

1399

Hon. Mr. Cadman.

## NATIVE LAND COURT.

### ANALYSIS.

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| <p><b>Title.</b></p> <p style="text-align: center;"><b>PART I.</b><br/><b>PRELIMINARY.</b></p> <ol style="list-style-type: none"> <li>1. Short Title.</li> <li>2. Commencement.</li> <li>3. Interpretation.</li> <li>4. Title "ascertained."</li> <li>5. Tenure in fee-simple. Tenants in common.</li> <li>6. Orders heretofore made, how dealt with.</li> <li>7. Orders under sections 20 and 31 of "The Native Land Court Act, 1886."</li> <li>8. Where further partition has been made.</li> </ol> <p style="text-align: center;"><b>PART II.</b><br/><b>CREATION AND CONSTITUTION OF COURT.</b></p> <ol style="list-style-type: none"> <li>9. Constitution of the Court.</li> <li>10. Judges and Assessors.</li> <li>11. Appointment of Judges and officers.</li> <li>12. Commissioners.</li> <li>13. Governor may appoint a Deputy Chief Judge.</li> <li>14. Tenure of office.</li> <li>15. Salaries.</li> <li>16. Records.</li> <li>17. Registers.</li> <li>18. Seal.</li> <li>19. Governor may stay proceedings.</li> <li>20. Quorum to exercise jurisdiction.</li> </ol> <p style="text-align: center;"><b>PART III.</b><br/><b>JURISDICTION.</b></p> <p style="text-align: center;">(1.) <i>Investigation of Title.</i></p> <ol style="list-style-type: none"> <li>21. Application for investigation.</li> <li>22. Certified plan to be furnished. Except on application of Governor.</li> <li>23. Investigation to be made.</li> <li>24. Court to declare Natives entitled.</li> <li>25. Division may be made.</li> <li>26. Certified plan to be furnished.</li> <li>27. Effect of order.</li> <li>28. Tenants in common.</li> <li>29. Order to be forwarded to the District Land Registrar.</li> </ol> <p style="text-align: center;">(2.) <i>Partition.</i></p> <ol style="list-style-type: none"> <li>30. Application for partition. Consent of mortgagee.</li> <li>31. Partition may be made.</li> <li>32. Successors to deceased owner may be appointed.</li> <li>33. Order may be made in favour of purchaser.</li> <li>34. Adverse claims may be investigated.</li> <li>35. Evidence.</li> <li>36. Date of conveyance.</li> <li>37. Plan to be endorsed on order.</li> <li>38. Effect of order on partition of customary land.</li> <li>39. Effect of order on partition of other land.</li> <li>40. Orders affecting land under Tauranga District Lands Acts.</li> </ol> | <ol style="list-style-type: none"> <li>41. Antevesting date.</li> <li>42. Trustees.</li> </ol> <p style="text-align: center;">(3.) <i>Lease-orders.</i></p> <ol style="list-style-type: none"> <li>43. Partition of land subject to a lease. Rents and covenants may be apportioned.</li> <li>44. Lessee liable for apportioned rent.</li> <li>45. Original obligations determined.</li> <li>46. Registration.</li> </ol> <p style="text-align: center;">(4.) <i>Succession.</i></p> <ol style="list-style-type: none"> <li>47. Probate and letters of administration may be granted.</li> <li>48. The Court may nominate administrator.</li> <li>49. Restriction of power of devise.</li> <li>50. Infant Native incompetent to make a will.</li> <li>51. Successors in case of intestacy.</li> <li>52. As to Natives dying before the coming into operation of this Act.</li> <li>53. Successors to deceased successors.</li> <li>54. Name and place of abode of successor to be mentioned.</li> <li>55. Effect of order.</li> <li>56. Order may be registered.</li> <li>57. Personal property not exceeding £200.</li> </ol> <p style="text-align: center;">(5.) <i>Relative Interests.</i></p> <ol style="list-style-type: none"> <li>58. Relative interests may be determined.</li> <li>59. Relative interests shall be determined in certain cases.</li> <li>60. How to be expressed.</li> </ol> <p style="text-align: center;">(6.) <i>Native Trusts.</i></p> <ol style="list-style-type: none"> <li>61. Court may vest reserves in trustees.</li> <li>62. Court may ascertain and determine <i>cestuis que trustent.</i></li> <li>63. Effect of order. Proviso as to leases.</li> </ol> <p style="text-align: center;">(7.) <i>Extension of Jurisdiction.</i></p> <ol style="list-style-type: none"> <li>64. Jurisdiction may be conferred by Order in Council.</li> <li>65. The Court may be appointed arbitrators.</li> </ol> <p style="text-align: center;"><b>PART IV.</b><br/><b>PRACTICE.</b></p> <ol style="list-style-type: none"> <li>66. Administration to be in the hands of the Minister.</li> <li>67. Commencement of proceedings.</li> <li>68. Appointment of sittings. Adjournment.</li> <li>69. Court not bound by legal formalities.</li> <li>70. Powers of the Court</li> <li>71. Witnesses may be summoned.</li> <li>72. Evidence may be taken before another Judge.</li> <li>73. Penalty for failing to give evidence.</li> <li>74. Witness in custody.</li> <li>75. Power of committal for misconduct.</li> <li>76. Power of committal for giving false evidence.</li> <li>77. Order restraining injury to property may be made.</li> <li>78. Authority to valuer.</li> </ol> |
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79. Infants.
80. Date of order.
81. Date on which order is to take effect.
82. Orders to be signed and sealed.
83. Voluntary arrangement.
84. Affidavits.
85. Previous evidence may be used.
86. Interlocutory orders.
87. Power of amendment.
88. Amendments may be made by Court or Judge.
89. Decisions to be final.
90. Mistakes may be amended after title is ascertained.
91. Appearance by counsel or agent.
92. Evidence of contract by the Crown.
93. Crown business to take precedence.
94. Signature of order on behalf of a retired Judge.
95. Interlocutory orders not to abate.
96. Other questions of procedure.

PART V.  
COSTS.

97. Payment of costs may be ordered.
98. Costs may be recovered as a debt.
99. Costs payable to or by Crown.
100. How paid.
101. Order for costs conclusive.
102. Order may be rescinded.
103. Security for costs may be ordered.

PART VI.  
APPEAL.

104. Right of appeal.
105. Notice to be signed.
106. Grounds of appeal to be stated.
107. Further evidence.
108. Amendment.
109. Constitution of Appellate Court.
110. Decision may be affirmed or varied.
111. Decision to be final.
112. Appeal to Court of Appeal.
113. Special case.
114. To be transmitted to Court of Appeal.
115. Powers of Court of Appeal.

PART VII.  
SURVEYS.

116. Plan not to be used unless certified.
117. When certificate to be refused.
118. Security for surveyor's charges.
119. When survey paid for by Natives.
120. Survey by order of Governor.
121. Apportionment of charge on partition.
122. Registration of orders.
123. Money secured by order to bear interest.
124. Land may be taken in satisfaction.
125. Payment to Public Trustee to discharge debt.
126. Surveying no evidence of title.
127. Authority to surveyor to enter on land.
128. Penalty for obstructing surveyor.
129. Orders may be amended on suggestion of surveyor.
130. Note of survey charges or fees to be deemed a caveat.

PART VIII.  
ROADS.

(1.) *Private.*

131. Private roads may be set out.
132. Rights of the Crown not to be prejudiced.

(2.) *Public.*

133. Governor may lay off public roads. Right may be released.
134. Certain land excepted.
135. Determination of right.
136. Roads laid off by direction of Surveyor-General to be deemed public roads.

PART IX.

REFERENCE FROM SUPREME COURT.

137. Supreme Court may refer questions to the Court.
138. Procedure on reference.
139. Judge may refer question back.
140. Provisions of Act to apply.
141. Opinion of Court final.

PART X.

ALIENATION.

(1.) *Prohibited Dealings with Native Land.*

142. Dealings with Native land prohibited.
143. Penalty for entering on prohibited dealings.
144. Alienation when void.
145. Limit of area.

(2.) *Permitted Dealings.*

146. Removal of restrictions.
147. Natives may alienate with consent.

(3.) *Mode of Alienation.*

148. Execution of deeds by Natives.
149. Deed not to be registered without certificate.
150. Rectification of omissions.

(4.) *Leases.*

151. How rent may be paid in default of direction in lease. Shares of rent payable to individual lessors.
152. How rent may be paid where right of lessors disputed among themselves.
153. Until relative interests determined they shall, as to rent, be deemed equal.

(5.) *Judgments and Mortgages.*

154. Seizure and sale of land.
155. Bankruptcy of Native.

(6.) *Provisional Registration.*

156. Registration in office of Court.

(7.) *Rights of the Crown.*

157. Right of Crown not affected.
158. Application to define interest acquired by the Crown may be made to the Court.

(8.) *Past Transactions.*

159. Inquiry by Judge in lieu of Trust Commissioner.
160. Deeds in respect of which inquiry already made may be forwarded to the Governor.

PART XI.

TRUSTS FOR NATIVES UNDER DISABILITY.

161. Interpretation.
162. Trustee may be appointed.
163. Trustee may be removed. New Trustee.
164. Trustees may sell or lease.
165. Purchase-money to be paid to Public Trustee.
166. Trustees to have same rights as owners.
167. Powers of Trustees.
168. Further powers of Trustees.
169. Where *cestuis que trustent* are infants title to vest on attaining age of twenty-one.
170. Trustee may make advances for maintenance and education of infant.
171. Infant may be placed in business.
172. Trust estate to be wound up.
173. Receipt of Trustee to be sufficient discharge.
174. Trustee chargeable for his own acts only.
175. Application to the Supreme Court.

PART XII.

RULES.

176. Chief Judge may make rules.

PART XIII.

MISCELLANEOUS.

(1.) *Interpreters.*

177. Board of Advice may be formed.
178. Regulations may be made for examinations &c. Grades of Interpreters.

179. Licenses may be granted on recommendation of Board.	188. Where land subject to a lease.
180. Interpreter may be suspended.	189. Court may ascertain Natives entitled to benefit of engagement on "Ngaitahu deed."
181. Penalty for acting without license.	190. Court may exercise jurisdiction in South Island and Stewart Island.
(2.) <i>Closing Hotels.</i>	191. Lease to be deemed "outstanding interest."
182. Judge may prohibit sale of liquor to Natives.	(6.) <i>Chattels Transfer.</i>
183. Penalty for disobeying order.	192. Execution of instruments under "The Chattels Transfer Act, 1889."
(3.) <i>Moneys of Natives under Disability.</i>	(7.) <i>Certificates.</i>
184. Money of Natives under disability may be paid out on order.	193. Date of Land Transfer certificate.
185. Terms of trust on which money held may be varied.	PART XIV.
(4.) <i>Crown Grants.</i>	REPEAL.
186. Grantees to be tenants in common.	194. Repeal.
(5.) <i>Native Equitable Owners.</i>	195. Reference to repealed Acts to operate as if made to this Act.
187. Effect of order under "Native Equitable Owners Act, 1886," sections 2 to 5.	Schedule.

## A BILL INTITULED

AN ACT to consolidate and amend the Law relating to Land and Personal Property owned by Natives. Title.

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

## PART I.

## PRELIMINARY.

1. The Short Title of this Act is "The Native Land Court Act, 1892." Short Title.
- 10 2. This Act, except as by this Act otherwise provided, shall come into operation on the first day of , one thousand eight hundred and Commencement.
- 15 3. In this Act, if not inconsistent with the context,— Interpretation.
- "Alienation" means any sale, lease, or other disposition, absolute or limited, charge, lien, or encumbrance :
- "Appellate Court" means the Court constituted by this Act for the purpose of hearing appeals.
- 20 "Certified plan" means a plan certified in manner provided in section *one hundred and sixteen* of this Act :
- "Certificated surveyor" means a surveyor who holds a certificate of competency from the Surveyor-General.
- "Chief Judge" means the Chief Judge of the Court :
- "Court" means the Native Land Court :
- "Court of Appeal" means the Court of Appeal of New Zealand :
- 25 "Crown grant" includes certificate of title under "The Land Transfer Act, 1870," or "The Land Transfer Act, 1885 ;"

1357  
1401

- “Customary land” means land which immediately before the coming into operation of this Act is held by Natives under their customs or usages, the title whereto has been determined by the Court :
- “Deed” includes a memorandum or document executed, before 5  
or after the coming into operation of this Act, in the manner prescribed by the law in force at the time of its execution, and purporting or intended to effect an alienation whether registration is necessary to give effect to such alienation or not : 10
- “European” means a person other than a Native :
- “Judge” means a Judge of the Court, and includes the Chief Judge and a Commissioner appointed under section *twelve* of this Act :
- “Minister” means the Minister of Native Affairs : 15
- “Native” means an aboriginal native of New Zealand, and includes half-castes and their descendants :
- “Native land” means land in the colony owned by Natives under their customs or usages, the title whereto has not been determined by the Court : 20
- “Land” means any land in the colony owned by Natives except Native land :
- “Owner” includes a grantee named in a Crown grant, a person registered as proprietor under “The Land Transfer Act, 1870,” or “The Land Transfer Act, 25  
1885,” a person named as owner in any memorial of ownership or certificate of title issued or ordered to be issued by the Native Land Court, a person registered in the Court under the provisions of the seventeenth section of “The Native Lands Act, 1867,” a person beneficially 30  
interested under any trust, and any person taking under a will or declared to be the successor to a deceased owner :
- “Parcel of land” means one of several parcels into which land may be partitioned, or Native land divided :
- “Person” means any person whether Native or European, and 35  
includes a corporation :
- “Registrar” means a Registrar of the Court, and includes a Deputy-Registrar :
- “Signed and sealed” means signed by a Judge, and sealed with the seal of the Court : 40
- Title “ascertained.” 4. Title to land or to a parcel of land shall be deemed to be  
“ascertained” under an order affecting such title when—
- (a.) The time within which notice of appeal may be given in respect thereof has elapsed without any such notice having 45  
been given ; or
- (b.) Final order is made on appeal.
- Tenure in fee-simple. 5. From and after the coming into operation of this Act every Native owner of customary land shall be deemed to be the tenant thereof for an estate of freehold in fee-simple in possession, and such land shall be subject to the provisions of “The Land Transfer Act, 50  
1885.”

1400

If there are two or more such owners of any piece of such land, they shall be deemed to hold the same as tenants in common, in such relative shares or interests as may have been heretofore or may hereafter be determined by the Court. Tenants in common.

5 6. Where an order has heretofore been made by the Court for the issue of a memorial of ownership or certificate of title under the provisions of "The Native Lands Act, 1865," "The Native Lands Act, 1867," "The Native Land Act, 1873," or "The Native Land Court Act, 1880," in that behalf, and such memorial of ownership or certificate of title has not been issued, no such memorial or certificate shall be issued except in cases in which, a division or partition having been effected, it may be found expedient to do so for the purpose of cancellation, but in lieu of issuing such memorial or certificate it shall be the duty of the Chief Judge to forward to the Orders heretofore made, how dealt with.

10 ship or certificate of title has not been issued, no such memorial or certificate shall be issued except in cases in which, a division or partition having been effected, it may be found expedient to do so for the purpose of cancellation, but in lieu of issuing such memorial or certificate it shall be the duty of the Chief Judge to forward to the

15 District Land Registrar of the proper district a copy of such order, certified under the hand of a Judge and the seal of the Court to be correct, together with the names of all persons, if any, registered in the Court under the provisions of the seventeenth section of "The Native Lands Act, 1867," and copies certified in the same manner of

20 all succession orders, if any, in respect of the estate, share, or interest of any deceased Native owners, and thereupon the District Land Registrar shall, without a warrant of the Governor, issue, under "The Land Transfer Act, 1885," a certificate of the title of the Native owners to such land, antevesting to the date of the original order of the

25 Court as aforesaid; and such antevesting date shall for all purposes whatsoever have the same effect as if it had been fixed by a warrant of the Governor in pursuance of the provisions of section five of "The Land Transfer Act 1885 Amendment Act, 1889."

7. Orders heretofore made under section twenty or section Orders under sections 20 and 31 of "The Native Land Court Act, 1886."

30 thirty-one of "The Native Land Court Act, 1886," which have not been forwarded to the Minister of Lands under section twenty-two or section thirty-two of the said last-mentioned Act, and orders which may hereafter be made under the said section twenty or under the said section thirty-one in pursuance of proceedings commenced under the

35 said Act, and division orders made under "The Native Land Division Act, 1882," which have not been forwarded to the Minister of Lands in order that Crown grants may issue in respect of the parcels comprised therein, shall be forwarded by the Chief Judge in like manner to the District Land Registrar, who shall thereupon issue

40 a certificate of title in like manner and with the same effect as in the last-preceding section mentioned, subject to any alienation that may have been made affecting the same.

8. Where division has heretofore been made under "The Native Land Division Act, 1882," of any land, or partition under "The Where further partition has been made.

45 Native Land Court Act, 1886," of any customary land, and before the issue of a Crown grant in respect of any parcel of the land or customary land so divided or partitioned, such parcel has been further divided or partitioned, and the orders made on such further partition or division have not been forwarded to the Minister of Lands as aforesaid, the original or any intermediate order made on division or

50 partition may, at the discretion of the Chief Judge, be cancelled, and in such case it shall be necessary to forward to the District Land

Registrar only the final orders so made, in order that certificates of titles may issue in respect of the parcels of land respectively comprised therein.

## PART II.

## CREATION AND CONSTITUTION OF COURT.

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Constitution of  
the Court.

9. There shall continue to be within the Colony of New Zealand a Court of Record, called, as heretofore, "The Native Land Court," for the investigation and determination of titles to Native land, and for the several other purposes hereinafter set forth :

Provided, and it is hereby declared, that the several Courts constituted under "The Native Land Act, 1862," "The Native Lands Act, 1865," "The Native Land Act, 1873," "The Native Land Court Act, 1880," "The Native Land Court Act, 1886," and under this Act, shall, notwithstanding the repeal of any Act, be deemed and taken to have been, and to be and continue to be, one continuous Court.

Any proceeding commenced in, and any right or duty given to or imposed on or accrued to, any one of such Courts, shall be deemed to have continued to any or all of such subsequently-created Courts, which subsequent Courts respectively shall be deemed to have had, and the Court under this Act shall be deemed to have, full jurisdiction to complete such proceeding, to exercise such right, and to perform such duty.

Judges and  
Assessors.

10. The Court shall consist of one Judge, who shall be called the Chief Judge of the said Court, and such other Judges, together with such Assessors, as the Governor may from time to time determine.

Appointment of  
Judges and officers.

11. It shall be lawful for the Governor from time to time to appoint a Chief Judge, Judges, and Assessors, and also such Registrars, Deputy Registrars, Clerks, Interpreters, and other officers as may be required for the conduct of the business of the Court throughout the colony.

No person other than a barrister or solicitor of not less than seven years standing of the Supreme Court of New Zealand shall be appointed Chief Judge of the Court.

Nothing in section four of "The Civil Service Reform Act, 1886," shall apply to any person who, in the opinion of the Governor, is a fit and proper person to hold the office of a Judge.

Commissioners.

12. The Governor may appoint any Resident Magistrate to be a Commissioner for the purposes of this Act, who shall possess the jurisdiction, powers, and authorities of a Judge.

Governor may  
appoint a Deputy  
Chief Judge.

13. The Governor may from time to time appoint a person to act as Deputy for the Chief Judge for such period as the appointment may direct.

During the continuance of such appointment a Deputy shall have, exercise, and perform all the powers and duties of the Chief Judge.

Tenure of office.

14. Every person appointed or holding office under this Act shall hold office during the Governor's pleasure.

1404

The Chief Judge, Judges, and Assessors, Registrars, Clerks, and other officers holding office at the time of the coming into operation of this Act shall hold office and be deemed to have been appointed hereunder; but the existing seniority of the several Judges shall be retained.

15. Such salaries shall be paid to the several persons appointed under this Act as shall from time to time be appropriated for the purpose by the General Assembly, and out of money appropriated for the purpose there shall be paid such travelling-allowances as the Governor shall from time to time determine. Salaries.

16. The records, plans, and documents relating to the business of the Court shall be deposited, and the official or administrative work carried on, at such place or places as the Governor shall at any time after the passing of this Act and from time to time appoint. Records.

17. Registers shall be kept by the Court, in which shall be recorded minutes of all applications made to the Court, and orders and proceedings made and had thereon. Registers.

18. The Court shall have in the custody of each Judge a seal which shall be a seal of the Court, and shall be used for sealing documents which require to be sealed. Seal.

19. It shall be lawful for the Governor, before the commencement or at any stage of a proceeding in the Court, by notice in writing, or by telegram to the Chief Judge or a presiding Judge, to declare that such proceeding shall be stayed, and upon the receipt of such notice the jurisdiction of the Court in respect of such proceeding shall cease. Governor may stay proceedings.

Any such notice may be revoked by the Governor by writing or telegram, and thereon the jurisdiction of the Court shall revive.

20. In exercising its jurisdiction under this Act the Court shall consist of one or more Judges and one or more Assessors, as the Chief Judge may by general rule or special order direct, and in each case the assent of one Assessor shall be necessary to the validity of a decision of the Court. Quorum to exercise jurisdiction.

### PART III.

#### JURISDICTION.

(1.) *Investigation of Title.*

21. The Governor, or any Native claiming to be an owner according to Native custom of any Native land, may apply to the Court to have the title thereto investigated. Application for investigation.

22. On the investigation of title to Native land, the Court shall, in the first place, require to be satisfied that it has before it a certified plan of such land. Certified plan to be furnished.

If such plan is not produced the Court may adjourn such investigation as it may think fit, or may dismiss the application:

23. Provided that the Court may, on the application in writing of the Governor, investigate title to Native land upon any plan which it may consider sufficient, and may make such order as it may think fit. Except on application of Governor.

24. The Court may thereupon proceed to investigate and determine what Natives are, according to Native custom or usage, entitled to such Native land or to any part thereof. Investigation to be made.

Or the Court may dismiss such application as to the whole or any part of such Native land, or may make such order or give such direction as it may think fit.

Court to declare  
Natives entitled.

24. The Court, having determined what Natives are so entitled, shall by its order declare such Natives to be the owners of the land, or of the part thereof the title whereof has been investigated. 5

Division may  
be made.

25. The Court may in any case, if it think fit, in the course of or at the close of such investigation, order any divisions to be made of such land, and in such case determine what Natives are entitled to each part, and make an order in respect of each such part accordingly. 10

Certified plan to  
be furnished.

26. If Native land be divided in pursuance of either of the two *last-preceding* sections, no final order shall be issued until a certified plan of the part the subject thereof is furnished to and approved by a Judge.

Effect of order.

27. Subject to the right of appeal as hereinafter provided, every Native who is by any such order aforesaid declared to be the owner of any Native land shall, as from the date of such order, be deemed to be a tenant thereof for an estate of freehold in fee-simple in possession, and no Crown grant shall be necessary to complete the title thereto. 15

Tenants in common.

28. If two or more Natives are in any such order declared to be the owners of such land as aforesaid, such Natives shall be deemed to hold the same as tenants in common, in such relative shares as the Court shall by the same order determine. 20

Order to be  
forwarded to the  
District Land  
Registrar.

29. When the title to land has become "ascertained" under an order made upon investigation of title, such order, or such order as varied on appeal, shall be forwarded by the Chief Judge to the District Land Registrar of the district in which such land is situate, and the Natives named in such order as owners shall thereupon, without a warrant of the Governor, be entitled to have issued to them a certificate of title under "The Land Transfer Act, 1885," antevesting to the date of the order of the Court; and such antevesting date shall for all purposes whatsoever have the same effect as if it had been fixed by a warrant of the Governor as the date of acquisition of title to the land comprised in such order. 25  
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(2.) *Partition.*

Application for  
partition.

30. The Governor or any Native owner of land held otherwise than in severalty, or any person who claims to have acquired, or contracted with a Native owner for the acquisition of, an undivided share therein, or in any part thereof, may apply to the Court to make partition thereof, and thereupon the Court may proceed to partition such land or such part thereof as hereinafter provided. 40

Consent of  
mortgagee.

Land subject to a mortgage shall be partitioned only with the consent of the first mortgagee, upon such terms as may be agreed to by the parties interested and approved by the Court, to which terms the Court is hereby empowered to give effect. 45

Partition may  
be made.

31. The Court may partition the land into such parcels and award each parcel to such of the Native owners as it may deem just.

Successors to  
deceased owner  
may be appointed.

32. If during any hearing it appear that a Native has died entitled to an interest in the land to be partitioned, and that the successor thereto has not been ascertained, the Court may award a 50

1405

parcel of such land to "the successor of A B, a deceased owner," either in severalty or in common with other owners, and at the same time direct such proceedings to be taken as it may consider necessary for the purpose of ascertaining such successors, or the Court may summarily appoint a successor to such interest in the same manner and with the like effect as if the matter of such succession were properly before it on an application in that behalf.

33. If it is made to appear to the Court that any person has acquired an undivided share or interest in the land the subject of partition, or has entered into a contract in writing with the Native owner for the purchase of such undivided share or interest, the Court may, by its order, define the parcel of land which has been so acquired or in respect of which such contract has been made, and shall declare such person to be the owner of the parcel so defined.

Order may be made in favour of purchaser.

34. Where two or more deeds or documents have been, before or after the coming into operation of this Act, signed by a Native owner of the land the subject of partition, each of which purports to effect a conveyance or transfer, or to contain a contract for the conveyance or transfer of any part of or share in such land to one or more persons, and such persons or the respective assignees of any of them put forward adverse claims to such part of or share in such land by virtue of such deeds or documents respectively, it shall be lawful for the Court to inquire into the matter of each such claim, and, subject to the right of appeal hereinafter contained, to determine the same, and to award such part or share to such one or more of the persons so claiming as aforesaid as the justice of the case may require, and to make order accordingly.

Adverse claims may be investigated.

35. For the purposes of partition the Court may receive in evidence any deed duly executed in accordance with the law for the time being in force in respect of the execution of deeds by Natives, whether such deed is executed before or after the coming into operation of this Act, and whether the same be duly stamped or not; but no order in partition declaring any person other than a Native owner to be the owner of any parcel of the partitioned land shall be signed and sealed unless and until there shall be produced to the Court, or to the presiding Judge thereof, or to the Chief Judge, a deed purporting to convey or transfer the share or interest in respect of which such order shall have been made to the person who has been by such order declared to be the owner of the parcel of land comprised therein; and such deed shall, if executed before the coming into operation of this Act, have indorsed thereon or annexed thereto the certificate of a Trust Commissioner, or of a Judge exercising the duties of a Trust Commissioner, in accordance with section 159 of this Act, and shall have been duly stamped.

Evidence.

36. The date of the making of such partition order shall be deemed to be the date of the "first execution" of the conveyance for the purposes of section five of "The Stamp Act 1882 Amendment Act, 1885," unless the Court shall in such partition order otherwise direct.

Date of conveyance.

37. When a certified plan of the parcel of land comprised in a partition order has been approved by a Judge a copy thereof shall

Plan to be indorsed on order.

be indorsed on or annexed to such order. No partition order shall be signed and sealed until such copy has been so indorsed or annexed.

Effect of order on partition of customary land.

38. A partition order or such order as varied on appeal affecting land which at the time of the coming into operation of this Act is held under a memorial of ownership or certificate of title issued by the Court shall, when the title under such order becomes ascertained, have the effect of vesting the parcel of land comprised therein in the person named therein as owner for an estate of freehold in fee-simple in possession, and such order shall be forwarded by the Chief Judge to the District Land Registrar of the district in which the land the subject of such order is situate, and the person therein named as owner shall thereupon be entitled without a warrant of the Governor to be registered as the owner of such parcel, and to have issued to him a certificate of title under "The Land Transfer Act, 1885," in respect thereof. 5 10 15

Effect of order on partition of other land.

39. If the land the subject of partition is at the time of such partition held under a certificate of title or Crown grant issued under "The Land Transfer Act, 1870," or "The Land Transfer Act, 1885," a partition order or such order as varied on appeal may, after the title thereunder becomes ascertained, be registered in the District Land Registry of the proper district, and shall, when so registered, have the effect of vesting the parcel of land the subject thereof in the person therein declared to be the owner of such parcel. 20

In respect of land held under a Crown grant issued under any other Act, a partition order or such order as varied on appeal shall have the like effect when the title thereunder becomes ascertained. 25

Orders affecting land under Tauranga District Lands Acts.

40. Division or partition orders heretofore made affecting land awarded, or recommended to be awarded, to Natives under the provisions of "The Tauranga District Lands Act, 1867," and "The Tauranga District Lands Act, 1868," and orders heretofore made in accordance with the provisions of section seven of "The Native Land Court Act 1886 Amendment Act, 1888," declaring the residue of any such land to be the property of Native owners, shall be as valid and effectual as if such lands had at the time of the making of such order been held under Crown grant or Land Transfer certificate, and shall on being forwarded to the District Land Registrar of the district in which such land is situated be dealt with in the same manner as orders so forwarded under the provisions of section seven of this Act. 30 35 40

Antevesting date.

41. The date, if any, on which a partition order is directed to take effect, or, in the absence of such direction, the date of the making of such order shall be deemed the antevesting date in the same manner and with the same effect as if such antevesting date had been fixed by a warrant of the Governor as the date of the acquisition of such parcel. 45

Trustees.

42. Any person being trustee for a Native under disability in respect of an interest in land partitioned shall continue to be trustee for such *cestui que* trust in respect of any parcel of land of which such *cestui que* trust may become owner on partition, in the same manner as if such trustee had been appointed in respect of the interest of such *cestui que* trust. 50

1407

(3.) *Lease-orders.*

43. If any land is partitioned which is subject to a lease, the Judge at the hearing, or the same or another Judge at any time thereafter, may, by "lease-order,"—

Partition of land subject to a lease.

- 5 (1.) Apportion what sum shall, in lieu of the rent reserved by such lease, be paid to the owner of each parcel of land ;
- (2.) Negative, modify, or apportion any covenant expressed or implied in such lease as he may deem just.

Rents and covenants may be apportioned.

10 Such lease-order shall take effect from such day as the Judge making the same shall determine: Provided that any such lease-order and any dealing by the Court with such lease may be affirmed, varied, or reversed by the Appellate Court. Each parcel of land in respect of which a lease-order shall be made shall, as between the lessee and the owner of such parcel, be and continue subject to such

15 lease and, except as varied by such lease-order, to the terms thereof.

44. From the date of such lease-order taking effect the lessee shall be liable to the owner of each parcel for the payment of the rent so apportioned to such owner as if such rent had been severally reserved by the lease to him in respect of such parcel ; but the lessee

20 shall cease to be liable to further payment of the rent reserved by such lease.

Lessee liable for apportioned rent.

45. From the date aforesaid the lessor and lessee shall cease to be liable on any covenant negatived as aforesaid, and, as to any apportioned or modified covenant, shall be liable on it only in its

25 apportioned or modified form.

Original obligations determined.

46. A lease-order may be registered in like manner as the lease.

Registration.

(4.) *Succession.*

47. The Court and each Judge shall have the same power as the Supreme Court to grant probates of wills and letters of administration

30 of the estates and effects of Natives dying within New Zealand before or after the coming into operation of this Act, and such probates and letters of administration shall, subject to the right of appeal as hereinafter provided, have the same force and effect as if the same had been granted by the Supreme Court.

Probate and letters of administration may be granted.

35 48. The Court may, in any case in which it appears to it necessary or expedient to do so, nominate a person to whom letters of administration of the estate and effects of a Native dying before or after the coming into operation of this Act may be granted, with or without a will annexed ; and such person shall thereupon be entitled

40 to have letters of administration granted to him accordingly.

The Court may nominate administrator.

49. If the will of any Native dying after the coming into operation of this Act contains a devise or testamentary disposition of the estate, share, or interest of such Native in any land, it shall be a duty of the Court, before granting probate of such will or letters of

45 administration with such will annexed, to inquire and determine what person would, if such Native had died intestate, have been entitled to succeed to such estate, share, or interest ; and, if no provision, or insufficient provision, for the support of such person is made in the will, the Court shall further inquire and determine whether such person

50 has, apart from the land the subject of such devise or disposition, sufficient land for his support. If the Court shall find that the per-

Restriction of power of devise.

son who would have been entitled as aforesaid has not sufficient land for his support, the Court may declare that the whole or a defined portion of the land the subject of such devise or disposition shall be held by the executor or administrator, to whom probate or letters of administration may be granted upon trust for the person so found entitled in the same manner as if such Native had died intestate in respect of such land or such defined portion thereof. 5

Infant Native incompetent to make a will.

50. An infant Native shall not be competent to make a valid will, anything in "The Administration Act 1879 Amendment Act, 1885," to the contrary notwithstanding. 10

Successors in case of intestacy.

51. If any Native has died before the coming into operation of this Act, or shall hereafter die, intestate as to any estate, share, or interest in freehold land or in personal property within New Zealand to which at the time of his decease he may be entitled, either in severalty or otherwise, the Court may, on the application of any person claiming to be interested therein, inquire and determine what persons were, at the time of the death of such Native, entitled to succeed to such estate, share, or interest according to Native custom, or if there is no such custom applicable to such case then according to the law of New Zealand, and shall make an order accordingly. 15 20

As to Natives dying before the coming into operation of this Act.

52. If any Native has died before the coming into operation of this Act entitled to a share or interest in customary land, the Court may, on the application of any person claiming to be interested therein, inquire and determine what persons were at the time of the death of such Native entitled to succeed to such share or interest, and make its order accordingly. If such Native died intestate, such order shall be in accordance with Native custom. If such Native has died leaving a will, or any writing bearing his signature or mark, which though not legally executed as a will the Court shall be of opinion was intended to be a testamentary disposition of any such share or interest, such order shall be made as nearly as may be in accordance with the terms of such will or testamentary disposition: Provided that no European shall be entitled to succeed to any share or interest in customary land unless such European be the husband or wife of the deceased Native owner. 25 30 35

Successors to deceased successors.

53. If any person found entitled to succeed to the estate, share, or interest of a deceased Native in any land has died before the making of the order declaring such person to be so entitled as aforesaid, the Court may forthwith determine what person living at the time of making such order is entitled to succeed, and may insert in its order the name of such last-mentioned person, adding thereto the words, "as successor to A.B., a deceased successor;" or the Court may, in its discretion, direct such further proceedings to be taken in the matter as the nature of the case may require. 40 45

Name and place of abode of successor to be mentioned.

54. Every such order made in pursuance of sections *fifty-one*, *fifty-two*, or *fifty-three* of this Act shall declare the name and place of abode of the person entitled to succeed, and the date of the death of the deceased Native as nearly as such date can be ascertained.

Effect of order.

55. Subject to the right of appeal, as hereinafter provided, the person by such order declared to be entitled to succeed shall, upon the title under such order becoming ascertained, be deemed to be the

1409

owner of the estate, share, or interest of the deceased Native in the land or personal property comprised in such order as from the date of the death of such deceased Native. Subject, nevertheless, to any charge, lien, or incumbrance, or to any liability for the payment of debts of the deceased owner to which the same may have been subject at the time of his decease.

If more than one person be so declared entitled to succeed to an estate, share, or interest in land, such persons shall be deemed to be tenants in common in such relative proportions as the Court shall determine.

56. Such order shall be capable of registration under "The Land Transfer Act, 1885," or "The Deeds Registration Act, 1868," or under this Act, in like manner as a will.

Order may be registered.

57. If any Native has died before the coming into operation of this Act, or shall hereafter die, possessed of personal estate not exceeding two hundred pounds, a Judge may, subject to any rules as to security or otherwise to be made in that behalf, order that some one or more person or persons may administer the estate on behalf of those entitled to succeed, and such order shall have the same force and effect and be subject to the same duties as if a grant of letters of administration had been made by a Court of competent jurisdiction.

Personal property not exceeding £200.

(5.) *Relative Interests.*

58. The Court may at any time, on the application of the Governor or of any person claiming to be entitled to any share or interest in land not held in severalty, inquire and decide what as among the several owners of such land are their relative shares or interests therein, and shall make order accordingly.

Relative interests may be determined.

59. In every order declaring two or more Natives to be the owners of Native land or having the effect of vesting land in two or more Natives as tenants in common, the Court shall declare what as among the several owners are their relative shares or interests in such land.

Relative interests shall be determined in certain cases.

60. Relative shares or interests may be expressed in any order of the Court either as fractional parts of the whole land in value or area, or as a determined area, as the Court making such order may decide, or in such other manner as may be directed by any special or general rule on that behalf; and such relative shares and interests shall, for all purposes, be deemed and taken to be as declared by such order.

How to be expressed.

(6.) *Native Trusts.*

61. At the close of the proceedings upon an investigation of title to Native land, or during proceedings upon partition, the Court may, if a majority in number of the Native owners signify their assent thereto in writing, order that a part of such land or Native land be set apart and vested in one or more persons, who shall hold the same upon trust for such religious, educational, or other purposes of general or public utility as shall be specified in such order. The land the subject of such order shall be and remain incapable of alienation in any way whatsoever without the consent of a Judge; such consent shall not be given unless a Judge is satisfied that the land is no longer needed for the purposes for which it was originally set apart

Court may vest reserves in Trustees.

as aforesaid. The Court may for good cause shown remove any person in whom the land may be vested by virtue of any such order and appoint some other person as a substitute for the person so removed, and the parcel of land shall thereupon vest in the person so appointed without any conveyance, and shall be held by him subject to the trusts expressed in the original order. 5

Court may ascertain and determine *cestuis que trusient*.

62. Where any certificate of title to land has heretofore been issued or ordered to be issued by the Court, or where any land has heretofore been granted by the Crown, to a tribe or hapu or to a portion of a tribe or hapu of aboriginal natives collectively named in the grant, certificate, or order, or to some person on behalf of, or upon or in trust or as trustee for, a tribe or hapu or portion of a tribe or hapu, it shall be lawful for the Court, on the application of the Governor, or of any Native claiming to be beneficially interested therein, to inquire and determine who are the persons beneficially entitled thereto under and by virtue of such grant, certificate, or order, or of the trust or trusts therein set forth or intended to be expressed, and by order to declare that such land shall, from the date to be named in such order, be vested in the persons so found to be beneficially entitled for an estate of freehold in fee-simple, as tenants in common in the relative proportions to be named in such order: 10 15 20

Provided that this section shall not apply to any Native reserve which has or may become vested in the Public Trustee under the operation of "The West Coast Settlement Reserves Act, 1881," or "The Native Reserves Act, 1882," or "The Westland and Nelson Native Reserves Act, 1887," respectively. 25

Effect of order.

63. An order so made, or as varied or amended on appeal, shall have the effect of vesting the land comprised therein in the persons therein declared to be the owners, as tenants in fee-simple, in the relative proportions therein mentioned, and such persons shall, when the title under such order becomes ascertained, be entitled to be registered as proprietors and to have issued to them a certificate of title under "The Land Transfer Act, 1885," or a Crown grant if the antevesting date is prior to the coming into operation of "The Land Transfer Act, 1870," in respect of the land comprised in such order; and from the date of such order, or, if an antevesting date be mentioned therein, from such antevesting date, the original Crown grant, certificate, or order affecting such land shall be deemed to be null and void: 30 35 40

Proviso as to leases.

Provided always that, if any such land is subject to a lease, the Court may by the same or a subsequent order declare that such lease shall be and remain valid and subsisting for the benefit of the lessees, subject to such modifications as to the manner of payment of rent, and as to the burden and benefit of the covenants and conditions expressed or implied in such lease, as in the opinion of the Court the justice of the case may require. Any lease in respect of which such order as aforesaid is made shall be for all purposes deemed to be a valid and subsisting lease, subject to such modifications as aforesaid, as if the same had been duly executed by all the persons interested therein. 45 50

1411

(7.) *Extension of Jurisdiction.*

64. If any matter or question over which no jurisdiction is given to the Court by this or any other Act has heretofore or shall hereafter arise in relation to land or to Native land or title thereto, or in relation to the ownership of any improvements thereon, or in relation to the interests of Natives in any land not being Native land or land as the same is interpreted in section *three* of this Act, or in any personal property, the Governor in Council, if he considers it convenient that such jurisdiction should be possessed by the Court, may, by order, declare that any such matter or question, which shall be specified in such order, shall be within the jurisdiction of the Court, and thereon the Court and each Judge thereof shall have full jurisdiction and power to decide and make order as it may deem fit, and such decision or order, subject to the right of appeal as hereinafter provided, shall be valid and binding in law, and may be dealt with as nearly as may be in the same manner as an order of a similar nature made by the Court in exercise of the jurisdiction conferred upon it by this Act.

Jurisdiction may be conferred by Order in Council.

65. If all the parties, whether Native or European, to any proceeding commenced before or after the coming into operation of this Act shall, by writing under their hands, or under the hands of the solicitors or agents then representing them before the Court, appoint the members of the Court then presiding to be arbitrators to decide any or all of the questions of fact or law in difference between them arising in or incidental to such proceeding, whether such questions are within the ordinary jurisdiction of the Court or not, it shall be lawful for such members of the Court to act in the premises with all the rights and powers of arbitrators duly appointed in that behalf, and the decision of the members of the Court so sitting as arbitrators shall not be liable to review by any other Court whatsoever by reason of any alleged error in such decision either in fact or in law, or by reason of any alleged want of jurisdiction of the Court in its ordinary jurisdiction to decide any such question as aforesaid :

The Court may be appointed arbitrators.

Provided that all such objections (other than as aforesaid) as might be taken in the Supreme Court to the validity of any award made by arbitrators appointed in the ordinary manner may be taken in the Appellate Court constituted by this Act, subject to the right of appeal to the Court of Appeal as in this Act provided. And all statutes in force from time to time for the regulation of arbitrations, and for the enforcing of awards, including all provisions for making a submission to arbitration a rule of the Supreme Court, shall apply to submissions and awards made under this section. All the powers vested by this Act in the Native Land Court, and in any Judge thereof, may be exercised by such arbitrators in aid of their hearing and judgment and award.

## PART IV.

## PRACTICE.

66. The administrative business of the Court shall be in the hands of the Minister.

Administration to be in the hands of the Minister.

Commencement of proceedings.

67. All proceedings under this Act shall be commenced by application in writing in such form and continued in such manner as may be directed by general rules in that behalf, or as the Chief Judge may from time to time approve.

Appointment of sittings.

68. The Court shall sit at such times and places as the Chief Judge shall appoint. 5

When all such surveys have been made, and plans prepared and certified, and grants or certificates issued, and other things done, as in the opinion of the Chief Judge are necessary to enable the Court to inquire into the matter of any such application as aforesaid, notice 10 of the day and place when and where the Court will sit for hearing the same shall be given, in such manner as may appear to the Chief Judge best calculated to give proper publicity to the same.

Adjournment.

Before the time appointed for the opening of a sitting the Chief Judge may order such opening to be adjourned to a future time or to 15 another place. After the opening of a sitting the presiding Judge or the Chief Judge may order such sitting to be adjourned to such time and place as may be thought fit, or may order any part or parts of the business notified to be transacted at any such sitting to be so adjourned. 20

Court not bound by legal formalities.

69. It shall be the duty of the Court, by what it may deem the best ways and means, and without reference to or being bound by legal formalities, to decide the various matters submitted to its jurisdiction.

Powers of the Court

70. The Court, and each Judge, in all proceedings under this Act, shall have full power to determine all questions, whether of fact, 25 Native custom, or law, and to examine witnesses on oath or affirmation, and shall be at liberty to receive any such evidence as to the Court or Judge may seem fit, whether the same be strictly legal evidence or not. 30

Witnesses may be summoned.

71. The Court or a Judge may, by summons in writing under the hand of a Judge, require any person whose evidence is, in the opinion of such Judge, material to the subject-matter of any proceeding to appear before the Court or a Judge, at such time and place as shall be specified in the summons, to give evidence in the matter of such 35 proceeding, and such person may be required by such summons to produce any books, deeds, papers, and writings relating to such proceeding and in his possession or under his control.

Evidence may be taken before another Judge.

72. The Court or a Judge may, on the application of any party to a proceeding, request any Judge or Resident Magistrate to examine 40 any witness whose attendance before the Court or Judge before whom such proceeding is pending cannot, by reason of distance or otherwise, be conveniently obtained. The Judge or Resident Magistrate to whom such request is made shall give notice, in manner prescribed by any rules made in that behalf, and, in the absence of 45 such rules, in such manner as he may deem expedient, of the time and place at which such witness will be examined. The evidence of such witness shall be reduced to writing, and signed by the witness and by the Judge or Resident Magistrate before whom the same is taken, and may be used by the Court or Judge before whom the 50 proceeding is pending in such manner as the circumstances of the case may require.

1413

73. Any person on whom any such summons shall have been served personally, or in such manner as may be prescribed by any rules to be made in that behalf, and to whom at the same time payment or a tender of his expenses shall have been made on the scale to be fixed  
 5 by such rules, and who shall neglect or fail, without sufficient cause, to appear, or to produce any books, deeds, papers, or writings required by such summons to be produced, and any person, whether summoned to attend or not, who, being present in Court and being required to give evidence, shall refuse to be sworn or to give evidence, or who,  
 10 having been sworn to give evidence in a proceeding, shall neglect or fail to appear at such time as the Court or a Judge may direct for the purpose of giving further evidence in such proceeding, shall be liable to a penalty not exceeding *twenty* pounds, and, in default of payment, to be imprisoned for any term not exceeding *fourteen* days; and  
 15 such penalty may be imposed upon such person by the presiding Judge after he shall have been afforded opportunity to show cause why he should not be so fined, and shall have failed to satisfy the presiding Judge, or may be recovered before a Resident Magistrate or two Justices of the Peace by way of summary proceedings in the manner  
 20 provided by "The Justices of the Peace Act, 1882," and its amendments; but the payment of any such fine or the undergoing of such imprisonment shall not exempt any person from any civil liability he may have incurred by disobeying such summons.

Penalty for failing to give evidence.

74. A Judge may, in any case where he shall see fit, upon  
 25 application on affidavit of any party to a proceeding, issue an order under his hand and the seal of the Court for bringing up before the Court or a Judge any prisoner or person confined in any gaol, prison, or place under any sentence or under any commitment for trial or otherwise, to be examined as a witness in such proceeding; and the  
 30 person required by such order to be brought before the Court or Judge shall be so brought under the same care and custody, and to be dealt with in like manner in all respects, as a prisoner required by any writ of *habeas corpus* awarded by the Supreme Court of New Zealand to be brought before such Court to be examined as a witness in any cause or  
 35 matter depending before such Court, is now by law required to be dealt with: Provided always that the person having the custody of such prisoner or person shall not be bound to obey such order unless a tender be made to him of a reasonable sum for the conveyance and maintenance of a proper officer or officers and of the prisoner or person in going to,  
 40 remaining at, and returning from the Court.

Witness in custody.

75. If any person shall wilfully insult any Judge or Assessor, or any clerk, interpreter, or officer of the Court for the time being, during his sitting or attendance in Court, or in going to or returning from the Court, or shall wilfully interrupt the proceedings of the Court, or  
 45 otherwise misbehave in Court, it shall be lawful for a constable or any officer of the Court, with or without the assistance of any other person, by order of the presiding Judge, to take such offender into custody and detain him till the rising of the Court; and the presiding Judge may, if he shall think fit, by a warrant under his hand  
 50 and the seal of the Court, commit any such offender to prison for any term not exceeding *fourteen* days, or impose upon such offender a fine not exceeding *ten* pounds for every such offence, and in default of payment thereof commit the offender to prison for any time not exceeding *fourteen* days unless the said fine be sooner paid.

Power of committal for misconduct.

Power of committal  
for giving false  
evidence.

76. Any Judge, in case it shall appear to him that any person has been guilty of wilful and corrupt perjury in any evidence given or in any affidavit, deposition, examination, answer, or other proceeding made or taken before him, may direct such person to be prosecuted for such perjury in case there shall appear to him reasonable cause for such prosecution, and may commit such person so directed to be prosecuted until the next sittings for the trial of criminal cases of the Supreme Court in the district within which such perjury was committed, unless such person shall enter into a recognisance with one or more sufficient surety or sureties conditioned for the appearance of such person at such sittings, and that he will then surrender and take his trial, and not depart the Court without leave; and may require any person he may think fit to enter into a recognisance conditioned to prosecute or give evidence against such person so directed to be prosecuted as aforesaid, and may give to the party so directed to prosecute a certificate of the same being directed. 5 10 15

Such certificate shall be given without fee or charge, and shall be deemed sufficient proof of such prosecution having been directed as aforesaid; and upon the production thereof the costs of such prosecution shall be allowed by the Supreme Court when any person shall be prosecuted or tried in pursuance of such direction as aforesaid, unless such Court shall specially otherwise direct. 20

Such sum as shall be so allowed shall be paid by the Colonial Treasurer.

Order restraining  
injury to property  
may be made.

77. After an application for the investigation of the title to any Native land, or for the partition of any land, has been made to the Court, any Native claiming to be entitled to such Native land, or any owner of such land, may apply to the Chief Judge in the manner prescribed by rules in that behalf to restrain any person from committing any waste upon such land or Native land, or from doing any act or thing whereby the value of the same may be diminished, whether such last-mentioned person is acting under a claim of right or otherwise. The Chief Judge may make order accordingly, and such order shall remain in force until the application for investigation of title or partition has been finally dealt with by the Court or by the Appellate Court, as the case may be, unless such order be previously revoked by the Chief Judge. 25 30 35

If any person named in such order shall during the continuance thereof, after service of a copy thereof upon him, commit any waste or do any act or thing contrary to the terms of such order, he shall be guilty of an offence punishable summarily, and upon conviction shall be liable to a penalty not exceeding pounds, or for imprisonment for a term not exceeding months. 40

Authority to valuer.

78. The Court or a Judge may give authority for any valuer or other person to enter upon any land the subject of a proceeding, and any person impeding any one acting under such authority shall be guilty of an offence punishable summarily before two Justices of the Peace, and upon conviction shall be liable to a penalty not exceeding fifty pounds, or to imprisonment for a term not exceeding one month. 45 50

Infants.

79. When it shall appear to the Court or a Judge that a Native entitled under an order to any estate or interest in land or personal property is an infant the Court or Judge shall ascertain as nearly as possible the age of such infant, and shall minute the age so determined in or on such order.

1414

In respect of the subject-matter of such order, the time at which such infant shall be deemed to attain the age of twenty-one years shall be computed in accordance with the age so minuted, unless, upon application at any time made to a Judge, he shall be satisfied that such minute did not correctly note the age of such infant, in which case such Judge shall give his certificate of what he considers the then real age of such person, and he shall be deemed to be of that age in relation to the subject-matter of such order.

10 80. An order of the Court or a Judge shall bear date on the day on which the Court or Judge decided that such order should be made, and shall be deemed to have been made on the day of such date. Date of order.

15 81. The Court or a Judge may in any order direct that the same shall take effect on some day before or after the day on which the same is made. In the absence of such special direction an order shall take effect from the day on which it is made. Date on which order is to take effect.

82. All orders of the Court or a Judge shall be made in duplicate and shall be authenticated by the signature of a Judge and the seal of the Court. Orders to be signed and sealed.

20 83. It shall be lawful for the Court or a Judge, in any proceeding, to give effect to any arrangement voluntarily come to by the Natives or by the Natives and Europeans concerned therein, and to decide such proceedings in accordance with such arrangement. Voluntary arrangement.

25 Such decision shall, subject to the right of appeal hereinafter provided, be as effectual and binding as if arrived at on evidence taken: Provided that the terms of such arrangement shall be reduced to writing and signed by a majority of the parties thereto; and the Court or Judge shall be satisfied of the authenticity of the signatures and the *bona fides* of such arrangement before giving effect thereto.

30 84. Affidavits or affirmations to be used in any proceeding may respectively be sworn or made before a Judge or Registrar or Deputy Registrar, or before a solicitor of the Supreme Court, or a Justice of the Peace: Provided that an affidavit or affirmation cannot be read or used if it was taken before a solicitor who at the time of taking the same was acting as the solicitor or as clerk or agent of the person on whose behalf or against whom it was to be read or used in the proceeding in which it was to be read or used. Affidavits.

40 85. The Court or a Judge may receive and use as evidence in any proceeding any evidence which may have been given in any previous proceeding, provided that the parties are, in the opinion of the Court or Judge, substantially the same. Previous evidence may be used.

45 As the evidence so to be received, the Court or Judge may accept and use any notes or minutes thereof which appears to the Court or Judge reliably to set out the matter thereof.

86. The Court or a Judge may, in any proceeding, make any order, interlocutory or final, which it may deem necessary or just, and may from time to time extend any time limited or fixed by any such order. Interlocutory orders.

50 87. The Court or any Judge may at all times amend at discretion all defects and errors in any proceeding or document, whether there is anything in writing to amend by or not. Power of amendment.

88. All amendments necessary for the purpose of determining the real question in controversy between the parties, or for giving effect to Amendments may be made by Court or Judge.

and recording the intended decision in any proceeding, may be made at any time by the Court or a Judge.

Amendments may be made whether applied for or not, and may be made with or without costs, and upon such terms as the Court or Judge may think fit.

Decisions to be final.

89. The decision of the Court or a Judge shall, subject to any such amendment and to any dealing therewith on appeal be final and conclusive.

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Mistakes may be amended after title is ascertained.

90. After the title to land has become ascertained under an order of the Court made before or after the coming into operation of this Act, any person who is or claims to be entitled to an interest in such land, and alleges that he has been deprived of such interest or that such interest has been prejudicially affected by reason of some mistake or omission in such order, may apply at any time to the Chief Judge to inquire into the matter of such alleged mistake or omission.

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Such application shall be made in writing and state specifically the grounds upon which it is made, and shall be verified by the affidavit or statutory declaration of the person applying.

Upon the receipt of any such application the Chief Judge may either—

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- (1.) By order under his hand, dismiss the application; or
- (2.) Hold an inquiry in open Court with the assistance of an Assessor; or
- (3.) Refer any question to a Judge sitting in open Court with an Assessor for his inquiry and report.

Public notice of the intention to hold an inquiry shall be given in such manner as the Chief Judge may deem expedient.

If it appear to the Chief Judge that the alleged mistake or omission has been made, he may make such order in the matter for the purpose of remedying the same as the nature of the case may require:

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Provided that no such order shall affect or be deemed to affect any alienation of such land made before public notice is given of the intention to hold an inquiry unless the several parties to such alienation consent thereto in writing.

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An order made under the provisions of this section shall be final and conclusive.

Appearance by counsel or agent.

91. Any person authorised in writing by a Minister of the Crown, either generally or for any particular occasion, to appear and act in any proceeding in which Her Majesty or any person on her behalf is a party or otherwise concerned or interested shall be entitled so to appear and act; but save as aforesaid, it shall not be lawful for any person to appear or be assisted in Court by counsel or agent without the assent of the presiding Judge first obtained. Such assent may be at any time withdrawn.

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With and during the continuance of such assent such appearance and assistance may be had.

Evidence of contract by the Crown.

92. Where the Crown claims to be interested under any deed, contract, or other document, the same shall, on production, be admitted in evidence in any proceeding before the Court or a Judge, and have due effect given thereto, notwithstanding any law to the contrary.

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93. Any proceeding commenced by application of the Governor or in which the Crown is interested shall, on the application of a Minister of the Crown, be entitled to precedence over any other proceeding or business before the Court.

Crown business to take precedence.

5 94. The Chief Judge may sign any order, instrument, or paper which ought to have been signed by a deceased or retired Judge.

Signature of order on behalf of a retired Judge.

Such signature of the Chief Judge shall have the same effect as the signature of the Judge for whom he signs would have had if made while such Judge continued to exercise the duties of his office.

10 95. An interlocutory order or finding of the Court or a Judge made before or after the coming into operation of this Act during the hearing of, but before final decision in, a proceeding shall not abate by reason of a Judge or an Assessor, or both a Judge and an Assessor, ceasing to hold office, or being unable for a time to execute

Interlocutory orders not to abate.

15 the duties thereof, but any such case may be continued to final decision with a substitute Judge or Assessor, or both.

96. If in any proceeding commenced before or after the coming into operation of this Act any question of procedure shall arise as to which no rule has been provided by or in pursuance of this Act, the Court or Judge shall refer the same to the Chief Judge, who shall dispose thereof as nearly as may be in accordance with the rules provided by this Act in any similar matter, and, if there are no such rules, in such manner as he shall deem expedient.

Other questions of procedure.

## PART V.

## COSTS.

25 97. The Court or a Judge may, in any proceeding, award costs, to be paid by or to any person being a party thereto, and may fix the amount and time of payment by order.

Payment of costs may be ordered.

30 98. If costs are not paid as ordered the amount thereof shall be and may be recovered as a debt by the person entitled to receive from the person liable to pay the same.

Costs may be recovered as a debt.

99. Costs may be ordered to be paid by or to the Crown.

Costs payable to or by Crown.

35 100. The Colonial Treasurer shall pay costs ordered to be paid by the Crown, and costs payable to the Crown may be recovered as a debt due to Her Majesty.

How paid.

101. An order for payment of costs, until rescinded, or as varied or altered, signed by a Judge and sealed, shall be conclusive proof that the amount specified therein was due and payable at the time and in the manner specified in the order.

Order for costs conclusive.

40 102. An order for the payment of costs may, at the discretion of the Court or a Judge, be rescinded, varied, or altered.

Order may be rescinded.

45 103. The Court or a Judge may order any party to a proceeding to deposit such sum as the Court or Judge shall fix as security for costs, and may refuse to proceed with the case, or to hear any person until such order is complied with.

Security for costs may be ordered.

## PART VI.

## APPEAL.

50 104. The Governor, or any person (hereinafter called "the appellant") interested in a proceeding, under Part III., Part VII., or Part XI. of this Act, before the Court or a Judge, if dissatisfied with the decision in such proceeding may appeal from

Right of appeal.

the same to the Appellate Court, provided that he shall, within *forty* days after the making of the final order under such decision, give to the presiding Judge or to the Registrar notice in writing of such appeal, and, if such notice be given by any person other than the Governor, shall at the same time deposit with the Registrar such sum as the presiding Judge or the Chief Judge may direct, as security for the costs of the appeal whatever may be the result of the appeal. Applications for rehearing made but not dealt with before the coming into operation of this Act may, in the discretion of the Chief Judge, be dealt with as notices of appeal under this Act provided that the applicants shall not be required to give security for the costs of the appeal.

Notice to be signed.

105. Notice of appeal shall be signed by the appellant; and, if given by a Native, such signature shall be attested in the manner prescribed by the rules for the time being in force for the signature of applications to the Court by Natives.

Grounds of appeal to be stated.

106. The appellant shall at the time of giving such notice, or within \_\_\_\_\_ days thereafter, file in the office of the Registrar a statement of the grounds upon which he relies in support of his appeal.

Further evidence.

107. If the appellant desires to adduce evidence in addition to that given upon the hearing, he shall in such statement specify the names of the witnesses he desires to call and the nature of the evidence to be given by them.

Amendment.

108. The Chief Judge may allow any such statement to be amended within such time and upon such terms as he may think fit, but no appeal shall be entertained on any ground not specifically alleged in such statement or such amended statement as aforesaid.

Constitution of Appellate Court.

109. The Appellate Court shall consist of the Chief Judge and such Judges of the Court as may be specially authorised by the Governor in that behalf; such Court shall sit at such times and places as the Governor may by Order in Council from time to time direct, and shall be constituted by not less than two Judges specially authorised as aforesaid and one Assessor.

It shall be competent for the Court to sit in two or more divisions, at different places, at the same time, as occasion may require, and in such case each such division of the Court shall have, exercise, and perform all the powers and duties of the Appellate Court.

The Appellate Court shall have all the powers, and may exercise the jurisdiction conferred upon the Court by this Act.

Decision may be affirmed or varied.

110. On appeal the Appellate Court may affirm the original decision, in which event any order made thereunder shall be as effectual as if no appeal had been made, or the said Court may reverse or vary such decision and any order made thereunder.

Decision to be final.

111. Subject to appeal upon any question of law as hereinafter provided, the decision of the Appellate Court shall, as to all questions whether of law or fact, be final and conclusive.

Appeal to Court of Appeal.

112. If any party to a proceeding is dissatisfied with the decision in point of law given by the Appellate Court on appeal as aforesaid, he may appeal therefrom to the Court of Appeal, provided that he shall within \_\_\_\_\_ days after such decision give notice in writing to the Chief Judge of his intention to appeal, specifying therein the question of law upon which he is dissatisfied with the decision, and shall within the same time deposit with the Registrar the sum of \_\_\_\_\_ pounds as security for the costs of such appeal.

Special case.

113. Such appeal shall be by way of special case, to be drawn up and signed by the Chief Judge, or to be drawn up by the parties and settled and signed by the Chief Judge, stating specifically the question of law in respect of which the appeal is made.

1417

114. The case, when signed, shall be transmitted by the Registrar of the Native Land Court to the Registrar of the Court of Appeal, and notice thereof shall be served upon such persons and in such manner as a Judge of the Court of Appeal may direct.

To be transmitted to Court of Appeal.

5 115. The Court of Appeal shall have full power and authority to hear and finally determine every such question of law so stated as aforesaid, and to reverse, affirm, or amend the decision of the Appellate Court in respect thereof, and any orders made thereunder, and may make such order as to payment of costs or otherwise, and give such  
10 directions in the matter, as the nature of the case may require.

Powers of Court of Appeal.

## PART VII.

### SURVEYS.

116. No plan shall, except on the application of the Governor as aforesaid, be received in evidence or used or accepted by the  
15 Court or a Judge as the plan of land the subject of any proceeding or order unless such plan has been, before the coming into operation of this Act, certified in accordance with the provisions of section seventy-nine of "The Native Land Court Act, 1886," or shall hereafter be certified by the Surveyor-General, or some officer authorised  
20 by him for the purpose, as correct for the purposes of this Act.

Plan not to be used unless certified.

117. The Surveyor-General or other such officer as aforesaid shall refuse to certify a plan as aforesaid if—

When certificate to be refused.

(a.) Such plan, and any survey on which it is based, be not the work of a certificated surveyor ;  
25 (b.) If such surveyor before entering upon such survey had not the authority of the Surveyor-General in writing for making such survey.

118. If at any time it be made to appear to the Court or a Judge that it has been certified, before or after the coming into operation  
30 of this Act, by the Surveyor-General, or other officer authorised by him for that purpose, that money was owing by Natives to any certificated surveyor for any plan used or accepted as aforesaid, or for the survey on which such plan was founded, and that such sum or any part thereof is still owing and unpaid, a Judge may by order  
35 declare that the estate and interest in the land the subject of such survey of the Natives owing such money shall be charged with the payment to such surveyor, or his personal representative or assignee, of the amount so owing.

Security for surveyor's charges.

40 Such charge shall have the effect of a mortgage of such estate and interest in favour of the person therein named in that behalf.

119. If any Native claiming to be entitled to Native land has before or after the coming into operation of this Act had the same surveyed at his own cost, and the Court has heretofore declared or shall hereafter, on investigation of the title thereto, declare that  
45 any other Native is entitled thereto, exclusive of or in conjunction with the Native who has had the same surveyed, the Court or a Judge may order that the whole or a proportionate part of the cost of such survey and of the certified plan used by the Court, the

When survey paid for by Natives.

result of such survey, shall be paid by the Native declared to be entitled as aforesaid to the Native who had the land surveyed as aforesaid at such time and in such manner as the Court or Judge may direct.

If it appear to the Court or Judge that the Native who had such land surveyed is indebted to a certificated surveyor or to the Surveyor-General for the whole or part of the cost of such survey the Court or Judge may order that the whole or part of such cost be paid to such surveyor, or his personal representative or assignee, or to the Surveyor-General.

Such order shall have the effect of a mortgage of the estate, share, or interest of the Native so declared to be entitled as aforesaid in the land the subject of such investigation in favour of the person in such order named in that behalf and for the amount therein mentioned.

Survey by order  
of Governor.

120. The Governor may cause surveys and plans of any land or Native land to be made, and may defray the cost thereof out of any moneys appropriated by the General Assembly for that purpose. Payment for such surveys and plans shall be made according to a scale to be authorised by the Governor in Council, and the amount so paid shall be deemed to be a debt due to the Crown from the Native owner of the land surveyed. If such amount be not repaid when required the Court or a Judge may make an order for the payment thereof to the Surveyor-General by the Native owner, or by such one or more of the Native owners of the land surveyed as the justice of the case may require; and such order shall have the effect of a mortgage in favour of the Surveyor-General of the estate and interest in the land surveyed of the Native owners named therein.

The Court or a Judge, in lieu of making such order, may declare that a defined portion of such land or Native land shall be vested in the Crown for an estate in fee-simple in satisfaction and discharge of such cost, and such defined portion shall thereon become so vested in the Crown. Orders may be made in like manner and with the like effect in respect of any money expended by the Governor, in accordance with the provisions of section eighty-four of "The Native Land Court Act, 1886."

Apportionment of  
charge on partition.

121. If any land subject to a lien for survey charges or in respect of which an order having the effect of a mortgage has heretofore been made under Part VII. of "The Native Land Court Act, 1886," or shall hereafter be made under this Act, is partitioned, a Judge may, upon such partition, or with the consent of the person entitled to the benefit of such order at any time thereafter, apportion the amount remaining due under such order among the several owners of the several parcels into which the land is partitioned, and may order that the share or interest of each or any of the owners of each or any of such parcels be charged with the payment of the whole or of such proportionate part of the said amount as may be agreed upon by the parties interested, or, in the absence of such agreement, as the justice of the case may require.

Each such order shall have the effect of a mortgage of the estate or interest of the owner named therein in the parcel of land for the amount and in favour of the person mentioned in such order in that behalf, and each such parcel and the Native owner thereof shall be discharged from any further or other liability in that behalf.

1419

122. Any order heretofore or hereafter made having the effect of a mortgage under "The Native Land Court Act, 1886," or this Act, shall,—

Registration of orders.

- 5 (1.) As to land held under a certificate of title or a Crown grant issued under "The Land Transfer Act, 1870," or "The Land Transfer Act, 1885," be deemed to be a mortgage under the said last-mentioned Act, and may be registered accordingly:
- 10 (2.) As to other land, be deemed to be a conveyance by way of mortgage within the meaning of "The Property Law Consolidation Act, 1883," and may be registered in accordance with the provisions of "The Deeds Registration Act, 1868:"

15 Provided that, as to customary land, any such order as aforesaid may, until registration thereof can be effected under "The Land Transfer Act, 1885," be provisionally registered in the office of the Registrar of the Court, and such registration shall have the same force and effect as to notice and priority as if the same had been made in a Deeds Registry Office under "The Deeds Registration

20 Act, 1868."

123. The money intended to be secured by any order which has the effect of a mortgage shall be deemed to be due at the end of twelve months from the making of the order, and not earlier, and shall from the date of such order carry interest on the sum secured by

25 it at the rate of five pounds per centum per annum.

Money secured by order to bear interest.

124. If any Native owner of land is now or shall hereafter become indebted to any certificated surveyor or to the Surveyor-General for the plan of such land, or for the survey upon which such plan is based, the Court or a Judge may order that a portion of

30 the land the subject of such survey or some other land owned by the Native so indebted as aforesaid be vested in the Crown, or in the certificated surveyor, or his personal representative or assignee, in satisfaction and discharge of such debt. Such order shall have the effect of vesting the land the subject thereof in the Crown, or in the

35 person therein mentioned, for an estate in fee-simple in possession, and may be registered under "The Land Transfer Act, 1885," and such debt shall from the date of such order be deemed to be fully discharged and satisfied.

Land may be taken in satisfaction.

125. The payment by any person into the office of the Public

40 Trustee of a sum of money protected or secured by a surveyor's lien or mortgage to the account of the Native Land Court in the matter or the block named, and *ex parte* the person who originally obtained the lien or order, shall be a discharge of such lien or mortgage.

Payment to Public Trustee to discharge debt.

45 The money so paid to the Public Trustee shall be held in trust for the person entitled to the same.

126. The fact of any Native having caused any survey of land or of Native land to be made, or the fact of his having pointed out for the purpose of any survey the boundaries of any such land or Native land, or of having in any way taken part in or obstructed the making of a

50 survey, shall not be accepted by the Court as evidence of title to any Native land.

Surveying no evidence of title.

Authority to  
surveyor to enter  
on land.

127. A Judge, on the application of the Surveyor-General, may, by writing under his hand and the seal of the Court, give authority to any surveyor to enter upon any land or Native land for the purpose of making any survey thereof, and it shall thereupon be lawful for such surveyor, and such persons as he may employ in or about such survey, to enter upon the land to be surveyed, and to do all things necessary for effecting such survey. 5

Penalty for  
obstructing  
surveyor.

128. Any person obstructing such surveyor or obstructing any person employed by such surveyor in or about such survey (such authority having been given as aforesaid, and inspection thereof tendered to any person threatening or engaged in such obstruction or theretofore) shall be guilty of an offence, and being convicted thereof shall be liable to a penalty not exceeding *fifty* pounds, or to imprisonment for any term not exceeding *one* month. 10

Orders may be  
amended on  
suggestion of  
surveyor.

129. If it shall appear to a surveyor, when making a survey in pursuance of or for the purpose of carrying out any order of the Court, that a deviation from any line laid down by the Court would for any reason be expedient, he shall give immediate notice thereof to the Registrar, and upon receipt of such notice a Judge may make such inquiries in the matter as he may think fit, and vary or amend the order in such manner as he may consider advisable. 15 20

Note of survey  
charges or fees to be  
deemed a caveat.

130. A note signed by a Judge on the face of or attached to any order or copy order forwarded to the District Land Registrar in accordance with the provisions of this Act to the effect that moneys are due to the Surveyor-General or to a certificated surveyor for or on account of the land comprised in such order, or of any part thereof, or to the Court on account of fees, whether such moneys became due before the coming into operation of this Act, or shall hereafter become due, shall be deemed to be a caveat against dealing with such land after the issue of the certificate of title within the meaning of "The Land Transfer Act, 1885," which shall, unless previously removed by order of the Supreme Court or a Judge thereof, remain in force until the whole of such moneys are paid or satisfied. 25 30

Any such caveat may be withdrawn on the written instructions of a Minister of the Crown, or on the certificate of a Judge or Registrar of the Court, that such moneys have been paid or satisfied. 35

## PART VIII.

### ROADS.

#### (1.) *Private.*

Private roads may  
be set out.

131. When upon an investigation of title to Native land, or upon partition, land has been or shall be ordered to be divided into several parcels under "The Native Land Court Act, 1886," or under this Act, each of such parcels shall be subject to such rights of private road for the purpose of access to other or others of such parts or parcels as may be ordered. 40 45

Such order may be made by the Court at the time when division or partition is ordered, or it may, on the application of any person interested therein, be made by the Court or a Judge at any time within five years from the date of such division or partition.

132. The provisions as to private roads herein contained shall not affect the rights of the Crown to reserve or take sites for roads, nor any reservation for roads provided for by law, nor the right to take the sites for and to construct and maintain roads by law given to any person or corporate body.

(2.) Public.

133. It shall be lawful for the Governor at any time hereafter to take and lay off for public purposes one or more line or lines of road through any land, provided that the total quantity of land which may be taken, inclusive of any already taken, for such line or lines of road shall not exceed one-twentieth part of the whole.

The Governor may at any time, by indorsement on the Crown grant or on a subsequent or other instrument of title, or by deed, release the land the subject of such right therefrom, or from any part thereof.

134. There shall not be taken under the authority of the last-preceding section any land occupied by any pa, village, or cultivation, or any buildings, gardens, orchards, plantations, or any burial or ornamental grounds, except subject to the provisions of "The Public Works Act, 1882," and the several Acts amending the same.

135. The powers hereby given as to public roads shall cease,— (a.) As to land the subject of a certificate issued in accordance with the provisions of this Act, at the end of years from the date of such certificate ;

(b.) As to grants, certificates, or other instruments of title issued under any Act heretofore or hereby repealed, at the time when such power would have ceased under such repealed Act.

136. Whenever any lines of road are surveyed and laid off on or over any land or Native land under the direction of the Surveyor-General, the site of such road shall be deemed to be a road dedicated to the public, and shall vest in Her Majesty. When any road is laid off along the boundary between land owned by Natives and land owned by Europeans such road shall be taken equally from both such lands where practicable:

Provided that the Governor shall have the right to lay off or take roads on or from the lands of both owners.

PART IX.

REFERENCE FROM SUPREME COURT.

137. If any question of fact, or of Native custom or usage, relating to the interests of Natives in any land or Native land, or in any personal property, shall arise in the Supreme Court, it shall be competent for any Judge of the Supreme Court to cause a case to be stated, and to refer the same to the Court for its opinion thereon.

138. The Court shall forthwith proceed to determine the question so referred, and shall transmit a certificate stating its opinion to a Registrar of the Supreme Court.

139. It shall be competent for any Judge of the Supreme Court, if he shall think fit, to refer back any question so determined to the Court for further consideration.

Provisions of Act to apply.

140. The provisions of this Act in reference to hearing and determining cases brought before the Court, and in reference to appeal, shall, so far as applicable, be available for hearing and determining any case so referred as aforesaid.

Opinion of Court final.

141. The opinion of the Court, or of the Appellate Court, or the final opinion on further consideration, shall be received and acted on by the Supreme Court as an authoritative and binding determination of the question referred. 5

## PART X.

### ALIENATION.

#### (1.) *Prohibited Dealings with Native Land.*

Dealings with Native land prohibited.

142. Save as hereinafter provided it shall not be lawful for any person other than a person acting for or on behalf of the Crown under the authority of a Minister of the Crown to negotiate, either on his own behalf or as agent or trustee for any other person, for the alienation or occupation of any Native land, wherever situate, before the title thereto has been investigated by the Court and become "ascertained," and the persons found entitled have been registered, provisionally or otherwise, as owners under "The Land Transfer Act, 1885," or of any land situated within the distance of half a mile in a direct line from any *ngawha*, *waiariki*, or hot or mineral spring or pool, or for any agency or authority to deal therewith or in relation thereto. 15 20

Penalty for entering on prohibited dealings.

143. Any person other than as aforesaid who, on his own behalf or as agent or trustee for any other person, shall take or accept any conveyance, lease, transfer, gift, or other assurance from any Native, whether to himself solely or to himself and others, of any Native land, or who shall be a party to any negotiation, agreement, contract, or promise for the making to him, or to him and others, or to any other person, of any such conveyance, lease, transfer, gift, or other assurance, or for the accepting or giving of any such agency or authority, or for the digging, cutting, carrying away, or otherwise acquiring or obtaining any metals, timber, flax, gum, or other natural product, whether mineral or vegetable, growing or being in or upon such Native land, shall forfeit and pay a penalty not exceeding *five hundred* pounds, to be recovered in a summary way. 25 30 35

Every such conveyance, lease, transfer, gift, and other assurance, agreement, contract, promise, agency, and authority shall be illegal and void:

Provided that no person shall be convicted of any offence aforesaid except on the information of some person duly authorised in that behalf by the Governor, either generally or in respect of some particular case. 40

Alienation when void.

144. Every alienation and every contract or agreement for the alienation of land, or of a share or interest therein, shall be void— 45

(1.) If such alienation or the transaction relating thereto is contrary to equity and good conscience; or

(2.) If the alienation is in contravention of or not in accordance with any trusts to which the land is subject; or 50

1423

(3.) If the consideration for alienation is either in whole or in part founded directly or indirectly on or arises out of or is connected with any sale or gift of any spirituous or fermented liquors, or any arms or other warlike implements or stores, or any contract or promise relating to any such sale or gift.

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145. Every conveyance or transfer by a Native owner by way of sale or mortgage of an estate, share, or interest in any piece or parcel of land exceeding five thousand acres in area, and every conveyance or transfer by way of lease for any term of any piece or parcel of land exceeding ten thousand acres in area, and every contract for any such conveyance or transfer shall be absolutely void unless the same be made to or with Her Majesty, or to or with the Governor in Her Majesty's name. Limit of area.

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(2.) *Permitted Dealings.*

146. Subject to the provisions of this Act, any restrictions heretofore imposed in any manner upon the alienation of land may, on the application of an owner, be varied or removed by a Judge, if he is satisfied that not less than one-third of the owners in number assent to such removal. Removal of restrictions.

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Provided that nothing in this section contained shall be deemed to affect the provisions of "The North Island Main Trunk Railway Loan Application Act Amendment Act, 1889," or "The North Island Main Trunk Railway Loan Application Amendment Act, 1891."

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147. Subject to the provisions of this Act, any land or any share or interest therein, not being land under the management or subject to the control of the Public Trustee, may be disposed of or alienated by the Native owner in such manner as he may think fit. Natives may alienate with consent.

(3.) *Mode of Alienation.*

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148. A deed purporting to effect an alienation by a Native owner of land, or of any share or interest therein, to any person other than Her Majesty shall be invalid unless— Execution of deeds by Natives.

(1.) A plan of the land is delineated on the document before it is signed by any Native ;

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(2.) A statement in the Maori language of the effect of such deed, certified as correct by a licensed interpreter of the first grade, is indorsed on or forms part of the document before it is signed by any Native ;

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(3.) The effect of such deed is explained by a licensed interpreter of the first grade to each Native before signing the same ;

(4.) The signature of each Native is attested by a Judge, Resident Magistrate, or other officer of the Government, appointed by the Governor for that purpose (none of whom shall be concerned in the transaction), and by the licensed interpreter who shall have explained the effect of such deed to the Native as aforesaid ;

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(5.) The attesting witnesses shall certify the date upon which the signature of each Native who shall sign such deed in their presence is attached to the deed, and also, if such deed purport to effect a sale, that the purchase-money, or

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portion thereof to which each such Native, not being a trustee for a Native under disability, is entitled, has been paid in their presence in legal tender, specifying the amount so paid to each such Native respectively.

Provided that a deed executed by a half-caste or the descendant of a half-caste shall, as to such execution, only require to be executed with the formalities required by law in the case of a deed executed by a European, where, by a memorandum indorsed on such deed, it is certified by a Justice of the Peace that such half-caste has a knowledge of the English language sufficient to enable him to understand such deed. If the alienation purporting to be effected by such deed is a sale of land, or of any estate, share, or interest therein, the Judge, Resident Magistrate, or other officer as aforesaid shall, before attesting the signature of any Native, satisfy himself that such Native has, apart from the land the subject of such deed, sufficient other land for his maintenance and occupation, and shall indorse upon the deed a certificate to that effect. If the intending vendor is a half-caste the Judge, Resident Magistrate, or other officer as aforesaid, being satisfied that such half-caste has sufficient means of support derivable from any source other than land, may attest the signature, notwithstanding that such half-caste is not shown to have sufficient land for his maintenance and occupation.

In any case it shall be the duty of the Judge, Resident Magistrate, or other officer as aforesaid to satisfy himself that the alienation intended to be effected is not void within the meaning of sections *one hundred and forty-four* and *one hundred and forty-five* of this Act.

Deed not to be registered without certificate.

**149.** No deed purporting or intended to effect an alienation shall, unless the Crown is interested therein, be registered in any office of the Court or any registry of deeds or land unless the provisions of this Act have been complied with, and, in any case in which payment to the Public Trustee is required by this Act, unless the receipt of the Public Trustee, in accordance with section *one hundred and sixty-five* of this Act, be attached to such deed.

Rectification of omissions.

**150.** The Chief Judge, on being satisfied that an omission to comply with any of the formalities required by this Act for the execution of deeds by Natives was accidental or due to inadvertence, may at any time order such omission to be rectified in such manner and on such terms and conditions as he thinks fit to direct, and, upon compliance with such order, the deed the subject thereof shall be deemed to have been duly executed, any such omissions as aforesaid notwithstanding.

(4.) *Leases.*

How rent may be paid in default of direction in lease.

**151.** When the relative interests of the Native lessors of land are determined, rent accruing to them under a lease executed before or after the coming into operation of this Act may be paid to them in proportion to such relative interests unless otherwise reserved by the lease.

Shares of rent payable to individual lessors.

Such payment may be made to each individual lessor of his share as so determined, or to any person or persons appointed and authorised by the lease to receive the rent to accrue thereunder on behalf of the lessors. A receipt signed by such person or persons

1425

shall be a good discharge for the money therein expressed to be received.

152. Where there is a dispute as to the several rights of Natives claiming as lessors, any lessee of land may make summary application to a Judge for an order that any rent to accrue under such lease, or accrued and unpaid, be paid into some public account to be named in such order, or to some official to be nominated by the Governor. Thereon such Judge may order as he may deem fit, and payment of the rent in accordance with such order shall be deemed a payment made in accordance with the terms of the lease.

How rent may be paid where right of lessors disputed among themselves.

A Judge may from time to time, by order, direct that the moneys, or any part thereof, so paid in shall be paid out to or among the lessors, or to some person on their behalf, as such Judge may deem fit.

153. Until the relative interests of Native lessors are determined, they shall, as to rent accruing to them under the lease, be deemed to be entitled thereto in equal shares, unless otherwise provided in the lease.

Until relative interests determined they shall, as to rent, be deemed equal.

(5.) *Judgments and Mortgages.*

154. No land shall be capable of being seized or sold under any judgment, order, or decree, or under any writ of sale, or any other writ, for the purpose of satisfying any judgment, order, or decree, unless or until a Judge has certified that he is satisfied that the Native debtor, or, if such debtor is dead, the person entitled to succeed to the estate, share, or interest of the deceased debtor in the land intended to be so seized or sold, has other land sufficient for his maintenance and occupation.

Seizure and sale of land.

No power of sale expressed or implied in any mortgage or in any order which has the effect of a mortgage shall be exercised unless a Judge shall have given a certificate to the like effect.

155. If a Native owner of land become bankrupt, the Official Assignee may apply to a Judge to inquire and determine what area of land is sufficient for the maintenance and occupation of such bankrupt. On the receipt of such application a Judge may summarily inquire into the matter thereof, and may by his order declare that an area of land, or a share in land, to be defined in such order, shall remain vested in the bankrupt, notwithstanding his bankruptcy, and the bankrupt shall hold the same free and discharged from all liability in respect of any debt provable in such bankruptcy, and the residue of the land of such bankrupt shall vest in the Official Assignee for the benefit of the creditors of such bankrupt. The Official Assignee shall not sell or otherwise dispose of the land of such bankrupt, or any share in land owned by such bankrupt, unless and until such order has been made as aforesaid.

Bankruptcy of Native.

(6.) *Provisional Registration.*

156. Any deed, will, judgment, order, decree, or other document or instrument which purports or is intended to affect any customary land, and which, if a certificate of title under "The Land Transfer Act, 1885," had been issued in respect of such land, would be capable of registration under the said last-mentioned Act, may be provisionally registered in the office of the Court, and such registration shall have the same force and effect as to notice or otherwise as if

Registration in office of Court.

the same had been made in the Deeds Registry Office under "The Deeds Registration Act, 1868."

(7.) *Rights of the Crown.*

Right of Crown not affected.

157. Nothing in this Act contained shall be deemed to limit or affect any right now vested in the Crown, or in any person acting on behalf of the Crown, to purchase or acquire any estate, share, or interest in any land or Native land, nor the power of any Native to sell or transfer any such estate, share, or interest to the Crown. 5

Application to define interest acquired by the Crown may be made to the Court.

158. A Minister of the Crown may at any time cause application to be made to the Court to ascertain the interest, if any, acquired before or after the coming into operation of this Act by Her Majesty in any land, and in respect of such an application the Court shall have the powers and authorities it would have in respect of a matter within its ordinary jurisdiction, and may make such order thereon as it may deem fit. 10

Land by such order declared to have been acquired by Her Majesty shall, from the date of such order, or from such other date as the Court may direct, be deemed to be vested in Her Majesty for such estate as in such order mentioned. As to the residue, if any, of such land, the Court may make order declaring such residue to be the property of such of the owners of the land as shall be mentioned in such order, and the owners so mentioned shall thereon be owners of such residue, exclusive of any theretofore co-owners. Any such order may be registered under "The Deeds Registration Act, 1868," or "The Land Transfer Act, 1885," or dealt with in the same manner as an order made on partition under this Act, as the nature of the case may require. 15 20 25

(8.) *Past Transactions.*

Inquiry by Judge in lieu of Trust Commissioner.

159. Any deed executed before the coming into operation of this Act in accordance with the law in force in that behalf at the time of its execution effecting or purporting or intended to effect an alienation of an estate, share, or interest in land, and in respect whereof no inquiry has before the coming into operation of this Act been held by a Trust Commissioner in accordance with the provisions of "The Native Lands Frauds Prevention Act, 1881," and the several Acts amending the same, may form the subject of inquiry by a Judge, and such inquiry shall, as nearly as may be, be conducted in the same manner as if the last-mentioned Act and its amendments had not been repealed by this Act; and for the purposes of such inquiry the powers and duties of a Trust Commissioner may be performed and exercised by a Judge. 30 35 40

Deeds in respect of which inquiry already made may be forwarded to the Governor.

160. Any deed executed before the thirtieth day of August, one thousand eight hundred and eighty-eight, in accordance with the law in force in that behalf at the time of its execution, in respect whereof inquiry has already been held in accordance with the provisions of section four of "The Native Land Court Act 1886 Amendment Act, 1888," may, if in the opinion of the Chief Judge the result of such inquiry justifies his doing so, be forwarded to the Governor, and thereafter dealt with in accordance with the provisions of the said section four, in the same manner and with the same effect as if the said section four had, at the time of such inquiry as aforesaid, applied to such deed. 45 50

## PART XI.

## TRUSTS FOR NATIVES UNDER DISABILITY.

161. In this Part of this Act, if not inconsistent with the Interpretation.  
context,—

5 “Trustee” means a Trustee appointed pursuant to this Act or  
“The Maori Real Estate Management Act, 1867,” or  
“The Maori Real Estate Management Act, 1888,”  
whether original or substituted, and includes the survivor  
of two or more such Trustees :

10 “Trust estate” means any land or estate therein vested in  
a Trustee.

162. If any Native owner of land, or of any estate therein, is Trustee may be  
appointed.  
an infant, a lunatic, or under other disability, the Court or a Judge  
may order that such land or estate shall be vested in a Trustee to be  
15 named in such order.

Such Trustee shall have the powers and be subject to the legal  
incidents hereinafter expressed, or as such powers or incidents may  
be negated or varied by the order.

20 The Court or Judge, in and by any such order, may negative or  
vary any of the powers and incidents aforesaid, and such variations  
may be expressed by reference to the number of sections or sub-  
sections of this Act.

163. If any Trustee misconduct himself in the exercise of his Trustee may be  
removed.  
New Trustee.  
25 powers and duties as such Trustee, the Court or a Judge may, by  
order, remove such Trustee, and appoint a new Trustee in substitution  
for the Trustee so removed.

30 Or if it appears to the Court or Judge in any case expedient to  
appoint a new Trustee, the Court or Judge may, by order, appoint  
a new Trustee, either in substitution for or in addition to any  
existing Trustee, and whether there be any existing Trustee or not  
at the time of making such order.

A new Trustee so appointed shall have all such rights and powers  
as he would have had, and trust estate shall vest in him as, if he had  
been appointed by the original order.

35 164. Trustees may, with the consent of a Judge, sell and con- Trustees may  
sell or lease.  
vey, lease, or let the trust estate or any part or parts thereof.

40 Such consent shall not be given unless the Judge is satisfied  
upon inquiry that the terms of such sale or lease are fair and equit-  
able, and that each *cestui que trust* has, apart from the land the  
subject of such sale or lease, sufficient land for his maintenance  
and occupation.

A lease other than a building lease shall not be for a term ex-  
ceeding twenty-one years, and shall be without premium or foregift,  
or provision for renewal.

45 165. Purchase-money becoming payable on sales by Trustees Purchase-money  
may be paid to  
Public Trustee.  
shall be paid to the credit of an account to be opened for the pur-  
pose by the Public Trustee, whose receipt alone shall be a good  
discharge to any person paying the same, or be accepted as evidence  
of payment in any Court.

Moneys paid to the credit of such account shall bear interest according to the current rates of the Public Trust Office, but shall not be liable to any charge or deduction for commission or agency fees and shall not be paid out except with the assent of a Judge first obtained. Sums not exceeding pounds may, with the assent of a Judge, be paid to a Trustee without the intervention of the Public Trustee. 5

Trustees to have same rights as owners.

166. For the purposes and subject to the provisions of this Act Trustees shall have and may exercise the same rights and powers over trust estate as the owners thereof might if not under disability. 10

Powers of Trustees.

167. Trustees out of the rents and proceeds of trust estate may expend money for the following purposes with respect to the trust estate from whence the same shall arise, and may exercise the following powers :—

- (1.) Keep buildings and fences in good repair, and maintain the same, with their appurtenances, in good order and condition; 15
- (2.) Erect such fence as the owner or occupier of such land is by law required to make;
- (3.) Cut and gather crops growing thereon; 20
- (4.) Insure any buildings thereon from loss by fire;
- (5.) Pay any rates by law due and payable;
- (6.) Contribute towards the formation of any road, footway, or improvement projected or completed under the authority of any law by which the Government or any municipal, provincial, or local government body make any contribution. 25

With the sanction of a Judge previously obtained, Trustees may do any other act necessary or desirable for the preservation, maintenance, or improvement of the trust estate. 30

Further powers of Trustees.

168. Trustees for the time being may do the following things :—

- (1.) Pay and discharge all costs and expenses incurred by or on behalf of their *cestui que trust* in appearing before any Court or other judicature for the purpose of establishing their title to the land or estate vested in them, or consequent or attending thereon, or for any other purpose which the Judge of such Court or other judicial authority shall certify to have been necessary or beneficial to the parties; 35
- (2.) Pay such portion of the rents and money in their hands as the Court or a Judge shall sanction to any widow of a deceased owner of the land or estate, or to any person entitled under the certificate of such Judge or other judicial authority, as in the *last-preceding* subsection mentioned, and may also pay to such widow an annuity of such an amount as to the Court or a Judge may seem just for her maintenance; 40 45
- (3.) With the consent of the Court or a Judge, pay any portion of such rents and money to, or divide such portion amongst, any members of the aboriginal tribe who may be entitled thereto according to the Native custom applicable to the land from whence or respecting which the fund arose; 50

1429

- 5 (4.) With the consent of the Court or a Judge, invest in their own names the rents and money in their hands in bonds or debentures issued by the Government of New Zealand (hereinafter called "Government securities"), or on mortgage of land and hereditaments or other real securities within the colony, and also from time to time may vary any such investments ;
- 10 (5.) With the like consent, invest the rents and proceeds of trust estate, and moneys arising from the sale of trust estate, in the purchase of land or other real estate in the colony, to be held by them upon the same trusts and subject to the same powers and incidents as if they had been appointed Trustees in respect thereof under this Act ;
- 15 (6.) Give, do, make, and execute all notices, agreements, deeds, and other instruments and things necessary for carrying into effect the objects of their trust ;
- 20 (7.) Out of the proceeds of the trust estate, reimburse themselves all costs, charges, and expenses which they may lawfully incur or be reasonably put to in carrying this Act into execution ;
- 25 (8.) Pay to themselves, or to such one of them as they shall fix upon to undertake the administration of the affairs of their trust, and management of the education, advancement, and maintenance of the *cestuis que trust*, an annual remuneration of five per centum on the income ;
- (9.) With the consent of the Court first obtained, do all such other things as they may think necessary or beneficial for the advantageous administration of the trust estate and the good of their *cestuis que trust*.

30 169. If the trust estate is held in trust for infants, the Trustee shall hold the same for the benefit of all and every such infants, to be equally divided among them, share and share alike, and the shares of such infants shall vest in them as and when they shall respectively attain the age of twenty-one years without any conveyance ; but if there shall be only one such infant *cestui-que trust* who shall attain the age of twenty-one years, then the whole of the trust estate shall vest in such one, subject, however, in all cases to any annuity payable under the foregoing provisions : Provided that, if any infant *cestui que trust* shall die before his or her

40 rents and money shall become vested as aforesaid, leaving children, such children shall succeed to their deceased parent's rents and money or share, and be entitled thereto in manner aforesaid.

45 170. If the trust estate is held in trust for infants, the Trustee may pay to or apply for or towards the maintenance or education of such infants the whole or any part of the income to which such infants may be entitled in respect of the trust estate, whether there be other funds applicable to the same purpose, or any other person bound to provide for such maintenance and education or not ; and the Trustee shall accumulate all the residue of such

50 income, by way of compound interest, by investing the same and the resulting income thereof from time to time in Government securities, or on mortgage of land or other real securities within the colony, or

Where *cestuis que trust* are infants title to vest on attaining age of twenty-one.

Trustee may make advances for maintenance and education of infant.

in the purchase of land or other real estate, for the benefit of the person who shall ultimately become entitled to the trust estate from which such accumulation shall have arisen: Provided always that it shall be lawful for the Trustees at any time, if it shall appear to them expedient, to apply the whole or any part of such accumulations as if the same were part of the income arising in the then current year. 5

Infant may be placed in business.

171. A Trustee may, at his discretion, apply the whole or any part of the accumulations of income or share of an infant, if a male, in placing him in any business, profession, or engagement, or otherwise, for his preferment or advancement in life; and, if a female, may settle her accumulations of income or share on her and her children on her marriage, or pay over the same to trustees for her or to her, for her absolute use on her marriage, as they may think fit. 10

Trust estate to be wound up.

172. When all the surviving *cestuis que trustent* shall have come of age the Trustee shall wind up the trust estate, and shall divide the residue of the trust property among them, subject to any annuity as aforesaid, if any such there be (for the regular payment of which thereafter they may make such arrangements as they think fit), share and share alike. 20

Receipt of Trustee to be sufficient discharge.

173. Subject to the provisions contained in section *one hundred and sixty-five* of this Act, the receipt in writing of a Trustee for money payable to him as such Trustee shall be a sufficient discharge for the money therein expressed to be received, and shall effectually exonerate the persons paying the same from seeing to the application thereof, or from being answerable for any loss or misapplication thereof. 25

Trustee chargeable for his own acts only.

174. A Trustee shall be chargeable for such moneys only as he shall actually have received, although he shall have joined in any receipt for moneys received by any co-Trustee, and shall not be answerable for the act of any co-Trustee, or for any loss which may arise by reason of any trust moneys being deposited in the hands of any banker or agent, or from the insufficiency or deficiency of any security upon which the trust moneys or any part thereof may be invested, or for any loss in the execution of the trust, unless the same shall happen through his own wilful neglect or default. 30

Application to the Supreme Court.

175. Upon the application by petition to the Supreme Court or any Judge thereof of any person making claim to the trust estate or any part thereof, or the proceeds thereof, or to the securities whereon any such rents, interest, or proceeds shall be invested, or any part thereof, or to any estate or interest therein, the Supreme Court or such Judge may, in a summary way, make such order for the vesting of the said hereditaments, or for the distribution of the trust funds, or for the investment thereof, or payment of the interest and proceeds thereof or any part thereof, or any such other order relating thereto, or the rights or interests of the several parties thereto or therein, as to the Supreme Court or such Judge thereof shall seem fit. 35

## PART XII.

### RULES.

50

Chief Judge may make rules.

176. It shall be lawful for the Chief Judge, subject to the approval of the Governor in Council, from time to time to make rules

for regulating the sittings, practice, forms, and procedure of the Court, and of the Appellate Court, and for the government of all persons acting under this Act, and also for fixing the fees to be paid under this Act, the time and mode of payment, and for enforcing the  
 5 payment thereof, and such rules from time to time by other rules to alter or revoke.

Fees payable under this Act shall be paid into the Public Account of the Colony.

## PART XIII.

10

## MISCELLANEOUS.

(1.) *Interpreters.*

177. The Governor in Council may from time to time appoint any persons, not more than six nor fewer than three in number, to be a Board of Advice, whose duty it shall be to make arrangements  
 15 for the holding of periodic or other examinations in the Maori and English languages of persons desirous of obtaining licenses authorising them to act as interpreters under this Act, and to inquire into and report to the Governor upon any matter relating to the granting or revoking of any license that may be referred to them by the  
 20 Governor for that purpose.

Board of Advice may be formed.

The Governor may at any time revoke any such appointment.

178. The Governor in Council may make such regulations for the conduct of business by such Board and for the examination of candidates for interpreters' licenses, as he may think fit, and may  
 25 from time to time revoke, vary, or alter any such regulations. There shall be two grades of licensed interpreters who shall be classified according to the degree of knowledge of the Maori and English languages they possess.

Regulations may be made for examinations, &c.

Nothing in section four of "The Civil Service Reform Act, 1886,"  
 30 shall apply to interpreters of the first grade.

Grades of Interpreters.

179. The Governor may, upon the recommendation of such Board, grant under his hand a license to any person of good moral character who has passed an examination showing that he possesses a competent knowledge of the Maori and English languages, authorising him to act as an interpreter under this Act of such grade as shall be specified in the license, and may revoke the same. Licenses granted to interpreters before the coming into operation of this Act and unrevoked shall authorise the licensees to act as interpreters of the second grade under this Act until the Governor shall otherwise  
 40 direct: Provided that the Governor may authorise any person, who at the coming into operation of this Act holds a license under "The Native Land Court Act, 1886," to act as an interpreter of the first grade if, in the opinion of the Governor, he possesses the necessary knowledge and ability.

Licenses may be granted on recommendation of Board.

180. The Governor may, at his discretion, suspend or remove  
 45 any interpreter appointed or acting under this Act. A Judge may suspend any such interpreter, but shall forthwith report such suspension to the Governor, with the reasons for so doing.

Interpreter may be suspended.

Penalty for acting  
without license.

181. Any person acting as or pretending to be a licensed interpreter under this Act who is not so licensed, or whose license is suspended, shall be liable to a penalty not exceeding *fifty* pounds, to be recovered in a summary way.

(2.) *Closing Hotels.*

Judge may prohibit  
sale of liquor to  
Natives.

182. When a Judge shall find that the selling of spirituous or fermented liquors to Natives by any person holding a publican's license is interfering with the business of the Court then being held, such Judge may issue an order, under his hand, directing that such person shall not sell any such liquors or permit the same to be sold in his licensed house during the then sittings of the Court, or during a specified period, to any Native. Any such order may be revoked and given again from time to time.

Penalty for  
disobeying order.

183. Any person disobeying such order after the same shall have been served on him, or delivered at his licensed house, may be summoned before the Court, and, on conviction, fined in any sum not less than *ten* pounds nor more than *fifty* pounds for each offence, and the said conviction shall be indorsed on his license.

(3.) *Moneys of Natives under Disability.*

Money of Natives  
under disability may  
be paid out on order.

184. The Court or a Judge may, from time to time, order any moneys, which now are or may hereafter be held by the Public Trustee, or other officer of the public service, for the benefit of Natives, or any part thereof, to be from time to time paid out to any Native entitled to such moneys, or to such persons, and in such sums as it may think necessary and proper, for the maintenance, education, or advancement of such Native if under disability.

Terms of trust on  
which money held  
may be varied.

185. If such money is held by the Public Trustee, or other officer as aforesaid, subject to the terms of any trust, the Chief Judge may from time to time order that such terms be varied in any manner that the justice of the case may in his opinion require, and such money shall thenceforth be held by the Public Trustee, or other officer as aforesaid, upon the terms of the trust so varied.

For the purposes of this section, the Chief Judge may direct such inquiry to be made by the Court or a Judge as the circumstances of the case may require.

(4.) *Crown Grants.*

Grantees to be  
tenants in common.

186. In any grant hereafter to be made, and, except as herein excepted, in any grant heretofore made to several Natives, or to any person in trust for several Natives, such grantees, or *cestuis que trustent*, shall be deemed to have been from the date of the grant, or the antevesting date thereunder, whichever may be earliest, tenants in common; but the estate or interest of the grantees, or *cestuis que trustent*, shall not be deemed to be or to have been equal or of equal value unless so stated in the grant:

Provided that as to any grant issued under the provisions of "The Native Lands Act, 1865," or "The Native Land Act, 1873," or under any Act amending either of such Acts, or as to any Crown grant heretofore made or hereafter to be made to more Natives than one in fulfilment of any contract, engagement, or promise made by

1433

or on behalf of Her Majesty or of the Government of the colony, or in confirmation or satisfaction of any order or award made by any Court of compensation or arbitration, or by any agent of the Crown or Commissioners appointed by the Governor or by the Governor in Council, the foregoing part of this section shall not apply to cases in which the grantees or survivors of them shall, before the third day of September, one thousand eight hundred and sixty-nine, have alienated, by sale, lease, or mortgage, or otherwise, the land comprised in their grant, or to such part of the land as they may have so alienated :

Provided further that, as to any grant issued otherwise than as mentioned in the previous proviso, the first part of this section shall not apply to cases in which the grantees or survivors of them shall, before the first day of January, one thousand eight hundred and seventy-four, have alienated, by sale, lease, or mortgage, or otherwise, the land comprised in their grant, or to such part of the land as they may have so alienated ; nor to any case where any of the joint tenants have died before the second day of October, one thousand eight hundred and seventy-three ; nor wherein the grant is made expressly to the grantees as joint tenants ; nor where the grantees hold the land comprised in such grant upon expressed trust.

(5). *Native Equitable Owners.*

187. Any order heretofore made or that may hereafter be made in pursuance of proceedings already commenced under sections two to five, both inclusive, of "The Native Equitable Owners Act, 1886," declaring the persons beneficially entitled to any land subject to the said last-mentioned Act shall be deemed to have the effect of vesting such land in the persons so declared to be entitled for an estate of freehold in fee-simple, as tenants in common, as from the date of the making of such order. And such persons, and the successors of such of them as may be dead, shall, on the production of such order to the District Land Registrar of the proper district, be entitled to be registered as proprietors and to have issued to them a certificate of title under "The Land Transfer Act, 1885," in respect of the said land, antevesting to the date of the order of the Court.

Effect of order under "Native Equitable Owners Act, 1886," sections 2 to 5.

Where the title to the land the subject of such order is a Crown grant, such grant shall, upon the issue of a certificate as aforesaid, be deemed to be null and void as from the date of the making of such order.

188. Where land subject to "The Native Equitable Owners Act, 1886," is also subject to a lease for an unexpired term of years, any order made or certificate issued as aforesaid shall not prejudice the estate or term of the lessee ; but the lessee, after notice of such order or certificate, shall pay any rent to accrue due under his lease to the Natives for the time being registered as the owners of the land comprised in such lease in the proportions in which they appear in the certificate of title to be interested therein ; and in case the relative interests shall not be specified, and in so far as the certificate shall not provide to the contrary, the Natives mentioned in the certificate shall be deemed entitled to receive their rent in equal shares.

Where land subject to a lease.

Court may ascertain Natives entitled to benefit of engagement on "Ngaitahu deed."

189. Whereas, in fulfilment of an engagement entered into by the Government of New Zealand with certain Natives, parties to the deed of purchase known as the "Ngaitahu deed," lands in the South Island of New Zealand were and still are appropriated to and for certain Natives, being the Natives aforesaid or their representatives: 5  
And whereas it is desirable that the names of such Natives should be ascertained and determined:

The Court shall, for the purpose of ascertaining and determining who the Natives were to whom such lands were appropriated as aforesaid, have the like authority to deal with any of such lands which 10  
have not already been dealt with in pursuance of proceedings commenced under section six of "The Native Equitable Owners Act, 1886," as it would have if such lands were still lands over which the Native title had not been extinguished, and such lands shall be deemed to be Native land: Provided that the right to ownership of such 15  
lands shall be confined to the Natives aforesaid and their representatives.

Court may exercise jurisdiction in South Island and Stewart Island.

190. It is also hereby further declared that the Court shall have and may exercise the like jurisdiction in respect of any Native reserves situate in the South Island or in Stewart Island which may be submitted to such jurisdiction by Order in Council, which the Governor is hereby authorised to issue from time to time for the purpose. 20

But the Court, in determining the title or interests to any of such reserves, shall give effect to the original intention for which the said lands were respectively set apart. 25

Lease to be deemed "outstanding interest."

191. Any lease of land subject to "The Native Equitable Owners Act, 1886," executed before the thirtieth day of July, one thousand eight hundred and eighty-six, with the formalities required by the law in force at the time when such lease was executed for the execution of a lease by Natives, and having a Trust Commissioner's certificate indorsed thereon in accordance with the law for the time being in force in that behalf, shall be deemed to be an "outstanding interest" within the meaning of "The Land Transfer Act, 1885," and shall be noted accordingly. 30

#### (6.) *Chattels Transfer.*

35

Execution of instruments under "The Chattels Transfer Act, 1889."

192. Any instrument which may be registered under "The Chattels Transfer Act, 1889," if executed after the coming into operation of this Act by a grantor who is a Native residing in the North Island, shall be void as against such grantor unless such instrument is executed with the formalities prescribed in execution of a deed by section *one hundred and forty-nine* of this Act, so far as the same are applicable to such instrument. 40

#### (7.) *Certificates.*

Date of Land Transfer certificate.

193. Every certificate of title issued under "The Land Transfer Act, 1885," in accordance with any order of the Court forwarded to the District Land Registrar in pursuance of the provisions of this Act shall bear even date with the date of the reception of such order by the District Land Registrar, and for the purposes of this Act such date shall be deemed to be the date of the issue of such certificate. 45

Native tenants in common shall not be entitled to take out separate certificates of title under "The Land Transfer Act, 1885," unless and until they shall require to make separate dealings with their respective interests.

- 5 Until a certificate of title has been issued for any land under the provisions of this Act, every order of Court in respect of which such certificate is hereby directed to be issued shall be embodied in the provisional register.

- 10 The Registrar shall not be required to issue a certificate of title under this Act for any land held by more than ten Natives, unless or until the whole interest therein has been transferred, and the transfers thereof duly registered on the provisional register, anything hereinbefore contained to the contrary notwithstanding.

## PART XIV.

15

## REPEAL.

194. Subject to the provisions hereinafter contained the Acts named in the Schedule hereto are hereby repealed. Repeal.

- Such repeal shall take effect as to "The Thermal Springs Districts Act, 1881," and "The Thermal Springs Districts Act 1881 Amendment Act, 1883," from the date of the publication of a Proclamation by the Governor to the effect that the continuance of the provisions of the said Acts is no longer necessary, and as to the residue of the Acts named in the Schedule from the coming into operation of this Act.

- 20 Provided further that such repeal shall not affect the validity of any order, deed, or other document made, executed, or validated, or any act or thing done or validated under or by any Act hereby repealed.

- 25 Provided, further, that any proceeding commenced and not completed at the time of the coming into operation of this Act shall, from its stage when this Act comes into operation, be, at the discretion of a Judge, either continued and completed under this Act in like manner as if such proceeding had been commenced hereunder, or, at like discretion, shall be continued and completed under the Act under which such proceeding was commenced.

- 35 195. Where in any unrepealed Act, enactment, document, or instrument, reference is made to any Act or to any provisions of any Act repealed by this Act, such reference shall be construed and shall operate as if it had been made to this Act, or to the provisions thereof corresponding to the provisions referred to. Reference to repealed Acts to operate as if made to this Act.

## SCHEDULE.

Schedule.

The Native Lands Frauds Prevention Act, 1881.  
 The Thermal Springs District Act, 1881.  
 The Thermal Springs District Act 1881 Amendment Act, 1883.  
 The Native Equitable Owners Act, 1886.  
 The Native Land Court Act, 1886.  
 The Native Land Act, 1888.  
 The Native Land Court Act 1886 Amendment Act, 1888.  
 The Native Lands Frauds Prevention Act 1881 Amendment Act, 1888.  
 The Native Land Court Acts Amendment Act, 1889.  
 The Native Lands Frauds Prevention Acts Amendment Act, 1889.  
 The Native Land Laws Amendment Act, 1890.