

[AS REPORTED FROM THE SELECT COMMITTEE, 25TH JUNE, 1880.]

Hon. Mr. Whitaker.

NATIVE SUCCESSION.

ANALYSIS.

Title.
Preamble.
1. Short Title.
2. Interpretation.

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7.
8. Similarly as to personalty.
9. Certificate.
10. To operate as letters of administration.
11. Rules applicable thereto.

A BILL INTITULED

AN ACT to extend the Jurisdiction of the Native Land Court in the Estate of Deceased Natives. Title.

WHEREAS it is expedient that provision should be made for determining the succession to lands *owned by* and hereditaments granted to persons of the Native race : And whereas it may be necessary in certain cases to ascertain the persons to whom, according to Maori custom or usage, the personal property of any intestate Native ought to descend : Preamble.

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 shall be "The Native Succession Act, 1880." Short Title.
Interpretation.

New clauses.

10 2. In this Act, the terms following have the meanings here assigned :—
"Native" means aboriginal natives of New Zealand, half-castes, and their descendants by Natives.

15 "Native land" means land owned by Natives under their customs or usages, of which the title has been heretofore determined by the Native Land Court.

"Hereditaments" means land, or any interest therein, held under title derived from the Crown.

20 3. In case any Native has died or shall die possessed of any Native land, or of any hereditaments, without having made a valid disposition thereof, the Native Land Court may, on the application of any Native claiming to be interested therein, respectively inquire and ascertain who ought to succeed to such land or hereditaments, according to Native custom or usage.

4. The Court having determined who, in its judgment, ought to succeed, shall thereupon grant a certificate accordingly.

25 The certificate so granted shall set forth the death of the owner, a description of the land, and the name and place of abode of the person entitled to succeed.

It shall have the same force and effect in favour of the successor as the instrument under which he owned had in favour of the deceased owner.

Struck out.

2. The term "Native" in this Act includes half-castes and their descendants by Natives.

3. In case any Native has died or shall die without having made a valid settlement of land of or to which he was seised or entitled in any of the cases hereinafter mentioned, namely,—

- (1.) Under title derived from the Native Land Court ;
- (2.) Under title derived from the Crown ;
- (3.) Under any contract, engagement, or promise made by or on behalf of Her Majesty or the Government of the colony, or under any order or award made by any Court of compensation or arbitration or by any agents of the Crown or Commissioners appointed by the Governor or by the Governor in Council ;
- (4.) Or under any certificate of title which shall have been issued or shall hereafter be issued under the provisions of the fourth section of "The East Coast Act, 1878,"—

the Native Land Court shall have jurisdiction, and may upon the application of any person claiming to be interested in such land inquire into the matter and ascertain by such evidence as it shall think fit who ought to succeed to the estate and interest of such deceased person.

4. The Court by order under its seal shall declare the names of the persons, defining the proportionate share of each such person who in the judgment of the Court ought to succeed to the interest of the person deceased ; and the persons named in such order in their respective proportionate shares shall be deemed to be and to have been from a date to be fixed by the order as hereinafter provided the legal representatives of the person deceased in the same manner in every way as if they had been the absolute devisees of the deceased person under his will.

5. In any order made under this enactment the Court shall have full power and authority to declare at what date subsequent to the death of the original grantee the persons declared entitled to any estate or interest under such order shall be deemed to have succeeded to the person deceased.

6. If the deceased person made a will or any writing which, though not legally executed, the Court thinks was intended by him to be a will, the Court shall make its order as nearly in accordance therewith as may be.

New Clauses.

5. Any Native claiming to be interested in land in respect of which an order of succession shall have been granted shall, provided the land in question be of the value of £300, be entitled to appeal to the Supreme Court ; and such Native may, within seven days after the making of such order, give notice in writing to such Native Lands Court that he demands an appeal.

6. Within *thirty* days from the receipt of such notice the Native Lands Court before which the question of such succession shall have been heard shall cause a transcript of all the proceedings and evidence taken and produced before it in relation to such case, with a statement at the foot thereof of the grounds of its decision, to be forwarded to the Registrar of the Supreme Court for the judicial district within which such order shall have been made. Such transcript shall be certified to by the Judge or Judges before whom such question of succession shall have been heard as true.

7. The Supreme Court shall thereupon hear the said appeal, and give its judgment upon the question of such succession, and such judgment of the Supreme Court shall be returned into the Native Lands Court, and thereupon the Native Lands Court shall make an order of succession in conformity with such judgment of the Supreme Court, and such last judgment shall become and be the judgment of the Native Lands Court, and be final and conclusive between the parties.

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7. 8. Where any Native dies intestate possessed of personal estate within New Zealand, any person claiming to be interested or entitled to such personal estate may apply to the Court for a certificate setting forth what person ought to succeed to such personal estate. Similarly as to personality.
- 5 8. 9. The Court may, after inquiry, grant a certificate, to be signed by the Judge and issued under the seal of the Court. Certificate.
9. 10. The certificate shall operate as letters of administration granted to the person named therein. To operate as letters of administration.
- 0 10. 11. Except as by this Act specially provided, all laws and rules relating to the grant and issue of letters of administration, and to stamp and other duties imposed upon the grant of administration, of the estates of persons deceased shall be applicable to such certificate. Rules applicable thereto.