

No. 16.

COPY of a DESPATCH from Governor the Most Hon. the Marquis of NORMANBY
to the Right Hon. Sir MICHAEL HICKS BEACH.

(No. 55.)

Government House, Wellington,

SIR,—

New Zealand, 2nd December, 1878.

I have the honor to transmit to you copies of all Acts passed by the General Assembly during their late session, together with a synopsis of the same prepared by the Solicitor-General.

The Administration Act has been reserved for Her Majesty's assent, as it may affect the estates of persons residing out of the colony.

I have, &c.,

The Right Hon. Sir Michael Hicks Beach.

NORMANBY.

Enclosure 1 in No. 16.

Administration Act.

THIS Bill is reserved for the signification of the Royal assent, in accordance with the terms of the Royal Instructions to His Excellency the Governor of the 6th November, 1874. The Royal prerogative is directly affected, and the Bill may affect the estates of persons residing out of the colony.

This Bill repeals "The Real Estate Descent Act, 1874," which originally had been reserved for and subsequently received the Royal assent. Provision is made that probate or administration of both the real and personal estate of any deceased person may be granted; that the real estate of a deceased person shall vest in the executor or administrator; that such real estate shall be assets in the hands of the executor or administrator, with power to sell, lease, or mortgage it, to pay succession duties, fees, and debts.

In equity suits relating to the real estate, the executor or administrator represents the real estate to the same extent that the executor or administrator does in suits concerning the personal estate.

Subject to the provisions of the Act, the executor or administrator holds the real estate as provided by the 10th section. By the 2nd subsection it will be seen that, so far as relates to persons dying intestate after the Act comes into operation, his real estate is distributed as personal property, thus placing the real and personal property of a person who dies intestate after the Act comes into operation in the same position.

Provision is also made for the succession of real and personal estate of a male illegitimate dying intestate and without issue, and also for the succession to the real estate of a female intestate who dies leaving no husband or legitimate children or their issue surviving.

The Act has been compiled from two sources—namely, "The Administration Act, 1872," of the Colony of Victoria, and "The Real Estate Descent Act, 1874," of this colony. Sections 5, 6, 7, 9, 10, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 24, 27, 28, 29, 30, 31, 32, 33, and 34 are nearly identical with sections 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 16, 17, 20, 25, 26, 27, 28, 29, 30, 32, 33, 34, 35, and 36 of the Victorian statute; sections 8, 11, 23, 25, and 26 with sections 13, 14, 16, and 17 of "The Real Estate Descent Act, 1874."

Similar provisions to these in the Act, as to the disposal of the property of illegitimate persons, are law in New York. (See the New York Civil Code.) And in New Zealand it has been found that the expense of holding inquiries under "The Escheat Act, 1868," is great, and that in the end the Government generally give the property to the persons that would obtain it under this Act.

It has been found that "The Real Estate Descent Act, 1874," being an Act that only dealt with the descent of real property in the case of male persons dying leaving wife, children, or lineal descendants surviving, has led to some difficulty and confusion. This Act gets rid of the anomaly of having two kinds of descents for real property.

The costs incurred before real property can be made available for the payment of debts are at present very large, and the delays troublesome. The provisions of this Act place real and personal property in the same position.

It is believed the provisions of this Act will prove of great value in the administration of real property in the colony.

Enclosure 2 in No. 16.

SYNOPSIS on the ACTS passed by the GENERAL ASSEMBLY of NEW ZEALAND in the Session of Parliament held in the Year 1878.

The Public General Statutes.

No. 1. *The Native Land Act 1873 Amendment Act* confers upon the Native Land Court and its Judges the same powers as the Supreme Court for compelling the attendance of witnesses, and production of documents.