

New Zealand.

ANALYSIS.

- | | |
|---|--|
| <p>Title.
Preamble.
1. Short Title.
2. Interpretation.
3. Lands in Schedule vested in Public Trustee.
4. Public Trustee may grant new lease of certain lands now leased.
5. Provisions to apply to every such new lease.
6. Public Trustee may purchase land for Natives.</p> | <p>7. Native Land Court may partition lands.
8. Native interests in lands may be exchanged.
9. Definition of "reserves" amended.
10. District Land Registrar to enter memorial of Public Trustee's title.
11. Leases validated.
12. Public Trustee may grant leases for dairy-factories sites and schools, &c. Schedule.</p> |
|---|--|

1902, No. 36.

- Title. AN ACT to amend "The West Coast Settlement Reserves Act, 1892." [2nd October, 1902.]
- Preamble. WHEREAS certain lands described in the Schedule hereto were, *inter alia*, set apart as Native reserves, and became subject to "The Native Reserves Act, 1856," and its amendments, and are now vested in the Public Trustee under "The Native Reserves Act, 1882": And whereas it is expedient, for the better administration of the said lands, to bring them under the operation of "The West Coast Settlement Reserves Act, 1892," thus making the administration of all Native reserves and West Coast Settlement Reserves within the confiscated territory uniform: And whereas it is expedient to more specifically enact what lands were by "The West Coast Settlement Reserves Act, 1892," vested in the Public Trustee in fee-simple:
- BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—
- Short Title. 1. The Short Title of this Act is "The West Coast Settlement Reserves Act Amendment Act, 1902."
- Interpretation. 2. In this Act, "the principal Act" means "The West Coast Settlement Reserves Act, 1892," and includes any amendments to that Act.
- Lands in Schedule vested in Public Trustee. 3. All the lands described in the Schedule hereto shall, on the passing of this Act, cease to be subject to the provisions of "The Native Reserves Act, 1882," and become vested in the Public Trustee in fee-simple, subject to all valid leases and contracts affecting the same, in trust for the Natives who were determined by the Native Land Court, acting under the assumed authority of an Order in

Council dated the fourth day of March, one thousand eight hundred and eighty-seven, to be the owners of such land, but to be managed, dealt with, and disposed of under and subject to the provisions of the principal Act and not otherwise: Provided that no Native who has disposed of the land or the interest therein to which he was so determined to be entitled as aforesaid, and which land formed part of the land vested in the Public Trustee by this section, shall be considered as having any beneficial interest in the land vested by this section; but such Native shall be deemed to be beneficially interested in any money received by the Public Trustee as compensation for land of which he was deprived by the title thereto having been acquired by some other person under "The Land Transfer Act, 1885," but such Native's interest shall be no greater in such money than it was in respect of the land from which the money arose.

4. Where any of such lands are subject to a lease granted by the Public Trustee, or are subject to a lease made by the Native owners of the land, but only if such lease by the Native owners is registered under "The Land Transfer Act, 1885" (hereinafter called "the original lease"), the Public Trustee, at his discretion and subject to such conditions as he thinks fit, may grant a new lease of such land or any part thereof to the lessee, his executors, administrators, or assigns.

Public Trustee may grant new lease of certain lands now leased.

5. With respect to any such new lease the following provisions shall apply:—

Provisions to apply to every such new lease.

(1.) The new lease shall commence from the first day of January or July following the date of its execution by the Public Trustee.

(2.) The lessee (which term includes his executors, administrators, or assigns) shall not be entitled to such new lease unless,—

(a.) In the case of an original lease granted by the Public Trustee, the lessee makes and delivers to the Public Trustee an application for a new lease not less than six months before the original lease expires, and surrenders the original lease:

(b.) In the case of an original lease granted by the Native owners of the land, the lessee makes and delivers to the Public Trustee an application for a new lease within one year from the date of the passing of this Act and surrenders the original lease:

(c.) The lessee duly pays to the Public Trustee all rent under his original lease and otherwise fulfils all the covenants and provisions thereof up to the date of the commencement of the new lease: Provided that any rent already paid to the Native owners as lessor shall not again be payable to the Public Trustee, and the Public Trustee may, in his discretion, waive the fulfilment of any of such covenants and provisions, or accept a composition in lieu thereof, upon such terms and conditions as he thinks fit:

(d.) Before any lease shall be granted under this section the lessee shall pay to the Public Trustee the value

of all improvements on the land. Such valuation of improvements shall be made in such manner as the Public Trustee thinks fit, and, howsoever arrived at, shall be conclusive. If the lessee is unable to pay in cash for the improvements, then the Public Trustee may take a mortgage by way of security over the new lease, with or without any other property, for the whole or any part of their value, with interest thereon at not less than five pounds per centum per annum, on such terms and conditions as the Public Trustee thinks fit.

- (3.) The rent under the new lease shall be five per centum per annum on the value of the land without the improvements thereon; such value to be ascertained by the Public Trustee in such manner as he thinks fit, and his valuation, however arrived at, shall be final and conclusive.
- (4.) "Improvements," for the purposes of this section, shall have the same meaning as is given to that word in the principal Act.
- (5.) The costs of and incidental to the issue of the new lease shall be borne by the lessee.
- (6.) The new lease shall be for twenty-one years, and shall contain such covenants and provisions as the Public Trustee thinks fit, and shall be subject to all the provisions of the principal Act which apply to leases granted under section eight of "The West Coast Settlement Reserves Act, 1892."

Public Trustee may purchase land for Natives.

6. The Public Trustee may, out of any compensation or capital moneys now or hereafter in his hands, purchase any land that he may think beneficial to the Natives interested in such moneys, and such land shall be held on the same trusts as such moneys were held, but subject to the provisions of the principal Act and this Act.

Native Land Court may partition lands.

7. When the Public Trustee is entitled to an undivided interest in any land, he, or any of the persons entitled to an undivided interest in such land, may apply to the Native Land Court for a partition of such land, and the Court shall have like jurisdiction to make such partition as is given by "The Native Land Court Act, 1894," in cases of land held by Natives.

Native interests in lands may be exchanged.

8. If a Native beneficially interested in any land vested in the Public Trustee by the principal Act or this Act desires to exchange his interest in such land for the interest of another Native in another piece of land so vested as aforesaid, and such last-mentioned Native is willing to make such exchange, then, if the Public Trustee thinks such exchange advisable, he may apply to the Native Land Court or a Judge thereof for an order to give effect to such exchange, and the Court or Judge shall make an order declaring that such exchange has been made; and the effect of such order shall be to vest in the respective Natives the exchanged interests to all intents and purposes as if they had been originally entitled thereto. In cases of infants, lunatics, or idiots, an order making such exchange may be made upon the application of the Public Trustee, and a certificate in writing by him that he considers that such exchange would be beneficial to the infant, lunatic, or idiot shall be accepted by the

Court or Judge as sufficient evidence that it is beneficial; and any order so made shall bind the infant, lunatic, or idiot: Provided that where the parcels of land or the interests therein to be exchanged are not of equal value, the Court or Judge may order that the difference shall be made up by money payments (by instalments or otherwise), and the Public Trustee shall apply any moneys then in his hands or thereafter accruing to the credit of the Native who is to make such payments towards satisfying such order.

9. The meaning of the word "reserves" in section two of the principal Act is hereby amended by repealing all the words after the word "Courts," and this amendment shall be and be deemed to have been in force and operation on and from the twenty-fourth day of September, one thousand eight hundred and ninety-two. All the lands enumerated in the "Schedule A," Appendix I., to the Report of the West Coast Commissioner (Sir William Fox), dated the third day of June, one thousand eight hundred and eighty-four, under "The West Coast Settlement (North Island) Act, 1880" (Appendix to the Journals of House of Representatives, 1884, A.-5B), shall be and be deemed to have been on and from the twenty-fourth day of September, one thousand eight hundred and ninety-two, vested in the Public Trustee in fee-simple, upon the trusts and to and for the ends, intents, and purposes set forth in the principal Act. Land which has heretofore become vested in any other person than the Public Trustee by reason of the title thereto having become vested in such other person by virtue of "The Land Transfer Act, 1870," or "The Land Transfer Act, 1885," and by transfers or other instruments executed by Native grantees or their successors in title and registered under those Acts, and land transferred under section five of "The Reserves Disposal and Exchange Act, 1895," to the Crown, is hereby excepted from the operation of this section.

Definition of
"reserves"
amended.

10. It shall be the duty of the District Land Registrar of the district under "The Land Transfer Act, 1885," in which the land referred to in section nine is situated, forthwith after the passing of this Act, to enter a memorial to be signed by him in the register upon the folium constituted by the Crown grant or other instrument of title of such land, stating that by the principal Act and this Act such land is vested in fee-simple in the Public Trustee; and the District Land Registrar shall, if the Public Trustee requires him, issue certificates of title to the Public Trustee for such land.

District Land
Registrar to enter
memorial of Public
Trustee's title.

11. Leases heretofore made by the Public Trustee purporting to be under the authority of the principal Act shall, except in case of fraud, be conclusive proof that all the requisitions of the principal Act with respect to the making of such leases have been duly complied with.

Leases validated.

12. In addition to the powers conferred upon the Public Trustee by the principal Act, he may grant leases, containing such provisions as he thinks fit, of any portions of Native reserves not exceeding in any one case an area of five acres, at a nominal rental, without public competition, for any period not exceeding twenty-one years, for sites for dairy factories and schools, and, at the request of a majority of the Native owners, of any reserve for any other purpose for the

Public Trustee may
grant leases for
dairy-factories
sites and schools, &c.

advancement, improvement, or benefit of such Native owners. The foregoing provisions shall extend to and apply to the Pariroa Native Reserve vested in the Public Trustee by "The Pariroa Native Reserve Act, 1901."

Schedule.

SCHEDULE.

Number or Name of Land.	District.	Block and Survey District.	Area.	
			A.	R. P.
Part Allotment A and Allotment F of Moturoa N.R. No. 1	Grey	Paritutu ...	37	2 17
Part N.R. No. 2, Ararepe, being all the land comprised in certificate of title, Vol. xxxviii., folio 185	"	8, Paritutu	197	0 0
Subdivisions 1, 2, 3, 4, 5, 6, 9, 10, 14, 15, 16, 17, 18, 20, 21, 22, 25, 26, 27A, 2 of 29, 31, 32, 35, 36, 38, 39, 40, 41, 42, 43, 45, 46A, 48, 49, and 50, undivided half-interest in Subdivisions 11, 19, and 30, and an undivided seven-thirteenths interest in Subdivision 23, of N.R. No. 3, Puketotara	"	5, "		
Ratahangae 4B and Section 39...	"	5, "	25	0 37
Parts of N.R. 5, Ratapihipihi, being all the lands comprised in certificates of title, Vol. xl., folios 78 and 79, and Vol. xliii., folio 108	Omata	8, "	156	2 29
N.R. No. 6, Ruataku	"	4, "	10	0 0
N.R. No. 15, Henui	New Plymouth	...	2	3 24
N.R. No. 17	Fitzroy	2, Paritutu	86	0 0
N.R. No. 18, Pukaka...	"	5, "	5	0 0
N.R. No. 20, part Pukewarangi	"	5, "	15	2 0
Part N.R. 23 (Raiomiti B and C)	"	5, "	3	3 0
Purakau A 1	Hua	6, "	5	0 0
N.R. B 2 and B 3, part Raupiu	"	6, "	30	1 20
N.R. C 1B and C 2B	"	6, "	96	0 14
N.R. E	"	6, "	76	0 0
N.R. G	"	6, "	73	3 20
N.R. H, Whatapiupiu	"	6, "	54	0 0
N.R. L	Hua and Wakaiho	10, "	193	0 0
N.R. M, Araheke	Ditto	10, "	472	0 0
N.R. Upokotauaki, Section 151	Hua	6, "	50	0 0
N.R. Hoehoe, Section 152	"	6, "	50	0 0
N.R. Paraiti, Section 153	"	6, "	40	0 24
N.R. Tapuirau, Section 155	"	2, "	50	0 0
Hua (Orupuriri and part Hoewaka), Sections 156 (1), 156 (2B)	"	2, "	92	0 39
N.R. Rirongia, Section 22	Tarurutangi	7, "	10	0 0
N.R. Mangati, Section 27	Bell	2, "	165	0 0
N.R. Waiwakaiho and Katere, Sections 161, 162, 163	Hua	2, "	504	3 36
N.R. Manganaha, Section 149	"	2, "	55	0 0
Sections 28 and 88	"	5, Wairoa	229	3 10