

NEW ZEALAND.

ANNO VICESIMO 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.

**W**HEREAS 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.

"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” “The Native Lands Act Amendment Act 1864” “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Act 1856” “The New Zealand Native Reserves Amendment Act 1858” and “The Native Reserves Amendment Act 1862” are hereby repealed.

Repeal of Acts and Ordinances.

IV. Provided always that proceedings heretofore commenced and now in progress under any of the said Acts 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 or under “The Native Reserves Act Continuance Act 1865” with respect to the class of cases referred to therein.

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 Native lands and 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 who shall hold their office during good behaviour together with such Assessors being Aboriginal Natives of New Zealand as the Governor shall from time to time appoint by Warrant under his hand who shall hold their office during pleasure.

Constitution of Court.

VII. *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*

Salaries of Judges.

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*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.

VIII. *The salaries to be paid to Assessors may be variable and shall be determined by the Governor at his discretion.*

Travelling allowances

IX. *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.

X. *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.

XI. *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 and two Assessors empowered to act judicially.

XII. *Every Judge of the Court acting with at least two Assessors 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.*

Administrative business and Notices.

XIII. *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 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 the production of documents and of punishing persons duly summoned for non-attendance or for refusing to give evidence or pro-*

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duce documents and 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 or any Judge thereof.

## 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 and the Assessors shall from the bystanders or from any other persons form a list of twenty-four men from which twelve 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 twelve 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 twelve the Judge shall complete the number of twelve jurymen from the bystanders. Provided also that by consent of the parties a jury of any less number than twelve (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 six persons selected as jurors.

Challenges.

XIX. Every juror shall make a declaration before the Judge according to the form following either in the English or the Maori tongue:

Juror's declaration.

I A B 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.

Ko Ahau ko A. e tino ki pono ana e ata kimi marire ahau i te tuturutanga i runga i te tika me te pono o te take e takoto ana ki waenga o tenei hunga; Maku hoki e whakapuaki te tino toitutanga o toku Whakaaro i runga i te tikanga o nga kupu a nga kai-korero me te kore o te wehi o toku ngakau me te kore o toku Whakaaroaro ki te tangata.

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Verdict.

XX. Every jury shall be required to give an unanimous verdict and if a jury shall be unable to agree upon a verdict within eighteen 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.

III. *Jurisdiction and Duties of the Court.*

III. JURISDICTION AND DUTIES OF THE COURT.

(1.) *Investigation of Titles.*

(1.) *Investigation of Titles.*

Claim to be made by Native.

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 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 and of sitting of Court thereon.

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.

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 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 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 not exceed 5000 acres such Certificate may not be made in favor of a tribe by name.

And order a Certificate of Title.

Or refuse to do so.

Two or more Certificates 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.

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XXV. Subject as hereinafter mentioned 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 on the ground.

Land to be surveyed and marked off previously to order of Certificate.

XXVI. Such Certificate shall be in the form in the Schedule to this Act 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.

Form and authentication of Certificate.

XXVII. In the case of any claim the Court may make any interlocutory or any final order which in its judgment may be necessary and just.

Power to Court to make interlocutory order.

XXVIII. It shall be lawful for the Court during the 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 Native 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.

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Sittings of Court to be notified.

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.

Court to make order.

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 its judgment ought to succeed to the hereditaments as aforesaid.

Form and authentication of 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.

Effect of order.

XXXIV. Every such order shall have the same legal effect and consequences as a Will duly made and executed according 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 land 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. The Court shall refer every such application to the Governor and if it shall appear to the Governor in Council 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 ap-



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plication) 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.

XXXVIII. Subject as hereinafter provided 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.

Boundary line to be surveyed.

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

Effect of order..

(4.) *Adjudication generally respecting Native land.*

*Adjudication generally respecting Native Land.*

XL. If any action or any issue in any action 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.

Court to determine references from Supreme Court.

XLI. 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.

XLII. Any Native may give notice to the Court in writing that he claims to be interested in a piece of Native land specifying it by its name or otherwise describing it and stating the names of the persons whom he admits to be interested therein with him and that he desires that his claim thereto should be investigated by the Court.

Claims to Native Land may be heard.

XLIII. If upon the publication by the Court of such claim in manner to be provided by the rules aforesaid the claimant and the opponents (if any) shall agree and testify the same in such manner as the Court shall think satisfactory to submit to the decision of the Court touching the validity

And certificates issued to claimant thereupon.

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of the said claim or to any other decision which the Court may come to respecting the same either in favor of the claimant or of any other person the Court may proceed to hear and determine the same in the manner and subject to the provisions hereinbefore contained with respect to investigation of Titles Provided always that the Certificate or Certificates to be issued thereupon shall be issued and delivered to the person named therein as entitled Provided further that if the Court shall recommend that any condition or limitation as hereinbefore provided shall be attached to any such Certificate the Court shall not issue the same until the Governor shall have approved or disapproved of such conditions or limitations and shall have caused so much thereof as he shall think fit to be endorsed on such Certificate.

Effect of such certificate.

XLIV. Such Certificates shall in all Courts of Law in the Colony be conclusive as to the persons who own the Native land described therein and may be registered in the proper Registry of Deeds.

Similar jurisdiction as to succession to Native Land.

XLV. Any Native who may claim to have a right by Native Customs to succeed to the ownership of any Native land or of any part thereof whereof a Native may have died possessed may apply to the Court stating in writing the circumstances of his claim and requesting that his right in the premises may be heard and decided by the Court and the like proceedings having been had and the like precautions taken as before specified with respect to succession to hereditaments the Court may hear and determine such claim and may issue a Certificate setting forth the decision of the Court thereupon which shall in all Courts of Law be conclusive and final as to the questions therein stated to have been decided.

IV. CROWN GRANTS.

IV. CROWN GRANTS.

(1.) *On Certificate of Title.*

(1.) *On Certificate of Title.*

Grants to be issued.

XLVI. On the receipt by the Governor of the aforesaid Certificate of the Court made in favor of persons it shall be lawful for him to cause a Grant from the Crown to be made and issued under the Public Seal of the 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 any such restrictions on alienability limitations or conditions or some of them as may be expressed in such recommendation.

Purchaser of part of land in a Certificate may obtain Crown Grant.

XLVII. If any person shall by deed executed and attested as hereafter provided purchase or otherwise acquire the estate or interest of the Native owners of and in any land parcel of

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any Native land comprised in any such Certificate of title not containing any restrictions conditions or limitations it shall be lawful for the Governor to cause a grant from the Crown to be made and issued of the land comprised in such deed to such purchaser in fee simple Provided that such deed shall be delivered up and surrendered as hereafter provided with respect to Crown Grants on subdivision of hereditaments.

XLVIII. 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 heirs devisees assigns or persons named in any testamentary order 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 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.

XLIX. A copy of each such 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.*

(2.) *Sub-division of Hereditaments.*

L. If under the powers herein before 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 subdivision 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

On application of owners of hereditaments Court may order a subdivision.

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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 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 have so recommended although the surrendered Grant may have been subject to restrictions limitations or conditions.

Surrender of old grant need not be formal.

LI. 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.

Record of original Grant and Grant to be cancelled.

LII. 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.

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

Effect of new Grant.

LIV. 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. DUTIES AND FEES.

V. DUTIES AND FEES.

(1.) *Duties.*

(1.) *Duties.*

Duties to be paid.

LV. Upon each first sale or other disposal of any hereditaments or of any Native land for which a certificate shall have been issued to the owners thereof as hereinbefore provided whether voluntary or for valuable consideration other than a lease and whether such hereditaments or land shall have been previously leased or not there shall be due to Her Majesty by the purchaser or other person or persons in whom a new estate is vested a duty or sum after the rate of two shillings and sixpence per acre for all the hereditaments or Native land sold or dealt with and if such first disposition shall be a lease for a term not amounting to seven years there

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shall in like manner be payable a duty after the rate of one shilling per acre and if the term amount to seven years and shall not amount to fourteen years a duty after the rate of two shillings and sixpence per acre and if the term shall be fourteen years or upwards a duty after the rate of five shillings per acre

LVI. The said duty shall be paid into the Colonial Treasury 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 And the receipt shall be final and conclusive as to the payment of the money named therein and as to the proper amount of the duty chargeable on such transaction.

Duties to be paid into Treasury.

LVII. No transfer conveyance lease mortgage or other instrument disposing of hereditaments or of Native land on account of the sale letting mortgage or other disposition of which duty is payable under the provisions before contained shall be registered or shall be valid or have any effect in law or in equity unless and until such receipt by the Treasurer or Sub-Treasurer shall have been endorsed thereon.

Transfer invalid until duty paid.

(2.) *Fees.*

2. *Fees.*

LVIII. *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 :*

Fees payable.

<i>On investigation of any claim or trial of any matter .....</i>	£1	0	0
<i>For every day occupied therein after the first ...</i>	1	0	0
<i>By Opponent or Counter Claimant .....</i>	1	0	0
<i>Examination of Plan not exceeding .....</i>	1	0	0
<i>Certificate of Title.....</i>	1	0	0
<i>Testamentary Order .....</i>	1	0	0
<i>Crown Grant .....</i>	1	0	0

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.

LIX. 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 the amount thereof shall then be endorsed on the Certificate of Title or Crown Grant as the case may be and shall be paid to the Treasurer or Sub-Treasurer before any convey-

Payment may be postponed and secured.

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ance or instrument of disposition of the Native land or hereditaments comprised in such Certificate of Title or Grant shall be registered.

Costs may be awarded.

LX. 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.

VI. APPROPRIATION OF FUNDS.

VI. APPROPRIATION OF FUNDS.

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

LXI. *All penalties and forfeitures made payable under this Act and all duties fees and other moneys 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.*

Appropriation thereof.

LXII. 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.

VII. SURVEYS.

VII. SURVEYS.

Surveyors to be Licensed.

LXIII. 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 recognize 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.

LXIV. 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.

*Native Lands.*

LXV. 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.

In case of dispute Court may decide.

LXVI. 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 the whole or to any 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 to order also that the whole or 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 (if a proportionate amount) shall be received by him on account and in diminution of his charges against the original claimant.

Costs of Surveys may be apportioned.

LXVII. Provided nevertheless that in any trial investigation or other proceeding under this Act it shall be lawful for the Court if it shall think fit so to do to proceed with the trial investigation or other proceedings and to hear and determine the same without any survey having been previously made anything hereinbefore contained notwithstanding.

Survey may sometimes be dispensed with.

## VIII. MISCELLANEOUS PROVISIONS.

## VIII. MISCELLANEOUS PROVISIONS.

LXVIII. All notices and other proceedings of any description whatsoever emanating from the Court shall be authenticated with the Seal of the Court.

Notices, &c., emanating from Court.

LXVIX. Every conveyance or other disposition of hereditaments or Native land 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 shall be executed by him in the presence of and be attested by a Judge or a 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. And such declaration shall be made and taken before the said Judge or Justice of the Peace and shall have the legal effect of a declaration made under the Imperial Statute 5 and 6 William IV cap. 62.

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

LXX. Every conveyance transfer gift contract or promise affecting or relating to any Native land in respect of

Contracts for purchase of Native Land void.

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*Native Lands.*

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which a Certificate of Title shall not have been issued by the Court shall be absolutely void.

Reserves for Roads,  
&c.

LXXI. 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 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. Provided also that nothing herein contained shall authorise the taking of any lands which shall be included in any enclosure or shall be occupied by any buildings gardens orchards plantations ornamental grounds or cultivations.

Advances may be  
made to Natives for  
Surveys.

LXXII. *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 in Council shall direct.*

Act not to interfere  
with Land-Claims  
Acts.

LXXIII. 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 Dis-  
tricts Regulation Act  
1858 or Native Cir-  
cuit Courts Act 1858.

LXXIV. 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 Regulations 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 Zea-  
land Loan Act 1856.

LXXV. *Provided nevertheless that all duty penalties and other moneys payable into the Colonial Treasury under*



*Native Lauds.*

*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 be 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.*

## IX. APPEAL.

## IX. APPEAL.

LXXVI. The Governor in Council may order a re-hearing 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.

Governor in Council may order a re-hearing.

## X. EXTRAORDINARY PROVISIONS.

## X. EXTRAORDINARY PROVISIONS.

LXXVII. 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

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

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*Native Lands.*

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exercisable within the Block of Land called the "Manawatu Block"

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.*

LXXVIII. 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 of some of them according to the intention of the parties thereto at the time of making or entering into the same :

Be it enacted that such agreements respecting the several blocks or pieces of land described or referred to in the Schedule to this Act 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 but all other such agreements or arrangements shall be abandoned and unfulfillable.

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THE SCHEDULE REFERRED TO BY THE FOREGOING ACT.

1. Form of Certificate of Title.
2. List of incomplete Land purchases which may be completed.