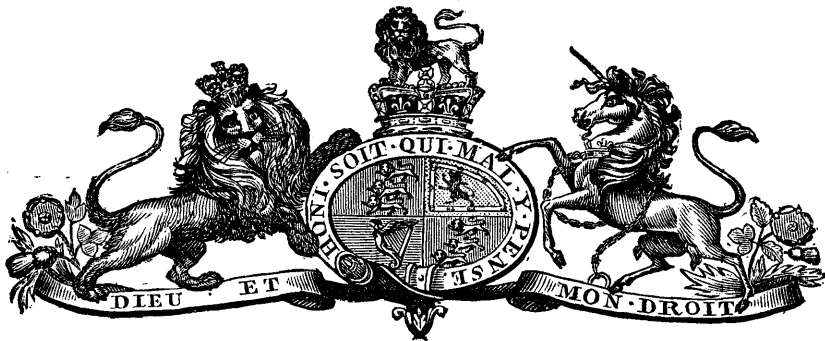


NEW ZEALAND.



TRICESIMO SECUNDO ET TRICESIMO TERTIO

VICTORIÆ REGINÆ.

No. XXVI.

ANALYSIS.

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| <p>Title.</p> <p>1. Short Title.</p> <p>2. Certificate to be dated on day of signature and such day to be date of issue.</p> <p>3. Day of vesting legal estate may be fixed.</p> <p>4. Contracts &c. after date fixed in certificate not void.</p> <p>5. Date fixed in certificate to be inserted in habendum.</p> <p>6. Deeds after date fixed but before issue of Grants to be valid.</p> <p>7. Form of certificate.</p> <p>8. Power to Court to alter date on certificates. Vesting of legal estate.</p> <p>9. Chief Justice of the Supreme Court may sit with Judges of the Native Lands Court.</p> <p>10. As to dealings with Natives prior to 14th January 1840.</p> | <p>11. Alterations in Act of 1867.</p> <p>12. Grantees to be tenants in common.</p> <p>13. Testamentary orders heretofore made valid.</p> <p>14. Undefined shares of tenants in common not to be deemed equal.</p> <p>15. Sales by minority of grantees prohibited.</p> <p>16. Lease and release not to operate so as to evade duties.</p> <p>17. Certificate of complete payment of duty to be indorsed on last deed.</p> <p>18. Registrar not to take fees for ascertaining amount of duty payable.</p> <p>19. Time for payment of duty.</p> <p>20. Re-hearing.</p> <p>21. Crown Grants to be prepared in Native Lands Court Office.</p> <p>22. Deeds by married women of the Native Race. Schedule.</p> |
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AN ACT to amend "The Native Lands Act 1865" Title.
and "The Native Lands Act 1867."

[3rd September 1869.]

BE IT 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 Lands Act 1869." Short Title.

2. Every certificate of title granted by the Native Land Court of New Zealand hereinafter called "the Court" under the provisions of "The Native Lands Act 1865" and "The Native Lands Act 1867" or either of them hereinafter called "the said Acts" shall be dated on the day on which it shall be signed by the presiding Judge or Chief Judge respectively signing the same and such day shall be deemed to be the day of the issue thereof. Certificate to be dated on day of signature and such day to be date of issue.

3. It shall be lawful for any Judge issuing a certificate of title under the said Acts if he think fit to fix in such certificate a day on Day of vesting legal estate may be fixed.

Supplement to the New Zealand Gazette, No. 48, of the 2nd September, 1869.

Repeated partially by the Native Land Act 1873
see 49.1.4

Native Lands.

which the legal estate in the lands described in the said certificate shall be vested under any Crown Grant of the same to be thereafter issued. Provided that such day shall not be before the date on which the order for the certificate was made in Court.

Contracts &c. after date fixed in certificate not void.

4. No conveyance transfer gift contract or promise affecting or relating to the land in respect of which such certificate of title is granted made or entered into after the day so fixed in such certificate shall be void under or affected by the seventy-fifth section of "The Native Lands Act 1865."

Date fixed in certificate to be inserted in habendum.

5. In every case in which a day for ante-vesting the legal estate is fixed in any certificate as aforesaid the officer charged with the preparation of the Crown Grant in pursuance of such certificate shall insert in the habendum thereof the date so fixed.

Deeds after date fixed but before issue of Grants to be valid.

6. All deeds executed after the date so fixed and inserted in the habendum but before the date of the Crown Grant by which the land therein described shall have been subsequently granted shall subject to the provisions of this Act for the purpose of completing the title of parties to such deeds but for no other purpose be deemed to have the same force and effect as though the Crown Grant in which such land is comprised had been executed and issued on the day so fixed and inserted in the habendum as aforesaid.

Form of certificate.

7. In every case in which a day for ante-vesting the legal estate in any land shall be fixed as aforesaid the certificate shall be in the form in the Schedule to this Act.

Power to Court to alter date on certificates.

8. Whereas certain certificates of title to blocks of land in the Province of Auckland have been issued by the Native Lands Court and which certificates bear date subsequent to the date of the order of Court in pursuance of which the same were respectively issued and whereas some of the persons entitled to the lands comprised in such certificates have since the date of the said orders as well prior as subsequent to the date of such certificates entered into dealings and transactions in respect of such lands or of some part or parts thereof And whereas it is desirable that the Court should have power to amend such certificates by altering the dates thereof or by declaring a day on which the legal estate in the said lands shall be deemed to be vested Be it therefore enacted as follows—It shall be lawful for any of the parties to such dealings and transactions his or their executors administrators or assigns at any time within six months after the passing of this Act and before the issue of any Crown Grant in pursuance of such certificates to apply to the Native Lands Court or to any Judge thereof to make such amendment as aforesaid and such application shall be heard and determined and all proceedings had thereupon in the same manner so far as the same may be applicable to the circumstances of the case as any ordinary proceeding in the said Court and it shall be lawful for the said Court if it shall think fit and if the circumstances and justice of the case require it to amend such certificates or any one or more of them by altering the dates of such certificates or by issuing amended certificates in accordance with this Act declaring therein a day on which the legal estate in the lands comprised in such certificates shall be deemed to be vested and such altered or amended certificates shall be valid and effectual and notwithstanding anything in the said Acts contained shall take effect as if such altered or amended certificates had been issued at the date therein named and all transactions with the persons named in such certificates or amended certificates since the date named therein for vesting the legal estate shall be deemed to have been valid notwithstanding anything in the seventy-fifth clause of "The Native Lands Act 1865."

Vesting of legal estate.

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9. And for the purposes of the last preceding section it shall be competent for the Chief Justice of the Supreme Court and he is hereby authorized and empowered if he shall see fit to act with the Chief Judge or any other Judge of the said Native Lands Court and to hear and determine any case coming before the last-mentioned Court under the last preceding section in the same manner as if he were Chief Judge of the said last-mentioned Court.

Chief Justice of the Supreme Court may sit with Judges of the Native Lands Court.

10. Whenever in any case before the Court any question shall incidentally arise affecting land the subject of any dealing with the Natives prior to the fourteenth January one thousand eight hundred and forty it shall be lawful for the Judge of the Court to hear and determine the question which it is the immediate object of the proceedings to determine notwithstanding such land may be affected thereby and the determination thereof shall be final and conclusive between the parties to such proceedings and shall be binding on the Crown.

As to dealings with Natives prior to 14th January 1840.

11. "The Native Lands Act 1867" shall be altered in the following manner—

Alterations in Act of 1867.

From clause six there shall be expunged the following phrase "and no survey map or plan under the said Act or this Act shall be received in evidence or be admitted for any purpose under the said Act or this Act by the Court or any Judge thereof" and in lieu thereof shall be inserted the words following that is to say "and no certificate of title shall issue until a plan of the land comprised therein shall be deposited in the Court and"

From clause eight there shall be expunged the phrase "as general rules made under the said Act shall direct" and in lieu thereof shall be inserted the words "as the Court or such Judge may order"

Clause nine shall be repealed and in lieu thereof shall be substituted the clause following "The Court upon hearing the parties their agents or counsel may order that any evidence which may have been given in a case which shall have been previously before the Court and in which the parties are the same or in the opinion of the Court are substantially the same shall be received and used as evidence in the case before the Court at the time being"

Clauses eighteen and nineteen shall be repealed.

12. In any grant heretofore or hereafter to be made under the said Acts when there is more than one grantee such grantees shall be and shall be deemed to have been tenants in common and not joint tenants Provided always that this provision shall not apply to cases in which the grantees or the survivors of them shall have already alienated the land comprised in their grant by absolute conveyance in fee-simple or to such part of the land comprised in such grant as they may have so alienated.

Grantees to be tenants in common.

13. All testamentary orders heretofore made by the Court shall be as valid as if the last provision had been in "The Native Lands Act 1865."

Testamentary orders heretofore made valid.

14. The estate or interest of each of several grantees whether heretofore granted or hereafter to be granted shall not be deemed to be equal or of an equal value unless it shall be so stated in their grant and every grant shall contain the definition of the estate or interest or proportion of interest in the land granted which shall be set forth in the certificate of title on which the same is founded if any such is set forth therein Provided always that this provision shall not apply to shares estates or interests already purchased from any such grantees

Undefined shares of tenants in common not to be deemed equal.

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which for the purposes of such transaction shall be deemed to have been equal.

Sales by minority of grantees prohibited.

15. It shall not be lawful for less than a majority in value of the grantees of any land under the said Acts and their successors as aforesaid to make any contract lease mortgage or conveyance of their estate or interest in such land or in any part thereof Provided always that if any dispute shall arise as to such value it shall be lawful for either or any of such parties to apply to the Court to have such value ascertained and thereupon such proceedings shall be taken and such Order made as is provided in the said "Native Lands Act 1865" with respect to subdivision of hereditaments *mutatis mutandis* Provided also that the Court may if it think fit refuse to make any Order and may dismiss the application with or without costs.

Lease and re-lease not to operate so as to evade duties.

16. If the first transaction relating to any land granted under the said Acts shall be or shall have been a lease or a transfer or other instrument creating any estate or interest in such land less than an absolute estate in fee-simple duty after the rates and in the manner specified in the said Acts shall be payable by the same or any other purchaser on any instrument conveying transferring or alienating from the grantee of such land or his successors appointed as aforesaid any further estate or interest in such land and so *toties quoties* until the entire fee-simple shall have been alienated by such grantee or his successors appointed as aforesaid Provided that the total amount of duty payable on all transactions in respect of any piece of land shall not exceed ten pounds per centum on the value of the fee-simple thereof at the time of the first transaction and in case any dispute shall arise under this provision the same shall be determined by the Chief Judge of the Court in the manner provided by "The Native Lands Act 1865" for cases of dispute as to amounts of duty payable thereunder.

Certificate of complete payment of duty to be indorsed on last deed.

17. The Registrar of Deeds who shall register the last instrument the duty payable on which shall complete such ten pounds per centum shall indorse thereon a certificate to that effect and such certificate shall be conclusive proof that all the duty payable in respect of the land therein referred to has been fully paid.

Registrar not to take fees for ascertaining amount of duty payable.

18. No fee shall be payable in respect of anything done by any Registrar of Deeds in or about ascertaining or determining the amount of duty payable under the said Acts or under "The Native Lands Act 1868" "The Registration of Deeds Act 1868" notwithstanding.

Time for payment of duty.

19. No penalty shall be incurred by reason of the non-payment of duty within the time prescribed for payment thereof under the said Acts provided the instrument on which the duty shall be payable shall have been presented for assessment within the time prescribed for payment and the duty payable thereon shall have been paid at the Treasury within seven days after the issue of the Registrar's certificate of assessment.

Re-hearing.

20. The limit of the time within which an Order in Council for a re-hearing under the eighth section of "The Native Lands Act 1865" may be made shall hereafter be three months instead of six months.

Crown Grants to be prepared in Native Lands Court Office.

21. All Crown Grants and copies of Crown Grants authorized and required under the said Acts shall henceforth be prepared in the office of the Native Lands Court and shall be forwarded to the Secretary for Crown Lands for examination and execution.

Deeds by married women of the Native Race.

22. It shall not be necessary for any married woman of the Native Race on executing any deed required by law to be acknow-

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ledged before Commissioners to make such acknowledgment and such deed shall be as valid and effectual as if signed by a *feme sole*.

SCHEDULE.

Schedule.

Certificate of Title ordered to be issued by the Native Lands Court of New Zealand at a Court holden at in the District of in the Province of on the day of 186

District of } Block
County of }
Province of }

In the matter of a parcel of land at in the District of in the County of in the Province of called

To ALL TO WHOM THESE PRESENTS SHALL COME it is hereby certified that owner according to Native custom of all that piece or parcel of land at in the District of in the Province of and called or known by the name of containing by admeasurement be the same more or less bounded as the same as delineated on the plan drawn hereon or hereunto annexed Together with all the rights members and appurtenances thereunto belonging And it is further certified that whenever a Crown Grant is made for the said land the legal estate therein shall be made to vest in the grantee (or grantees) on the day of 18

Given under the hand of Judge of the said Court and issued under the seal thereof the day of 186

Entered in Book No. Page } (L.S.)

Issued at the day of 186 } Registering Clerk. Chief Clerk.

INDORSEMENT.—Restrictions conditions or limitations attached to the land comprised in the certificate of title contained on the other side hereof.

WELLINGTON, NEW ZEALAND:

Printed under the authority of the New Zealand Government, by GEORGE DIDSBURY, Government Printer.