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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,
8th June, 1886.

[AS AMENDED BY THE LEGISLATIVE COUNCIL.]

Hon. Mr. Ballance.

NATIVE EQUITABLE OWNERS.

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A BILL INTITULED

AN ACT to confirm to Natives certain Equitable Rights.

Title.

WHEREAS, under "The Native Lands Act, 1865," certificates of title to, and under that and other Acts Crown grants of, certain lands were made in favour of or to Natives nominally as absolute owners:

Preamble.

5 And whereas, under various awards, agreements, and other Government sanctions lands are now possessed by Natives who assume or assert their ownership to be for their own use only: And whereas in many cases such Natives are only entitled and were only intended to be clothed with title as trustees for themselves and others, members of
10 their tribe or hapu or otherwise:

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 Native Equitable Owners Short Title.

15 Act, 1886."

2. Be it enacted that, Upon the application of any Native claiming to be beneficially interested in any such land as such ~~estui que trust~~ as aforesaid, the Native Land Court of New Zealand may make inquiry into the nature of the title to such land, and into the existence of any
20 intended or implied trust affecting the title thereto.

Inquiry into existence of equitable rights.

3. According to the result of such inquiry the Court may declare that no such trust exists, or, if it finds that any such trust does or was intended to exist, then it may declare who are the persons beneficially entitled.

And ascertain who are equitable owners.

Equitable owners
to become legal
owners.

4. The Court may thereupon make order that the persons so declared entitled to such beneficial ownership shall be owners as tenants in common of the land the subject of such trust, and they shall be deemed to be such owners, and the land so owned shall be deemed to be land or hereditaments, within the meaning of "The Native Land Division Act, 1882," and "The Native Land Succession Act, 1881," and any Act affecting the same, in like manner as if their names had been inserted in the certificate or grant affecting such land.

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Struck out.

5. Any such owner may thereafter apply to the Court for partition or determination of individual interest in accordance with the provisions of any Act for the time being in force.

Prior conveyances
protected ;

~~6. 5. The foregoing enactments in favour of cestui que trusts shall not apply where the land the subject of such certificate or Crown grant as aforesaid, or any share therein, or the subject of such awards, agreements, or other sanctions has heretofore been sold and or conveyed by such nominal owners or any of them or their successors, but this exception shall not apply to land in the South Island, portions whereof have been disposed of to the Government. Where some only of such nominal owners or their successors have sold, the Court shall in the first place award to the purchaser so much of the land as would represent the interests of his vendors, and such foregoing enactments shall only apply to the residue of the land, and in making any division of such residue the Court may have regard to the extent to which any owner or owners under whom an owner claims may have been party to or benefited by any sale as aforesaid. And, where such land is subject to this Act is also subject to a lease for an unexpired term of years, any order made as aforesaid shall not prejudice the estate or term of the lessee, but the lessee after notice of such order shall pay any rent, to accrue due under his lease, to the Public Trustee, whose receipt shall be a good discharge for the same.~~

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also leases.

Rent to go to legal
owners.

Such rent shall be paid out to and among the parties beneficially entitled in accordance with any partition or determination of interest as aforesaid.

Court may ascertain
Natives entitled to
benefit of engage-
ments on "Ngaitahu
deed."

6. Whereas, in fulfilment of an engagement entered into by the Government of New Zealand with certain Natives, parties to the deed of purchase known as the "Ngaitahu deed," lands in the South Island of New Zealand were and still are appropriated to and for certain Natives, being the Natives aforesaid or their representatives: And whereas it is desirable that the names of such Natives should be ascertained and determined:

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7. ~~Be it further enacted that~~ The said Court shall, for the purpose of ascertaining and determining who the Natives were to whom such lands were appropriated as aforesaid, have the like authority to deal with such lands as it would have if such lands were still lands over which the Native title had not been extinguished, and such lands shall be deemed to be Native land within "The Native Land Court Act, 1880:" Provided that the right to ownership of such lands shall be confined to the Natives aforesaid and their representatives.

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1781

New clauses.

7. It is also hereby further declared that the said Court shall have and may exercise the like jurisdiction in respect of any Native reserve situate in the South Island or in Stewart Island, which may be submitted to such jurisdiction by Order in Council which the Governor is hereby authorized to issue from time to time for the purpose.

Court may exercise jurisdiction in South Island and Stewart Island.

But the Court, in determining the title or interests to any of such reserves, shall give effect to the original intention for which the said lands were respectively set apart.

8. Every certificate of title to be granted by the said Court under the authority of this Act shall contain a restriction to the effect that the land mentioned in such certificate shall be inalienable by sale or mortgage, or by lease for a longer period than twenty-one years, unless with the consent of the Governor.

Restriction upon alienation.

9. It shall be lawful for the Court, if it shall see fit, in any proceeding under this Act to give effect to any arrangement voluntarily come to between the Natives named as owners in any certificate or grant and any other Native, and to decide such proceedings in accordance with such arrangements.

Court may give effect to arrangement between Natives.

10. If, during the hearing of any case, it appears that any Native has died entitled to an interest in the land before the Court, but that no succession order has been made in respect of such interest, the Court may, if it deem fit, appoint a successor to such interest in like manner, and with the like effect, as if an application had been made in conformity with the provisions of "The Native Succession Act, 1881."

Court may appoint a successor.

8. 11. "The Native Land Division Act, 1882," shall be read and construed as if the word "not" had been omitted from the fourth line of the second section, so far as it applies to the last preceding section.

"Native Land Division Act, 1882," how to apply.