

*This PUBLIC BILL originated in the HOUSE OF REPRESENTATIVES and having this day passed as now printed is transmitted to the LEGISLATIVE COUNCIL for its concurrence.*

*House of Representatives,  
28th October, 1878.*

[AS AMENDED BY THE LEGISLATIVE COUNCIL.]

*Hon. Mr. Sheehan.*

**Native Land Act Amendment (No. 2)**

ANALYSIS.

<p>Title.</p> <p>1. Short Title.</p> <p>2. When Assessor does not concur with Judge memorandum thereof to be made.</p> <p>3. Court may recommend restrictions.</p> <p>4. Lands not to be mortgaged.</p> <p>5. Repeal of section 35 of Act of 1873.</p> <p>6. Preliminary inquiry not to be made unless for particular reason.</p> <p>7. Payment of surveyors for surveys executed.</p> <p>8. Estates of persons under disability how to be dealt with.</p>	<p>9. Ascertaining age of minor.</p> <p>10. Time for rehearing to be limited to three months.</p> <p>11. Determining value and extent of interest.</p> <p>12. Execution of instruments of disposition.</p> <p>13. Rent moneys may in certain cases be paid over to credit of lessors.</p> <p>14. Right of taking roads extended over Native lands for five years.</p> <p>15. Amending section 71, "Native Land Act, 1873."</p> <p>16. Re-hearing of claim of Hori More.</p>
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A BILL INTITULED

AN ACT to amend "The Native Land Act, 1873." Title.

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

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| <p>5</p> <p>10</p> <p>15</p> <p>20</p> <p>25</p> | <p>1. The Short Title of this Act shall be "The Native Land Act Amendment Act, 1878 (No. 2)."</p> <p>2. When any Native Assessor appointed under the provisions of "The Native Land Act, 1873," shall differ in opinion from the Judge presiding, a memorandum of such Assessor's dissent, and the reasons therefor, shall be entered on the records of such Court.</p> <p>3. It shall be lawful for any Judge of the Native Land Court to recommend to the Governor that restrictions shall be placed on the alienability of any lands forming the subject of investigation before him, if, in his opinion, it is necessary that the same should be reserved for the use or occupation of any of the persons entitled to the same.</p> <p>4. It shall not be lawful for any person to pay any sum of money by way of mortgage on any land held by a Native under memorial of ownership or Crown grant.</p> <p>5. Section thirty-five of "The Native Land Act, 1873," is hereby repealed.</p> <p>6. It shall not be necessary for a Judge of the Native Lands Court to make the preliminary inquiry required by section thirty-eight of "The Native Land Act, 1873," unless there shall be some urgent or particular reason for such inquiry being made; and no title now existing shall be invalidated in consequence of such preliminary inquiry not having been made.</p> <p>7. The Court shall have power to award to any Surveyor duly authorized to perform any survey, in accordance with the provisions of "The Native Land Act, 1873," payment either in money or land, in defrayment of his costs, expenses, and charges incurred in that</p> | <p>Short Title.</p> <p>When Assessor does not concur with Judge, memorandum thereof to be made.</p> <p>Court may recommend restrictions.</p> <p>Lands not to be mortgaged.</p> <p>Repeal of section 35 of Act of 1873.</p> <p>Preliminary inquiry not to be made unless for particular reason.</p> <p>Payment of surveyors for surveys executed.</p> |
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behalf. The Court shall take cognizance of any proper and reasonable agreement entered into between a duly authorized surveyor and the persons employing him to perform any survey of Native lands: Provided that nothing herein contained shall authorize any survey of any land included in any Proclamation under "The Government Native Land Purchases Act, 1877," unless the permission of the Native Minister shall have been first obtained for making any such survey. 5

Estate of persons under disability, how to be dealt with.

8. The interest or estate of any person under disability shall be dealt with in accordance with the provisions of "The Maori Real Estate Management Act Amendment Act, 1877," as well as "The Maori Real Estate Management Act, 1867;" and trustees appointed under either of the said Acts shall have the same power to deal with private persons for the sale or lease of any interest so held in trust by them, as they have in cases where the Crown is concerned; and all moneys arising or accruing from such sale or lease to private persons, shall be applied in the manner set forth in the said before recited Acts. 10 15

Ascertaining age of minor.

9. When any minor shall be found by the Court to be entitled to any share or interest in any land, the Court shall forthwith proceed to ascertain as nearly as possible the age of such minor, and shall enter the same, as so determined, in the memorial of ownership; and for all purposes the time at which such minor shall be deemed to attain his majority, shall be computed from and in accordance with the age so fixed by the Court. 20

Time for rehearing to be limited to three months.

10. The time for making application for rehearing shall be limited to three months. If on any rehearing any of the persons in favour of whom the original award or order of the Court shall have been made are found to be duly entitled to such land, all instruments of disposition properly made by such persons after the first hearing shall be valid, as far as their share or interest in such land is concerned. 25

Determining value and extent of interest.

11. Notwithstanding anything to the contrary thereto in "The Native Land Act, 1873," or any amendments thereto, it shall be lawful for the Court in its discretion, on the application of any Native owner, or other person interested therein, to hear and determine the value or extent of any estate or interest in any land held by such applicant under memorial of ownership or Crown grant, or award or conveyance; and, if it shall deem fit, to make an order vesting any part or portion of such land in such applicant. 30 35

Execution of instruments of disposition.

12. Any transfer, lease, or other instrument of disposition of any lands held under certificate of title, memorial of ownership, or Crown grant, may be signed by any Native interested in the same before any Justice of the Peace, Clerk of any Resident Magistrate's Court, or any Inspector or any Sub-Inspector of Armed Constabulary, or a Solicitor of the Supreme Court not professionally concerned or engaged for any of the parties to such transfer, lease, or other instrument, who shall have the same powers as are conferred on Judges of the Native Lands Court or Resident Magistrates, under the provisions of section eighty-five of "The Native Land Act, 1873:" Provided that any such officer holding a license as an interpreter under "The Native Land Act, 1873," shall not attest the execution of any deed which has been interpreted by himself: Provided further that the attestation by an adult witness as required by the said Act shall still in all cases be necessary. 40 45 50

#### New Clauses.

Rent moneys may in certain cases be paid over to credit of lessors.

13. In any case of a lease of Native land being made, either prior to or after the issue of a Crown grant for such land, where in consequence of any of the lessors being under legal disability, or of the individual interest of the several lessors not being ascertained, or of the death of any of the persons entitled at law or in equity to share of such rent, the lessee is unable to make a proper payment of the amount of rent reserved in such lease, and to obtain a satisfactory acquittance for the same, it shall be lawful for such lessee to pay such rent to the 55 60

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credit of the lessors into some public account, to be indicated for the purpose by the Governor or a Judge of the Native Land Court, which such Governor and Judge respectively are hereby empowered to do; and such payment by the lessee shall be and be deemed to be a sufficient compliance by him with any covenant in such lease in respect of the payment of rent reserved, and the receipt of the officer receiving such moneys shall be a full discharge to the lessee for so much rent-money as is expressed in the receipt to have been received by such officer.

The moneys paid into any public account as aforesaid shall be paid thereout in such manner as may be directed by any Court competent to determine the proper parties respectively entitled thereto.

14. The right of the Governor under the one hundred and sixth section of "The Native Land Act, 1873," to take and lay off for public purposes one or more line or lines of road or railway from and out of any Native lands at any time previous to the expiration of ten years from the date of the Crown grant of any such land is hereby extended, and shall cease and determine at the expiration of fifteen years from the aforesaid date, anything in the aforesaid one hundred and sixth section to the contrary notwithstanding.

Right of taking roads extended over Native lands for five years.

This provision shall not apply in any case where the right aforesaid has from any cause been justly forfeited.

15. If, on the examination of any survey or map of any Native lands in accordance with the provisions of the seventy-first section of "The Native Land Act, 1873," errors or discrepancies are discovered which cannot be amended or rectified in time for the production of such map before the Native Lands Court, at the sitting of which the title to the lands referred to in such map would otherwise have been investigated, it shall be lawful for the Inspector of Surveys, or any of his deputies, in his or their discretion, provisionally to approve of such survey or map, and the Court shall proceed to investigate the title to the lands affected by such map or survey, and may make an interlocutory order for a memorial of ownership in favour of the persons found to be interested therein, subject to such survey or map being completed to the satisfaction of the Inspector of Surveys or his deputies. The Chief Judge of the Native Lands Court shall, in his discretion, on the transmission to him of any such map, duly approved by the Inspector of Surveys or his deputies, be empowered to change the interlocutory order to a final order without further hearing or investigation by the Court.

Amending section 71, "Native Land Act, 1873."

16. Notwithstanding anything contained in the provisions of any Act relating to Native lands now in force, it shall be lawful for the Governor in Council, within six months after the passing of this Act, to order that there shall be a re-hearing before the Native Land Court in the manner provided by "The Native Land Act, 1873," of the claim of Hori More, an aboriginal Native of the District of Hauraki, in the Provincial District of Auckland, to a block of Native land known as Te Hape South, No. 1 block, situate at Hauraki, in the provincial district aforesaid. Such Order in Council when made shall be as valid and effectual to all intents and purposes as if the same had been made within the period of six months mentioned in "The Native Land Act, 1873," and all proceedings heretofore taken in respect of such hearing shall be cancelled, and the hearing of such claim shall commence *de novo*, as is provided by "The Native Land Act, 1873."

Re-hearing of claim of Hori More.