

NATIVE PURPOSES BILL

EXPLANATORY NOTES

Clause 3: By reason of inter-racial marriages, wills, or by purchase, persons whose *quantum* of Maori blood is less than half or who are altogether European become owners of undivided interests in Native land. Difficulties arise in effecting transmission of the interests to the persons entitled on the decease of such an owner because of the state of the title of the land. This section enables the Native Land Court to make an order evidentiary, but not constitutive, of the title of the successors. The incidents of Native custom are not imported into the determination of the succession; the successors are those persons who are entitled to take the interest under the ordinary law.

Clause 4: Under the principal Act the Maori Land Board, as agent for the Natives, has certain powers to recover rent due under leases of Native land and to enforce the covenants and conditions of the leases. The Board, however, has no authority to proceed against lessees for damages to the reversion arising from breach of covenant, or for waste. The new section gives the Board that authority.

Clause 5: By the principal Act the Crown is debarred from acquiring Native land at a price less than the Government valuation. Recently the owners of a certain block resolved to sell it to the Crown, at a price under the valuation, for the purpose of settlement by Maori returned soldiers, but the Court found itself barred from confirming the resolution. The amendment proposed will allow the Crown to acquire land at less than the valuation or accept it as a gift, but only where the land is being acquired for Native settlement or other Native purposes. Any transaction will require confirmation by the Native Land Court.

Clause 6: Section 533 (1) of the principal Act was designed, amongst other things, to make the unauthorized cutting of timber on Native land an offence. A short while ago a pakeha who had been splitting battens from logs lying on a block of land belonging to a number of Natives was prosecuted under the section. The battens had not been removed from the land, and the prosecution failed, the Magistrate holding that the cutting of timber on, as opposed to the cutting of timber *from*, the land was not an offence disclosed by the section. The proposed amendment makes any unauthorized cutting, and an attempted removal, an offence, and also in effect stops one of several tenants in common getting ahead of his co-owners and authorizing cutting operations, or himself cutting otherwise than for his own use.

Clause 7: From time to time cases arise where it is desired to return to Natives land acquired from or gifted by them for public works, Native-school sites and so forth. This clause is a general one, designed to obviate the necessity for special legislation in particular cases, giving the Native Land Court power to make, on the application of the Minister or other authority who controls the land, an order vesting the land in the persons determined as being entitled to it, subject, in proper cases, to payment for it.

Clause 8: Recently cases have arisen where, because of the multiplicity of owners, it has seemed desirable that the legal ownership of land should be vested in trustees upon trust for the general benefit of the owners, as opposed to the particular benefit of the individuals. For example, the Hatoi No. 1 Block, containing 268 acres, on account of the failure of issue of the donee, reverted, according to custom, to the donor, a chief who flourished many years ago. The descendants of the chief who would be entitled to interests in the block are very numerous, and, as a consequence, the shares would be infinitesimal. The generality of the Natives concerned desire the land to be set aside as a tribal reserve, to the intent that parts of the block be leased and the rentals used for tribal purposes. The proposed clause authorizes the Court to create trusts with the consent of the majority of the owners or potential owners, and subject to the approval of the Minister.

Clause 9: This clause extends the provision of the preceding one to lands granted from the Crown pursuant to a reservation for Natives or Native purposes. The Court, in a proper case, can recommend that the title be issued in the name of trustees, and the Governor-General may issue his warrant accordingly. Following the issue of the title, the Court defines the trust.

Clause 10: All moneys expended or advanced under Part I of the Native Land Amendment Act, 1936, for the development of Native-owned land become, automatically, a charge on the land being improved. Unless the charge is registered against the title, the amount of the charge cannot, as the law stands, be brought into account in assessing the value of the land for land-tax purposes. For a variety of reasons it is not always practicable to have a charge for development expenditure registered. This clause allows the amount of the charge to be deducted.

Clause 11: Through a mistake in survey, two small portions of an area of land taken for railway purposes were included in partition orders made by the Court, and the District Land Registrar, pursuant to the partition orders, issued titles. The land is no longer required for the purpose for which it was taken, and it is desired that the titles issued should stand.

Clause 12: James Cope, a quarter-caste Maori, and his wife, Mina Cope, a three-quarter caste, both died intestate, leaving a large family who are statutory Natives. Difficulties in getting administration of the father's estate are retarding the progress of consolidation in the Taheke District. This section authorizes the Native Land Court to grant letters of administration of the estate in the same way as if James Cope had been a Native. The estate will devolve in the same manner as it would have done under the ordinary law.

Clause 13: The Crown land mentioned in the section was permanently reserved for the use of the Natives, and has been in occupation by Te Puea Herangi and the other Maoris at the Ngaruawahia Pa. Tentative arrangements were made for vesting the land in the Ngaruawahia Pa trustees, but meanwhile a proposal came forward to exchange the area for Lot 57, Parish of Waipa, which is owned by a section of Te Puea's people. As the exchange is suitable to the Natives (including Te Puea) and the Lands Department it is desired to cancel the reservation over the Ngaruawahia land to enable the exchange to be carried into effect.

Clause 14: Following on the purchase of the Pukeroa Oruawhata Block, which comprises the site of the Town of Rotorua, certain reserves were made for the former Native owners of the block. When the title to the reserves came before the Court for investigation two of the sub-tribes, N'Rangiwewehi and N'Uenukukopako, claimed to be entitled to an interest as being members of N'Whakaue, but their claim was disallowed by the Court. The Lands Department has agreed to make two sections available as reserves for these sub-tribes. This section gives effect to the arrangement, and vests the lands in the Waiariki District Maori Land Board to be administered along with the other reserves.

Clause 15: It has been claimed that certain persons who were admitted into the title of the Paremata Nos. 3, 4, 64, 73, and 73A Blocks were given greater shares than their rights support. Their rights are said to have been *mataotao*—that is to say, cold. It was indicated to the Native Affairs Committee that the parties affected have agreed to the Court being authorized to inquire into the definition of the relative interests and to make any necessary adjustments.

New

Clause 15A: This clause is to give effect to a recommendation made by the Chief Judge following upon an inquiry into a petition by Ema Hoera Ruihi. Ema claims that she was adopted in accordance with Native custom by Hoera Mei Maihi and his wife, and that she looked after them, provided the land for her foster-father's home, and paid for his tangi and funeral expenses. Hoera Maihi is said to have had no issue, and the petitioner claims that, in fairness, his estate, which is apparently small, ought to go to her. The clause allows the Court to deal with the case on the merits.

Clause 15B: This clause is to give effect, or enable effect to be given, to the recommendation of the Native Affairs Committee on a petition from certain of the beneficiaries in the estate of the late Pukepuke Tangiora, deceased, of Pakipaki, Hawke's Bay. They want someone amongst the trustees who will look at their interest through Maori eyes. They want, in the second place, to be permitted to have housing-sites out of the big area of land in the estate. Thirdly they want to be allowed to resort to their interest in the accumulated income fund for their housing requirements and for the education of their children. These and certain other matters are provided for in the clause.

Clause 15C: Because of man-power shortages, and difficulties in getting transport and shipping, millers, particularly in the South Island, are being hard put to it to get the timber off the blocks over which they hold cutting licenses. As a good part of the indigenous timber left in the country is on Native land, licenses granted by Natives are commonly in the picture, and on account of the multiple Native ownership, licensees are having trouble in arranging for extensions of time within which they can take the timber. Under the grants, the licensees are usually required to pay for the timber in advance of cutting, so that the full consideration is paid before the license comes to an end. Especially in such cases, it seems reasonable that, where the licensees cannot, through pressure of the times, complete their cutting, they should be granted extensions. This clause permits the Native Land Court to extend the duration of licenses subject to such conditions as the Court thinks fit.

[AS REPORTED FROM THE NATIVE AFFAIRS COMMITTEE.]

House of Representatives,

25th August, 1943.

Hon. Mr. Mason

NATIVE PURPOSES

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A BILL INTITULED

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

5

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

Short Title.

1. This Act may be cited as the Native Purposes Act, 1943. 5

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

See Reprint of Statutes, Vol. VI, p. 103

2. Words and expressions used in this Act shall, unless the contrary intention appears, have the same meaning as in the Native Land Act, 1931 (hereinafter referred to as the principal Act), and the provisions of the principal Act, so far as applicable, shall extend 10 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 15

Succession to interests of Europeans in Native lands.

3. Where any person, not being a Native, has died, whether before or after the passing of this Act and whether testate or intestate, leaving any undivided beneficial freehold interest in Native land, the Court may make in favour of the persons who are, according 20 to law, entitled to that interest, a succession order which shall have the same force and effect and may be registered and otherwise dealt with in the same manner as if it were a succession order made in respect of the interest of a Native in Native land. 25

Maori Land Board may enforce covenants of lease.

4. (1) In any case where a lease of any Native freehold land has been granted by the owners themselves or by a body corporate under Part XVII of the principal Act or in pursuance of a resolution passed by the assembled owners and duly confirmed 30 under Part XVIII of that Act, the Maori Land Board of the district in its discretion, may, either in its own name or in the names of the owners of the land, exercise all rights of action, distress, re-entry, or otherwise in as ample a manner as if it were the owner 35 of the fee-simple of that land, whether or not the lease has expired or been determined.

(2) The Board may, either before or after commencing to exercise any powers conferred upon it by this section, require that any costs, charges, or expenses 40 incurred or likely to be incurred by it in respect thereof

shall be paid to it, or guaranteed, by the owners of the land or such other persons as the Board thinks fit; and the Board may at any time apply any moneys whatsoever held by it on behalf of the owners or any
 5 of them in payment of any costs, charges, or expenses incurred by it.

(3) The fact that some of the owners object to the Board exercising its powers, or that some of them have been paid any moneys due to them under the lease, or
 10 that some are dead, or that successors have not been appointed, or that, if they have been appointed, the order has not been registered, shall not be a bar to the Board exercising its powers hereunder.

(4) No act of an individual owner after the lessee
 15 has been notified that the Board is acting, or proposes to act, under this section shall operate as a waiver or prejudice in any way the right of the Board to act under this section.

(5) This section is in substitution for sections two
 20 hundred and ninety-four and four hundred and thirty-seven of the principal Act, and those sections are hereby accordingly repealed. Repeals.

~~5. (1) For the purposes of Native settlement or for
 any other purpose designed for the benefit of Natives,~~
 25 *New*

For the purpose of providing for the settle-
 ment of Natives and descendants of Natives (particularly
 those who are discharged servicemen) or for any other
 purpose designed for the benefit of Natives and
 30 descendants of Natives,
 the Crown may, under the authority of Part XIX of
 the principal Act, and notwithstanding anything to the
 contrary contained in that Part, accept any land or
 interest therein as a gift, or may purchase the same
 35 at a price which is less than the amount at which it is
 valued under the Valuation of Land Act, 1925:

Provided that in any such case, unless the alienation
 is effected in pursuance of a resolution of assembled
 owners duly confirmed under Part XVIII of the prin-
 40 cipal Act, the instrument of alienation shall require
 confirmation by the Court notwithstanding the pro-
 visions of section four hundred and forty-nine of that
 Act.

Acquisition of
 Native land by
 Crown for
 Native
 purposes.

See Reprint
 of Statutes,
 Vol. VII,
 p. 1030

(2) In addition to the resolutions mentioned in section four hundred and twenty-two of the principal Act, the assembled owners of any land may pass, in the manner prescribed by Part XVIII of that Act, a resolution that the land or any part thereof be disposed of to the Crown by way of gift for any purpose mentioned in the *last preceding* subsection, and the provisions of Part XVIII of the principal Act shall, so far as applicable, extend and apply to any such resolution. 5'

(3) In respect of any land acquired pursuant to this section, the Governor-General may issue a Proclamation declaring that the land has become Crown land, and the provisions of section four hundred and fifty-four of the principal Act shall extend and apply to any such Proclamation and the land affected thereby. The Governor-General may, in and by his Proclamation, declare the land to be subject to the provisions of Part I of the Native Land Amendment Act, 1936, or of any other Act and thereupon the land shall become so subject and shall be dealt with accordingly. 10 15 20

1936, No. 53

Prevention of
waste on
Native land.
1938, No. 23

6. (1) Section five hundred and thirty-three of the principal Act, as amended by section three of the Native Purposes Act, 1938, is hereby further amended by repealing subsection one, and substituting the following subsection:— 25 30

“(1) (a) Every person, whether European or Native (including a tenant in common but not an owner in severalty) who, without lawful authority, the proof whereof shall be upon him, cuts on or from, or removes or attempts to remove from any Native freehold land any timber-trees, timber, or other wood, or any flax, kauri-gum, or minerals shall be guilty of an offence, and shall, on summary conviction, be liable to a fine not exceeding *fifty* pounds or to imprisonment for a period not exceeding *three* months. 35

“(b) For the purposes of this subsection, leave or licence granted to any person by one or more of several tenants in common, but not all of the tenants in common, shall not be deemed to be lawful authority except where that leave or licence is granted under an instrument duly confirmed in accordance with the provisions of Part XIII of this Act. 40

“(c) In any proceedings in respect of an offence under this subsection, it shall be a good defence to any 45

person who is a tenant in common that any timber-trees, timber, or other wood, or any flax, kauri-gum, or minerals cut or removed by him were so cut or removed by him for his own use and not for the purpose of
5 disposing of the same to any other person, whether by way of sale or otherwise howsoever."

(2) Section three of the Native Purposes Act, 1938, is hereby amended by repealing paragraph (a).

7. (1) Where any land set aside, taken, purchased,
10 or acquired, whether by way of gift or otherwise howsoever and whether before or after the passing of this Act, under the Public Works Act, 1928, or under any other Act or otherwise howsoever, for a public work is no longer required for that public work or for any
15 other public purpose, and it is deemed expedient to return that land to, or to vest the same in, Natives or the descendants of Natives or their successors in title, the Minister of Works or other Minister or authority at whose instance the land was acquired or under whose
20 control the land is held or administered may apply to the Court to vest the land in accordance with the provisions of this section.

(2) An application may be made to the Court as aforesaid notwithstanding the provisions of any Act
25 to which the land is subject and notwithstanding any terms or conditions imposed by any Act on the sale or other disposition of the land.

(3) The Court may make one or more orders, subject to such terms as to payment or otherwise as
30 the Court may think fit to impose, vesting the land or any part or parts thereof, freed from any trusts and restrictions subject to which the land may previously have been held, in such person or persons as may be nominated by the applicant or as may be found by the
35 Court to be entitled thereto for an estate of freehold in fee-simple and, if more than one, as tenants in common in the relative shares or interests defined by the Court.

(4) The Court may, in addition or in the alternative,
40 if it thinks it necessary or expedient so to do, amend any partition or other order made by the Court so as to include therein the land to which the application relates.

(5) Any land vested as aforesaid shall be deemed
45 to be Native freehold land, unless the Court otherwise expressly orders.

Land not required for public works may be vested in Natives.
See Reprint of Statutes, Vol. VII, p. 622

(6) The District Land Registrar is hereby authorized to make all such alterations and amendments in the Register and to issue such new certificates of title as may be necessary to give effect to any order made by the Court under this section. 5

Trusts may be declared for Native-owned land.

8. (1) Notwithstanding anything contained in the principal Act, the Court may, upon application made to it in that behalf or of its own motion during the course of any proceedings before it, make an order vesting any Native land or any land owned by Natives in any trustee or trustees to be held upon and subject to such trusts as the Court may declare, being trusts for the common use of the land by Natives for any purpose, or for the support or education of Natives, or for the physical, social, moral, or pecuniary benefit of Natives, or for some purpose having for its object the benefit, betterment, or welfare of Natives or the promotion of any tribal or communal project. The trusts shall be for the owners of the land affected or for some tribe or sub-tribe or other group or class of Natives. 10 15 20

(2) For the purposes of this section, unless the context otherwise requires, any person who is a descendant of a Native shall be deemed to be a Native.

(3) The Native Trustee or any Maori Land Board or any person or persons, whether incorporated or not, may be appointed trustee or trustees under this section. 25

(4) No vesting order shall be made under this section unless the Court is satisfied that a majority in value of the beneficial owners, or of the persons entitled to be declared the beneficial owners, consents thereto. For the purposes of this subsection and notwithstanding any enactment or any rule of law or equity, a trustee for any person under disability within the meaning of Part X of the principal Act may consent on behalf of that person to the making of any such vesting order. 30 35

(5) Save with respect to the right of appeal of any party or person bound by the order or interested therein, no such vesting order shall have any force or effect unless and until it is approved by the Native Minister. Upon such approval being given the order shall take effect according to its tenor and the land affected thereby shall vest in the trustee or trustees without any conveyance, transfer, or other instrument of assurance, subject to any lease, license, mortgage, charge, or other encumbrance to which the land is subject at the date of the making of the order. 40 45

(6) The order declaring the trusts upon which the land affected thereby shall thenceforth be held, or any subsequent order of the Court, may confer such powers, either general or special, on the trustees and may
5 contain such other provisions relating to the trusts as the Court thinks fit. Without prejudice to the generality of the foregoing provisions of this subsection, the Court may authorize the trustee or trustees to occupy and manage the land or any part thereof for farming,
10 reclamation, or other purposes, or may authorize the trustee or trustees to permit any beneficial owner or any other person to occupy the land or any part thereof whether for the purpose of farming or reclamation or for any other purpose.

15 (7) An order may be made under the foregoing provisions of this section in respect of any land notwithstanding that it is vested in a Maori Land Board, the Native Trustee, or any other trustee, and notwithstanding the provisions of any Act as to the
20 administration of the land.

(8) The Court may from time to time, with the approval of the Native Minister, vary any trusts created under this section, and may, with the like approval, dissolve any such trusts.

25 (9) (a) Any trustee or trustees appointed under this section shall have the same powers of alienating the land subject to the trusts as are conferred by the principal Act upon a Native, within the meaning of that Act, owning Native land in severalty:

30 Provided that the trustee or trustees shall have no power to sell the land without the prior written consent of the Native Minister.

(b) Every such alienation shall require confirmation by the Court in the same manner as if it were an
35 alienation of Native land by a Native owning the land in severalty.

(c) The provisions of section two hundred and sixty-eight of the principal Act shall extend and apply to the execution by a Native of any instrument of
40 alienation executed by him as a trustee under this section in the same manner as if it were an instrument of alienation of Native land by that Native.

(10) Except for the purpose of paying rates, taxes, and other outgoings payable in respect of the land subject to the trusts or of discharging any mortgage or charge to which that land may be subject, and of paying all expenses incurred in or about the administration of the trust estate, all revenues or proceeds received by the trustee or trustees shall be applied or used as the Court may, with the approval of the Native Minister, from time to time order. 5

(11) (a) On receipt of any vesting order made in respect of any Native customary land, the District Land Registrar shall embody the order in the Provisional Register as a folium thereof, and all the provisions of the Land Transfer Act, 1915, as to provisional registration shall apply accordingly. When the certificate of title is finally constituted for that land the District Land Registrar shall endorse thereon, without any reference to the trust created by the order, a memorial that the land is subject to the provisions of this section. 10 15

(b) On the registration of any other vesting order under this section against the title to the land affected thereby, the District Land Registrar shall endorse thereon, without reference to the trust created by the order, a memorial that the land is subject as aforesaid. 20

9. (1) Where upon the exercise of jurisdiction pursuant to an application by the Minister of Lands under section five hundred and twenty-seven of the principal Act the Court considers it inexpedient for any reason that the Crown land to which the application relates should be vested in any particular Natives as the owners thereof but considers that the land should be vested in trustees for some group or class of Natives, the Court shall report its findings to the Governor-General, stating the group or class of Natives and the name or names of the trustee or trustees in whom the land should be vested. 25 30 35

(2) The Native Trustee or any Maori Land Board or any person or persons, whether incorporated or not, may be appointed trustee or trustees under this section.

(3) In respect of such land as aforesaid, the Governor-General may, if he thinks fit, direct the District Land Registrar of the district within which the land is situated to issue a certificate of title in favour of the trustee or trustees, and the District Land 40

See Reprint
of Statutes,
Vol. VII,
p. 1162

Trusts may be
declared for
Crown land
reserved for
benefit of
Natives.

Registrar shall, if directed by the Governor-General so to do, place on the certificate of title issued in pursuance of the direction a memorial to the effect that the land has been granted under this section.

5 (4) Forthwith after the issue of any such certificate of title, the Court shall by order declare the trusts upon which the land shall thenceforth be held, and the provisions of the *last preceding* section shall, so far as applicable and with the necessary modifications, apply
10 as if the trusts had been declared under that section.

(5) For the purposes of this section, unless the context otherwise requires, any person who is a descendant of a Native shall be deemed to be a Native.

15 10. (1) In any case where any land is subject to a charge by virtue of the provisions of subsection one of section eighteen of the Native Land Amendment Act, 1936, the charge shall for the purposes of section forty-nine of the Land and Income Tax Act, 1923, be deemed to be a registered charge.

Land development charges to be deductible for land-tax purposes.
1936, No. 53
See Reprint of Statutes, Vol. VII, p. 286

20 (2) A certificate under the hand of the Registrar of the Native Land Court as to the amount of the charge shall be accepted as sufficient evidence of the amount thereof.

Struck out

25 (3) This section shall be deemed to have come into force on the thirty-first day of October, nineteen hundred and thirty-six, being the date of the commencement of the Native Land Amendment Act, 1936.

New

30 (3A) The provisions of this section shall apply to any charge as aforesaid in existence at noon on the thirty-first day of March, nineteen hundred and forty-three, or at any time thereafter.

PART II

35 MISCELLANEOUS POWERS

Tokerau District

11. Whereas by a Proclamation issued pursuant to sections twenty-nine and one hundred and eighty-eight of the Public Works Act, 1908, published in the *Gazette*
40 on the seventh day of November, nineteen hundred and twelve, at page 3204, and registered in the Land Registry Office at Auckland under Number 3116 a portion of a road adjoining the Motatau No. 4H Block

Validating inclusion of railway land in Motatau 4H 1 and 4H 6A titles.

(the said road being the area of seventeen perches and twenty-two hundredths of a perch referred to in the said Proclamation) was taken for the purpose of the railway therein mentioned: And whereas, through inadvertence, portions of the land so taken, being the areas containing respectively nine perches and four-tenths of a perch, more or less, and three-tenths of a perch, more or less, shown coloured blue on the plan lodged in the office of the Chief Surveyor at Auckland under Number 32689 blue (hereinafter in this section referred to as the said land) were subsequently included in certain partition orders of the Native Land Court for the Motatau No. 4H Block and subdivisions thereof: And whereas, pursuant to the partition orders, the District Land Registrar of the Auckland Land Registration District has issued certificates of title—namely, Volume 231, folio 108, and Volume 280, folio 127—for the land comprised in the partition orders, including the said land: And whereas, the said land being no longer required for the purpose for which it was taken, it is desirable to validate the inclusion of the said land in the partition orders and the certificates of title aforesaid: Be it therefore enacted as follows:—

See Reprint
of Statutes,
Vol. VII, p. 622

Notwithstanding anything contained in the Public Works Act, 1928, or any other Act, the said land shall be deemed to have been Native land and to have been lawfully included in the partition orders made by the Court, and the certificates of title aforesaid, so far as they relate to the said land, are hereby declared to have been lawfully issued.

Authorizing
Court to grant
administration
of estate of
James Cope.

12. Whereas one, James Cope, otherwise known as Himi Kopa, of Taheke, in the Hokianga County, Farmer, a European within the meaning of the principal Act, died intestate leaving him surviving his wife, Mina Cope, otherwise known as Mina Tamati Hare, and several children, all being Natives within the meaning of the principal Act: And whereas the said Mina Cope has died intestate leaving the said children her surviving: And whereas no letters of administration have been granted by the Supreme Court in respect of the estate of the said James Cope: And whereas it is desirable, the persons being entitled to his estate all being Natives, to confer jurisdiction on the Native Land Court to grant administration of the estate of the said James Cope: Be it therefore enacted as follows:—

(1) The Native Land Court shall have exclusive jurisdiction to grant letters of administration of the estate of the said James Cope, deceased, and the Court may exercise in respect of the estate the same
5 jurisdiction as it might have exercised if the said James Cope had been a Native.

(2) Upon the making of a succession order in respect of any freehold land comprised in the estate, the land affected thereby shall become Native freehold
10 land.

(3) Section one hundred and ninety-five of the principal Act shall apply as if the said James Cope, deceased, had been a Native.

Waikato-Maniapoto District

15 **13.** Whereas by Warrant issued under the hand of His Excellency the Governor-General on the twentieth day of June, nineteen hundred and thirty-eight, and published in the *Gazette* on the twenty-third day of the same month at page 1509, the parcel of land containing
20 by admeasurement five acres three roods thirty-eight perches, more or less, situated in Block VII, Newcastle Survey District, in the Auckland Land District, and known as Section 168, Suburbs of Ngaruawahia North (hereinafter referred to as the said land) was, pursuant
25 to section three hundred and sixty of the Land Act, 1924, permanently reserved for the use of aboriginal Natives of New Zealand: And whereas for the purpose of giving effect to an agreement for exchange made between the Crown and the Native owners of the land
30 known as Lot 57, Parish of Waipa, it is desirable that the reservation of the said land as hereinbefore mentioned should be cancelled: Be it therefore enacted as follows:—

The reservation of the said land for the use of
35 aboriginal Natives of New Zealand is hereby cancelled, and declared to be no longer of any force or effect.

Wairariki District

14. Whereas the Crown has, as an act of grace, agreed to reserve two areas of land in the Town of
40 Rotorua hereinafter described for the use or benefit of the two sub-tribes known respectively as Ngati-Rangiwewehi and Ngati-Uenukukopako: And whereas it is desirable to give effect to the reservation of the

Cancelling reservation over section 168, Suburbs of Ngaruawahia North.

See Reprint of Statutes, Vol. IV, p. 788

Reserves in Rotorua for Ngati-Rangiwewehi and Ngati-Uenukukopako.

said lands and to make due provision for the administration thereof: Be it therefore enacted as follows:—

(1) The land known as Section 18, Block LXIX, Town of Rotorua, containing an area of one rood, is hereby reserved for the use or benefit of Ngati-Rangiwewehi. 5

(2) The land known as Section 19, Block LXIX, Town of Rotorua, containing an area of one rood, is hereby reserved for the use or benefit of Ngati-Uenukukopako. 10

(3) The lands hereinbefore described are hereby vested in the Waiariki District Maori Land Board for a legal estate in fee-simple in trust for the persons beneficially entitled thereto, and the said lands shall be administered by that Board in accordance with the provisions of section fifty-eight of the Native Purposes Act, 1931, and all the provisions of that section shall, so far as applicable and with the necessary modifications, extend and apply to the said lands accordingly. 15

1931, No. 32

Tairawhiti District

20

Authorizing limited readjustment of shares in Paremata Nos. 3, 4, 64, 73, and 73A Blocks.

15. To give effect to a recommendation made by the Native Affairs Committee of the House of Representatives upon Petition numbered 40 of 1942, of Hapeta Maitai and others, concerning the definition of relative interests in the land situated at Tolaga Bay in the Tairawhiti Native Land Court District and known as the Paremata Nos. 3, 4, 64, 73, and 73A Blocks (hereinafter referred to as the said land): Be it enacted as follows:— 25

(1) Notwithstanding anything contained in any other Act, the Court is hereby authorized and empowered, on application in writing made to it in that behalf by any person claiming to be interested within one year from the commencement of this Act, to inquire into the definition of relative interests in the said land as between the persons whose rights are alleged to be, according to Native custom, *mataotao*, and the other beneficial owners of the said land; and if it finds it right, just, reasonable, and equitable so to do, the Court may redefine and adjust the relative interests as between the persons aforesaid and the other beneficial owners of the said land. 30 35 40

(2) For the purpose of giving effect to its determinations, the Court may, by order, amend any former order made by it in respect of the said land and may make such other order or orders as it thinks necessary or expedient.

New

Ikaroa District

10 **15A.** To give effect to the recommendation made by the Chief Judge, pursuant to the provisions of section eighteen of the Native Purposes Act, 1941, upon Petition numbered 71 of 1940, of Eina Hoera Ruihi (hereinafter referred to as the petitioner) in respect of the estate of Hoera Mei Maihi, deceased: Be it enacted as follows:—

Authorizing inquiry into claim to estate of Hoera Mei Maihi, deceased. 1941, No. 22

15 (1) The Court is hereby authorized and empowered, on application made to it in that behalf within one year from the passing of this Act, to inquire into the truth of the matters set forth in the said petition and to hear any evidence submitted to it touching the claims of the petitioner, and thereupon to determine whether the whole or any part of the estate of the said Hoera Mei Maihi, deceased, should, in fairness, be awarded to the petitioner; and if the Court thinks it right, just, reasonable, and equitable so to do, the Court may, for 20 the purpose of giving effect to its determination, make in respect of the estate of the said Hoera Mei Maihi, deceased, such order or orders, whether by way of succession or otherwise, as it thinks necessary or expedient.

30 (2) The Court in the exercise of the jurisdiction hereby conferred shall not be bound by any rule of Native custom.

35 **15B.** To give effect to the recommendation of the Native Affairs Committee of the House of Representatives upon Petition numbered 52 of 1942, of Tahatera Mohi Tomlins and others, concerning the estate of Pukepuke Tangiora, of Pakipaki, deceased, probate of whose will (hereinafter in this section referred to as the will) was granted by the Native Land Court on the eighth day of December, nineteen hundred and thirty-six: Be it enacted as follows:—

Estate of Pukepuke Tangiora, deceased.

40 (1) (a) Notwithstanding any statutory provision or the power in that behalf conferred by the will, the power to appoint trustees of the will shall be exercisable only

New

by the Governor-General, who may from time to time, by Order in Council, appoint trustees who shall hold office during the pleasure of the Governor-General in Council. The number of trustees shall be not less than three, 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) Notwithstanding anything to the contrary in the Native Trustee Act, 1930, or in any other Act, the Native Trustee may be appointed, and it shall be competent for him to act, as one of the trustees.

(2) The Governor-General may, by Order in Council, remove any trustee from office and may appoint a new trustee in place of any trustee who is so removed or who dies, or becomes incapable of acting or retires.

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

(4) The persons who, at the passing of this Act, hold office as trustee shall be deemed to have been appointed under this section.

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

(6) Notwithstanding the provisions of the will to the contrary, the period referred to therein as "the period of distribution" shall come to an end on the death of the last survivor of the children of Te Akonga Mohi; and in respect of a certain fund of two thousand pounds referred to in the will, the persons (if any) who may be entitled, in accordance with the provisions in that behalf contained in the will, to take that fund absolutely, shall so take that fund on the death of Tikouru Hunia or Turuhira Hunia, whichever shall last happen.

(7) For the purpose of providing a residential building-site for any beneficiary under the will, the Court may from time to time, on the application of the trustees or of a beneficiary, order that any part of the

See Reprint
of Statutes,
Vol. VI, p. 373

New

land comprised in the trust estate, including the lands known as Kakiraawa 2B 1 and Kakiraawa 2B 2F, and not for the time being subject to any lease, licence, mortgage, or charge, shall be transferred to such beneficiary upon or subject to such terms and conditions as the Court thinks equitable, and upon any land being so transferred it shall be deemed to be freed and discharged from the trust:

Provided that no land comprised in the trust estate shall be so transferred to any beneficiary under the will, not being a child of Te Akonga Mohi or a person presumptively entitled to an absolute interest in the residuary trust estate referred to in the will, save that any part of the aforesaid lands known as Kakiraawa 2B 1 and Kakiraawa 2B 2F may be transferred to any of the persons who are presently entitled to those lands as the joint tenants thereof.

(8) (a) For the purpose of providing a home for any of the persons presumptively entitled to the fund referred to in the will as the accumulated fund, the trustees may, to the extent of that person's interest in the accumulated fund, expend any moneys in the fund or the income arising from the investment thereof for the purchase of land, for the erection and repair of houses, and otherwise for the purpose hereinbefore mentioned.

(b) The interest of any person entitled as aforesaid to the accumulated fund shall be deemed to be a vested interest and not a contingent interest, but shall not be available for any purpose other than that mentioned in the *last preceding* paragraph unless the Court otherwise orders, and the person owning that interest shall not be capable of making any assignment, charge, or any other disposition whatsoever of that interest otherwise than in favour of the Crown.

(9) Out of the income of the estate, the Court may, from time to time, appoint to the widow of Te Akonga Mohi for life or during her widowhood such an annual sum as the Court thinks necessary for her proper maintenance and support.

New

(10) In respect of the annuity payable to any of the life tenants of the residuary trust estate under the will or to the widow of Te Akonga Mohi, the trustees shall, notwithstanding anything contained in any Act or any rule of law, pay to the annuitant such a sum as will, as nearly as may be, produce, after the deduction therefrom of any tax or other charge thereon, a sum equal to the full amount of the annuity. 5

(11) Notwithstanding anything contained in the principal Act, or in any other Act, or in the will, any beneficiary under the will may give in favour of the Crown an order on or an assignment of the whole or any part of the annuity payable to him. 10

(12) The trustees may lease any lands comprised in the trust estate, whether to the beneficiaries under the will or to any other persons, for such terms and subject to such conditions as they think fit, but so that the term of any such lease (including any term or terms of renewal to which the lessee may be entitled) shall not be greater than twenty-one years; and the trustees may, upon or subject to such conditions as they think fit, permit any of the beneficiaries to occupy any part or parts of lands aforesaid and carry on any agricultural, pastoral, or other business thereon. 15 20

(13) To the extent that the provisions of this section are repugnant to the provisions of the will, the provisions of this section shall prevail over and supersede the provisions of the will, but otherwise the powers and authorities conferred by this section are in addition to the powers and authorities conferred by the will. 25 30

General

Authorizing
Court to extend
duration of
timber licenses
affecting
Native land.

15c. Whereas, because of conditions arising out of the present war, licensees under licenses to cut and take timber from Native freehold land may not be able within the time fixed by their licenses to cut and take the timber authorized to be cut and taken: And whereas it is desirable that power to extend the duration of any such license, if the circumstances so warrant or require, be conferred on the Court: Be it therefore enacted as follows:— 35 40

New

(1) Upon application made to it in that behalf, the Court may, from time to time, make an order extending for such period and subject to such conditions as it thinks fit, the duration of any timber license affecting Native freehold land.

(2) The consent of the Governor-General in Council shall be necessary to the validity of any such order, but upon that consent being given, the order shall take effect according to the tenor thereof as a modification of the timber license, and the same may be registered under the Land Transfer Act, 1915.

(3) An order may be made under this section in respect of a timber license notwithstanding that at the time of the making thereof, the term of the license may have come to an end.

(4) For the purposes of this section, a timber license includes any transfer of timber rights or any grant or other alienation, whether effected or made by the owners themselves or by any agent or trustee for them, conferring upon any person a right at law or in equity to the use or occupation of Native freehold land, or to enter thereon, for the purpose of removing therefrom any timber-trees, timber, or other wood.

16. (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.

See Reprint
of Statutes,
Vol. VII,
p. 1162

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

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

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

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

Schedule.

SCHEDULE

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

1. Petition No. 308 of 1936, of Mutu Karaitiana, concerning the boundaries between the Poupoutahi and Matatuowhiro Blocks and the Te Aute College Endowment Reserve.

2. Petition No. 51 of 1943, of Tonga Awhikau and others, concerning the ownership of the Turangatapuae Block alleged to have been reserved for Toi Whakataka.

New

3. Petition No. 39 of 1939, of Ngawharewiti Tiwai Pomare and another, concerning the estate of Wiremu Naera Pomare, deceased.

4. Petition No. 50 of 1941, of Hami Wiremu and others, concerning the sale of the Wharekaka No. 2 Block.

5. Petition No. 41 of 1942, of Hare Matene te Wano and others, concerning improvements alleged to have been made on the Waimarino 3N 1A Block by Te Wano.