

New Zealand.

ANNO TRICESIMO PRIMO

VICTORIÆ REGINÆ.

No. 43.

AN ACT to amend "The Native Lands Act 1865" and to repeal "The Native Lands Act 1866" and to make other provisions in lieu thereof. [10th October 1867.]

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 shall be "The Native Lands Act 1867." Short Title.

2. "The Native Lands Act 1866" is hereby repealed except so far as the continuance of the same is necessary to the support of any act matter or thing done or completed thereunder and except also as to any penalty or forfeiture incurred under the said "Native Lands Act 1866" Provided that any investigation of title commenced under the Act hereby repealed and pending at the time of the passing of this Act shall be continued and conducted under this Act as if originally commenced hereunder. Repeal of "Native Lands Act 1866."

3. The provisions of "The Crown Grants Act 1866" relating to the signature of Crown Grants by the Governor shall apply to signatures of the Governor under this Act. Governor may sign by stamp.

4. It shall be lawful for the Governor from time to time by proclamation to define districts within which the said Act and this Act or any of the provisions thereof shall be suspended and any such proclamation to revoke or alter but no such proclamation of a district shall prevent the collection or enforcement of the payment of or alter or affect in any way the liability to pay any duties by the said Act or this Act made payable. Governor in Council may suspend Acts.

5. If the Governor shall so order with respect to any district to be defined in such order no sitting of the Native Lands Court shall be held within such district or for the purpose of hearing claims to land within the same until notice of such sitting shall have been published in the *Kahiti* for a period of one month. Notice of Court sitting to be published.

6. In order to secure accuracy and consistency in surveys and plans made under the said Act and this Act or either of them the Governor shall appoint an Inspector of Surveys who shall examine all such surveys and plans and shall take such proceedings as the Governor may from time to time direct for testing their correctness and for collating them in general maps and registers and no survey map or plan under the said Act or this Act shall be received in evidence or be admitted for any purpose under the said Act or this Act by the court or any judge thereof unless it shall be certified in writing thereon by such inspector or by some person authorized in writing by him in that behalf to give such certificate which he is hereby Governor to appoint Inspector of Surveys.

All surveys to be certified.

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empowered to do that the same is correct and in conformity with the rules for the time being in force under the said Act for the regulation of plans and surveys and the court shall take notice of the signature of such inspector or authorized person without proof thereof. Provided that surveys of Native lands or of Native reserves made by officers of the Government or other duly qualified surveyors may be certified as hereinbefore provided and may thereupon be received by the court and treated as if made by licensed surveyors and as if made in conformity with the rules aforesaid. Anything in section sixty-seven of the said Act to the contrary notwithstanding.

Interpreters to be appointed by Governor or Chief Judge.

7. The Governor or the chief judge of the court may grant certificates to such persons as they respectively think fit authorizing them to act as interpreters under the said Act and this Act and may revoke the same and no person shall act as interpreter under the said Act or this Act either in court or under the thirty-first section of this Act who does not hold such certificate.

Court may order claimants to deposit money as security for costs.

8. The court or any judge thereof may order any Native whose claim to any Native land is under investigation to deposit in court such amount as the court or judge shall think just as security for the costs of any opponent of such claim to be dealt with as general rules made under the said Act shall direct.

Court empowered to make rules for reception of evidence given in cases previously heard.

9. The judges of the court or any two of them may from time to time make general rules for the reception and use before the court or any judge thereof of any evidence which may have been previously given in cases which shall have been previously before such court or any judge thereof and in which the parties are the same or are in the opinion of the court or the judge before which such evidence is to be again used substantially the same and such rules so made or altered shall when approved by the Governor and published in the *New Zealand Gazette* have the same force and effect as if they had been inserted in this Act. Provided that any such rules and any rules made under the fourteenth section of the said Act may be at any time cancelled by the Governor.

Notification in *Gazette* that Native title had been extinguished to be received as conclusive proof that such title had been extinguished.

10. 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 had been extinguished previously to a date therein specified shall be received in the Native Lands Court and by and before every judge thereof in all matters which shall at any time be depending in or before such court or before any judge thereof as conclusive proof that the Native title over the land described in such notice had been extinguished at some time previously to the date therein specified and that such land on such date had ceased to be Native land within the meaning of the said Act and in order to prove such notification and the due making and publication thereof it shall be sufficient to produce a copy of the *New Zealand Gazette* purporting to be printed by the Government Printer with such notification therein.

Interpretation.

11. In the interpretation and construction of the provisions of this Act the expression "the said Act" shall mean "The Native Lands Act 1865" and the expressions "Native Reserve" and "Native Reserves" shall mean and include any land in the Colony of New Zealand which falls within one or other of the following descriptions

- (1.) Lands which have been or shall hereafter be excepted or reserved by Aboriginal Natives on the cession or surrender of lands to the Crown and specified as so excepted or reserved in the deed of cession or surrender
- (2.) Lands which have been or shall hereafter be reserved or excepted for the benefit of Aboriginal Natives upon the sale

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by them of any lands including all lands which by virtue of the provisions of the fourteenth section of "The New Zealand Native Reserves Act 1856" or of the seventh section of "The Native Reserves Amendment Act 1862" may have been or shall hereafter become subject to the provisions of "The New Zealand Native Reserves Act 1856."

- (3.) Lands comprised in blocks guaranteed to or set apart for the benefit of Aboriginal Natives by Colonel McLverty or according to the directions of any Commissioner appointed to investigate purchases of land made from the Aboriginal Natives by the New Zealand Company
- (4.) Lands reserved for the benefit of Aboriginal Natives by the New Zealand Land Company or New Zealand Company
- (5.) Lands appropriated by the Governor for the use or benefit of any Aboriginal Natives

Provided that in any case where under the said Act the court would not have had jurisdiction it shall be competent to the said court to inquire into and determine any question affecting the subdivision of or any title to or interest in any Native reserve which may be referred to it by the Governor.

12. Whenever under the said Act the court constituted by the said Act shall as to any claim made under the said Act for investigation of title in respect of land comprised in any Native reserve either before or after the coming into operation of this Act hereafter make a final order on any such claim and shall issue a certificate of title in respect of any such land such certificate shall contain by way of recital a statement by the court that the land comprised in and to be affected by such certificate is a Native reserve within the meaning of this Act and that it is subject to the provisions of this Act.

Certificates of Title to contain recitals.

13. Every Crown Grant which shall hereafter be issued of any land comprised in any Native reserve shall contain a provision that the land therein comprised shall be inalienable except with the consent of the Governor by sale or mortgage or by lease for a longer period than twenty-one years from the making of any such lease this and the two following sections of this Act shall apply not only to Native reserves the investigations of the title to which shall be hereafter commenced but also to Native reserves the investigations of the title to which have been commenced or completed before the passing of this Act.

Lands in Native Reserves granted to be inalienable for more than twenty-one years.

14. It shall be lawful for the Governor by writing endorsed upon any proposed conveyance lease or other disposition of land comprised in any such grant to assent to such conveyance lease or other disposition being made whatever the estate or interest expressed to be conveyed thereby and such assent shall render the land comprised in such conveyance lease or other disposition alienable in the mode and to the extent expressed in such conveyance lease or other disposition.

Governor in Council may assent to alienation of land so granted.

15. No lease of a Native reserve for a term of twenty-one years or under shall have any force unless a yearly rack-rent be reserved or the assent of the Governor shall be expressed thereon. Anything contained in "The Native Reserves Act 1856" to the contrary notwithstanding.

Yearly rack-rent to be reserved in all leases.

16. The words "one assessor" shall be substituted for the words "two assessors" wherever they occur in the twelfth section of the said Act and the said Act shall be construed and read as if the said words were so substituted accordingly.

Judge empowered to sit with one assessor.

17. Whereas by the twenty-third section of the said Act it is provided that at such sitting of the Native Lands Court as is therein

Recital of twenty-third section of the said Act.

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referred to the court shall ascertain by such evidence as it shall think fit the right title estate or interest of the applicant and of all other claimants to or in the land respecting which any such notice as is therein mentioned shall have been given and that the court shall order a certificate of title to be made and issued which certificate shall specify the names of the persons or of the tribe who according to Native custom own or are interested in the land describing the nature of such estate or interest and describing the land comprised in such certificate or that the court may in its discretion refuse to order a certificate to issue to the claimant or to any other person. It is hereby enacted that at such sitting of the court as in the said twenty-third section of the said Act is referred to the court shall ascertain by such evidence as it shall think fit the right title estate or interest not only of the applicant and of all other claimants to or in the land respecting which any such notice as in the said twenty-third section is referred shall have been given but also the right title estate or interest of every other person who and every tribe which according to Native custom owns or is interested in such land whether such person or tribe shall have put in or made a claim or not. Provided that when it shall appear to the court upon such inquiry than any persons more than ten in number or that any tribe or hapu are interested in such land and that such persons tribe or hapu so interested consent that a certificate in favour of persons should be ordered to issue to certain of the persons interested therein not exceeding ten in number in such case a certificate may at the discretion of the court be ordered to be issued to such last-mentioned persons and the court shall cause to be registered in the court the names of all the persons interested in such land including those named in such certificate and the particulars of the interests of all such persons and in the certificate to be issued in such cases there shall be a recital that the certificate is issued under this section of this Act and no portion of the land comprised in such certificate shall until it shall have been subdivided as hereinafter provided be alienated by sale gift mortgage lease or otherwise except by lease for a term not exceeding twenty-one years and no such lease shall contain or be made subject to any proviso agreement or condition for renewal thereof. Provided further that at any time after such certificate shall have been ordered to be issued it shall be lawful for the persons found by the court to be interested or for the majority of them to apply to the court in such manner and form as shall be provided by rules of 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 subdivision of hereditaments under the fifteenth section of the said Act and proceedings may in such case be taken for such subdivision and a subdivision may be ordered notwithstanding that a lease or leases of such land or of some part thereof may have been made but in such case the order for subdivision shall not take effect until after the expiration or surrender of the lease.

18. Every certificate of title under any of the provisions of the said Act or this Act shall immediately upon its issue be transmitted by the chief judge to the Governor.

19. It shall be lawful for the Governor to sign any certificate issued under section forty-three of the said Act and cause the same to be recorded and returned to the chief judge of the court for delivery. Provided that the Governor may at his discretion issue a grant or grants of the land comprised in any such certificate.

20. It shall be the duty of the court in every case whatever in which under the said Act or this Act a certificate of title is applied for or in which it is intended to order or to issue or grant any such certificate to

Under twenty-third section of the said Act interest of others besides claimant to be ascertained.

Certificate may be ordered to any number of persons.

Certificates to be transmitted to Governor before issue.

Governor may issue grants at once on certificates.

Restrictions on the alienability of land.

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inquire and take evidence as to the propriety or otherwise of placing any restriction on the alienability of the land comprised in the claim or of any part thereof or of attaching any condition or limitation to the estate to be granted and to every certificate transmitted to the Governor there shall be appended a report by the judge presiding whether in the opinion of the court it is or is not proper to place any and what restrictions on the alienability of the land comprised therein or any part thereof or to attach any and what conditions or limitations to the estate to be granted.

21. It shall be lawful for the Governor in any case where such restrictions conditions or limitations have been recommended to adopt such recommendation or any part thereof and in case of a certificate issued under the forty-third section of the said Act to grant the lands comprised therein subject to all or any of the restrictions conditions or limitations recommended or to such others as to him shall seem proper or to return the same to the chief judge endorsed with a statement under the hand of the Governor of the limitations or conditions or restrictions on alienation which he decides the land comprised in such certificate shall be subject to and in case such limitations conditions and restrictions shall apply only to a part of such land then there shall be endorsed on such certificate a correct plan showing what part of the land is subject to such limitations or restrictions and every such statement and plan shall be duly recorded before such certificate is returned to the chief judge for delivery.

Restriction to be endorsed on certificate

22. The words following that is to say "in such grant" shall be substituted for the word "therein" in the place where it secondly occurs in the forty-sixth section of the said Act and the said Act shall be construed and read as if such words had originally been inserted in the said section of the said Act instead of the said word "therein" in such place as aforesaid and it is hereby declared that the word "therein" in such place as aforesaid applies and refers to the Crown grant in the said forty-sixth section referred to and not to the certificate in the said section referred to.

Words "in such grant" substituted for "therein" in the second place where it occurs in the forty-sixth section of the said Act.

23. In the place of the word "five" where it occurs in the fiftieth section of the said Act the word "one" shall be substituted.

Word "one" substituted for "five" in fiftieth section of the said Act.

24. Whereas by the fifty-fifth section of the said Act it is provided that upon each first disposal by way of lease of any of such hereditaments or Native land as are in the said section referred to there shall be due to Her Majesty by the lessee in whom the new estate is intended to be vested a sum equal to ten pounds per centum upon the amount of the rent in each year together with ten pounds per centum upon the amount of any fine premium or foregift contained in or paid on account of the lease And whereas doubts have been raised as to the amount of duty which by the said fifty-fifth section is made payable in respect of any such lease and it is expedient to set at rest such doubts And whereas it is expedient to extend the payment of such duty over the term of the lease if such lease in respect of which the same is payable be for a term of seven years or more than seven years It is hereby enacted that the duty payable in respect of any such lease as aforesaid shall be ten pounds per centum upon the amount of any fine premium or foregift contained in or paid on account of any such lease and also a sum equal to ten pounds per centum yearly on the first day of January in every year upon the aggregate amount of rent payable for each and every year of the term of such lease Provided that if at any time any instalment of the said duty upon any such lease shall be unpaid and in arrear for three months after the same shall have become due the aggregate amount of duty which would be payable upon such lease as herein provided

In fifty-fifth section of said Act doubts as to duties on leases settled.

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during the whole term of the same shall become immediately due and may be recovered as a debt at the suit of the Colonial Treasurer.

Duties on first sales &c. within what period payable.

25. The duties by the said Act required to be paid on each first sale or other disposal of the hereditaments or Native land therein mentioned shall in cases where the transfers conveyances leases or other instruments affecting the same have been signed or executed before the passing of this Act be paid before the first day of March one thousand eight hundred and sixty-eight and in other cases shall be paid within six calendar months from the day of the date of the signing or execution or the day of the date of the deed of transfer conveyance lease or other instrument whichever day shall be prior in time and if the person or persons from whom under the provisions contained in the said "Native Lands Act 1865" and this Act or either of them any duties shall be due to Her Majesty shall neglect to pay the same within the period within which under the said Act and the said repealed Act and this Act or any of them the same are or shall have been payable every such person shall be liable to pay as a penalty a sum equal to three times the duty by the said Act or this Act made payable in addition to the duties under the said Act or this Act which penalty may be recovered summarily before any two justices of the peace or may be sued for as a debt due to Her Majesty by and in the name of the Colonial Treasurer in any court of competent jurisdiction and if any person shall give information to the Colonial Treasurer whereby any such penalty shall be recovered he shall be rewarded by the Colonial Treasurer out of the penalty recovered to such extent as the Colonial Treasurer shall think fit but not exceeding one-half what shall be so recovered and such penalty so recovered or so much thereof as shall not have been applied in rewarding any informer shall be paid over to the credit of "The Native Lands Court Account."

Penalty for not paying within specified period.

Registration of Deeds &c.

26. It shall be lawful for any Registrar of Deeds to whom any solicitor or other person shall tender or bring any deed or instrument (except a mortgage) disposing of hereditaments or of Native lands on account of the sale letting or other disposition of which duty is payable under the said Act or this Act in order that he may give a certificate of the amount of the duty payable thereon to require such solicitor or other person to make an affidavit that to the best of his knowledge and belief the full purchase or consideration money for the transaction is truly expressed in the deed or instrument and he may impound the deed or instrument tendered or brought and require the attendance of any person acquiring or purported to acquire any estate or interest thereunder and may require him to make an affidavit as aforesaid and may refuse to value or give a certificate of the valuation of the duty payable on such sale letting or disposition or on such deed or instrument until one or all of such persons shall have attended him at his office and made the said affidavit and the Registrar of Deeds may administer the oaths for this person and any person swearing falsely under this provision shall be deemed guilty of wilful and corrupt perjury and shall being lawfully convicted of the said offence be liable to be imprisoned and kept to hard labour for a term not exceeding two years.

Charge for examination of surveys.

27. In addition to the duties made payable by the fifty-fifth section of the said Act there shall be paid upon each first sale or other disposal except by mortgage of any hereditaments or Native land for defraying the expense of examining connecting and recording surveys under the said Act an additional duty at such rates as the Governor in Council may from time to time and with respect to any districts to be by him from time to time defined order not exceeding in any case the sum of sixpence per acre upon the land or hereditaments sold or disposed of

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and such charge shall be added to the duties made payable by the said fifty-fifth section of the said Act or by this Act and be deemed to form part thereof and be paid at the time and in the manner by the said Act and this Act prescribed with respect to such duties respectively and the payment thereof shall be enforced in like manner as such duties may be enforced under the said Act and this Act and the non-payment thereof shall have the like effect as is prescribed in the said Act and this Act with respect to the non-payment of duties under the said Act or this Act and in the case of leases for seven years or upward of seven years the additional duty by this section made payable shall be payable in equal annual payments on the first day of January in every year of the term of such leases and shall be subject to the provisions contained in the twenty-fifth section of this Act in case of arrears in payment of duty.

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

Power to alter fees fixed by sixty-second section of the said Act.

29. There shall be payable to the valuers appointed by the registrar of deeds under the fifty-fifth section of the said Act by the person or persons who by the said Act are liable to pay the duties such fees for making any such valuation as therein is mentioned as shall be fixed by regulations to be made by the Governor.

Fees payable to valuers.

30. A fee of five pounds shall be payable in respect of every surveyor's license or warrant heretofore or hereafter to be issued under the sixty-seventh section of the said Act and such fee shall be payable to the Inspector of Surveys who shall endorse a receipt of the same upon the license and shall remit the same to the Colonial Treasurer and no license heretofore granted shall be valid after the first day of January one thousand eight hundred and sixty-eight unless such endorsement shall have been made upon it.

Fee to be payable for surveyor's license.

31. So much of the sixty-eighth section of the said Act as authorizes the Court to order that such Crown Grant as is in the said section mentioned shall be delivered into the possession of such surveyor as is therein referred to is hereby repealed and in lieu thereof the Court shall notify to the Secretary for Crown Lands that such charges as in the said section are referred are due and unpaid and on the receipt of such notification the Secretary for Crown Lands shall detain such grant and shall not deliver out the same or allow it to be registered in the Registry of Deeds or Registry of Lands until he shall have received a notification from the Court or from the Surveyor that such charges have been paid.

When surveyor's charges not paid Crown Grant not to be registered.

32. Whereas by the seventy-fourth section of the said Act it is provided that every conveyance and other disposition of hereditaments or Native land granted under the said Act made by a Native to a person of European race or to another Native shall be interpreted to the conveyor or other disposer and shall be executed by him in the presence of and be attested by a judge or justice of the peace and shall have written thereon or annexed thereto a statutory declaration by the person so interpreting that his translation was correct and was understood by such Native It is hereby enacted that it shall be sufficient if the execution of any such conveyance or other disposition be made in the presence of and be attested by the interpreter and any other person being a male adult and in any such case the interpreter shall make oath as in the said seventy-fourth section is provided within three months after the execution of such conveyance or other

Recital of seventy-fourth section of the said Act.

Conveyance by Native to European may be before interpreter and any other person.

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disposition before some judge of the Native Land Court or some justice of the peace and such declaration shall have such legal effect as in the said section is provided with respect to declarations made thereunder.

Native may consent to charge Native land claimed by him with money advanced for payment of costs of surveys &c.

33. Whereas Natives interested or claiming to be interested in Native lands and who have not funds whereout to pay such cost of surveys and other necessary costs charges and expenses of preparing the claim for investigation in the Court and of the investigation thereof in the Court as become payable before the delivery of the certificate of title or Crown Grant to the claimants are unable to prosecute their claims in the said Court and it is expedient that such Natives should be enabled to give to persons willing to advance moneys to them to make such payments as aforesaid such security on the lands claimed by them as is hereinafter provided Be it therefore enacted that notwithstanding anything in the seventy-third section of the Constitution Act or in any other Act to the contrary it shall be lawful for any Native to whom any other person has advanced or is about to advance any sum of money to pay any such costs charges and expenses as aforesaid to give to such person an instrument in the form in the first Schedule to this Act or to the like effect and such instrument shall be interpreted to such Native and shall be signed by him in the presence of a judge of the court or justice of the peace and licensed interpreter or if such Native cannot write his mark shall be made thereto in the presence of such judge or justice and interpreter and such judge or justice shall ascertain by such means as he thinks fit that such Native understands the meaning and effect of such instrument and if it appears to such judge or is duly certified under the hand of such justice or interpreter that such Native does understand the meaning and effect of such instrument and desires that such consent should be registered in the court the judge shall endorse thereon an order in writing that such instrument shall be registered.

After instrument registered certificate of title or Crown Grant not to be delivered to Native without consent of lender of the money.

34. After any such instrument as aforesaid shall have been registered no certificate of title to any land or Crown Grant thereof shall be delivered to any Native who has caused to be registered any such instrument as aforesaid in which such land is described unless with the consent of the person named therein or his personal representatives but if it shall at any time be proved to the satisfaction of the court that the moneys mentioned in such instrument have been repaid an entry may be ordered to be made to that effect and the registration of such instrument be cancelled.

If Native applies for Crown Grant if lender does not consent court may make conditional order for delivery after execution of a mortgage to the lender.

35. If any Native who has caused any such instrument to be so registered shall apply to the Court or any judge thereof for a Crown Grant of the land affected by such instrument and the person named therein shall not give his consent to the delivery to such Native of such grant if the court or judge shall be satisfied that the moneys mentioned in such instrument are unpaid it shall be lawful for him to make an order that the Crown Grant shall be delivered to such Native after he shall have executed a mortgage to the person named in such instrument of so much of the land affected thereby as the court or judge shall deem a sufficient security to such person and after the due registration of such mortgage provided however that if the land included in the mortgage is of greater value than the land remaining unmortgaged the Crown Grant shall not be delivered to the Native but shall be deposited in the proper Registry of Deeds and the costs of such mortgage shall be added to the money advanced and included in the security.

Crown Grant and not certificate of title to issue where land charged with moneys

36. Subject to the provisions of the said Act and this Act a Crown Grant may but in no case shall a certificate of title be transmitted to the Court for delivery to any Native in respect of any land affected by

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any such instrument and it shall be the duty of the Court to notify to the Governor at the time of forwarding to him any certificate of title whether the land specified in such certificate is affected by any such instrument.

borrowed for costs of surveys &c.

37. Whenever under the provisions of "The New Zealand Settlements Act 1863" "The New Zealand Settlements Act Amendment Act 1864" "The New Zealand Settlements Act Amendment and Continuance Act 1865" and "The New Zealand Settlements Acts Amendment Act 1866" or of any or either of the said Acts land shall before the passing of this Act have been or shall hereafter be awarded or given as compensation to any tribe or hapu of Natives or to any number of Natives more than one and whenever land shall before the passing of this Act have been or shall hereafter be purchased by any tribe hapu or number of Natives with any scrip issued as compensation to them under the said last-mentioned Acts or any or either of them and whenever any land shall have been given or reserved by the Governor under the authority of an Act passed or intended to be passed the Short Title of which is "The Confiscated Land Act 1867" to any tribe hapu or number of Natives the Governor may at his discretion in any such case refer the subdivision of such land or any part thereof or any question affecting the title or interest therein to the Native Lands Court which shall deal with the same in the case of subdivision in manner and form as in the said Act and this Act is provided with regard to subdivision of hereditaments and in any other such case as aforesaid such court shall deal with the question or matter referred to it in manner and form as in the said Act and this Act is provided for the investigation and adjudication of title or as nearly in accordance with the provisions of such Acts as may be and the Court shall make such order or award as may seem most consistent with the intent of the original award gift or reserve and such order or award shall be subject to the provisions in the said Act contained for appeal be binding on all parties and persons whatsoever.

Governor may refer to Native Land Court subdivisions of and other matters relating to land given to Natives as compensation under New Zealand Settlements Acts or under "The Confiscated Lands Act 1867."

38. All Native land referred to in section eighty-three of "The Native Lands Act 1865" shall unless the Governor shall otherwise direct from time to time in respect of any such land be excluded from the operation of the said Act and of this Act until the thirty-first day of December one thousand eight hundred and sixty-eight Provided that every such agreement between the owners of any such land or other persons interested therein on the one part and officers duly authorized to enter into the same on behalf of Her Majesty on the other part may be referred by the Governor to the court and the court shall thereupon investigate the title to and the interests in such land in the manner prescribed in the said Act and this Act and shall make such orders as it is by the said eighty-third section of "The Native Lands Act" empowered to make.

Native land subject to agreements in esse at time of passing "Native Lands Act 1865" to be excluded from operation of Acts till 31st December 1868 but agreements may be referred to court by Governor.

39. In any case where lands have been granted under any Act or Ordinance for the settlement of claims arising out of dealings with the Aboriginal inhabitants of New Zealand or any other Act authorizing such grants which lands had been acquired either wholly or partly in consideration of the grantees having had issue by women of the Native race and where such grantees having subsequently thereto married and had issue by the same or other women have died without having made a valid disposal of such lands by will or settlement leaving the issue first above mentioned unprovided for it shall be lawful for the Native Lands Court upon the application of any person claiming to be interested in such lands to ascertain whether the issue first aforesaid should either by Native custom or natural equity succeed to any and

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what portion of such lands and to proceed and make a testamentary order all in manner provided in the sections of "The Native Lands Act 1865" relating to succession to hereditaments and every such testamentary order shall have like power and effect to all intents and purposes as a testamentary order made under the said Act.

Governor may refer claims made to land in Manawatu block.

40. The Governor may at his discretion refer to the said court the claim of any person to or any question affecting the title to or interest of any such person in land within the boundaries described in the second Schedule hereto being the boundaries described in a certain deed of sale to the Crown bearing date the thirteenth day of December one thousand eight hundred and sixty-six and expressed to be a conveyance by Natives entitled to land within the district excepted from the operation of the said Act by section eighty-two thereof Provided that no claim by and no question relating to the title or interest of any Native who shall have signed the said deed of sale shall be so referred and the Native Lands Court shall in the manner prescribed by the said Act investigate and adjudicate upon such claim and the interests in and title to any land so claimed.

Eighty-second section of the said Act repealed as to land in Manawatu block not included in deed.

41. From and after such date as may be appointed by the Governor in Council the eighty-second section of the said Act shall be repealed except so far as relates to the land included in the said deed of sale the boundaries of which land are set forth in the second Schedule hereto Provided that every holder of a land order originally selected within the block of sections laid out by the New Zealand Company at Manawatu shall be entitled to retain the particular section selected whenever the Native title may be hereafter extinguished and every certificate issued by the Native Lands Court in respect of the land comprised in the said block or any part thereof shall be and be on the face thereof described to be subject to such of the rights hereby reserved as may refer to the land comprised within such certificate.

FIRST SCHEDULE.

I [*A.B.*] of _____ admit that I have borrowed from [*C.D.*] of _____ pounds in money for the purpose of paying the costs of surveying and other costs attending the investigation of my claim to be interested in the block of land which [*here describe it as provided in section twenty-one of "The Native Lands Act 1865"*] I desire to charge my right title and interest in the said land with the repayment of the said sum of money in the manner provided by law.

Dated _____ day of _____

SECOND SCHEDULE.

BOUNDED on the North by the Rangitikei River from its mouth to the Waitapu Creek on the East by a direct line from the mouth of the Waitapu Creek to Te Umutu which is the north-western boundary of the Upper Manawatu Block already sold on the South by the Oroua Stream to its mouth thence by the Manawatu River to Pakingahau and thence by the boundary of the purchased land to the mouth of the Kai Iwi Stream and on the West by the sea coast.

WELLINGTON, NEW ZEALAND:

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