

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

*House of Representatives,
16th October, 1895.*

[AS AMENDED BY THE LEGISLATIVE COUNCIL.]

Hon. Mr. Seddon.

NATIVE LAND LAWS AMENDMENT.

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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 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 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, ~~or which shall here-~~ 20

after have become ascertained by partition upon any application for partition lodged with the Native Land Court prior to the first day of October, one thousand eight hundred and ninety five; Provided that every such alienation shall be confirmed by the Court in manner provided in the

5 Act: *Provided also that this section shall not apply to land within the area defined by the Second Schedule to the Act.*

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

10 specified, any land, wheresoever situate, which is for the time being subject to the operation of the said section, or 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*

15 *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

20 *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.

The Governor, by Order in Council, may except lands from operation of section 117 of the Act.

Proviso.

A return of all applications for the issue of Orders in Council under the provisions of this section, specifying such as have been

25 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.

Return showing all applications to be laid before Parliament.

5. Before confirming any alienation under the provisions of sections three and four of this Act, other than a mortgage, ~~under the~~

30 ~~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

35 or jointly with any other person or persons, a greater area, whether of first-, second-, or third-class land as defined by "The Land Act, 1892" (including the land the subject of such alienation), than would amount to six hundred and forty acres of first-class land, if computed on the basis of two thousand acres of second- or five thousand acres

40 of third-class land being treated as equivalent to six hundred and forty acres of first-class land: *Provided that such area may be composed of first-class, second-class, and third-class land, or any two of such classes, and shall be so determined that the acreage of each class, or all the classes combined, shall not exceed the prescribed maximum.*

Purchaser to make declaration in form in First Schedule.

No alienation to be confirmed by Court in favour of person holding more than a certain acreage.

45 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.

Penalty for false declaration.

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New Clauses.

5A. For the purpose of preventing evasions of the law, it is hereby declared that every dealing with land by the person in whose favour the alienation thereof has been confirmed as aforesaid, whether such dealing is by way of sale, mortgage, charge, lease, or otherwise howsoever, shall be absolutely void if made in favour of any person holding

55 a greater acreage than that prescribed by the last-preceding section in the case of the person in whose favour such alienation was confirmed.

Dealings with holders of more than legal acreage void.

Restriction may be removed for purpose of lease without proof that lessor has other land.

5B. Any restriction on alienation removable under section fifty-two of the Act may be removed so far as to permit the making of a lease not exceeding twenty-one years from the date thereof without proof that the lessor has other land sufficient for his support, and any such lease may be confirmed by the Court without such proof as aforesaid, anything in the Act to the contrary notwithstanding: Provided that the Court shall be satisfied that the rent reserved is a fair rent, and that it is for the advantage of the Native owner that such lease should be confirmed. 5

Orders in Council under "The Native Land Act, 1888," validated.

All Orders in Council purporting to have been issued under the provisions of "The Native Land Act, 1888," for the purpose of removing any restriction since the passing of the Act, shall, notwithstanding the repeal of the said "Native Land Act, 1888," be valid and effectual. 10

Sections 3 to 5B not to apply in certain cases.

5c. The provisions of sections three to 5B inclusive of this Act shall not apply to alienations authorised under sections one hundred and eighteen or one hundred and twenty of the Act as amended by this Act. 15

Sales by mortgagees to be by public auction.

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. 20

Notice of intended sale to be given.

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:~~ *Provided that this section shall not apply to sales by any public officer by virtue of, or in exercise of, any statutory provision or authority.* 25 . 30

Sales under statutory provisions excepted.

Sale of land for payment of survey charges.

7. No land shall be sold for payment of any survey charges until three months after the title to such land has become ascertained within the meaning of section three of the Act.

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

8. 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 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. 35 40 45

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. 50

9. ~~Nothing in the Act contained shall invalidate~~ *Section one hundred and seventeen of the Act shall not apply to 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."*

Title to land taken for railway construction may be completed.

CONFIRMATION OF ALIENATIONS.

10. A confirmation order under the seal of the Court, *or a certificate under section fifty-five of the Act*, 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.

Confirmation order conclusive evidence of compliance with the Act and with this Act.

New clauses.

10A. Before confirming any lease the Court shall inquire whether such lease has been signed by the Native owners, or any of them, in consideration, wholly or in part, of any sum of money paid to them or any of them by way of premium or foregift; and if it shall appear to the Court that there has been any such payment the Court shall not confirm such lease, unless it shall be proved to the satisfaction of the Court that the rent reserved is a fair and adequate rent, having regard to the value of the land, irrespective of any payment as aforesaid.

Before confirming lease Court to inquire as to nature of consideration.

10B. Any lease which through a *bonâ fide* mistake shall prior to the passing of the Act have been made, given, or taken for a greater term than that allowed by law, shall be taken and deemed to be and to have been from the date thereof a valid lease for such less term as the same could have been made, given, or taken for at the time of the execution thereof: Provided always that a Judge shall certify that such mistake was *bonâ fide*, and that such lease is otherwise entitled to confirmation under the provisions of the Act and of this Act.

Lease in excess of term allowed by law to be valid *pro tanto*.

11. 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.

Powers of Trust Commissioners continued.

REGISTRATION.

12. 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.

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

13. 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

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

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.

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

14. 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.

Cancellation of grants on subdivision under section 90 of "The Native Land Act, 1873."

15. 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."

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

16. 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.

Orders to be forwarded through Chief Judge.

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

17. Any lessee from a Native owner who, in order to obtain registration of his lease, shall have been compelled to pay 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, and so from time to

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time until the whole amount paid as aforesaid has been deducted or otherwise refunded.

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

Certificate under section 67 of the Act may be registered.

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

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

EXCHANGE.

20. 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.

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

CONSTRUCTION OF ACT.

21. 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.

Section 17 of the Act to be read subject to regulations.

22. Section forty-six of the Act shall not apply or be deemed to have applied in any case where the testator died before the passing of the Act.

Section 46 of the Act not to apply where testator has died before passing of the Act.

23. 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.

Section 62 of the Act amended.

24. 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 65 of the Act amended.

25. 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.

Section 67 of the Act amended.

26. 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.

Section 117 of the Act amended.

Nothing therein to take away or restrict jurisdiction of Court.

27. 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.

Section 118 of the Act amended.

28. Nothing in the Act shall be deemed to have taken away any right of testamentary disposition by any Native, subject to the provisions of section forty-six of the Act: 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."

Right of testamentary disposition by Natives not taken away.

No interest to pass by unwritten will.

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

29. 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.

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

30. 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 120 of the Act amended.

31. 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, and as if the words "one thousand eight hundred and ninety-six" had been used instead of the words "one thousand eight hundred and ninety-five," in the third line thereof.

Second Schedule to Act: Heading amended.

32. 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.

PROCEDURE.

Appeal and Appellate Court.

Seal of Appellate Court.

33. 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.

Appeal may be withdrawn.

34. 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 dismissed by Native Land Court for non-payment of deposit.

35. 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.

Discretionary powers.

36. 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.

Public Trustee may appeal from decision under section 50 of the Act.

37. 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.

Appellate Court: Provision for securing uniformity of decisions.

38. 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 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.

39. The time within which a statement of the grounds of appeal may be lodged shall be ~~three~~ *two* 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.

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

40. 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.

Notice of appeal, time for giving.

41. 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.

Appellate Court may annul or vary decision.

42. 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.

No appeal in certain cases.

Native Land Court.

43. 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.

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

44. 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.

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

45. 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

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

intestate shall pass by virtue of letters of administration.

No interest in real estate to pass to administrator.

New Clause.

45A. The Court may at any time revoke the appointment of any executor or administrator on the ground of unfitness, and may appoint any fit person in his place; and such appointment shall, as from the date thereof, take effect as if such person had been the person named as executor or administrator in the original grant of probate, or of administration, as the case may be.

Court may revoke appointment of executor or administrator, and make new appointment.

Several parcels of land may be treated as one parcel on partition in certain cases.

46. Where several orders have been or hereafter shall be made, either on original investigation of title or on partition in the names of the same owners for *the like interests or for undefined interests in* different portions of the same block, and such land has not become the subject of a Crown grant, or Land Transfer certificate of title, the Court may, for the purposes of partition or of further partition, as the case may be, treat such several parcels of land as one parcel, and as if the same were included in one order, and may apportion the same accordingly :

New proviso.

Proviso.

Provided that if there has been an alienation of any interest in the said land no apportionment affecting such interest shall be made under the provisions of this section without the consent of the person entitled by virtue thereof.

Court may annul partition and reapportion land in certain cases.

47. If in any proceeding on partition it shall appear to the Court with regard to any former partition of the same land that such partition has not been given effect to by survey or otherwise, and that, having regard to subsequent dealings with the land, it would be useless or otherwise inexpedient to give effect thereto, the Court may by order annul such partition, and may proceed to reapportion the land without relation thereto.

Court may refuse to partition land if not fit subject for partition, and may make interlocutory order defining interests in the meantime.

48. 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 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~~ *But* no such interlocutory order shall be made in any case, pending the result of an appeal in any Court whatsoever or to the *Her Majesty's* Privy Council affecting *prejudice* 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.

Court may apportion survey charges.

49. 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.

New clause.

Part of section 65 of the Act repealed.

49A. All the words in line two of the last paragraph of section sixty-five of the Act, after the word "Act," to "alienation," in line five inclusive, are hereby repealed.

JURISDICTION.

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

50. 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.

51. 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.

52. 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.

53. In any proceeding in the Supreme Court relating to any judgment or order of the Native Land Court, or of the Appellate Court, or of any Judge of either of the said Courts respectively, proof that such judgment or order was given or made in a matter *exclusively* between Natives and Natives in relation to Native land, or land or personal estate owned by Natives, shall be conclusive evidence that such judgment or order was given or made by such Court or Judge with full *and sufficient* power, jurisdiction, and authority.

Jurisdiction of Court, how proved in Supreme Court.

54. 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.

55. In any case in which application has been or shall be made to the Chief Judge under section thirty-nine of the Act for relief in respect of any order of the Court determining the succession to the estate of any Native deceased; if it shall appear to the Chief Judge that the applicant has a *prima facie* claim to such relief, but that relief cannot be afforded under the provisions of section thirty-nine, and that the time within which an application for rehearing or an appeal might have been lodged has, without any neglect or default on the part of the applicant, been allowed to lapse, the Governor may, on being certified to the above effect, by Order in Council, empower the Chief Judge *Appellate Court* to deal with such application as a valid appeal under the Act, and to forward the same to be dealt with by the ~~Appellate Court as such~~, anything in the Act contained to the contrary notwithstanding: Provided that no Order in Council shall be issued as aforesaid unless such application has been made within three years from the date of the order complained of. Nor shall any such appeal affect any right or title acquired for valuable consideration prior to the issue of such Order in Council. *Applications which have been dismissed for want of jurisdiction under section thirty-nine of the Act may, for the purposes of this section, be treated as subsisting applications.*

Governor may by Order in Council empower Appellate Court to deal with application under section 39 of the Act.

Application for relief under this section to be within three years from date of order complained of.

The Chief Judge may dispense with the affidavit or statutory declaration required by section thirty-nine of the Act in any case in which he shall deem the same to be unnecessary.

Declaration under section 39 may be dispensed with.

ROADS AND SURVEY.

Sections 61 and 66
of the Act repealed.

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

No survey to be
made without
authority of
Surveyor-General.

57. 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~~ *any* matter before it as may in the opinion of such Court or Judge be necessary or expedient.

Land vested in
Surveyor-General in
satisfaction of
survey charges to
become Crown land.

58. 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."

Unsatisfied
charging-orders
may be exchanged
for orders under
section 65.

59. 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.

Interest on cost
of surveys may be
allowed by the
Court.

60. In any order under section sixty-five the Court may include 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.

Mortgagee entitled
to repayment of fees
paid by him for
purpose of
completing security.

61. Any person entitled to the benefit of a charge by way of 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. 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.

Repeal of part of
sections 70, 71, and
72 of the Act.

62. 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.

MISCELLANEOUS.

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

63. When any land heretofore acquired, or hereafter to be acquired, by the Crown from Natives is subject to *any valid and duly-registered* lease, and is required for purposes of settlement, the Minister of Lands may require the Board of Land Purchase Commissioners to report thereon, and upon the recommendation of the Board the Governor may, by Order in Council, absolutely determine such lease either as to the whole or any part of the land, and the Crown shall at any time after the expiration of six months from the date of the gazetting of such Order in Council 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; *or*, in default of such agreement, the amount of compensation, and the person or persons to whom such compensation is payable, shall

Compensation to
lessee, how to be
ascertained.

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be determined in the manner provided by "The Public Works Act, 1894," in the case of land taken for a Government work, and shall include the value of the goodwill of such lease, and the full value of improvements on the land: Provided that, where such lease is determined in respect of only part of the land comprised therein, the lessee by notice in writing given to the Minister of Lands within twenty-eight days after the gazetting of the aforesaid Order in Council, may require the lease to be determined as to the residue of the land, and in such case the Governor, by Order in Council, shall determine the same, whereupon the foregoing provisions as to compensation shall apply to such residue.

When part only taken, lessee may require lease to be determined as to the whole of the land.

64. 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 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 in respect of rent to accrue due during the currency of the lease as well as of rent already due.

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

65. 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 two 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 1886 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.

66. 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."

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

Section 6 of "The Native Land (Validation of Titles) Act Amendment Act, 1894," repealed. The Validation Court may remit fines payable in respect of stamp duties on deeds.

68. The Validation Court under "The Native Land (Validation of Titles) Act, 1892, 1893," may remit in whole or in part any fines payable in respect of stamp duties on deeds evidencing transactions the subject of validation.

New clause.

68A. Every salaried officer holding an appointment as Clerk or Interpreter to the Native Land Court shall, by virtue of such appointment, be eligible to act in the like capacity, or the same officer may act in both such capacities, in the Validation Court, and no appointment by the Governor shall be necessary, anything in "The Native Land (Validation of Titles) Act, 1893," to the contrary notwithstanding.

Clerk or Interpreter in Native Land Court may act as such in Validation Court.

When applications under section 118 treated as abandoned.

69. 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. 5

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

70. 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": Provided that the foregoing amendment shall not operate to the 10 prejudice of any right at present existing.

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

71. 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 15 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.

Maori Real Estate Management Acts, 1867 and 1888 amended.

72. Notwithstanding any provision to the contrary contained in "The Maori Real Estate Management Act, 1867," or "The Maori 20 Real Estate Management Act, 1888," any real or personal estate heretofore vested in any trustee, either original or substituted, appointed under either of the said Acts shall vest and shall be deemed to have

Estate of *cestui que trustent* to vest without conveyance on attaining majority.

vested, without any conveyance or assignment thereof, in the *cestui qui trustent* (if not otherwise under disability) on whose behalf the 25 estate was held, on their respectively attaining the age of twenty-one years; and for this purpose the definition of the term "hereditaments" 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- 30 judicially affect any right or title already acquired

Time within which application to be made for probate or administration.

73. 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 35 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. 40

Rangipo Waiu and Motukawa Nos. 1 and 2 Blocks.

74. 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:—

Certificate of title corrected and boundaries adjusted.

"The Native Land Court certificate of title issued for the Rangipo-Waiu Block, on the thirteenth day of April, one thousand eight 45 hundred and eighty-two, is hereby declared void as to those portions of Motukawa Number One and Motukawa Number Two Blocks, containing 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, 50 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 respectively 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 Motukawa 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.

75. Nothing in the Act or 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 mortgage which he or they may have executed 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.

76. 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:—

(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.

(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.

Chief Judge empowered to amend in accordance with this Act.

Mortgages executed prior to passing of the Act may be renewed.

The Public Trustee may advance money to corporate body of Native owners to utilise lands of the corporation.

Repayment of loans advanced by Public Trustee.

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 any land in the Colony of New Zealand except the land set forth in the Schedule hereto; and also that such land, if computed on the basis prescribed by section five of the above-mentioned Act, is not equivalent to more than six hundred and forty acres of first-class land, 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."

SCHEDULE.

[Set forth the section, block, and class of each separate parcel of land.]

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.