

Crown Grant in this case, Mr. Fenton, Chief Justice of Native Lands Court, amended the certificate of title by erasing the original date, viz., 15th January, 1869, and substituting the date of the original order, viz., the 27th June, 1868. The Secretary for Crown Lands has been applied to, to rectify the Crown Grant and make it correspond with the certificate; but he refuses to do so, on the ground that the Crown Grant was drawn out in accordance with the certificate of title as it existed at the time the Crown Grant was made out. The not making the date of the certificates the same as that on which the order was passed—a practice which has prevailed to a great extent in the Province of Auckland—is occasioning great confusion, affecting not only the Kauaeranga lands, but many other lands also. The petitioner urges that the meaning of clause 75 is, that the order and certificate shall be simultaneous documents, and he prays that this may be rendered clear by legislative enactment. Owing to the phrase, "grantees of Crown Lands," used in clause 26 of "The Crown Grants Act, 1866," doubts have been raised as to whether the provisions of that clause are applicable to lands of which certificates of title have been granted under the Native Lands Act; and this point should be cleared up.

Mr. Richmond then retired.

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THURSDAY, 24TH JUNE, 1869.

Mr. Fenton having been called, attended, and was examined.

*The Chairman.*] Without reference to any particular case, can you suggest to the Committee any course to remedy the evils complained of?—I should not like to point out to the Committee any course, because nine out of ten are points of law, and not matters of fact. I think it would be very difficult for the Committee to discover any remedy, unless the Committee is prepared to recommend the strongest, and, I may say, unusual measures, as far as my knowledge extends, to the Legislature. I am of opinion that the words "issue of certificates," in clause 75 of "The Native Lands Act, 1865," should be in future made to mean the date on which the certificate is ordered to be issued.

*Mr. Potts.*] Will you give us the history of the changes that took place in your mind with regard to the date of these certificates?—The certificates at first, for some years, were dated on the day on which they were signed. Afterwards, when I became aware of the passing of "The Crown Grants Act, 1867," apparently making the date of the certificate a matter of importance, I commenced the practice of making the date of the certificate the same as the date of the order authorizing it. In my view, this was to effectuate the intention of the Legislature, as shown in "The Native Lands Act, 1865." Afterwards I doubted whether the date of the certificate would in any case be held to be final in the Supreme Court, and I have further formed the opinion that all of the Crown Grants Acts fail to have application to any of the Native Lands. I have, consequently, returned to my former practice of dating the certificates on the day of signature.

How long have you held this last view?—About four months.

What action have you taken on it?—I have returned to my old practice. I beg to add, that when I saw the difficulties which existed, I determined not to issue any more certificates until the Legislature had declared its mind on the subject, and I pronounced the determination in Court in the case of the Shortland claims; in which, I think, that there are 130 certificates now not issued in consequence.

Mr. Fenton handed in some papers to the Committee, and then retired.

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FRIDAY, 25TH JUNE, 1869.

Mr. Domett, having appeared before the Committee, was examined.

*The Chairman.*] The statement of Mr. Fenton, Chief Justice of the Native Lands Court has been read to you. Can you suggest any remedy for the evils brought to the notice of the House in the Petition of Mr. Robert Graham?—I must state, first, that one of the allegations, viz., that certain mistakes have been made in the preparation of Crown Grants, is incorrect. All Crown Grants connected with the case, I think I may positively state, have been made, as to dates of ante-vestment, exactly to correspond with those of the issue of the certificates. This, according to the ordinary construction of the law on the case, is strictly in accordance with that law. But I find that Mr. Fenton has raised a doubt as to the proper construction of the law. I am inclined to think that Mr. Fenton's view is correct with respect to the non-applicability of the Crown Grants Acts to Native lands excepting Native reserves.

Can you state what the intention of the Legislature was with regard to the date of the order authorizing the issue of a certificate, and the date of the issue of the certificate itself?—I believe, at the time of the passing of the Act of 1865, the idea prominent in the mind of the Legislature was, that the order authorizing the issue of a certificate and the issue of the certificate should be simultaneous. At the same time, the insertion in the Act of provisions for appeal against the decision or order of the Court militates against this view, as apparently necessitating some lapse of time between the issue of the order and that of the certificate.

Will you state what your idea was, as regards the dates of the order and certificate?—When I drafted "The Crown Grants Act, 1867," the idea prevailed in my mind that the order and the certificate were simultaneous documents.

Assuming injustice to have been done in this case, can you suggest any remedy for it?—I do not know of any remedy but *ex post facto* legislation.

Mr. Domett then retired.

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