

1893.  
NEW ZEALAND.

**“THE NATIVE LAND (VALIDATION OF TITLES) ACT, 1892.”**

(CERTIFICATES GRANTED AND REFUSED UNDER THE PROVISIONS OF, TOGETHER WITH  
REPORT OF THE COURT.)

*Presented to both Houses of the General Assembly in pursuance of Section 16 of the Act.*

Mr. A. MACKAY to the CHIEF JUDGE, Native Land Court, Wellington.

SIR,—

Native Land Court Department, Wellington, 5th September, 1893.

In conformity with the provisions of “The Native Land (Validation of Titles) Act, 1892,” and the rules issued thereunder, I have the honour to report that the application of Mr. R. T. Warren, under the aforesaid Act, for a certificate recommending the validation of his purchase of the interests of certain Natives in the Mangaohane and Mangaohane No. 1 Blocks was duly inquired into at Hastings, on the 19th July last and subsequent days, by a duly constituted Court under the Act, and that the Court was satisfied from the evidence given that the purchases were such that would admit of a certificate being given, although the purchases were not made strictly in accordance with the statutes under which the titles to the aforesaid blocks were held, but in all other respects were *bonâ fide*.

The Mangaohane and Mangaohane No. 1 Blocks, the subjects of application and investigation, comprise a total acreage of 53,194 acres, and at the time Mr. Warren negotiated with the owners were held under certificate of title issued under “The Native Land Court Act, 1880,” by 146 persons, only sixty-four of whom sold their interests. These purchases consequently are irregular, through having been made in violation of the expressed conditions of the title under which the Natives hold the land, as “The Native Land Act, 1873,” which governs the disposal of land held under certificate of title issued under the Act of 1880 expressly forbids alienation except by way of lease for twenty-one years, without the requirements of section 59 of that Act are fully complied with. The Court was nevertheless of opinion that, although the law had not been strictly complied with, the purchases were *bonâ fide* and suitable for validation, and it decided to grant its certificate.

Enclosed I beg to hand you the evidence taken at the inquiry, the certificate issued by the Court, and copies of the two deeds of conveyance, with various attachments appended.

I have, &c.,

The Chief Judge, Native Land Court, Wellington.

A. MACKAY.

RETURN under Section 16 of “The Native Land (Validation of Titles) Act, 1892.”

No. of Application.	Nature of Instrument evidencing Transaction in respect of which Validation is required.	Amount of Purchase-money.	Name of Applicant.	Whether Certificate granted or refused.	By what Judge.
MANGAOHANE No. 1, 22,084 ACRES.					
32	Transfer dated 9th March, 1886: Wakapu Tuki-awha, Wiania Renata, Katarina Hiratukite-rangi, Raita Tuterangi, Rena Maikuku, Iwikau te Heuheu, Teoti Pohe, Pukapuka Teoti, Harawira Heperi, Kohatu Rawiri, Rawinia te Wani-kau, and Heta Tanguru to Richard Townsend Warren, of undivided interests	£350, and such further sum as should make the price 10s. an acre for the land awarded to the vendors on partition	Richard Town-send Warren	Granted	A. Mackay
MANGAOHANE BLOCK, 31,110 ACRES (NOW KNOWN AS MANGAOHANE No. 2), AND MANGAOHANE No. 1 BLOCK, 22,084 ACRES.					
32	Transfer dated 8th August, 1885: Renata Kawepo, Anaru te Wanikau, Karena te Manu-o-tawhaki, Heta Hakiwai, Hoani Hakiwai, Wi Hakiwai, Ka Hakiwai, Kirungaahi Hakiwai, Hakiwai, Atareta Hetariki, Rawiri te Hoeroa, Te Mateta-huna, Harata Keokeo, Meri Tawhara, Wiremu Paraotene, Karena Taniwha, Watarauhi Ho-haia, Te Amopo te Mina, Waipu te Moata, Tauria Paraotene, Waata Rakaiwerohia, Riria te Rere, Maata Kato, Harata Hokahoka, Hopa te Auraki, and (Rora) te Oii to Richard Town-send Warren, of undivided interests	£1,000, and such further sum as should make the price 10s. an acre for the land awarded to the vendors on partition	Richard Town-send Warren	Granted	A. Mackay

The foregoing is a correct return under section 16 of “The Native Land (Validation of Titles) Act, 1892,” for the period between 24th July, 1893 (up to which date return already furnished), and 9th September, 1893.

GEO. B. DAVY, Chief Judge.

His Honour Judge WARD, to the CHIEF JUDGE, Native Land Court, Wellington.

SIR,—

We, the undersigned Judge and Assessor of the Native Land Court, being duly appointed under the provisions of "The Native Land (Validation of Titles) Act, 1892," have inquired into the application of Arthur Amon, James Flockhart M'Kelvie, and John Hammond, Executors and Trustees under the Will of John M'Kelvie, of Lower Rangitikei, sheep farmer, deceased, made under the said Act, with regard to a transfer from certain Natives to the said John M'Kelvie, deceased, of the Waiakake Block, and report as follows:—

The evidence before us, and the minutes taken at the original investigation for title, show that the case was called on for hearing on the 28th day of July, 1881, at Upokongaro, and that the judgment of the Court was given on the 2nd day of August, 1881, in favour of,—

1. Weranika Warata	...	...	...	...	...	20 shares.
2. Metera te Urumotu	...	...	...	...	...	18 "
3. Aropeta Haeretuterangi	...	...	...	...	...	1 "
4. Wiare Turoa	...	...	...	...	...	1 "

Total, representing whole block	...	...	...	...	...	40 "
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The people in Weranika Warata's party of nine persons, in addition to herself, were her own children, sister, and aunts; and in Metera te Urumotu's party, in addition to herself, were eight persons—his wife, children, and other near relatives.

That some months after the judgment, an interlocutory order for the issue of a memorial of ownership was prepared and submitted to Judge Brookfield, the presiding Judge, for signature. This document was signed by him.

That there was great delay in getting the survey made of this block, and it was not till a short while ago that a memorial of ownership was engrossed and submitted to His Honour Mr. Chief Judge Seth-Smith for his signature, as Judge Brookfield had in the meantime retired from the Native Land Court. His Honour Chief Judge Seth-Smith declined to sign the memorial, for the reason that the minutes of the proceedings of the Court investigating the title showed that other Natives in addition to the said four persons were shown to have rights on the block, and that the matter ought to be further inquired into. His Honour considered that, under the Act of 1873 and amendments, it was the duty of the Court to include in the Order the names of all the persons found to be the owners, and that the names of all such persons should be enrolled in the memorial of ownership. The correctness of his Honour's opinion on the matter as placed before him is beyond any question whatever. But we respectfully submit that the case was not put before him in a proper light, and as showing the real circumstances connected with the hearing of the case when first before the Native Land Court. We are convinced that in preparing the Order for embodying the judgment of the Court, the clerk engrossed the wrong form. As we have before stated, the form is for the issuing of a memorial of ownership; whereas it should have been for the issue of a certificate of the Native Land Court under "The Native Land Court Act, 1880."

The minutes show us that before investigation there had been no survey of the block, and that the case was heard with only a sketch plan before the Court. This would have been legal under the said Act of 1880, but *not* under the Act of 1873 or amendments thereof. Again, the case was called on for hearing and the judgment given nearly a year after "The Native Land Court Act, 1880," came into operation. We are doubtful whether it was competent for the Court to have issued an order for a memorial of ownership at that time and under the circumstances.

The minutes expressly show that the arrangement as to the shares of the owners of the land, as fixed by the Court, should be the basis of proceedings, if need be, under section 43 of "The Native Land Court Act, 1880."

We think under section 24 of the last mentioned Act, the Court had the power to make such a decision as it did. The facts and circumstances connected with the case were before the Court, and as before stated we believe it was the intention of the Court to issue an order under the Act of 1880.

We beg to report that, in our opinion, the interlocutory order should be amended by striking out the words "memorial of ownership," and inserting instead thereof the words "certificate of the Native Land Court under 'The Native Land Court Act, 1880,'" and that, if necessary, power be given to issue a certificate of the Native Land Court in favour of the four Natives before named, with their shares respectively as fixed by the original judgment of the Court.

By these means justice will be done to all parties, and the deed of transfer of the block, which the said four Natives executed on the 28th day of May, 1884, to the said John McKelvie, may then be completed.

Given under our hands and the seal of the Court, at Wanganui, this 8th day of September, 1893.

ROBERT WARD,  
Judge.

IENI TAPIHANA,  
Assessor.

The Chief Judge, Native Land Court, Wellington.

## RETURN under Section 16 of "The Native Land (Validation of Titles) Act, 1892."

No. of Application.	Nature of Instrument evidencing Transaction in respect of which Validation is required.	Amount of Purchase-money.	Name of Applicant.	Whether Certificate granted or refused.	By what Judge.
WAIKAKE BLOCK, AREA 4,500 ACRES.					
52	Transfer dated 28th May, 1884: Nika Waiata, Metera te Urumotu, Wiari Turoa, and Aropeta Haeretuterangi to John McKelvie (since deceased)	£1,500	Arthur Amon, James Flockhart McKelvie, and John Hammond, Executors and Trustees of the will of John McKelvie	Granted	R. Ward.

This is a correct return (in continuation of former returns) under section 16 of "The Native Land (Validation of Titles) Act, 1892," for period ending 12th September, 1893.

GEO. B. DAVY,  
Chief Judge.

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