

New Zealand.



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- 622. Acts Interpretation Act, 1908, in force in Cook Islands. Amendment.
- 623. Administration Act, 1908, in force in Cook Islands.
- 624. Arbitration Act, 1908, in force in Cook Islands.
- 625. Bills of Exchange Act, 1908, in force in Cook Islands.
- 626. Chattels Transfer Act, 1908, in force in Cook Islands.
- 627. Copyright Act, 1913, in force in Cook Islands.
- 628. Deaths by Accidents Compensation Act, 1908, in force in Cook Islands.
- 629. Demise of the Crown Act, 1908, in force in Cook Islands.
- 630. Parts of Infants Act, 1908, in force in Cook Islands.
- 631. Marine Insurance Act, 1910, in force in Cook Islands.
- 632. Mercantile Law Act, 1908, in force in Cook Islands.
- 633. Opium Act, 1908, in force in Cook Islands.
- 634. Partnership Act, 1908, in force in Cook Islands.
- 635. Patents, Designs, and Trade-marks Act, 1911, in force in Cook Islands.
- 636. Post and Telegraph Act, 1908, in force in Cook Islands.
- 637. Property Law Act, 1908, in force in Cook Islands.
- 638. Sale of Goods Act, 1908, in force in Cook Islands.
- 639. Trustee Act, 1908, in force in Cook Islands.
- 640. Wills Act Amendment Act, 1852, in force in Cook Islands.
- 641. Limitation of actions.

Miscellaneous Rules of Law.

- 642. Legal status of married women.
- 643. Joint liability.
- 644. Contracts of guarantee.
- 645. Contracts by Natives.
- 646. Securities given by Natives.
- 647. Employer's liability.
- 648. Liability of owners of dogs.
- 649. Distress for rent abolished.
- 650. Calendar of the Cook Islands.
- 651. Time of day in the Cook Islands.
- 652. Statutory references to time.
- 653. Statutory declarations.
- 654. Taxes on Native land.
- 655. Bankruptcy.
- 656. Warrants of arrest.
- 657. Trespass *ab initio*.

Repeals and Validation.

- 658. Repeal of all existing laws of the Cook Islands.
- 659. Enactments specifically repealed.
- 660. Validation of Ordinances Schedules.

1915, No. 40.

Title.	AN ACT to make Better Provision with respect to the Government and Laws of the Cook Islands. [11th October, 1915.]
Preamble.	WHEREAS by Order in Council dated the thirteenth day of May, nineteen hundred and one, and made under the Colonial Boundaries Act, 1895, it was ordered by His Majesty the King (with the consent of the General Assembly, testified by resolution of both Houses of the said General Assembly) that on and after a date to be appointed by the Governor by Proclamation the Islands of the Cook Group and all other the islands and territories then or thereafter forming part of His Majesty's dominions situate within the boundary-lines set forth in the First Schedule hereto should form part of New Zealand: And whereas by Proclamation dated the tenth day of June, nineteen hundred and one, the Governor appointed the eleventh day of June, nineteen hundred and one, to be the date on and after which the said Order in Council should come into effect: And whereas it is expedient to make better provision with respect to the government and laws of the said islands:
	BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—
Short Title.	1. (1.) This Act may be cited as the Cook Islands Act, 1915.
Commencement.	(2.) This Act shall come into operation on a day to be notified by the Governor by Proclamation in the <i>New Zealand Gazette</i> .
Interpretation.	2. In this Act, except where a contrary intention appears,— “Alienation” means with respect to Native land the making or grant of any transfer, sale, gift, lease, license, easement, profit, mortgage, charge, incumbrance, trust, or other disposition, whether absolute or limited, and whether legal or equitable, of or affecting customary land, or the legal or equitable fee-simple of freehold land or of any share therein; and includes a contract to make any such alienation: “Asiatic” means a person belonging to any of the Asiatic races (other than the Jewish race), and includes a half-caste and a person intermediate in blood between a half-caste and a person of pure descent from those races: “Attorney-General” includes the Solicitor-General: “Collector of Customs” has the same meaning as the term “Collector” as defined by the Customs Act, 1913: “Constable” means an officer of police of the Cook Islands Public Service: “The Cook Islands” means all the islands and territories situate within the boundary-lines set out in the First Schedule hereto: “Cook Islands Public Service” means the service of His Majesty in respect of the Government of the Cook Islands, other than service in New Zealand: “Cook Islands Treasury” means the Cook Islands Account or the Niue Island Account, as the case may require:

- "Crown land" means any land which has not been alienated from the Crown for a subsisting estate in fee-simple, other than Native land :
- "Customary land" means land which, being vested in the Crown, is held by Natives or the descendants of Natives under the Native customs and usages of the Cook Islands :
- "Enactment" includes any Act, Ordinance, or regulation :
- "European" means any person whatever other than a Native, and includes a body corporate :
- "European land" means any land which has been alienated from the Crown for a subsisting estate in fee-simple, other than Native land :
- "High Court" means the High Court of the Cook Islands :
- "Judgment" includes any judicial decree, order, or determination, whether in an action or in any other judicial proceeding, whether civil or criminal :
- "Medical officer" means a Chief Medical Officer or an Assistant Medical Officer under this Act :
- "Minister" or "Minister for the Cook Islands" means the Minister for the Cook Islands appointed under this Act, or any other member of the Executive Council acting for the time being as or for the Minister for the Cook Islands with the authority of such Minister or of the Governor :
- "Native" means a person belonging to any of the Polynesian races (including the Maori race), and includes a half-caste and a person intermediate in blood between a half-caste and a person of pure descent from any such race :
- "Native custom" means the ancient custom and usage of the Natives of the Cook Islands :
- "Native land" means customary land or Native freehold land, as herein defined :
- "Native freehold land" means land which, or any undivided share in which, is owned by a Native for a beneficial estate in fee-simple, whether legal or equitable : Provided that—
- (a.) European land shall not be deemed to become or to have become Native land, but shall continue to be European land, although it, or an undivided share therein, becomes or has become (whether before or after the commencement of this Act) vested in any manner in a Native for an estate in fee-simple :
- (b.) Crown land the fee-simple whereof is or has been, whether before or after the commencement of this Act, purchased from the Crown by a Native for a pecuniary consideration shall be deemed to be, and at all times thereafter to remain, European land and not Native land :
- "Native Land Court" means the Native Land Court of the Cook Islands :
- "New Zealand" means the Dominion of New Zealand exclusive of the Cook Islands :
- "New Zealand Public Service" means the service of His Majesty in respect of the Government of New Zealand, including service in New Zealand in respect of the Cook Islands :

- "Offence" includes all offences punishable by way of criminal proceedings under this or any other enactment:
- "Order" means, in respect of the Native Land Court, any order, judgment, decision, or determination of that Court:
- "Ordinance" means an ordinance made by an Island Council under the authority of this Act:
- "Prescribed" means prescribed by regulations:
- "Public place" means any road, any place of public resort open to or used by the public as of right, any wharf or jetty, any church or other building where Divine service is being publicly held, any hall or room in which any public entertainment is being held, and any market-place:
- "Registrar" includes a Deputy Registrar:
- "Regulations" means regulations made by the Governor in Council:
- "Resident Agent" means the Resident Agent appointed under this Act for any island:
- "Resident Commissioner" means in respect of the Island of Niue the Resident Commissioner of Niue, and means in respect of the Cook Islands other than Niue the Resident Commissioner of Rarotonga, and in every case includes a Deputy Resident Commissioner lawfully acting in place of the Resident Commissioner:
- "Rules of Court" means rules or regulations governing the practice or procedure of the Court in question and made by the proper authority in that behalf:
- "Secretary" means the Secretary for the Cook Islands under this Act:
- "Superannuation Acts" means the Acts by which the superannuation funds are established and regulated:
- "Superannuation funds" means the Public Service Superannuation Fund, the Government Railways Superannuation Fund, and the Teachers' Superannuation Fund:
- "Will" includes any testamentary instrument.

Application.

3. Except so far as a contrary intention appears, this Act shall apply to the Cook Islands only, and not to New Zealand.

Adjacent islands.

4. Each island forming part of the Cook Islands shall for all purposes be deemed to include all smaller islands lying within ten miles of the coasts thereof.

PART I.

EXECUTIVE GOVERNMENT OF THE COOK ISLANDS.

Minister for the
Cook Islands.

5. The Governor may appoint some person, being a member of the Executive Council, as the Minister for the Cook Islands, who shall, except so far as other provision is made therefor by this or any other Act in force in those islands, be charged with the administration of the government of the Cook Islands.

Secretary for the
Cook Islands.

6. There shall be a Secretary for the Cook Islands, who shall, under the control of the Minister, exercise and perform in New Zealand such secretarial and other functions and duties relative to the government of those islands as the Minister determines.

7. There may be appointed such clerks and other officers in New Zealand as may be deemed necessary to assist the Secretary in the execution of his office.

Officers assisting the Secretary.

8. (1.) The Secretary and such clerks and officers as aforesaid shall be officers of the New Zealand Public Service, and shall be subject in all respects accordingly to the laws relating to such service, and their salaries and allowances shall be payable accordingly out of the Public Account.

Secretary and other officers belonging to New Zealand Public Service.

(2.) The Secretary, together with such clerks and officers as aforesaid, shall be attached to and form part of such Department of the New Zealand Public Service as the Public Service Commissioner from time to time determines.

9. There shall be a Resident Commissioner of Rarotonga, who shall be appointed by the Governor, and shall be stationed in that island, and shall, subject to the control of the Minister, be charged with the administration of the executive government of the Cook Islands (except the Island of Niue), save so far as other provision is made in that behalf by this or any other Act in force in those islands.

Resident Commissioner of Rarotonga.

10. There shall be a Resident Commissioner of Niue, who shall be appointed by the Governor, and shall be stationed in that island, and shall, subject to the control of the Minister, be charged with the administration of the executive government of that island, save so far as other provision is made in that behalf by this or any other Act there in force.

Resident Commissioner of Niue.

11. (1.) There shall be a Deputy Resident Commissioner of Rarotonga and a Deputy Resident Commissioner of Niue, to be appointed by the Governor.

Deputy Resident Commissioners.

(2.) While the office of any Resident Commissioner is vacant, his Deputy shall, without further authority or appointment, assume and exercise all the powers of that Resident Commissioner, and all the provisions of this Act, or of any other enactment with respect to a Resident Commissioner, shall extend and apply to such Deputy accordingly.

(3.) The authority of the Deputy Resident Commissioner so to act as aforesaid shall continue until a new Resident Commissioner has been appointed and has assumed the duties of his office in the island in which he is stationed.

(4.) If at any time a Resident Commissioner is incapable by reason of sickness or otherwise of performing the duties of his office, or is or proposes to be absent from the island in which he is stationed, he may by warrant under the seal of the Cook Islands authorize the Deputy Resident Commissioner of that island to act as his Deputy during the period of such incapacity or absence.

(5.) Any such warrant may limit in such manner as the Resident Commissioner thinks fit the authority of the Deputy, either with respect to the matters to which such authority extends or as to the part or parts of the Cook Islands in which such authority is to be exercised.

(6.) Subject to any limitations so expressed in the warrant, the Deputy so authorized may exercise all the powers of the Resident Commissioner both in respect of his office as such and in respect of any other offices held by him concurrently with his office as Resident Commissioner.

(7.) Any such authority may be at any time revoked by the Resident Commissioner.

(8.) No such warrant of authority, and no act done in pursuance thereof by the Deputy, shall be questioned or invalidated on the ground that the occasion for such warrant or for the exercise of the powers of the Deputy had not arisen or had ceased, and no act done by a Resident Commissioner shall be questioned or invalidated on the ground that any such warrant of authority was still in force.

(9.) If at any time a Resident Commissioner is certified by a medical officer to be incapable by reason of sickness from executing any such warrant of authority, the Deputy Resident Commissioner may, without further authority or appointment, assume and exercise all the powers of the Resident Commissioner (both in respect of his office as such and in respect of any other office held by him concurrently with his office as Resident Commissioner) until notified by the Resident Commissioner in writing that he has resumed the execution of his office; but no act done at any time by the Resident Commissioner shall be invalidated by the fact that the powers of the Deputy had not been lawfully determined in manner aforesaid.

Resident Agents.

12. The Governor may appoint for any island included in the Cook Islands, other than Rarotonga and Niue, an officer to be called the Resident Agent for that island, who shall be stationed in that island, and shall, subject to the control of the Minister and of the Resident Commissioner, be charged with the administration of the executive government of that island, save so far as other provision is made in that behalf by this or any other Act there in force.

Cook Islands
Public Service.

13. (1.) The Governor may appoint to the Cook Islands Public Service such other officers as he thinks necessary for the government of those islands.

(2.) Notwithstanding any other Act to the contrary, all officers of the Cook Islands Public Service shall be appointed by the Governor, and shall hold office during his pleasure.

Concurrent offices.

14. An officer of the Cook Islands Public Service may hold concurrently any offices, whether judicial or administrative, which the Governor deems consistent with each other.

Delegation of
power of
appointment to
Resident
Commissioners.

15. (1.) The Governor may delegate to any Resident Commissioner the power of making appointments to any offices in the Cook Islands Public Service, and all persons so appointed shall hold office at the pleasure of the person who for the time being has the power of making such appointment.

(2.) Any such delegation may at any time be revoked by the Governor.

Regulations as to
Cook Islands
Public Service.

16. (1.) The Governor in Council may make regulations as to the pay, allowances, control, discipline, and management of the Cook Islands Public Service.

(2.) Subject to any such regulations, officers of the Cook Islands Public Service shall receive such pay and allowances as the Governor thinks fit.

Payment from
Public Account
and Cook Islands
Treasury.

17. The pay and allowances of officers of the Cook Islands Public Service shall be paid out of moneys appropriated by Parliament from

the Public Account, and so far as such appropriations do not extend, then out of the Cook Islands Treasury in such manner and to such extent as the Minister thinks fit.

18. When any officer of the Cook Islands Public Service, other than a Judge of the High Court or of the Native Land Court, is absent from the island in which he is stationed, or is suspended from his office, or is, in the opinion of the Resident Commissioner having jurisdiction over the island in which that officer is stationed, incapable by reason of sickness or otherwise of performing the duties of his office, or when his office is vacant, the said Resident Commissioner may appoint any other fit person to execute such office temporarily during such absence, suspension, incapacity, or vacancy, or may himself execute such office during such period.

Appointment of
acting officers by
Resident
Commissioner.

19. (1.) The Resident Commissioner having jurisdiction over any island may, for misconduct or any other sufficient cause, suspend from the execution of his office any officer of the Cook Islands Public Service stationed in that island, other than a Judge of the High Court or of the Native Land Court.

Suspension of
officers.

(2.) The Resident Commissioner shall forthwith report such suspension, together with the reason therefor, to the Minister, who may either continue or terminate such suspension.

(3.) If any officer while remaining so suspended is dismissed from office he shall not, unless the Governor otherwise directs, be entitled to receive any salary in respect of the period of his suspension.

20. When an officer of the New Zealand Public Service is appointed to an office in the Cook Islands Public Service he shall, as the Governor in each case then determines, hold the office to which he is appointed either concurrently with or in substitution for the office held by him in the New Zealand Public Service.

Appointment of
New Zealand
officers to Cook
Islands Public
Service.

21. When an officer so holds concurrent offices in both services, his status, rights, and liabilities in each service shall be unaffected by the fact that he holds office in the other service; and in respect of each office he shall be subject to the laws governing the service to which that office belongs, irrespective of his tenure of an office in the other service; and he shall in respect of each service be qualified for promotion, increase of salary, and appointment to any other office in the same manner as if he held no office in the other service.

Concurrent offices
in both services.

22. When an officer so holds concurrent offices in both services he shall be stationed either in the Cook Islands or in New Zealand as the Governor from time to time determines, and shall when stationed in the Cook Islands perform the duties of his office as an officer of the Cook Islands Public Service, and shall when stationed in New Zealand perform the duties of his office as an officer of the New Zealand Public Service.

Stations of
officers belonging
to both services.

23. If and so long as an officer so holds concurrent offices in both services and is a contributor to any superannuation fund in respect of his office in the New Zealand Public Service, the salary (if any) received by him in respect of his office in the Cook Islands Public Service shall be deemed part of his salary for the purposes of the Superannuation Act by which such superannuation fund is governed, and his contributions shall be payable and his retiring-allowance shall be computed accordingly.

Contributions to
superannuation
fund.

Transfer from New Zealand Service to Cook Islands Service.
Supernumerary officers.

24. When an officer of the New Zealand Public Service is appointed to an office in the Cook Islands Public Service in substitution for the office so held by him in the New Zealand Public Service, he shall thereupon become a supernumerary officer of the New Zealand Public Service attached to the same Department of that service as before his appointment to the other service, and shall so remain so long as he continues to hold any office in the Cook Islands Public Service.

Pay of supernumerary officers.

25. Such supernumerary officers shall receive no pay in respect of the New Zealand Public Service, but shall for all other purposes be deemed to remain officers of that service and of the Department thereof to which they are so attached.

Appointment of supernumerary officers to New Zealand Service.

26. Any such supernumerary officer shall, so long as he remains an officer of the Cook Islands Public Service, be qualified for appointment to any office in the New Zealand Public Service for which he would have been qualified had he remained an active member of that service, and on receiving such appointment he shall cease to be an officer of the Cook Islands Public Service.

Contributions of supernumerary officers to superannuation fund.

27. When any officer is, at the time when he becomes a supernumerary officer as aforesaid, a contributor to any superannuation fund, the salary which he receives as an officer of the Cook Islands Public Service shall be deemed to be his salary for the purposes of that fund, and contributions thereto shall continue to be made by him accordingly.

Computation of length of service in Cook Islands.

28. In computing for the purposes of any Superannuation Act the length of service of any officer who is or has been a supernumerary officer of the New Zealand Public Service, or who holds or has held offices concurrently in that service and in the Cook Islands Public Service, every complete continuous year of his service after the commencement of this Act while stationed in the Cook Islands shall be computed as one year and a half.

Public Service Act, 1912, not applicable.

29. The Public Service Act, 1912, shall have no application to the Cook Islands Public Service or to officers of the New Zealand Public Service in their capacity as officers of the Cook Islands Public Service.

Superannuation Acts not applicable.

30. Save as expressly provided by this Act, the Superannuation Acts shall have no application to the Cook Islands Public Service.

The Public Revenues of the Cook Islands.

Moneys forming part of Cook Islands revenue.

31. The public revenues of the Cook Islands shall consist of—

- (a.) Revenues of Customs collected in the Cook Islands :
- (b.) Court and other fees received in those islands :
- (c.) Taxes imposed by any Ordinance in those islands :
- (d.) Rents and profits of Crown lands in those islands :
- (e.) Revenues derived from the Post and Telegraph service in those islands :
- (f.) All other revenues derived by the Crown from those islands :
- (g.) Moneys appropriated by Parliament from the Public Account by way of subsidy to the public revenues of those islands, and paid into the Cook Islands Treasury accordingly by the Minister of Finance.

Cook Islands Account and Niue Island Account.

32. (1.) The public revenues of the Cook Islands shall be kept in two accounts to be called respectively the Cook Islands Account and the Niue Island Account,

(2.) The Cook Islands Account shall be credited with such portion of those revenues as is derived from the Cook Islands other than the Island of Niue, together with any moneys appropriated by Parliament as a subsidy to that account.

(3.) The Niue Island Account shall be credited with such portion of those revenues as is derived from Niue Island, together with any moneys appropriated by Parliament as a subsidy to that account.

(4.) All moneys in the Niue Island Account shall be available for expenditure in respect of the Island of Niue, and all moneys in the Cook Islands Account shall be available for expenditure in respect of the Cook Islands other than the Island of Niue.

(5.) Any expenditure which relates both to the Island of Niue and also to any other of the islands shall be apportioned by the Minister between those two accounts in such manner as he thinks fit.

(6.) If any question arises as to whether any revenue or expenditure is that of the Cook Islands or that of New Zealand, the question shall be determined by the Minister of Finance, whose decision shall be final.

(7.) This section shall extend and apply to all liabilities existing at the commencement of this Act and payable out of the revenues of the Cook Islands, and to all moneys received or receivable at the commencement of this Act and forming part of those revenues.

33. All expenditure in respect of the Cook Islands shall be payable out of the Cook Islands Treasury in manner aforesaid, except so far as any such expenditure is otherwise provided for by Parliament as payable out of the public revenues of New Zealand.

Expenditure of
Cook Islands.

34. The Governor in Council may make regulations as to the collection, receipt, expenditure, and control of the public revenues of the Cook Islands and as to the audit of the aforesaid accounts.

Regulations as to
revenue and
expenditure.

35. Subject to such regulations and to the control of the Minister, all moneys in the Cook Islands Account or the Niue Island Account may, without further appropriation than this Act, be expended by the Resident Commissioner of Rarotonga or of Niue, as the case may be, for such public purposes as he thinks fit.

Expenditure by
Resident
Commissioners.

36. Notwithstanding anything hereinbefore contained, all public revenues of the Cook Islands derived from taxes or fees imposed in any island by any Ordinance thereof shall be expended solely for the purpose to which such revenues are appropriated by any such Ordinance; and, in default of any such appropriation, shall be expended exclusively for the public purposes of the island from which such revenues have been derived.

Revenues raised by
Island Ordinances.

The Seal of the Cook Islands.

37. (1.) There shall be a Public Seal of the Cook Islands, to be in such form or forms as the Minister from time to time approves.

The Seal of the
Cook Islands.

(2.) Such seal shall be in the custody respectively of the Minister and each of the Resident Commissioners.

(3.) Such seal may be used by any person in whose custody it so is, for the authentication of any public document in relation to the government of the Cook Islands or for the execution of any document required by law to be executed under the Seal of the Cook Islands.

(4.) Judicial notice shall be taken of such seal in all Courts in the Cook Islands and in New Zealand.

Public Health.

Chief Medical
Officer of
Rarotonga.

38. (1.) There shall be an officer of the Cook Islands Public Service to be called the Chief Medical Officer of Rarotonga, and stationed in that island.

(2.) Such officer shall be charged, subject to the control of the Resident Commissioner, with the administration in the Cook Islands, elsewhere than in Niue, of all laws relating to public health, quarantine, lunacy, hospitals, and medical aid.

Chief Medical
Officer of Niue.

39. (1.) There shall be an officer of the Cook Islands Public Service to be called the Chief Medical Officer of Niue, and stationed in that island.

(2.) Such officer shall, under the control of the Resident Commissioner, be charged with the administration in Niue of all laws relating to public health, quarantine, lunacy, hospitals, and medical aid.

Assistant Medical
Officers.

40. The Governor may appoint such Assistant Medical Officers of the Cook Islands as he may think necessary to assist the Chief Medical Officers in the execution of their duty.

Qualification of
Medical Officers.

41. No person shall be qualified for appointment as a Medical Officer unless he is duly registered in New Zealand as a medical practitioner under the laws there in force in that behalf.

Duties of Medical
Officers.

42. (1.) It shall be the duty of the aforesaid Medical Officers to provide for all persons in the Cook Islands such medical and surgical aid and attendance as may be reasonably required and is reasonably practicable.

(2.) Such medical and surgical aid and attendance shall, in the case of Natives, be gratuitous; and shall, in the case of all other persons, be subject to the payment of such fees (if any) as may be prescribed by the Resident Commissioner; and all such fees shall form part of the public revenues of the Cook Islands.

(3.) No liability shall be incurred by His Majesty in respect of any neglect to provide such medical or surgical aid or attendance, or in respect of any negligence of a Medical Officer in the execution of his office.

Hospitals and other
institutions of
public health.

43. The Minister may establish and maintain in the Cook Islands such hospitals and other institutions as he may deem necessary for the public health, and all institutions so established shall be under the control of the Chief Medical Officer of Rarotonga or of Niue, as the case may be.

Prisons and Police.

Establishment of
prisons.

44. The Minister may by warrant under his hand and the Seal of the Cook Islands appoint as prisons such buildings or places in the Cook Islands as he thinks suitable for that purpose.

Island may be
appointed as a
prison.

45. If the Minister thinks fit, the whole or any part of any island included in the Cook Islands may be so appointed as a prison.

Gaoler to be
appointed by the
Governor.

46. There shall in respect of each prison so appointed be a Gaoler to be appointed by the Governor, together with such other officers (if any) of the prison as the Governor thinks necessary.

Removal from one
prison to another.

47. Any person in lawful custody in the Cook Islands may be detained in any such prison, and may from time to time be removed by order of the Resident Commissioner from one prison to another.

48. Any person in lawful custody in the Cook Islands may, if it is inconvenient or impracticable immediately to take him to any prison for confinement therein, be temporarily detained in any other suitable place of security.

Temporary
confinement
elsewhere than in
prison.

49. (1.) Any person sentenced to imprisonment or committed to prison in the Cook Islands may, by order of a Judge of the High Court made either at the time of sentence or committal or at any time thereafter, be discharged from custody on condition that he labours on the roads or other public works of those islands for the term or the residue of the term for which he has been so sentenced or committed.

Compulsory labour
in lieu of
imprisonment.

(2.) Every prisoner so discharged shall perform the labour so appointed for him under the control and subject to the direction of some officer nominated for that purpose by the Resident Commissioner.

(3.) If any prisoner so discharged makes default in the due performance of the labour so appointed for him, or is guilty of any insubordination or other misconduct, whether in respect of such labour or otherwise, he may be arrested without warrant by any constable; and a Judge of the High Court may in his discretion (without the necessity of any judicial inquiry) revoke the discharge of that prisoner and commit him to prison for a period equal to that for which he would have been imprisoned subsequent to the order of discharge had no such order been made, with such deduction (if any) as the Judge thinks fit, having regard to any labour duly performed by the prisoner in accordance with the conditions of his discharge.

50. The Governor may appoint such persons as he thinks fit as officers of police in the Cook Islands.

Appointment of
police.

Education.

51. (1.) The Minister may establish such public schools in the Cook Islands as he deems necessary for the education of the Native or other inhabitants thereof.

Establishment of
public schools.

(2.) The Governor may appoint such teachers and other officers as may be deemed necessary for such schools.

(3.) The Minister may make such rules as he thinks fit for the management of such schools.

(4.) When any teacher or other officer so appointed is at the time of his appointment a contributor to the Teachers' Superannuation Fund his service in the Cook Islands shall be deemed to be Education service for the purposes of that fund, and he shall continue to be a contributor thereto accordingly.

(5.) In computing for the purposes of that fund the length of service of any such contributor every complete continuous year of his service after the commencement of this Act while stationed in the Cook Islands shall be computed as one year and a half.

Communication between the Islands.

52. (1.) The Minister may from time to time purchase out of moneys appropriated by Parliament from the Public Account for that purpose a suitable ship for the service of the government of the Cook Islands.

Acquisition and use
of ship for the public
service.

(2.) Such ship shall be stationed at Rarotonga, and shall be used under the control of the Resident Commissioner for the carriage on

the public service of persons, goods, despatches, and postal packets between the several islands included in the Cook Islands.

(3.) Such ship may also be used, so far as the Resident Commissioner thinks fit, for the carriage otherwise than on the public service of passengers and cargo between those islands.

(4.) The terms and conditions of carriage shall be determined by the Resident Commissioner of Rarotonga.

Regulations.

Governor in Council may make regulations for the peace, order, and good government of the Cook Islands.

Regulations must be consistent with statute law.

Regulations may impose taxation.

Penalties for breaches of regulations.

Control of imports and exports.

Application of regulations.

53. In addition to all special powers of making regulations conferred upon the Governor in Council by this or any other Act, the Governor in Council may make all such regulations as he thinks necessary for the peace, order, or good government of the Cook Islands.

54. No regulation made by the Governor in Council shall be of any force or effect so far as it is repugnant to this or any other Act of Parliament of New Zealand in force in the Cook Islands, but no such regulation shall be deemed to be repugnant to this Act because it is repugnant to the law of England as established in the Cook Islands by section six hundred and fifteen of this Act, or because it deals with a matter already dealt with by this or any other Act; and every such regulation shall take effect according to its tenor, save so far as inconsistent with any such Act.

55. The power of the Governor in Council to make regulations for the Cook Islands shall extend to the imposition of tolls, rates, dues, fees, taxes, and other charges.

56. The maximum fine which may be prescribed for the breach of any regulation made by the Governor in Council under this Act shall be fifty pounds, and the maximum term of imprisonment for any such breach shall be three months.

57. Notwithstanding anything in the Customs Act, 1913, the Governor in Council may by regulations impose such conditions, restrictions, and prohibitions upon the export or import of goods from or into the Cook Islands as he thinks necessary.

58. Rules or regulations made by the Governor or the Governor in Council under this or any other Act in force in the Cook Islands may be made applicable either to all of the said islands or to one or more thereof exclusively.

PART II.

ISLAND COUNCILS.

Constitution of Island Councils.

Island Councils of Rarotonga and Niue.

59. (1.) There shall be in and for the Island of Rarotonga a Legislative Council to be called the Island Council of Rarotonga.

(2.) There shall be in and for the Island of Niue a Legislative Council to be called the Island Council of Niue.

Governor in Council may establish other Island Councils.

60. In and for any island forming part of the Cook Islands (other than Rarotonga and Niue) the Governor in Council may, if he thinks fit, establish a Legislative Council to be called the Island Council of the island in which it is established.

61. Any Island Council so established by the Governor in Council may be at any time in the like manner abolished. Abolition of Island Councils.

62. An Island Council shall, as the Governor in Council from time to time determines in respect of that Council, consist either of elected members, or of nominated members, or of *ex officio* members, or partly of one of such classes of members and partly of another or others of such classes. Membership of Island Councils.

63. The members of an Island Council shall receive from the Cook Islands Treasury such remuneration (if any) for their services as may be prescribed by regulations. Payment of members of Island Councils.

64. With respect to the elective membership of an Island Council, the Governor in Council may from time to time make, revoke, or amend regulations prescribing— Regulations as to elective membership.

(a.) The number and mode of election of members :

(b.) The qualifications of electors :

(c.) The qualifications of candidates for election :

(d.) The tenure of the office of such members :

(e.) The forfeiture of such office :

(f.) Any other matters deemed necessary for the regulation of the elective membership of such Council.

65. Nominated members of an Island Council shall be appointed by the Governor to hold office either during his pleasure or for such fixed period not exceeding five years, and subject to such conditions as to resignation or forfeiture of office, as the Governor thinks fit. Nominated members of Island Councils.

66. The Governor may from time to time, by Order in Council, determine, in respect of any Island Council, that any European officers of the Cook Islands Public Service or any Arikis or other Native chiefs of the island shall *ex officio* be members of that Island Council. Ex officio members of Island Councils.

67. When any question arises as to whether any person lawfully holds office as an Ariki or Native chief of any island the determination of the Resident Commissioner, testified by warrant under his hand and the Seal of the Cook Islands, shall for the purposes of this Part of this Act be final and conclusive ; but any such determination may be at any time revoked by the Resident Commissioner by a like warrant. Qualification for ex officio membership.

68. Save so far as the Governor in Council otherwise provides, women shall have the same capacity as men of being members and electors of an Island Council. Women may be members or electors of Island Councils.

69. Notwithstanding anything hereinbefore contained, the Resident Commissioner of Niue shall *ex officio* be a member of the Island Council of Niue, and the Resident Commissioner of Rarotonga shall *ex officio* be a member of the Island Council of Rarotonga and of every other Island Council (other than that of Niue), and the Resident Agent for any island shall *ex officio* be a member of the Island Council of that island. Resident Commissioners and Resident Agents to be members of Island Councils.

Island Ordinances.

70. Every Island Council shall have power to make laws (hereinafter called Ordinances or Island Ordinances) for the peace, order, and good government of the island. Legislative powers of Island Councils.

71. (1.) No Island Ordinance shall be of any force or effect so far as it is repugnant to this or any other Act of the Parliament of New Zealand in force in the island, or to any rules or regulations made under the authority of any such Act and there in force. Ordinances must not be repugnant to Acts of Parliament.

Maximum penalties imposed by Ordinances.

Duties of Customs not to be imposed.

Appropriation of revenues.

Borrowing of money.

Saving of rights of Crown.

Courts of justice.

Ordinances may deal with matters already dealt with by Acts.

Assent to Ordinances.

Reservation of Ordinances.

Assent of Resident Commissioner.

Commencement of Ordinances so assented to.

Transmission of reserved Ordinances to Minister.

Assent of Governor.

(2.) No Island Ordinance shall be deemed to be repugnant to this Act merely because it is repugnant to the law of England as established in the Cook Islands by section six hundred and fifteen of this Act.

72. The maximum term of imprisonment which may be provided by an Island Ordinance for any offence is three months, and the maximum penalty or fine which may be so provided for any offence is fifty pounds.

73. No Island Council shall have any power to impose duties of Customs on goods imported into the island whether from other places in the Cook Islands or from elsewhere, or to impose any harbour dues or other charges in respect of ships or cargoes.

74. No Island Council shall have any power to appropriate or authorize the expenditure of any portion of the Cook Islands revenues, except such portion thereof as may be raised under the authority of an Island Ordinance passed by that Council.

75. No Island Council shall have any power to borrow money or to authorize the borrowing of money.

76. No Island Council shall have any power to affect the right or title of His Majesty to any land or other property.

77. No Island Council shall have any power to establish Courts of justice.

78. No Island Ordinance shall be deemed *ultra vires* of the Island Council merely on the ground that it deals with a matter already dealt with by this or any other Act in force in the Cook Islands or by any rules or regulations made under any such Act; and any such Ordinance shall take effect according to its tenor, save so far as repugnant to such Act, rules, or regulations.

79. No Island Ordinance shall have any force or effect until and unless it is assented to either by the Resident Commissioner or by the Governor under the provisions hereinafter contained.

80. When an Island Ordinance has been passed by the Council the Resident Commissioner may in his discretion either assent thereto on behalf of the Governor or reserve the same for the signification of the Governor's pleasure.

81. (1.) The assent of the Resident Commissioner to an Island Ordinance shall be testified by signing a copy of the Ordinance and sealing the same with the Seal of the Cook Islands.

(2.) The Resident Commissioner shall at the same time enter upon the copy so signed and sealed the date of his assent thereto.

82. Every Island Ordinance so assented to by the Resident Commissioner shall come into operation either on the day on which it is so assented thereto, or at any later date specified in that behalf in the Ordinance.

83. When an Island Ordinance is reserved by the Resident Commissioner for the signification of the Governor's pleasure he shall forthwith transmit a copy thereof to the Minister for the Cook Islands to be laid before the Governor.

84. The Governor may either—

(a.) Assent to an Island Ordinance; or

(b.) Assent to it in part, and refuse his assent to the residue; or

(c.) Refuse his assent to the Ordinance.

85. (1.) Every Island Ordinance assented to by the Governor shall, to the extent to which it has been so assented to, come into operation either on the day (if any) specified in that behalf in the Ordinance, or on such later day as may be determined by the Governor in giving his assent thereto.

Commencement of Ordinances so assented to.

(2.) If no date of commencement is either specified in the Ordinance or determined by the Governor on assenting thereto, the Ordinance shall come into operation on the day on which the Governor assents thereto.

86. The assent of the Governor to an Island Ordinance shall be testified by the signature of the Governor upon a copy of the Ordinance, and there shall at the same time be entered thereon the day on which the Ordinance is so assented to, and the day (if any) determined upon by the Governor as the day on which the Ordinance shall come into operation.

Mode of Governor's assent.

87. When the Resident Commissioner assents to an Island Ordinance on behalf of the Governor he shall forthwith transmit a copy of the Ordinance to the Minister for the Cook Islands for submission to the Governor.

Transmission of Ordinances after assent of Resident Commissioner.

88. At any time within one year after the assent of the Resident Commissioner has been so given to an Island Ordinance the Governor may, by notice published in the *New Zealand Gazette*, disallow that Ordinance either wholly or in part.

Disallowance of Ordinances.

89. (1.) On any such disallowance the Ordinance shall, to the extent to which it is so disallowed, become wholly void as if it had been then repealed.

Effect of disallowance.

(2.) Any such disallowance shall take effect as aforesaid either on the day of the publication of such notice of disallowance in the *New Zealand Gazette* or at such later date as is specified in that behalf in the notice.

90. Every Island Ordinance may be passed either in the English language alone, or both in the English language and in the Native language of the island; but if in the latter case there is any conflict between the English and the Native version of the Ordinance the English version shall prevail.

Language of Ordinances.

91. No Island Ordinance which has been assented to by the Resident Commissioner or the Governor in manner aforesaid shall in any Court or in any proceedings be questioned or held invalid because of any defect in the constitution of the Island Council or in the procedure by which the Ordinance was passed.

Validity of Ordinances.

Procedure of Island Councils.

92. (1.) Every Island Council shall meet at such times and at such places within the island as the President thereof determines, but so that a period of more than twelve months shall not elapse between the termination of one meeting of the Council and the commencement of the next meeting thereof.

Meetings of Island Councils.

(2.) Public notice of the place and time of any meeting of an Island Council, other than an adjourned meeting, shall be given by the President in such manner as he thinks sufficient.

(3.) An Island Council may from time to time adjourn its meeting to any other time and to the same or any other place within the island.

President of
Council.

93. The Resident Commissioner or (in the case of any island for which a Resident Agent has been appointed) the Resident Agent shall *ex officio* be the President of the Island Council.

Election of
temporary
President.

94. The President shall preside over every meeting of an Island Council at which he is present; but if he is not present at any meeting the other members of the Council there present may elect one of their number to preside over that meeting.

President's right of
voting.

95. The President of an Island Council, or the person presiding at any meeting in the absence of the President, shall be entitled to vote in the same manner as any other member, and in the case of an equal division of votes he shall have a second or casting vote.

Quorum of
Council.

96. No business, except that of adjournment, shall be transacted at any meeting of an Island Council if the number of members present is less than one-half of the total number of the members of the Council.

Presence of
President
necessary.

97. No business, except that of adjournment, shall be transacted at any meeting of an Island Council unless the President of the Council is present.

Rules of
procedure.

98. Every Island Council may make rules regulating the procedure at the meetings thereof.

Disorderly conduct
at meetings.

99. Every person, whether a member of the Island Council or not, who at any meeting of the Council is guilty of disorderly, insulting, or offensive behaviour shall be liable to a fine of fifty pounds.

Clerks of Island
Councils.

100. (1.) In respect of the Island Councils of Rarotonga and of Niue, and of every other Island Council in respect of which the Governor thinks such an appointment necessary, there shall be an officer of the Cook Islands Public Service, to be called the Clerk of the Island Council, who shall keep the records of the Council and perform with respect to the Council such secretarial and other functions as may be required.

(2.) Where there is no Clerk of an Island Council the records of that Council shall be kept by the President thereof.

PART III.

THE HIGH COURT OF THE COOK ISLANDS.

Constitution of the High Court.

High Court
established.

101. There is hereby constituted and established in and for the Cook Islands a Court of record, to be called the High Court of the Cook Islands, for the administration of justice throughout those islands.

Identity of High
Court with former
Court of the same
name.

102. The said Court shall be deemed to all intents and purposes to be the same Court as that which at the commencement of this Act exists under the same name in the Cook Islands, and all judgments, decrees, records, and acts of the said last-mentioned Court shall continue to have full force and effect accordingly; and all proceedings, civil or criminal, pending in the said last-mentioned Court at the commencement of this Act may be continued accordingly.

Judges of the High
Court.

103. The High Court hereby constituted shall consist of one Judge, to be called the Chief Judge, and of such other Judges and Commissioners as the Governor may from time to time think fit to appoint.

104. The Judges and Commissioners of the High Court shall be appointed by the Governor, and shall hold office during his pleasure, and shall receive out of moneys appropriated by Parliament such salaries and allowances as the Governor determines.

Tenure and salaries
of Judges.

105. (1.) The Chief Judge of the High Court shall ordinarily reside and execute his office in the Island of Rarotonga.

Stations of Judges.

(2.) Another Judge of the High Court shall ordinarily reside and execute his office in the Island of Niue.

106. (1.) While the office of Chief Judge of the High Court is vacant, or while such Chief Judge is incapable by reason of sickness or absence from the Cook Islands of executing the duties of his office, the Resident Commissioner of Rarotonga (or his Deputy lawfully acting as such) may, without further authority or appointment, act as Chief Judge of the High Court, and the fact of the Resident Commissioner or his Deputy so acting shall be conclusive proof of his authority so to do.

Acting-Judges of
the High Court.

(2.) While the office of the Judge of the High Court stationed at Niue is vacant, or while that Judge is incapable by reason of sickness or absence from the Cook Islands of executing the duties of his office, the Resident Commissioner of Niue (or his Deputy lawfully acting as such) may, without further authority or appointment, act in Niue as a Judge of the High Court, and the fact of the Resident Commissioner or his Deputy so acting shall be conclusive proof of his authority so to do.

107. Each Judge of the High Court, or any two or more Judges, may in any part of the Cook Islands and at any time or place exercise all the powers of the High Court.

Powers of Judges.

108. (1.) A Commissioner of the High Court shall possess and may exercise the powers and functions (whether judicial or administrative) of a Judge of that Court, with such exceptions and restrictions as the Governor in Council from time to time determines either generally or with respect to any particular Commissioner or Commissioners, and all references in this Act or in any other enactment to a Judge of the High Court shall be construed accordingly as applying to a Commissioner within the limits of the jurisdiction so conferred upon him.

Commissioners of
the High Court.

(2.) Rules of Court may provide for appeals from a Commissioner to a Judge of the High Court.

109. (1.) There shall be not less than two Registrars of the High Court, to be appointed by the Governor, and to hold office during his pleasure.

Registrars of the
High Court.

(2.) One of such Registrars shall execute his office in the Island of Niue.

(3.) Another Registrar shall execute his office at Rarotonga, and at such other places in the Cook Islands as may be necessary or expedient.

(4.) The Registrars shall keep the records of the High Court, and shall perform all such administrative duties in respect of that Court as the Chief Judge may from time to time direct.

110. The Governor may also appoint such Deputy Registrars of the High Court as he thinks necessary, who shall hold office during his pleasure, and who shall, subject to the control of the Registrars, possess,

Deputy Registrars.

exercise, and perform the same powers, functions, and duties as the Registrars; and every reference in this Act to a Registrar of the High Court shall, so far as applicable, extend and apply to a Deputy Registrar accordingly.

Administrative
officers.

111. There shall be appointed in respect of the High Court such Sheriffs, bailiffs, clerks, interpreters, or other administrative officers as the Governor deems necessary.

Seal of the High
Court.

112. The High Court shall have in the custody of each Judge, Commissioner, and Registrar a seal of the Court, in such form or forms as the Minister approves, for the sealing of all orders, warrants, records, and other instruments requiring to be sealed.

Records of the
High Court.

113. The Registrars of the High Court shall keep proper books in which shall be entered minutes of all proceedings in the High Court, whether in its civil or criminal jurisdiction.

Jurisdiction of the High Court.

Jurisdiction of the
High Court.

114. The High Court shall, except so far as exclusive jurisdiction is conferred upon any other Court by this or any other Act, have all jurisdiction, whether civil or criminal, which may be necessary to administer the laws of the Cook Islands.

Injunction,
certiorari,
mandamus, and
prohibition.

115. (1.) The High Court may exercise by way of order in the ordinary course of its civil procedure the same jurisdiction as that possessed and exercised for the time being by the Supreme Court of New Zealand by way or in lieu of injunction, certiorari, mandamus, scire facias, and prohibition, including the power of awarding damages in lieu of injunctions.

(2.) No such jurisdiction by way of mandamus, certiorari, or prohibition shall be exercised by the High Court as against the Native Land Court.

Habeas corpus.

116. The High Court may, on the application of any person, make an order for the release of any person from unlawful imprisonment or detention, or for the production before the Court of any person alleged to be unlawfully imprisoned or detained, and every person who disobeys any such order shall be guilty of contempt of the High Court.

Custody of minors.

117. (1.) The High Court may, on the application of any person, from time to time make such order as it thinks fit with respect to the custody of any minor (being unmarried) by any parent or guardian of that minor.

(2.) Where the Court is satisfied that the minor has no parent or guardian fit to have such custody, the Court may make such order as it thinks fit for the custody of the minor by any other person.

(3.) The jurisdiction conferred by this section shall in all cases be exercised in such manner as the Court deems most conducive to the welfare of the minor.

(4.) "Parent" in this section includes an adoptive parent and the father or mother of a minor who is illegitimate.

Procedure of the High Court.

Rules of Court.

118. The Governor in Council may make rules of Court determining the practice and procedure of the High Court, whether in its civil or criminal jurisdiction.

119. Subject to the provisions of this Act and of rules of Court, the practice and procedure of the High Court in the exercise of its civil and criminal jurisdiction shall be such as the Court thinks in each case to be most consistent with natural justice and convenience.

Procedure so far as not governed by rules of Court.

120. Subject to the provisions of this Act and to rules of Court, all statements of claim, informations, summonses, warrants, convictions, orders, recognizances, and other documents required or authorized in the course of the civil or criminal jurisdiction of the High Court may be in such form as the Court or the Judge, Registrar, or other officer by whom the same are issued, made, or received deems sufficient.

Forms.

121. A Judge or Registrar of the High Court may in any proceeding before the Court, whether civil or criminal, issue a summons to any person requiring him to appear before the Court at the time and place mentioned in the summons, there to give evidence in that proceeding or to produce any document to the Court in that proceeding.

Summons to witnesses.

122. Any person upon whom any such summons has been served and who neglects or fails without sufficient cause shown by him to appear or to produce any document which he is so required to produce, and any person, whether summoned to attend or not, who, being present in Court and being required to give evidence or to produce any document then in his possession, refuses, without sufficient cause shown by him, to be sworn or to give evidence or to produce that document, and any person who, having been sworn to give evidence in any proceeding, neglects or fails without sufficient cause shown by him to appear at such time as the Court directs for the purpose of giving further evidence in the proceeding, shall be guilty of contempt of the High Court, and may be dealt with accordingly.

Default of witness.

123. The High Court may, in any civil or criminal proceeding where it appears necessary for the purposes of justice, make an order for the examination on oath before any officer of the Court or any other person or persons, and at any place either in or out of the Cook Islands, of any witness or person, and may order any deposition so taken to be filed in the Court, and may empower any party to the proceeding to give the deposition in evidence therein.

Commissioners to take evidence.

124. In any civil or criminal proceeding in the High Court an affidavit made out of the Cook Islands may, with the leave of the High Court, be received in evidence if made before a solicitor of the Supreme Court of New Zealand, or in any other manner which would make such affidavit admissible in civil proceedings in the Supreme Court of New Zealand under the law for the time being in force in New Zealand.

Evidence by affidavit sworn out of the Cook Islands.

125. The High Court may, if it thinks fit, at any time during any proceedings, whether civil or criminal, order all witnesses other than the witness under examination to go and remain outside the Court until required to give evidence; and any witness who disobeys any such order shall be guilty of contempt of Court.

Witnesses may be ordered out of Court.

126. (1.) Affidavits in the High Court may be sworn in the Cook Islands before—

Affidavits in the Cook Islands.

- (a.) A solicitor of the Supreme Court of New Zealand :
- (b.) A Registrar of the High Court or of the Native Land Court :
- (c.) A Postmaster :
- (d.) A Collector of Customs :

(e.) A Resident Commissioner :

(f.) A Resident Agent :

(g.) A Medical Officer.

(2.) The making of such affidavits shall be governed by the same rules as are in force for the time being with respect to affidavits in the Supreme Court of New Zealand.

Evidence by
affidavit.

127. In any civil proceedings in the High Court evidence may be taken either orally or by affidavit, but in actions and other proceedings *inter partes* such affidavits shall not be admissible without the leave of the Court.

Right of audience in
the High Court.

128. In any proceeding in the High Court, whether civil or criminal, any party thereto may be represented either by a barrister or solicitor of the Supreme Court of New Zealand, or, with the leave of the Court, by any other agent, but any such leave may be at any time withdrawn.

Costs.

129. In any civil proceeding in the High Court the Court shall have power to make such order as it thinks just for the payment of the costs of the proceeding by or to any party thereto.

Security for costs.

130. (1.) In any civil proceeding and at any stage thereof the High Court may require a plaintiff or applicant resident out of the jurisdiction of the High Court to deposit any sum of money as security for costs, and may stay the proceeding pending the making of such deposit.

(2.) When any sum has been so deposited as security for costs it shall be disposed of in such manner as the Court directs.

Court fees.

131. The Governor in Council may make regulations prescribing a scale of costs and Court fees to be paid in all civil or criminal proceedings in the High Court.

Minutes of
judgments.

132. (1.) Every judgment of the High Court shall be deemed to be complete when a minute thereof has been made in the record-books of the Court and signed by a Judge thereof.

(2.) When necessary the judgment may at any time thereafter be drawn up under the seal of the Court.

Amendments.

133. A Judge of the High Court may at any time amend any minute or judgment of the Court or other record of the Court in order to give effect to the true intent of the Court in respect thereof or truly to record the course of any proceeding.

Rehearing.

134. On application made at any time within fourteen days after the date of any judgment given by the High Court in its civil jurisdiction the Court may, if it thinks fit, rehear the matter, and may on such rehearing either affirm, reverse, or vary such judgment.

Execution of Judgments.

Writs of sale and
possession.

135. (1.) Where by any judgment of the High Court in its civil jurisdiction any person is ordered to pay any sum of money, the party to whom the money is payable may cause a writ of sale to be issued.

(2.) When by any judgment of the High Court any person is ordered to deliver possession of land or chattels, the party to whom such land or chattels are ordered to be delivered may cause a writ of possession to be issued.

Effect of writ of
possession.

136. A writ of possession shall authorize the officer to whom it is addressed to deliver to any party named in the writ possession of

any land or of any chattels specified in the writ, and for that purpose to eject any other person from such land, or to seize and take possession of any such chattels.

137. (1.) A writ of sale shall authorize the officer to whom it is directed to seize all the chattels (including moneys, cheques, bills of exchange, and other securities for money) of the person against whom it is issued, except wearing-apparel, bedding, tools, and implements of trade, not exceeding in the aggregate twenty pounds in value. Effect of writ of sale.

(2.) All chattels so seized may, unless the judgment is sooner satisfied, together with the costs of the execution, be sold or otherwise converted into money by the Registrar of the High Court, and the proceeds of such sale or conversion shall, after payment thereout of the costs of the execution, be applied in satisfaction of the judgment.

138. Every writ of sale or writ of possession shall be issued by a Registrar of the High Court under the seal of that Court, and shall be addressed to an officer of the Court or to a constable. Issue of writs of sale or possession.

139. Any judgment of the High Court in its civil jurisdiction for the payment of any sum of money may be enforced by a charging-order made by the Court against any real or personal property of the person by whom such money is payable (including debts and other moneys due or accruing due to that person, but not including the interest of a Native in any Native land). Any such charging-order shall be made and shall have effect in manner provided by rules of Court. Charging-orders.

140. The High Court may in any civil proceedings stay the execution of any judgment for such term as the Court thinks fit. Stay of execution.

141. (1.) When judgment for the payment of any debt, damages, or other sum of money has been given by the High Court in its civil jurisdiction, the judgment creditor may at any time thereafter, in pursuance of the judgment, file in Court an application for an order under this section. Judgment summons.

(2.) A Judge or Registrar of the Court may thereupon issue a summons (hereinafter called a judgment summons) to the judgment debtor to show cause why an order should not be made against him for the payment of the amount of the judgment.

(3.) On the hearing of the application the Court may, if it thinks fit, make an order that the judgment debtor do pay to the judgment creditor the amount of the judgment debt forthwith, or at such time, or by such instalments from time to time, as the Court thinks fit.

(4.) Except where the judgment debtor fails to appear in Court in pursuance of the judgment summons, no such order shall be made unless the Court is satisfied either—

(a.) That the judgment debtor is of sufficient ability to pay the judgment debt in accordance with the terms of the order; or

(b.) That the liability in respect of which judgment was given against him was incurred by fraud; or

(c.) That before or after the date of the judgment the judgment debtor has made away with any property for the purpose of evading payment of such liability.

(5.) If any judgment debtor disobeys any order made against him under this section he shall be guilty of contempt of the High Court.

Enforcement of judgments of High Court in Supreme Court of New Zealand.

(6.) Nothing in this section shall exclude any other lawful method of executing any such judgment.

142. (1.) Any person in whose favour any judgment whereby any sum of money is made payable has been obtained in civil proceedings in the High Court of the Cook Islands may cause a memorial thereof, authenticated by the seal of the High Court, to be filed in any office of the Supreme Court of New Zealand.

(2.) Judicial notice may be taken by the Supreme Court of the seal of the High Court so affixed to any such memorial.

(3.) Every such memorial shall set forth the names and additions of the parties to the proceeding in which such judgment was given, the form or nature of the proceeding, the date on which the said judgment was given, and the amount payable thereunder.

(4.) Every such memorial being so filed shall thenceforth be a record of such judgment, and execution may issue thereon with the leave of the Supreme Court, in the same manner as if the like judgment had been given by the Supreme Court, subject, however, to such terms and conditions as the Supreme Court may think fit to impose.

(5.) Leave to issue such execution may be given by the Supreme Court on the application of the party by whom the memorial was filed, and either *ex parte* or on notice to the party against whom execution is to be issued, as the Supreme Court thinks fit.

(6.) Such leave shall not be granted unless the Supreme Court is satisfied, by affidavit or otherwise,—

- (a.) That the person against whom execution is to be issued was resident or present in the Cook Islands at the commencement of the proceedings in which the judgment was given; or
- (b.) That the cause of action in such proceedings or some material part of that cause of action arose in the Cook Islands.

(7.) Every such affidavit shall, if made in the Cook Islands, be sworn before a Judge of the High Court or a Commissioner of the Supreme Court.

Absconding Debtors.

Order of arrest of absconding debtor.

143. Where in any action in the High Court for the recovery of any debt, damages, or other sum of money the plaintiff proves to the satisfaction of the Court at any time before final judgment that he has a good cause of action against the defendant to the amount of ten pounds or upwards, and that there is probable cause for believing that the defendant is about to leave the Cook Islands or any island included in the Cook Islands unless he is apprehended, and that his absence from the Cook Islands or such island as aforesaid will materially prejudice the plaintiff in the prosecution of his action, the Court may order the defendant to be arrested and imprisoned for a period not exceeding three months unless and until he sooner gives security to the satisfaction of the Court that he will not leave the Cook Islands or such island as aforesaid without the leave of the Court.

Security to be given.

144. The security to be so given shall, as the Court directs, be either the payment into Court of a sum not exceeding the amount claimed in the action or a bond executed by the defendant with one or two sureties in favour of His Majesty in the like amount.

Enforcement of security.

145. If after such security has been given the defendant leaves the Cook Islands or such island as aforesaid without the leave of the

Court, all moneys so paid into Court or recovered in pursuance of the bond shall become available as the Court directs for the satisfaction of any sum recovered in the action.

146. Where the action is for a penalty at the suit of the Crown it shall not be necessary to prove that the absence of the defendant as aforesaid will materially prejudice the Crown in the prosecution of the action, and the security to be given shall be security that any sum recovered against the defendant in the action will be paid or that the defendant will be rendered to prison.

Arrest in actions
for penalties.

147. If, after such security has been given, any sum recovered in the action remains unpaid and the defendant is not rendered to prison as aforesaid, all moneys so paid into Court or recovered in pursuance of the bond shall become available as the Court directs for the satisfaction of the sum recovered in the action.

Enforcement of
security in actions
for penalties.

Contempt of the High Court.

148. Every person is guilty of contempt of the High Court who—

Contempt of Court
defined.

- (a.) Disobeys any judgment or order of that Court, or of any Judge thereof, otherwise than by making default in the payment of a sum of money (other than a penalty) payable under such judgment or order; or
- (b.) Uses any abusive, insulting, offensive, or threatening words or behaviour in the presence or hearing of the Court; or
- (c.) Assaults, resists, or obstructs, or incites any other person to assault, resist, or obstruct, any constable or officer of the Court in serving any process of the Court, or executing any warrant of the Court or a Judge thereof, or executing any judgment or order of the Court or of a Judge thereof; or
- (d.) By any words or behaviour obstructs in any manner the proper and orderly administration of justice in the Court; or
- (e.) Does any other thing which elsewhere in this Act or in any other Act is declared to be a contempt of the High Court; or
- (f.) Aids, abets, counsels, procures, or incites any other person to commit contempt of the High Court.

149. Every person who commits contempt of the High Court shall be liable to a fine not exceeding fifty pounds or to imprisonment for any term not exceeding six months.

Punishment of
contempt.

150. The offence of contempt of the High Court shall be punishable by the High Court either—

Jurisdiction of
High Court.

(a.) In the ordinary course of the criminal jurisdiction of that Court; or

(b.) In accordance with the following provisions.

151. (1.) If the contempt is committed in the presence or hearing of the Court, any Judge then and there sitting in Court may, without order or warrant, direct any constable, officer of the Court, or other person to arrest the person so guilty of contempt and to bring him before the Court.

Contempt in the
face of the Court.

(2.) The Court may thereupon, after giving the person so arrested a reasonable opportunity of being heard in his defence, either order him to pay a fine not exceeding fifty pounds or commit him to prison for any period not exceeding six months.

Discharge of persons
in contempt.

152. A person imprisoned for contempt, or for default in payment of a fine imposed upon him for contempt, may be at any time discharged; and any fine so imposed may be at any time remitted in whole or in part, either by order of the Court or by warrant under the hand of a Resident Commissioner.

PART IV.

THE SUPREME COURT OF NEW ZEALAND.

Jurisdiction of the Supreme Court in the Cook Islands.

Civil jurisdiction of
Supreme Court
extends to Cook
Islands.

153. (1.) Notwithstanding anything in this Act, the civil jurisdiction of the Supreme Court of New Zealand shall extend to the Cook Islands, and may be exercised in New Zealand in respect of those islands in the same manner in all respects as if those islands were for all purposes part of New Zealand.

(2.) Any action or other civil proceeding in the Supreme Court which relates in any manner to the Cook Islands and which might have been instituted in the High Court of those islands may, on the application of any party thereto, be stayed by the Supreme Court in its discretion, on such terms as the Court thinks fit, if in the opinion of that Court, having regard to the interest of all parties thereto, the action or other proceeding could more conveniently be instituted in the High Court.

(3.) No writ of summons or other originating civil process in the Supreme Court shall be served in the Cook Islands without the leave of a Judge of that Court, and the order by which such leave is granted may determine the time within and the place at which a defendant is to file his statement of defence, and the sittings of the Court at which the action is to be heard, or may give such other directions with respect to the procedure on such writ or process as may be appropriate to the case.

Jurisdiction under
the Declaratory
Judgments Act,
1908.

154. The jurisdiction conferred upon the Supreme Court by the Declaratory Judgments Act, 1908, shall extend to declaratory judgments or orders relating to the laws of the Cook Islands in the same manner in all respects as to declaratory judgments or orders relating to the laws of New Zealand.

Criminal jurisdiction
of Supreme Court in
respect of Cook
Islands.

155. (1.) Notwithstanding anything in this Act, the criminal jurisdiction of the Supreme Court of New Zealand shall extend to offences committed in the Cook Islands, and may be exercised in New Zealand in respect of such offences accordingly in the same manner as if they were indictable offences committed in New Zealand.

(2.) Such jurisdiction shall be exercised only over offenders found in New Zealand.

(3.) In respect of any offence which is within the jurisdiction of the Supreme Court under this section the like preliminary proceedings before Justices of the Peace or a Stipendiary Magistrate may be taken in New Zealand as in the case of indictable offences committed in New Zealand.

(4.) The punishment to be imposed by the Supreme Court for any such offence shall be that which is provided for that offence by the laws of the Cook Islands. Any person so liable to be imprisoned may be sentenced to imprisonment with or without hard labour as the Supreme Court thinks fit.

(5.) No prosecution in New Zealand for an offence committed in the Cook Islands shall be commenced without the leave of the Attorney-General.

Cases stated by the High Court or Native Land Court.

156. (1.) The High Court or the Native Land Court may in any proceeding pending before it, whether civil or criminal, either on the application of any party or of its own motion, state a case on any question of law for determination by the Supreme Court of New Zealand.

High Court or Native Land Court may state a case for the Supreme Court.

(2.) The determination by the Supreme Court of any case so stated shall be binding on the High Court or Native Land Court.

(3.) There shall be no appeal from any such determination to the Court of Appeal.

(4.) Every case so stated shall be under the seal of the High Court or Native Land Court, and shall be filed by a Registrar of that Court in the office of the Supreme Court at Auckland.

(5.) The Registrar of the Supreme Court shall thereupon set down the case for hearing at some convenient sitting of the Supreme Court.

(6.) The determination of the Supreme Court shall be embodied in an order, and a duplicate of that order under the seal of the Court shall be transmitted by the Registrar of that Court to the Registrar of the High Court or of the Native Land Court.

(7.) In and by such order the Supreme Court may fix and award the costs of the argument and determination of the special case, and the High Court or Native Land Court shall by judgment or order give effect to the order so made by the Supreme Court.

(8.) The Supreme Court may send back for amendment any case so stated by the High Court or Native Land Court.

Appeals from the High Court and Native Land Court.

157. Subject to the provisions of this Act, an appeal shall lie to the Supreme Court of New Zealand from any final judgment of the High Court, whether in its civil or criminal jurisdiction,—

Jurisdiction of Supreme Court on appeal from the High Court.

(a.) As of right, from any conviction by the High Court in the exercise of its criminal jurisdiction whereby the appellant has been sentenced to imprisonment for a term exceeding six months or to a fine not less than one hundred pounds;

(b.) As of right, when the matter in dispute on the appeal amounts to or is of the value of two hundred pounds or upwards; and

(c.) At the discretion of the High Court in any other case, if in the opinion of that Court the question involved in the appeal is one which by reason of its general or public importance, or of the magnitude of the interests affected, or for any other reason, ought to be submitted to the Supreme Court of New Zealand for decision.

158. (1.) No such appeal shall be brought except in pursuance of an order of the High Court granting leave to appeal.

Order granting leave to appeal.

(2.) Application to the Court for leave to appeal shall be made at the time when judgment is given or within twenty-one days thereafter.

(3.) Such leave shall be granted only on condition that the appellant within a period to be fixed by the Court, not exceeding two months

from the date of the hearing of the application, gives security to the satisfaction of the Court or the Registrar thereof in a sum not exceeding one hundred pounds for the payment of the costs of the appeal.

(4.) The order granting leave to appeal shall not be sealed until such security has been duly given.

Transmission of
record.

159. On the sealing of the order granting leave to appeal, a copy of the record of the proceedings in which the judgment appealed against was given (including the reasons for the judgment, and, where necessary, a statement of the facts or of the evidence) shall be prepared by the appellant and transmitted by the Registrar of the High Court under the seal of that Court to the Registrar of the Supreme Court of New Zealand at Auckland.

Dismissal of appeal
for non-prosecution.

160. If the appellant does not prosecute his appeal with due diligence, the respondent may apply either to the High Court or to the Supreme Court for an order dismissing the appeal for non-prosecution; and if such order is made by either Court the costs of the appeal and the security entered into by the appellant shall be dealt with in such manner as that Court may direct.

Procedure on appeal.

161. The procedure on the hearing of any such appeal and in all matters incidental to any such appeal, whether in the High Court or in the Supreme Court, shall, subject to this Act, be determined by regulations to be made under this Act, and in default of such regulations, or so far as they do not extend, shall be determined in such manner as the Court thinks fit.

Special leave to
appeal may be
granted by Supreme
Court.

162. (1.) Subject to any regulations which may be made in that behalf, the Supreme Court of New Zealand may, in any case in which it thinks fit and at any time, grant special leave to appeal to that Court from any final judgment of the High Court.

(2.) Such leave may be granted subject to such conditions as to security for costs and otherwise as the Supreme Court thinks fit.

(3.) All the provisions of this Part of this Act shall, so far as applicable, apply to appeals in pursuance of such special leave.

Powers of Supreme
Court on appeal.

163. On any appeal from the High Court the Supreme Court may affirm, reverse, or vary the judgment appealed from, or may order a new trial, or may make any such order with respect to the appeal as the Court thinks fit, and may award such costs as it thinks fit to or against any party to the appeal.

Evidence on appeal.

164. Every such appeal shall, so far as it relates to any question of fact, be determined by the Supreme Court by reference to the evidence heard at the trial as certified to the Supreme Court under the seal of the High Court, and no further evidence shall, without the leave of the Supreme Court, be heard or admitted.

Stay of execution.

165. An appeal to the Supreme Court of New Zealand shall not operate as a stay of execution unless the High Court or the said Supreme Court otherwise orders.

Release of appellant
from custody.

166. (1.) When leave to appeal to the Supreme Court of New Zealand from any conviction is granted by the High Court the High Court may, if it thinks fit, release the appellant from custody on bail pending the determination of the appeal.

(2.) Any person so released on bail may be at any time, and for any reason which the High Court thinks sufficient, arrested by warrant and committed to prison, there to undergo his sentence.

(3.) Any period during which an appellant has been so at large on bail shall not be computed as part of the term of imprisonment to which he has been sentenced.

167. No judgment of the High Court shall, on appeal to the Supreme Court of New Zealand, be set aside on the ground of any error or irregularity in the proceedings of such Court, or on the ground of any defect of form or substance in the judgment, unless the Supreme Court is of opinion that the proceedings of the High Court were not in conformity with natural justice or that a substantial miscarriage of justice has taken place.

Appeal not to be allowed for irregularities in procedure.

168. On every case stated for the Supreme Court of New Zealand, and in every appeal to that Court, the parties may either appear in person or be represented by a barrister of the Supreme Court, or may submit their arguments to the Supreme Court in writing.

Right of audience on appeal.

169. The determination of the Supreme Court on any appeal from the High Court shall be transmitted to the Registrar of the High Court by the Registrar of the Supreme Court under the seal of that Court, and judgment shall thereupon be entered in the High Court in conformity with that determination, or such other proceedings by way of a new trial or otherwise shall be taken in the High Court as are required by such determination.

Transmission of order of Supreme Court on appeal.

170. There shall be no appeal to the Court of Appeal from any decision of the Supreme Court of New Zealand on an appeal from the High Court.

No appeal to the Court of Appeal.

171. The Supreme Court shall not exercise control over any Court in the Cook Islands (whether in respect of want of jurisdiction or otherwise) by way of certiorari, mandamus, or prohibition, or in any other manner save by way of appeal in accordance with the provisions of this Act in that behalf.

Certiorari, mandamus, and prohibition taken away.

172. All the foregoing provisions as to appeals from the High Court to the Supreme Court shall, so far as applicable, apply, *mutatis mutandis*, to appeals from the Native Land Court to the Supreme Court, save that no such appeal shall lie as of right.

Appeals to Supreme Court from Native Land Court.

Enforcement in the Cook Islands of Judgments of New Zealand Courts.

173. (1.) Any person in whose favour any judgment whereby any sum of money is made payable has been obtained in the Supreme Court of New Zealand or in a Magistrate's Court in New Zealand in civil proceedings may cause a memorial thereof, authenticated by the seal of the Supreme Court or of the Magistrate's Court, as the case may be, to be filed in any office of the High Court of the Cook Islands.

Judgments of Supreme Court or Magistrate's Court in New Zealand may be enforced by the High Court.

(2.) Judicial notice may be taken by the High Court of the seal of the Supreme Court or Magistrate's Court so affixed to any such memorial.

(3.) Every such memorial shall set forth the names and additions of the parties to the proceeding in which the judgment was given, the form or nature of the proceeding, the date on which the judgment was given, and the amount payable thereunder.

(4.) Every such memorial being so filed shall thenceforth be a record of such judgment, and execution may issue thereon with the leave of the High Court in the same manner as if the like judgment had been given by the High Court, subject, however, to such terms and conditions as the High Court may think fit to impose.

Enforcement of judgments of Supreme Court by High Court by way of proceedings for contempt.

(5.) Leave to issue such execution may be given by the High Court on the application of the party by whom the memorial was filed, and either *ex parte* or on notice to the party against whom execution is to be issued, as the High Court thinks fit.

174. (1.) When by any judgment of the Supreme Court of New Zealand any person has been ordered to do or abstain from doing any act in the Cook Islands, other than the payment of money, the Supreme Court may then or at any time thereafter direct a memorial of such judgment under the seal of the Court to be filed in the High Court of the Cook Islands.

(2.) On the filing of such memorial any disobedience to such judgment, whether before or after the filing of the memorial, shall be deemed to be a contempt of the High Court, and may be dealt with by that Court accordingly.

Miscellaneous.

Commissioners of the Supreme Court may be appointed in the Cook Islands.

175. Sections forty-seven to forty-nine of the Judicature Act, 1908 (relating to Commissioners to administer oaths), shall in New Zealand be construed and operate as if the Cook Islands were a place beyond the jurisdiction of the Supreme Court within the meaning of section forty-seven aforesaid, and Commissioners in the Cook Islands may be appointed by a Judge of the Supreme Court accordingly.

PART V.

CRIMINAL OFFENCES.

Treason.

176. Every one is guilty of treason, and is liable on conviction thereof to suffer death, who—

- (a.) Levies war against His Majesty ;
- (b.) Conspires to levy war against His Majesty ;
- (c.) Instigates any foreigner with force to invade any part of His Majesty's dominions ; or
- (d.) Assists by any means whatever any public enemy at war with His Majesty.

Inciting to mutiny.

177. Every one is liable to imprisonment for life who for any traitorous or unlawful purpose endeavours to seduce any person serving in His Majesty's Forces by sea or land from his duty or allegiance to His Majesty, or to incite any such person to commit any traitorous or mutinous act.

Murder.

178. (1.) He who with malice aforethought and without lawful justification causes by any act or omission the death of any person is guilty of murder, and shall on conviction be sentenced to death.

(2.) "Malice aforethought" means—

- (a.) An intention to cause the death either of the person killed or of any other person ; or
- (b.) An intention to cause grievous bodily harm either to the person killed or to any other person.

Manslaughter.

179. He who negligently and without malice aforethought by any act or omission causes the death of any person is guilty of manslaughter, and is liable to imprisonment for life.

"Omission" defined.

180. In the two last preceding sections the term "omission" means an omission to perform a legal duty, whether undertaken by

contract or imposed by law, and whether owing to the person killed or to any other person.

181. Every one who undertakes, whether by a legally binding contract or otherwise, to do any act the omission of which is or may be dangerous to life is under a legal duty to do that act, and is criminally responsible accordingly for any death caused by such omission. Omissions dangerous to life.

182. Every one who has in any manner whatever the charge of any other person unable by reason either of detention, youth, age, sickness, insanity, or any other cause to withdraw himself from such charge is under a legal duty to supply that person with the necessaries of life, and is criminally responsible accordingly if the death of that person is caused by an omission so to supply him with the necessaries of life. Omission to supply the necessaries of life.

183. Every one who has in his charge or under his control anything whatever, whether animate or inanimate, or who erects, makes, or maintains anything whatever, which in the absence of precaution or care may endanger human life is under a legal duty to take reasonable precautions against and to use reasonable care to avoid such danger, and is criminally responsible accordingly for any death caused by an omission to perform that duty. Liability of persons having charge of dangerous things.

184. He who hastens the death of any person from any disease or disorder from which he is already suffering shall be deemed to have caused the death of that person. Hastening death.

185. He whose act or omission results in the death of any person shall be deemed to have caused his death, although the immediate cause of death is the act or omission of some other person or some other independent intervening event. Indirect cause of death.

186. Every one who attempts to commit murder shall be liable to imprisonment for life. Attempted murder.

187. Every one is liable to ten years' imprisonment who—

(a.) Conspires with any person to murder any person; or

(b.) Incites any person to commit murder. Conspiracy and inciting to murder.

188. Every one who attempts to commit suicide is liable to imprisonment for six months. Attempted suicide.

189. Every one is liable to imprisonment for life who counsels or procures any person to commit suicide, if that person actually commits suicide in consequence, or who aids or abets any person in the commission of suicide. Counselling suicide.

190. Every one is liable to two years' imprisonment who disposes of the dead body of any child in any manner with intent to conceal the fact that its mother was delivered of it, whether the child died before, or during, or after birth. Concealment of birth.

191. Every one who wilfully and without lawful justification causes grievous bodily harm to any person is liable to seven years' imprisonment. Grievous bodily harm.

192. Every one who wilfully and without lawful justification causes actual bodily harm to any person is liable to two years' imprisonment. Actual bodily harm.

193. Every one is liable to two years' imprisonment who by any act or omission causes bodily harm to any person under such circumstances that, if death had been caused, he would have been guilty of manslaughter. Omissions resulting in bodily harm.

Indecent assault.

194. Every one who indecently assaults any female person is liable to five years' imprisonment.

Assault.

195. Every one who commits an assault on any person is liable to one year's imprisonment.

Rape.

196. (1.) Rape is the act of a male person having carnal knowledge of a woman or girl who is not his wife—

(a.) Without her consent ; or

(b.) With consent extorted by threats or fear of bodily harm ; or

(c.) With consent obtained by personating her husband ; or

(d.) With consent obtained by false and fraudulent representations as to the nature and quality of the act.

(2.) This offence is complete upon penetration.

(3.) Every one who commits rape is liable to imprisonment for life.

(4.) Every one is liable to ten years' imprisonment who attempts to commit rape or who assaults any person with intent to commit rape.

Carnal knowledge of girls under twelve years of age.

197. (1.) Every one is liable to ten years' imprisonment who carnally knows, or attempts carnally to know, or assaults with intent to carnally know, any girl under the age of twelve years, whether he believes her to be of or over that age or not.

(2.) It shall be no defence to a charge under this section that the girl consented to the offence.

Carnal knowledge of girls under fifteen years of age.

198. (1.) Every one is liable to two years' imprisonment who carnally knows, or attempts carnally to know, or assaults with intent to carnally know, any girl of or over the age of twelve years and under the age of fifteen years, whatever the belief of the offender may be as to the age of the girl.

(2.) It shall be no defence to a charge under this section that the girl consented to the offence.

Carnal knowledge of idiots or lunatics.

199. Every one is liable to two years' imprisonment who has or attempts to have unlawful carnal knowledge of any woman or girl known by him to be an idiot, imbecile, or lunatic.

Adultery by married persons.

200. Every married person who commits adultery shall be liable to a fine of ten pounds.

Adultery with married woman.

201. Every man who commits adultery with a woman whom he knows to be married shall be liable to a fine of ten pounds.

Procuring miscarriage of woman or girl.

202. Every one is liable to two years' imprisonment who, with intent to procure the miscarriage of any woman or girl, unlawfully administers to or causes to be taken by her any poison or other noxious thing, or unlawfully uses any instrument or other means whatsoever with the like intent.

Act of woman or girl procuring her own miscarriage.

203. Every woman or girl is liable to one year's imprisonment who, whether with child or not, unlawfully administers to herself or permits to be administered to her any poison or other noxious thing, or unlawfully uses on herself or permits to be used on her any instrument or other means whatsoever with intent to procure miscarriage.

Supplying means of miscarriage.

204. Every one is liable to two years' imprisonment who unlawfully supplies or procures any poison or other noxious thing, or any instrument or thing whatsoever, knowing that the same is intended to be unlawfully used with intent to procure the miscarriage of any woman or girl.

Bigamy.

205. (1.) Every one who commits bigamy is liable to five years' imprisonment.

(2.) Bigamy is—

(a.) The act of a person who being married goes through a valid form of marriage with any other person ; or

(b.) The act of a person who goes through a valid form of marriage with any person whom he or she knows to be married.

(3.) The fact that the parties would, if unmarried, have been incompetent to contract marriage is not a defence upon a prosecution for bigamy.

(4.) Every form of marriage shall for the purposes of this section be deemed valid, notwithstanding any act or default of the person charged with bigamy, if it is otherwise a valid form.

206. (1.) Every one is liable to imprisonment for ten years who commits buggery either with a human being or with any other living creature. Buggery.

(2.) This offence is complete upon penetration.

207. (1.) Every one is liable to imprisonment for five years who— Attempted buggery
and indecent
assaults on males.

(a.) Attempts to commit buggery ; or

(b.) Assaults any person with intent to commit buggery ; or

(c.) Being a male, indecently assaults any other male person.

(2.) It is no defence to a charge of indecent assault on a male person of any age that he consented to the act of indecency.

208. (1.) Incest means carnal connection between—

Incest.

(a.) Father and daughter ; or

(b.) Brother and sister, whether of the whole or the half blood ; or

(c.) Son and mother ; or

(d.) Grandfather and granddaughter.

(2.) Every one of or over the age of fifteen years who commits incest is liable to seven years' imprisonment.

209. Every one is liable to imprisonment for six months who wilfully does any indecent act in any public place or within the view of any person being in any public place. Indecent acts.

210. Every one is liable to six months' imprisonment who knowingly and without lawful justification or excuse— Indecent documents.

(a.) Sells or exposes for sale or to public view any obscene or indecent book, picture, photograph, document, or other object tending to corrupt morals ; or

(b.) Publicly exhibits any obscene or indecent show tending to corrupt morals.

211. (1.) Every one who keeps a brothel is liable to six months' imprisonment. Brothels.

(2.) A brothel is a house, room, or place of any kind whatever kept or used for purposes of prostitution.

(3.) Any one who acts as a person having the management, care, or control of a brothel shall be deemed to be a keeper thereof whether he is in fact a keeper thereof or not.

(4.) The owner or occupier of any house, room, or place who knowingly permits the same to be used as a brothel shall be deemed to be a keeper thereof whether he is in fact a keeper thereof or not.

212. (1.) Every one who keeps a gaming-house is liable to six months' imprisonment. Gaming-houses.

(2.) A gaming-house is a house, room, or place of any kind whatever kept or used as a place of resort for gambling.

(3.) "Gambling" means playing for money or other valuable thing at any game of chance, or playing for excessive stakes or otherwise to the injury of public morals at any game of mixed chance and skill, and also includes any form of unlawful gaming.

(4.) Any one who acts as a person having the management, care, or control of a gaming-house shall be deemed to be a keeper thereof whether he is in fact a keeper thereof or not.

(5.) The owner or occupier of any house, room, or place who knowingly permits the same to be used as a gaming-house shall be deemed to be a keeper thereof whether he is in fact a keeper thereof or not.

Gaming by Natives.

213. Every Native or Asiatic who plays for money or other valuable thing at any game of chance or at any game of mixed chance and skill shall be liable to a fine of five pounds.

Stealing children.

214. (1.) Every one is liable to two years' imprisonment who with intent to deprive any parent or guardian or other person having the lawful charge of any child under the age of fourteen years of the possession of that child unlawfully—

(a.) Takes or entices away or detains such child ; or

(b.) Receives such child knowing it to have been so dealt with.

(2.) Nothing in this section shall extend to any one who gets possession of any child claiming in good faith a right to the possession of the child.

Riot.

215. (1.) Every one who takes part in a riot is liable to imprisonment for two years.

(2.) A riot is an assembly of three or more persons who, with intent to carry out any common purpose, disturb the peace tumultuously.

Forcible entry.

216. Every one is liable to six months' imprisonment who, by force or threats of force, enters on land then in the actual and peaceable possession of another for the purpose of taking possession thereof, whether he who so enters is entitled to the possession thereof or not.

Affrays.

217. (1.) Every one who, without lawful justification or excuse, takes part in an affray is liable to one year's imprisonment.

(2.) An affray is the act of fighting in a public highway or in any other public place.

Official corruption.

218. Every one commits the offence of official corruption and is liable to five years' imprisonment who—

(a.) Being the holder of any office, whether judicial or otherwise, in the service of His Majesty, corruptly accepts or obtains, or agrees to accept or attempts to obtain, for himself or any other person any bribe—that is to say, any money or valuable consideration whatever—on account of anything done or to be afterwards done by him in his official capacity ; or

(b.) Corruptly gives or offers to any person holding any such office or to any other person any such bribe as aforesaid on account of any such act.

Perjury.

219. (1.) Perjury is an assertion as to a matter of fact, opinion, belief, or knowledge made by a witness in a judicial proceeding as part of his evidence upon oath or affirmation, whether such evidence is given in open Court or by affidavit or otherwise, such assertion being known to the witness to be false.

(2.) Every proceeding is judicial within the meaning of this section which is held before any Court, or before any judicial officer or other person having power to take evidence on oath or affirmation.

(3.) Subornation of perjury is the act of counselling or procuring a person to commit any perjury that is actually committed.

(4.) Every one is liable to five years' imprisonment who commits perjury or subornation of perjury.

220. Every one is liable to three years' imprisonment who, with intent to mislead any Court of justice or any judicial officer in the exercise of his functions as such, fabricates evidence by any means other than perjury or subornation of perjury. Fabricating evidence.

221. Every one is liable to three years' imprisonment who conspires or attempts to obstruct, prevent, pervert, or defeat the course of justice in any cause or matter, civil or criminal. Conspiracy to pervert justice.

222. Every one is liable to imprisonment for five years who by force breaks any prison with intent to set at liberty himself or any other person confined therein. Breaking prison.

223. Every one is liable to imprisonment for two years who, being in lawful custody, whether in a prison or elsewhere, escapes therefrom. Escape.

224. Every one is liable to imprisonment for two years who rescues any person from lawful custody, whether in a prison or elsewhere, or who assists any person to escape from such custody. Rescue.

225. (1.) Every one who publishes a defamatory libel is liable to six months' imprisonment. Defamatory libel.

(2.) To publish a defamatory libel means to do any act which confers upon the person defamed a cause of action for damages for libel.

(3.) In a prosecution under this section the burden of proof shall be determined by the same rules as in an action for damages for libel.

(4.) In a prosecution under this section it shall be no defence that the libel is true unless the publication thereof was for the public benefit.

226. (1.) Every one who commits theft is liable—

Punishment of theft.

(a.) To three months' imprisonment if the value of the property stolen does not exceed two pounds :

(b.) To one year's imprisonment if the value of the property stolen exceeds two pounds but does not exceed fifty pounds :

(c.) To five years' imprisonment if the value of the property stolen exceeds fifty pounds.

(2.) In computing for the purposes of this section the value of the property stolen, where several thefts are charged in the same information against the same person, the aggregate value of all such property shall be computed, and the sentence shall be determined accordingly, and cumulative sentences in respect of the several thefts so charged shall not be imposed.

(3.) For the purposes of this section a valuable security shall be deemed to be of the same value as the property to which it relates.

(4.) Here and elsewhere in this Act the term "valuable security" means any document which constitutes a title to or is evidence of title to any property of any kind whatever.

227. (1.) Theft or stealing is the act of fraudulently or dishonestly taking, or converting to the use of any person, or misappropriating or disposing of, or dealing in any other manner with, anything capable Definition of theft.

of being stolen, with intent to defraud or injure any person having any property or interest in that thing.

(2.) Every animate or inanimate thing whatever which is the property of any person, and is movable, is capable of being stolen.

(3.) Every thing whatever which is the property of any person and is capable of being made movable is capable of being stolen as soon as it becomes movable, although it is made movable in order to steal it.

Ineffectual defences
to charge of theft.

228. Without in any way limiting the generality of the foregoing definition of theft, a person shall be deemed guilty of theft notwithstanding the fact—

(a.) That at the time of the theft he was in lawful possession of the property stolen ; or

(b.) That he had himself a lawful interest in the property stolen, whether as a partner, co-owner, bailee, bailor, mortgagee, mortgagor, or otherwise howsoever ; or

(c.) That he was a trustee of the property stolen ; or

(d.) That the property stolen was vested in him as an executor or administrator.

Extended definition
of theft.

229. Without in any way limiting the generality of the foregoing definition of theft, every person shall be deemed guilty of theft who holds, receives, or obtains any money, valuable security, or other thing whatsoever capable of being stolen, subject to any obligation (whether arising from an express or implied trust, or from an express or implied contract, or from any other source whatsoever) to deal with such money, valuable security, or thing in any manner, and who fraudulently or dishonestly deals with it in any other manner or fails to deal with it in accordance with such obligation.

Obtaining money or
goods by false
pretences to be
deemed theft.

230. Every one who by means of any fraud or false pretence dishonestly obtains for himself or for any other person (whether directly or through the medium of any contract procured by such fraud or false pretence) anything capable of being stolen is guilty of stealing the thing so obtained, and shall be liable accordingly.

Stealing documents.

231. (1.) Every one who destroys, cancels, conceals, or obliterates in whole or in part any document for any fraudulent or dishonest purpose is guilty of having stolen that document, and is liable to three years' imprisonment.

(2.) Every one who in this or any other manner steals a testamentary instrument is liable to ten years' imprisonment.

Receiving stolen
goods.

232. Every one who receives any stolen property knowing it to have been stolen is guilty of having stolen such property, and is liable accordingly.

Robbery.

233. (1.) Robbery is theft accompanied by violence or threats of violence to any person or property, used to extort the property stolen or to prevent or overcome resistance to its being stolen.

(2.) Every one who commits robbery is liable to ten years' imprisonment.

(3.) Every one who assaults any person with intent to rob him is liable to five years' imprisonment.

Breach of trust.

234. (1.) Every trustee who with intent to defraud, and in violation of his trust, converts anything of which he is a trustee to any use not authorized by the trust is guilty of criminal breach of trust, and is liable to five years' imprisonment.

(2.) For the purposes of this section an executor or administrator shall be deemed to be a trustee of the property subject to his administration.

(3.) Nothing in this section shall be so construed as in any manner to limit the foregoing definition of the offence of theft, and if any act of a trustee is both theft and a criminal breach of trust he may be convicted of either of those offences.

235. Every one is liable to two years' imprisonment who with menaces demands from any person, either for himself or for any other person, anything capable of being stolen, with intent to steal it. Menaces

236. Every one is liable to six months' imprisonment who pretends to exercise or use any kind of witchcraft, sorcery, enchantment, or conjuration, or undertakes to tell fortunes. Witchcraft.

237. Every one is liable to six months' imprisonment who in incurring any debt or liability obtains credit by means of any fraud. Obtaining credit by fraud.

238. Every one is liable to five years' imprisonment who,—

(a.) With intent to extort or gain anything from any person, accuses or threatens to accuse either that person or any other person of any criminal offence, whether the person accused or threatened with accusation is guilty of that offence or not; or

(b.) With such intent as aforesaid, threatens that any person shall be so accused by any person; or

(c.) Causes any person to receive a document containing such accusation or threat, knowing the contents thereof. Accusation of criminal offences.

239. Every one is liable to three years' imprisonment who conspires with any other person by deceit or falsehood or other fraudulent means to defraud the public or any person ascertained or unascertained. Conspiracy to defraud.

240. Every one is liable to three years' imprisonment who by any false pretence causes or induces any person to execute, make, accept, endorse, or destroy the whole or any part of any valuable security. Obtaining execution of valuable securities by fraud.

241. (1.) Every one is guilty of burglary and is liable to five years' imprisonment who by day or night breaks and enters a building with intent to commit a criminal offence therein. Burglary.

(2.) "To break" means to break any part, internal or external, of a building, or to open by any means whatever any door, window, or other thing intended to cover any opening to the building or any passage from one part of it to another.

242. (1.) Forgery is the making of a false document with intent to defraud or deceive any person, whether ascertained or unascertained. Forgery.

(2.) Every one who commits forgery is liable to five years' imprisonment.

(3.) A false document is—

(a.) A document the whole or some material part whereof purports to be made by or on behalf of any person who did not make or authorize the making thereof, or which, though made by or by the authority of the person who purports to make it, is falsely dated as to time or place of making, where either is material; or

(b.) A document the whole or some material part whereof purports to be made by or on behalf of some person who did not in fact exist; or

(c.) A document made in the name of an existing person, either by that person or by his authority, with the intention that the document should pass as being made by some person, real or fictitious, other than the person who makes or authorizes it.

(4.) Making a false document includes altering a genuine document in any material part, or making any material addition to it, or adding to it any false date, attestation, seal, or other thing that is material, or making any material alteration in it either by erasure, obliteration, removal, or otherwise.

(5.) Forgery is complete although the false document may be incomplete, or may not purport to be such a document as would be valid in law, if it be so made and is such as to indicate that it was intended to be acted on as genuine.

Extended definition
of forgery.

243. Every one who procures the execution of any document by any person by falsely pretending that the contents thereof are different from what they really are is guilty of forging that document, and is liable accordingly.

Making counterfeit
coin.

244. Every one is liable to seven years' imprisonment who makes or begins to make counterfeit coin of His Majesty or of any foreign prince or State, or who has in his possession any dies or other instruments or materials intended to be used in the making of such counterfeit coin.

Lightening coin.

245. Every one is liable to two years' imprisonment who diminishes or lightens any coin, whether of His Majesty or of any foreign prince or State, with intent that when so dealt with it shall pass as current coin either in His Majesty's dominions or elsewhere.

Uttering
counterfeit coin.

246. Every one who fraudulently utters any counterfeit coin is liable to six months' imprisonment.

Arson.

247. (1.) Arson is the offence of wilfully, and without lawful justification and without *bona fide* claim of right, setting fire to any building, ship, crop, chattel, or other thing whatsoever, whether attached to the soil or not.

(2.) Where the person accused has an interest in the thing to which he so sets fire, the existence of such interest, if partial, shall not prevent his act from amounting to the offence of arson; and, if total, shall not prevent his act from amounting to such offence if done with intent to defraud.

(3.) Every one who commits the offence of arson shall be liable to five years' imprisonment.

Wilful mischief to
property.

248. (1.) Every one is guilty of an offence who wilfully and without lawful justification and without *bona fide* claim of right destroys or damages any property whether movable or immovable.

(2.) Where the person accused has an interest in the property so damaged or destroyed the existence of such interest, if partial, shall not prevent his act from amounting to an offence under this section; and, if total, shall not prevent his act from amounting to such offence if done with intent to defraud.

(3.) Every person who commits an offence against this section shall be liable to three years' imprisonment if the damage done or intended to be done by him amounts to ten pounds or more, and shall in other cases be liable to six months' imprisonment.

249. Every one is liable to a fine of five pounds who uses any threatening, abusive, or insulting words or behaviour in any public place with intent to provoke a breach of the peace or whereby a breach of the peace may be occasioned. Provoking breach of the peace.

250. Every one is liable to a fine of five pounds who is guilty of any disorderly conduct in any public place to the annoyance of persons there present. Disorderly conduct in public places.

251. Every one is liable to a fine of five pounds who furiously or negligently rides or drives any animal or vehicle in a public place. Furious driving.

252. Every one is liable to a fine of five pounds who permits any horse, sheep, pig, goat, or cattle to wander or be at large in any public place or to trespass upon any land. Cattle trespass.

253. Every one is liable to a fine of five pounds who without lawful justification obstructs any public place, or creates any source of danger therein, or otherwise commits any public nuisance therein. Obstructing public place.

254. Every one is liable to imprisonment for one month or to a fine of ten pounds who is found drunk in any public place. Drunkenness.

255. Any common prostitute who loiters and importunes passengers or other persons in any public place for the purpose of prostitution is liable to imprisonment for one month or to a fine of five pounds. Prostitution.

256. Every one is liable to a fine of five pounds who without lawful justification places any poison in any place so as to be a source of danger to human beings or to animals. Laying poison.

257. Every one is liable to imprisonment for six months or to a fine of fifty pounds who throws any offensive matter into or otherwise pollutes any river, watercourse, well, cistern, or other place whence the supply of water for the use of the inhabitants is obtained. Polluting water.

258. Every one is liable to imprisonment for one month or to a fine of twenty pounds who sells, or exposes for sale, or has in his possession with intent to sell, any food or drink which he knows or might by the exercise of reasonable care have known to be unwholesome. Sale of unwholesome provisions.

259. Every one is liable to a fine of ten pounds who permits any premises in his occupation or belonging to him to be in an insanitary or offensive condition to the danger or annoyance of the public or of his neighbours. Insanitary premises.

260. Every one is liable to a fine of five pounds who wilfully trespasses on land in the occupation of any other person. Wilful trespass.

261. (1.) Every one is liable to imprisonment for one month or to a fine of ten pounds who cruelly beats, overdrives, overloads, abuses, tortures, or otherwise ill-treats any animal, or who, being the owner or having the charge of any animal, omits to supply it with proper and sufficient food, water, or shelter. Cruelty to animals.

(2.) In this section the term "animal" means any beast or bird of any species whatever.

262. Every one is liable to a fine of one hundred pounds who uses in connection with his trade or business any name, sign, device, or other representation indicating or calculated to lead other persons to believe contrary to the fact that such trade or business is that of an incorporated company, and in any prosecution for an offence against this section the burden of proving that such incorporated company exists and that the trade or business so carried on is the trade or business of that company shall be upon the accused. Falsely trading as an incorporated company.

Conspiracy.

263. Every one who conspires with any other person to commit any offence punishable by imprisonment is liable to imprisonment for one-half of the longest term to which a person committing the said offence may be sentenced.

Attempts.

264. (1.) Every person who attempts to commit any offence is liable to imprisonment for one-half of the term to which a person committing the offence may be sentenced.

(2.) Every person who attempts to commit any offence punishable by fine shall be liable to a fine of one-half of the maximum fine appointed for that offence.

Inciting.

265. (1.) Every person who incites any person, whether ascertained or unascertained, to commit any offence punishable by imprisonment shall be liable to imprisonment for one-half of the longest term to which a person committing the said offence may be sentenced.

(2.) If the offence to which any person is so incited is actually committed by him, the person so inciting him shall be liable, on a charge of inciting, to the same punishment as if he had himself committed the offence, or he may be charged and convicted as a party to the offence so procured by him.

Parties to offences.

266. Every one is a party to and guilty of an offence who—

(a.) Actually commits the offence ; or

(b.) Does or omits any act for the purpose of aiding any person to commit the offence ; or

(c.) Abets any person in the commission of the offence ; or

(d.) Counsels or procures any person to commit the offence.

Common criminal purpose.

267. If several persons form a common intention to prosecute any unlawful purpose and to assist each other therein, each of them is a party to every offence committed by any one of them in the prosecution of such common purpose, the commission of which offence was or ought to have been known to be a probable consequence of the prosecution of such common purpose.

Counselling or procuring.

268. (1.) Every one who counsels or procures another to be a party to an offence of which that other is afterwards guilty is a party to that offence, although it may be committed in a way different from that which was counselled.

(2.) Every one who counsels or procures another to be a party to an offence is a party to every offence which that other commits in consequence of such counselling or procuring, and which the person counselling or procuring knew, or ought to have known, to be likely to be committed in consequence of such counselling or procuring.

Common-law defences.

269. All rules and principles of the common law which render any circumstance a justification or excuse for any act or omission, or a defence to any charge, shall remain in force with respect to all offences constituted by this or any other enactment, except so far as inconsistent with this or any other enactment.

Common-law offences.

270. No person shall be proceeded against for any criminal offence at common law.

Sentence of death.

271. (1.) When any person is condemned to death the sentence shall be that such person shall be taken to the place of execution, and there hanged by the neck until he is dead.

(2.) Every such sentence shall be carried into effect in such manner as may be prescribed by regulations, and, subject thereto, or so far as any

such regulations shall not extend, then in the same manner, with all necessary modifications, as if the execution took place in New Zealand under the law for the time being there in force in that behalf.

272. Except where otherwise expressly provided, every one liable to imprisonment for any term for any offence may be sentenced to imprisonment for any shorter term, or may be sentenced to pay a fine not exceeding one hundred pounds in addition to or instead of imprisonment, and every one liable to a fine of any amount may be sentenced to pay a fine of any less amount.

Maximum fines and terms of imprisonment.

273. (1.) Every fine imposed upon any person by the High Court shall constitute a judgment debt due by that person to the Crown, and payment thereof shall be enforceable and recoverable accordingly by writ of sale or any other civil process of execution in the same manner in all respects as if such debt had been recovered in civil proceedings at the suit of the Crown.

Enforcement of fines.

(2.) Any person upon whom any such fine has been imposed may, by warrant under the seal of the High Court, be committed to prison by a Judge of that Court for a period not exceeding six months, but shall be entitled to be discharged from such imprisonment on payment of the fine.

(3.) When any person has been so committed to prison no proceedings or further proceedings shall thereafter be taken for the enforcement of the fine by way of civil process under this section.

274. Save so far as herein otherwise provided, every sentence of imprisonment shall be carried into effect in some prison in the Cook Islands and subject to regulations made by the Governor in Council in that behalf.

Imprisonment in Cook Islands.

275. (1.) Every person sentenced to imprisonment, or committed to prison, for six months or more may, by warrant under the hand of a Resident Commissioner and the Seal of the Cook Islands, be transferred to some prison in New Zealand named or described in the warrant.

Transfer of prisoners* to New Zealand.

(2.) In pursuance of such warrant the prisoner shall thereupon be taken in custody from the Cook Islands to New Zealand by any ship belonging to His Majesty or by any British ship and there forthwith delivered to the Gaoler of the prison named or described in the warrant.

(3.) The warrant shall be delivered to the said Gaoler together with a certificate under the hand of a Judge of the High Court and the seal of that Court setting forth the fact of the conviction or commitment of the prisoner, the offence of which he was convicted or the reason of his commitment, and the term for which he has been so sentenced or committed.

(4.) The period during which the prisoner has been in custody since he left the Cook Islands until his delivery to the Gaoler in New Zealand shall for all purposes be computed as part of the term of his imprisonment.

(5.) Every prisoner so brought to New Zealand shall be imprisoned in New Zealand in the same manner in all respects and shall be subject in all respects to the same laws, so far as applicable, as if he had been sentenced by the Supreme Court of New Zealand to imprisonment with hard labour for the like offence, or committed to prison by that Court on the like grounds, for the residue of the term of his sentence or

commitment commencing on the day of his delivery to the Gaoler of a prison in New Zealand under the aforesaid warrant.

(6.) Every such prisoner, if he is a Native or an Asiatic, shall, so soon as he is entitled to his discharge or so soon thereafter as may be, unless he is under sentence of exile therefrom, be deported to the Cook Islands in pursuance of a warrant signed by the Minister of Justice, and in the meantime shall be detained in custody in some prison in New Zealand appointed by such warrant.

Exile.

276. (1.) When any person other than a Native born in the Cook Islands is convicted by the High Court of any offence for which he is liable to two years' imprisonment or upwards he may, in addition to imprisonment, be sentenced to exile from the Cook Islands for any term not exceeding fifteen years from the date on which sentence is pronounced.

(2.) If any person so sentenced to exile is at any time later than two months after the expiry of the term of his imprisonment, and before the expiry of the term of his exile, found in the Cook Islands he shall be guilty of an offence, and shall be liable to imprisonment for ten years.

Cumulative sentences.

277. (1.) When an offender is sentenced for more offences than one at the same time, or if, when sentenced for one offence, he has already been sentenced for any other offence and has not yet completed the sentence so imposed upon him, the Court may direct that the sentences passed on him for his several offences shall take effect one after the other or concurrently.

(2.) Save as provided by this section, every sentence of imprisonment shall commence to take effect on the day on which the sentence is pronounced.

PART VI.

CRIMINAL PROCEDURE.

Magistrates.

278. In this Part of this Act the term "Magistrate" means any Resident Commissioner, Resident Agent, Judge of the Native Land Court, Registrar of the High Court or of the Native Land Court, Collector of Customs, or Medical Officer.

Jurisdiction of High Court.

279. Except where otherwise expressly provided, all offences against the laws of the Cook Islands may be tried in the High Court in accordance with this Part of this Act.

Felonies and misdemeanours

280. The distinction between felonies and misdemeanours and between offences punishable on indictment and by way of summary conviction is hereby abolished; and, so far as may be necessary for the purpose of any rule of the common law or of any enactment in force in the Cook Islands, all such offences shall be deemed to be misdemeanours.

Preliminary Proceedings.

Arrest without warrant.

281. (1.) Any constable or any other person may arrest without warrant any person whom on reasonable grounds he suspects of having committed any of the following offences—murder, manslaughter, theft,

robbery, rape, arson, wilful bodily harm, wilful mischief to property, riot, forcible entry, escape from lawful custody, indecent behaviour, assault, fighting or drunkenness in a public place, burglary—or an attempt to commit any such offence.

(2.) Any person arrested without warrant either under this section or under any other lawful authority in that behalf shall be forthwith brought before a Judge of the High Court or a Magistrate, there to be dealt with in accordance with the provisions hereinafter contained.

282. A Magistrate, on receiving such information on oath as seems sufficient to him, whether made in writing or not, may, if he thinks fit, issue his warrant for the arrest of any person for any offence against the laws of the Cook Islands, and thereupon any constable or other person specified in the warrant in that behalf may arrest the accused, who shall be forthwith brought before a Judge of the High Court or a Magistrate, there to be dealt with in accordance with the provisions hereinafter contained.

Arrest on warrant
of Magistrate.

283. (1.) When any person arrested with or without warrant under the foregoing provisions is brought before a Magistrate, the Magistrate may, after such preliminary inquiry (if any) as he thinks fit, and after giving the prisoner an opportunity of being heard, by warrant either discharge the prisoner, or commit him to prison to await trial by the High Court for such offence as is specified in that warrant, or admit him to bail with or without sureties conditioned to appear before the High Court in due course for trial for such offence as is specified in that warrant.

Committal by
Magistrate for trial.

(2.) No such discharge by a Magistrate shall amount to an acquittal so as to preclude the prosecution and trial of the accused in the High Court for the offence for which he was so arrested.

Trial by the High Court.

284. Every prosecution in the High Court for any offence shall be commenced by an information in writing laid by a constable or any other prosecutor before a Judge of that Court.

Information.

285. On the commencement of any such prosecution the Judge before whom the information is laid or any other Judge of the High Court may, if he thinks fit, unless the accused is already in custody, at any time and from time to time issue either a warrant for the arrest of the accused or a summons requiring him to appear before the High Court at the time and place specified in the summons, there to answer the charge so made against him in the information and set out in the summons.

Warrant or
summons.

286. Any such warrant may be at any time issued by a Judge of the High Court notwithstanding the fact that a summons has been already issued to the accused as aforesaid.

Warrant after
issue of summons.

287. (1.) When any person charged with an offence is brought before a Judge of the High Court in custody, having been arrested without warrant or on a warrant issued by a Magistrate, the Judge may from time to time, unless a prosecution has been already commenced against the prisoner by information as aforesaid, either discharge the prisoner, or remand him in custody pending the commencement of a prosecution, or release him on bail with or without sureties conditioned

Prisoners brought
before Judge of High
Court before
commencement of
prosecution.

for his appearance before the High Court at such time and place as the Judge thinks fit.

(2.) No discharge under this section shall amount to an acquittal so as to preclude the prosecution or trial of the prisoner for the offence for which he has been so arrested.

Remand.

288. When any prosecution has been commenced in the High Court the Court may from time to time either remand the accused in custody or admit him to bail with or without sureties conditioned to appear before the High Court at any other time or place.

Trial of accused in his absence.

289. When any person is prosecuted for an offence punishable by fine only and has been duly summoned to appear before the High Court and fails to appear in accordance with the summons, the Court may try and sentence him for that offence in his absence.

Assessors.

Constitution of Court on criminal trials.

290. Every criminal trial in the High Court shall take place before one Judge of that Court sitting with or without assessors in accordance with the provisions hereinafter contained.

Judge with assessors.

291. On the trial of any person for any offence punishable by death or by imprisonment for more than five years the Judge shall sit with assessors.

Judge without assessors.

292. On the trial of any person on an information charging him exclusively with an offence or offences punishable only by fine the Judge shall sit without assessors.

Judge with or without assessors as he thinks fit.

293. (1.) In all other criminal trials the Judge shall sit without assessors, unless the Court in its discretion orders otherwise either on its own motion or on the application *ex parte* or otherwise of either the prosecutor or the accused.

(2.) If the Judge sits without assessors, he shall have no power to impose any term of imprisonment exceeding twelve months, whatever may be the maximum term of imprisonment otherwise provided by law for the offence.

Order appointing assessors.

294. Any such order may be made at any time after the commencement of the prosecution, and whether before or during the trial; but if made after any evidence has been heard at the trial, all such evidence shall, except so far as repeated before the Judge and assessors, be of no force or effect.

Number and qualifications of assessors.

295. (1.) The assessors shall in all cases be six in number, and shall be such fit and proper persons (whether men or women) as a Judge of the Court thinks fit, subject to any rules of Court which may be made in that behalf, to appoint by warrant under his hand and the seal of the Court, and the consent of the assessor shall not be requisite for his appointment.

(2.) No person shall be appointed as an assessor unless he has first been nominated by the Governor by warrant published in the *New Zealand Gazette* as a person qualified for appointment as an assessor under this Act, either generally or in respect of any particular case or class of cases; and the Governor may accordingly from time to time nominate in this behalf such and so many persons as he thinks qualified by reason of their character, education, ability, or reputation to hold such office, and may at any time in like manner revoke any such nomination.

296. If any person so appointed as an assessor, and having had reasonable notice of the time and place of the trial, fails without reasonable excuse duly to attend at the trial or at any adjournment thereof, or duly to make oath as such, or duly to act as assessor throughout the trial, he shall be guilty of contempt of the High Court and shall be punishable accordingly.

Default of assessors.

297. Every assessor shall be entitled to receive from the Cook Islands Treasury such remuneration or allowances in respect of his services as may be authorized by the Judge at the trial in conformity with any rules of Court which may be made in that behalf.

Remuneration of assessors.

298. Before an assessor commences to act as such he shall in open Court and in the presence of the accused make oath to act well and truly as assessor and to decide in accordance with the evidence and with law.

Oath of assessors.

299. At any time after the appointment of an assessor and before he has been sworn as aforesaid a Judge of the Court may, either of his own motion or on the application *ex parte* or otherwise of the prosecutor or the accused, if satisfied there is any reasonable and sufficient objection to that assessor, remove him and appoint another assessor in his place.

Change of assessors.

300. (1.) If at any time after the commencement of the trial and before judgment the Judge is of opinion that, owing to the misbehaviour of any assessor, or to the death, illness, or absence of any assessor, or to any accident or misadventure, or to any other sufficient cause, a new trial is necessary in the interests of justice, he may discharge the assessors and order a new trial accordingly.

Discharge of assessors and new trial.

(2.) Every such new trial shall take place before the same or another Judge with assessors in the same manner as if no previous trial had taken place.

301. On a trial with assessors no person shall be convicted by the Judge of any offence unless the conviction is concurred in by not less than four of the assessors.

Concurrence of assessors.

302. If the Judge is of opinion that the accused should not be convicted, or if less than four of the assessors concur in his conviction, the accused shall be acquitted.

Concurrence of Judge.

303. The concurrence of assessors in the sentence to be passed by the Judge shall not be necessary.

Sentence.

304. The concurrence of the assessors shall not be necessary for any other act of the Court or the Judge thereof other than conviction, and in all other respects the jurisdiction of the Court shall be exercised by the Judge thereof in the same manner as if he was sitting without assessors.

Concurrence of assessors not necessary except for conviction.

Miscellaneous.

305. (1.) Subject to the provisions of this section, in any prosecution in the High Court the information of the prosecutor may relate to two or more distinct offences whether alternative or cumulative.

Alternative and cumulative charges.

(2.) No information for the offence of murder shall charge any other offence except manslaughter.

(3.) No information for the offence of rape shall charge any other offence except indecent assault and an attempt to commit rape.

306. On an information for any offence the accused may be convicted either of the offence charged in the information or of any

Relation between information and conviction.

offence which is included within the offence so charged and which might lawfully have been charged in the same information.

Withdrawal of
information.

307. (1.) An information in the High Court for any offence may at any time, whether before or during the trial, be withdrawn by the prosecutor with the leave of a Judge of the Court, but not otherwise.

(2.) An information so laid and withdrawn shall not operate as a bar to any further proceedings against the accused in respect of the same offence.

Drawing up of
conviction.

308. (1.) On the conviction of any person of any offence before the High Court, a minute or memorandum of the conviction shall thereupon be drawn up and preserved as a record of the Court, and a formal conviction under the seal of the Court may be drawn up at any time afterwards when it becomes necessary.

(2.) In the meantime the conviction and sentence may be carried into execution, and shall have the same force and effect in every respect as if the conviction had been formally drawn up under the seal of the Court.

Defects of
information,
summons, or
warrant.

309. (1.) No objection shall be taken or allowed to any information, summons, or warrant in any criminal proceeding before the High Court for any alleged defect therein in substance or in form, or for any variance between such information, summons, or warrant and the evidence adduced at the trial.

(2.) The High Court may at any stage of the trial amend the information in such manner as it thinks fit in respect of any such defect or variance.

Payment of
witnesses.

310. Any witness at a criminal trial may, if the Judge thinks fit and certifies accordingly, be paid out of the Cook Islands Treasury such allowance for his expenses and loss of time as is so certified, subject, however, to such rules of Court as may be made in that behalf.

Conviction without
sentence.

311. (1.) If on any criminal trial the Court thinks that the charge, though proved, is in the particular case of so trifling a nature or was committed under such circumstances that no punishment should be imposed, the Court may convict the accused and discharge him without sentence, either unconditionally or on such conditions as the Court thinks fit to impose.

(2.) If any person who is so convicted and discharged on conditions commits any breach of those conditions, he shall be guilty of an offence punishable in the same manner as the offence of which he was so previously convicted.

Bail.

312. (1.) When any person is released on bail under this Act he shall, with or without sureties as may be required, enter into a recognizance to His Majesty in such sum as may be required conditioned in such manner as may be appropriate to the particular case and as may be required.

(2.) Every such recognizance may be put in suit in the High Court in the ordinary course of the civil jurisdiction of that Court in proceedings at the suit of His Majesty.

Stay of proceedings
by Attorney-
General.

313. In any criminal prosecution in the High Court the Attorney-General may direct a stay of proceedings, and the proceedings shall be stayed accordingly.

Search-warrants.

314. (1.) Any Judge of the High Court or Magistrate who is satisfied on the oath of any person that there is reasonable ground

for believing that there is in any building, ship, receptacle, or place—

- (a.) Anything which there is reasonable ground to believe will afford evidence as to the commission of any offence ; or
- (b.) Anything in respect of which any offence has been or is suspected of having been committed ; or
- (c.) Anything which there is reasonable ground for believing to be intended to be used for the purpose of committing any offence—

may, by warrant under his hand, authorize some constable or other officer of the Cook Islands Public Service to search such building, ship, receptacle, or place for any such thing, and to seize and bring it before the person by whom such warrant has been issued.

(2.) Every such warrant shall be executed by day (that is to say, after sunrise and before sunset), unless the warrant expressly authorizes the execution thereof by night.

(3.) Every such warrant may be executed by reasonable force if necessary.

(4.) When any such thing is seized and brought before the person by whom the warrant was issued, such person may either order it to be detained for the purpose of evidence on the trial of any person for any such offence as aforesaid or may direct it to be delivered to any person believed by the person so issuing the warrant to be entitled thereto.

(5.) No such order of delivery shall in any manner affect the right of any person to the ownership or possession of the thing.

(6.) Any thing so ordered to be detained as evidence of an offence may be detained in pursuance of the order for such time as is reasonably necessary for the purpose of any proceedings instituted or to be instituted in respect of the offence.

PART VII.

LAW OF EVIDENCE.

315. In this Part of this Act, except where a contrary intention appears,— Definitions.

“Court” includes any person acting in any judicial capacity or having by law or by consent of parties authority to hear, receive, and examine evidence :

“Proceeding” includes any action, trial, inquiry, cause, or matter, whether civil or criminal, depending or to be inquired of or determined in or by any Court.

316. Subject to the provisions of this Act, a Court may in any proceeding admit and receive such evidence as it thinks fit, and accept and act on such evidence as it thinks sufficient, whether such evidence is or is not admissible or sufficient at common law. Discretionary power of admitting evidence.

317. A Court may in any proceeding refuse to receive any evidence, whether admissible or not at common law, which it considers irrelevant, or needless, or unsatisfactory as being hearsay or other secondary evidence. Discretionary power of rejecting evidence.

318. No witness in any proceeding shall be deemed incompetent by reason of interest or on any other ground whatever. All witnesses competent.

Evidence of parties
and their husbands
and wives.

319. In any civil proceeding the parties thereto, and the persons on whose behalf such proceeding is brought or defended, and the husbands and wives of such parties or persons respectively, shall be competent and compellable to give evidence on behalf of either or any of the parties to such proceeding.

Evidence of accused
persons and their
husbands and
wives.

320. (1.) Every person charged with any offence shall be a competent but (except where the contrary is expressly provided by any enactment) not a compellable witness upon his trial for that offence.

(2.) The wife or husband of any person charged with an offence shall be a competent witness on the trial of that person, but shall not be a compellable witness, except in the following cases:—

(a.) When called as a witness by the accused:

(b.) When the offence of which the accused is charged is an offence against the wife or husband of the accused or against a child of the accused.

(3.) If any witness who under this section is competent but not compellable gives evidence on any such trial, he shall be liable to cross-examination in the same manner as if he was a compellable witness, whether the matter on which he is so cross-examined arises out of his examination in chief or not.

Cross-examination
as to credit.

321. In any proceeding the Court may limit in any manner and to any extent which it thinks fit the cross-examination of any witness as to credit, and shall refuse to permit any such cross-examination which is needlessly offensive or injurious to the witness, having regard to the nature or gravity of the imputations made against him, to the importance of his evidence, and to the effect of such imputation upon his credibility.

Criminating
questions.

322. Nothing in this Part of this Act shall take away or affect the privilege of any witness to refuse to answer any question which may tend to criminate him.

Evidence of
prisoners.

323. (1.) On application made in that behalf by any person who states on oath that any prisoner can give material evidence in any proceeding in any Court, a Judge of the High Court may, by order under his hand, require such prisoner to be brought up for examination as a witness in that proceeding.

(2.) In every such case the Judge may, before making such order, require the applicant to deposit a sum sufficient to pay the expense of bringing up the prisoner, maintaining him while out of prison, and returning him thither, including the expense of his custody in the meantime.

Judicial notice.

324. In every proceeding the Court shall take judicial notice of all Acts, Ordinances, Orders in Council, regulations, Proclamations, and laws in force in the Cook Islands or in any part thereof, including Native custom so far as it has the force of law under this Act.

Judicial notice.

325. In every proceeding the Court shall take judicial notice of the Seal of the Cook Islands and of the seal of any Court, officer, or other person authorized or required by law to use any such seal, and of the signature of any Judge or other officer, whether judicial or not, of the Cook Islands Public Service, and of the Public Seal of New Zealand, and of the signature of the Governor or of any member of the Executive Council of New Zealand, or of the Attorney-General or Solicitor-General of New Zealand, and of the signature of any Judge of the

Supreme Court of New Zealand, and of the seal of that Court or of any Registrar thereof.

326. All Courts are hereby empowered to administer an oath to all such witnesses as are lawfully called or voluntarily come before them, or to take the affirmation of any such witness in lieu of such oath. Power to administer oaths.

327. Every oath, whether in a judicial proceeding or not, may be made in such form as the person making the same consents to, whether expressly or impliedly. Form of oath.

328. Except when the person making the oath so consents to any other form of oath, an oath shall, whether in a judicial or other proceeding, be made in one of the two forms following :— Form of oath.

(a.) The person making the oath may, while holding in his hand a copy of the Bible, New Testament, or Old Testament, repeat the words of the oath as prescribed or allowed by law ; or

(b.) The officer administering the oath may repeat the appropriate form of adjuration commencing with the words "Do you swear by Almighty God," or words to the like effect, and concluding with the words of the oath as prescribed or allowed by law, and the person making the oath shall thereupon, while holding in his hand a copy of the Bible, Old Testament, or New Testament, indicate his assent to the oath so administered by uttering the words "I do," or other words to the like effect.

329. Where an oath has been duly made the fact that the person making the same had at the time of making the same no religious belief shall not for any purpose affect the validity of the oath. Absence of religious belief.

330. (1.) Every person shall be entitled as of right to make his solemn affirmation instead of an oath in cases in which an oath is required or allowed by law, and such affirmation shall be of the same force and effect as an oath. Affirmation may be made in lieu of oath.

(2.) Every such affirmation shall commence with the words "I do solemnly, sincerely, and truly declare and affirm," or words to the like effect, omitting any words of imprecation or calling to witness.

331. In any proceeding all witnesses who are or appear to be under the age of twelve years may be examined without oath, but any such witness shall in such case be required before being examined to make the following declaration : "I promise to speak the truth, the whole truth, and nothing but the truth," or a declaration to the like effect ; and such declaration shall be of the same force and effect as if the witness had taken an oath. Evidence of children without oath.

332. Subject to the provisions of this Act, all witnesses in any judicial proceeding, civil or criminal, shall be examined on oath. Necessity of oath.

PART VIII.

EXTRADITION.

Extradition from the Cook Islands to New Zealand.

333. When a warrant has been lawfully issued by any competent authority in New Zealand for the arrest of any person and such person is suspected of being in the Cook Islands or of being about to come Arrest in Cook Islands of fugitive offenders from New Zealand.

into the Cook Islands, a Judge of the High Court may, if satisfied in any manner that such warrant has been issued, and whether it has been produced to him or not, issue his warrant for the arrest of that person in the Cook Islands, and such warrant shall be addressed to such person or persons as the Judge thinks fit.

Order of return to
New Zealand.

334. On the arrest of any person in pursuance of a warrant so issued by a Judge of the High Court the person so arrested shall be forthwith brought before the High Court, which may, on the production of the original warrant issued in New Zealand, order the return of that person to New Zealand.

Refusal of order in
case of hardship.

335. The High Court may refuse to make any such order if, having regard to the nature of the charge made against such person or to the circumstances of the case, the Court is of opinion that the return of such person to New Zealand would be the cause of undue hardship or would otherwise be unjustifiable or inexpedient.

Imprisonment or
release pending
return.

336. Pending the making of any such order of return, or pending the return of any such person to New Zealand, the High Court may either commit him to prison or admit him to bail in such manner and on such conditions as the Court thinks fit.

Release on security
in lieu of return.

337. (1.) Instead of making such an order of return, the High Court may release such person on bail conditioned for the payment of such sum or sums of money or the performance of such conditions with relation to the matters in respect of which the original warrant was issued in New Zealand as the High Court thinks fit.

(2.) On any breach of the conditions on which such person has been so released he may be again arrested in the Cook Islands under a warrant issued by a Judge of the High Court, and an order for his return to New Zealand may be made in the same manner as if he had not been so released.

Return to New
Zealand in custody.

338. Any person against whom an order of return to New Zealand has been so made shall, so soon as practicable thereafter, be taken from the Cook Islands to New Zealand in a ship belonging to His Majesty or in a British ship, and in the custody either of the master of that ship or of such other person as a Judge of the High Court may approve, and shall on arrival in New Zealand be there delivered into the custody of an officer of police, to be dealt with in the same manner as if he had been arrested in New Zealand in pursuance of the original warrant issued there for his arrest.

Cancellation of
order of return.

339. If any person so ordered to be returned to New Zealand is not returned in accordance with the order within a reasonable time after the making thereof, the High Court may cancel the order for his return.

Extradition from New Zealand to the Cook Islands.

Arrest in New
Zealand of fugitive
offenders from the
Cook Islands.

340. When a warrant has been lawfully issued by any competent authority in the Cook Islands for the arrest of any person, and such person is suspected of being in New Zealand or of being about to come into New Zealand, a Stipendiary Magistrate in New Zealand may, if satisfied in any manner that such warrant has been issued, and whether it has been produced to him or not, issue his warrant for the arrest of that person in New Zealand, and such warrant shall be addressed to such person or persons as the Magistrate thinks fit.

341. On the arrest of any person in pursuance of any warrant so issued by a Magistrate the person so arrested shall be forthwith brought before a Magistrate in New Zealand, who may, on the production of the original warrant issued in the Cook Islands, order the return of that person to the Cook Islands.

Order of return to the Cook Islands.

342. On making any such order the Magistrate may take judicial notice of the signature to the warrant issued in the Cook Islands, and may receive such evidence as he thinks fit whether legally admissible in other proceedings or not.

Judicial notice of signature to warrant.

343. A Magistrate may refuse to make any such order if, having regard to the nature of the charge made against such person or to the circumstances of the case, the Magistrate is of opinion that the return of such person to the Cook Islands would be the cause of undue hardship or would otherwise be unjustifiable or inexpedient.

Refusal of order in case of hardship.

344. Pending the making of any such order of return, or pending the return of any such person to New Zealand, a Magistrate may either commit him to prison or admit him to bail in such manner and on such conditions as the Magistrate thinks fit.

Imprisonment or release pending return.

345. (1.) Instead of making such an order of return, the Magistrate may release such person on bail conditioned for the payment of such sum or sums of money or the performance of such conditions with relation to the matter in respect of which the original warrant was issued in the Cook Islands as the Magistrate thinks fit.

Release on security in lieu of return.

(2.) On any breach of the conditions on which such person has been so released he may be again arrested in New Zealand under a warrant issued by a Magistrate, and an order for his return to the Cook Islands may be made in the same manner as if he had not been so released.

346. Any person against whom an order of return to the Cook Islands has been so made shall, so soon as practicable thereafter, be taken from New Zealand to the Cook Islands in a ship belonging to His Majesty or in a British ship, and in the custody either of the master of that ship or of such other person as a Magistrate may approve, and shall on arrival in the Cook Islands be there delivered into lawful custody, to be dealt with in the same manner as if he had been arrested in the Cook Islands in pursuance of the original warrant issued there for his arrest.

Return to the Cook Islands in custody.

347. If any person so ordered to be returned to the Cook Islands is not returned in accordance with the order within a reasonable time after the making thereof, a Magistrate or a Judge of the Supreme Court may cancel the order for his return.

Cancellation of order of return.

Removal from one Island to another.

348. Any person in lawful custody on any ground whatever in any island forming part of the Cook Islands may be removed in custody to any other of such islands in any ship belonging to His Majesty or in any British ship.

Prisoners may be removed from one island to another.

349. (1.) Every person who commits any offence in the Cook Islands shall be tried for that offence in the island in which it was committed, unless the High Court on special grounds makes an order for his trial in any other of such islands.

Place of trial of offenders in the Cook Islands.

(2.) Nothing in this section shall exclude the criminal jurisdiction of the Supreme Court of New Zealand.

PART IX.

CROWN SUITS.

Prosecution of
claims against
His Majesty.

350. (1.) All claims or demands against His Majesty in respect of the government of the Cook Islands may be prosecuted by way of petition under the Crown Suits Act, 1908, in the Supreme Court of New Zealand (or in conformity with section thirty-six of the Crown Suits Act, 1908, in an inferior Court), and all the provisions of that Act shall apply accordingly.

(2.) The High Court of the Cook Islands shall be deemed to be an inferior Court within the meaning of section thirty-six of the Crown Suits Act, 1908.

(3.) The Attorney-General may at any time before or after the filing of any such petition, but before pleading thereto, require the petition to be filed in the High Court instead of in the Supreme Court, and the petition shall be so filed accordingly.

(4.) All moneys recovered against His Majesty on any such petition shall be payable, as the Minister of Finance directs, either out of the Cook Islands Treasury or out of moneys appropriated by Parliament for that purpose from the Public Account.

Authority of
Attorney-General
and Solicitor-
General.

351. (1.) The authority of the Attorney-General and Solicitor-General for New Zealand as the Law Officers of the Crown shall extend to the Cook Islands in the same manner as to New Zealand.

(2.) Any power, duty, authority, or function imposed upon or vested in the Attorney-General by virtue of his office in respect of the Cook Islands shall and may be exercised and performed either by the person holding the office of Attorney-General or by the person holding the office of Solicitor-General.

Prosecution of
claims by His
Majesty.

352. (1.) Except where otherwise expressly provided, all debts, damages, duties, sums of money, land, or goods due, payable, or belonging to His Majesty in respect of the government of the Cook Islands shall be sued for and recovered either in New Zealand or in the Cook Islands in accordance with the provisions of the Crown Suits Act, 1908, and all the provisions of that Act shall, so far as applicable, apply accordingly.

(2.) All jurisdiction conferred by that Act upon the Supreme Court in respect of any such proceeding may be exercised in the Cook Islands by the High Court.

Warrant to sue in
the name and on
behalf of His
Majesty

353. (1.) When His Majesty has any claim or demand against any person, whether for debt, damages, or otherwise howsoever, in respect of the government of the Cook Islands, any Resident Commissioner may, under the Seal of the Cook Islands, appoint any person to prosecute such claim or demand in the High Court in the name and on behalf of His Majesty, and the person so appointed may sue and take all necessary proceedings in the High Court accordingly.

(2.) Nothing in this section shall preclude any other mode of suit that would otherwise be available in respect of the claims or demands of His Majesty.

PART X.

CROWN LAND.

354. All land in the Cook Islands except land which by this Act or before the commencement thereof is or has been vested in any person for an estate in fee-simple is hereby declared to be vested in His Majesty, subject, however, to all rights lawfully held therein by any person at the commencement of this Act, whether by virtue of Native custom and usage or otherwise howsoever.

All land in the Cook Islands vested in His Majesty.

355. (1.) Subject to any regulations which may be made in that behalf, the Governor may grant Crown land in the Cook Islands in fee-simple, or may grant in respect of such land any lease, license, easement, or other limited estate, right, or interest, or may accept a surrender of any estate, right, or interest in such land.

Grants of Crown land.

(2.) In the case of Crown land reserved or set apart for any public purpose, no such grant shall be made except so far as consistent with that purpose.

(3.) Every such grant in fee-simple shall be under the Public Seal of New Zealand, and every other grant shall be made either under the hand of the Governor or in such other manner as may be prescribed by regulations.

356. Any Crown land in the Cook Islands may by Order in Council be set aside as a reserve for any public purpose, and shall be reserved and used for that purpose accordingly, but any such Order in Council may be at any time revoked.

Reserves of Crown land for public purposes.

357. The Governor may by Order in Council take any land in the Cook Islands for any public purpose specified in the Order, and it shall thereupon become absolutely vested in His Majesty as from the date of such Order, or from any later date specified therein in that behalf, free from all estates, rights, and interests of any other person therein, save so far as any such estates, rights, or interests are expressly saved by such Order.

Taking of land for public purposes.

358. (1.) If any such Order in Council so taking land as aforesaid is made in error, or if the land so taken or any part thereof is found not to be required for the purpose for which it was taken, the Governor may by Order in Council, at any time before compensation has been awarded or paid in respect thereof, revoke such Order either wholly or as to any part of the land so taken.

Revocation of Order in Council taking land.

(2.) An Order in Council so revoked shall, so far as revoked, be deemed never to have been made, and the land shall accordingly be deemed to have remained vested in the persons formerly entitled thereto or their successors in title.

(3.) Any person interested in such land and suffering loss or damage by the making and revocation of any such Order in Council taking the same shall be entitled to compensation in the same manner, with all necessary modifications, as in the case of compensation for land taken.

359. (1.) When any land has been so taken for a public purpose all persons having in respect of that land any right, title, estate, or interest which is extinguished or divested by the taking of the land shall be entitled to compensation therefor from the Crown.

Compensation for land taken.

(2.) Such compensation shall be assessed and awarded by the High Court either on the application of the Minister or the Resident Commissioner or on that of any person claiming such compensation or any share therein.

(3.) The compensation so awarded to any person shall constitute a debt due to him by the Crown, and shall be payable out of the Cook Islands Treasury.

(4.) If the land so taken is Native customary land, the Native Land Court shall, on the requisition of the High Court, investigate the customary title to that land, and shall determine by order the persons entitled thereto, and the relative interests of those persons, and the High Court shall thereupon assess and award compensation accordingly.

Resumption of
Crown land for
public purposes.

360. (1.) The Governor may by Order in Council resume for any public purpose specified in the Order any Crown land held under lease or otherwise subject to any right, title, or interest in any other person, and every such lease, right, title, or interest shall in accordance with the tenor of the Order determine accordingly, save so far as expressly preserved thereby.

(2.) All persons entitled to any lease, right, title, or interest so determined shall be entitled to compensation in the same manner as in the case of land taken for public purposes.

Reservation of land
so taken or resumed.

361. Any land so taken or resumed for any public purpose shall be deemed to be set apart and reserved for that purpose, but the Governor may at any time, by Order in Council, cancel any such reservation.

Purchase of land for
public purposes.

362. The Minister for the Cook Islands may, for any public purpose, for and in the name of His Majesty, purchase any Native freehold or European land in the Cook Islands or any undivided interest therein, or acquire by grant or assignment any lease, easement, or other limited right, title, estate, or interest in any such land.

Control of Crown
land by Resident
Commissioner.

363. A Resident Commissioner may exercise on behalf of His Majesty all rights of suit, entry, re-entry, receipt of rents and profits, use, management, control, and possession vested in His Majesty in respect of Crown land in the Cook Islands.

"Public purposes"
defined.

364. The term "public purpose" as used in this Act includes naval and military defence, education, public health, pearl and other fisheries, public buildings, wharves, jetties, harbours, prisons, water-supply, sites for townships, public recreation, the burial of the dead, all purposes for which money is appropriated by Parliament, and all lawful purposes and functions of the Government of the Cook Islands.

Saving of reserves
under the Cook
Islands Government
Act, 1908.

365. (1.) All reserves heretofore established under section twenty-one of the Cook Islands Government Act, 1908, or the corresponding provisions of any former Act, shall be deemed to have been established under this Part of this Act.

(2.) Paragraph (b) of section twenty-one of the Cook Islands Government Act, 1908, shall, notwithstanding the repeal of that Act by this Act, continue to apply to all reserves for the purpose of Imperial military or naval defence which before the commencement of this Act have been vested by Proclamation in any person or authority for the purpose aforesaid.

366. All land which at the commencement of this Act is in the possession of the Crown as having been purchased or otherwise acquired by the Crown from the Native owners thereof shall be deemed to be Crown land, and all such purchases and acquisitions are hereby validated accordingly.

Validation of
Crown purchases.

PART XI.

THE NATIVE LAND COURT.

Constitution of the Native Land Court.

367. There is hereby established in the Cook Islands a Court of record, to be called the Native Land Court of the Cook Islands, which shall (in addition to the jurisdiction and powers specially conferred by this Act) have all the powers inherent in a Court of record.

Native Land Court
established.

368. The Court so established shall be deemed for all purposes to be the same Court as that which exists at the commencement of this Act under the name of the Cook Islands Land Titles Court, and all orders theretofore made by that Court shall have effect accordingly, and all proceedings pending in that Court at the commencement of this Act may be continued and completed in accordance with the provisions of this Act.

Native Land Court
identical with Cook
Islands Land Titles
Court.

369. The Native Land Court shall consist of one Judge, to be called the Chief Judge of that Court, and of such other Judges (if any) as the Governor deems necessary from time to time.

Judges of Native
Land Court.

370. The Judges of the Native Land Court shall be appointed by the Governor, and shall hold office during his pleasure.

Appointment and
tenure.

371. (1.) There shall be not less than two Registrars of the Native Land Court to be appointed by the Governor and to hold office during his pleasure, one of whom shall be stationed in the Island of Rarotonga and another in the Island of Niue.

Registrars of Native
Land Court.

(2.) The Registrars shall keep the records of the said Court, and shall perform such other administrative functions with respect to the Court as the Chief Judge directs.

372. The Governor may also appoint such Deputy Registrars of the Native Land Court as he thinks necessary, who shall hold office during his pleasure, and who shall, subject to the control of the Registrars, possess, exercise, and perform the same powers, functions, and duties as the Registrars, and every reference in this Act to a Registrar of the Native Land Court shall, so far as applicable, extend and apply to a Deputy Registrar accordingly.

Deputy Registrars.

373. The records, plans, and documents relating to the business of the Native Land Court shall be kept and the administrative work of the Court shall be carried on at such places as the Chief Judge from time to time appoints.

Officers of Native
Land Court.

374. Registers shall be kept by the Registrars in which shall be recorded minutes of all applications made by the Court and of all orders and proceedings made or had thereon.

Records.

375. (1.) The Court shall have in the custody of each Judge and Registrar a seal which shall be the seal of the Court, and shall be used for sealing documents which require to be sealed.

Seal of the Native
Land Court.

(2.) The form or forms of the seal shall be such as the Minister from time to time determines.

Deputy of Chief
Judge.

376. (1.) The Governor may during the incapacity, illness, or absence from the Cook Islands of the Chief Judge of the Native Land Court, or during any vacancy in the office of Chief Judge, appoint any other Judge of that Court or any other fit person to act as Deputy for the Chief Judge, and may at any time revoke any such appointment.

(2.) During the continuance of any such appointment the person so appointed shall have, exercise, and perform all the powers and duties of the Chief Judge.

(3.) The fact of any person appointed by the Governor in that behalf acting as Chief Judge shall be conclusive of the validity of the appointment and of his authority so to act, and no act done by the Chief Judge shall be questioned or invalidated on the ground that any such appointment of any other person as a Deputy was at that time in force.

Administrative
officers.

377. There shall be appointed in respect of the Native Land Court such clerks, interpreters, and other administrative officers as the Governor thinks necessary.

Procedure of the Native Land Court.

Rules of Court.

378. (1.) The Governor in Council may make, vary, or revoke such rules of Court as are consistent with this Act for regulating the practice and procedure of the Native Land Court in all matters within its jurisdiction, and prescribing the fees payable in respect of the proceedings of the Court.

(2.) So far as such rules do not extend, but subject to this Act, the Court shall in all matters proceed in such manner as seems just and convenient in the particular case.

Applications to
Court.

379. The jurisdiction of the Native Land Court in any matter may be exercised on the application of any person claiming to be interested therein, or on the application of a Resident Commissioner or of any person authorized by him in that behalf.

Exercise of
supplementary
jurisdiction.

380. In the course of the proceedings on any application the Court may, subject to rules of Court, without further application and upon such terms as to notice to parties and otherwise as the Court thinks fit, proceed to exercise any other part of its jurisdiction the exercise of which in those proceedings the Court deems necessary or advisable.

Powers of Judges.

381. A Judge sitting alone or any two or more Judges sitting together may exercise all the powers of the Native Land Court.

Sittings of Court.

382. The times and places of the sittings of the Native Land Court shall be determined in accordance with rules of Court.

Summoning of
witnesses.

383. Any person who has been duly summoned to give evidence before the Native Land Court, or there to produce any document, and who neglects or fails without sufficient cause shown by him to appear or to produce any such document, and any person, whether summoned to attend or not, who, being present in Court and being required to give evidence or to produce any document then in his possession, refuses, without sufficient cause shown by him, to be sworn or to give evidence or to produce that document, and any person who, having been sworn to give evidence in any proceeding, neglects or fails without sufficient cause shown by him to appear at such time as the Court directs for the purpose of giving further evidence in the proceeding, shall be guilty of contempt of the Native Land Court, and may be dealt with accordingly.

384. In any proceeding the Native Land Court may make such order as it thinks fit as to the payment of the costs thereof, or of any proceedings or matters incidental or preliminary thereto, by or to any person who is a party to that proceeding, whether the persons by and to whom the costs are so made payable are parties in the same or different interests.

Costs.

385. (1.) In any proceeding and at any stage thereof the Native Land Court may require any party thereto to deposit any sum of money as security for costs, and in default of such deposit being made the Court may stay the proceeding either wholly or in respect of the party so in default.

Security for costs.

(2.) When any sum has been so deposited as security for costs it shall be disposed of in such manner as the Court directs.

386. When in any proceeding any order is made by the Native Land Court affecting or relating to the title to Native land or any interest in Native land, the Court may, in addition to or in lieu of making an order for the payment of the costs of that proceeding or of any proceedings or matters incidental or preliminary thereto by any party thereto, make an order charging the whole or any part of those costs upon the said land or upon the said interest therein, as the case may be, and every such charge shall be enforceable in manner hereinafter provided with respect to the enforcement of charges imposed upon Native land by the Court.

Costs may be charged on land.

387. (1.) Any person entitled to appear in any proceedings in the Native Land Court may appear either personally or with the leave of the Court by an agent or representative.

Right of audience.

(2.) Such leave may be given on such terms as the Court thinks fit, and may at any time be withdrawn.

388. (1.) The Native Land Court shall have power in the course of any proceeding, and whether with or without the application of any party, to amend all defects or errors in the proceeding, whether there is anything in writing to amend by or not, and whether the defect or error is that of a party applying to amend or not.

Amendments of defects.

(2.) All such amendments may be made on such terms as the Court thinks fit, and all amendments shall be made which are necessary for exercising as fully and beneficially as possible the jurisdiction of the Court in that proceeding.

389. (1.) The Native Land Court or any Judge thereof may at any time make or authorize to be made in any order, warrant, record, or other document made, issued, or kept by the Court all such amendments as are considered necessary to give effect to the intended decision or determination of the Court or to record the actual course and nature of any proceedings in the Court.

Amendments of records.

(2.) Any such amendment shall take effect as at the date of the order, warrant, record, or other document so amended; but no such amendment shall take away or affect any right or title acquired in good faith and for value before the making of the amendment.

(3.) This section shall extend and apply to all such orders, warrants, records, and other documents as aforesaid whether made before or after the commencement of this Act.

390. (1.) On the application of any person interested, the Native Land Court may, if it thinks fit, grant a rehearing of any matter either wholly or as to any part thereof.

Rehearing.

(2.) On any such rehearing the Court may either affirm, vary, or annul its former determination, and may exercise any jurisdiction which it might have exercised on the original hearing.

(3.) Any such rehearing may be granted on such terms as to costs and otherwise as the Court thinks fit.

(4.) No order shall be so varied or annulled at any time after the signing and sealing thereof.

Annulment of orders
obtained by fraud.

391. The Native Land Court may at any time annul any order obtained by fraud.

Enforcement of
orders of Native
Land Court by
High Court.

392. (1.) For the purpose of enforcing any order of the Native Land Court for the payment of any debt, damages, fine, costs, or other sum of money, a Judge of that Court may transmit a copy of the order under the seal of the Court to a Registrar of the High Court, and the same shall thereupon be filed as of record in the High Court.

(2.) On the filing of such copy the order shall, so long as it remains in force, be deemed for the purpose of the enforcement thereof to be a judgment of the High Court in an action for the recovery of a debt, and may be enforced in accordance with the practice of that Court by execution or otherwise.

Enforcement of
charges.

393. (1.) When any charge is imposed either by this Act or by the Native Land Court upon any Native land or upon any interest therein, that Court may at any time for the purpose of enforcing that charge appoint a receiver in respect of the property so charged.

(2.) A receiver so appointed shall be entitled, unless the Court otherwise orders, to the possession of such property and to the receipt of the rents and profits thereof, and may with the leave of the Court in the name of the owners, and without the necessity of confirmation, grant leases of any freehold land so charged for such terms, on such conditions, and for such rent as he thinks fit.

(3.) Any person who obstructs any such receiver in the execution of his office shall be guilty of contempt of the Native Land Court.

Orders.

Drawing up of
orders.

394. (1.) Every freehold order, partition order, succession order, trustee order, charging-order, and order of exchange or confirmation made by the Native Land Court shall be drawn up in writing under the seal of the Court and the hand of the Judge by whom it was made or of the Chief Judge.

(2.) Any such order may be so signed by the Chief Judge although the Judge by whom it was made has died or ceased to be a Judge of the Court.

(3.) No such order shall have any force or effect until so drawn up, signed, and sealed.

(4.) Every such order shall be dated as of the day on which it is so signed and sealed, and shall take effect as from the commencement of the day of the date thereof.

(5.) No freehold order or partition order shall be sealed or signed until and unless there has been drawn or endorsed thereon a plan of the land affected thereby sufficient to identify the land and the boundaries thereof.

(6.) All orders other than those hereinbefore in this section referred to shall be deemed to be complete when a minute thereof has been made

in the record-books of the Court and signed by a Judge, and any such order may, when necessary, be at any time thereafter drawn up under the seal of the Court.

395. No application for the partition of any Native land shall be heard or determined by the Court until all previous freehold or partition orders made with respect to the same land have been duly drawn up, sealed, and signed. Partition orders.

396. No order of the Native Land Court shall be invalid because made in favour or otherwise in respect of a person who is dead at the date of that order, and in any such case the order may at any time be amended by the Court so as to conform to the facts of the case as existing at the date of the order, and any such amendment shall take effect as from the date of the order amended. Orders in respect of deceased persons.

397. Every order of the Native Land Court determining or affecting the title to Native land or to any interest therein shall bind all persons having any interest in that land, whether or not they are parties to or have notice of the proceeding in which the order is made, and whether or not they are subject to any disability. Orders bind all persons interested.

398. (1.) Every freehold order, partition order, succession order, and order of exchange shall be drawn up, sealed, and signed in duplicate. Orders to be in duplicate.

(2.) One duplicate thereof shall be retained as of record by the Court, and the other shall be forthwith transmitted by the Registrar of the Court to the Secretary for the Cook Islands in New Zealand, by whom it shall be preserved and recorded.

(3.) A copy of any such order certified as correct under the hand of the Registrar shall, on payment of the costs of the proceedings and of the prescribed fee, be delivered by the Registrar to any person requiring the same.

399. (1.) No order of the Native Land Court shall be invalid because of any error, irregularity, or defect in the form thereof or in the practice or procedure of the Court, even though by reason of that error, irregularity, or defect the order was made without or in excess of jurisdiction. Validity of orders.

(2.) Nothing in the foregoing provisions of this section shall apply to any order which in its nature or substance and independently of its form or of the practice or procedure of the Court was made without or in excess of jurisdiction.

(3.) Every order made by the Native Land Court shall be presumed in all Courts and in all proceedings to have been made within the jurisdiction of the Court, unless the contrary is proved or appears on the face of the order.

Contempt of the Native Land Court.

400. Every person is guilty of contempt of the Native Land Court who— Contempt of Court defined.

- (a.) Disobeys any order of that Court or of a Judge thereof, otherwise than by making default in the payment of any sum of money payable under such an order; or
- (b.) Uses any abusive, insulting, offensive, or threatening words or behaviour in the presence or hearing of the Court; or

- (c.) Assaults, resists, or obstructs, or incites any other person to assault, resist, or obstruct, any constable or officer of the Court in serving any process of the Court or in executing any warrant or order of the Court or of a Judge thereof; or
- (d.) By any words or behaviour in the presence or hearing of the Court obstructs in any manner the proper and orderly administration of justice in the Court; or
- (e.) Does any other thing which elsewhere in this Act or in any other Act is declared to be a contempt of the Native Land Court; or
- (f.) Aids, abets, counsels, procures, or incites any other person to commit contempt of the said Court.

Penalty for
contempt.

401. Every person who commits contempt of the Native Land Court shall be liable to a fine not exceeding fifty pounds or to imprisonment for any term not exceeding six months.

Jurisdiction in
contempt.

402. The offence of contempt of the Native Land Court shall be punishable either—

- (a.) By the High Court in the ordinary course of its criminal jurisdiction; or
- (b.) By the Native Land Court in accordance with the provisions hereinafter contained.

Contempt in face
of the Court.

403. (1.) If the contempt is committed in the presence or hearing of the Native Land Court, any Judge then and there sitting in that Court may without order or warrant direct any constable, officer of the Court, or other person to arrest the person so guilty of contempt, and to bring him before the Court.

(2.) The Court may thereupon, after giving the person so arrested a reasonable opportunity of being heard in his defence, either order him to pay a fine not exceeding fifty pounds or, by warrant under the seal of the Court, commit him to prison for any period not exceeding six months.

Arrest on warrant.

404. If contempt of the Native Land Court is committed otherwise than in the sight or hearing of the Court, any Judge of that Court may issue his warrant for the arrest of the offender or may summon him to appear before the Court.

Conviction by
Native Land Court.

405. On the appearance of the offender before the Native Land Court the Court may, after giving him a reasonable opportunity to be heard in his defence, either order him to pay a fine not exceeding fifty pounds or by warrant under the seal of the Court commit him to prison for any term not exceeding six months.

Enforcement of fine.

406. If a fine imposed by the Native Land Court for contempt under the foregoing provisions is not paid, the Court may, by warrant under its seal, commit the offender to prison for any period not exceeding six months.

Discharge of persons
in contempt.

407. Any person so committed to prison for contempt or for default in payment of a fine may be at any time discharged, and any fine so imposed may be at any time remitted in whole or in part, either by order of the Native Land Court or by warrant under the hand of a Resident Commissioner.

Jurisdiction in
contempt may be
exercised at any
time or place.

408. Notwithstanding anything in this Act, the jurisdiction hereby conferred upon the Native Land Court in respect of contempt of Court may be exercised by any Judge of that Court sitting at any time and place which he thinks fit.

Additional Jurisdiction.

409. In addition to the jurisdiction elsewhere conferred upon the Native Land Court by this Act, that Court shall have jurisdiction—

Miscellaneous
jurisdiction of
Native Land Court.

- (a.) To hear and determine as between Natives any claim to the ownership or possession of Native freehold land, or to any right, title, estate, or interest in such land or in the proceeds of any alienation thereof:
- (b.) To determine the relative interests of the owners in common of Native freehold land, whether any of those owners are Natives or Europeans:
- (c.) To hear and determine as between Natives any claim to recover damages for trespass or any other injury to Native freehold land:
- (d.) To grant an injunction against any Native in respect of actual or threatened trespass or other injury to Native freehold land:
- (e.) To grant an injunction prohibiting any person from dealing with or doing any injury to any property which is the subject-matter of any application to the Court.

410. (1.) In addition to the jurisdiction elsewhere in this Act conferred upon the Native Land Court the Governor may confer upon that Court, as effectually as if the same was conferred by this Act, jurisdiction in any matter or question affecting exclusively the rights of Natives in any real or personal property, and thereupon the Court shall have full jurisdiction to determine that matter or question according to law.

Order in Council
may confer
jurisdiction on
Native Land Court.

(2.) Any order of the Court in any such matter or question shall be valid and binding in law, and may be dealt with as nearly as may be in the same manner as an order or determination of a similar nature made by the Court in the exercise of the jurisdiction conferred upon it by this Act.

Surveys.

411. (1.) In any proceeding before the Native Land Court with respect to Native land the Court or a Judge thereof may authorize a survey thereof to be made by any proper person.

Native Land Court
may order surveys.

(2.) Every survey so authorized shall be made at the cost of the Crown, but the cost thereof as determined by the Court shall, by order of the Court, be charged upon the land surveyed, and shall be recoverable by the Crown accordingly in the same manner as in the case of other costs of legal proceedings charged upon Native land.

(3.) All survey liens or charges existing at the commencement of this Act under the corresponding provisions of any other Act, Ordinance, regulation, or law, whether in favour of the Crown or otherwise, shall be deemed to have been constituted under this section, and shall be enforceable accordingly either by the Crown or by any person entitled to the benefit thereof, as the case may be.

412. (1.) Any surveyor or other person so authorized to make a survey of Native land may, without further leave or license, enter upon that land together with such assistants and other persons as he thinks fit to employ in that behalf, and may there do all things necessary to be done to enable him to carry out the survey so authorized.

Entry for purpose
of survey.

(2.) Any person who wilfully obstructs or threatens or attempts to obstruct any person in the execution of any survey so authorized, or who removes or destroys any pegs, marks, or other indications used in respect of any such survey, shall be guilty of contempt of the Native Land Court and shall be punishable accordingly.

Pending and Former Proceedings.

Pending proceedings may be continued.

413. All proceedings pending in the Cook Islands Land Titles Court at the commencement of this Act may be continued and completed under the corresponding provisions (if any) of this Act, and every order made therein after the commencement of this Act shall be made under and in pursuance of this Act and shall have effect accordingly.

Operation of orders heretofore made.

414. All orders made by the Cook Islands Land Titles Court and in force at the commencement of this Act shall continue in full force and effect.

Drawing up of orders heretofore made.

415. Any order made by the Cook Islands Land Titles Court which has not been drawn up, signed, and sealed before the commencement of this Act may be drawn up, signed, and sealed by any Judge of the Native Land Court, and shall take effect as from the making thereof.

Validation of former orders.

416. (1.) When any question arises as to the validity of any order made by the Cook Islands Land Titles Court before the commencement of this Act, and the Native Land Court is satisfied that having regard to equity and good conscience such order ought to be validated, the Native Land Court may by order validate the same accordingly.

(2.) No such validating order shall be of any force or effect until drawn up, signed, and sealed.

(3.) No such order shall be signed or sealed until and unless it has been assented to by the Attorney-General in writing.

(4.) Every such order shall take effect as from the date of the order validated thereby.

PART XII.

CUSTOMARY LAND.

Order in Council declaring land to be free from customary title.

417. When the Governor is satisfied that any land vested in His Majesty is free from the Native customary title, whether because it has never been subject thereto or because such title has been extinguished, he may by Order in Council declare such land to be Crown land free from Native customary title, and such Order in Council shall, so long as it remains in force, be conclusive proof of the fact so declared.

Validity of dispositions of land by the Crown.

418. No Crown grant, Crown lease, or other alienation or disposition of land by the Crown, whether before or after the commencement of this Act, shall in any Court or in any proceedings be questioned or invalidated or in any manner affected by reason of the fact that the Native customary title to that land has not been duly extinguished.

Native customary title limited by high-water mark.

419. Native customary title, whether already judicially investigated or not, shall not extend or be deemed to have extended to any

land below the line of high-water mark, and all such land, except so far as it may have been granted by the Crown in fee-simple before the commencement of this Act, is hereby declared to be Crown land.

420. (1.) For the purpose of recovering possession of customary land from any person in wrongful occupation thereof, and for the purpose of preventing any trespass or other injury thereto, or for recovering damages for any such trespass or injury, all such land shall be deemed to be Crown land.

For certain purposes customary land to be deemed Crown land.

(2.) No action or other proceeding other than a proceeding by or on behalf of the Crown under the last preceding subsection shall be brought in any Court by any person for recovery of the possession of customary land, or for damages or an injunction in respect of any trespass or injury to such land.

(3.) Nothing in this section shall be so construed as to take away or affect any jurisdiction conferred upon the Native Land Court by this Act.

421. (1.) The Native Land Court shall have exclusive jurisdiction to investigate the title to customary land and to determine the relative interests of the owners thereof.

Investigation of title to customary land.

(2.) Nothing in this section shall preclude the High Court or any other Court from determining in any appropriate proceeding otherwise within the jurisdiction of that Court the question whether any land is customary land or not.

422. Every title to and interest in customary land shall be determined according to the ancient custom and usage of the Natives of the Cook Islands.

Native customs to be recognized.

423. On any such investigation and determination the Native Land Court may make an order (in this Act called a freehold order) defining the area so dealt with, naming the persons found entitled thereto, and specifying their relative interests in the land.

Freehold orders.

424. Every freehold order shall on the sealing thereof have the effect of vesting the land therein comprised in the persons therein named as entitled thereto for a legal estate in fee-simple in possession in the same manner as if the land had been then granted to those persons by the Crown; and the land shall be deemed to have been so granted accordingly, and shall thereupon cease to be customary land and shall become Native freehold land.

Effect of freehold orders.

425. When two or more persons are named in any freehold order as entitled to land they shall hold the same as tenants in common in the shares expressed in the order.

Tenancy in common.

426. (1.) When by Native custom any land belongs to an Ariki or other Native chief by virtue of his office the Native Land Court in making a freehold order in respect of that land may in such order declare accordingly, and the land shall vest in fee-simple in such Ariki or Native chief and his successors in office in the same manner as if they were a corporation sole.

Ariki land.

(2.) For the purposes of this section tenure of office as an Ariki or Native chief in any island shall be determined by any Ordinance or other enactment in force in that island with respect thereto, and in default of any such enactment, then by Native custom.

427. If any person named as an owner in any freehold order is dead before the sealing of the order, the order shall enure for the

Freehold orders in favour of persons deceased.

benefit of such person or persons as may be entitled in accordance with Native custom to succeed to the interest of the deceased; and a succession order may be made in favour of any such person accordingly in the same manner and with the same effect as if the deceased had died intestate after the sealing of the freehold order.

Land the title to which has been heretofore investigated declared to be freehold land.

428. (1.) All Native land the title to which has been judicially investigated before the commencement of this Act, and which is held under any order or instrument of title made or issued by the Cook Islands Land Titles Court, is hereby declared to be Native freehold land vested for a legal estate in fee-simple in the persons declared by that order or instrument of title to be the owners thereof or in their successors in title in the same manner as if a freehold order had been made under this Act, but subject to all rights, titles, estates, or interests lawfully vested in any other person.

(2.) When two or more such owners are so entitled in fee-simple to any land they shall hold the same as tenants in common and in the same shares in which they own the same at the commencement of this Act.

(3.) Nothing in this section shall extend to lands below the line of high-water mark.

PART XIII.

PARTITION AND EXCHANGE OF NATIVE LAND.

Partition Orders.

Jurisdiction to partition Native land.

429. (1.) The Native Land Court shall have exclusive jurisdiction to partition Native freehold land.

(2.) Such jurisdiction shall be discretionary, and the Court may refuse to exercise the same in any case in which it is of opinion that partition would be inexpedient in the public interest or in the interests of the owners or other persons interested in the land.

Partition orders.

430. (1.) Native freehold land may be partitioned by the making of partition orders.

(2.) Each such order shall constitute without any conveyance or other instrument of assurance the title to the parcel of land therein included.

Apportionment of incumbrances on partition.

431. When a partition order is made the Court may, in that order or in any subsequent order, apportion between the several parcels into which the land has been partitioned all rights, obligations, or liabilities arising from any lease, license, charge, or other incumbrance to which the land is subject at the date of the partition thereof; and any such order shall have effect according to its tenor in the same manner in all respects as if all necessary conveyances, assignments, releases, covenants, and other dispositions or agreements had been duly made in that behalf by all persons concerned.

Mode of partition.

432. The Court may partition land either into parcels held by single owners in severalty or into parcels held by any number of owners or tenants in common in such shares as may be expressed in the partition order, or may partition the land partly in one manner and partly in the other.

433. It shall be the duty of the Court so to exercise its jurisdiction in the matter of partition as to avoid, so far as practicable, the subdivision of any land into areas which because of their smallness or their configuration or for any other reason are unsuitable for separate ownership or occupation.

Land to be partitioned into suitable areas.

434. When the whole or any of the owners in common of one area of land are also the whole or any of the owners in common of any other area or areas of land the Court may, for the purpose of partition as between those owners, treat those several areas as a single area owned by them in common and make an order or orders of partition thereof accordingly.

Combination of several areas of land for purpose of partition.

435. (1.) When by reason of the smallness of the undivided shares or for any other reason the Court is of opinion that it is inexpedient or impracticable to partition any area in exact accordance with the respective shares of the owners, the Court may, in partitioning that area, allot to any owner a parcel greater in value than that to which he is otherwise entitled, and may allot to any other owner a parcel proportionately less than that to which he is otherwise entitled.

Payments by way of equality of partition.

(2.) The value of the parcel so allotted to any owner shall in no case be less than two-thirds of the full value to which he is otherwise entitled.

(3.) The deficiency in the value of any such parcel shall be determined by the Court, and shall be stated in the partition orders, and shall be expressly constituted by those orders a charge upon the parcel which possesses the corresponding excess of value.

436. The trustee for a Native under disability of an interest in land partitioned shall continue to be trustee for that Native of any interest to which that Native is entitled under the partition order.

Trustees on partition.

437. When an undivided share owned by any person in Native land is subject to any right or interest vested in any other person, that right or interest shall attach to and affect any parcel which on a partition of the land is allocated to the owner of that undivided share.

Incumbrances or undivided interests on partition.

Orders of Exchange.

438. (1.) An alienation of Native freehold land by way of exchange may be effected by the Native Land Court by means of an order of exchange in accordance with the provisions hereinafter contained.

Jurisdiction to effect exchange of Native land.

(2.) The making of any such order shall be in the discretion of the Court.

439. Any freehold interest in Native freehold land may be so exchanged for a freehold interest in any other Native freehold land or in European or Crown land.

Exchange of freehold interests only.

440. The Court shall not make an order of exchange unless satisfied as to the following matters:—

Conditions of exchange.

(a.) That the exchange is not contrary to the interests of the Native owners affected thereby:

(b.) That the interests to be so exchanged are approximately equal in value:

(c.) That where the interests so exchanged are unequal in value a sufficient sum of money by way of equality of exchange has been actually paid, or sufficient security for the payment

thereof has been given or obtained, whether by way of a charge under the provisions hereinafter contained or otherwise :

(d.) That all Natives and other persons in whom any interest so to be exchanged is vested consent to the exchange.

Exchange for
Crown land.

441. The consent of His Majesty to any such exchange of Crown land may be given by the Governor.

Effect of order
of exchange.

442. An order of exchange shall operate according to its tenor to transfer and vest the respective interests expressed to be thereby exchanged in the same manner as if all necessary instruments of assurance had been lawfully executed by and between all persons interested, and as if they had all been fully competent in that behalf.

Payment for
equality of exchange.

443. When any money is payable by any person by way of equality of exchange in pursuance of an order of exchange the Court may, in and by the order of exchange or by a separate charging-order, constitute that money a charge upon any interest owned by that person in any Native land, and the money so charged shall be payable in accordance with the tenor of the order.

Land obtained in
exchange becomes
Native land.

444. When any Crown land or European land becomes vested in a Native by an order of exchange such land shall thereupon become Native freehold land.

PART XIV.

NATIVE SUCCESSION.

Wills of Natives.

445. (1.) No will made by a Native shall have any force or effect with respect to his interest in Native land.

(2.) No will made by a Native shall be valid unless one of the attesting witnesses thereof is a European officer of the Cook Islands Public Service.

(3.) Every such officer so attesting the will of a Native shall, before attesting the same, satisfy himself that the testator understands the effect thereof, and shall certify on the will that he believes the testator to understand the effect thereof; but no will shall be invalidated or be deemed to be informally attested by reason of any breach of the provisions of this subsection.

(4.) Notwithstanding anything in the two last preceding subsections, a will may be executed by a Native in any place out of the Cook Islands in the same manner as if he was a European.

Succession to
deceased
Natives.

446. The persons entitled on the death of a Native to succeed to his real estate, and to his personal estate so far as not disposed of by his will, and the shares in which they are so entitled, shall be determined in accordance with Native custom, so far as such custom extends; and shall be determined, so far as there is no Native custom applicable to the case, in the same manner as if the deceased was a European.

Native land not
to vest in
administrators.

447. The interest of a Native in Native land shall in no case vest in his administrator by virtue of letters of administration, but shall in every case vest, on the death of that Native, in the person or persons entitled to succeed thereto, and if there is more than one such person, then as tenants in common in the shares in which they are so entitled.

448. On the death of a Native leaving any interest in Native freehold land the Native Land Court shall have exclusive jurisdiction to determine the right of any person to succeed to that interest, and may make in favour of every person so found to be entitled (hereinafter called a successor) an order (hereinafter called a succession order) defining the interest to which he is so entitled.

Succession orders.

449. A succession order shall, while it remains in force, be conclusive proof of the title of the successor therein named to succeed to the interest therein named if and so far as such interest formed part of the estate of the deceased.

Effect of succession order.

450. A succession order made in error may be at any time revoked by the Native Land Court, but no such revocation shall affect any interest theretofore acquired in good faith and for value by any person claiming through the successor nominated by the order so revoked.

Revocation of succession orders.

451. No successor shall be capable of instituting in any Court, other than the Native Land Court, any action or other proceeding relating to his interest as such successor until and unless a succession order has been made in his favour.

No action without succession order.

452. No successor shall be capable of making any alienation or disposition of the interest acquired by him as successor (other than an alienation or disposition by will in the case of a European) until and unless a succession order has been made in his favour.

No alienation without succession order.

453. The interest of a Native in Native freehold land and the interest of any person in customary land shall not upon his death be assets available for the payment of his debts and liabilities, whether to the Crown or otherwise; but this section shall not affect the operation of any charge to which that land is subject at the death of the deceased.

Native land not assets for payment of debts.

454. The estate of a Native (other than his interest in Native land) shall upon his death be assets for the payment of his debts and liabilities in the same manner and to the same extent as if he had been a European.

Estate of Native other than land to be assets for payment of debts.

455. For the purposes of this Act the interest of any person in Native land shall be deemed to include his interest in all timber and other things growing on the land (including industrial crops) and in all things which are so attached to the land as to form part thereof as between the heir and the executor of a deceased freeholder at common law.

Interest in Native land to include all things growing on or attached to land.

PART XV.

ADOPTION OF CHILDREN BY NATIVES.

456. No adoption by Native custom, whether made before or after the commencement of this Act, shall be of any force or effect whether in respect of intestate succession or otherwise.

Adoption by Native custom invalid.

457. Any adoption lawfully made and registered in the Cook Islands Land Titles Court before and subsisting at the commencement of this Act shall, as from the commencement of this Act, have the same force and effect as if lawfully made by an order of adoption under this Part of this Act.

Validity of adoption heretofore registered

Orders of adoption.	458. The Native Land Court shall have jurisdiction to make an order (hereinafter called an order of adoption) for the adoption of a child by a Native.
Applications for adoption.	459. (1.) No such order shall be made except on the application of the adopting parent. (2.) Any such application may be made jointly by a husband and wife, and in such case the order of adoption may be made in favour of both or either of the applicants.
Who may be adopted.	460. No person other than a Native or the descendant of a Native (whether legitimate or illegitimate) shall be capable of being adopted by a Native.
Conditions of adoption.	461. No order of adoption shall be made unless the Court is satisfied— (a.) That the child to be adopted is under the age of fifteen years : (b.) That the adopting parent (if unmarried) is at least thirty years older than the child : (c.) That the child, if in the opinion of the Court above the age of twelve years, consents to the adoption : (d.) That the adopting parent is a fit and proper person to have the care and custody of the child and of sufficient ability to maintain the child, and that the adoption will not be contrary to the welfare and interests of the child.
Consent of natural parents required.	462. No order of adoption shall be made without the consent of the parents or of the surviving parent (if any) of the child, whether that child is legitimate or illegitimate, save that no such consent shall be required in the case of any parent as to whom the Court is satisfied that he has deserted the child, or that he is for any reason unfit to have the custody and care of the child.
Adoptions by more than one person.	463. No child adopted by any adopting parent shall in the lifetime of that parent and while the order of adoption remains in force be adopted by any other person save the husband or wife of that parent.
Annulment of orders of adoption.	464. An adoption made under this Part of this Act and an adoption lawfully made and registered in the Cook Islands Land Titles Court before the commencement of this Act may at any time be annulled by the Native Land Court on any ground which the Court thinks sufficient, on the application of the adopting parent or of the adopted child.
Effect of adoption.	465. An order of adoption shall have in respect of succession to the estate of any Native the same operation and effect as that which is attributed by Native custom to adoption by Native custom.

PART XVI.

ALIENATION OF NATIVE LAND.

Restrictions on Alienation.

Removal of restrictions on alienation.

466. (1.) All prohibitions or restrictions on the alienation of land by a Native or on the alienation of Native land which before the commencement of this Act have been imposed by any enactment or by any order of any Court or by any instrument of title are hereby removed, and shall with respect to any alienation made after the commencement of this Act be of no force or effect.

(2.) Subject to the provisions of this Act, a Native may alienate or dispose of any land or of any interest therein in the same manner as a European, and Native land or any interest therein may be alienated or disposed of in the same manner as if it was European land.

467. No person shall be capable of making, whether by will or otherwise, and whether in favour of a Native or of a European or of the Crown, any alienation or disposition of customary land or of any interest therein.

Alienation of customary land prohibited.

468. No Native shall be capable of alienating (otherwise than to the Crown for public purposes) Native freehold land for an estate in fee-simple or for any other freehold interest whether legal or equitable.

Alienation in fee-simple prohibited.

469. (1.) No Native shall be capable of alienating (otherwise than to the Crown) Native freehold land whether by way of lease, license, easement, right of taking the profits thereof, or otherwise howsoever, for a longer term (including any term or terms of renewal to which the lessee, licensee, or other alienee may be entitled) than sixty years computed from the time when the alienation takes effect in possession according to the tenor thereof.

Alienation for a longer period than sixty years prohibited.

(2.) Every such alienation shall be made so as to take effect in possession within one year from the date of the first execution of the instrument of alienation by any party thereto.

(3.) Subject to the provisions of this section as to the maximum duration thereof, every such alienation may confer upon the lessee, licensee, or other alienee a right of renewal for one or more terms.

470. No Native shall be capable of alienating Native freehold land by way of mortgage, charge, or other form of security.

Alienation by way of security prohibited.

471. For the purposes of this Act a contract of sale of timber, minerals, crops, or other valuable things attached to or forming part of Native land, or being the produce thereof, shall be deemed to be an alienation of that land, unless the thing so sold or agreed to be sold has been severed from the land before the making of the contract, or is by the terms of the contract to be severed from the land within one year after the making of the contract.

Alienation of things growing on or attached to land deemed an alienation of land.

472. When a life interest in Native freehold land or any other freehold interest less than the fee-simple is vested in a Native an alienation or disposition of that interest by that Native shall be deemed to be an alienation of Native land by that Native, and all the provisions of this Act with respect to alienation of Native land shall apply accordingly.

Disposition of life interest to be deemed an alienation of land.

473. No Native shall be capable of making any assignment, charge, release, or other disposition (whether by way of anticipation or otherwise) of any rent or other money whatever which is or may become receivable by him in respect of his interest in any Native land or in respect of any alienation thereof, or of receiving or giving a discharge for any such rent or money more than one year in advance of the due date thereof.

Assignment of rents or profits prohibited.

474. (1.) All the provisions of this Part of this Act relating to alienations of Native land by a Native (including the requirement of confirmation) shall extend and apply to the alienation of Native land by a trustee (whether Native or European) appointed by the Native Land Court under this Act in respect of the estate of a person under disability.

Alienation by trustees of Native land.

(2.) Notwithstanding anything in this section, the provisions of this Act as to the formalities of the execution of instruments of alienation shall not apply to instruments executed by European trustees, and every such instrument of alienation may be executed in the same manner as if the land was European land.

Execution of Instruments of Alienation.

Alienations must be in writing.

475. (1.) Every alienation of Native land by a Native shall be effected by an instrument in writing signed in duplicate by that Native and in conformity with the provisions of this section.

(2.) The signature of the Native shall be attested by a Judge or Registrar of the Native Land Court or of the High Court, or by a Resident Commissioner, Resident Agent, Collector of Customs, or Medical Officer.

(3.) The attesting witness shall at the same time certify in writing on the instrument that the effect of the instrument was explained to the Native before the execution thereof by him, and that the Native understood the effect thereof.

(4.) Every such instrument shall describe the land affected thereby by reference to a plan endorsed or otherwise drawn on the instrument before the execution thereof by the Native.

(5.) No witness shall attest the signature of a Native to any such instrument unless the date on which the instrument is executed by that Native is stated in the instrument.

(6.) Subject to the operation of a confirmation by the Native Land Court, no alienation by a Native of any Native land shall have any validity or effect unless made in conformity with this section.

(7.) No alienation of Native land by a Native by way of contract shall, unless that contract is in conformity with this section, be enforceable against that Native by reason of part-performance or otherwise.

(8.) Nothing in this section shall exclude the jurisdiction of the High Court, in any case in which an instrument of alienation has been confirmed by the Native Land Court, to order the rectification of that instrument in accordance with the true intent of the parties in the same manner as if the instrument had been made between Europeans, and in such a case no further confirmation by the Native Land Court shall be required.

Execution of instruments out of the Cook Islands.

476. (1.) Notwithstanding any of the requirements of this Act as to the execution of instruments of alienation of Native land by Natives, a Native who at the time of the execution of any such instrument is out of the Cook Islands may execute that instrument by his attorney being a European.

(2.) The instrument shall be executed by the attorney in the same manner as if he was the attorney of a European.

(3.) The power of attorney, if executed in the Cook Islands, shall be executed in the same manner as if it was an instrument of alienation of Native land; and if executed out of the Cook Islands shall be executed in the same manner as if the person executing the same was a European.

Confirmation.

Confirmation necessary.

477. No alienation of Native land by a Native shall have any force or effect until and unless it has been confirmed by the Native Land Court.

478. (1.) No such confirmation shall be granted unless application therefor is made by or on behalf of a party to the instrument of alienation within six months after the execution thereof by the Native.

Application for confirmation.

(2.) When an instrument of alienation is executed at different times by different persons alienating, successive applications for confirmation may be made in respect of the successive executions of the instrument, and the instrument may be confirmed from time to time accordingly.

479. (1.) Confirmation shall be granted by an order of confirmation endorsed or otherwise written on each duplicate of the instrument of alienation, signed by a Judge of the Court, and sealed with the seal of the Court.

Orders of confirmation.

(2.) One of such duplicates shall thereupon be retained as a record of the Court, and the other shall be delivered to the party entitled thereto.

(3.) There shall be no appeal from any such order of confirmation or from any refusal thereof.

480. On confirmation being so granted the instrument of alienation shall (if otherwise valid) take effect according to its tenor as from the date at which it would have taken effect if no such confirmation had been required.

Effect of confirmation.

481. If confirmation is granted of two or more inconsistent instruments of alienation of the same land, the priority of those instruments as against each other shall depend upon the respective dates of confirmation, and not upon the dates of the execution of the instruments.

Confirmation of inconsistent instruments.

482. (1.) Subject to the provisions of this section, the confirmation of an alienation shall be in the discretion of the Court.

Conditions of confirmation.

(2.) No alienation shall be confirmed unless the Court is satisfied as to the following matters:—

(a.) That the mode of execution of the instrument of alienation is in conformity with this Act;

(b.) That the alienation is not contrary to equity or good faith or to the interests of the Natives alienating or to the public interest; and

(c.) That the consideration (if any) for the alienation is adequate.

(3.) For the purposes of this section any alienation made in consideration of any fine, premium, or other payment in advance exceeding twice the annual value of the lease or other interest acquired by the alienee shall be deemed to be contrary to the interests of the Natives alienating.

(4.) The Court may, nevertheless, in its discretion confirm an alienation, notwithstanding any informality or irregularity in the mode of execution of the instrument, if satisfied that the informality or irregularity is immaterial, having regard to the interests of all the parties, and that all the parties consent to such confirmation.

(5.) No instrument of alienation shall after confirmation thereof be questioned or invalidated on account of any defect in the form or mode of execution thereof.

483. When any valid contract to grant or renew a lease, or any other valid contract of alienation has been duly confirmed, the confirmation of any lease or other instrument of alienation in pursuance of that contract shall, if duly executed in accordance with this Act, be granted as a matter of right.

Alienation in pursuance of confirmed contracts.

Alteration of
instruments on
confirmation.

484. (1.) On an application for confirmation the Court may, with the consent of all parties to the instrument of alienation, make, under the seal of the Court, such alterations in that instrument as may be thought necessary in order to justify confirmation, and may thereupon confirm the alienation.

(2.) The instrument of alienation as so altered shall, if otherwise valid, take effect as if such alterations had been made prior to the execution thereof.

Validity and
operation of
confirmed
instruments.

485. Save so far as otherwise expressly provided by this Part of this Act, the validity and operation of an instrument of alienation of Native land shall, notwithstanding the confirmation thereof, be determined in the same manner in all respects as if such confirmation was not required and had not been obtained.

Alienations to the
Crown.

486. The provisions of this Part of this Act shall, except where otherwise expressly provided, extend to alienations of Native land to the Crown.

Native Reservations.

Governor in Council
may establish Native
reservations.

487. (1.) When any Native land, whether freehold or customary, is owned by more than ten owners in common, whether at law or in equity, the Governor may by Order in Council, on the recommendation of a Judge of the Native Land Court, set apart and reserve that land or any part thereof for the common use of the owners thereof as a burial-ground, fishing-ground, village, landing-place, place of historical or scenic interest, source of water-supply, church-site, building-site, recreation-ground, bathing-place, or for the common use of the owners thereof in any other manner.

(2.) Any Native land so set aside and reserved is herein referred to as a Native reservation.

Abolition of
reservations.

488. On the recommendation of a Judge of the Native Land Court an Order in Council establishing a Native reservation may be at any time revoked by Order in Council, or may at any time be varied in like manner, whether as to the boundaries of the land included in the reservation or as to the purposes thereof.

Reservations
inalienable.

489. Land included in a Native reservation shall be inalienable, whether to the Crown or to any other person, and whether by will or otherwise; and no freehold order, partition order, or order of exchange shall be made in respect thereof.

Ordinances as to
reservations.

490. The Island Council may make such Ordinances as it thinks fit for the management and control of any Native reservation.

Miscellaneous.

Native land not to be
taken in execution.

491. (1.) No interest of any person in customary land, and no interest of a Native in Native land, shall be capable of being taken in execution or otherwise rendered available by any form of judicial process for the payment of his debts or liabilities, whether in favour of His Majesty or in favour of any other person.

(2.) Nothing in this section shall affect the operation of any charge to which Native land is subject.

Rents and other
proceeds of
alienations may be
paid into Native
Land Court.

492. (1.) Any lessee of Native land or other person owing money to Natives in respect of any alienation of Native land may, with the leave of a Judge of the Native Land Court, in any case in which in the opinion of the Judge there is any doubt or dispute as to the persons entitled

to receive that money, pay the same into Court, and such payment shall be sufficient discharge therefor in the same manner as if the money had been then paid to the persons entitled thereto.

(2.) The leave of a Judge may be granted under this section whether the money in respect of which it is granted is already due and owing or not.

(3.) All moneys so paid into Court shall be paid out of Court to the persons entitled thereto as determined by any order of the Native Land Court.

PART XVII.

TRUSTEES FOR NATIVES.

493. In this Part of this Act the term "person under disability" means any person who is a minor, or of unsound mind, or in prison, or who is subject to any physical or mental infirmity which in the opinion of the Native Land Court renders him unfit to have the management of his property.

Definition of
"person under
disability."

494. If any Native being a person under disability is entitled to any interest in any real or personal property (other than customary land), or if any European being a person under disability is entitled to any undivided share in Native freehold land, the Native Land Court may, if it thinks fit, on the application of that person or of any other person, make an order (hereinafter called a trustee order) appointing any person or persons to be the trustee or trustees of the person so under disability in respect of the property or any part thereof to which he is so entitled (hereinafter called the trust property).

Trustee orders.

495. (1.) Every trustee order shall state the nature of the disability of the beneficiary, and if that disability consists in minority the order shall state the age of the beneficiary.

Matters to be set
forth in trustee
orders.

(2.) Except where the order states the day of the birth of the beneficiary, any such statement as to his age shall be construed as meaning that he attained that age on the date of the order, but it shall not be necessary for the Court in making any such order to make any inquiry as to the day of the birth of the beneficiary.

(3.) Any such statement as to the age of the beneficiary may be amended, but, notwithstanding any error in that statement, every act done at any time by the trustee shall be as valid as if the statement for the time being contained in the trustee order was correct, and no act done by the beneficiary in respect of the property comprised in the order after the date therein indicated as the date of his majority shall be invalidated on the ground that the beneficiary was not in fact of the age of twenty-one years.

(4.) Every trustee order shall define the nature of the property in respect of which it was made and the nature of the interest of the beneficiary therein.

496. (1.) Where it is made to appear to the Native Land Court that it is expedient to appoint a new trustee, the Court may, by a trustee order, appoint a new trustee or new trustees either in substitution for or in addition to any existing trustee, and whether there is any existing trustee or not at the time of making the order.

Appointment of new
trustees.

Orders restricting
powers of trustees.

(2.) Any person so appointed shall, unless otherwise provided by the order, have the same powers as if appointed by the original order.

497. By a trustee order or by any subsequent order the Court may prohibit or restrict, in such manner as it thinks fit, the exercise by the trustee of any powers which would otherwise be vested in him under this Act, and the Court may at any time remove or vary any such prohibition or restriction.

Cancellation of
trustee orders.

498. The Court may at any time make an order cancelling or varying a trustee order.

Determination of
trustee orders.

499. When a trustee order has been made on the ground of the minority of the beneficiary, the powers of the trustee shall cease and determine, without any order in that behalf, so soon as the beneficiary attains his majority, and the trustee order shall thereupon cease to be in force.

Trust property not
to vest in trustee.

500. Notwithstanding anything to the contrary in any rule of law or equity, the trust property shall not vest in a trustee appointed by a trustee order, but shall remain vested in the beneficiary for the same estate and interest as if no such order had been made.

Administration of
property by trustee.

501. Subject to this Part of this Act and to any order of the Native Land Court to the contrary, every such trustee shall be entitled to the possession, receipt, and administration of the trust property and of all revenues to be derived therefrom, and he shall in the exercise of all powers conferred upon him by this Act be deemed to be the agent of the beneficiary.

Alienation of
property by trustee.

502. (1.) Except so far as expressly provided by order of the Native Land Court, any such trustee shall in respect of the alienation or other disposition of any Native land or other property included in the trust (other than an alienation or disposition thereof by will) represent the beneficiary, and may accordingly exercise in the name and on behalf of the beneficiary all powers in respect of the alienation or other disposition of any such land or property which the beneficiary might himself have exercised had he been under no disability and had no such trustee been appointed.

Powers of trustee.

(2.) So long as any trustee order remains in force the beneficiary shall not be capable of exercising any powers in respect of the alienation or disposition of the trust property, other than a disposition thereof by will if he is possessed of testamentary capacity.

503. Except so far as otherwise provided by order of the Native Land Court, any such trustee may do, in the name and on behalf of the beneficiary, all things in relation to the trust property which he considers necessary or expedient for the advantageous administration of that property in the interests of the beneficiary, and which the beneficiary could himself have done had he been under no disability and had no such trustee been appointed.

Expenditure of
revenues of trust
property.

504. (1.) The Native Land Court may from time to time make such orders as it thinks fit for the payment or expenditure of any of the revenues or proceeds of the trust property to or for the benefit of the beneficiary, or for the maintenance of the children, adopted children, wife, or husband of the beneficiary.

(2.) The right of the beneficiary to the receipt or expenditure of any such moneys, and his right in any other respect to control the administration of the trust, shall at all times while the trustee order

remains in force be subject to the discretion of the trustee and to the order of the Court.

505. The Native Land Court shall have jurisdiction to enforce, by injunction or otherwise, as against any trustee under this Part of this Act, the obligations of his trust, and to hear and determine as against any such trustee any pecuniary claim arising out of a breach of trust.

Enforcement
of trusts.

506. When two or more trustees hold office under any trustee order in respect of the same property, those trustees must act jointly in the exercise of the trust, and no such powers shall be exercisable by less than the full number of trustees so appointed, notwithstanding the existence of any vacancy in that number.

Co-trustees must act
jointly.

507. Any such trustee may be allowed out of the revenues or proceeds of the trust property, by way of remuneration for his services in administering that property, such reasonable sums as the Native Land Court from time to time orders, in addition to all costs, charges, and expenses incurred by him in the execution of his trust.

Remuneration of
trustees.

PART XVIII.

MARRIAGE.

508. With respect to marriage the prohibited degrees of consanguinity and affinity shall be the same in the Cook Islands as for the time being in New Zealand, and every marriage entered into between persons within those prohibited degrees shall be wholly void.

Prohibited degrees
of consanguinity.

509. Every marriage in the Cook Islands shall take place in the presence of a marriage officer as hereinafter defined, and of at least two other witnesses, and otherwise shall be wholly void.

Marriages to take
place before
marriage officer.

510. The term "marriage officer" means and includes—

"Marriage officer"
defined.

(a.) Any Resident Commissioner or Resident Agent:

(b.) Any Judge or Registrar of the High Court or of the Native Land Court:

(c.) Any person appointed as a marriage officer under the provisions hereinafter contained.

511. (1.) Any Resident Commissioner may by warrant under his hand and the Seal of the Cook Islands appoint as a marriage officer for the Cook Islands any minister of religion or other person whom he believes to be a fit and proper person to be so appointed.

Appointment of
marriage officers.

(2.) Any such appointment may be at any time revoked by any Resident Commissioner by warrant under his hand and the Seal of the Cook Islands.

512. If any person acts as a marriage officer in the Cook Islands without being qualified by office or appointment so to act, he shall be guilty of an offence punishable by imprisonment for any term not exceeding three years.

Offence.

513. (1.) A marriage officer shall not solemnize or record any marriage unless notice in writing of the intention of the parties to enter into such marriage has been given to the marriage officer by one of the parties thereto at least two clear days before the day of the marriage.

Notice of marriage.

(2.) On receipt of such notice the marriage officer shall publish the same in such manner as he thinks sufficient to give due publicity to the intended marriage.

(3.) On every such notice there shall be payable by the person giving the same such fee (if any) as may be prescribed by regulations, and all such fees shall be payable into the Cook Islands Treasury.

(4.) No marriage shall be invalidated by any breach of the requirements of this section.

Mode of
solemnization

514. Every marriage shall, subject to the provisions of this Part of this Act, be solemnized in such manner as the marriage officer thinks fit.

Record of marriage.

515. Every marriage shall, at the time of the solemnization thereof, be recorded in writing by the marriage officer in the form and with the several particulars prescribed by regulations under this Act, but no marriage shall be invalidated by any error or defect in such form or in the particulars so required to be recorded.

Signature of record.

516. The aforesaid record of every marriage shall be signed by the parties thereto, and by two witnesses, and by the marriage officer, all being present at the same time, and when the record has been so signed the marriage shall be deemed to be fully solemnized and shall take effect.

Transmission of
record.

517. The record of every marriage shall be forthwith delivered by the marriage officer to the Registrar of the High Court at Niue in the case of marriages taking place in Niue, and to the Registrar of the High Court at Rarotonga in the case of marriages taking place elsewhere in the Cook Islands, and shall be preserved by such Registrar in the same manner as if it was a record of the High Court.

Minimum age of
marriage.

518. A marriage officer shall not solemnize or record any marriage unless the husband is at least eighteen years of age and the wife is at least fifteen years of age, but no marriage shall be invalidated by a breach of the provisions of this section.

Marriage of
minors.

519. (1.) A marriage officer shall not solemnize or record the marriage of any man under the age of twenty-one years or of any woman under the age of nineteen years without the consent of one of the parents of such man or woman, if either of those parents is alive and resident in the Cook Islands.

(2.) A Judge of the High Court may in any case, if he thinks fit so to do, grant exemption from the requirements of this section.

(3.) No marriage shall be invalidated by any breach of the provisions of this section.

Offence.

520. If any marriage officer commits any breach of the provisions of this Part of this Act, or signs any record of a marriage containing any statement known by him to be false, he shall be guilty of an offence punishable by a fine not exceeding fifty pounds.

Offence.

521. Every party or witness to a marriage who signs a record thereof containing any statement known by him or her to be false shall be guilty of an offence punishable by a fine not exceeding twenty pounds or by imprisonment for any period not exceeding six months.

Offence.

522. Every person who, by any wilful misrepresentation made to a marriage officer, procures or attempts to procure the solemnization by that officer of any marriage shall be guilty of an offence punishable by one year's imprisonment.

523. An illegitimate child, whether born before or after the commencement of this Act, shall be legitimated by the subsequent inter-marriage after the commencement of this Act of the parents of that child, provided that at the time of the birth of the child there existed no bar to the intermarriage of the parents other than the age of one or both of those parents.

Legitimation *per*
subsequens
matrimonium.

PART XIX.

DIVORCE.

524. The High Court shall have jurisdiction in divorce and other causes and matters matrimonial in accordance with the provisions of this Part of this Act.

Jurisdiction of High
Court.

525. No decree shall be made for a divorce *a mensa et thoro*, or for restitution of conjugal rights, nor shall any action be brought for criminal conversation.

Limitation of
jurisdiction.

526. The High Court shall in suits for nullity of marriage have and exercise in the Cook Islands the same jurisdiction as is possessed for the time being in New Zealand by the Supreme Court.

Nullity of marriage.

527. Any married person (hereinafter called the petitioner) who is a Native or an Asiatic and at the time of the institution of the suit has been domiciled in the Cook Islands for not less than two years may take proceedings in the High Court for the dissolution of his or her marriage with a Native or an Asiatic on any of the following grounds:—

Grounds of divorce.

- (a.) That the other party to the marriage (hereinafter called the respondent) has since the celebration of the marriage been guilty of adultery :
- (b.) That the respondent has without just cause wilfully deserted the petitioner and without any such cause left the petitioner so deserted during two years or more :
- (c.) That the respondent (being the husband) has been habitually guilty of cruelty towards the petitioner :
- (d.) That the respondent (being the husband) has habitually, and without just cause, during two years or more left the respondent without adequate means of support :
- (e.) That the respondent has for a continuous period of five years or more been of unsound mind and is not likely to recover from such unsoundness of mind :
- (f.) That the respondent has for a continuous period of two years or more been isolated by lawful authority as a leper :
- (g.) That the respondent has for two years or more been an habitual drunkard :
- (h.) That the respondent has been convicted and sentenced in the Cook Islands or elsewhere to two years' imprisonment or more for any offence of violence against the person of the petitioner or of any child of that petitioner under the age of sixteen years.

528. If the Court is of opinion—

- (a.) That the petitioner's own habits or conduct induced or contributed to the wrong complained of so as to disentitle the petitioner to a dissolution of the marriage ; or

Grounds of refusal of
divorce.

(b.) That in the case of the adultery of the respondent the petitioner has been in any manner accessory to or has connived at such adultery or has condoned the same ; or

(c.) That the suit has been instituted or prosecuted in collusion with the respondent—

the Court shall dismiss the suit ; but in all other cases, if the Court is satisfied that the case of the petitioner has been established, the Court shall pronounce a decree dissolving the marriage.

Domicile of deserted wife.

529. A deserted wife who was domiciled in the Cook Islands at the time of desertion shall be deemed for the purposes of the jurisdiction of the High Court in divorce (whatever the ground of divorce may be) to have retained such domicile so long as she is resident in the Cook Islands, notwithstanding that her husband may have acquired a domicile elsewhere.

Dissolution of marriage between Europeans.

530. The High Court shall have no jurisdiction to dissolve the marriage of any person who is neither a Native nor an Asiatic, and any decree for the dissolution of such marriage shall be wholly void.

Co-respondent as a party.

531. In any suit in the High Court for dissolution of marriage on the ground of adultery the Court may, if it thinks fit, require the petitioner (being the husband) to make the person with whom the respondent is alleged to have committed adultery a co-respondent in the suit.

Intervention.

532. By leave of the High Court any person may intervene in a suit for dissolution of marriage for the purpose of opposing the making of a decree for such dissolution.

Agreement no bar to divorce.

533. No covenant or agreement between the parties to a suit for dissolution of marriage shall operate as a bar to the institution or prosecution of such suit.

No appeal to Supreme Court.

534. No appeal shall lie to the Supreme Court of New Zealand from any decree of the High Court for the dissolution of a marriage.

Remarriage of divorced persons.

535. When a decree for the dissolution of a marriage has been made by the High Court it shall be lawful for the parties to such marriage to marry again as if the former marriage had been dissolved by death.

Costs.

536. In any suit for the dissolution of marriage the High Court may make such order as it thinks fit for the payment of the costs of the proceedings, or of any part thereof, by or to the petitioner, respondent, co-respondent, or any person intervening in the suit.

Order for maintenance of divorced wife.

537. (1.) When a decree for the dissolution of marriage is made by the High Court, the Court may, if it thinks fit, in and by the decree of dissolution, order the husband to pay towards the future maintenance of his wife (whether petitioner or respondent), so long as she remains unmarried, a reasonable sum not exceeding one pound a week at such times and in such manner as the Court thinks fit.

(2.) Every such order shall be deemed to be a maintenance order under Part XX of this Act, and all the provisions of that Part of this Act shall, so far as applicable, apply thereto accordingly.

Order as to custody of children.

538. The High Court may in and by any decree for the dissolution of marriage, or at any time and from time to time thereafter, make such order as it thinks fit as to the custody of the children of the marriage.

539. If at any time after a decree of dissolution of marriage has been pronounced at the suit of the wife the husband from whom she has been so divorced—

Molestation of divorced wife by her husband.

- (a.) Commits any trespass by entering or remaining upon or in any land, house, or building which is in her occupation or in which she dwells or is present ; or
- (b.) Attempts or threatens to commit any such trespass ; or
- (c.) Molests her by watching or besetting her dwellinghouse or place of business, employment, or residence, or by following or waylaying her in any road or other public place—

he shall be guilty of an offence, and shall be liable to a fine not exceeding twenty pounds or to imprisonment for a term not exceeding three months.

540. (1.) The jurisdiction of the Supreme Court of New Zealand under the Divorce and Matrimonial Causes Act, 1908, shall extend to the Cook Islands in the same manner as if those islands constituted for all purposes part of New Zealand, and a domicile in the Cook Islands shall for the purposes of such jurisdiction be deemed to be a domicile in New Zealand accordingly.

Jurisdiction of Supreme Court.

(2.) In the exercise of such jurisdiction the Supreme Court shall, in respect of the grounds of divorce and in respect of all other matters, act in accordance with the Divorce and Matrimonial Causes Act, 1908, and not in accordance with this Act.

PART XX.

MAINTENANCE AND AFFILIATION.

541. In this Part of this Act, unless a different intention appears,—

Interpretation.

“Adequate maintenance” means maintenance reasonably sufficient for the necessities of the person to be maintained, irrespective of the means or ability of the person who is bound to afford such maintenance :

“Affiliation order” means an order under this Part of this Act adjudging any person to be the father of an illegitimate child :

“Child” means a child under the age of twelve years :

“Defendant” means any person against whom a maintenance order or affiliation order is made or applied for under this Part of this Act :

“Destitute person” means any person unable, whether permanently or temporarily, to support himself by his own means or labour :

“Maintenance” includes lodging, feeding, clothing, teaching, training, attendance, and medical and surgical relief :

“Maintenance order” means an order under this Part of this Act for the payment of money for or in respect of the past or future maintenance of any person :

“Unmarried woman” includes a widow and a woman who has been divorced from her husband.

Maintenance and Affiliation Orders.

542. The High Court shall have power in the ordinary course of its civil jurisdiction to make maintenance and affiliation orders in accordance with the provisions of this Part of this Act.

Jurisdiction of High Court.

Applications.

543. Any application to the High Court for or in relation to a maintenance or affiliation order may, except where otherwise expressly provided, be made either by the person in whose favour the order is to be or has been made or by any other person.

Jurisdiction discretionary.

544. The exercise by the High Court of its jurisdiction to make a maintenance order shall in all cases be discretionary.

Affiliation orders.

545. (1.) On application made to the High Court by or by the authority of an unmarried woman who is the mother of an illegitimate child or who is with child, the Court may, if satisfied that the defendant is the father of that child, make an order (herein called an affiliation order) adjudging the defendant to be the father of that child accordingly.

(2.) No affiliation order shall be so made unless the application is made before or within six years after the birth of the child, unless the defendant has contributed to or made provision for the maintenance of the child, or has since the birth of the child cohabited with the mother as man and wife, in which case the application may be made at any time after the expiration of the said period of six years, if within two years immediately preceding the application the defendant has contributed to or provided for the maintenance of the child or has so cohabited with its mother.

(3.) If at any time the defendant has been absent from the Cook Islands, the period of his absence shall not be counted in computing the respective periods of six years or two years.

(4.) No such application shall be made unless the child is under twelve years of age at the time of the application.

Evidence.

546. (1.) The evidence of the mother of an illegitimate child or of any woman who is with child as aforesaid shall not be necessary for the making of an affiliation order.

(2.) No person shall be adjudged to be the father of an illegitimate child upon the evidence of the mother or of a woman who is with child as aforesaid, unless her evidence is corroborated in some material particular to the satisfaction of the Court.

Maintenance order in favour of illegitimate child.

547. When an affiliation order has been made by the High Court against any person as the father of an illegitimate child, whether already born or not, the Court may, at the same time or at any time thereafter, make a maintenance order in favour of the child against the person so adjudged to be the father thereof.

Maintenance order against father in favour of child.

548. (1.) The High Court may make a maintenance order against the father of any child in favour of that child if the Court is satisfied that the father has failed or intends to fail to provide that child with adequate maintenance.

(2.) When the father and child are living apart from each other, and the Court is satisfied that there is reasonable cause for the child continuing so to live apart from the father, the father shall not be deemed to have made provision for the adequate maintenance of the child merely by reason of the fact that he is ready and willing to support the child if and so long as the child lives with him.

Maintenance order against mother in favour of child.

549. (1.) The High Court may make a maintenance order in favour of a child against the mother of that child (whether legitimate or illegitimate) if satisfied that the mother is of sufficient ability in that behalf and has failed or intends to fail to make provision for the adequate maintenance of that child.

(2.) When the mother and child are living apart from each other, and the Court is satisfied that there is reasonable cause for the child continuing so to live apart from the mother, the mother shall not be deemed to have made provision for the adequate maintenance of the child merely by reason of the fact that she is ready and willing to support the child if and so long as the child lives with her.

550. (1.) The High Court may make a maintenance order against a husband in favour of his wife if the Court is satisfied that the husband has failed or intends to fail to provide his wife with adequate maintenance.

Maintenance order against husband in favour of wife.

(2.) Unless the Court is satisfied that the wife is a destitute person, no maintenance order shall be made against the husband if it is proved that he is not of sufficient ability to contribute to her maintenance.

(3.) When the husband and wife are living apart from one another and the wife has, in the opinion of the Court, reasonable cause for refusing or failing to live with her husband, the husband shall not be deemed to have provided her with adequate maintenance merely by reason of the fact that he is ready and willing to support her if and so long as she lives with him.

551. (1.) The High Court may make a maintenance order against a married woman in favour of her husband if satisfied that the husband is a destitute person and that his wife is of sufficient ability to contribute to his maintenance.

Maintenance order against wife in favour of husband.

(2.) No such order shall be made if the Court is satisfied that there is reasonable cause for the failure of the wife to contribute to the maintenance of her husband.

552. (1.) The High Court may make a maintenance order against any person in favour of the father or mother of that person if satisfied that the father or mother, as the case may be, is a destitute person and that the defendant is of sufficient ability to contribute to the maintenance of such destitute person.

Maintenance order against any person in favour of father or mother.

(2.) In this section the term "mother" includes the mother of an illegitimate child.

553. Every person who disobeys a maintenance order shall be guilty of contempt of the High Court, and may be dealt with from time to time accordingly.

Disobedience to maintenance order.

554. All moneys due under a maintenance order shall constitute a debt due by the defendant to the person to whom the moneys are payable in accordance with the terms of the order.

Maintenance-moneys a debt.

555. A maintenance order may be made in favour of any person otherwise entitled thereto although not present or resident in the Cook Islands.

Order in favour of non-residents.

556. A maintenance or affiliation order may be made against any defendant otherwise liable although not present or resident in the Cook Islands.

Order against non-residents.

557. If the High Court is satisfied that a defendant is absent from the Cook Islands, or from the island in which the application is made, or that his residence is unknown, or that he cannot be found, the Court may hear and determine the application *ex parte* and make a maintenance order or affiliation order accordingly.

Orders *in absentia*.

558. The dismissal of an application for a maintenance order or affiliation order shall not, unless the Court so orders, be a bar to the

Repeated applications.

making of a further application in the same matter against the same defendant.

Payments not to be made in advance.

559. (1.) No money payable under a maintenance order shall, without the precedent consent of a Judge of the High Court, be paid more than one year in advance of the due date thereof.

(2.) If any money is paid in breach of this section, it shall not be taken into account in any proceedings for the enforcement of the maintenance order or for the punishment of any disobedience thereto; but no money so paid in breach of this section shall be recoverable by the person by whom it was paid.

Cancellation, variation, and suspension of orders.

560. (1.) The High Court may at any time make an order cancelling an affiliation order, or cancelling, varying, or suspending any maintenance order or substituting a new maintenance order therefor, on the grounds—

(a.) That the order was obtained by fraud or perjury; or

(b.) That since the making of the order new and material evidence has been discovered; or

(c.) That since the making of the order the circumstances have so changed that the order ought to be so cancelled, varied, or suspended, or that a new order ought to be substituted therefor.

(2.) The power hereby conferred to cancel or vary an order shall include the power to remit wholly or in part any arrears due under the order, and any such arrears may be remitted either on the grounds hereinbefore in this section mentioned or, if the Court in its discretion thinks fit, on the ground that the defendant is not of sufficient ability to pay the same.

Payment of maintenance moneys.

561. Any maintenance order may direct the moneys payable thereunder to be paid either to the person in whose favour the order is made or to any other person on behalf of that person.

Security for obedience to maintenance orders.

562. (1.) Whenever a maintenance order is made the High Court may, if it thinks fit, by the same order or by order made at any later time, direct the defendant to give security for his obedience to the maintenance order.

(2.) Every such security shall, as the High Court determines, be either the payment into Court of such sum of money, not exceeding two hundred pounds, as the Court directs, or the giving of a bond to His Majesty with one or two sureties to be approved by the Court in a sum not exceeding two hundred pounds conditioned for due obedience to the maintenance order.

(3.) When such security has been required, the Court may commit the defendant to prison until the order requiring security has been complied with, but no person shall be so detained in custody for a longer period than six months.

(4.) All moneys so paid into Court or recovered by suit or otherwise under any such bond shall be available, under the direction of the Court, for the satisfaction of all claims under the maintenance order.

(5.) The Court may, on being satisfied that the security is no longer required, order any amount so paid into Court to be repaid to the defendant, or cancel any bond so given.

Operation of agreements.

563. No agreement shall be effective so as to take away or restrict any liability imposed on any person by this Act to contribute to the

maintenance of any other person, or affect the operation of any maintenance order or the right of the High Court to make any such order.

564. (1.) Every maintenance order shall be an order for the periodical payment, at such times and in such manner as the Court thinks fit, of such sum of money as the Court thinks reasonable. Purport and duration of maintenance orders.

(2.) No such payment shall, except where otherwise expressly provided, exceed the sum of twenty shillings per week, and the intervals between the successive payments shall not exceed twenty-eight days.

(3.) When any such order is made in respect of the maintenance of a child (whether legitimate or illegitimate) the order shall cease to be in force so soon as that child attains the age of twelve years.

565. Any maintenance order may require the defendant, in addition to making such periodical payments as aforesaid, to pay such sum as the Court thinks reasonable, not exceeding fifty pounds, on account of the past maintenance, previous to the making of the order of the person in respect of whose maintenance the order is made. Order for past maintenance.

Offences.

566. (1.) Every person against whom a maintenance order has been made and who, while any moneys payable under the order are in arrear and unpaid, leaves or attempts to leave the Cook Islands without the permission in writing of a Judge of the High Court shall be guilty of an offence punishable by imprisonment for any term not exceeding two years. Leaving Cook Islands while maintenance-moneys in arrear an offence.

(2.) In any prosecution under this section the burden of proving that the permission of a Judge was so given shall be upon the accused.

567. (1.) Every person against whom an affiliation order is made prior to the birth of the child, and who leaves or attempts to leave the Cook Islands without the permission in writing of a Judge of the High Court at any time within twelve months after the making of the order, shall be guilty of an offence punishable by imprisonment for any term not exceeding two years. Leaving Cook Islands after affiliation order and before birth of child an offence.

(2.) In any prosecution under this section the burden of proving that the permission of a Judge was so given shall be upon the accused.

568. Every person against whom a maintenance order has been made, and who at any time thereafter leaves or attempts to leave the Cook Islands with intent to make default in obeying that order, shall be guilty of an offence punishable by imprisonment for any term not exceeding two years. Leaving Cook Islands with intent to disobey maintenance order an offence.

569. (1.) Every person who without reasonable cause fails to provide his wife with adequate maintenance, and who at any time while failing so to do leaves or attempts to leave the Cook Islands without the permission in writing of a Judge of the High Court, shall be guilty of an offence punishable by imprisonment for any term not exceeding two years. Leaving Cook Islands while failing to maintain wife an offence.

(2.) In any prosecution under this section the burden of proving that the permission of a Judge was so obtained shall be upon the accused.

570. (1.) Every person who is the father of a child, and who without reasonable cause fails to provide that child with adequate maintenance, and who at any time while failing so to do leaves or attempts to leave the Cook Islands without the permission in writing Leaving Cook Islands while failing to maintain child an offence.

of a Judge of the High Court, shall be guilty of an offence punishable by imprisonment for any term not exceeding two years.

(2.) In any prosecution under this section the burden of proving that the permission of a Judge was so given shall be upon the accused.

Leaving Cook Islands with intent to desert wife or child an offence.

571. Every person who is the husband of any woman or the father of any child, and who leaves or attempts to leave the Cook Islands with the intention of failing without reasonable cause to make adequate provision for the maintenance of that wife or child during his absence, shall be guilty of an offence punishable by imprisonment for any term not exceeding two years.

Attempting to leave the Cook Islands.

572. Every person shall be deemed to attempt to leave the Cook Islands within the meaning of this Part of this Act who does any act with intent to leave those islands.

Evidence of intent.

573. In any prosecution for an offence against this Part of this Act the fact that the defendant has at any time within three years after leaving the Cook Islands habitually made default in obeying an order of maintenance or in providing his wife or child with adequate maintenance shall be sufficient evidence, unless the contrary is proved, that the defendant left the Cook Islands with intent so to make default.

PART XXI.

PERSONS OF UNSOUND MIND.

Orders of Medical Custody.

Application by Medical Officer to High Court.

574. A Chief Medical Officer may make application to the High Court for an order committing any person to medical custody under this Part of this Act on the ground that he is of unsound mind.

Hearing of application.

575. No such order shall be made except on examination of the person alleged to be of unsound mind, and on the production to the Court of a certificate by a Chief Medical Officer or an Assistant Medical Officer that the person in respect of whom the order is to be made is of unsound mind and that his detention in medical custody is necessary in his own interests or for the safety of other persons.

Order of medical custody.

576. If the Court is satisfied on the examination of the person so alleged to be of unsound mind, and on hearing such further evidence (if any) as the Court thinks necessary, that he is of unsound mind and that his detention in medical custody is necessary in his own interests or for the safety of other persons, the Court may make an order (hereinafter called an order of medical custody) committing such person to medical custody for such period as the Court thinks fit, not exceeding six months.

Renewal of order.

577. Any such order may at any time and from time to time, whether before or after the expiry thereof, be renewed for such further period, not exceeding six months, as the Court on a further application and certificate as aforesaid thinks fit.

Cancellation of order.

578. Any such order may be at any time cancelled by the High Court.

Discharge from custody.

579. Any person so committed to medical custody may be at any time discharged from custody by the Resident Commissioner, and the order of medical custody shall thereupon lapse.

580. Any person against whom an order of medical custody has been so made may thereupon be arrested by any constable or Medical Officer, and shall, while the order remains in force, be detained at such hospitals or other places in the Cook Islands, and in the custody of such Medical Officer, as may from time to time be determined in that behalf by the Chief Medical Officer, either generally or in respect of any particular case or class of cases.

Arrest and detention of persons committed to medical custody.

581. The Governor in Council may make regulations for the custody, care, treatment, visitation, and discipline of all persons so committed to medical custody.

Regulations as to treatment of persons so detained.

582. When an order of medical custody has been so made against any person the High Court may, at the same time or at any time thereafter while the order remains in force, issue under the seal of the Court a warrant for the removal of that person from the Cook Islands to New Zealand.

Removal from the Cook Islands to New Zealand.

583. No such warrant shall be issued unless the Court is satisfied on the certificate of the Chief Medical Officer and on the examination of the person alleged to be of unsound mind that his removal from the Cook Islands to New Zealand is necessary in his own interests or for the safety of other persons.

Conditions of removal.

584. On the issue of any such warrant for the removal of any person to New Zealand he may be taken to New Zealand in the custody of any person appointed in that behalf by a Chief Medical Officer in any ship belonging to His Majesty or in any British ship.

Method of removal

585. On arrival in New Zealand he shall be forthwith brought before a Stipendiary Magistrate, together with the warrant and a certificate of a Chief Medical Officer, authenticated by the seal of the High Court, certifying that the person so committed is of unsound mind, and setting forth such particulars as to the physical and mental condition of that person as the Chief Medical Officer thinks necessary.

Persons so removed to New Zealand to be brought before a Magistrate.

586. The Magistrate may thereupon, without further application or evidence, make in respect of the person so brought before him a reception order under the Mental Defectives Act, 1911, in the same manner, so far as applicable, as if an application for a reception order had been made in accordance with that Act, and the reception order so made shall be deemed for all purposes to be a reception order made under that Act, and shall have effect accordingly.

Magistrate may make a reception order.

587. (1.) Part VIII of the Mental Defectives Act, 1911 (relating to the administration of the estates of persons of unsound mind), shall in New Zealand extend and apply to property (other than interests in Native land) situated in the Cook Islands and belonging to a European of unsound mind.

Administration of estates of persons of unsound mind.

(2.) The High Court shall have no jurisdiction to appoint a committee of the person or estate of a lunatic.

588. Any person against whom an application has been made for an order of medical custody may be arrested by any constable or other person under a warrant issued by a Judge or Registrar of the High Court.

Warrant for arrest of persons of unsound mind.

589. Any person believed on reasonable grounds to be of unsound mind and to be dangerous to himself or others may be arrested without

Arrest of persons of unsound mind without warrant.

warrant by a constable or any other person, and shall be forthwith brought before a Judge or Registrar of the High Court, or before a Resident Commissioner or Resident Agent, or before any European officer of the Cook Islands Public Service, who may from time to time make such order for his custody as is thought fit, pending the making and determination of an application for an order of medical custody.

Criminal Lunatics.

Insane persons not to be tried for offences.

590. If any person on being charged with an offence before the High Court is found to be of unsound mind so that he cannot understand the nature of the proceedings, he shall not be tried, but the High Court shall order him to be detained in prison or in some other place of security until the pleasure of the Resident Commissioner or (in the case of a charge of murder or manslaughter) the pleasure of the Governor is known.

Detention of accused persons acquitted on ground of insanity.

591. If any person on his trial for an offence before the High Court is found to have been insane at the time of the commission of the offence, he shall be found not guilty on the ground of insanity, and the Court shall order him to be detained in prison or in some other place of security until the pleasure of the Resident Commissioner or (in the case of a charge of murder or manslaughter) the pleasure of the Governor is known.

Discharge.

592. (1.) Except in the case of a charge of murder or manslaughter, a person shall not be detained under such an order for a longer period than one month, and may at any time be discharged by the Resident Commissioner.

(2.) In the case of a charge of murder or manslaughter any person so detained may be at any time discharged by the Governor.

Orders of medical custody of criminal lunatics.

593. (1.) When any person is so detained, whether in the case of a charge of murder or manslaughter or otherwise, the High Court shall have the same jurisdiction to make an order of medical custody or to issue a warrant for removal to New Zealand as in the case of any other person of unsound mind.

(2.) Any order of medical custody so made shall supersede the order for detention during the pleasure of the Resident Commissioner or the Governor, save that, in the case of a charge of murder or manslaughter, no person shall be discharged from custody either in the Cook Islands or New Zealand except with the consent of the Governor.

The defence of insanity in criminal prosecutions.

594. (1.) No person charged with any offence shall be acquitted on the ground of insanity unless the offence was committed by him while labouring under natural imbecility or disease of the mind to such an extent as to render him incapable of understanding the nature or quality of the act done by him or of knowing that such act was wrong.

(2.) A person labouring under specific delusions but in other respects sane shall not be acquitted on the ground of insanity unless the delusions caused him to believe in the existence of some state of things which, if it existed, would justify or excuse his act.

(3.) Every one shall be presumed to be and to have been sane unless the contrary is proved.

PART XXII.

INTOXICATING LIQUOR.

595. (1.) It shall not be lawful for any person to manufacture any intoxicating liquor in the Cook Islands. Manufacture of intoxicating liquor prohibited.

(2.) Any person committing any offence against this section shall be liable to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding three months.

(3.) All intoxicating liquor manufactured in breach of this section may be seized and destroyed by any officer of Customs or police.

596. (1.) Save as provided by this Part of this Act, it shall not be lawful to import any intoxicating liquor into the Cook Islands. Importation of intoxicating liquor prohibited.

(2.) This section shall be construed and shall have effect in all respects as if it formed part of the Customs Act, 1913, and as if the importation of intoxicating liquor was prohibited by section forty-six of that Act.

597. Every person who in New Zealand is knowingly concerned in the importation or attempted importation of intoxicating liquor into the Cook Islands in breach of the last preceding section, or is knowingly concerned in the exportation of intoxicating liquor from New Zealand or elsewhere for importation into the Cook Islands in breach of that section, shall be deemed guilty of an offence against the Customs Act, 1913, and shall be liable accordingly to a penalty of two hundred pounds. Persons in New Zealand concerned in importation of intoxicating liquor into Cook Islands guilty of an offence.

598. (1.) Save so far as provided by this Part of this Act, it shall not be lawful for any person to sell or offer for sale or have in his possession for sale any intoxicating liquor in the Cook Islands. Sale of intoxicating liquor prohibited.

(2.) Every person who commits an offence against this section shall be liable to a fine not exceeding fifty pounds.

(3.) For the purposes of this section a contract of barter, or any other contract under or by virtue of which the property in any intoxicating liquor passes to any other person, shall be deemed to be a contract of sale.

599. (1.) Except by or with the approval of a Medical Officer for medicinal purposes, it shall not be lawful in the Cook Islands to give or administer any intoxicating liquor to a Native, or to permit any such liquor to be consumed by a Native. Giving intoxicating liquor to a Native prohibited.

(2.) Except with the approval of a Medical Officer for medicinal purposes, it shall not be lawful in the Cook Islands for any Native to consume intoxicating liquor or to have such liquor in his possession for the purpose of consumption by him.

(3.) Every person who commits an offence against this section shall be liable to a fine not exceeding fifty pounds when the offender is a European, or five pounds when the offender is a Native.

(4.) Nothing in this section shall apply to the use of wine for sacramental purposes in accordance with the practice of the Christian religion.

600. (1.) Save so far as provided by this Part of this Act, it shall not be lawful for any person to solicit or receive in the Cook Islands any order for intoxicating liquor. Soliciting or receiving orders for intoxicating liquor prohibited.

Packages of
intoxicating liquor
to be marked as
such.

(2.) Any person who commits a breach of this section shall be liable to a fine not exceeding fifty pounds.

601. (1.) It shall not be lawful for any person in the Cook Islands to send or deliver to any person in those islands, or to send to any place situated therein, any package containing intoxicating liquor, unless the package bears distinctly written or printed on the outside thereof a statement that it contains such liquor.

(2.) Any person who commits an offence against this section shall be liable to a fine not exceeding twenty pounds.

(3.) Any constable or officer of Customs may detain and in the presence of at least two witnesses examine the contents of any package in respect whereof a violation of this section is reasonably suspected by him.

(4.) Any person who resists or obstructs any such detention or examination shall be liable to a fine not exceeding twenty pounds.

Resident
Commissioner may
import liquor for
sale or for public
purposes.

602. (1.) A Resident Commissioner may, for and on behalf of the Crown, purchase in New Zealand or elsewhere and import into the Cook Islands such intoxicating liquor as he thinks required from time to time, either for the hospitals and other public services of the said islands or for sale to private persons under the provisions hereinafter contained.

(2.) The cost of the purchase, importation, and storage of all liquor so purchased shall be paid out of the Cook Islands Treasury.

(3.) All liquor so imported shall, pending the sale or other lawful disposition thereof, remain in the custody and control of a Collector of Customs or other European officer in the Cook Islands Public Service authorized in that behalf by the Resident Commissioner.

(4.) The officer having the custody of any such liquor may, if and as he thinks fit, but subject to regulations and to any directions received from the Resident Commissioner, sell such liquor to any person in the Cook Islands for cash, and not otherwise, at prices to be determined by the Resident Commissioner, not being less than the cost thereof to the Crown, and the proceeds of all such sales shall be part of the public revenues of the Cook Islands.

(5.) No intoxicating liquor shall be so sold to any Native.

(6.) Such liquor shall be sold only in bottles or other receptacles duly closed and sealed in such manner that the liquor cannot be extracted therefrom without breaking the seal, and every such bottle or receptacle shall have thereon a label setting forth the kind and price of the liquor contained therein.

(7.) Any Collector of Customs or other officer of the Cook Islands Public Service who commits or is knowingly a party to any breach of the provisions of this section shall be liable on conviction to a fine not exceeding twenty pounds, and shall also be deemed guilty of misconduct in the execution of his office.

"Intoxicating
liquor" defined.

603. The term "intoxicating liquor" as used in this Part of this Act means alcohol and any liquor containing alcohol, but, save so far as regulations may otherwise prescribe, does not include—

(a.) Perfumery or medicinal preparations containing spirit:

(b.) Methylated spirit and other preparations containing spirit but not suitable for human consumption:

(c.) Fermented or other liquor containing less than three per centum of proof spirit.

PART XXIII.

ROADS.

604. In this Act the term "road" means a public right of way, "Road" defined or the land which is subject to such a right of way, as the context may require.

605. All roads existing in the Cook Islands at the commencement of this Act shall continue to exist as if established under this Act. Existing roads.

606. (1.) The Minister for the Cook Islands, if satisfied that any Crown, European, or Native land has been continuously used as a public highway as of right for not less than five years before the commencement of this Act, may by warrant proclaim that land as a road. Proclamation of existing roads.

(2.) Every warrant under this section shall be conclusive that the road so proclaimed was theretofore a public highway, and no compensation shall be payable to any person in respect thereof.

607. (1.) The Minister for the Cook Islands may by warrant proclaim any Crown, European, or Native land as a road. Proclamation of new roads.

(2.) All persons having any interest in such land and suffering loss or damage by reason of the proclamation of a road under this section shall be entitled to compensation for that loss or damage in the same manner as in the case of land taken for public purposes under Part X of this Act.

608. (1.) A road in the Cook Islands, whether constituted before or after the commencement of this Act, shall not as such be vested in the Crown, but shall belong in accordance with the common law to the adjoining owners or to such other persons as would have been entitled thereto had no public right of way existed in respect thereof. Roads not to vest in the Crown.

(2.) Nothing in this section shall take away any title acquired by His Majesty or any other person before the commencement of this Act.

609. All roads in the Cook Islands may be formed, maintained, and repaired by the Crown, and shall be deemed to be in the possession of the Crown. Maintenance and control of roads.

610. The making of a freehold order in respect of customary land shall in no way affect the existence of any roads existing on that land at the date of the order. Effect of freehold order on roads.

611. (1.) Upon the making of any partition of Native freehold land it shall be the duty of the Native Land Court, by order, to lay out upon the land partitioned such road-lines (if any) as the Court thinks necessary or expedient for the due occupation and use of the several parcels. Roads laid out on partition or investigation of title.

(2.) Upon the making of a freehold order the Native Land Court shall, by order, lay out upon the land comprised in the freehold order such road-lines (if any) as the Court thinks necessary or expedient for the due occupation and use of the land.

(3.) The Minister may by warrant proclaim as a road any road-line so laid out by the Court or any portion of such road-line, and no compensation shall be payable to any person in respect thereof.

(4.) Until and unless a road has been so proclaimed, the Native Land Court may, on the application or with the consent of the Resident Commissioner, cancel or modify any order by which a road-line has been so laid out.

Dedication of
roads by Natives.

612. A Native shall have the same capacity of dedicating a road over Native land vested in him (whether freehold or customary) as if he was a European and as if the land was European land, and none of the provisions of this Act relating to alienation shall apply to any such dedication.

Closing of roads.

613. The Minister may by warrant close, in whole or in part, any road in the Cook Islands, but not so as thereby to leave any area of Crown land or of European land or of Native freehold land without any immediate access to a road.

Warrants as to
roads to be
gazetted.

614. Every warrant of the Minister under this Part of this Act shall be under his hand and the Seal of the Cook Islands, and shall be published in the *New Zealand Gazette*, and shall take effect according to its tenor upon such publication or upon any later date specified in that behalf in the warrant.

PART XXIV.

THE LAWS OF THE COOK ISLANDS: GENERAL PROVISIONS.

Application of the Laws of New Zealand.

Law of England as
in the year 1840 to
be in force in the
Cook Islands.

615. The law of England as existing on the fourteenth day of January in the year eighteen hundred and forty (being the year in which the Colony of New Zealand was established) shall be in force in the Cook Islands, save so far as inconsistent with this Act or inapplicable to the circumstances of those islands:

Provided that no Act of the Parliament of England or of Great Britain or of the United Kingdom passed before the said fourteenth day of January in the year eighteen hundred and forty shall be in force in the Cook Islands unless and except so far as it is in force in New Zealand at the commencement of this Act.

Jurisdiction of the
High Court.

616. For the purposes of the last preceding section all rules of common law or equity relating to the jurisdiction of the superior Courts of common law and of equity in England shall be construed as relating to the jurisdiction of the High Court of the Cook Islands.

Common law and
equity to be
administered
concurrently.

617. All Courts in the Cook Islands shall within the limits of their jurisdiction administer common law and equity concurrently, and in all cases in which there is any conflict between common law and equity with reference to the same matter the rules of equity shall prevail.

Statute law of New
Zealand not
applicable to Cook
Islands.

618. Save so far as otherwise expressly provided, the statute law of New Zealand, whether enacted before or after the commencement of this Act, shall not be in force in the Cook Islands.

When Act in force
in Cook Islands,
amendments and
regulations to be in
force also.

619. (1.) When any Act of the Parliament of New Zealand is in force in the Cook Islands, every existing or future amendment of that Act, and all existing or future regulations, rules, Orders in Council, and other acts of authority in force under any such Act, shall so far as applicable, and with all necessary modifications, be or become also in force therein, except where otherwise expressly provided.

(2.) Notwithstanding anything in this section, rules of Court in force in New Zealand under any Act which is in force in the Cook Islands shall not themselves be in force in the Cook Islands unless it is expressly so provided.

620. Every Act of the Parliament of New Zealand which by virtue of this Act is in force in the Cook Islands shall, in its application to those islands, be read subject to the provisions of this Act, and subject also to all modifications necessary for such application.

Other Acts in force in Cook Islands to be read subject to this Act.

621. In every enactment in force in the Cook Islands every reference to the trial of offences by way of indictment or by way of summary proceedings shall, in the application of that enactment to the Cook Islands, be construed as a reference to the trial of such offences by the High Court in the ordinary course of its criminal jurisdiction and procedure.

Criminal procedure in Cook Islands.

622. (1.) The Acts Interpretation Act, 1908, shall extend to and be in force in the Cook Islands.

Acts Interpretation Act, 1908, in force in Cook Islands.

(2.) Notwithstanding anything to the contrary in the Acts Interpretation Act, 1908, the term "New Zealand" as used in any Act, whether now in force in New Zealand or hereafter to be passed, shall not include the Cook Islands, except where a contrary intention appears.

(3.) Section five of the Acts Interpretation Act, 1908, is hereby amended by adding to the definition of "the colony" and the other terms defined therewith the words "other than the Cook Islands."

Amendment.

(4.) The Acts Interpretation Act, 1908, shall, so far as applicable, and subject to this Act, apply to all Ordinances of an Island Council in the same manner as to Acts of Parliament.

623. (1.) The Administration Act, 1908, shall, subject to this Act, extend to and be in force in the Cook Islands, with the following modifications.

Administration Act, 1908, in force in Cook Islands.

(2.) Every reference in that Act to New Zealand shall be construed as a reference to the Cook Islands, and every reference therein to the Supreme Court shall be construed as a reference to the High Court.

(3.) The provisions contained in the said Act as to the Public Trustee shall not be in force in the Cook Islands.

(4.) All rules of practice and procedure which by the said Act may be made in accordance with the Judicature Act, 1908, may be made in the same manner as other rules of the practice and procedure of the High Court.

624. (1.) The Arbitration Act, 1908, shall extend to and be in force in the Cook Islands, with the following modifications.

Arbitration Act, 1908, in force in Cook Islands.

(2.) Every reference in that Act to the Supreme Court shall be read as a reference to the High Court, and every reference to New Zealand shall be read as a reference to the Cook Islands.

(3.) Rules for the purpose of giving effect to the said Act in the High Court may be made in the same manner as other rules regulating the practice and procedure of that Court.

625. (1.) The Bills of Exchange Act, 1908, shall extend to and be in force in the Cook Islands.

Bills of Exchange Act, 1908, in force in Cook Islands.

(2.) In the application of that Act to the Cook Islands any reference to New Zealand shall be read as a reference to the Cook Islands.

626. (1.) The Chattels Transfer Act, 1908, shall extend to and be in force in the Cook Islands, with the following modifications.

Chattels Transfer Act, 1908, in force in Cook Islands.

(2.) In the application of that Act to the Cook Islands every reference to the Supreme Court shall be read as a reference to the High Court, and every reference to a Justice of the Peace shall be read as a reference to a Judge of the High Court.

(3.) Instruments in respect of goods situated in the Island of Niue shall be registered in the office of the Registrar of the High Court in that island, and instruments in respect of goods situated in any other part of the Cook Islands shall be registered in the office of the Registrar of the High Court at Rarotonga.

Copyright Act,
1913, in force in
Cook Islands.

627. (1.) The Copyright Act, 1913, shall apply to the Cook Islands in the same manner in all respects as if the Cook Islands were for all purposes part of New Zealand, and the term "New Zealand" as used in that Act shall, both in New Zealand and in the Cook Islands, be construed as including the Cook Islands accordingly.

(2.) The High Court shall have no jurisdiction in civil proceedings under that Act.

(3.) Offences punishable on summary conviction under that Act shall, if committed in the Cook Islands, be punishable by the High Court in the ordinary course of its criminal jurisdiction.

Deaths by
Accidents
Compensation Act,
1908, in force in
Cook Islands.

628. (1.) The Deaths by Accidents Compensation Act, 1908, shall extend to and be in force in the Cook Islands.

(2.) All proceedings in the Cook Islands under that Act shall be taken and prosecuted in the High Court in the ordinary course of its civil jurisdiction.

Demise of the
Crown Act, 1908, in
force in Cook
Islands.

629. (1.) The Demise of the Crown Act, 1908, shall extend to and be in force in the Cook Islands.

(2.) The term "New Zealand" as used in that Act shall, both in New Zealand and in the Cook Islands, be construed as including the Cook Islands.

Parts of Infants
Act, 1908, in force
in Cook Islands.

630. (1.) Part I and Part II of the Infants Act, 1908 (relating to the guardianship, custody, contracts, and wills of infants), shall extend to and be in force in the Cook Islands.

(2.) Every reference in that Act to the Supreme Court shall, in its application to the Cook Islands, be construed as a reference to the High Court.

Marine Insurance
Act, 1910, in force
in Cook Islands.

631. The Marine Insurance Act, 1910, shall extend to and be in force in the Cook Islands.

Mercantile Law
Act, 1908, in force
in Cook Islands.

632. (1.) The Mercantile Law Act, 1908, shall extend to and be in force in the Cook Islands.

(2.) Both in the application of that Act to the Cook Islands and in its application to New Zealand the term "New Zealand" as used in that Act shall be deemed to include the Cook Islands as being part of New Zealand.

Opium Act, 1908,
in force in Cook
Islands.

633. (1.) The Opium Act, 1908, shall extend to and be in force in the Cook Islands, subject to the following modifications.

(2.) Every reference in that Act to New Zealand shall be read as a reference to the Cook Islands, and every reference to a Justice of the Peace shall be read as a reference to a Judge of the High Court.

(3.) All criminal jurisdiction conferred by that Act may be exercised by the High Court in the ordinary course of its criminal jurisdiction.

Partnership Act,
1908, in force in
Cook Islands.

634. (1.) The Partnership Act, 1908, shall extend to and be in force in the Cook Islands.

(2.) In the application of that Act to the Cook Islands —

(a.) Every reference to the Supreme Court shall be read as a reference to the High Court :

(b.) Every reference to a Justice of the Peace shall be read as a reference to a Judge of the High Court :

(c.) Every reference to an indictable offence shall be read as a reference to an offence punishable by the High Court in the ordinary course of its criminal jurisdiction.

635. (1.) The Patents, Designs, and Trade-marks Act, 1911, shall apply to the Cook Islands in the same manner in all respects as if the Cook Islands were for all purposes part of New Zealand, and the term "New Zealand" as used in that Act shall, both in New Zealand and in the Cook Islands, be construed as including the Cook Islands accordingly.

Patents, Designs,
and Trade-marks
Act, 1911, in force
in Cook Islands.

(2.) The High Court shall have no jurisdiction in civil proceedings under that Act.

(3.) Offences punishable on summary conviction under that Act shall, if committed in the Cook Islands, be punishable by the High Court in the ordinary course of its criminal jurisdiction.

(4.) All patents in force in New Zealand at the commencement of this Act shall extend to and be in force in the Cook Islands in the same manner as in New Zealand.

(5.) All designs and trade-marks registered in New Zealand at the commencement of this Act shall have the same protection in the Cook Islands as in New Zealand.

636. (1.) The Post and Telegraph Act, 1908, shall apply to the Cook Islands in the same manner in all respects as if those islands were for all purposes part of New Zealand, subject, however, to the following modifications.

Post and
Telegraph Act,
1908, in force in
Cook Islands.

(2.) Every offence against that Act committed in the Cook Islands shall be punishable in those islands by the High Court in the ordinary course of its criminal jurisdiction.

(3.) All powers conferred upon a Magistrate by that Act may be exercised in the Cook Islands by the High Court.

(4.) The term "New Zealand" as used in that Act shall, both in New Zealand and in the Cook Islands, be construed as including the Cook Islands.

637. (1.) The Property Law Act, 1908, shall extend to and be in force in the Cook Islands.

Property Law Act,
1908, in force in
Cook Islands.

(2.) In the application of that Act to the Cook Islands—

(a.) Every reference to the Supreme Court shall be read as a reference to the High Court :

(b.) Every reference to a Judge shall be read as a reference to a Judge of the High Court :

(c.) Every reference to New Zealand shall be read as a reference to the Cook Islands :

(d.) Every reference to a Registrar of the Supreme Court shall be read as a reference to a Registrar of the High Court.

638. (1.) The Sale of Goods Act, 1908, shall extend to and be in force in the Cook Islands, subject to the following modifications.

Sale of Goods Act,
1908, in force in
Cook Islands.

(2.) Section six of the said Act shall not be in force in the Cook Islands, and no contract for the sale of goods shall in those islands be unenforceable because of the want of any note or memorandum in writing.

(3.) Section twenty-four of the said Act (relating to sales in market overt) shall not be in force in the Cook Islands.

Trustee Act, 1908,
in force in Cook
Islands.

639. (1.) The Trustee Act, 1908, shall extend to and be in force in the Cook Islands, subject to the following modifications.

(2.) Every reference in the said Act to New Zealand shall be construed as a reference to the Cook Islands, and every reference to the Supreme Court shall be construed as a reference to the High Court.

(3.) Every reference in the said Act to the Registrar of the Supreme Court for any judicial district shall be construed as a reference to any Registrar of the High Court.

Wills Act
Amendment Act,
1852, in force in
Cook Islands.

640. The Imperial Act the Short Title of which is the Wills Act Amendment Act, 1852 (15 and 16 Victoria, chapter 24), shall extend to and be in force in the Cook Islands.

Limitation of
actions.

641. (1.) The law of the Cook Islands as to prescription and the limitation of actions shall be the same as that which is in force for the time being in New Zealand.

(2.) For the purposes of the law as to prescription and the limitation of actions New Zealand shall in the Cook Islands be deemed to be parts beyond the seas, and the Cook Islands shall in New Zealand be deemed to be parts beyond the seas.

(3.) No right, title, estate, or interest in Native land shall be acquired or lost by prescription or limitation.

(4.) For the purposes of the law of prescription and the limitation of actions no account shall be taken of time which has elapsed before the commencement of this Act.

Miscellaneous Rules of Law.

Legal status of
married women.

642. (1.) Save where otherwise provided by this Act, the legal capacity of a married woman, whether contractual, proprietary, testamentary, or of any other kind whatsoever, shall be the same as that of an unmarried woman.

(2.) Save in respect of intestate succession, marriage shall not confer on either party thereto any rights to or in respect of the property of the other.

(3.) The rule of the common law that for certain purposes a husband and wife are deemed to be one person only is for all purposes hereby abolished.

(4.) A husband shall not be responsible, as such, for torts committed by his wife.

(5.) Nothing in this section shall affect the validity or operation of a restraint on anticipation.

Joint liability.

643. A judgment against one or more of several persons jointly or jointly and severally liable shall not operate as a bar or defence to an action or other proceeding against any of such persons against whom judgment has not been recovered, except to the extent to which the judgment has been satisfied, any rule of law notwithstanding.

Contracts of
guarantee.

644. No special promise by any person to answer for the debt, default, or miscarriage of another person, being in writing and signed by the party to be charged therewith or some other person lawfully authorized by him, shall be deemed invalid to support an action or other proceeding to charge the person by whom such promise was made by reason only that the consideration for such promise does not appear in writing or by necessary inference from a written document.

645. The jurisdiction of the High Court or of any other Court in the Cook Islands to enforce any contract made by a Native (other than a contract of alienation of Native land duly confirmed by the Native Land Court) shall be discretionary; and if the Court is of opinion, having regard to the interests of the Native, that the contract is oppressive, unreasonable, or improvident, the Court may either refuse to enforce the contract or may enforce it only to such extent and on such terms as the Court thinks fit.

Contracts by
Natives.

646. No security given by a Native over any property shall be enforceable, whether by the exercise of a power of sale or otherwise, without the leave of the High Court.

Securities given
by Natives.

647. When in any action for damages the cause of action depends on the negligence of a servant of the defendant, it shall be no defence that the plaintiff was engaged in common employment with that servant.

Employer's
liability.

648. In any action for damages for the act of a dog in attacking a human being or any animal, it shall be no defence that the defendant had no knowledge of the dangerous or mischievous character of the dog.

Liability of owners
of dogs.

649. (1.) Notwithstanding anything to the contrary in any Act, or in any rule of law or in any lease to the contrary, it shall not be lawful for any person to distrain for rent.

Distress for rent
abolished.

(2.) This section shall extend and apply to leases granted by the Crown.

650. The calendar in the Cook Islands shall be one day behind the calendar in New Zealand, so that the first day of January in the Cook Islands shall be that day which is coincident for the most part of its duration with the second day of January in New Zealand, and so on from day to day throughout the year, and so that Sunday in the Cook Islands shall be that day which is coincident for the most part of its duration with Monday in New Zealand, and so on from day to day throughout the week.

Calendar of the
Cook Islands.

651. The hour of the day shall in each of the islands included in the Cook Islands be determined in accordance with the meridian of that island.

Time of day in the
Cook Islands.

652. All references to time in any enactment in force or which may hereafter be in force in the Cook Islands shall in respect of the application of that enactment to the Cook Islands be construed in accordance with the calendar of the Cook Islands as established by this Act.

Statutory references
to time.

653. (1.) Any Judge or Registrar of the High Court or of the Native Land Court, or any Resident Commissioner, Resident Agent, Collector of Customs, Medical Officer, Commissioner of the Supreme Court, or Solicitor of the Supreme Court, may in the Cook Islands take and receive in any matter the declaration of any person voluntarily making the same before him in the form in the Second Schedule to this Act.

Statutory
declarations.

(2.) If any declaration so made is false in any material particular, the person wilfully making such false declaration shall be guilty of an offence punishable by imprisonment for two years.

(3.) Any declaration made in the Cook Islands under and in accordance with this section shall be deemed to be a statutory declaration within the meaning of that term as used in any enactment in force in the Cook Islands or in New Zealand.

Taxes on Native land.

654. All taxes imposed by any Act, Ordinance, or other lawful authority upon Native land or upon any person in respect of the ownership or occupation of Native land shall constitute a charge upon that land.

Bankruptcy.

655. (1.) Bankruptcy in New Zealand shall have the same effect in respect to property situated in the Cook Islands as if that property was situated in New Zealand.

(2.) Nothing in this section shall apply to the interest of a Native in Native land or to the interest of any person in customary land.

Warrants of arrest.

656. (1.) Except where other provision is made by law in that behalf, any warrant for the arrest of any person in the Cook Islands may be directed either to any constable or other person by name, or generally to the constables of the Cook Islands or of any island included therein.

(2.) When such a warrant is directed to constables generally, any such constable may execute the warrant in like manner as if it was directed specially to him by name.

(3.) Any such warrant may be granted and executed on a Sunday, and either by day or night.

(4.) Every such warrant shall name or otherwise describe the person against whom it is issued.

(5.) It shall not be necessary to make such warrant returnable at any particular time, but it may remain in full force until executed.

Trespass *ab initio*.

657. No lawful entry, seizure, arrest, or other act shall by reason of any unlawful act subsequent thereto be deemed to have been a trespass *ab initio*.

Repeals and Validation.

Repeal of all existing laws of the Cook Islands.

658. (1.) So far as the Parliament of New Zealand has authority and jurisdiction in that behalf, and save so far as otherwise expressly provided in this Act, all Acts, Ordinances, regulations, and other enactments and laws whatsoever (including Native customs and usages so far as they may have the force of law) now in force in the Cook Islands or in any part thereof are, so far as there in force, hereby repealed and abolished.

(2.) Nothing in this section shall extend or apply to the Customs Act, 1913, or the Customs Duties Act, 1908, or their amendments, or to any regulations or other acts of authority originating under those Acts.

(3.) Notwithstanding anything in this section, all Ordinances of the Federal Council or of any Island Council, and all Acts of the former Parliament of the Cook Islands, which are at the commencement of this Act in force in the Cook Islands or any part thereof shall, so far as consistent with this Act, remain in force until the first day of July, nineteen hundred and sixteen, and no longer, but they may at any earlier time be repealed in respect of any island by an Ordinance of the Island Council or by Order in Council.

(4.) Section twenty of the Acts Interpretation Act, 1908 (relating to the repeal of Acts), shall extend and apply to all Acts, Ordinances, regulations, enactments, and laws repealed or abolished by or in pursuance of this section.

(5.) On the abolition of any Court of justice in the Cook Islands by or in pursuance of this Act all proceedings then pending in that Court, whether civil or criminal, may be continued and completed (save so far as other provision is made in that behalf by this Act) in the High Court in accordance with the ordinary procedure of that Court so far as may be and with all necessary modifications; and all judgments, orders, convictions, sentences, and other judicial acts theretofore given, made, or done by the Court so abolished shall remain in full force and effect, and shall (save so far as other provision is made by this Act in that behalf) have the same operation as if given, made, or done by the High Court with full authority, and may be executed and enforced accordingly.

659. Without limiting the generality of the last preceding section, the enactments mentioned in the Third Schedule hereto are hereby repealed to the extent indicated in that Schedule. Enactments
specifically
repealed.

660. (1.) No Ordinance of the Federal Council or of any Island Council which has been consented to by the Governor before the passing of this Act, or which may be consented to by the Governor before the commencement of this Act, shall in any Court or in any proceedings (whether pending at the passing of this Act or commenced thereafter) be questioned or held invalid because of any defect in the constitution of the Federal Council or of any Island Council, or in the procedure by which the Ordinance was passed; and all such Ordinances shall be deemed to be and at all times to have been in full force and effect notwithstanding any such defect. Validation of
Ordinances.

(2.) This section shall, notwithstanding anything to the contrary hereinbefore contained, come into operation on the passing of this Act.

SCHEDULES.

Schedules

FIRST SCHEDULE.

BOUNDARY-LINES ENCLOSING THE COOK ISLANDS.

A LINE commencing at a point at the intersection of the twenty-third degree of south latitude and the one-hundred-and-fifty-sixth degree of longitude west of Greenwich, and proceeding due north to the point of intersection of the eighth degree of south latitude and the one-hundred-and-fifty-sixth degree of longitude west of Greenwich; thence due west to the point of intersection of the eighth degree of south latitude and the one-hundred-and-sixty-seventh degree of longitude west of Greenwich; thence due south to the point of intersection of the seventeenth degree of south latitude and the one-hundred-and-sixty-seventh degree of longitude west of Greenwich; thence due west to the point of intersection of the seventeenth degree of south latitude and the one-hundred-and-seventieth degree of longitude west of Greenwich; thence due south to the point of intersection of the twenty-third degree of south latitude and the one-hundred-and-seventieth degree of longitude west of Greenwich; and thence due east to the starting-point at the intersection of the twenty-third degree of south latitude and the one hundred-and-fifty-sixth degree of longitude west of Greenwich.

SECOND SCHEDULE.

FORM OF DECLARATION.

I, A. B. [*Insert place of abode and occupation or description*], do solemnly and sincerely declare that [*Insert facts*]. And I make this solemn declaration conscientiously believing the same to be true, and by virtue of an Act of the Parliament of New Zealand entitled the Cook Islands Act, 1915.

Declared at _____, in the Cook Islands, this _____ day of _____, 19 _____
before me—

C. D.,
Judge of the High Court of the Cook Islands [*or Resident Commissioner of Rarotonga, Collector of Customs, Medical Officer of the Cook Islands, Solicitor of the Supreme Court of New Zealand, or otherwise, as the case may be*].

THIRD SCHEDULE.

ENACTMENTS REPEALED.

Title of Enactment.	Extent of Repeal.
The Cook Islands Government Act, 1908	The whole Act.
The Customs Act, 1913	Section 304.
The Licensing Act, 1908	Sections 274 to 283