

*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 Chamber,  
4th August, 1869.*

# Native Lands.

*(Hon. Mr. Fenton.)*

## ANALYSIS.

<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 &amp;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. Saving certificates &amp;c. already issued.</p> <p>9. Questions arising under Land Claims Acts may be settled.</p>	<p>10. Alterations in Act of 1867.</p> <p>11. Grantees to be tenants in common.</p> <p>12. Testamentary orders heretofore made valid.</p> <p>13. Undefined shares of tenants in common not to be deemed equal.</p> <p>14. Sales by minority of grantees prohibited.</p> <p>15. Lease and release not to operate so as to evade duties.</p> <p>16. Certificate of complete payment of duty to be indorsed on last deed.</p> <p>17. Registrar not to take fees for ascertaining amount of duty payable.</p>
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## A BILL INTITULED

AN ACT to amend "The Native Lands Act 1865" Title.  
and "The Native Lands Act 1867."

**B**E IT ENACTED by the General Assembly of New Zealand in Parliament assembled and by the authority of the same as follows—

- 5 **1.** The Short Title of this Act shall be "The Native Lands Act Short Title.  
1869."
- 10 **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.
- 15 **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 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. Day of vesting legal estate may be fixed.
- 20 **4.** Every 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 Contracts &c. after date fixed in certificate not void.

shall not 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. 5

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. 10

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. 15

Saving certificates &c. already issued.

8. Nothing in this Act hereinbefore contained shall apply to any land certificate of title Crown Grant or case in respect of which a certificate of title has been already issued. 20

Questions arising under Land Claims Acts may be settled.

9. Whenever any question shall arise before a Judge of the Court in reference to dealings with the Natives prior to the fourteenth of January one thousand eight hundred and forty it shall be lawful for such Judge to hear and determine such question and the determination thereof shall be final and conclusive between the respective parties interested and shall be binding on the Crown. 25

Alterations in Act of 1867.

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

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" 30 35

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" 40

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" 45

Clauses eighteen nineteen twenty and twenty-one shall be repealed. 50

Grantees to be tenants in common.

11. 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 all the grantees or their successors purporting to have been appointed under "The Native Lands Act 1865" 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. 55

12. 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.

13. The estate or interest of each of several grantees 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.

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

14. No contract lease mortgage or conveyance of any land granted under the said Acts to more than one person or any part thereof or of any interest therein or of any part thereof shall be valid or of any force at law or in equity unless it shall be entered into and made by the majority in value of the grantees named therein and their successors to be appointed as aforesaid. 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 always that the Court may if it think fit refuse to make any Order and may dismiss the application with or without costs.

Sales by minority of grantees prohibited.

15. 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 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.

Lease and release not to operate so as to evade duties.

16. 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.

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

17. 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.

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

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\_\_\_\_ Block \_\_\_\_\_ District of \_\_\_\_\_ 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 \_\_\_\_\_

