

## NATIVE PURPOSES BILL

### EXPLANATORY NOTES

*Clause 3:* Under the existing law, a Registrar of the Native Land Court can act as the agent of the Native Trustee, but it is not wide enough to enable the Native Trustee effectively to delegate his functions to a Registrar. The present clause provides the means for decentralizing the work of the Native Trust Office after the fashion of the Public Trust Office, the Registrars virtually acting as District Native Trustees.

*Clause 4:* This clause is to enable permanent Deputies for the Registrars of the Native Land Court to be appointed. At present a Deputy for a Registrar can be appointed only during the absence of the Registrar, but the increase in the administrative work of the Registrars makes the appointment of permanent Deputies necessary and desirable.

*Clause 5:* This clause is to enable the District Land Registrar to issue, in the name of His Majesty, a certificate of title to any land set apart or acquired by the Crown for the purposes of Native housing. Normally on the transfer of land to the Crown it ceases to be subject to the Land Transfer Act, and there is no power to issue a fee-simple title to His Majesty. This creates difficulties when the time arrives to register dealings with the lands. Similar power to that given by this clause is conferred upon the District Land Registrar in respect of Crown land made available for ordinary State housing (compare section 7 of the Housing Amendment Act, 1940).

*Clause 6:* The provisions of the last preceding clause will make unnecessary the issue of a Governor-General's Warrant for a title to land disposed of under the Native Housing Act. What will happen when a person becomes entitled to call for a transfer of the land to him is that the Board of Native Affairs will execute a transfer in the ordinary way which will be registered against the certificate of title.

*Clause 7:* James McGregor, of Opoutere, near Waihi, farmer, died on or about the 24th November, 1941, leaving a will. Doubts arose about his racial status—that is to say, whether he was a European or a Native within the meaning of the Native Land Act, 1931—and before these doubts were resolved by a determination of the Native Land Court that the deceased was a Native, the time within which application for probate of the will of a Native can be made was over-past. This section enables the Native Land Court to hear an application for probate, notwithstanding the ordinary limitation of time, and sets at rest any doubt on the score of the status of the deceased.

*Clause 8:* By her will, Ngatau Reriti, who died in 1918, devised 305 shares in the Kekerione 1N block, which is in the Chathams, to her son, Henare Reriti. At the time when proceedings for the appointment of successors to Ngatau were taken in 1922, Henare was dead, but he left six children (five of whom were minors) and who were entitled to take his share by representation. The Court, purporting to act in pursuance of the "family protection" provisions of the Native Land Act, 1909, awarded certain interests in Ngatau's estate to some of her orphan grandchildren. Amongst the interests so awarded, were 40 shares out of the 305 shares devised to Henare. Some years ago one of Henare's children petitioned Parliament complaining of the award of these shares, and the Court, following upon an inquiry, has suggested, in effect, that as the children of Henare were not independently represented before the Court in 1922, the decision might be reviewed.

*This PUBLIC BILL originated in the HOUSE OF REPRESENTATIVES, and, having this day passed as now printed, is transmitted to the LEGISLATIVE COUNCIL for its concurrence.*

*House of Representatives,*

*5th December, 1945*

*Hon. Mr. Mason*

## NATIVE PURPOSES

### ANALYSIS

<p>Title.</p> <p>1. Short Title.</p> <p>2. Provisions of Native Land Act, 1931, to apply to this Act.</p> <p style="text-align: center;"><b>PART I</b></p> <p style="text-align: center;">AMENDMENT OF LAWS</p> <p>3. Delegation of powers by Native Trustee.</p> <p>4. Appointment of Deputy Registrars of Native Land Court districts.</p> <p>5. Certificate of title may be issued for land set apart or acquired by the Crown for Native housing.</p> <p>6. Amendment of provisions of Native Housing Amendment Act, 1938, as to issue of titles.</p>	<p style="text-align: center;"><b>PART II</b></p> <p style="text-align: center;">MISCELLANEOUS POWERS</p> <p><i>Waikato-Maniapoto District</i></p> <p>7. Extending time for application for probate of will of James McGregor.</p> <p><i>South Island District</i></p> <p>8. Authorizing limited inquiry into succession to the interests of Ngatau Reriti, deceased, in Kekerione IN Block.</p> <p style="text-align: center;"><i>General</i></p> <p>9. Chief Judge may refer petitions in Schedule to Native Land Court for report. Schedule.</p>
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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.

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

1. This Act may be cited as the Native Purposes Act, 1945.

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. 5

## PART I

### AMENDMENT OF LAWS

Delegation of  
powers by  
Native  
Trustee.

3. (1) The Native Trustee may from time to time, by Warrant under his hand and seal, delegate to any Registrar of the Court (hereinafter in this section referred to as a Registrar), any of the powers, functions, and duties conferred or imposed upon the Native Trustee by any statute, deed, will, or other instrument. 10 15

(2) Any such delegation may relate to any particular matter or thing or may be expressed in general terms, and may at any time be varied or revoked by the Native Trustee. 20

(3) Notwithstanding that any powers, functions, or duties have been so delegated by the Native Trustee to a Registrar, the Registrar shall, in respect of those powers, functions or duties, be subject to the direction, supervision, and control of the Native Trustee. 25

(4) A Registrar shall not be personally liable in damages for any act or thing done or omitted to be done by him in good faith and in pursuance and exercise or in the intended pursuance and exercise of any powers, functions, or duties delegated to him by the Native Trustee. 30

(5) The fact that any Registrar purports to exercise or perform any of the powers, functions, or duties of the Native Trustee shall be conclusive evidence of his authority so to act, and no Court or person shall be concerned to inquire whether or not those powers, functions, or duties have been duly delegated to the Registrar. All acts and things done or omitted to be done by a Registrar in pursuance and exercise or in the intended pursuance and exercise of any such powers, 35 40

functions, or duties shall have the same effect and consequence as if they had been done or had been omitted to be done by the Native Trustee.

5 (6) Where any declaration, transfer, assurance, consent, or other deed or document requires to be signed by a Registrar pursuant to any powers, functions, or duties so delegated to him, the Registrar shall sign his personal name, adding the words, "acting under the authority of the Native Trustee pursuant to section  
10 *three* of the Native Purposes Act, 1945"; and, where the document requires to be sealed, he shall affix thereto the Native Trustee's seal of office. Any such declaration, transfer, assurance, consent, or other deed or document so executed shall have the same force and  
15 effect as if it were executed by the Native Trustee.

(7) The provisions of this section shall be deemed to be in addition to, and not in derogation of, the provisions of section nine of the Native Trustee Act, 1930.

See Reprint of Statutes, Vol. VI, p. 375

20 4. (1) In respect of each Native Land Court district constituted under the provisions of section twelve of the principal Act, there shall be a Deputy Registrar:

Appointment of Deputy Registrars of Native Land Court districts.

Provided that where one person has been appointed Registrar of two or more districts, one person may be appointed Deputy Registrar of those districts.

See Reprint of Statutes, Vol. VI, p. 108

25 (2) Subject to the provisions of subsection *three* hereof, a Deputy Registrar shall, under the direction and control of the Registrar, perform such official duties as he is required to perform by the Registrar.

30 (3) During any absence from duty of the Registrar, or during any vacancy in the office of Registrar, the Deputy Registrar shall have and may exercise and perform all the powers, functions, and duties of the Registrar, including his powers, functions, and duties as a member of any Board and as the administrative  
35 officer of any Board, and also any powers, functions, and duties delegated by the Native Trustee to the Registrar pursuant to the provisions of section *three* of this Act.

40 (4) The fact that a Deputy Registrar exercises and performs any of the powers, functions, or duties of the Registrar shall be sufficient evidence of his authority

so to do, and no person shall be concerned to inquire whether the occasion has arisen requiring or authorizing him so to do.

Certificate of title may be issued for land set apart or acquired by the Crown for Native housing.

1938, No. 17  
1935, No. 34

5. (1) Where any land has, whether before or after the commencement of this Act, been set apart under section two of the Native Housing Amendment Act, 1938, or been acquired on behalf of the Crown for any of the purposes of the Native Housing Act, 1935, the District Land Registrar shall, at the request of the Board of Native Affairs, issue in the name of His Majesty the King, a certificate of title for an estate in fee-simple in the land, with a memorial endorsed thereon that the land is subject to the Native Housing Act, 1935; and shall, at the like request, cancel the memorial as to the whole or any part of the land. 5  
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(2) Notwithstanding any Act or rule of law to the contrary, the fee-simple estate in the land shall not be merged in any other interest possessed by His Majesty, but shall enure as a separate estate available for the purposes of the Native Housing Act, 1935. 20

Amendment of provisions of Native Housing Amendment Act, 1938, as to issue of titles.

1938, No. 17

6. (1) Section twelve of the Native Housing Amendment Act, 1938, is hereby amended as follows:—

(a) By omitting from subsection one the words “and the Governor-General may, by Warrant under his hand, authorize the issue of a certificate of title accordingly”: 25

(b) By inserting, after subsection one, the following subsection:—

“(1A) Where any land is transferred by the Board to such a purchaser, the memorandum of transfer shall disclose that the land so transferred is subject to the provisions of this section, and the District Land Registrar shall enter on the certificate of title issued in the name of the transferee a memorial in accordance with subsection two of this section.” 30  
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(2) Section sixteen of the Native Housing Amendment Act, 1938, is hereby amended by omitting from subsection two the words “and the Governor-General may, by Warrant under his hand, authorize the issue of a certificate of title accordingly.” 40

## PART II

## MISCELLANEOUS POWERS

*Waikato-Maniapoto District*

7. Whereas James McGregor of Opoutere near  
 5 Waihi, Farmer, died on or about the twenty-fourth day  
 of November, nineteen hundred and forty-one, leaving  
 a will (hereinafter referred to as the said will): And  
 whereas doubts existed as to whether the said James  
 McGregor was a Native or a European within the  
 10 meaning of the principal Act: And whereas no appli-  
 cation was made within two years from the death of  
 the testator, as prescribed by section one hundred and  
 seventy-five of the principal Act, for a grant of probate  
 of the said will, or for a grant of letters of administra-  
 15 tion with the said will annexed, or for a succession  
 order in pursuance of the dispositions of the said will:  
 And whereas it has been determined by the Court that  
 the said James McGregor was in fact a Native within  
 the meaning of the principal Act, and it is desirable to  
 20 confer jurisdiction on the Court to hear any such  
 application: Be it therefore enacted as follows:—
- (1) The said James McGregor shall be deemed to  
 have been a Native within the meaning of the principal  
 Act.
- 25 (2) Nothing contained in section one hundred and  
 seventy-five of the principal Act shall apply to the said  
 will, 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 a grant of letters of  
 30 administration with the said will annexed, or for a  
 succession order in pursuance of the dispositions of the  
 said will, if the application is made to the Court not  
 later than six months after the passing of this Act.

Extending  
 time for  
 application for  
 probate of will  
 of James  
 McGregor.  
 See Reprint  
 of Statutes,  
 Vol. VI, p. 103

Ibid., p. 170

*South Island District*

- 35 8. Whereas the Court, upon inquiry into the claims  
 and allegations made in Petition No. 186, of 1936, of  
 Te Rau-o-te-rangi Jacobs concerning the award by the  
 Court of forty shares to members of the Hough family  
 on granting succession, on the twenty-second day of  
 40 September, nineteen hundred and twenty-two, to the  
 interests of Ngatau Reriti, deceased, in the land known

Authorizing  
 limited inquiry  
 into succession  
 to the  
 interests of  
 Ngatau Reriti,  
 deceased, in  
 Kekerione In  
 Block.

as Kekerione 1<sup>n</sup> Block, has recommended, in effect, that the award as aforesaid should be the subject of review: Be it therefore enacted as follows:—

(1) The Court is hereby authorized and empowered upon application being made within six months after the passing of this Act, by or on behalf of Te Rau-o-te-rangi Jacobs or any person claiming through or under her, to inquire into the justice and merit of the award of the shares aforesaid, and, if the Court thinks it right and proper so to do, to cancel, vary, or amend the award in such manner as appears just. 5 10

(2) For the purpose of giving effect to its determination, the Court may amend any former order made by the Court in respect of the interests of Ngatau Reriti, deceased, in Kekerione 1<sup>n</sup> Block, and may make such other order or orders as may appear necessary or expedient. 15

*General*

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

9. (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. 20

(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. 25

(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. 30

(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. 35

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SCHEDULE

Schedule.

PETITIONS to be referred to the Native Land Court or a Judge thereof:—

- (1) Petition No. 38 of 1945, of Mary te One, praying for protection in respect of certain improvements on the land known as Hutt Section 19, Subsection 21g.
- (2) Petition No. 97 of 1945, of Ngatau Pinenga and others, concerning the title to the Te Koutu B Block.