

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

*Legislative Council,  
8th July, 1881.*

*Hon. Mr. Whitaker.*

**NATIVE SUCCESSION.**

**ANALYSIS.**

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| <ul style="list-style-type: none"> <li>Title.</li> <li>Preamble.</li> <li>1. Short Title.</li> <li>2. Interpretation.</li> <li>3. Native Land Court may appoint successors. Native land. Hereditaments.</li> <li>4. Informal will.</li> </ul> | <ul style="list-style-type: none"> <li>5. Court to grant certificate.</li> <li>6. Similarly as to personalty.</li> <li>7. Certificate to be granted.</li> <li>8. Letters of administration to be granted accordingly.</li> <li>9. Rules applicable thereto.</li> <li>10. Repeal.</li> </ul> |
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**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 is "The Native Succession Act, 1881." Short Title.
- 2. In this Act, if not inconsistent with the context,— Interpretation.
  - 10 "Native" means aboriginal natives of New Zealand, half-castes, and their descendants by Natives :
  - "Native land" means land or any interest therein owned by Natives under their customs or usages of which the title has been determined by the Native Land Court :
  - 15 "Hereditaments" means land, or any interest therein, held under title derived from the Crown.
- 3. In case any Native has died, or shall die, possessed of any Native land or of any hereditaments held in severalty or as tenant in common without having made a valid disposition thereof, the Court may, on the application of any Native Land Court may appoint successors.
  - 20 Native claiming to be interested therein, inquire and ascertain who ought to succeed to such land or hereditaments.

In respect of Native land the Court shall be guided by Native custom or usage. Native land.

Hereditaments.

In respect of hereditaments the Court shall assume that marriages according to the customs and usages of the Natives are valid, and shall then be guided by the law of New Zealand.

Informal will.

4. If the deceased Native made a will, or left any writing which, though not legally executed as a will, the Court should be of opinion was intended to be a disposition of any property therein mentioned, it shall make the order as nearly as may be in accordance therewith. 5

Court to grant certificate.

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

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, and may fix the date on which he became entitled. 10

The certificate shall have the same force and effect in favour of the successor as the instrument, under which the deceased Native owner was entitled, had in his favour at the time of his decease, and, as regards hereditaments, shall, for the purpose of registration under the Land Transfer Acts and the Deeds Registration Act, be treated in like manner as a valid will. 15

Similarly as to personality.

6. 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 the name of the person who ought to succeed to such personal estate. If the deceased Native left any writing which, though not legally executed as a will, the Court should be of opinion was intended to be a disposition of any personal estate therein mentioned, it shall grant the certificate as nearly as may be in accordance therewith. 20

Certificate to be granted.

7. The Court, after hearing the application, may, if it think fit, grant a certificate setting forth the names and places of abode of the persons entitled to succeed to such personal estate according to Native usage or custom. 25

Letters of administration to be granted accordingly.

8. The certificate shall also designate one or more person or persons to whom letters of administration may be granted to administer the estate on behalf of those entitled to succeed thereto, subject to the provisions of section *nine*. Such person or persons shall be entitled to the grant of such letters by a Court of competent jurisdiction. 30

Rules applicable thereto.

9. 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. 35

Repeal.

10. "The Intestate Native Succession Act, 1876," is hereby repealed.