

Hon. Mr. Seddon.

NATIVE LAND LAWS AMENDMENT.

ANALYSIS

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### A BILL INTITULED

#### AN ACT to amend the Native Land Laws.

Title.

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 Land Laws Amendment Act 1895." 5

Interpretation.

2. In this Act, if not inconsistent with the context,—  
 "Appeal" includes applications for rehearing treated as appeals under section ninety-four of the Act;  
 "The Act" means "The Native Land Court Act, 1894": 10  
 Unless inconsistent with the context, words used in this Act shall, subject as aforesaid, have the same meaning as is assigned to them in section two of the Act.

*This Act shall, so far as relates to the Native Land Court and to the Native Appellate Court, be read with and as part of the Act.* 15

#### ALIENATION.

Land within limits of town district or borough, and blocks not exceeding 500 acres, excepted from operation of section 117 of the Act.

3. Nothing in the Act contained shall preclude the alienation by any Native grantee from the Crown, or registered proprietor under the Land Transfer Act, of any land within the limits of any town district or borough, whether constituted before or after the passing of this Act; nor shall the Act preclude the alienation by any grantee or registered proprietor as aforesaid of any land, wheresoever situate, being the whole or part of a block or section not exceeding five hundred acres, the title to which as a separate holding has become ascertained by partition or otherwise prior to the passing of this Act: Provided that every such alienation shall be confirmed by the Court in manner provided in the Act. 20 25

#### *Struck out.*

Blocks not exceeding 500 acres, the title to which shall be hereafter ascertained, may be excepted.

4. The Governor may, by Order in Council, permit the alienation by any Native grantee or registered proprietor as aforesaid of any block or section of land, not exceeding five hundred acres, the title to which shall hereafter be ascertained by the Court, and as to which the Court shall have certified on the investigation of the title thereto that the same is a separate block or holding according to Native custom and usage, and is not portion of a larger block. 30 35

New clause.

4. The Governor may by Order in Council except from the operation of section one hundred and seventeen of the Act for a limited period or otherwise, and either generally or for such purposes, and subject to such restrictions as shall be in such order specified, any land, wheresoever situate, which is for the time being subject to the operation of the said section any interest therein or right over the same; or may in like manner make such exception in favour exclusively of any lessee or other person who has been *bona fide* in occupation of and has made improvements on such land, or has paid money to Native owners for lease or purchase thereof, prior to the passing of the Act: Provided that no Order in Council under the provisions of this section shall take effect until after the expiration of two months from the date of the publication thereof in the *Gazette*: Provided also that every alienation under the provisions of this section shall be confirmed by the Court in terms of section fifty-three of the Act.

A return of all applications for the issue of Orders in Council under the provisions of this section, specifying such as have been granted and refused respectively, and, in case of refusal, the reasons for such refusal, shall be laid before both Houses of Parliament within thirty days after the commencement of each session.

5. Before confirming any alienation, *other than a mortgage*, under the provisions aforesaid, the Court shall require every person in whose favour such alienation is expressed to take effect, to make and subscribe a declaration in the form in the *First Schedule* hereto, and no such alienation shall be confirmed if made in favour of any person holding in fee-simple in the Colony of New Zealand, either in severalty or jointly with any other person or persons, more than six hundred and forty acres, including the land the subject of such alienation.

Purchaser to make declaration in form in First Schedule.

No alienation to be confirmed by Court in favour of person holding more than 640 acres.

Any person making a false declaration under the provisions of this section shall be guilty of a misdemeanour, and on conviction shall be liable to a penalty not exceeding *two hundred* pounds, or to be imprisoned for any term not exceeding *one year*, with or without hard labour.

6. No land owned by a Native shall be sold under any power of sale in any mortgage, or by virtue of any judgment, decree, or charging order, except by public auction and to the highest bidder. Notice specifying the time and place of any intended sale shall be given in writing to the Commissioner of Crown Lands for the district, and published not less than three times in one or more newspapers circulating in the district; and no sale shall take place until after the expiration of *three months* from the publication and giving of such notices. It shall be the duty of the Court, before confirming any such alienation, to satisfy itself that the provisions of this section have been duly complied with.

Sales by mortgagees or by order of Court to be by public auction.

Notice of intended sale to be given.

7. Nothing in the Act contained shall operate to defeat or prejudice any right or remedy which, but for the passing of the Act, any person might or would have against land owned by a Native in respect of any debt or liability incurred by such Native prior to the passing of the Act, but such right or remedy may be exercised as fully and effectually as if the Act had not been passed, nor shall

Rights and remedies against land owned by Natives in respect of debts incurred prior to passing of the Act to remain effectual.

anything in the Act contained preclude the acquisition by any person of land sold under process of law in exercise of any right or remedy as aforesaid: Provided that the Court shall, as regards the exercise of any such right or remedy, make all inquiries which before the passing of the Act would have been required to be made by a Trust Commissioner in respect thereof, and may, if satisfied with the result of such inquiries, and that the sale is in accordance with the provisions of this Act, confirm such alienation. 5

No person shall be debarred from the benefit of the foregoing provision by reason only that such person has, since the passing of the Act, taken or accepted any promissory note or other obligation or security, or has recovered judgment in any Court of law, in respect of any debt or liability as aforesaid. 10

Title to land taken for railway construction may be completed.

8. Nothing in the Act contained shall invalidate any transfer heretofore made, or hereafter to be made, to the Wellington and Manawatu Railway Company (Limited), for the purpose of completing the title of the company to land taken for railway construction under the provisions of "The Railways Construction and Land Act, 1881." 15

#### CONFIRMATION OF ALIENATIONS. 20

Confirmation order conclusive evidence for purpose of title.

9. A confirmation order under the seal of the Court, indorsed on any deed or instrument, shall, for all purposes of title, be conclusive evidence that such deed or instrument is not in contravention of any of the provisions of the Act or of this Act, but shall not exonerate any person from penalties incurred in respect of any false declaration or evidence made or used for the purpose of obtaining such order. 25

Powers of Trust Commissioners continued.

10. All acts done, or hereafter to be done, for the completion of proceedings commenced under the provisions of "The Native Lands Frauds Prevention Act, 1881," and the Acts amending the same, shall, if done by any person holding the office of Trust Commissioner at the date of the passing of the Act, be as valid and effectual for the purpose aforesaid as if the said Native Lands Frauds Prevention Act and the several Acts amending the same had not been repealed. 30

#### REGISTRATION. 35

Persons entitled to land under orders of the Court may be registered as proprietors under Land Transfer Act.

11. Every order heretofore made or hereafter to be made by the Court, under subsections two, three, or four of section fourteen of the Act, shall, if the land the subject of such order is subject to the provisions of the Land Transfer Act, entitle the person named in such order as the owner of or entitled to such land to be registered as the proprietor thereof: Provided that, except as regards land acquired by the Crown, no partition order for land subject to the provisions of the Land Transfer Act shall be made otherwise than in favour of a registered proprietor. 40

If land not previously under Land Transfer Act, certificate of title to be issued.

12. If the land the subject of any order under subsections two, three, or four aforesaid is not subject to the Land Transfer Act, but is land held under grant from the Crown, the person named in such order as the owner of or entitled to such land shall be entitled to a Land Transfer certificate of title for the same, subject to all registered encumbrances, liens, and interests; and the issue of such certificate shall, as to the land included therein, effectually cancel any existing Crown grant. 45 50

13. Division or partition orders heretofore made affecting land awarded, or recommended to be awarded, to Natives under the provisions of "The Tauranga District Lands Act, 1867," and "The Tauranga District Lands Act, 1868," and orders heretofore made in accordance with the provisions of section seven of "The Native Land Court Act 1886 Amendment Act, 1888," declaring the residue of any such land to be the property of Native owners, shall be as valid and effectual as if such land had at the time of the making of such order been held under Crown grant, or Land Transfer certificate of title; and the person or persons named in any such order as entitled to such land shall be entitled to a Crown grant or Land Transfer certificate of title for the same, as the case may be.

Orders under Tauranga District Lands Acts to confer right to registration.

*New Clause.*

13A. Where orders for the issue of Crown grants have been made on subdivision under section eighty-nine of "The Native Land Act, 1873," but the original grant has not been surrendered for cancellation as by the said section is required, the Court may by order adjudge such grant to be null and void, and the Secretary for Crown Lands shall thereupon cause an indorsement to that effect to be made on the record of such original grant, and such grant shall by virtue of such indorsement be deemed for all purposes of the subdivision to be effectually cancelled, as if the same had been duly surrendered and cancelled on the making of the said subdivision in terms of section ninety of the said "Native Land Act, 1873."

14. No warrant other than the authority of this Act shall be necessary for the issue of a certificate of title under the provisions of the Land Transfer Act to and in the name of any person for land for which such person has, by virtue of any order of the Court, whether made before or after the passing of this Act, become entitled to a Crown grant or certificate of title, whether in lieu of grant or otherwise: Provided that, in case of land not previously subject to the provisions of the Land Transfer Act, such order shall be forwarded to the District Land Registrar through the Chief Judge of the Court, who shall at the same time notify to such Registrar what instruments (if any) affecting the land the subject of such order have been registered in the office of the Native Land Court; and the Registrar shall, on issuing a certificate of title, make such entries on the Land Transfer Register as may be necessary for the protection of the rights of parties claiming under such registered instruments.

No warrant necessary for issue of Land Transfer certificate in lieu of Crown grant on orders of Native Land Court.

Orders to be forwarded through Chief Judge.

15. Any lessee from a Native owner who, in order to obtain registration of his lease, shall have been compelled to pay, ~~or shall have elected to pay,~~ and shall have paid to the person entitled to receive the same any survey charges, Court fees, probate or succession duties, or other moneys properly payable by the Native owner and chargeable by law on the land the subject of such lease, shall be entitled to deduct the sums so paid from the rent payable by him under the lease: Provided that the amount to be deducted by the lessee in respect of any single payment reserved under such lease shall not exceed one-half the payment reserved.

Lessee paying survey charges, &c., on behalf of Native owner may deduct same from rent.

16. A certificate under section sixty-seven of the Act may be registered against land under the provisions of "The Deeds Regis-

Certificate under section 67 of the Act may be registered.

tration Act, 1868," and, except by order of the Court, no dealing with such land by any Native owner shall thereafter be registered until the amount certified to be due in respect thereof has been fully paid and satisfied.

Instrument validated under Native Land (Validation of Titles) Act may be registered.

17. No confirmation order shall be necessary to enable the registration of any deed or instrument which has been validated under the provisions of "The Native Land (Validation of Titles) Act, 1893." 5

#### EXCHANGE.

No exchange of less than whole interest of Native in block.

18. No exchange shall be made, under subsection three of section fourteen of the Act, of less than the whole interest of any Native in any block or section. 10

#### CONSTRUCTION OF ACT.

##### *New Clauses.*

18A. Section seventeen of the Act shall be read and construed subject to any regulations for the time being in force under the Act specifically regulating the mode of procedure with regard to any particular class of business. 15

18B. Section sixty-two of the Act shall be read and construed as if the words "except as provided in the preceding section" had been omitted therefrom. 20

18c. Section sixty-five of the Act shall be read and construed as if the words "Chief Surveyor" had been used therein instead of the words "Commissioner of Crown Lands."

Section 67 of the Act amended.

19. Section sixty-seven of the Act shall be read and construed as if the words "on behalf of the Crown" had been inserted after the words "Surveyor-General" in the second line thereof. 25

Section 117 amended.

20. Section one hundred and seventeen of the Act shall be read and construed as if the words "in this Act" had been used instead of the word "hereinafter," in the first line thereof. And it is hereby expressly declared and enacted that nothing in the Act shall be construed to take away or restrict, or in any manner to have taken away or restricted, any jurisdiction, power, or authority conferred or expressed to be conferred on the Court, or on the Appellate Court, by the Act. 30

Nothing therein to take away or restrict jurisdiction of Court.

##### *New Clause.*

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20A. Section one hundred and eighteen of the Act shall be read and construed as if the words "two years" had been used instead of "twelve months" in the sixteenth line thereof.

Right of testamentary disposition by Natives not taken away.

21. Nothing in the Act shall be deemed to have taken away any right of testamentary disposition by any Native: Provided that land acquired by virtue of any will or testamentary disposition after the passing of this Act shall not be deemed to be land acquired by testamentary disposition within the meaning of section one hundred and seventeen of the Act. No interest in land or personal estate shall pass by any unwritten will or "ohaki." 40 45

No interest to pass by unwritten will.

No interest in land to pass by bankruptcy of Native owner.

22. Subject to the foregoing provisions with regard to debts and liabilities incurred before the passing of the Act, the term "acquire" in section one hundred and seventeen of the Act shall extend to and preclude the acquisition by any person under any adjudication in bankruptcy of land owned by a Native. 50

23. The term "lessee," in section one hundred and twenty of the Act, shall include and shall be deemed to have included the executors, administrators, and assigns of a lessee.

Section 122 of the Act. Definition of "lessee."

*New Clause.*

5 | 23A. Section one hundred and twenty of the Act shall be read and construed as if the words "two years" had been used instead of "one year" in the fifth line thereof.

10 | 24. The heading to the Second Schedule of the Act is amended by substituting the words "Land excepted from the Provisions of Section 118" for the words "Native District wherein Land is subject to this Act," and the said Schedule shall be read and construed as if the heading hereby substituted had been the original heading thereof.

Second Schedule to Act. Heading amended.

PROCEDURE.

*Appeal and Appellate Court.*

15 | 25. The seal now in use by the Appellate Court shall be and be deemed to have been the proper seal of the said Court, and all documents sealed therewith shall be deemed to have been duly sealed.

Seal of Appellate Court.

20 | 26. The appellant in any appeal now pending or hereafter to be instituted may, subject to any regulations under the Act, withdraw such appeal at any time before the hearing thereof.

Appeal may be withdrawn.

25 | 27. If the appellant in any appeal now pending, or hereafter to be instituted, has or shall have failed to deposit with the Registrar the sum required to be deposited as security for costs under section eighty-five of the Act, or to pay any fees due and payable in respect of such appeal by virtue of any regulation under the Act, or under any Act thereby repealed, the Native Land Court may, on the application of the Registrar, dismiss such appeal; and such dismissal, if expressed to be made on the ground of such non-payment, shall take effect as if the decision appealed from had been affirmed by the Appellate Court upon the hearing of such appeal: Provided that if it shall appear to the Court that the appellant is unable to pay the amount required, and that injustice may be done by the dismissal of such appeal unheard, the Court may remit such payment either wholly or in part, or make such order in relation thereto as to the Court shall seem fit.

Appeal may be dismissed by Native Land Court for non-payment of deposit.

Discretionary powers.

35 | 28. The Appellate Court shall have the like powers with regard to any appeal in case the required security has not been deposited, or in case of non-payment of fees, as are hereinbefore given to the Native Land Court in the like cases.

Appellate Court to have the like powers as Native Land Court in case of non-payment.

*New Clause.*

40 | 28A. The Public Trustee may appeal against any decision of the Court appointing any other person to be trustee for a minor, and the Chief Judge may in such case dispense with the requirements of section eighty-five of the Act.

45 | 29. The Chief Judge shall have power from time to time to refer to the Judges of the Appellate Court, severally or collectively, any question of Native custom, or of practice and procedure, which he may think necessary to have decided for the purpose of securing uniformity in the decisions of the Court; and the opinion of the

Appellate Court. Provision for securing uniformity of decisions.

majority of such Judges upon any question referred shall be binding upon the Court, and upon all the Judges thereof, and shall be followed in all subsequent decisions of the Court and of the Native Land Court.

Time within which statement of grounds of appeal to be lodged.

30. The time within which a statement of the grounds of appeal may be lodged shall be three months from the date of the decision appealed from: Provided that the Chief Judge or the Court may at any time require an amended statement to be furnished. 5

Notice of appeal, time for giving.

31. When by any regulation made or to be made under the Act public notice is required to be given of any decision, the time within which notice of appeal from such decision may be given shall run from the date of the publication of such notice. 10

Appellate Court may annul or vary decision.

32. The Appellate Court shall have power, in the exercise of the jurisdiction conferred on it by the Act or by this Act, to annul or vary any decision of the Native Land Court or of a Judge thereof, and to give, or direct the Native Land Court to give, such other decision as to the first-mentioned Court shall seem just. 15

No appeal in certain cases.

33. No appeal shall lie from any order of incorporation under section one hundred and twenty-two of the Act, nor from any order dismissing an appeal under section twenty-six of this Act. 20

#### Native Land Court.

Order under subsection (9) of section 14, how revocable.

34. An order under subsection nine of section fourteen of the Act shall be revocable at any time by the Court or by any Judge, notwithstanding that such order may have been filed in the office of the Supreme Court: Provided that the order of revocation shall in such case be also filed. 25

Applications may be referred to Court by Chief Judge for inquiry and report.

35. The Chief Judge may refer to the Court, or to a Judge, for inquiry and report, any application or other matter as to which such inquiry is, in his opinion, necessary for the purposes of the Act, or of any Act conferring jurisdiction on the Court or on the Chief Judge for any purpose whatsoever. 30

Court may appoint administrator of personal estate of Native dying intestate.

36. When application shall be made to the Court to determine the succession to the personal estate of any Native dying intestate, the Court may, on the hearing of such application, appoint any fit person to administer such personal estate on behalf of the persons beneficially entitled thereto, and may grant letters of administration accordingly: Provided that no estate or interest in the land of any Native dying intestate shall pass by virtue of letters of administration. 35

No interest in real estate to pass to administrator.

#### Struck out.

Court may refuse to partition land if not fit subject for partition.

37. The Court may refuse to partition any land if it shall appear to the Court that, from the nature of the case and of the interests involved, such land cannot fairly be partitioned. 40

#### New Clauses.

37A. If upon an application for partition of any land it shall appear to the Court that from the nature of the case and of the interests involved such land cannot fairly be partitioned, or that it would be wise to postpone such partition, the Court may refuse to make a partition, and the Court may in place thereof, if it thinks fit, make such interlocutory order adjusting the intermediate beneficial 45

occupation of the land among the various owners, or the mesne profits arising therefrom, as it shall deem just and fair, irrespective of the person using or occupying such lands: Provided that no such interlocutory order shall be made in any case pending the result of an appeal in any Court whatsoever or to the Privy Council affecting the rights of any person claiming as an owner or part owner of, or claiming any estate or interest in, the land the subject of such application for partition.

37B. The Court may, on any partition hereafter to be made, or as a continuation of the proceedings in any former partition, apportion any survey charge amongst the several subdivisions of the land the subject of such charge; and such apportionment shall, subject to approval by the Surveyor-General, be final and conclusive.

JURISDICTION.

38. From and after the passing of this Act, the Native Land Court and every Judge thereof shall, in dealing with all questions as between Natives and Natives affecting the title to any Native land, or to land or personal estate owned by Natives, be absolutely free from the control or interference of any superior Court other than the Native Appellate Court.

In questions as between Natives, Native Land Court to be subject only to Appellate Court.

39. In any case in which, but for this Act, recourse might be had to the Supreme Court, the remedy shall be by application to the Native Appellate Court, which shall have full power on such application to deal with and finally determine all questions at issue, and to grant such relief as to such Court shall seem just, or as shall in the opinion of the Court be necessary, having regard to the nature of the case and the rights of the parties.

Appellate Court to have power of Supreme Court to grant relief.

40. The Native Appellate Court shall have supreme jurisdiction in all questions as between Natives and Natives affecting the title to any Native land, or to land or personal estate owned by Natives, and shall exercise or decline to exercise such jurisdiction free from the interference or control of any other Court whatsoever, nor shall any proceeding relating to any such matter as aforesaid be removed from the Native Appellate Court into any other Court by writ of *certiorari* or otherwise.

Appellate Court to have supreme jurisdiction in questions between Natives relating to real or personal estate.

41. Nothing herein contained shall prejudice or affect any proceeding actually pending or commenced in the Supreme Court or in the Appeal Court of New Zealand or in Her Majesty's Privy Council at the date of the passing of this Act.

Saving of proceedings pending in Supreme Court.

42. Section thirty-nine of the Act is hereby repealed.

Section 39 repealed.

New Clauses.

ROADS AND SURVEY.

42A. Sections sixty-one and sixty-six of the Act are hereby repealed.

42B. Except as hereinafter provided, no subdivisional or other survey of land within the meaning of the Act shall be made without the authority of the Surveyor-General first obtained: Provided that the Court or a Judge may, on the hearing of any case, authorise such surveys to be made for the information of the Court in dealing with the matter before it as may in the opinion of such Court or Judge be necessary or expedient.

42c. Where under the provisions of section sixty-five of the Act a defined portion of land has been vested in the Surveyor-General in satisfaction of survey charges due to the Crown, such land shall on notification to that effect in the *Gazette* become Crown land within the meaning of "The Land Act, 1892." 5

42d. Any unsatisfied charging-order made prior to the passing of the Act in respect of the costs of any survey may be surrendered by the person entitled to the benefit thereof, and an order under section sixty-five of the Act substituted.

42e. In any order under section sixty-five the Court may include 10  
in the cost of survey interest at the rate of five per centum per annum from the date of the approval of the survey by the Chief Surveyor: Provided that no interest shall be allowed for more than five years in the aggregate.

42f. Any person entitled to the benefit of a charge by way of 15  
mortgage under section sixty-five of the Act who shall for the purpose of completing his title thereto pay any fees due in respect of the land the subject of such charge, shall be entitled to add the amount so paid to the amount due and recoverable by virtue of such charge as if such amount had been originally included therein. 20  
The receipt of the officer entitled to receive such fees indorsed on such charge shall be sufficient evidence that such payment has been made, and that the same was due as aforesaid.

42g. So much of sections seventy, seventy-one, and seventy-two of the Act as is inconsistent with sections ninety-one to ninety-five, 25  
inclusive, of "The Public Works Act, 1894," is hereby repealed.

#### MISCELLANEOUS.

Interest of lessee in land acquired by the Crown may be determined.

43. When any land heretofore acquired, or hereafter to be acquired, by the Crown from Natives is subject to lease, the Governor may, by Order in Council, absolutely determine such lease, 30  
either as to the whole or any part of the land, and the Crown shall thereupon be entitled to enter into possession of such land, subject only to payment of such compensation as may be agreed on between the Minister of Lands and the persons entitled thereto. In default of such agreement, the amount of compensation, and the person or persons 35  
to whom such compensation is payable, shall be determined by the Native Land Court, on the application of the Minister of Lands, in the same manner as nearly as may be as is provided by section ninety of "The Public Works Act, 1894," with regard to claims for compensation in respect of leasehold interests in land owned by Natives which 40  
has been taken for public purposes under the provisions of the said Public Works Act.

Compensation to lessee, how to be ascertained.

In case of dispute money belonging to Natives may be paid to Public Trustee.

44. Any lessee or other person holding moneys belonging to Natives, and being unable to pay such moneys by reason of any doubt or dispute as to who are the persons entitled to receive the same, may 45  
by leave of the Court, or a Judge, pay such moneys to the Public Trustee, whose receipt shall be a sufficient discharge to the person paying the same. Payment of rent by a lessee under the provisions of this section shall be deemed a payment made in accordance with the terms of the lease. *Such payment may be authorised as aforesaid* 50  
*in respect of rent to accrue due during the currency of the lease as well as of rent already due.*

45. The Public Trustee shall hold such moneys subject to the order of the Court, for the benefit of and to be payable to such persons as the Court shall by order from time to time direct: Provided that any lessee availing himself of this provision shall be chargeable with commission at the rate of five pounds per centum on all moneys paid by him to the Public Trustee, which charge shall be levied as a fee of the Public Trust Office. All orders heretofore made under section ten of "The Native Land Court Act Amendment Act, 1888," are hereby annulled *as from the date hereof*. *The proviso to section fifty-nine of the Act is hereby repealed.*

Public Trustee to hold money subject to order of the Court.

46. Section three of "The Native Land (Validation of Titles) Act Amendment Act, 1894," is hereby amended by striking out the words "being a barrister or barristers of the Supreme Court of New Zealand," and by adding to the said section the following proviso:—

"Native Land (Validation of Titles) Act Amendment Act, 1894," section 3 amended.

"Provided that any person party to any case before the said Court may, by notice in writing to the Registrar, not later than fourteen days before the sitting of the Court, require that such case shall be heard before a Judge being a barrister or solicitor of the Supreme Court of New Zealand."

*Struck out.*

47. No stay of proceedings shall take place by virtue of section six of "The Native Land (Validation of Titles) Act Amendment Act, 1894," except upon the application of some person interested in the subject-matter of such proceedings, and upon such terms with regard to payment of costs as to the Court in which such proceedings are stayed shall seem just.

"Native Land (Validation of Titles) Act Amendment Act, 1894," section 6 amended.

*New Clause.*

47A. Section six of "The Native Land (Validation of Titles) Act, 1894," is hereby repealed.

48. All applications under section one hundred and eighteen of the Act in respect whereof the applicant shall have failed to pay the required fees, and to comply with the regulations, within one month from the date of the passing of this Act, shall be deemed to have been abandoned by the applicant, and shall be dealt with accordingly.

When applications under section 118 treated as abandoned.

49. Section two of "The Owhaoko and Kaimanawa—Oruamatua Reinvestigation of Title Act, 1886," shall be read and construed as if the words "The Native Land Court Act, 1886," had been used in the last line thereof instead of "The Native Land Court Act, 1880":

"Owhaoko and Kaimanawa—Oruamatua Reinvestigation of Title Act, 1886," section 2, amended.

*New.*

Provided that the foregoing amendment shall not operate to the prejudice of any right at present existing.

50. All acts done and orders made by any Judge of the Native Land Court, purporting to have been done or made under "The Native Land (Validation of Titles) Act, 1892," and "The Native Land Court Certificates Confirmation Act, 1893," or under either of the said Acts, shall be as valid and effectual as if such Judge had been duly authorised to exercise jurisdiction under the said first mentioned Act in terms of section fifteen thereof.

"Native Land (Validation of Titles) Act, 1892," confirmation of acts done under.

Maori Real Estate  
Management Acts,  
1867 and 1888.

Estate of *cestui que  
trustent* to vest with-  
out conveyance on  
attaining majority.

51. Notwithstanding any provision to the contrary contained in  
“The Maori Real Estate Management Act, 1867,” or “The Maori  
Real Estate Management Act, 1888,” any real or personal estate here-  
tofore vested in any trustee, either original or substituted, appointed  
under either of the said Acts shall vest and shall be deemed to have  
vested, without any conveyance or assignment thereof, in the *cestui  
qui trustent* (if not otherwise under disability) on whose behalf the  
estate was held, on their respectively attaining the age of twenty-one  
years; and for this purpose the definition of the term “heredita-  
ments” in the said Acts respectively shall be deemed to have included  
land held under memorial of ownership or certificate of title under any  
Native Land Act: Provided that nothing herein contained shall pre-  
judice or *prejudicially* affect any right or title already acquired, or affect  
any decision already given.

*New Clause.*

51A. No will or testamentary disposition by a Native deceased  
shall avail as against the title of any person who shall have acquired  
for valuable consideration any estate or interest from any person  
found by the Court to be entitled as successor to such Native, unless  
application for probate or administration with will annexed shall  
have been made within three months from the date of the death of  
the testator; nor shall any application for probate or administration  
with will annexed be received after the expiration of two years  
from the death of the testator.

Rangipo Waiu and  
Motukawa Nos. 1  
and 2 Blocks.  
Certificate of title  
corrected and  
boundaries  
adjusted.

52. Section two of “The Native Lands Claims and Boundaries  
Adjustment and Titles Empowering Act, 1894,” is hereby repealed,  
and the following section substituted in lieu thereof:—

“The Native Land Court certificate of title issued for the Rangipo-  
Waiu Block, on the thirteenth day of April, one thousand eight  
hundred and eighty-two, is hereby declared void as to those portions  
of Motukawa Number One and Motukawa Number Two Blocks, con-  
taining respectively six hundred and twenty-four acres and seven  
hundred and ninety acres, more or less, erroneously included therein,  
as appears on the record maps of the District Land and Survey Office,  
Wellington, and on the said certificate of title respectively: Provided  
always that the said areas of six hundred and twenty-four acres and  
seven hundred and ninety acres shall not vest in the owners of the  
Motukawa Number One and Motukawa Number Two Blocks respec-  
tively for any purpose whatsoever other than sale to Her Majesty or  
partition by the Native Land Court, before the expiration of the lease  
to John Studholme and Thomas Morrin of the said Rangipo-Waiu  
Block, on the thirty-first day of May, one thousand nine hundred and  
two, and shall in the meantime for all other purposes be deemed to be  
a portion of and included in the said Rangipo-Waiu Block, and to be  
subject to the lease aforesaid. The boundaries between the said Motu-  
kawa Number One and Motukawa Number Two Blocks are hereby  
adjusted in accordance with the descriptions set out in the *Second*  
Schedule to this Act, and the Chief Judge is hereby empowered to  
amend the titles of the said several blocks, in accordance with the  
provisions of this section.

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Struck Out.

REPEAL.

5 53. So much of sections seventy, seventy-one, and seventy-two of the Act as is inconsistent with sections ninety-one to ninety-five inclusive of "The Public Works Act, 1894," is hereby repealed.

Repeal of clauses inconsistent with Public Works Act.

New Clauses.

10 54. Notwithstanding the provisions of section one hundred and seventeen of the Act, any Native having any interest in land vested in him in his own right may mortgage the same for the purpose of raising money to pay debts incurred by him before the passing of the Act; and any Native having any interest in land vested in him by virtue of any succession order may mortgage the same for the purpose of paying the debts of the person from or through whom he shall have acquired such interest as aforesaid.

15 55. Before any such mortgage as aforesaid shall be executed an inquiry shall be made by the Native Land Court, on the application of the proposed mortgagor, in the manner provided by section one hundred and eighteen of the Act, whether the debts for the payment of which money is proposed to be raised on the security of such mortgage are justly due and recoverable in any Court of competent jurisdiction; and the said Court shall certify that such debts are justly due and recoverable as aforesaid, and the amount thereof, and the costs of such inquiry. Such mortgage shall be for no greater amount than the amount so certified and the just costs, charges, and expenses of the said mortgage.

No mortgagee shall be concerned to see to the application of the money advanced by him, and the certificate of the said Court shall be sufficient proof to such mortgagee of the matters stated therein.

30 56. Where before the passing of the Act any Native had entered into an agreement for the borrowing of any money on mortgage of any estate or interest in land vested in him, such agreement may be carried into effect notwithstanding the provisions of section one hundred and seventeen of the Act.

35 57. Where before the passing of this Act any judgment, order, or decree of the Supreme Court or any valid equitable arrangement was made concerning the ownership of any land vested in any Native or Natives, or concerning the division or disposal of the land vested in any deceased Native, such judgment, order, or decree, or equitable arrangement may be carried into effect; and where the carrying of the same into effect involves the payment of a sum of money out of the estate of such deceased Native, then the person in whom such estate is vested may raise such sum by way of mortgage. Provided always that in the case of any such equitable arrangement it shall be necessary to obtain a certificate of the *bona fides* thereof and of the amount of the sum of money required to be paid in the manner provided by section one hundred and eighteen of the Act.

45 No such certificate shall be requisite in the case of any such judgment, decree, or order unless the amount of the sum of money required to be raised shall not appear on the face of such judgment,

decree, or order, in which case it shall be necessary to obtain a certificate of the amount required to be paid as aforesaid. Any such certificate may be made within one year after the commencement of this Act. Every lease or mortgage under the foregoing provisions shall be confirmed as provided by section fifty-three of the Act.

58. Whereas by "The Poututu Jurisdiction Act, 1889," certain matters of a complicated nature were referred for final decision to the Native Land Court: And whereas it was intended that the Native Land Court, presided over by G. E. Barton, Esquire, the Native Land Court Judge, then sitting at Gisborne should give final and conclusive decisions on all such questions so referred: And whereas some of the decisions which have been given in the said matter have not been treated as final and conclusive, and further litigation is now pending in the Supreme Court respecting the same: Be it hereby enacted that the judgments under "The Poututu Jurisdiction Act, 1889" aforesaid, delivered by the Native Land Court presided over by G. E. Barton, Esquire, shall, subject to any judgment by the Supreme Court at Gisborne since delivered in reference to the said matter, be and be deemed to be final and conclusive to all intents and purposes between the parties concerned in the matters so referred: Provided always that, if the application now pending in the Supreme Court for a mandamus to compel certain Judges and Assessors of the Native Land Court to rehear certain of the said decisions given by the said G. E. Barton, Esquire, as Judge of the said Native Land Court under the said Act be granted, the said decisions shall be open for rehearing under such mandamus unless the order granting the same be reversed on appeal.

59. Nothing in this Act contained shall operate to prevent any Native or Natives from renewing any mortgage existing over his or their land prior to the passing of the Act, nor from raising upon mortgage any sum of money required for discharging any liability which he or they may have incurred before the passing of the Act: Provided always that every such mortgage shall be subject to inquiry and confirmation by the Court in manner provided by the Act.

60. Section fifty-three of the Act is hereby amended by the addition of the following new subsections:—

(*f.*) The Court shall, before it proceeds to recite the provisions of any deed of conveyance or transfer, call upon the owner or owners thereof first to give orally before it the conditions of the sale or lease of the land agreed and arranged between the owner or owners and the buyer or lessee or their representative or person claiming to represent such buyer or lessee, whether such conditions were made verbally or otherwise, and such oral statement shall be recorded in the minutes of the Court:

(*g.*) The Court shall then recite to the owner or owners the provisions set out in the deed of conveyance or transfer, and shall explain, as far as possible, the purport of such deed:

(*h.*) The Court shall have power to order the production before it of any written agreement which may have not been recited in the deed of conveyance or transfer:

(i.) Whether the conditions of such sale or lease have been carried or not, the following questions shall be put by the Court:—

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(1.) Have you made any written or verbal arrangement or agreement, or have caused to be made by any person on your behalf, as stated by the owner or owners present?

(2.) Do you agree (to sell or lease) under the conditions set out in this deed?

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Provided that, if any doubts shall arise in the mind of the Court, it shall then have full power to use its own discretion as to the advisability of passing such deed or refusing to pass such deed: Provided also that the foregoing subsections (f), (g), (h), and (i) shall not apply to any land sought to be conveyed or transferred by a Native owner or owners if such owner or owners is represented by counsel.

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61. Notwithstanding any of the provisions of section sixteen of 'The Native Land (Validation of Titles) Act, 1893,' any final order or decree made by the Court shall be of effect, and may be delivered out of the office of the Court, and shall be capable of registration, and shall be deemed to be confirmed by Parliament so soon as such final order or decree has remained upon the table of both Houses of the General Assembly for the space of one month and no resolution to the contrary has been passed by either House of the General Assembly.

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62. With respect to every corporate body of Native owners of land created under any public or private Act for the time being in force, the following provisions shall apply, anything in such public or private Acts to the contrary notwithstanding:—

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(1.) For the purpose of providing funds wherewith to road, survey, and generally open up for sale, lease, or to utilise the lands of the corporation, it shall be lawful for the Public Trustee, out of any moneys standing to the credit of the Public Trustee's Account or otherwise, to raise from time to time such sums as the committee, with the consent of a majority of the proprietors in general meeting, may recommend, or such less sums as he may think fit, and all such sums so advanced shall be a charge upon and over the lands of the corporation for which such sums are advanced respectively, or the present and future rents, issues, and profits of the said lands, and the proceeds of sale thereof.

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(2.) All such loans shall be raised from such sources in such manner and on such terms as to payment of principal, interest, sinking fund, and otherwise, as the Public Trustee may think fit. All sinking funds shall be held and invested by the Public Trustee.

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Schedules.

## SCHEDULES.

## FIRST SCHEDULE.

## FORM OF DECLARATION UNDER SECTION 5.

IN the matter of "The Native Land Laws Amendment Act, 1895," and of an Application to the Native Land Court for confirmation of [*Specify nature of alienation in respect of which confirmation is required*].

I, A. B., of \_\_\_\_\_, do solemnly and sincerely declare that I am the person [or one of the persons] beneficially entitled by virtue of the above alienation, and that I do not, either in severalty or jointly with any other person or persons, at the date of making this declaration, own in fee-simple more than six hundred and forty acres of land in the Colony of New Zealand, including the land the subject of the above alienation; and, further, that I am not acquiring the said land directly or indirectly for the benefit of any person not named in the instrument effecting such alienation: And I make this declaration conscientiously believing the same to be true, and by virtue of the provisions of "The Justices of the Peace Act, 1882."

Declared, &c.

## SECOND SCHEDULE.

## DESCRIPTION OF BOUNDARIES OF MOTUKAWA No. 1.

BOUNDED on the north by the Rangipo Waiu Block, 19591·6 links; on the south-east by the Motukawa No. 2 Block, 18584 links; thence towards the south and west by the Hautapu River, to the starting point.

## DESCRIPTION OF BOUNDARIES OF MOTUKAWA No. 2.

Bounded on the north by the Rangipo Waiu Block, 53778·6 links; on the north-east by the Moawhangoiti Stream; on the east by the Moawhango River; on the south-east by the Mangarautawiri Stream, Awarua Block, Ngawaka Stream, and Hautapu River; on the west by the Hautapu River; and on the north-west by the Motukawa No. 1 Block, 18584 links, to the starting point.