

Mr. McDonald.

NATIVE LAWSUITS.

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A BILL INTITULED

AN ACT to make provision for the Determination of Native Lawsuits commenced in the Supreme Court. Title.

WHEREAS in a certain part of the colony purchases and leases of land have been made, or are alleged to have been made, from aboriginal owners, and disputes and differences in reference thereto have since arisen between the alleged vendors and purchasers: And whereas in many cases suits have been commenced in the Supreme Court, but it is found that the mode of procedure therein, in ordinary cases, is not adapted for the determination of such disputes and differences as aforesaid, and it is expedient that special provision should be made for the determination thereof: Preamble.

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. The Short Title of this Act is "The Native Lawsuits Act, 1880." Short Title.
2. It shall be lawful for the Governor in Council to appoint by Commission one of the Judges of the Supreme Court to exercise the jurisdiction conferred by this Act, or, if he shall think fit, to appoint, under section seven of "The Supreme Court Judges Act, 1858," another Judge of the Supreme Court to exercise the said jurisdiction; and any Judge so to be appointed is hereinafter referred to as "the Judge." Governor in Council may appoint Judge for purposes of this Act.
3. The Judge shall have jurisdiction to try all cases in which any disputes or differences exist between Europeans and Maoris in reference to rights, titles, and interests in or to land situate within the Electoral District of the East Coast held under titles heretofore derived through the Native Land Court, or referred to and included in the fourth section of "The Native Grantees Act, No. 68—1." Jurisdiction of Judge.

1873," according to the law, real justice, and good conscience of the case; and shall direct himself by the best evidence that can be procured or that is laid before him whether the same be such evidence as law would require in other cases or not.

Judge finally to determine.

4. Except as hereinafter provided, the Judge shall determine finally all 5 questions which shall be brought before him.

How judgments and orders to be given.

5. It shall be lawful for the Judge to give such judgments and make such orders, upon such terms and conditions as he may think fit, for all or any of the purposes following:—

- (1.) For the completion of any contract or arrangement for the sale and 10 purchase or lease of such land as aforesaid;
- (2.) For declaring any such contract null and void;
- (3.) For the apportionment of any such land between the parties in litigation;
- (4.) For the payment by the Maoris of any moneys which they may have received under any contract for the sale or leasing of such land, when 15 such sale or leasing has not been fulfilled;
- (5.) For vesting in any person the whole or any portion of such land for an estate in fee-simple in possession, or for any lesser estate.

And every such judgment or order shall have the full force and effect of a judgment or order of the Supreme Court, and shall in all respects be subject to 20 and enforced by the law in force in relation to such judgments or orders.

Governor in Council may make rules and regulations.

6. The Governor in Council shall have power from time to time to make, amend, alter, and repeal rules of practice and procedure hereunder, which rules shall be published in the *New Zealand Gazette*.

Judge may make orders as to costs.

7. In all cases the Judge shall have the same power and functions generally 25 which a Judge of the Supreme Court has in ordinary cases, and may make the like orders; and also shall have power to make orders for costs, which he may either fix at the hearing, or order to be taxed by the Registrar of the Supreme Court in the district in which the respective suits or proceedings may be conducted; all which orders shall have the same effect, and be enforced, as if made 30 in ordinary cases by Judges of the Supreme Court.

Suits now existing in Supreme Court may be continued and completed under Act. Section eighty-eight not to apply.

8. All suits at present existing in the Supreme Court may, on the application of either party, be continued and completed under this Act, and all costs heretofore incurred may be ascertained by taxation and made costs in the cause.

9. Section eighty-eight of "The Native Land Act, 1873," shall not apply to 35 any judgment or order for costs given or made under this Act.

Questions may be submitted for opinion of Court of Appeal.

10. If any question shall arise, and be determined by the Judge, which either party desires should be submitted for the opinion of the Court of Appeal, he may apply to the Judge for leave to state a case, which leave the Judge shall grant, provided he be of opinion it is reasonable so to do. 40

Case to be stated.

11. The case shall be agreed on by both parties or their solicitors, and, if they cannot agree, the Judge may, on being applied to by either party or his solicitor, settle and sign the case, and forward it to the Registrar of the Court of Appeal.

Opinion to be given, and Judge, if necessary, to amend his decision accordingly.

12. The opinion of the Court of Appeal, after or without argument, as it 45 shall think fit, shall be given in writing, and a copy thereof, certified by the Registrar, shall be forthwith transmitted by him to the Judge, who shall, if necessary, amend his determination in accordance therewith.

Act to remain in force.

13. This Act shall remain in force for *two* years, and for such further time as may be necessary to conclude the business then pending, but not for the 50 purpose of commencing or entertaining any new business.