consideration and in such rural allotments whether town suburban or rural or otherwise as he shall think fit and subject to such regulations as he shall with the advice of His Executive Council from time to time prescribe in that behalf Provided that no land shall be sold except for cash nor at a less rate than ten shillings per acre."

We apprehend that the proviso to this clause would now prevent the Governor from making any regulations with reference to the disposal of surplus lands acquired under the Act of 1863, which would let in the exercise of these land orders; but whether such regulations could be made or not is a question of no moment, as it has not been made to appear to the Court that regulations of any sort have been made under this Act. It is therefore, in the judgment of the Court, quite clear that there exists no provision which Mr. Lewthwaite can avail himself of for the exercise of his orders over any land within the confiscated blocks, and that therefore his rights—which were established by "The Land Orders and Scrip Act, 1858,"—are entirely extinguished, and that the fair intention of that Act is completely defeated by the Acts of 1863 and 1865, so far as these blocks are concerned.

3. We come now to the question—"Can compensation be ordered by this Court for such destruction of his rights?"

The Act of 1863, section 5, enacts that compensation shall be granted to all persons who have any title, interest, or claim, to any land taken under the Act; and section 7 provides that such compensation shall be granted according to the nature of the title, interest, or claim of the person requiring compensation, and according to the value thereof. The Amendment Act of 1865 is more particular, and enacts that every claim for compensation under the Act of 1863 shall specify the name of the claimant, the interest in respect whereof the claim is made, and as nearly as may be the extent and particulars of land affected thereby, and the amount claimed as compensation; and further provides, in section 12, that every order of the Court shall be made in writing, and shall specify and be accompanied with such plans and particulars as shall be prescribed by regulations to be made by the Governor in Council. There can therefore be no doubt whatever that the Legislature contemplated only the compensation of persons having titles, estates, or claims in land, capable of specification and description, and of which plans might be made. Now, as we have already determined that Mr. Lewthwaite's claim does not refer to and cannot be made to refer to any specific piece of land, but is simply a power extending over a certain class of land in the whole Province, exercisable on the happening of certain contingencies, we are forced to the conclusion that he does not come within that class of persons to whom the Court is empowered to order compensation. If the whole of the land in the Province of Taranaki, held under the Native title, had been taken by the Governor, in exercise of the powers conferred upon him by the Settlements Acts, it is very possible that, as all the land over which the claimant's unexercised power extends, would then have been devoted by the Government to purposes which absolutely and for ever excluded the possibility of exercising his land orders, we should have considered ourselves authorized to recognize him as a person legitimately entitled to compensation. But this has not been done. It is true that all the choice lands of the Province over which his power ran have been taken, and the rights which remain to him are of little value, extending for the most part over lands which have not yet been trodden by the foot of man; but the legal difficulty still remains, and the Court is reluctantly compelled to the conclusion that although Mr. Lewthwaite has strong equitable claims, he has no legal right, title, or interest to any land which can be recognized by the Court, and that it has no power to afford him any relief. That Mr. Lewthwaite has suffered a wrong, and has been suffering a wrong for nearly a quarter of a century, seems unquestionable; but he must resort to the justice of the Legislature for a remedy.

Judgment was also delivered in the case of the absentee claimants in the following words, except that the names are here omitted.

WAITARA SOUTH.

Judgment in the case of the Absentee Claims.

In the argument of the Crown Agent, three points were mainly relied upon. With reference to the first objection—that Mr. McLean's appointment has not been proved, nor has it been shown that his proceedings were authorized by the Government,—the Court is of opinion that that officer's appointment must be held to be valid, and his acts duly authorized, as no evidence has been shown to the contrary. The maxim of law is "All acts are presumed to have been rightly and regularly done. It is a maxim of the law to give effect to everything which appears to have been established for a considerable time, and to presume that what has been done has been done of right and not of wrong." Per Pollock, C.B. Where acts are of an official nature, or require the concurrence of official persons, a presumption arises in favor of their due execution. In these cases, the ordinary rule is: "*Omnia præsumuntur rite et solenniter esse acta donec probitur in contrarium.*" Thus, a man acting in a public capacity will be presumed to have been properly appointed, and to be duly authorized; and, as the Agent of the Crown, Mr. McLean's acts must be held to have been acts of the Crown.

Nor do we see any force in the objection raised by the Crown Agent, that what Mr. McLean did should form no precedent for the Court, inasmuch as he may have recognized this class of owners, not because they were legally and equitably entitled, but because the state of the country was such that he could not have effected a purchase if he had not recognized them. If our doctrine is correct—that the true foundation of all Maori title is force, we see in this conduct of Mr. McLean simply an application of that principle. It was his duty to purchase from the Natives land to be thereafter used for settlement and colonization. It was necessary therefore that the Government should be enabled to give and guarantee peaceable possession, and give enjoyment of the lands so purchased and sold to settlers, and to enable this to be done Mr. McLean found it necessary to satisfy the claims of these absentee proprietors. And there is no doubt that if the war had not taken place, and the relations of parties had not changed, and Mr. McLean were now purchasing the blocks of land under investigation, he would feel himself compelled to extinguish the titles of those absentees, as he had done in previous cases. In fact, it appears that this recognition actually occurred in the case of Ropoama Te One.

The other objection raised by the Crown Agent, that the Government is not bound by the acts of its predecessors, appears to the Court to be fallacious. The Court is not the Government, and in no way represents the Government, and is in fact constituted to decide questions between the Crown and