it would be an idle ceremony to issue such instruments. But something does pass: the whole legal fee passes; and in respect of this legal fee remaining vested in the Crown down to the time when the grant passes the seal of the Colony and receives the Governor's signature, every such instrument may, with absolute propriety, be termed a grant of Crown lands. If, then, it appears from the provisions of "The Crown Grants Act, 1866," or of "The Crown Grants Act, 1867," that it was intended, under the general designation of "grantees of Crown lands," to include Natives receiving grants from the Crown of lands previously owned by them under Native custom, there is no difficulty whatever in adopting such a construction; and the circumstance that in other Acts and Ordinances of the Colony, and even in the Constitution Act itself, the term "Crown lands" is used in a narrower sense, is nothing to the purpose.

14. Looking however to the terms of the special preamble to section 26 of "The Crown Grants Act, 1866," that "it is expedient that the legal estate in lands comprised in grants from the Crown should, in certain cases and to a certain extent, be deemed to have been in the grantees prior to the date of such grants"—followed, as it is, by the specification, in section 27, of what purports to be an exhaustive list of the cases to which the general provision of section 26 was meant to apply, it is certainly difficult to say that the case of grants under the Native Lands Acts is met by "The Crown Grants Act, 1866," as it originally stood.

Alienation by a Native, who as yet holds according to Maori custom, to a European, who can only hold by English tenure, is an anomalous transaction; and the intent retrospectively to clothe with the legal estate interests created by such a transaction, ought to be clearly manifested.

15. But assuming, as we do, that the case of grants under the Native Lands Acts was not originally within the scope of section 26, we conceive it to be quite clear that the "The Crown Grants Amendment Act, 1867," section 7, subsection 1, enlarges the provision of section 26 so as to reach the case. We have already expressed our opinion that Natives who accept such grants are, in a perfectly intelligible and proper sense of the term, "grantees of Grown lands," just as a copy-holder taking a conveyance from the lord of his own customary tenement, is a grantee of parcel of the manor. Besides which it is apparent, on the terms of section 26, that the "grantees of Crown lands" therein referred to, are identical with the grantees named in the preamble to the clause, and there termed grantees of "lands comprised in grants from the Crown." For we may say, in passing, that the 2nd section of "The Crown Grants Amendment Act, 1870," made, in our opinion, no alteration in the law, and cannot affect our interpretation of the earlier Statute. There is, then, nothing in the 26th section of the original Act, to which the addition made to it in 1867 is repugnant. Were there any such conflict, the later Statute would of necessity prevail, and would enlarge the meaning of the earlier one; but there is no such conflict. The several subsections of section 7 of the later Act, simply supply omitted cases in the former Act.

16. Next comes the difficult question of the construction and effect of "The Crown Grants Amendment Act, 1867," section 7, subsection 1. On this point we have come to the conclusion, agreeing with that arrived at by the Commissioner, that the effect has been virtually to authorize sales and leases made by individual Natives at any time after an order in their favour under section 23 of "The Natives Lands Act, 1865."

17. The enactment we are construing is to be read continuously with section 26 of "The Crown Grants Act, 1866," and as giving effect, in a particular case, to the general purpose of that section.

The terms, if ambiguous, should be construed in subservience to that general purpose; a purpose in itself rational, equitable, and in accordance with legal principle. That general purpose manifestly is to clothe with the legal estate transactions—valid transactions, it is of course implied—intermediate between the issue of the grant and the date at which the grantee became entitled to receive a grant. But the time at which the Native owners do so become entitled, is at and from the date of the order of the Native Lands Court. The Statute supposes that there is a time prior to the issue of the Crown grant at which the title to receive a grant accrues.

This time can be no other than the date of the order.

In cases where the certificate bears even date with the order under which it issues, the title may, of course, be said to commence at the date of the certificate. It is in each such case indifferent which of the two is named—order or certificate—as the date of title commencing.

But if the dates differ, then the title really commences at the date of the earlier and more important instrument, the subsequent issue of the certificate being a Ministerial act, no wise significant, done in obedience to the order. The general purpose, therefore, of section 26, points at the adoption, if possible, of a construction which shall ante-vest the legal estate at the date of the order.

18. How far, then, are the terms of section 7, subsection (1), capable of such a construction?

The enactment is as follows:—"In all the following cases, the dates at which the grantees referred to in section 26 of the said Act ("The Crown Grants Act, 1866,") shall be deemed to have become or to become entitled to receive Crown grants for their lands shall be—

(1.) "In the case of grantees of land, the title to which has been decided in the Native Lands Court, the dates of the certificate or interlocutory orders issued by such Court with reference to such lands respectively."