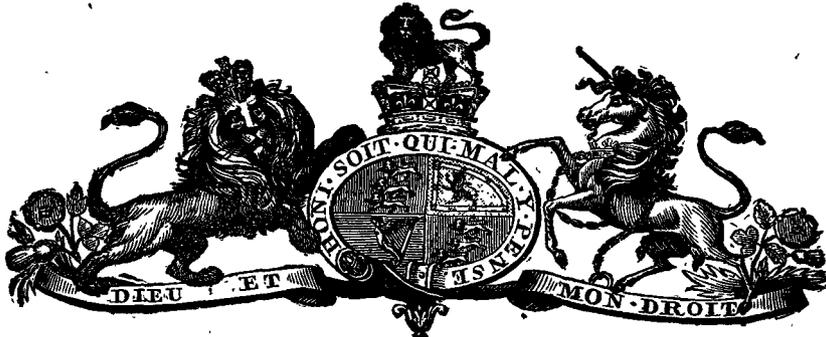


NEW ZEALAND.



TRICESIMO SEPTIMO

VICTORIÆ REGINÆ.

No. LVII.

ANALYSIS.

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AMOUNT OF DUTIES.

7. Duties payable on alienation.
- (1.) In fee. During currency of lease. Lessee acquitted from further duty on lease.
- (2.) On a lease. Arrears.
- (3.) Annuities.
- (4.) Other interests.

AN ACT to fix the Duties payable to Her Majesty Title.
 in relation to the alienation of Native Land,
 and to make provision for the payment and
 recovery thereof. [2nd October, 1873.]

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 Land Duties Short Title.
 Act, 1873."
2. This Act shall come into operation on the first day of January, Commencement of
Act.
 one thousand eight hundred and seventy-four.
3. In construing this Act, the words and phrases following shall Interpretation.
 have the meanings hereby attached to them respectively, unless there
 be something in the context or the subject-matter repugnant to or
 inconsistent with such meanings:—

"Instrument" shall mean and include any grant certificate of

Native Land Duties.

title memorial of ownership memorandum of transfer or lease conveyance assurance deed map plan will probate or exemplification of will, or any other document in writing relating to the transfer or other dealing with land or evidencing title thereto.

“Court” shall mean the Native Land Court of New Zealand.

“Judge” shall mean any Judge of the Native Land Court.

“Native land” shall mean lands in the Colony which are owned by Natives under their customs or usages.

“Hereditaments” shall mean land the subject of tenure or held under title derived from the Crown, or any estate or interest therein or arising thereout.

Repeal of Acts.

4. All parts of “The Native Lands Act, 1865,” “The Native Lands Act, 1867,” “The Native Lands Act Amendment Act, 1868,” “The Native Lands Act, 1869,” and “The Native Lands Acts Amendment Act, 1870,” which relate to the imposition and payment of duties upon the alienation of lands granted under the provisions of the said Acts, or which may otherwise be repugnant to this Act, are hereby repealed; but this Act shall not render valid or invalid or in any way affect any rights acquired or proceedings completed under any of the said repealed Acts before the repeal of the same, nor shall this Act destroy the liability of any person who has acted under any of the said repealed Acts to answer in any Court for any act or thing by him done or omitted to be done under any of such repealed Acts, for which he would have been liable to answer if this Act had not been passed; and for the purpose of preserving such liability and the rights of parties who may now have any remedies or rights thereunder or under any of them, the said repealed Acts shall remain in force. And provided also that proceedings heretofore commenced and in progress under any of the said repealed Acts before the repeal of the same may be continued and perfected under this Act, so far as this Act extends and the circumstances of each case are compatible with the objects and provisions of this Act.

Former duties.

5. All duties now due and payable under any of the parts of the Acts hereby repealed shall be due and payable under this Act: Provided always that nothing in this Act contained shall be deemed to alter vary or in any way affect the amount of the duties that have hitherto been payable, or shall be hereafter payable, in respect of any transactions that have heretofore taken place, and in respect of which the duties payable to Her Majesty have been assessed, under the provisions of the parts of the Acts hereby repealed; but the same duties that have heretofore been payable in respect of any such transactions, shall continue to be paid hereunder in respect thereof.

Former duties in arrear.

6. Upon every amount of duty payable to Her Majesty in respect of any transaction that has at any time heretofore taken place, and where such duty shall be in arrear and still remain unpaid, there shall be payable to Her Majesty, over and above such amount of duty, a further sum by way of interest, calculated at the rate of ten pounds per centum per annum upon the amount of such duty in arrear, from the day on which any such duty became due and payable. Upon the payment of such duty, with interest as aforesaid, the particular transaction in respect of which such duty shall have become due and payable shall, on and from the day of such payment, be validated, and no other penalty in respect of the non-payment of such duty at the time it became due shall, after the coming into operation of this Act, be payable or paid to Her Majesty.

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AMOUNT OF DUTIES.

7. Upon every first sale or other disposition by the Native owner or owners of the fee-simple, and upon every sale or disposition by the Native owner or owners of any estate or interest less than the fee-simple (except as hereinafter mentioned) of any land the title to which has been obtained by them through the Native Land Court constituted and acting under the provisions of "The Native Land Act, 1873," or of the several Acts repealed by that Act or any of them, there shall become due and payable to Her Majesty, by the person or persons taking the legal estate in such land under the instrument executed for effectuating such sale or other disposition, a duty or sum after the following rates, that is to say,—

- (1.) Where the estate acquired under any instrument is an interest in fee-simple, a duty or sum equal to ten pounds per centum calculated upon the amount of the consideration or purchase money. Duties payable on alienation.

Provided always that in case any duties or sums have already been paid to Her Majesty in respect of such land or any portion thereof, there shall be deducted from the gross amount of the duties payable upon the alienation of the fee-simple a sum equal to the amount of the duties which have already been paid in respect of any lease of such land, or which shall have become due and payable in respect of such land at any time before the date of the instrument of disposition of the fee-simple, and only the amount of the net balance remaining shall be payable to Her Majesty by the person or persons acquiring the fee-simple, as duty payable on the alienation thereof. In fee.

The lessee of any land or of any portion of land alienated in fee-simple during the currency of his lease, shall, from and after the day of the payment of the duty payable in respect of such alienation in fee-simple, be absolutely acquitted and exonerated from the payment of any further duty in respect of the residue of the term of the lease of such land or portion thereof so alienated in fee. During currency of lease.

- (2.) Where the estate acquired under any instrument shall be less than an interest in fee-simple, then Lessee acquitted from further duty on lease.

In respect of any lease, a duty or sum in each year equal to ten pounds per centum yearly upon the aggregate amount of rent payable for each and every year of the term of such lease.

But it is hereby declared that if any instalment of duty that shall be payable and owing in respect of any lease be suffered by the person or persons liable to the payment thereof to remain unpaid and in arrear for three calendar months next after the day on which the same ought to be paid under the provisions of this Act, then there shall be payable to Her Majesty, over and above such duty, a further sum by way of interest at the rate of ten pounds per centum per annum upon the amount of such duty so in arrear. On a lease.

- (3.) In respect of every annuity charged upon any land, a duty or sum equal to ten pounds per centum upon the value of such annuity, computed in manner and after the rate adopted in the office of the Commissioner of Government Annuities. Arrears.

- (4.) In respect of any other estate or interest than is herein before mentioned, a duty or sum equal to ten pounds per centum calculated upon the amount of the consideration Annuities.

Other interests.

Native Land Duties.

money paid or payable, or a sum equal to one year's annuity, computed as aforesaid, as the Judge shall think fit.

Exemptions.

8. No duty shall be payable in respect of any of the following transactions, that is to say,—

Any transfer or conveyance, either in fee-simple or otherwise, by way of mortgage.

Any transfer or conveyance, either in fee-simple or otherwise, by way of marriage settlement, whether made before or after marriage, where the persons taking interests in the land comprised in the settlement shall be Natives only.

Any transfer or conveyance made for the purposes of partition.

Any transfer or conveyance to the Crown, the Superintendent of any Province, or Native Reserves Commissioner under "The Native Reserves Act, 1873," except where the same is made for valuable consideration.

Any will, where the persons taking under the same shall be Natives only.

Valuation to be made in certain cases.

9. In any case where no consideration money or a nominal consideration money is expressed in any instrument of disposition, the duty payable shall be calculated upon a valuation of the hereditaments or native land, or the parts thereof conveyed or assured, to be made by the Judge; and where it shall be necessary for any of the purposes of this Act to make any valuation of any estate or interest liable to duty or claiming to be exempt from duty or otherwise, the same shall in like manner be made by the Judge: Provided that where the Judge shall think fit he may call to his assistance such skilled person or persons as he may require to assist him in making such valuation. All the expenses of and attending such valuation shall be borne by the persons in whom the legal estate in such land or hereditaments shall be vested.

Assessment of duty.

10. The person or persons liable to the payment of any duty imposed by this Act shall, within thirty days after the signing of the instrument of disposition in respect of which the same shall become due and payable by any of the persons whose execution thereof is necessary to give complete effect to such instrument, present such instrument of disposition to any Judge of the Native Land Court for his certificate of the amount of the duty payable in respect thereof: and such Judge shall thereupon impound such instrument until he shall have received from the Colonial Treasurer or person duly authorized by him in writing to receive the duties payable, a receipt for the same, or in cases where the duty shall be payable by annual payments, then a receipt for the amount of the first of such annual payments.

Certificate of duties payable

11. Upon the presentation to him of such instrument, the aforesaid Judge shall forthwith, or immediately after he shall have ascertained the value of the fee-simple of the land as hereinbefore mentioned, where a valuation is necessary, assess thereupon the amount of duties payable in respect of the instrument of disposition relating to the land dealt with, and without any delay transmit to the Colonial Treasurer, or person duly authorized by him in writing to receive the duties, a certificate in duplicate signed by him, stating the date nature and particulars of the transaction to which such instrument of disposition refers, together with the amount of duties he has assessed to be payable to Her Majesty in respect of such transaction, and the respective dates when such duties, if they are several, shall be payable, and also, where necessary, the amount of the value of the land. A copy of such certificate shall be sent by post or otherwise to the person or persons liable to the payment of the duties.

Native Land Duties.

12. When by any of the means aforesaid a sum equivalent to ten pounds per centum upon the value at the time of the first transaction liable to the payment of duty under this Act of the land comprised in or affected by any instrument shall have been actually paid, then no further sum or sums of money shall be payable for duty in respect of such land.

Complete payment
of duties.

13. In all cases where the duty payable in respect of any instrument of disposition shall be payable in one sum, the same shall be paid within the period of one calendar month next after the day of the date of the signing or execution or the day of the date of the instrument effecting any alienation of land as hereinbefore provided, whichever day shall be prior in time. But if the duty payable in respect thereof shall be payable by annual payments as hereinbefore mentioned, then the first of such annual payments shall be made within the period of one calendar month next after the date of the day of the month on which the same ought to be paid; and each succeeding annual payment shall be made within one calendar month after the anniversary of the date of such certificate.

Time for payment
of duties.

14. All duties payable under this Act shall be paid to the Colonial Treasurer, or to some person duly authorized by him in writing to receive the same; and the Colonial Treasurer or person duly authorized as aforesaid, receiving such duty, shall indorse on or annex to the Judge's certificate aforesaid a receipt for such duty, and then return one of such certificates so indorsed forthwith to such Judge.

To whom duties
payable.

15. No transfer conveyance lease or other instrument disposing of hereditaments or of Native land on account of the sale letting or other disposition of which duty is payable under the provisions hereof shall be valid or have any effect at law or in equity, except for the purpose of preserving the liability of all persons liable to the payment of the duties payable in respect of such instrument, unless and until a receipt by the Colonial Treasurer, or person duly authorized as aforesaid for the duty payable, shall have been indorsed on the Judge's certificate as aforesaid: Provided always that no transfer conveyance lease or other instrument at any time heretofore made disposing of any hereditaments or of any Native land shall be invalidated, or shall continue invalidated, by reason only of the non-payment of any penalty or forfeiture payable or incurred under any of the parts of the Acts hereby repealed.

Transactions invalid
until duty paid.

16. Upon the delivery to him of the receipt for the duty paid or for the amount of the first of such annual payments, the Judge shall inscribe a memorandum of such receipt and of the amount paid upon the Court Rolls, and also upon the instrument of disposition, which shall thereupon be released by the Judge from his custody. A similar memorandum of any subsequent annual payment of duty, and of the amount and other particulars of such payment, shall be inscribed on the Court Rolls by any Judge of the Court whenever a proper receipt for such payment shall be presented to him for the purpose.

Receipt for duty
paid.

17. When a sum equivalent to ten pounds per centum upon the value at the time of the first transaction liable to the payment of duty under this Act of the land comprised in or affected by any instrument of disposition shall have been actually paid, then the Judge of the Native Land Court shall enter upon the Court Rolls a certificate to the effect that all duty payable in respect of the land therein referred to has been fully paid, which certificate shall be conclusive.

Certificate of complete
payment of
duties.

18. A transcript of any certificate of the complete payment of duties, or of any memorandum of receipt for duty or instalment of duty paid that shall have been inscribed on the Court Rolls, shall be

Indorsement on
instruments for
duty paid.

Native Land Duties.

indorsed by any Judge of the Court upon any instrument of disposition relating to the land, or any portion thereof, in respect of which any of such duties have been either completely or partly paid, at any time when such instrument of disposition shall be presented to him for the purpose.

Duties to be Crown debts.

19. Duties payable under the provisions of this Act shall, from and after the day on which the same shall become due and payable, be deemed to be debts due to Her Majesty from every person liable to the payment of the same, and may be recovered accordingly by any person appointed in that behalf by the Colonial Treasurer.

No fee for assessment of duties.

20. No fee shall be chargeable in respect of anything done by any Judge in or about the ascertaining or determining the amount of duty payable under the provisions of this Act.

All revenue to be paid into Public Account.

21. All duties, interest on arrears of duties, and other moneys due to Her Majesty hereunder, shall be paid into the Public Account by the person collecting or receiving the same, to an account to be called "The Native Land Court Account."

Appropriation thereof.

22. The funds so received by the Colonial Treasurer shall be chargeable in the first place with the salaries of the Judges and other officers of the Native Land Court, and the expenses of carrying the Native Land Act into execution; and the balance, after payment of such salaries and expenses, shall be and form part of the consolidated revenue of the Colony.

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