

Hon. Mr. Langstone.

NATIVE PURPOSES.

ANALYSIS.

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A BILL INTITULED

AN ACT to amend the Laws relating to Natives and Native Land, to adjust certain Claims and Disputes in relation to Native Land, to confer Jurisdiction upon the Native Land Court and the Native Appellate Court, and for other Purposes.

No. 68—1.

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

- Short Title. 1. This Act may be cited as the Native Purposes Act, 1937. 5
- Provisions of Native Land Act, 1931, to apply to this Act. See Reprint of Statutes, Vol. VI, p. 103. 2. Words and expressions used in this Act shall, unless the contrary intention appears, have the same meaning as in the Native Land Act, 1931 (hereinafter referred to as the principal Act), and the provisions of the principal Act, so far as applicable, shall extend and apply to the cases provided for by this Act in as full and ample a manner as if this Act had been incorporated with and formed part of the principal Act. 10

PART I.

AMENDMENT OF LAWS.

- Disposition of timber, flax, &c., upon Native land. 3. (1) For the purposes of the principal Act a contract of sale of any timber, flax, minerals, or other valuable thing attached to or forming part of Native land (other than industrial crops) and a contract, license, or grant, whether by way of agency or otherwise, conferring upon any person the right to enter upon Native land for the purpose of removing therefrom any timber, flax, minerals, or other valuable thing attached thereto or forming part thereof (other than industrial crops) shall be deemed to be an alienation of that land, unless the thing so sold or agreed to be sold or authorized to be removed or otherwise disposed of has been severed from the land before the contract, license, or grant is made or granted. 15 20 25
- Repeal. Ibid., p. 198. (2) This section is in substitution for section two hundred and sixty-two of the principal Act, and that section is hereby accordingly repealed. 30
- State Loan Departments not bound to assign unconfirmed mortgages. Ibid., Vol. VII, p. 1104. 4. (1) Notwithstanding anything to the contrary in sections seventy-one and seventy-two of the Property Law Act, 1908, no State Loan Department shall be bound to assign a mortgage debt in any case where the mortgage has not been confirmed under the principal Act. 35
- Repeal. Ibid., Vol. VI, p. 381. (2) Section twenty-one of the Native Trustee Act, 1930, is hereby repealed. 40

5. (1) Upon the recommendation of the Native Land Court or of a Maori Land Board, the Governor-General may from time to time, by Order in Council, set apart and reserve any Native freehold land or any land owned **5** by Natives as a Native reservation for the common use of the owners thereof or of any other Natives or class of Natives as a village-site, meeting-place, recreation-ground, sports-ground, bathing-place, church-site, building-site, burial-ground, landing-place, fishing-ground, spring, well, catchment area, or other source of **10** water-supply, timber-reserve, or place of historical or scenic interest, or in any other manner whatsoever.
- (2) Upon the recommendation of the Court or of a Board, the Governor-General may from time to time, by **15** Order in Council, declare any Native freehold land or any land owned by Natives to be included in any Native reservation, and the land shall form part of the reservation accordingly.
- (3) Land may be so set apart as or included in a **20** Native reservation although it is vested in a Board, or in the Native Trustee, or in an incorporated body of owners, or in any other trustees for the Native owners, and notwithstanding the provisions of the principal Act as to the disposition or administration of the land.
- (4) Upon the recommendation of the Court or of a **25** Board, any Order in Council made under this section may be at any time in like manner varied or revoked.
- (5) No Order in Council under this section shall affect any lease, license, charge, or other encumbrance **30** to which the land is subject.
- (6) The Court may, by order, vest any Native reservation in any body corporate or in any two or more persons upon trust to hold and administer it for the benefit of the persons or class of persons for whom the **35** reservation is constituted.
- (7) Where it is made to appear to the Court that it is expedient to appoint a new trustee or new trustees in respect of any Native reservation, the Court may, by order, appoint a new trustee or new trustees, either **40** in substitution for or in addition to any existing trustee or trustees, whether or not the existing trustee or trustees were appointed by the Court, and whether

Native
reservations.

there is any existing trustee or not at the time of the making of the order. Any order made under this subsection may be at any time in like manner varied or revoked. Any new trustee so appointed shall have the same rights and powers as he would have had if appointed by a decree of the Supreme Court in an action duly instituted, and the trust property shall vest in the trustees for the time being without any conveyance, transfer, assignment, or assurance.

(8) Where as a result of the revocation or variation of any Order in Council under this section any land ceases to be a Native reservation or part of a Native reservation, the land shall vest, as of its former estate, in the persons in whom it was vested immediately before it was constituted as or included in the Native reservation, or in their successors. In any such case the Court may, if it deems it expedient so to do, make an order vesting the land in the person or persons found by it to be entitled thereto.

(9) Land within a Native reservation shall be inalienable, whether to the Crown or to any other person, and whether by the beneficial owners or by the trustees or any other person in whom the land or any share therein is vested:

Provided that the trustee or trustees in whom any Native reservation is vested may, with the consent of the Court, grant a lease or occupation license of the reservation or of any part thereof for any term not exceeding seven years, upon and subject to such terms and conditions as the Court thinks fit. Any revenue derived from any such lease or occupation license shall be expended as the Court directs.

(10) The Governor-General may from time to time, by Order in Council, make all such regulations as in his opinion may be necessary or expedient for giving full effect to the provisions of this section. Without limiting the general power hereinbefore conferred, regulations may be made under this subsection for all or any of the following purposes:—

(a) Prescribing the powers, functions, and duties of trustees of Native reservations, and requiring compliance by all persons with any directions lawfully given by them; and providing for the control of trustees by the Court:

- (b) Providing for the effectual carrying-out of the objects for which Native reservations are established:
- 5 (c) Providing for the management and control of Native reservations:
- (d) Conserving the public health, safety, and convenience, and preventing and abating nuisances, in Native reservations, and in particular providing for the drainage and sanitation thereof:
- 10 (e) Protecting buildings and other structures on Native reservations:
- (f) Controlling or prohibiting any act, matter, or thing in relation to a Native reservation, and in particular providing for the control of any such act, matter, or thing by the Court:
- 15 (g) Prescribing fines, not exceeding *twenty* pounds, for the breach of any regulation made under this subsection.

20 (11) Any regulations made under this section may apply to any specified Native reservation, or to any specified class of Native reservations, or to Native reservations generally.

25 (12) This section is in substitution for section two hundred and ninety-eight of the principal Act, and that section is hereby accordingly repealed.

(13) All Native reservations that originated under section two hundred and ninety-eight of the principal Act and are subsisting at the passing of this Act shall enure for the purposes of this section as fully and effectually as if they had originated under this section, and accordingly shall, where necessary, be deemed to have so originated.

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6. (1) The provisions of the *last preceding* section shall apply to the Manukorihi Pa, constituted as a Native reservation under section one hundred and three of the Native Purposes Act, 1931.

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(2) The said section one hundred and three is hereby consequentially amended as follows:—

- 40 (a) By repealing subsections one and four:
- (b) By omitting from subsection three the words “under the said section two hundred and ninety-eight”.

Repeal.

See Reprint of Statutes, Vol. VI, p. 218

Special provisions as to Manukorihi Pa, Waitara. 1931, No. 32

As to moneys collected and disbursed by Registrars on behalf of Native Trustee. See Reprint of Statutes, Vol. VI, p. 393 1932, No. 25

See Reprint of Statutes, Vol. VI, p. 136

Commencement.

Land in Native townships may be re-vested in owners.

Ibid., p. 358

Ibid., p. 1134

7. (1) Notwithstanding anything to the contrary in section forty-five of the Native Trustee Act, 1930, all moneys collected on behalf of the Native Trustee by any Registrar of the Court pursuant to section sixteen of the Native Land Amendment Act, 1932, shall, instead of being paid into the Native Trustee's Account, be paid into the account of the Maori Land Board of which the Registrar is a member, being the account referred to in section eighty-nine of the principal Act; and all moneys paid out by the Registrar pursuant to the said section sixteen shall be disbursed from the Maori Land Board Account. All moneys so paid into that account shall be held in accordance with the trusts affecting them. 5 10

(2) This section shall be deemed to have come into force on the first day of April, nineteen hundred and thirty-seven. 15

8. (1) Where the Native Minister is satisfied that the land situated in a Native township or any part thereof is no longer required for the purpose of a Native township, he may apply to the Native Land Court for an order declaring the land to be no longer subject to the provisions of the Native Townships Act, 1910, and the Court may make an order accordingly. 20

(2) Except with the consent of the Chief Surveyor for the land district within which the Native township is situated, no order shall be made under this section in respect of any land that is comprised in a public road. Where an order is made in respect of any such land, the land shall cease to be a road or part of a road, as the case may be. 25 30

(3) Except with the consent of the Minister of Lands, no order shall be made under this section in respect of any land that is comprised in a public reserve vested in the Crown. Where an order is made in respect of any such land, the land shall cease to be a public reserve or part of a public reserve, as the case may be, and shall cease to be subject to the provisions of the Public Reserves, Domains, and National Parks Act, 1928. 35 40

(4) Where the Court makes an order under this section in respect of any land it may, by the same or a subsequent order, vest the land in the person or persons found by the Court to be entitled thereto, for a legal

estate in fee-simple, and, if more than one, as tenants in common in the relative shares or interests determined by the Court. All land which, or any undivided share in which, is vested in a Native under this subsection shall become Native freehold land.

(5) Section four hundred and seventy-nine of the principal Act is hereby extended so as to empower the Court to lay off road-lines under that section in order to give access or better access to any public reserve that is vested in the Crown and is left without access or reasonably practicable access to a public road by reason of any order made under this section.

See Reprint of Statutes, Vol. VI, p. 298

(6) The provisions of this section shall, so far as they are applicable, apply with respect to any land which is situated in a Native township and which, if it were not so situated, would be customary land, and for the purposes of this section the Court may exercise in respect of any such land the powers and jurisdiction conferred upon it by the principal Act in respect of customary land.

(7) No order made by the Court pursuant to the provisions of this section shall affect any valid lease, mortgage, charge, or other encumbrance to which the land is subject at the date of the making of the order, or the right of any person to enforce any valid contract made with respect to the land before that date.

(8) The District Land Registrar is hereby authorized to make all such alterations and amendments in the Register, and to issue such new certificates of title, as may be found necessary to give effect to any order made by the Court pursuant to the provisions of this section.

PART II.

MISCELLANEOUS POWERS.

Waikato-Maniapoto District.

9. Notwithstanding any restraint upon or restriction against sale, encumbrance, or leasing contained in the will of Tuwhakaririka Poutama, deceased, late of Te Kuiti, in the Provincial District of Auckland, probate of which was granted by the Native Land Court on the twenty-third day of October, nineteen hundred and thirty-five, no gift or devise of any land, or interest

Lands affected by will of Tuwhakaririka Poutama may be developed by Board of Native Affairs.

1936, No. 53

therein, under the said will shall be defeated or in any way prejudicially affected by reason of any such land, or any part or parts thereof, being declared to be subject to Part I of the Native Land Amendment Act, 1936 (hereinafter in this section referred to as the said Part I), or by reason of its being developed under the provisions of the said Part I out of funds provided for the purpose, and whether any such land is declared to be subject to the said Part I or is developed thereunder with the consent or agreement of the donees or devisees or otherwise. Any charge imposed on any such land pursuant to the said Part I may be enforced in manner provided by the said Part I.

Tairāwhiti District.

Authorizing reconsideration of part of Northern Waiapu Consolidation Scheme.
See Reprint of Statutes, Vol. VI, p. 160

10. (1) The confirmation of the scheme of consolidation (in part) dated the twentieth day of April, nineteen hundred and thirty-three, dealing with Pohooterangi and other blocks granted by the Native Minister, pursuant to the provisions of section one hundred and sixty-one of the principal Act, by notice published in the *Gazette* of the eighth day of June, nineteen hundred and thirty-three, at page 1538, is hereby revoked.

(2) The said scheme of consolidation stands remitted to the Court for reconsideration and amendment, and all proceedings in relation thereto shall be taken in the same manner as if the said scheme of consolidation had not been confirmed, but had been remitted by the Native Minister, pursuant to the provisions of the said section one hundred and sixty-one, to the Court for reconsideration and amendment.

Enabling portions of Hinewhaki West (or No. 2) Block to be set aside as a Native reservation.

11. Whereas the beneficial owners of the lands situate in the Tairāwhiti Native Land Court District, containing in the aggregate three acres two roods and nine perches, more or less, and known as Hinewhaki West (or Number 2), Sections 29, 30, and 31 (hereinafter in this section referred to as the said lands), are desirous that the said lands should be set apart as a Native reservation: Be it therefore enacted as follows:—

(1) Upon the recommendation of the Court, the Governor-General may, by Order in Council, set apart and reserve the said lands or any of them or any part

or parts thereof for the common use of the persons comprising the Wairoa section of the Ngatikahungunu Maori Tribe as a meeting-place, building-site, recreation-ground, sports-ground, or in any other manner that may
5 be for their use and benefit.

(2) Any lands so set apart and reserved shall be known as the Taihoa Marae or by such other name as the Court may, from time to time, prescribe, and shall be deemed to be a Native reservation within the
10 meaning of section *five* of this Act, and the provisions of that section shall, so far as applicable and with the necessary modifications, extend and apply thereto.

(3) The trustees appointed to administer the said Native reservation shall have a seal in a form to be
15 approved by the Native Minister. The seal shall not be affixed to any instrument except by the authority of a resolution passed by the trustees assembled together in a meeting, and in the presence of two trustees for the time being in office, who shall also sign the instrument.

(4) Any instrument in writing requiring to be executed by the trustees may be signed and sealed as aforesaid, and any instrument purporting to have been executed in accordance with the provisions of this
20 section shall, in the absence of proof to the contrary, for all purposes be deemed to have been duly executed.

(5) For the purposes of this section there is hereby established a fund to be called the "Taihoa Marae Fund" (hereinafter in this section referred to as the fund), which shall be kept by the Tairawhiti District
30 Maori Land Board. The Board may, from time to time, expend the moneys in the fund for the payment of any purchase-money or compensation for other land acquired by the trustees, for the improvement of the Native reservation, for the erection, replacement, repair,
35 upkeep, and insurance of buildings and appurtenances upon the reservation, for the fencing, preparation, improvement, maintenance, and care of sports-grounds, for the expenses of any gathering or ceremony taking place in connection with the said reservation, for the
40 acquisition of any furniture, tools, sports or game requisites, or other chattels, and generally for any purpose in connection with or incidental to the said

reservation as the Board may think proper. The expenditure of moneys upon or in respect of the said lands or any part thereof in respect of improvements, buildings, or otherwise before the passing of this Act shall be deemed to be expenditure duly authorized under this section. 5

(6) Any Maori Land Board, the East Coast Commissioner, the Native Trustee, or any local authority, corporate body, company, or person (including trustees) may contribute to the fund for the purpose of furthering the objects thereof, and any payment or contribution so made shall be deemed to be a payment lawfully made, anything in any Act to the contrary notwithstanding. 10

(7) The assembled owners of any parcel of Native land or the committee of any land vested in the East Coast Commissioner may pass a resolution that such sum as may be specified shall be paid to the fund out of any rents or other moneys which are due or accruing due or may become due in the future, either in one sum or by instalments. Any resolution heretofore passed for the purpose set forth in this section shall enure for the purposes of this section as if it had originated thereunder, and shall be deemed to have so originated. 15 20

(8) It shall be lawful for a Maori Land Board, the Native Trustee, or the East Coast Commissioner to make advances out of their respective accounts of the whole or any part of the amounts directed by any resolution passed under the *last preceding* subsection, or by any order of the Court setting aside any rents or other moneys for the purpose, to be paid in anticipation of rents or other moneys to become due or payable, and to charge the moneys so advanced against the land affected. In the case of a Maori Land Board, the Board is hereby authorized to execute, in respect of any such advance, a memorandum of charge in accordance with the provisions of section one hundred and nine of the principal Act. 25 30 35

(9) Section eleven of the Native Purposes Act, 1936, is hereby amended by omitting from the preamble thereof the words "Hinewhaki West (or Number 2), Section 29, Hinewhaki West (or Number 2), Section 30, and Hinewhaki West (or Number 2), Section 31". 40

South Island District.

12. Whereas the land known as Tuturau No. 1 Block, being Lot 1 of Section 46, Block III, Tuturau District, as the same is comprised and described in certificate of title, Volume 82, folio 47, Southland Registry, is a place of Maori historical interest and it is desired that a portion thereof should be placed under the care and control of the Maitaura Borough Council: Be it therefore enacted as follows:—

Authorizing
Court to vest
part of Tuturau
No. 1 Block in
Maitaura
Borough
Council.

10 (1) On its being satisfied of the consent of the majority of the Native owners of the said land who may then be alive (or their trustees in the case of owners under disability), the Court is hereby authorized to make an order vesting the said land or any part thereof in the
15 Mayor, Councillors, and Burgesses of the Borough of Maitaura for an estate of freehold in fee-simple, subject to such conditions as the Court may think it expedient to impose.

20 (2) The District Land Registrar, upon receipt of a vesting-order made hereunder, is hereby authorized to issue a certificate of title for the land comprised in such order, and shall endorse thereon a memorandum of any condition imposed under subsection *one* hereof which in his opinion affects the title to the said land, and is
25 further authorized to issue to the Native owners free of charge a certificate of title for any residue of the said land.

Reserves.

13. Whereas doubts have arisen as to the status of the title to the lands generally known as the Palmerston North Native Reserves and being the lands described in subsection *five* hereof (hereinafter in this section referred to as the said lands), and as to the powers and duties of the Native Trustee in respect of the
35 administration and control thereof, and as to the persons beneficially entitled thereto, and as to the power and jurisdiction of the Court to make succession orders in respect of deceased beneficiaries: And whereas it is expedient that such doubts should be removed: Be
40 it therefore enacted as follows:—

Palmerston
North Reserves
validation.

(1) The said lands, as from the twenty-fourth day of October, eighteen hundred and eighty-seven, shall be and be deemed to have been Native reserves within the

1882, No. 52

meaning of and subject to the provisions of the Native Reserves Act, 1882. The said lands are hereby declared to be Native land within the meaning of the principal Act.

(2) Notwithstanding anything to the contrary contained in a certain declaration of trust executed by the Public Trustee on the twenty-fourth day of October, eighteen hundred and eighty-seven, or a supplementary declaration of trust executed by the Native Trustee on the tenth day of May, nineteen hundred and twenty-three, it is hereby declared that the twenty-two persons whose names are set out in a notice published in the *Kahiti* on the thirty-first day of January, eighteen hundred and seventy-six, at page 7, shall be deemed to be the persons beneficially entitled to the said lands as tenants in common in equal shares. **5**
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(3) The Court shall be deemed to have had, and shall have, jurisdiction to inquire into and make orders as to the identity of any of the said beneficial owners, and to appoint successors to any of them who may have died or who may hereafter die. The Court is hereby empowered to inquire and determine whether any succession order heretofore made in respect of the interest of any person in the said lands should be amended, varied, or cancelled, and to amend, vary, or cancel any such order as to it may appear necessary or expedient. **20**
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(4) Nothing in this section contained shall be deemed to be an authority for calling in question any act of administration, management, or alienation of the said lands, or the distribution of any rents or profits arising therefrom, or the status of any person in relation thereto prior to the passing of this Act. **30**

(5) The lands to which this section applies are:—

(a) An area of forty-seven acres or thereabouts comprising Suburban Sections numbered 203, 204, 205, 207, 209, 210, 211, 212, 213, and 214 of the City of Palmerston North: **35**

(b) An area of twenty acres or thereabouts comprising Suburban Sections numbered 228, 237, 238, and 239 of the City of Palmerston North: **40**

(c) An area of three acres or thereabouts comprising Town Sections numbered 218, 219, and 220 of the City of Palmerston North:

(d) An area of one acre one rood or thereabouts comprising the Town Section numbered 276 of the City of Palmerston North:

Excepting out of all such areas any part or parts thereof which have been alienated by way of sale, or dedicated or taken for roads or streets, or for any other public purpose.

14. (1) Notwithstanding the limitations of time imposed by clause fifty-six of the Schedule to the West Coast Settlement Reserves Act, 1892 (as modified by section twenty-five of the West Coast Settlement Reserves Amendment Act, 1913), and by clause fifty-seven of the said Schedule, any valuation heretofore made since the thirty-first day of December, nineteen hundred and thirty-six, for the purposes of the said clauses fifty-six and fifty-seven and not made within the time limited in that behalf is hereby declared to have been lawfully made.

Extending time for making valuations for renewals of leases under the West Coast Settlement Reserves Act, 1892.

1892, No. 22
1913, No. 59

(2) Any valuation which, in terms of any lease affecting land in respect of which such valuation requires to be made pursuant to the provisions of the said clauses fifty-six and fifty-seven, ought to have been made prior to the passing of this Act and which has not been made, or any valuation which ought to be made on or before a date prior to the thirty-first day of December, nineteen hundred and *thirty-eight*, shall be deemed to be lawfully made if it is made on or before the said thirty-first day of December.

General.

15. The Native Trustee may, upon the requisition in writing of the Native Minister, without further appropriation than this section, pay from the Native Trustee's Account to such fund or account as shall be specified in the requisition a sum not exceeding *five hundred* pounds as a contribution towards the cost of the erection, at Waitara, of a memorial to the late Sir Maui Pomare.

Authorizing Native Trustee to contribute towards cost of memorial to Sir Maui Pomare.

16. (1) The Chief Judge is hereby authorized to refer to the Native Land Court, or to a Judge or Commissioner thereof, for inquiry and report, the claims and allegations made by the petitioners in the petitions mentioned in the Schedule hereto.

Chief Judge may refer petitions in Schedule to Native Land Court for report.

(2) The Chief Judge may, upon such inquiry and report, make to the Native Minister such recommendation in any case as appears to him just and equitable.

(3) Except with the leave of the Court, it shall not be lawful for any person to alienate or otherwise deal with any land the subject of a petition mentioned in the Schedule hereto until the report and recommendation under this section shall have been considered by the Native Affairs Committee of the House of Representatives.

(4) The report and recommendation under this section shall be laid before Parliament on as early a date as possible, and shall stand referred to the Native Affairs Committee of the House of Representatives.

Schedule.

SCHEDULE.

PETITIONS TO BE REFERRED TO THE NATIVE LAND COURT, OR A JUDGE OR COMMISSIONER THEREOF.

1. Petition No. 158 of 1935, of Hone Rameka and others, relative to the Takapau Block.
2. Petition No. 175 of 1935, of Hekenui Whakarake, relative to the Ngarakauwhakarara No. 4 Block.
3. Petition No. 66 of 1936, of W. Baker and others, praying for exclusion of Tarawera 5A Block from scope of certain investigation, or compensation.
4. Petition No. 82 of 1936, of Hirini Whaanga Christy and others, relative to the sale of the Mahia Block.
5. Petition No. 204 of 1936, of Hirini Whaanga Christy and others, relative to the sale of portion of the Nuhaka No. 1 Block.
6. Petition No. 239 of 1936, of Manaaki Piripi and others, praying for the return of Mangaopuraka Block.
7. Petition No. 262 of 1936, of Kaperiera te Pohe and others, praying for reinstatement of full rights in the Tarawera Block, &c.
8. Petition No. 301 of 1936, of Matewai Utiera and others, praying that the ancestral rights to the Tarawera No. 3 Block be restored.
9. Petition No. 41 of 1937, of Ruiha Tangotango and another, relative to Paparautini (Kekerione No. 37) Block.