

[AS REPORTED FROM NATIVE AFFAIRS COMMITTEE, 5TH OCTOBER, 1896.]

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:—

1. The Short Title of this Act is "The Native Land Laws Amendment Act, 1896."

No. 149—2.

Interpretation.

2. In this Act, if not inconsistent with the context,—

“Court” means and includes the Native Land Court and the Native Appellate Court :

“Validation Court” means the Court established by “The Native Land (Validation of Titles) Act, 1893” :

“Agent” includes barrister or solicitor of the Supreme Court and agent licensed under regulations of Native Land Court. 5

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 Native Land Court Act, 1894.” 10

## THE COURT.

Sub-commissioners may be appointed.

3. The Governor may appoint any Registrar of the Court or other fit person holding a permanent appointment in the Civil Service of the colony to be a Sub-commissioner of the Court. 15

Powers of Sub-commissioners.

4. Every Sub-commissioner appointed as aforesaid shall by virtue of such office have jurisdiction to exercise all the powers of the Native Land Court or of a Judge thereof under subsections three and four of section fourteen of “The Native Land Court Act, 1894” ; also all the powers of the Court or a Judge under section three of “The Maori Real Estate Management Act, 1888.” 20

Powers may be extended by Order in Council.

5. The Governor may by Order in Council from time to time further empower any Sub-commissioner to exercise all or any other of the powers of the Native Land Court or of a Judge thereof in relation to any matters in such order specified. 25

Assessor not necessary in succession cases.

6. No Assessor shall be necessary for the determination of any claim under subsection four aforesaid.

Confirmation of lease may be refused on ground that rent inadequate.

7. In dealing with any application for confirmation of a lease the Court shall have and be deemed to have had power to refuse such confirmation on the ground that the rent reserved is inadequate. 30 After the passing of this Act no payment purporting to be payment of rent in advance before confirmation of a lease shall be deemed a legal payment ; but such rent shall be recoverable as the same accrues due notwithstanding such payment.

Time for giving security for costs of appeal may be extended.

8. The amount required to be deposited with the Registrar as security for the costs of an appeal may, by leave of the Court or of the Chief Judge, be received at any time until such appeal has been dismissed for non-payment thereof. 35

Moneys due to minor may be paid to Public Trustee.

9. The Court or a Judge may order any moneys to which a minor is found entitled in any proceeding in the Court to be paid to the Public Trustee, who shall hold such moneys as if the same were moneys paid to him on the sale of the interest of such minor in real estate under “The Maori Real Estate Management Act, 1888,” and the amendments thereof. 40

Court may vest portion of block in trustees for sale for payment of costs.

10. The Court may, on the investigation of the title to any block of Native land, by order vest a defined portion of such block in such persons as the Court shall think fit, in trust for sale for the payment of the costs of survey and of all or any other costs incurred in or about the investigation of the title to such block : Provided that the Chief Surveyor shall in such case be one of the trustees, and 50

that the balance of the proceeds of such sale, after payment of the costs intended to be provided for, shall be paid to the Public Trustee, to be held by him for such persons as the Court shall direct :

5 The Court may on the application of any person interested, or of its own motion, cancel any order heretofore made vesting land in any person for the purpose aforesaid, and may substitute for the same an order under the provisions of this section.

Existing orders may be cancelled.

11. The Court may in any proceeding under subsection two of section fourteen of "The Native Land Court Act, 1894," take into account any reasonable costs incurred, or which have heretofore been incurred, or moneys expended by any of the parties for the benefit of the owners generally or of any of them, in or about any proceeding in the Court or for the purpose thereof, and may make such additional award in consideration thereof to the person paying the same as to the Court shall seem just.

Court may award land as compensation for costs incurred.

12. The Court may, for the purpose of rectifying any apparent mistake or injustice, at any time within fourteen days after giving any decision, rehear or order to be reheard either wholly or in part any matter being the subject of such decision, and may on such rehearing affirm, vary, or annul its former decision. The date of such amended decision shall for all purposes of appeal be the date of the decision.

Court may review its decision.

13. The Chief Judge may at any time, and from time to time, before the commencement of any sitting of the Court adjourn such sitting. Any person authorised by the Chief Judge or by the presiding Judge may open and adjourn any sitting or adjourned sitting of the Court.

Chief Judge may adjourn sittings of Court.

14. Fees incurred in relation to any proceedings in the Appellate Court shall be deemed fees due to the Native Land Court and be recoverable accordingly.

Fees of Appellate Court, how recoverable.

THE VALIDATION COURT.

15. The Chief Judge of the Native Land Court shall by virtue of such office be the Chief Judge of the Validation Court, and shall appoint the sittings thereof and the business to be taken at any sitting. The Chief Judge shall have the same power of adjournment of any such sitting as is hereinbefore given to him with regard to sittings of the Native Land Court, and may sign any decree or order which ought to have been signed by a deceased or retired Judge of the Validation Court.

Chief Judge of Native Land Court to be Chief Judge of Validation Court.

16. No application under the provisions of "The Native Land (Validation of Titles) Act, 1893," shall be received after the thirty-first day of December, one thousand eight hundred and ninety-six : Provided that the Governor in Council may, on sufficient cause to his satisfaction being shown for omission to lodge any application within the time hereinbefore specified, extend the time for the reception of such application to any date not later than the thirty-first day of March, one thousand eight hundred and ninety-seven.

No application under Native Land (Validation of Titles) Act to be received after 31st December, 1896. Governor may grant extension of time.

17. No title shall be issued or registered under the provisions of the Land Transfer Act by virtue of any decree under "The Native Land (Validation of Titles) Act, 1893," until all fees due to the Native Land Court in respect of the land the subject of such decree,

Native Land Court fees to be paid before title issued on decree of Validation Court.

or so much thereof as shall be certified by a Judge of the Validation Court to be justly payable by the person or persons taking under such decree, shall have been paid and satisfied.

Assessors, clerks, and interpreters of Native Land Court qualified to act as such in Validation Court.

18. Any duly-appointed Assessor of the Native Land Court shall be qualified without further appointment to act as an Assessor of the Validation Court, and any person acting as Clerk or Interpreter to the Native Land Court for the time being shall be qualified to act in the like capacity in the Validation Court.

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#### AGENTS.

No barrister or solicitor to appear or be heard in matters determinable by Native custom or usage.

19. After the passing of this Act no barrister or solicitor of the Supreme Court shall appear or be heard in the Court on behalf of any person in any matter which the Court is required or empowered to determine according to Native custom and usage, nor shall any practising barrister or solicitor of the Supreme Court hold a license as Agent in the Court.

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Remuneration of agents to be fixed by Court.  
First Schedule.

20. The remuneration to be paid to any Agent in respect of services in the Court or in connection therewith on behalf of any Native shall be fixed by the Court according to the scale in the *First Schedule* to this Act, and no sum in excess of the amount so fixed shall be charged or shall be legally recoverable: Provided that the foregoing provision shall not apply where the remuneration is a sum agreed on between the parties, or where such remuneration does not exceed, exclusive of actual disbursements, the sum of *ten* pounds.

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Agent making unauthorised charges to be disqualified, and license cancelled.

21. Any Agent receiving moneys in violation of the foregoing provision shall be thereby disqualified from again appearing or acting in the Court as such, and the Chief Judge shall, on proof thereof to his satisfaction, cancel any license held by such Agent.

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#### “ THE NATIVE LAND COURT ACT, 1894.”

Section 65 of Act to apply to surveys commenced after passing of Act.

22. Section sixty-five of “The Native Land Court Act, 1894” (in this and the following sections under the above heading called “the said Act”), shall apply to surveys commenced after the passing of the said Act in the same manner as to surveys completed or in progress at the date of the passing thereof.

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Effect of order vesting land under section 65.

23. Every order vesting land in any person under section sixty-five of the said Act shall entitle such person to a Land Transfer certificate for the same free from encumbrances, *except such as are mentioned in such order.*

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Alienation by nominal owner of land held in trust not to defeat trust as to portions unalienated.

24. No alienation by any nominal owner of land held by him in trust within the meaning of subsection ten of section fourteen of the said Act or of any share or interest therein shall bar the provisions of the said subsection as to any portion of the land so held in trust, or any share or interest therein which has not been alienated as aforesaid.

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Section 68 of Act amended.

25. Section sixty-eight of the said Act is amended by the addition at the end of the first paragraph thereof of the words “or if such payment is made by the Minister under the provisions of section sixty-five a transfer thereof to Her Majesty and the receipt of the Public Trustee shall be sufficient authority for the registration of any such transfer.”

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26. Section one hundred and twenty-one of the said Act is amended by the insertion of the words "subject to the provisions of section sixty-five of this Act" after the words "the same shall."

Section 121 of Act amended.

5 "Completion" of existing contract in said section one hundred and twenty-one shall be construed to mean and intend "fulfilment" thereof.

27. The interpretation of "Surveyor" in section two of the said Act is amended by the addition of the words "or a certificate granted by the Board under 'The Land Act, 1892.'"

Section 2 of Act amended.

10 28. The provisions of section thirty-eight of the said Act shall extend to and include any proceeding in the Appellate Court: Provided that the word "Judge" in the said section shall for the purposes of this section mean only a Judge of the Appellate Court.

Section 38 extended to include Appellate Court.

15 29. The provisions of subsection ten of section fourteen and the provisions of section fifteen of the said Act shall apply to the lands specified in the *Second Schedule* hereto as if the same were "land" within the meaning of the said Act.

Lands specified in Second Schedule to be subject to Act.

"THE NATIVE LAND LAWS AMENDMENT ACT, 1895."

20 30. Section three of "The Native Land Laws Amendment Act, 1895" (in *this and* the following sections under the above heading called "the said Act"), shall be read and construed as if the words "separate area" had been used instead of the words "separate holding" in the said section. *Section three of the said Act is amended by striking out the words "not exceeding five hundred acres,"*

Section 3 of Act amended.

25 *and substituting therefor the words "not exceeding six hundred and forty acres of first-class land and two thousand acres of second-class land, in terms of 'The Land Act, 1892.'"*

*New clauses.*

30 30A. Section thirty-two of the said Act is hereby amended by the addition of the words "and six months" after the words "two years" in the said section.

35 30B. The partition by the Court of the Koparakore No. I. Block, the orders and the land-transfer certificates, if any, issued in pursuance thereof, and each and every of them are hereby annulled, and the Court is hereby empowered and directed to proceed with the partition of the said block under the provisions of "The Native Land Court Act, 1894," or any amendments thereof, as if no partition had been previously made.

40 31. The limit of two years from the death of the testator, prescribed by section eighty-one of the said Act as the time within which application for probate or administration with will annexed may be received, shall not apply in the case of any testator who died prior to the passing of the said Act: Provided that no such application shall in such case be received after the expiration of *one year*

Extension of time as to certain applications for probate.

45 from the date of the passing of this Act.

32. The Land Board for any district, on the application of any person requiring the same, and on payment of such fee as the Governor shall by Order in Council prescribe, shall classify or cause to be classified, in the same manner as Crown land under "The Land Act, 1892," any land in such district for the purposes of the said Act.

Land Board to classify lands for purposes of Act.

Titles to land held under order of Court to be issued under Land Transfer Act.

33. All land which at the date of the passing of this Act is held under any order of the Court dated subsequent to the thirty-first day of March, one thousand eight hundred and seventy-one, entitling the person named in such order to a Crown grant thereof, and all land which shall hereafter become so held, shall be deemed land subject to the provisions of "The Land Transfer Act, 1885," and of section twenty-one of "The Native Land Laws Amendment Act, 1895": Provided that the District Land Registrar shall in respect of such land make all such entries on the Land Transfer Register as shall be necessary to preserve any interests registered under "The Deeds Registration Act, 1868," and to give effect to such interests so far as the same are valid and effectual.

Registered interests to be protected.

Land Transfer certificate may be antevested.

34. All Land Transfer certificates of title issued under the provisions of the said Act or of this Act shall may be antevested to such date as the Chief Judge shall direct.

#### MISCELLANEOUS.

"Native Land Purchases Act, 1892": section 20 amended.

35. The word "thirty" is hereby substituted for the word "twenty" in section twenty of "The Native Land Purchases Act, 1892."

Section 22 of same Act repealed.

36. Section twenty-two of "The Native Land Purchases Act, 1892," is hereby repealed.

Minister may pay survey charges.

37. The Minister may, out of any moneys available for purchase of Native lands, elect to pay any moneys due or hereafter to become due to any person for the survey of land or Native land, whether secured by charging-order or otherwise, and upon payment or tender thereof by any person authorised by the Minister in that behalf to the person entitled to receive the same the said debt and all securities for the same and all rights and remedies for the recovery thereof shall pass to and become vested in Her Majesty as if the same had been duly assigned to her by the person entitled thereto.

On payment, all rights of recovery to vest in the Crown.

The Registrar of Deeds, or District Land Registrar for the district within which such land is situate, shall, on receipt of a notice signed by the Minister to the effect that any mortgage charge, lien, or other security has been acquired by the Crown under the provisions of this section, register Her Majesty as the proprietor thereof, and no further or other evidence than such notice shall be required for the purpose of such registration.

"Poututu Jurisdiction Act, 1889": hearing of all matters remaining.

38. All matters remaining to be determined under the provisions of "The Poututu Jurisdiction Act, 1889," shall be heard and determined by the Native Land Supreme Court in accordance with the provisions of that Act, subject, nevertheless, to the same right of appeal as matters within the ordinary jurisdiction of the Court.

Transfers to Wellington and Manawatu Railway Company validated.

39. No restriction on alienation existing at the date of the passing of this Act, or which has at any time heretofore existed, shall preclude or be deemed to have precluded any transfer or other assurance heretofore taken or made, or hereafter to be taken or made, for the purpose of completing the title of the Wellington and Manawatu Railway Company (Limited) to land taken by the said company for railway-construction under "The Railways Construction and Land Act, 1881"; but every such transfer or other assurance shall take effect and be deemed to have taken effect as if such restriction had not existed.

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The Court is hereby empowered on production of any such transfer to make an order vesting the land the subject thereof in the company in fee-simple, and such order shall entitle the company to be registered as proprietor, under the Land Transfer Act, of the land the subject thereof.

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40. The Court is hereby empowered and directed to adjust and determine the boundary between the Pukerua and Waimapihi Blocks, and the Chief Judge and District Land Registrar respectively are hereby empowered and directed to do all things necessary to give effect to such determination, and for that purpose to call in and cancel or amend any existing Crown grant or other instrument of title.

Pukerua and Waimapihi Blocks. Boundary to be adjusted and titles corrected.

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41. The District Land Registrar for the Nelson Land Registration District is hereby empowered and directed, on the request in writing of the Public Trustee, to issue Land Transfer certificates of title for subsections numbers one to twelve inclusive of section nine, Takaka Reserve, to the person or persons found by the Court to be entitled thereto.

Takaka Reserve, provision for issue of title for portions of section 9.

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42. Section ten of "The Native Land Claims Adjustment Act, 1895," is hereby amended by the substitution of ~~the word and figure "3A" for "3D"~~ in the said section.

Section 10 of Native Land Claims Adjustment Act amended.

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*Struck out.*

43. Notwithstanding anything to the contrary in section seven of "The Native Trusts and Claims Definition and Registration Act, 1893," the Court is hereby empowered to appoint trustees for any parcel of land which it may be deemed advisable by the Court to set apart as a reserve for general or special purposes in the interests of the Natives or any of them, and by order to vest such land in such trustees for any purpose as aforesaid.

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In cases where lands have already been set apart by the owners for any purpose as aforesaid, the Court may appoint trustees in substitution for or in addition to the persons already appointed, and may from time to time remove any trustee of such reserve, whether heretofore or hereafter appointed, and appoint a new trustee in the place of any person so removed or of any deceased trustee.

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*New clauses.*

43A. The Court is hereby empowered and directed to ascertain and determine who are the persons beneficially entitled by virtue of the trust declared in a certain Crown grant dated the fourth day of February, eighteen-hundred and eighty, to Wiremu Patene, and Pita Wharemana, aboriginal natives of New Zealand, in trust for the loyal natives of the Ngatitamainu and Ngatikotara hapus, for lots sixty-five and sixty-nine, parish of Waipu; and the Governor is hereby empowered to cancel the said Crown grant, and by warrant under his hand to authorise the issue under "The Land Transfer Act, 1885," of certificates of title for the said lands in the names of the persons whom the Court shall decide to be beneficially entitled as aforesaid:

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Provided that nothing herein contained shall prejudice the rights of any lessee of the said lands, but the rents shall be payable to such persons and in such proportions as the Court shall direct.

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43B. The Court is hereby directed in making the investigation under section ten of "The Native Land Claims Adjustment Act, 1895," to ascertain what owners in the said list of owners have sold or alienated their shares, and to order that such sale or alienation shall apply to the subdivision in which the Court shall find such selling-owner to be entitled under Maori custom or usage. 5

Tauteihiihi Block,  
rectification of title  
to.

44. To enable the Court to rectify the orders made on the investigation of the title to the Tauteihiihi Block, the District Land Registrar for the Auckland Land Registration District is hereby empowered and directed to call in and cancel the certificate of title issued under the Land Transfer Act for Tauteihiihi No. 2A. 10

Schedules.

## SCHEDULES.

### FIRST SCHEDULE.

#### SCALE OF ALLOWANCES TO AGENTS.

	<i>Per diem.</i>
	£ s. d.
For time necessarily employed in preparation of case and attending Court on hearing thereof, any sum not exceeding	2 2 0
Clerical assistance, if required, any sum not exceeding	0 10 0

### SECOND SCHEDULE.

ALL that parcel of land, containing by admeasurement 1,050 acres, more or less, and known as Section 1676, of Blocks VIII., IX., and XII., situated in the Kanieri and Turiwhati Survey Districts, in the Provincial District of Westland.

All that parcel of land, containing by admeasurement 492 acres 2 roods, more or less, and known as Section 1152, situate in the Arahura Survey District, in the Provincial District of Westland.

All that parcel of land, containing by admeasurement 300 acres, more or less, situated at the eastern end of the Arahura Native Reserve, being a portion of that reserve undealt with in 1879 under the Royal Commission issued to Mr. Thomas Young.