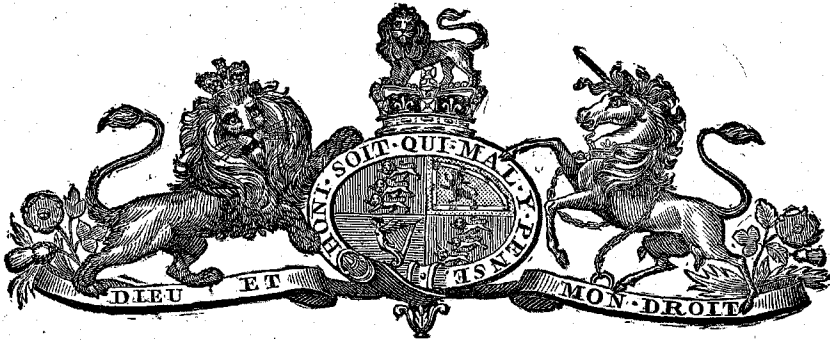


NEW ZEALAND.



TRICESIMO SEPTIMO

VICTORIÆ REGINÆ.

No. LVI.

ANALYSIS.

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

[2nd October, 1873.]

Preamble.

WHEREAS it is highly desirable to establish a system by which the Natives shall be enabled at a less cost to have their surplus land surveyed, their titles thereto ascertained and recorded, and the transfer and dealings relating thereto facilitated: And whereas it is of the highest importance that a roll should be prepared of the Native land throughout the Colony, showing as accurately as possible the extent and ownership thereof, with a view of assuring to the Natives without any doubt whatever a sufficiency of their land for their support and maintenance, as also for the purpose of establishing endowments for their permanent general benefit from out of such land:

BE IT THEREFORE 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 shall be "The Native Land Act, 1873."

Commencement of Act.

2. This Act shall come into operation on the first day of January, one thousand eight hundred and seventy-four.

Interpretation.

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

"Instrument" shall mean and include any grant certificate of title memorial of ownership memorandum of transfer or lease conveyance assurance deed map plan will probate or exemplification of will, or any other document in writing relating to the transfer or other dealing with land or evidencing title thereto.

Native Land.

- “Court” shall mean the Native Land Court of New Zealand.
 “District” shall mean a District constituted for the purposes of this Act.
 “Chief Judge” and “Judge” shall mean respectively the Chief Judge and a Judge of the Court.
 “Tribe” shall mean a tribe or a section of a tribe or hapu as the case may be.
 “Native” shall mean an Aboriginal Native of the Colony of New Zealand, and shall include all half-castes and their descendants by Natives.
 “Native land” shall mean lands in the Colony which are owned by Natives under their customs or usages.
 “Inspector of Surveys” shall mean the Inspector of Surveys heretofore appointed or hereafter to be appointed by the Governor, and shall include his deputies appointed by him.

4. “The Native Lands Act, 1865,” “The Native Lands Act, 1867,” “The Native Lands Act Amendment Act, 1868,” “The Native Lands Act, 1869,” and “The Native Lands Acts Amendment Act, 1870,” except such parts of any of the aforesaid Acts as relate to the imposition and payment of duties upon the alienation of lands granted under the provisions of such Acts, and the seventy-third section of the Constitution Act, are hereby repealed; but this Act shall not render valid or invalid or in any way affect any rights acquired or proceedings completed under any of the said repealed Acts before the repeal of the same, nor shall this Act destroy the liability of any person who has acted under any of the said repealed Acts to answer in any Court for any act or thing by him done or omitted to be done under any of such repealed Acts for which he would have been liable to answer if this Act had not been passed; and for the purpose of preserving such liability and the rights of parties who may now have any remedies or rights thereunder or under any of them, the said repealed Acts shall remain in force. And provided also that proceedings heretofore commenced and in progress under any of the said repealed Acts before the repeal of the same may be continued and perfected under this Act, so far as this Act extends and the circumstances of each case are compatible with the objects and provisions of this Act.

Repeal of Acts.

CONSTITUTION OF COURT.

5. It shall be lawful for the Governor in Council from time to time to divide the Colony into districts for the purposes of this Act, and the limits of such districts from time to time to alter as occasion may require.

Districts established.

6. It shall also be lawful for the Governor in Council, by Proclamation in the *New Zealand Gazette* and in the *Kahiti*, to define the boundaries of any particular portion of the Colony, and to declare that such portion thereof shall be totally excluded from the operation of this Act; and accordingly until such Proclamation shall be revoked, this Act shall have no force or effect within such portion of the Colony as shall be defined in any such Proclamation.

Portions of the Colony may be excluded from operation of Act.

7. The Native Land Court of New Zealand (hereinafter called “the Court”) shall be a Court of record for the investigation of the titles of persons to Native land according to Native custom and usage, and for the other purposes hereinafter set forth.

Native Land Court.

8. The Court shall consist of one Chief Judge and of such other Judges as the Governor in Council may from time to time appoint, together with such Assessors, being Aboriginal Natives of New

Constitution of Court.

Native Land.

Zealand, as the Governor in Council may from time to time appoint; and the Governor may from time to time remove any such Chief Judge, Judges, or Assessors or any of them, and appoint another or others in his or their place and stead.

Salaries of Judges,
and Assessors.

9. Salaries shall be paid to the Chief Judge, Judges, and Assessors, at such rate as may in each case be from time to time appropriated by the General Assembly.

Travelling allow-
ances.

10. Allowances shall be paid out of any moneys appropriated for the purpose by the General Assembly to the Chief Judge, Judges, and Assessors, when travelling in performance of their duties under this Act, at such rates as the Governor shall from time to time determine.

Interpreters.

11. To every district there shall be attached a competent Interpreter, who shall act as Clerk or Secretary to the Judge who from time to time may preside over the Court of such district, and who shall interpret all documents and instruments issued by such Judge.

Other officers.

12. It shall be lawful for the Governor from time to time to appoint such interpreters clerks and other officers as may be required for the conduct of the business of the Court throughout the Colony, at such salaries as may in each case be from time to time appropriated by the General Assembly.

Seal of Court.

13. The Court shall have in the custody of each Judge a seal of the Court for the sealing of all documents issued by the Court and required to be sealed.

One Judge
empowered to act.

14. Every Judge of the Court shall have the same jurisdiction and may exercise the same powers as the Court in all matters whatever under this Act.

Assessors may assist
in proceedings.

15. One Assessor or more Assessors shall sit at a Court when required by the presiding Judge, and assist in the proceedings, but not otherwise; and his or their concurrence shall not be necessary to the validity of any judgment or order.

Administrative
business and notices.

16. All administrative business of the Court shall be carried on by the Chief Judge, subject to the provisions of this Act. And whenever in this Act notice is required or permitted to be given or application to be made to the Court, such notice or application may be given or made to any Judge.

Rules, &c.

17. The Judges of the Court with the Assessors shall, as soon as conveniently may be after the passing of this Act, make such general rules touching the sittings of the Court and the practice and procedure thereof in all matters as they may deem advisable: Provided always that all rules to be made under the authority of this Act shall be submitted to the Governor in Council for his approval; and upon being so approved shall be forthwith published in the *New Zealand Gazette*, and shall, from and after a date to be fixed by the Governor in Council in that behalf, have the force of law until altered or repealed by other rules to be similarly made and approved.

The Court Rolls.

18. There shall be kept in the Native Land Court a separate book for each district established under this Act, as hereinafter mentioned, in which shall be recorded consecutively the result of every investigation of title of Native land in the district, with full particulars of the land and the owners thereof, as is hereinafter more particularly set forth. Each folium of such books shall be distinguished by a consecutive number. Each progressive volume of such books shall likewise be distinguished by a consecutive number; but the first folium of each volume after the first shall be marked with the consecutive number immediately following the number marked on the last folium of the immediately preceding volume. Such a volume, or a series of such volumes, shall constitute the "Court Rolls of the District of [*name District*]."

Native Land.

19. The Court Rolls of each district, one of the original approved survey maps hereinafter referred to, and all documents of the Court relating to Native land within such district, shall be kept in the office of the Court of the district under the custody of the officer appointed for such district, as hereinafter mentioned. Such Court Rolls and other records shall be open to the public for inspection and search at such times and upon the payment of such fees as shall be prescribed by rules. A transcript of the Court Rolls of each district, and of all subsequent enrolments thereon, with tracings of all maps, shall be transmitted to the Chief Judge of the Court.

Custody of Court
Rolls.

20. It shall be lawful for the Governor from time to time, before the commencement of or at any stage of any case or proceeding, by notice to the Chief Judge or the presiding Judge signed by himself or by a Minister, or transmitted by Telegraph, to declare that such case or proceeding shall not be tried or proceeded with, and thereupon the jurisdiction of the Court in such matter shall cease and determine, but shall revive with the revocation of such notice. Similarly, and by any like notice, the Governor or a Minister may stop any survey from being proceeded with, at any time and from time to time.

Governor may stay
proceedings, and stop
surveys.

NATIVE LAND AND RESERVES.

21. For every district established under this Act the Governor in Council shall appoint some competent officer, (hereinafter called the "District Officer,") whose duties shall be:—

District Officers.

(1.) To prepare for record a general skeleton map of the district assigned to him, distinguishing the different tracts of country in possession of the various tribes or hapus of the Natives at the date of the signing of the Treaty of Waitangi, and the nature of the tenure thereof.

Map of Maori
New Zealand.

(2.) To compile with the assistance of the Assessors, and of the most reliable chiefs of the district, or with the assistance of such other person or persons as he may consider to be trustworthy, accurate and authentic information relative to the district aforesaid, defining the intertribal boundaries by their Native names, giving the estimated acreage of such tribal land, with a description of the course and direction of the principal rivers running through such land, and the names and positions of the various mountains lakes or other salient points in the general features of the country. They shall also supplement the information by tracing the genealogy and names of the various families or hapus to which the different portions of the original tribal land shall have descended.

Tribal lands.

Present owners.

22. The result of such inquiry shall be entered in a book to be kept in the office of the Court of the district, and called the "Local Reference Book." Every subsequent information obtained from time to time, whether in addition to or in emendation of the first entry, shall be added to the book, and the date of such addition shall be marked thereon. It shall be the duty of the officer having the custody of such book to produce the same before any Court which may require the same in the course of any proceeding before such Court, and such book shall be receivable as evidence of the facts recorded therein.

Reference book of
Native land.

23. The Native Reserves Commissioner of any district appointed under "The Native Reserves Act, 1873," shall, at the request in writing in that behalf of the District Officer, furnish to such officer a list of all lands within his own district that have heretofore by any authority whatsoever been set apart or reserved for the benefit of the Natives

Appendix of existing
Native reserves.

Native Land.

and that now subsist for that purpose, or are generally known as Native reserves, together with the names descriptions and boundaries thereof and tracings of the same. Such list and tracings, when received by the District Officer, shall be appended by him to the "Local Reference Book."

Power to set apart
land as reserves.

24. It shall also be the duty of every District Officer to select, with the concurrence of the Natives interested, and to set apart, a sufficient quantity of land in as many blocks as he shall deem necessary for the benefit of the Natives of the district: Provided always that no land reserved for the support and maintenance of the Natives, as also for endowments for their benefit, shall be considered a sufficiency for such purposes, unless the reserves so made for these objects added together shall be equal to an aggregate amount of not less than fifty acres per head for every Native man woman and child resident in the district. In each case of land so set apart as aforesaid, the District Officer shall transmit a report of the particulars of each such reserve for the approval of the Governor in Council.

Surveys.

25. After any such reserve shall have been so approved, and with such concurrence as aforesaid, the District Officer shall then direct the blocks of land so selected to be surveyed by a surveyor, to be authorized in writing for the purpose by the Inspector of Surveys, and the boundaries thereof to be distinctly marked out.

Title ascertained.

26. On the completion of the survey of any such reserve, the District Officer shall give notice thereof in manner provided by section thirty-six of this Act in writing to the Chief Judge of the Court, and make application to have the title to the said blocks of land investigated by the Court. The Chief Judge thereupon shall give public notice of the day and place when and where a sitting of the Court will be held for the investigation of the title to the said blocks of land.

In open Court.

27. At such sitting of the Court, the investigation of the title to the reserve shall be proceeded with according to the rules herein contained as to ordinary cases of investigation of titles to land.

Names of owners
to be enrolled.

28. After the inquiry shall have been completed, the presiding Judge shall cause a Memorial of ownership of the reserve as hereinafter described to be inscribed on the Court Rolls. The names of all the owners of such reserve shall be enrolled thereon; and such enrolment shall be made individually, by the respective names of all the persons found to be entitled.

Form No. 1.

Extract of Court
Rolls sent to Native
Minister.

29. An extract of the Court Rolls containing the copy of such Memorial of ownership, signed by the Judge and sealed with the seal of the Court, stating the names of the owners and giving full particulars of the reserve, and having a plan of the land drawn thereon or annexed thereto, shall thereupon be forwarded by the Judge to the Native Minister.

Reserves to be
gazetted.

30. After the period of six months, hereinafter fixed as the limit of time within which there may be a rehearing of any case, shall have expired, the Governor shall cause the said extract of Court Rolls to be published in the *New Zealand Gazette*, and also in the *Kahiti*, with a notice to the effect that the lands described in such extract will be inalienable by sale lease or mortgage, except with the consent of the Governor in Council first obtained in each case.

Land exempt from
operation of Act.

31. After the publication of such notice as aforesaid, the land defined in any such extract of Court Rolls shall be held by the Native owners thereof in accordance with Native custom and usage; but with the consent of the Governor in Council such land or any part thereof may be subject to the operation of this Act, as if the Memorial of ownership had been made under the forty-seventh section of this Act.

Native Land.

32. Nothing in this Part of this Act contained shall be deemed or construed to abridge limit or to interfere in any way with the powers already subsisting, or which may hereafter be granted to any person or persons or body corporate, to set apart land for the benefit of the Natives.

Saving of rights for making reserves

JURISDICTION AND DUTIES OF THE COURT.

(1.) *Investigation of Titles.*

33. Before any claim to land shall be investigated by the Court, and before any award in partition of any land shall be made by the Court, it shall be necessary that a survey of such land shall have been made, and approved maps thereof in duplicate, as hereinafter described, shall have been lodged in the Court. Such surveys and maps shall be made in conformity with the provisions of this Act, and of any rules in force relating to surveys.

Surveys imperative in every case.

34. Any Natives may, subject to and in manner and form directed by rules of the Court, give notice to the Chief Judge that they claim to be interested in a piece of Native land, and that they desire that their claim should be investigated by the Court in order that a Memorial of ownership may be issued for such piece of land. Such application shall specify the boundaries of the said land by Native names or otherwise sufficiently describe it, and shall also state the names of every tribe and hapu interested therein, or the names of all the persons admitted to be interested therein, and shall, when the land is claimed by more than two claimants, be signed by at least three of the claimants.

Notice of application.

35. A copy of such application shall be sent at the same time by the applicants to each of the tribes hapus or persons named in the application, or believed by the applicants to be interested in any portion of the land comprised in the application. And the applicants shall satisfy the Court at the sitting thereof for the hearing of the claim, that such notices have been duly served upon such persons or parties; and in the minutes of the proceedings of the Court shall be entered a note of the manner in which the Court was so satisfied.

Service of notices.

36. Copies of all notices of claims, as soon as may be after the receipt of the application, and notices of all sittings of the Court for the investigation of titles, with a Schedule of the cases to be investigated, shall be forwarded to each of the District Officers, Commissioners of Crown Lands, Inspectors of Surveys, and Native Reserves Commissioners, in whose district the land or any portion thereof respectively is situate, also to the claimant and counter-claimant or objector (if any), and to such other persons for distribution as the Chief Judge shall think fit, and shall be inserted in the *Kahiti* in the Maori language, and in the *Gazette* of the Province in which the land affected is situate, in the Maori and English languages.

Notices to be published.

37. It shall be the duty of such District Officers, Commissioners of Crown Lands, Inspectors of Surveys, and Native Reserves Commissioners respectively, on the receipt of any such notice of claim, to examine the same to ascertain if any of the land comprised in the application has at any time theretofore within their knowledge been alienated to the Crown or otherwise, and to report thereon to the Chief Judge or to the Judge for the time being presiding over the Court in the district; and if they shall find that any of such land has been at any time so alienated, they shall forthwith notify the same to such Judge, and thereupon all proceedings of the Court in respect of such portion of the land as may have been alienated shall be stayed. Such officers as aforesaid may also in their report notify to such Judge any

Reports on claims.

Native Land.

objection they may be cognizant of to the hearing of any such claim, or any difficulty or counter claim they may be aware of as existing against any portion of the land comprised in the application; and in any such case, the Judge shall suspend all further proceedings in the Court relative to the hearing of the claim until such objections are disposed of or removed.

Preliminary inquiries.

38. The Judge shall institute such preliminary inquiries as he may deem necessary in the manner he may think best, with a view of ascertaining whether the application to bring the land under the Act is in accordance with the wishes of the ostensible owners thereof; and if he shall upon that inquiry be satisfied that the application is *bonâ fide*, and no objections thereto have been offered by the persons hereinbefore required to report upon such application, and that the hearing of such claim is not likely to lead to any disturbance of the peace of the country, he shall require a survey of the land to be made under the direction of the Inspector of Surveys, and the boundaries thereof to be effectually marked out on the ground. The Judge shall in each case minute a note of the manner in which he shall have satisfied himself in respect of the aforesaid matters.

Security for costs of survey.

39. Provided always that the applicants shall in each case satisfy the Inspector of Surveys that the costs and charges of the surveys and requisite maps of the claim will be paid by them either in money or in land to be transferred to Her Majesty.

Notice of sitting.

40. On completion of the survey, the Chief Judge shall give public notice of the day and place when and where a sitting of the Court will be held for the investigation of the title to the said land. Such notice shall be circulated in the same manner as notices of claims, as provided in section thirty-six of this Act.

Sitting of Court thereon.

41. At such sitting of the Court, the Court shall, after having satisfied itself that all the notices hereinbefore required to be given have been duly served, ascertain from such evidence as it shall think fit, not only the title of the applicants, but also the title of all other claimants to the land respecting which notice shall have been given, and the names of all such claimants.

Witnesses. Their examination.

42. It shall be the duty of the presiding Judge to require the attendance of any witnesses whose evidence may appear to him to be necessary, or the production of any documents which shall appear to him to be necessary; and for that purpose he may adjourn the inquiry.

Adjournment of sittings.

43. The Court shall have power to adjourn its sittings on any case or proceeding pending in such Court, from time to time and place to place, to such time and place as it may consider desirable or necessary.

Conduct of case.

44. The examination of witnesses and the investigation of title shall be carried on by the presiding Judge without the intervention of any counsel or other agent: Provided that it shall be competent for the claimants to select one of themselves to act as their spokesman to conduct the case in their behalf.

Proportionate shares to be ascertained in certain cases.

45. At the same sitting of the Court, and if the majority in number of the claimants shall so desire it, the inquiry shall be extended, in order to ascertain in such instance the amount of the proportionate undivided share that each such owner of such land is entitled to according to Native usage and custom; and in any such case no registration of the names of such owners shall be made until the proceedings are completed by the discovery of such amount, which, in every such case, shall be clearly set forth in the Memorial of ownership.

Voluntary arrangement to be recognized.

46. In carrying into effect the preceding sections, or any of the sections hereinafter contained regarding partitions, the Court may adopt and enter of record in its proceedings any arrangements volun-

Native Land.

tarily come to amongst themselves by the claimants and counter-claimants, and may make such arrangement an element in its determination of any case concurrently or subsequently pending between the same parties. In every such record there shall be entered the names of the persons with whose consent, and the names of the persons by whom any claim shall have been settled by any such arrangement.

(2). *Memorials of Ownership.*

47. After the inquiry shall have been completed, the Court shall cause to be inscribed on a separate folium on the Court Rolls a Memorial of ownership in the Form No. 1 of the Schedule hereto, giving the name and description of the land adjudicated upon, and declaring the names of all the persons who have been found to be the owners thereof, or who are thenceforward to be regarded as the owners thereof under any voluntary arrangement as above mentioned, and of their respective hapu, and in each case (when so required by the majority in number of the owners), the amount of the proportionate share of each owner. Every such Memorial shall have drawn thereon or annexed thereto a plan of the land comprised therein, founded on the map approved as hereinafter mentioned, and shall be signed by the Judge and sealed with the seal of the Court.

Memorial of
ownership.
Schedule,
Form No. 1.

48. To every such Memorial there shall be annexed the following condition, namely, that the owners of the piece of land referred to in such Memorial have not power to sell or make any other disposition of the said land, except that they may lease the same for any term not exceeding twenty-one years in possession and not in reversion, without fine premium or foregift, and without agreement or covenant for renewal, or for purchase at a future time.

Condition annexed.

49. Nothing, however, in the foregoing condition annexed to any Memorial of ownership shall be deemed to preclude any sale of the land comprised in such Memorial where all the owners of such land agree to the sale thereof, or to prevent any partition of such land in manner hereinafter provided, if required.

Sales &c. notwith-
standing condition.

50. The decision of the Court in every case of the hearing of a claim shall forthwith be published in the *Gazettes* in the same manner as hereinbefore provided with respect to notices of claims, and the persons in whose favour such decision shall be made shall be deemed to be the owners of the land referred to in such decision, unless the decision of the Court shall be amended or reversed upon a rehearing as hereinafter provided.

Decisions to be
gazetted.

51. A copy of the enrolment of the Memorial, certified under the hand of any Judge of the Court after the expiration of one month after the time hereinafter allowed for a rehearing (if no rehearing shall have been ordered), with the date of the making of such copy, and sealed with the seal of the Court, shall be receivable as evidence of the deed or facts referred to in such Memorial, and shall be conclusive of the ownership of the land described therein, according to Native custom.

Copy of Court Rolls
to be evidence.

Schedule,
Form No. 1.
Authentication.

52. In every instance after the expiration of one month after the time allowed for a rehearing, and if no rehearing shall have been ordered, a copy of the enrolment, certified as above mentioned in every claim heard and decided by the Court, shall, together with one of the approved duplicate maps as hereinafter described, of the land referred to in the Memorial, be transmitted to the Native Minister for record in his office.

Native Minister to
record copy of
Court Rolls.

53. All Memorials of ownership issued under this Act to any Native owners shall be exempted from the payment of any duty under "The Stamp Duties Act, 1866," or any Acts amending the same.

Memorials, &c., ex-
empt from stamp
duty.

Native Land.(3.) *Owners under Disability.*

Interests of infants
and persons under
disability.

54. If any Natives who or any of whom shall be infants or lunatics shall be found to be entitled to any interest in the land under adjudication, the names of such persons under disability shall nevertheless be enrolled in the Memorial of ownership as owners thereof, together with the proportionate shares (if ascertained) accruing to each one of them, and the age of such minor or the nature of the disability, so far as known, shall be added in such Memorial.

To be notified to the
Governor.

55. An intimation of each such case, with all the particulars thereof, shall forthwith be transmitted to the Governor, and thereafter the interests of such persons under disability shall be dealt with in accordance with the provisions of "The Maori Real Estate Management Act, 1867:" For this purpose the word "hereditaments" in the said Act shall be deemed to include Native land held under Memorial of ownership, and any trustee so appointed may give the consents to sales leases and partitions hereinafter provided for, and receive the shares of the proceeds of any such sale or lease, and dispose of the same for the benefit of the person for whom he is such trustee, as nearly as possible in the manner provided by "The Maori Real Estate Management Act, 1867," and when no sufficient provision is made in the said Act, then in such manner as the Governor in Council may from time to time direct.

(4.) *Succession.*

Claimant dying.

56. If any Native interested in the land under adjudication shall die before the same shall be adjudicated upon, the inquiry shall be proceeded with nevertheless; and if such Native so dying shall be found to be an owner, the Court shall ascertain the name of the person or persons who according to Native custom would be entitled to the interest of such deceased Native, and shall inscribe the names of such persons on the Court Rolls in lieu of the name of such deceased owner.

Owner dying.

57. In case of any Native holding land under Memorial of ownership or Crown grant under this Act, or under any certificate of title or Crown grant issued under any of the Acts hereby repealed dying intestate, the Court may, upon the application of any person claiming to be interested in such land, inquire into the matter, and ascertain by such evidence as it shall think fit, who, according to Native custom, ought to succeed to the interest of such deceased intestate, and thereupon by order of Court, under seal of the Court, shall declare the names of the persons who in the judgment of the Court ought to succeed to the interest of such deceased. Every such order shall have the same legal effect as a will duly made and executed.

REHEARING.

Rehearing.

58. Upon the application of any persons interested in any Native land, who may feel themselves aggrieved by the decision of the Court in respect thereof, the Governor in Council may order a rehearing of any matter heard and decided under the provisions of this Act within such a period of time from the publication of the decision and Memorial of ownership in manner hereinbefore required as may be limited in such order; and upon such order being made, all proceedings theretofore taken by the Court in such matter shall be annulled, and the case shall commence *de novo*, and shall proceed in manner provided by this Act: Provided that no application for a rehearing shall be entertained if it be made after six months shall have elapsed from the time of such publication.

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SALES AND LEASES—PARTITION.

59. In case any sole owner, or any number of collective owners, shall be desirous of selling the land they hold under Memorial of ownership, and either before or after any partition shall have been made of any such land, the Court shall make inquiry into the particulars of the transaction, and on being satisfied of the justice and fairness thereof, of the assent of all the owners to such sale, and of the payment of the whole amount of the costs and charges payable in respect of such land for original surveys maps and investigation of title, or the subsequent costs and charges attending the partition (if any), and also of the payment of the whole amount of the purchase money stipulated upon, without any deduction whatever except for advances of money made to the Native owners by way of earnest money to bind the agreement for such sale, the Court shall make an indorsement upon the Memorial of ownership, which shall be presented to the Court for the purpose, to the effect that the transaction appears to be *bona fide*, and that no difficulty exists in respect of the alienation of the land comprised in such Memorial. Sales of land held under Memorials of ownership may be effected by memorandum of transfer in the Form No. 2 in the Schedule hereto, or to the like effect. Such transfers shall be signed by all the owners in the manner hereinafter provided in respect of the signing of deeds and instruments.

Sales under Memorials of ownership.

Memorandum of transfer, Form No. 2.

60. Before the completion of the sale of any land held under a Memorial of ownership, the Court shall explain to the owners that the effect of such sale will be absolutely to transfer their own rights in the land to the proposed purchaser without any further claim on their part, either on the land or on its proceeds, and the Court shall satisfy itself in every case that the owners understand such effect.

Court to explain effect of sale.

61. After the memorandum of transfer hereinbefore mentioned shall have been signed by all the Native owners of the land comprised therein, and the Judge shall have been satisfied that the duties payable to Her Majesty in respect of the transaction have been paid, the Judge shall inscribe on the Court Rolls, and indorse upon the Memorial of ownership, a certificate of the completeness of the sale, and a declaration as hereinafter mentioned to the effect that the purchaser shall thenceforth hold the land comprised in such Memorial as freehold. Such Memorial of ownership, so indorsed, shall be forthwith transmitted by the Judge to the Governor, with a recommendation that a Crown grant for the land comprised in such Memorial may be issued in favour of the purchaser.

Crown grant to purchaser.

62. No lease of any land held under Memorial of ownership shall be valid unless all the owners of the land comprised in such lease shall assent thereto; and the Court shall satisfy itself in every case of lease of the fairness and justice of the transaction, of the rents to be paid, and of the assent of all the owners to such lease. Upon being satisfied in respect of the matters aforesaid, and also that the duties payable to Her Majesty in respect of the transaction have been paid, the Court shall enter a memorandum of the particulars of the lease on the Court Rolls, and a transcript of such memorandum on the Memorial of ownership of the land comprised in such lease. Leases of land held under Memorials of ownership may be effected by memorandum of lease in the Form No. 3 in the Schedule hereto, or to the like effect. Such leases shall be signed by all the owners in the manner hereinafter provided in respect of the signing of deeds and instruments.

Leases under Memorials of ownership.

Memorandum of lease, Form No. 3.

63. In case of any lease being made under a Memorial of ownership, the Judge may after ascertaining the consent of all the owners, and on their application, appoint any persons selected by

Receivers of rents.

Native Land.

them, not being fewer than four persons, either out of their number or not, and either European or Native persons, to be receivers on behalf of all the lessors of the rents accruing or to accrue under such lease. If all the owners shall not agree in their selection of such receivers, and shall request the Court to make such selection on their behalf, the Court may accordingly make selection of such persons, not being fewer than four persons, either European or Native, as it shall think most fitting to be appointed receivers as aforesaid. A receipt signed by all the receivers appointed as aforesaid, for any moneys paid to them as receivers by the lessee, for rent accrued under the lease, shall be a good and sufficient discharge to the lessee for so much of the rent money as shall be expressed in such receipt; and the lessee shall not be bound to see to the proper application of any of the money so paid by him; nor shall he be, in any way, accountable for any loss or misapplication thereof.

Receivers accountable to the Court.

64. In case of any lease under Memorial of ownership, wherein receivers have been appointed as above mentioned to receive the rents under the lease as they accrue, it shall be lawful for the Court, on the application of any of the lessors who may feel himself aggrieved by the apportionment of such rents by the receivers, at any time if it shall think fit, to summon the said receivers before it and require them to give an account of the rents received by them, and thereupon may make any order it shall think just and fitting in such matter, and may remove such receivers and appoint others in their place, or, by order of Court directed to the lessee, may require him for the future to pay all such rents into the Court; and such order shall discharge the lessee from any further payment to the receivers in regard of rent, if he shall pay the same in accordance with such order; and the Court shall pay the rents so received by the Court to each of the several owners according to such proportion as it shall think just.

Interests of dissentients may be separated.

65. In any case of a proposed sale or lease of land held under Memorial of ownership, if the Court shall find that all the owners are not desirous to sell or lease the said land, but that there are dissentients thereto, the Court shall ascertain the number of such last-mentioned persons, and if the Court shall find that the majority of the owners in either case are desirous that a subdivision of the land shall be made between them, then, in every such case, the Court may cause a partition of the whole land to be made into two aggregate allotments, proportioned to the interests of those who wish to sell or lease, and of those who dissent, and shall award the same as the Court shall think just, one of these allotments to the dissentients, the other to the intending sellers or lessors, and thereafter the Court shall proceed in the further matter of the particular sale or lease as hereinbefore provided.

Further subdivision thereof.

66. The Court may also make any further subdivision of the aggregate allotment awarded to such dissentients as they may desire, but in every such case the costs and expenses attending such further subdivision shall be apportioned among the dissentient owners alone.

Tenure of aggregate allotments.

67. All such land as shall be taken on partition in an aggregate allotment shall be held by the persons to whom it shall be given on partition under the same tenure and customs as the land in respect of which such land shall have been given on partition would have been held in case no partition had been made: Provided, however, that in any case where not more than ten individual Natives shall be found to be the owners of any such aggregate allotment as aforesaid, it shall be lawful for such Natives to make application to the Court in manner hereinafter provided in respect of the issue of Crown grants to Natives in certain cases for a commutation of their title to any such allotment

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for an English title of freehold; but in every such case the proportionate undivided share of any such aggregate allotment to which each of the individual Native owners thereof may be entitled shall first be ascertained by the Court, and inscribed on the Court Rolls, as well as on the new Memorial of ownership issued in respect of such allotment.

68. In every case of partition under this Act, the Court shall cause the boundaries of the different allotments to be distinctly marked out upon the ground, and plans in duplicate of such allotments shall be deposited in the Court. Upon receipt of such plans the presiding Judge shall cause a tracing of the subdivision of the land to be marked on the original approved map deposited in the Court, and shall cancel the original Memorial of ownership by writing thereon the word "Cancelled," and likewise in the Court Rolls, subscribing his name and affixing the seal of the Court to such cancellation; and shall in lieu of such original Memorial cause new Memorials of ownership to be issued for so many allotments as the land comprised in the original Memorial shall have been subdivided into to the persons respectively entitled to such allotments. Any partition so made by the Court shall have the same effect, so far as concerns the special rights of the persons affected thereby, as a deed of partition made and assented to by the several parties named in the original Memorial of ownership.

Fresh Memorials of ownership to be issued.

SURVEYS.

69. The Governor may, at the request of the Native claimants or owners, cause maps and surveys to be made of any Native lands, and may defray the costs thereof out of and charge the same against any fund specially appropriated to Native purposes, such costs to be repaid in manner hereinafter provided. Such surveys shall be made under the immediate control of the Inspector of Surveys by surveyors to be from time to time authorized in writing by him for the purpose.

Government may undertake surveys.

70. All surveys of Native lands that shall be hereafter undertaken shall be conducted in strict conformity with general regulations that shall be prepared by the Inspector of Surveys in that behalf as soon as may be after the passing of this Act. All such regulations shall be submitted to the Governor in Council for his approval, and when so approved shall be forthwith published in the *New Zealand Gazette*. Any surveyor who, in the execution of the survey of any Native lands undertaken by him, shall wilfully transgress in any manner any of the regulations so to be published as aforesaid, shall be liable to forfeit, at the discretion of the Inspector of Surveys, the whole or any part of the amount that at any time may be payable to him in respect of such survey.

Survey regulations.

71. The Inspector of Surveys or his deputy in the district—and for the purposes of this Act the Inspector of Surveys may appoint fit and proper persons to be his deputies in each district established under this Act—shall examine all surveys and plans, and shall take such proceedings as he shall think fit for testing their correctness, and for collating them in general maps and registers, and no Memorial of ownership shall issue until a plan in duplicate of the land comprised therein shall be deposited in the Court, and unless it shall be certified in writing thereon by such Inspector that the same is correct and in conformity with the rules for the time being in force under this Act, and the Court shall take notice of the signature of such Inspector without proof thereof, and the maps so certificated as correct shall be impressed with the seal of the Court as approved maps, and shall be received in evidence of the survey without further proof. One of such maps shall be recorded in the Court of the District; the other shall be

Inspector of Surveys to certify maps.

Approved map evidence of survey.

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transmitted after the case shall have been decided to the Native Minister for record in his office.

Agreement for surveys.

72. Where any Native claimants or owners of land shall agree with the Inspector of Surveys for the survey of any piece of land, such agreement shall be in writing, and therein shall be stated the fixed rate to be paid for the costs of such survey with plans thereof in duplicate, and the mode of payment, whether in money or land, and also the time for such payment, if there is to be a money payment. Such document shall be interpreted in Maori and English, and shall be signed by the Native claimants or owners in the manner hereinafter provided in respect of the signing of deeds and instruments.

Land in payment for surveys.

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

Former licenses of surveyors nullified.

74. No surveyor who may hold a license under any of the Acts hereby repealed shall henceforward undertake or execute the survey of any Native lands without the written sanction and authority in that behalf of the Inspector of Surveys in each case. And no person shall be entitled to recover in any Court of law in the Colony any charge for the execution of the survey of any Native lands undertaken by him after the passing of this Act, unless he shall prove to the Court that such survey was so authorized by such Inspector, as aforesaid.

THE LEGAL ESTATE, REGISTRATION, ETC.

(1.) *Crown Grants.*

Power to declare freeholds.

75. And whereas it is expedient to enable parties making *bona fide* purchases of land from the owners thereof according to Native custom, to hold the same as freehold: Be it enacted that upon the completion of the *bona fide* sale by the owners thereof under Memorial of ownership, of any land under the provisions hereinbefore contained, it shall and may be lawful for the Court, by order under the hand of a Judge thereof and the seal of the Court inscribed on the Court Rolls, and indorsed on the memorial of ownership, to declare that the land comprised in any memorial of ownership shall be held for the future in freehold tenure, and the same land shall be held as freehold accordingly, anything hereinbefore provided notwithstanding; and from the date of such order the Native title over the land comprised in such order shall be extinguished. And it shall be lawful for the Governor at any time thereafter to issue a Crown grant for any such land.

Issue of Crown grants.

Effect of grant.

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

Lands of the Crown.

77. Any order of the Court made in favour of Her Majesty shall effectually vest the land therein described in Her Majesty Her Heirs and Successors, as demesne lands of the Crown, freed and absolutely discharged of and from all Native titles customs or usages.

Vesting of legal estate.

78. The legal estate in land included in any Memorial of ownership shall in all cases vest one month after the expiration of the time hereinbefore allowed for an application for a rehearing, and not before.

Former grantees to be tenants in common.

79. In any grant heretofore made under any of the Acts hereby

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repealed, when there is more than one grantee, such grantees shall be and shall be deemed to have been tenants in common and not joint tenants; but the estate or interest of each of several such grantees shall not be deemed to be equal or of an equal value, unless it has been so stated in their grant: Provided that nothing in this section contained shall be deemed to apply to any former grantees who may have already alienated the land comprised in any such grant.

(2.) Commutation of Native Title.

80. Anything in this Act contained notwithstanding, in any case of an original investigation of title of Natives to any Native land under this Act, or in any case of a partition under this Act, whenever it shall be found that not more than ten individual Natives are the owners of any piece of land, or of any aggregate allotment under the partition, and where such Natives are desirous of effecting a commutation of their ownership of such land under Native custom for an English title in fee-simple, it shall be lawful for such Natives, at any time after one month after the expiration of the time hereinbefore limited for an application for a rehearing, to make application to the Court for the extinguishment of the Native title over the land comprised in the memorial of ownership issued to them, and for a declaration that they may in future hold the same in freehold tenure; and thereupon the Court may at its discretion, and if it shall deem it fit, and if it be satisfied that all the owners of the land are desirous of effecting such commutation of title, and that they fully understand the effect thereof, and after the proportionate undivided share of each of the owners of the land has been ascertained and inscribed on the Court Rolls as well as on the Memorial of ownership, by order as hereinbefore mentioned, in the case of *bona fide* sales, declare that the same land shall be held by the Native owners thereof in freehold tenure, and the same land shall be held as freehold accordingly. The Memorial of ownership with the indorsements shall be forthwith transmitted by the Judge to the Governor, with a recommendation that a Crown grant for the land comprised in such Memorial may be issued; and it shall be lawful for the Governor at any time thereafter to issue a Crown grant for such land in favour of the Native owners named in the Memorial of ownership: Provided that in no case shall any Crown grant be issued in favour of more than ten collective individual Native owners; and provided also that any Crown grant so to be issued in favour of any Native owners as aforesaid shall be issued in favour of such Natives as tenants in common, and not as joint tenants, in undivided shares of defined proportions.

Crown grants may be issued to Natives in certain cases.

(3.) Instruments of Disposition.

81. Registration of instruments affecting any Native land, so long as such land shall be held under Memorial of ownership, shall be effected by enrolment in the Native Land Court of the district where the land the subject of the particular transaction is situate. No instrument affecting any such land shall be registered anywhere else.

Registration.

82. For the purpose of registration and for other purposes of this Act, where any parcel of land shall be situate within more districts established under this Act than one, such land shall be deemed to be comprised within that district in which the greatest portion of the land is situate.

Situation of land.

83. Every memorandum of transfer or of lease, or other instrument of disposition, affecting any land held under Memorial of ownership, shall be in duplicate, and shall, for description of the land

Instruments to be in duplicate.

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intended to be dealt with, refer to the Memorial of ownership of the land, or shall give such other description as may be necessary to identify such land. Every such instrument shall have drawn thereon or annexed thereto a plan of the land comprised therein, founded on the approved map recorded in the Court. One original of such instrument shall be recorded in the Native Land Court of the district by annexation to the Court Rolls referring to the land comprised in such instrument, and the other shall be delivered to the person entitled thereto. A note of the particulars of each of such instruments shall be inscribed on the folium of Court Rolls referring to the land, and a transcript of such note shall be indorsed on the Memorial of ownership.

Mortgages.

84. In every instrument of disposition by way of mortgage wherein any Native or Natives is or are parties to the transaction referred to in such instrument, a condition shall be expressly set forth to the effect that "the mortgagee shall not in any case be entitled to foreclose the equity of redemption, anything contained in 'The Land Transfer Act, 1870,' or 'The Land Transfer Act 1870 Amendment Act, 1871,' notwithstanding:" And every instrument of disposition by way of mortgage, whether heretofore executed or that may be executed hereafter, shall be read and construed as if the above condition had been inserted in such instrument. Every declaration expressed in any such instrument or indorsed thereon, negating or in any way modifying such condition as aforesaid, shall be null and void absolutely.

Signing of deeds and instruments.

85. No transfer lease or other instrument of disposition by any Natives to any person not of the Native race shall be valid unless properly explained to such Natives before the execution thereof by an Interpreter appointed under this Act, and unless a clear statement of the contents thereof, written in Maori and certified by the signature of such Interpreter, shall be indorsed on the transfer lease or other instrument. It shall be the duty of such Interpreter to record in the Court of the district a certified copy of every such written statement. Every such instrument shall be signed by such Natives in the presence of and be attested by a Judge of the Court or Resident Magistrate, and at least one other male adult credible witness; or if any of such Natives cannot write, his mark shall be made thereto in the same presence. The Judge or Resident Magistrate in whose presence any such instrument shall be signed, shall satisfy himself that the Natives so signing such instrument fully understand its purport, and shall, when attesting the same, add thereto a memorandum to that effect.

Married women not to be examined.

86. It shall not be nor be deemed to have been necessary for any married woman of the Native race, on executing any deed required by law to be acknowledged before Commissioners, to make such acknowledgment; and such deed shall be and be deemed to have been as valid and effectual as if signed by a *feme sole*: Provided nevertheless that in every case the husband shall be a party to such deed; and that the signatures of both husband and wife shall be attested in the manner and form hereinabove mentioned.

Transactions void.

87. Except as herein mentioned every conveyance transfer gift contract or promise affecting Native land before it shall become vested in freehold tenure by order of the Court shall be absolutely void: Provided always that contracts by *parole* may be made affecting flax timber or actual productions growing on such land, extending over a period of not more than two years.

Judgments not to affect Native land.

88. No judgment of any Court obtained against any owner of an undivided share of any land shall after the passing of this Act affect such share; and no judgment against any Native grantee under any of the repealed Acts shall be registered in the Deeds or Land Registry Office.

Native Land.(4.) *Past Transactions.*

89. If any grantee under any of the repealed Acts shall be desirous that subdivision shall be made of the land included in the grant or any part thereof for the purpose of having his share in severalty allotted to him, or for the purpose of effecting a partition among the owners thereof; and if no sale lease or disposition of the said land or any part thereof shall have been made before the passing of this Act, such person may apply to the Court to make such separation or subdivision, and the Court may proceed thereupon in the manner hereinbefore provided with respect to partition, and may order a Crown grant for a defined portion of the land to be issued to the applicant; and on the surrender of the original grant to the Crown, the Court may, in its discretion, order such subdivision as it shall deem just, and may order Crown grants to be issued according to the award in partition.

Former grantees may apply for subdivision or partition.

90. The surrender before mentioned may be legally and effectually made by the delivery up of the original grant, and by any writing which shall, in the judgment of the Court, sufficiently show the intention of the surrenderers, if signed by the persons named in the original grant, or their devisees, or other persons who at the time being shall be the representatives under the provisions hereinbefore contained of any of them who may have died intestate; and on the receipt by the Secretary of Crown Lands, or other proper officer, of such original grant and surrender as before mentioned, he shall cancel the grant and the record thereof, authenticating such cancelling with his signature, and stating the reason thereof.

Mode of surrender of Crown grant for cancellation.

91. The effect of such cancelling shall be the same as if the grant had been absolutely repealed by *scire facias*.

Effect of cancelling.

92. In any case where any one or more of several grantees under any of the repealed Acts has alienated or shall hereafter alienate his or their individual share or shares in the land granted, by sale or other disposition, and where the purchaser of such share or shares shall be desirous of ascertaining the share or shares so purchased by him, or where in any such case as last aforesaid any of the owners of the unalienated residue of the block of land, shall be desirous of ascertaining the share or shares of the owners of such residue, it shall be lawful for any such purchaser as aforesaid, or for any owner of any share of such residue, to apply to the Court to have his or their respective shares ascertained and determined. Thereupon the Court shall proceed in any manner it shall deem best to ascertain and determine the share or shares acquired by any such purchaser or of the owners of any such residue. This provision shall not apply where the shares of the grantees are fixed in the Crown grant. If in any such case as aforesaid the applicant applies that the land may be subdivided, and that the portion to which the applicant is entitled in respect of his share may be allotted, the Court may proceed in such manner as it may think fit to make such subdivision.

Where lands in part alienated, undivided shares of former grantees may be ascertained.

93. After the determination of the shares and the land to be allotted in respect thereof, a certificate shall be given by the Court defining the share of the land to which the applicant is entitled, and the extent and boundaries of the piece of land to which he is entitled in respect of such share. Such certificate shall be transmitted by the Court to the Registry of Deeds, if the land is not under the Land Transfer Act, and such certificate shall be registered, and the Crown grant and all deeds relating to the land comprised therein shall, when registered, have the same effect as if the Crown grant had defined such share and such portions of land.

Allotment of shares, and certificate thereof.

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In all proceedings under this section of this Act the Court may order that such persons as it shall think necessary shall receive notice of the application. If the Court shall think that injustice may be done by the making of such certificate, the Court may refuse altogether or delay to make the same.

Court to be guided by equity and good conscience.

94. In all proceedings for ascertaining and determining any share or allotting any land under the two last foregoing sections, the Court shall be guided by equity and good conscience, and the decision of the Court shall be binding and conclusive on all parties: Provided, nevertheless, that if any grantee or any purchaser from any grantee shall feel himself aggrieved by the decision of the Court in the matter, it shall be lawful for him at any time within six months after such decision shall have been given, but not afterwards, to make application to the Court that such decision may be forwarded to the Supreme Court for its revision. And thereupon the Judge shall forthwith transmit the particulars of the case, with his decision therein, to the Supreme Court for revision accordingly, and the Supreme Court may thereupon, and having in view the equity of the case, confirm any such decision, or may alter amend or reverse the same.

Not to apply to transactions prior to 1869.

95. Nothing in the last three foregoing sections shall be deemed to apply to any transactions that shall have been completed previously to the passing of "The Native Lands Act, 1869."

Leases validated in certain cases.

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

Owners under former certificates of title may apply for partition.

97. After the passing of this Act, no land comprised in any certificate of title heretofore issued under the seventeenth section of "The Native Lands Act, 1867," shall until it shall have been subdivided and awarded, be alienated by sale gift mortgage lease or otherwise, except in accordance with the provisions of this Act: Provided that it shall be lawful for the persons found by the Court to be interested, or for any of them, to apply to the Court to subdivide the land comprised in such certificate; and thereupon the Court shall have such and the same power as it has in cases of partition in the case of dissentients to any sale or lease, as hereinbefore provided; and a subdivision may be ordered notwithstanding that a lease or leases of such land or of some part thereof may have been heretofore made; but no award of partition in such case shall take effect during the subsistence of any lease of the land comprised in such award.

Lands under former certificate, how to be dealt with.

98. All lands comprised in any such certificate issued as last aforesaid, respecting which no conveyance lease mortgage or contract has been made, may be dealt with in the like manner as land held under Memorial of ownership under this Act: Provided that land comprised in any such certificate respecting which any dealings may have heretofore been had, may be dealt with in the like manner as land held under Memorial of ownership under this Act, but only in the case that in every dealing with such land the parties to such transactions shall satisfy the Court that they have the assent of all the persons whose names are indorsed on the certificate, as well as the assent of those named on the face of the certificate, to any such transaction.

Former declarations validated.

99. In all cases where a declaration shall heretofore have been made before a Judge of the Native Land Court, or a Justice of the Peace, to the effect specified in the seventy-fourth section of "The

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Native Lands Act, 1865," or the thirty-second section of "The Native Lands Act, 1867," such declaration shall be and be deemed to have been a full and complete compliance with the provisions of the said seventy-fourth and thirty-second sections respectively, notwithstanding that such declaration shall not have been either in the form prescribed by the Imperial Statute 5 and 6 William the Fourth, c. 62, or by the Act of the General Assembly of New Zealand, intituled "The Justices of the Peace Act, 1866," and shall have and be deemed to have had the same legal effect and operation as declarations made pursuant to and in the form prescribed by the said Imperial Statute 5 and 6 William the Fourth, c. 62, or by "The Justices of the Peace Act, 1866."

GENERAL POWERS OF THE COURT.

100. The Court may order that any evidence which may have been given in a case which shall have been previously before the Court and in which the parties are the same, or in the opinion of the Court are substantially the same, shall be received and used as evidence in the case before the Court at the time being.

Evidence in previous case may be adopted.

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

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

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

Effect of decision of Court.

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

Case may be sent to Supreme Court.

104. The Chief Judge and every Judge may at all times amend all defects and errors in any proceeding in the Court, and all such amendments as may be necessary for the purpose of determining in the existing suit the real question in controversy between the parties shall be so made; and for the purpose of this provision, everything done in or by the Court or the Judge shall be deemed to be a proceeding in the Court up to the issue of the Memorial of ownership.

Errors may be amended.

MISCELLANEOUS PROVISIONS.

105. Any notification published in the *New Zealand Gazette* and purporting to be made by or by the authority of the Governor, and stating that the Native title over any land therein described was extinguished previously to a date therein specified, shall for all purposes be received as conclusive proof that the Native title over the land described in such notice was extinguished at some time previously to the date therein specified, and that such land on such date ceased to be Native land within the meaning of this Act; and in order to prove such notification and the due making and publication thereof, it shall

Notifications of Native title extinguished authoritative.

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Native Lands Act, 1865," or the thirty-second section of "The Native Lands Act, 1867," such declaration shall be and be deemed to have been a full and complete compliance with the provisions of the said seventy-fourth and thirty-second sections respectively, notwithstanding that such declaration shall not have been either in the form prescribed by the Imperial Statute 5 and 6 William the Fourth, c. 62, or by the Act of the General Assembly of New Zealand, intituled "The Justices of the Peace Act, 1866," and shall have and be deemed to have had the same legal effect and operation as declarations made pursuant to and in the form prescribed by the said Imperial Statute 5 and 6 William the Fourth, c. 62, or by "The Justices of the Peace Act, 1866."

GENERAL POWERS OF THE COURT.

100. The Court may order that any evidence which may have been given in a case which shall have been previously before the Court and in which the parties are the same, or in the opinion of the Court are substantially the same, shall be received and used as evidence in the case before the Court at the time being.

Evidence in previous case may be adopted.

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

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

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

Effect of decision of Court.

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

Case may be sent to Supreme Court.

104. The Chief Judge and every Judge may at all times amend all defects and errors in any proceeding in the Court, and all such amendments as may be necessary for the purpose of determining in the existing suit the real question in controversy between the parties shall be so made; and for the purpose of this provision, everything done in or by the Court or the Judge shall be deemed to be a proceeding in the Court up to the issue of the Memorial of ownership.

Errors may be amended.

MISCELLANEOUS PROVISIONS.

105. Any notification published in the *New Zealand Gazette* and purporting to be made by or by the authority of the Governor, and stating that the Native title over any land therein described was extinguished previously to a date therein specified, shall for all purposes be received as conclusive proof that the Native title over the land described in such notice was extinguished at some time previously to the date therein specified, and that such land on such date ceased to be Native land within the meaning of this Act; and in order to prove such notification and the due making and publication thereof, it shall

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be sufficient to produce a copy of the *New Zealand Gazette* purporting to be printed by the Government Printer, with such notification therein.

Land may be taken for roads.

106. From and out of any land which may have heretofore been or may be granted under the provisions of any of the Acts hereby repealed or of this Act, it shall be lawful for the Governor at any time thereafter to take and lay off for public purposes one or more line or lines of road or railway through the said lands, provided that the total quantity of land which may be taken for such line or lines of road shall not be more than after the rate of five acres in every one hundred acres: Provided that it shall be lawful for the Governor at any time, by indorsement on the Crown grant or on a subsequent instrument of disposition, or by separate deed, to release any such right, and to discharge the land comprised therein from the said liability: Provided also that nothing herein contained shall authorize the taking of any lands which shall be occupied by any pahs, Native villages or cultivations, or by any buildings gardens orchards plantations burial or ornamental grounds, except subject to the provisions of "The Land Clauses Consolidation Act, 1863:" Provided always that this power shall cease and determine at the expiration of ten years from the date of the Crown grant.

Inchoate agreements by Land Purchase Commissioners.

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

Ancient agreements invalid but equitable may be recognized.

108. And whereas agreements for the purchase and sale of timber flax and other natural productions growing upon Native land have at various times before the passing of "The Native Lands Act, 1865," been entered into by Europeans and Natives, and at the time such agreements were made the parties thereto acted in good faith, and such agreements have since that time been carried out in good faith by both parties, but the law at the time of making such agreements was such that the said agreements could not be legally made, or in other cases have been invalidated by "The Native Lands Act, 1865:" And whereas it is desirable to maintain and give effect to such agreements as aforesaid as have been made and acted upon in good faith, and are themselves fair and reasonable in their character: Be it therefore enacted as follows:—It shall be lawful for any of the parties to such contracts and agreements as aforesaid, or their legal representative, when the title to land the subject of any such agreement shall

Native Land.

come before the Court for investigation, to make application to the Court stating the nature extent and circumstances of the agreement alleged to exist in respect of the said land; and it shall be lawful for the Court, upon such application, to hear and investigate the truth of the alleged facts, and if the Court shall see fit, and if the circumstances and justice of the case shall appear to demand the same, to make an order that the Memorial of ownership to be issued shall be subject to such agreements or such part thereof as the Court may think just, or to impose such restrictions on the alienability of the land comprised in such Memorial as shall give protection to the rights of the applicant: Provided nevertheless that no right reserved or conferred under this clause shall extend to a longer period than twenty-five years from the date of the order of Court.

109. And whereas there still remain outstanding in different parts of the Colony, but more especially in the northern parts thereof in and about the districts of Hokianga and the Bay of Islands, sundry claims to land that have arisen in respect of dealings between Europeans and the Natives which have not as yet been satisfactorily determined and finally settled:

Old land claims may be investigated.

And whereas the protracted delay in the adjustment of these claims to land has in a principal measure been caused by the difficulty of obtaining proper surveys of the land comprised in such claims, owing to the claimants themselves not having the means to defray the cost of such surveys: And whereas it is highly expedient that these land claims should be settled without any further delay, in order that the Native land comprised therein should be entirely released from any conflicting titles thereto:

And whereas the Native Land Court, as constituted under this Act, affords the most convenient practical machinery for effectuating this purpose:

Be it therefore further enacted, that upon a request being made in that behalf by the Land Claims Commissioner for the time being under the Land Claims Settlement Acts, 1856 and 1858, to any Judge of the Court in any district established under this Act, wherein any outstanding land claims as aforesaid may still be subsisting, such Judge shall proceed as soon as conveniently may be in and towards the investigation and settlement of such claim, notwithstanding such claimant may be any person other than a Native.

110. In such inquiry, the Judge shall be guided throughout by the provisions herein contained *mutatis mutandis* in respect of the investigation of titles, and all the provisions hereof respecting the making of surveys by the Government, and the taking of land in payment for such surveys shall *mutatis mutandis* apply to the surveys of the land in such claims, and the Judge is hereby authorized to direct such surveys to be made: Provided that to the cost of the surveys for which land out of such claim may be taken in payment, there shall be added the costs of the investigation into such claim by the Court.

According to provisions of this Act.

111. After the inquiry shall have been completed, no Memorial of ownership of the land found to belong to such claimant shall be inscribed on the Court Rolls, but the Judge shall forthwith transmit to the Land Claims Commissioner a report of the case with the judgment of the Court thereon, and proceedings thereafter shall be continued with respect to such claim in accordance with the provisions of the Land Claims Settlement Acts: Provided always that no Crown grant under such last-mentioned Acts shall be issued to any claimant unless and until all the costs of survey maps and investigation of such claim shall have been first paid or satisfied.

Report to Land Claims Commissioner

Native Land.

FEES.

Governor to fix fees.

112. The Governor may, by regulations to be published in the *New Zealand Gazette* from time to time, fix and determine and alter the fees to be paid and payable in respect of any application or other proceeding under this Act, and the mode of payment of the same. And it shall be in the discretion of the Court to refuse to consider any matter, or to stay the progress of any proceeding, if and so long as any fee due and payable in respect thereof shall be unpaid. All fees payable under this Act shall be paid into the Colonial Treasury.

SCHEDULE.

FORM I.

MEMORIAL OF OWNERSHIP.

Secs. 28, 47.

The Native Land Court } In the matter of a parcel of land at _____, in the District
of the District of _____ of _____, in the Province of _____, called _____
[Wellington], } At a sitting of the Native Land Court begun and holden
New Zealand. } at _____, on the _____ day of _____, 18____, and con-
cluded on the _____ day of _____ 18____, it was ascertained to the satisfaction of the
Court, [or, it was arranged voluntarily between the parties that the persons hereinafter
named should henceforth be regarded as the owners of the several pieces of land set
over against their names,] and the Court doth hereby adjudge that the Natives whose
names are arranged according to their hapus and tribes in the table hereinafter contained
are the owners according to Native custom of all that piece of land at _____, in the
district of _____, in the Province of _____, known by the name of _____,
containing by admeasurement _____, be the same more or less, bounded on the
as the same is delineated on the plan drawn hereon or hereunto annexed, together with
all the rights and appurtenances thereunto belonging. *And it is hereby also adjudged
that the proportionate shares of the said owners in the said piece of land are as set
forth in the said table.

Secs. 48, 49.

And it is hereby ordered that the above-named owners under this Memorial may not sell or make any other disposition of the said land except that they may lease the said land for any term not exceeding twenty-one years, in possession and not in reversion, without fine premium or foregift, and without agreement or covenant for renewal, or for purchase at a future time.

NAME OF

Native Owners.	Hapus.	Tribes.	*Proportionate Shares.

Given under the hand of _____, Judge of the said Court, and sealed with
the seal thereof, this _____ day of _____, 18____.

Entered No. _____ on Court Rolls, vol. _____, fol. _____ (L.S.) A.B., Judge.
Registering Clerk.
Issued at _____ Chief Clerk.

* Omit, where the inquiry is not extended to ascertain the proportionate shares.

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CERTIFICATE OF AUTHENTICATION.

THE foregoing memorial of ownership, extracted from the Court Rolls of the Native Land Court of the District of _____, on the _____ day of _____, 18____, is hereby certified as a true copy of the enrolment of the ownership of the persons named therein to the land described in such Memorial.

Witness my hand and the seal of the Court this _____ day of _____ (L.S.) A.B., or C.D., or E.F., Judge.

FORM II.

MEMORANDUM OF TRANSFER.

WE, A.B., C.D., E.F., and G.H., being enrolled on the Court Rolls of the Native Land Court of the District of _____, in the Province of _____, and Colony of New Zealand, as the owners according to Native custom of all that piece of land situate at _____, in the aforesaid district, known by the name of _____, containing by admeasurement [*Here state area*], be the same a little more or less, bounded on the _____, as the same is delineated on the plan drawn hereon or hereunto annexed, together with all the rights and appurtenances thereunto belonging, and which piece of land is comprised and described in a Memorial of ownership issued by the Native Land Court of the aforesaid District, and dated the _____ day of _____, one thousand eight hundred and _____,—in consideration of the sum of £ _____, paid to us by X.Y., the receipt of which sum we hereby acknowledge, do hereby transfer to the said X.Y. all our estate and interest in the said piece of land.

In witness whereof we have hereunto subscribed our names this _____ day of _____, one thousand eight hundred and _____

A.B., E.F.,
C.D., G.H.

Signed on the day above named by the said A.B., C.D., E.F., and G.H., after the contents had been explained to them by an Interpreter of the Court, and they appearing clearly to understand the meaning of the same, in the presence of

J.P. [Judge of Court, or Resident Magistrate.]
Q.R. [*Any adult male credible witness.*]

FORM III.

MEMORANDUM OF LEASE.

WE, A.B., C.D., E.F., and G.H., being enrolled on the Court Rolls of the Native Land Court of the District of _____, in the Province of _____, and Colony of New Zealand, as the owners according to Native custom of all that piece of land situate at _____, in the aforesaid district, known by the name of _____ containing by admeasurement [*Here state area*], be the same a little more or less, bounded on the _____, as the same is delineated on the plan drawn hereon or hereunto annexed, together with all the rights and appurtenances thereunto belonging, and which piece of land is comprised and described in a Memorial of ownership issued by the Native Land Court of the aforesaid District, and dated the _____ day of _____, one thousand eight hundred and _____, do hereby lease to X.Y., of [*Here insert description*], for the space of _____ years, at the yearly rental of £ _____, payable [*Here insert terms of payment of rent*], subject to the following covenants, conditions, and restrictions [*Here set forth all special covenants, if any*].

I X.Y., of [*Here insert description*], do hereby accept this lease of the above described lands, to be held by me as tenant, and subject to the conditions, restrictions, and covenants above set forth.

Dated this _____ day of _____, one thousand eight hundred and _____

A.B., E.F., } Lessors.
C.D., G.H., }
X.Y., Lessee.

Signed by the above-named A.B., C.D., E.F., and G.H., as lessors, after the contents had been explained to them by an Interpreter of the Court, and they appearing clearly to understand the meaning of the same; and by the above-named X.Y., as lessee, this _____ day of _____, one thousand eight hundred and _____, in the presence of

J.P. [Judge of Court or Resident Magistrate.]
Q.R. [*Any adult male credible witness.*]

WELLINGTON, NEW ZEALAND:

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