

# He Pire E Huaina Ana

*Hon. Timi Kara.*

HE TURE hei Whakatikatika i "Te Ture mo nga Rahui o Te Tai Hauauru, 1892."

Na Ka Meingatia e te Runanga Nui o Niu Tireni e noho huihui ana i roto i te Paremete, i raro hoki i tona mana enei tikanga e whai ake nei, ara:—

- Ko te Ingoa Poto o tenei Ture ko "Te Ture Whakatikatika mo nga Rahui o Te Tai Hauauru, 1893."
- I roto i tenei Ture mehemea kaore e taupapatu i ona ritenga ko te tikanga o te kupu "taua Ture" ko "Te Ture mo nga Rahui o Te Tai Hauauru 1892," hui atu ki tona Apiti me tenei Ture hoki.
- Ko enei kupu whakamarama e whai ake nei i roto i tekiona rua o taua Ture ka kiia mo runga mo nga tikanga o taua Ture timata mai i te mananga o "Te Ture Whenua, 1892," e penei ana ona ritenga ara:—  
"Whakapainga" me nga "tino whakapainga" e korerotia ra i roto o taua Ture he tino whakapainga pena ano me era e korerotia ra i roto i "Te Ture Whenua, 1892;" "Te Ture Whenua, 1885," tona tikanga ko "Te Ture Whenua, 1892," me nga Ture whakatikatika katoa, me nga Ture riwhi i taua Ture:  
Nga kupu "ngaki," "ngakinga" i roto o taua Ture ka penei tona ritenga mai ano i te mananga o taua Ture, ara ko nga ritenga o aua kupu e korerotia ra i roto o "Te Ture Whenua, 1892."
- Ahakoa etahi ritenga o taua Ture e pa ana ki te riihitanga o te whenua i runga i te tikanga okihana, pehea ranei ka tino whai mana te Kai Tiaki ina whakaaro ia kia pera ki te,—  
Riihi te whenua ki nga Maori e mau nei kia ratou mo te takiwa kotahi anake: Otiia kaore e tika kia whiwhi tetahi Maori kotahi, etahi Maori tokorua maha atu ranei i tetahi whenua riihi, pewhea ranei i raro i tenei tekiona e rahi atu ana i te eka, haunga ia te whenua e tau mai ana ki aia kia raua ranei i raro i tetahi ohakikore, wira, marenatanga ranei: ko nga pukapuka e whakaritea ana kia tau ki tetahi Maori tetahi whenua riihi pewhea ranei e rahi atu i enei eka e korerotia ra i runga ake nei ka kiia e mana kore ana i te mea e takahi ana i nga ritenga o tenei tekiona:  
Ko nga moni reti, kawenata ritenga katoa o nga riihi i raro i tenei tekiona ma te Kai Tiaki e whakarite mo nga mea penei katoa, mo nga mea takitahi ranei: Otiia kua te reti e iti iho i te rima pauna mo ia rau pauna i roto o te whiriwhiringa utu motuhake mo ia tau ma te Kai Tiaki e whiriwhiri a ka pumau tonu tana i whakatau ai:  
Ko nga riihi i raro i tenei tekiona ka mana mo nga tau e ruatekau ma tahi a ka ahei te whakahou i raro i nga ritenga o taua Ture me te pa ano o aua ritenga ki enei riihi me te eke mai hoki o etahi here, tikanga whakahaere, pewhea ranei e hanga ana e te Kai Tiaki a ka whai mana tonu ia ki te mahi mo aua mea:  
Ka ahei te Kai Tiaki ina kitea e ia te tika ki te hanga tikanga here hei arai i nga Maori whai riihi me era o ratou e whai kereme ana i raro i nga riihi i raro o tenei tekiona kia kua ratou e whai mana ki te tuku ki te hoko i tetahi riihi whenua whai paanga ranei i roto i nga riihi pera, erangi me whakahaere nga mea penei i raro i nga tikanga whakahaere e mahia ana e ia: a ko aua tikanga whakahaere me nga ritenga katoa ka tino whai mana ano he mea hanga i roto i tetahi ture motuhake:  
Ko nga Maori whai riihi i raro i tenei tekiona, whai paanga hea ranei, e ekore e whai mana i raro i te ture i raro ranei i te tika me te pono ki te tuku whakarere taua riihi, taua whenua, tetahi wahi whai paanga hea ranei o roto mehemea e takahi ana taua tuku i nga ritenga o nga ture whakahaere kua whakahaere a kua hanga e te Kai Tiaki, a ko nga mahi tuku pera ka kiia e tino mana kore ana: Erangi ka ahei te Kai Tiaki ki te whakarere, ki te whakakore i runga i te pukapuka tuhi tuhi anake etahi o nga ritenga, tikanga ranei e pa ana ki aua tuku ra.  
E kore tetahi Maori whai riihi whai paanga hea ranei i roto i tetahi riihi e ahei ki te tuku whakarere, hoatu ranei wira ranei ki tetahi atu tangata e hara taua tangata i te Maori.  
Ko nga Maori whai riihi i raro i tenei tekiona me nga Maori whai paanga ki etahi riihi pera ahakoa etahi Ture whakakore, e mana ana inaianei tera ranei e mana amuri ake nei. Me utu tonu e ratou nga tiuti, taake, reiti utu, whiriwhiringa utu pewhea ranei e eke ana ki aua whenua ano he Pakeha tonu aua Maori.  
Ko te hea, whai paanga, wahi ranei o nga Maori i raro i tetahi riihi e kore e taea te tango te muru, te hopu, te hoko te pupuri ranei, te riro ranei hei utu mo nga nama, pekerapu pewhea ranei, e kore hoki e eke mai tetahi ture e pa ana ki nga pekerapu me era tu ritenga katoa haunga ia te Kai Tiaki.  
\*Tuku" "nga tuku" "nga tuku whakarere" ranei, i raro i nga tikanga o tenei tekiona ka kiia he tuku mo tetahi takiwa poto, tuku whakarere, tuku mokete, tuku pewhea ranei.
- Mo runga mo etahi riihi (haunga ia nga mea mahi i raro i tetahi whakatau) erangi ko nga mea i mahia tera ranei e mahia e te Kai Tiaki i raro i taua Ture, i raro ranei i etahi Ture kua whakakorea e taua Ture a kei te wa e timata ai te mananga o tenei Ture a ko te whenua kei roto o aua riihi kua whakapumautia ki

etahi tangata mo nga tau katoa o taua riihi a mehemea ranei he tokorua maha atu ranei nga tangata e pupuri ana i taua riihi i aua riihi ranei a kei te hiahia aua tangata katoa ki te whakarere i aua riihi kia ahei ai ia tangata ki te tango riihi motuhake mo tona wahi mo tona wahi o taua whenua e riihi nei a ki te mea e whakaae ana ratou ki te wehewehenga o nga moni reti me nga kawenata, tikanga ritenga katoa hoki i roto i nga riihi motuhake, me te whakaae ano hoki o te Kai Tiaki ki taua whakarere me te tuku atu i nga riihi motuhake mo nga wahi o te whenua i runga i nga utu me nga kawenata ritenga, kirimina aha ranei heoi ka ahei te Kai Tiaki ki te whakaae ki aua whakarere me te tuku atu i etahi riihi hou, mea motuhake mo ia wahanga o te whenua ki ia tangata ki tetahi tangata e paingia ana me te whakarite rite hoki i te moni reti, me nga ritenga kawenata tikanga aha ranei e mau ana kei roto i nga riihi kua whakarere nei i runga i nga ritenga e maharatia ana e te Kai Tiaki te tika.

Erangi ko nga utu katoa me nga whakahaerenga o nga riihi kua whakarere nei me te mahinga o nga mea hou me te whakaotinga, me nga pane Kuini me te rehitatanga ma nga tangata no ratou te hiahia ki enei riihi hou, motuhake, e utu.

- Nga ture whakahaere kua oti te hanga i mua e te Kawana e te Kai Tiaki ranei i raro i taua Ture ka kiia inaianei kua mana tonu mai ano i te ra i hanga ai. Nga ture me nga whakahaere me nga mahi katoa kua mahia kaore ranei i mahia e te Kai Tiaki e tetahi tangata ranei i raro o tona mana mea pewhea ranei, heoi he mahi e ki ana i mahia i raro i te mana o taua Ture ka tino whakamana inaianei.
- Ka kiia inaianei i runga i te tikanga whakapumau, timata mai i te wa i tukua nga hea me nga whai paanga ki nga tangata no ratou etahi whenua i raro i te ritenga o te tekiona te tekau ma rima o "Te Ture Whakanohonoho i Nga Rahui o Te Tai Hauauru 1881 Ture Whakatikatika, 1884." Ko nga tangata whai paanga me a ratou riiwhi i o ratou matenga i raro i nga ritenga o taua Ture, aua Ture kua whakakorea ranei koina ano nga tangata e tika ana ki aua hea whai paanga kua oti nei te whakarite a ka tino tuturu rawa taua whakaritenga hea a e kore rawa e whai mana tetahi whakaritenga wehewehe roherohenga ranei o te Kooti Whenua Maori o tetahi Tiati ranei mehemea e whakarere ke ana, e whakatikatika ana i aua hea whai paanga kore rawa e whai mana mehemea e pa ana taua whakaritenga ki taua whakaotinga, whakaritenga tuatahi e korerotia nei.

Erangi mehemea kua haere te mahi a te Kai Tiaki i runga i aua wehewehenga, roherohenga etahi atu ota ranei me te whakaputa moni i runga i aua wehewehenga ra, heoi ka kiia i tika tonu i mana tonu ana mahi katoa e whakarereke ana, e aha ana i nga ritenga me nga whai paanga o nga tangata kua oti te whakariterite i te tuatahi ra.

Ko te rarangi ingoa kei te Tari o te Kai Tiaki o i te wa i timata ai "Te Ture Whakanohonoho Rahui o Te Tai Hauauru, 1892," ara no te rarangi ingoa o nga tangata karaati whai paanga, me nga kai riwhi o te hunga kua mate kua oti nei to wehewehe me te whakariterite i o ratou hea. Koina ano te rarangi ingoa i runga i te mea kua oti te whakatikatika e te Kai Tiaki ia wa, ia wa, a koina hei tino tohu mo te tika o nga tangata e mau nei a ratou ingoa ki taua rarangi kia whiwhi ki nga hea, whai paanga e korerotia ra i roto.

Ko nga utunga moni me nga mahi me nga whakahaere katoa ahakoa pewhea, me nga mea i mahue i te Kai Tiaki te whakahaere, te mahi, ka kiia e tino mana katoa ana ano i mana tonu tenei rarangi i taua wa.

- Nga riihi kua oti te hanga i te tuatahi, ka hanga ranei a muri ake nei e te Kai Tiaki mehemea e ki ana e mahia ana i raro i te mana o aua Ture ka kiia hei tino tohu mo te tika me te pai, me te pono o nga whakahaere katoa e tika ana kia whakahaerea, kia mana ai aua riihi ahakoa i mahue te whakahaere o etahi tikanga heahakoa. Haunga ia nga riihi kua oti i raro i tetahi whakataua.
- Ekore i kiia tetahi hapa, he mahi rereke ranei pewhea ranei, tetahi panui, whakaaturanga, whiriwhiringa utu whakahaerenga, huihuinga kua oti nei, tera ranei e oti a muri ake nei e mahia ana i raro i taua Ture ahakoa pewhea te ahua, e kore e whakararu, whakahe, whakamate whakakore ranei i tetahi whakahaere, tikanga, mahi aha atu ranei kua mahia i mua, tera e mahia amuri ake nei, whakahaere ranei i mahue i warewaretia e te Kai Tiaki, e tetahi tangata ranei e mahi ana i raro i tona mana he mea whakahau, pewhea ranei, e kore hoki e taea te whakahe, te whakawa te whiu pewhea ranei i runga i enei take katoa e korerotia ra.
- E kore e mana kore nga hui huinga i me nga whakahaere i raro i tekiona waru o taua Ture ahakoa i he, i hapa i raruraru nga whakahaere, nga tono kia huihui mai pewhea ranei; i runga ranei i te urunga o etahi Maori ki aua whakahaere kaore i whai take ki aua huihui. A ka tino mana tonu nga whakahaere katoa katoa i mahia e aua huihuinga ahakoa he mea i hapa, he mea i warewaretia, he mea i mahue, he tangata Maori take kore ranei i uru atu ki aua whakahaere, heahakoa ka mana tonu.

Erangi e kore e waiho te whakamananga o aua huihui ra hei arai i te Kai Tiaki, mehemea e hiahia ana ia ki te karanga i tetahi huihui ano amuri ake nei, a ki te karangatia peratia e ia he huihui hou heoi ka kiia kihai i whai mana nga whakahaere o te huihui tuatahi.

Ka kiia i mana tonu tenei tekiona tae mai ki te wa i timata ai te mana o taua Ture.

- I raro i nga ritenga o taua Ture e whai mana ana te Kai Tiaki ki te mahi i etahi mahi pewhea ranei kia

kaua ranei e mahia, a ko taua whakamananga iaia mehemea kaore kia tino rite noa ka kiia i tau taua mana ki te Kai Tiaki mai ano i te mananga o taua Ture me te whakamana hoki iaia ki te mahi i etahi tikanga pewhea, ranei kia kaua ranei e mahia etahi tikanga pewhea, a ko nga whakahaere me nga mea kua mahia e ia, nga mahia kaore nei i meatia e ia, ka kiia e mahi ana te Kai Tiaki o te Katoa, i runga i te pono me te tika a e kore e taea te whakahe.

West Coast Settlement Reserves Act Amendment.

## Analysis.

Hon. Mr. Carroll

Title.

- Short Title.
- Interpretation.
- Definition of "Improvements" and "Cultivation."
- Special provisions for leasing reserves to Natives.
- Surrender of lease for purpose of subdivisional leases.
- Regulations made declared valid.
- Definite settlement of shares of land.
- Lease conclusive evidence of its validity.
- Faults or informalities in good faith not to invalidate lease.
- Meetings informally convened not to be invalid.
- Public Trustee's acts in good faith not to be questioned.

## A Bill Intituled AN ACT to amend "The West Coast Settlement Reserves Act, Title. 1892."

Be It Enacted by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

- The Short Title of this Act is "The West Coast Settlement Short Title. Reserves Act Amendment Act, 1893."
- In this Act, if not inconsistent with the context, "the said Interpretation. Act" means the West Coast Settlement Reserves Act, 1892," and includes the Schedule thereto and this Act.
- The following definitions in section two of the said Act, Definition of "Improvements" and "Cultivation." shall, for the purposes of the said Act, from and after the coming into operation of "The Land Act, 1892," be deemed to have had the following meanings, that is to say:—
  - "Improvements" and "substantial improvements" in the said Act to have the same meaning as "substantial improvements of a permanent character" in "The Land Act, 1892:"
  - "The Land Act, 1885," to have meant "The Land Act, 1892," and all amendments of that Act, and any Act passed in substitution of that Act:
  - The terms "cultivate" and "cultivation" respectively, in the said Act, shall, as from the coming into operation of "The Land Act, 1892," have the meanings given to those expressions by that Act.
- Special provisions for leasing reserves to Natives. Notwithstanding any of the provisions of the said Act as to the leasing of land by tender or otherwise, the Public Trustee may, in his absolute discretion,—
  - Lease land to Natives in possession and not in reversion: Provided that no Native shall solely, nor shall two or more Natives jointly, become lessees of or hold or own whether as lessees or otherwise under this section more than acres, unless the same shall come to or devolve upon him or them by intestacy, will, or marriage: Any instrument whereby a Native becomes a lessee of, holds, or owns more than such limited acreage shall be void, so far as it contravenes this section:
  - The rent, covenants, conditions, and provisions of leases under this section shall be as fixed by the Public Trustee, either generally or in any particular case: Provided that the rent shall not be less than five pounds per centum per annum on a valuation of the land for an estate in fee-simple as determined by the Public Trustee, and whose determination shall be final and conclusive:
  - Leases under this section shall be for twenty-one years, and shall be renewable in like manner, and subject to the like conditions, as is provided by the said Act, subject, nevertheless, to any restrictions or conditions made by regulations which the Public Trustee may make, and is hereby authorised to make,

relative thereto:

¶The Public Trustee may, in his absolute discretion, by regulation, impose conditions restraining Natives, being lessees, or claiming by through or under lessees, or holding or owning a lease under this section, or any estate or interest therein or thereunder, from alienating any lease granted thereunder, or any land comprised therein, or any estate or interest under a lease, except as provided by such regulations: Such regulations shall, as to the conditions imposed, be as valid as if such conditions were enacted by statute:

¶No Native, being a lessee under this section, or claiming by through or under a lessee, or holding or owning a lease under this section, or having any estate or interest in a lease, shall have, any right at law or in equity to alienate the lease or the land comprised therein, or any part thereof, or any estate or interest therein or thereunder, contrary to the provisions of this section or to any conditions imposed by regulations made by the Public Trustee, and all alienations or attempted alienations contrary thereto shall be void: Provided that the Public Trustee may in writing, but not otherwise, from time to time alter, vary, release, or waive any of such provisions or conditions as to alienation.

¶No Native, being a lessee, or owning or holding a lease or any estate or interest in or under a lease, shall dispose thereof by gift or will otherwise than to or in favour of a Native.

¶Natives being lessees under this section, and Natives holding or owning a lease under this section or any estate or interest therein or thereunder, notwithstanding any exemption contained in any Act or law now or hereafter in force to the contrary, shall be liable to the same obligations, duties, taxes, rates, charges, and assessments with respect to the land demised as would be the case if the Natives were Europeans.

¶The share, estate, or interest of Natives under a lease shall not (except so far as the Public Trustee is concerned) be liable to be seized, sold, attached, or levied upon by any process whatever, or become vested in any Official Assignee or creditor's trustee in bankruptcy, or be subject to any law relating to bankruptcy or insolvency, or be assets in bankruptcy.

¶"Alienate," "alienating," and "alienation" for the purposes of this section respectively include a limited disposal as well as an absolute one, and any mortgage, charge, lien, or encumbrance.

- When, as to any lease (other than a lease made under an Surrender of lease for purpose of subdivisional leases. award) heretofore or hereafter made by the Public Trustee under the said Act, or the Acts repealed thereby, the land demised is when this Act comes into operation or shall thereafter become as to different portions thereof vested in several persons for the whole term, or when two or more persons shall hold for the whole term the land comprised in one or more leases, and the whole of such persons desire to surrender and take separate leases of separate portions of the land leased, and agree as to the apportionment of the rent and the covenants, conditions, provisions, and agreements to be contained in such separate leases, and the Public Trustee agrees to accept such surrenders and to grant separate leases of such separate portions at the apportioned rents, covenants, conditions, provisions, and agreements, then the Public Trustee may accept such surrenders and grant such separate leases accordingly; or, when any person owning the whole of the land comprised in a lease for the whole term subdivides the leased land, desires to obtain separate leases for the subdivisions, then the Public Trustee may accept a surrender, and grant separate leases for each subdivision to such person, or to an approved nominee, and may apportion the rent, covenants, conditions, and provisions reserved and contained in the surrendered lease to and amongst the separate leases, in such manner as the Public Trustee thinks just:  
Provided that all costs, charges, and expenses in and about the preparation of such surrenders and leases, and the execution, stamping and registration thereof, shall be borne and paid by the persons desiring such surrenders and separate leases.
- Regulations heretofore made, purporting to be made by the Regulations made declared valid. Governor, or the Public Trustee, under the said Act are hereby declared to have been from the making thereof valid. All acts, matters, and things heretofore done or omitted by the Public Trustee, or by any person acting under his authority express or implied, under the authority or presumed authority of the said Act are hereby confirmed.
- Definite settlement of shares of land. It is declared by way of affirmance that, as from the respective times when the shares of grantees or beneficiaries of any lands were determined and settled as provided by the fifteenth section of "The West Coast Settlement Reserves Act 1881 Amendment Act, 1884," such grantees or beneficiaries, or their successors upon death, were for all purposes, whether under the said Act or the Acts repealed thereby, and shall be and be deemed to have been, entitled to the shares as so determined and settled; and such determination and settlement shall be deemed to have been final and conclusive, and no order of the Native Land Court or a Judge thereof, made after such determination and settlement, which varies or attempts to vary such shares, and no order of partition or subdivision or any order which defines relative shares or interests or affects the determination and settlement so made as aforesaid, shall be deemed to have had or to have any force or effect in so far as it affects the

determination and settlement made as aforesaid.

Provided that if heretofore the Public Trustee has in any case acted on any such partition or subdivision order, or other order as aforesaid, and has made payments in pursuance thereof, then such partition or subdivision order or orders as aforesaid shall be and be deemed to have been valid, and to have varied so far as they do vary the shares of grantees or beneficiaries so determined and settled as aforesaid.

The list or record in the Public Trust Office, when "The West Coast Settlement Reserves Act, 1892" came into operation, containing the names of the grantees or beneficiaries (or their successors in case of death) whose shares were determined and settled as aforesaid, shall, as from that time, with such alterations or corrections therein as may from time to time have been made by the Public Trustee, be and be deemed to have been conclusive evidence that the persons whose names appear on, by, or from such list or record, were and are rightfully entitled to the respective shares set forth therein or appearing therefrom:

All payments heretofore made and acts and things done or omitted by the Public Trustee shall be valid and effectual as if this section had then been in force.

- Lease conclusive evidence of its validity. A lease (except under an award) heretofore or hereafter executed by the Public Trustee, if purporting to be made under the authority of the said Act, shall be conclusive evidence that all acts, matters, and things necessary or required to be done, omitted, or to happen, to render such lease valid, were done or omitted or had happened prior thereto.
- Faults or informalities in good faith not to invalidate lease. No defect, irregularity, or informality, whether in form or substance, in any notice, appointment, valuation, proceeding, or meeting heretofore or hereafter given, made, taken, or held under the said Act shall vitiate any lease, or any act, deed, matter, or thing heretofore or hereafter made, done, or omitted by the Public Trustee, or any other person acting under the Public Trustee's authority (express or implied), in good faith; and the Public Trustee or such other person shall not be liable to an action, suit, or other proceeding by reason thereof.
- No meeting under section eight of the said Act, and no proceedings Meetings informally convened not to be invalid. thereat, shall be invalid by reason of any informality or irregularity in convening such meeting or otherwise, or in the proceedings thereat, or that Natives or persons not entitled to take part in such proceedings did take part therein; and meetings and proceedings thereat, and acts, matters, and things done or omitted upon or in consequence of such meetings or proceedings, shall, notwithstanding any informality or irregularity, or that Natives or persons not entitled to take part in proceedings at meetings did take part therein, be valid:

Provided that nothing hereinbefore contained shall prevent the Public Trustee, if he thinks fit, from convening a further meeting, and which further meeting he is hereby authorised to convene, and in which case all proceedings at the previous meeting shall be deemed of no effect.

This section shall be deemed to have been in force when the said Act came into operation.

- Where by the said Act the Public Trustee is authorised to Public Trustee's acts in good faith not to be questioned. do or omit any act or thing, such authority, if not otherwise expressly provided, shall, as from the time when the said Act came into operation, be and be deemed to have conferred upon the Public Trustee discretionary authority to do or omit to do such act or thing, and any act or thing done or omitted by the Public Trustee in good faith shall not be called in question.