

NEW ZEALAND.

ANNO VICESIMO OCTAVO ET NONO

VICTORIÆ REGINÆ.

No.

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Title.

AN ACT to Amend and Consolidate the Laws relating to Lands in the Colony in which the Maori Proprietary Customs still exist and to Provide for the Ascertainment of the Titles to such Lands and for Regulating the Descent thereof and for other Purposes.

Preamble.

WHEREAS it is expedient to amend and consolidate the Laws relating to Lands in the Colony which are still subject to the Maori proprietary customs and to provide for the ascertainment of the persons who according to such customs are the owners thereof and to encourage the extinction of such proprietary customs and to provide for the conversion of such modes of ownership into titles derived from the Crown and to provide for the regulation of the descent of such lands when the title thereto is converted as aforesaid and to make further provisions in reference to the matters aforesaid :

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled and by the authority thereof as follows :

Short Title.

I. The Short Title of this Act shall be “The Native Lands Act 1865.”

Interpretation.

II. 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 :

“Native” shall mean an aboriginal Native of the Colony of New Zealand and shall include all half-castes and other descendants of mixed blood :

“Native Land” shall mean lands in the Colony which are owned by Natives under their customs or usages :

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“Hereditaments” shall mean land the subject of tenure or held under title derived from the Crown or any estate or interest therein or arising thereout.

“Registrar of Deeds” shall mean the Registrar of Deeds for the District in which the hereditaments conveyed or dealt with are situate.

III. “The Native Land Purchase Ordinance Sess. 7 No. 19” “The Intestate Natives Succession Act 1861” “The Native Lands Act 1862” and “The Native Lands Act Amendment Act 1864” are hereby repealed “The New Zealand Native Reserves Act 1856” “The New Zealand Native Reserves Amendment Act 1858” and “The Native Reserves Amendment Act 1862” are hereby repealed save as regards hereditaments and lands that have been or may be reserved set apart appropriated or dedicated by the New Zealand Company or by any Native inhabitants or by any other persons for the sites of Churches Chapels or Burial Grounds or of Schools Hospitals or other eleemosynary institutions or for the endowment of any such or for any other religious charitable or educational purpose for the administration and management of which lands the three last-named Acts shall continue in force as they are at the passing of this Act.

Total or partial repeal of Acts and Ordinance

IV. Provided always that proceedings heretofore commenced and now in progress under the said ordinance or under any of the said Acts (save as aforesaid) may be continued and perfected under and in manner provided by this Act so far as the circumstances of each case are compatible with the objects and provisions of this Act.

Inchoate proceedings to be completed under this Act.

I. CONSTITUTION OF COURT UNDER THIS ACT.

I. *Constitution of Court.*

V. 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 for the determination of the succession of Natives to hereditaments of which the Native owner shall have died intestate and for the other purposes hereinafter set forth.

Native Land Court.

VI. The Court shall consist of one Judge to be from time to time appointed by the Governor by Letters Patent under the Public Seal of the Colony who shall be called the Chief Judge and of such other Judges as shall in like manner be from time to time appointed together with such Assessors being Aboriginal Natives of New Zealand as the Governor shall from time to time appoint by Warrant under his hand.

Constitution of Court.

VII. The Commission of the present Chief Judge and of any other Judges now appointed and at the passing of this Act holding no other office of emolument under the Crown shall be deemed to have been duly made under this Act and shall be and continue in force according to the terms thereof respectively notwithstanding the demise of Her Majesty any law usage or practice to the contrary notwithstanding.

Existing Commissions valid under this Act.

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- Salaries, &c., of Judges.** VIII. Salaries shall be paid to the Chief Judge at the rate of Eight Hundred Pounds per annum and to other Judges at the rate of not more than Six Hundred Pounds per annum as the Governor shall in each case and from time to time determine Provided always that if any of them do or shall hold any other office under the Crown to which emolument is or shall be attached the Governor may at his discretion cause the salaries payable to them respectively under this Act to be diminished by the amount of other emolument so received or he may partially reduce such salaries respectively to such amount as he shall think fit.
- Salaries of Assessors.** IX. The salaries to be paid to Assessors may be variable and shall be determined by the Governor at his discretion.
- Travelling allowances** X. Allowances shall be paid 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.
- Other Officers.** XI. It shall be lawful for the Governor from time to time to appoint such Clerks Interpreters and other Officers as may be required for the conduct of the business of the Court throughout the Colony at such salaries as he shall think fit who shall severally hold office during the Governor's pleasure.
- Seal of Court.** XII. 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 requiring to be sealed.
- One Judge and two Assessors empowered to act judicially.** XIII. Every Judge of the Court acting with at least two Assessors not locally or otherwise interested shall have the same jurisdiction and may exercise the same powers as the Court in all judicial matters whatever under this Act Provided always that there shall be no decision or judgment on any question judicially before the Court unless the Judge presiding and two Assessors concur therein And Provided further that administrative business of the Court shall be carried on by the Chief Judge subject to the provisions of this Act And provided also that 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 may be made.** XIV. It shall be lawful for the Chief Judge from time to time to make rules and the same from time to time to revoke or alter for regulating the sittings practice forms and procedure of the Court and for the government of all Surveyors and other Officers officially connected with the Court and all rules so made or altered shall when approved by the Governor have the same force and effect as if they had been inserted in this Act.
- Power to summon Witnesses and punish for Contempt.** XV. The Court shall have the same power of summoning and compelling the attendance of witnesses and of punishing them for non-attendance or for refusing to give evidence and

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the same means of enforcing the observance of order and of its rules during its sittings and of punishing for contempt as is or may be possessed by the Supreme Court.

II. JURIES.

II. *Juries.*

XVI. In any matter brought before the Court under this Act for judicial investigation it shall be in the discretion of the Court on its own motion or on the request of any party interested made at any time before the commencement of the hearing to order that the matter shall be tried by a jury and the matter shall if necessary be adjourned until a jury can be formed. Juries may be ordered

XVII. Juries for the trial of matters under this Act shall be formed as follows The Judge or the Assessors shall from the bystanders or from any other persons form a list of eighteen men from which six persons shall be selected by lot and the persons so selected or so many of them as may attend and be willing to serve shall be impanelled as a jury to try the matter Provided that if less than four out of the persons so selected shall attend and be willing to serve or if any juror shall absent himself and the number of the jury be thereby or by challenge or otherwise reduced to less than four the Judge shall complete the number of four jurymen from the bystanders Provided also that by consent of the parties a jury of any greater or less number than six (to be selected as aforesaid) may be impanelled for the trial of any matter under this Act. Mode of forming a Jury.

XVIII. Each party shall be entitled to challenge peremptorily three persons selected as jurors. Challenges.

XIX. Every juror shall make a declaration before the Judge according to the form following or according to a translation thereof into the Maori tongue that is to say : Juror's declaration.

I AB do solemnly declare that I will well and truly try the issue between the parties and a true verdict give according to the evidence without fear favour or affection.

XX. Every jury shall be required to give an unanimous verdict and if a jury shall be unable to agree upon a verdict within four hours the jurors may be discharged at the discretion of the Court and in that case the matter shall stand over until the next sittings of the Court at the same or an adjacent place as the Court shall order. Verdict;

III. JURISDICTION AND DUTIES OF THE COURT.

III. *Jurisdiction and Duties of the Court.*(1.) *Investigation of Titles.*(1.) *Investigation of Titles.*

XXI. Any Native may give notice in writing to the Court that he claims to be interested in a piece of Native land specifying it by its name or otherwise describing it and

Claim to be made by Native,

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stating the name of the tribe or the names of the persons whom he admits to be interested therein with him and that he desires that his claim should be investigated by the Court in order that a title from the Crown may be issued to him for such piece of land.

Notice of Claim

XXII. Upon the receipt of such application notice thereof may be given by the Court and circulated in such manner as shall give due publicity thereto and in the same or in a subsequent notice shall be notified the day and the place when and where the Court will sit for the investigation of the said claim.

and of sitting of
Court thereon.

Court to try the claim

XXIII. At such sitting of the Court 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 notice shall have been given as aforesaid and the Court shall order a Certificate of Title to be made and issued which Certificate shall specify the names of the persons 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 the Court may in its discretion refuse to order a Certificate to issue to the claimant or any other person Provided always that no Certificate shall be ordered to more than ten persons Provided further that if the piece of land adjudicated upon shall exceed 5,000 acres such Certificate may be made in favor of a tribe by name.

and order a Certi-
ficate of Title

or refuse to do so.

Two or more Certi-
ficates may be ordered
under one claim.

XXIV. It shall be lawful for the Court to order the making and issue of two or more Certificates respecting any piece of land comprised in one claim if they shall find on investigation that there is more than one owner or set of owners thereof who desire that their respective estates or interests therein shall be divided or that the land shall be apportioned.

Land to be surveyed
and marked off pre-
viously to Order of
Certificate.

XXV. Provided always that the Court shall not proceed to a decision upon any such claim or make any order for a Certificate of Title unless there shall be produced before the Court during the investigation a survey of the lands the subject of the claim made by a Surveyor duly licensed by the Governor on such a scale and in all respects so prepared as shall be provided in the rules aforesaid and unless it shall be proved to the Court that the boundaries of such land have been distinctly marked out on the ground.

Form and authentica-
tion of Certificate.

XXVI. Such Certificate shall be in a form to be prepared or from time to time altered by the Chief Judge and shall have drawn thereon or annexed thereto an accurate plan of the land comprised therein and shall be authenticated by the signature of the presiding Judge or of the Chief Judge and the Seal of the Court and shall be recorded in a Book to be kept for the purpose.

Power to Court to

XXVII. In the case of a litigated claim the Court may

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make any interlocutory or any final order which in its judgment may be necessary and just. make interlocutory order.

XXVIII. It shall be lawful for the Court during investigation to take evidence as to the propriety or otherwise of placing any restriction on the alienability of the land comprised in any claim or of any part thereof or of attaching any condition or limitation to the estate to be granted and to report its recommendation on the premises to the Governor which recommendation (if any) with any reasons therefore which the Court shall think proper to add shall be appended to the Certificate. Court may recommend to the Governor restrictions on alienability.

XXIX. The Certificate duly authenticated and recorded as aforesaid with such recommendation as mentioned in the last preceding section (if any) appended thereto shall be transmitted to the Governor. Certificate to be forwarded to Governor.

(2.) *Succession to Hereditaments.*(2.) *Succession to Hereditaments.*

XXX. In case any person of the Native race shall die or shall have died seized or entitled at law or in equity of or to an estate in fee simple in possession of any hereditaments and without having made a valid disposal of such hereditaments by will or settlement it shall be lawful for the Court upon the application of any person claiming to be interested in such hereditaments to enquire into the matter and ascertain by such evidence as it may think fit who according to law as nearly as it can be reconciled with native custom ought in the judgment of the Court to succeed to the hereditaments whereof or whereto such person may have died so seized or entitled as aforesaid or to any part thereof. Court may ascertain proper representatives of Owner dying intestate.

XXXI. Such investigation shall be made in open Court at some convenient time and place to be notified in manner hereinbefore prescribed with reference to sittings of the Court for the purpose of investigating titles and subject to such rules as shall be made by the Chief Judge under the power hereinbefore contained. Sittings of Court to be notified.

XXXII. The Court shall thereupon make an order setting forth the death of the person intestate the description of the hereditaments of or to which he died seized or possessed or entitled and the names and descriptions of the persons who in their judgment ought to succeed to the hereditaments as aforesaid. Court to make order.

XXXIII. Every such order shall be in a form to be prepared by the Chief Judge and shall be signed by the Judge presiding at the investigation or by the Chief Judge and shall be authenticated with the Seal of the Court. Form and authentication of Order.

XXXIV. Every such order shall have the same legal effect and consequences as a will duly made and executed ac- Effect of Order.

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ording to the forms of English law and shall bar the estates rights and interests of Her Majesty accruing by escheat for want of heirs and of the heir-at-law of the Native so dying or having died but without prejudice to all other estates rights and interests of Her Majesty or any other person.

Order to be recorded and may be registered.

XXXV. Such order shall be entered or recorded in a Book to be kept for the purpose by the Court and may on the payment of the usual fee be registered in the proper Registry of Deeds wherein it shall be styled a "Testamentary Order."

(3) *Intertribal Boundaries.*

(3.) *Definition of Inter-tribal Boundaries.*

Tribes desiring inter-tribal boundaries to be defined may apply to the Court.

XXXVI. If two or more tribes or sections of a tribe of Natives shall desire that the dividing line between the Native lands owned by them shall be defined by the Court it shall be lawful for one or both of such tribes to apply to the Court stating such desire and describing or referring to the boundary line which it is desired should be defined.

Court may enquire and decide.

XXXVII. If it shall appear to the Court or to any Judge thereof that it would be fit and proper that such boundary line should be so defined and that no political difficulty is likely to arise by reason of entertaining the question it shall be lawful for the Court to give notice of the application aforesaid to the other Tribe (if only one shall have joined in such application) and in the same or in a subsequent notice may state the day and place when and where the matter will be enquired into and the Court may take further judicial proceedings for the investigation of the matter aforesaid and may make a provisional or conditional order thereupon and may afterwards make a final order defining such boundary line after the same shall have been surveyed as hereinafter provided in such manner as to the Court shall seem just.

Boundary line to be surveyed.

XXXVIII. Provided always that no such final order shall be made until the boundary line shall have been surveyed and mapped by a Surveyor licensed as aforesaid at the expense of the applicant or at the joint expense of the Tribes (as may be decided by the Court) and the same shall have been well and effectually marked off on the ground.

Effect of Order.

XXXIX. Such order shall be deemed to be conclusive of the boundary and dividing limits of the lands therein referred to in all future proceedings of the Court respecting the same or adjoining lands.

IV. *Crown Grants.*

IV. CROWN GRANTS.

(1) *On Certificate of Title.*

(1.) *On Certificate of Title.*

Governor may issue Grants of Land for which Certificate has issued.

XI. On the receipt by the Governor of the aforesaid Certificate of the Court made in favor of persons but not if the certificate is in favor of a Tribe it shall be lawful for him at such time as he shall think fit to cause a Grant from the Crown to be made and issued under the Public Seal of the

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Colony of the lands comprised in the Certificate to the persons named therein for the estate or interest therein described or mentioned and if the Certificate shall have been accompanied with any such recommendation of the Court as aforesaid it shall be lawful for the Governor to insert in the Grant or to endorse thereon any such restrictions on alienability limitations or conditions or some of them as may be expressed in such recommendation.

XLII. Such Crown Grant shall be in the usual form of Grants from the Crown of land in the Colony except that it shall purport on the face of it to be made in pursuance of this Act and if any endorsement is made thereon under the power hereinbefore contained such endorsement shall be signed by the Governor and recorded with the Grant and shall have the same force and effect as if it had been inserted in the body of the Grant.

Form of Grants.

XLIII. Such 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 proprietors to Her Majesty and shall bar all estates rights titles and interests of all persons whomsoever therein except the grantees named therein their heir devisees assigns or other persons found to be entitled under the provisions hereinbefore contained and shall vest in the persons therein named such estate or interest in the lands therein described as shall be expressed therein subject nevertheless to such restrictions limitations and conditions (if any) as shall be contained therein or endorsed thereon in manner aforesaid and shall be conclusive as to the particulars limits and extent of such land and as to the proprietors thereof and shall in all other respects have the legal effect and consequences of an ordinary grant from the Crown.

Effect of Grants.

XLIII. A copy of the Grant shall be forwarded by the Secretary for Crown Lands or other proper officer to the Commissioner of Crown Lands in the Province in which the land granted is situated.

Copy of Grants to be sent to Commissioner of Crown Lands.

(2.) On Subdivision of Hereditaments.

XLIV. If under the powers hereinbefore conferred upon him the Governor shall make and issue a grant to more than five persons who shall be desirous that any subdivision shall be made of the hereditaments included in the Grant for the purpose of effecting a partition thereof among the owners thereof and if no sale lease or other disposition shall have been made of the hereditaments comprised therein or of any part thereof such persons may apply to the Court to make such subdivision and on the surrender of the original grant to the Crown the Court may in its discretion proceed to take evidence and to order such subdivision or any other subdivi-

(2.) Subdivision of Hereditaments.

On application of owners of hereditaments Court may order a sub-division.

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sion agreeable to the parties and may order new Certificates to be issued according to the plan of such Subdivision and the provisions hereinbefore contained with respect to the proceedings of the Court on the issue of original Certificates and with respect to the making and issue of original Crown Grants shall apply to the proceedings of the Court on the issue of the new Certificates and to the making and issue by the Governor of new Crown Grants in lieu of the surrendered Crown Grant. Provided always that it shall not be lawful for the Governor to insert in or endorse on any such new Crown Grant any restrictions limitations or conditions in cases where the original Crown Grant was not subject to any such or in extension or enlargement thereof if any such there were but he may make and issue such new Crown Grants or any of them without any restrictions limitations or conditions if the Court shall so recommend although the surrendered Grant may have been subject to restrictions limitations or conditions.

Surrender of old Grant need not be formal.

XLV. The surrender before mentioned may be legally and effectually made 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.

Record of Original Grant and Grant to be cancelled.

XLVI. On the receipt by the Secretary for 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.

Effect of cancelling.

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

Effect of New Grant.

XLVIII. Every such new Grant shall have the same legal effect and consequences as are hereinbefore provided with respect to grants issued under this Act.

V. *Special Provisions*

V. SPECIAL PROVISIONS.

Land included in Certificate in favor of a tribe may be subdivided.

XLIX. If any Tribe or section of a tribe in whose favor a Certificate shall have been issued shall desire that the land comprised therein shall be sub-divided and Certificates for the portions thereof be made in favor of persons the Court may on receiving a certificate from the Governor that the original Certificate has been destroyed proceed *de novo* with respect to such land and may order new Certificates for portions thereof to be made in favor of persons and thereupon the like proceedings shall be had and the like consequences shall ensue as are herein provided with reference to original Certificates.

Native Lands.

L. If any Tribe or section of a Tribe in whose favor a Certificate shall have been issued shall be desirous that Regulations shall be made or a plan should be adopted for the purpose of the sale letting occupation or other disposal of the Land included in such Certificate or any part thereof or for a partition Grant Lease appropriation or disposal thereof or any part thereof to between or amongst themselves or any other persons or for granting Licenses or Leases to dig or work Mines or Minerals or cutting Timber or depasturing Stock or for any purpose of common use or benefit such persons may apply to the Governor for the adoption of any such Regulations or plan and the Governor may either approve and confirm the same or return the same to the Applicants with amendments or alterations and so on from time to time until such Regulations or plan shall have been finally approved by the Governor.

Hereditaments may be disposed of subject to Regulations.

LI. Such Regulations or Plan so sanctioned and approved shall be published in the Gazette of the Province in which the Lands affected are situate and shall then be good valid and binding on Her Majesty and all other persons Provided always that it shall be lawful for the Governor from time to time other like proceedings being had as before provided to amend or alter such Regulations or Plan and the Regulations or Plan so amended or altered and published as aforesaid shall have the same force and validity as the original Regulations or Plan.

Effect of such Regulations.

LII. In any such Regulations or Plan Land may be reserved or set apart for Public Highways and for Schools Hospitals Churches Chapels or other eleemosynary Institutions and for the endowment of such Institutions and for any other purposes of public or common utility and such reserved Land may be vested in any Persons or Body Corporate approved by the Governor as Trustees for the proposed objects with such powers of management and disposition as the Governor shall deem right and as may be contained or specified in or reasonably attend upon such Regulations or Plan.

Certain provisions may be inserted in the Regulations.

LIII. In any such Regulations or Plan provision may be made for raising upon the Sale Lease or disposal of any Land either by way of rent or annual payment and whether in perpetuity or for any limited period or by way of purchase money in gross any Sum or Sums of Money to be applied to the purposes hereafter specified that is to say :

Provision may be made in Regulations for raising Money.

For paying or reimbursing the cost of Maps and Surveys :

For making maintaining and repairing Roads Bridges Ferries and other Public Works within the limits of such Lands or by way of contributions to Roads Bridges or Ferries or trunk and main lines outside such limits :

For building and repairing Schools Churches Chapels or Places of Worship and for endowing the same :

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For maintaining Scholars in such Schools :

For payment of Stipends to Schoolmasters and Ministers of Religion :

For erecting and repairing Mills, and other Buildings of common use or benefit to the inhabitants :

For draining or improving the Lands of the District :

For supplying the Native Inhabitants of such Lands with Grass and other Seed and with Stock and agricultural implements and generally for such purposes of social advancement of the Native Inhabitants as may be thought fit :

The custody management and expenditure of all Moneys raised under such Regulations or Plan or amended Regulations or Plan shall be regulated as provided therein.

Governor may make Grants in pursuance of Regulations.

LIV. The Governor may make and issue Grants Leases or Licenses or other Instruments for giving effect to any Sales Leases Partitions Grants Dispositions and Licenses under the provisions hereinbefore contained in like manner as he is by Law empowered to do as regards Waste or Demense Land of the Crown and such Grants Leases or Licenses or other Instruments shall be as valid and effectual as Grants made and issued under this Act.

VI. *Duties and Fees.*

VI. DUTIES AND FEES.

(1.) *Duties.*

(1.) *Duties.*

Duties to be paid.

LV. Upon each first sale or other disposal of any hereditaments there shall be due to Her Majesty by the purchaser lessee mortgagee or other person in whom the new Estate is vested a duty or sum after the following rates that is to say :

By a purchaser of an absolute Estate in fee simple Ten Pounds in every One Hundred Pounds upon the amount of the consideration or purchase money :

By any lessee a sum equal to one year's rent together with Ten Pounds per cent upon the amount of any fine premium or fore gift contained in the Lease :

By every mortgagee a sum equal to Five Pounds per cent. upon the amount of the mortgage money : and

By every annuitant or other person acquiring any easement estate or interest in the hereditaments other than before referred to Ten pounds per cent upon the amount of the consideration money paid or payable or a sum equal to one year's annuity or annual payment as the Registrar of Deeds shall determine subject nevertheless to appeal to the Chief Judge under the provision hereinafter contained.

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Provided always that if no consideration money or a nominal consideration money is expressed in the Deed the duty payable shall be calculated upon a valuation of the hereditaments or the part thereof conveyed or assured to be made by a valuer to be from time to time appointed for the purpose by the Registrar of Deeds And provided further that if five per cent shall have been paid on a mortgage or a duty shall have been paid on a lease or other disposition of such hereditaments or part thereof a purchaser subsequently acquiring an absolute fee shall only be required to pay the difference between the amount already paid and ten per cent on the consideration money or advalorem money as the case may be.

LVI. The said duty shall be payable to the Colonial Treasurer or to the Sub-Treasurer on a certificate of the amount thereof signed by the Registrar of Deeds and shall be passed to a separate account to be kept as hereafter provided and the Colonial Treasurer or Sub-Treasurer shall endorse on the instrument a receipt under his hand for such duty.

Duties to be paid into Treasury.

LVII. Provided always that if any dispute shall arise between the Registrar of Deeds and any person as to the amount of duty payable under the foregoing provision it shall be lawful for the Registrar of Deeds to apply to the Chief Judge either personally or by forwarding to him a copy of the instrument tendered for registration with a statement explaining the transaction which it is intended to effectuate and the Chief Judge shall then decide what amount of duty is payable in respect of such transaction which amount the Colonial Treasurer or Sub-Treasurer shall then collect and may recover as a debt due to Her Majesty from the person who tendered the instrument for Registration or from any person who would have acquired an estate or interest thereunder if the same had been duly registered.

In case of dispute Chief Judge to decide.

LVIII. No transfer conveyance lease mortgage or other instrument disposing of hereditaments on account of the sale letting mortgage or other disposition of which duty is payable under the provisions before contained shall be valid or have any effect at law or in equity until such duty shall have been paid except for the purpose of rendering persons liable to the payment of duty and fees under the foregoing provisions.

Transfer invalid until duty paid.

LIX. In every such transfer conveyance lease mortgage or other instrument of disposition the full purpose or consideration money which shall be directly or indirectly paid or secured or agreed to be paid shall be truly expressed in the deed or instrument or in the principal deed or instrument (if more than one) whereby the hereditaments shall be dealt with and if the full purchase or consideration money shall not be truly expressed as aforesaid the purchaser lessee mortgagee or

Penalty on expressing in deed less than the Consideration Money.

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other person acquiring any easement estate or interest therein (except in the case of voluntary settlement aforesaid) and also the seller shall forfeit a penalty not exceeding fifty pounds and shall also as a separate debt be charged with and liable to the payment of three times the amount of the excess of duty which would have been payable for such deed or instrument as aforesaid in respect of the full purchase or consideration money in case the same had been truly expressed therein beyond the amount of duty actually paid or tendered for the same which triple duty may be sued for as a debt due to Her Majesty by the Colonial Treasurer or Sub-Treasurer in any Court of competent jurisdiction and which said penalty may be recovered by him in a summary way and shall both be paid by him into the Colonial Treasury to the account aforesaid.

Deed with false Consideration Money void

LX. Every such deed or other instrument of disposition as aforesaid in which the full purchase or consideration money shall not be truly expressed shall be absolutely void and of no effect at law or in equity except for the purpose of rendering persons liable to duty or penalties under the foregoing provisions.

Penalty on persons expressing false Consideration Money.

LXI. Every Solicitor Barrister or other person who shall be employed in or about the preparing of any such deed or instrument of disposition or who shall be employed for any of the parties thereto in anywise relating to the transaction therein mentioned who shall knowingly insert and set forth or cause to be inserted and set forth in or upon any such deed or instrument any sum less than the full and true purchase or consideration money directly or indirectly paid or secured or agreed to be paid or shall in anywise aid in the doing thereof respectively shall for every such offence forfeit the sum of Five Hundred Pounds to be recovered in a summary way and any Solicitor or Barrister so offending and being lawfully convicted thereof shall also from thenceforth be disabled to practice as a Solicitor or Barrister and any other person being entitled or entrusted to prepare any such deed or instrument in virtue of any public office or employment and being guilty of such offence in the execution of his office or employment and being thereof lawfully convicted shall also forfeit and lose his office or employment and be from thenceforth incapable of holding the same.

Registrar may require Oath to be taken of amount of consideration money.

LXII. When any such deed or instrument is tendered to a Registrar of Deeds for Registration he may require the Solicitor or person tendering the same 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 therein and he may impound the deed or instrument tendered 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 register such deed or instrument until one or all of such persons shall have attended him at his office and made the

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said affidavit and the Registrar of Deeds may administer the oaths for this purpose 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.

(2.) *Fees.*

(3.) *Fees.*

LXIII. It shall be lawful for the Chief Judge or the Judge (as the case may be) in his discretion to demand and take Fees according to the Schedule following or such of them as he may think fit that is to say:

On investigation of any claim or trial of any matter	£1	0	0
For every day occupied therein after the first	1	0	0
By Opponent or Counter Claimant.....	1	0	0
Examination of Plan not exceeding.....	1	0	0
Certificate of Title.....	1	0	0
Testamentary Order.....	1	0	0
Crown Grant.....	1	0	0
Opinion of Chief Judge under Sec. 57.....	1	0	0

Fees payable.

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.

LXIV. Provided always that in case any person by whom Fees ought to be paid shall by reason of poverty be unable to pay the same it shall be lawful for the Court in its discretion to charge the same upon the land under investigation and append to the Certificate of Title or surrendered Crown Grant (as the case may be) or endorse them respectively a report of such charge for the information of the Governor The amount thereof shall then be endorsed on the Crown Grant or new Crown Grant as the case may be and shall be paid to the Treasurer or Sub-Treasurer before any conveyance or instrument of disposition of the hereditaments comprised in such Grant shall be registered.

Payment may be postponed and secured.

LXV. Provided also that the Court may in any matter coming before them for judicial investigation under this Act order costs to be paid by the Claimant or by the Opponent or Counter Claimant if and as it shall deem just.

Costs may be awarded.

VII. APPROPRIATION OF FUNDS.

VII. *Appropriation of Funds.*

LXVI. All penalties and forfeitures made payable under this Act and all duties fees and other monies due (except Registration fees) to Her Majesty hereunder shall be paid into the Colonial Treasury by the person collecting or receiving the same and the Colonial Treasurer shall open and keep an account to be called "The Native Land Court Account" wherein shall be regularly set forth the sums of money received and paid by him under the authority of this Act.

Duties, &c., to be paid into Treasury.

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Appropriation thereof

LXVII. The funds so received by the Colonial Treasurer shall be chargeable in the first place with the salaries of the Judges and other Officers and the expenses of carrying this Act into execution and the balance after payment of such salaries and expenses shall be territorial revenue.

VIII. *Surveys.*

VIII. SURVEYS.

Surveyors to be Licensed.

LXVIII. It shall not be lawful for the Court in any judicial proceeding to receive in evidence or recognize any surveys of lands not made by a Surveyor authorized by the Governor by warrant under his hand to survey lands under this Act Provided that the Court may recognise and receive in evidence at its discretion surveys of lands ceded to the Crown and made by officers of the Government, and official surveys of lands which have been granted before the passing of this Act notwithstanding that such surveys shall have been made by a surveyor not licensed under this Act.

Court may order Grant to be delivered to Surveyor.

LXIX. In case it shall be made to appear to the Court that a Surveyor who on the request of a claimant to land has made a survey and produced a plan of such land before the Court at the investigation has not been paid for such survey and plan and if it shall be found on the investigation that a Certificate of Title should be issued in favour of such claimant it shall be lawful for the Court to order that the Crown Grant issuable in pursuance of such Certificate shall be delivered into the possession of such Surveyor who shall have a lien thereon and may detain the same until his lawful charges as aforesaid shall have been paid.

In case of dispute Court may decide.

LXX. Provided always that in any case whatever in which a dispute shall arise between any Surveyor and his native employers either as to the amount of remuneration or as to the quality of the work done or on any question whatever arising out of such employment the Court may enquire into the case and take evidence thereupon and give such a decision in the premises as it shall deem just which decision shall be final and binding on both parties.

Costs of surveys may be apportioned.

LXXI. Provided also that if any person shall have made a claim to native land and shall have procured at his own cost a proper survey of the same and it shall be found on the investigation of such claim that other persons are according to Native custom entitled to a portion of such land it shall be lawful for the Court in case they shall order that a certificate shall be made and issued in favour of such last mentioned persons for such portion to order also that a proportionate amount of the cost of the survey shall be paid by such persons which amount shall be fixed by the Court and shall be paid by such persons to the Surveyor and be received by him on account and in diminution of his charges against the original claimant.

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IX. MISCELLANEOUS PROVISIONS.

LXXII. All notices and other proceedings of any description whatsoever emanating from the Court shall be authenticated with the Seal of the Court if it shall be so ordered in the rules to be made by the Chief Judge under the provision hereinbefore contained.

IX. *Miscellaneous Provisions.*

Notices, &c., emanating from Court.

LXXIII. Every conveyance or other disposition of hereditaments granted under this 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 executed by him in the presence of and be attested by a Judge or a Justice of the Peace and the attestation shall state that the instrument was so translated and was understood by such native.

Instrument to be interpreted and executed before a Judge or a Justice.

LXXIV. Every contract promise or engagement for the purchase lease or occupation of any Native land or of any estate or interest therein shall be absolutely void.

Contracts for purchase of Native Land void.

LXXV. From and out of any land which may be granted under the provisions 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 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 also that it shall be lawful for the Governor at any time by endorsement on the 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.

Reserves for Roads, &c.

LXXVI. The Governor may at the request of the Native Proprietors 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 by the Native Proprietors in such manner as the Governor shall direct.

Advances may be made to Natives for Surveys.

LXXVII. Every person who shall do any of the following things that is to say:

Offences—Purchasing &c. Native Land.

Purchase any estate or interest in Native Land :

By writing or otherwise agree with any person for the purchase of the right of cutting Timber or other Trees on Native Land or of the right of Mining in or of the right of Pasturage over Native Land or for the use or occupation of Native Land :

Without a License from the Governor for that purpose use or occupy any Native Land either by depasturing any sheep or cattle thereon or by erecting any house or building thereon or by clearing enclosing or cultivating any part thereof :

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Without such License as aforesaid cut Timber or other
Trees thereon or get any mineral therefrom—

shall be guilty of an offence under this Act and shall upon conviction thereof forfeit and pay any sum not less than Five Pounds nor more than One Hundred Pounds to be recovered in a summary way.

Penalty on continuing offence.

LXXVIII. If any person so convicted as aforesaid shall for the space of one calendar month continue in possession or occupation of Native Land or otherwise persist in the unlawful act for which he shall have been so convicted every such person shall upon conviction of any such further offence forfeit and pay any sum not less than Five Pounds nor more than One Hundred Pounds to be recovered in a summary way.

Information to be at instance of Governor.

LXXIX. Provided always that no information for any offence set forth in last two preceding sections shall be laid except by a person or persons to be from time to time appointed by the Governor for this purpose.

Other remedies not taken away.

LXXX. Provided also that nothing herein contained shall be construed to take away or effect any proceeding which may under any Law in force at the time being be had against any person for any of the offences aforesaid.

Reward to person procuring conviction.

LXXXI. In case of any conviction under the provisions of this Act where any person shall appear to have been active in or towards the procuring of any such conviction it shall be lawful for the Governor to award to such person any portion of the Penalty recovered upon such conviction but not exceeding in the whole one half thereof as to him it shall seem meet.

Act not to interfere with Land Claims Acts.

LXXXII. Nothing in this Act contained shall interfere with the settlement of any claim arising out of dealings with the Natives prior to the fourteenth day of January eighteen hundred and forty which may still be heard determined and settled in pursuance of any Act for the Settlement of Land Claims for the time being in force.

Nor with Native Districts Regulation Act 1856 or Native Circuit Courts Act 1858.

LXXXIII. Nothing in this Act contained shall be construed to exempt any land which shall be granted or otherwise dealt with under the provisions hereof from the operation of the Native Districts Regulation Act 1858 or the Native Circuit Courts Act 1858 or any Acts amending the same or either of them for the time being in force until and so far only as the Native grantees or their representatives determined under the provisions hereinbefore contained shall have sold or otherwise parted with their Estate or interest in any hereditaments comprised within any district constituted under the said Acts or any or either of them.

Nor with New Zealand Loan Act 1856.

LXXXIV. Provided nevertheless that all duty penalties and other monies payable into the Colonial Treasury under

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the provisions of this Act after payment thereof of the salaries and expenses hereinbefore charged thereupon shall for the purposes of the New Zealand Loan Act 1856 be deemed and taken to the Revenue arising from the disposal of Waste Lands of the Crown within the Colony of New Zealand and shall be at all times hereafter chargeable with so much of the money borrowed and raised under the authority of the said Act as may at the time being remain unpaid and with the interest thereon.

X. APPEAL.

LXXXV. The Governor in Council may order a rehearing of any matter judicially heard before the Court under this Act before one or more Judges of the Court and two or more Assessors as may be specified in the Order in Council ordering such re-hearing and within such a period of time 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 with respect to matters of that character.

X. Appeal.

Governor in Council may order a re-hearing.

XI. EXTRAORDINARY PROVISIONS.

LXXXVI. And whereas by an Act of the General Assembly of New Zealand intituled "The Land Orders and Scrip Act 1858" it was provided that in certain cases within the Province of Wellington holders of Land Orders issued by the New Zealand Company and purporting to grant certain rights of selection should be entitled to select Land in respect of such Land Orders within any blocks of Land laid out by the New Zealand Company for selection at Manawatu or elsewhere within the said Province whenever the Native Title to such blocks should be extinguished and by the same Act it was further provided that if the Superintendent of the said Province should set apart or reserve out of any of the said Blocks lands for a Township or otherwise as in the said Act mentioned then and in that case the holders of such Land Orders should be entitled to select land in respect thereof out of any land laid out as rural land within any District the Native Title whereto should at the time or within two years afterwards be extinguished. And whereas by reason of the indefinite extent over which the rights of selection so conferred as aforesaid may be held to run disputes may hereafter arise as to how far such rights would interfere with the operation of this Act and for the purpose of preventing such disputes it is expedient to define and limit the exercise of such rights in manner hereinafter mentioned:

XI. Extraordinary Provisions.

Manawatu Block excepted from this Act.

Be it enacted that all rights of selection by the said Act conferred upon the holders of Land Orders of the New Zealand Company within the Province of Wellington shall be exercisable within the Block of Land called the "Manawatu Block."

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Bounded by a line commencing at the mouth of the Ohau River and passing with a bearing 99° to the Tararua and Ruahine Ranges to the source of the Oroua River thence by a line bearing 282° to the Rangitikei River thence by the Rangitikei River to the sea coast thence by the sea coast to the commencing point.

whenever the Native Title to the said Block shall have been ceded to Her Majesty and not otherwise or elsewhere and the said Block shall accordingly be and be deemed to have been excepted from the operation of this Act.

Agreements *in esse*
for cession of territory
may be completed.

LXXXVII. And whereas at various times agreements have been made between the owners of Native land in various districts on the one part and officers duly authorised to make or enter into the same on the other part for the cession of Native territory to Her Majesty but such agreements are not yet completed and it is expedient to provide for the completion thereof according to the intention of the parties thereto at the time of making or entering into the same :

Be it enacted that all such agreements may be carried to completion according to the intention of the parties thereto as aforesaid in like manner as if this Act had not been passed.