

This PUBLIC BILL originated in the LEGISLATIVE COUNCIL and having this day passed as now printed is transmitted to the HOUSE OF REPRESENTATIVES for its concurrence.

*Legislative Council,
7th July, 1880.*

Hon. Mr. Whitaker.

NATIVE LANDS FRAUDS PREVENTION.

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A BILL INTITULED

AN ACT to prevent Improvident Dealings and Frauds upon the Alienation of Land 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:—

1. The Short Title of this Act is "The Native Lands Frauds Prevention Act, 1880." Short Title.

5 2. The words following have the meaning in this Act here attached— Interpretation.
"Native"—aboriginal natives and half-castes, and their descendants by Natives.

"Alienation"—sale, lease, or other disposition absolute or limited, charge, lien, or incumbrance.

10 3. The Governor may from time to time, by warrant under his hand, appoint any person to be a Trust Commissioner, who shall hold office during pleasure. Trust Commissioner.

4. Trust Commissioners heretofore appointed shall be deemed to be appointed under this Act. Appointment of, continued.

15 5. No alienation of land held by any Native under title derived from the Crown, or under any Act of the General Assembly, is valid if such alienation is contrary to equity and good conscience; and, in the case of land held under any trust, if the same is in contravention of the trusts, or is not made in conformity with such trusts, or if the consideration for such alienation, either in whole or in part, arises out of or is founded, either directly or indirectly, upon any contract for or in relation to the sale or supply of spirituous or fermented liquors, or of arms or other warlike implements or stores, or is in any way of an illegal nature; and every deed or instrument intended to effect any alienation contrary to the provisions of this Act shall be null and void to all intents and purposes whatsoever. Certain considerations for sale declared unlawful.

25 6. The Trust Commissioner is to ascertain as far as possible the circumstances attending every such alienation, and especially to inquire whether the same is valid within the intent and meaning of the last clause, and whether the parties to the transaction understand the effect thereof, and also as to the nature of the consideration intended to be paid or given upon such alienation, and to Commissioner to inquire into consideration.

30 satisfy himself that the consideration purporting to be paid or given is or has

- been actually paid or given, and that sufficient land is left for the support of the Natives interested in such alienation; and for that purpose a Trust Commissioner shall have all the powers which by "The Commissioners' Powers Act, 1867," are given to a Commissioner appointed by such Act.
- And indorse result of inquiry.** 7. If the Trust Commissioner is satisfied with the result of such inquiries he must indorse on the principal or only instrument a certificate under his hand to that effect, and no such instrument shall be registered in any registry of land or deeds, or be received as evidence in any Court of law or equity, without such certificate indorsed. 5
- Power of appeal.** 8. Any person aggrieved by any act of the Trust Commissioner in relation to the giving or withholding such certificate may appeal to the Supreme Court against the decision of the Trust Commissioner, and such appeal shall be made within such time, and in such form, and with such provisions as to notice of appeal and as to the effect of such notice, and shall be heard and determined in such manner, as shall be fixed and provided in that behalf in the rules of procedure hereinafter directed to be made. 10
- Proceedings thereupon.** 9. If, upon the hearing of such appeal, the Supreme Court shall be of opinion that the approval of the Trust Commissioner ought to have been withheld or have been given, as the case may be, the said Court may, by order, prohibit or authorize the proposed alienation, as the case may require, and such order shall have the same force and effect as a refusal or consent, as the case may be, by the Trust Commissioner. 15
- Saving ordinary jurisdiction of Supreme Court.** 10. Nothing in this Act contained limits or interferes with the power of the Supreme Court in its equitable jurisdiction to avoid or set aside any transaction coming within the provisions of this Act on the ground of fraud, or to make such order therein as to the said Court may appear just. 20
- No judgment, &c., to be registered except by leave of Governor in Council.** 11. No judgment, memorial, order, or decree shall be registered in any Deeds Registry or Land Registry Office against land the property of a Native, nor shall any such land be capable of being seized or sold under any judgment, order, or decree, or under any writ of *feri facias*, or any other writ for the purpose of satisfying any such judgment, order, or decree, except by leave of the Governor in Council in that behalf first obtained. 25
- Application to be remitted to Trust Commissioners.** Any person requiring any judgment, memorial, order, or decree to be registered against land, the property of a Native, shall send notice thereof in writing to the Governor in Council, by whom the same shall be remitted to a Trust Commissioner for investigation and report. 30
- Trust Commissioners to report.** Such Trust Commissioner shall thereupon make investigation in manner and to the intent directed by sections five and six of this Statute, and shall report thereon to the Governor in Council, who, if he thinks fit, shall make an order that such judgment, memorial, order, or decree may be registered against the lands described in the notice or any part thereof: Provided always that it shall be lawful for any person from time to time to repeat such application. 35
- Perjury.** 12. Every person wilfully and corruptly giving false evidence upon oath before any such Trust Commissioner is guilty of perjury. 40
- Fees.** 13. The Governor in Council may, by order in that behalf, fix fees to be paid in respect of any proceedings before the Trust Commissioners under the provisions of this Act, and such fees shall be demandable and payable accordingly. 45
- Rules.** 14. The Governor in Council may, with the approval of a Judge of the Supreme Court, make and from time to time alter, revoke, or amend such rules of practice and procedure for regulating proceedings under this Act as to him shall seem fit, and such rules, when published in the *New Zealand Gazette*, shall have the force of law. 50