

Mr. Taipua.

WEST COAST SETTLEMENT RESERVES.

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A BILL INTITULED

AN ACT to repeal "The West Coast Settlement Reserves Act, 1881," and its Amendments, and to make Provision in substitution thereof. Title.

5 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, 1891." Short Title.

10 2. In this Act, if not inconsistent with the context,— Interpretation.
"Reserves" means reserves made by the Governor in Council under "The West Coast Settlement (North Island) Act, 1880," and includes all land within that part of the Colony of New Zealand described in the *First* Schedule hereto given back to Natives, or granted to any of them for their benefit, except land given to them under awards of the Compensation Courts, or by the Governor in respect of special services rendered by such Natives previous to the passing of the said Act:

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

"The repealed Acts" mean "The West Coast Settlement Reserves Act, 1881;" "The West Coast Settlement No. 58—1.

Reserves Act Amendment Act, 1884 ;” “ The West Coast Settlement Reserves Act Amendment Act, 1885 ;” and “ The West Coast Settlement Reserves Act Amendment Act, 1887 :”

“ The said Act ” means “ The West Coast Settlement (North Island) Act, 1880 :” 5

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

“ The Court ” means the Native Land Court constituted under “ The Native Land Court Act, 1886 :” 10

“ Returning Officer ” means any such officer appointed by the Governor in Council under the provisions contained in section *sixteen* of this Act.

Validation of Crown grants.

3. All Crown grants of lands within the portion of the Colony of New Zealand described in the *First* Schedule hereto, or purporting to be made under the said Act, shall be and be deemed to have been valid from the time of the making of the same, and such land so granted shall, excepting as to lands granted under awards of the Compensation Court, or in respect of special services rendered by the grantees previous to the passing of the said Act, be deemed to be reserves within the meaning of this Act. All conditions, restrictions, or limitations on alienation contained in any such grants respectively shall be and be deemed to have been valid and of good effect notwithstanding the provisions of the said Act, and whether or not the said conditions, restrictions, and limitations are in conformity with the specific terms of any award, promise, or engagement respectively in fulfilment whereof any such grant was made, but the consent of the Governor in Council shall not be necessary to any exchange or lease of any such lands, or any part thereof, notwithstanding anything to the contrary contained in any grant of any such lands. 15 20 25 30

Incorporation of Native Acts.

4. The provisions of “ The Native Land Court Act, 1886,” and “ The Native Lands Frauds Prevention Act, 1881,” shall apply to all reserves, which shall be deemed to be “ land ” within the meaning of those Acts respectively ; and such provisions, so far as they are applicable, and, save in so far as the same are hereby modified, or are inconsistent herewith, shall be deemed to be incorporated herein. 35

Court in partition to be guided by Native custom.

5. The Court, in dealing with applications for partition of the said reserves, shall, as far as practicable, take into consideration and be guided by evidence of Native custom and usage, as if the said reserves had been land held under a title issued by the said Court and had not been confiscated. 40

Natives to have sole control of reserves on partition.

6. In the case of every reserve, or portion of reserve, which is or shall hereafter be held under one title by not more than twenty Natives, such Natives shall have the full control and management of such lands notwithstanding anything contained in the said Act, and shall, subject to the conditions, restrictions, and limitations as hereby modified contained in the grants or certificates of title of such lands respectively, have full powers of disposition of the same. In all other cases the Native owners of such reserves shall, subject to any leases of the same or any part thereof now in existence and not hereby invalidated, be entitled to occupy and enjoy such lands, but shall have no power of alienation thereof *inter vivos*. 45 50

7. The said reserves or any portion of them shall be inalienable by will or other testamentary deposition to any person who is not a Native within the meaning of this Act, and it shall not be lawful for any person other than a Native to succeed or to inherit the share or interest in the said reserves of any deceased Native who shall have died since the granting of the said reserves or who shall hereafter die.

Land inalienable by devise to other than Natives.

8. All leases heretofore granted by the Public Trustee under the authority of the repealed Acts, other than leases which have been granted pursuant to awards purporting to be made under the authority of the repealed Acts upon the surrender of leases confirmed under the repealed Acts, are hereby confirmed and validated from the respective dates thereof, subject to the following modifications hereinafter mentioned, that is to say,—

Validation of leases.

(a.) The term of years for which the said leases respectively shall be deemed to have been granted shall be twenty-one years from the dates of the commencement of such leases respectively :

(b.) Any covenants and provisions in the said leases for any renewal thereof, for the granting of any further term, for any valuation of the improvements, for the payment of any compensation for such improvements, and for the offering for sale and granting of any fresh leases, subject to the payment by the incoming tenant to the lessee of the value of any improvements, are hereby cancelled and annulled ; and the said leases shall hereafter be read and construed as if they had been struck out, or had not been inserted therein.

9. All awards made or purporting to be made under the authority of the repealed Acts by arbitrators appointed, or intended to have been appointed, for the purpose of settling the terms upon which new leases were to be granted by the Public Trustee upon surrender of leases confirmed by the Governor by Order in Council under the repealed Acts, and all leases granted by the Public Trustee in pursuance of any such awards, are hereby revoked, cancelled, and annulled : Provided always that any surrender made for the purpose of obtaining such award or a new lease shall not be deemed to have had any effect.

Arbitration awards and leases cancelled.

10. Forthwith after the passing of this Act the Court shall inquire and decide what as amongst the several owners of the reserves are their relative shares or interests in such reserves respectively, and the Court shall make order accordingly. Apart from and without prejudice to any partition of the land among such owners, the relative shares and interests therein shall be deemed and taken to be as defined and set out in and by any such order.

Court to ascertain and determine relative shares and interests.

11. Immediately on the ascertainment of such relative shares or interests, the Court or a Judge thereof shall cause a register of such Native owners or persons interested in each reserve, with their respective shares or interests, to be filed with the Receiver of Land Revenue at Hawera, and thereupon and thereafter the rent due, or accruing or to become due, in respect of any reserve, or any part thereof, may be paid in manner hereinafter provided to such Native

Register thereof to be filed.

owners or persons interested in the relative proportions of their shares or interests determined as aforesaid, unless such rent is otherwise reserved in the lease under which the same is payable.

Payment of rents. 4

12. In all cases in which the whole of the land included in any lease of a reserve, or any part thereof, is or shall hereafter be owned by not more than twenty Natives, the rent payable under such lease shall, from and after the thirty-first day of March next, be paid to the Native owners entitled thereto in the proportions aforesaid respectively. In all cases where the land included in any such lease is owned by more than twenty Natives, the rent shall be paid to the Committee for the reserve in which such land is situate, to be appointed in manner hereafter provided; and the receipt of all the members for the time being of the said Committee shall be a sufficient discharge for such rent. And such Committee shall pay over the said rent in the proportions aforesaid to the Natives entitled to the land affected by such lease respectively. For the purposes of collecting or enforcing payment of the rent reserved by any such lease or leases, or of enforcing the observance or performance of any covenants, conditions, or provisions contained in any such lease or leases, the Native owners of any land demised by such lease in all cases in which the whole of such land is or shall be owned by not more than twenty Natives, and the Committee for the time being for the reserve in which such land is situate, to be appointed in manner hereinafter provided, in all cases in which such land is owned by more than twenty Natives shall, from and after the thirty-first day of March next, be deemed to be the lessors of any such lease or leases respectively, and shall be entitled to sue for and recover all rent, and to bring any action in respect of any breach of any covenant, condition, or proviso in respect of any such lease or leases as if they respectively had been the persons lawfully granting such leases, and shall have and be entitled to exercise and enjoy respectively all the powers conferred upon lessors in respect of leases executed under "The Land Transfer Act, 1885."

Public Trustee to collect rents until 31st March next.

13. The Public Trustee shall until the thirty-first day of March next continue to have all the powers and authorities conferred on him by sections nine and ten of "The West Coast Settlement Reserves Act, 1881," notwithstanding the repeal thereof hereby effected; but in the distribution of rents amongst the Natives under those sections he shall be guided by the ascertainment of the relative shares or interests by the Court as hereinbefore provided, as soon as he shall have notice of same, and until such notice shall follow the determinations of shares or interests already made by him. The Public Trustee shall forthwith proceed to collect all arrears of rent now owing under any lease of any reserve, or part thereof. He shall before the thirtieth day of April next publish in the *Gazette* a detailed statement of his past receipts and expenditure, showing the rents payable under each lease, the rents paid, and the balance (if any) remaining unpaid on the thirty-first day of March next.

Court to inquire whether any Natives landless.

14. The Court shall inquire into and report to the Governor whether any Native or Natives permanently domiciled within the district described in the *First* Schedule hereto are left without sufficient suitable land for their maintenance and support, and are excluded

from the grants of any reserve, or any portion thereof, and upon the Court being satisfied that the names of such Native or Natives have never been included in the grants of any reserve, and that he or they are absolutely without land, it shall forthwith report such fact to the
 5 Governor. Upon receipt of such report it shall be lawful for the Governor to set aside sufficient suitable land for the occupation, maintenance, and support of such Native or Natives, and either forthwith to issue Crown grants or certificates of title to such Native or Natives,
 10 or to defer the issue of any such Crown grants or certificates of title until such Native or Natives shall have fulfilled such conditions as to residence and occupation of any such land as may to the Governor appear necessary and expedient to impose.

15 15. The Court shall inquire into and report to the Governor whether any Native owner or owners of a reserve are left without sufficient suitable land for their residence and cultivation on account of such reserve or part thereof having been leased, and whether it is expedient that the estate and interest of any present lessee or lessees in respect of any lease granted or confirmed under the repealed Acts ought to be secured for the purpose of providing for the Native
 20 owners of such land. If from any such report or reports the Governor shall be satisfied that any such Native owner or owners have not sufficient land left unleased for his or their residence and cultivation, it shall be lawful for the Governor to carry into effect such report, and to take the estate and interest of such lessee under any such lease in
 25 manner provided by "The Public Works Act, 1882," and the provisions of such Act shall apply accordingly.

Governor may take land under Public Works Act.

16. The Governor in Council shall before the month of November next, and subsequently from time to time before the times hereinafter appointed for the election of Committees, appoint some person to be
 30 Returning Officer for the purposes hereinafter mentioned, and such appointment shall be duly notified in the *Gazette* and *Kahiti*.

Appointment of Returning Officer.

17. In all cases where the owners of any portion of the reserves included in any one grant or certificate of title are more than twenty
 35 in number, the Returning Officer shall before the month of December next, and subsequently in the month of November in the year one thousand eight hundred and ninety-four, and thereafter in the same month of November, but at intervals of three years, give public notification in the *Gazette* and *Kahiti* that an election of three such owners as a Committee of such owners will be held, and that nomination-
 40 papers for such election will be received by him at any time in the month of December then next ensuing, and giving particulars as to the number of persons which each owner shall be entitled to nominate.

Mode of election of Committee.

18. At least five copies of such notification shall be served on
 45 each of at least five of such owners having the largest interest in the land in question, and at the same time as many printed forms of nomination-papers in the form hereinafter provided as there are owners shall be served on such five owners.

Nomination-papers to be served.

19. Each Committee shall consist of three members, and shall
 50 be elected from amongst the owners of the land in question.

Number of Committee.

20. Every election shall be by nominations in writing signed by owners of the land in question; each owner may nominate three or any less number of owners, of whom he may be one. Nomination-

Nomination-papers to be signed.

papers may be in the form or to the effect in the *Second* Schedule to this Act, and shall be signed in the presence of and attested by a Justice of the Peace, licensed interpreter, or postmaster. Nomination-papers shall be transmitted to the Returning Officer.

Duties of Returning Officer.

21. After the expiry of the time limited for the receipt of nominations as aforesaid the Returning Officer shall first satisfy himself that the interests of all the owners nominating amount to at least one-half in value of all the interests held in the land in question, he shall next ascertain separately the total value of the interests of all the owners nominating each owner who is nominated, and he shall then in each case notify the names of the three owners who shall have received nominations representing the greatest values as aforesaid to the Receiver of Land Revenue at Hawera, who shall inscribe such names in the register of Native owners hereinbefore mentioned, and adjacent to the names of the owners whom they represent. If no nominations shall be received as aforesaid by the Returning Officer, or if the interests of all the owners nominating shall not amount to one-half in value of all the interests held in the land in question, the Governor in Council shall forthwith proceed to appoint three of the owners of the land in question to be the Committee of such owners, and shall in his choice of such owners, as far as possible, give preference to those owners holding the largest interests in the land in question. The names of such owners shall forthwith be notified to the Receiver of Land Revenue at Hawera who shall inscribe them in the manner hereinbefore provided. Upon such inscription in manner aforesaid the persons whose names are so inscribed shall thereupon be the Committees under this Act in respect of the respective lands in question, and the said persons respectively shall continue to be such Committees until the inscriptions of the names of the subsequent Committees respectively.

Member of Committee may resign. Vacancies in Committee to be filled up.

22. A member of any Committee may resign by a writing signed by him and transmitted to the Returning Officer.

23. In the event of a vacancy occurring in a Committee by death or resignation, or in case a member of a Committee declines to act, the Returning Officer shall forthwith take steps for the election or appointment of another owner, and such election or appointment shall follow as far as applicable the procedure hereinbefore provided for the election or appointment of members of Committees. The name of the member elected, or in default appointed by the Governor in Council as aforesaid, shall be notified and inscribed in the manner hereinbefore provided in the place of such vacating member.

24. No minor shall sign any nomination or other paper having relation to the election of a Committee, and no minor shall be deemed to be an owner in respect of any of the matters herein contained; but this provision shall not affect the right of any such minor or his guardian, or any other person entitled to receive moneys on his behalf, to receive any rent or portion of rent to which such minor would be entitled if an adult. Any person attesting the signature of a minor to any document or nomination-paper, and knowing the person signing to be a minor, shall be liable to a penalty of not less than *fifty* pounds, and not exceeding *one hundred* pounds; and the same may be recovered by any person who shall sue for the same.

Nothing done under this Act shall be invalidated by reason of a minor having been treated as or having assumed the powers or functions vested by this Act in an adult.

25. The costs of the first election or appointment of the Committees as hereinbefore provided, and of any proceedings taken in connection with such an election or appointment, or of any abortive attempts to obtain such an election, shall be paid by the Public Trustee out of moneys which shall be in his hands arising from or in respect of the respective lands in respect of which such Committees shall be elected or appointed or intended to be elected respectively, and shall be charged to all the Native owners of such lands respectively in proportion to their shares or interests therein, and the Public Trustee is hereby directed to retain in his hands sufficient moneys to cover such costs. All such costs of or in connection with future elections or appointments of such Committees shall be paid by the respective retiring Committees, and charged to the Native owners in manner aforesaid, and such retiring Committees are directed to retain in their hands from rents which shall have been previously collected by them sufficient moneys to cover such costs. Such costs of or in connection with the election or appointment of Committees, or of any abortive attempts to obtain such an election, shall not in the case of each election or appointment, or attempt to obtain election, exceed the sum of pounds.

26. "The West Coast Settlement Reserves Act, 1881;" "The West Coast Settlement Reserves Act Amendment Act, 1884;" "The West Coast Settlement Reserves Act Amendment Act, 1885;" and "The West Coast Settlement Reserves Act Amendment Act, 1887," are hereby repealed: Provided that the said repeal shall not affect the validity of any Crown grant issued to any Native or Natives under the repealed Acts, or of any lease or leases heretofore made under the repealed Acts, or heretofore duly confirmed by Order in Council under the provisions of the repealed Acts.

SCHEDULES.

Schedules.

FIRST SCHEDULE.

DESCRIPTION OF THE WEST COAST SETTLEMENT RESERVES DISTRICT.

ALL that part of the Colony of New Zealand comprised within the following boundaries, that is to say: Commencing at the White Cliffs and thence by a line running due east, twenty miles; thence by a line running in a south-westerly direction to the Ngaere Swamp; thence by a line known as the Confiscated Line to the point where it strikes the Waitotara River, and by that river to the sea.

SECOND SCHEDULE.

NOMINATION-PAPER UNDER "THE WEST COAST SETTLEMENT RESERVES ACT, 1891."

I, , one of the owners of the reserve known as , do hereby nominate to be the Committee under the above-mentioned Act for the said

Reserve.

Signed by the above-named in my presence,
I being first satisfied that he understood the
meaning thereof—

Justice of the Peace.

[Licensed Interpreter, or Postmaster.]