

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

(Hon. Mr. Sewell.)

The Native Land Court.

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A BILL INTITULED

AN ACT to amend and consolidate the Laws relating to the Native Land Court.

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 shall be "The Native Land Court Act 1871" and the citation of that term shall include the unrepealed 5 portion of "The Native Land Act 1865."

PART I.

PRELIMINARY.

2. In construing this Act the words and phrases following shall have the meanings hereby attached to them respectively unless there 10 be something in the context or the subject-matter repugnant to or inconsistent with such meanings—

"Native" shall mean an Aboriginal Native of the Colony of New Zealand and shall include all half-castes and their 15 descendants by Natives

"Native Land" shall mean lands in the Colony which are owned by Natives under their customs or usages.

"Hereditaments" shall mean land the subject of tenure or held under title derived from the Crown or any estate 20 or interest therein or arising thereout.

"Registrar of Decds" shall mean the Registrar of Deeds for the district in which the hereditaments conveyed or dealt with are situate or his Deputy.

"Court" shall mean the Native Land Court of New Zealand.

"Chief Judge" and "Judge" shall mean respectively the 25 Chief Judge and a Judge of the Court.

"Tribe" shall mean a tribe or a section of a tribe or hapu as the case may be.

"Inspector of Surveys" shall mean the Inspector of Surveys heretofore appointed or hereafter to be appointed by the 30 Governor and shall include his Deputies appointed by him.

Title.

Short Title.

Interpretation.

3. This Act shall come into operation on the first day of January one thousand eight hundred and seventy-two. Commencement of Act.

4. "The Native Lands Act 1865" except sections five six seven eight nine ten and eleven "The Native Lands Act 1867" "The Native Lands Act Amendment Act 1868" "The Native Lands Act 1869" and "The Native Lands Act 1870" and the seventy-third section of the Constitution Act are hereby repealed except so far as the continuance of the same or any of them is necessary to the support of any act matter or thing done or completed thereunder respectively and except also as to any penalty or forfeiture incurred under them or any of them. Repeal of Acts.

5. Provided always that all appointments judgments orders rules certificates and other proceedings under the said Acts or any of them shall be valid and remain in force as if the said Acts had not been repealed and all proceedings heretofore commenced and now in progress under any of the said Acts may be continued and perfected under and in manner provided by this Act so far as the circumstances of each case are compatible with the objects and provisions of this Act. Saving things past and in esse.

6. Every Judge of the Court acting with at least one Assessor shall have the same jurisdiction and may exercise the same power as the Court in all judicial matters whatever under this Act except in cases of rehearing where more than one Judge shall be prescribed by the Governor in Council under the provision hereinafter contained. Assessors not to be necessary in all cases.

7. The Court shall have the same power of summoning and compelling the attendance of witnesses and the production of documents and of punishing persons duly summoned for non-attendance or for refusing to give evidence or to produce documents and the same means of enforcing the observance of order and of its rules during its sittings and of punishing for contempt as is or may be possessed by the Supreme Court or any Judge thereof. Power to summon witnesses &c.

8. The Chief Judge may from time to time make rules and the same from time to time may revoke or alter for regulating the manner in which applications shall be made and the forms to be complied with the notices to be given the inquiries to be made in relation to such applications the sittings practice forms and procedure of the Court and the government of all Surveyors and other officers officially connected with the Court and all other matters necessary or expedient for giving effect to the provisions of this Act and all rules so made or altered shall when approved by the Governor have the same force and effect as if they had been inserted in this Act. Rules.

9. All administrative business of the Court shall be conducted by the Chief Judge subject to the provisions of this Act. Chief Judge to conduct business.

10. It shall be lawful for the Governor from time to time before the commencement of or at any stage of any case or proceeding by notice to the Chief Judge or the presiding Judge signed by himself or by a Minister to declare that such case or proceeding shall not be tried or proceeded with and thereupon the jurisdiction of the Court in such matter shall cease and determine but shall revive with the revocation of such notice. Power of Governor to stay proceedings.

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PART II.

JURISDICTION AND DUTIES OF THE COURT.

(1.) Investigation of Titles.

11. Any Native may subject to and in manner directed by rules now or hereafter to be made give notice in writing to the Court that he claims to be interested in a piece of Native land specifying it by its name or otherwise describing it and stating the name of the tribe or the names of the persons whom he admits to be interested Claim.

therein with him and that he desires that his claim should be investigated by the Court in order that a title from the Crown may be issued to him for such piece of land. The Court shall institute such inquiries as it may deem necessary with a view to ascertaining whether the application to bring land under the Act is in accordance with the wishes of the ostensible owners thereof. 5

Notices of sittings to Commissioners of Crown Lands.

12. Copies of all notices of sittings of the Court for the investigation of titles with a Schedule of the cases to be investigated shall be forwarded to Commissioners of Crown lands in whose district the land respectively is situate. 10

Notice of application.

13. Upon the receipt of such application notice thereof may be given by the Court and circulated in such manner as shall give due publicity thereto and in the same or in a subsequent notice shall be notified the day and the place when and where the Court will sit for the investigation of the said claim. 15

Sitting of Court thereon.

14. At such sitting of the Court the Court shall ascertain from such evidence as it shall think fit the title of the applicant and of all other claimants to the land respecting which notice shall have been given as aforesaid and shall order such persons to be registered in the Court as owners of such land as the Court shall think right. 20

(2.) *Certificates of Title.*

If owners are more than ten land to be subdivided or certificate issued in favour of community.

15. If the number of persons owning the land adjudicated upon shall be more than ten the Court shall order one or more subdivisions of the land to be made in such manner as the Court shall think just but if the parties decline such subdivision or subdivisions the Court may order a certificate of title for the whole block of land claimed or any part thereof in favour of the persons registered or of a tribe by name. 25

Effect of certificate.

16. No such certificate shall enable such persons or tribe or any member of it in any way to alienate or encumber or make any contract or promise affecting the land described therein or its appurtenances nor shall any judgment of any Court affect such land but it shall be conclusive of the ownership of such land according to Native custom. 30

Certificated land may be subdivided.

17. If any person or tribe in whose favour a certificate shall have been issued shall desire that the land comprised therein shall be subdivided the Court may proceed *de novo* with respect to such land and the like proceedings shall be had and the like consequences shall ensue as are herein provided with reference to original applications save that the question of title shall not be considered except amongst the persons or members of the tribe mentioned in the original certificate. 35

Voluntary arrangement to be recognized.

18. In carrying into effect the preceding sections the Court may notice and enter of record in its proceedings any arrangements voluntarily come to amongst themselves by the claimants and counter-claimants and may make such arrangement an element in its determination of any case concurrently or subsequently pending between the same parties respecting other portions of the same tribal estate. 40

Form of certificates.

19. Certificates under this Act shall have drawn thereon or annexed thereto a plan of the land comprised therein founded on a map approved as hereafter mentioned and shall be authenticated by the signature of the presiding Judge or of the Chief Judge and the seal of the Court and shall be recorded in a book to be kept for that purpose. 45

Successors may be appointed to deceased members.

20. In case of the death of any person so registered as aforesaid interested under a certificate of title in favour of persons or of a tribe the Court may appoint a successor in like manner as is hereafter provided with respect to succession to hereditaments. 50

Provisions as to owners under clause 17 of Act of 1867.

21. After the passing of this Act no land comprised in any certificate heretofore issued under the seventeenth section of "The Native Lands Act 1867" shall until it shall have been subdivided 55

and granted be alienated by sale gift mortgage lease or otherwise: Provided that it shall be lawful for the persons found by the Court to be interested or for any of them to apply to the Court to subdivide the land comprised in such certificate and thereupon the Court shall have
 5 such and the same power as it has in cases of subdivision of hereditaments and proceedings may in such case be taken for such subdivision and a subdivision may be ordered notwithstanding that a lease or leases of such land or of some part thereof may have been heretofore made and the rent may be apportioned and other proceedings had
 10 in the manner hereafter provided with respect to subdivision of hereditaments subject to a lease and the Court shall have power to make such other orders respecting such land or any part thereof as may best effectuate the intentions of the owners thereof consistently with the provisions of this Act.

15 **22.** All lands comprised in any certificate issued under the said seventeenth section of the said Act of one thousand eight hundred and sixty-seven respecting which no conveyance lease mortgage or contract has been made may be dealt with in the like manner as land for which a certificate may be issued under this Act.

Unencumbered lands how to be dealt with.

20 (3.) *Crown Grants.*

23. If the number of persons owning the land adjudicated upon as aforesaid shall not exceed ten such persons shall be entitled forthwith to have a Crown grant issued and such grant shall be
 25 issued accordingly to them for the estate or interest described or mentioned in the order of Court and subject to such restrictions on alienability limitations or conditions as the Court shall direct and it shall be the duty of the Court during the investigation to take evidence as to the propriety or otherwise of placing any restriction on the alienability of the land comprised in any claim or
 30 of any part thereof or of attaching any condition or limitation to the estate to be granted. The legal estate in such land shall in all cases vest on the day on which the order is made in Court and such day shall be set forth in the *habendum* of the grant.

If not more than ten owners Crown grant to issue.

24. Such grants shall be as valid and effectual to all intents and
 35 purposes as grants made by the Governor of waste or demesne lands of the Crown and as if the land comprised therein had been ceded by the Native proprietors to Her Majesty.

Effect of grant.

25. Notwithstanding anything contained in "The Crown Grants Act 1866" or any other Act relating to Crown grants it shall be
 40 lawful for the Governor to direct that Crown grants under this Act shall be prepared under the direction of the Chief Judge and to make such further order in reference to such grants and amending the same as he shall think fit.

Preparation of grants.

26. All deeds executed after the date so fixed and inserted in the
 45 *habendum* as aforesaid but before the date of the Crown grant by which the land therein described shall have been subsequently granted shall subject to the provisions of this Act for the purpose of completing the title of parties to such deeds but for no other purpose be deemed to have the same force and effect as though the Crown grant in which such
 50 land is comprised had been executed and issued on the day so fixed and inserted in the *habendum* as aforesaid section of this Act notwithstanding.

Validity of deeds before issue of grant.

27. The Court shall define the respective estates and interests
 55 of the several grantees in grants made under this Act but the estate or interest of each of several grantees heretofore granted shall not be deemed to be equal or of an equal value unless it has been so stated in their grant: Provided always that this last provision shall not apply to shares estates or interests purchased before the third day of September one thousand eight hundred and sixty-nine from any

Interests of several grantees.

such grantees which for the purposes of such transactions shall be deemed to have been equal.

Judgments when not to be registered.

28. No judgment against any Native grantee under this Act or any of the repealed Acts shall be registered in the Deeds Registry Office unless the circumstances thereof shall have been previously investigated under "The Native Lands Frauds Prevention Act 1870" and until the same shall have been sanctioned with the approval of the Commissioner under that Act indorsed on the memorial of the judgment and all the provisions of the said Act shall *mutatis mutandis* apply to such judgment.

Grantees to be tenants in common.

29. In any grant heretofore made under any of the repealed Acts or hereafter to be made under this Act when there is more than one grantee such grantees shall be and shall be deemed to have been tenants in common and not joint tenants: Provided always that this provision shall not apply to cases in which the grantees or the survivors of them shall before the third day of September one thousand eight hundred and sixty-nine have alienated the land comprised in their grant by absolute conveyance in fee-simple or to such part of the land comprised in such grant as they may have so alienated and all testamentary orders heretofore made by the Court shall be as valid as if the last provision had been in "The Native Lands Act 1865."

(4.) *Succession to Hereditaments.*

Successor of deceased grantee to be appointed.

30. In case any Native shall die or shall have died seized or entitled at law or in equity of or to any hereditaments and without having made a valid disposal of such hereditaments by will or settlement it shall be lawful for the Court upon the application of any person claiming to be interested in such hereditaments to inquire into the matter and ascertain by such evidence as it may think fit who according to law ought in the judgment of the Court to succeed to the hereditaments whereof or whereto such person may have died so seized or entitled as aforesaid or to any part thereof: Provided that if the Native deceased shall have no heir-at-law or if the strict operation of the laws of descent of real estate shall in any case be repugnant to the wishes of the Natives of the tribe of the deceased person it shall be lawful for the Court to ascertain the name of the person who according to Native custom ought to succeed to such hereditaments or any part thereof.

Court may make order of succession.

31. The Court shall thereupon make an order setting forth the death of the person intestate the description of the hereditaments of or to which he died seized or possessed or entitled the names and descriptions of the persons who in its judgment ought to succeed to the hereditaments as aforesaid and shall in such order declare the estates and interests which such successors (if more than one) shall respectively be entitled to in such hereditaments and the effect of such order shall be to vest such estates and interests accordingly and to bar the estates rights and interests of Her Majesty accruing by escheat for want of heirs and of the heir-at-law of the Native so dying or having died unless the heir-at-law be the person appointed but without prejudice to all other estates rights and interests of Her Majesty or any other person.

Order to be recorded.

32. Such order shall be entered or recorded in a book to be kept for the purpose by the Court and may on the payment of the usual fee be registered in the proper Registry of Deeds wherein it shall be styled a "testamentary order."

(5.) *On Subdivision of Hereditaments.*

Granted land may be partitioned or subdivided.

33. If any grantee under this Act or any of the repealed Acts shall be desirous that subdivision shall be made of the hereditaments included in the grant or any part thereof for the purpose of having his share in severalty allotted to him or for the purpose of

effecting a partition among the owners thereof such person may apply to the Court to make such separation or subdivision and the Court may proceed thereupon and may order a defined portion of the land to be granted to the applicant or if it shall appear to the Court that a majority in value desire that a subdivision thereof should be made on the surrender of the original grant to the Crown the Court may in its discretion order such subdivision as it shall deem just and may order new grants to be issued according to the plan of such subdivision and the provisions hereinbefore contained with respect to the proceedings of the Court on the issue of original grants shall apply to the proceedings of the Court on the issue of the new grants in lieu of the surrendered Crown grant and the Court may order in any such new Crown Grant any restrictions limitations or conditions even in cases where the original Crown grant was not subject to any such or in extension or enlargement thereof if any such there were and may order such new Crown grants or any of them without any restrictions limitations or conditions although the surrendered grant may have been subject to restrictions limitations or conditions but no grantee of an undivided share shall alienate or encumber such undivided share except to or in favour of his co-grantees or any of them nor shall any judgment of any Court obtained against a grantee of an undivided share affect such share.

34. The order of the Court partitioning off land as aforesaid shall contain a plan of the partitioned land and when sealed with the seal of the Court and signed by the Chief Judge shall vest such land according to the terms of the order in such person and for such estate as shall be expressed therein subject to such restrictions as may be set forth therein and may be registered in the Registry of Deeds.

Form and effect of order of Court.

35. If the land comprised in such original grant is or shall be subject to any lease the Court may apportion the rent to be paid by the grantees under the new grants respectively and each of the new grants shall contain a proviso referring to the lease stating that it is subject to the amount stated therein of the rent and to the terms of the deed of lease specifying it and the order of the Court shall have the same effect as if the lessees had attorned tenants to the lessors for the respective amounts of such apportioned rent.

If land leased or mortgaged rent &c. to be apportioned.

36. From the date of such new grants of land subject to a lease the new grantees shall be deemed to have executed a lease of the lands therein described to the original lessee according to the terms of the original deed for the rent mentioned in the new grant respectively and the other portion of the original block of land shall be absolutely discharged from so much of the original rent and each set of new grantees shall not be prejudiced or affected by the acts or defaults of any other set of new grantees.

Each new grant to be subject to portion of money &c.

37. In the case of land subject to a mortgage no subdivision shall be made without the consent of the mortgagee. If the mortgagee shall agree to subdivide the Court may charge each subdivided portion with a specific proportion of the mortgage debt: Provided that if land belonging to more than one owner is subject to a mortgage or charge a specific part of the mortgaged land to the satisfaction of the Court may be set apart and sold under direction of the Court for the satisfaction of the mortgage or charge and subject thereto the land may be subdivided and the Court may make order for giving effect to this provision and for directing the application of the proceeds of sale as it may deem just.

Provision for mortgaged land.

38. Land legally or equitably subject to a mortgage or charge or any part thereof may be sold under the direction of the Court to satisfy such mortgage or charge and costs notwithstanding such land may be inalienable or subject to restrictions or conditions and with the consent of the Court the mortgagee or creditor may be the purchaser

Mortgaged land may be sold.

And the Court shall in reference thereto have all such powers as last aforesaid.

Form of surrender.

39. The surrender before mentioned may be legally and effectually made by the delivery up of the original grant and by any writing which shall in the judgment of the Court sufficiently show the intentions of the surrenderers if signed by the persons named in the original grant or their devisees or other persons who at the time being shall be the representatives under the provisions hereinbefore contained of any of them who may have died intestate or the majority in value of them. 5

Original record to be cancelled.

40. On the receipt by the Chief Judge of such original grant and surrender as before mentioned he shall cancel the grant and the record thereof authenticating such cancelling with his signature and stating the reason thereof and the effect of such cancelling shall be the same as if the grant had been absolutely repealed by *scire facias* save as to keeping alive and valid any such lease or mortgage as aforesaid (if any). 10 15

Effect of new grant.

41. Subject as aforesaid every such new grant shall have the same legal effect and consequences as are hereinbefore provided with respect to original grants issued under this Act.

PART III.

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DUTIES AND FEES.

Duties and fees.

42. All duties and fees now due and payable under any of the repealed Acts shall be due and payable under this Act.

(1.) Duties.

Rates of duty.

43. Upon each first sale or other disposal except by mortgage of any hereditaments there shall be due to Her Majesty by the purchaser lessee or other person in whom the new estate is intended to be vested a duty or sum after the following rates that is to say—

By a purchaser of an absolute estate in fee-simple ten per cent. upon the amount of the consideration or purchase money. 30

By a lessee in respect of a lease ten pounds per centum upon the amount of any fine premium or foregift contained in or paid on account of such lease and also a sum equal to ten pounds per centum yearly on the first day of January in every year upon the aggregate amount of rent payable for each and every year of the term of such lease. 35

By every annuitant or other person acquiring any easement estate or interest other than before referred to in any hereditaments ten per centum upon the amount of the consideration money paid or payable or a sum equal to one year's annuity or annual payment as the Registrar of Deeds shall determine subject nevertheless to appeal to the Chief Judge under the provision hereinafter contained. 40

Remedy for arrears.

44. If at any time any instalment upon the said duty upon any lease above mentioned shall be unpaid and in arrear for three months after the same shall have become due the aggregate amount of duty which would be payable upon such lease as herein provided during the whole term of the same shall become immediately due and may be recovered as a debt at the suit of the Colonial Treasurer. 45

Covenant for renewal of lease.

45. Provided further that every lease containing a covenant for renewal shall for the purpose of estimating duty be deemed to be a lease for the number of years to which the term and the new term to be granted in pursuance thereof may be extended under the covenant. 50

Nominal consideration.

46. Provided always that if no consideration money or a nominal consideration money or in the opinion of the Registrar an insufficient 55

consideration money is expressed in any such deed or instrument as aforesaid the duty payable shall be calculated upon a valuation of the land or the part thereof conveyed or assured to be made by a valuer to be from time to time appointed for the purpose by the Registrar of Deeds to whom shall be paid by the person liable to pay the duties such fees for making such valuation as shall be fixed by regulations to be made by the Governor. All such regulations now in force shall remain in force and be deemed to be made under this Act: Provided also that no duty shall be payable on account of any conveyance or lease to Her Majesty or to the Superintendent of a Province nor shall any conveyance or lease as last aforesaid be invalid by reason of no duty or insufficient duty having been paid thereon.

47. The said duties shall be paid within six calendar months from the day of the date of the signing or execution or the day of the date of the deed of transfer conveyance lease or other instrument whichever day shall be prior in time and if the person from whom under the provisions hereof any duties shall be due to Her Majesty shall neglect to pay the same within the period within which the same are or shall be payable every such person shall be liable to pay as a penalty a sum equal to three times the duty by this Act made payable in addition to the duties under this Act which penalty may be recovered summarily before any two Justices of the Peace or may be sued for as a debt due to Her Majesty by and in the name of the Colonial Treasurer in any Court of competent jurisdiction.

Period of payment of duties and remedies.

48. The said duty shall be payable into the Colonial Treasury on a certificate of the amount thereof signed by the Registrar of Deeds and shall be paid to the Colonial Treasurer before the deed of or instrument in respect of which the duty is payable shall be registered and shall be passed to a separate account to be kept as hereafter provided and the Colonial Treasurer or person appointed by him shall indorse on the instrument a receipt under his hand for such duty.

Duty to be paid into Treasury.

49. Provided always that if any dispute shall arise between the Registrar of Deeds and any person as to the amount of duty payable under the foregoing provisions it shall be lawful for the Registrar of Deeds to apply to the Chief Judge either personally or by forwarding to him a copy of the instrument tendered for registration with a statement explaining the transaction which it is intended to effectuate and the Chief Judge shall then decide the principle on which the duty (if any) payable in respect of such transaction shall be calculated which amount the Colonial Treasurer or person appointed by him shall then collect and may recover as a debt due to Her Majesty from any person who tendered the instrument for registration or from any person who may have acquired an estate or interest thereunder and the Registrar of Deeds shall if required indorse on the instrument tendered for registration a certificate of the decision of the Chief Judge which certificate shall be conclusive.

Chief Judge to decide disputed amounts.

50. In every such transfer conveyance lease or other instrument of disposition the full purchase or consideration money which shall be directly or indirectly paid or secured or agreed to be paid shall be truly expressed in the deed or instrument or in the principal deed or instrument (if more than one) where by the hereditaments shall be dealt with and if the full purchase or consideration money shall not be truly expressed as aforesaid the purchaser lessee or other person acquiring any easement estate or interest therein (except in the case of voluntary deed aforesaid) and also the seller shall each and separately forfeit a penalty not exceeding fifty pounds and the purchaser or lessee shall also as a separate debt be charged with and liable to the payment of three times the amount of the duty which would have been payable for such deed or instrument as aforesaid in respect of the full purchase or consideration money in case the same had been truly expressed

Penalty for expression of false consideration.

therein which triple duty may be sued for as a debt due to Her Majesty by the Colonial Treasurer or person appointed by him in any Court of competent jurisdiction and which said penalty may be recovered by him in a summary way and shall both be paid into the Colonial Treasury to the account aforesaid.

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Penalty on solicitor falsifying consideration.

51. Every solicitor barrister or other person who shall be employed in or about the preparing of any such deed or instrument of disposition or who shall be employed for any of the parties thereto in anywise relating to the transaction therein mentioned who shall knowingly insert and set forth or cause to be inserted and set forth in or upon any such deed or instrument any sum less than the full and true purchase or consideration money directly or indirectly paid or secured or agreed to be paid or shall in anywise aid in the doing thereof respectively shall for every such offence forfeit the sum of five hundred pounds to be recovered in a summary way and any solicitor or barrister so offending and being lawfully convicted thereof shall also from thenceforth be disabled to practise as a solicitor or barrister.

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Registrar to administer oath to solicitor &c.

52. When any such deed or instrument is tendered or brought to a Registrar of Deeds for a certificate of the amount of duty payable thereon he may require the solicitor or person tendering the same to make an affidavit that to the best of his knowledge and belief the full purchase or consideration money for the transaction is truly expressed therein and he may impound the deed or instrument tendered or brought and require the attendance of any person acquiring or purported to acquire any estate or interest thereunder and may require him to make an affidavit as aforesaid and may refuse to register such deed or instrument or to value or to give a certificate of the valuation of the duty payable as aforesaid in respect thereof or the transaction thereby effectuated until one or all of such persons shall have attended him at his office and made the said affidavit and the Registrar of Deeds may administer the oaths for this purpose and any person swearing falsely under this provision shall be deemed guilty of wilful and corrupt perjury and shall being lawfully convicted of the said offence be liable to be imprisoned and kept to hard labour for a term not exceeding two years.

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Lease and re-lease not to evade duties

53. If the first transaction relating to any land granted under the said Act shall be or shall have been a lease or a transfer or other instrument creating any estate or interest in such land less than an absolute estate in fee-simple duty after the rates and in the manner specified in the said Acts shall be payable by the same or any other purchaser on any instrument conveying transferring or alienating from the grantee of such land or his successors appointed as aforesaid any further estate or interest in such land and so *toties quoties* until the entire fee-simple shall have been alienated by such grantee or his successors appointed as aforesaid Provided that the total amount of duty payable on all transactions in respect of any piece of land shall not exceed ten pounds per centum on the value of the fee-simple thereof at the time of the first transaction and in case any dispute shall arise under this provision the principle upon which the same shall be determined shall be decided by the Chief Judge of the Court in the manner herein provided for cases of dispute as to amounts of duty payable but the value of the fee-simple at the time of the first transaction shall (if disputed) be ascertained in manner provided in section forty-nine.

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Certificate of complete payment of duties.

54. The Registrar of Deeds who shall register the last instrument the duty payable on which shall complete such ten pounds per centum shall indorse thereon a certificate to the effect that all the duty payable in respect of the land therein referred to has been fully paid which certificate shall be conclusive.

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Transactions between Native co-grantees exempt.

55. No duty under this Act or under any Stamp Act shall be payable in respect of any deed or instrument effectuating a transaction

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between Natives who are co-grantees under any grant under this Act in respect of the land comprised in such grant nor in respect of any deed or instrument in the nature of a voluntary settlement or conveyance in trust when such settlement or conveyance in trust creates
 5 no beneficial interest in any person other than themselves their heirs and successors appointed hereunder or other members of their tribe. And nothing in the repealed Acts contained shall be deemed to affect or have affected the validity of any such deed or instrument already executed but any such deed or instrument if duly executed according
 10 to the provisions of the said Acts shall be good and valid to all intents and purposes although no duty has been paid thereon.

56. In addition to the duties hereinbefore made payable under this Act there shall be paid upon each first sale or other disposal except
 15 by mortgage of any hereditaments for defraying the expense of examining connecting and recording surveys an additional duty at such rates as the Governor in Council may from time to time and with respect to any districts to be by him from time to time defined order not exceeding in any case the sum of sixpence per acre upon the land or hereditaments sold or disposed of and such charge shall be
 20 added to the duties hereinbefore made payable and be deemed to form part thereof and be paid at the time and in the manner by this Act prescribed with respect to such duties respectively and the payment thereof shall be enforced in like manner as such duties may be enforced under this Act and the non-payment thereof shall have the like
 25 effect as is prescribed with respect to the non-payment of duties under this Act and in the case of leases for seven years or upwards of seven years the additional duty by this section made payable shall be payable in equal annual payments on the first day of January in every year of the term of such leases and shall be subject to the provisions contained
 30 in this Act in case of arrears in payment of duty: Provided that any Order in Council heretofore made in this behalf shall remain in force.

Duties for correcting surveys.

(2.) Fees.

57. It shall be lawful for the Chief Judge or the Judge (as the case may be) in his discretion to demand and take fees according to the
 35 First Schedule hereto or such of them or such part of them as he may think fit. And it shall be in the discretion of the Court to refuse to consider any matter or to stay the progress of any proceeding if and so long as any fee due and payable in respect thereof shall be unpaid.

Scale of fees.

58. It shall be lawful for the Court in its discretion to charge
 40 such fees upon the land under investigation and the amount thereof shall then be indorsed on the order of the Court and the Crown grant and shall be paid to the Treasurer or person appointed by him before any conveyance or instrument of disposition of such land shall be registered.

Payment may be postponed.

59. It shall be lawful for the Governor from time to time to fix fees additional to those before specified or to increase or to diminish those fixed or in any other manner to alter such fees which fees when so fixed increased diminished or altered shall be paid collected and enforced as if inserted in this Act.

Scale may be changed.

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PART IV.

SURVEYS.

60. The Inspector of Surveys shall examine all surveys and plans and shall take such proceedings as the Governor may from time
 55 to time direct for testing their correctness and for collating them in general maps and registers and no certificate or grant shall issue until

Inspector of Surveys.

a plan of the land comprised therein made by a surveyor authorized by the Governor shall be deposited in the Court and unless it shall be certified in writing thereon by such Inspector that the same is correct and in conformity with the rules for the time being in force under this Act and the Court shall take notice of the signature of such Inspector 5 without proof thereof: Provided that surveys of Native lands or of Native reserves made by officers of the Government or heretofore made by other duly qualified surveyors may be certified as hereinbefore provided and may thereupon be received by the Court and treated as if made by licensed surveyors and as if made in conformity with the 10 rules aforesaid.

Maps &c. property of Her Majesty.

61. All maps and plans produced before the Court or delivered to the Chief Judge or Inspector of Surveys by or on behalf of any person who shall have brought a claim before the Court and shall have succeeded or partly succeeded therein shall be the property of Her 15 Majesty and may be impounded from the time of such production or delivery and shall remain deposited in the Native Land Court Office.

Government may undertake surveys.

62. The Governor may at the request of the Native owners cause maps and surveys to be made of any Native lands and may defray the costs thereof out of and charge the same against any fund specially 20 appropriated to Native purposes such costs to be repaid in such manner and at such times or secured as the Governor shall from time to time direct.

And take land in payment.

63. If the Court shall see fit it may on the application of the Inspector of Surveys order that a defined portion to be ascertained and agreed upon between the Inspector and the Native owners of any land so surveyed as last aforesaid whether ordered to be certified or granted shall be sold under direction of the Court to any purchaser or be transferred by the Native owners to Her Majesty in satisfaction of any such advances as aforesaid made for such owners either 30 in respect of the same or any other land and may include in the amount of money so to be raised or satisfied all duties and fees payable under this Act in respect of the same land or any other land owned by the same persons or tribe.

How such land to be transferred.

64. Any mortgagee or creditor may with the consent of a 35 Judge of the Court be the purchaser and a grant made in pursuance of any such order of the Court reciting such order shall effectually vest in any purchaser under the foregoing provision an estate of inheritance in fee-simple in the lands described therein. And any order of the Court made as aforesaid in favour of Her Majesty 40 shall effectually vest the land therein described in Her Majesty her heirs and successors as demesne lands of the Crown freed and absolutely discharged of and from all Native titles customs or usages.

Persons advancing money for surveys may secure themselves by instrument in nature of mortgage.

65. And whereas Natives interested or claiming to be interested in Native lands and who have not funds wherewith to pay such cost of 45 surveys and other necessary costs charges and expenses of preparing the claim for investigation in the Court and of the investigation thereof in the Court as become payable before the delivery of the Crown grant to the claimants are unable to prosecute their claims in the said Court and it is expedient that such Natives should be enabled to give to 50 persons willing to advance moneys to them to make such payments as aforesaid such security on the lands claimed by them as is hereinafter provided: Be it therefore enacted that notwithstanding anything in this Act to the contrary it shall be lawful for any Native to whom another person has advanced or is about to advance any sum of money 55 to pay any such costs charges and expenses as aforesaid to give to such person an instrument in the form in the Second Schedule to this Act or to the like effect and such instrument shall be interpreted to such Native and shall be signed by him in the presence of a Judge of the Court or Justice of the Peace and licensed Interpreter or if such Native 60

cannot write his mark shall be made thereto in the presence of such Judge or Justice and Interpreter and such Judge or Justice shall ascertain by such means as he thinks fit that such Native understands the meaning and effect of such instrument and if it appears to such

5 Judge or is duly certified under the hand of such Justice or Interpreter that such Native does understand the meaning and effect of such instrument and desires that such consent should be registered in the Court the Judge may indorse thereon an order in writing that such instrument shall be registered.

10 **66.** Provided always that on the receipt by the Chief Judge of any such instrument so indorsed if he have reason to think that the amount stated in any such instrument is unreasonable for the objects above recited or that any part thereof ought not to be included in such instrument he may summon the parties before himself or may refer

15 the instrument back to the Judge who ordered it to be registered for the purpose of inquiry and may decline to register it until he or such Judge is satisfied that the transaction is in all respects just and proper according to the intent of the above provision.

20 **67.** The money secured by any such instrument shall be a first charge upon the land affected thereby and after any such instrument as aforesaid shall have been registered no Crown grant of any land shall be delivered to any Native who has caused to be registered any such instrument as aforesaid in which such land is described unless with the consent of the person named therein or his personal representatives

25 but if it shall at any time be proved to the satisfaction of the Court that the moneys mentioned in such instruments have been repaid an entry may be ordered to be made to that effect and the registration of such instrument be cancelled and thereupon such instrument shall be vacated and rendered void and of null effect.

30 **68.** If any Native who has caused any such instrument to be so registered shall apply to the Court or any Judge thereof for a Crown grant of the land affected by such instrument and the person named therein shall not give his consent to the delivery to such Native of such grant if the Court or Judge shall be satisfied that the moneys

35 mentioned in such instruments have been advanced and are unpaid it shall be lawful for the Court or Judge to make an order that the Crown grant shall be delivered to such Native after he shall have executed a mortgage to the person named in such instrument of so much of the land affected thereby as the Court or Judge

40 shall deem a sufficient security to such person and after the due registration of such mortgage: Provided however that if the land included in the mortgage is of greater value than the land remaining unmortgaged the Crown grant shall not be delivered to the Native but shall be deposited in the proper Deeds Registry Office and

45 the costs of such mortgage shall be added to the money advanced and included in the security.

69. In every such instrument there shall be implied a covenant by the Native executing the same for himself his heirs or successors under this Act that he or they shall pay twelve months

50 after date to the lender named therein his executors administrators or assigns the sum therein named and every such interest shall be assignable in like manner as an ordinary mortgage of land and may be registered in the Deeds Registry and it shall be lawful for the lender his executors administrators or assigns at any

55 time after the expiration of twelve calendar months from the date of the issue of the grant of the land affected by such instrument to apply to the Court to order and the Court may order such land or the interest of the Native in such land to be sold by public auction in such manner as it shall think meet. At such sale the land may be

60 purchased by the lender his executors administrators or assigns. The

surplus of the purchase money (if any) after payment of the debt secured with all fees duties and rents shall be paid over to the Native: Provided always that this section shall have no operation except in cases where all the Natives found by the Court to be interested in the land shall have signed the instrument.

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Surveys under former Acts.

70. The foregoing clauses shall apply to similar charges in respect of surveys created under former Acts.

If surveyor is unpaid Court may detain grant.

71. In case it shall be made to appear to the Court that a surveyor who on the request of a claimant to land has made a survey and produced a plan of such land before the Court at the investigation has not been paid for such survey and plan and if it shall be found on the investigation that a title should be ordered in favour of such claimant the Court may if it think fit order that the Crown grant issuable shall be detained and thereupon the Chief Judge shall detain such grant and shall not deliver out the same or allow it to be registered in the Registry of Deeds until he shall have received a notification from the surveyor that such charges have been paid.

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Disputes between surveyor and Native to be settled by Court.

72. In any case whatever in which a dispute shall arise between any surveyor and his Native employers as to the amount of remuneration or as to the quality of the work done or as to the employment of the surveyor or as to his right to payment or on any question whatever arising out of such employment or alleged employment the Court but no other Court in the Colony may inquire into the case and take evidence thereupon and give such a decision in the premises as it shall deem just which decision shall be final and binding on both parties. And this power shall not be limited or affected by the previous existence of an instrument under section

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hereof or of an order of the Court under section but any such instrument or order shall be subject to reduction in pursuance of this power: No person shall in any Court recover any money or thing from a Native for any work done as a surveyor in respect of any survey of Native lands unless he shall have been at the time of executing the survey or doing the work charged for a surveyor duly authorized by the Governor under this Act and unless the charges against such Native shall have been approved by a Judge.

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Costs of surveys may be apportioned.

73. If any person shall have made a claim to Native land and shall have procured at his own cost a proper survey of the same and it shall be found on the investigation of such claim that other persons or a tribe are entitled to the whole or to any portion of such land it shall be lawful for the Court in case it shall order that a grant or a certificate shall be made and issued in favour of such last-mentioned persons or of a tribe to order also that the whole or a proportionate amount of the cost of the survey shall be paid by such persons or tribe which amount shall be fixed by the Court and if such order is made against a tribe the Court may determine in its order the names of persons members of the tribe who shall be liable to pay the money so fixed against the tribe.

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PART V.

APPEAL.

Rehearing.

74. The Governor in Council may order a rehearing of any matter judicially heard before the Court under this Act within such a period of time as may be limited in such order and upon such order being made all proceedings theretofore taken by the Court in such matters shall be annulled and the case shall commence *de novo* and shall proceed in manner provided by this Act with respect to matters of that character: Provided that no such order for a rehearing shall be made after six months shall have elapsed from the date of the original decision by the Court unless the Chief Judge shall specially

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recommend that such matter shall be reheard in which case such order may be made at any time within twelve months from the date of the original decision.

75. The Chief Judge shall have the power to rehear or order a rehearing of any case decided or to vary any decree or order by himself or any Judge subject to any regulations to be made by the Governor in Council. Power of rehearing to Chief Judge.

PART VI.

APPROPRIATION OF FUNDS.

76. All penalties and forfeitures made payable under this Act or the repealed Acts and all duties fees and other moneys due (except registration fees) to Her Majesty hereunder shall be paid into the Colonial Treasury by the person collecting or receiving the same and the funds so received by the Colonial Treasurer shall be chargeable in the first place with the salaries of the Judges and other officers and the expenses of carrying this Act into execution. All revenue to be paid to Colonial Treasury.

PART VII.

SPECIAL PROVISIONS.

77. If any persons or tribe in whose favour a certificate shall have been issued shall be desirous that regulations shall be made or a plan should be adopted for the purpose of the letting or occupation of the land included in such certificate or any part thereof or for granting licenses or leases to dig or work mines or minerals or cutting timber or depasturing stock or for any purpose of common use or benefit such persons or tribe may apply to the Governor for the adoption of any such regulations or plan and the Governor may either approve and confirm the same or return the same to the applicants with amendments or alterations and so on from time to time until such regulations or plan shall have been finally approved by the Governor. Regulations for communities may be made.

78. Such regulations or plan so sanctioned and approved shall be published in the *Kahiti Maori* and shall then be good valid and binding on Her Majesty and all other persons: Provided always that it shall be lawful for the Governor from time to time other like proceedings being had as before provided to amend or alter such regulations or plan and the regulations or plan so amended or altered and published as aforesaid shall have the same force and validity as the original regulations or plan. Regulations to be published.

79. In any such regulations or plan land may be reserved or set apart for public highways and for schools hospitals churches chapels or other eleemosynary institutions and for the endowment of such institutions and for any other purposes of public or common utility and such reserved land may be vested in any persons or body corporate approved by the Governor as trustees for the proposed objects with such powers of management and disposition as the Governor shall deem right and as may be contained or specified in or reasonably attend upon such regulations or plan. Reserves for schools &c.

80. In any such regulations or plan provision may be made for raising upon the sale lease or disposal of any land either by way of rent or annual payment and whether in perpetuity or for any limited period or by way of purchase money in gross any sum or sums of money to be applied to the purposes hereafter specified (that is to say):—

For paying or reimbursing the cost of maps and surveys.

	For making maintaining and repairing roads bridges ferries and other public works within the limits of such land or by way of contributions to roads bridges or ferries or trunk and main lines outside such limits.	
	For building and repairing schools churches chapels or places of worship and for endowing the same.	5
	For maintaining scholars in such schools.	
	For payment of stipends to schoolmasters and ministers of religion.	
	For erecting and repairing mills and other buildings of common use or benefit to the inhabitants.	10
	For draining or improving the lands of the district.	
	For supplying the Native inhabitants of such lands with grass or other seed and with stock and agricultural implements and generally for such purposes of social advancement of the Native inhabitants as may be thought fit.	15
	The custody management and expenditure of all moneys raised under such regulations or plan or amended regulations or plan shall be regulated as provided therein.	
Grants to be issued.	81. The Governor may cause to be made and issued grants leases or licenses or other instruments for giving effect to any leases dispositions and licenses under the provisions hereinbefore contained and such grants leases or licenses or other instruments shall be as valid and effectual as grants made and issued under this Act and shall be subject to the like fees and duties as are hereinbefore provided with respect to deeds and instruments.	20 25

PART VIII.

GENERAL POWERS OF THE COURT.

Interlocutory order.	82. The Court may in any case before it for judicial investigation make any interlocutory or any final order which in its judgment may be necessary and just and the Court or any Judge may extend any time limited therein.	30
Evidence in previous case may be adopted.	83. The Court may order that any evidence which may have been given in a case which shall have been previously before the Court and in which the parties are the same or in the opinion of the Court are substantially the same shall be received and used as evidence in the case before the Court at the time being.	35
Costs.	84. The Court may in any matter coming before it for judicial investigation under this Act order costs to be paid by the claimant or other suitor or by the opponent or counter claimant if and as it shall deem just. And if any such costs shall not be paid in accordance with the order of the Court the same or such part thereof as shall be unpaid may be recovered by the party who ought to receive the same from the other party as a debt whereof an official copy of the order of the Court shall be sufficient proof.	40 45
Security for costs.	85. The Court may order any Native whose claim to any Native land is under investigation or any opponent to deposit in Court such amount as the Court shall think just as security for the costs of any opponent of such claim or claimant respectively to be dealt with as the Court may direct.	50
Costs in Crown cases.	86. In all cases and proceedings before the Court in which the Crown shall appear it shall be lawful for the Court to order costs to be paid by or to the Crown in the same manner as it might do in proceedings between claimants and counter-claimants or opponents under this Act.	55
Mode of payment.	87. Such costs if ordered to be paid by the Crown shall be paid to the party entitled to receive the same by the Colonial Treasurer out of moneys received under this Act and if ordered to be paid to the	

Crown shall be paid in accordance with the order of the Court and may be sued for and recovered by the Colonial Treasurer in the same manner as a party may recover costs under this Act.

5 **88.** It shall also be lawful for the Court to make an order for
 securing costs when due to the Crown by charging the same upon
 any Native land or hereditaments belonging to the persons who ought
 to pay such costs and such order shall be registered in the Court and
 shall have the same effect and be dealt with as an instrument referred
 to and authorized in and by the sixtieth and following sections of
 10 this Act.

Mode of securing.

89. If any action or any issue of fact or of Maori custom or
 usage relating to Native land shall be referred to the Court by an
 order of the Supreme Court the Court shall forthwith hear and
 determine the same and shall forward its decision thereon to the
 15 Registrar of the Supreme Court for the district from whence the
 reference shall have come.

References from
 Supreme Court
 under "Native
 Rights Act 1865."

90. Such decision shall be received by the Supreme Court as
 the authoritative determination of the question of fact or of Maori
 custom or usage so referred and shall be dealt with in the same
 20 manner as and shall have the effect of a verdict of a jury in the
 Supreme Court.

Effect of decision
 of Court.

91. On the application of either of the parties or on its own
 motion the Court may order that any question of law arising in any
 matter judicially before it shall be heard in the Supreme Court and
 thereupon all proceedings in such matter shall be *ad interim* stopped
 25 in the Native Land Court and a case stating the facts and the
 question of law arising shall be drawn up by the parties and settled
 and approved by the Native Land Court and the Supreme Court
 shall determine the same and the judgment or decision given by the
 30 Supreme Court shall be returned into the Native Land Court and be
 accepted by it as authoritative and final on the question submitted.

Case may be sent to
 Supreme Court.

92. The Chief Judge and every Judge may at all times amend
 all defects and errors in any proceeding in the Court whether there is
 anything in writing to amend by or not and whether the defect or error
 35 be that of the party applying to amend or not and all such amendments
 may be made with or without costs and upon such terms as to the
 Judge may seem fit and all such amendments as may be necessary for
 the purpose of determining in the existing suit the real question in
 controversy between the parties shall be so made if duly applied for
 40 and for the purpose of this provision everything done in or by the
 Court or the Chief Judge shall be deemed to be a proceeding in the
 Court up to the issue of the Crown grant.

Errors may be
 amended.

PART IX.

MISCELLANEOUS PROVISIONS.

45 **93.** The Chief Judge of the Court may grant licenses to such
 persons as he thinks fit authorizing them to act as Interpreters under
 this Act and may revoke the same and no person shall act as Interpreter
 under this Act who does not hold such certificate: Provided that all
 such licenses as are valid at the passing of this Act shall continue in
 50 force as if granted under this Act: Provided also that any Judge may
 may at any time suspend the license of any Interpreter but in any
 such case he shall immediately report such suspension with his reasons
 therefor to the Chief Judge: Provided also that the Governor shall
 have power to suspend or remove any Interpreter.

Licensed Inter-
 preters.

55 **94.** Any person acting as or pretending to be a licensed Inter-
 preter under this Act who is not so licensed or whose license is sus-
 pended shall be liable to a fine not exceeding five pounds.

Penalty on unlicensed
 persons acting.

pended shall be liable to a penalty of fifty pounds to be recovered in a summary way by any person who may sue for the same.

Counsel and agents.

95. Parties may appear by counsel or European agent only when the assent of the Court or a Judge thereof is applied for and obtained for such appearance and the Court may at any stage of any proceeding order the discontinuance of the employment of counsel or agent.

Land may be taken for roads.

96. From and out of any land which may be granted under the provisions of this Act it shall be lawful for the Governor at any time of disposition or by separate deed to release any such right and to discharge the land comprised herein from the said liability: Provided also that nothing herein contained shall authorize the taking of any lands which shall be occupied by any buildings gardens orchards plantations or ornamental grounds except subject to the provisions of "The Land Clauses Consolidation Act 1863:" Provided always that this power shall cease and determine at the expiration of ten years from the date of the Crown grant.

Notifications of Native title extinguished authoritative.

97. Any notification published in the *New Zealand Gazette* and purporting to be made by or by the authority of the Governor and stating that the Native title over any land therein described was extinguished previously to a date therein specified shall be received in the Court in all matters which shall at any time be depending in or before such Court as conclusive proof that the Native title over the land described in such notice was extinguished at some time previously to the date therein specified and that such land on such date ceased to be Native land within the meaning of this Act and in order to prove such notification and the due making and publication thereof it shall be sufficient to produce a copy of the *New Zealand Gazette* purporting to be printed by the Government Printer with such notification therein.

Inchoate agreements by Land Purchase Commissioners.

98. And whereas arrangements have at various times heretofore been made by officers duly authorized to obtain the cession of Native land to Her Majesty with Natives owning or pretending to own Native land and in some cases money has been paid on account of such arrangements but no perfected agreements have been made nor possession acquired by Her Majesty of such lands: Be it enacted that it shall be lawful for the Court either in the claim of any Native claiming to be interested in any such land or in the claim of the Governor to investigate the title to and the interests in such land in the manner prescribed in this Act and the Court shall make such orders either for the completion of the agreement upon such terms and conditions as the Court shall think fit or for the apportionment of the land between the parties interested therein in such manner as the Court shall think equitable or for the repayment by the Natives who shall be found to have received such money as aforesaid of the same or any part thereof to Her Majesty or it may by such order declare that such land or any part thereof has been duly ceded to Her Majesty and all such orders shall be good and effectual and any order declaring that the land or any part thereof has been duly ceded to Her Majesty shall vest the same in Her Majesty and her successors absolutely as demesne lands of the Crown freed and discharged from all Native titles customs or usages.

Removal of restrictions from and consolidation of reserves.

99. And whereas it is of public concern that a sufficient quantity of land should be secured in perpetuity to the Natives which they shall be prevented from alienating or in any way incumbering and it is expedient that the separate and isolated pieces of land which have been rendered by the Court inalienable or have been previously set

apart by the Land Purchase Commissioners or others as reserves should be rendered alienable and the inalienable lands of each tribe be consolidated into one block as reservations in perpetuity.

Be it therefore enacted—

- 5 That it shall be lawful for any public officer appointed by the Governor to make application to the Governor for the release from restrictions on alienation or other conditions of any piece of land subject thereto by terms of the grant or by operation of law or in any other manner whatsoever and the Governor may refer the same to the
- 10 Court and thereupon the Court may with the consent of the Native owners or the majority of them order that such land shall be discharged from such restrictions or conditions or from such of them as it may think fit and may order that such land be dealt with under that portion of this Act called "Special provisions" or it may order
- 15 that such land or any part thereof be sold or otherwise disposed of and that the proceeds thereof or of any part thereof when sold or disposed of shall be invested or otherwise settled in trust for the owners of the land or expended in the improvement of the block of land which may have been set apart as a permanent and inalienable reservation for the
- 20 tribe and may make such further orders for carrying into effect this provision with the view of furthering the consolidation of the secured lands of the tribe into one reservation as it shall think necessary and just.

- Such order indorsed by the Judge on the grant shall take effect
- 25 according to the terms thereof and may be registered in the Deeds Registry Office.

- 100.** And whereas agreements for the purchase and sale of timber flax and other natural productions growing upon Native lands have at various times before the passing of "The Native Lands Act
- 30 1865" been entered into by Europeans and Natives and at the time such agreements were made the parties thereto acted in good faith and such agreements have since that time been carried out in good faith by both parties but the law at the time of making such agreements was such that the said agreements could not be legally made:
- 35 And whereas it is desirable to maintain and give effect to such agreements as aforesaid as have been made and acted upon in good faith and are themselves fair and reasonable in their character: Be it therefore enacted as follows:—It shall be lawful for any of the parties to such contracts and agreements as aforesaid or their legal
- 40 representative when the title to land the subject of any such agreement shall come before the Court for investigation to make application to the Court stating the nature extent and circumstances of the agreement alleged to exist in respect of the said land and it shall be lawful for the Court upon such application to hear and
- 45 investigate the truth of the alleged facts and if the Court shall see fit and if the circumstances and justice of the case shall appear to demand the same to make an order that the certificate and Crown grant to be issued shall be subject to such agreements or such part thereof as the Court may think just or to impose such restrictions on
- 50 the alienability of the land comprised in such certificate or grant as shall give protection to the rights of the applicant: Provided nevertheless that no right reserved or conferred under this clause shall extend to a longer period than twenty-five years from the date of the order of Court.

- 55 **101.** All orders of the Court made for the payment of a sum of money may be sued upon and enforced by the person named therein as entitled to such money against the person who ought to pay the same in any Court of competent jurisdiction.

- 60 **102.** Subject as mentioned in section hereof every conveyance transfer gift contract or promise affecting or relating to

Ancient agreements invalid but equitable may be recognized.

Effect of orders of Court for money.

Transactions before grant void.

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any land in respect of which a grant shall not have been issued by the Court shall be absolutely void: Provided always that contracts by *parole* may be made affecting flax timber or actual productions growing on such land extending over a period of not more than two years.

103. And whereas deeds of conveyance and other instruments have heretofore been made and executed at times between the issue of the certificate of title and the issue of the Crown grant comprising the land affected by such deeds or instruments and doubts have arisen whether under the operation of the seventy-third section of the Constitution Act such deeds and instruments are valid:

BE IT THEREFORE ENACTED—

That it shall be lawful for any party to any such deed or instrument to apply to any Judge of the Court to have an endorsement as hereafter mentioned made on such deed or instrument and thereupon the Court shall give notice in the manner prescribed by this Act or by the Rules in reference to application for investigation of title of the time and place for hearing such application and the Judge may hear and determine the application and may if he think fit indorse on such deed or instrument a memorandum to the effect that the legal estate in the grant wherein the land referred to in such deed or instrument is comprised shall so far as the land affected by the said deed or instrument is concerned vest on a day to be stated in such memorandum being the day of or a day subsequent to the issue of the certificate of title and before the issue of the Crown grant.

The deed so indorsed shall for the purpose of completing the title of persons claiming thereunder but for no other purpose be and be deemed to have been as valid and effectual to all intents and purposes from the date so inserted in the endorsement as if the seventy-third section of the Constitution Act had been repealed by “The Native Lands Act 1865.”

104. In the case of all sales and other dispositions of land under order of the Court the Court shall direct by whom the conveyance or instrument of disposition shall be executed and every conveyance or instrument of disposition executed in conformity with such order shall be effectual to pass or affect the land conveyed or disposed of according to the terms of such conveyance or instrument of disposition.

105. Every conveyance or other disposition of hereditaments granted under this Act made by a Native to a person of European race or to another Native shall be interpreted to the conveyor or other disposer by a licensed Interpreter and shall be executed in the presence of and be attested by such licensed Interpreter and any other person and shall have written thereon or annexed thereto a statutory declaration in the form contained in the Third Schedule hereto by such Interpreter and such declaration shall be made and taken before a Judge or Justice of the Peace and shall have the legal effect of a declaration made under the Imperial Statute 5 and 6 William IV. cap. 62 or “The Justices of the Peace Act 1866” and every such declaration shall be *prima facie* evidence of the facts therein stated.

106. It shall not be nor be deemed to have been necessary for any married woman of the Native race on executing any deed required by law to be acknowledged before Commissioners to make such acknowledgment and such deed shall be and be deemed to have been as valid and effectual as if signed by a *feme sole*.

107. Nothing in this Act contained shall be construed to exempt any land which shall be granted or otherwise dealt with under the provisions hereof from the operation of “The Native Districts Regulations Act 1858” or “The Native Circuit Courts Act 1858” or any Acts amending the same or either of them for the time being in force until and so far only as the Native grantees or their representatives determined under the provisions hereinbefore contained shall have sold

Certain titles validated.

Conveyance to be under direction of Court.

Execution of conveyances &c.

Married women not to be examined.

“Native Districts Regulation Act 1858” &c.

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or otherwise parted with their beneficial estate or interest in any hereditaments comprised within any district constituted under the said Acts or any or either of them.

108. Notwithstanding anything in this Act contained no Native land shall be subject to or affected by any laws made or to be made by any Provincial Legislature nor shall any hereditaments granted under this Act be subject to or affected by any such laws as long as Natives alone are beneficially interested therein.

Native lands exempt from Provincial Legislatures.

109. Provided nevertheless that all duties penalties and other moneys payable into the Colonial Treasury under the provisions of this Act after payment thereof of the salaries and expenses hereinbefore charged thereupon 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 within the Colony of New Zealand and shall be at all times hereafter chargeable with so much of the money borrowed and raised under the authority of the said Act as may at the time being remain unpaid and with the interest thereon.

Formal clause as to "New Zealand Loan Act 1856."

110. All leases heretofore made by persons to whom certificates of title have been issued under the seventeenth section of "The Native Land Act 1867" shall be and be deemed to have been as valid and effectual to all intents and purposes as if the seventy-third section of the Constitution Act had been repealed by "The Native Lands Act 1865."

Leases validated in certain cases.

111. And whereas grants have been heretofore made and issued under "The Native Lands Act 1865" in which the *habendum* has contained a date for antevesting the legal estate in the lands comprised therein without legislative authority for such antevesting and doubts are entertained whether such antevesting can avail at law.

Be it further enacted—

That in any such case as aforesaid the *habendum* shall take effect according to the terms thereof as if made upon lawful authority but this provision shall not extend to cure any other defect in the grant generally or to prevent its failure for other reasons but the grant may be repealed by *scire facias* or amended under the Crown Grant Acts as effectually and in the same manner as if this provision had not been made.

Habendum to take effect in certain cases.

SCHEDULES.

Schedules.

FIRST SCHEDULE.

	£	s.	d.
Affixing the Seal of the Court to any document not mentioned below	...	0	5 0
Subpoena	...	0	5 0
Filing any document	...	0	3 0
Swearing a witness	...	0	2 0
Hearing in Court per day each party	...	1	0 0
Application in Chambers per hour or portion of an hour each party	...	0	5 0
Certificate of title	...	1	0 0
Copy of same	...	0	10 0
Copy of any order	...	0	2 6
Inspection of plans each case	...	0	1 0
Inspection of papers each case	...	0	1 0
Crown grant	...	1	0 0
Office copies per folio	...	0	0 6
Copy of plan not exceeding for each 1,000 acres or part of 1,000 acres	...	0	10 0
Opinion of Chief Judge under section 57 of Act of 1865	...	1	0 0
Examination of plan by Inspector not exceeding	...	1	0 0
Interpreter's license	...	1	0 0
Duplicate of same	...	0	10 0
Testamentary order	...	1	0 0
Duplicate of Surveyor's license	...	1	0 0
Drawing any document not above-mentioned at request of party at per folio	...	0	2 6
Copy of same at per folio	...	0	0 6
Order for registering instrument under section 33 Act of 1867	...	0	10 0
Registering same	...	0	3 0

SECOND SCHEDULE.

I [A.B.] of admit that I have borrowed from [C.D.] of pounds in money for the purpose of paying the costs of surveying and other costs attending the investigation of my claim to be interested in the block of land in the District of in the Province of called by the name of . I desire to charge my right title and interest in the said land with the repayment in the manner provided by law of the said sum of money.

Dated the day of 18 .

Witness:—J.P.

A.B. Licensed Interpreter.

I HEREBY certify that the above instrument was duly interpreted to the said by a duly licensed Interpreter and that the said understood the meaning and effect of the said instrument.

J.P.

THIRD SCHEDULE.

I [A.B.] of in the Province of in the Colony of New Zealand Native Interpreter do most solemnly and sincerely declare as follows that is to say:—

1. I did faithfully interpret into the Maori language the within deed to the party named therein before the execution of the said deed by him.

2. My translation of the said deed was correct and was understood and the meaning and purport of the deed was understood by the said

3. The said deed was executed by the said in the presence of of and me this declarant.

4. The name set and subscribed as that of one of the witnesses attesting the due execution of the said deed is of my proper handwriting and I hold a certificate authorizing me to act as an Interpreter under "The Native Land Court Act 1871" which said certificate is in full force and effect.

5. The name set and subscribed as that of one of the witnesses attesting the due execution of the said deed is of the proper handwriting of the said and the said is a male adult.

And I make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the said Act and by virtue of an Act of the General Assembly of New Zealand intituled "The Justices of the Peace Act 1866."

Made and declared at the day of 18 before me

A Justice of the Peace.

A.B.