



Native Land (Validation of Titles) Act 1892

1892

- Citation:** 56 V. No 40
Date of Assent: 11 October, 1892
Commencement: Date of Assent
- Repeal:** Repealed 6 October, 1893 by 1893, No 38
Amendments: –
Type of Legislation: Public
Subject: Alienation of Maori Land
Maori Land Court: Structures & Jurisdiction
Validation
- Relevant Sections:**
- s2: Act to be read together with the Native Land Court Acts.
 - s3: Repeals ss20 - 28 Native Land Court Acts Amendment Act 1889.
 - s4: Any document purporting to effect an alienation of Native land by due process of law, may be inquired into by the NLCT, on the application of any person concerned, if for any reason the transaction is incomplete.
 - s5: If the Court finds the transaction to be fair and reasonable and not contrary to equity and good conscience, that the Native owners have been paid, and that stamp duties have been paid, a certificate may issue to such effect.
 - s6: Certificate to specify the land and the persons beneficially entitled.
 - s7: Court may order a partition of the land.
 - s8: Successors to deceased owners may be ascertained.
Representatives may be appointed if the successor is an infant.
 - s9: If any formalities required by the law have not been complied with in the execution of the deed, or in the removal of alienation restrictions, or in obtaining the Governor's consent to alienation, or in irregularities in the Court's proceedings, and the Court is satisfied that the mistake was inadvertent and without intent to evade the law, and that the Native owners have not been prejudiced, a certificate may be granted under s5.
 - s10: Certificate may be refused if fraud is involved or if validation of transaction would be contrary to equity and good conscience and injurious to the interests of the Native owners. The Native owners of the land will then be freed of any liability under the invalidated deed.
 - s11: Refusal to grant a certificate to be reported to the Governor.
 - s12: If more than one person claims to have negotiated for the same land the certificate may declare one or more of the persons to be entitled.

Relevant Sections and Commentary continued over page



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s13: Court may approve any agreement between the parties which is fair and reasonable.

s14: Chief Judge may refer any questions back for further inquiry.

s15: Jurisdiction only to be exercised by Judges and Assessors specially authorised by the Governor.

s16: Return to be laid before Parliament.

s17: Certificates issued by the Court must be confirmed by Act of Parliament to be valid.

s18: No proceedings questioning the validity of alienations to be brought before any other Court before the end of the next session of Parliament.

s19: Natives claiming to be interested in any contract or agreement and disadvantaged by the contract not being carried out may apply to the NLCT for inquiry.

s20: The period from the passing of the Native Land Court Acts Amendment Act 1889 to the end of the next session of Parliament not to be included in time allowed under any statute of limitations for bringing proceedings.

Commentary: According to the Native Minister, Cadman, the Act was "to relieve some of those people who, having broken no laws, have had their estates withheld from them on account of technicalities, irregularities, or through some change of the law interfering between commencement and the completion of their transactions".

The Act allows cases to be investigated by the (already overworked) Native Land Court and then for the decisions to be confirmed by an Act of Parliament.

Taipua says that the measure only deals with Pakeha grievances and that the problems would have been avoided in the first place if Maori Committees were permitted to settle title. Kapa said that the measure would mean that very little land would remain with Maori and that "It will be unwise and improper to refer these troubles back to the very Court which is responsible for all these troubles, and order it to rectify the wrongs which it has committed... what guarantee have we if the mistakes are referred back to the Court that such mistakes will not be perpetuated?".

The Government had decided that a Court should carry out the investigation because a special Commission would be expensive and ineffective, like the Commission appointed under the Native Land

Commentary and Cross Reference continued next page



Acts Amendment Act 1889. The cases heard in the first year of the Act can be found in AJHR (1893) G - 1, G - 2, G - 3. This Act was repealed in 1893 when a separate Validation Court was established under the Native Land (Validation of Titles) Act 1893. The Native Land Laws Amendment Act 1895 (s79) confirms acts done under this Act by any Native Land Court Judge acting without specific authorisation by the Governor as required by s15.

- Cross Reference:** NZPD vol 74 (1891) 967 - 974
NZPD vol 78 (1892) 503 - 521, 624 - 633, 655 - 662, 704 - 707, 738 - 741
NZPD vol 79 (1893) 591
AJHR (1893) G - 1, G - 2, G - 3
(Native Land Validation of Titles Act 1892)
AJHR (1894) G - 2
(Validation Court at Gisborne)
Brooking T 'Busting Up' *The Greatest Estate of All: Liberal Maori Land Policy, 1891 - 1911* NZJH, 26 (April, 1992) 78 - 98
Reported Court Cases:
In re Puketarata Block (1895): 14 N.Z.L.R. 264
In re Puhatikotiko No. 1 Block (1893) (s.7): 12 N.Z.L.R. 131.