under the authority of this Act shall come to the hands of the Public Trustee as the value of any improvements paid for by any lessee shall be invested by the Public Trustee in the like securities as he is entitled under section ten of "The Public Trust Office Acts Amendment Act, 1891," to invest trust moneys upon, or upon the security of, any lease authorised to be granted under this Act; and the income thereof shall from time to time be paid to the Native owners entitled thereto.

Investment of moneys received by the Public Trustee in payment for improvements or purchase-money.

14. The list of the Native owners of any reserve whose shares of the rents of such reserve have been definitely settled, as provided by the fifteenth section of "The West Coast Settlement Reserves Act 1881 Amendment Act, 1884," with such additions as may from time to time be made therein, shall be the list of Native owners of the reserves, and the persons named in such list shall, subject to the provisions of this Act, be deemed to be the persons entitled to the rents, income, profits, and other moneys arising out of such reserves. With respect to reserves in which the respective shares of the Native owners therein shall not have been so settled, the Native Land Court or the Chief Judge thereof shall proceed to determine the relative shares or interests of the Native owners entitled thereto, and shall cause a list showing the names of such Native owners and their shares or interests as determined to be filed in the office of the Public Trustee. Such lists shall be called "the register."

Persons appearing in list now in the hands of the Public Trustee of Native owners of a reserve whose shares have been definitely settled to be the persons entitled to the rents, &c., arising therefrom.

15. The Native Land Court, or the Chief Judge thereof, shall from time to time, at the request of the Public Trustee, make such alterations in the register as may be necessary for the purpose of keeping such register accurate, and shall from time to time ascertain the names of the persons becoming entitled by succession or otherwise to the share and interest of any registered owner. The Native Land Court, or the Chief Judge thereof, shall have no power to alter or vary any settlement of the shares of grantees or persons heretofore made under the provisions of section fifteen of "The West Coast Settlement Reserves Act 1881 Amendment Act, 1884."

Native Land Court otherwise to determine shares and prepare list of Native owners of reserves. List termed "the register."

Alterations in register.

"The Native Land Court Act, 1886," to apply.

Proviso that no partition without authority of Governor.

16. "The Native Land Court Act, 1886," and its amendments, shall, so far as the same can be applied for the purpose of carrying into effect the provisions of this Act, and so far as the same are modified by this Act, be deemed to be incorporated herein: Provided always that the Native Land Court shall not have jurisdiction over reserves, save as provided by sections fourteen, fifteen, and seventeen hereof, unless the Governor in Council shall otherwise from time to time, at the request of the Public Trustee, direct such jurisdiction to be exercised. The Native Land Court shall not make partition of any reserve unless the Governor shall by warrant authorise such partition to be made.

Appointment of person to receive moneys payable to Native owner, being minor or under coverture, lunatic, sick, or infirm. Application of moneys so received.

17. If any Native owner of a reserve shall be a minor or lunatic, sick, or infirm, the Native Land Court, or the Chief Judge thereof, may from time to time, in a summary manner, appoint some person to receive the moneys payable to such Native owner, and may 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 owner. Until such appointment the Public Trustee may exercise the powers which the person if appointed could or might exercise under this section. Any person so appointed shall be capable of voting and acting at the meetings referred to in section eight of this Act; and his acts shall bind the Native owners for whose benefit he has been appointed.

The Public Trustee not to be liable except for wilful neglect, default, or omission.

Expenses incurred to be borne by the reserves in respect of which they arise.

18. The Public Trustee shall not be liable for anything done or omitted to be done by him under the authority of this Act unless the Court in which the action or proceeding arises certifies that he has been guilty of wilful neglect, default, or omission. All costs and expenses incurred by the Public Trustee in carrying into effect any of the powers or authorities given by 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 reserve with respect to which such costs and expenses shall have been incurred.

No proceedings to be commenced against the Public Trustee in respect of past transactions.

19. After this Act comes into operation no action for damages or for breach of trust shall be brought against the Public Trustee for granting any lease heretofore made of reserves, or in respect of any act or omission on the part of the Public Trustee to carry into effect any of the provisions of the said Acts, or any award purporting to be made thereunder, or for not enforcing or carrying out any contract, covenant, power, or provision with respect to reserves, or for any other act or omission on the part of the Public Trustee with respect to reserves; nor shall any action be brought to enforce an award purporting to be made under the authority of the said Acts. Nothing herein contained shall be deemed to validate or invalidate any award purporting to be made under the authority of the said Acts, or any lease made in pursuance of any such award; and, as to any lease purporting to be made under the authority of an award, the validity of such lease and the rights of persons claiming thereunder may, notwithstanding the passing of this Act, be judicially determined whether in an action brought before or after this Act comes into operation; and, save as herein provided, all rights and remedies against other persons than the Public Trustee shall remain and continue.

Saving of remedies against third persons.

20. Except as by this Act provided, no Native owner shall alienate, mortgage, charge, or otherwise dispose of his estate or interest in any reserve, 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 made if contrary to the conditions, restrictions, and limitations of any Crown grant, partition or subdivision order, or other instrument under which such Native owner derives title; nor shall the share and interest of any such Native owner in any such reserve, or in the rent, income, profits, or other moneys arising therefrom, be liable to be seized, sold, attached, or levied upon by any process whatever, or become assets in bankruptcy.

Except by will in favour of a Native, no Native owner to alienate, &c.

21. Every District Land Registrar under "The Land Transfer Act, 1885," shall, without the production of the Crown grant or instrument of title for the land comprised in any lease purporting to be made under this Act, register such lease.

Registration of lease without production of Crown grant, &c.

22. For the purpose of carrying into effect the provisions of this Act, the Public Trustee, subject to the regulations of the Survey Department of the colony, may—

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

(1.) Make surveys of reserves, and subdivide the same as he thinks fit;

(2.) Lay off any portions of reserves 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 the Queen.

Out of any moneys standing to the credit of the Public Trustee's account the Public Trustee may at any time advance or pay, without the necessity of any authority other than is hereby conferred, such sum or sums of money as may be necessary for the purpose of giving effect to and carrying out the provisions of this section.

Any sum or sums so advanced or paid shall be a charge upon the lands surveyed in such proportions as the Public Trustee shall determine, and shall be repayable, together with interest thereon not exceeding seven pounds per centum per annum, out of the rents received or accruing due from the lessees of any of the said reserves: Provided, however, that it shall be optional with the Public Trustee to make such repayments out of the first year's rents received in respect of the said lands, or to extend the same respectively over a period not exceeding seven years.

Advances, how repayable.

23. Any Native owner over sixteen years of age, whether under coverture or not, may give good and valid discharges for any moneys which he or she may be entitled to receive from the Public Trustee, or may by writing under his or her hand, attested by a Justice of the Peace, solicitor of the Supreme Court, or Postmaster, authorise any other of the Native owners, being an adult person, to receive and give discharges for any moneys payable to such Native owner and due when such authority is given; but no Native owner shall give any authority to receive any moneys to which such Native owner is entitled before such moneys are actually due and payable, and any authority so given shall be void.

Native over sixteen years may give or authorise any other Native to give discharges for moneys.

24. The Governor shall have power from time to time to make, alter, and revoke regulations—

Governor may make regulations.

- (1.) For providing for the mode by which any reserve shall be subdivided and surveyed and boundaries adjusted, and for laying off roads ;
- (2.) For prescribing the form of and the conditions and mode of applying for leases to be issued under this Act ;
- (3.) 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 ;
- (4.) For providing for all proceedings of the Native Land Court, or the Chief Judge thereof, or the Public Trustee or other person acting under the provisions of this Act ;
- (5.) For providing for all proceedings, forms of leases, and other instruments, and the covenants, provisions, and conditions to be contained therein, and for the execution of all other matters and things arising under and consistent with this Act, and not herein expressly provided for ;
- (6.) For providing for a scale of charges and fees to be paid out of moneys coming to the hands of the Public Trustee for defraying the costs of carrying into effect this Act ;
- (7.) And for the more fully carrying out the objects and purposes of this Act, and not herein expressly provided for.

But no regulations under this section shall be made which are inconsistent with any provisions of this Act, or the provisions contained in the Schedule hereto or any Order in Council under section twenty-six hereof. All such regulations shall be published in the *New Zealand Gazette* and in the *Kahiti*; and, when so published, the same shall be valid in law as if enacted in this Act, and shall be judicially noticed without further proof.

No dealings with reserves or moneys except as by this Act.

Order in Council may declare what provisions of Schedule shall not apply.

25. Save as provided by this Act, reserves, or the rents, income, or profits thereof, or other moneys arising therefrom, shall not be capable of being dealt with or disposed of.

26. The Governor may, by Order in Council, from time to time, declare that any one or more of the provisions set forth in the Schedule hereto shall not apply, or that the same shall only apply with such necessary modifications as shall be prescribed by such order :

Provided always that no Order in Council shall be made which is inconsistent with the provisions of this Act ; nor shall any lessee be authorised to purchase the freehold of any leased land.

Governor may appoint officers, &c.

27. The Governor may appoint such officers, servants, and agents as he thinks necessary to carry into effect the provisions of this Act.

Act not to subject reserves to tax or rates to which they were not previously liable.

28. Nothing in this Act contained shall render reserves, or the rents, income, profits, or other moneys arising therefrom, or the persons entitled thereto, subject to any tax or rate to which the same or the person entitled was not subject at the time this Act comes into operation.

Licenses may be granted to Native owners to occupy reserves.

29. The Public Trustee, in his discretion, may grant licenses to Native owners to occupy, for the purposes of cultivation or residence or occupation, portions of reserves, upon such terms and conditions as he thinks fit.

30. Reserves or any part thereof may be taken for a public work and compensation paid therefor in the same manner as land is taken for a public work and compensation paid under the authority of "The Public Works Act, 1882," and for such purpose reserves shall be deemed to be land within the meaning of "The Public Works Act, 1882;" and when reserves 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 of such reserves or portions 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 reserves or portions thereof 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 reserves or portions thereof 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, and public recreation-grounds.

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

31. Where, under the provisions of this Act, any Native owner over the age of sixteen years is authorised to do any act or thing, then for the purposes of rendering such act or thing valid every Native owner doing such act or thing shall be, except in case of fraud, deemed to be over the age of sixteen years, although such Native owner shall be under that age, unless express notice in writing shall be given to the person who if it were not for the provisions of this section would be bound to inquire as to the age of such Native owner prior to the doing of such act or thing that such Native owner is not over the age of sixteen years.

When Native owners to be deemed over sixteen years age.

32. This Act, except as to the power to make regulations thereunder, and except as to sections fourteen, fifteen, sixteen, twenty-four, and twenty-six hereof, shall come into operation on the first day of November, one thousand eight hundred and ninety-two; and, as to the powers of making regulations and as to sections fourteen, fifteen, sixteen, twenty-four, and twenty-six hereof, and this section, this Act shall be deemed to be in force as from the date on which it receives the Governor's assent.

When Act to come into operation.

## SCHEDULE.

Schedule.

### VALUATION FOR IMPROVEMENTS.

33. WHENEVER a lease for the occupation of reserves is to be sold or otherwise 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, in such manner as the Public Trustee shall direct; and payment of such valuation shall be made

on or before the day of the commencement of the term of the new lease to the Public Trustee, by the purchaser of such lease.

Whenever a lease as aforesaid is forfeited for breach of conditions the Public Trustee shall cause such valuation to be made on recovering possession of the land.

34. The amount of the valuation of the improvements, when paid by the purchaser of a new lease, shall be paid by the Public Trustee to the original lessee, less any arrears of rent or other moneys due in respect of such land by the outgoing tenant; and, in case of forfeiture, less also the amount of expenses incurred in recovering possession of the land.

35. In every case of the forfeiture of a lease for breach of conditions the payment of the amount of the valuation of improvements, or of any part thereof, shall be absolutely at the discretion of the Public Trustee.

36. If payment of any such valuation is not made as aforesaid the Public Trustee may sue for and recover the same in any Court of competent jurisdiction from the person who should make such payment.

37. No outgoing tenant shall have any right or claim against the Crown or the Public Trustee in respect of the value of any improvements made by him on the lands in his occupation in case any person shall fail to pay such value to the Public Trustee.

#### COMPENSATION AND ARBITRATION.

38. All claims for compensation 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. shall be deemed to be incorporated with this Act.

In every such claim the Public Trustee shall be the respondent.

39. Where it is provided or agreed 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 deed.

(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.

(5.) Such arbitrators or umpire shall have all the powers vested in Commissioners by "The Commissioners' Powers Act, 1867," as well as all the powers given to them by "The Arbitration Act, 1890."

40. Before any appraiser enters into the consideration of any matters referred to him under this Act he shall, in the presence of a Justice, make and subscribe the following declaration; that is to say,—

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 appraisal and valuation required under the provisions of "The West Coast Settlement Reserves Act, 1892."

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.

41. Subject to any special conditions contained in this Act in relation to the leasing or occupation of any particular class of lands, the provisions of this section and of the three next-following sections shall apply to all leases under this Act:—

(1.) Whenever the Public Trustee is authorised to grant a lease the same may be in such form as the Public Trustee shall in each case approve, subject to the provisions of this Act, and shall, after such approval, be

signed by the Public Trustee, and sealed with his official seal as the Public Trustee.

The Public Trustee may vary any form of lease or statutory declaration required under this Act to suit the circumstances of any particular case which may arise.

- (2.) There shall be paid in respect of any particular lease or other instrument, or of any transfer thereof respectively, a fee of sixty-three shillings, in addition to the stamp duty; and the Public Trustee may require a deposit to be made of the amount of such fee and stamp duty at the time application is made for any of such instruments as aforesaid, or at any time thereafter; and the Public Trustee may at any time refuse to proceed in any transaction if such deposit, when required, is not made.
- (3.) Any renewal of a lease may be effected by writing on the lease a memorandum of the terms, conditions, and covenants to which such new lease is subject, and signing the said memorandum in the manner herein required in the case of an original lease.

42. Every lease shall be prepared by the Public Trustee, and shall be in such form, and shall contain such covenants, conditions, and agreements, not being inconsistent with the provisions of this Act, or regulations made by the Governor, as the Public Trustee may prescribe by regulations which he is hereby authorised and empowered from time to time to make and from time to time to alter, amend, or revoke, and which may either be general or applicable to any particular case or class of cases, and shall be subject to the stipulations following:--

- (1.) No lessee shall transfer the possession or occupation of the land leased to or occupied by him, or any part thereof, by sale, under-lease, or other disposition, except the Public Trustee shall sanction the proposed transfer.
- (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 lawful transferee of any lease, or purchaser as aforesaid of any lease, shall have all the rights and privileges, and be subject to the same obligations, as the original lessee: Provided that the transferor shall be liable for the instalment of rent which shall become due next after such transfer.
- (4.) No transfer of any lease shall be valid unless all the conditions upon which the lease was granted have been complied with as to payment of rent or otherwise.
- (5.) If any lessee or licensee shall fail to fulfil any of the conditions of his lease within sixty days after the day on which the same ought to be fulfilled his lease shall be liable to be forfeited, and he shall be deemed, upon such forfeiture, to be in illegal occupation of the land comprised in the lease, and the Public Trustee may proceed for recovery of possession thereof.

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

43. The lessee shall be liable for all rates, taxes, or assessments of every nature or kind whatsoever imposed upon the occupier of the lands included in his lease during the term for which he is lessee.

44. The Public Trustee, upon being satisfied that any lease has been lost or accidentally destroyed, may grant a new lease in lieu thereof, upon such terms and conditions, and upon payment of such fee, in each case as he shall think fit. When any indorsement is required to be made on any lease, and the same is lost or destroyed as aforesaid, the Public Trustee may grant a new lease in lieu thereof, and make the required indorsements thereon, or, if he shall so think fit, may incorporate the substance of the indorsements with the terms of the original lease and insert them together in the new lease.

45. The Public Trustee and the lessee shall each execute the lease in triplicate.

46. Every lease, after execution thereof as aforesaid, shall be registered by the Public Trustee under "The Land Transfer Act, 1885," or any Act now or hereafter passed in lieu thereof, in like manner, as nearly as may be, *mutatis mutandis*, as a Crown grant is registered, and the lease which is retained in the office of the District Land Registrar shall form a folium of the register-book in such office, and on it all

dealings therewith shall be registered; but no fee shall be payable by way of contribution to the assurance fund on the registration of any such lease.

All dealings with or transmissions of land comprised in such lease shall be made in accordance with the provisions of the last-mentioned Acts, and be in all respects subject thereto.

47. All dealings with or under leases in contravention of the provisions of section forty-two of this Act as to transfers of leases shall be absolutely void, and the District Land Registrar shall refuse to register any dealing with or under a lease until he is satisfied that the said provisions have been complied with.

48. Every lease shall be for a term fixed so as to expire twenty-one years from the date of the commencement of the term, and shall be renewable from time to time as hereinafter appears.

The lessee shall pay the rent reserved by his lease to the Public Trustee by equal half-yearly instalments in advance, and the half-year's rent, which must be paid at the time of tendering, shall be in discharge of the half-year's rent due on the commencement of the term.

49. Any person of the age of seventeen years and upwards may become a lessee hereunder, and if under full age shall be as capable of executing a lease, and shall be bound by the terms thereof, and of this Act, as if such person was of full age.

50. Every lease of land shall be put up to public competition by tender, at an upset rental equivalent to five pounds per centum on the capital value, as determined by the Public Trustee, of the land proposed to be leased.

(1.) All tenders shall be opened simultaneously by the Public Trustee on a day appointed for the purpose.

Every tender shall be deemed to be informal and incapable of being accepted where the rental tendered is less than the upset rental fixed as aforesaid. 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 set forth in form following, together with six months' rent at the rate tendered, and the sum of sixty-three shillings to pay for the lease and registration thereof, paid either in cash or by a marked cheque:—

I, A.B., of [*Insert place of abode and occupation*], 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 West Coast Settlement Reserves Act, 1892," am tendering for the purchase [or is desirous of becoming the transferee or sublessee] of a lease [*Here specify land*].
  3. That I am purchasing such lease solely for my own use and benefit, and for the purposes of cultivation, and not, directly or indirectly, for the use or benefit of any other person whomsoever.
  4. That, including the said lands, 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 being portions of reserves within the meaning of "The West Coast Settlement Reserves Act, 1892," exceeding in the whole six hundred and forty 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."

A.B.

Declared at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_,  
18\_\_\_\_, before me,  
Justice of the Peace.

- (2.) The highest tenderer, if his tender shall equal or exceed the upset rental, shall 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.
- (3.) If the rent offered by two or more persons is the same amount, and is higher than that offered by any other tenderers, 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.
- (4.) The deposits and fees paid by the unsuccessful tenderers for any lease shall be returned to them by the Public Trustee immediately after any tender for such lease has been accepted.

51. If any person who has been declared a lessee shall fail to execute his lease within thirty days after being required by notice so to do, then his deposit and the above-mentioned sum of sixty-three shillings shall be absolutely forfeited to the Public Trustee, and the right of such person to obtain such lease shall absolutely cease and determine.

Where any lessee shall forfeit his right to a lease as aforesaid, and as often as such a case shall occur from time to time until the land be leased, or until there be a failure of tenderers whose tenders are formal, the Public Trustee may, at any time within seven days from such forfeiture, declare the next highest tenderer for the same lease whose tender is not informal to be the lessee; or, if the rent offered by two or more persons is the same amount, and is higher than the rent offered by any other tenderer save the one who has so forfeited his right to a lease as aforesaid, may decide by lot which of such other persons shall be the lessee. Every person declared a lessee under this section shall, upon his paying the deposit and fees as aforesaid, be declared to have become the lessee on the day of the opening of the tenders as if he had been so declared on such day.

52. If no tender shall be received prior to the time fixed for opening the tenders for any of the leases advertised for sale any person may at any time thereafter apply for any one of such leases, unless the same shall have been withdrawn from sale by the Public Trustee, and be declared the lessee thereof at the upset rental fixed, upon complying with the other conditions prescribed as to tenders. If, in any such case, two or more applicants shall lodge their tenders on the same day the right to the lease shall be decided by lot.

53. The Public Trustee may at any time, subject to section fifty, reduce the upset value of land which he has failed to lease for one year, and may again call for tenders for the same at such reduced value.

#### OCCUPATION AND IMPROVEMENTS.

54. Every lessee shall, within six months of the commencement of his term, and thereafter for a period of six consecutive years, reside on some portion of the lands leased by him.

This condition shall not apply to any person who has acquired an interest in any lease under an intestacy or by virtue of a will.

The Public Trustee may dispense with the necessity of such residence, in the case of bush-lands, until two years after the commencement of the term; and altogether as to all lands, if the lessee resides on lands contiguous to the lands leased. Lands shall be deemed to be contiguous to each other if only separated by a road or stream.

In cases of youths who may become lessees, and who are living within the provincial district, and are residing with their parents or near relatives, the Public Trustee shall dispense with residence until three years after the commencement of the term.

When any two lessees shall lawfully intermarry the Public Trustee may dispense with residence by either of such lessees on the lands comprised in one of the leases.

55. Every lessee shall bring into cultivation—

- (1.) Within one year from the date of his lease, not less than one-twentieth of the land leased by him;
- (2.) Within two years from the date of his lease, not less than one-tenth of the land leased by him;
- (3.) Within four years from the date of his lease, not less than one-fifth of the land leased by him.

And shall, within six years from the date of his lease, in addition to the cultivation of one-fifth of the land, have put substantial improvements of a permanent character on the land to the value of one pound for every acre of such land.

#### *Renewals.*

56. Not sooner than three years and six months and not later than one year before the end of the term for which the lease is granted a valuation shall be made by arbitration 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 by the lessee during the term and then in existence on the land then comprised in the lease.

In the case of a lease granted under section eight of this Act, then, for the purposes of this and the four next following sections, improvements paid for under the provisions of the said section 8, and which are in existence at the time of the valuation required by this section, shall be deemed to have been made by the lessee during the term.

After the making and publishing of the above-mentioned awards, which shall be effected by serving a copy of the same on the lessee and another copy on the Public Trustee, but not later than three 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 five pounds per centum on the gross value of the lands after deducting therefrom the value of the substantial improvements of a permanent character as fixed respectively by the arbitration.

57. If the lessee shall not elect to accept a renewal as above mentioned, or shall refuse or neglect to execute a lease within seven days after the same is tendered to him for the purpose, then a new valuation of the substantial improvements of a permanent character then on the said land shall be at once made by arbitration, in like manner and subject to the same provisions in all respects as the arbitration before referred to, and a lease of the said lands shall, not later than one month before the end of the term for which the terminating lease was granted, be put up to public competition by public tender for such term of twenty-one years, on the following terms and conditions:—

- (1.) The upset rent shall be such rent as shall be fixed by the Public Trustee, not being a greater sum than that at which the lease was offered to the outgoing lessee under the last-preceding section.
- (2.) The amount of such upset rent shall be stated in the advertisements calling for tenders.
- (3.) If any person other than the outgoing lessee be declared the purchaser he shall, within seven days after the day fixed for opening the tenders, pay over to the Public Trustee the amount of the value of the substantial improvements of a permanent character as fixed by the arbitration referred to in this section.
- (4.) When the day has arrived on which the terminating lease expires, or thereafter, if the Public Trustee shall have satisfied himself that the outgoing lessee has let the new lessee into quiet possession of the lands to be leased, and that none of the improvements on the lands which were thereon when the valuation mentioned in this section 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.
- (5.) If any of the improvements as mentioned in the preceding subsection have been destroyed or appreciably damaged as in the said subsection referred to, 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 deducted for costs, shall be returned to the incoming lessee.

58. If such lease shall not be sold as above mentioned to some person other than the lessee, or if such person fails to execute the lease in triplicate within fourteen days, or to pay the sum offered by him as aforesaid within fourteen days from the day on which the tenders were opened, then the lessee may again, within fourteen days after the day fixed for the opening of the tenders, elect in manner aforesaid whether he will accept a fresh lease as aforesaid; and, if he does not elect to accept the same, or refuses or neglects to execute such lease for fourteen days as aforesaid, then he may continue as lessee of the said lands from year to year, so long as he shall pay the rent reserved by his lease and observe and perform the covenants and conditions contained in the same or in this Act, or until the Public Trustee shall succeed in finding a purchaser of the new lease, unless, prior to the finding of such purchaser by the Public Trustee, he shall elect to accept a new lease for the said further period of twenty-one years as aforesaid.

59. The Public Trustee, in selling a renewed lease to a purchaser, may make provision that the right to take possession under such new lease shall always commence on the first day of January or of July in any year, and no such sale shall be made without giving to the then actual lessee one month's notice of the intention to sell, and allowing him during such month to elect to accept such new lease as aforesaid.

60. All the provisions of this Act (except the provisions as to cultivation) as regards the tenders for sale, form, and conditions of first leases made under this Act and otherwise howsoever as regards such leases, shall, *mutatis mutandis*, apply to the sale, form, and conditions of the new or renewal leases above mentioned, and to the lessees thereunder, and otherwise howsoever, and except as herein is otherwise expressly provided.

## LEASES OF SMALL AREAS.

61. Notwithstanding anything contained in the preceding sections, the Public Trustee may from time to time set apart for lease, with perpetual right of renewal, portions of reserves not exceeding fifty acres each, to be open to all persons for selection by application to the Public Trustee in such manner as he shall direct.

- (1.) Every applicant shall, with his application, enclose a statutory declaration in the form contained in section fifty, 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 apply for the same allotment on the same day the right to occupy the allotment shall be determined by lot amongst the applicants in manner as the Public Trustee shall direct.
- (3.) Renewals of leases of allotments set apart as aforesaid shall be made as in other cases of perpetual leases, and shall be disposed of by public tender at a valuation of the fee-simple of the lands to be leased, exclusive of improvements thereon.

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