

New Zealand.

ANALYSIS.

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1902, No. 56.

Title. AN ACT to amend the Laws relating to Native and Maori Lands.
[3rd October, 1902.]

BE IT 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 Native and Maori Land Laws Amendment Act, 1902."

Orders, &c., not to confer power of sale, but to operate as a caveat.

2. No order, certificate, or judgment of the Native Land Court having the effect of a mortgage on any land owned by Natives and derived through any survey authorised after the passing of this Act shall until after the expiry of a period of five years from the date of registration thereof confer any power of sale or entitle the mortgagee to foreclose on the equity of redemption, but shall when duly registered operate as a caveat against the registration of any dealings with the land unless with the consent of the mortgagee or until the amount protected or secured by any such order, certificate, or judgment has been paid into the office of the Public Trustee as provided by section sixty-eight of "The Native Land Court Act, 1894":

Provided always that the mortgagee may in any case where the land is leased apply to the Court for an order declaring the amount of the mortgage to be a first charge upon the rents or other income

derived from the land, and such order shall be sufficient authority to the lessee or other persons concerned for making the payment thereby directed.

3. Notwithstanding any condition to the contrary imposed by the Surveyor-General in respect of any survey heretofore authorised, a charging-order may, subject to the provisions of the last preceding section, be granted in respect of any such authorised survey.

Charging-orders may be granted.

4. No exchange under subsection three of section fourteen of "The Native Land Court Act, 1894," shall be confirmed if the areas are unequal, unless the person taking the larger area makes the declaration required by section five of "The Native Land Laws Amendment Act, 1895."

Exchange not to be confirmed in certain cases.

The Court may refuse to sanction any exchange on the ground of disproportion in the values of the lands sought to be exchanged, notwithstanding that it is proposed to pay money for equality of exchange, or on any other grounds the Court may in its discretion think fit. The money paid for equality of exchange shall in no case exceed one hundred pounds.

5. Subsection one of section six of "The Maori Lands Administration Act, 1900," is hereby amended by the addition at the end of the subsection of the words "and if so authorised by the Governor shall by virtue of such office, without further authority or appointment, possess and may exercise all the powers and authorities of a Judge of the Native Land Court or of the Native Appellate Court."

Powers of President.

6. Subsection one of section eight of "The Maori Lands Administration Act, 1900," is hereby amended by the insertion of the words "unless in consideration of the purely formal nature of the business to be transacted at any particular meeting the President sees fit to dispense with the attendance of any members non-resident within five miles of the place of meeting" after the word "Council."

When quorum of Maori Land Council not necessary.

7. Section two of "The Maori Lands Administration Amendment Act, 1901," is hereby amended by the insertion of the words "or change the name or designation" after the word "boundaries."

Alteration of districts.

8. The Governor may from time to time, by Proclamation published in the *Gazette* and *Kahiti*, declare that any parcel or parcels of Maori land, whether or not such parcels form portions of several blocks, and whether or not such parcels are held by the owners under separate titles, shall be vested in the Council as a site for a Native township, and shall by the same Proclamation assign a name to such township.

Sites for Native townships may be vested in Council.

9. Upon a certified copy of the said Proclamation and an approved plan of the said township being deposited with the District Land Registrar of the district within which such township is situated, a certificate of title under "The Land Transfer Act, 1885," shall be issued to the Council in respect of the said parcel or parcels of land.

Certificates of title therefor may be issued.

10. The Council shall thereupon administer the said township for the benefit of the owners, and for such purpose shall have full power and authority,—

Powers of Council with respect to Native townships.

(a.) To cause such township to be surveyed and laid off with such streets, allotments, and reserves as it thinks fit, and

for that purpose may adopt in whole or in part any survey already made ;

- (b.) To decide, after hearing the parties interested, any question or dispute arising in relation to the situation or occupation or otherwise of any such streets, allotments, or reserves, and for that purpose may adopt any definition by the Native Land Court of the relative shares and interests of the owners in the said township ;
- (c.) To deal with all or any such allotments or reserves by way of sale, lease, exchange, or otherwise in such mode or under such terms or conditions as may be prescribed by the Governor, and for such purposes the Council shall in its own name execute all instruments of alienation, and generally have and be entitled to exercise all the rights of an owner in fee-simple ;
- (d.) To provide for the occupation by any Maori owner of any allotment upon such terms and conditions as it deems just ;
- (e.) After deducting the cost of surveying, laying off, and constituting such township, and any other costs, charges, or expenses incurred by the Council in relation thereto, and after paying or discharging any valid liens, charges, or encumbrances theretofore existing in respect of the said township or any part thereof, to distribute from time to time the surplus of the proceeds from such township amongst the Maori owners in proportion to their relative shares and interests therein ;
- (f.) Generally to do, or cause to be done, all things necessary or proper for the due administration of such township.

Regulations.

11. The Governor may from time to time make, alter, or amend regulations prescribing in what mode or under what terms or conditions allotments in such townships may be leased, sold, or exchanged, or otherwise dealt with, and prescribing generally in what manner the said township shall be administered by the Council. All such regulations shall be published in the *Gazette* and *Kahiti*.

Proclamation may be amended or revoked.

12. Any Proclamation under this Act may from time to time be amended, varied, or revoked by the Governor as he thinks fit, and thereupon all amendments or cancellations in the Land Transfer Register as may be necessary shall be made by the District Land Registrar, but without prejudice to any valid dealings that may in the meantime have taken place.

Construction of preceding sections.

13. The last preceding five sections hereof shall form part of and be read together with "The Maori Lands Administration Act, 1900."

Repeal.

14. Section three of "The Native Land Claims Adjustment and Laws Amendment Act, 1901," is hereby repealed, and the following enacted in lieu thereof:—

Power to determine questions as to Huatau Block, Hokianga County.

The Governor by Order in Council may confer on the Native Land Court jurisdiction to inquire into and determine all questions in dispute as to the boundaries of the Huatau Block, otherwise known as Odeland's Land Claims, in the Hokianga County, and to

adjudicate upon as Native land any land now in possession of or claimed by the Crown which the Court shall find ought not to have been included in the Crown grant to James Scott Odeland of the said land.

15. The Public Trustee is hereby empowered to apply to the Supreme Court (hereinafter called "the Court") to set aside the decree made by the Validation Court on the twelfth day of April, one thousand nine hundred and two, on the several applications of William Humphries, under section forty-eight of "The Reserves and other Lands Sale, Disposal, and Enabling and Public Bodies Empowering Act, 1901" (hereinafter called "the said Act"), in respect of certain Native reserves in Taranaki known as Section 23, Fitzroy District, or Raioimiti; Native Reserve A, or Purakau; and Native Reserve No. 4, or Ratahangae.

Public Trustee empowered to apply to set aside decree in favour of W. Humphries in respect of certain Native reserves.

Such application shall be lodged with the Registrar of the Supreme Court at New Plymouth within one month from the coming into operation of this Act, and shall specify with reasonable certainty the objections to the said decree on the part of the Public Trustee. It shall be the duty of the Registrar to set the said application down for hearing at the next sitting of the Court in the district.

On the hearing of the said application both parties shall be at liberty to call such evidence as may be necessary or material to the determination of the questions at issue: Provided that the onus of proof that the transactions the subject of the said decree are fair and reasonable shall be on the party alleging the same.

If after hearing the parties the Court shall decide that the transactions the subject of the said decree of the Validation Court, or any of them, particularly in regard to the provision that such transactions were in all respects fair and reasonable, are not such as should have been validated under the provisions of the said Act, or that the proof that they are entitled to be so validated is insufficient, the Court shall annul the said decree either wholly or in part, and shall direct the District Land Registrar to cancel all titles issued thereon, or such of them as are affected by such decision: Provided that nothing in this Act contained shall affect the title of any purchaser for valuable consideration from the said William Humphries acquired since the making of the said decree and before the entry on the register of a caveat by the District Land Registrar.

Subject to the foregoing proviso for the protection of *bonâ fide* purchasers, the transfer dated the thirty-first day of August, one thousand eight hundred and ninety-four, from the Registrar of the Supreme Court at New Plymouth to the said William Humphries is hereby declared null and void so far as relates to the lands the subject of the said decree, anything in the said decree to the contrary notwithstanding.

The Court may make such order as to the costs of the said hearing as it shall deem just and reasonable.

The District Land Registrar shall not register any dealing with the lands the subject of the said decree pending the result of the proceedings hereby authorised.

Lands excluded from section 48 of "The Reserves and other Lands Sale, Disposal, and Enabling and Public Bodies Empowering Act, 1901."

Native Land Court empowered to hear and determine appeal relating to Manaiā No. 107, Section 3A.

Amendments in "The East Coast Native Trust Lands Act, 1902."

Trust moneys held by Public Trustee for minors and others.

16. The parcels of land described in the Schedule hereto are excluded from the operation of section forty-eight of "The Reserves and other Lands Sale, Disposal, and Enabling and Public Bodies Empowering Act, 1901," and the Eleventh Schedule of the said Act shall be read and construed as if such parcels of land were not included therein.

17. The appeal by Toi Tamati and others from the decision of the Native Land Court appointing successors to the interest of Arapata te Haruru, deceased, in Manaiā No. 107, No. 3B, which appeal was heard and determined in favour of the appellants by the Native Appellate Court, at Wellington, on the eighth day of July, one thousand nine hundred and two, shall be deemed and taken to have been also an appeal from the decision of the Native Land Court, dated the fifteenth day of July, one thousand nine hundred and one, appointing the persons to succeed to the proceeds of the sale by the said Arapata te Haruru of Manaiā No. 107, Section 3A, and the Native Appellate Court shall hear and determine such appeal accordingly: Provided that the appellants shall deposit with the Registrar of the Native Land Court at Wellington such further sum as security for the costs of such extended appeal as the Chief Judge shall direct.

18. "The East Coast Native Trust Lands Act, 1902," is hereby amended as follows:—

(1.) As to section two thereof: By repealing the words "nine, ten, and eleven" in the interpretation of "Trustees," and substituting in lieu thereof the words "ten, eleven, and twelve."

(2.) As to section three thereof: By adding thereto the following subsection:—

"(4.) The members of the Board shall be a body corporate under the name of 'The East Coast Native Trust Lands Board,' with perpetual succession and a common seal, and shall, for the purposes and subject to the provisions of this Act, be capable of exercising and discharging all the powers, functions, and duties of the Board as prescribed by this Act, and of doing and suffering all such other acts and things as corporate bodies may by law do and suffer."

(3.) As to section eleven thereof: By repealing the words "the passing of this Act," and substituting in lieu thereof the words "the appointment of the Board"; and by repealing the word "hereof," and substituting in lieu thereof the words "of this Act."

19. Where moneys the proceeds of the sale of land owned by Natives have been paid to and are held by the Public Trustee in trust for minors or others under the provisions of "The Maori Real Estate Management Act, 1888," the persons entitled to succeed to the interest of any deceased Native in such moneys, whether such Natives shall have died before or after the passing of this Act, shall, if such Native shall have died intestate, be the persons who if such land had not been sold would according to Native custom be entitled

to succeed to his interest therein: Provided that the foregoing shall apply so long only as the moneys shall remain in the hands of the Public Trustee: Provided also that, except as aforesaid, no custom with regard to land owned by Natives shall be recognised as applicable to the proceeds of the sale of land sold or agreed to be sold in the lifetime of the owner.

SCHEDULE.

Schedule.

Description of Land.	District or Borough.	Area.		
		A.	R.	P.
Subdivision B of Native Reserve No. 1, Moturoa	Grey District	39	0	0
Subdivision C of Native Reserve No. 1, Moturoa	Grey District	10	0	20
Subdivisions 7, 8, 12, 13, 24, 27, 28, 1 of 29, 33, 34, 37, 44, and 47, and the half undivided interest in subdivisions 11, 19, 30, and the six-thirteenths undivided interest in sub- division 23 not registered in the name of the Public Trustee, of Native Reserve No. 3. Puketotara	Grey District
Native Reserve No. 14, Pukenui, as to all parts thereof	New Plymouth	17	3	2
Part Native Reserve C (C 1A)	Hua	88	2	30
Part Native Reserve C (C 2A)	Hua	8	2	36
Native Reserve I (misprinted in said Act as L)	Hua and Waiwakaiho	55	0	0
Native Reserve, part Paraiti (included with Katere in certificate of title, Volume 42. folio 1)	Hua	10	3	16