

# The Taranaki Report - Kaupapa Tuatahi

## APPENDIX II

# CONFISCATION LEGISLATION

THE NEW ZEALAND SETTLEMENTS ACT 1863

1863 No 8

ANALYSIS

Title

Preamble

1. Short Title
2. Governor in Council may proclaim Districts
3. Governor in Council may set apart sites for settlement
4. Governor in Council may take land for such settlements
5. Compensation to be granted

Who not entitled thereto

6. Persons not submitting deprived of compensation
7. Compensation to be granted according to the nature of the Title of the party claiming
8. Compensation Courts to be established
9. The Governor in Council to appoint Judges
10. Judges to take oath
11. Extent of Jurisdiction
12. Power of Judges to compel attendance of witnesses &c
13. Colonial Secretary to transmit claims and Judges to hear them
14. Certificates to be granted

15. Grantee of Certificate entitled to amount from Colonial Treasury
  16. Towns &c to be laid out on land subject to this Act for Military Settlers
  17. Governor in Council may cause remaining land to be laid out in Towns &c
  18. And to be disposed of according to regulations to be made by the Governor in Council
  19. Disposal of proceeds of sale
  20. Act may apply to land obtained by purchase &c
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**AN ACT to enable the Governor to establish Settlements for Colonization in the Northern Island of New Zealand. [3rd December 1863]**

WHEREAS the Northern Island of the Colony of New Zealand has from time to time been subject to insurrections amongst the evil-disposed persons of the Native race to the great injury alarm and intimidation of Her Majesty's peaceable subjects of both races and involving great losses of life and expenditure of money in their suppression And Whereas many outrages upon lives and property have recently been committed and such outrages are still threatened and of almost daily occurrence And Whereas a large number of the Inhabitants of several districts of the Colony have entered into combinations and taken up arms with the object of attempting the extermination or expulsion of the European settlers and are now engaged in open rebellion against Her Majesty's authority And Whereas it is necessary that some adequate provision should be made for the permanent protection and security of the well-disposed Inhabitants of both races for the prevention of future insurrection or rebellion and for the establishment and maintenance of Her Majesty's authority and of Law and Order throughout the Colony And Whereas the best and most effectual means of attaining those ends would be by the introduction of a sufficient number of settlers able to protect themselves and to preserve the peace of the Country:

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

- I. The Short Title of this Act shall be 'The New Zealand Settlements Act 1863.'
- II. Whenever the Governor in Council shall be satisfied that any Native Tribe or Section of a Tribe or any considerable number thereof has since the first day of January 1863 been engaged in rebellion against her Majesty's authority it shall be lawful for the Governor in Council to declare that the District within which any land being the property or in the possession of such Tribe or Section or considerable number thereof shall be situate shall be a District within the provisions of this Act and the boundaries of such District in like manner to define and vary as he shall think fit.

- III. It shall be lawful for the Governor in Council from time to time to set apart within any such District eligible sites for settlements for colonization and the boundaries of such settlements to define and vary.
- IV. For the purposes of such settlements the Governor in Council may from time to time reserve or take any Land within such District and such Land shall be deemed to be Crown Land freed and discharged from all Title Interest or Claim of any person whomsoever as soon as the Governor in Council shall have declared that such Land is required for the purposes of this Act and is subject to the provisions thereof.
- V. Compensation shall be granted to all persons who shall have any title interest or claim to any Land taken under this Act provided always that no compensation shall be granted to any of the persons following that is to say to any person-

(1) Who shall since the 1st January 1863 have been engaged in levying or making war or carrying arms against Her Majesty the Queen or Her Majesty's Forces in New Zealand or-

(2) Who shall have adhered to aided assisted or comforted any such persons as aforesaid or-

(3) Who shall have counselled advised induced enticed persuaded or conspired with any other person to make or levy war against Her Majesty or to carry arms against Her Majesty's Forces in New Zealand or to join with or assist any such persons as are before mentioned in Sub-Sections (1) and (2) or-

(4) Who in furtherance or in execution of the designs of any such persons as aforesaid shall have been either as principal or accessory concerned in any outrage against person or property or-

(5) Who on being required by the Governor by proclamation to that effect in the *Government Gazette* to deliver up the arms in their possession shall refuse or neglect to comply with such demand after a certain day to be specified in such proclamation.

- VI. It shall be lawful for the Governor by proclamation to be published in the Maori as well as the English language to call upon any Native Tribes or individuals thereof who shall have been engaged in any of the offences specified in Section 5 of this Act to come in and submit to trial according to law on or before a certain day to be therein named and all who shall refuse or neglect to come in and submit themselves accordingly shall not be entitled to Compensation under this Act.
- VII. Compensation shall be granted according to the nature of the title interest or claim of the person requiring compensation and according to the value thereof Provided always that no claim shall be entertained unless the same shall have been preferred in writing to the Colonial Secretary by the claimant residing in the Colony within six months and if not residing in the Colony then within eighteen months after the land in respect of which the claim is made has been proclaimed under Section 4 as required for the purposes of this Act.

- VIII. For the purpose of determining claims for compensation under this Act there shall be established Courts to be called 'Compensation Courts.'
- IX. It shall be lawful for the Governor in Council from time to time by Letters Patent under the Public Seal of the Colony to appoint Judges of such Courts and at any time by warrant to remove any such Judge.
- X. Any Judge before proceeding to act shall take and subscribe before a Judge of the Supreme Court an Oath that he will faithfully perform the duties of his Office.
- XI. Every Compensation Court shall be held before one such Judge whose jurisdiction shall extend over a district to be specified in the Letters Patent by which he is appointed.
- XII. Every Judge shall have the power as near as circumstances will permit of compelling the attendance of and examining witnesses and of regulating the proceedings of his Court as a Resident Magistrate in New Zealand has in reference to a cause of complaint over which he has summary jurisdiction and also power to make rules for the conduct of the business of his Court.
- XIII. It shall be the duty of the Colonial Secretary to transmit every claim under this Act which shall be received by him to the Judge of a Court competent to hear the same and it shall be the duty of such Judge to hear the claim and determine the right of the claimant to compensation and the amount of compensation to which he is entitled Provided always that it shall be competent for the person making a claim to require that the amount of Compensation shall be determined by the award of two indifferent Arbitrators - one to be appointed in writing by the Claimant at the time of making his claim and the other by the Colonial Secretary or in case of their not agreeing in an award within two months from the time of the question being referred to them by the Colonial Secretary in writing then by the award of their Umpire to be chosen before they enter on the question and if no award shall have been made within three months from the time of such reference by the Colonial Secretary the amount of compensation shall be determined by the Court.
- XIV. The Judge shall grant to every Claimant who shall be entitled to compensation a Certificate specifying the amount thereof and describing the land in respect of which the same is granted and the nature of the Claimant's title interest or claim therein.
- XV. Such Certificate shall entitle the person in whose favor the same was granted to receive from the Colonial Treasurer the amount named in such Certificate as payable to him.
- XVI. On part of the Land subject to the provisions of this Act the Governor shall cause to be laid out a sufficient number of Towns and Farms around or as near as conveniently may be to the same to give full effect to the provisions of the several Contracts heretofore or hereafter to be entered into by or on behalf of the Government of New Zealand with certain persons for the granting of land to them respectively in return for Military Service on the terms in and subject to the Conditions of the said Contracts respectively expressed and the several persons who shall have been enrolled under the said Contracts respectively shall be entitled to such Town and Farm Sections in conformity with the Provisions of the said Contracts Provided always that it shall be lawful for the Governor with the consent in writing of any person entitled

under such Contracts to vary the Conditions thereof as regards such person as the Governor in Council may think fit.

- XVII. After setting apart sufficient land for all the persons who shall be entitled thereto under the said Contracts it shall be lawful for the Governor in Council to cause towns to be surveyed and laid out and also Suburban and Rural allotments.
- XVIII. All such Town Suburban and Rural Land shall be let sold occupied and disposed of for such prices in such manner and for such purposes upon such terms and subject to such Regulations as the Governor in Council shall from time to time prescribe for that purpose.
- XIX. Money to arise from the sale and disposal of any Land under this Act shall be disposed of as the General Assembly shall direct in or towards the repayment of the expenses of suppressing the present insurrection and the formation and colonization of the Settlements including the payment of any Compensation which shall be payable under this Act and subject thereto to the payment of any Compensation which may be awarded by law to individuals for losses by the said rebellion 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 sum of money borrowed or raised under the authority of the said Act and with interest thereon.
- XX. The several powers vested in the Governor and in the Governor in Council by this Act authorizing the formation of Settlements for colonization shall so far as the same are applicable thereto apply to any land which shall be obtained by cession or purchase or shall be set apart by the Superintendent of any Province with the advice and consent of the Provincial Council thereof for the purpose of such settlements although such land shall not be situate within the limits of a District to be declared under the second Section of this Act.

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THE NEW ZEALAND SETTLEMENTS AMENDMENT ACT 1864

1864 No 4

ANALYSIS

Title

Preamble

- 1. Short Title
- 2. Governor in Council may in certain cases award compensation or increased compensation
- 3. Duration of Act

AN ACT to Alter and Amend 'The New Zealand Settlements Act 1863.' [*13th December 1864*]

WHEREAS an Act was passed by the General Assembly of New Zealand called 'The New Settlements Act 1863' and it is expedient to limit the duration thereof and that the same should be altered and amended as hereafter provided.

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

- I. The Short Title of this Act shall be 'The New Zealand Settlements Amendment Act 1864.'
  - II. In any case in which under the said Act the Compensation Court shall have refused to award compensation or shall have awarded less compensation than may have been claimed or in any other case if the Governor in Council shall be of opinion that the circumstances of the case would render it expedient that compensation or larger compensation should be awarded it shall be lawful for the Governor in Council to award and direct that compensation or increased compensation shall be paid to any person or persons who in the judgment of the Governor in Council shall be reasonably entitled thereto.
  - III. The said Act and this Act shall respectively continue in operation until the third day of December 1865.
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THE NEW ZEALAND SETTLEMENTS AMENDMENT AND CONTINUANCE ACT 1865

1865 No 66

ANALYSIS

Title

Preamble

- 1. Short Title
- 2. Continuance of former Acts. Power of Governor to proclaim districts not to be exercised
- 3. Power of Governor to make regulations for proceedings of Compensation Court
- 4. Regulations to be published in the *Government Gazette*
- 5. Claims to specify particulars
- 6. The Crown may abandon land in respect of which compensation is claimed
- 7. Power of Compensation Court
- 8. Bills of costs &c To be taxed by any officer appointed by the Compensation Court
- 9. Parties may agree that compensation shall be in land
- 10. The Crown may elect to give compensation in land
- 11. Power of appeal
- 12. Form of order and award
- 13. Payment or transfer not to be required till after a lapse of three months

- 14. Repeal of 14th and 15th clauses of the Act 1863 Provision in lieu thereof
- 15. Payment or transfer to be made to persons specifically named
- 16. Governor to have the power of laying out land for sale
- 17. Governor may grant land subject to conditions of military and other services
- 18. Application of proceeds of sale

AN ACT to Alter Amend and Continue 'The New Zealand Settlements Act 1863.'  
**[30th October 1865]**

WHEREAS by 'The New Zealand Settlements Act Amendment Act 1864' (herein referred to as the Act of 1864) it was enacted that 'The New Zealand Settlements Act 1863' (herein referred to as the Act of 1863) and the said Act of 1864 should respectively continue in operation until the third day of December 1865 and it is expedient to alter and amend the said Act of 1863 as amended by the said Act of 1864 and to prolong the continuance thereof as so amended

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

- I. The Short Title of this Act shall be 'The New Zealand Settlements Amendment and Continuance Act 1865.'
- II. The said Act of 1863 as amended by the said Act of 1864 and by this Act is hereby made perpetual Provided that the powers vested by the said Act of 1863 in the Governor in Council of proclaiming Districts and reserving and taking land for settlement under the said Act shall not be exercised after the third day of December 1867.
- III. The Governor in Council shall have power from time to time to make regulations for the practice and procedure of the Compensation Courts and of arbitrations umpirages and appeals under the said Acts and under this Act and for establishing scales of fees in relation to all such proceedings and may from time to time rescind alter and amend such regulations.
- IV. All such regulations and all rescindings alterations and amendments thereof shall be from time to time notified in the *Government Gazette* of the Colony and shall take effect from the publication of such notice or at such other day as shall be therein fixed not being prior to the publication thereof.
- V. Every claim for compensation under the said Act of 1863 shall specify the name or names of claimant or claimants the interest in respect whereof the claim is made and as nearly as may be the extent and particulars of land affected thereby and the amount claimed as compensation.
- VI. In every case of claim for compensation the Colonial Secretary on behalf of the Crown may if he shall think fit at any time before judgment or award by notice in writing to the claimant delivered to or addressed by post to him or her or delivered to his or her agent or attorney abandon the right of the Crown to take the land in respect of which compensation is claimed and after such notice of abandonment such land shall be excluded from the operation of the said Acts and of this Act Provided that if the Crown shall abandon its right after the claim shall have been referred to the Compensation Court such

abandonment shall be subject to such conditions as to payment of costs as the Court shall think fit.

- VII. It is hereby declared and enacted that the Compensation Court has and since the passing of 'The New Zealand Settlements Act 1863' always has had full power and authority to determine for the purposes of the said Act of 1863 and the said Act of 1864 and this Act whether any person or persons claiming compensation under the said Acts have committed any of the offences or have committed any of the acts specified in the five sub-sections of the fifth section of the said Act of 1863.
- VIII. All bills of costs and charges of attorneys solicitors agents and other persons engaged in prosecuting compensation claims whether in the Compensation Courts or by arbitration shall before payment be taxed by some officer to be appointed in that behalf by the Compensation Court and such sum only as shall be allowed on such taxation shall be paid or allowed and any money paid without or in excess of such taxation may be recovered from the person to whom the same shall have been paid.
- IX. In any case of claim for compensation the Colonial Secretary on behalf of the Crown and the claimant may agree that land shall be given either wholly or in part by way of compensation for such claim in lieu of money and land may be so granted accordingly out of any land within the same Province subject to the provisions of the said Acts.
- X. In every case of claim for compensation the Colonial Secretary may at any time before judgment or award elect to give the claimant land in lieu of money out of any land within the Province subject to the provisions of the said Acts and in every such case the Compensation Court or the arbitrators or umpire as the case may be shall determine the extent of land so to be given as compensation and land may in such case be granted accordingly.
- XI. Instead of periods of six months and eighteen months prescribed by the seventh section of the said Act of 1863 for preferring claims for compensation the period for such purpose shall be a period not less than three months nor more than six months to be prescribed by the Compensation Court in each case and the Court shall not proceed to hear or adjudicate upon claims so preferred till the expiration of the period so prescribed and due notice of such period for preferring claims shall be given by direction of the Court by advertisement in public newspapers or otherwise by public notice in the Maori and English language Provided that if any person shall after the expiration of such prescribed period but within the period of twelve months thereafter prefer to the Colonial Secretary a claim for compensation it shall be lawful for the Colonial Secretary if he shall think fit but not otherwise to refer such claim to the Court for adjudication and in such case the Court shall hear and determine such claim accordingly.
- XII. Every order of the Compensation Court and every award shall be made in writing and shall be transmitted to the Colonial Secretary and shall be in such form and shall specify and be accompanied with such plans and particulars as shall be from time to time prescribed by regulations to be made as aforesaid.
- XIII. No claimant shall be entitled to require payment or transfer of compensation whether in money or land until the expiration of three months after the judgment or award shall have been transmitted to the Colonial Secretary.

- XIV. The 14th and 15th clauses of the Act of 1863 are hereby repealed in lieu thereof it is hereby enacted as follows-
  - Judgments or awards of compensation in money or land made under or in pursuance of the said Acts or of this Act may be satisfied by the Governor in the case of money by payment out of the general ordinary revenue of the Colony subject to the provisions hereinafter contained for making Treasury Bills payable as cash and in case of land by grant of such land in accordance with the provisions of this Act.
  - XV. Compensation in money shall be paid and in land shall be granted to some person or persons to be specifically named in the order or award and such payment or transfer shall be an effectual discharge to the Crown in respect of all claims in respect of which compensation shall be made or granted Provided that the Governor may direct that money or land awarded as compensation shall be invested for the benefit of the parties entitled upon such trusts and in such manner and subject to such conditions as he shall think fit.
  - XVI. The 17th and 18th sections of the said Act of 1863 are hereby repealed and in lieu thereof it is enacted as follows-
    - The order and manner in which land shall be paid out for sale and sold under the provisions of the said Act shall be in the discretion of the Governor who shall have power to cause such land or any part thereof to be laid out for sale and sold from time to time in such manner for such consideration in such allotments whether town suburban or rural or otherwise as he shall think fit and subject to such regulations as he shall with the advice of his Executive Council from time to time prescribe in that behalf.
    - XVII. If the Governor shall think it expedient to grant land taken under the Act of 1863 to persons subject to conditions for the performance of Military or Police services it shall be lawful for him with such advice as aforesaid to grant to any person or persons whomsoever any land out of the land taken as aforesaid accordingly and either with or without consideration in money subject to conditions for the performance of Military or Police services and the land so granted shall be held dealt with and disposed of subject to such conditions for the performance of such services as shall be so fixed by the Governor and agreed to by the grantees And such conditions shall be binding on the grantees and all lessees sub-lessees sub-grantees and occupants of the land granted and may be enforced according to the terms thereof and according to the provisions of this Act and shall bind and oblige the grantees lessees sub-grantees and occupants of such land to the performance of such Military or Police service for such period and in such manner as shall be specified in such conditions And the Governor may by such conditions provide that in addition to all liabilities incurred by way of contract grantees lessees sub-lessees sub-grantees and occupants of such land shall be liable to penalties for breach or non-performance of such conditions but no penalty shall exceed one hundred pounds and all such penalties shall be recoverable in a summary way before two or more Justices of the Peace.
    - XVIII. The nineteenth section of the said Act of 1863 is hereby repealed and in lieu thereof it is enacted as follows-
      - Money to arise from the sale and disposal of land in each Province under the said Acts of 1863 and 1864 and this Act shall be paid to the Colonial Treasurer and shall be applied in such manner as the General Assembly shall from time to time by any Act passed in that behalf direct.

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THE NEW ZEALAND SETTLEMENTS ACTS AMENDMENT ACT 1866

1866 No 31

ANALYSIS

Title

- 1. Short Title
- 2. Governor may authorize land to be sold under New Zealand Settlements Acts for such price or consideration as he may think fit
- 3. Colonial Secretary may before or after award elect to pay compensation in land
- 4. Colonial Secretary may grant land scrip
- 5. Governor may make reserves
- 6. All proceedings under New Zealand Settlements Acts to be deemed valid
- 7. Governor's proclamation published second day of September not to relieve persons who by terms of said Acts were excluded from compensation under Acts
- 8. Lands sold &c to be under regulations issued by the Governor in Council

AN ACT to amend 'The New Zealand Settlements Amendment and Continuance Act 1865' and to confirm certain Acts done under 'The New Zealand Settlements Act 1863' 'The New Zealand Settlements Amendment Act 1864' and 'The New Zealand Settlements Amendment and Continuance Act 1865.' [8th October 1866]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled and by the authority of the same as follows-

- I. The Short Title of this Act shall be 'The New Zealand Settlements Acts Amendment Act 1866'
- II. So much of the sixteenth section of 'The New Zealand Settlements Amendment and Continuance Act 1866' as provides that the land therein referred to shall not be sold thereunder except for cash nor at a less rate than ten shillings per acre is hereby repealed And it is hereby expressly declared and provided that the land in the said section referred to shall be sold for such consideration or at such price and whether for cash or otherwise as the Governor shall from time to time prescribe.
- III. It shall be lawful for the Colonial Secretary under section ten of the said 'New Zealand Settlements Amendment and Continuance Act 1865' to elect either before or after judgment or award to satisfy such award wholly or in part by land in lieu of money.
- IV. It shall be lawful for the Colonial Secretary to give land scrip in lieu of compensation in money for any land taken under the said 'New Zealand Settlements Act 1863' and such scrip shall be available at any time to be prescribed thereon for the purchase of land taken under the said Act within the, districts therein named Provided that any scrip heretofore granted by any

Agent of the General Government shall be deemed to have been granted under this Act and to have been and to be valid from the issue thereof accordingly.

- V. The Governor may reserve portions of any of the land taken under the said 'New Zealand Settlements Act 1863' for the several purposes for which reserves may be made under the twelfth section of 'The Waste Lands Act 1858' and may make grants thereof under 'The Public Reserves Act 1854' or otherwise as the case may require.
  - VI. All orders proclamations and regulations and all grants awards and other proceedings of the Governor or of any Court of Compensation or any Judge thereof heretofore made done or taken under authority of the said Acts or either of them are hereby declared to have been and to be absolutely valid and none of them shall be called in question by reason of any omission or defect of or in any of the forms or things provided in the said Acts or either of them.
  - VII. None of the persons who under the provisions of the said Acts or any or either of the said Acts would have been excluded from compensation in respect of any of the lands taken under the said Acts or either of them or purporting to have been so taken shall be relieved from such exclusion by anything in the proclamation made by the Governor bearing date the second day of September one thousand eight hundred and sixty-five published in the *New Zealand Gazette* on the fifth day of September aforesaid.
  - VIII. Provided always and it is hereby enacted and declared that all lands sold or otherwise disposed of and all scrip issued under this Act shall be sold or disposed of or issued under regulations to be made by the Governor in Council which regulations shall be published in the *New Zealand Gazette*.
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#### THE NEW ZEALAND LOAN ACT 1863

1863 No 11

#### ANALYSIS

Title

Preamble

- 1. Short Title
- 2. The Governor may appoint Agents to raise and manage a Loan
- 3. Such Agent or Agents shall have power to raise any sums not exceeding £3,000,000
- 4. Bonds &c to be for sums and in form and to be negotiable as prescribed by Agents
- 5. Interest payable at such times and places as shall be fixed and named
- 6. Principal and Interest charged on the Ordinary Revenue of the Colony of New Zealand
- 7. Money raised to be applied to purposes set forth in Schedule
- 8. Principal to be repaid at the expiration of fifty years
- 9. Percentage to be paid annually to pay interest and provide a Sinking Fund

- 10. This Act not in any way to prejudice vary or affect 'The Loan Act 1856' or 'Imperial Guarantee Act'
- Schedule

AN ACT for raising a Loan of Three Million Pounds sterling for the Public Service of the Colony of New Zealand [14th December 1863]

WE Her Majesty's most dutiful and loyal subjects the House of Representatives in Parliament assembled being desirous to raise the necessary supplies which we have cheerfully voted to Her Majesty in this Session of Parliament have resolved that a sum not exceeding Three Millions shall be raised in manner hereinafter mentioned:

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

- I. The Short Title of this Act shall be 'The New Zealand Loan Act 1863.'
- II. It shall be lawful for the Governor of New Zealand to appoint one or more person or persons to be an Agent or Agents for the purpose of raising and managing the Loan or Loans proposed to be raised under and by virtue of this Act.
- III. Such Agent or Agents shall have full power and authority to borrow and raise in Great Britain or elsewhere by Bonds Debentures or otherwise such sums not exceeding in
  - from time to time determine and direct Provided always that if the whole or any portion of the Loan authorised to be raised under an Act of the General Assembly of New Zealand intituled 'The Loan Act 1862' shall be raised the amount so raised shall be deducted from the amount authorised to be raised under this Act.
- IV. Every Bond Debenture or other security granted under this Act shall bear interest after a rate not exceeding Five Pounds for every One Hundred Pounds by the year shall be for such sum and in such form shall be signed on behalf of the said Colony and shall be transferable and negotiable in such manner as such Agent or Agents shall prescribe Provided always if Her Majesty's Imperial Government shall guarantee the Loan authorised to be raised under this Act or any part thereof it shall be lawful for the Commissioners of Her Majesty's Imperial Treasury to reduce the rate of interest on the said Loan or on so much thereof as shall be so guaranteed and in respect of which securities shall not have been issued to such a rate as the said Commissioners shall direct and the rate of interest on the securities unissued shall be altered accordingly.
- V. The interest on every such Bond Debenture or other security shall be payable at such times and places as shall be fixed and named for that purpose in such Bond Debenture or other security.
- VI. All sums of money borrowed and raised under the authority of this Act and interest thereon shall be a charge upon the Ordinary Revenue of New Zealand as defined by the 'Ordinary Revenue Act 1858.'
- VII. The money to be borrowed under the authority of this Act shall be applied as the General Assembly shall from time to time direct and appoint to the several purposes specified and set forth in the Schedule to this Act.

- VIII. The principal sums so to be borrowed and raised as aforesaid shall be made payable and repaid at the expiration of Fifty years from the several days on which they shall respectively be borrowed and raised as aforesaid.
- IX. For the purpose of paying the said interest and providing a Sinking Fund for the liquidation of the principal there shall be paid yearly out of the Ordinary Revenue of the Colony to such persons as the Governor shall appoint such sum as shall be equal to the aforesaid interest and one per centum per annum on the total of the principal from time to time borrowed and after paying the interest thereon as the same shall from time to time become due the balance thereof shall be set apart as a Sinking Fund and shall be invested by such person or persons in such manner as the Governor shall from time to time direct and shall be increased by accumulation in the way of compound interest or otherwise.
- X. Nothing in this Act contained shall prejudice vary or affect any security granted under or by virtue of 'The New Zealand Loan Act 1856' and an Act of the Imperial Parliament passed in the twentieth and twenty-first years of the Reign of Her present Majesty intituled 'An Act to guarantee a Loan for the service of New Zealand' or either of them and 'The New Zealand Loan Act 1860.'

## SCHEDULE

- For defraying the cost of suppressing the present rebellion
- For the introduction into the Northern Island of settlers from Australia Great Britain and elsewhere
- For the cost of Surveys and other expenses incident to the location of settlers
- For the purposes specified in the 'Loan Act 1862'
- And for other Public purposes

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### THE SUPPRESSION OF REBELLION ACT 1863

1863 No 7

### ANALYSIS

Title

Preamble reciting existence of Rebellion

- 1. Short Title
- 2. Governor to issue orders for the suppression of the Rebellion
- 3. Acts done in pursuance of such orders not to be questioned in Supreme Court
- 4. Officers, &c, acting under such Orders responsible only to Courts Martial
- 5. Return to *Habeas Corpus* that person is detained under warrant under this Act sufficient
- Proviso

- 6. Governor or General or other Officer empowered by the Governor may authorise the holding of Courts Martial
- 7. Constitution of such Courts
- 8. Powers of such Courts
- 9. Act not abridge power of proclaiming Martial Law
- 10. Indemnity for acts already done
- 11. Duration of Act

AN ACT for the suppression of the Rebellion which unhappily exists in this Colony and for the protection of the Persons and Property of Her Majesty's Loyal Subjects within the same (Temporary). [3rd December 1863]

WHEREAS a combination for the subversion of the authority of Her Majesty and Her Majesty's Government has for some time existed amongst certain Aboriginal tribes of this Colony and has now manifested itself in acts of open Rebellion And Whereas persons in prosecution of the said Rebellion have committed murders on some of Her Majesty's subjects engaged in their peaceful occupations have pillaged their homesteads and burnt and destroyed their property And Whereas the ordinary course of law is wholly inadequate for the suppression of the said Rebellion and the prompt and effectual punishment of those who are guilty of such atrocity and outrage:

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

- I. The Short Title of this Act shall be 'The Suppression of Rebellion Act 1863.'
- II. It shall be lawful for the Governor in Council from time to time during the continuance of the said Rebellion to issue his Orders to all persons whom he shall think fit to authorize in that behalf to take the most vigorous and effectual measures for suppressing the said Rebellion in any part of this Colony which shall appear to be necessary for the public safety and for the safety and protection of the persons and properties of Her Majesty's peaceable and loyal subjects and to punish all persons acting aiding or in any manner assisting in the said Rebellion or maliciously attacking or injuring the persons or properties of Her Majesty's loyal subjects in furtherance of the same according to Martial Law either by death penal servitude or otherwise as to them shall seem expedient and to arrest and detain in custody all persons engaged or concerned in such Rebellion or suspected thereof and to cause all persons so arrested or detained in custody to be brought to trial in a summary manner by Courts Martial at the earliest possible period for all offences committed in furtherance of the said Rebellion whether such persons shall have been taken in open arms against Her Majesty or shall have been otherwise concerned in the said Rebellion or in aiding or in any manner assisting in the same and to execute the Sentences of all Courts Martial whether of death penal servitude or otherwise and to do all other acts necessary to such several purposes.
- III. No act which shall be done in pursuance of any order issued as aforesaid shall be questioned in Her Majesty's Supreme Court of New Zealand or in any other Court And in order to prevent any doubt which might arise whether any

act alleged to have been done in conformity to any Orders so issued as aforesaid was so done it shall be lawful for the Governor to declare such acts to have been done in conformity to such Orders and such declaration signified by any writing, under the hand of the Governor shall be a sufficient discharge and indemnity to all such persons concerned in any such acts and shall in all cases be conclusive evidence that such acts were done in conformity to such Orders.

- IV. All Officers Non-Commissioned Officers Soldiers and Militiamen who shall act under any such orders as aforesaid shall be responsible for all things which shall be done under such orders to Courts Martial only by which they shall be liable to be tried for any offence against the Articles of War under any Act then in force for any such purposes and Courts Martial shall have full and exclusive cognizance of all matters and things which shall be objected against such Officers Non-Commissioned Officers Soldiers and Militiamen respectively and all proceedings shall be had thereon in the same manner as for Offences against the Articles of War and not otherwise and the Supreme Court or any other Court of Justice civil or criminal shall not take cognizance of any act matter or thing which shall be done by any such Officer Non-Commissioned Officer Soldier or Militiaman in pursuance of this Act and if any proceeding shall be had in any such Court against any such Officer Non-Commissioned Officer Soldier or Militiaman for any such act matter or thing by indictment action or otherwise all such proceedings shall be stayed by summary, order on application to the Court wherein they shall be had.

- V. If any person who shall be detained in custody under the Powers created by this Act shall sue forth a Writ of *Habeas Corpus* it shall be good and sufficient return to such Writ that the party suing forth the same is detained by virtue of a warrant under the hand and seal of some person duly authorized by the Governor in Council for the time being to issue such warrant under the authority of this Act Provided that at the time such return is made the name of such person so authorized as aforesaid to issue such warrants shall have been or shall be notified by the Governor to the Supreme Court by writing signed by him signifying to the said Court that such person was so authorised as aforesaid to exercise the powers specified by this Act and when such return shall be made it shall not be necessary to bring up the body of the person who is so detained.

- VI. For the trial of offences under this Act it shall be lawful for the Governor or the General or other Officer Commanding Her Majesty's forces in New Zealand or for any other Officer of Her Majesty's Forces not under the Rank of a Field Officer who shall be authorised by a Commission from the Governor in Her Majesty's name in that behalf from time to time by warrant under his hand to authorise and empower any Officer in Her Majesty's Regular or Militia Forces in New Zealand not under the Rank of a Field Officer to convene assemble and hold Courts Martial for the trial of such persons under this Act as the Governor or General or other Officer as aforesaid shall direct.

- VII. Every such Court Martial shall consist of not less than three nor more than nine Commissioned Officers of Her Majesty's regular or Militia forces in New Zealand or partly of Commissioned Officers of each such Force And when the defendant shall be a person of the Maori or Half-Caste race a sworn Interpreter shall be appointed by the Governor or in default of such appointment by the Officer convening such Court to interpret in the said Court

on behalf of the defendant Provided always that no Court which shall consist of less than seven Members four of whom at least shall be Commissioned Officers of Her Majesty's Regular Forces shall pass sentence of Death and that on every Court there shall be at least two such Commissioned Officers.

- VIII. Every such Court shall have all powers privileges and authorities appertaining or incident to and shall conduct all proceedings according to the manner of Courts Martial held under the Provisions of the Act for the time being in force in New Zealand for punishing mutiny and desertion and the sentence of any such Court when confirmed by the Governor or the General or other Officer Commanding Her Majesty's Forces in New Zealand may be carried into execution.

- IX. Nothing in this Act contained shall be construed to take away abridge or diminish the acknowledged prerogative of Her Majesty for the public safety to resort to the exercise of Martial Law against open enemies or Traitors or any powers by law vested in the said Governor of this Colony with or without the advice of the Executive Council or of any other person or persons whomsoever to suppress Treason and Rebellion and to do any act warranted by law for that purpose in the same manner as if this Act had never been made but such prerogative is hereby declared to be in full force in this Colony in Her Majesty the Queen and in the Governor as Her Majesty's Representative in that behalf.

- X. Every person shall be and is hereby freed indemnified and discharged of and from all actions and prosecutions which he may have been or may become liable or subject to for or by reason or by means of or in relation to any act matter or thing done by him before the passing of this Act which would have been lawful if done in pursuance of any order duly issued under the authority of this Act And no such act matter or thing shall be questioned in the Supreme Court or in any Court whatsoever within the Colony of New Zealand.

- XI. This Act shall come into operation on the day of them passing hereof and shall continue and be in force until the end of the next session of the General Assembly only and no longer.