

Native Territorial Rights.

- (1.) In defraying the expenses incident to the formation and laying out such settlement, including the payment of any compensation to the owners of any land that may be reserved or taken under the provisions of this Act. Formation &c.
- (2.) In the making and erection of roads bridges docks quays landing-places wharves piers public buildings and other public works within such settlement, and in repayment of any loans advanced for any such purposes. Roads &c.
- (3.) In establishing endowing and maintaining public schools and other public institutions. Schools &c.
- (4.) In promoting emigration from other places for the purpose of securing the efficient colonization of the said settlement. Emigration &c.

Provided always that all such money shall, for the purposes of "The New Zealand Loan Act, 1856," be deemed and taken to be revenue arising from the disposal of waste lands of the Crown in the Colony of New Zealand, and shall be chargeable with the sums of money borrowed and raised under the authority of the said Act, and with the interest thereon.

9. This Act shall not come into operation until Her Majesty's pleasure shall have been taken thereon, and the same shall have been confirmed by Her Majesty, with the advice of her Privy Council, and a Proclamation of such confirmation having been given shall have been made by the Governor or person administering the Government of New Zealand. Commencement of Act.

10. The Short Title of this Act shall be "*The Bay of Islands Settlement Act, 1858.*" Short Title.

SCHEDULE.

ALL that parcel of land situate within the Bay of Islands District and comprised within the boundaries following, that is to say:—Commencing at the Wharau Point at the entrance of the Keri Keri River; thence ascending the main ridge of hills to the hill called Te Puke; thence by the ridges forming the eastern and southern boundary of John Edmonds' claim; thence by a line along the southern boundary of James Shepherd's claim to the hill called Pukewhau; thence along the eastern boundary of the claim known as the "Children's Land" to its termination at the Whiringatau Creek; thence by that creek to the Keri Keri River, and by the Keri Keri River to the rapid at the Church Mission Station; thence across the river to the road from that station to the Rangitane Creek, and from that creek by a line in a north-easterly direction to the Mangonui River; thence by high water-mark to the Ake Ake Point; and thence by a line across the Keri Keri River to the Wharau Point, including all the islands within the said boundary. Estimated to contain fifteen thousand acres, more or less.

No. LXXX.

AN ACT to enable the Native Tribes of New Zealand to have their Territorial Rights ascertained, and to authorize the Issue in certain cases of Crown Grants to Natives. [21st August, 1858.] NATIVE TERRITORIAL RIGHTS.

[Reserved for the signification of Her Majesty's pleasure. Disallowed, *Gazette*, July 27, 1859.]

WHEREAS it is expedient that provision be made for enabling the Native tribes of New Zealand to have their territorial rights ascertained and defined; and it is also expedient that the Governor in Council be empowered to make free grants, to a limited extent, to individual Natives, of lands over which the Native title shall have been ceded. Preamble.

Native Territorial Rights.

ceded for the purpose, and that the estates and interests to be created by such grants be, in certain cases, inalienable to persons of European race, and in other cases be alienable to such persons upon certain conditions :

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

I.—CERTIFICATES OF NATIVE TITLE.

Governor in Council empowered to issue certificates of Native title to tribes &c.

1. Upon the application of any tribe community or individuals of the aboriginal inhabitants of New Zealand, and upon the Governor in Council being satisfied that such tribe community or individuals are entitled, according to Native custom, to the exclusive use and occupancy of any lands within the Colony over which the Native title has not been extinguished, it shall be lawful for the Governor, at his discretion, to issue under his hand, to the tribe community or individuals so appearing entitled, a certificate of their title to such lands.

Title to be reported on before issue of certificate.

2. No such certificate shall be issued unless and until a report shall have been made to the Governor, by some qualified person appointed by him for the purpose, certifying the names of or otherwise describing or indicating (as precisely as may be) all the aboriginal natives entitled, according to Native custom, to the use and occupancy of the lands to be comprised in such certificate, and that such Natives or so many of them as are not under any natural disability or incapacity are desirous of the issue thereof.

Lands in certificate to be surveyed.

3. No such certificate shall be issued until a survey of the lands to be therein comprised shall have been made by a surveyor approved of by the Governor for the purpose, and the boundaries thereof distinctly marked out, and every such certificate shall have written or indorsed thereon, or annexed thereto, an accurate plan of the lands therein comprised, and shall particularly set forth the metes and bounds of such lands.

On change in ownership new certificate may be issued.

4. Upon proof to the satisfaction of the Governor in Council that any change in the Native ownership of any lands comprised in any such certificate has taken place, it shall be lawful for the Governor, at his discretion, to issue a supplementary certificate of title to be annexed to the original certificate, or, if necessary or convenient, to cancel the original certificate of title and to issue in lieu thereof a new certificate of title.

Certificates may fix the succession to lands.

5. It shall be lawful for the Governor, with the assent of the Native owner, by any such certificate or supplementary certificate, to indicate and fix the succession to and mode of devolution of the Native title to the lands therein comprised.

Certificates to be registered.

6. A copy of every such certificate and plan or supplementary certificate shall be recorded in a book to be kept for the purpose by such person and under such regulations as the Governor shall prescribe.

Question of Native title to be determined as the Governor in Council shall direct.

7. Any question of or affecting the Native title to or right of occupancy over lands comprised in any such certificate, may be determined by the Governor in Council or otherwise as the Governor in Council shall appoint.

Declaration that Colonial Courts have no cognizance of questions of Native title.

8. It is hereby declared that no Court of Law or Equity within the Colony hath or ought to have cognizance of any question of or affecting the title or right of occupancy of the aboriginal natives, as amongst themselves, to or over any lands or hereditaments over which the Native title is not extinguished, except so far as the Native Circuit Court may have such jurisdiction under and by virtue of any regulation made in pursuance of "*The Native Districts Regulation Act, 1858.*"

Native Territorial Rights.

II.—CROWN GRANTS TO NATIVES.

9. The Governor in Council may authorize the granting of lands over which the Native title shall have been duly ceded to Her Majesty for the purpose unto or in trust for the benefit of any person or persons of the Native race either in fee simple or for any less estate or interest, or the settlement of any such lands upon or for the benefit of any such person or persons and their children or remoter issue, and may for that purpose authorize the limitation or creation of such lawful estates or interests as may seem fit; and the Governor may at his discretion make such grants and settlements accordingly; and any such deed of grant may contain powers of revoking all or any of the estates or interests thereby limited or created, and of appointing or creating new estates or interests in lieu thereof, either for the purpose of resettling the lands comprised in such grant, or any of them, or of effecting any sale exchange mortgage or lease thereof or for any other purpose whatsoever, such powers being exercisable by or at the discretion of the Governor in Council or by or at the discretion of any person or persons to be appointed or designated in that behalf by such deed of grant.

Governor in Council empowered to issue Crown Grants, and to create entails for the benefit of individual Natives.

10. It shall be lawful for the Governor, by the provisions of any such deed of grant, to prohibit the alienation or restrict the alienability of any estate or interest created by such grant, any rule of law or equity to the contrary notwithstanding.

Estates created by grants may be rendered inalienable.

11. No estate or interest whatsoever other than that of a trustee in or affecting any lands granted under this Act shall be or be agreed to be alienated to acquired by or created or in any wise charged or incumbered in favour of any person not being of the Native race, by way of sale mortgage demise gift or devise, or by or in consequence of any other act of the party, or by or in consequence of the process of any Court of Law or other act or operation of law, or by any other means whatsoever, unless there shall have been previously paid into the Colonial Treasury, for the use of Her Majesty, the sum of ten shillings for every acre of land in or affecting which such estate or interest shall be so alienated acquired created charged or incumbered, which payment shall be a condition precedent to the vesting in any person not being of the Native race of any estate or interest whatsoever other than that of a trustee in any lands so granted: Provided always that in cases in which the area of the land affected shall be a fractional part of an acre, or shall exceed a whole number of acres by a fractional part, such fractional part shall for the purposes of this present provision reckon as a full acre, and the sum payable in respect of such land shall be computed accordingly.

Ten shillings per acre to be paid into Treasury on alienation to Europeans where permitted.

12. No greater extent of lands than fifty thousand acres shall be granted in any one year under or by virtue of this Act, the year being reckoned to commence on the first day of January; nor shall any grant be issued under this Act after the thirty-first day of December, one thousand eight hundred and sixty-one.

Limit of quantity to be granted.

13. All sums of money which shall be received into the Colonial Treasury under this Act shall be carried to a separate account, and shall be expended, after payment thereof of the costs and expenses (exclusive of surveys) to be incurred in carrying this Act into execution, in the construction of such roads bridges and other public works and improvements upon or in the vicinity of the land in respect of which such money shall be received, or in districts over which the Native title shall not have been extinguished, as the Governor in Council shall from time to time think fit to direct, and for no other purpose whatever: Provided nevertheless that all such money shall, for

Appropriation of fund.

Native Territorial Rights.

for the purposes of "*The New Zealand Loan Act, 1856*," be deemed and taken to be revenue arising from the disposal of waste lands of the Crown within the Colony of New Zealand, and shall be chargeable with the sums of money borrowed and raised under the authority of the said Act, and with the interest thereon.

Penalty on illegal
occupation by
Europeans.

14. Any person not being of the Native race who, otherwise than as a trustee for some person of the Native race, shall occupy or take or receive any rents or profits of any lands granted under this Act, except such profits as may be derived from the sale of timber growing thereon, in respect of which due payment shall not have been made into the Colonial Treasury of such sum of money as by this Act is made payable as a condition precedent to the acquirement by any person not being of the Native race of an estate or interest in such lands shall forfeit the sum of one hundred pounds, to be recovered with full costs of suit, in any Court of competent jurisdiction, by any person who shall be appointed by the Governor to sue for the same.

III.—GENERAL.

Half-castes &c. to be
deemed Natives.

15. Half-castes shall, for the purposes of this Act, be deemed to be persons of the Native race.

Commencement of
Act.

16. This Act shall not come into operation until Her Majesty's pleasure shall have been taken thereon, and the same shall have been confirmed by Her Majesty, with the advice of her Privy Council, and a Proclamation of such confirmation having been given shall have been made by the Governor or person administering the Government of New Zealand.

Short Title.

17. The Short Title of this Act shall be "*The Native Territorial Rights Act, 1858*."