

Copy of Bill with references to existing provisions noted in margin.

## NATIVE LAND COURT.—MEMORANDUM.

THIS Bill is mainly a consolidation of the provisions of the several Acts mentioned in the Schedule, but many amendments are suggested.

The principal new provisions are :—

1. For enabling the exchange of lands between Natives. Section 15 subsection (3), and sections 44 and 45.

2. For restraining any person from injuring or dealing with property before the Court. Section 15 subsection (9).

3. For a summary remedy against defaulting Native Trustees. Section 15 subsection (13).

4. For giving the Native Land Court exclusive jurisdiction in probate of wills and administration of estates of deceased Natives, and a discretion in granting probate or letters of administration where applicant not a fit person. Section 53.

5. For limiting the power of Natives to defeat their successors by will of their lands. Section 46.

6. For the transmutation to freehold tenure of the titles to all investigated land held under Native custom. Section 75.

7. For a complete system of provisional registration in the Native Land Court of dealings with land. Sections 79–82.

8. For enforcement by the Supreme Court of orders of the Native Land Court. Section 35.

9. For facilitating the settlement of blocks of land owned by large numbers of Natives. Incorporation of Native owners on nomination and appointment of committees of management. Sections 92–100.

10. For entirely dispensing with applications for rehearings and rehearings, and the attendant costs and uncertainty, and for a Court to hear appeals—the decision of same being final and conclusive. Sections 101–113.

The principal material alterations of the existing law are :—

1. The Court alone will impose restrictions and recommend removal thereof to the Governor. Section 15, subsection (6), and section 52.

2. Better provision is made for the ascertainment of beneficial owners of lands held in trust. Section 15 subsection (10), and section 57.

5. The procedure for the issue of Land Transfer titles is simplified. Sections 75–85.

6. Joint tenancy by beneficial owners is abolished in every case, subject to rights heretofore acquired under alienations. Section 87.

3. The provisions for execution of deeds by Natives are simplified, and the functions of the Trust Commissioners' Court (now abolished) will be discharged by the Native Land Court. Sections 53–56.

4. Private dealing in Native land is prohibited, and better provision is made against acquisition of large areas from Native owners. Sections 68–73.

8. The law relating to surveys of Native lands and survey liens has been simplified. Section 15 subsection (14), and sections 60–66.

7. The remedy for debt against land of Natives is limited in all cases to lands not required for their support. Section 74.

Hon. Mr. Seddon.

## NATIVE LAND COURT.

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## A BILL INTITULED

AN ACT to amend and consolidate the Laws relating to the Native Title.  
Land Court of New Zealand.

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

1. The Short Title of this Act is “The Native Land Court Short Title.  
Act, 1894.”

2. This Act, except as is hereinafter otherwise provided, shall Commencement.  
10 come into operation on the first day of \_\_\_\_\_, one thousand  
eight hundred and \_\_\_\_\_

## PART I.

## INTERPRETATION.

3. In this Act, if not inconsistent with the context,— Interpretation.
- 15 “Alienation” means any sale, lease, contract or other dis- No. 17, 1881, sec. 2.  
position, absolute or limited, mortgage, charge, lien, or  
incumbrance :
- “Appellate Court” means the Native Appellate Court con-  
stituted by this Act :
- 20 “Certified plan” means a plan certified by the Chief Surveyor New.  
of any district as correct for the purposes of the Land  
Transfer Acts :
- “Chief Judge” means the Chief Judge of the Native Land No. 37, 1888, sec. 2.  
Court :
- 25 “Claimant” means any person claiming to have acquired any New.  
land or parcel of land or any estate or interest therein  
respectively under an alienation :
- “Court” means the Native Land Court : No. 37, 1888, sec. 2.
- “Crown grant” includes certificate of title under “The Land No. 37, 1888, sec. 2.,  
30 Transfer Act, 1870,” or “The Land Transfer Act, 1885” :
- “Commissioner” means any Stipendiary Magistrate appointed  
a Commissioner for the purposes of this Act :
- 35 “Confirm any alienation” means decide, upon inquiry in open  
Court, that any alienation is in accordance with the  
statute law regulating alienations by Natives, and that  
the consideration therefor has been duly paid or given :
- “Confirmation order” means an order made on such inquiry :
- 40 “Customary land” means land which immediately before the  
coming into operation of this Act is owned by Natives  
under their customs and usages, the owners whereof  
have been duly ascertained by the Court : New.
- “Deed” includes a memorandum or document executed, before  
or after the coming into operation of this Act, in the  
manner prescribed by the law in force at the time of its  
45 execution, and purporting or intended to effect an aliena-  
tion, whether registration is necessary to give complete  
effect to such alienation or not :
- “District Land Registrar” means District Land Registrar for  
the district within which the land is situated :
- 50 “European” means a person other than a Native :
- “Half-caste” includes the descendant of a half-caste :

See No. 37, 1888,  
sec. 2.

“Judge” means a Judge of the Court, and includes the Chief Judge and a Commissioner appointed under section *twelve* of this Act :

See No. 37, 1888,  
sec. 2.

“Land” means any land in the colony (other than Native land) owned or held by Natives, or by Natives and Europeans jointly, under any class of title, and includes any estate, right, or interest therein :

New.

“Land Transfer Acts” means “The Land Transfer Act, 1870,” or “The Land Transfer Act, 1885,” and the amendments thereof respectively :

See No. 37, 1888,  
sec. 2.

“Minister” means the Minister of Native Affairs :

“Mortgage” includes charge, lien, and incumbrance :

See No. 37, 1888,  
sec. 2.

“Native” means an aboriginal native of New Zealand, and includes half-castes and their descendants :

“Native land” means land in the colony of which the owners according to Native custom have not been ascertained :

“Order” means order of the Court in the form prescribed for any proceeding by rules made under this Act, or in any form approved by the Chief Judge, or to the effect thereof respectively, authenticated by the signature of a Judge and the seal of the Court :

New.

“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, 1885,” a person named as owner in any memorial of ownership or certificate of title or order 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 found by any Court of competent jurisdiction to be beneficially interested under any trust, and any person taking under a will or declared to be the successor to a deceased owner :

No. 37, 1888, sec. 2.

“Parcel of land” or “parcel” means one of several parcels into which land may be partitioned, or Native land divided :

“Partition order” means a final order made on partition :

New.

“Party” means any person or number of persons appearing to support or to oppose or to protect his or their interests in respect of any application made to or proceeding in or before the Court, and includes every applicant :

ee No. 37, 1888,  
sec. 2.

“Person” means any person whether Native or European, and includes a corporation :

“Penalty” includes imprisonment :

“Prescribed” means prescribed by rules or regulations made under this Act :

“Provisional Register” means the Native Land Court Provisional Register provided for by this Act :

New.

“Registered,” when used with reference to a deed, order, or other document affecting or purporting to affect title to land, means registered either in the Provisional Register, or under the Land Transfer Acts, or “The Deeds Registration Act, 1868,” according to the nature or condition of the title to the land affected or intended so to be by any such document :

- “Registrar” means a Registrar of the Court, and includes a Deputy-Registrar : See No. 37, 1888, sec. 2.
- “Succession order” means an order made determining a successor : New.
- 5 “Successor” means the person who, on the death of any Native, is, according to Native custom, or, if there be no Native custom applicable to any particular case, then according to the law of New Zealand, entitled to the interest of such Native in any land or personal property. New; but see No. 37, 1888, sec. 23, and decision of *Paoro v. Cuff*, 8 N.Z. L.R., p. 751.
- 10 “Surveyor-General,” when used in this Act or in any order of the Court, means the person for the time being acting in the capacity of Surveyor-General for the colony, and includes the Assistant Surveyor-General : New.
4. Title of any person or title to Native land, or to a parcel of land, or to personal property, shall be deemed to be “ascertained” under an order affecting the same respectively, and an order shall be deemed to have “matured,” when— Title “ascertained.”
- 15 (a.) The time within which notice of appeal may be given in respect thereof has elapsed without any such notice having been given ; or See No. 24, 1886, sec. 2.
- 20 (b.) Final order is made on appeal. Order “matured.”

## PART II.

## CREATION AND CONSTITUTION OF COURT.

5. There shall continue to be within the Colony of New Zealand a Court of Record, called as heretofore “The Native Land Court,” which shall, in addition to the jurisdiction and powers specifically conferred by this Act, have all the powers inherent in a Court of Record at common law : Constitution of the Court.  
No. 24, 1886, sec. 5.
- 25 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.
- 30 6. The Court shall consist of such Judges, of whom one shall be the Chief Judge, together with such Assessors, as the Governor may from time to time determine. Judges and Assessors.  
No. 24, 1886, sec. 6.
- 40 7. The Governor may from time to time appoint a Chief Judge, who shall be a barrister or solicitor of the Supreme Court of New Zealand, 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. Appointment of Judges and officers.  
No. 24, 1886, sec. 7.
- 45 Nothing in section four of “The Civil Service Reform Act, 1886,” shall apply to any person who may be appointed to hold any office under this Act.
- 50 8. The Governor may appoint any Stipendiary Magistrate to be a Commissioner for the purposes of this Act, who shall possess the jurisdiction, powers, and authorities of a Judge. Commissioners.  
No. 24, 1886, sec. 16.

Governor may  
appoint Deputy  
Chief Judge.  
New.

9. 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, notwithstanding that the Chief Judge may also be exercising his powers and performing his duties. 5

Tenure of office.  
No. 24, 1886, sec. 7.

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

The Chief Judge, Judges, and Assessors, Registrars, Clerks, and other officers of the Court, 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 order of precedence of the several Judges shall be retained. 10

Salaries.  
No. 24, 1886, sec. 8.

11. 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 moneys so appropriated there shall be paid such travelling-allowances as the Governor shall from time to time determine. 15

Records.  
No. 24, 1886, sec. 12.

12. 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. 20

Registers.  
No. 24, 1886, sec. 14.

13. 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. 25

Seal.  
No. 24, 1886, sec. 10.

14. 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.

### PART III.

30

#### JURISDICTION.

Investigation.  
No. 24, 1886, sec. 17.

15. Subject as hereinafter mentioned the Court shall have jurisdiction,—

- (1.) To investigate the title to and ascertain and determine the owners according to Native custom of any Native land : 35
- (2.) To determine the relative interests in any land of the persons entitled thereto, and to partition any land among such persons :
- (3.) To effect an exchange between Natives of any land owned by them : 40
- (4.) To determine any successor :
- (5.) To grant probate of the will and letters of administration of the estate and effects of any Native now dead, or who shall hereafter die, and to rehear any application for such grant. 45
- (6.) To render any land inalienable, or to impose such limited restrictions on the alienation of any land as the Court may think fit, and subject as hereinafter provided to vary or remove any restrictions imposed since one thousand eight hundred and eighty-eight or hereafter to be imposed, and to render alienable land heretofore or hereafter to be rendered inalienable : 50

Relative interests  
and partition.  
No. 24, 1886, sec. 42;  
No. 87 1888, sec. 21.

Exchange.

New.

Succession.

No. 24, 1886, secs. 43  
to 50; No. 37, 1888,  
sec. 23.

Probate and  
administration.

No. 32, 1890, sec. 2.

Restrictions on  
alienation.

No. 37, 1888, secs. 6  
and 13; No. 36,  
1888, sec. 5.

- (7.) To determine all claims to land based on any alienation heretofore or hereafter to be made by a Native, and all questions arising between conflicting claimants: Claims under alienation. New.
- 5 (8.) To confirm any alienation of land hereafter to be made by a Native: Confirmation of alienations.
- (9.) To restrain any person from injuring or damaging or dealing with any property the subject-matter of any application to the Court: See "Native Lands Frauds Prevention Act, 1881," and amendments. Restraining injuries to property. New.
- 10 (10.) To determine whether or not any land heretofore dealt with by the Court, of which there has been no alienation other than a lease, mortgage, or contract for sale, was, on the investigation of title thereto, or partition thereof, intended by the Native Land Court, or by the nominal owner or owners of such land (whether such nominal owner or owners be a tribe, hapu, or section thereof respectively, or a definite individual or individuals), to be held by the nominal owner or owners in trust for Natives not named in the title to such land; and to determine who are the Natives, if any, entitled beneficially to any land so held in trust: Native trusts. See "Native Equitable Owners Act, 1886."
- 15
- 20 Provided that the Court shall not proceed to exercise this jurisdiction unless the Governor in Council shall by order authorise the same to be done:
- No order of the Court hereunder shall take effect until *fourteen* days after the same has been laid before both Houses of the General Assembly, if the General Assembly be then sitting; and if not then sitting, then not until *fourteen* days from the commencement of the then next sitting thereof:
- 25 Provided that this subsection 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.
- 30
- 35 (11.) To apportion among the owners, or some of them, the rents payable under any lease of any land, and to negative, modify, or apportion any of the express or implied provisions of any such lease as aforesaid as to any parcel or parcels, or as to the whole of such land: Apportionment. No. 24, 1886, secs. 36 to 39.
- 40 (12.) To award such sum as may seem just for costs, including costs of professional assistance, to or against any person appearing or represented before it in any proceeding; and to order any party to a proceeding, at any stage thereof, to deposit any sum of money as security for costs, and to dispose of any sum so deposited as to the Court may seem just: and Costs. No. 24, 1886, secs. 68 to 74.
- 45
- 50 (13.) To order any person, other than the Public Trustee, heretofore or hereafter to be appointed a trustee of any land belonging to any Native, to furnish an account of his trusteeship, and, on examination and investigation thereof by the Court, with or without the assistance of an accountant, to order the payment by such trustee of such sum or

Trustees' accounts. New.



Survey liens and  
Court fees. |

See No. 24, 1886,  
sec. 81.

sums of money to such person or persons, and on such terms, as may seem just :

- (14.) To declare, by an order directed to the District Land Registrar, 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, in any case where the Surveyor-General, or chief surveyor of the district, shall certify in writing that such moneys are fairly due, or that moneys are due to the Court on account of fees, whether such moneys respectively became due before the coming into operation of this Act or shall hereafter become due. Every such order shall, upon the issue of a certificate of title under the Land Transfer Acts, be deemed to be a caveat against dealing with such land ; and such caveat shall, unless removed by order of the Court or the Court of Appeal, remain in force until the whole of the said moneys are paid or satisfied.

#### PART IV.

##### PRACTICE AND PROCEDURE.

##### (1.) *General.*

Appointment of  
sittings.

See No. 24, 1886,  
secs. 53, 54.

16. The Court shall sit at such times and places, and deal with such business, as the Minister by notice given in such manner as may be prescribed shall appoint. Before the time appointed for the commencement of a sitting, the Minister may order such sitting to be adjourned to such time and place as he may think fit. After the commencement of a sitting, the presiding Judge, or, in the absence of a Judge, any person for the time being acting as Clerk, may adjourn such sitting from time to time and from place to place, or may so adjourn any part or parts of the business notified to be dealt with at any such sitting, or adjourn the same respectively *sine die*.

Adjournment.

Commencement of  
proceedings.

See No. 24, 1886,  
secs. 17 and 23.

17. The jurisdiction of the Court in any matter may be exercised on the written application of any person claiming an interest therein, and, in the course of the proceedings on any application, the Court may without further application, and upon such terms as to notice to parties and otherwise as the Court thinks fit, proceed to exercise any other part or parts of its jurisdiction which it may consider necessary or expedient to exercise ; and the Court may in its discretion deal with the subject-matter of any application wholly or in part or parts, and issue separate orders in respect of such part or parts, and any application may be dismissed or (with the consent of the Court) extended or amended or withdrawn wholly or in part ; and the Court may, on the completion of any stage in any proceedings, make any interlocutory order which it may deem necessary or expedient.

Judge shall be  
assisted by Assessor  
in certain cases.

See No. 24, 1886,  
sec. 6.

Change of Judge or  
Assessor.

No. 37, 1888, sec. 14.

18. A Judge sitting alone may exercise all the powers of the Court, but in exercising jurisdiction under subsections *one, two, four, or ten* of section *fifteen* hereof shall be assisted by an Assessor.

19. Proceedings may be continued before a Judge, or Judge and Assessor, other than the Judge or Judge and Assessor before whom they were commenced.

20. No person may 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.

Appearance by  
counsel or agent.  
No. 24, 1886, sec. 25.

(2.) Evidence.

5 21. The Court may act on any testimony, sworn or unsworn, and may receive as evidence any statement, document, information, or matter which, in the opinion of the Court, may assist the Court to deal effectually with the matters before it.

Testimony and  
evidence.  
See No. 24, 1886,  
secs. 19, 52, and 60.

10 22. The Court may, by summons in writing under the hand of a Judge, require any person to appear before the Court, at such time and place as shall be specified in the summons, to give evidence in the matter of any 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  
15 control.

Witnesses may be  
summoned.  
No. 32, 1889, sec. 2.

23. Any person on whom any such summons shall have been served personally, or in any manner prescribed, and to whom at the same time payment or a tender of his expenses shall have been made on the scale to be prescribed, and who shall neglect or fail without  
20 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, having been sworn to give evidence in a pro-  
25 ceeding, shall neglect or fail to appear at such time as the Court 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.

Penalty for  
disobedience.  
No. 32, 1889, sec. 3.

30 24. A Judge may, upon 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 any prisoner or person confined in any gaol, prison, or place under any sentence, or under any commit-  
35 ment for trial or otherwise, to be examined as a witness in such proceeding; and the person required by such order to be brought before the Court 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  
40 a witness in any cause or 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  
45 of the prisoner or person in going to, remaining at, and returning from the Court.

Witness in custody.  
New.

25. The Court may request any Judge or Stipendiary Magistrate to examine any person whose attendance cannot, by reason of distance or otherwise, be conveniently obtained. The Judge or  
50 Stipendiary Magistrate to whom such request is made shall summon such person to give evidence, and shall examine him accordingly.

Evidence may be  
taken before  
another Judge.  
See No. 31, 1889,  
sec. 4.

The evidence of such person shall be reduced to writing, and signed by him and by the Judge or Stipendiary Magistrate before whom the same is taken, and may be used by the Court in such manner as the circumstances of the case may require.

Affidavits and affirmations.  
New.

26. Affidavits or affirmations to be used in any proceeding may be sworn or made respectively before a Judge, Registrar, Deputy Registrar, a solicitor of the Supreme Court, or a Justice of the Peace. 5

Authority to valuer.  
See No. 32, 1889, sec. 5.

27. The Court may authorise 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 liable to a penalty not exceeding *fifty* pounds, and in default of payment to imprisonment for a term not exceeding *one* month. 10

(3.) Judgment Orders.

Judgment, &c., by order.  
New.

28. Every definitive judgment, decision, or award of, and every imposition of penalty by, the Court shall be by order. 15

Chief Judge to sign for retired Judge.

29. The Chief Judge may sign any order which ought to have been signed by a deceased or retired Judge.

Order may be registered.

30. Every order affecting land may be registered.

Partly new.  
Date of effect of order.

31. An order of the Court shall bear date and shall be deemed to have been made on the day on which the Court decided that such order should be made, and shall take effect as from such date; but the Court 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. 20

See No. 24, 1886, sec. 56.

32. An order may issue in the name of a deceased Native.

Order in name of deceased Native.

33. The Court may from time to time extend any time limited or fixed by any order heretofore made or hereafter to be made, whether or not such time has or shall have expired. 25

New.

Extension of time  
No. 24, 1886, sec. 61.

34. Every order vesting land or any parcel of land, not already described in a Crown grant, shall describe the same by reference to some certified plan thereof, or, if there be no certified plan thereof, shall describe the same with sufficient accuracy to enable the same to be identified and the boundaries thereof to be correctly laid down on survey. 30

Plan or description of land in order.  
New.

35. Any order of the Court requiring any person to do or abstain from doing any act, may, with the consent of the Chief Judge, be filed by the Registrar of the Native Land Court in the office of the Supreme Court within the Supreme Court district in which such order was made; and thereupon such order shall become a judgment of the Supreme Court, and such further proceedings may be taken and had thereon in default of compliance with the terms thereof as could be taken if the same had been originally a judgment of the Supreme Court. 35 40

Orders for payment of money, &c., may be filed in Supreme Court.  
New.

Infant's age to be stated.  
No. 24, 1886, sec. 57.

36. Every order in favour of an infant shall state the age of such infant as nearly as can be ascertained, and such statement of age may be amended; but while the same shall remain unamended the age stated therein shall, in respect of the subject-matter thereof, be deemed to be the age of such infant at the date of such order. 45

Amendments of statement.  
No. 24, 1886, sec. 57.

37. No amendment of the statement of age of an infant in any order shall prejudice or affect anything done on the assumption that such age was prior to such amendment correctly stated in such order. 50

(4.) *Amendment.*

38. All amendments necessary to remedy or correct defects or errors in any proceeding or document, or to give effect to or record the intended decision in any proceeding, may be made at any time by the Court, whether applied for or not, and upon such terms (if any) as to payment of costs or otherwise as to the Court may appear just.

39. Where through any mistake, error, or omission, the Court by its order, heretofore or hereafter to be made, has or shall have in effect done or left undone something which it did not actually intend to do or leave undone, or would not but for such mistake, error, or omission have done or left undone, or, where the Court has or hereafter shall have decided any point of law erroneously, the Chief Judge may at any time after title has or shall have become ascertained or any order has or shall have matured, on the application in writing of any person alleging that he is affected by such mistake, error, omission, or erroneous decision in point of law, make such order in the matter for the purpose of remedying the same, or the effect of the same respectively, as the nature of the case may require, and, for such purpose as aforesaid, may, if he shall deem it necessary or expedient, vary the actual decision or intended decision of the Court.

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

If such application shall affect land, the applicant may register a certified copy or duplicate thereof.

Provided that no such order as aforesaid shall affect any alienation of such land made after the title thereto has been ascertained, and before such application has been registered, unless the several parties to such alienation consent thereto in writing.

The decision of the Chief Judge on such application shall be final, unless he shall, within seven days thereafter, give leave to appeal to the Appellate Court :

No application shall be made hereunder in respect of any error or omission within the meaning of section thirteen of "The Native Land Court Acts Amendment Act, 1889," to remedy which an application has heretofore been made, or in respect of any decision on a point of law already dealt with by or now pending in the Supreme Court.

40. If it shall appear to a surveyor, when making a survey in pursuance of or for the purpose of carrying out any order, that a deviation from any line or lines 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.

## PART V.

SPECIAL PROVISIONS AFFECTING VARIOUS MATTERS AS TO WHICH JURISDICTION IS CONFERRED BY THIS ACT.

(1.) *Partition.*

41. An alienation of land other than customary or Native land completed by partition order shall be deemed to have been confirmed.

General.  
No. 24, 1886, secs. 62 and 64.

Amendment after title ascertained.  
No. 32, 1889, sec. 13; and see decision of Supreme Court, *ex parte Hapi Puke-tapu*, on the construction of sec. 13 of Act 1889, holding that Chief Judge can review an error in law.

Amendment on report of surveyor.  
No. 32, 1889, sec. 11.

Partition order to claimant deemed to be confirmed.  
New.

Date of deed for  
stamp duty.  
No. 32, 1889, sec. 6.

42. The date of the making of a partition order in favour of any claimant shall, for the purposes of assessing all stamp duties and fines, be deemed to be the date of the first execution of any deed relied on by such claimant as giving title, unless the Court shall in such partition order otherwise direct; but no partition order in favour of a claimant shall be forwarded to the District Land Registrar until the Chief Judge shall be satisfied that all stamp duties payable on the alienation thereby completed have been paid. 5

Trusts for Native  
under disability to  
continue.

43. Every trustee for a Native under disability of an interest in land partitioned shall, unless the Court shall otherwise order, continue to be trustee for such Native of any parcel of land of which such Native may become owner on partition. 10

Conditions of  
exchange.

(2.) *Exchange.*

44. No exchange shall be ordered unless the Court shall be satisfied that, upon the same being effected, each of the parties thereto shall have sufficient land for his support, and that any money agreed to be paid to make equality of exchange has been paid. 15

Effects of exchange  
order.

45. Orders effecting an exchange shall vest in each of the parties the estate, share, or interest theretofore held or owned by the other of them in the lands intended to be exchanged, and shall specify the amount of money (if any) paid to make equality of exchange, and shall be liable to stamp duty on such amount only, and may be registered without a confirmation order. 20

Devise of land  
subject to  
successor's right.

(3.) *Succession, Probate, and Administration.*

46. On every application for the appointment of a successor where the deceased has left a will, and on every application for probate or letters of administration with will annexed, the Court shall inquire if the testator has devised land to a person other than his successor; and, if the testator has so devised land, the Court, if it shall further appear on inquiry that such successor has not, without the land so devised, sufficient land for his support, shall award to such successor a part, or, if necessary, the whole of the land so devised; and the probate or letters of administration shall be expressly limited to the estate and effects of the deceased other than the land so awarded to the successor. 25 30 35

*New.*

Infant Native in-  
capable of making  
will.  
Devise sufficient  
without succession  
orders.

47. An infant Native shall not be competent to make a valid will. 35

48. Excepting as in section *forty-six* is provided, or where the Court for some special reason may consider it expedient by succession order to give effect to what it considers to be the real intention of any testator, or to effect a division or distribution amongst several devisees, no succession order shall issue in respect of any land devised. 40

Title under  
succession orders.

49. Upon the title under any succession order becoming ascertained, the interest of the deceased Native in the land or personal property comprised therein shall be deemed to have vested in the successor as from the date of the death of such deceased Native, but subject to the title of the executor under the will, or administrator of the estate of the deceased Native. 45

Public Trustee to be  
trustee for minor  
successors in certain  
cases.

50. The Court shall appoint the Public Trustee to be the trustee under "The Maori Real Estate Management Act, 1888," of the interest of any owner or successor hereinafter determined who 50

shall be a minor, excepting in cases where it shall appear to the Court that the appointment of some person or persons other than the Public Trustee would be advisable in the interests of such minor.

51. The Court shall have exclusive jurisdiction to grant probate of the wills and letters of administration of the estate and effects of deceased Natives, and may grant letters of administration to any fit person other than the next of kin of the deceased, and may grant letters of administration, with the will annexed, to any fit person, notwithstanding an application for probate by the executor.

Exclusive jurisdiction in probate and administration, and discretion in granting same. New.

Any such grant may be revoked, altered, or varied, after application made, and upon such terms as to notice and otherwise as to the Court may seem fit. No such revocation, alteration, or variation shall be made unless applied for within months from the date of the original grant.

(4.) *Restrictions on Alienation.*

52. Any land heretofore or hereafter to be rendered inalienable may be rendered alienable, subject to the provisions of this Act; and any restriction on the alienation of any land heretofore or hereafter to be imposed, or recommended to be imposed, may be removed or varied by the Governor on the recommendation of the Court as to the whole of such land or as to any part or parcel thereof, or as to any estate, share, or interest therein respectively, with the assent of the owner, or of one-third in number at least of the owners, of such land, part, parcel, estate, share, or interest, and on proof that every such owner has sufficient land left for his support.

Restrictions, how removed. See No. 32, 1889, sec. 17; No. 32, 1890, sec. 3.

(5.) *Confirmation of Alienations.*

53. Subject to consent in certain cases as hereinafter mentioned, the Court may confirm any alienation of land upon being satisfied,—

Court to be satisfied that alienation valid. No. 17, 1881, sec. 5.

(1.) That the same is not—

(a.) A dealing prohibited by sections *seventy* or *seventy-one* hereof, or of any law for the time being in force prohibiting the sale of Native lands;

(b.) Contrary to equity and good conscience;

(c.) A breach, or in contravention, of any trust to which the land is subject;

(d.) In contravention of any restriction on the alienation of such land;

(e.) Made in consideration wholly or partly, directly or indirectly, of the supply, or promise of supply, of any intoxicating liquor, or weapons or munitions of war;

(f.) That such land is not the subject of a notice under the provisions of "The Native Land Purchases Act, 1892," or "The Land Purchase and Acquisition Act, 1893":

(2.) (a.) That the title thereto is ascertained;

(b.) That the consideration has been paid or given;

(c.) That, apart from the land affected by such alienation, each Native alienating, other than a half-caste, has sufficient land left for his support, and that each half-caste alienating has sufficient means of support derivable from land or otherwise;

No. 17, 1881, sec. 6.

No. 38, 1888, sec. 3.

(d.) That, before the deed evidencing or effecting such alienation was signed by each Native alienating, and was also signed by the Commissioner of Crown Lands or the Native Lands Administration Officer, —

It had indorsed thereon a plan of the land affected thereby, and a statement in the Maori language, certified by a licensed interpreter, as correctly setting forth the effect of such deed; 5

The effect of such deed was explained by a licensed interpreter to each Native before signing the same; 10

(e.) That the signature of each Native to such deed is attested by the Commissioner of Crown Lands or the Native Lands Administration Officer, or a Justice of the Peace, or a solicitor of the Supreme Court not concerned in the transaction, and the licensed interpreter who interpreted the effect of such deed to the Native alienating. 15

Court may dispense with formal execution.  
New.

54. Any Judge may confirm any alienation, although the requirements of subsections *two (d.)* or *two (e.)* of section *fifty-three* have not been complied with,—

(1.) If he shall be satisfied that such non-compliance has not prejudiced any Native alienating; 20

(2.) If a Justice of the Peace, or solicitor of the Supreme Court not concerned in the transaction, attesting the signature of any Native to such deed, shall certify that such Native has a knowledge of the English language sufficient to enable him to understand, and that he does understand, the effect of the transaction. 25

Confirmation necessary to registration.  
No. 17, 1881, sec. 15.

55. No deed effecting an alienation shall be registered until a confirmation order shall have been indorsed thereon: Provided always that a certificate by a Judge attesting the execution of a deed by a Native, that he has satisfied himself that the alienation thereby effected is in accordance with law, shall have the same effect as a confirmation order. 30

Confirmation of deeds heretofore executed.  
New.

56. A confirmation order may be granted in respect of any deed executed before the passing of this Act, on proof that such deed was executed, and that the alienation thereby effected was in accordance with the law at the time of such execution. 35

(6.) *Native Trusts.*

Beneficiaries under Native trusts to take, subject to lease, mortgage, or contract.  
New.

57. Where the Courts shall determine under subsection *nine* of section *fifteen* of this Act that any land is held in trust, the beneficial owners of such land shall hold the same subject to any existing lease or mortgage or contract for the sale of such land. 40

(7.) *Apportionment.*

Native lessors entitled in equal shares until relative interests determined.  
Rents may be paid to Public Trustee.  
No. 37, 1888, secs. 8-11.

58. Native lessors shall be deemed to be entitled in equal shares to rent accruing to them until their relative interests be determined, or the leased land be partitioned, unless otherwise provided in the lease: Provided that if there be any dispute between the Native lessors, or any of them, as to the division of any rent, any one of them may apply *ex parte* to a Judge to order that the same be paid to the Public Trustee; and such Judge may make such order as may seem just, and payment of such rent in accordance with such order shall be deemed a payment made under the lease. 50

59. The Court may at any time, on application, rescind, vary, or amend any such order; and, from time to time, direct the Public Trustee how he shall dispose of any rent paid to him under any such order as aforesaid.

Public Trustee may pay on order. No. 37, 1888, secs. 8 to 11.

5

## PART VI.

## SURVEY.

60. Any Judge may authorise any surveyor or other person to enter upon any land for the purpose of making any survey which may appear to such Judge expedient or necessary to be made.

Judge may authorise survey of land.

10

61. The Surveyor-General may authorise any surveyor or other person to enter upon any Native land to make any survey, and no person shall enter upon Native land to make any survey thereof without such authority.

No. 24, 1886, secs. 79 to 90. Surveyor-General may authorise survey of Native land.

15

62. Every surveyor or other person authorised under either of the *last-preceding* sections, and such persons as he may employ in or about any survey in respect of which such authority was given, may enter upon any land or Native land which such surveyor may consider should be entered upon, and may do all things necessary to be done to enable him to effectually carry out the survey in respect of which such authority was given.

Surveyor may enter on any land or Native land.

20

63. Any person obstructing or threatening to obstruct any surveyor or other person acting under an authority under section *sixty-two* or *sixty-three* of this Act (such authority having been produced to any person threatening or engaged in such obstruction) shall be liable to a penalty not exceeding *fifty* pounds, or to imprisonment for any term not exceeding *one* month.

Penalty for obstructing surveyor.

25

64. The land comprised in or affected by any order made under this Act shall, subject to the provisions of section *fifteen*, subsection *fourteen*, of this Act, be charged with the payment of any survey charges of which a memorandum shall be made (signed by a Registrar) on the face of such order.

Land to stand charged with cost of survey.

30

Such memorandum may from time to time be amended by a Registrar.

35

Every dealing with such land shall be subject to such charge while the same shall exist.

65. If the land charged be comprised in a certificate of title, the District Land Registrar shall note thereon any such charge, on receipt of the order and memorandum aforesaid, and, on proof that such charge has been satisfied, shall enter a note of satisfaction on the said certificate.

District Land Registrar to note charge and satisfaction.

40

66. The payment by any person into the office of the Public Trustee of a sum of money protected or secured by a charge or mortgage to the account of the Native Land Court in the matter of the block named, and, *ex parte*, the person who originally obtained the charge or mortgage, shall be a discharge of such charge or mortgage.

Survey charges may be paid into Public Trust Office.

45

The money so paid to the Public Trustee shall be held in trust for and paid to such person as the Native Land Court shall determine to be entitled to the same.



## PART VII.

## PRIVATE ROADS.

Court may grant  
rights of private  
road.  
No. 24, 1886, sec. 91.

67. When upon an investigation of title of 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. 5

Such order may be made by the Court at the time when partition is ordered, or it may, on the application of any person interested therein, be made by the Court at any time within five years from the date of such partition. 10

## PART VIII.

## ALIENATION.

*Prohibited Dealings.*

Dealings with  
Native land  
prohibited.  
No. 38, 1888,  
secs. 5 to 8; No. 31,  
1889, sec. 3.

68. After the coming into operation of this Act it shall not be lawful for any person other than a person acting for or on behalf of the Crown, and under the written authority of a Minister of the Crown, to acquire any estate or interest in any land owned or held by a Native or Natives (except such land as has been acquired by a Native or Natives from the Crown or from Europeans) without the consent of the Governor in Council first obtained. Consent to the completion of any transaction commenced or pending at the time of the coming into operation of this Act must be applied for before the day of next. No consent granted hereunder shall operate to defeat any existing restriction or other bar to alienation. A return of all consents refused or granted under this section shall be laid before both Houses of the General Assembly within twenty days after the meeting of each session of Parliament. The provisions of this section shall apply to any land situated within the distance of half a mile in a direct line from any *ngawa*, *waiariki*, or hot or mineral spring or pool, and to any agency or authority to e al therewith or in relation thereto. 15 20 25 30

Dealing with certain  
lands prohibited.  
No. 38, 1888,  
secs. 5 to 8; No. 31  
1889, sec. 3.

69. Any person who, either on his own behalf or as trustee or agent for any other person, shall procure, take, or accept any conveyance, lease, transfer, gift, or other assurance from any Native of any Native land, or (excepting under Part XII. hereof) of any customary land, or land the Native owners of which shall hereafter be determined on investigation of title, or of any interest therein, or of any timber, gum, minerals, flax, or other natural product thereof respectively, or shall be a party to any negotiation, agreement, contract, or pro- 35 40

mise therefor respectively, shall forfeit and pay a penalty not exceeding *five* hundred pounds, and in addition thereto shall be liable to imprisonment for a period not exceeding *three* calendar months, and upon any forfeiture or conviction hereunder the estate  
 5 or interest in land so unlawfully acquired shall vest in the Crown. Proceedings for the recovery of any penalty imposed under this section may be taken by any person authorised by the Minister in that behalf.

No creditor of any Native shall have any remedy against the  
 10 interest of such Native in any customary land, or any land the title to which shall hereafter be investigated, and no such land or interest shall vest in any Official Assignee in Bankruptcy.

70. The owner or owners of any land the title to which has been heretofore investigated and determined, excepting customary  
 15 land, may alienate the same subject to the provisions of this Act: Provided that it shall not be lawful for any person, either in his own name or in the name of a trustee or agent, to hold an area exceeding six hundred and forty acres of first-class land, two thousand acres of second-class land, or such area of  
 20 other class lands as may be prescribed by the land laws of the colony from time to time, wholly or partly acquired after the coming into operation of this Act from the Native owners by or on behalf of such person: Provided that any person may hold by lease, for any term not exceeding forty-two years, an area not exceeding  
 25 acres acquired as aforesaid, in addition to any land held by such person under an alienation other than lease.

71. Every deed, other than a lease for a term of forty-two years or less, effecting an alienation of land, shall, before the alienation thereby effected shall be confirmed, have indorsed thereon and signed  
 30 by every person acquiring an interest thereunder, before a solicitor of the Supreme Court or a Justice of the Peace, a declaration in the following form:—

“ I [We], the within-named \_\_\_\_\_, do [severally] solemnly and sincerely declare that I [we] do not, nor does any person on  
 35 my [our] behalf [*and, if the land be purchased by an agent,* “ nor any person on whose behalf any interest is acquired under the within-written deed ”], hold such an area of land wholly or partly acquired by me [us] or any person on my [our] behalf from the Native owners thereof, since the \_\_\_\_\_ day of \_\_\_\_\_, one thousand eight hundred  
 40 and ninety-\_\_\_\_\_, as would, if added to the area acquired by me [us] under the within-written deed, amount to more than five thousand acres.”

And every lease for a term of forty-two years or less shall have indorsed thereon, and signed by every person acquiring an interest

Dealings in land limited in area  
 No. 38, 1888,  
 secs. 5-8; No. 31,  
 1889, sec. 3.

Forms of declaration to be indorsed on deeds effecting an alienation.  
 New.

thereunder, before a solicitor of the Supreme Court or a Justice of the Peace, a declaration in the following form:—

“ I [We], the within-named \_\_\_\_\_, do [severally] solemnly and sincerely declare that I [we] do not, nor does any person on my [our] [behalf [and, if the land be purchased by an agent, “ nor any person on whose behalf any interest is acquired under the within-written deed ”], hold by lease for a term of forty-two years or less such an area of land acquired by me [us] or by any one on my [our] behalf from the Native owners thereof, since the \_\_\_\_\_ day of \_\_\_\_\_, 10 one thousand eight hundred and ninety-\_\_\_\_\_, as would, if added to the area acquired by me [us] under the within-written lease, amount to more than ten thousand acres.”

72. Every person who shall wilfully sign either of the above declarations, knowing the same to be false, shall be liable to a penalty not exceeding *five* hundred pounds, and in addition thereto shall be liable to imprisonment for a period not exceeding *three* calendar months.

73. This part of the Act shall come into operation on the passing of this Act.

New.

Penalty for false declaration.

Operation Part VIII.

20

## PART IX.

## REMEDIES AGAINST LAND OF NATIVES.

74. No land shall, unless by direction of the Chief Judge after inquiry, 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, or under any law relating to bankruptcy, or under any power of sale contained in any mortgage executed or effected after the passing of this Act, or under letters of administration of the estate of a deceased Native; and no direction for sale shall be made if on inquiry it be ascertained that the Native debtor, or, in the case of a sale by an administrator, that the successor, has not sufficient land for his support.

No land to be sold under process of law unless owner has sufficient land left for his support. No. 17, 1881, sec. 8; No. 38, 1888, sec. 10.

## PART X.

## ALL TITLES TO LAND TO BE UNDER THE LAND TRANSFER ACTS.

35 (1.) *Customary Land to be held in Fee-simple.*

75. From and after the coming into operation of this Act, every Native owner of customary land shall hold the same for an estate of freehold in fee-simple in possession, and such land shall be subject to the provisions of “The Land Transfer Act, 1885.”

40 76. The Chief Judge shall, as soon as may be after the passing of this Act, certify by memorandum under his hand and the seal of the Court, to the District Land Registrar, who are the persons entitled to any customary land, and shall forward with such memorandum to the District Land Registrar certified copies, or the originals, of all orders, 45 certificates of title, memorials of ownership, plans, and such other documents (if any) as may be required to enable such District Land Registrar to issue a certificate of title in lieu of grant to the beneficial owners of any such customary land.

Customary land to be held in fee-simple.

Chief Judge to certify owners to District Land Registrar.

New.

(2.) *Orders issued under Acts other than this Act.*

77. Certified copies, or the originals, of all orders heretofore made under "The Native Land Division Act, 1882," "The Native Land Court Act, 1886," and the Acts amending the same, and all orders affecting land awarded or recommended to be awarded under the provisions of "The Tauranga District Lands Act, 1867," and "The Tauranga District Lands Act, 1868," entitling, or intended to ultimately entitle, any persons to a Crown grant, or ascertaining or intended to ascertain the owners of any land (and on which no Crown grant has issued), shall be forwarded by the Chief Judge with the like memorandum and documents as are mentioned in section *seventy-six* hereof to the District Land Registrar.

Chief Judge to forward orders to District Land Registrar.

(3.) *Orders issued under this Act.*

78. When title under any order issued under this Act affecting land shall be ascertained, the person in whom the same is expressed to be vested shall, as from the date of the effect of such order, hold the same under the Land Transfer Acts for the estate or interest specified in such order; and, on a certified plan of the land comprised therein having been approved by a Judge and indorsed thereon or attached thereto (if such land be not already described in a Crown grant, such order shall be forwarded by the Chief Judge to the District Land Registrar.

When title under this Act ascertained, similar procedure.

*New.*

(4.) *Provisional Register.*

79. Any deed, judgment, order, decree, probate, or other document whatsoever, purporting or intended to affect any land described in any order heretofore or hereafter to be made, which for any reason has not been forwarded to the District Land Registrar, may be provisionally registered against the land purporting to be thereby affected by the deposit with the Registrar of a certified copy thereof; and such registration shall have the force and effect of a registration under "The Deeds Registration Act, 1868."

Documents affecting title may be registered in Native Land Court office.

Order to be folium of register.

80. Every such order as aforesaid shall form a folium in the provisional register, and shall be numbered, and the Registrar shall indorse on every folium the date and hour of every registration affecting the land comprised therein.

Procedure when land comprised in a certificate of title.

81. If the land intended to be affected be a part of land already comprised in any folium of the Lands Registry, the original of every document intended to be registered shall, before provisional registration, be lodged at the District Land Registrar's office with a memorandum indorsed thereon that the land intended to be affected is comprised in an order forming a folium of the provisional register.

Previous dealings with customary land to be on provisional register.

82. All dealings with customary land heretofore registered in any office of the Native Land Court shall be deemed to be on the provisional register.

(5.) *Duties of District Land Registrar.*

83. The District Land Registrar shall, as soon as may be after the receipt of any memorandum and documents forwarded to him under sections *seventy-six* and *seventy-seven* hereof, issue a certificate of title in lieu of grant under "The Land Transfer Act, 1885," to the persons whom he shall consider ought to be the registered pro-

District Land Registrar to issue certificates of title.

prietors of any such land or customary land, ante-vesting to such date before or after the day of , one thousand eight hundred and seventy-one, as he shall deem just; and all interests registered on the provisional register, or in the Deeds Registry, shall for all purposes be deemed to be "outstanding interests" within the meaning of section fifty of, 'The Land Transfer Act, 1885,' and shall be dealt with by the District Land Registrar accordingly.

84. The District Land Registrar, on receipt of any order forwarded under section *seventy-eight* hereof, shall register every person in whom any land is vested by such order as the proprietor under the Land Transfer Acts of the land described therein, for the estate or interest specified therein, and, if such land be not already comprised in a Crown grant or certificate of title under the Land Transfer Acts, shall issue to the person entitled thereto a certificate of title in lieu of grant, which shall for all purposes vest the said land as from the date of the effect of such order.

85. Upon receipt from the Registrar of an order comprising land in respect of which documents have been provisionally registered, the District Land Registrar shall treat every provisional registration as the registration of an outstanding interest within the meaning of section fifty of "The Land Transfer Act, 1885."

(6.) *Supplementary.*

86. An alienation purporting to affect an undivided share shall be deemed to be an alienation of any parcel or parcels awarded to the registered owner of such undivided share by partition order, either before or after the execution of such alienation.

87. Subject and without prejudice to any alienation heretofore made, it is hereby declared that all land heretofore, now, or hereafter to be held jointly by Natives beneficially entitled thereto shall be deemed to be and to have been and shall be held by them as tenants in common, and not as joint tenants: Provided that nothing herein contained shall disturb any judgment of the Supreme Court or Court of Appeal that any such land was or is held by the Native owners thereof as joint tenants.

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PART XI.

RIGHTS OF THE CROWN.

88. Nothing in this Act contained shall limit or affect the power of the Crown to purchase or acquire any estate, share, right, or interest in any land or Native land, nor the power of any Native to cede, sell, or transfer any such estate, share, rights, or interest to the Crown, and when the Crown claims to be interested under any deed, contract, or other document, the same shall, on production, be admitted as evidence, and have due effect given thereto, notwithstanding any law in force to the contrary.

89. Any person or persons generally authorised by the Minister to represent the interests of the Crown before the Native Land Court, or specially authorised in any particular matter or matters, may, on behalf of the Crown, make any application and do every act, deed, matter, or thing which any person claiming an interest in any land or Native land may do under this Act, notwithstanding that the Crown may not claim an interest in the subject-matter of any such application, act, deed, matter, or thing.

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Crown business before the Court shall be entitled to precedence.

Registrar, on receipt of order under section 78, to register person in whom land vested.

New.

Provisional registration how to be treated.

Effect of dealing with undivided share.

Joint tenancy by Natives abolished. No. 24, 1886, sec. 111; No. 32, 1886, sec. 15.

Crown prerogative not affected.

Crown may be represented before Native Land Court. See No. 37, 1888, sec. 7.

Vested right of  
Crown not affected.

90. 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, or customary 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.

91. 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  
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## PART XII.

### NATIVE LAND ADMINISTRATION.

Owners may be  
incorporated.

92. The Court may, with the consent of a majority of the owners of any block of land in respect of which the Crown has not acquired a right or interest, or of a majority of the owners of each of a number of adjoining blocks, and on being satisfied that such block or blocks can be dealt with to the advantage of the owners thereof under this Part of the Act, by order, constitute the owners of any such block or blocks, or any part thereof respectively, a body corporate with a perpetual succession and a common seal, by the name "The Proprietors of [*naming the land, the owners of which are so incorporated*]" and thereupon the said land shall vest in such body corporate for an estate in fee-simple, subject to any existing alienation of any estate or interest therein, or any part thereof. 30  
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Committee to be  
nominated.

93. On such incorporation, the owners of any such land shall, in the manner prescribed, nominate a Committee of not fewer than three nor more than seven persons, who may or may not be owners, to administer the said lands. 40

Appointed by  
Court.

94. Every appointment of a Committee, and every appointment to a vacancy therein, shall be by order of the Court. 45

Quorum of  
Committee.

95. Every Committee shall have full power to act while at least three members thereof shall hold office.

Committee may  
alienate.

96. Such Committee, or a majority of the members thereof for the time being holding office, may, with the consent of the Commissioner of Crown Lands for the district, or of such other person as the Governor may from time to time appoint as Native Lands Administra- 50

New.

tion Officer for any Crown lands district, effect any alienation of the lands the owners of which are so incorporated as aforesaid, or of any part or parts thereof, upon such terms and in such mode as may from time to time be prescribed by the Governor in Council, either generally, or for a particular district or districts, block or blocks.

5 97. Every deed effecting an alienation by the corporate owners of any land shall be sealed with the seal thereof and signed by at least two members of the Committee, and by the Commissioner of Crown Lands or the Native Lands Administration Officer for the 10 district, and, when so executed, shall be conclusive evidence of the validity of the alienation thereby intended to be effected, and may be registered without a confirmation order.

15 98. The proceeds of every alienation shall be paid to the Public Trustee, who shall have power to sue and take all proceedings for the recovery of any moneys payable under or in respect of any alienation.

20 99. The Public Trustee shall, after deducting all his own expenses and those of the Committee, and all fees, charges, or commission, if any, payable to the Crown, distribute the net proceeds of any alienation among the owners of the land, or dispose thereof for their benefit in any manner prescribed by the Governor in Council, either generally or in respect of the particular lands alienated.

100. The Governor in Council may by order make, and from time to time vary and amend, rules and regulations,—

- 25 (1.) For the nomination and appointment of Committees under this Part of the Act ;
- (2.) For the conduct and management of the business of Committees, or any Committee ;
- (3.) For the retirement from office of members of Committees, or of any Committee, and for the appointment of a new 30 Committeeman to any vacancy ;
- (4.) For the advantageous alienation of lands vested as aforesaid in any body corporate, and prescribing the terms and mode in which any such land shall be alienated, and moneys arising from alienation thereof disposed of :
- 35 (5.) For the government of all persons acting under this Part of the Act ;
- (6.) For the payment to the Crown of fees and charges or commission by incorporated owners in respect of the services of the Native Lands Administration Officer, or other 40 expenses incurred by the Crown in the administration of any lands under this Part of the Act.

### PART XIII.

#### APPEAL.

45 101. There shall be within the colony a Court of Record, called "The Native Appellate Court," which shall consist of the Chief Judge, and such other Judges, Commissioners, and such Assessors of the Native Land Court, as the Governor may from time to time appoint.

[Rehearing clauses in existing Acts are: No. 24, 1886, secs. 75-78; No. 37, 1888, sec. 24.]

Execution of deeds.

Proceeds of alienation to be paid to Public Trustee.

How disposed of

Rules and regulations.

New.

Native Appellate Court.

Officers.	102. Every Registrar and Clerk of the Native Land Court shall without further appointment be a Registrar and Clerk of the Appellate Court.	
Jurisdiction.	103. The Appellate Court shall have jurisdiction in every matter in which the Native Land Court has jurisdiction, and in the exercise thereof shall have all the powers conferred upon the Native Land Court by this Act.	5
Notice of appeal.	104. The jurisdiction of the Appellate Court shall be exercised on notice of appeal given by or on behalf of any person aggrieved by a decision of the Native Land Court, or of a Judge thereof.	10
To be in writing.	105. Notice of appeal shall be in writing, and may be given to the Acting-Clerk of the Court from the decision of which an appeal is made, or to the Registrar of the district.	
Time for appealing.	106. Notice of appeal from any decision under subsections <i>one, two, four, five, or ten</i> of section <i>fifteen</i> hereof may be given within <i>thirty</i> days, and from any other decision shall be given within <i>seven</i> days, after the day on which the decision is orally pronounced in open Court:	15
	Provided always that where the Court shall, in the course of any proceedings under the above-mentioned subsections, exercise any other branch of its jurisdiction, a notice of appeal from the decision under any of the said subsections shall be valid so as to enable an appeal to be made from the whole judgment: Provided, further, that the Chief Judge may, for any reason which shall seem to him sufficient, and on such terms as may seem just, permit a notice of appeal to be given after the time limited by this Act.	20
Security.	107. The presiding Judge, or the Chief Judge, shall, forthwith on notice of appeal having been given, by order direct that such sum of money as he shall think fit be deposited by the appellant as security for the costs of the appeal, and such sum shall be deposited with the Registrar of the district within <i>fourteen</i> days after the amount thereof shall have been fixed, or within such time as may be limited by such order: Provided that the Chief Judge may vary any sum so directed to be deposited.	25
	108. The appellant shall, at the time of giving notice of appeal, or within <i>twenty-one</i> days thereafter, file with the Registrar for the district a statement of the grounds upon which he relies in support of his appeal: Provided always that the Chief Judge may at any time allow further time for filing such statement, and allow any such statement to be amended, upon such terms as he may think fit.	30
Grounds of appeal.		35
Appeal on grounds only.	109. No appeal shall be allowed on any ground not alleged in such statement or amended statement, unless the Court hearing an appeal shall be of opinion that the appeal may be so allowed without actual injustice to the other parties appearing on the appeal.	40
Constitution of Court.	110. The Appellate Court shall sit at such times and places as the Chief Judge may from time to time by order direct, and shall be constituted by not less than two of the Judges or Commissioners appointed under the provisions of section <i>one hundred and one</i> of this Act, who shall be assisted by an Assessor in every appeal from the decision of a Judge assisted by an Assessor.	45
Sittings of Court.	111. The Appellate Court may sit in two or more divisions at the same time, and each division shall have all the jurisdiction and powers of the Appellate Court.	50

New.



112. The Appellate Court, by order, may—

(1.) Affirm the decision appealed from, which shall thereupon be as effectual as if no appeal had been made; or

Order of Appellate Court.

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(2.) Direct the Native Land Court to give such other decision as to the Appellate Court may seem just; and, on such order being filed, the decision thereby directed to be given shall be deemed to have been given by the Native Land Court, which shall thereupon issue orders in accordance therewith.

*New.*

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113. The decision of the Appellate Court shall, as to every question of law and fact, be final and conclusive.

Finality.

All applications for rehearing made but not dealt with or disposed of before the coming into operation of this Act may, upon such terms as shall be prescribed, 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.

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#### PART XIV.

##### REFERENCE FROM SUPREME COURT.

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114. 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.

Supreme Court may refer question of Native custom or fact.

No. 24, 1886, secs. 104 to 106.

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115. 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.

Opinion of Native Land Court.

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116. 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.

Supreme Court may refer back.

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117. 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.

Procedure.

118. 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.

Opinion of Court or Appellate Court binding.

#### PART XV.

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##### RULES AND REGULATIONS.

119. The Chief Judge may from time to time, with the approval of the Governor in Council, make and prescribe and alter and revoke rules of practice and procedure and forms of proceedings in the various matters in which jurisdiction is or may be conferred upon the Court and Appellate Court, and also regulations for the government of all persons acting under this Act, and for regulating the sittings of the Court and Appellate Court, and for fixing the fees to be paid under this Act and the time and mode of payment, and for enforcing payment thereof.

Rules and regulations.  
No. 24, 1886,  
sec. 103.

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All such rules and regulations, and every alteration and revocation thereof, shall, within one month after the approval thereof, be published in the *New Zealand Gazette*, and shall be laid upon the

table of the House of Representatives and Legislative Council within *ten* days after the commencement of the session next ensuing on the publication thereof.

Until such rules and regulations are approved by the Governor in Council, any rules and regulations made under any Act hereby repealed and in force at the date of the passing of this Act shall remain in force. 5

Fees to be paid to Public Account.

120. Fees payable under this Act shall be paid into the Public Account, and shall form part of the Consolidated Fund.

## PART XVI. 10

### MISCELLANEOUS.

#### (1.) *Interpreters.*

Governor may license interpreters. No. 24, 1886, sec. 104 to 106.

121. The Governor may grant under his hand licenses to such persons as he may think fit, authorising them to act as interpreters under this Act, and may revoke the same: Provided that licenses granted to interpreters before the passing of this Act and unrevoked shall authorise the licensees to act as interpreters under this Act until the Governor shall otherwise direct. 15

Governor may suspend or remove interpreter.

122. The Governor may, at his discretion, suspend or remove 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 therefor. Every such suspension shall lapse if further proceedings be not taken against the person suspended within *three* months from the date of suspension. 20

Penalty for acting as a licensed interpreter.

123. 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. 25

#### (2.) *Stopping Supply of Liquor to Natives.*

Judge may order supply of liquor to be stopped. No. 24, 1886, secs. 107, 108.

124. When a Judge shall be of opinion that the supply of intoxicating 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 supply such liquors or permit the same to be supplied in his licensed premises 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. 30 35

Penalty for disobeying order.

125. 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. 40

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

Court may order Public Trustee to pay out moneys. No. 24, 1886, sec. 109.

126. The Court 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. 45

127. 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.

Chief Judge may vary trust.

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.

10 (4.) *Chattels Transfer.*

128. 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 *fifty-three* of this Act, so far as the same are applicable to such instrument.

Execution of instruments.  
No. 32, 1889, sec. 30.

(5.) *Offences.*

129. 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.

Court may order prosecution for perjury.  
New.

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.

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

130. 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 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

Penalty for insulting Judge or officers of Court.  
No. 32, 1889, sec. 4.

his hand 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. 5

Mode of imposing  
penalty.  
New.

131. Every penalty provided for by this Act may be imposed by the Court after the person alleged to have incurred any such penalty shall have had an opportunity to show cause why the same should not be imposed.

## PART XVII.

10

### REPEAL.

Repeal.

132. The Acts named in the Schedule hereto are hereby repealed:

Provided 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: 15

Provided, further, that, except as provided by this Act, any proceeding commenced and not completed at the time of the coming into operation of this Act may, from its stage when this Act comes into operation, be either continued and completed under this Act in like manner as if such proceeding had been commenced hereunder, or be continued and completed under the Act under which such proceeding was commenced. 20

Time limited by  
repealed Act to  
continue to run.

133. Notwithstanding the repeal of any Act whereby any limited time is given within which any right may be exercised, such time shall continue to run so as to enable such right to be exercised, in any case where such time has commenced to run but has not expired before the coming into operation of this Act. 25

Reference to  
repealed Act.

134. 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. 30

Schedule.

### SCHEDULE.

1881, No. 17.—The Native Lands Frauds Prevention Act, 1881.

1886, No. 16.—The Native Equitable Owners Act, 1886.

1886, No. 24.—The Native Land Court Act, 1886.

1888, No. 36.—The Native Land Act, 1888.

1888, No. 37.—The Native Land Court Act 1886 Amendment Act, 1888.

1888, No. 38.—The Native Lands Frauds Prevention Act 1881 Amendment Act, 1888.

1889, No. 32.—The Native Land Court Acts Amendment Act, 1889.

1889, No. 31.—The Native Lands Frauds Prevention Acts Amendment Act, 1889.

1890, No. 32.—The Native Land Laws Amendment Act, 1890.