date as the Commissioners may determine, and such instrument may thereupon be registered under "The Land Transfer Act, 1885.'"

It is to be noted that the above powers under section 20 extend to alleged alienation prior to the 1st day of July, 1887.

An analysis of section 27 shows that the powers thereby given to the Commissioners are limited to two classes of cases: (*a.*) Intended alienations of land which cannot be registered, or which are liable to be, or have been, impeached because "such alienations being of land under memorial of ownership or Native Land Court certificate, did not include the whole of the signatures of the Natives owning under such memorial of ownership or Native Land Court certificate." (*b.*) "That the completion of such intended alienation was prevented by a subsequent alteration in the law."

The whole of the section is unhappily worded. This portion, so far as it concerns class (*a*), appears to mean only that the Commissioners may make title to the purchasers of undivided shares of Natives in lands held under memorial of ownership or certificate of title of the Native Land Court notwithstanding that the whole of the Natives whose names appears in the memorial of ownership or certificate of title have not joined in the proposed alienation. If this is so, it appears exceedingly doubtful whether section 27 has any remedial operation whatever except to remove doubts in a certain limited class of cases hereinafter referred to. If the draftsman meant to express that in all cases in which purchasers have obtained the signatures of owners of undivided shares to transfers, and have failed to proceed further in completing their titles, the Commissioners can now make titles to such shares, it would seem probable that he has failed in his object.

A transfer of land held under memorial of ownership or certificate of the Native Land Court is "nothing more than proposal for a sale, and is not effective till it has received the approval of the Native Land Court." (Creditor's Trustee of Arekatera te Wera *v.* Walker. N.Z.L.R., 3, C.A., 95.)

The position is, perhaps, best understood by the light of the following passage from the judgment of the Court of Appeal in Seymour *v.* Macdonald (N.Z.L.R., 5, C.A., 174): "Now the 48th and 49th sections of the Act of 1873 impose an absolute restriction against the alienation of land held under memorial of ownership for more than twenty-one years except all the owners concur. The 59th, 60th, and 61st sections of the Act of 1873 prescribe how, when all the owners concur, a sale may be effected. A duty is imposed upon the Native Land Court to inquire into the transaction, to explain it to the intending vendors, and to satisfy itself they understand it; and the Judge has then to certify that the sale is complete. The so-called transfer to the appellant was therefore absolutely ineffectual, not only because it contravened section 48 of the Act of 1873, but because it was not completed in the only way in which a sale could be completed, namely, in the presence and under the supervision of the Native Land Court, as required by sections 59, 60, and 61."

The draftsman of section 27 of the Act of 1889 has provided for cases of non-compliance with section 48, but he appears to have omitted to notice that section 48 merely leads up to sections 59, 60, and 61, and he does not appear to have provided in any way for the non-compliance with the latter sections. It is not necessary to say that the draftsman has failed to effect any object whatever, as there is, as I have already indicated, a limited class of cases to which the wording may apply. These are cases in which the provisions of section 48 have not been complied with, but transfers have been obtained from some of the Natives mentioned in the memorial of ownership or Native Land Court certificate, and after the execution of such transfers subdivisions have been obtained between the Natives executing the transfers and the dissentients, and after such subdivisions the provisions of sections 59, 60, and 61 of the Act of 1873 have been complied with as to the shares of the selling owners.

In *In re* the Katerapaia Block (N.Z.L.R., 3, S.C., 56), Mr. Justice Richmond expressed an opinion that under such circumstances the Native Land Court could, under section 61 of the Act of 1873, grant a valid certificate and declaration in favour of the purchaser; and in Paraone *v.* Matthews (N.Z.L.R., 6, S.C., 749) the Chief Justice, referring to a possible similar state of facts, says, "It may be that the Native Land Court might after subdivision, upon production of this void conveyance and evidence of the still existing assent of the Natives, have declared the purchasers entitled to hold in freehold tenure." The point has, however, always been considered as doubtful, and the opinion expressed by Richmond, J., in *In re* Koterapaia Block, appears to have been qualified by himself. See the argument of respondent's counsel in Seymour *v.* Macdonald (N.Z.L.R., 5, S.C., 172).

Section 27 of the Act of 1889 does appear to enable the Commissioners to make titles in such cases, and it appears very doubtful whether it has any further operation. As to the class of cases referred to in section 27—namely, those in which "the completion of such intended alienation was prevented by a subsequent alteration of the law," it is difficult to see what is referred to.

Probably the draftsman had in his mind the cases in which the passing of "The Native Land Alienation Restriction Act, 1884," and "The Native Land Administration Act, 1886," prevented purchasers from obtaining the signatures of all the Natives interested, and complying with the provisions of the Act of 1873; but, if so, the addition of this class of cases would (upon the view that in dealing with class (*a*) it was intended that the Commissioners should have power to make titles notwithstanding the non-compliance with the provisions of sections 48, 59, 60, and 61 of the Act of 1873) seem to be unnecessary, and upon any other view it would seem to be insensible. These words may perhaps tend to show that the cases in class (*a*) were not intended to embrace anything but the limited class of cases to which I have already referred.

The Court of Appeal, in interpreting (in Paraone *v.* Matthews) section 36 of "The Native Land Court Act, 1886," and (in Poaka *v.* Ward) section 16 of "The Native Land Court Act 1886 Amendment Act, 1888," has shown very clearly that nothing but the most unequivocal expression of the intention of the Legislature to validate past illegal transactions with Native lands will be held sufficient to effect that purpose. It may well be that the same Court will not hold that anything