

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.

Short Title.

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

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.

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 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 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 and recommendation thereon as it thinks fit for the guidance of that Board.

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

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 who is a descendant of a Native shall be deemed to be a Native.”

New.

(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. 5 10

(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 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 as a member of the Board. 15 20

(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. 25

(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 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. 30

(8) The powers and functions of the Board may be 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. 35

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

accordance with the provisions of the said section twenty-five, 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 twenty-five: And whereas it is desirable that those doubts should be resolved: Be it therefore enacted as follows:— 5

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 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 this section had then been in force. 10 15

New.

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, 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 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 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 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 should pay to the New Zealand Maori Mission Board the 20 25 30 35 40

New.

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
5 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), Tuku-
maru, Rarangi, Smike, and Naronā (children of the said
Utauta Webber), and the two other children of the said
10 Utauta Webber as should be living at the death of such
survivor in equal shares : And whereas of the said Meta-
pere 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, Tukumarū Webber, Smike
20 Webber, Rarangi Webber, Naronā Webber, and Piki
Webber—and are all hereinafter in this section referred
to as “ the contingent residuary beneficiaries ” : And
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
30 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.

New.

(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. 5

(3) (a) For the purpose of administering the trust property there shall be three trustees appointed in manner 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. 10 15

(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 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. 20

(d) One trustee shall be appointed by the Governor-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 shall be appointed by the Governor-General by Order in Council. 25 30

(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. 40

New.

- (6) Subject to the provisions of this section, the trustees may from time to time—
- 5 (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 :
 - 10 (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 :
 - 15 (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 :
 - 20 (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 :
 - 25 (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 :
 - 30 (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 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.
- 35 (8) No person lending money upon the security of the trust property shall be concerned to inquire as to 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
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- (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 :
 - (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.
- (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 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 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 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.

5 (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 member thereof in good faith in pursuance or intended
10 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 Maori inhabitants of the said land and to encourage the inhabitants of the
20 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 fee-simple 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.

(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 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 any other works calculated, in the opinion of the Board, to give effect to the purposes of this section. 5 10

(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 Board, and the provisions of that section shall apply accordingly. 15

(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 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. 20

(b) Except with the precedent consent of the Board 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 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. 25 30

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

(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 or act as guarantor for any Native or descendant of a Native, whether a member of the Board or not ; 40

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- (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:
- 5 (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.
- 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
- 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
- 30 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
- 35 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
- 40 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 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 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 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 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 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 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 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.

See Reprint of Statutes, Vol. VII, p. 977

- 5 (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 (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:
 - 20 (b) For enforcing the cleansing 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:
 - 25 (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:
 - 30 (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:
 - 35 (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:
 - 40 (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:

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- (*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 : 5
- (*i*) For the prevention of gambling and gaming houses on the said land, the regulation and licensing of billiard-rooms, and the suppression of disorderly houses :
- (*j*) For the maintenance and control of water-supplies 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 recovery of such charges : 10 15
- (*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 exceeding *twenty* pounds to be imposed and paid for non-compliance with or breach of any by-law made by the Board : 20
- (*m*) For the regulation, control, and management of any meetings or huis held on the said land, including the appointment of officers to regulate traffic or to keep down disturbances whether by Natives or others : 25
- (*n*) For ensuring good conduct and orderly behaviour by any person using the said land : 30
- (*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 they have been approved by the Governor-General in Council and gazetted. 35
- (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, adopt such form of procedure as may be most suitable 40

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 apply to the said land.

See Reprint of Statutes, Vol. VIII, p. 1256

10 (28) The Governor-General may from time to time, by Order in Council, make regulations with respect to the holding of meetings of the Board and the procedure thereat, the keeping of accounts, the administration of funds, the payment of allowancés 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.

20 (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-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.

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General.

30 **12.** Whereas in the year nineteen hundred and five certain land in the Town of Havelock, being sections numbered respectively 146 and 147 on the plan of the said town and containing together two roods and four perches (hereinafter in this section referred to as the said land), was acquired as a site for a hostelry 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:—

Authorizing disposal of Havelock Hostelry by Native Trustee

(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

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.

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 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 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: And 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 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

New.

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 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 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.

1911 (Local),
No. 23

13. Whereas the Native Affairs Committee of the House of Representatives has recommended that petition Number 100, of nineteen hundred and thirty-seven, of Robert Victor Tipene (hereinafter referred to as the petitioner) be referred to the Government for consideration: And whereas the petitioner claims to be entitled to an interest in the estate of Teo Tipene, deceased: And whereas by section seventeen of the Native Purposes 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 with those lands for a period of two years from the twenty-ninth 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:—

As to the
estate of
Teo Tipene,
deceased.

1939, No. 28

(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 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 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 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 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 under this section, are entitled to the share or interest affected thereby, and all unpaid or accruing purchase-money, 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 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 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 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 refer to the Native Land Court, or to a Judge thereof, for inquiry and report, the claims and allegations made by the petitioners in the petitions mentioned in the Schedule hereto.
- 5 (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.
- 10 (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 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.

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

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 Otaimana 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.