

*Hon. Mr. Whitaker.*

NATIVE RESERVES.

ANALYSIS.

<p>Title.</p> <p style="text-align: center;">PART I. GENERAL PROVISIONS.</p> <p>1. Short Title. 2. Interpretation. 3. Native reserves.</p> <p style="text-align: center;">PART II. RESERVES HERETOFORE MADE.</p> <p>4. Estates vested in Native Reserves Trustee. 5. Previous contracts transferred to him. 6. Old Commissioners to account to him. 7. Trustee to furnish accounts. 8. Trustee may apply to Court. 9. Annual accounts.</p> <p style="text-align: center;">PART III. RESERVES HEREAFTER TO BE MADE.</p> <p>10. Final reservations for Natives. 11. Reserves for public purposes.</p>	<p>12. Grants on special trusts.</p> <p style="text-align: center;">PART IV. PROVISIONS APPLICABLE GENERALLY.</p> <p>13. Management of Trust estates. 14. Native Land Court Act for the time being in force incorporated. 15. Restrictions may be varied or annulled. 16. Mode of proceeding. 17. Copy of judgment to be submitted to Governor. 18. Governor may declare same shall not be carried into effect. Thereupon judgment annulled. 19. Fees. 20. Notices of sittings of Court. 21. Appointment of delegates. 22. Natives may consent to appropriate sites for schools. Inquiry to be held. Report conclusive. Land vested in Her Majesty. Sites may be granted.</p>
---	---

A BILL INTITULED

AN ACT to make Provision for Native Reserves.

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

Title.

PART I.

GENERAL PROVISIONS.

5

1. The Short Title of this Act is "The Native Reserves Act, 1880."  
~~2. With respect to past transactions, all powers given to the Governor or the Governor in Council by "The Native Lands Act, 1767," shall hereafter be vested in the Native Land Court or any Judge thereof sitting in Court.~~

Short Title.

*New clause.*

10

2. In the construction of this Act, the words and expressions following shall have the meaning hereby assigned to them, unless there is something in the context or subject-matter repugnant thereto,—

Interpretation.

15

- "Native" shall mean an aboriginal Native of New Zealand, and shall include all half-castes and their descendants by Natives ;  
 "Native lands" shall mean land owned by Natives under their customs or usages ;  
 "Native Land Court," "Court," shall respectively mean the Native Land Court for the time being.

## Native reserves.

3. Subject to this Act the Native Land Court shall have the same jurisdiction over any Native reserve to which the Native title has been or shall be extinguished, and may take all such proceedings and make such orders with respect to any such Native reserve which comes before it for investigation or for any other purpose, as it has and may do with respect to any *Native land*, which is ~~Native land within the meaning of "The Native Land Act, 1880,"~~ and for this purpose and the other purposes of this Act the term "Native reserves" shall include,—

- (1.) Lands which have been or shall hereafter be excepted or reserved by aboriginal Natives on the cession or surrender of lands to the Crown, and specified as so excepted or reserved in the deed of conveyance, cession, or surrender. 10
- (2.) Lands which have been or shall hereafter be reserved or excepted for the benefit of aboriginal Natives upon the sale by them to the Crown of any lands, including all lands which, by virtue of the provisions of the fourteenth section of "The New Zealand Native Reserves Act, 1856," or the seventh section of "The Native Reserves Amendment Act, 1862," may have been subject to the provisions of "The New Zealand Native Reserves Act, 1856." 15
- (3.) Lands comprised in blocks guaranteed to or set apart for the benefit of aboriginal Natives by Colonel McCleverty, or according to the directions of any Commissioner appointed to investigate purchases of land made from aboriginal Natives by the New Zealand Company. 20
- (4.) Lands reserved for the benefit of aboriginal Natives by the New Zealand Land Company or New Zealand Company. 25
- (5.) Lands appropriated by the Governor for the use or benefit of any aboriginal Natives.
- (6.) Lands vested in the Native Reserves Trustee under this Act.

## PART II.

## RESERVES HERETOFORE MADE.

Estates vested in Native Reserves Trustee.

4. All real and personal estate at any time heretofore vested in the Governor, or any Commissioner or public officer (as such), under any Native Reserve Act, shall by force hereof vest in an officer and his successors to be from time to time appointed for this purpose by the Governor, which officer and his successors shall, so far as is necessary for this purpose, be a corporation sole, with perpetual succession, under the name of the Native Reserves Trustee, who shall hold his office during pleasure: ~~Provided always that~~ All lands so vested in the Native Reserves Trustee shall be subject to the orders of the Native Lands Court when brought thereinto by the Native Reserves Trustee under the provisions hereof, and may be dealt with by the said Court, and may be granted by the Crown as if the same were and always had been Native land within the meaning of "The Native Land Act, 1880." 30 35 40

Previous contracts transferred to him.

5. Any contract, lease, mortgage, obligation, or engagement heretofore duly made or entered into, or to be observed, under any of the said repealed Acts *Act relating to Native reserves*, by the Governor or any Commissioner or delegate heretofore appointed under or by virtue of any Act, shall be deemed to have been made by and with the Native Reserves Trustee, and be binding upon and be exercised, performed, and carried out by him and his successors as aforesaid, according to the intent and meaning of the several instruments by which such contracts, leases, mortgages, obligations, or engagements are evidenced. 45 50

6. All such Commissioners and delegates shall, within two months from this Act coming into operation, furnish to the said Native Reserves Trustee a full and true statement and account of each estate and matter in their hands or under their management and control, and such Native Reserves Trustee shall examine the same and *may* take such proceedings in the Supreme Court in reference thereto as he shall deem requisite.

Old Commissioners to account to him.

7. Before the month of *May*, in the year one thousand eight hundred and eighty-one, the Native Reserves Trustee shall furnish to the Colonial Secretary a full statement of all such accounts, with such remarks appended to the account of each estate as he may think fit to make, and such accounts shall be placed by the Colonial Secretary before each House of the General Assembly as soon as may be thereafter.

Trustee to furnish accounts.

8. The Native Reserves Trustee may, at his discretion, bring any such estate into the Native Lands Court to be dealt with under the provisions of this Act, and, for the purpose of commencing proceedings therein, his application shall be sufficient, and shall be deemed to be a claim on behalf of the persons interested, but before any final order of the Court is made the consent of such persons to the application shall be proved to its satisfaction.

Trustee may apply to Court.

9. So long as any estate shall remain in his management or control under this Act the Native Reserves Trustee shall annually furnish such account thereof as aforesaid to the Colonial Secretary, who shall place it *a copy thereof* before each House of the General Assembly as soon as may be after the receipt thereof by him.

Annual accounts.

### PART III.

#### RESERVES HEREAFTER TO BE MADE.

10. And whereas it is a matter of public concern that the aboriginal natives shall not so far divest themselves of their land as to retain insufficient land for their support and maintenance: Be it further enacted that it shall be the duty of the Native Reserves Trustee or his agent, to be appointed as hereinafter provided, to appear in the Native Land Court, and to produce evidence to show why any land being adjudicated upon by the said Court or any part thereof should be rendered subject to any restrictions, conditions, or limitations: ~~Provided that no such person shall appear until the title to such land shall have been decided by the said Court.~~

Final reservations for Natives.

11. And whereas it is necessary that the proper authorities should have power to show cause why any parcel of land should be made inalienable to any person other than Her Majesty or other proper authority, if the same is required for the purpose of a road, wharf, landing-place, or any other object of public utility or convenience, and *or* on the grounds that the public peace might be affected by the alienation: Be it further enacted that it shall be lawful for any person appointed for this purpose by the Governor to appear in the Native Land Court on behalf of Her Majesty or other proper authority, and to produce evidence to show cause why any land being adjudicated upon by the said Court or any part thereof shall be rendered subject to any restrictions or conditions for such public objects: ~~Provided as in the last preceding section is provided.~~

Reserves for public purposes.

12. It shall be lawful for the Court in any case before it under this Act to order that ~~the a grant to be made in pursuance of its certificate shall~~ *may* be made to the Native Reserves Trustee or to trustees, stating in such order the names of the trustees, the objects of the trust, or the names of the *cestui que* trusts, and the estates or interests to be created by ~~the such grant to be made in pursuance thereof.~~

Grants on special trusts.

## PART IV.

PROVISIONS APPLICABLE ~~to both classes of reserves~~ generally.

Management of Trust Estates.

13. Subject to this Act the Native Reserves Trustee and all trustees appointed by the Native Land Court under the provisions hereinbefore contained shall have general power to manage and administer all reserves under *his or* their control respectively, but according to the several objects of their dedication, if there is any special object expressed in the instrument creating them, and with respect to such special reserves and all others vested in him *or them* under this Act shall have and may exercise all the powers and shall be subject to the legal incidents of a trustee appointed and acting under and by virtue of "The Maori Real Estate Management Act, 1867," except subsection eight of section eight, and all Acts amending it: Provided always that "the Governor" therein shall, for the purposes of this Act, be construed to mean any Judge of the Supreme Court or of the Native Land Court: And provided further that no leases shall be made until the land comprised therein shall, after due advertisement, be offered at public auction.

Native Land Court Act for time being in force incorporated.

14. All the provisions of the Native Lands Act, 1880," *Court Act for the time being in force* shall, so far as the same are applicable and are necessary for the carrying into execution of this Act, be deemed to be incorporated herewith, and the fees, rules, and forms of procedure thereof shall, subject to this Act, be applicable to all proceedings in the Court under this Act.

Restrictions may be varied or annulled.

15. Whenever any Crown grant *or any certificate of title* contains therein, or *has* annexed thereto, or indorsed thereon, or resulting from the operation of any Act, any restrictions, limitations, or conditions other than such as are in favour of Her Majesty or other public authority for public uses or benefit, it shall be lawful for the persons named therein, or any of them, their or any of their successors, or for the Native Reserves Trustee, or for any trustee appointed under this Act, their heirs and assigns, to apply to the Native Land Court to have such restrictions, limitations, or conditions, or any of them, annulled and removed; and it shall be lawful for the Court, proof in all cases being made of the cognizance of the application by the Native Reserves Trustee, or his agent appointed as hereinafter provided, and such other appointed trustee (if any), and of the consent of the persons interested respectively, to hear and determine the application and to refuse the same, or to make order in compliance therewith or otherwise, as it shall think fit; and any such order shall be good and valid in law, and may be registered in the proper Registry of Deeds.

Mode of proceeding.

16. Any such order ordering the removal or alteration of any such restrictions, limitations, or conditions as aforesaid ~~shall be indorsed on the grant containing the same,~~ and shall be signed by the presiding or by the Chief Judge, and sealed with the Seal of the Court, and shall have the effect of rendering the *land or* hereditaments described ~~in such grant~~ absolutely as free and clear of and from all restrictions, conditions, and limitations as if none had ever been contained therein, if the order shall express that the restrictions, limitations, and conditions therein contained shall thenceforth be annulled; and any other order ~~so indorsed as aforesaid,~~ ordering the partial annulling or the change of any restrictions, limitations, and conditions therein contained shall operate and have effect according to the intent and meaning thereof.

## New clauses 17 and 18.

Copy of judgment to be submitted to Governor.

17. A copy of every final judgment given under this Act shall be forthwith forwarded to the Native Minister in order the same may be submitted to the Governor for his decision thereon.

18. It shall be competent for the Governor at any time within twenty-eight days after the receipt of such copy by the Native Minister to declare, by notification in the Government *Gazette*, that the judgment to which the same relates shall not be carried into effect.
- 5 Upon the publication of such notification as aforesaid, the said judgment shall thereupon and thereby be annulled and vacated, and shall have no more effect than as though the same had not been given.
17. 19. It shall be lawful for the Native Reserves Trustee to fix a scale of fees to be taken by him in respect of his operations under this Act, and such scale
- 10 from time to time to vary: Provided that such scale of fees shall respectively be subject to the approval in writing of the Governor.
18. 20. The Chief Judge of the Native Land Court shall punctually furnish to the Native Reserves Trustee and his agents appointed as hereinafter provided copies of all notices of sittings issued by the Court.
- 15 19. 21. The Native Reserves Trustee may, by instruments in writing under his hand, from time to time appoint any person as his agent, and such person shall have and may exercise such of the powers hereby conferred upon the Native Reserves Trustee, and within such a district of the colony, and for such a period of time, and subject to such conditions as shall be expressed in such instrument,
- 20 and such appointment he may from time to time annul.

Governor may declare same shall not be carried into effect.

Thereupon judgment annulled.

Fees.

Notices of sittings of Court.

Appointment of delegates.

*New clause.*

22. Whenever any Natives consent to appropriate for the site of a school any land owned by them not exceeding ten acres, the title to which has not been determined by the Native Land Court, the Governor may appoint a competent person to ascertain the title of such Natives to the land, and their
- 25 consent to such appropriation.
- Such person shall hold an inquiry respecting the matters aforesaid, as near the land as may be, after notice published in a local newspaper.
- The report of such person, if adopted by the Governor, shall be final and conclusive as to such title and assent, and the publication of such report in the
- 30 Government *Gazette* shall be evidence thereof.
- From the date of such publication such land shall vest absolutely in Her Majesty, her heirs and successors, for the purpose of a site for the school referred to in the report and for no other purpose whatsoever.
- The Governor may then grant such land to any person, whether of the
- 35 Native or European race, or to any body corporate upon trust for such school site, with such of the powers hereby vested in the Native Reserve Trustee as to the Governor may seem meet.

Natives may consent to appropriate sites for schools.

Inquiry to be held.

Report conclusive.

Land vested in Her Majesty.

Sites may be granted.