



Land Titles Protection Act 1902

1902

- Citation:** 2 Edw. VII, No 37
Date of Assent: 3 August, 1902
Commencement: Date of Assent
- Repeal:** Repealed 1908, No 98
Amendments: –
Type of Legislation: Public
Subject: Status of Land
Validation
- Relevant Sections:**
- s2: (1) In any Native land title issue, the validity of any order of the NLCt which has subsisted for over 10 years prior to the this Act shall not be called into question in any court unless the consent of the Governor is first obtained.
(2) Governor may give consent only if satisfied that a prima facie case has been established and it would be inexpedient to dispose of it by remedial legislation.
- s3: Actions commenced prior to 30 June, 1902 allowed to proceed.
s4: Applications under Act to be tabled in Parliament.
- Commentary:** This Act protects the land titles in the colony from “frivolous” attacks. The preamble refers to “*several actions by Natives calling in question, after a lapse of at least thirty years, certain orders of the Native Land Court made under the provisions of the Native Lands Act 1865... the said actions have been dismissed by the Court of Appeal and the Native Plaintiffs have been cast in costs and expenses amounting in the aggregate to at least two thousand pounds*”. The preamble also refers to the considerable alarm “*caused amongst the European Landholders of the colony at such attacks upon their titles.*” The cases brought by Maori had been filed after the decision of the Privy Council in *Nireaha Tamaki v Baker* which had held that the Courts did have jurisdiction to inquire whether as a matter of fact land had been duly ceded by Maori to the Crown. In *Timu Kerehi v Duff* the Court of Appeal had rejected three separate actions brought by Maori to challenge NLCt investigations of title in 1866 and 1868. Carroll and the Government claim that it is necessary to prevent further cases to protect Maori from being ruined by litigation costs and because Maori are being falsely encouraged by lawyers to initiate these proceedings. In return Heke said that this Act denies Maori the right to bring cases before the Supreme Court and therefore violates the third article of the Treaty of Waitangi.

Cross Reference continued next page



Land Titles Protection Act 1902 *continued*

Cross Reference: NZPD vol 122 (1902) 374 - 392, 641 - 654, 686 - 692

Nireaha Tamaki v Baker (1901) New Zealand Privy Council Cases. 371;
[1901]AC 561

Timu Kerehi v Duff (1902) 21 NZLR 416.