

This PUBLIC BILL originated in the HOUSE OF REPRESENTATIVES, and, having this day passed as now printed, is transmitted to the LEGISLATIVE COUNCIL for its concurrence.

House of Representatives.

21st November, 1903.

[AS AMENDED BY THE LEGISLATIVE COUNCIL].

Hon. Mr. Carroll.

MAORI LAND LAWS AMENDMENT.

ANALYSIS.

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A BILL INTITULED

AN ACT 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 Laws Amendment Act, 1903."

Short Title.

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

Interpretation.

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

"Council" means the Maori Land Council constituted under "The Maori Lands Administration Act, 1901," of the district in which the land referred to is situated:

"Court" means the Native Land Court:

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

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

20 "Registrar" means the District Land Registrar of the district in which the land referred to is situated.

Maori land districts.

3. Section five of "The Maori Lands Administration Act, 1900," sections two and three of "The Maori Lands Administration Amendment Act, 1901," and section seven of "The Native and Maori Land Laws Amendment Act, 1902," are hereby repealed, and the following is substituted in lieu thereof:—

"(1.) For the purposes of this Act there shall be within the North Island of New Zealand not more than seven nor less than four Maori land districts, the boundaries and names whereof shall be defined by the Governor by Order in Council.

"(2.) Upon the publication of any such Order in Council in the *Gazette* and *Kahiti* this Act shall be deemed to be in operation in any district the boundaries of which are defined in the Order.

"(3.) The Governor may in like manner at any time alter or amend the boundaries or change the name of any such district, and where by any such alteration the number of districts is reduced or increased may dissolve any Council affected thereby and cause such other Councils as are necessary for the purposes to be elected.

"(4.) Where on any such alteration any district or any part of a district is absorbed in any other district or districts, the Governor shall, by Order in Council, declare what part of the assets and liabilities of the district whose arca is diminished or absorbed shall be the assets and liabilities of the absorbing district or districts."

Repeal.

4. Subsection one of section eight of "The Maori Lands Administration Act, 1900," and section six of "The Native and Maori Land Laws Amendment Act, 1902," are hereby repealed, and the following is substituted in lieu thereof:—

Quorum at meetings of Council.

"A quorum shall consist of the President (or, in his absence, of one European member) and not less than two Maori members: Provided that if in consideration of the purely formal nature of the business to be transacted at any particular meeting the President sees fit to dispense with the attendance of any members non-resident within five miles of the place of meeting, the President (or, in his absence, one European member) and one Maori member, shall constitute a quorum."

Papatupu Committee may recommend that shares of owners under disability be vested in trustees.

5. (1.) A Papatupu Committee may, in connection with any title investigated by it under "The Maori Lands Administration Act, 1900," recommend that the shares or interests of any owners under disability shall be vested in trustees to be named in the recommendation, and the order of the Council approving or varying such recommendation shall be deemed to be an order of the Court under the provisions of "The Maori Real Estate Management Act, 1888."

(2.) The foregoing provision is hereby incorporated with "The Maori Lands Administration Act, 1900," and shall be deemed to have been so incorporated and to be and to have been in full force and operation since the passing of that Act.

Procedure if Committee fail to report.

6. (1.) If any Papatupu Committee fails within six months from the date of its election, or within such further period (not exceeding six months) as the President in his discretion may allow, to furnish a report as provided by section eighteen of "The Maori Lands Administration Act, 1900," the Council may, by notice in the *Kahiti* under its seal and the hand of the President, direct the Committee

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to furnish such report within one month from the date of publication of the notice in the *Kahiti*.

(2.) If the Committee fails to furnish such report within the said one month the Council may dissolve such Committee, and may in its discretion either proceed with the election of a fresh Committee or itself investigate the title to the land in respect of which the Committee has failed to report, and a direction from the Chief Judge as provided by section nine of the same Act shall not in any such case be necessary.

10 7. (1.) The members of every Papatupu Committee shall, unless the Committee is sooner dissolved, hold office until their report has been *finally* dealt with by the *Council Chief Judge* under section ~~nineteen~~ *fourteen* of "The Maori Lands Administration Act, 1900."

Tenure of office of Committee.

(2.) Subsection three of section sixteen of "The Maori Lands Administration Act, 1900," is hereby repealed.

15 8. Any vacancy in the Committee may be filled by the appointment by the President of some Maori selected, if possible, from the same hapu, family, or tribe as the vacating member; but the Committee shall have power and shall continue to act notwithstanding any vacancy.

Vacancies in Committee.

20 9. For the purposes of section four of "The Maori Lands Administration Amendment Act, 1901," a conveyance by way of trust under the provisions of "The Native Land Laws Amendment Act, 1897," shall be deemed an alienation by way of sale.

Section 4 of "The Maori Lands Administration Amendment Act, 1901," amended.

25 10. (1.) Nothing in "The Maori Lands Administration Act, 1900," shall preclude the alienation of any separate parcel or area of land owned at the commencement of that Act 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 passing of "The Maori Lands Administration Act, 1900."

Alienation of land owned by not more than two owners.

30 (2.) Section three of "The Native Land Laws Amendment Act, 1895," shall be read subject to this section.

35 11. (1.) Section nineteen of "The Maori Lands Administration Act, 1900," is hereby amended by repealing all the words after "opportunity of being heard," and substituting in lieu thereof the words "may confirm the same, or may make such other order as it finds consistent with the evidence before it, *and may before doing so refer the report, or any portion thereof, or any question in connection therewith, back to the Committee for any purpose which may seem necessary* :

Consideration of Committee's report

40 "Provided that every person who is dissatisfied with any such order may within two months after the date of the publication of the order as provided by section fourteen appeal therefrom to the Chief Judge, who, after reviewing the evidence taken by the Council (as contained in the President's official minute-book) shall either refer the appeal to the Native Appellate Court to be dealt with in the same manner as an appeal from the decision of the Native Land Court under "The Native Land Court Act, 1894," or shall dismiss the appeal and proceed under section fourteen of this Act as if no appeal had been lodged."

New subclause.

(2.) Subsection six of section eight of "The Maori Lands Administration Amendment Act, 1901," is hereby repealed.

Powers of Council
as to report.

12. When sitting to review the decisions of the Papatupu Block Committees, and in all other judicial proceedings before it, the Council, if the President is present, shall have and may exercise all the powers exercisable by the Court. 5

Pa pakanga
certificate.

13. Section twenty-one of "The Maori Lands Administration Act, 1900," is hereby amended by adding at the end of subsection one thereof the words,— 10

"Provided that the Council in its discretion may in the first instance make one papakainga for a hapu, or family, or group of two or more Maoris, and shall issue to such Maoris a papakainga certificate therefor."

Governor may
remove restrictions
on alienation.

14. (1.) Notwithstanding anything to the contrary in any Act, or in any Crown grant, certificate, or other instrument of title, the Governor may, on the recommendation of the Council, remove any restriction on the alienation of land owned by Maoris: Provided that the decision of the Governor on any recommendation of the Council shall be given within six months from the date of the receipt of such recommendation. 15 20

(2.) No alienation effected ~~under~~ pursuant to this section shall be valid unless it be in conformity with the provisions of section twenty-five of "The Maori Lands Administration Act, 1900," or, if the dealing is not affected by that Act, then unless the alienation is confirmed by the Court. 25

(3.) Nothing herein shall be construed to authorise the alienation of papakaingas.

(4.) This section is in substitution for section twenty-four of "The Maori Lands Administration Act, 1900," which section is hereby accordingly repealed. 30

Amendment as to
amount of land that
may be acquired.

15. (1.) Subsection one of section twenty-six of "The Maori Lands Administration Act, 1900," is hereby amended by the repeal of all the words after the words "does not hold or own more than," and the substitution of the words "two thousand acres of freehold land, inclusive of not more than six hundred and forty acres of first-class land." 35

(2.) Subsection three of the same section is hereby amended by repealing the words "Commissioner of Crown Lands," and inserting in lieu thereof the word "Council." 40

Section 117 of "The
Native Land Court
Act, 1894," limited.

16. Nothing in "The Maori Lands Administration Act, 1900," shall bar or be deemed to have barred the operation of section one hundred and seventeen of "The Native Land Court Act, 1894," or to affect the validity of any Order in Council made since the date of the passing of the first-mentioned Act excepting or purporting to except land from the said operation: 45

Provided that after the passing of this Act no such Order in Council shall be issued or be valid unless the recommendation of the Council, as provided by section *fourteen* hereof, has been first had and obtained. 50

Amendment as to
powers of Council.

17. (1.) Subsection one of section twenty-nine of "The Maori Lands Administration Act, 1900," is hereby amended by repealing all words after the words "power and authority" to the words "occupation and support," and substituting in lieu thereof the words "to reserve and render inalienable such portion of such land as may be required for the occupation and support of the Maori owners thereof." 55

(2.) Subsection eleven of section eight of "The Maori Lands Administration Amendment Act, 1901," is hereby amended by repealing the words "at the like request of a majority of owners."

5 18. (1.) Section forty-five of "The Maori Lands Administration Act, 1900," is hereby amended by adding thereto the following subsection: "Nothing herein contained shall bar an assignment of rent or other income from land to any Government lending Department as security for the payment of interest or sinking fund in respect of any mortgage held by any such Department over any Maori land."

Power of Native owner to dispose of interest amended.

10 (2.) For the purposes of section four of "The Maori Lands Administration Amendment Act, 1901," any such assignment shall be deemed to be an alienation by way of mortgage.

15 19. Section forty-seven of "The Maori Lands Administration Act, 1900," is amended by repealing the words "Maori Council Account of the Maori Land District of [*Name of the district*]," and substituting the words "District Maori Land Council Account."

District Maori Land Council Account.

20 20. (1.) Section six of "The Maori Lands Administration Amendment Act, 1901," is hereby amended by repealing the words "if they shall have been previously authorised in writing by the majority of owners in number and interest in the block"; and also by repealing the words "a definite part thereof must pass thereby," and substituting in lieu thereof the words "such part thereof as may be specified in such transfer shall pass thereby as validly and effectively as if the transfer had been executed in accordance with law by the whole of the Maoris owning the land."

Transfers to Council in trust.

25 (2.) Every transfer heretofore executed in accordance with the provisions of the said section six shall also pass the land comprised in the transfer as fully and effectually as if the same had been executed in accordance with law by the whole of the Maoris owning the land, and the subsequent provisions of this section shall not apply to any such transfer.

30 (3.) Where the number of owners exceeds ten the instrument of transfer shall be executed by such of the owners as may be selected at a meeting of the owners called for the purpose by a notice under the hand of the President.

35 (4.) Every such notice shall fix the date, hour, and place of meeting, and shall be published in the *Kahiti* at least twenty-one days before the date so fixed.

40 (5.) The selection shall be made by the resolution of a majority of the owners *in area*.

(6.) The names of the owners so selected shall be published in the *Kahiti* by a notice under the hands of the Chairman of the meeting and the President or his deputy for the time being, and such notice shall be conclusive evidence of the facts therein set out:

45 *New proviso.*

Provided, in the alternative, that a transfer executed by a majority of the owners in number and interest shall pass the land comprised therein, and the provisions of the *four last preceding* subsections shall not in any such case apply.

50 21. Notwithstanding anything to the contrary in "The Maori Lands Administration Act, 1900," the elected members of all Councils now holding office shall, unless removed in accordance with law, continue to hold office until the thirteenth day of August, one thousand nine hundred and five, being three years from the date on which the last Council (Waikato District) was elected:

Term of office of present Councils.

Provided that members appointed by the Governor under the provisions of the said Act, including members appointed to replace elected members, shall, unless reappointed, cease to hold office on the expiration of three years from the date of their last appointment, or on the said thirteenth day of August, one thousand nine hundred and five, if it first occurs. 5

Provision where land in Native township appropriated for street or reserve.

22. (1.) In case any block or section of land forming part of a Native township proclaimed under "The Native and Maori Land Laws Amendment Act, 1902," that at the time of the Proclamation was held by any Maori or Maoris under a separate title, is wholly or partially appropriated for the purpose of any street, roadway, or reserve in connection with such township, the Council may register the Maori owner or owners of such block or section as beneficial owner or owners of the land within an area to be decided upon by the Council in any part of the township benefited by the appropriation of the block, or part of block, or section aforesaid, provided that such area has not already contributed *pro rata* for such purposes. 10

(2.) The decision of the Council as to the boundaries and extent of the land so benefited, and of the land to which the owners of the land appropriated are to be joined as beneficial owners, and the limit of their term of beneficial ownership, shall be final. 15 20

Transfers to Council not affected by any Act, Crown grant, &c.

23. Nothing in "The Thermal-Springs Districts Act, 1881," or in any Crown grant, order of the Court, or other instrument of title imposing restrictions on alienation, shall bar or be deemed to have barred the transfer of any land to the Council under "The Maori Lands Administration Act, 1900." 25

Registration of deeds executed by Council.

24. Deeds and instruments executed by the Council shall be registered in such manner as the Registrar-General of Lands prescribes.

Extended power as to orders permitting land to be mortgaged.

25. (1.) Subject to section four of "The Native Land Laws Amendment Act, 1895," the Governor in Council, when making an order under that section for the purpose of permitting land to be mortgaged by the Maori owner thereof, may except the said land from the operations of sections five and six of the same Act, or of any other enactment in force in New Zealand relating to Maori lands or lands owned by Maoris, so that the owner thereof may mortgage the same as fully and effectually, and confer the same power of sale, as if the land comprised in the mortgage were lawfully owned by a European. 30 35

(2.) The foregoing provision is hereby incorporated with "The Maori Lands Administration Act, 1900," and shall be deemed to have been so incorporated and to be and to have been in full force and operation since the passing of that Act. 40

Certified copies of instruments to be sent to Minister.

26. (1.) A certified true copy of every instrument of alienation of Maori land shall be presented to the Registrar when the original is lodged for registration, to be forwarded by him, after he has indorsed thereon a memorial of the registration, for record in the Minister's office. 45

(2.) The provisions of this section shall not apply to alienations to the Crown or to Government lending Departments, nor to conveyances to trustees. 50

27. Every such instrument must be presented for registration within ~~six~~ *twelve* months from the date of confirmation thereof by the Court or from the date of completion of the alienation (that is, the date on which the whole of the parties, or the last of them if they all did not sign at the same time, executed the instrument of alienation) in any case where such confirmation is not obtained or required :

Time within which instruments to be registered.

Provided that such confirmation, when required, shall be applied for within ~~three~~ *six* months from the date of the completion of the alienation :

10 Provided further that *confirmation or* registration shall not be barred by non-compliance with the foregoing provisions in any case where the Court or the Registrar is satisfied that the delay was unavoidable, or purely accidental, or beyond the control of the parties interested.

15 28. (1.) Nothing in any Act relating to Maori lands restricting or limiting the power of alienation shall apply to any land held by a Maori under perpetual lease or lease in perpetuity or occupation license with right of purchase under the provisions of "The Land Act, 1885," or "The Land Act, 1892."

Land held by Maori under perpetual lease or lease in perpetuity not affected.

20 (2.) Any land the subject of any such lease or license shall not be reckoned in the area which a Maori must possess to enable him to alienate Maori lands.

25 29. Where on the passing of this Act any land is being used as a farm for the owners thereof under the management of a Committee nominated by the owners, but not under the authority of any Act now or heretofore in force, the following provisions shall apply :—

Farm Management Committees.

30 (a.) Such owners may be incorporated in the manner provided by section one hundred and twenty-two of "The Native Land Court Act, 1894," and sections one hundred and twenty-three, one hundred and twenty-four, and one hundred and twenty-five of that Act shall apply to the nomination and appointment of such Committees, but the powers by those sections conferred on the Court shall be exercised by the Council.

35 (b.) Upon incorporation the Committee shall have full power, subject to such conditions and directions as may be imposed by the owners in general meeting, to use such land as a farm for the owners.

40 (c.) Such conditions and directions may authorise the Committee to manage, improve, cultivate, and stock such farm, to expend such sum as it thinks necessary, and, with the consent of the President, to raise funds by way of mortgage over stock and chattels for such purposes.

45 (d.) The Committee shall keep and make out true and just accounts of all its receipts and expenditure, and such accounts shall be subject to audit by such person and at such intervals as may be authorised by the Council, and shall be open at all times to the inspection of the owners.

50 (e.) In any case under this section the consent of the Commissioner of Crown Lands, or the Public Trustee, or the Native Lands Administration Officer shall not be required,

nor shall they, or any of them, have or exercise any functions or control over the land or the proceeds thereof.

(f.) The Governor may from time to time, by Order in Council gazetted, make regulations for any purpose contemplated or required by this section, or that he deems necessary in order to give full effect to the intention thereof. 5

Sales by auction.

30. When any land is offered for sale or lease by public auction under the provisions of "The Maori Lands Administration Act, 1900," or any regulations made thereunder, such auction shall be conducted by some person to be appointed for that purpose by the Council, and such person for the purpose of such auction shall not require to take out an auctioneer's license. 10

Section of Amendment Act, 1901, amended.

31. Subsection eleven of section eight of "The Maori Lands Administration Amendment Act, 1901," is hereby amended by repealing the word "may" after the words "the Council," and substituting in lieu thereof the word "shall," and by adding after the words "request in writing of" the words "a majority of." 15

Persons interested not to adjudicate.

32. (1.) If any Judge of the Court, or any President or European or Maori member of the Council, knowingly adjudicates on any matter wherein he has directly or indirectly any pecuniary interest, or if he or any European officer or servant of the Court or Council shall, without the previous consent of the Minister, purchase from the Natives to whom the Court or the Council has awarded any land within one year from the date of such award, he shall be liable on conviction upon indictment in any competent Court to imprisonment with or without hard labour for any term not exceeding two years, or to a penalty not exceeding two hundred pounds, and every such purchase shall be null and void. 20 25

(2.) The provisions of this section shall, *mutatis mutandis*, apply to the acquirement of any estate or interest by any President or European member or European officer or servant as aforesaid in any lands administered by the Council under the provisions of "The Maori Lands Administration Act, 1900." 30

New clauses.

East Coast Native Trust Lands Act, section 12 amended.

32A. Section twelve of "The East Coast Native Trust Lands Act, 1902," is hereby amended by the insertion of the words "a majority of" after the words "agreed upon between." 35

Satisfaction of mortgage derived through survey lien.

32B. After the passing of this Act the equity of redemption of any land owned by Maoris shall not be sold under any mortgage derived through a survey lien, but the Court may, on the application of any person claiming to be interested, make an order as provided by section sixty-five of "The Native Land Court Act, 1894," vesting in the person entitled under the mortgage a defined portion of or interest in any such land, including an area equal in value to the estimated cost of the survey of such additional lines as are necessary to comprise such area in a separate title, in the person entitled under the mortgage, and thereupon the mortgage shall be discharged. 40 45

Procedure when Minister elects to pay off such mortgage.

32c. (1.) Upon such order having matured, and being signed and sealed by the Court, the Minister may notify to the Court that he has elected to pay off the mortgage, and the Court shall thereupon, by an indorsement on the order under the hand of the Chief Judge and the seal of the Court, declare the land the subject thereof to be the property of His Majesty, and such land shall thereupon become Crown land. 50

(2.) No costs or expenses other than survey, as herein provided, in excess of the sum of ten pounds, exclusive of interest as allowed by law, shall be admitted or charged in connection with any such order.

5 (3.) If the Minister does not so notify the Court within one month from the date of the signing and sealing of the order as aforesaid, he shall be deemed to have approved of the order in terms of the said section. Procedure when Minister does not so elect.

10 (4.) In lieu of making such order the Court may, with the consent of the Minister, unless opposed by a majority of the Maori owners, direct that the entire block be vested in the Council for administration under "The Maori Lands Administration Act, 1900," and that the amount secured by the mortgage, and costs not exceeding ten pounds, shall be paid by the Minister and be made a first charge on the rents and profits derived from the land; and on production of such order the Registrar shall register the Council as the proprietor of the entire block for the purposes of administration as aforesaid.

15 (5.) With respect to any mortgage derived through a survey lien existing when this Act comes into operation, the Governor in Council may, upon the application of any person claiming under such mortgage, declare that the provisions of the *last-preceding* section and of this section shall not apply to such mortgage; and thereafter the rights and remedies under such mortgage shall be as effective as if such provisions had never been enacted.

20 33. Notwithstanding any provision in "The Maori Lands Administration Act, 1900," to the contrary, the Minister may, out of any moneys appropriated by Parliament for the purpose, defray the costs of administration of the said Act. Expenses of administration.

30 This section shall, in the case of each Council, remain in operation until the Council has accumulated a fund sufficient to enable it to comply with the provisions of section forty-three of the said Act, but not in any case after the thirty-first day of December, one thousand nine hundred and five.

New clauses.

35 33A. The taking of Native land by the Governor for the purposes of a public work under the authority of "The Public Works Act, 1894," or any other Act heretofore or hereafter in force, shall be deemed to be and at all times to have been an alienation within the meaning and for the purposes of section thirty-nine of "The Native Land Court Act, 1894." Taking of Native land for public work deemed an alienation.

40 33B. The provisions of section five of "The Native Land Laws Amendment Act, 1895" (relating to the alienation of Native lands), or of any amendment thereof, shall not apply to any alienation of land not exceeding an average width of one chain required for the purposes of a road or tramway, whether the said land is included in the land described in the Schedule to "The Native Land Court Act, 1894," or not. Section 5 of "The Native Land Laws Amendment Act, 1895," to apply in certain cases.