

New Zealand.



ANALYSIS.

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1888, No. 39.

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| Title. | <p>AN ACT to provide for the Management of Real Estate belonging to Infants and Others of the Maori Race under Disability.
 [30th August, 1888.]</p> |
| Short Title. | <p>BE IT 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 Maori Real Estate Management Act, 1888.”</p> |
| Interpretation. | <p>2. In this Act, if not inconsistent with the context,—
 “Native” means an aboriginal native of New Zealand, and includes half-castes and their descendants :
 “Trustees” mean Trustees appointed pursuant to this Act or “The Maori Real Estate Management Act, 1867,” whether original or substituted, and include the survivor of them :
 “Hereditaments” mean land owned by Natives and any estate therein, but does not include land held by Natives under the customs or usages the title whereto has not been investigated by the Native Land Court :
 “Trust estate” means hereditaments accrued to a Native under disability :
 “Court” means the Native Land Court of New Zealand :
 “Judge” and “Chief Judge” mean respectively a Judge or the Chief Judge of the Court.</p> |
| Court may appoint Trustees. | <p>3. If title to hereditaments accrue to a Native being an infant, a lunatic, or being under other disability, the Court may order that such hereditaments shall be vested in Trustees to be named in such order.</p> |
| Powers of Trustees. | <p>Such Trustees shall have the powers and be subject to the legal incidents hereinafter expressed, or as such powers or incidents may be negated or varied by the order.</p> |

The Court, in and by any such order, may negative or vary any of the powers and incidents aforesaid, and such variations may be expressed by reference to the number of sections or subsections of this Act. Powers may be negatived.

4. Where it is made to appear to the Court that it is expedient to appoint a new Trustee, the Court may, by order, appoint a new Trustee, either in substitution for or in addition to any existing Trustee and whether there be any existing Trustee or not at the time of making such order. Appointment of new Trustee.

The person who upon making such order as last aforesaid shall be Trustee shall have all the right and powers as he would have had if appointed by the original order, and trust estate shall vest in him as if he had been appointed by the original order.

5. Trustees may sell and convey lease or let the trust estate or any part or parts thereof: Trustees may sell or lease.

Provided that execution of a conveyance or lease by Trustees shall not be effectual until a Judge of the Supreme Court shall have indorsed upon the deed intended or purporting to be such conveyance or lease, either before or after execution by the Trustee, a minute of his approval of the terms of such sale or lease:

Provided also that a lease other than a building lease shall not be for a term exceeding twenty-one years, and shall be without premium or foregift, or provision for renewal.

6. Purchase-money becoming payable on sales by Trustees shall be paid to the credit of an account to be opened for the purpose by the Public Trustee, whose receipt alone shall be a good discharge to any person paying the same, or be accepted as evidence of payment by a Trust Commissioner. Purchase moneys to be paid to Public Trustee.

Moneys paid to the credit of such account shall not be paid out except with the assent of a Judge first obtained.

7. For the purposes and subject to the provisions of this Act Trustees shall have and may exercise the same rights and powers over trust estate as the owners thereof might if not under disability. General powers of Trustees.

8. Trustees out of the rents and proceeds of trust estate may expend money for the following purposes with respect to the trust estate from whence the same shall arise, and may exercise the following powers:— On what Trustees may expend trust moneys.

- (1.) Keep buildings and fences in good repair, and maintain the same, with their appurtenances, in good order and condition;
- (2.) Erect such fence as the owner or occupier of such land is by law required to make;
- (3.) Cut and gather crops growing thereon;
- (4.) Insure any buildings thereon from loss by fire;
- (5.) Pay any rates by law due and payable;
- (6.) Contribute towards the formation of any road, footway, or improvement projected or completed under the authority of any law by which the Government or any municipal, provincial, or local government body make any contribution.

With the sanction of the Court previously obtained, Trustees may do any other act necessary or desirable for the preservation, maintenance, or improvement of the trust estate.

What Trustees
may do.

9. Trustees for the time being may do the following things:—
- (1.) Pay and discharge all costs and expenses incurred by or on behalf of their *cestui-que trust* in appearing before any Court or other judicature for the purpose of establishing their title to such hereditaments, or consequent or attending thereon, or for any other purpose which the Judge of such Court or other judicial authority shall certify to have been necessary or beneficial to the parties ;
 - (2.) Pay such portion of the rents and money in their hands as the Governor shall sanction to any widow of a deceased owner of the said hereditaments or person entitled under the certificate of such Judge or other judicial authority, and may also pay to such widow an annuity of such an amount as to them may seem just for her maintenance ;
 - (3.) With the consent of the Court pay any portion of such rents and money to, or divide such portion amongst, any members of the aboriginal tribe whom they may think entitled thereto according to the Native custom applicable to the land from whence or respecting which the fund arose ;
 - (4.) In their own names invest the rents and money in their hands in bonds or debentures issued by the Government of New Zealand (hereinafter called "Government securities") or on mortgage of land and hereditaments or other real securities within the colony, and also from time to time may vary any such investments ;
 - (5.) If the said trust estate is held in trust for infants' Trustees shall stand possessed of the same for the benefit of all and every such infants, to be equally divided among them, share and share alike, the shares of such infants to vest as and when they shall respectively attain the age of twenty-one years ; but if there shall be only one such infant *cestui-que trust* who shall attain the age of twenty-one years, then the whole of the trust estate shall vest in such one, subject, however, in all cases to any annuity payable under the foregoing provisions: Provided that, if any infant *cestui-que trust* shall die before his or her rents and money shall become vested as aforesaid, leaving children, such children shall succeed to their deceased parents' rents and money or share, and be entitled thereto in manner aforesaid ;
 - (6.) In cases where the property is held in trust for infants, the Trustees may, at their discretion, pay to or apply for or towards the maintenance or education of such infants the whole or any part of the income to which such infants may be entitled in respect of trust estate, whether there be other funds applicable to the same purpose, or any other person bound to provide for such maintenance and education or not ; and the Trustees shall accumulate all the residue of such income, by way of compound interest, by investing the same and the resulting income thereof from time to time in Government securities, or on

mortgage of land and hereditaments or other real securities within the colony, or in the purchase of hereditaments, for the benefit of the person who shall ultimately become entitled to the property from which such accumulation shall have arisen: Provided always that it shall be lawful for the Trustees at any time, if it shall appear to them expedient, to apply the whole or any part of such accumulations as if the same were part of the income arising in the then current year;

- (7.) They may, at their discretion, apply the whole or any part of the accumulations of income or share of an infant, if a male, in placing him in any business, profession, or engagement, or otherwise, for his preferment or advancement in life; and, if a female, may settle her accumulations of income or share on her and her children on her marriage, or pay over the same to trustees for her or to her, for her absolute use on her marriage, as they may think fit;
- (8.) When all the surviving *cestuis-que trust* shall have come of age the Trustees shall wind up the trust estate, and shall divide the residue of the trust property among them, subject to any annuity as aforesaid, if any such there be (for the regular payment of which thereafter they may make such arrangements as they think fit), share and share alike;
- (9.) They may give, do, make, and execute all notices, agreements, deeds, and other instruments and things necessary for carrying into effect the objects of their trust;
- (10.) They may, out of the proceeds of the trust estate, reimburse themselves all costs, charges, and expenses which they may lawfully incur or be reasonably put to in carrying this Act into execution;
- (11.) They may pay to themselves, or to such one of them as they shall fix upon to undertake the administration of the affairs of their trust, and management of the education, advancement, and maintenance of the *cestuis-que trust*, an annual remuneration of five per cent. on the income;
- (12.) And they may, with the consent of the Court first obtained, do all such other things as they may think necessary or beneficial for the advantageous administration of the trust estate and the good of their *cestuis-que trust*.

10. The receipt in writing of Trustees for money payable to them as such Trustees shall be a sufficient discharge for the money therein expressed to be received, and shall effectually exonerate the persons paying the same from seeing to the application thereof, or from being answerable for any loss or misapplication thereof.

Trustees' receipt effectual.

11. A Trustee shall be chargeable for such moneys only as he shall actually have received, although he shall have joined in any receipt for moneys received by any co-Trustee, and shall not be answerable for the act of any co-Trustee, or for any loss which may arise by reason of any trust moneys being deposited in the hands of any banker or agent, or from the insufficiency or deficiency of any security upon

Trustee chargeable for his own acts only.

which the trust moneys or any part thereof may be invested, or for any loss in the execution of the trust, unless the same shall happen through his own wilful neglect or default.

Application to
Supreme Court.

12. Upon the application by petition to the Supreme Court or any Judge thereof of any person making claim to the trust estate or any part thereof, or the proceeds thereof, or to the securities whereon any such rents, interest, or proceeds shall be invested, or any part thereof, or to any estate or interest therein, the Supreme Court or such Judge may, in a summary way, make such order for the vesting of the said hereditaments, or for the distribution of the trust funds, or for the investment thereof, or payment of the interest and proceeds thereof or any part thereof, or any such other order relating thereto, or the rights or interests of the several parties thereto or therein as to the Supreme Court or such Judge thereof shall seem fit.