

Hon. Mr. Carroll.

MAORI LAND CLAIMS ADJUSTMENT AND LAWS
AMENDMENT.

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A BILL INTITULED

AN ACT to adjust and protect Claims and Interests in, and to amend the Laws relating to, Maori Lands. Title.

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 Land Claims Adjustment and Laws Amendment Act, 1905." Short Title.

2. In this Act, if not inconsistent with the context,—

10 "Appellate Court" means the Native Appellate Court constituted by "The Native Land Court Act, 1874":

"Chief Judge" and "Judge" mean respectively the Chief Judge and a Judge of the Native Land Court:

15 "Council" means the Maori Land Council constituted under "The Maori Lands Administration Act, 1900," of the district in which the land referred to is situated:

"Court" means the Native Land Court:

"Maori" and "Native" are synonymous terms, used respectively to follow the language of the Acts referred to in which they occur:

20 "Minister" means the Minister of Native Affairs, or any other Minister of the Crown acting on his behalf:

“President” means the President of the Council :

“Registrar” means the District Land Registrar of the district in which the land referred to is situated :

“Validation Court” means the Court constituted by “The Native Land (Validation of Titles) Act, 1893.”

Section 16 (2) of Act of 1904 amended.

3. Subsection two of section sixteen of “The Maori Land Claims Adjustment and Laws Amendment Act, 1904,” is hereby repealed, and the following is substituted in lieu thereof :—

“(2.) No action shall be taken upon the report of the said Judges until the same has been laid before and considered by Parliament.”

Third Schedule to Act of 1904 amended.

4. The Third Schedule to “The Maori Land Claims Adjustment and Laws Amendment Act, 1904,” is hereby amended by adding thereto “Lot 1, Parish of Katikati, containing sixty-eight acres, more or less.”

Giving effect to recommendations of Royal Commission under Act of 1904.

5. To give effect to the recommendations of the Royal Commission appointed under the provisions of “The Maori Land Claims Adjustment and Laws Amendment Act, 1904,” as set out in Parliamentary Paper G.-1, 1905, it is hereby enacted as follows :—

(a.) The partition by the Validation Court of the Tahora No. 2A Block is hereby declared null and void ; and the Court shall, on the application of any person claiming to be interested, proceed to partition the land *de novo*.

(b.) Subject to the proviso hereinafter contained, the Court is hereby empowered—

(i.) To ascertain whether Rangikohera te Kani and Teira Iopa te Hau are entitled to any (and, if so, what) portion of the Kopuaatuaki Block ; and, if necessary, whether the Crown is interested or not, to amend the original title and revise the subsequent partition of the land accordingly :

(ii.) To cancel the partition orders dated the twenty-second day of March, one thousand eight hundred and ninety-nine, in respect of Te Kauri No. 2B Block :

(iii.) To cancel the partition orders dated the twenty-eighth day of October, one thousand eight hundred and ninety-seven, in respect of the Manawaangi Block :

Provided that this power shall not be exercised unless the sum of fifty pounds, to cover ~~costs of rehearing by the Court and proceedings before the Royal Commission such costs, if any, as the Court may award~~ is, on or before the thirty-first day of March, one thousand nine hundred and six, deposited with the Registrar of the Native Land Court, Wellington :

(iv.) To cancel succession orders purporting to determine successors to the interests of Peti te Aho, deceased, in Lot 18, Parish of Te Onewhero, Lot 348, Parish of Taupiri, and Lot 21, Parish of Whangape ; and, without cost to the applicants, to ascertain who are the persons entitled to succeed to such interests :

(v.) To cancel succession orders purporting to determine successors to the interest of Hamuera te Punga Rangiuru, deceased, in Mokotunu Cape Block :

(vi.) To cancel the final orders of the Court or of the Appellate Court made on the investigation of title to Pukuweka Block, except as to the portion known as Rangitoto Tuhua No. 8, containing three hundred acres or thereabouts; and, except as aforesaid, to rehear the original application for investigation of title to the said block:

Struck out.

(vii.) To cancel the final orders of the Court or of the Appellate Court made under the provisions of "The Native Equitable Owners Act, 1886," or subsection ten of section fourteen of "The Native Land Court Act, 1894," in respect of Potaka No. 1, Wharepu No. 1, Taumata o te O, Ohuia No. 1, Hereheretau B, and Te Kiwi Blocks; and to rehear the applications on which such final orders are founded, under the provisions of the last-mentioned section:

(viii.) To cancel all partition orders heretofore made in respect of the Waihua Nos. 1 and 2 Blocks.

(c.) The Appellate Court shall have jurisdiction to hear and determine appeals from any decision of the Court given in pursuance of this section in the same manner as appeals from decisions of the Court given in the exercise of its ordinary jurisdiction are heard and determined.

New clause.

5A. The final orders of the Court or of the Appellate Court made under the provisions of "The Native Equitable Owners Act, 1886," or subsection ten of section fourteen of "The Native Land Court Act, 1894," in respect of Potaka No. 1, Wharepu No. 1, Taumata o te O, Ohuia No. 1, Hereheretau B, and Te Kiwi Blocks, are hereby cancelled, and the Appellate Court or any Commissioner or Commissioners appointed by the Governor for the purpose, may rehear the applications on which such final orders are founded. Any Commissioner appointed for the purposes of this section shall have and possess for the time being all the powers of a Judge of the Native Land Court.

Cancelling orders in connection with Potaka No. 1 and other blocks, and giving power to rehear.

Struck out.

6. To give effect to the report of Mr. Commissioner Mackay on the claims of Heni te Rau, on behalf of certain members of the Ngatimutunga Hapu, to a block of land in the Waitara Survey District the Governor is hereby authorised to make grants out of any Crown lands available, or to satisfy the claims of any of the Maoris who so desire by a monetary consideration equivalent to twelve shillings per acre, in accordance with the said report as set out in Parliamentary Paper G.-7, 1905.

Giving effect to report of Royal Commission on claims of Heni te Rau.

New clause.

6A. To give effect to the recommendation of the Native Affairs Committee of the House of Representatives, bearing date the twenty-sixth day of October, one thousand nine hundred and five, on petition No. 643, of Raniera Wharerau, the appeal by the said Raniera Wharerau against the partition by the Court of the Waima South Block is hereby declared to be as valid and effectual as if notice of such appeal in writing had been given within the period prescribed by law.

Appeal in Waima South Block.

Court to determine former owners of Motuotera, and amount of compensation due to them.

7. Whereas upon the issue by the Court of title to the Poroikamoana Block a piece of land known as Motuotera was in error included therein, although the title to the said Motuotera had not been investigated: And whereas the said Poroikamoana Block, including the said piece of land known as Motuotera, has been sold, and is now vested in the purchaser under the Land Transfer Act: Be it therefore enacted as follows:—

The Court is hereby authorised and directed—

- (a.) To determine the persons who would according to Native custom be entitled to the said piece of land known as Motuotera if the said error had not been committed; 10
- (b.) To determine, notwithstanding the provisions of sections one hundred and eighty-six and one hundred and eighty-seven of "The Land Transfer Act, 1885," the amount that should be paid to each person so found entitled by way of compensation for the loss incurred by reason of the said error, and to issue a certificate accordingly. 15
- (c.) Subject to the right of appeal, and to any variation that may be made therein by the Appellate Court on appeal, such certificate shall be final, and shall in any proceedings that may be taken in any Court for recovery of compensation for the loss incurred by reason of the said error be conclusive evidence that the persons therein named in that behalf are respectively entitled to the amount of compensation therein mentioned. 20 25

Court to determine questions affecting ownership of Arai Matawai Reserve.

8. Whereas by a Proclamation dated the thirteenth day of September, one thousand eight hundred and seventy-seven, His Excellency the Governor, in pursuance and exercise of the power and authority vested in him by "The East Coast Act, 1868," reserved and set apart for the use and maintenance of twenty-three specified aboriginal natives the parcel of land situate in the Poverty Bay District known as the "Arai Matawai" or "Waimata Reserve," containing by admeasurement four thousand two hundred and fourteen acres, more or less, the boundaries whereof are described in Schedule A to the said Proclamation: And whereas it is alleged that an error or omission was made in determining the persons for whose use and maintenance the said reservation was made, and that other persons in addition to the twenty-three persons so specified as aforesaid ought to have shared in the benefit of the said reservation and to have been specified in the said Proclamation: Be it therefore further enacted:—

- (a.) The Court is hereby empowered to inquire and determine whether any (and, if any, what) persons in addition to the twenty-three persons so specified as aforesaid ought to have shared in the benefit of the said reservation and to have been specified in the said Proclamation. 45
- (b.) The Court may by order declare the said parcel of land to be vested in the said twenty-three persons, together with such other persons (if any) as the Court may upon such inquiry determine, as owners of an estate of freehold in fee-simple in possession therein as from the said thirteenth day of September, one thousand eight hundred and seventy-seven. 50

(c.) The Court may by the same or any subsequent order determine the relative interests of the several owners.

5 (d.) The Appellate Court may hear and determine any appeal that may be lodged against any decision of the Court given in exercise of the jurisdiction conferred by this section.

10 (e.) An order made by the Court in exercise of the jurisdiction conferred by this section, or such order as varied on appeal, shall have the effect of an order made on investigation of title or determination of relative interests respectively, and may be dealt with and registered accordingly.

15 (f.) Succession orders heretofore made and purporting to determine successors to the interests of any of the twenty-three persons specified as aforesaid shall not be invalidated by any proceedings taken in pursuance of the provisions of this section.

Struck out.

20 9. (1.) The portion of the Pakowhai Block described in the Schedule to this Act is, subject to any lawful charge or lien which may be found by the Court to be upon it, hereby declared to be Native land as defined by "The Native Land Court Act, 1894"; and all entries on the Land Transfer Register, as far as they affect it only, are hereby cancelled.

Court to determine ownership to reserve in Pakowhai Block.

25 (2.) The Court shall forthwith proceed—

(a.) To investigate the title and ascertain and determine the owners according to Native custom of the said land:

(b.) To determine the relative interests of such owners therein:

30 (c.) To ascertain to what lawful charges or liens as herein provided the land is subject, and to determine in what manner such charges or liens are to be provided for; and, if necessary, to set aside and vest in trustees a defined portion of the land for that purpose.

New clause.

35 9A. The Governor may by Order in Council confer upon the Court, or upon any person or persons named in such order, all powers and jurisdiction necessary or expedient to enable the Court or such person or persons to carry out and give effect to an agreement or arrangement made by and among the plaintiffs in the Action or Suit
40 Number 818 in the Supreme Court of New Zealand, Wellington District, holden at Napier, for ascertaining and determining the names of the owners of, or persons entitled to, that parcel of land situate in the Provincial District of Hawke's Bay, known as
45 Pakowhai, or such part of the said parcel of land as is now vested in the Venerable Samuel Williams, of Te Aute, on behalf of such plaintiffs and other aboriginal Natives of New Zealand.

Power to determine ownership in Pakowhai Block.

50 10. During the unavoidable absence of the President, or any vacancy in that office, the Minister may authorise any European member of the Council to act as President in the same manner and with the like powers as if appointed under the provisions of subsection three of section eight of "The Maori Lands Administration Act, 1900."

Minister may appoint European member to act in absence of President.

Struck out.

Confirmation by Court not affected by consent of Council to dealing, &c.

11. (1.) Nothing in "The Maori Lands Administration Act, 1900," or its amendments shall be deemed to render unnecessary confirmation by the Court of any alienation or dealing, nor to bar the removal or variation of restrictions on alienation (including exemptions from the operation of section one hundred and seventeen of "The Native Land Court Act, 1894") by or on the recommendation of the Court; and every such removal or recommendation by the Court shall be as valid and effectual as if "The Maori Lands Administration Act, 1900," had not been passed. Procedure under the provisions of this section shall be in the alternative to and not in substitution of procedure under the last-mentioned Act:

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President may refer application for removal or variation of restrictions to the Court.

(2.) The President or his deputy may refer to the Court any application made to the Council for its recommendation in the matter of the removal or variation of restrictions, and the Court may thereupon deal with such application as if it had been made to the Court in the first instance.

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President may require Court to investigate title to land if owners fail to elect Papatupu Committee.

12. When from any cause Maoris claiming to be owners of any block of land fail to elect a Papatupu Committee under the provisions of "The Maori Lands Administration Act, 1900," in the manner prescribed after the necessary procedures to enable them to do so have been taken, or such Committee subsequent to election fails to report after having been called upon to do so, the President or his deputy may, instead of proceeding with the Council to investigate the title to the land in question, require the Court to do so, and the Court shall thereupon proceed as in the case of an application for investigation of title under "The Native Land Court Act, 1894."

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Powers of Court as to Native townships

13. The Court shall have and be deemed to have had power to determine all questions affecting the beneficial ownership of Native townships proclaimed under the provisions of "The Native and Maori Land Laws Amendment Act, 1902."

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New clause.

Alienation of land owned by not more than two owners.

13A. (1.) Nothing in "The Maori Lands Administration Act, 1900," or any other Act shall preclude the alienation of any separate parcel or area of land owned before the first day of January, one thousand nine hundred and one, by not more than two owners and not exceeding six hundred and forty acres of first-class land, or two thousand acres of second-class land (not being land within the area defined by the Second Schedule to "The Native Land Court Act, 1894") the title to which as a separate area was ascertained by partition or otherwise prior to the first day of January, one thousand nine hundred and one.

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(2.) Section 10 of "The Maori Land Laws Amendment Act, 1903," is hereby repealed.

Struck out.

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Flax leases.

14. (1.) Any land owned by more than ten Maoris or any papatupu land may be leased, for the purposes of utilising flax growing thereon, for any period not exceeding two years, by not less than three Maoris as lessors, whom any Judge or Stipendiary Magistrate certifies to be in his opinion representative or leading owners of the land; and confirmation of any such lease by any such Judge or Stipendiary Magistrate certifying as aforesaid shall confer a good

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holding-title on the lessee, with the right, unless otherwise provided, to remove buildings at the end of the term.

5 (2.) Such lessors shall be deemed to be trustees for all the other owners, and shall be bound jointly and severally to account to them for the income and other profits from the lease. A duplicate or certified copy of every lease under the provisions of this section shall be deposited by the Judge or Stipendiary Magistrate confirming the same in the office of the Minister.

10 15. Notwithstanding any law now in force to the contrary, the Public Trustee is hereby authorised and directed to pay the sum of thirty-nine pounds seventeen shillings and sixpence, together with any interest which has accumulated thereon, received by him as compensation for portions of the Waikokopu No. 3 Block, Nuhaka District, taken under the provisions of "The Public Works Act, 1894," for the purposes of "The Waikokopu Harbour Board Act, 1902," to the former beneficial owners of the land as named in the order of the Native Land Court dated the twenty-fifth day of September, one thousand nine hundred and two, assessing the amount of compensation payable. The receipts of the beneficial owners shall be a sufficient indemnity and release to the Public Trustee from all manner of claims howsoever in respect of the sum of thirty-nine pounds seventeen shillings and sixpence and interest aforesaid.

Public Trustee to pay compensation for land taken under Public Works Act to beneficial owners.

New clauses.

25 15A. The receipt of the former owners of certain land taken under the provisions of "The Public Works Act, 1894," for a rifle-range, at Wanganui, for the compensation awarded or to be awarded by the Court in respect of the lands so taken shall be a sufficient indemnity and release to the Colonial Treasurer and all officers and servants of the Government in respect of such compensation or any portion thereof, any direction, decision, or recommendation of any Court of law to the contrary notwithstanding.

Compensation for land at Wanganui taken for a rifle-range, how payable.

30 15B. (1.) Whereas the principal purposes for which the Board appointed under "The East Coast Native Trust Lands Act, 1902," was constituted have been fulfilled, and it is desirable to reduce the expense of future control and management, it is hereby declared that the Governor may appoint a Commissioner to exercise the powers of the Board; and, upon the gazetting of such appointment, all lands and property vested in the Board shall become vested in the Commissioner, and all powers and authorities of the Board shall be vested in and be exercised by the Commissioner, and the Board shall thereupon be dissolved and the members thereof discharged and released.

East Coast Native Trust lands.

35 (2.) "The East Coast Native Trust Lands Act, 1902," is hereby amended as follows:—

40 (a.) Wherein any deed pursuant to section twelve of the Act, provision has been made charging lands in relief of the principal security, and such deed has been approved by the Chief Judge, the provisions of such deed shall have the same effect as if a decree in the terms thereof had been duly made by the Chief Judge pursuant to section ten of the Act.

50 (b.) Whereas the debt to the Bank of New Zealand has been discharged in full by the Board out of moneys raised by sale or mortgage of certain of the lands comprising the

principal security and the specific securities respectively, and other claims have been paid and certain other lands have been added in relief of the principal security, and parts thereof have been similarly dealt with, and by reason of the charge having been borne in greater proportion by some lands than by others, it is necessary to adjust the equities of the beneficiaries of the several lands: The Validation Court is hereby empowered and directed to inquire into and determine what proportion of the whole debt to the bank, and of the other claims paid, and of the expenses of the management, ought properly to have been borne by each block of land, and in what manner the equities as between the beneficiaries should be adjusted.

(c.) In exercising jurisdiction conferred by this section the Validation Court shall determine every matter in such manner as it considers fair and just, having regard to all the circumstances, and shall not be bound to follow any rule applied by Courts of law or equity to cases of mortgage by Europeans.

(d.) The Validation Court, for all the purposes of such adjustment, shall have all the powers conferred by section ten of the Act upon the Chief Judge of the Native Land Court.

(e.) The Board or the Commissioner shall comply with every direction and decree of the Validation Court, and shall proceed to make all such sales, mortgages, and other dispositions as the Validation Court may require for the purpose of effecting the adjustment.

(3.) The Validation Court shall prepare a scheme showing the adjustment proposed, and such scheme shall be laid before Parliament before the first day of August, one thousand nine hundred and six, and no proceedings to give effect to such adjustment shall be taken until after the prorogation of Parliament in the year one thousand nine hundred and six.

Extending powers
of incorporated
bodies.

15c. The Committee of any block or blocks of land incorporated under the provisions of "The Native Land Court Act, 1894," or "The Maori Lands Administration Act, 1900," or its amendments, shall have full power, when authorised in that behalf by resolution passed at a general meeting of the members of the Corporation, to farm the land for the benefit of the owners, and for that purpose to raise moneys by way of mortgage on such land or the stock and chattels of such owners. Such power shall be exercised only with the consent of the Maori Land Board of the district within which the land is situate, and subject to such conditions as the Governor by regulations may prescribe.

For the purposes of mortgage under this section, any restrictions heretofore imposed, or hereafter to be imposed, may be removed by the Native Minister.

The Governor may from time to time make regulations for any purpose contemplated or required by this section.

16. A certificate under the hand of the President and the seal of the Council that any transfer to or lease from the Council or, in the case of a Native township proclaimed under the provisions of "The Native Townships Act, 1895," the certificate of the Commissioner of Crown Lands for the district in which the land is situate that any lease has been annulled or determined shall be sufficient evidence of the fact; and the Registrar shall, on the same being produced to him, make, without charge, all necessary alterations on the Land Transfer Register in accordance with such certificate.

Registration may be annulled on certificate of President.

10 17. All registrations necessary to complete a transfer, mortgage, or lease to or from the Council shall be effected by the Registrar free of charge.

Registrations to be effected without charge.

15 18. The Validation Court, the Appellate Court, the Court, the Chief Judge and the Registrar are hereby authorised and directed to perform all acts necessary to give effect to and carry out the provisions of this Act.

Courts and officials authorised to carry out provisions of Act.

Struck out.

SCHEDULE.

ALL that piece or parcel of land, in the Provincial District of Hawke's Bay, containing by admeasurement 177 acres and 10 perches, more or less, situate at Pakowhai, in the Ahuriri District, and being part of the block of land called or known as Pakowhai No. 50N. Bounded on the north by other portion of the said block, 4267 links; on the east by a road, 2149.5 links; again towards the north by a road, 4590 links; on the south-east by a line, 2330 links; and towards the south, south-east, and west by the Ngaruroro River and by the Tutaekuri-Waimate Stream.

Schedule.