

52. The object and purpose of the Land Claims Settlement Act, 1856, were set out in the preamble which, after referring to the Ordinances passed in 1841, 1844 (No. 3), 1846, and 1849 proceeded: "And whereas many of the said land claims are still unsettled and the validity of the said grants is disputed on various grounds, and it is essential to the peace and well-being of the Colony that all such land claims should be finally settled and disputed grants corrected: And whereas by reason of lapse of time and other circumstances, proceedings cannot be effectually taken under the said-recited Ordinances for effecting the said objects and it is expedient that new and other provisions should be made in that behalf." So much of the Ordinances referred to as was "repugnant to the provisions of this Act" was repealed, and provision was made for the appointment of Commissioners. The tribunal of the Commissioners was expressed to be a Court, and, though not so styled in the Act itself, has always been referred to as the "Court of Claims." By Part II of the Act the Commissioners (though in fact only one person, Mr. Bell, was appointed as Commissioner, and I shall therefore henceforth use the term Commissioner in the singular, though the Act uses the plural) were given power to hear and determine all claims which might have been heard, examined, and reported on under the provisions of the Land Claims Ordinances of 1841 and 1844, and all claims whatsoever to land or compensation arising out of dealings with the aboriginal inhabitants of the Colony prior to the establishment of British sovereignty, or since that period, with the sanction of the Government, or under the two Proclamations issued by Governor Fitzroy, of the 26th March, 1844, and the 10th October, 1844, and to examine and determine all questions relating to grants issued in respect of the same, subject to the exceptions and provisions contained in the later provisions of the Act. By Part III (section 15) there were certain classes of claims which were declared not to be lawful for the Commissioner to entertain or investigate.

53. Provision was made in Part IV of the Act for the calling-in of Crown grants in respect of claims made of lands over which it might be alleged that the Native title had not been extinguished, or in which it might be alleged that there was such uncertainty of description as would render the grant void or voidable in law, or that there was not a map which had been approved of by the Government of the lands granted, delineated, or endorsed thereon. Such Crown grant was to be produced to the Commissioner, and if not produced, or if on production and examination of the circumstances it appeared that the Native title over the land granted or over any part thereof was not extinguished, or that there was in such grant such uncertainty of description as would render the same void or voidable in law, then, after hearing the case, if the Commissioner after giving effect to the provisions of the Quieting Titles Ordinance, 1849, was of the opinion that the grant was void or voidable in law, he might adjudge and determine the grant to be null and void, and such adjudication should have the same force and effect in annulling and making void the same as if the same were repealed by process of *scire facias*. If it appeared that the grant was not void or voidable in law, but that no accurate map of the lands granted was delineated or endorsed thereon, an order might be made requiring the person or persons producing the grant to deliver to the Commissioner an accurate map certified by a competent surveyor, and in default thereof the Commissioner might adjudge and determine the grant to be null and void. Every grant so adjudged to be null and void was to be forthwith delivered up and cancelled.

54. Where in pursuance of the provisions of the Act any such grant was adjudged to be null and void and was delivered up and cancelled, it was declared to be lawful for the Commissioner to direct that there should be issued in favour of the person or persons who might appear to the Commissioner best entitled thereto a new grant or several new grants under the Public Seal of the Colony of such lands as the Commissioner should direct; and it was provided by section 23 that the Commissioner should proceed according to the following rules:—

(a) Where a definite quantity of land shall have been specified in the cancelled grant, if the boundaries described shall be of sufficient extent, the Commissioners shall adjudge such quantity, with an addition not exceeding one-sixth, to be selected by the grantee out of the lands comprised within such boundaries.