

Hon. Mr. Stout.

ALIENATION OF LAND.

ANALYSIS.

Title.	land. Provisions contrary to Act to be void.
Preamble.	
1. Short Title.	6. Money accruing from any sale, &c., under this Act to be subject to same trusts and liabilities as land.
2. Interpretation.	7. Receipts to be good discharges.
3. Trustees and administrators may sell land as if it were personalty. Proviso.	8. Provisions of Act to extend to a married woman, or to her and her husband, and to a widower.
4. Tenant for life to have power of sale with leave of the Supreme Court. Procedure.	
5. Deeds, wills, &c., not to restrict alienation of	

A BILL INTITULED

AN ACT to enable Trustees, Administrators, Tenants for Life and others to Sell and Dispose of Land, and to declare their powers respecting the same. Title.

WHEREAS it is desirable to enable trustees, administrators, tenants for life, and others, to sell and dispose of land, notwithstanding that there may be restraints on the alienation thereof, and otherwise to declare the powers of such persons respecting the same: 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 Alienation of Land Act, 1886," and it shall come into operation on the day of 1888. Short Title.

2. In this Act, unless inconsistent with the context,— Interpretation.
"Administrator" means any person to whom probate of a will has been or may be granted, or any person to whom letters of administration, with or without a will annexed, have been or may be granted;
"Land" means any estate or interest in real property whatsoever;
"Tenant for life" means a person who under or by virtue of any instrument, whether made before or after the date when this Act comes into operation, is beneficially entitled to the possession of settled land for his life, and notwithstanding that the settled land or his estate or interest therein is encumbered or charged in any manner to any extent; and includes two or more persons so entitled as tenants in common, or joint tenants, or for other concurrent estates or interests;

“Trustee” includes the committee of the estate of a lunatic, including the Public Trustee, where he acts in lieu of a committee; the guardian of the estate of a minor, cases of implied and constructive trusts, and cases where the Trustee has some beneficial estate or interest in the subject of the trust, but does not extend to a mortgagee of land;

“Settled land” means land subject to the terms of some instrument under or by virtue of which such land stands, for the time being, limited to or in trust for any persons by way of succession.

Trustees and administrators may sell land as if it were personalty.

Provisoes.

3. Every trustee and administrator shall have power to sell any land vested in him, or which he shall be called upon to administer, in the same manner as if it had been personal estate :

Provided that the trustee shall not have any such power of sale in any of the following cases :—

(1.) Where land is vested in a trustee, or which by the will of the testator is specifically devised to a person, or two or more persons, to be held as tenants in common or as joint tenants, and of which the immediate beneficiary or devisee is to get possession or control on his or their attaining majority :

(2.) Where any land is vested or specifically devised as aforesaid, and which shall take effect in possession within seven years after the vesting, or upon or after the death of the settlor, as the case may be.

Provided also that nothing herein shall prevent a trustee or administrator from selling any such land in any case where such sale may be necessary for the purpose of paying debts, or raising or providing for payment of duties, in any manner that may be authorized by law :

Provided further, that if any property is vested in or given to several persons, to be divided between them in equal shares or otherwise, the trustee may, instead of partitioning such property as directed by the settlor or testator, sell and dispose of the same and divide the proceeds among the persons entitled thereto, less the costs and expenses of and attending any such sale.

Tenant for life to have power of sale with leave of the Supreme Court. Procedure.

4. (1.) A tenant for life shall have power to sell any settled land of which he is tenant for life, but no such sale shall take place except with the leave of the Supreme Court as hereinafter provided.

(2.) The Court may exercise the powers conferred on it by this Act whether the Court shall already have exercised any of such powers in respect of the same property or not; and although there shall be an express declaration in any deed, will, or instrument that such powers shall not be exercised by the Court.

The fact that any deed, will, or instrument contains powers to effect the purposes of this Act shall not prevent the Court from exercising the powers conferred by this Act.

(3.) Notice of the application for leave to sell shall, unless the Court otherwise orders, be given to every person entitled in remainder or reversion, and all proceedings on such application shall be had and taken in such manner as the Court directs, or as may be prescribed by rules to be made under “The Supreme Court Act, 1882.”

(4.) On any such application the Court shall, if this Act has been complied with, make an order for sale unless it shall appear to the satisfaction of such Court that a sale would operate injuriously to the tenant for life.

(5.) Every application to the Court shall be by petition, and all powers given by "The Supreme Court Act, 1882," for making rules for the practice and procedure of the Court shall extend and apply to the making of any rules necessary to give effect to this Act.

(6.) Upon any such application the Court may direct such inquiries as to the nature of the property and the persons interested therein and other matters as it thinks necessary or proper with a view to giving such leave to sell as aforesaid.

(7.) If an order for sale is made it shall specify how the proceeds of such sale shall be invested and dealt with, and may direct that the same shall be paid over to the Public Trustee or to some other person or company for such purposes as in the order expressed.

(8.) The Court may also from time to time make such orders as it thinks just respecting the costs of any person or persons making such application or interested in the result thereof.

5. Subject to the provisions of this Act, no deed, will, or other instrument executed or made before, or partly before and partly after, the commencement of this Act shall operate to prevent the alienation of land as provided by this Act.

Deeds, wills, &c.,
not to restrict
alienation of land.

If in any such deed, will, or other instrument as aforesaid a provision is inserted purporting or attempting in any manner to forbid any person to exercise any power under this Act, or attempting or intended by a disposition, limitation, or gift over of any land or otherwise, or by the imposition of any condition, forfeiture, or in any other manner to prevent him from exercising, or to induce him to abstain from exercising, any power under this Act, that provision, so far as it purports, attempts, or tends to have or might have the operation aforesaid, shall be deemed to be void.

Provisions contrary
to Act to be void.

6. The money accruing from any sale or exchange made by virtue of the powers conferred by this Act shall, *mutatis mutandis*, be subject to the like trusts, rights, liabilities, claims, and demands (if any) as exist in respect of the land.

Money accruing
from any sale, &c.,
under this Act to be
subject to same
trusts and liabilities
as land.

7. The receipt in writing of any person to whom any money shall become payable by virtue of this Act shall effectually discharge the person paying the same from seeing to the application or being answerable for the misapplication or non-application thereof and from inquiry into the necessity or propriety of any order of Court, sale, conveyance, assurance, or other transaction or proceeding in consequence whereof such money may have become payable.

Receipts to be good
discharges.

8. The provisions of this Act referring to a tenant for life and settled land shall extend to a married woman with or without her husband or to her and her husband together, as the case may require, and also to a widower, and to the instrument under which the estate or interest of such married woman or such widower respectively arises, and to the land comprised in such instrument.

Provisions of Act
to extend to a
married woman, or
to her and her
husband, and to a
widower.

Artificial Fertilizers Warranty