

New Zealand.



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1892, No. 1.—*Private.*

AN ACT to amend a Deed of Trust made between Ahipene Kaihau, Kerei Tamarere, and Henare Ngaroma Kaihau, of the one part, and the Public Trustee of the other part, and dated the Thirtieth Day of November, One thousand eight hundred and eighty-five. Title.
[22nd August, 1892.]

WHEREAS by deed, in the words and figures following:—

Preamble.

“ This deed made the thirtieth day of November, one thousand eight hundred and eighty-five, between Ahipene Kaihau, Kerei Tamarere, and Henare Ngaroma Kaihau, of Waipipi, in the Colony of New Zealand, aboriginal natives (who are hereinafter referred to as and included in the term ‘ the assignors ’), of the one part, and the Public Trustee incorporated under an Act of the General Assembly of New Zealand (who and whose successors and assigns are hereinafter referred to as ‘ the Trustee ’), of the other part: Whereas by a Crown grant dated the eighteenth day of February, one thousand eight hundred and seventy-eight, one thousand (1,000) acres of land, being the land known as Pehiakura and Kapauta, in the Parish of Waipipi, in the County of Eden, were granted to the assignors and one Paora te Iwi, to whose share the above-named Henare Ngaroma Kaihau has succeeded: And whereas in the said grant there was a proviso preventing the alienation of the said land without the consent of His Excellency the Governor: And whereas the assignors effected a sale of the said lands to one Alexander Muir, junior, for three thousand five hundred pounds (£3,500), and applied for His Excellency’s consent to the said sale, which was agreed to be given on condition that three thousand pounds (£3,000) of the purchase-money should be paid over and assigned to the Trustee to be held by him upon the trusts to be declared by a deed of trust to be executed by the assignors: And whereas a deed of trust in relation to the said moneys was duly prepared but has never been executed, and the said assignors have been paid a

sum of one thousand eight hundred pounds (£1,800) out of the said sum of three thousand five hundred pounds (£3,500), leaving a balance of one thousand seven hundred pounds (£1,700) now remaining: And it is expedient to declare the trusts hereinafter mentioned in relation to the said balance of one thousand seven hundred pounds (£1,700): Now, therefore, this deed witnesseth that the assignors do hereby, in consideration of His Excellency the Governor having consented to the hereinbefore recited alienation, and in pursuance of the hereinbefore recited agreement, assign, transfer, and set over unto the Trustee, all that the said sum of one thousand seven hundred pounds (£1,700), part of the hereinbefore mentioned purchase-money which has been or is about to be paid over to the Trustee as before mentioned, to hold the same upon trust to invest the same in one or more sums upon mortgage or purchase of freehold land in the Colony of New Zealand in such manner and upon such terms as the Trustee shall in his own absolute discretion think fit, with full power to vary or transfer such investment for another or others of a like nature, including power for the purposes of such transposition to sell or dispose of any such lands in any way and on any terms he may in his own absolute discretion think fit, and with power to lease any lands so purchased as aforesaid for any term not exceeding twenty-one (21) years in possession at such rent and upon such terms as the Trustee may determine, and upon further trust to pay the interest and profits arising from such investments to the assignors during their lives in equal shares as tenants in common, and, after the death of any one or more of the assignors, shall stand possessed of the share or shares of the assignor or assignors so dying as aforesaid, both in the said capital sum of one thousand seven hundred pounds (£1,700) and the investments thereof, and in the interest or annual profits thereof, upon trust for the person or persons who, according to the law for the time being regulating the descent of the property of aboriginal natives, or by virtue of a will, shall be entitled to succeed to the property of such deceased assignor or assignors: And it is hereby expressly declared and agreed that it shall not be lawful for the assignors or their successors as aforesaid, or any one or more of them, to alienate, sell, or dispose of their shares or anticipated shares in the said moneys, or the interest, dividends, and income thereof, in any way whatsoever without the consent of His Excellency the Governor first had and obtained.—*AIHIPENE KAIHAU, KEREI TAMARERE, HENARE NGAROMA KAIHAU.*

“Signed by the said Ahipene Kaihau, Kerei Tamarere, and Henare Ngaroma Kaihau, the contents of the foregoing deed having been first read over and thoroughly explained to them in the Maori language by G. T. Wilkinson, duly appointed interpreter and a Justice of the Peace, who hereby certifies that he satisfied himself that they fully understood the purport and effect hereof before signing the same.—G. T. WILKINSON, J.P., 30/11/85”—

Ahipene Kaihau, Kerei Tamarere, and Henare Ngaroma Kaihau settled the sum of seventeen hundred pounds upon the trusts in the

said deed mentioned: And whereas the said deed did not carry out the intention of the settlers, for that the said Henare Ngaroma Kaihau was at and before the time of the making of the said deed and still is the true owner of one moiety of the said sum of money as sole devisee of Paora te Iwi, the antecedent owner of a one-fourth share in the said Crown grant mentioned: And whereas it is deemed advisable to enlarge and amend the conditions of the said deed:

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. The Short Title of this Act is “The Kaihau Trust Money Act, 1892.” Short Title.

2. Notwithstanding anything contained in the deed in the preamble set forth, the Public Trustee shall be deemed to have held and shall henceforth hold the trust money and the investments representing the same in the said deed referred to for the said settlers in manner following, that is to say: as to Ahipene Kaihau and Kerei Tamarere, one-fourth share each, and as to Henare Ngaroma Kaihau, two fourth shares as tenants in common, but nothing herein enacted shall disturb or alter any payments of income made before the passing of this Act. Conditions upon which moneys are held.

3. The settlers, any or either of them, may, with the consent of the Governor, withdraw and receive from time to time any part and parts of the principal of their respective shares, or of the investments representing the same, and the receipt or other sufficient discharge or release of the person so withdrawing the principal of his share shall be a full indemnity to the Public Trustee, and shall terminate the trusts of the said deed as to so much and such part or parts thereof as shall then be paid, assigned, transferred, or conveyed. Settlers may receive proportion of moneys with consent of Governor.

4. The said deed shall henceforth be read and construed as if the terms of this Act had originally been inserted in and formed part of the said deed, and, should any variance occur between the said deed and this Act, this Act shall in all cases prevail. Trust deed, how to be read and construed.