

The 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.
13th July, 1883.*

153

[STATUTES REVISION COMMISSION.]

CROWN GRANTS.

ANALYSIS.

- Title.
1. Short Title.
 2. Interpretation.
Preparation and Signing of Grants.
 3. No Crown grant to issue except upon the certificate of a Receiver of Land Revenue.
 4. Commissioner to superintend preparation of Crown grants.
 5. And of corrections to be made before execution.
 6. Surveyor's name to be attached to marginal plan.
 7. Expense of correction in plan to be borne by surveyor.
 8. Governor's signature may be attached by stamp or fac-simile.
 9. Crown grant to date from day of signature.
Duplicate Grants.
 10. Duplicate or transcript of lost or destroyed grant may be issued.
Correction or Cancellation of Grants.
 11. Erroneous grant may be cancelled and new grant issued on declaration of Commissioner.
 12. Grant to wrong person, land may be reconveyed or grant cancelled.
 13. Corrected description may be indorsed.
 14. Commissioner to furnish evidence of errors.
 15. Corrected grant to have full force and effect.
 16. Grants may be cancelled in lieu of being corrected.
Effect of Cancellation.
 17. Cancellation to be recorded on register copy of grant.
 18. Cancellation equal to repeal.
 19. Cancelled grant to be destroyed.
 20. Grants cancelled prior to "Crown Grants Act, 1866," declared void.
Repeal of Grants.
 21. Grants may be repealed by process in Supreme Court.
Antevesting of the Legal Estate.
 22. Title may be antevested in certain cases. Deeds executed before date of grants and after grantee became entitled to be valid.
 23. Date of grantee so becoming entitled, how determined in different cases.
 24. Such date to be certified by proper officer.
 25. Certificates to be forwarded to Minister of Lands.
 26. Declaration to be inserted in grant that legal estate vests from such date in grantee.
 27. Dates of antevested title in plurality of sections to be stated respectively.
 28. Antevesting where grants have been previously executed.
 29. Date of title stated in grant to be taken as evidence.
 30. Erroneous antevesting indorsements may be corrected by Minister.
 31. In certain cases by Commissioner.
 32. Effect of such corrections.
Registration and Delivery of Grants.
 33. Grant not to be registered till fees paid.
 34. In case of dispute as to whom grant should be delivered, it may be deposited.
 35. How entries made in the books of the Registrar of Deeds in reference to cancelled grants.
 36. Entries may be amended in certain cases.
Evidence of Grants.
 37. When recorded, copy of grant may be given in evidence of grant.
 38. Effect of copy as evidence.
 39. Grants executed after decease of grantee or transfer of title to be valid.
 40. Grants may be transmitted to Registrar of Land for delivery to representative of grantee.
Effect of Grants.
 41. High-water mark to be a seaward boundary unless otherwise specified.
 42. Grants in which roads are indefinitely reserved to be nevertheless valid.
 43. Reservations made valid.
 44. What land conveyed by such grants.
 45. Right of road in grant to include railways.
Fees on Crown Grants.
 46. Grant fee and acreage fees.
 47. Fees to be prepaid.
 48. Extra fee to be charged for not taking out grant.
 49. Fees above £1 to be recovered summarily.
 50. Native grants exempt from custody fee.
 51. Ten shillings fee to be paid for certified copy of recorded copy of grant.
 52. Outstanding fees to be payable under this Act.
Recovery of Fees and Expenses.
 53. Grantees liable for Crown grant fees and registration fees.
 54. All persons in whom legal estate is vested liable to pay fees.
 55. Registrar to certify person liable.
 56. Fees recoverable summarily.
 57. Recovery of expenses in the case of Native land grants.
 58. Trustee or mortgagee paying fees may charge the same.
Miscellaneous.
 59. Penalties for forging or counterfeiting stamp, &c.
 60. Repeal.
Schedules.

A BILL INTITULED

Title.

AN ACT for the Consolidation of the Law relating to Crown Grants.
BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

Short Title.

1. The Short Title of this Act is "The Crown Grants Act, 1883." 5

Interpretation.

2. In this Act,—

1866, No. 20, s. 3.

"Commissioner of Crown Lands," and "Receiver of Land Revenue," mean respectively the Commissioner of Crown Lands and Receiver of Land Revenue of the land district wherein the land which is comprised in any grant affected 10
by this Act is situated :

"Land district," or "district," means a land district established under "The Land Act, 1877," or any Act passed in amendment or substitution thereof :

"Minister" means the Minister of Lands. 15

Preparation and Signing of Grants.

No Crown grant to issue except upon the certificate of a Receiver of Land Revenue.
1858, No. 67, s. 4.

3. No Crown grant of any land shall be issued unless and until a Receiver of Land Revenue shall have certified, in a form to be from time to time prescribed by the Governor for that purpose, to the effect that such land has been disposed of in conformity with a law (to be 20
specified in such certificate) for the time being in force for the disposal of Crown lands, and that all money then due in respect of such land has been received by him in cash, *except where otherwise by law provided.*

Commissioner to superintend preparation of Crown grants.
1866, No. 20, s. 4.

4. It shall be the duty of the Commissioner of Crown Lands to 25
superintend the preparation, custody, and delivery of Crown grants, leases, licenses, and other instruments of disposition relative to Crown lands, except where otherwise by law provided, and subject to such provisions as are or shall be made by law relating thereto, and subject also to instructions from the Governor, conveyed through the Minister 30
of Lands, or other officer authorized in that behalf.

And of corrections to be made before execution.

1870, No. 76, s. 10.

Surveyor's name to be attached to marginal plan.

1866, No. 20, s. 13.

5. All corrections required in Crown grants before the execution thereof, or copies of the same, shall be made in the office in which such grants or copies are required by law to be prepared.

6. The name of the surveyor from whose survey the plan on any 35
grant has been made shall, in every case, be attached to such plan on the grant, as well as that of the Chief Surveyor of the district wherein the land granted is situate; but the omission of such name shall not affect the validity of the grant.

Expense of correction in plan to be borne by surveyor.
Ib., s. 14.

7. In every case where a correction of the plan on a grant is 40
required under this Act, the expense of a new survey, if requisite, and of the correction of the grant, shall be paid by the surveyor or draughtsman by whose mistake or negligence the error requiring correction was made, and the amount of such expenses may be sued 45
for by the Commissioner of Crown Lands, in his own name, and recovered by him as a debt in any Court of competent jurisdiction.

Governor's signature may be attached by stamp or *fac-simile*.
Ib., s. 7.

8. The Governor, in all Crown grants of land hereafter to be made by him, in the name and on behalf of Her Majesty the Queen or her successors, may cause his signature thereto to be attached by means of a stamp, or *fac-simile* of his sign-manual; and grants so 50

015

signed shall be of the same effect, force, and validity, to all intents and purposes, as if the said grants bore the actual autograph or sign-manual of the Governor.

All such grants shall be countersigned by the Minister of Lands, or other person duly appointed by the Governor in that behalf.

9. Every Crown grant shall be dated on the day on which it is signed by the Governor, and such date shall be deemed to be the day of the issue thereof, and every such grant shall be entered of record in the office of the Minister of Lands, any law or provision in any Act contained to the contrary notwithstanding.

Crown grant to date from day of signature. 1866, No. 20, s. 5.

Duplicate Grants.

10. Whenever a Crown grant shall have been lost or destroyed by fire or other inevitable accident, the Governor, upon evidence to his satisfaction, by statutory declaration, of the loss or destruction of such grant being produced, may authorize the issue of a duplicate or transcript of the original grant so lost or destroyed, certified under the hand of the Minister, and may cause the Public Seal of the Colony to be attached to such transcript or duplicate.

Duplicate or transcript of lost or destroyed grant may be issued. Ib., s. 36. 1867, No. 66, s. 6.

Every such duplicate shall have the same effect, to all intents and purposes, as the original grant in lieu whereof it is issued.

If such grant shall have been so lost or destroyed before the expiration of three months after notice of its being ready for delivery shall have been published in the district wherein the land comprised in the grant is situate, no fees shall be payable upon the delivery of the duplicate grant to the person entitled to receive the same. If such grant shall be lost or destroyed after the expiration of the three months aforesaid, the fees payable on the original grant, and the same amount on the duplicate, shall be paid before delivery of such duplicate.

Correction or Cancellation of Grants.

11. Whenever it shall be made to appear to the satisfaction of the Governor that any error exists in the name of any person inserted in a Crown grant as that of the intended grantee, the Governor may cancel such grant, and may issue a new grant of the land comprised in the cancelled grant, in the correct name of such intended grantee.

Erroneous grant may be cancelled and new grant issued on declaration of Commissioner. 1866, No. 20, s. 15. 1867, No. 66, s. 3.

Prior to the cancellation of any such grant, a statutory declaration shall be made by the Commissioner of Crown Lands to the effect that the name in the grant to be cancelled is erroneous, and that the correct name of the person to whom such grant was originally intended to have been and should be issued, is that stated in the declaration aforesaid.

In the case of grants made by virtue of any order of a Native Land Court, or to Natives under "The New Zealand Settlements Act, 1863," or "The New Zealand Settlements Amendment Act, 1864," or "The New Zealand Settlements Amendment and Continuance Act, 1865," or "The New Zealand Settlements Acts Amendment Act, 1866," or "The Confiscated Lands Act, 1867," the declaration aforesaid shall be made by the Minister of Lands, or a Judge of the Native Land Court, or other officer upon whose award or decision the said grantee became entitled to the grant in which such error occurs.

Grant to wrong person, land may be re-conveyed or grant cancelled.

1866, No. 20, s. 16.
1867, No. 66, s. 4.

12. Whenever the name of any person not entitled to the land comprised in any Crown grant has been or may be inserted by mistake in any grant of such land instead of the name of the person really entitled thereto, or where the name of any person entitled to be included in the grant as a grantee has been erroneously omitted, a reconveyance of such land to Her Majesty, her heirs and successors, shall be indorsed on the grant, and executed by the person to whom the land has been or may be erroneously granted. 5

If such reconveyance cannot be obtained, the Governor, after a statutory declaration having been furnished by the Commissioner of Crown Lands, setting forth the existence and causes of the error, the reasons wherefor the reconveyance is not obtainable, the name of the person entitled to the grant, and the nature of his title, may cancel the erroneous grant and issue a new grant of the same land to the person entitled thereto. 10 15

Corrected description may be indorsed.

1866, No. 20, s. 17.
1867, No. 66, s. 5.

13. Whenever it shall be made to appear to the satisfaction of the Governor that any error exists in the description of the land intended to be conveyed by any Crown grant, the Governor may cause a correct description of the said land to be indorsed on the grant, or inserted in the margin thereof, without any subject-matter beyond what is absolutely requisite for the description and correction of such error; and such correct description shall be signed by the Governor. 20

Commissioner to furnish evidence of errors.

1866, No. 20, s. 18.

14. In all the foregoing cases of grants requiring correction, the Commissioner of Crown Lands, or other officer employed in the administration of Crown lands and the preparation of Crown grants, shall furnish such further or other evidence of the errors and the requisite correction thereof as shall be required by the Governor. 25

Corrected grant to have full force and effect.

Ib., s. 19.

15. Every grant, on or in which any such description shall have been indorsed or inserted, and signed as aforesaid, and every deed and instrument in writing containing the erroneous description founded on and executed subsequently to the date of the said grant, shall have the same force and effect as though such correct description, instead of an erroneous description, had been inserted in such grant, deed, or instrument before the issuing or execution thereof respectively. 30

Grants may be cancelled in lieu of being corrected.

Ib., s. 20.
1867, No. 66, s. 4.

16. The Governor, in special cases on the recommendation of the Minister, or in cases of grants wherein any important errors occur and have been proved to the satisfaction of the Governor, by statutory declaration or otherwise, to exist, whatever the nature of such errors may be, in lieu of causing any erroneous Crown grant to be corrected as aforesaid by indorsement or otherwise, may cause the same to be cancelled, and may issue a new grant, in lieu thereof, of the land comprised in the original grant. 35 40

Effect of Cancellation.

Cancellation to be recorded on register copy of grant.

1866, No. 20, s. 23.

17. Every cancellation of a grant under this Act shall be effected by a statement thereof on the face of the copy of the grant to be cancelled in the register of the grants in the office of the Minister, which statement shall be signed by the Governor and countersigned by the Minister, and sealed with the seal of his office. 45

Cancellation equal to repeal.

Ib., s. 24.

18. Every such cancellation shall have the same force and effect in annulling and making void the cancelled grant as if the same 50

25-1

were repealed by *any process in the Supreme Court which may be authorized by its rules in substitution for proceedings by writ of scire facias.*

19. Before such cancellation, as aforesaid, of the register copy of the said grant, the grant itself shall be delivered to the Minister, and having been so cancelled shall be destroyed.

Cancelled grant to be destroyed.
1866, No. 20, s. 25.

20. Every grant purporting to have been cancelled under the authority of any Governor of New Zealand, and every grant, whether formally cancelled or not, of the land comprised in which a new grant has been duly issued by any such Governor, and recorded in the proper office for the record of the same (but in both cases prior to the passing of "The Crown Grants Act, 1866"), shall be deemed to be and to have been absolutely void *ab initio* to all intents and purposes whatever.

Grants cancelled prior to "Crown Grants Act, 1866," declared void.
1867, No. 66, s. 10.

15 No grant issued in lieu of such previous grant shall be void, or voidable, or liable to be set aside, on the ground of the prior issue or existence of such previous grant in any Court or by any process of law whatever.

Repeal of Grants.

20 21. Grants from the Crown under the Seal of the Colony may be repealed by *any process in the Supreme Court which may be authorized by its rules in substitution for proceedings by writ of scire facias.*

Grants may be repealed by process in Supreme Court.
Ib., s. 9.

Antevesting of the Legal Estate.

25 22. All deeds heretofore or hereafter to be executed by grantees of lands comprised in grants from the Crown, their heirs and assigns, after the dates at which they shall have, or shall, become entitled respectively to Crown grants of the said lands, but before the dates of the Crown grants by which the same have been or shall be subsequently granted, shall, for the purpose of completing the titles of parties to such deeds, but for no other purpose, be deemed to have the same force and effect as though the Crown grants respectively in which such lands are comprised had been executed immediately upon the grantees named therein having become or becoming entitled to receive such Crown grants respectively.

Title may be ante-vested in certain cases. Deeds executed before date of grants and after grantee became entitled to be valid.
1866, No. 20, s. 26.
1870, No. 76, s. 2.

35 23. The dates at which the grantees aforesaid shall be deemed to have become, or to become, entitled to receive Crown grants of their lands shall be—

Date of grantee so becoming entitled, how determined in different cases.

40 (1.) In the case of grantees under the New Zealand Company's Land Claimants Ordinance, the date named in that behalf by the claimant of the grant, and recommended by the Commissioner in manner provided in the ordinance aforesaid:

1866, No. 20, s. 27.
1867, No. 66, s. 7.

45 (2.) In the case of grantees of land purchased from the Crown under the Land Regulations *at any time* in force in any *part* of the colony, where payment of the purchase-money alone entitles the grantee to a grant, the date of the completion of the payments of such purchase-money:

50 (3.) In the case of grantees of lands the title to which is acquired by residence or occupation for specified terms, or by making

- improvements to a certain extent of a certain value upon the land occupied, in addition to or without the payment of purchase-money, the date on which, the purchase-money, if any, having been paid, the prescribed term of residence and occupation shall have been completed, and improvements made to the extent or of the value required : 5
- (4.) In the case of grantees of lands comprised in grants issued, or to be issued, under sections numbered respectively sixty-seven and sixty-eight of "The Otago Waste Lands Act, 1866," or section numbered eighty-four of "The Southland Waste Lands Act, 1865," whether such lands or any part of them shall have been surrendered or not, under subsection two of section forty of "The Southland Waste Lands Act, 1863," the respective dates at which such grantees were severally registered or entered as the owners or occupiers thereof, in the books of the Waste Lands Board for the *former* Province of Otago at Dunedin, or of the Waste Lands Board for the *former* Province of Southland at Invercargill, as the case may be : 10 15
- (5.) In the case of grantees of lands selected under the eighty-fourth section of "The Southland Waste Lands Act, 1865," in respect of the additional ten shillings per acre paid upon lands under subsection one of section forty of "The Southland Waste Lands Act, 1863," the dates of such selections respectively : 20 25
- (6.) In the case of free grants of land to naval and military settlers under the regulations for the sale and disposal of the waste lands in any *former* province, and in other cases not herein specified, the date on which the fulfilment of, and compliance with, the terms and conditions upon which the grant is obtainable, shall have been proved to or shown to the satisfaction of the Commissioner of Crown Lands to have been made : 30
- (7.) In the case of free grants of land to military settlers or others under "The New Zealand Settlements Act, 1863," and "The New Zealand Settlements Amendment and Continuance Act, 1865," the date at which the grantee shall have fulfilled the conditions of service upon which the grant is obtainable, as certified by the officer commanding the district wherein the land is situate : 35 40
- (8.) In the case of Native grantees under "The New Zealand Settlements Act, 1863," "The New Zealand Settlements Act Amendment Act, 1864," "The New Zealand Settlements Amendment and Continuance Act, 1865," "The New Zealand Settlements Acts Amendment Act, 1866," and "The Confiscated Lands Act, 1867," the dates of the awards of the Compensation Courts, or of the awards, agreements, or decisions of any officer duly authorized in that behalf by the Government, in favour of such grantees respectively : 45 50
- (9.) In the case of grantees of land the title to which has been decided in the Native Land Court, the dates of the certifi-

257

cate or interlocutory orders issued by such Court with reference to such lands respectively :

(10.) In any case where any specified block or section of land has been sold before survey under the Land Regulations affecting the same, and, subsequently to the sale thereof, ascertained to contain a larger number of acres than it was supposed to contain at the sale, and the amount in excess has been paid for in accordance with such regulations, the date, with respect to the whole of such block, of the original purchase of the portion thereof :

(11.) In the case of grants issued in lieu of grants cancelled as aforesaid, the date at which the legal estate vested, or was intended to have been vested, by the cancelled grant in the grantee under the same.

24. In all cases of grants of lands the title to which is acquired by payment of purchase-money, the Receiver of Land Revenue shall certify under his hand the date of the completed payment of such money.

Such date to be certified by proper officer. 1866, No. 20, s. 28.

In all cases of grants of lands the title to which is acquired by military service in the colony, the commanding officer of the district within which the land to be granted is situate shall certify under his hand the date at which the grantee has or shall have fulfilled the conditions of service.

In all cases of grants of lands the title to which is acquired by the performance or fulfilment of any other conditions, the Commissioner of Crown Lands shall certify under his hand the date of the performance and fulfilment of such conditions.

25. The certificates required by the foregoing provisions shall in all cases be forwarded, by or through the Commissioner of Crown Lands concerned, to the Minister before the execution of the grants.

Certificates to be forwarded to Minister of Lands. *Ib.*, s. 29.

26. In all the foregoing cases the Commissioner of Crown Lands, or other officer charged with the preparation of Crown grants, may insert in the *habendum* of any Crown grant of land, with respect to which it is desired to antevest the legal estate as aforesaid, the date in each case as ascertained and certified in manner hereinbefore provided with respect to the class of cases to which such grant may belong; and the date so inserted shall, for the purposes of the *twenty-second* section, be deemed to be the date at which the grantee became entitled to a Crown grant of the lands comprised therein.

Declaration to be inserted in grant that legal estate vests from such date in grantee. *Ib.*, s. 30.

27. Whenever two or more blocks or sections of land, to a grant whereof the grantee may have become or shall become entitled at different periods, shall be comprised in one and the same grant, the dates at which the said grantee shall have or shall become entitled to the said blocks respectively may be inserted in the *habendum* of the grant as aforesaid, together with references to the said blocks respectively; and every such insertion shall have the same force and effect, to all intents and purposes, with respect to the particular block or section to which it refers, as the insertion of one date would have had to the whole of the land had the grantee become entitled to the whole of the land at the same date.

Dates of antevested title in plurality of sections to be stated respectively. *Ib.*, s. 31.

28. The Minister may indorse on any grant the day at which the grantee became entitled to receive such grant, to be ascertained and

Antevesting where grants have been previously executed. *Ib.*, s. 32.

certified in manner aforesaid, although such grant may have been, or shall have been, previously executed.

Such indorsement shall have the same effect as the insertion of the date in the *habendum* of the grant in manner aforesaid.

Date of title stated
in grant to be taken
as evidence.
1866, No. 20, s. 33.

29. For the purpose of this Act, the day or days inserted in the *habendum* of a grant, or indorsed thereon, as hereinbefore in each case provided, shall be in all cases conclusive evidence of the day or days on which the grantee named in such grant became or shall have become entitled to receive such grant. 5

Erroneous antevest-
ing indorsements
may be corrected by
Minister.
1867, No. 66, s. 8.

30. In any case in which the Commissioner of Crown Lands of any district shall make a statutory declaration to the effect that an erroneous date has been indorsed or inserted upon or in any Crown grant as the date for the antevestment of the legal estate for the land comprised therein, the Minister may, by indorsement on such Crown grant, specify the correct date which, under the provisions of this Act, should, for the purpose of such antevestment, have been indorsed thereon or inserted therein. 10 15

In certain cases by
Commissioner.
Ib.

31. If any such error be declared as above to exist in a grant deposited in the office of any Registrar of Deeds in the colony, the Commissioner of Crown Lands for the district wherein the land comprised in the grant is situated, upon written instructions to that effect from the Minister, may make such correction as aforesaid, by indorsement on the said grant in the office of the Registrar of Deeds in which such grant is deposited. 20

It shall be the duty of such Commissioner of Crown Lands to forward without delay a copy of the said indorsement, certified under the hand of such Registrar of Deeds, to the Minister, who shall thereupon cause the same to be attached to the record copy of the grant in his office, of which copy it shall thenceforth be deemed to be an integral part. 25 30

Effect of such cor-
rections.
Ib.

32. Every indorsation, *made under the two last-preceding sections*, shall be as effectual, for the purpose of antevestment, as if the date therein named had been originally inserted in or indorsed upon the said Crown grant in accordance with the provisions of this Act.

Registration and Delivery of Grants.

Grant not to be
registered till fees
paid.
1870, No. 76, s. 8.

33. No Crown grant shall be registered until the fees payable thereon, including the fees for registration, have been paid; and delivery to the proper Registrar of Deeds for registration, with a direction that the grant be delivered after registration to any person, shall be deemed a delivery to such person. 35 40

In case of dispute as
to whom grant should
be delivered, it may
be deposited.
Ib., s. 9.

34. When any dispute shall arise as to the person to whom any Crown grant of land ought to be delivered, the officer for the time being having the custody thereof, upon payment by any person of all the fees payable in respect thereof, and for the registration and deposit thereof, may cause the same to be registered in the proper registration office, and afterwards may deposit the same, for safe custody and reference under "The Deeds Registration Act, 1868;" and such officer, and every other person, shall be thereby indemnified against all actions, suits, claims, and demands in respect of such grant. 45

How entries made in
the books of the
Registrar of Deeds.

35. Every entry in the books of the Registrar of Deeds relating to any land comprised in any grant, cancelled under the provisions of 50

261

section *eleven* relating to grants made in the names of persons not entitled to the land comprised therein, shall be cancelled by writing opposite thereto, or across the face thereof, the words "Cancelled by authority of 'The Crown Grants Act, 1883,'" and such entry shall be signed by the Registrar of Deeds of the registration district wherein the land comprised in the grant is situated, or his deputy; and such entry shall be thereby cancelled, and thereafter be of no force or effect whatever.

in reference to cancelled grants.
1886, No. 20, s. 21.

36. With respect to any grant cancelled under the provisions of section *twelve*, on account of any error in the name of the grantee, the Registrar aforesaid, at his discretion, in lieu of cancelling the entries in his books relating to the land comprised in the grant, may correct the name of the grantee, wherever it occurs in such entries, in accordance with the name in the new grant issued in lieu of the cancelled grant; and every entry so corrected shall be of the same force and effect as if it had been originally made in such corrected form.

Entries may be amended in certain cases.
Ib., s. 22.

Evidence of Grants.

37. Every copy of a Crown grant kept, or hereafter to be kept, as of record, purporting to be a copy of any grant from the Crown of any land situated in the colony, shall, in case the deed of grant of which the same purports to be a copy shall not be produced in evidence, be deemed and taken to be of the same force and effect as the original Crown grant under the Seal of the Colony, duly recorded and signed by the Governor of the colony for the time being.

When recorded, copy of grant may be given in evidence of grant.
Ib., s. 6.

38. A copy of any such entry or copy kept, or hereafter to be kept, as of record, of any such Crown grant, certified to be a true copy under the hand of the Minister, shall, upon proof being made that such certificate has been signed by the Minister (and whom it shall not be necessary to prove to be such Minister), have the same force and effect for the purposes of evidence, to all intents and purposes whatsoever, as if the original Crown grant, of which the copy so produced and certified shall purport to be a copy of the copy as aforesaid, had been produced in evidence.

Effect of copy as evidence.
Ib.

39. Any grants of land that have been or may be made in favour of the persons who first became legally entitled to receive such grants respectively, although such persons have or shall have died or transferred their interest prior to the execution of such grants, shall and shall be deemed to have been and to be of the same force and validity as though they had been or should be executed during the lifetime, or before the transfer of the interest, of the person so originally entitled.

Grants executed after decease of grantee or transfer of title to be valid.
Ib., s. 34.

But nothing in this section contained shall operate upon or affect the preparation and issue of Crown grants of land to derivative purchasers claiming under contracts with the New Zealand Company.

40. In cases provided for in the *last-foregoing* section, and in cases where the land comprised in any grant may have been transferred before the delivery of such grant, the Commissioner of Crown Lands, or other person charged with the delivery of such Crown grants, may, at his discretion, transmit the same to the District Land Registrar

Grants may be transmitted to Registrar of Land for delivery to representative of grantee.
Ib., s. 35.

in the district, *who* shall ascertain the person to whom the grant should be delivered, as representative of the grantee, and shall deliver the same accordingly.

And such District Land Registrar shall not be liable to any action, suit, or proceeding for or in respect of the delivery of such grants, if such delivery be made in the *boná fide* exercise, or supposed exercise, of his duty under this Act. 5

No certificate of title under the Land Transfer Acts shall be issued in lieu of such grant until all the fees on such grant have been paid. 10

Effect of Grants.

High-water mark to be a seaward boundary unless otherwise specified.
1866, No. 20, s. 12.

41. Whenever in any grant the ocean, sea, or any sound, bay, or creek, or any part thereof affected by the ebb or flow of the tide, shall be described as forming the whole or part of the boundary of the land to be granted, such boundary or part thereof shall be deemed and taken to be the line of high-water mark at ordinary tides. 15

Grants in which roads are indefinitely reserved to be nevertheless valid.
Ib., s. 9.

42. Whenever roads or rights of roads have been, or hereafter may be, reserved in any Crown grants, but such roads, or the particular part or portions of the land comprised in the grant over which the road is to or may be taken, have not been or may not be specifically described in the body of the grant, and laid down from survey on the plan in the margin thereof, or indorsed thereon, or attached thereto, such Crown grants, if otherwise duly and legally executed, shall be and be taken to have been as valid and effectual, to all intents and purposes, as if the said road, or part of the land over which the right of road was to be taken, had been specifically described and laid down as aforesaid on the said grant before the execution of the same, any law or practice to the contrary notwithstanding. 20 25

Reservations made valid.
Ib., s. 10.

43. All such reservations heretofore or hereafter made shall be valid and effectual to all intents and purposes. But the right of taking a road through any section shall only be exercised within five years after the issue of the grant, except where otherwise provided by law. 30

In any case where allowances have been or shall be made in land, or remission of purchase-money, in respect of such reservation of road, the road to be taken shall in no case exceed the amount of land allowed, or the amount the purchase-money whereof shall have been or shall be remitted as aforesaid. 35

What land conveyed by such grants.
Ib., s. 11.

44. Whenever such road or roads shall have been taken and laid down, in manner aforesaid, on the land comprised in any such grant, by any person legally authorized in that behalf, the land conveyed by the grant shall be deemed, from the date of the laying-down of such road, to be all the land therein described to be granted, with the exception of the part thereof taken for such road, which part shall be deemed to be vested in Her Majesty, her heirs and successors. 40 45

Right of road in grant to include railways.
1870, No. 76, s. 11.

45. Every reservation of right of roads made by the Crown in any Crown grant, whether by words of reservation in such grant or implied by the exercise of any power given by Act of Assembly, shall be held and taken to include the right to make railways over and upon such reserved roadways. 50

263

Fees on Crown Grants.

5 46. There shall be paid to the Receiver of Land Revenue, or other officer appointed to receive the same, a fee of one pound upon every Crown grant of lands not exceeding in amount one hundred acres, and upon every Crown grant of land exceeding that acreage an additional fee of one farthing for every acre in excess of one hundred acres.

Grant fee and acreage fees.
1866, No. 20, s. 37.

10 47. The amount of any fees that shall be payable upon any Crown grant under this Act shall be paid by the purchaser of any lands, over and above the price of the land, at the time when he shall complete the payment of the purchase-money for the said lands, or when he shall pay the last instalment of the purchase-money if sold on deferred payments.

Fees to be prepaid.
1876, No. 51, s. 11

15 But if, on the issue of any Crown grant, it shall appear that the amount of the fees paid on account of land included in such grant is more than would be payable for such grant, the balance shall be returned to the purchaser.

20 48. There shall be paid upon all grants which may be left in the charge or custody of any Commissioner of Crown Lands, or other officer charged with the delivery of the same, a fee of threepence for every month during which they shall have been so left—

Extra fee to be charged for not taking out grant.
Ib., ss. 39, 40.

25 (1.) Subsequent to the month of December in the year one thousand eight hundred and sixty-six, in the case of grants issued prior to the passing of "The Crown Grants Act, 1866":

(2.) After the expiration of three months from the date of the public notice that such grants are ready for delivery, in the case of all other grants.

30 49. Whenever the fees due in respect of the custody of a Crown grant shall amount to above one pound the same shall be recovered by the Receiver of Land Revenue in a summary manner.

Fees above £1 to be recovered summarily.
Ib., s. 41.
1870, No. 76, s. 6.

35 50. No grants issued, or to be issued, by virtue of any order of the Native Land Court shall be subject to the fees imposed in respect of the custody of Crown grants.

Native grants exempt from custody fee.
1867, No. 66, s. 11.

40 51. There shall be paid upon every certified copy of the record copy of a Crown grant in the office of the Minister of Lands a fee of ten shillings.

Ten shillings fee to be paid for certified copy of recorded copy of grant.
1866, No. 20, s. 42.

45 52. *All unpaid fees, expenses, and other charges payable or required to be paid under any Act or enactment hereby repealed, shall be deemed to be payable under this Act, and may be recovered accordingly.*

Outstanding fees to be payable under this Act.

Recovery of Fees and Expenses.

50 53. The grantees named in every Crown grant shall be, jointly and severally, liable to pay the fees payable under this Act in respect thereof, and also the fees for the registration thereof under any Act for the time being in force relating to the registration of deeds.

Grantees liable for Crown grant fees and registration fees.
1870, No. 76, s. 3.

55 54. All persons in whom any legal estate of inheritance in the whole or any part of the land comprised in any Crown grant shall be vested, whether such persons be beneficial owners or trustees or mortgagees, shall be jointly and severally liable to pay the fees in the *last-preceding* section mentioned.

All persons in whom legal estate is vested liable to pay fees.
Ib., s. 4.

Registrar to certify
person liable.
1876, No. 76, s. 4.
1880, No. 27, s. 2.

55. A certificate signed by the Registrar or Deputy Registrar of Deeds for the registration district in which such land is situate, stating that, upon inspection of the Crown grant and of the books in his office, it appears that a legal estate of inheritance in all the land comprised in such Crown grant appears to be vested in any persons, shall, for the purposes of this Act, be conclusive evidence that such persons are jointly and severally liable to pay the said fees. 5

Such certificate may be in the form in the *First* Schedule hereto, and it shall be accepted in evidence, without proof of the signature, or official character, of the officer whose signature it purports to bear. 10

Fees recoverable
summarily.
Ib., s. 6.
1880, No. 27, s. 3.

56. The said fees shall be recoverable by the Receiver of Land Revenue upon complaint, in a summary way, before a Resident Magistrate or any two Justices of the Peace, who, for the purpose of hearing any such complaint, shall have the same powers and jurisdiction in all respects as in the case of complaints made under "The Justices of the Peace Act, 1882." 15

Any such complaint may be in the form in the *Second* Schedule hereto, and may be laid at any time after the matter of such complaint arose, anything in "The Justices of the Peace Act, 1882," to the contrary notwithstanding. 20

Recovery of expenses
in the case of Native
land grants.
1870, No. 76, s. 7.
1880, No. 38, s. 39.

57. The power of recovering expenses given by section *seven* to the Commissioner of Crown Lands, and other powers in that behalf given by this Act to the Receiver of Land Revenue, are hereby, in relation to Crown grants issued by virtue of any order of the Native Land Court, extended to and may at any time be exercised by the Surveyor-General, or other person duly authorized by him in that behalf. 25

Trustees or mortgagees
paying fees may
charge the same.
1870, No. 76, s. 5.

58. Every trustee or mortgagee who shall have paid any fees upon any Crown grant under section *fifty-four* shall be entitled to charge the same as part of the necessary expenses of fulfilling his trust, or to add the same to the mortgage debt, as the case may be. And every person who shall have paid any such fees in respect of a Crown grant shall have a lien thereon for the fees so paid. 30

Miscellaneous.

35

Penalties for forging
or counterfeiting
stamp, &c.
1866, No. 20, s. 8.
1867, No. 66, s. 2.

59. Every person who shall commit any one of the following offences shall on being convicted thereof be adjudged guilty of felony, and shall be liable at the discretion of the Court to be sentenced to penal servitude for any term not exceeding ten years nor less than two, namely—Every person who 40

(1.) Shall forge, counterfeit, or cause or procure to be forged or counterfeited, any die, plate, or other instrument, or any part of any die, plate, or other instrument, which has been, or shall or may be, provided, made, or used by or under the direction of the Governor (or by or under the direction of any person or persons legally authorized in that behalf) for the purpose of attaching his signature to Crown grants in manner aforesaid; or 45

(2.) Shall forge, counterfeit, or imitate, or cause or procure to be forged, counterfeited, or imitated, the stamp, mark, or impression of any such die, plate, or other instrument which 50

265

has been, or shall or may be, provided, made, or used aforesaid upon any parchment, paper, or other substance or material whatever; or

5 (3.) Shall knowingly, and without lawful excuse (the proof whereof shall be on the person accused), have in his possession any false, forged, or counterfeit die, plate, or other instrument, or part of any such die, plate, or other instrument, resembling or intended to resemble, either wholly or in part, any die, plate, or other instrument which
10 has been, or shall or may be, provided, made, or used as aforesaid; or

15 (4.) Shall stamp or mark, or cause or procure to be stamped or marked, any parchment, paper, or other substance or material whatsoever with any such false, forged, or counterfeit die, plate, or other instrument, or part of any such die, plate, or other instrument; or

20 (5.) Shall knowingly utter, offer, dispose of, or put off, or shall knowingly and without lawful excuse (the proof whereof shall be on the person accused) have in his possession any parchment, paper, or other substance or material having thereon the impression, or any part of the impression, of any such false, forged, or counterfeit die, plate, or other instrument, or part of any such die, plate, or other instrument as aforesaid, or having thereon any false, forged, or
25 counterfeit stamp or impression, resembling or representing, either wholly or in part, or intended or liable to pass or be mistaken for, any stamp, mark, or impression of any such die, plate, or other instrument which has been, or shall or may be, so provided, made, or used as aforesaid; or

30 (6.) Shall knowingly, and without express authority from the Governor, have in his possession any die, plate, or other instrument provided for the purpose of attaching the Governor's signature to Crown grants in manner provided by this Act; or

35 (7.) Shall, without express written authority from the Governor, stamp or mark, or cause or procure to be stamped or marked, any parchment, paper, or other substance or material whatsoever with any such die, plate, or other instrument; or

40 (8.) Shall, without due authority, knowingly utter, offer, dispose of, or put off, or shall knowingly, and without lawful right or excuse (the proof of which shall be on the party accused), have in his possession any parchment, paper, or other substance or material having thereon the impression, made
45 without the authority aforesaid, of such die, plate, or instrument.

60. The several Acts and sections of Acts specified in the *Third* Schedule hereunto annexed are hereby repealed.

Repeal.

1866, No. 20, s. 2.

SCHEDULES.

FIRST SCHEDULE.

CERTIFICATE OF REGISTRAR OF DEEDS.

Sec. 55.

I HEREBY certify that, upon inspection of the Crown grant of [*State the numbers of the sections or blocks of land and the land district, as appearing in the grant*], dated the day of , 18 , and the books in the office of the Registrar of Deeds at , it appears that a legal estate of inheritance in the whole of the lands comprised in the said grant is vested in [*State names and descriptions of persons in whom such legal estate appears to be vested*].

Dated this day of , 18 .

[Deputy] Registrar of Deeds for the Registration District of .

SECOND SCHEDULE.

FORM OF COMPLAINT.

County of , in the Colony of New Zealand.

Sec. 57.

THE complaint of R.L., Receiver of Land Revenue for the Land District of , who cometh before me, J.S., Esquire, one of Her Majesty's Justices of the Peace, for the Colony of New Zealand, this day of , 18 , and complaineth that certain fees, amounting in the whole to the sum of £ , are now due and payable in respect of a certain Crown grant of [*Describe land by numbers of sections or blocks and name of land district, as in grant*], and that A.B., of , is [*or are*] the grantee [*or grantees or one of the grantees*] named in the said grant [*or and that a legal estate of inheritance in the land comprised in the said grant is now vested in A.B., of , and C.D. (or A.B., of , and others)*].

Taken before me, on the day and year first above written, at , in the county aforesaid.

J.S.

THIRD SCHEDULE.

ACTS REPEALED.

Sec. 60.

1858, No. 67.—The Land Revenue Appropriation Act, 1858. So much thereof as remains unrepealed.

1862, No. 18.—The Crown Grants Act (No. 2), 1862.

1866, No. 20.—The Crown Grants Act, 1866.

1867, No. 66.—The Crown Grants Amendment Act, 1867.

1870, No. 76.—The Crown Grants Amendment Act, 1870.

1880, No. 27.—The Crown Grants Amendment Act, 1880.

1876, No. 51.—The Waste Lands Administration Act, 1876. Section eleven.