

COPY OF CIRCULAR

TO

TRUST COMMISSIONERS

UNDER

‘THE NATIVE LANDS FRAUDS PREVENTION ACT, 1870.’

---

PRESENTED TO BOTH HOUSES OF THE GENERAL ASSEMBLY BY COMMAND OF  
HIS EXCELLENCY.

---

WELLINGTON.

—  
1871.



## INSTRUCTIONS TO TRUST COMMISSIONERS.

---

SIR,—

Native Office, Wellington, 18th March, 1871.

I have the honor, by direction of Hon. Mr. Sewell, to enclose herewith copy of instructions to Trust Commissioners under "Native Lands Frauds Prevention Act, 1870."

I have, &amp;c.,

H. HALSE,

Assistant Native Secretary.

CIRCULAR TO TRUST COMMISSIONERS appointed under "The Native Lands Frauds Prevention Act, 1870."

SIR,—

Native Office, Wellington,

I have the honor to inform you that His Excellency the Governor has been pleased to appoint you to be a Trust Commissioner under "The Native Lands Frauds Prevention Act, 1870," and to enclose your warrant of appointment. A notification thereof appears in the *New Zealand Gazette* of the instant, and I have to request you to be good enough to cause it to be republished for general information in the *Gazette* of the Province, and once or twice in some of the local newspapers.

The district within which you are to act has been defined by a Proclamation under the hand of His Excellency the Governor in Council, and will be found published in the *New Zealand Gazette* of the instant.

The necessary Orders in Council fixing fees to be paid in respect of proceedings before the Trust Commissioners, the rules of practice and procedure for regulating proceedings under the Act, and regulations for the guidance of Trust Commissioners, will be published on an early day.

I enclose you a copy of the Act above referred to, and of "The Commissioners Powers Act, 1867," under the latter of which you are empowered to examine witnesses on oath, and to refund to them their actual expenses, for travelling and maintenance during their absence from their usual places of residence, according to the scale allowed to witnesses in civil cases by the rules of the Supreme Court.

You should notify both in the *Provincial Gazette* and in the local papers the times and places at which you will be prepared to act in your capacity of Trust Commissioner; and in connection with this, I may state that the Government is of opinion that a greater interval than seven days should not elapse between one and another sitting.

A record should be kept of all transactions passing through your hands, giving the following details in each case—viz., the names of parties, the area of the land, the consideration money, and the character of the transaction. A copy of this record should periodically, say at intervals of six months, be transmitted to the Native Minister.

I have now to draw your attention to the general scope and intention of the Act, which is to insure in all land transactions between Natives and Europeans a system of fair dealing.

The object the Government has chiefly in view is to prevent, as far as possible, the mal-administration of lands vested in trustees for the Natives, in cases where trusts have been created in the names of individual proprietors, but really for the benefit of Native communities; to take care that those trusts are fulfilled, and that lands are not alienated so as to defeat the true objects of the trust.

The Act declares that transactions which are plainly against law and equity shall be invalidated, and provides means by which the circumstances attending those transactions shall be investigated. It also provides an easy, cheap, and speedy process to which parties, whether Europeans or Natives, might resort for determining questions arising out of such transactions.

No alienation of Native land is henceforth to be made until the Trust Commissioner shall have satisfied himself that the transaction is fair and equitable; that it is not in contravention of the trusts affecting the land; and that the consideration for such alienation does not arise, either wholly or in part, directly or indirectly, upon any contract for sale of liquor or arms. Such transactions being forbidden by public policy and equity, the Act provides that every deed intended to effect any alienation of this character should be null and void.

Your duty will therefore be to inquire into the circumstances attending every alienation, the nature of the consideration, whether it has been paid, and whether the parties understand the nature of the transaction.

For the purpose of enabling you to discharge this duty, you have the powers vested in Commissioners under the Commissioners Powers Act. If you are satisfied that in each case the requirements of the Act have been complied with, you should certify to that effect; and no instrument relating to the alienation of such lands will be allowed to be registered, or admitted as evidence in any Court of law, without your certificate as Trust Commissioner.

I have to point out to you that while the Government is most anxious that the equitable rights of all parties should be preserved by means of the provisions of this Act, care should be taken not to permit an over scrupulous anxiety to prevent inequitable bargains from interfering with the legitimate transfer of property, otherwise the Act would be made a dead letter, and the object the promoters of it had in view would be frustrated.

I have, &amp;c.,

H. SEWELL

(in the absence of the Native Minister).

The Trust Commissioner.

