

NATIVE PURPOSES BILL

EXPLANATORY NOTES

Clause 3: This clause confers upon the Native Land Court the power, which is possessed by the Supreme Court, to apportion, as between two or more administrators or trustees in the estate of a deceased person, the commission or percentage allowed.

Clause 4: The Boards referred to in this clause are trust bodies administering funds appropriated for tribal purposes in settlement of claims against the Crown. Amongst other things, the Boards are authorized to purchase land, and the clause permits them to acquire an amount of land greater than that allowed in the case of a private person. This brings these Boards into line with the Maori Land Boards who also may acquire lands in trust for Natives.

Clause 5: This clause is to facilitate the appointment of an officer to countersign cheques drawn on the Native Trustee's Account. At the present time the appointment is required to be made by the Board of Native Affairs, an unnecessary formality. The new provision enables the Native Trustee to appoint the countersigning officer.

Clause 6: This clause authorizes the Minister of Finance to allow interest on credit balances in accounts under the Native Housing Act, 1935, and Part I of the Native Land Amendment Act, 1936, relating to the development of Native-owned land. The rate of interest is not to exceed that fixed in respect of Post Office Savings-bank accounts.

Clause 7: This clause amends section 50 of the Native Land Amendment Act, 1936, so as to enable the Under-Secretary of the Native Department to perform purely Ministerial acts of the Board of Native Affairs in the matter of signing applications to the Native Land Court and notices by the Board. What it means is that applications and notices will be signed by one member of the Board—the Under-Secretary—or his nominee, instead of by two members of the Board.

Clause 8: Under section 7 of the Native Purposes Act, 1941, the Native Land Court has power to make an order vesting in a Native, by way of transfer or gift, an area, not exceeding 5 acres, for a housing-site. A case has arisen where, after the Court had made an order, the need for the site disappeared, other arrangements having supervened. This clause, which is in general terms, authorizes the Court, where the site is not required for its intended purpose, to cancel the order.

Clause 9: The Auckland and Onehunga Native Hostelries Account Fund comprises moneys, both capital and income, derived from lands in or about the City of Auckland which in the early days of the colony were set aside on trust for the main purpose of providing a fund for the maintenance of lodging-places for Maoris visiting Auckland. A hostel for itinerant Natives has been kept in Auckland for many years, but that has been found inadequate to meet the requirements of present-day conditions. This clause, which widens the scope of the trust, authorizes the Native Trustee, who administers the trust, to

expend moneys in the Fund in providing and maintaining other hostels not only within Auckland itself, but within the Tokerau (North Auckland) District and the Waikato-Maniapoto (South Auckland) District. It also validates the Native Trustee's purchase of a property in Hepburn Street, Auckland, acquired for the purpose of a hostel for Maori girls employed in the city.

Clause 10: Under section 20 of the Maori Land Settlement Act, 1905, the Crown had power to acquire land from the majority in value of the Native owners if they numbered more than ten. The Crown purchased the Ngataipuaa No. 4 Block in pursuance of this section, the purchase-money due to those owners who had not signed the transfer being paid over to the Receiver-General for distribution to them. The instruments relating to the Crown's title, however, were not registered as they were lost. This clause declares the land to be Crown land and authorizes the District Land Registrar to make any necessary entries in the register to complete registration of the Crown's title.

Clause 11: This clause is to give effect to the favourable recommendation of the Native Affairs Committee on Petition No. 19 of 1944. Owing to a misunderstanding, the parties concerned omitted to apply for probate of the will of Hira Hinekura within the two years allowed by the Native Land Act. This clause authorizes the Court to hear an application for probate, provided the application is made within six months from the passing of the Act.

Clause 12: The proprietor of certain leasehold interests in the Nelson Native Reserve was the owner of an adjoining freehold area, and, being desirous that the leaseholds and the freehold should be treated as a single property for subdivisational purposes, he has transferred the freehold to the Native Trustee. This clause includes the freehold area in the Nelson Native Reserve and enables the Native Trustee to deal with it as a part of that reserve.

Hon. Mr. Mason

NATIVE PURPOSES

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PART I

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- Interest may be allowed on credit balances in Native housing and land-development accounts.
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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.

No. 39—1

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

Short Title.

1. This Act may be cited as the Native Purposes Act, 1944. 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

Executors' commission may be apportioned.

3. Where the Court allows a commission or percentage under section one hundred and eighty-five of the principal Act, in any case in which there are or have been two or more administrators or trustees, whether acting at the same time or at different times, the Court 20 may, in its discretion, apportion the total amount allowed among the administrators or trustees in such manner as it thinks fit, and, in particular, may divide the amount in unequal shares or may make the allowance to one or more of the administrators or trustees to 25 the exclusion of the other or others.

Part XII of the principal Act not to prevent acquisition of land by Maori Trust Boards. 1931, No. 32

4. Nothing in Part XII of the principal Act shall prevent the acquisition of any land by the Taranaki Maori Trust Board constituted under section forty-nine of the Native Purposes Act, 1931, or the Arawa District 30 Trust Board constituted under section fifty-one of that Act, or the Tuwharetoa Trust Board constituted under section fifty-five of that Act.

Operation of Native Trustee's Account.

See Reprint of Statutes, Vol. VI, p. 391

5. Section forty of the Native Trustee Act, 1930, is hereby amended by repealing subsection two, and 35 substituting the following subsection:—

“(2) The Native Trustee's Account shall be operated on only by cheque signed by the Native Trustee or by the Deputy Native Trustee, and countersigned by such officer of the Native Department as the 40

Native Trustee may from time to time authorize in that behalf, either generally or specially."

6. (1) Interest on the credit balance in any account kept for the purposes of the Native Housing Act, 1935, or Part I of the Native Land Amendment Act, 1936, may from time to time, with the approval of the Minister of Finance, be credited to that account, the interest to be computed in such manner and at such rate as that Minister may from time to time determine:
- 10 Provided that the rate of interest shall not exceed the rate for the time being fixed in respect of moneys deposited in the Post Office Savings-bank.
- (2) Any authority given by the Minister of Finance pursuant to this section may be given either generally or with respect to any particular account or class of accounts.
- (3) Any interest so credited to any account before the passing of this Act shall be deemed to have been lawfully credited thereto.
- 20 7. Section fifty of the Native Land Amendment Act, 1936, is hereby amended by adding to subsection four the following proviso:—
- " Provided that any application made to the Court by the Board or any notice or notification required to be given or published by the Board may be signed by 25 the Under-Secretary of the Native Department or by some person authorized by him in that behalf, either generally or specially."
8. (1) Where the Court has, whether before or 30 after the passing of this Act, made an order under section seven of the Native Purposes Act, 1941, or section twenty of the Native Housing Amendment Act, 1938, vesting in a Native or a descendant of a Native any estate or interest in land for the purposes of a site 35 for a dwelling, and it is shown to the satisfaction of the Court that the provision of a site as aforesaid has for any reason become unnecessary, the Court may, subject to the consent of any mortgagee or encumbrancer, make an order, subject to such terms and 40 conditions as it thinks fit, cancelling the vesting order:

Interest may be allowed on credit balances in Native housing and land-development accounts.
1935, No. 34
1936, No. 53

Applications and notices by Board of Native Affairs may be signed by Under-Secretary of Native Department.
1936, No. 53

Order vesting land for dwelling-site in Native may be cancelled.
1941, No. 22
1938, No. 17

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

Provided that this subsection shall not apply to any vesting order registered under the Land Transfer Act, 1915.

(2) Upon the cancellation of any vesting order as aforesaid, the estate or interest affected thereby shall revert to the former owner thereof or his successors in title, and the Court may, if it thinks fit, make an order vesting the estate or interest in the person or persons entitled thereto. 5

PART II

10

MISCELLANEOUS POWERS

Tokerau and Waikato-Maniapoto Districts

Native
Trustee may
provide
hostels out of
Auckland and
Onehunga
Hostelries
Account
Fund.

9. (1) Notwithstanding anything contained in any Act, deed, or other instrument, the Native Trustee may from time to time, with the consent of the Native Minister, out of the moneys standing to the credit of the fund in the Native Trustee's Account known as the Auckland and Onehunga Native Hostelries Account Fund (hereinafter referred to as the said fund) purchase, take on lease, or otherwise acquire any land within the Tokerau and Waikato-Maniapoto Native Land Court Districts for the purpose of providing and maintaining hostels for the accommodation of Natives or the descendants of Natives. 15 20

(2) Out of the moneys aforesaid the Native Trustee may from time to time, with the consent of the Native Minister, expend such sums as may be necessary for the erection, replacement, repair, upkeep, maintenance, furnishing, and equipping of any building on any land acquired under this section, and generally may, out of such moneys, pay all necessary outgoings in respect of any such building or land. 25 30

(3) Any land acquired by the Native Trustee as aforesaid shall, subject to the provisions of this section, be held upon the same trusts as the said fund, but may be sold, let, leased, sub-leased, or otherwise disposed of by the Native Trustee upon such terms and conditions as he thinks fit: 35

Provided that no such land shall be sold or leased for a term exceeding three years without the precedent consent of the Native Minister.

5 (4) In respect of any accommodation provided by the Native Trustee in pursuance of the provisions hereof, the Native Trustee may from time to time impose such charges as he thinks fit, and may from time to time prescribe such rules as he thinks necessary for regulating the management and control of any
10 hostel or the conduct of the inmates thereof.

(5) All moneys arising from the disposition of any land acquired by the Native Trustee under this section, and all revenues derived from charges imposed by the Native Trustee under this section, shall form part of
15 the said fund.

(6) The provisions of this section shall extend and apply to the land containing one rood and nine perches and eight-tenths of a perch, more or less, known as Part Allotments 10 and 11 of Section 51, City of Auckland, and that land shall be deemed to have been law-
20 fully acquired by the Native Trustee under this section.

Waikato-Maniapoto District

10 25 **10.** Whereas pursuant to the provisions of section twenty of the Maori Land Settlement Act, 1905, the majority in value of the owners of the land situated in Blocks VII and XI, Thames Survey District, containing nine hundred and sixty-four acres and five perches, more or less, being the Ngataipuaa No. 4 Block, and
30 being all the land comprised in the order of the Native Land Court registered in provisional register, Volume 80, folio 27, Auckland Registry (hereinafter referred to as the said land), executed a deed of transfer of the said land to His Majesty: And whereas a list of all
35 owners who had not so executed the said deed of transfer, certified as correct by a Judge of the Native Land Court, was issued, and the Receiver-General received the amount of consideration due in respect of their shares or interests in the said land: And
40 whereas it is desirable, for the purpose of completing the registration of the Crown's title to the said land

Declaring
Ngataipuaa
No. 4 Block
to have become
Crown land.
1905, No. 44

(the deed of transfer aforesaid having been lost) that the said land should be declared to have become Crown land: Be it therefore enacted as follows:—

(1) The said land is hereby declared to have become Crown land on the first day of December, nineteen hundred and seven, free from all the right, title, estate, and interest of the former Native owners or their successors in title. 5

(2) Any purchase-moneys held by the Crown for any of the former Native owners may be paid to a Maori Land Board on behalf of such owners, and the receipt of the Board for the moneys so paid to it shall be a good and effectual discharge to the Crown. 10

(3) The District Land Registrar is hereby authorized to make all such entries in or amendments to the register as may be necessary to give effect to this section. 15

Aotea District

Permitting application for probate of will of Hira Hinekura.

See Reprint of Statutes, Vol. VI, p. 170

11. To give effect to a recommendation made by the Native Affairs Committee of the House of Representatives upon Petition Number 19 of 1944, of Wiri-hana Tete and another: Be it enacted as follows:— 20

Nothing contained in section one hundred and seventy-five of the principal Act shall apply to the will of Hira Hinekura, late of Wangaehu, a Native woman, and the Court is hereby authorized and empowered to hear and determine an application for a grant of probate of the said will or for succession orders in pursuance thereof if the application is made to the Court not later than six months after the passing of this Act. 25 30

South Island District

Lots 10 and 11, D.P. 3022, Part Section 1118, City of Nelson, included in Nelson Native Reserve.

12. Whereas, for the purpose of utilizing more effectively certain leasehold interests in the Nelson Native Reserve, the registered proprietor of an estate in fee-simple in those parcels of land situated in the City of Nelson, containing together two perches and six-tenths of a perch, more or less, being Lots 10 and 11 on Deposited Plan Number 3022, being parts of Section 1118 of the said City of Nelson, and being the land comprised and described in certificate of title, Volume 35 40

90, folio 51, Nelson Registry (hereinafter referred to as the said land), has transferred all his estate and interest in the said land to the Native Trustee to the intent that the said land should be held by the Native Trustee upon
5 and subject to the same trusts and conditions as the Nelson Native Reserve aforesaid: Be it therefore enacted as follows:—

The said land shall be deemed, as from the twenty-third day of September, nineteen hundred and
10 forty-three, to be subject to the Native Reserves Act, 1882, and the Westland and Nelson Native Reserves Act, 1887, and to form part of the Nelson Native Reserve, and shall be held by the Native Trustee for the same estate, upon the same trusts and with the same
15 functions, powers, duties, liabilities, and engagements as if it had originally formed part of the Nelson Native Reserve, and the Native Trustee shall be deemed to have had full power and authority to include the said land in memoranda of lease registered Numbers 2764 and
20 2765.

1882, No. 52
1887, No. 29

General

13. (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
25 by the petitioners in the petitions mentioned in the Schedule hereto.

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

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

30 (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
35 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
40 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. 9 of 1944, of Turuhira Hinetoia and another, concerning the division of the shares awarded to Hiria in the Mangatu No. 1 Block.

2. Petition No. 30 of 1944, of Hikihana Hamana and others, concerning the division of the shares awarded to the Amaru family in the Mangatu Nos. 1 and 4 Blocks.

3. Petition No. 31 of 1944, of Thomas Smiler and another, concerning the exclusion of Hineteariki Punahamoa from participation in the shares awarded under Taupara in the Mangatu Nos. 1 and 4 Blocks.

4. Petition No. 44 of 1944, of Tiki Riiti and others, concerning the ownership of the Whangara Block.