

tion, any prior order of the Native Land Court which, by reason of its having been made in respect of more or less shares than are affected by any such order or certificate of the said Commissioners, is not validated by the last-preceding section shall nevertheless be followed and adopted by the Native Land Court as far as possible.

This section is necessary to cover cases not met by the last section. The phraseology of subsection (2) of section 25 is inaccurate. (See preceding note.)

7. If any certificate of title under "The Land Transfer Act, 1885," or any of the Acts thereby repealed, has heretofore been issued upon any order of the Native Land Court founded upon any partition which is validated by the 5th section hereof, the Chief Judge shall, upon the application of any person interested under any such certificate of title, forward to the District Land Registrar of the registration district within which such land is situate a certificate in writing that the order upon which such certificate of title under the Land Transfer Act is founded has been validated by a certificate or order of the said Commissioners, and the District Land Registrar shall thereupon enter a memorial of the said certificate of the Chief Judge upon such certificate of title and the duplicate thereof, and thereupon such certificate of title shall be and be deemed to have been from the date thereof valid and effectual to and for all intents and purposes.

This section is in lieu of subsection (3) of the proposed clause 25, which would be found not to be workable. A great number of caveats have been lodged by the District Land Registrar at Napier against dealings with lands the titles to which have been acquired as in *Paraone v. Matthews*. In the absence of a certificate from the Native Land Court of the validation, the District Land Registrar could not know which of these titles had been validated, and it would throw upon him an undue responsibility, and might either result in a loss to the assurance fund or in considerable annoyance and expense to the persons whose titles have been validated.

8. The Commissioners shall not grant any certificate under the provisions hereof in any of the following cases:—

- (a.) Alleged alienations of land or interest in land which at the time of such alleged alienations was subject to any order of the Native Land Court especially recommending restrictions thereon if in contravention of such restrictions.
- (b.) Alleged alienations of land in defiance of the provisions of "The Native Lands Alienation Restriction Act, 1884," and "The Native Land Administration Act, 1886;" but this provision shall not apply to any alienations made pursuant to any certificate granted under the 24th section of "The Native Land Administration Act, 1886," notwithstanding that such certificate may have been invalid.
- (c.) Leases in respect of which any fine, premium, or foregift has been paid contrary to the provisions of any statute.
- (d.) Dealings or attempted dealings which are in contravention of any trust, or which are contrary to equity and good conscience.

This is the section restricting the powers of the Commissioners. This section embodies all cases which it may reasonably be suggested differ from the ordinary run of cases. It is a matter of policy whether all these exceptions should be retained. If exception (a) is retained it will exclude from the jurisdiction of the Commissioners (except as to a report under section 20) a very large part (probably the greater part) of the disputed titles in the Poverty Bay district, in which the special orders for restraining alienation appears for a long time to have been made as a matter of form. There is a theoretical reason for retaining this exception, but it is doubtful if there is a practical reason. On the investigations in the matter of the Whangara, before the Commission at Gisborne, it was stated by counsel that the restriction had been frequently evaded by obtaining a partition between the Natives and the issue of a fresh memorial of ownership without any restriction. If the exception (c) is retained it will probably shut out many leaseholds. If exception (a) is cut out exception (d) should be altered so as to make it clear that dealings with lands under special restrictions are not for that reason only to be deemed to be contrary to equity and good conscience.

9. Notwithstanding the provisions of the last section, the Commissioners may, in any case not coming within subsection (d) of the last section, by order under their hands, ratify and confirm any voluntary arrangements come to between the majority of the owners of any parcel of land included in any memorial of ownership, certificate of title, or other instrument of title issued by the Native Land Court, and any person claiming any interest in such land, provided that the Commissioners shall be satisfied that no injustice is thereby occasioned to any of the Native owners dissenting from such arrangements.

Any order made by the Commissioners under this section shall be valid and effectual to and for all intents and purposes to vest in any person therein named any parcel of land or any share or interest in land therein described.

Any such order may, for the purposes of completion of title or of partition, be dealt with as is provided with respect to orders made by the Commissioners under the provisions hereinbefore contained.

This is an important and necessary section, which it is believed will meet the wishes of the more sensible and prudent Natives. It was so stated by influential Natives in the investigations in the matter of the Whangara Block. It would enable arrangements similar to that come to in the matter of the Whangara Block to be carried into effect without the necessity for special legislation in each case. Mr. W. L. Rees has made a communication to the Native Minister urging the advisability of this provision.

10. The said Commissioners may from time to time, and either in open Court or by any writing under their hands or under the hand of their secretary, adjourn any proceedings before them, and any such adjournment may be made either to the same place or to any other place. Any adjournment heretofore had of any proceeding before the said Commissioners shall be deemed to have been duly and regularly made.

It is absolutely inoperative that this section should be passed, as was pointed out in Mr. Justice Edwards's letter of 30th May, 1890, to the Native Minister.

11. Any certificate heretofore granted under "The Native Land Court Acts Amendment Act, 1889," shall have the same force and effect, and may be dealt with in all respects, as if the same had been made under the provisions of this Act.

This is to meet the case of the Tokomaru Block, and to prevent the necessity for fresh proceedings in partition before the Native Land Court in respect of that block.

12. The time within which applications for inquiry may be received by the Commissioners is hereby extended until the 31st day of December, 1890.