

Native Land Amendment Act 1913

Public Act 1913 No 58
Date of assent 15 December 1913

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An Act to amend the Native Land Act, 1909.

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

1 Short Title.

This Act may be cited as the Native Land Amendment Act, 1913, and shall form part of and be read together with the Native Land Act, 1909 (hereinafter referred to as the principal Act).

2 Commencement of sections 3 to 42 inclusive.

Sections three to forty-two (inclusive) of this Act shall not come into operation until the thirty-first day of March, nineteen hundred and fourteen.

3 Native Land Court districts.

- (1.) There shall be within the Dominion of New Zealand not fewer than five and not more than nine Native Land Court districts, which shall be constituted, and the boundaries and names of which shall be defined, from time to time by the Governor by Order in Council.
- (2.) The Governor may, in like manner, at any time alter the boundaries or change the name of any district.
- (3.) The Governor may, in like manner, at any time reduce the number of districts for the time being existing to not fewer than five, or increase the districts to any number not greater than nine.
- (4.) The Maori land districts existing at the commencement of this Act shall be deemed to have been constituted Native Land Court districts under this Act, and shall be subject to the provisions of this Act accordingly.
- (5.) Every Native Land Court district shall be a Maori Land district, so that such districts respectively shall be coterminous and identical.

4 Judges to be appointed to districts.

The Governor may appoint, in respect of each Native Land Court district, a Judge of the Native Land Court to be the Judge of that district, and may from time to time remove the Judge of one district to another district and appoint him accordingly; nevertheless, any Judge appointed to a district shall have jurisdiction (in respect of all powers conferred on Judges by the principal Act or this Act) in respect of Natives and their real and personal property in every part of the Dominion.

5 Commissioners.

The Governor may, in like manner, appoint a Commissioner under section seven of the principal Act to any district, and from time to time may remove any Commissioner from one district and appoint him to another district; nevertheless, any Commissioner may exercise all the jurisdiction vested in him in any part of the Dominion.

6 Judge or Commissioner to act within district.

- (1.) Excepting during the absence, through leave or illness or other cause, of any Judge or Commissioner, and excepting in cases where the convenience of parties renders it expedient that matters arising or affecting property in one district shall be dealt with by the Judge or Commissioner of another district, all matters for judicial determination arising in or affecting property within any district shall be dealt with by the Judge or Commissioner appointed to that district.
- (2.) Notwithstanding anything hereinbefore contained, no objection to the jurisdiction shall be tenable in any proceeding in any Court on the ground that any matter is by reason of the foregoing provisions judicially determinable only by the Judge or Commissioner of a particular district or within a particular district.
- (3.) The Minister may at any time empower any Judge of the Native Land Court or Commissioner to exercise jurisdiction in any district during the absence therefrom, or during the illness or incapacity, of the Judge or Commissioner appointed to such district, whether the Judge or Commissioner so temporarily appointed is exercising jurisdiction in any other district or not; and such power may be conferred indefinitely or for some fixed period.
- (4.) Whenever it shall appear to the Minister that, by reason of the number of applications to the Court in any district, it is expedient that an additional Judge or Judges, or Commissioner or Commissioners, should be appointed to such district, the Minister, on the recommendation of the Chief Judge, may, by writing under his hand, authorize any Judge or Commissioner appointed to any other district to exercise jurisdiction in such first-mentioned district.

7 Notices of sittings of Court.

During the month of March in each year, or so soon thereafter as shall be practicable, the date of the commencement of sittings of the Native Land Court in each district for the next ensuing twelve months shall be published in the *New Zealand Gazette* and *Kahiti*. Special sittings may from time to time be appointed in pursuance of Rules of Court under the principal Act.

8 Native Land Court Office.

There shall be a Native Land Court Office within each district at such place or places as the Minister shall from time to time direct, and all records of the Native Land Court and Native Appellate Court affecting matters within the district shall be kept at such office when the same are not in use elsewhere for the purposes of the Native Land Court or the Native Appellate Court.

9 Head Office.

- (1.) The Head Office of the Native Land Court and of the Native Appellate Court shall be in the City of Wellington, and there shall be kept at such Head Office not only the records for the district in which the City of Wellington shall be situated, but counterparts of all orders made by the Native Land Court and the Native Appellate Court in any other district; and all such counterparts shall be filed in the Head Office.
- (2.) Section ten of the principal Act is hereby repealed.

10 Registrars.

There shall be a Registrar for each district, but one person may be appointed Registrar for two or more districts.

11 Filing of orders.

At least four copies of every order of the Native Land Court and Native Appellate Court affecting title to land shall be prepared and authenticated. Two copies shall be filed in the District Office. One copy shall be transmitted to the Registrar at the Head Office, where it shall be filed. When the title to any land has been ascertained, or when any order affecting land or succession thereto has matured, the Registrar of the district shall transmit to the District Land Registrar for the registration district within which such land is situated the duplicate of such order.

12 Ascertainment of title and maturity of orders.

- (1.) Title of any person, or title to 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,—
 - (a.) When the time or extended time within which notice of appeal may be given in respect thereof has elapsed without notice of appeal having been duly given:

- (b.) When any notice of appeal duly given has lapsed, or has been finally disposed of by final order made on appeal or otherwise.
- (2.) Nothing herein contained shall be construed as preventing vesting or ante-vesting according to the tenor of any order or the provisions of any statute.
- (3.) Every succession order, when the same shall have matured, shall, for all purposes, be deemed to have taken effect immediately on the death of the person to whose estate succession is ordered.

13 Register of Native freehold land.

- (1.) The Minister may cause to be compiled a Register of all Native freehold land, and such Register shall contain a plan of each block or separate parcel of Native freehold land; and shall, in respect of each block or parcel, contain the following particulars:—
 - (a.) A reference to the title, whether under the Land Transfer Act, 1908, or the Deeds Registration Act, 1908:
 - (b.) The names of all the owners thereof:
 - (c.) Particulars, so far as the same shall be ascertainable, of all partial or limited dispositions thereof:
 - (d.) All orders of the Native Land Court affecting the same:
 - (e.) All applications to the Native Land Court not for the time being dealt with.
- (2.) When any block or parcel of land shall be alienated in fee-simple to a person or persons other than a Native the Register shall in respect of such block or parcel of land be closed.
- (3.) Such Register shall be kept at the Head Office of the Native Land Court.

The Native Appellate Court

14 Native Appellate Court.

No Judge of the Native Land Court shall sit as a Judge of the Native Appellate Court to hear and determine any matter on which he shall have adjudicated.

Maori Land Districts and Boards

15 Maori land districts.

Until the constitution of new districts under this Act, or until the alteration of the boundaries of existing districts, the Maori land districts existing at the time of the passing of this Act shall be Maori land districts and Native Land Court districts under this Act.

16 Identical with Court districts.

Every Native Land Court district constituted under section three of this Act shall be a Maori land district under this Act, and any alteration of the boundaries or change of the name of a Native Land Court district shall, *ipso facto*, be an alteration of the boundaries or change of the name of the corresponding Maori land district, so that Native Land Court districts and Maori land districts shall at all times hereafter be coterminous and identical.

17 Maori Land Boards.

For every Maori land district there shall be a Maori Land Board constituted as hereinafter provided.

18 Members of existing Boards.

The members of every Maori Land Board holding office at the commencement of this Act shall continue to hold office in respect of the same district, and shall be subject to this Act accordingly, until the appointment of the members of Boards under this Act, when the members of Boards holding office on the passing of this Act shall, *ipso facto*, cease to be such members as aforesaid, and shall vacate office.

19 Identity of old and new Boards.

The corporate identity of any Board in existence at the commencement of this Act shall not be affected by the passing of this Act, but it shall continue to be for all purposes the same Board as before the commencement of this Act; and the corporate identity of any Board shall not be affected by any change of name or change of boundaries of any district, or by the appointment of members of the Board under this Act.

20 When a President of a Maori Land Board deemed to be an officer of the Public Service.

Every President of a Maori Land Board holding office at the time of the passing of this Act who is not a Judge of the Native Land Court shall, notwithstanding the vacation of his office as such President by reason of the coming into operation of this Act, be deemed to be and to have been as from the date of his appointment as such President an officer of the Public Service within the meaning of the Public Service Act, 1912.

21 Board a body corporate.

- (1.) Every Board shall be a body corporate with perpetual succession and a common seal.
- (2.) The seal of such Board shall be such as is determined from time to time by the Native Minister, and in the meantime the seal used by any Board at the commencement of this Act shall be the seal of that Board.
- (3.) The seal of the Board shall be kept in the custody of the President thereof.

- (4.) The seal of the Board shall not be affixed to any document except by or with the authority of the President of the Board. The signature of the President to any document to which the seal of the Board shall be affixed shall be conclusive evidence that the seal was so affixed by or with the authority of the President.

22 Name of Board.

Every Board shall be called "The [*Name of district*] District Maori Land Board."

23 Constitution of Board.

- (1.) Every Board shall consist of two members, of whom one shall be the Judge appointed to the corresponding Native Land district, and the other shall be the Registrar of the Native Land Court for such district. The Judge of each district shall be the President of the Board for such district.
- (2.) If any member of a Board shall cease to hold office as a Judge or Registrar respectively, he shall, *ipso facto*, cease to hold office as a member of the Board.
- (3.) The President of any Board may, if he thinks fit, at any time or from time to time appoint, by writing in his minute-book, any Native or European Assessor or Assessors to sit with him in respect of all or any matters before the Board at any sitting thereof.
- (4.) Every Assessor so appointed shall be paid, out of moneys appropriated by Parliament, the sum of one pound for each day on which he is actually engaged on the business of the Board, together with all sums actually paid by him by way of travelling-expenses while so engaged.
- (5.) Subject to the provisions of this Act, the President shall have and may exercise all the powers conferred upon the President of a Maori Land Board by the principal Act.

24 Administrative officer.

The Registrar shall be the administrative officer of the Board in respect of all matters appertaining to business which shall be brought before the Board, and he shall perform all such other administrative duties as the President or the Minister may direct.

25 Powers of members.

Excepting as hereinafter provided, either member of the Board may, sitting alone, exercise all the powers of the Board under the principal Act and this Act:

Provided that the Registrar, sitting alone, may exercise only such powers as shall from time to time be delegated to him in writing by the President, and his decision in any such matter shall be the decision of the Board:

Provided further that the President, either sitting alone or with the Registrar, shall have sole jurisdiction to confirm alienations under Part XIII of the principal Act.

26 President.

At every sitting of the Board the President shall, in case of disagreement, decide all matters in question.

27 Jurisdiction.

- (1.) The President of the Board may, while sitting in that capacity, exercise any branch *of* his jurisdiction as Judge of the Native Land Court which it may appear to him ought to be exercised in respect of any matter before him, and he may similarly, while sitting as Judge of the Native Land Court, exercise any powers exercisable by the Board or by the Court:

Provided in each case he shall be satisfied that all necessary parties are before him, and are not prejudiced by want of formal notice.

- (2.) The effect of any decision given under this section in any matter in which jurisdiction shall be exercised without formal application or without notice of the hearing of such matter having been previously given in the *Kahiti* shall, within a reasonable time after such decision is given, be published in the *Kahiti*, and the time within which notice of appeal from such decision may be given shall be computed from the date of the publication thereof in the *Kahiti*.

28 Vacancies not to invalidate acts.

No act of any Board shall be invalid because of any vacancy in the membership of the Board, or because of any person continuing to act as a member of the Board after having vacated his seat, or because of any defect or illegality in the appointment of any member of the Board.

29 Absence of members.

- (1.) If at any time any member of the Board is absent from the district or unable to act, the Native Minister may by warrant under his hand appoint some person as the deputy of that member during his absence or inability; and the deputy so appointed shall, while the warrant of appointment remains unrevoked, have and may exercise all the powers and functions of the member whose deputy he is.
- (2.) The fact of any person so acting as the deputy of a member under an unrevoked warrant of the Native Minister shall be conclusive proof of his authority so to act, and no such warrant shall be questioned on the ground that the occasion for its issue had not arisen or had ceased, nor shall the authority to act of any member of the Board be questioned in any proceedings on the ground that a deputy of that member was in office at the time when the authority was exercised or that act was done.

- (3.) Any warrant given under this section may be revoked at any time by the Minister by writing under his hand.

30 Meetings.

A meeting of the Board may be summoned at any time by the President.

31 Regulations.

- (1.) The Governor may from time to time, by Order in Council, make regulations, consistent with this Act, prescribing the practice and procedure of Boards.
- (2.) Subject to this Act and to any regulations so made, every Board may regulate its own proceedings.

32 In case no members holding office.

The corporate existence or identity of a Board shall be in no way affected by the fact that for the time being there may be no members of that Board in office.

33 Contracts.

- (1.) Any contract which if made between private persons must be by deed shall, if made by a Board, be in writing under the seal of the Board.
- (2.) Every contract must, in order to charge a Board, be either under the seal of the Board or must be in writing signed by some person thereunto duly authorized by the Board.

34 Liability.

No member of a Board shall be personally liable in damages for any act done or omitted by that Board or by any member thereof in good faith in pursuance or intended pursuance of the authority of this Act.

35 Moneys.

- (1.) All moneys payable under this Act or otherwise to a Board shall, as and when received, be paid into the bank at which the Public Account is kept, to the credit of an account to be called "The [*Name of Maori Land Board*] Account"; and all moneys payable by the Board shall be paid out of that account.
- (2.) All moneys which are in the hands of the Board at the commencement of this Act shall form part of that account.
- (3.) No money shall be paid out of any such account except by cheque signed by the President, or in such other manner as is prescribed by regulations.
- (4.) The Board may from time to time invest any moneys in its hands in such manner as may be authorized by regulations.
- (5.) Any interest received by the Board in respect of any moneys so invested shall be paid to the Natives entitled to receive such moneys in proportion to their shares therein.

36 Accounts.

- (1.) Every Board shall cause full and accurate accounts to be kept of all moneys received and paid by it, and all such accounts shall be subject to audit by the Audit Office.
- (2.) On the close of each year ending on the thirty-first day of March, every Board shall prepare a statement in the prescribed form showing the total receipts and expenditure of the Board during that year, together with such other particulars relating to the accounts and moneys of the Board as are prescribed.
- (3.) Within thirty days after the close of each such year the President of the Board shall transmit two copies of the aforesaid statement, signed by him, to the Controller and Auditor-General, who shall examine and certify to the correctness thereof, and transmit one copy thereof, certified as aforesaid, to the Native Minister.

37 Expenses.

All expenses incurred by a Board in the administration of this and the principal Act, or in the exercise of any other authority conferred upon it, shall, save so far as those expenses are authorized by this Act or otherwise to be paid out of the revenues received by the Board from property vested in or administered by it, be paid out of moneys appropriated by Parliament for that purpose.

38 Fees.

All fees received by a Board under the authority of this Act or of regulations made thereunder shall be paid by the Board into the Consolidated Fund.

39 Stamp duty.

No stamp duty shall be chargeable on any cheque drawn or receipt given by a Board, or upon any instrument whereby any land becomes vested in a Board.

40 Vesting.

- (1.) When any Maori land district is created or abolished, or when the boundaries of any Maori land district are altered, the Governor may, by the same or any later Order in Council, make such order as he thinks fit for vesting in the Board of any district any Native land situated in that district and vested in any other Board; and the land shall vest accordingly and become subject to the jurisdiction of the Board in which it is so vested, and any such Order in Council may be registered accordingly under the Land Transfer Act, 1908, as an instrument of title.
- (2.) In any case the Governor may also, by the same or any other Order in Council, make such order as he thinks fit for the transfer from the Board to another Board of any of the assets or liabilities of the former Board, and those assets and liabilities shall thereupon pass to the latter Board accordingly.

- (3.) When land situated in the district of any Board, other than land vested in that Board, becomes (by reason of any alteration of boundaries or by reason of the creation or abolition of any Maori land district) situated in the district of another Board, all the powers, rights, duties, and functions of the former Board in respect of that land shall pass to the latter Board; and the latter Board shall for all purposes be deemed to be, in respect of that land, the successors in office of the former Board.

41 Audits.

- (1.) The members of any Board to be appointed under this Act may, before taking over the accounts of the Board as constituted at the time of the passing of this Act, require a special audit by the Audit Department of the accounts of the existing Board.
- (2.) The accounts of the Board shall be kept and the funds of the Board applied in accordance with the requirements of the Audit Department, which may be notified to each Board in writing from time to time.

42 Repeal.

Sections sixty-one to eighty-three (inclusive) of the principal Act are hereby repealed.

Customary Rights

43 Section 84 of principal Act amended.

- (1.) Section eighty-four of the principal Act is hereby amended by inserting, after the words "any other Act," the words "and save as to the rights of Natives and their descendants to have their claims to any customary land investigated and adjudicated upon by the Court and the Appellate Court"; and by inserting, after the words "His Majesty the King," the words "or any officer of the Public Service acting in the execution of his office."

Repeal.

- (2.) Section one hundred of the principal Act is hereby repealed.

Partition

44 Report of Judge.

It shall be the duty of the Judge of each district to ascertain and report from time to time to the Minister what Native freehold lands fit for settlement or capable of being conveniently partitioned are owned by Natives in his district and not actually used by them.

45 Minister may apply.

The Minister may at any time apply to the Native Land Court to ascertain the relative interests of the owners of any Native freehold land and to partition the

same among the owners thereof. Three months' notice of the hearing of any such application shall be given in the *Gazette* and *Kahiti*, and the Court may summon such persons to appear and give evidence before it on the hearing of any such application as to the Judge shall seem fit.

46 Mode of partition.

On any such partition, and on any partition made on the application of any Native owner, the land shall as far as practicable, having regard to the interests of the Native owners, be subdivided into such areas according to quality and utility as will enable each allotment to be disposed of to an individual purchaser or lessee by the Native owner or owners thereof according to law.

47 Allocation of interests.

Section one hundred and sixteen of the principal Act is hereby amended by adding thereto the following subclause:—

“(2.) In allocating the share of any owner or owners on partition the Court may award one or more allotments in any block or parcel the subject of partition to the same owner or party of owners, and where an allotment or allotments are allocated to any party of the owners such party shall, where reasonably practicable, not exceed ten in number.”

48 Road-lines and partition.

- (1.) Upon any partition the Court may lay out upon the land partitioned such road-lines (if any) as the Court thinks necessary or expedient for the use of the several parcels and for giving access or better access thereto.
- (2.) In lieu of or in addition to laying out road-lines under this section, the Court may, if it thinks fit, in and by any partition orders made by it, create private rights of way over any parcels of the land partitioned and appurtenant to any other of those parcels; and in any such case every partition order made in respect of any such parcel shall set forth any right of way to which that parcel is so subject or which is so appurtenant thereto.
- (3.) The Governor may, by Proclamation, proclaim any road-line laid out under subsection one hereof to be a public road, and the same shall thereupon vest in the Crown as a public road accordingly.
- (4.) Unless and until such a Proclamation is made, the lands so set apart as road-lines shall remain Native land held in common ownership as if no partition order had been made, but subject to such rights of way thereover (if any) as shall be stated in the orders made on partition and specified in the manner provided by subsection two hereof.

49 Road access to former partitions.

- (1.) When any Native freehold land has been partitioned, either before or after the commencement of this Act, in such manner that any subdivision thereof is

without reasonably practicable access to any public road, the Court may, if it thinks fit, on the application of any person interested, at any time thereafter, by order, lay out any road-line over any portion of the land so partitioned which is necessary to afford to any such subdivision access to a public road, or may create private rights of way as provided by subsection two of section forty-eight hereof.

- (2.) The Governor may, by Proclamation, at any time thereafter, proclaim as a public road any road-line so laid out by the order, and the same shall thereupon vest in the Crown and become a public road accordingly.
- (3.) No road-line or private way shall be so laid out or public road so proclaimed over any land which at the date of the order or Proclamation has already ceased to be Native freehold land, nor shall any road-line or private way be laid out over any land the subject at the time of the commencement of this Act of an existing valid lease, during the continuance of such lease, without the consent in writing of the lessee.
- (4.) Before any road-line or private way is laid out over any land under this section the Court shall take into consideration any claim for compensation which may be made by any person having any estate or interest in that land, and may determine what compensation (if any) shall be paid to that person by the applicant or any other person; and the Court may, if it thinks fit, refuse to lay out any road-line or private way unless and until a contract for the payment of such compensation has been duly entered into and such security (if any) as the Court thinks necessary for the fulfilment of that contract has been duly given.
- (5.) The Court may, if it thinks the circumstances of the case justify it in so doing, lay out any road-line or private way as aforesaid unconditionally and without provision for payment of compensation therefor.

Repeal.

- (6.) Section one hundred and seventeen of the principal Act and section ten of the Native Land Amendment Act, 1912, are hereby repealed.

50 Road access over adjoining lands.

- (1.) The Court may, in order to give access or better access to any Native freehold land, lay off over any adjoining Native land (whether freehold land or not) such lines of roads or private ways as the Court thinks necessary or expedient; and subsections two, three, and four of section forty-eight of this Act shall apply to any road-line or private way so laid off.
- (2.) No such road-line or private way shall be laid off over any land comprised, at the time of the commencement of this Act, in any existing valid lease during the continuance of such lease without the consent in writing of the lessee.
- (3.) Before making an order laying off any such road-line or private way the Court shall, by notice in the *Gazette* and *Kahiti*, and by written notice posted addressed to the Native owners of such adjoining lands, fix a time and place for

hearing objections; and shall hear all objections (if any) which shall be made; and shall thereafter make such orders as it shall think fit.

- (4.) Such written notice shall be posted at least twenty-one days before the time fixed for the hearing of objections, and shall sufficiently specify the blocks or sections of land to and over which it is proposed to lay off such road-lines.
- (5.) The Court may, in respect of any road-line or private way under this section, exercise the powers conferred by subsections four and five of section forty-nine of this Act in the same manner as if the said section forty-nine authorized the road-lines provided for by this section to be laid off.
- (6.) The exercise of the power vested in the Governor under this section and sections forty-eight and forty-nine of this Act shall in no way restrict or affect the power of the Governor to lay out and take roads under Part XX of the principal Act.

51 Identification of road-line.

If in the opinion of the Court it is in the public interest that any road-line laid out by it under section forty-eight, forty-nine, or fifty of this Act should be proclaimed as a public road, it shall be the duty of the Court forthwith upon such road-line being laid off to notify the Minister of Lands accordingly; and such notification shall describe such road-line so as to enable the same and the boundaries thereof to be identified.

52 Court may take land for roads.

- (1.) For any of the purposes of section forty-eight, forty-nine, or fifty of this Act the Court may, with the consent in writing of the owner of any freehold land and of every person having any estate or interest therein, and whether such owner or person is a Native or a European, lay off any road or way through the land of such owner or person; and such written consent shall operate as a disclaimer of all rights to compensation other than as shall be expressly set forth in such consent in writing, and shall operate as a dedication of the lands therein described as a public road unless such consent shall in terms expressly limit the right of user of such land as a road or way; and the Court may make an order accordingly.
- (2.) Every order made as aforesaid shall set forth the terms of such consent, and on payment of all compensation payable to the person entitled thereto shall be registrable against the land affected thereby.
- (3.) In order to obtain road access for any of the purposes aforesaid the Court may approve of any exchange of Native land for Native land, or of Native land for European land, and may issue an order or orders vesting any Native land to give effect to any such exchange.
- (4.) In the case of an exchange of Native land for European land the Court shall only issue such order vesting the Native land with the consent of the Native Minister and upon a valid and effectual transfer or conveyance or dedication of

the European land being made in such manner and to such person as the Court shall approve.

- (5.) No stamp duty shall be payable on any such transfer, conveyance, or dedication.

53 Cost of survey of roads to be a charge upon the lands benefited.

- (1.) Where roads are or have been surveyed by the Crown to give access to any subdivisions upon or after partition of any Native land, the cost of survey of such roads shall constitute a charge upon the lands they serve, give access to, or in any way benefit.
- (2.) A certificate under the hand of the Chief Surveyor shall for all purposes be sufficient proof of the amount of these costs.
- (3.) All the provisions of Part XXI of the principal Act shall apply and shall be deemed to have applied to the cost of surveying roads in the same manner and to the same extent as if the word “survey” wherever it occurs in the said Part XXI includes survey of roads as aforesaid; and every survey of roads as aforesaid shall be deemed to be a survey within the meaning of Part XXI, whether or not such survey shall be or has been executed in pursuance of a requisition by the Native Land Court, or the Native Appellate Court, or Maori Land Board.

54 Matters to be regarded on partition.

Section one hundred and eighteen of the principal Act is hereby amended by adding thereto the following subclauses:—

“(2.) In subdividing any block of Native freehold land the Court shall have regard, as far as practicable, to water-supply, road access, aspect, and fencing-boundaries; and shall subdivide the same so that each section shall, as far as practicable, contain a reasonably sufficient area of land suitable for a homestead, and generally shall have regard to the configuration of the country, the best system of roading, and facilities for settlement.”

“(3.) In subdividing any block of Native freehold land the Court shall have regard, as far as practicable, to the interests of the Native owners.”

55 Partition of adjoining blocks.

Section one hundred and nineteen of the principal Act is hereby repealed, and the following section is substituted therefor:—

“Where two or more adjoining blocks or parcels of land are owned wholly or partly by the same owners, the Court may, for the purposes of partition, treat such blocks as one area to be partitioned among the respective parties of owners as if they were tenants in common of the whole; and the Court shall have jurisdiction to allocate the whole or part of the interests of any owner or owners in any of such blocks, and cancel the whole or any part of his or their interest in any of the other block or blocks, and issue partition orders accordingly.”

56 Valuers and surveyors.

- (1.) The Court may engage such valuers and surveyors to assist in the work of classification and subdivision as the Judge may think necessary.
- (2.) On partition a Judge may require an authorized surveyor to sit as an assessor to advise and assist on questions of allocation and boundaries, but such surveyor shall have no judicial function.
- (3.) The Governor may from time to time, by Order in Council, make regulations for the employment of surveyors for the purposes of this Act and for their remuneration.

57 Description in partition order.

- (1.) Wherever any land shall be partitioned and such land shall be comprised in any certificate of title under the Land Transfer Act, or the outside boundaries thereof defined on any certified plan, the Judge or Commissioner making orders on partition shall, in respect of each subdivision, describe the boundaries thereof with reference to boundaries shown on the plan on the certificate of title, or on the certified plan thereof, and with accuracy sufficient, in the opinion of the Judge or Commissioner, to enable the same to be identified and the boundaries thereof to be correctly laid down on survey.
- (2.) Before any partition order shall be transmitted to the District Land Registrar the description of the lands therein shall be checked and certified as sufficient by some competent officer to be appointed for that purpose.

58 Provisional Register.

Until a plan certified as correct for the purposes of the Land Transfer Act shall have been furnished, and a Land Transfer certificate of title issued thereon, every such partition order shall, when received by the District Land Registrar, constitute a folium of the Provisional Register for the registration district in which the land is situated; and any alienation by any person entitled under any order, on the Provisional Register shall, after confirmation of such alienation, be registrable on the Provisional Register; and on the issue of a certificate of title all dealings noted on the Provisional Register shall be brought down on the certificate of title in due order of priority.

59 Amendment of partition orders.

Any Judge may at any time, of his own motion, amend or vary the description or boundaries of any parcel of land awarded by him on partition to such an extent as may seem to him not to materially affect the interests of the parties on partition; and may, after hearing such of the parties affected as he deems necessary, and after notice of such hearing shall have been published in the *Gazette* and *Kahiti*, make any amendment or variation of description or boundaries; and the signature of the Judge to any plan of any partition as surveyed shall be conclusive evidence that such plan accords with the orders made by him,

notwithstanding that the description of any parcel or parcels in such orders may not have been formally amended; and the District Land Registrar shall issue certificates of title according to such plan when signed by the Judge. No appeal shall lie from any amendment or variation of any order under this section.

60 Validity of orders.

It shall not be necessary to the validity of any order made on partition (whether made before or after the passing of this Act) that the boundaries of the subdivision shall have been actually laid down by survey on the ground if the order shall contain a description of the subdivision, or shall have endorsed thereon a plan thereof sufficient to enable the boundaries to be correctly laid down on survey.

61 Alienation on ascertainment of title.

When the title to any subdivision made on partition shall have been ascertained, the same may be alienated by the Native owner or owners to whom the same shall have been awarded on partition in accordance with and subject to the provisions of the principal Act and this Act as to alienation and acquisition.

62 Certificate not to be issued until charges on land paid.

No certificate of title shall be issued until all survey liens and other charges on the land have been paid and discharged.

Exchange and Consolidation of Interests

63 Exchange and consolidation.

Section one hundred and thirty of the principal Act is hereby amended by adding thereto the following subsection:—

“(5.) The Judge of each district shall report from time to time to the Minister any cases in which consolidation as aforesaid may, in his opinion, be carried out, and the Minister may direct the Court or Judge to prepare and submit a consolidation scheme; and any scheme so submitted shall be dealt with as provided by this section.”

Succession

64 Inquiry by Judge.

If within six months after the death of any Native owner of freehold land an application shall not have been made for an order appointing successors to the interest in such land of such deceased owner, the Judge of the district within which such land is situated shall notify, by publication in the *Gazette* and *Kahiti*, a time and place (not being less than two months after the date of such publication) at which he will hold an inquiry to determine who are the successors according to Native custom of such deceased owner; and such

notice shall require any person claiming under a will of the deceased owner to lodge an application for probate thereof; and the Judge may summon any person who he has reason to believe is in possession of the will of the deceased owner to produce and deliver the same to the Court, or show cause why he should not produce and deliver the same accordingly; and the Court may, after due inquiry, grant probate of the will of such deceased Native owner, or make such order of succession to the interest of such deceased Native owner as if such inquiry had been held upon an application by a Native for probate or succession, as the case may be.

65 Attestation of wills.

Subsection one of section one hundred and thirty-four of the principal Act is hereby amended by adding thereto the following proviso:—

“Provided always that in every case where a will is written in the English language one of the attesting witnesses shall have a sufficient knowledge of the Maori and English languages to enable him to be satisfied that the testator does understand the effect of the will.”

66 Repeal.

(1.) Section one hundred and fifty-one of the principal Act is hereby repealed.

Effect of succession order.

(2.) A succession order shall, while it remains in force, be conclusive proof that the persons thereby declared to be entitled to succeed are the proper persons to succeed to the interest of the deceased in the real or personal property therein specified, and shall vest in the successors ascertained thereby the rights only to which the deceased was entitled, subject to all rights and equities in any other person claiming against, through, or under the deceased, and subject to the title of the executors or administrators (if any) of the deceased.

67 Disposal of small interests.

Section one hundred and fifty-five of the principal Act is hereby amended by adding thereto the following subsection:—

“(4.) In cases where a number of successors have been or shall be appointed in respect of any Native freehold land, or any interest therein, so that the relative interests of the respective successors are so small that in the opinion of the Court partition is not justified, a majority in number of the successors, representing not less than half the value of the land or interest affected, may, by writing under their hands attested as an alienation, apply to the Maori Land Board to effect a sale or lease of the interest, block, or parcel so owned; and the Maori Land Board may thereupon, by public auction or tender or private contract, sell or lease the said land, upon such terms as the Board may think fit having regard to the expressed wish of the applicants, and may execute a lease or transfer of the same on behalf of all the successors; and any lease or transfer executed by the Maori Land Board and purporting to be made under this

section shall be an effectual alienation and registrable under the Land Transfer Act; and the Maori Land Board shall receive the purchase-money or rent, as the case may be, and divide the same among the successors according to their rights and interests, and in the case of a lease shall during the continuance thereof have all the powers of a lessor under the Land Transfer Act. On receiving any such application as aforesaid the Board shall notify such application in the *Gazette* and *Kahiti*, and shall fix a time, not being earlier than thirty days after the date of such application, when objections to the said application shall be heard; and on hearing all objections of which notice in writing shall have been given the Board may decide either to give effect to such application, or that the said lands ought to be partitioned as to the interests of the objectors, or any of them, or otherwise as to the Board shall seem just, and the President may direct an application to be made to the Court for partition or proceed to effect same under the powers conferred by section twenty-seven of this Act.”

68 Appointment of general successors.

Where the same successors are entitled to all the lands of a deceased Native, the Court may make a general order in favour of such successors declaring them to be so entitled, and such order may be registered against the title to any land of which the deceased was proprietor; and, when so registered, such order shall have the same effect as an order appointing successors to the interest of the deceased in that land.

Fees and Expenses

69 Fees and expenses.

The fees, costs, and expenses of and incidental to any partition under section forty-five of this Act, or to any exchange and consolidation of interests under section sixty-three of this Act, or to any succession order made or probate granted under section sixty-four of this Act, shall be ascertained by the Court, and shall, as the justice of the case may require, be apportioned among the various parcels of land allocated, or among the interests awarded or affected, as the case may be, in such manner as to the Court shall seem just. Every order made on partition as aforesaid, or on exchange and consolidation of interests, and every succession order or probate as aforesaid, shall declare what sum *of money* is payable by the Native owner or owners of the land comprised in or affected by such order or probate for fees, costs, and expenses as aforesaid; and such declaration shall be conclusive evidence that the amount so stated to be due and payable is due and payable by such Native owner or owners to the Crown, and the land comprised in or affected by any such order or probate shall stand charged with the payment of such money, and no dealing with the interest or interests comprised in or affected by any such order or probate shall be registered until the money so declared as aforesaid to be payable shall be paid.

*Limitation of Area***70 Who may acquire.**

Any person of the age of seventeen years and upwards may acquire any Native freehold land or any estate or interest therein, subject to the provisions of Part XII of the principal Act and to the provisions of this Act.

71 Obligations of minor acquiring.

Any minor who has acquired under an alienation thereof any Native freehold land as the beneficial owner, lessee, or sublessee thereof (whether at law or in equity) shall be deemed to be of the full age of twenty-one years for the purposes of all rights and obligations under or incidental to such alienation and for all the purposes of the Fencing Act, 1908.

72 Limitation of area.

- (1.) It shall not be lawful for any person to acquire any Native freehold land as the beneficial owner, lessee, or sublessee thereof (whether at law or in equity, and whether solely or jointly or in common with any other person) if the land so acquired by him, together with all other land (whether Native, European, or Crown land) owned, held, or occupied by him under any tenure of more than one year and six months' duration (whether at law or in equity, and whether severally or jointly or in common with any other person), would exceed a total area of five thousand acres, calculated in manner provided by section ninety-seven of the Land Act, 1908, and sections one hundred and ninety-four to one hundred and ninety-eight (inclusive) of the principal Act.
- (2.) Subsection one of section one hundred and ninety-three and section two hundred and four of the principal Act are hereby repealed.

73 Renewable lease.

A lease containing a right of renewal at the option of the lessee or a covenant for renewal shall be deemed to be a tenure for the aggregate of the unexpired term of such lease and the term for which the same may be renewed.

74 Limited area, and disqualification.

- (1.) No "disqualified person" as hereinafter defined shall be capable of acquiring any interest in any "limited area" as hereinafter defined either from the person originally acquiring the same or from any transferee, assignee, lessee, or sublessee from him, or from any person claiming through, under, or in trust for any such alienee or transferee, assignee, lessee, or sublessee.
- (2.) "Disqualified person" means any person who owns, holds, or occupies as the beneficial owner under any tenure, either severally or jointly or in common with any other person, such an area of land (whether Native, European, or

Crown land) as would, when added to any limited area as hereinafter defined proposed to be acquired by him, exceed five thousand acres, calculated in the manner provided by section ninety-seven of the Land Act, 1908, and sections one hundred and ninety-four to one hundred and ninety-eight (inclusive) of the principal Act. For the purposes of this Act any area exceeding three thousand acres acquired under sections two hundred or two hundred and three of the principal Act shall be deemed to be an area of five thousand acres calculated as aforesaid.

(3.)

“Limited area” means (a) any area of Native freehold land alienated either in fee-simple or for a lesser estate or interest after the passing of this Act, and (b) any area of Native freehold land becoming European land under section two hundred and eight of the principal Act.

75 Declaration.

No District Land Registrar or Registrar of Deeds shall register any transfer, conveyance, or other disposition of a limited area as hereinbefore defined unless the instrument of such disposition is accompanied by a statutory declaration made by or on behalf of the transferee, donee, or other person acquiring an interest in the land by virtue of such disposition, to the effect that he is not a disqualified person within the meaning of the last preceding section. Nothing in sections seventy-two, seventy-three, and seventy-four of this Act or in this section shall apply to any disposition by will or acquisition on intestacy.

76 Penalties imposed by Land Act, 1908, to apply.

The provisions of sections three hundred and forty-three to three hundred and forty-seven (inclusive) of the Land Act, 1908, shall apply to every limited area as hereinbefore defined as fully and effectually as if they were set forth at length herein. Nothing herein contained shall be construed as limiting or affecting the operation of section seven of the Native Land Amendment Act, 1912.

77 Section 198 of principal Act amended.

Section one hundred and ninety-eight of the principal Act is hereby amended by substituting the word “eighteen” for the word “nine” in the said section.

78 Leaseholds acquired prior to the passing of this Act.

(1.) Notwithstanding anything hereinbefore contained, a leasehold interest, or life estate, or other particular or limited estate or interest, originally acquired in any Native freehold land prior to the passing of the principal Act may be lawfully assigned, conveyed, transferred, or dealt with only subject to and in accordance with the following limitations and provisions, that is to say:—

It shall not be lawful for any person to acquire the same as beneficial owner, lessee, or sublessee (whether at law or in equity, and whether

solely or jointly or in common with any other person) if the area so acquired, together with all other land (whether Native, European, or Crown land) owned, held, or occupied by the person acquiring, under any tenure (whether at law or in equity and whether severally or jointly or in common with any other person), would exceed a total area of nine thousand acres, calculated in the manner provided by section two hundred and four of the principal Act.

- (2.) Notwithstanding anything hereinbefore contained, a leasehold interest or life estate, or other particular or limited estate or interest, originally acquired in any Native land since the passing of the principal Act, and prior to the passing of this Act, may be lawfully assigned, conveyed, transferred, or dealt with only subject to and in accordance with the following limitations and provisions, that is to say:—

It shall not be lawful for any person to acquire the same as beneficial owner, lessee, or sublessee (whether at law or in equity and whether solely or jointly or in common with any other person) if the area so acquired, together with all other land (whether Native, European, or Crown land) owned, held, or occupied by the person acquiring, under any tenure (whether at law or in equity and whether severally or jointly or in common with any other person), would exceed a total area of three thousand acres, calculated in manner provided by section two hundred and four of the principal Act.

- (3.) For the purposes of Part XII of the principal Act and of sections seventy to seventy-nine (inclusive) of this Act, the date of acquisition of any Native land shall be the date of the execution of the instrument of alienation thereof.
- (4.) Section six of the Native Land Amendment Act, 1912, is hereby repealed.
- (5.) Notwithstanding the repeal of any provisions of the principal Act, all Native freehold land alienated prior to the passing of this Act may be assigned, transferred, conveyed, or dealt with only subject to and in accordance with the area limitations or disqualifications (if any) as to alienation or acquisition which were in force at the date of the original alienation thereof, excepting where such area limitations or disqualifications are in this section modified in respect of such land.

79 Special provision as to assignment and subletting.

For the purposes of assignment and subletting, every lease, whether granted prior to or after the passing of this Act, shall be deemed to be a lease of land not exceeding the maximum area which may be lawfully acquired by one person holding, owning, or occupying no other lands within the meaning of subsection two of section seventy-four of this Act.

80 Effect of section 205 of principal Act.

Section two hundred and five of the principal Act and section seven of the Native Land Amendment Act, 1912, shall apply to alienation, acquisition, and disposition under this Act as if sections seventy to seventy-nine (inclusive) of this Act had been embodied in Part XII of the principal Act, and had preceded section two hundred and five of that Act.

81 When mortgagee not required to make declaration.

Where land acquired under the principal Act or any amendment thereof is subject to the provisions of Part XIII of the Land Act, 1908, and is mortgaged and subsequently acquired by the mortgagee under section one hundred and twelve of the Land Transfer Act, 1908, or section eighty of the Property Law Act, 1908, the mortgagee may hold the land without being required to make the declaration prescribed by section seventy-five of this Act:

Provided that the conveyance or transfer executed by the Registrar of the Supreme Court shall not be registered until, and the deeds and documents of title shall be retained by the Registrar of the Supreme Court until, the *bona fide* resale by the mortgagee of the said land to a person qualified to make the required declaration.

*Alienation***82 Application for confirmation.**

Application for the confirmation of any alienation which, in accordance with the terms of subsection seven of section two hundred and nine of the principal Act, should have been made within eighteen months after the consent of the Board to such alienation was granted may be made at any time within six months after the passing of this Act, notwithstanding the repeal of the said subsection seven; and the Maori Land Board shall have jurisdiction to hear and determine any such application accordingly:

Provided always that any alienation confirmed in pursuance of an application made under this section shall be subject to any estate, right, or interest acquired under any instrument affecting the same land or interest confirmed prior to the confirmation of such first-mentioned alienation, unless such estate or interest has been acquired contrary to equity as against an applicant under this section.

83 Alienation of equitable interests.

- (1.) Excepting as is hereinafter provided in the case of alienation to the Crown, no Native shall be capable of making any alienation, charge, or other disposition (otherwise than by will) of his equitable or beneficial interest in any land the legal estate in which is vested in any Maori Land Board or in the Public Trustee for the purpose of enabling such land to be administered for his benefit, or is vested in trustees under any statutory trust by which he is prevented from getting in the legal estate in respect of his beneficial interest.

- (2.) Notwithstanding any of the provisions of the principal Act or of this Act, any Native may alienate and shall be deemed as from the date of the passing of the Native Land Act, 1909, to have been capable of alienating any equity of redemption or any beneficial interest conferred on or vested in him the legal estate in respect of which he has a right by statute or otherwise to get in, or any beneficial interest conferred on or vested in him by any order of the Native Land Court made on investigation of title, partition, exchange, consolidation of interests, or any order ascertaining or declaring successors or otherwise, or by any order of the Supreme Court, or by any Order in Council, notwithstanding that any such order may not be, or at the time of such alienation may not have been, actually registered or immediately registrable if such order shall be such that, when completed, it will be registrable under the Land Registration Act, 1908, or the Land Transfer Act, 1908, and shall be dated or shall antevest on a date prior to such alienation:

Provided always that title under such order shall have been ascertained or such order shall have matured within the meaning of section twelve of this Act:

Provided further that any such alienation shall be confirmed, and shall comply with the provisions of this Act as to limitation of area.

- (3.) Nothing in this section shall be construed as enabling any minor or other Native under disability to alienate any beneficial interest in any land held in trust for him while such minority or disability shall continue.
- (4.) Subsection one of section two hundred and ten of the principal Act is hereby repealed.

84 Settled land.

In any case where Native freehold land is a “settled estate” within the meaning of the Settled Land Act, 1908, the Native Land Court and every Judge thereof shall have the same jurisdiction and powers as are vested in the Supreme Court and in the Judges thereof by the Settled Land Act, 1908.

Confirmation

85 Adequacy of consideration.

On any application for confirmation of an alienation taking effect in possession the adequacy of the consideration shall be ascertained as at the date of the execution of the instrument of alienation.

86 Confirmation by Court or Board.

No alienation shall be deemed to be or to have been invalid or ineffectual merely because it has been confirmed by the Native Land Court instead of by a Maori Land Board, or confirmed by a Maori Land Board instead of by the Native Land Court, and every such alienation shall be valid accordingly, provided that no alienation by the same alienors or their successors valid and

effectual at law and in equity shall have been subsequently made of the estate or interest affected by such first-mentioned alienation.

87 Section 215 of principal Act amended.

Section two hundred and fifteen of the principal Act is hereby amended by striking out the words “a European member of a Maori Land Board” wherever they occur in the said section.

88 Terms of alienation may be modified.

If on an application for confirmation it shall appear to the President of the Maori Land Board or to the Judge of the Native Land Court dealing with such application that the alienation is made *bona fide*, but that some modification ought in justice to be made in the terms of such alienation in favour of the Native owner alienating (whether such modification be an increase of the amount payable by way of rent, or purchase-money, or interest, or otherwise howsoever), it shall be lawful for the President or the Judge, with the consent of the alienee, to modify the terms of such alienation, and to confirm the same as modified, and to embody the terms of such modification in the order of confirmation; and such modification shall have the same force and effect as if it had been originally embodied in the instrument of disposition.

89 Chatham Islands confirmations.

In the case of land situated in the Chatham Islands, the Stipendiary Magistrate exercising jurisdiction there shall have the same power in respect of confirmation of alienations as is conferred by the principal Act and this Act upon the Maori Land Board and the Native Land Court.

90 Removal into Supreme Court.

- (1.) In case questions of difficulty shall arise on any application for confirmation, the tribunal dealing with such application may, with the consent of the Governor in Council, order the application to be removed into the Supreme Court, and, on the filing of such order in the Supreme Court of the district within which the lands affected are situated, the Supreme Court shall have jurisdiction to hear and determine such application; but no appeal shall lie from its decision unless the Judge of the Supreme Court hearing such application shall, within fourteen days after his decision on the application, give leave to appeal to the Court of Appeal.
- (2.) The provisions of subsection five of section two hundred and twenty of the principal Act (as to review of confirmation on mandamus) shall not apply to any refusal of confirmation by the Supreme Court.
- (3.) The tribunal dealing with any application for confirmation may state a case for the opinion of the Supreme Court on any point of law arising in the proceedings, and the decision of the Supreme Court on the case so stated shall be binding on such tribunal.

91 Landless Natives.

Paragraph (c) of subsection one of section two hundred and twenty of the principal Act is hereby amended by adding the following exception: "Excepting in cases where it appears to the satisfaction of the tribunal dealing with the application for confirmation that the land which is the subject of alienation is not, having regard to all the circumstances, likely to be a material means of support to such Native, and excepting in cases where the Native alienating is qualified to pursue some avocation, trade, or profession, or is otherwise sufficiently provided with a means of livelihood."

92 Payment to Board or Public Trustee.

Section two hundred and twenty-six of the principal Act is hereby repealed, and the following provisions are substituted therefor:—

- "(1.) In any case in which the tribunal hearing an application for confirmation considers that it is not in the interest of any Native alienating that the money payable on such alienation, or any unpaid balance thereof, shall be actually paid to the Native entitled thereto or paid immediately to him, it may require the same to be paid to the Board or to the Public Trustee.
- "(2.) In any case in which payment of money payable on any alienation is made to the tribunal dealing with an application for confirmation thereof, whether under the foregoing provision or otherwise, such payment shall for the purpose of confirmation be deemed to be a payment to the Native alienating; and such tribunal may pay such money or any part thereof to the Native entitled thereto, or may deposit the same or any part thereof with the Public Trustee, or otherwise invest the same for the benefit of such Native.
- "(3.) No Native for whose benefit any money shall be deposited or invested under this section shall be capable of charging, assigning, or alienating the same, or the income thereof, or any part thereof respectively unless with the consent of a Judge of the Court evidenced by an order of such Judge, nor shall such money or income be liable to be attached or taken in execution on any judgment."

93 Protection of tenant's improvements.

- (1.) In the case of an application to confirm any alienation of any interest in land held by a tenant under an existing lease direct from the Native owner, but containing no provision for compensating the tenant for improvements, the tribunal dealing with such application for confirmation may (if such alienation be to a person other than such tenant) refuse confirmation of such alienation if it appears that the tenant holding of the Native owner has executed substantial improvements on the said land, and it is of opinion that such alienation is not in good faith so far as regards such tenant, or is against the interest of such tenant, and calculated to deter him from proceeding with the improvement of the land under his lease, provided such tenant shall himself be willing to purchase or

lease the land at the same price or rent as the applicant for confirmation has agreed to pay, and is not disqualified from acquiring such land.

- (2.) Subsection one hereof shall not apply in any case where it is proved to the satisfaction of the Court that the Native owner has offered in writing to sell the land to the tenant at the same price as in the sale proposed to be confirmed, or has offered in writing to agree to renew the lease to the tenant at the same rent as in the lease proposed to be confirmed, and the tenant has refused, or has not within a reasonable time accepted, such offer.

Delegation of Powers by the Maori Land, Board

94 Board may delegate powers to Land Board.

- (1.) Any Maori Land Board may, by order under its seal, delegate to the Land Board under the Land Act, 1908 (hereinafter called the Land Board), for the district within which any lands vested in it are situated all or any of its powers of management and disposal conferred by sections two hundred and forty to two hundred and seventy-one, inclusive, and sections two hundred and eighteen to two hundred and eighty-five, inclusive, of the principal Act in respect of any lands specified in such order; and thereupon the Land Board, as agent of the Maori Land Board, may exercise all the powers and shall be under the obligations conferred and imposed on Maori Land Boards by sections two hundred and forty to two hundred and seventy-one and sections two hundred and seventy-four to two hundred and eighty-six, inclusive, of the principal Act, or such powers as shall be specified in such order, as if the Land Board were named in the provisions of the principal Act conferring such powers instead of the Maori Land Board. Before the scheme of subdivision of any land to be disposed of under this section shall be actually surveyed, the Land Board shall submit a plan of such scheme of subdivision for the approval of the Maori Land Board, and the President shall, if the Board approves of such scheme, sign the plan so submitted, either as originally submitted or as modified, and the Maori Land Board may at any time and from time to time approve of any modifications of such scheme of subdivision:

Provided that all instruments of alienation to purchasers and lessees shall be executed by the Maori Land Board.

- (2.) The Land Board shall, in respect of any lands dealt with by it under the foregoing provisions, from time to time account to the Maori Land Board for all moneys received by it on the disposal of any lands dealt with by it, whether by way of sale or lease, and shall (after deducting from such moneys the appropriate costs and expenses of management or disposal) pay to the Maori Land Board from time to time, as soon as practicable after the same shall be received, the net proceeds in the hands of the Land Board for distribution by the Maori Land Board among the Natives entitled thereto or for disposal for their benefit as provided by Part XIV of the principal Act.

- (3.) All moneys advanced or to be hereafter advanced by the Minister under the powers conferred by section two hundred and seventy-four, or borrowed under section two hundred and seventy-five, and all subsidies granted under section two hundred and seventy-six of the principal Act may be transferred to the Land Board for expenditure in accordance with the provisions of section two hundred and forty-one of the principal Act.
- (4.) The charges to be made by the Maori Land Board and by the Land Board in addition to the actual costs and expenses incurred in carrying into effect the provisions of this section shall be a commission not exceeding five per centum on the value of the land dealt with or disposed of; and such commission shall be apportioned between the Maori Land Board and the Land Board in such proportions as the President of the Board and the Commissioner of Crown Lands shall decide, and in the event of their being unable to agree, then by the Auditor-General or by some officer to be appointed by him.
- (5.) The Maori Land Board shall also be entitled to charge a commission, not exceeding five pounds per centum, on all rents collected and distributed by the Maori Land Board in respect of any lands leased through the Land Board.
- (6.) All the powers or duties of a Board conferred by section two hundred and seventy-seven of the principal Act shall be exercisable by a Land Board in respect of all lands dealt with, excepting the powers and duties conferred by paragraph (g) of subsection one of the said section.

95 No land to be vested in Maori Land Board.

After the passing of this Act no land shall become vested in a Maori Land Board under or be made subject to Part XIV of the principal Act.

Revesting of Land in Native Owners

96 Revesting of land in Native owners.

- (1.) The Governor in Council may from time to time, by Order in Council, declare that any land subject to Part XIV or XV of the principal Act and vested in a Maori Land Board shall no longer be subject to such Parts of the principal Act, and shall be revested in the Native owners thereof.
- (2.) Every such Order in Council affecting land owned by not more than ten beneficial owners may be made on the application in writing of a majority of the Native beneficial owners entitled to shares representing at least three undivided fourths of such land.
- (3.) If the number of the beneficial owners of such land shall exceed ten, then an Order in Council as aforesaid shall be made only on a resolution of the Native owners thereof that the same be revested in such Native owners as provided by section ninety-eight of this Act.
- (4.) No such Order in Council shall be made unless and until the Governor is satisfied—

- (a.) That the land comprised in the Order is not subject to any lease, license, or contract for sale or other alienation:
 - (b.) That no moneys are charged on such land or on the revenues thereof in accordance with the principal Act or under any other authority.
- (5.) Every Order in Council purporting to be made under the foregoing powers shall be conclusive evidence that all requirements of this Act in respect thereof have been fulfilled and complied with.
- (6.) On the making of any Order in Council the District Land Registrar shall enter the same on the proper folium of the Register, and the lands affected thereby shall, on such entry, vest again in the Native owners in whom the same was vested immediately before the same became vested in the Board for their former estate; and, if the lands affected by such Order in Council shall be part only of any lands vested in a Maori Land Board and part of any lands contained in a certificate of title, the District Land Registrar shall issue a new certificate of title in respect of such lands in the names of the Native owners in whom the same was previously vested as aforesaid, and no such entry or registration as aforesaid and no such certificate of title shall be invalid or ineffectual by reason of the fact that any of such Native owners shall in the meantime have died.
- (7.) All succession orders or transmissions howsoever made or effected prior to or after the registration of an Order in Council, including all orders or registrable dealings vesting any interests in trustees, shall be registered against the land in the original or new certificate of title, as the case may be; and when (by reason of the land being vested in the Maori Land Board) any order or transmission is an order or transmission affecting a beneficial interest only, the same respectively shall, on registration as aforesaid, be deemed for all purposes to affect the legal estate and take effect accordingly.
- (8.) Section eighteen of the Native Land Amendment Act, 1912, is hereby repealed.

Compensation for Improvements

97 Compensation for improvements.

- (1.) In the case of any lease which has been granted by any Maori Land Board or by the Native owners of the land comprised therein, either under the Maori Land Settlement Act, 1905, and the Acts amending the same, or under the principal Act or any Act amending the same, the following provisions shall apply when and so long as such lease shall be mortgaged to any State loan Department (hereinafter called the mortgagee), that is to say,—
- (a.) If such lease shall contain any provision for payment to the lessee of compensation for improvements, the land comprised in such lease shall stand charged with the payment of the value of such improvements to the mortgagee.

- (b.) No lessee holding under any lease as aforesaid shall so long as any moneys are secured thereon to any State loan Department assign, sublet, or part with the possession of the land comprised in such lease or any part thereof until he has obtained the consent of the mortgagee to such assignment, subletting, or parting with possession as aforesaid.
- (c.) In case any such lease shall be determined by the lessor for breach, non-observance, or non-performance of any covenant or condition contained or implied in such lease the following provisions shall apply:—
- (i.) Such determination shall not forfeit, discharge, or prejudicially affect the lessee's right to compensation for improvements or the mortgagee's charge on the land comprised in the said lease in respect of such compensation.
- (ii.) No new lease of the said land comprised in the lease so determined or any part thereof shall be granted by the lessor excepting upon terms that the incoming tenant shall pay to the mortgagee before such new lease shall be registered the value of all improvements made by the outgoing tenant or to which such outgoing tenant is entitled.
- (iii.) In case the lease so determined as aforesaid shall not contain adequate provision for ascertaining the amount payable in respect of improvements, and in case the lessor and the mortgagee shall be unable to agree as to the amount payable in respect of such improvements, such amount shall be ascertained by arbitration between the lessor and the mortgagee; and, in case the amount agreed upon or ascertained shall exceed the amount of principal and interest moneys payable under any such mortgage and all costs and expenses incurred by the mortgagee, the mortgagee shall, on payment to him of the amount ascertained as payable in respect of improvements, pay any surplus to the outgoing tenant.
- (iv.) In the case of the determination of a lease as aforesaid during the currency of the term for which it was granted the right to compensation for improvements shall be deemed to have accrued in respect of all improvements effected up till the date of such determination.
- (d.) Whenever the amount payable as aforesaid shall be ascertained in accordance with the terms of the lease, or of the provisions of this section, the District Land Registrar shall, when the amount of such compensation shall have been certified in writing to him by the mortgagee, enter on the Register a memorandum of the amount for which the land is charged, and from the date of such entry such amount shall bear interest at the rate of five per centum per annum; and such interest shall be a charge on the land.

- (e.) If within six months after the amount as aforesaid shall have been entered on the Register the same shall not be paid to the mortgagee, the mortgagee shall have the same rights and remedies in respect thereof as if he held a duly registered mortgage of the lands to secure the repayment of the principal sum and interest so due as aforesaid, and as if such mortgage contained an immediate power of sale:
- Provided always that such power of sale shall be exercised only with the consent in writing of the Native Minister.
- (f.) It shall be lawful for any State loan Department to make advances on the security of any lease to which the provisions of this section apply.
- (2.) The Governor in Council may at any time declare that the provisions of this section shall apply to the case of a mortgage of any lease as aforesaid made in favour of any mortgagee other than a State Loan Department, and thereupon the provisions of this section shall apply accordingly to any mortgage specified in such Order in Council as fully and effectually as if such provisions applied in terms to such mortgage.

98 Regulations may be made for offering land for lease.

The Governor in Council may make regulations prescribing the form of leases to be granted hereafter by any Maori Land Board under the principal Act or under any Act amending the same; and such regulations may provide for the mode of offering land for lease, for the fixing of an upset rental, for compensation for improvements, for renewal, and otherwise howsoever.

Audit of Incorporated Owners' Accounts

99 Audit of incorporated owners' accounts.

Any of the incorporated owners under Part XVII of the principal Act may at any time apply to the Court for an order that the accounts of the committee of management of the body corporate of which he is a member shall be audited, and the Court may by order appoint an auditor whose duty it shall be to audit the accounts of such committee of management, and report the result of such audit to the Court. If such auditor shall report that the accounts of the committee of management are not satisfactory, the Court shall report the same to the Minister, who may order an investigation of such accounts by the Audit Department, and may authorize the prosecution of any person who has misappropriated any moneys the property of the body corporate, or may authorize an officer of the Audit Department to bring an action in the name of the body corporate for the recovery of any moneys from any person by whom such moneys may appear to such officer to be payable to the committee of management or the body corporate, and the control of any action and of all proceedings on any judgment therein shall be in the officer authorized by the Minister aforesaid. The Court may order, on the application of any person claiming to be interested or of its own motion, that the accounts of any

committee of management (in respect of any lands under the management of such committee) be lodged with the Registrar of the Court, and be open for public inspection at the Court of the district within which such land shall be situated for thirty days from a date to be specified in such order; and, on the making of any such order being notified to the committee of management, it shall be the duty of such committee to lodge the accounts in respect of which such order has been made with the Registrar of the Court on or before the date specified in such order.

Powers of Assembled Native Owners

100 Partition on postponement of resolution.

- (1.) When a resolution shall be passed by assembled owners under Part XVIII of the principal Act, it shall be the duty of the Board, in case it shall have decided to postpone the further consideration of the resolution under paragraph (c) of subsection one of section three hundred and forty-eight of the principal Act, to apply to the Native Land Court forthwith, after such postponement, to have the land the subject-matter of such resolution partitioned between the dissentient owners and the owners not dissenting.
- (2.) In the case of such postponement any owner not dissenting in writing to the Board within three days after the passing of a resolution under section three hundred and forty-six of the principal Act shall be deemed to have consented thereto.
- (3.) No resolution shall be confirmed by the Board until after the expiration of three clear days from and exclusive of the day when the same was passed.
- (4.) The President of the Board may, if he thinks fit so to do, after the expiration of three days from the date of the passing of any resolution exercise the jurisdiction conferred by section twenty-seven hereof and proceed to partition any land the subject-matter of a resolution between the dissentient owners and the owners consenting to the resolution.

101 Resolution for revesting.

- (1.) Subsection one of section three hundred and forty-six of the principal Act is hereby amended by the addition thereto of the following paragraph:—

“(j.) That any land vested in a Maori Land Board under Part XIV or XV of the Native Land Act, 1909, be revested in the Native owners thereof.”
- (2.) On any such resolution as aforesaid being passed by the assembled owners and signified to the Native Minister, the Governor in Council may order that effect be given to such resolution either wholly or in part, and the provisions of section ninety-six hereof shall thereupon apply to the land specified in such Order in Council.
- (3.) On the petition of a majority in number of the Native owners, or on the application of the Native Minister, the Maori Land Board shall summon a meeting of

the assembled owners to consider and, if thought fit, to pass a resolution for revesting in the Native owners any land vested in the Maori Land Board.

- (4.) Paragraph (e) of subsection one of section three hundred and forty-six of the principal Act is hereby amended by inserting, after the words "purchase the land or any part thereof," the words "or to lease the land or any part thereof."
- (5.) Subsection two of the said section three hundred and forty-six is hereby amended by inserting, after the word "purchase" therein, the word "lease."

102 Section 346 of principal Act further amended.

- (1.) Subsection one of section three hundred and forty-six of the principal Act is hereby further amended by the addition thereto of the following paragraph:—

"(k.) That any Native freehold land be offered for sale or for lease by public auction on behalf of the owners thereof."

- (2.) On any such resolution as aforesaid being passed and signified to the Native Minister the Maori Land Board of the district may offer such land for sale or lease by public auction in such parcels as it shall deem suitable.
- (3.) Any such parcels may be parcels which have been allocated on partition, and may be so offered notwithstanding that the boundaries thereof have not been actually surveyed.
- (4.) The Governor in Council may make regulations prescribing the terms and conditions of sales and leases of land in pursuance of any such resolution; and, so far as such regulations shall not extend, the provisions of the principal Act and any amendment thereof as to sales and leases by the Board in pursuance of resolutions embodied in paragraphs (a), (b), and (c) of section three hundred and forty-six of the principal Act shall apply.
- (5.) Any alienation by the Board purporting to be in pursuance of this section shall be valid and effectual, and on registration thereof the estate or interest expressed to be alienated shall pass according to the tenor of such alienation.

103 Board may collect rents.

Any person by whom any rent or other periodical payments are due to the owners of Native land may, with the consent of the President, pay the same to the Board for distribution among such owners, and such payment shall be a sufficient discharge to the person making the same. Such person shall pay to the Board such commission, not exceeding five pounds per centum on the amount to be distributed, as the President shall in the circumstances consider just and reasonable.

104 Resolution not to affect Crown's interest.

- (1.) When the Crown shall have purchased or leased an undivided share, or any estate or interest, in any Native freehold land, no vote or resolution of the

assembled owners of such land shall affect the interest so sold or leased to the Crown.

- (2.) A contract for sale or lease shall for the purposes of this section be deemed to be a sale or lease, as the case may be, and the vote of any Native having contracted to sell his interest to the Crown shall not be taken into account on any resolution of assembled owners.

105 Proxies.

- (1.) No person shall act as proxy at any meeting of assembled owners after the death of the person who has given the proxy.
- (2.) No person who is not beneficially interested in the land the subject of a resolution before a meeting of assembled owners shall act as proxy for a Native owner at such meeting.

106 Payment of purchase-money.

Subsection fourteen of section sixteen of the Native Land Amendment Act, 1912, is hereby repealed, and the following provision is substituted therefor:—

“(14.) Such terms and conditions shall in every case provide for payment by the purchaser of the balance of ninety per centum of his purchase-money within twelve months after the date of sale by auction.”

Purchases and Leases of Native Land by the Crown

107 Power to lease to the Crown.

Every provision of Part XIX of the principal Act empowering or authorizing the Crown, or the Native Land Purchase Board on behalf of the Crown, to purchase any Native land, or any estate or interest therein, shall be read and construed as empowering and authorizing the Crown and the Native Land Purchase Board to accept a lease of or otherwise acquire any Native land, or any estate or interest therein, for such term of years and on such terms as to rent, renewal, compensation for improvements, or otherwise howsoever as may be agreed to on behalf of the Crown and the lessor or lessors, and all ancillary provisions of Part XIX of the principal Act shall be read and construed accordingly.

108 Section 363 of principal Act amended.

Section three hundred and sixty-three of the principal Act is hereby amended by inserting, after the words “for the purchase” in the said section, the words “lease or other acquisition.”

109 Right of the Crown to acquire any interest.

- (1.) In this section and in the next two succeeding sections the word—

“Statute” means and includes any Act of the General Assembly of New Zealand whether the same be a public or general Act, or a local, personal, private, or special Act:

“Land” means—

- (a.) Native freehold land;
- (b.) Land held as a Native reserve, and lands held in trust for any Native; and
- (c.) Land which has become European land under section two hundred and eight of the principal Act;

and includes any undivided share, estate, or interest held in joint tenancy or tenancy in common, and any estate, right, or interest held in severalty, and includes the legal estate in any such land, estate, right, share, or interest, and every equitable, beneficial, or statutory estate, right, share, or interest (whether vested or contingent) therein respectively, or in the revenue, income, or proceeds of or from any land, notwithstanding that by the operation or effect of any trust to which any land is subject the same shall be deemed to be converted into personal estate:

“Owner” includes every Native and European owner of or person entitled to any estate, right, share, or interest in land as herein defined:

“Trustee” includes every person, Board, corporate body, or corporation sole in whom any land is vested in trust or to be administered for the benefit of any Native or Natives, or in whom any power of alienation is vested:

“Trust” includes every trust, whether created, declared, or regulated by statute, deed, will, or otherwise howsoever:

“Share” includes undivided share, whether legal, equitable, beneficial, or statutory, vested or contingent.

- (2.) Notwithstanding anything contained or implied in any part of the principal Act, and notwithstanding anything contained or implied in any other statute, the Crown may purchase, lease, or otherwise acquire any land as hereinbefore defined from the owner or owners thereof, or from incorporated owners, or from or in pursuance of any resolution of assembled owners, or from any trustee, in whom respectively the said land or any power of alienation shall be vested at law or in equity, and whether by or in pursuance of any statute, deed, will, or otherwise howsoever.
- (3.) Every owner of any legal, equitable, beneficial, or statutory estate, right, share, or interest in any land, and the assembled owners of any land, and every trustee in which the same or any power of alienating the same shall be vested, may alienate the same as aforesaid to the Crown, whether such land be held under a trust with power of alienation or with prohibition against alienation or any mode or form or extent of alienation or not, and notwithstanding any limitations or restrictions on any power of alienation.

- (4.) Where any land is held upon trust any instrument of disposition or alienation to the Crown of any equitable, beneficial, or statutory right, share, or interest therein shall, when duly executed by the owner or owners thereof, be registrable against the title to the land in respect of which such right, share, or interest is disposed of or alienated; and upon such registration the legal estate in respect of such right, share, or interest shall pass to the Crown as fully and effectually as if such instrument of disposition or alienation had been duly executed by the trustee in whom the land is vested at law under an adequate power of alienation.
- (5.) If the trust under which any land acquired by the Crown is held confers no power of sale or lease, or a limited or qualified power of sale or lease, the Crown may pay the purchase-money or rent payable under any alienation or disposition or any part thereof to the trustee of such land; and any purchase-money so paid shall be held by such trustee with such powers of investment as may from time to time be conferred and prescribed by the Governor in Council by regulations under this Act, and upon trust to apply the net income from such investment as if the same were the net income from the land so acquired by the Crown. In the case of a lease of lands in excess of the powers of leasing conferred by the trusts under which the land is held, the rents payable thereunder shall be applied as if the powers of leasing conferred by the trusts were unlimited.
- (6.) The Maori Land Board for the district in which such land is situated shall, after due inquiry into the circumstances of the Native owner of the land alienated, determine what part (if any) of the proceeds of any alienation of land held upon trust and acquired by the Crown may, in the interest of the Native owner thereof, be paid to such owner, and what part shall be invested as aforesaid, and the purchase-money shall be paid or applied accordingly.
- (7.) Section three hundred and sixty-six and subsection one of section three hundred and sixty-nine of the principal Act, and all other provisions of the principal Act and of any amendment thereof in conflict with the provisions of this section, are hereby repealed.
- (8.) Subsection one of section two hundred and nine of the principal Act shall have no application in the case of an alienation to the Crown.
- (9.) The Minister may at any time apply to the Native Land Court to ascertain the relative interests of the owners of any land as defined in this section, and to partition the same among the owners thereof or between the Native owners and the Crown, and the provisions of section forty-five of this Act shall apply to any such application, and in all other respects the Native Land Court may proceed on such application in its ordinary jurisdiction.
- (10.) It shall be the duty of the Native Land Purchase Board, before completing a purchase of the interest of any Native owner in any land, to ascertain that such purchase will not render the selling Native landless within the meaning of the principal Act. The Native Land Purchase Board shall in each case obtain from

the Registrar of the Native land district or districts in which any lands owned by the selling Native are situated particulars of all land in which such Native is beneficially interested.

- (11.) The Public Trustee shall not exercise the power of alienation conferred by this section in respect of any Native reserve without the written consent' and concurrence of the beneficial owner of the share or interest alienated.
- (12.) In cases where lands are now vested in a Maori Land Board without power of sale, the Board shall not exercise the power of sale conferred by this section in respect of such land excepting either in pursuance of a resolution of assembled owners or with the consent and concurrence of the beneficial owner of the share or interest sold.

110 Tenant's right of acquisition of reversion from the Crown.

- (1.) Whenever the Crown shall acquire the beneficial interest of any Native owner or owners of any land subject to a valid lease, or shall acquire the legal estate in the reversion of land subject to such lease, or of any share therein or in any part thereof, the Commissioner of Crown Lands shall cause to be served upon the tenant holding under such lease written notice of the rights of the Crown, and thereupon such tenant shall have the following rights, that is to say:—
 - (a.)
 - (i.) If the land comprised in such lease shall not exceed the maximum area which may lawfully be acquired by one person under this Act, and if the tenant shall not by reason of his holding other lands be a disqualified person within the meaning of section seventy-four of this Act, then such tenant shall be entitled, at his option, either to a renewable lease under Part III of the Land Act, 1908, of such land or of every share or interest therein acquired by the Crown, as the case may be; or, if he shall so elect, he shall have the right to acquire from the Crown the freehold in fee-simple of the land comprised in his lease or of every share and interest acquired by the Crown, as the case may be, excepting all minerals, oil, and mineral gases, and coal, and the right to mine therefor and win and get the same respectively. The tenant shall in either case give to the Commissioner of Crown Lands notice in writing of his election, and he shall then be entitled to obtain such renewable lease to commence on the expiry of his current lease at the rent to be ascertained as hereinafter provided, or, as the case may be, to acquire the freehold in fee-simple of the said land, or of such shares and interests as aforesaid, on payment to the Receiver of Land Revenue of the amount of the Government valuation of the

said land, or shares, or interests to be made in accordance with the provisions of paragraph (f) hereof:

Provided always that if the said tenant shall hold under a lease containing any provision for payment of compensation for improvements, then he shall be entitled to acquire the freehold in fee-simple of the said land, or of such shares and interests therein as shall have been acquired by the Crown, at the amount of the Government valuation of the unimproved value thereof, to be made in accordance with the provisions of paragraph (f) hereof:

Provided further that if the tenant shall dispute the amount of the value of improvements on the said land according to the Government valuation thereof made as aforesaid, then he may require the value of all the improvements effected by him on the said land, or to which he is entitled, to be ascertained by arbitration in accordance with the provisions of the Arbitration Act, 1908, on giving notice in writing of such his desire to the Commissioner of Crown Lands; and if the Commissioner of Crown Lands and the tenant shall be unable to agree upon the value of the said improvements, then the amount thereof shall be ascertained by arbitration as aforesaid as between the tenant and the said Commissioner, and the award on such arbitration shall be final and conclusive as to the value of such improvements, and the purchase-money payable by the tenant shall be ascertained accordingly.

- (ii.) The rental payable by the tenant under such renewable lease shall be at the rate of four per centum per annum on the total value of the said land according to the Government valuation to be made under paragraph (f) hereof if the lease under which he holds shall not contain a provision for payment of compensation for improvements; and if the lease under which he holds shall contain such a provision, then such rental shall be computed on the unimproved value of the land comprised in his lease ascertained as aforesaid, subject to the provision for arbitration hereinbefore contained.
- (b.) If the land comprised in such lease shall exceed the maximum area which may lawfully be acquired by one person under this Act, the tenant thereof shall have the right to select an area (including his homestead, if any, on the said land) not exceeding the maximum area which may be acquired by one person under this Act, subject to the approval of the boundaries of such selection by the Commissioner of Crown Lands; and on the boundaries of the land selected being approved by the Commissioner of Crown Lands the tenant shall have in respect of the land selected the same rights as are hereinbefore conferred on a tenant holding an area not exceeding the maximum area which one person may acquire

under this Act. The cost of surveying such boundaries as aforesaid shall be undertaken or borne by the tenant.

- (c.) In case the tenant in either of the cases provided for in paragraphs (a) and (b) hereof does not desire either to obtain a renewable lease or the freehold of his holding, or of the shares or interests acquired by the Crown therein, or to select an area as aforesaid, then if the lease under which he holds shall contain a provision for payment of compensation for improvements the Commissioner of Crown Lands shall on the expiration of his lease cause the said land to be offered by public auction or public tender either for lease or sale, and either as a whole or in allotments, on terms, in the case of the same being offered for lease, that the incoming lessee shall before the lease to him is executed pay in cash to the Commissioner of Crown Lands the value of all improvements on the land so leased, and on payment thereof the Commissioner of Crown Lands shall pay the same to the outgoing tenant; and in the case of a sale of the said land or any allotment thereof the Commissioner shall pay to the outgoing tenant, out of the purchase-money therefor, the value of the improvements on the land so sold.
- (d.) In case the outgoing tenant shall not elect to exercise either his right of taking a renewable lease or his right of purchase as aforesaid, and in case he shall be unable to agree with the Commissioner of Crown Lands as to the value of the improvements to which he shall be entitled on a lease or sale by auction or tender of the said land, or of any allotment thereof, then the value of such improvements on the said land and on every allotment of the said land shall be ascertained by arbitration between the Commissioner and the outgoing tenant in the manner hereinbefore provided.
- (e.) The Governor in Council may make regulations prescribing the mode and time of giving notices, the form of lease, the mode of issue of titles, mode of payment of purchase-money, and otherwise howsoever for the purpose of carrying into effect the purposes of this section.
- (f.)
 - (i.) Forthwith on receipt of the notice of a tenant's election to purchase the freehold in fee-simple as aforesaid, or in case the tenant shall elect to take a renewable lease as hereinbefore provided, then within six months before the expiration of the tenant's current lease the Commissioner of Crown Lands shall notify the Valuer-General that he requires a valuation to be made under this section, and the Valuer-General shall cause a new valuation to be made in accordance with the provisions of the Valuation of Land Act, 1908, of the capital value of and the value of all improvements on the land comprised in the lease or of the land selected by the tenant with the approval of the Commissioner, as the case may be.

- (ii.) If the existing lease contains a provision for payment to the lessee of compensation for improvements, there shall be deducted from the capital value ascertained by such new valuation the value (to be ascertained by valuation, subject to the provision for arbitration hereinbefore contained) of any improvements effected by the tenant or of any other improvements for which the tenant is entitled to be compensated. The resulting sum is hereinafter referred to as the present unimproved capital value.
- (iii.) In no case shall the present unimproved capital value be less than the cost to the Crown of acquiring the freehold of the said land.
- (iv.) The amount by which the present unimproved capital value exceeds the cost of acquisition by the Crown being ascertained, an actuarial computation shall be made of the present value of such excess as if such excess were payable at the expiration of the existing term of the lease. The rate of interest for the purpose of such computation shall be five per centum per annum, payable half-yearly. The amount ascertained by such actuarial computation shall be added to the cost of acquiring the said land by the Crown, and the result shall be the price payable for the freehold. So soon as the cost of acquiring any land or any share or interest therein has been ascertained, the Commissioner of Crown lands shall notify the tenant of the amount of such cost as aforesaid.
- (v.) For the purpose of ascertaining the rent payable under the renewable lease in case the tenant shall elect to take a renewable lease as hereinbefore provided, and in case the existing lease contains a provision for the payment of compensation for improvements, the capital value on which such rent shall be computed as provided by subparagraph (ii) of paragraph (a) hereof shall be the amount of the "present unimproved capital value" ascertained as hereinbefore provided not more than six months before the expiration of the existing lease.
- (vi.) In case the tenant's existing lease does not contain a provision for payment of compensation for improvements, the price payable for the freehold shall be the capital value (inclusive of the value of improvements) ascertained as hereinbefore provided, less the present value of the unexpired period of the lease calculated at five per centum per annum; and in case the tenant shall elect to take a renewable lease the rent payable thereunder shall be computed as provided by subparagraph (ii) of paragraph (a) hereof upon the capital value (inclusive of the value of improvements) ascertained as hereinbefore provided.
- (vii.) In the case of the tenant electing to purchase or lease the shares or interests acquired by the Crown where the Crown has not

acquired all the shares or interests in the land held by the tenant, the Minister shall, if the tenant so requires, apply to the Native Land Court to have the land partitioned between the Crown and the owners whose interests the Crown shall not have acquired.

- (viii.) In case the tenant elects to purchase or lease the undivided shares or interests acquired by the Crown, and does not require such partition as aforesaid, then the value of such shares or interests shall be ascertained with reference to the value of the whole block on the basis of such shares being an average of the whole. For example, if the shares acquired represent three undivided fourths of the land comprised in the lease, or in the area selected by the lessee as aforesaid, then the value of such shares shall be deemed to be three-fourths of the value of the whole of such land.
- (ix.) In ascertaining the unimproved value of undivided shares for the purposes of a purchase or renewable lease by the tenant in case the tenant's existing lease contains a covenant for compensation for improvements, the value of the improvements attributable to each undivided share shall be the relative proportion of the total improvements for which the tenant shall be entitled to compensation.
- (x.) No tenant shall be deemed to be disqualified from acquiring either by purchase or lease from the Crown under this section the maximum area which it shall be lawful for one person to acquire merely because the current lease under which he holds contains more than the maximum area aforesaid:

Provided always that if a tenant shall acquire either the freehold or a renewable lease as aforesaid of the maximum area which one person may lawfully acquire under the provisions of this Act, it shall not be lawful for him to acquire under this Act any further area or any interests in any further area while he retains the beneficial interest in the maximum area so acquired by him as aforesaid.

- (2.) In case any tenant of land acquired by the Crown shall not elect to exercise the rights conferred on him by this section all rights under his existing lease shall remain unaffected; and in case he shall elect to exercise the rights conferred on him by this section in respect of part only of the land comprised in his lease, his rights under his existing lease to the residue of the land comprised therein shall remain unaffected.

111 Proclamation to protect acquisition by the Crown.

Whenever any share, estate, or interest (whether legal, equitable, or beneficial) in any Native freehold land is purchased, leased, or acquired, or contracted so to be, by or on behalf of the Crown, the Governor may, if the land is already

the subject of an Order in Council under section three hundred and sixty-three of the principal Act, extend such Order in Council for a further period, not exceeding twelve months, from the expiration of such current Order in Council, provided that successive Orders in Council under section three hundred and sixty-three shall not operate for a term exceeding two years. Nothing herein contained shall be construed as limiting the powers of the Governor under section three hundred and sixty-three.

112 Repeal.

Section three hundred and seventy of the principal Act is hereby repealed.

113 Funds for acquisition of Native lands.

- (1.) For the purpose of providing funds for the acquisition by the Crown and settlement of Native freehold land under the principal Act, and any amendments thereof, and of land as defined by section one hundred and nine of this Act, the Minister of Finance, on being authorized so to do by the Governor in Council, may from time to time raise, on the security of and charged upon the public revenues of New Zealand, such sums of money as he thinks fit, not exceeding in each financial year the sum of five hundred thousand pounds.
- (2.) The sums so raised shall, as and when raised, be paid into the Native Land Settlement Account, and shall bear interest at such rate, not exceeding five per centum per annum, as the Minister of Finance prescribes.
- (3.) This Act shall be deemed to be an authorizing Act within the meaning of the New Zealand Loans Act, 1908, and the moneys hereby authorized to be raised shall be raised under and subject to the provisions of that Act accordingly.
- (4.) Part VII of the New Zealand State-guaranteed Advances Act, 1909, is hereby repealed.
- (5.) Paragraph (*d*) of section four hundred and seventeen of the principal Act is hereby repealed, and the following paragraph is inserted in lieu thereof:—

“(d.) The payments into sinking fund in accordance with the provisions of the State Advances Act, 1913.”
- (6.) Paragraph (*d*) of section four hundred and eighteen of the principal Act is hereby repealed.
- (7.) The Native Land Purchase Board may from time to time notify the Minister of Finance that it requires debentures to be issued to vendors of Native freehold land, or of land as defined by section one hundred and nine of this Act, or of any interest therein on the acquisition thereof by the Crown, and thereupon the Minister of Finance may cause debentures to be so issued for such amounts as the Native Land Purchase Board may from time to time require, such debentures to bear interest at five per centum per annum, and to be redeemable at such date or dates as the Minister of Finance shall decide, and to be a charge upon the public revenues of New Zealand.

- (8.) The issue of any such debentures as aforesaid shall be deemed to be an exercise, *pro tanto*, of the powers of raising funds conferred by subsection one hereof, and such powers shall, on the issue of any such debentures, be limited accordingly.
- (9.) All debentures issued to any Native vendor shall be issued in the name of such vendor, and not in the name of any trustee for him; and so long as such debenture shall not be assigned as hereinafter provided the provisions of paragraphs (a) to (b), inclusive, of section four hundred and twenty-four of the principal Act shall, *mutatis mutandis*, apply to every such debenture, and the interest payable in respect thereof, excepting that where a Judge of the Court is satisfied that it is in the interest of the Native owner of any debenture, or in the interest of his family, to sell or assign the same he may consent to the sale or assignment thereof on such terms as to payment or application of the proceeds of the sale or assignment thereof as to the Judge shall in the circumstances appear just and reasonable. Every assignment of a debenture by any Native entitled thereto shall be attested in the same manner as an alienation of land is required to be attested for the purpose of confirmation.

Exchange of Native Freehold Land

114 Exchange of Native freehold land.

In cases where it is desirable in the interests of the Crown to obtain practicable boundaries, or otherwise in the interests of settlement, any land acquired by the Crown may be exchanged for any European or Native land of at least the same area so that upon such exchange being effected the total area held by the person with whom such exchange shall be effected shall not exceed the area held by him immediately prior to such exchange. Any such exchange may be made with or without the payment of any money by way of equality of exchange as to the Native Land Purchase Board shall seem proper. On the completion of such exchange the Governor may, by warrant, authorize the issue of a certificate of title of the lands exchanged by the Crown to the person entitled thereto.

Leases of Native Land to the Crown

115 Leases of Native land to the Crown.

It shall be lawful for the Native Land Purchase Board, in the name of and on behalf of the Crown, to accept a lease of any land as defined by section one hundred and nine hereof, for such term of years, at such rents, and upon such terms and conditions as to payment of rent, renewal, compensation for improvements, or otherwise howsoever, as to the Native Land Purchase Board shall seem proper. Any such lease may be upon terms that the Crown shall have the option or right to purchase the freehold in fee simple of such land at such price and upon such terms as shall be specified in such lease. Upon the registration of any such lease the lands comprised therein may be subleased

either as a whole or in allotments by the Land Board under the Land Act, 1908, which shall, *mutatis mutandis*, apply to such lands as if the same were Crown lands within the meaning of the Land Act, 1908. The form of sublease to be granted to tenants shall, as far as practicable, be based on the form of a renewable lease under the Land Act, 1908, and shall embody such modifications thereof, having regard to the length of the Crown's tenure and the terms of the lease to the Crown, as to the Commissioner of Crown Lands shall seem just and proper.

116 Rights of tenants from the Crown.

Notwithstanding any provisions of the Land Act, 1908, every tenant holding of the Crown by sublease granted under the last preceding section shall have in respect of the lands comprised in his sublease the following rights, that is to say:—

- (a.) He shall have as against the Crown the same right of compensation for improvements on the expiry of his lease as the Crown shall have (if any) against the Native owners under the lease from them.
- (b.) He shall have the same right of purchase from the Native owners as the Crown shall have (if any) as against the Native owners, but without prejudice to the right of the Crown to exercise any right or option to purchase as aforesaid, so long as such right shall not have been exercised by the tenant.
- (c.) In case the lease from the Natives (hereinafter called the head lease) shall not contain any right or option of purchase, and in case the Crown shall at any time during the currency of any sublease thereof acquire the freehold in fee-simple of the whole or part of the lands comprised in such sublease or of any undivided share or interest therein, the tenant for the time being holding immediately of the Crown under such sublease shall be entitled to a grant from the Crown of the freehold in fee-simple or of any undivided share therein so acquired by the Crown as aforesaid on payment by the tenant to the Receiver of Land Revenue of all rent due by him up to date of such payment (apportioned according to time), together with the actual price paid by the Crown and the cost to the Crown of acquiring the fee-simple or undivided share or shares so to be granted to the tenant.
- (d.) It shall be lawful for any tenant holding immediately of the Crown under any sublease as aforesaid to acquire by purchase (with the consent of the Minister) at any time during the currency of his sublease from the Native owners the freehold in fee-simple of the lands comprised in his sublease, or any undivided share or interest in such lands, provided that every such alienation by the Native owners shall be confirmed by the Maori Land Board.

- (e.) At any time after a tenant holding under any sublease shall have effected permanent and substantial improvements on the lands leased of a value equal to one pound per acre thereof, and shall notify the Commissioner of Crown Lands that he desires to acquire and is prepared to pay for the freehold in fee-simple of such lands, then, if he shall deposit with the Commissioner a sum of money equal to ten pounds per centum of the Government valuation of the Native owners' interest in the said lands, the Minister shall, as soon thereafter as conveniently may be, negotiate with the Native owners for the acquisition of the freehold in fee-simple of the said land; and if the same or any undivided share therein shall be acquired by the Crown the provisions of paragraph (c) hereof shall apply:

Provided always that every grant from the Crown to any tenant under the foregoing provisions shall reserve to the Crown all minerals, oil, mineral gases, and coal, and the right to mine therefor or win and get the same; and provided further that in case any tenant as aforesaid shall acquire from the Native owners any interest in the fee-simple of the lands held by him under lease from the Crown as aforesaid all minerals, mineral gases, and coal the right to which would pass to the tenant under the alienation from the Native owners shall immediately on the said lands or any interest therein becoming vested in the tenant pass to and vest in the Crown, and the Crown shall have the sole right to mine for, win, and get all such minerals, mineral gases, and coal.

- (f.) A certificate under the hand of the Minister of the price and cost of acquisition of any land or share therein as aforesaid shall be conclusive evidence of the amount of such price and cost.
- (g.) All the provisions of this Act with regard to limitation of area shall apply to subleases from the Crown under the foregoing sections and to the acquisition of the freehold in fee-simple by the tenant under such sublease of the land comprised therein.
- (h.) All rents or other moneys paid by tenants of the Crown under any sublease or under any of the foregoing provisions shall be paid into the Native Land Settlement Account.
- (i.) All rents and purchase-moneys paid by the Crown to Native owners under the foregoing provisions shall be paid out of the Native Land Settlement Account, and all leases accepted and purchases made on behalf of the Crown shall be accepted and made by the Native Land Purchase Board.

117 Section 109 not to apply to certain lands.

- (1.) The provisions of section one hundred and nine of this Act shall not apply to any lands affected by the provisions of the following statutes or any of them:—
The Urewera District Native Reserve Act, 1896;

The East Coast Native Trust Lands Act, 1902;

The Mangatu No. 1 Empowering Act, 1895; and

Section forty-seven of the Maori Land Claims Adjustment and Laws Amendment Act, 1907.

Any of the said lands may be sold, leased, or disposed of to the Crown in accordance only with the provisions of the special statutes affecting the same and of the general statutory powers of acquisition by the Crown other than the said section one hundred and nine.

- (2.) The Crown shall not acquire either by purchase or lease any of the following lands:—
- (a.) Lands which have been prior to the passing of this Act actually leased to Maoris under the Thermal Springs District Act, 1910, or under section twenty-two of the Maori Land - Settlement Act, 1905, or under section four of the Maori Land Settlement Act Amendment Act, 1906.
 - (b.) Lands the owners of which have been in respect thereof incorporated prior to the passing of this Act under any statute providing for the incorporation of owners of Native land; but this provision shall cease to have any application to any block of land on the dissolution of the corporation effecting the same:
 - (c.) Lands set apart or reserved under section two hundred and thirty-two of the Native Land Act, 1909, or section nineteen of the Native Land Amendment Act, 1912:
 - (d.) Lands other than Native Reserves which have been set aside for landless Natives as such:
 - (e.) The Poukawa Native Reserve:
 - (f.) The Opape Native Reserve, as defined in parliamentary paper G.—1M of nineteen hundred and eight, pages six and seven.

118 Certain lands may be excepted from operation of sections 107 to 110 inclusive and sections 115 and 116.

- (1.) The beneficial owners of any land as defined in section one hundred and nine of this Act, or a majority in number of such owners representing more than half the shares in such land, may apply to the Court in the prescribed form for a recommendation that the land therein described be excepted from the operation of sections one hundred and seven to one hundred and ten (inclusive) and sections one hundred and fifteen and one hundred and sixteen of this Act.
- (2.) It shall be the duty of the Court upon the hearing of any such application to report to the Minister whether such land or any part thereof is, in the opinion of the Court, actually required for the use of the beneficial owners thereof, or of any number or section thereof, or is being actually farmed by them or any of them, or is being used as a Native settlement or kainga.

- (3.) The Minister may, if he thinks fit, on receiving such report, direct the Court to partition the land the subject-matter of such application between the objectors and the owners not objecting to the operation of the said sections, or to subdivide the land so that the boundaries of any area not actually required for the use of the Native owners may be ascertained; and the Minister may direct the Court to partition the land according to such boundaries, or the Minister may refer the report to the Court for further inquiry, or he may declare that the application be dismissed.
- (4.) If the Minister shall be satisfied that the land the subject-matter of such application and report or any part thereof ought in the interests of the owners or any number or section thereof to be excepted from the operation of the said sections, the Governor may, by Order in Council, make a declaration accordingly, and thereupon the land described in such Order in Council shall be excepted from the operation of the said sections.
- (5.) The Governor may, by the same or any subsequent Order in Council, declare any land the subject-matter of an application under this section to be absolutely inalienable, except by will, or may impose such limited restrictions against the alienation of any such land as the circumstances of the case may seem to require; and to the extent to which any land shall so be declared to be inalienable the same shall be inalienable accordingly.
- (6.) The Governor may at any time revoke any such Order in Council, and thereupon the land described therein shall be under the operation of the said sections or again rendered alienable, as the case may be.
- (7.) No application as aforesaid shall be entertained by the Court in respect of any land which may be the subject-matter of a Proclamation under section three hundred and sixty-three of the principal Act, and no appeal shall lie from any decision or recommendation of the Court in any such application as aforesaid, or from any subdivision of the said land as aforesaid, but any owner aggrieved by any decision on partition shall have the ordinary right of appeal.

119 Native owners may have right to purchase leasehold interests acquired by Crown.

In case the Crown shall acquire any leasehold interest from the lessee of any Native freehold land, and in case none of the Native owners of such land shall have sold or agreed to sell their estate or interest to the Crown, the Minister may, by notice published in the *Kahiti*, give to the Native owners of such land the right to purchase the leasehold interest so acquired by the Crown within such time as the Minister may, having regard to the number of owners interested and the circumstances of the case, consider reasonable; and such notice shall state the price and terms at and upon which such purchase may be completed. The amount of the purchase-money shall be the cost to the Crown of acquiring such leasehold interest as certified by the Minister. On completion of the purchase by the Native owners in terms of such notice the Crown shall

surrender such leasehold interest accordingly to the Native owners purchasing the same.

Miscellaneous

120 Vesting-order warrant for issue of Land Transfer Act title.

Every valid order made on partition or exchange since the passing of the Native Land Act, 1909, or hereafter to be made, purporting to vest any land in any person, or determining that such person is the owner thereof for a freehold estate, shall (notwithstanding that the title of such land was not, prior to the making of such order, under the Land Transfer Act) entitle such person to be registered as proprietor under the Land Transfer Act, 1908, in respect of the land included in such order and to the issue of a certificate of title to him for such land accordingly, but subject to all leases, charges, incumbrances, or dealings whatsoever, liens, or interests which shall be registered against the lands comprised in such order. The issue of any such certificate of title as aforesaid shall, so far as regards the land included therein, effectually cancel any existing Crown grant.

121 Amendment.

Subsection two of section twenty-nine of the principal Act is hereby amended by inserting, after the words “who is a minor,” the words “or under other disability”; and, after the words “that minor,” the words “or other Native as aforesaid.”

122 Repeal.

Subsection four of section thirty-eight of the principal Act is hereby repealed.

123 Amendment.

Section four hundred and twenty of the principal Act is hereby amended by striking out the words “a European member of the Maori Land Board” wherever they occur in the said section.

124 Extended jurisdiction.

Section twenty-five of the principal Act is hereby amended by adding thereto the following subsection:—

“(3.) Nothing in this section shall be construed as authorizing the Governor to confer jurisdiction on the Native Land Court in disregard of any express limitations to specific branches of jurisdiction conferred by this Act, nor shall any Order in Council authorize the Native Land Court to abrogate or modify any order of the Native Appellate Court.”

125 Operation of section 424 of principal Act.

Section four hundred and twenty-four of the principal Act shall apply only to cases in which the moneys or investments are held, or are the proceeds of a sale of lands held upon some specific trust for the beneficial owner or owners, and shall not apply to cases in which a Native *sui juris* has himself effected an alienation the proceeds whereof or any part thereof have been paid by any person claiming under the alienation to the Public Trustee, or to the Maori Land Board, or to the Native Land Court.

126 Termination of trust.

Where the Native Land Court is satisfied by evidence that any Native freehold land vested in a trustee or trustees ought, by reason of the termination of the trust, to be vested in the persons beneficially entitled to such land the Court may by order vest such land accordingly. On any application for such an order the Court may partition the land among the beneficiaries, and issue orders on such partition. Any partition orders so issued shall operate as orders made in the exercise of the Court's ordinary jurisdiction in partition.

127 Taking of roads without compensation.

Where any Native freehold land, or any estate or interest therein, is or at any time heretofore has been alienated by the Native owners (whether the title to such land was ascertained before or after the passing of this Act), the powers conferred or prescribed by sections three hundred and eighty-eight and three hundred and eighty-nine of Part XX of the principal Act of laying out and taking roads and the power of taking land for a railway without paying compensation therefor shall not be exercisable in respect of such land after the expiration of fifteen years from the date on which the title to such land was ascertained on investigation of title by the Native Land Court or otherwise.

128 Registration of dealings after land vested in Board.

Any alienation of Native freehold land executed by the Native owners thereof and confirmed by the Native Land Court or by a Maori Land Board may be registered against the title to such land notwithstanding that before such registration the land may have become vested in a Maori Land Board. Such alienation, when registered, shall be effective for all purposes of title according to the tenor of the alienation as if the same had been executed by the Maori Land Board in which the land is vested.

129 Successors.

Notwithstanding anything contained in the principal Act, the Native Land Court shall have and shall be deemed to have had as from the date of the passing of the principal Act jurisdiction to appoint successors to the interest in any land of any Native, and shall have and be deemed to have had jurisdiction

to determine the relative interests of the Native owners of any land and to partition the same among the Native owners.

130 Value for purposes of succession duty.

For the purpose of ascertaining whether duty is payable on the succession to any interest in Native land the Court may, on making any succession order, ascertain the value of such interest, and may declare the value accordingly, and such value may be accepted by the Commissioner of Stamps for the purpose of assessing Native succession duty under the Death Duties Act, 1909.

131 Extension of time for appeal.

The period of six weeks within which notice of appeal is required to be given by subsection three of section forty-eight of the principal Act may be extended (either before or after the expiration of such period) to the period of two calendar months by written leave of the Chief Judge.

132 Public Trustee to be notified when appointed trustee.

Whenever the Court shall appoint the Public Trustee the trustee of any real or personal estate of any Native or of the estate of any deceased Native, the Judge making such appointment shall forthwith, on such appointment being made, notify the Public Trustee thereof.

133 Authority to survey.

Where any contract has been entered into between the Native owners of any land or on their behalf and any authorized or licensed surveyor for the survey of any Native land, and security is given to the satisfaction of the Judge of the district within which the land is situated for the payment of the cost of such survey, such Judge may by order under his hand authorize the surveyor with whom such contract has been made to execute such survey as is specified in such order.

134 Exchange of land for rearrangement of boundary-line.

Where the owners of adjoining blocks of Native freehold land or the owners of Native freehold land and the owners of adjoining European land agree to rearrange a boundary-line for the purpose of convenience or economy in fencing, the Court may make an order vesting the Native freehold land agreed to be exchanged:

Provided always that the Court shall be satisfied that the agreement is *bona fide* and is just and reasonable, and that any land so vested in a European shall not materially increase the area held by him, and that a valid and effectual transfer or conveyance of the land to be given in exchange is made by the European to the Native owners.

135

Paragraph (*d*) of subsection one of section eight of the Native Land Amendment Act, 1912, is hereby amended by striking out the words “unless and until a succession order has been made in respect of the interest of the deceased Native.”