NATIVE PURPOSES BILL

EXPLANATORY NOTES

PART I.

AMENDMENT OF LAWS.

Clause 3: Husbands and wives, being Natives, may join in the adoption of Native children, but the Native Land Court has held that it has no power to make an order of adoption of a Native child in favour of both husband and wife where one is a European. As the Native Land Act, 1931, provides that it shall not be lawful for any Magistrate to make an order under the Infants Act, 1908, for the adoption of a child by a Native, the result is that neither Court has jurisdiction to make an order in favour of the parties to a mixed marriage. The purpose of this clause is to confer such jurisdiction on the Native Land Court in respect of Native children and to enable any applications already pending in the Native Land Court and made since 1st January, 1941, to be dealt with.

Clause 4: The Board of Native Affairs has power to declare land owned or occupied by Natives to be subject to the provisions of Part I of the Native Land Amendment Act, 1936. This Act empowers the Board to develop and settle the land for Natives. The practice of the Board, however, is to require the consent of the owners to any land being brought under the Act, but cases have arisen, especially where there are a number of owners, where the owners have been divided on the question of the development of their lands. In some such cases it appeared to be eminently desirable that the land should be developed, but the reluctance of some of the owners to agree has resulted in the proposals being deferred or dropped. There are distinct disadvantages to the present practice as it is usually impossible to contact all owners. The purpose of the present clause is to enable new development proposals to form the subject-matter of an inquiry by the Native Land Court in open Court. In that way all owners will be given the opportunity of stating their views and recording their consents or their objections as the case may be. Upon an investigation of all the circumstances the Court will then make its report and recommendation for consideration by the Board as to whether or not action should be taken to bring the land under development for the benefit of the general body of Native owners.

Clause 5: Section 5 of the Native Purposes Act, 1937, enables Native land or land owned by Natives to be set apart and reserved by Order in Council as a Native reservation for the common use of Natives as a village-site, meeting-place, recreation-ground, church-site, burial-ground, source of water-supply, or for other purposes mentioned therein. Land so set apart thereupon becomes absolutely inalienable, whether to the Crown or to any other person, except that leases for terms not exceeding seven years may be granted with the consent of the Native Land Court. The section, however, applies only to Natives within the meaning of the principal Act—i.e., persons of full-blood, including half-castes, and persons intermediate in blood between half-caste and pure Maori. It is considered desirable that similar privileges should be extended to those persons of Maori descent who are not Natives within the meaning of the Act, and the purpose of this clause is to extend the operation of section 5 accordingly.

Clause 6: The Native Land Court has no jurisdiction to grant succession to the interests in the Native reserves of a person who is less than a half-caste. It appears also that the interests of such a person will devolve according to European law as to the distribution of intestate estates, in which case the purpose of the reserves—namely, the preservation of an estate for the maintenance of the descendants of the Natives who sold their lands in the early days of colonization—will tend to be defeated. The clause confers power on the Native Land Court to appoint successors and provides, in effect, that the interests will go according to Native custom.

Clause 6A: Where a Native applies under the Native Housing Act, 1935, for assistance to erect a dwelling and he owns insufficient land for a dwelling-site but another Native is prepared to provide him with sufficient land for the purpose, section 20 of the Native Housing Amendment Act, 1938, enables the Court, upon the application of the last-mentioned Native, to vest the whole or part of that Native's interest in any land in the Native who desires the dwelling-site. Cases have arisen, however, where a Native, owning insufficient land, desires to erect a dwelling with assistance from some source other than the Board of Native Affairs under the Native Housing Act or from his own resources. In such cases section 20 would not enable another Native to provide him with sufficient land as the section applies only where assistance is sought under the Native Housing Act. It is therefore considered desirable that section 20 should be given a wider application, and the purpose of this clause is to bring that object about.

PART II.

MISCELLANEOUS POWERS.

Tokerau District.

Clause 7: The Kenana Native School was closed some years ago and, as there is no likelihood of it being reopened, the Education Department desire to have the land revested in the Natives. This clause empowers the Court to make any necessary revesting orders. The area affected is five acres.

Struck out.

Waiariki District.

Clause 8: The Ruatoki Nos. 1, 2, and 3 Blocks were made exempt from rating during the time consolidation of the Natives' interests therein was being undertaken. The scheme having been completed and it being desired to bring the lands on to the rating roll again a notice was issued under the authority of section 16 of the Urewera Lands Act, 1921–22, declaring them to be no longer outside the Rating Act. Owing to the wording of the statute questions have been raised as to whether the notice is effective. This section is to clear the situation.

New. Waiariki District.

Clause 8A: The Muruika Block is situated near the Maori Church, at Ohinemutu, Rotorua. It is still Native customary land not yet clothed with European titles, and on it are buried a number of Maori returned soldiers of the Great War. The Natives interested now desire permanently to set apart a portion of the block estimated to contain about 1 rood 24 perches, as a burial-ground for all Maori returned soldiers. They desire the control and management of the burial-ground to be vested in a Board of seven trustees who are to be members of the Te Arawa Maori Returned Soldiers' League. The purpose of this clause is to give effect to these objects.

Waikato-Maniapoto District.

Clause 9: The land affected by this section was granted to the owners of the Whaingaroa Block in substitution for one of the four reserves made for them on the sale of that block to the Crown in 1851. In accordance with the original idea of preserving for the sellers "places of abode," a restriction was placed on the title making the land absolutely inalienable. The land, however, is not being used by the owners, of whom there are about 170, for settlement purposes. It contains 91 acres, is situated in the midst of European-owned land, the noxious weeds on it are becoming a menace to the surrounding properties, and, as it is not considered suitable for development under any of the State schemes, it is thought desirable to have the restrictions removed to enable the land to be disposed of. Any alienation will be subject to confirmation by the Native Land Court.

Ikaroa District.

Clause 10: In a notice published in the Gazette of the 11th December, 1930, the control and management of certain lands was declared to be vested in the Native Trustee under section 25 of the Native Trustee Act, 1930, which gives the Native Trustee power to farm. But to accord with the provisions of the statute, the notice should have been given in the Kahiti. This was not done owing to an office error. The Native Trustee has been, and is, farming the areas, and it is desirable that his authority to do so should be put beyond question. The proposed clause vests the control and management of the lands in him and validates past acts.

New.

Ikaroa and South Island Districts.

Clause 10A: Hemi Matenga died in 1912 leaving a will under which, on the death of a number of named persons, the residue of his estate was to be divided equally among the survivors of certain grand-nephews and grand-nieces. Only one of the named persons is now living, and she is aged about sixty. On her death the estate would, under the will, have to be realized and the proceeds divided amongst the grand-nephews and grand-nieces then living. They accordingly desire that the estate should be preserved as a perpetual trust for their benefit and for the benefit of their lineal descendants. The purpose of this clause is to create such a trust and to vest the control of the estate in three trustees—viz., the Native Trustee, one appointed by the beneficiaries, and the other by the Governor-General in Council. The trust so created is not to operate until the death of the surviving named person, and in the meantime provision is made in the clause that none of the property shall be alienated except by lease for a term not exceeding twenty-one years.

Aotea District.

Clause 10B: The lands known as the Pariroa Native Reserve were, by the Pariroa Native Reserve Act, 1901, vested in the Public Trustee to be held by him in trust for the exclusive use and occupation of the members of the Ngatitupito and Ngati-ringi Tribes, and the lands were made absolutely inalienable. Later legislation appeared to have the effect of conferring upon the Native Land Court jurisdiction to partition the lands amongst the persons beneficially entitled. In the year 1918 the Court exercised that jurisdiction and made certain partition orders which appear to have operated to vest the lands in the Natives for an estate in fee-simple freed from the restrictions upon alienation. In 1935 one of the Native owners having left her legal husband, died leaving a will devising her interest in the lands to her husband (according to Native custom), who was not a member of the tribes in question, and this result has given rise to complaint by those tribes who object to a stranger obtaining an interest in the lands in contravention of the original trust in their favour. In 1937, in consequence of an inquiry by the Native Land Court, the Chief Judge recommended that legislation be enacted authorizing the Chief Judge to state a case for the opinion of the Supreme Court as to whether the Native Land Court had jurisdiction to make the partition orders and as to whether the interests of the beneficiaries under the Act of 1901 are devisable by will, with power to the Chief Judge to take the necessary steps to conform to the decision of the Supreme Court. This clause gives effect to that recommendation, but provides that those persons who might be adversely affected if the partition orders were not valid are secured against

Ratana Pa.

Clause 11: Various suggestions have been made for the purpose of ameliorating the present difficulties confronting the Health Department with regard to sanitation, delapidation, and overcrowding in the Ratana Pa. Discussions with the leaders of the Ratana Movement and others have given rise to the desirability of making provision for the better administration and more effective control of the land on which the settlement is situated and adjacent lands by constituting a Board in which the lands will be vested and by which such lands will be managed. The Board will be known as the Ratana Trust Board and will consist of eight members, six of whom will represent beneficial owners and adherents of the Ratana Movement and two will be representatives of the Health Department and the Native Department. The Native Land Court is given power, with the consent of the owners, to vest the land in the Board. The Board in turn is given power to subdivide the

lands, install water-supplies, sanitary conveniences, remove, erect, or repair buildings, and generally improve the settlement. It may grant leases of the lands limited to a maximum term of fifty years, the revenues from which will be paid partly to the owners and the residue into the general funds of the Board. The Board may levy a rate on the lands, impose a tenement tax, inflict fines for breaches of by-laws, and the moneys collected will be paid to the funds of the Board and expended in carrying out its powers and Maori Land Boards, local authorities, trustees, and others may functions. make contributions to the funds of the Board. Wide powers of local government are conferred upon the Board and it may make by-laws providing for the proper and effective control of the civic life of the settlement. The general duty of the Board is to promote, control, and conserve the moral, physical, educational, social, and economic welfare of the inhabitants of the Pa, and to encourage them in the adoption of such habits of life as will be conducive to their health and general well-being.

General.

Clause 12: The need for the Native Trustee's continuing to run a hostelry at Havelock for the use of the Natives beneficially interested in the South Island Tenths Reserves has disappeared. This clause authorizes the Native Trustee to sell the property and provides for the destination of the proceeds.

New.

Clause 12a: This clause exempts from the operation of the Manukau Harbour Control Act, 1911, all the land in Deposited Plan No. 19623, Auckland Land Registry. The whole of this land was by an Order in Council made on the 15th March, 1889, placed in the Public Trust Office for the purpose of and as an endowment for Native hostelries with power to administer and lease the same or any part or parts thereof respectively in manner and with the formalities required in and by the Native Reserves Act, 1882, and was later vested in the Native Trustee by a certificate executed pursuant to the provisions of section 15 (2) of the Native Trustee Act, 1920. At the time of the passing of the Manukau Harbour Control Act so much of such land as came within the definition of "tidal lands," as defined by the Harbours Act, 1908, was erroneously included in the First Schedule of the former Act, and pursuant to section 3 thereof became vested in the Auckland Harbour Board for an estate in fee-simple. The Auckland Harbour Board has consented to the Native Trustee's title to this land being rectified in the manner set out in the present clause.

Clause 13: In 1900 Teo Tipene, now deceased, and his then wife according to Native custom, purported to adopt a child called Robert Victor Tipene. An order of adoption under the Adoption of Children Act was orally pronounced by the Magistrate and a minute of the order entered on the records of the Court, but the order was never drawn up and signed by the Magistrate. In 1936 the Supreme Court found that the omission to have the order drawn up and signed was fatal. It accordingly found that no order of adoption had been made and, in addition, that Teo Tipene and his wife were not husband and wife as required by the Act. Proceedings in the Native Land Court were taken to establish that Robert Tipene was the natural son of Teo Tipene thus giving him the right to succeed to the estate of Teo Tipene according to Native custom. The Chief Judge found that Robert Tipene was the natural son, but this decision was subsequently overruled by the Native Appellate Court. The estate is held at present under succession orders of the Native Land Court by the next-of-kin of Teo Tipene. The purpose of this clause is to empower the Native Land Court to inquire into all the circumstances and to award the whole or a part of the estate to Robert Tipene if it considers him to be fairly and equitably entitled thereto.

[AS REPORTED FROM THE NATIVE AFFAIRS COMMITTEE.] House of Representatives, 7th October, 1941.

Hon. Mr. Mason

NATIVE PURPOSES

ANALYSIS

Title.

1. Short Title.

2. Provisions of Native Land Act, 1931, to apply to this Act.

PART I.

AMENDMENT OF LAWS.

- 3. Adoption order in favour of husband and wife where one spouse is a European.
- 4. Development of land
- recommendation by the Court.

 5. Section 5 of the Native
 Purposes Act, 1937, amended.

 6. Court may appoint successors
- to interests of descendants of Natives in Native reserves.

PART II.

MISCELLANEOUS POWERS. Tokerau District.

7. Revesting Kenana Native School site in Natives.

Waiariki District.

8. Validating notice making Ruatoki Blocks rateable.

Waikato-Maniapoto District.

9. Removing restriction against alienation of Lot 56, Karioi Parish.

Ikaroa and Tairawhiti Districts.

10. Control and management of Waipiro A16 and other blocks vested in Native Trustee.

Ratana Pa.

11. Ratana Trust Board constituted.

General.

- 12. Authorizing disposal of Havelock Hostelry by Native Trustee.
- 13. As to the estate of Teo Tipene, deceased.
- 14. Chief Judge may refer petitions in Schedule to Native Land Court for report. Schedule.

A BILL INTITULED

An Act to amend the Laws relating to Natives and Title. Native Land, to adjust certain Claims and Disputes in relation to Native Land, to confer Jurisdiction upon the Native Land Court, and for other Purposes. BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

Short Title.

Provisions of Native Land Act, 1931, to apply to this Act. See Reprint of Statutes, Vol. VI, p. 103

1. This Act may be cited as the Native Purposes Act, 1941.

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.

Adoption order in favour of husband and wife where one spouse is a European.

3. (1) In any case where a Native is married to a European the husband and the wife may jointly make an application for an order of adoption under Part IX 15 of the principal Act, and the Court may make an order of adoption in favour of the husband and the wife jointly.

(2) In any case where a child has, whether before or after the coming into force of this section, been adopted by a Native, the Court may, in the lifetime of the adopting parent and while the order of adoption remains in force, make an order of adoption in accordance with the said Part IX in favour of the European husband or wife of that parent.

(3) This section shall be deemed to have come into force on the first day of January, nineteen hundred and forty-one.

Development of land upon recommendation by the Court. 1936, No. 53

4. If it is proposed that any Native land or any land owned or occupied by Natives should be declared to 30 be subject to the provisions of Part I of the Native Land Amendment Act, 1936, the Court may, upon the application of the Board of Native Affairs, or of a Registrar of the Court, or of any person interested, inquire into any such proposal and make such report 35 and recommendation thereon as it thinks fit for the guidance of that Board.

5. Section five of the Native Purposes Act, 1937. is hereby amended by adding the following subsection:-

"(14) For the purposes of this section, any person 40 who is a descendant of a Native shall be deemed to be a Native."

Section 5 of the Native Purposes Act, 1937, amended. 1937, No. 34

6. (1) Where any descendant of a Native has died, Court may whether before or after the passing of this Act and appoint whether testate or intestate, leaving any beneficial interests of freehold interest in any land which is subject to the 5 provisions of the Native Reserves Act, 1882, or the in Native Westland and Nelson Native Reserves Act, 1887, the Court shall have exclusive jurisdiction to determine the right of any person to succeed to the interest so left by the deceased, and may make in favour of every 10 person so found to be entitled the same succession order as it might have made if the deceased had been a Native.

descendants of Natives 1882. No. 52 1887. No. 29

(2) Any final order heretofore made by the Court which by virtue of this section would have been valid 15 if this section had then been in force shall be deemed to be and at all times to have been a valid order and of full force and effect according to the tenor thereof.

for Natives.

6A. (I) The Court may, on application being made to Dwelling-sites 20 lit by the Native owner of any estate or interest in any land, vest the whole or any part of that estate or interest in any Native in order to provide him with a site for a dwelling. No order shall be made under this section vesting any area exceeding five acres in any one Native.

(2) For the purposes of this section any person who is a descendant of a Native shall be deemed to be a

(3) Section twenty of the Native Housing Amendment Repeal. Act, 1938, is hereby repealed.

1938, No. 17

30

25

PART II.

MISCELLANEOUS POWERS.

Tokerau District.

7. Whereas the land hereinafter described is vested Revesting in the Crown for the purpose of a Native school and school site 35 is no longer required for that purpose: Be it therefore in Natives. enacted as follows:-

(1) The land described in subsection five hereof shall, as from the passing of this Act, cease to be vested in the Crown for the purpose of a site for a Native school and shall thereafter be and be deemed to be Native freehold land within the meaning of the principal Act.

(2) The Court is hereby authorized to inquire and determine in whom the said land ought to become

vested, and to make an order or orders—

(a) Vesting the said land or any part thereof in such persons as may be found by the Court to be entitled thereto for an estate of freehold in fee-simple, and, if more than one, as tenants 10 in common in the relative shares or interests defined by the Court:

5

(b) Setting apart the said land or any part thereof for some purpose for the benefit of Natives, and vesting the land so set apart in one or 15 more persons in trust to hold and administer it for the purpose aforesaid, and the District Land Registrar is hereby authorized in any such case to issue, without the payment of any fee, a certificate of title in favour of 20 that person or those persons.

(3) The Court may ascertain the ownership of the said land as if the title had not previously been investigated, and shall not be bound or restricted by any former order of the Court or of the Appellate 25 Court or by any report under the provisions of the Native School Sites Act, 1880, made in respect of that

land or any part or parts thereof.

See Reprint of Statutes, Vol. VI, p. 1134 (4) The provisions of the Public Reserves, Domains, and National Parks Act, 1928, shall not apply to the 30 said land.

(5) The land to which this section relates is: All that area in the Mangonui County, North Auckland Land District, situated in Block X, Mangonui Survey District, containing by admeasurement five acres, more 35 or less, being parts of Kohumaru No. 1 Block, and being Kenana Native School site, appropriated and proclaimed in New Zealand Gazette of the nineteenth day of January, eighteen hundred and ninety-three, page 86, and of the tenth day of March, nineteen 40 hundred and four, page 813: Bounded on the northwest by a public road, 548 links; on the north-east by part Kohumaru Block, 913 links; and on the south generally by Kohumaru A No. 2 Block, 548 links

and 913 links; be the aforesaid linkages more or less: as the same is more particularly delineated on the plan marked N.D. 21/4/59, deposited in the Head Office of the Native Department, at Wellington, and 5 thereon edged red (N.L.C. Plan 7019).

Struck out.

Waiariki District.

8. Whereas by a notice published in the *Gazette* of the twenty-second day of August, nineteen hundred notice making 10 and forty, at page 1962 (hereinafter in this section referred to as the said notice), the Native Minister, purporting to act in pursuance of the provisions of section sixteen of the Urewera Lands Act, 1921-22, 1921, No. 55 notified that all the land which was comprised in the 15 Ruatoki No. 1, No. 2, and No. 3 Blocks, and which by virtue of certain provisions of the said section sixteen had been deemed to be excepted from the term "rateable property" as defined by the Rating Act, 1925, should cease to be so excepted: And whereas 20 doubts have arisen concerning the validity of the said notice, and it is desirable that those doubts should be resolved: Be it therefore enacted as follows:—

The said notice is hereby declared to have been validly and lawfully issued and to have and at all times to have had full force and effect according to the tenor thereof, and all acts done before the passing of this Act which by virtue of this section would have been valid and lawful if this section had been in force when they were done shall be deemed to have been as validly and lawfully done as if this section had then been in force.

New.

Waiariki District.

8A. Whereas part of the land situated in the Waiariki Muruika 35 Native Land Court District and known as Muruika has been utilized to inter the bodies of deceased Maori soldiers and others, and it is desired to set the same apart permanently for use in the future for such purposes: Be it therefore enacted as follows:—

(1) For the purpose of this section "the League" shall mean the organization known as the Te Arawa Maori Returned Soldiers' League.

Ruatoki Blocks rateable.

(2) The Court is hereby empowered and authorized to make an order setting apart and reserving an area containing approximately one rood and twenty-four perches, being part of the land known as Muruika Block, and vesting the control and management thereof in a Board of Trustees (hereinafter in this section referred to as the Board) as a Native burial-ground for the interment of deceased Maori soldiers and such other persons as the Board shall authorize.

(3) The Board shall consist of seven members appointed by the Court, who shall hold office for one year and thereafter until their successors are appointed and who

shall be eligible for reappointment.

(4) The members of the Board shall be nominated 15 each year by the League at its annual general meeting, and a list of the persons nominated shall be forthwith submitted to the Court, which shall thereupon appoint them accordingly unless the Court for any reason considers any person so nominated unfit or unsuitable for appointment 20 as a member of the Board.

(5) If the League shall cease to exist or omit to make a nomination, the Court may at any time it appears expedient, upon application to it, appoint a member of the Board, whether a member of the League or not.

(6) A member of the Board may at any time resign from office by notice in writing addressed to the Registrar of the Court, or the Court may at any time remove any member for any cause that it thinks fit.

(7) Any casual vacancy on the Board may be filled 30 in the manner in which the appointment of the member vacating office was made, and for that purpose a nomination may be made by the League as soon as possible after the vacancy has occurred.

(8) The powers and functions of the Board may be 35 exercised by a majority of the members for the time being, and no act of the Board shall be invalid because of any

vacancy in the membership thereof.

(9) The Court may grant rights-of-way over other areas of land to give access to the burial-ground con- 40 stituted under this section or over the burial-ground to give access to other lands.

10

(10) Nothing in this section shall affect the power of the Court to commence or to continue and complete the investigation of the title of the said Muruika Block, subject to the portion affected by this section still remaining subject hereto.

(11) The Court may, by order, make such regulations or by-laws for the conduct and administration of the burial-ground as it shall think fit, and from time to time 10 make further orders varying, extending, amending, or

cancelling the same.

Waikato-Maniapoto District.

9. (1) The restriction against the alienation of the Removing land known as Allotment 56, Parish of Karioi, imposed restriction 15 by certificate of title, Volume 251, folio 135, Auckland alienation Registry, in accordance with the direction contained in a of Lot 56, Karioi Parish. certain Warrant issued under the authority of section eleven of the Native Land Amendment Act, 1912, and 1912, No. 34 section thirteen of the Native Land Amendment Act, 1914, No. 63 20 1914, is hereby removed, and shall with respect to any alienation made either before or after the commencement of this Act be of no force or effect.

(2) The District Land Registrar is hereby authorized and directed to amend the said certificate of title by 25 cancelling the restriction against alienation aforesaid and to enter upon the Warrant mentioned in subsection one hereof a memorial to the effect that the said land

is subject to the provisions of this section.

Ikaroa and Tairawhiti Districts.

10. Whereas by a notice published in the Gazette of Control and 30 the eleventh day of December, nineteen hundred and management thirty, at page 3755, the Native Minister purported, in effect, to declare that the control and management of blocks vested in Native certain lands amongst them being the Waipiro A16, A21, Trustee. 35 and A15 (part) and the Porangahau 1B 40 Section 4, and 1B 40 Section 1B Blocks (hereinafter in this section collectively referred to as the said blocks) was vested in the Native Trustee for the purposes of section twenty-five see Reprint of the Native Trustee Act, 1930: And whereas by reason of Statutes, Vol. VI, p. 382 40 of the omission to publish that notice in the Kahiti in

A16 and other

accordance with the provisions of the said section twentyfive, doubts have been cast on the validity of the exercise by the Native Trustee, in respect of the said blocks, of the powers conferred upon him by the said section twentyfive: And whereas it is desirable that those doubts should be resolved: Be it therefore enacted as follows:—

The control and management of the said blocks is hereby vested, and shall at all times since the eleventh day of December, nineteen hundred and thirty, be deemed to have been vested, in the Native Trustee under and for 10 the purposes of the said section twenty-five; and all acts done before the passing of this Act, which by virtue of this section would have been valid and lawful if this section had been in force when they were done, shall be deemed to have been as validly and lawfully done as if 15 this section had then been in force.

Ikaroa and South Island Districts.

Hemi Matenga Trust.

10A. Whereas Hemi Matenga, a Native, late of Wakapuaka, near the City of Nelson in New Zealand, 20 died on or about the twenty-sixth day of April, nineteen hundred and twelve, leaving a will bearing date the twenty-second day of November, nineteen hundred and eleven, probate whereof was granted by the Native Land Court at Wellington on the fifteenth day of July, nineteen 25 hundred and twelve, to Malcolm Pratt Webster, a provision-merchant, and Thomas Neale, a produce-merchant, both of Nelson, the executors therein named: And whereas by his said will the said Hemi Matenga gave, devised, and bequeathed all his real and personal estate 30 not otherwise disposed of by his will unto his trustees upon trust to sell call in and convert the same into money. and when invested to pay certain moneys out of the resulting income and to accumulate the residue of such income by investing the same and the resulting income 35 thereof to the intent that such accumulations should be added to the capital of his residuary trust fund and follow the destination thereof; and after the death of the survivor of Metapere Ropata, Winara Parata, Hira Parata, Mahia Parata, and Utauta Webber he directed that his trustees 40 should pay to the New Zealand Maori Mission Board the

sum of one thousand pounds and should pay and divide the residue of his residuary trust fund unto and among such of George Ropata, Ngamoana, Herehere, Te, and Pahia (children of the said Metapere Ropata), Paioke, Raw, Hauangi, and Tata (children of the said Winara Parata), Tohuroa (child of the said Hira Parata), Tukumaru, Rarangi, Smike, and Narona (children of the said Utauta Webber), and the two other children of the said Utauta Webber as should be living at the death of such survivor in equal shares: And whereas of the said Metapere Ropata, Winara Parata, Hira Parata, Mahia Parata, and Utauta Webber, the said Utauta Webber alone is now living: And whereas of the said persons contingently 15 entitled to share in the residue of the residuary trust fund the following now survive or have died leaving issue them surviving—namely, Ngamoana Ropata, Herehere Ropata, Te Ropata, Paioke Parata, Raw Parata, Hauangi Parata, Tata Parata, Tohuroa Parata, Tukumaru Webber, Smike 20 Webber, Rarangi Webber, Narona Webber, and Piki Webber—and are all hereinafter in this section referred to as "the contingent residuary beneficiaries": whereas the said Malcolm Pratt Webster died on or about the nineteenth day of May, nineteen hundred and twenty-52 nine, and the said Thomas Neale and one Ernest Morton Ryder of Levin, farmer, are now trustees of the estate of the said Hemi Matenga: And whereas the contingent residuary beneficiaries are desirous that certain Native lands at Wakapuaka aforesaid and at Waikanae in the North Island, being part of the assets of the estate of the said Hemi Matenga, deceased, be not sold pursuant to the terms of the said will, but that such lands, together with the remainder of the residuary trust fund, be retained as a perpetual trust upon the terms set forth in this section: 35 Be it therefore enacted as follows:—

(1) Except as provided in subsection *sixteen* hereof, this section shall come into force on the date of the death of the said Utauta Webber if any of the contingent residuary beneficiaries are alive at that date, but not otherwise.

(2) On this section coming into force there shall be created a trust, to be known as the Hemi Matenga Trust, and the trust property shall, after payment of the said gift of one thousand pounds to the New Zealand Maori Mission Board, comprise all property, real and personal, that at the death of the said Utauta Webber is vested in the trustee or trustees for the time being of the said will.

(3) (a) For the purpose of administering the trust property there shall be three trustees appointed in manner 10 following, but in the event of the number being reduced to less than three by death, resignation, removal, or otherwise the surviving or continuing trustees or trustee may act pending the appointment of a new trustee or trustees.

(b) The Native Trustee, ex officio, shall act as one of the trustees.

(c) One trustee shall be appointed by the beneficiaries of the trust and shall hold office for a period of five years, but shall be eligible for reappointment. On any such 20 trustee dying, resigning, being removed from office, or relinquishing his office by reason of the expiration of the period of his appointment or otherwise a new trustee shall be appointed by the beneficiaries.

 (\overline{d}) One trustee shall be appointed by the Governor- 25 General by Order in Council and shall hold office for a period of five years, but shall be eligible for reappointment. On any such trustee dying, resigning, being removed from office, or relinquishing his office by reason of the expiration. of the period of his appointment or otherwise a new trustee 30 shall be appointed by the Governor-General by Order in Council.

(4) Any trustee appointed under this section shall have the same rights and powers as he would have if appointed by decree of the Supreme Court in an action duly instituted. 35

(5) There shall be paid to each of the trustees out of the trust estate such salary or other remuneration and such travelling expenses and allowances as shall be fixed by the Native Minister upon the recommendation of the Court,

15

- (6) Subject to the provisions of this section, the trustees may from time to time—
 - (a) Lease any lands comprised in the trust property upon such terms and subject to such conditions as they think fit:
 - (b) With the consent of the Native Minister, acquire any land or any interest therein:
 - (c) Borrow money upon the security of the trust property and expend it for the purpose of improving, farming, or leasing the trust property and for the purpose of paying off any liabilities:
 - (d) Farm lands, purchase, sell, and dispose of stock, implements, and chattels, fell and dispose of timber, construct houses, wool-sheds, and other buildings, construct drains and fences, and generally manage and improve any lands comprised in the trust property:
 - (e) Engage and dismiss farm-managers, servants, workmen, accountants, and others, and determine the salary, wages, or other remuneration payable to such persons for their services:
 - (f) Permit any of the beneficiaries to occupy any part or parts of the lands comprised in the trust property upon such terms and subject to such conditions as the trustees think fit:
 - (g) Set apart any part or parts of the lands comprised in the trust property as sites for dwellings for the beneficiaries or any of them, and erect dwellings thereon, and repair, alter, and improve the dwellings of beneficiaries.
- (7) All moneys received by the trustees from or in respect of the trust property or in respect of the 35 farming or other utilization of the trust property shall be paid into a banking account in the name of the Native Trustee as custodian trustee.
- (8) No person lending money upon the security of the trust property shall be concerned to inquire as to 40 the necessity for the loan, or as to the application by the trustees of the moneys raised thereby, and every security executed by the trustees shall be as valid and effectual for the protection of the mortgagee and his

10

5

15

20

25

assigns as if the trustees had been entitled in their own right to the lands or other property comprised in the security, and in every such security a power of sale on

default may be granted.

(9) The beneficiaries of the trust shall be the contingent residuary beneficiaries during their lives in equal shares and in the event of any of the contingent residuary beneficiaries dying hereafter or having died before the date of the passing of this Act leaving issue him or her 10 surviving, then such issue shall take through all degrees per stirpes in equal shares if more than one the share of the said income which such deceased contingent residuary beneficiary would have been entitled to if living. For the purposes of this section the term "issue" shall include 15 any child or remoter issue of any of the contingent residuary beneficiaries, whether legitimate or illegitimate, if such child or remoter issue would be capable according to Native custom of taking from its parent Native freehold land by way of intestate succession.

(10) In respect of the trust property vested in the trustees, the Court may from time to time, on the application of the trustees or of any of the beneficiaries, settle the list of the beneficiaries in the trust property, may appoint successors to any deceased beneficiaries 25 and trustees for any beneficiary under disability, and generally may exercise jurisdiction with regard to the trust property so far as the equitable estate of the

beneficiaries is concerned.

(11) The trustees shall apply and dispose of all income 30 arising from the trust property as follows:—

(a) In defraying the cost of administration by the

trustees of the trust property:

(b) In payment of all outgoings and costs, charges, and expenses (including rates, taxes, wages, 35 and salaries, and the cost of erecting, insuring, maintaining, and repairing buildings) properly payable or incurred by the trustees in the due execution of their trust:

(c) If the trustees think it necessary or desirable, in 40 providing a sinking fund for paying off and discharging any moneys owing by the trust and

secured upon the trust property:

(d) In payment, at such times, in such amounts, and in such manner as the trustees shall think fit, of the residue of the income to the beneficiaries in accordance with their respective interests in the trust property.

(12) No beneficiary of the trust shall be capable of disposing of his interests in the trust property or in the rents, profits, or income thereof, or in any moneys 10 borrowed upon the security thereof, whether by way of sale, mortgage, assignment, or otherwise except in favour of the Crown or in favour of a State Loan Department.

(13) All freehold lands vested in the trustees and forming part of the trust property shall be deemed to be 15 and at all times and for all purposes to have been Native freehold land within the meaning of the principal Act, and all such lands shall except as provided by paragraph (c) of subsection six hereof, be inalienable otherwise than by lease for any term not exceeding twenty-one 20 years.

(14) (a) The trustees shall cause to be made up to the thirty-first day of March in each year a balance-sheet and a statement of accounts setting forth all receipts and payments and income and expenditure of the trustees.

(b) Such balance-sheet and statement shall be audited by a person to be approved by the Native Minister, and as soon as possible after every such audit shall be submitted to the Native Minister.

(c) Every beneficiary shall be entitled at all reasonable times to inspect and take copies of the accounts and at his own expense to be furnished with copies thereof or extracts therefrom.

(15) The trusts hereby declared are in substitution for and replacement of the trusts declared by the will of 35 the said Hemi Matenga, deceased.

(16) Until the coming into force of this section all lands forming part of the residuary trust fund under the will of the said Hemi Matenga, deceased, shall be inalienable otherwise than by lease for any term not exceeding 40 twenty-one years.

(17) Nothing contained in this section shall in anywise prejudice or affect the rights vested or contingent in the estate of the said Hemi Matenga, deceased, of Reuben Stephens or Konehu Bailey, grandchildren of the said Hemi Matenga, or of any person claiming under or through them or either of them.

Aotea District.

Pariroa Native Reserve.

1901, No. 43

10B. (1) Upon the application of any person claiming to be interested lodged with the Registrar of the Court 10 within six months after the passing of this Act, the Chief Judge may state a case for the opinion of the Supreme Court with respect to the lands described in the First Schedule of the Pariroa Native Reserve Act, 1901 (hereinafter in this section referred to as the said Act), known 15 collectively as the Pariroa Native Reserve, upon the following points of law, namely:—

(a) Whether the interests of the beneficiaries ascertained under section two of the said Act were devisable by will to persons not being members 20 of the Ngatitupito and Ngati-ringi Tribes

mentioned in that section:

(b) Whether the Court had jurisdiction to make certain orders on partition made on the sixteenth day of August, nineteen hundred and eighteen, 25 having the effect of vesting the land in feesimple in the beneficiaries ascertained under section two of the said Act:

(c) Any other point of law arising out of the reservation of such land for the purposes set out in the 30

said Act.

(2) The Chief Judge may, before stating a case hereunder, require any applicant to deposit such sum of money or to give such security within such time as he shall think fit, for costs or as security for costs, and, 35 unless such deposit be made or security given, may summarily dismiss the application. The Supreme Court shall have power to allow costs and the amount so deposited or secured may be applied in payment thereof.

(3) The Chief Judge may make or cause to be made all such amendments of orders considered necessary to give effect to the decision of the Supreme Court and may cancel if necessary any existing order affecting the said lands, and the provisions of section thirty-seven of the principal Act shall apply thereto:

Provided that if the Chief Judge in his discretion should be of opinion that, by reason of the circumstances, 10 lany person named in an order should in fairness be given consideration he may, in making any amendment, provide for such person by allotting him a limited estate in See Reprint

the said lands.

Vol. VI, p. 118

Ratana Pa.

15 11. Whereas for the better administration and more Ratana effective utilization of the Native settlement at Ratana, Trust Boar constituted. in the Aotea Native Land Court District, it is desirable to constitute a Board and to vest certain lands in such Board for administration and management in accordance 20 with the provisions of this section: Be it therefore enacted as follows:-

(1) In this section the expression "the said land" means the land more particularly referred to in subsection twenty-nine hereof, whether or not the same is vested in 25 the Ratana Trust Board constituted by this section, and includes any land not referred to in the said-subsection-twenty-nine-that-may-become-vested-in-that Board.

New.

other land not referred to in the said 30 subsection twenty-nine that may become vested in or be acquired by that Board.

(2) For the purpose of this section there is hereby constituted a Board (hereinafter in this section referred 35 to as the Board) which shall be a body corporate under the name of "The Ratana Trust Board", with perpetual succession and a common seal, and which shall be capable of holding real and personal property and of doing and suffering all that bodies corporate may do and suffer.

(3) The Board shall consist of—

40

(a) The President for the time being of the organization known as the Ratana Movement who shall be the Chairman of the Board:

(b) Three beneficial owners of land vested in the Board. or, if the said President is a beneficial owner, then two beneficial owners, who shall be nominated by other beneficial owners:

(c) Three adherents of the Ratana Movement, not being beneficial owners of land vested in the Board, or, where the said President is not a beneficial owner, two such adherents, who shall be nominated by other adherents of the Movement who are not beneficial owners: 10

(d) Two officers of the Public Service (hereinafter in this section referred to as official members) of whom one shall be nominated by the Director-General of Health and the other by the Under-Secretary of the Native Department.

15

25

40

(4) If the persons entitled to make nominations under the last preceding subsection fail to do so for a period of three months then such nominations may be made by the Court.

(5) Each of the nominated members shall be 20 appointed by the Governor-General and shall hold office for such term not exceeding three years as the Governor-General shall determine and thereafter until his successor is appointed. Any nominated member shall be eligible for reappointment.

(6) A nominated member may at any time resign his office by notice in writing to the Board, and the Governor-General may at any time remove any nominated member from office for any cause that he thinks fit. Any casual vacancy in the membership of the Board shall be filled 30 in the manner in which the appointment of the member vacating office was made.

(7) The corporate identity of the Board shall be in no way affected by the fact that for the time being there may be no members of the Board in office, and no act 35 of the Board shall be invalid because of any vacancy in the membership or because of any person continuing to act as a member of the Board after he has ceased to hold office or because of any defect or illegality in the appointment to such office.

(8) (a) Any contract which if made between private persons must be by deed shall, if made by the Board, be in writing under the seal of the Board. The seal of the Board shall not be affixed to any document except in the presence of three members of the Board one of whom shall be an official member and all of whom shall attest the sealing of the document.

(b) Every contract must, in order to charge the Board, be either under the seal of the Board or in writing signed by some person thereunto duly authorized by the Board.

(9) No member of the Board shall be personally liable for any act done or omitted by the Board or by any 10 member thereof in good faith in pursuance or intended pursuance of the powers and authority of the Board.

(10) Meetings of the Board shall be held at such times and places as the Board or the Chairman from time to time determines. Subject to the provisions of this section
15 and of any regulations made thereunder, the Board may regulate its own procedure in such manner as it thinks fit.

(11) It shall be the duty of the Board to promote, control, and conserve the moral, physical, educational, social, and economic welfare of the Maeri inhabitants of 20 the said land and to encourage the inhabitants of the said land in the adoption of such habits of life as will be conducive to their health and general well-being.

(12) The Court may from time to time, with the consent of the majority of the owners for the time being 25 of any of the said-land, land referred to in subsection twenty-nine hereof, make an order or orders vesting any of the-said that land for an estate of freehold in feesimple in the Board, and the District Land Registrar shall register any such vesting order or orders without 30 payment of any fee. Any parts of the-said that land affected by any such vesting order or orders shall, subject to the provisions of this section, thereupon be held by the Board in trust for the owners beneficially entitled thereto.

35 (13) All freehold lands vested in the Board, whether under the *last preceding* subsection or otherwise howsoever, shall be deemed to be Native freehold land within the meaning of the principal Act, but no alienation thereof by the Board shall require to be confirmed by the Court 40 under that Act.

(14) The Board may subdivide any land vested in it and may undertake or cause to be undertaken and carried out in connection with any land vested in it or any other parts of the said land such works as it thinks fit, including, but without in any way limiting 5 the powers of the Board hereunder, the survey, draining, roading, fencing, and clearing of the land, the removal, construction, provision, insurance, maintenance, and repair of buildings and other erections, machinery, water-supplies, sanitary conveniences and other services, and 10 any other works calculated, in the opinion of the Board, to give effect to the purposes of this section.

(15) The powers conferred on the Court by section four hundred and eighty-eight of the principal Act shall be exercisable by the Court on the application of the 15 Board, and the provisions of that section shall apply

accordingly.

(16) (a) The Board may from time to time grant leases of any land vested in it upon or subject to such terms and conditions as the Board thinks fit, and any 20 such lease may be granted to a member of the Board. The provisions of section two hundred and eighty-five of the principal Act shall apply with respect to any such lease.

(b) Except with the precedent consent of the Board 25 no lease or sublease of land leased by it under the provisions of this section shall be capable of being assigned; nor, except with the precedent consent of the Board, shall any sublease of any land so demised be capable of being granted. The Board may refuse its consent or in giving 30 its consent the Board may impose such terms and conditions as it thinks fit. Nothing in this paragraph shall apply to any disposition by operation of law.

(17) Subject to the provisions of this section the Board may from time to time, with the consent of the 35

Native Minister,—

(a) Acquire any land or any interest therein:

(b) Borrow money upon the security of any land vested in it:

(c) Lend money to Natives or descendants of Natives 40 or act as guarantor for any Native or descendant of a Native, whether a member of the Board or not:

(d) Sell any land vested in it subject to the consent in writing of the owners beneficially entitled thereto or pursuant to a resolution of assembled owners under Part XVIII of the principal Act:

(e) Permit any of the beneficial owners or others to occupy any part or parts of the land vested in it upon such terms and subject to such

conditions as it shall think fit.

5

30

35

10 (18) If at any time or from time to time it is found desirable so to do the Court may make an order revesting any land vested in the Board under the provisions of this section in the persons for the time being beneficially entitled thereto according to the relative interests as 15 ascertained by the order, and upon the making thereof the land included therein shall cease to be vested in the Board and shall become vested in the persons whose names are set out in the order. The District Land Registrar is authorized to register such order against the relative title 20 without payment of any fee or production of the certificate of title, and to make such amendments in any instrument of title and to issue such new certificates of title, subject to existing valid leases, licenses, mortgages, or charges, as may be necessary to give effect to the order. 25

(19) All revenues received by the Board from leases or tenancies granted by it shall be disposed of as follows:—

(a) Not less than one-fourth nor more than one-third of those revenues, as the Board shall determine, shall be paid from time to time to the persons for the time being beneficially entitled thereto:

(b) The residue of those revenues may be applied by the Board for any purpose in connection with the administration or improvement of the lands vested in it or for any other purpose for the benefit of the inhabitants of the whole of the said land, or of persons from time to time using the said land, as it shall think fit.

(20) (a) The funds of the Board shall consist of all moneys received by it either in respect of the lands vested in it or from any other source, and all moneys shall forthwith after receipt be paid by the proper officer of the Board into the account of the Aotea District Maori Land Board to be held for the Ratana Trust Board.

(b) Any Maori Land Board, or any local authority, corporate body, company, or person (including trustees) may contribute to the funds of the Board, and any contribution so made shall be deemed to be a payment lawfully made, anything in any Act to the contrary notwithstanding:

Provided that no contribution by a Maori Land Board shall be made without the consent of the Native Minister

first obtained.

(c) Subject to the provisions of this section the 10 Board shall apply its funds in managing, administering, and improving the lands vested in it and as it shall determine for the benefit of any other parts of the said land, and generally for the purpose of carrying into effect the purposes and objects of this section, and for any 15 other purpose which the Board may by resolution approve although it may not be strictly within the purposes and objects of this section.

(21) Within thirty days after the last day of March in each year the Board shall cause to be prepared and 20 submitted to the Audit Office for audit a statement of assets and liabilities, together with a statement of accounts showing fully the financial position of the Board at the last day of March then last past, including a Receipts and Payments Account for the year ending 25 on that date. The said statements shall, when duly audited, be submitted to the Native Minister accompanied by a report on the operations of the Board up to that date.

(22) Nothing in section two hundred and sixty-one or in section five hundred and fifty of the principal Act 30 shall prevent any alienation, assignment, mortgage, charge, or other disposition, whether by way of anticipation or otherwise, in favour of the Board of any money which is or may become receivable by a Native in respect of his interest, whether legal or 35 equitable, in any Native land, or in respect of any alienation thereof or otherwise howsoever, and, notwithstanding the death of that Native or any one claiming through or under him, such alienation, assignment, mortgage, charge, or other disposition shall continue 40 to remain valid and enforceable.

(23) (a) All the said land and any other land vested in or acquired by the Board under the provisions of this section shall be exempt from liability for the payment

of any rates levied under the Rating Act, 1925.

(b) The Board shall have power to impose a tenement tax upon dwellings or other buildings situated upon the said land, or a rate upon the said land, and the tenement tax or rate so imposed by the Board may be recovered by it from the occupier of any building or land as a debt.

10 (24) It shall be lawful for the Board to make, and from time to time to vary or revoke, by-laws respecting

all or any of the matters following:—

15

20

25

30

35

40

(a) For providing for the health and personal convenience and comfort of the occupiers of the said land or of any dwellings or buildings thereon:

(b) For enforcing the cleaning of dwellings and any other buildings on the said land and ensuring that such dwellings and other buildings conform to the requirements of good health:

(c) For the suppression or prevention of offences and common nuisances by the occupiers or users of the said land, or the dwellings or other

buildings thereon:

(d) For the prevention of drunkenness among the occupiers or users of the said land, sly-grog selling thereon, or the introduction thereto by Maeris Natives or any other persons of intoxicating liquor:

(e) For the protection and control of meeting-houses and other buildings situated on the said land, and the imposition and collection of fees for the holding of any entertainment or function therein:

(f) For the protection, management, and control of any burial-grounds situated on the said land:

(g) For the control of any recreation-grounds on the said land, the admission of persons thereto, and the imposition and collection of charges for admission, and for the regulation of athletic and other sports:

See Reprint of Statutes, Vol. VII, p. 977 (h) For regulating the sale of goods on the said land, with power to issue licenses to storekeepers, hawkers, and itinerant traders, and to cancel the same at any time, and to impose and collect license fees from such persons:

(i) For the prevention of gambling and gaming houses on the said land, the regulation and licensing of billiard-rooms, and the suppression of dis-

orderly houses:

(i) For the maintenance and control of water-supplies 10 on the said land, for the imposition of charges in relation thereto, whether on users of the water supplied or on owners or occupiers of premises in respect of which water is used or is available for use, and for the collection and 15 recovery of such charges:

(k) For controlling the proper cleansing and maintenance of systems of drainage or other amenities

for sanitation on the said land:

(l) For fixing the amount of fines or penalties not 20 exceeding twenty pounds to be imposed and paid for non-compliance with or breach of any by-law made by the Board:

(m) For the regulation, control, and management of any meetings or huis held on the said land, 25 including the appointment of officers to regulate traffic or to keep down disturbances whether by Natives or others:

(n) For ensuring good conduct and orderly behaviour

by any person using the said land:

(o) For any other purpose approved by the Governor-General which may be necessary or expedient for the purpose of carrying out or giving effect to the provisions of this Act.

(25) No such by-laws shall come into operation until 35 they have been approved by the Governor-General in

Council and gazetted.

(26) The Board is hereby empowered to carry out and enforce such by-laws when the same come into operation and may, subject to the approval of the Native Minister, 40 adopt such form of procedure as may be most suitable

5

for inquiry and decision in regard to any breach of such by-laws. If any person shall refuse to pay any penalty imposed by the Board pursuant to the provisions of this section or of any by-law made by the Board hereunder 5 then the same may be recovered as a debt.

(27) Nothing in the Maori Councils Act, 1900, shall see Reprint

apply to the said land.

(28) The Governor-General may from time to time, p. 1256 by Order in Council, make regulations with respect to 10 the holding of meetings of the Board and the procedure thereat, the keeping of accounts, the administration of funds, the payment of allowances to members, the leasing of land, and generally for such other purposes as may be contemplated by this section or which he may deem 15 necessary or expedient for the purpose of giving full effect to this section.

(29) The land affected by this section is all those parcels of land in the Aotea Native Land Court District containing together sixty-four acres and thirty-20 one perches, more or less, being portions of Waipu 1c 1, 1D 1, 1D 2, and 1D 3 Blocks, situated in Block XIV, Ikitara Survey District, and being all the land delineated on Plans W.D. 3975A and W.D. 3975B, deposited in the Office of the Chief Surveyor at Wellington.

25

General.

12. Whereas in the year nineteen hundred and five Authorizing certain land in the Town of Havelock, being sections disposal of Havelock numbered respectively 146 and 147 on the plan of the Hostelry by said town and containing together two roods and four Native Trustee 30 perches (hereinafter in this section referred to as the said land), was acquired as a site for a hostely for the use of such of the persons beneficially interested in the lands commonly known as the South Island Tenths as might from time to time have occasion to visit the 35 said town and the surrounding district: And whereas the hostelry standing upon the said land, which is now vested in the Native Trustee, is no longer required for the purposes for which it was intended or for any other purpose, and it is desirable that the land should 40 be disposed of: Be it therefore enacted as follows:—

(1) The Native Trustee is hereby authorized, on such terms and conditions as he deems proper, and either by public auction or public tender or by private

Vol. VIII.

contract, to sell the said land or any part thereof or to lease the same or any part thereof for any period he thinks fit.

(2) The moneys derived from the sale or lease of the said land shall, after the deduction therefrom of all costs, charges, and expenses incurred in or incidental to the sale or lease be placed to the credit of the account existing in the Native Trustee's Account under the name of the South Island Tenths Benefit Fund, and shall form part of that Fund.

5

10

New.

Validating title to Allotment 11, Section 20, Village of Onehunga.

12A. Whereas by a certain Order in Council made at Wellington on the fifteenth day of March, eighteen hundred and eighty-nine, and published in New Zealand Gazette, Number 16 of the twenty-first day of March, eighteen hundred and eighty-nine, all that allotment of land being Number 11 of Section 20 of the Village of Onehunga, situate in the Parish of Waitemata, in the County of Eden, containing by admeasurement two acres and nine perches, more or less, and bounded on the north by a road, four hundred and fifty links; on the east by part of same section, five hundred and eighty-eight links: on the south by a line, two hundred and thirty-four links; and on the west by a line, six hundred and eighty links; which said allotment is now $25\,$ the whole of the land comprised in a certain plan deposited in the Land Registry Office at Auckland under Number 19623, was with its appurtenances placed in the Public Trust Office for the purposes of and as an endowment for Native hostelries, with power to 30 administer and lease the same or any part or parts thereof respectively in manner and with the formalities required in and by the Native Reserves Act, 1882, or any Act that might have been or be thereafter passed in amendment thereof or substitution therefor: whereas, pursuant to the provisions of section thirteen of the Native Trustee Act, 1920, the said land was transferred to and became vested in the Native Trustee for an estate in fee-simple, and a certificate under the provisions of subsection two of section fifteen of that 40 Act evidencing this fact was duly executed under the hands and seals of the Public Trustee and the Native Trustee: And whereas such parts of the said land

as were deemed to be "tidal lands" as defined by the Harbours Act, 1908, were erroneously included in the land described in the First Schedule to the Manukau 1911 (Local), Harbour Control Act, 1911, and became subject to the provisions of section three of that Act: And whereas it is desirable that neither the said land nor any part or parts thereof should be in any way affected by the provisions of the Manukau Harbour Control Act, 1911: Be it therefore enacted as follows:—

Notwithstanding anything contained in the provisions of the Manukau Harbour Control Act, 1911, the whole of the said land shall be deemed to be vested in the Native Trustee for an estate in fee-simple and no part 15 or parts thereof shall be deemed to be or ever to have been vested in the Auckland Harbour Board or to have been in any way subject to or affected by the provisions of the Manukau Harbour Control Act, 1911.

13. Whereas the Native Affairs Committee of the As to the 20 House of Representatives has recommended that petition estate of Teo Tipene, Number 100, of nineteen hundred and thirty-seven, of deceased. Robert Victor Tipene (hereinafter referred to as the petitioner) be referred to the Government for consideration: And whereas the petitioner claims to be entitled 25 to an interest in the estate of Teo Tipene, deceased:

And whereas by section seventeen of the Native Purposes 1939, No. 28 Act, 1939, it was provided that no person deriving or who had derived title to any lands by succession to the said Teo Tipene, deceased, should alienate or otherwise deal 30 with those lands for a period of two years from the twentyninth day of September, nineteen hundred and thirty-nine (being the date of the passing of that Act): And whereas

the Government has given consideration to the said

petition: Be it therefore enacted as follows:

(1) It shall be lawful for the Court on an application by or on behalf of the petitioner to inquire into the circumstances set forth in the petition, to consider any evidence submitted to it regarding the claims of the petitioner, and to determine whether in fairness the 40 petitioner ought to have the whole or some part of the estate of Teo Tipene, deceased, awarded to him, and, if

the Court considers it fair and equitable so to do, to make at its discretion such order or orders as it may deem expedient in respect of the estate of the said Teo Tipene, deceased.

(2) The Court in the exercise of the jurisdiction hereby granted shall not be bound by any rule of Native custom nor by any succession order heretofore made in respect of the said deceased. It shall not be estopped by any judgment of any Court in any proceedings relating to any matters set forth in the petition. The Court may cancel 10 or amend any existing succession order and may make such other order or orders as the circumstances of the case may require, or, if it thinks it expedient, the Court may make an order charging the lands of the deceased with the payment of such sum (if any) as it thinks should 15

be paid to the petitioner.

(3) Any order made by the Court under the provisions of this section shall take effect (subject to appeal) as from the making thereof, but no such order shall take away or affect any right or interest acquired for value 20 and in good faith under any instrument of alienation executed between the twenty-ninth day of September, nineteen hundred and forty-one, and the date of the passing of this Act. Any such alienation shall enure for the benefit of the persons who, by virtue of any order 25 under this section, are entitled to the share or interest affected thereby, and all unpaid or accruing purchasemoney, rent, royalties, or other proceeds of such alienation shall be recoverable accordingly. Any bona fide payment made in faith of any order heretofore made by 30 the Court shall not be deemed to be invalid because of any variation thereof made by an order under the provisions of this section.

(4) Application under the provisions of this section shall be made by or on behalf of the petitioner within 35 the period of one year after the passing of this Act and it shall not be lawful, except with the consent of the Native Minister, for any person who has heretofore derived title to any lands by or through succession to the said Teo Tipene, deceased, to alienate or otherwise deal with such lands 40 during that period and, if an application is duly made under this section, until such application has been finally

disposed of.

14. (1) The Chief Judge is hereby authorized to Chief Judge refer to the Native Land Court, or to a Judge thereof, may refer for inquiry and report, the claims and allegations made schedule to by the petitioners in the petitions mentioned in the Native Land 5 Schedule hereto.

(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 10 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 have been considered by the Native Affairs Committee of the House of Representatives.

15 (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 THEREOF.

1. Petition No. 71 of 1940, of Ema Hoera Ruihi, with regard to the lands of Hoera Mei Maihi, deceased.

2. Petition No. 86 of 1940, of Ani Mataka and others, praying for relief in respect of the interests of Rangiikeike, deceased, in the Hoani Block.

3. Petition No. 56 of 1939, of Dick Stirling, praying for

relief in respect of the Otaimina Block.

4. Petition No. 175 of 1937-38, of Te Hekenui Whakarake and another, with regard to the Raoraomouku and Putaiti Mangapukatea Blocks.

5. Petition No. 31 of 1940, of Te Matewai Mawae, with

regard to the Paora-Aneti Block (Grant No. 3888).

6. Petition No. 73 of 1940, of Pouaka Wehi and others, with regard to the Maraeroa C Block.