



## New Zealand Constitution Act 1852

- Citation:** 15 & 16 Vict. cap. 72
- Date of Assent:** 30 June, 1852
- Commencement:** Proclamation, Gazette, 17 January, 1853.
- Repeal:** Repealed 1986, No 114
- Amendments:** Frequently amended over the years until eventually repealed by the Constitution Act 1986. Of the relevant sections, the NZ Constitution Amendment Act 1857 (20 & 21 Vict. cap. 53) saved s73 from repeal by the Colonial legislature but the NZ Constitution Amendment Act 1863 conferred power to repeal that section – a power which was exercised in the Native Land Act 1873, s4. The Imperial legislature later purported to repeal s73 again in the Statute Law Revision Act 1892 (55 & 56 Vict. cap.19).  
**1973, No 114:** s2 repeals and replaces s53. Gives the General Assembly the full power to make laws.
- Type of Legislation:** Imperial
- Subject:** Govt Admin Specific to Maori/Maori Land  
Waste Lands
- Relevant Sections:** s71: Laws of the natives may be maintained in any districts set apart by Proclamation.  
s72: General Assembly granted the power to regulate the sale of waste lands.  
s73: Re-affirms Crown pre-emption.
- Commentary:** Empowered the General assembly to make laws regulating the sale, letting, disposal, and occupation of the waste lands of the Crown. Waste lands are defined as lands where native title has been extinguished and are the demesne lands of the crown. The franchise was dependent on individual property ownership which thus excluded most Maori. The Act was intended to devolve political power to the local settlers without provision for Maori representation in the law-making bodies. Although requests were made by Maori for the proclamation of districts under section 71 in which Maori law would apply (eg the “King Country”), no such proclamations were ever made. The saving of Crown pre-emption by section 73 was repealed in 1873 as indicated above. [The Waitangi Tribunal did not fully set out the history of that section’s repeal in its Orakei Report.]

*Cross Reference continued next page*



- Cross Reference:** *The Constitution and Government of New Zealand*  
(Govt Printer, Wellington, 1896)
- Constitutional Reform*  
(Dept Justice, Wellington, 1986)
- Waitangi Tribunal *Report of the Waitangi Tribunal  
on the Orakei Claim* Wai 9 (Waitangi Tribunal, Wellington, 1987) 31.