

Hon. J. McKenzie.

HOROWHENUA BLOCK ACT AMENDMENT.

ANALYSIS.

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A BILL INTITULED

AN ACT to make Further Provision respecting Portion of the Horowhenua Block. Title.

WHEREAS in the year one thousand eight hundred and seventy-
5 three the Native Land Court investigated the title of a large parcel of
Native land, containing about fifty-two thousand acres, and called
the Horowhenua Block, and awarded the said block to the Muaupoko
Tribe: And whereas Meiha Keepa te Rangihwinui was certified as
being the nominal owner thereof, but the names of one hundred and
10 forty-two other persons were indorsed on the certificate as being
persons who with him were beneficially entitled thereto: And
whereas the said Court sat at Palmerston North, in the year one
thousand eight hundred and eighty-six, to divide the said block
amongst the persons beneficially entitled thereto, and was then
15 induced to believe that a valid voluntary arrangement had been come
to by all the said persons for the division of the said block: And
whereas the fact was that many of the persons beneficially entitled
were dead and their successors had not been appointed, and no one
was therefore authorised to represent their interests at the sitting
20 of the said Court, and others were neither present nor represented
at the said Court, and by reason of such non-representation no
proper equitable or legal statutory arrangement was or could be made
or given effect to by the said Court: And whereas, nevertheless, the
said Court illegally and without jurisdiction purported to give effect
25 to such invalid voluntary arrangement, and proceeded to divide the
said block amongst those who had been registered as beneficially
entitled thereto: And whereas when so dividing the said block the
said Court awarded a certain portion called Subdivision Eleven to
the said Meiha Keepa te Rangihwinui and Warena te Hakeke in
30 trust for the beneficial owners: And whereas the said Court also

purported to award a certain portion called Subdivision Fourteen to Meiha Keepa te Rangihiwini in trust for the descendants of Te Whatanui as beneficial owners: And whereas the descendants of Te Whatanui declined to accept such subdivision, and another subdivision called Subdivision Nine was awarded by the said Court to the said Meiha Keepa te Rangihiwini in trust for the descendants of Te Whatanui: And whereas the said Subdivision Fourteen was on a subsequent day confirmed by the said Court to the said Meiha Keepa te Rangihiwini: And whereas he contends that it was so confirmed to himself absolutely, whilst others of the Muaupoko Tribe contend that it was so confirmed to him in trust for that tribe: And whereas the said Subdivision Fourteen was placed east of the railway-line, and its area was fixed at one thousand two hundred acres: And whereas the said Court ordered a survey of the said subdivisions to be made: And whereas the surveyor on making such survey changed the situation of the said Subdivision Fourteen by including therein a portion (to wit, five hundred and eighteen acres, more or less) of said Subdivision Eleven, situate on the west of the railway-line: And whereas such change was not made as provided by law, nor with the consent or concurrence of the beneficial owners, but was made with the sole consent and concurrence of Meiha Keepa te Rangihiwini and Warena te Hakeke as co-trustees of Subdivision Eleven: And whereas Meiha Keepa te Rangihiwini has dealt with Subdivision Fourteen as if it were his own absolutely, and has leased part of it, mortgaged part of it, and sold part of it: And whereas by "The Horowhenua Block Act, 1895," a Royal Commission was appointed to inquire into the whole dealings with the said Horowhenua Block: And whereas the said Royal Commission, after full investigation, duly reported and found that said Subdivision Fourteen was held in trust by Meiha Keepa for the persons whose names were indorsed on the certificate in the year one thousand eight hundred and seventy-three: And whereas the said Commission recommended that it should be referred to the Supreme Court to determine whether the persons taking the aforesaid leases, mortgages, and transfers of said Subdivision Fourteen did so knowing that the said subdivision was trust property: And whereas "The Horowhenua Block Act, 1896" (hereinafter called "the principal Act"), was passed in order to give effect to the findings and recommendations of the said Commission, but has been found to be ineffective for that purpose: And whereas it has been judicially decided that the principal Act does not itself expressly declare that the said Subdivision Fourteen was held by the said Meiha Keepa te Rangihiwini as trustee, and does not adequately empower and direct the Native Appellate Court to completely reopen and itself decide upon the validity of the various proceedings and dealings which took place in the Native Land Court at Palmerston North in respect of the said Subdivision Fourteen: And whereas, based on such an interpretation of the principal Act, the action commenced by the Public Trustee under section ten of that Act has, with his consent, been decided in favour of the defendants, and thus what the said Commission recommended

and Parliament intended should be done has never been done, and the rights and interests of the persons beneficially entitled have been defeated: And whereas it is expedient that no technical rule of law should be permitted to protect or give validity to any dealing or transaction in or connected with the said Subdivision Fourteen which the Native Land Court would otherwise declare inequitable or unconscionable: And whereas it is desirable that the intention of Parliament should be more clearly expressed regarding the Horowhenua Block:

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

1. The Short Title of this Act is "The Horowhenua Block Act Amendment Act, 1897." Short Title.

15 2. This Act shall form part of and be read with the principal Act. Construction.

3. The decree given by consent in the action instituted by the Public Trustee under section ten of the principal Act and all proceedings in that action are hereby set aside and declared to be void. Decree under Principal Act set aside.

20 4. Division Fourteen referred to in the principal Act (being the land hereinbefore referred to as "Subdivision Fourteen") is hereby declared to now be and at all times, from the third day of December, one thousand eight hundred and eighty-six, to have been held by Meiha Keepa te Rangihwinui in trust for the members of the Division Fourteen declared to be held in trust.

25 Muaupoko Tribe whose names are set forth in the Schedules to the principal Act.

5. For the purpose of testing the validity of the dealings referred to in section ten of the principal Act, a fresh action shall be instituted in the Supreme Court at Wellington by the Public Trustee within Public Trustee to institute fresh action.

30 two months after this Act comes into operation. 6. In such fresh action the Supreme Court shall declare the alienation and other the dealings referred to in section ten of the principal Act to be valid or invalid, according as it is or is not satisfied— Grounds upon which Supreme Court to decide action.

35 (1.) That, in case of a dealing by way of sale or lease, the purchase - money, rent, or other consideration was adequate within the meaning of "The Native Land Court Act, 1894":

40 (2.) That, in case of a dealing by way of mortgage, the amount thereof and other the obligations and liabilities of the mortgagor were fully explained and understood by him when the mortgage was executed:

45 (3.) That in every case the dealing was not only in full accordance with the provisions of the law for the time being in force, but also was in every respect in full accordance with equity and good conscience, anything in "The Land Transfer Act, 1885," or any other enactment or rule of law to the contrary notwithstanding.

50 7. The costs of such fresh action shall abide the result of the action, and shall be calculated according to the value of the property involved, and be fixed according to the scale of costs in "Table C" of the Second Schedule to the rules of such Court. Costs thereof.

How Public
Trustee's costs
payable.

8. Such of those costs, if any, as are payable by the Public Trustee shall be paid out of moneys to be appropriated by Parliament.

Costs of pro-
ceedings set aside.

9. The costs payable by the Public Trustee in respect of the proceedings set aside by section *three* of this Act shall also be paid out of moneys to be appropriated by Parliament. 5

Principal Act
modified.

10. The principal Act is hereby modified in so far as it conflicts with this Act, but not further or otherwise.