

This PUBLIC BILL originated in the LEGISLATIVE COUNCIL, and, having this day passed, is now ready for presentation to the LEGISLATIVE ASSEMBLY for its concurrence.

W. L. S. COOPER,
Clerk of the Parliaments.

*Legislative Council Chamber,
Sydney, 12th September, 1917.*

New South Wales.



ANNO OCTAVO

GEORGII V REGIS.

Act No. , 1917.

An Act to consolidate and amend the law with regard to the limitation of actions and suits.

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the "Statute of Limitations, 1917," and shall commence and come into operation on the first day of January, one thousand nine hundred and eighteen.

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2.

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2. This Act shall not affect any proceedings pending at the commencement of this Act, or any proceedings commenced or taken within one year after the commencement of this Act. Saving clause.
- 5 3. The several enactments mentioned in the Schedule to this Act, to the extent therein expressed, are hereby repealed; but such repeal shall not be held to revive any principle, doctrine, or presumption of law, or any form of action which were by such enactments expressly abolished. Repeal Schedule.
- 10 4. In the interpretation of this Act, unless the subject-matter or context otherwise indicates or requires,— Interpretation.
- (a) "rent" shall extend to all services and suits for which a distress may be made, and to all annuities and periodical sums of money charged upon or payable out of any land; Rent. 3 & 4 Wm. I IV, c. 27, s. 2.
- 15 (b) no part of the Commonwealth of Australia shall be deemed to be beyond the seas within the meaning of this Act in any case to which section eleven of the Service and Execution of Process Act, 1901-1912, applies, but in any other case every place outside New South Wales shall be deemed to be beyond the seas within the meaning of this Act. Beyond the seas.
- 20 (c) "Person of unsound mind" includes an insane person or patient, or incapable person within the meaning of the Lunacy Act, 1898.
- 25 5. (1) The provisions of this Act shall apply to judicial proceedings in all courts, and in the interpretation of this Act, unless the subject-matter or context otherwise indicates or requires, such proceedings shall be deemed to be included in the word "action." Proceedings in equity included. Ibid. s. 24.
- (2) (a) In every case of a concealed fraud the right of any person to institute proceedings in equity, in respect of any claim of which he or any person through whom he claims has been deprived by such fraud, shall be deemed to have first accrued at the time at which such fraud has, or with reasonable diligence might have, been first known or discovered. Fraud. Ibid. s. 26.
- 35 (b) Nothing in this subsection shall enable the owner of any land or rent to institute proceedings in
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in equity for the recovery of such land or rent or for setting aside any conveyance of such land or rent on account of fraud against any bona fide purchaser for valuable consideration without notice of such fraud.

- 5 (3) Nothing in this Act shall be deemed to interfere with any rule or jurisdiction of the Supreme Court in its equitable jurisdiction in refusing relief on the ground of acquiescence or otherwise to any person whose right to institute proceedings may not be barred by virtue of this Act.

Saving the jurisdiction of equity in the case of acquiescence, &c.
Ibid. s. 27.

(4) Nothing in this Act shall limit the time within which cestuis que trustent may enforce their rights against trustees in the Supreme Court of New South Wales in its equitable jurisdiction.

Not to affect rights of cestuis que trustent as to time.

- 15 (5) Nothing in this Act shall affect the operation of any Statute in which—

Not to affect special statutory exceptions.

(a) the operation of this Act or any of the enactments hereby repealed is expressly excluded; or

9 Vic. No. 9, s. 39.

- 20 (b) the time is expressly limited for bringing any action or proceeding the right to which is given by such Statute.

6. (1) After the commencement of this Act, the following actions and proceedings shall be commenced within the respective times and limitations hereinafter expressed and not after—

- 25 (a) actions or proceedings at law or in equity, to recover any sum of money secured by any mortgage, judgment, or lien, or otherwise charged upon or payable out of any land or rent; including the actions mentioned in paragraph (d) of this subsection but excluding the actions mentioned in paragraphs (i) and (k) of this section;
- 30 (b) actions to recover from the executor or administrator with the will annexed any legacy;
- 35 (c) actions to recover from the executor or administrator any share of the real or personal estate as to which any person dies intestate;

Money charged, &c.
3 & 4 Wm. IV, c. 27, s. 40.

Legacy.
3 & 4 Wm. IV, c. 27, s. 40.
37 & 38 Vic., c. 57, s. 8.

Share on intestacy.
26 Vic. No. 12, s. 36.

within twenty years :

(d)

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- (d) actions of covenant or debt upon any specialty ; Covenant, &c.
5 Vic. No. 9,
s. 39.
3 & 4 Wm. IV,
s. 42, s. 3.
- (e) actions of debt or scire facias upon any recog- Recognizance.
Ibid. s. 9.
nizance ;
- 5 (f) actions of trespass for injuries to the person, Trespass.
21 Jac. I,
c. 16, s. 3.
or to land or personal property (except those in
section seven of this Act specially mentioned) ;
- (g) actions of detinue, trover, replevin, and on the Detinue, &c.
Ibid. s. 3.
case other than actions for slander ;
- 10 (h) actions of account or for not accounting, Account.
Ibid. s. 3.
19 & 20 Vic.,
c. 97, s. 9.
including suits for such accounts as concern
the trade of merchandise between merchant
and merchant, their factors or servants,
where such actions are not founded upon any
- 15 specialty ;
- (i) actions of debt grounded upon any lending or Simple
contract, &c.
21 Jac. I, c. 16,
s. 3.
contract without specialty ;
- (j) actions of debt upon any award where the Award.
5 Vic. No. 9,
s. 39.
submission is not by specialty or for money
levied under any writ of fieri facias ;
- 20 (k) actions for arrears of rent or arrears of interest Arrears of
rent or
interest.
3 & 4 Wm. IV,
c. 27, s. 42.
in respect of any money charged upon or
payable out of any land or rent, or for damages
in respect of such arrears of rent or interest ;
- 25 (l) actions to recover any arrears of dower or any *Ibid.* ss. 41,
42.
arrears of interest in respect of any legacy, or
damages in respect of such arrears of dower or
interest ;
- (m) distress for arrears of rent, whether such rent Distress for
rent.
Ibid. s. 42.
is payable under specialty or not ;
- 30 within six years ;
- (n) actions of assault, menace, battery, wounding, Assault, &c.
21 Jac. I,
c. 16, s. 3.
and imprisonment ;
- (o) actions for penalties, damages, or sums of Penalties, &c.
5 Vic. No. 9,
s. 39.
money given to the party grieved by any law
now or hereafter to be in force ;
- 35 (p) actions for slander ; Slander.
21 Jac. I,
c. 16, s. 3.
within one year ;

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next after the cause of action or right of distress has accrued, or (except in the case of paragraphs (f), (g), (n), (o), and (p) next after a written acknowledgment has been given to the person entitled thereto, or his agent, signed by the party liable, or his agent, or (except as aforesaid) next after part payment or satisfaction on account of the principal or interest due.

Acknowledg-
ment and part
payment.

3 & 4 Wm. IV.
c. 27, ss. 40, 42.
4 Wm. IV, No. 17
(adopting 9 Geo.
IV, c. 14, s. 1).
5 V. c. No. 9, s. 1.
19 & 20 Vic.,
c. 97, s. 13.

(2) No endorsement or memorandum of any payment written or made upon any promissory note, bill of exchange, or other writing by or on behalf of the party to whom such payment is made shall be deemed sufficient proof of such payment, so as to take the case out of the operation of this Act.

Endorse-
ments of
payment.

9 Geo. IV,
c. 14, s. 3.

(3) No claim in respect of any matter arising more than six years before the commencement of any action for account or for not accounting as aforesaid shall be enforceable by action by reason only of some other matter of claim comprised in the same account having arisen within six years before the commencement of such action.

Accounts.

19 & 20 Vic.,
c. 97, s. 9.

(4) Where any prior mortgagee or encumbrancer has been in possession of any land or in receipt of the profits thereof within one year next before an action is brought by any person entitled to a subsequent mortgage or other encumbrance on the same land, the person entitled to such subsequent mortgage or encumbrance may recover the arrears of interest which have become due during the whole time that such prior mortgagee or encumbrancer was in such possession or receipt as aforesaid although such time has exceeded the term of six years hereinbefore mentioned.

Arrears of
rent or
interest.

3 & 4 Wm.
IV, c. 27,
s. 42.

(5) If in any of the said actions commenced within the time and limitation expressed therefor—

21 Jac. I,
c. 16, s. 4

- (a) the plaintiff be nonsuited; or
- (b) a verdict pass for the plaintiff, and upon matter alleged in arrest of judgment, the judgment be given against the plaintiff that he take nothing by his plaint, writ, or claim; or
- (c) the plaintiff or the defendant dies,

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- the plaintiff, his executors, or administrators, as the case requires, may commence a new action or proceeding within a year after the nonsuit, or after the judgment given against the plaintiff, or after the grant of probate or letters of administration to the executors or administrators of the plaintiff or defendant, as the case may be, notwithstanding that the time and limitation expressed for commencing the action or proceeding may have then elapsed.
- 10 **7.** (1) In any action brought in respect of any trespass to land where the plaintiff's title to or possession of such land is not disputed by the defendant in his defence, the plaintiff shall not recover any damages for any act of trespass committed more than twelve months before such action is commenced.
- 15 (2) Nothing in this section contained shall apply to any plaintiff who at the time when such act of trespass was committed was beyond the seas or under legal disability.
- 20 **8.** (1) If any person entitled to any such action, as is in section six hereof mentioned, is at the time the cause of action accrues or such acknowledgment, part payment, or satisfaction as aforesaid is made—
- 25 (a) an infant; or
(b) a person of unsound mind,
- then the time hereinbefore limited for bringing such action shall commence when such person is of full age, or has otherwise ceased to be under disability.
- 30 (2) If any person liable to any such action as aforesaid is beyond the seas at the time the cause of action accrues, or such acknowledgment, part payment, or satisfaction is made, then the time hereinbefore limited for bringing such action shall commence when such person returns from beyond the seas.
- 35 **9.** In answer to a plea of this Act the plaintiff in any such action or proceeding may reply such acknowledgment or part payment, and that such action or proceeding was brought within such time as aforesaid.

Trespass to land.
47 Vic. No. 7,
s. 2.

Disabilities.
Plaintiffs.
21 Jac. I. c. 16,
s. 7.
5 Vic. No. 9,
ss. 40, 41.
19 & 20 Vic.,
c. 97, s. 10.

Disabilities.
Defendants.
4 & 5 Anne,
c. 16, s. 19.
5 Vic. No. 9,
ss. 40, 41.

Acknowledgment may be pleaded in reply.
Ibid. s. 41.

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10. (1) Where such cause of action with respect to which the period of limitation is fixed by this Act lies against two or more joint debtors, the person entitled to the same shall not be entitled to any time within
 5 which to bring any such action against any of such joint debtors who is not beyond the seas at the time such cause of action accrues by reason only that some other of such joint debtors is at the time such cause of action accrues beyond the seas.

Period of limitation not to be extended against all joint debtors by reason of some being beyond the seas. 19 & 20 Vic., c. 97, s. 11.

10 (2) Such person so entitled as aforesaid shall not be barred from bringing any action against the joint debtor who is beyond the seas at the time the cause of action accrues, after his return from beyond the seas, by reason only that judgment has already been recovered
 15 against any one of such joint debtors who was not beyond the seas at the time aforesaid.

11. (1) Where there are two or more co-contractors or co-debtors, whether liable jointly only or jointly and severally, or two or more executors or administrators
 20 of any contractor or debtor, no such co-contractor or co-debtor, executor, or administrator shall lose the benefit of this Act so as to be chargeable in respect or by reason only of any written acknowledgment made and signed by any other of them, or his agent duly
 25 authorised in that behalf, or in respect or by reason only of part payment or satisfaction made by any other of such co-contractors, co-debtors, executors, or administrators.

Co-contractors, co-executors, &c. 9 Geo. IV, c. 14, s. 1. 19 & 20 Vic., c. 97, ss. 13, 14.

(2) In actions commenced against two or more such co-contractors, co-debtors, executors, or adminis-
 30 trators, if it appears at the trial or otherwise that the plaintiff, though barred by this Act as to one or more of such co-contractors, co-debtors, executors, or adminis-
 35 trators, is nevertheless entitled to recover against any other of the defendants by virtue of a new acknowledgment or otherwise, judgment may be given and costs allowed for the plaintiff as to such defendants against whom he may recover, and for the other defendants against the plaintiff.

12. The foregoing provisions of this Act shall so far
 40 as applicable be deemed to apply to the case of any debt or simple contract alleged by way of set off on the part of any defendant either by plea, notice, or otherwise.

Set off. 9 Geo. IV, c. 14, s. 4.

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13. (1) Actions of trespass or on the case may be maintained by executors or administrators for any injury to the real or personal estate of their testator or intestate committed in his lifetime and for which the testator or
5 intestate himself might have maintained the like actions.

Actions by executors, &c. 5 Vic. No. 9, s. 30.

(2) Such actions shall be brought within one year after the death of such testator or intestate, and shall be maintained only in respect of an injury committed within six months before such death.

To be brought within one year of death for injury to property committed within six months of death.

10 (3) The damages recovered in such actions shall form part of the deceased's personal estate.

Damages part of personal estate.

14. (1) Actions of trespass or on the case may be maintained against executors or administrators for any wrong committed by their testator or intestate to another
15 in respect of his property, real or personal.

Actions against executors, &c. 5 Vic. No. 9, s. 30.

(2) Every such action shall be brought within six months after such executors or administrators have taken on themselves the administration of the estate of the deceased, and shall be maintained only in respect of
20 an injury committed within six months before his death.

(3) The damages recovered in any such action shall be payable in like order of administration as the deceased's debts.

15. (1) After the commencement of this Act no
25 person claiming any land or rent shall make an entry, or distress, or bring an action to recover the same but within twenty years next after the time at which the right to make such entry or distress or to bring such action first accrued to him.

No land or rent to be recovered but within twenty years after the right of action accrued to the claimant or some person whose estate he claims.

(2) In all the succeeding sections of this Act, unless the context or subject-matter otherwise indicates
30 or requires—

3 & 4 Wm. IV, c. 27, s. 2.

(a) the expression "such right" shall mean the right to make an entry, or distress, or bring an action to recover any land or rent;

35 (b) the expression "enforce such right" shall mean make an entry, or distress, or bring an action to recover such land or rent;

(c) a reference to a person entitled to or claiming
40 any land or rent shall include any person by, through, under, or by the act of whom he became entitled to the estate, interest, or right claimed.

Interpretation. 3 & 4 Wm. IV, c. 27, s. 1.

16.

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16. Notwithstanding anything contained in this Act any person claiming under any mortgage of land may make an entry or bring an action to recover such land at any time within twenty years next after the last payment of any part of the principal money or interest secured by such mortgage although more than twenty years may have elapsed since the time at which such right first accrued.

Mortgaged land.
26 Vic. No. 13,
s. 24.

17. In the construction of this Act such right shall, subject to the provisions of sections eighteen and nineteen hereof, be deemed to have first accrued at such times as are hereinafter mentioned respectively—

When right deemed to have accrued.
3 & 4 Wm. IV,
c. 27, s. 3.

(a) when the person claiming such land or rent has in respect of the estate or interest claimed been in possession or receipt of the profits of such land or in receipt of such rent, and has while entitled thereto been dispossessed or has discontinued such possession or receipt,

Estates in possession ;

then at the time of such dispossession or discontinuance of possession or at the last time at which any such profits or rent were or was so received ;

on dispossession ;

(b) when the person claiming such land or rent claims the estate or interest of some deceased person who has continued in such possession or receipt in respect of the same estate or interest until the time of his death, and has been the last person entitled to such estate or interest who has been in such possession or receipt,

on abatement or death ;

then at the time of such death ;

(c) when the person claiming such land or rent claims in respect of an estate or interest in possession granted, appointed, or otherwise assured by any instrument (other than a will) to him by a person being in respect of the same estate or interest in the possession or receipt of the profits of the land or in the receipt of the rent, and no person entitled under such instrument has been in such possession or receipt,

on alienation ;

then

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then at the time at which the person claiming as aforesaid became entitled to such possession or receipt by virtue of such instrument;

- 5 (d) when the estate or interest claimed has been an estate or interest in reversion or remainder or other future estate or interest, and no person has obtained the possession or receipt of the profits of such land or the receipt of such rent
10 in respect of such estate or interest,

then at the time at which such estate or interest became an estate or interest in possession;

- 15 (e) when the person claiming such land or rent has become entitled by reason of any forfeiture or breach of condition,

then at the time at which such forfeiture was incurred or such condition broken.

- 20 **18.** When such right by reason of any forfeiture or breach of condition has first accrued in respect of any estate or interest in reversion or remainder, and the land or rent has not been recovered by virtue of such right, such right shall be deemed to have first accrued in respect of such estate or interest at the time when the
25 same has become an estate or interest in possession as if no such forfeiture or breach of condition had happened.

- 30 **19.** (1) Such right shall be deemed to have first accrued in respect of an estate or interest in reversion or remainder or other future estate or interest at the time at which the same has become an estate or interest in possession by the determination of any estate in respect of which such land has been held or the profits thereof or such rent has been received, notwithstanding the person claiming such land or rent may at any time
35 previously to the creation of the estate which has determined have been in possession or receipt of the profits of such land or in receipt of such rent.

- (2) (a) If the person last entitled to any particular estate on which any future estate or interest was
40 expectant was not in the possession or receipt of the profits

future estates;

forfeiture or breach.

Where advantage of forfeiture is not taken by remainderman he shall have a new right when his estate comes into possession.
3 & 4 Wm. IV, c. 27, s. 4.

Reversioner to have a new right.
3 & 4 Wm. IV, c. 27, s. 5.
37 & 38 Vic., c. 57, s. 2.

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profits of such land, or in receipt of such rent, at the time when his interest determined, no such entry or distress shall be made, and no such action shall be brought by any person becoming entitled in possession to
 5 a future estate or interest, but within twenty years next after the time when such right first accrued to the person whose interest has so determined, or within ten years next after the time when the estate of the person becoming entitled in possession became vested in possession,
 10 whichever of these two periods is the longer ;

(b) and if such right of any person has been barred under this Act no person afterwards claiming to be entitled to the same land or rent in respect of any subsequent estate or interest under any deed, will, or
 15 settlement, executed or taking effect after the time when such right first accrued to the owner of the particular estate whose interest has so determined as aforesaid, shall enforce such right.

20. 20. For the purposes of this Act an executor or administrator claiming the estate or interest of a testator or intestate shall be deemed to claim as if the grant of probate or administration, as the case may be, had been made at the date of the death of the testator or intestate.

Executor and administrator to claim as though no interval between the death and grant of probate or administration. Sec 3 & 4 Wm. IV, c. 27, s. 6.

21. (1) When any person is in possession or in receipt of the profits of any land or in receipt of any rent as tenant at will or tenant from year to year or other period without a lease in writing, such right of the person entitled subject to such tenancy shall be deemed to have first accrued—

Claim of tenant at will or for years. Ibid. ss. 7, 8.

30 (a) in the case of a tenant at will, at the determination of such tenancy, or at the expiration of one year next after the commencement of such tenancy, at which time such tenancy shall be deemed to have determined ; and

35 (b) in the case of a tenant from year to year or other period without lease in writing, at the determination of the first of such years or other periods, or at the last time when any rent payable in respect of such tenancy has been received (which last happens).
 40

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(2) No mortgagor or cestui que trust shall be deemed to be a tenant at will within the meaning of this section to his mortgagee or trustee.

22. When any person is in possession or in receipt of the profits of any land or in receipt of any rent by virtue of a lease in writing by which a rent amounting to the yearly sum of twenty shillings or upwards is reserved, and the rent reserved by such lease has been received by some person wrongfully claiming to be entitled to such land or rent in reversion immediately expectant on the determination of such lease, and no payment in respect of the rent reserved by such lease has afterwards been made to the person rightfully entitled thereto, the right of the person entitled to such land or rent subject to such lease or of the person through whom he claims to make an entry or distress or to bring an action after the determination of such lease shall be deemed to have first accrued to the person rightfully entitled at the time at which the rent reserved by such lease was first so received by the person wrongfully claiming as aforesaid, and not upon the determination of such lease.

Accrual of right at time of first receipt of rent and not on determination of lease.

See 3 & 4 Wm. IV, c. 27, s. 9.

23. No person shall be deemed to have been in possession of any land within the meaning of this Act merely by reason of having made an entry thereon.

Mere entry not to be deemed possession. *Ibid.* s. 10.

24. When one of several persons entitled to any land or rent as co-parceners, joint-tenants, or tenants-in-common has been in possession or receipt of the entirety or more than his undivided share of such land or of the profits thereof or of such rent for his own benefit or for the benefit of any person other than the persons entitled to the other shares, his possession or receipt shall not be deemed to have been the possession or receipt of or by such last-mentioned persons.

Possession of one co-parcener, &c., not to be possession of the others.

3 & 4 Wm. IV, c. 27, s. 12.

25. When any acknowledgment of the title of the person entitled to any land or rent has been given in writing to him or his agent, signed by the person in possession or in receipt of the profits of such land or in receipt of such rent, then such possession or receipt of or by the person by whom such acknowledgment has been given shall be deemed, according to the meaning of this

Acknowledgment in writing given to person entitled equivalent to possession.

Ibid. s. 14.

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Act, to have been the possession or receipt of or by the person to whom or to whose agent such acknowledgment has been given at the time of giving the same, and such right of such last-mentioned person or any person claiming through him shall be deemed to have first accrued at the time at which such acknowledgment or the last of such acknowledgments, if more than one, was given.

- 26.** (1) If at the time at which such right of any person first accrues as aforesaid such person is—
- 10 (a) an infant; or
 (b) a person of unsound mind;
- then such person or the person claiming through him may, notwithstanding the period of twenty years or ten years (as the case may be) hereinbefore limited has
- 15 expired, enforce such right at any time within ten years next after the time at which the person to whom such right first accrued has ceased to be under any such disability, or died (which has first happened).
- (2) Nothing in this section shall extend the
- 20 time within which any such person may enforce such right beyond thirty years from the time at which such right first accrued.
- 27.** When any person is under any of the disabilities hereinbefore mentioned at the time at which such right
- 25 first accrues to him, and dies without having ceased to be under any such disability, no time to enforce such right, beyond the period of twenty years next after such right first accrued, or ten years next after the death of such person, shall be allowed by reason of
- 30 any disability of any other person.
- 28.** When such right of any person in respect of any land or rent to which he has been entitled for an estate or interest in possession, has been barred by the determination of the period hereinbefore limited
- 35 applicable to his case, and such person has at any time during such period been entitled to any other estate, interest, right, or possibility in reversion, remainder, or otherwise in or to the same land or rent, such person, or any person claiming through him, shall
- 40 not enforce such right in respect of such other estate, interest, right, or possibility, unless in the meantime such

Persons under disability, &c., allowed ten years from the termination of the disability, &c.
Ibid. s. 16.

Period after right accrues not to exceed thirty years.
Ibid. s. 17.
Ibid. s. 5.

No further time allowed for a succession of disabilities.
Ibid. s. 18.
 37 & 38 Vic., c. 57, s. 5.

When right to estate in possession barred, right of same person to future estates also barred.
 3 & 4 Wm. IV, c. 27, s. 20.

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such land or rent has been recovered by some person entitled to an estate, interest, or right which has been limited or taken effect after or in defeasance of such estate or interest in possession.

5 **29.** When such right of a tenant-in-tail has been barred under the provisions of this Act, such bar shall also extend to such right of any person claiming any estate, interest, or right which such tenant-in-tail might lawfully have barred.

Where tenant-in-tail barred, remainder man not to recover. *Ibid.*, s. 21.

10 **30.** When a tenant-in-tail of any land or rent entitled to recover the same has died before the expiration of the period hereinbefore limited within which to enforce such right, no person claiming any estate, interest, or right which such tenant-in-tail might lawfully have barred shall enforce such right, but within the period during which if such tenant-in-tail had so long continued to live he might have enforced such right.

Possession adverse to tenant-in-tail to run on against remaindermen. *Ibid.*, s. 22.

15 **31.** When a tenant-in-tail of any land or rent has made an assurance thereof which does not operate to bar the estates to take effect after or in defeasance of his estate tail, and any person by virtue of such assurance at or subsequently to the time of the execution thereof is in possession or receipt of the profits of such land or in receipt of such rent, and the same person or any other person whatsoever (other than some person entitled to such possession or receipt in respect of an estate which has taken effect after or in defeasance of the estate tail) continues to be in such possession or receipt for the period of twenty years next after the commencement of the time at which such assurance if it had then been executed by such tenant-in-tail or the person who would have been entitled to his estate tail if such assurance had not been executed would without the consent of any other person have operated to bar such estates as aforesaid then at the expiration of such period of twenty years such assurance shall be and be deemed to have been effectual as against any person claiming any estate, interest, or right to take effect after 40 or in defeasance of such estate tail.

Where there has been possession under an assurance by tenant-in-tail which does not bar the remainders they shall be barred at the end of twenty years after the time when the assurance if then executed would have barred them. 3 & 4 Wm IV, c. 27, s. 23.

32.

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32. When any land or rent is vested in a trustee upon an express trust the right of the cestui que trust or any person claiming through him to bring a suit against the trustee or any person claiming through him to recover the same shall be deemed to have first accrued according to the meaning of this Act at the time at which such land or rent has been conveyed to a purchaser for valuable consideration and shall then be deemed to have accrued only against such purchaser and any person claiming through him.

Express trust.
3 & 4 Wm. IV,
c. 27, s. 25.

33. (1) When a mortgagee has obtained the possession or receipt of the profits of any land or the receipt of any rent comprised in his mortgage the mortgagor or any person claiming through him shall not, subject to the provisions hereinafter contained, bring a suit to redeem the mortgage, but within twenty years next after the time at which the mortgagee obtained such possession or receipt.

Mortgagor to be barred at the end of twenty years from the time when the mortgagee took possession, or from the last written acknowledgment.

(2) If in the meantime a written acknowledgment of the mortgagor's title or right of redemption has been given to the mortgagor or some person claiming his estate, or to the agent of such mortgagor or person signed by the mortgagee, or the person claiming through him, no such suit shall be brought, but within twenty years next after the time at which such acknowledgment, or the last of such acknowledgments, if more than one was given.

Ibid. s. 28.

(3) When there is more than one mortgagor or more than one person claiming through the mortgagor such acknowledgment, if given to any such mortgagors, or persons, or his or their agent, shall be as effectual as if the same had been given to all such mortgagors or persons.

(4) Where there is more than one mortgagee or more than one person claiming the estate or interest of the mortgagee such acknowledgment signed by one of such mortgagees or persons shall be effectual only as against the party signing as aforesaid and the persons claiming any part of the mortgage money or land or rent by or from or under him and any person entitled to any estate or interest to take effect after or in defeasance of his estate or interest and shall not operate to give to the mortgagor

Statute of Limitations.

mortgagor a right to redeem the mortgage as against the person or persons entitled to any other undivided or divided part of the money or land or rent.

(5) Where such of the mortgagees or persons aforesaid, by whom such acknowledgment has been given, are entitled to a divided part of the land or rent comprised in the mortgage or some estate or interest therein and not to any ascertained part of the mortgage money, the mortgagor shall be entitled to redeem the same divided part of the land or rent on payment with interest of the part of the mortgage money which bears the same proportion to the whole of the mortgage money as the value of such divided part of the land or rent bears to the value of the whole of the land or rent comprised in the mortgage.

34. The right and title of any person to the land or rent for the recovery whereof such entry, distress, or action respectively might have been made or brought, shall be extinguished at the determination of the period limited by this Act within which to enforce such right.

Extinguish-
ment of right
of party out
of possession.
3 & 4 Wm. IV,
c. 27, s. 34.

35. The receipt of the rent payable by any tenant from year to year or other lessee shall as against such lessee or any person claiming under him (but subject to the lease) be deemed for the purpose of this Act to be the receipt of the profits of the land.

Receipt of
rent to be
deemed
receipt of
profits.
Ibid. s. 35.

36. Nothing in this Act shall affect the provisions of the Real Property Act, 1900.

Not to affect
Real Property
Act, 1900.

Statute of Limitations.

SCHEDULE.

Reference to Act.	Title or short title.	Extent of repeal.
21 Jac. I, c. 16 5	An Act for limitation of actions, &c.	Sections 3, 4, and 7 so far as they apply to New South Wales
4 & 5 Anne, c. 16. 10	An Act for the amendment of the law and the better advancement of justice.	So much of section 19 as applies to New South Wales and does not apply to suits or actions for seamen's wages.
15 4 Wm. IV, No. 17. 20	An Act for adopting and applying a certain Act of Parliament for rendering a written memorandum necessary to the validity of certain promises and engagements.	So far as it adopts sections 1, 3, and 4 of 9 Geo. IV, c. 14.
8 Wm. IV, No. 3. 25	An Act for adopting a certain Act of Parliament passed in the third and fourth years of the reign of His present Majesty King William the Fourth, and applying the same in the administration of justice in New South Wales in like manner as other laws of England are applied therein.	The whole.
5 Vic. No. 9 ... 30	An Act for the further amendment of the law and for the better advancement of justice.	Sections 30, 39, 40, 41.
26 Vic. No. 12. 35	An Act to amend the Law of Property and further to relieve Trustees.	Sections 24, 36, and 71 (being the unrepealed sections).
47 Vic. No. 7 ...	Limitation of Actions for Trespass Act of 1884.	The unrepealed portion.

Sydney : William Applegate Gullick, Government Printer. —1917.

[ls. 4d.]

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REMARKS

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This PUBLIC BILL originated in the LEGISLATIVE COUNCIL, and, having this day passed, is now ready for presentation to the LEGISLATIVE ASSEMBLY for its concurrence.

Clerk of the Parliaments.
Legislative Council Chamber,
Sydney, September, 1917.

New South Wales.



ANNO OCTAVO

GEORGI V REGIS.

Act No. , 1917.

An Act to consolidate and amend the law with regard to the limitation of actions and suits.

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the "Statute of Limitations, 1917," and shall commence and come into operation on the first day of January, one thousand nine hundred and eighteen.

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2.

Statute of Limitations.

2. This Act shall not affect any proceedings pending at the commencement of this Act, or any proceedings commenced or taken within one year after the commencement of this Act. Saving clause.

5 3. The several enactments mentioned in the Schedule to this Act, to the extent therein expressed, are hereby repealed; but such repeal shall not be held to revive any principle, doctrine, or presumption of law, or any form of action which were by such enactments expressly
10 abolished. Repeal Schedule.

4. In the interpretation of this Act, unless the subject-matter or context otherwise indicates or requires,— Interpretation.

(a) "rent" shall extend to all services and suits for which a distress may be made, and to all annuities and periodical sums of money charged upon or payable out of any land; Rent. 3 & 4 Wm. IV, c. 27, s. 2.

(b) no part of the Commonwealth of Australia shall be deemed to be beyond the seas within the meaning of this Act in any case to which section eleven of the Service and Execution of Process Act, 1901-1912, applies, but in any other case every place outside New South Wales shall be deemed to be beyond the seas within the meaning of this Act. Beyond the seas.

(c) "Person of unsound mind" includes an insane person or patient, or incapable person within the meaning of the Lunacy Act, 1898.

5. (1) The provisions of this Act shall apply to judicial proceedings in all courts, and in the interpretation of this Act, unless the subject-matter or context otherwise indicates or requires, such proceedings shall be deemed to be included in the word "action." Proceedings in equity included. Ibid. s. 24.

(2) (a) In every case of a concealed fraud the right of any person to institute proceedings in equity, in respect of any claim of which he or any person through whom he claims has been deprived by such fraud, shall be deemed to have first accrued at the time at which such fraud has, or with reasonable diligence might have, been first known or discovered. Fraud. Ibid. s. 26.

(b) Nothing in this subsection shall enable the owner of any land or rent to institute proceedings in

Statute of Limitations.

in equity for the recovery of such land or rent or for setting aside any conveyance of such land or rent on account of fraud against any bona fide purchaser for valuable consideration without notice of such fraud.

5 (3) Nothing in this Act shall be deemed to interfere with any rule or jurisdiction of the Supreme Court in its equitable jurisdiction in refusing relief on the ground of acquiescence or otherwise to any person whose right to institute proceedings may not be barred
10 by virtue of this Act.

Saving the jurisdiction of equity in the case of acquiescence, &c.
Ibid. s. 27.

(4) Nothing in this Act shall limit the time within which cestuis que trustent may enforce their rights against trustees in the Supreme Court of New South Wales in its equitable jurisdiction.

Not to affect rights of cestuis que trustent as to time.

15 (5) Nothing in this Act shall affect the operation of any Statute in which—

Not to affect special statutory exceptions.

(a) the operation of this Act or any of the enactments hereby repealed is expressly excluded; or

9 Vic. No. 9, s. 39.

20 (b) the time is expressly limited for bringing any action or proceeding the right to which is given by such Statute.

6. (1) After the commencement of this Act, the following actions and proceedings shall be commenced within the respective times and limitations hereinafter
25 expressed and not after—

30 (a) actions or proceedings at law or in equity, to recover any sum of money secured by any mortgage, judgment, or lien, or otherwise charged upon or payable out of any land or rent; including the actions mentioned in paragraph (d) of this subsection but excluding the actions mentioned in paragraphs (i) and (k) of this section;

Money charged, &c.
3 & 4 Wm. IV, c. 27, s. 40.

(b) actions to recover from the executor or administrator with the will annexed any legacy;

Legacy.
3 & 4 Wm. IV, c. 27, s. 40.
37 & 38 Vic., c. 57, s. 8.

35 (c) actions to recover from the executor or administrator any share of the real or personal estate as to which any person dies intestate;

Share on intestacy.
26 Vic. No. 12, s. 36.

within twenty years :

(d)

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- (d) actions of covenant or debt upon any specialty ; Covenant, &c.
5 Vic. No. 9,
s. 39.
3 & 4 Wm. IV,
s. 42, s. 3.
- (e) actions of debt or scire facias upon any recog- Recognizance.
Ibid. s. 9.
nizance ;
within twelve years ;
- 5 (f) actions of trespass for injuries to the person, Trespass.
21 Jac. I,
c. 16, s. 3.
or to land or personal property (except those in
section seven of this Act specially mentioned) ;
- (g) actions of detinue, trover, replevin, and on the Detinue, &c.
Ibid. s. 3.
case other than actions for slander ;
- 10 (h) actions of account or for not accounting, Account.
Ibid. s. 3.
including suits for such accounts as concern 19 & 20 Vic.,
c. 97, s. 9.
the trade of merchandise between merchant
and merchant, their factors or servants,
where such actions are not founded upon any
specialty ;
- 15 (i) actions of debt grounded upon any lending or Simple
contract, &c.
21 Jac. I. c. 16,
s. 3.
contract without specialty ;
- (j) actions of debt upon any award where the Award.
5 Vic. No. 9,
s. 39.
submission is not by specialty or for money
20 levied under any writ of fieri facias ;
- (k) actions for arrears of rent or arrears of interest Arrears of
rent or
interest.
3 & 4 Wm. IV,
c. 27, s. 42.
in respect of any money charged upon or
payable out of any land or rent, or for damages
in respect of such arrears of rent or interest ;
- 25 (l) actions to recover any arrears of dower or any Ibid. ss. 41,
42.
arrears of interest in respect of any legacy, or
damages in respect of such arrears of dower or
interest ;
- (m) distress for arrears of rent, whether such rent Distress for
rent.
Ibid. s. 42.
is payable under specialty or not ;
30 within six years ;
- (n) actions of assault, menace, battery, wounding, Assault, &c.
21 Jac. I,
c. 16, s. 3.
and imprisonment ;
- (o) actions for penalties, damages, or sums of Penalties, &c.
5 Vic. No. 9,
s. 39.
35 money given to the party grieved by any law
now or hereafter to be in force ;
- (p) actions for slander ; Slander.
21 Jac. I,
c. 16, s. 3.
within one year ;

next

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next after the cause of action or right of distress has accrued, or (except in the case of paragraphs (f), (g), (n), (o), and (p) next after a written acknowledgment has been given to the person entitled thereto, or his agent, signed by the party liable, or his agent, or (except as aforesaid) next after part payment or satisfaction on account of the principal or interest due.

Acknowledgment and part payment.

3 & 4 Wm. IV.

c. 27, ss. 40, 42.

4 Wm. IV. No. 17

(adopting 9 Geo.

IV, c. 14, s. 1).

5 V.c. No. 9, s. 1.

19 & 20 Vic.

c. 97, s. 13.

(2) No endorsement or memorandum of any payment written or made upon any promissory note, bill of exchange, or other writing by or on behalf of the party to whom such payment is made shall be deemed sufficient proof of such payment, so as to take the case out of the operation of this Act.

Endorse-

ments of

payment.

9 Geo. IV,

c. 14, s. 3.

(3) No claim in respect of any matter arising more than six years before the commencement of any action for account or for not accounting as aforesaid shall be enforceable by action by reason only of some other matter of claim comprised in the same account having arisen within six years before the commencement of such action.

Accounts.

19 & 20 Vic.,

c. 97, s. 9.

(4) Where any prior mortgagee or encumbrancer has been in possession of any land or in receipt of the profits thereof within one year next before an action is brought by any person entitled to a subsequent mortgage or other encumbrance on the same land, the person entitled to such subsequent mortgage or encumbrance may recover the arrears of interest which have become due during the whole time that such prior mortgagee or encumbrancer was in such possession or receipt as aforesaid although such time has exceeded the term of six years hereinbefore mentioned.

Arrears of

rent or

interest.

3 & 4 Wm.

IV, c. 27,

s. 42.

(5) If in any of the said actions commenced within the time and limitation expressed therefor—

21 Jac. I,

c. 16, s. 4.

- (a) the plaintiff be nonsuited; or
- (b) a verdict pass for the plaintiff, and upon matter alleged in arrest of judgment, the judgment be given against the plaintiff that he take nothing by his plaint, writ, or claim; or
- (c) the plaintiff or the defendant dies,

the

Statute of Limitations.

the plaintiff, his executors, or administrators, as the case requires, may commence a new action or proceeding within a year after the nonsuit, or after the judgment given against the plaintiff, or after the grant of probate or letters of administration to the executors or administrators of the plaintiff or defendant, as the case may be, notwithstanding that the time and limitation expressed for commencing the action or proceeding may have then elapsed.

10 **7.** (1) In any action brought in respect of any trespass to land where the plaintiff's title to or possession of such land is not disputed by the defendant in his defence, the plaintiff shall not recover any damages for any act of trespass committed more than twelve months
15 before such action is commenced.

Trespass to land.
47 Vic. No. 7,
s. 2.

(2) Nothing in this section contained shall apply to any plaintiff who at the time when such act of trespass was committed was beyond the seas or under legal disability.

20 **8.** (1) If any person entitled to any such action, as is in section six hereof mentioned, is at the time the cause of action accrues or such acknowledgment, part payment, or satisfaction as aforesaid is made—

Disabilities.
Plaintiffs.
21 Jac. I, c. 16,
s. 7.
5 Vic. No. 9,
ss. 40, 41.
19 & 20 Vic.,
c. 97, s. 10.

(a) an infant; or

25 (b) a person of unsound mind,

then the time hereinbefore limited for bringing such action shall commence when such person is of full age, or has otherwise ceased to be under disability.

(2) If any person liable to any such action as aforesaid is beyond the seas at the time the cause of action accrues, or such acknowledgment, part payment, or satisfaction is made, then the time hereinbefore limited for bringing such action shall commence when such person returns from beyond the seas.

Disabilities.
Defendants.
4 & 5 Anne,
c. 16, s. 19.
5 Vic. No. 9,
ss. 40, 41.

35 **9.** In answer to a plea of this Act the plaintiff in any such action or proceeding may reply such acknowledgment or part payment, and that such action or proceeding was brought within such time as aforesaid.

Acknowledgment may be pleaded in reply.
Ibid. s. 41.

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10. (1) Where such cause of action with respect to which the period of limitation is fixed by this Act lies against two or more joint debtors, the person entitled to the same shall not be entitled to any time within
5 which to bring any such action against any of such joint debtors who is not beyond the seas at the time such cause of action accrues by reason only that some other of such joint debtors is at the time such cause of action accrues beyond the seas.

Period of limitation not to be extended against all joint debtors by reason of some being beyond the seas. 19 & 20 Vic., c. 97, s. 11.

10 (2) Such person so entitled as aforesaid shall not be barred from bringing any action against the joint debtor who is beyond the seas at the time the cause of action accrues, after his return from beyond the seas, by reason only that judgment has already been recovered
15 against any one of such joint debtors who was not beyond the seas at the time aforesaid.

11. (1) Where there are two or more co-contractors or co-debtors, whether liable jointly only or jointly and severally, or two or more executors or administrators
20 of any contractor or debtor, no such co-contractor or co-debtor, executor, or administrator shall lose the benefit of this Act so as to be chargeable in respect or by reason only of any written acknowledgment made and signed by any other of them, or his agent duly
25 authorised in that behalf, or in respect or by reason only of part payment or satisfaction made by any other of such co-contractors, co-debtors, executors, or administrators.

Co-contractors, co-executors, &c. 9 Geo. IV, c. 14, s. 1. 19 & 20 Vic., c. 97, ss. 13, 14.

(2) In actions commenced against two or more
30 such co-contractors, co-debtors, executors, or administrators, if it appears at the trial or otherwise that the plaintiff, though barred by this Act as to one or more of such co-contractors, co-debtors, executors, or administrators, is nevertheless entitled to recover against any
35 other of the defendants by virtue of a new acknowledgment or otherwise, judgment may be given and costs allowed for the plaintiff as to such defendants against whom he may recover, and for the other defendants against the plaintiff.

12. The foregoing provisions of this Act shall so far
40 as applicable be deemed to apply to the case of any debt or simple contract alleged by way of set off on the part of any defendant either by plea, notice, or otherwise.

Set off. 9 Geo. IV, c. 14, s. 4.

13.

Statute of Limitations.

13. (1) Actions of trespass or on the case may be maintained by executors or administrators for any injury to the real or personal estate of their testator or intestate committed in his lifetime and for which the testator or
 5 intestate himself might have maintained the like actions.

Actions by executors, &c.
 5 Vic. No. 9, s. 30.

(2) Such actions shall be brought within one year after the death of such testator or intestate, and shall be maintained only in respect of an injury committed within six months before such death.

To be brought within one year of death for injury to property committed within six months of death.

10 (3) The damages recovered in such actions shall form part of the deceased's personal estate.

Damages part of personal estate.

14. (1) Actions of trespass or on the case may be maintained against executors or administrators for any wrong committed by their testator or intestate to another
 15 in respect of his property, real or personal.

Actions against executors, &c.
 5 Vic. No. 9, s. 30.

(2) Every such action shall be brought within six months after such executors or administrators have taken on themselves the administration of the estate of the deceased, and shall be maintained only in respect of
 20 an injury committed within six months before his death.

(3) The damages recovered in any such action shall be payable in like order of administration as the deceased's debts.

15. (1) After the commencement of this Act no
 25 person claiming any land or rent shall make an entry, or distress, or bring an action to recover the same but within twenty years next after the time at which the right to make such entry or distress or to bring such
 30 action first accrued to him.

No land or rent to be recovered but within twenty years after the right of action accrued to the claimant or some person whose estate he claims.

(2) In all the succeeding sections of this Act, unless the context or subject-matter otherwise indicates
 30 or requires—

3 & 4 Wm. IV, c. 27, s. 2.

(a) the expression "such right" shall mean the right to make an entry, or distress, or bring an action to recover any land or rent ;

Interpretation.
 3 & 4 Wm. IV, c. 27, s. 1.

35 (b) the expression "enforce such right" shall mean make an entry, or distress, or bring an action to recover such land or rent ;

(c) a reference to a person entitled to or claiming any land or rent shall include any person by, through, under, or by the act of whom he became entitled to the estate, interest, or right
 40 claimed.

16.

Statute of Limitations.

16. Notwithstanding anything contained in this Act any person claiming under any mortgage of land may make an entry or bring an action to recover such land at any time within twenty years next after the last payment of any part of the principal money or interest secured by such mortgage although more than twenty years may have elapsed since the time at which such right first accrued.

Mortgaged
land.
26 Vic. No. 12,
s. 24.

17. In the construction of this Act such right shall, subject to the provisions of sections eighteen and nineteen hereof, be deemed to have first accrued at such times as are hereinafter mentioned respectively—

When right
deemed to have
accrued.
3 & 4 Wm. IV,
c. 27, s. 3.

(a) when the person claiming such land or rent has in respect of the estate or interest claimed been in possession or receipt of the profits of such land or in receipt of such rent, and has while entitled thereto been dispossessed or has discontinued such possession or receipt,

Estates in
possession ;

then at the time of such dispossession or discontinuance of possession or at the last time at which any such profits or rent were or was so received ;

on disposses-
sion ;

(b) when the person claiming such land or rent claims the estate or interest of some deceased person who has continued in such possession or receipt in respect of the same estate or interest until the time of his death, and has been the last person entitled to such estate or interest who has been in such possession or receipt,

on abatement
or death ;

then at the time of such death ;

(c) when the person claiming such land or rent claims in respect of an estate or interest in possession granted, appointed, or otherwise assured by any instrument (other than a will) to him by a person being in respect of the same estate or interest in the possession or receipt of the profits of the land or in the receipt of the rent, and no person entitled under such instrument has been in such possession or receipt,

on alienation ;

then

Statute of Limitations.

then at the time at which the person claiming as aforesaid became entitled to such possession or receipt by virtue of such instrument;

- 5 (d) when the estate or interest claimed has been an estate or interest in reversion or remainder or other future estate or interest, and no person has obtained the possession or receipt of the profits of such land or the receipt of such rent
10 in respect of such estate or interest,

then at the time at which such estate or interest became an estate or interest in possession;

- 15 (e) when the person claiming such land or rent has become entitled by reason of any forfeiture or breach of condition,

then at the time at which such forfeiture was incurred or such condition broken.

18. When such right by reason of any forfeiture or breach of condition has first accrued in respect of any estate or interest in reversion or remainder, and the land or rent has not been recovered by virtue of such right, such right shall be deemed to have first accrued in respect of such estate or interest at the time when the same has become an estate or interest in possession as if no such forfeiture or breach of condition had happened.

19. (1) Such right shall be deemed to have first accrued in respect of an estate or interest in reversion or remainder or other future estate or interest at the time at which the same has become an estate or interest in possession by the determination of any estate in respect of which such land has been held or the profits thereof or such rent has been received, notwithstanding the person claiming such land or rent may at any time previously to the creation of the estate which has determined have been in possession or receipt of the profits of such land or in receipt of such rent.

- (2) (a) If the person last entitled to any particular estate on which any future estate or interest was expectant was not in the possession or receipt of the profits

future estates;

forfeiture or breach.

Where advantage of forfeiture is not taken by remainderman he shall have a new right when his estate comes into possession.
3 & 4 Wm. IV, c. 27, s. 4.

Reversioner to have a new right.

3 & 4 Wm. IV, c. 27, s. 5.
37 & 38 Vic., c. 57, s. 2.

Statute of Limitations.

profits of such land, or in receipt of such rent, at the time when his interest determined, no such entry or distress shall be made, and no such action shall be brought by any person becoming entitled in possession to
 5 a future estate or interest, but within twenty years next after the time when such right first accrued to the person whose interest has so determined, or within ten years next after the time when the estate of the person becoming entitled in possession became vested in posses-
 10 sion, whichever of these two periods is the longer;

(b) and if such right of any person has been barred under this Act no person afterwards claiming to be entitled to the same land or rent in respect of any subsequent estate or interest under any deed, will, or
 15 settlement, executed or taking effect after the time when such right first accrued to the owner of the particular estate whose interest has so determined as aforesaid, shall enforce such right.

20. For the purposes of this Act an executor or
 20 administrator claiming the estate or interest of a testator or intestate shall be deemed to claim as if the grant of probate or administration, as the case may be, had been made at the date of the death of the testator or intestate.

Executor and administrator to claim as though no interval between the death and grant of probate or administration. See 3 & 4 Wm. IV, c. 27, s. 6.

21. (1) When any person is in possession or in
 25 receipt of the profits of any land or in receipt of any rent as tenant at will or tenant from year to year or other period without a lease in writing, such right of the person entitled subject to such tenancy shall be deemed to have first accrued—

Claim of tenant at will or for years. Ibid. ss. 7, 8.

30 (a) in the case of a tenant at will, at the determination of such tenancy, or at the expiration of one year next after the commencement of such tenancy, at which time such tenancy shall be deemed to have determined; and

35 (b) in the case of a tenant from year to year or other period without lease in writing, at the determination of the first of such years or other periods, or at the last time when any rent payable in respect of such tenancy has been received (which last happens).

40

(2)

Statute of Limitations.

(2) No mortgagor or cestui que trust shall be deemed to be a tenant at will within the meaning of this section to his mortgagee or trustee.

22. When any person is in possession or in receipt of the profits of any land or in receipt of any rent by virtue of a lease in writing by which a rent amounting to the yearly sum of twenty shillings or upwards is reserved, and the rent reserved by such lease has been received by some person wrongfully claiming to be entitled to such land or rent in reversion immediately expectant on the determination of such lease, and no payment in respect of the rent reserved by such lease has afterwards been made to the person rightfully entitled thereto, the right of the person entitled to such land or rent subject to such lease or of the person through whom he claims to make an entry or distress or to bring an action after the determination of such lease shall be deemed to have first accrued to the person rightfully entitled at the time at which the rent reserved by such lease was first so received by the person wrongfully claiming as aforesaid, and not upon the determination of such lease.

Accrual of right at time of first receipt of rent and not on determination of lease.

See 3 & 4 Wm. IV, c. 27, s. 9.

23. No person shall be deemed to have been in possession of any land within the meaning of this Act merely by reason of having made an entry thereon

Mere entry not to be deemed possession. *Ibid.* s. 10.

24. When one of several persons entitled to any land or rent as co-parceners, joint-tenants, or tenants-in-common has been in possession or receipt of the entirety or more than his undivided share of such land or of the profits thereof or of such rent for his own benefit or for the benefit of any person other than the persons entitled to the other shares, his possession or receipt shall not be deemed to have been the possession or receipt of or by such last-mentioned persons.

Possession of one co-parcener, &c., not to be possession of the others.

3 & 4 Wm. IV, c. 27, s. 12.

25. When any acknowledgment of the title of the person entitled to any land or rent has been given in writing to him or his agent, signed by the person in possession or in receipt of the profits of such land or in receipt of such rent, then such possession or receipt of or by the person by whom such acknowledgment has been given shall be deemed, according to the meaning of this

Acknowledgment in writing given to person entitled equivalent to possession.

Ibid. s. 14.

Act

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Act, to have been the possession or receipt of or by the person to whom or to whose agent such acknowledgment has been given at the time of giving the same, and such right of such last-mentioned person or any person claiming through him shall be deemed to have first accrued at the time at which such acknowledgment or the last of such acknowledgments, if more than one, was given.

26. (1) If at the time at which such right of any person first accrues as aforesaid such person is—

- 10 (a) an infant ; or
- (b) a person of unsound mind ;

then such person or the person claiming through him may, notwithstanding the period of twenty years or ten years (as the case may be) hereinbefore limited has 15 expired, enforce such right at any time within ten years next after the time at which the person to whom such right first accrued has ceased to be under any such disability, or died (which has first happened).

(2) Nothing in this section shall extend the 20 time within which any such person may enforce such right beyond thirty years from the time at which such right first accrued.

27. When any person is under any of the disabilities hereinbefore mentioned at the time at which such right 25 first accrues to him, and dies without having ceased to be under any such disability, no time to enforce such right, beyond the period of twenty years next after such right first accrued, or ten years next after the death of such person, shall be allowed by reason of 30 any disability of any other person.

28. When such right of any person in respect of any land or rent to which he has been entitled for an estate or interest in possession, has been barred by the determination of the period hereinbefore limited 35 applicable to his case, and such person has at any time during such period been entitled to any other estate, interest, right, or possibility in reversion, remainder, or otherwise in or to the same land or rent, such person, or any person claiming through him, shall 40 not enforce such right in respect of such other estate, interest, right, or possibility, unless in the meantime such

Persons under disability, &c., allowed ten years from the termination of the disability, &c
Ibid. s. 16.

Period after right accrues not to exceed thirty years.
Ibid. s. 17.
Ibid. s. 5.

No further time allowed for a succession of disabilities.
Ibid. s. 18.
37 & 38 Vic., c. 57, s. 5.

When right to estate in possession barred, right of same person to future estates also barred.
3 & 4 Wm. IV, c. 27, s. 20.

Statute of Limitations.

such land or rent has been recovered by some person entitled to an estate, interest, or right which has been limited or taken effect after or in defeasance of such estate or interest in possession.

- 5 **29.** When such right of a tenant-in-tail has been barred under the provisions of this Act, such bar shall also extend to such right of any person claiming any estate, interest, or right which such tenant-in-tail might lawfully have barred.
- 10 **30.** When a tenant-in-tail of any land or rent entitled to recover the same has died before the expiration of the period hereinbefore limited within which to enforce such right, no person claiming any estate, interest, or right which such tenant-in-tail might lawfully have barred shall enforce such right, but within the period during which if such tenant-in-tail had so long continued to live he might have enforced such right.
- 15 **31.** When a tenant-in-tail of any land or rent made an assurance thereof which does not operate to bar the estates to take effect after or in defeasance of his estate tail, and any person by virtue of such assurance at or subsequently to the time of the execution thereof is in possession or receipt of the profits of such land or in receipt of such rent, and the same person or any other person whatsoever (other than some person entitled to such possession or receipt in respect of an estate which has taken effect after or in defeasance of the estate tail) continues to be in such possession or receipt for the period of twenty years next after the commencement of the time at which such assurance if it had then been executed by such tenant-in-tail or the person who would have been entitled to his estate tail if such assurance had not been executed would without the consent of any other person have operated to bar such estates as aforesaid then at the expiration of such period of twenty years such assurance shall be and be deemed to have been effectual as against any person claiming any estate, interest, or right to take effect after or in defeasance of such estate tail.

Where tenant-in-tail barred, remainder man not to recover. *Ibid.* s. 21.

Possession adverse to tenant-in-tail to run on against remaindermen. *Ibid.* s. 22.

Where there has been possession under an assurance by tenant-in-tail which does not bar the remainders they shall be barred at the end of twenty years after the time when the assurance if then executed would have barred them. 3 & 4 Wm. IV. c. 27, s. 23.

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32. When any land or rent is vested in a trustee upon an express trust the right of the cestui que trust or any person claiming through him to bring a suit against the trustee or any person claiming through him to recover the same shall be deemed to have first accrued according to the meaning of this Act at the time at which such land or rent has been conveyed to a purchaser for valuable consideration and shall then be deemed to have accrued only against such purchaser and any person claiming through him.

Express trust.
3 & 4 Wm. IV,
c. 27, s. 25.

33. (1) When a mortgagee has obtained the possession or receipt of the profits of any land or the receipt of any rent comprised in his mortgage the mortgagor or any person claiming through him shall not, subject to the provisions hereinafter contained, bring a suit to redeem the mortgage, but within twenty years next after the time at which the mortgagee obtained such possession or receipt.

Mortgagor to be barred at the end of twenty years from the time when the mortgagee took possession, or from the last written acknowledgment.

(2) If in the meantime a written acknowledgment of the mortgagor's title or right of redemption has been given to the mortgagor or some person claiming his estate, or to the agent of such mortgagor or person signed by the mortgagee, or the person claiming through him, no such suit shall be brought, but within twenty years next after the time at which such acknowledgment, or the last of such acknowledgments, if more than one was given.

Ibid. s. 28.

(3) When there is more than one mortgagor or more than one person claiming through the mortgagor such acknowledgment, if given to any such mortgagors, or persons, or his or their agent, shall be as effectual as if the same had been given to all such mortgagors or persons.

(4) Where there is more than one mortgagee or more than one person claiming the estate or interest of the mortgagee such acknowledgment signed by one of such mortgagees or persons shall be effectual only as against the party signing as aforesaid and the persons claiming any part of the mortgage money or land or rent by or from or under him and any person entitled to any estate or interest to take effect after or in defeasance of his estate or interest and shall not operate to give to the mortgagor

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mortgagor a right to redeem the mortgage as against the person or persons entitled to any other undivided or divided part of the money or land or rent.

(5) Where such of the mortgagees or persons aforesaid, by whom such acknowledgment has been given, are entitled to a divided part of the land or rent comprised in the mortgage or some estate or interest therein and not to any ascertained part of the mortgage money, the mortgagor shall be entitled to redeem the same divided part of the land or rent on payment with interest of the part of the mortgage money which bears the same proportion to the whole of the mortgage money as the value of such divided part of the land or rent bears to the value of the whole of the land or rent comprised in the mortgage.

34. The right and title of any person to the land or rent for the recovery whereof such entry, distress, or action respectively might have been made or brought, shall be extinguished at the determination of the period limited by this Act within which to enforce such right.

Extinguishment of right of party out of possession.
3 & 4 Wm. IV, c. 27, s. 34.

35. The receipt of the rent payable by any tenant from year to year or other lessee shall as against such lessee or any person claiming under him (but subject to the lease) be deemed for the purpose of this Act to be the receipt of the profits of the land.

Receipt of rent to be deemed receipt of profits.
Ibid. s. 35.

36. Nothing in this Act shall affect the provisions of the Real Property Act, 1900.

Not to affect Real Property Act, 1900.

Statute of Limitations.

SCHEDULE.

Reference to Act.	Title or short title.	Extent of repeal.
21 Jac. I, c. 16 5	An Act for limitation of actions, &c.	Sections 3, 4, and 7 so far as they apply to New South Wales.
4 & 5 Anne, c. 16. 10	An Act for the amendment of the law and the better advancement of justice.	So much of section 19 as applies to New South Wales and does not apply to suits or actions for seamen's wages.
15 4 Wm. IV, No. 17. 20	An Act for adopting and applying a certain Act of Parliament for rendering a written memorandum necessary to the validity of certain promises and engagements.	So far as it adopts sections 1, 3, and 4 of 9 Geo. IV, c. 14.
8 Wm. IV, No. 3. 25	An Act for adopting a certain Act of Parliament passed in the third and fourth years of the reign of His present Majesty King William the Fourth, and applying the same in the administration of justice in New South Wales in like manner as other laws of England are applied therein.	The whole.
5 Vic. No. 9 ... 30	An Act for the further amendment of the law and for the better advancement of justice.	Sections 30, 39, 40, 41.
26 Vic. No. 12. 35	An Act to amend the Law of Property and further to relieve Trustees.	Sections 24, 36, and 71 (being the unrepealed sections).
47 Vic. No. 7...	Limitation of Actions for Trespass Act of 1884.	The unrepealed portion.

Legislative Council.

No. , 1917.

A BILL

To consolidate and amend the law with regard
to the limitation of actions and suits.

[MR. GARLAND;—8 August, 1917.]

(As for adoption of Report.)

BE it enacted by the King's Most Excellent Majesty,
by and with the advice and consent of the Legis-
lative Council and Legislative Assembly of New South
Wales in Parliament assembled, and by the authority of
5 the same, as follows:—

- 1.** This Act may be cited as the "Statute of Limita-
tions, 1917," and shall commence and come into opera-
tion on the first day of January, one thousand nine
hundred and eighteen. Short title.
- 10 **2.** This Act shall not affect any proceedings pending
at the commencement of this Act, or any proceedings
commenced or taken within one year after the com-
mencement of this Act. Saving clause.

Repeal
Schedule.

3. The several enactments mentioned in the Schedule to this Act, to the extent therein expressed, are hereby repealed; but such repeal shall not be held to revive any principle, doctrine, or presumption of law, or any form of action which were by such enactments expressly abolished. 5

Interpreta-
tion.

4. In the interpretation of this Act, unless the subject-matter or context otherwise indicates or requires,—

Rent.
3 & 4 Wm.
IV, c. 27, s. 2.

(a) "rent" shall extend to all services and suits for which a distress may be made, and to all annuities and periodical sums of money charged upon or payable out of any land;

Beyond the
seas.

(b) no part of the Commonwealth of Australia shall be deemed to be beyond the seas within the meaning of this Act. 15

(c) "Person of unsound mind" includes an insane person or patient, or incapable person within the meaning of the Lunacy Act, 1898.

Proceedings
in equity
included.
Ibid. s. 24.

5. (1) The provisions of this Act shall apply to judicial proceedings in all courts, and in the interpretation of this Act, unless the subject-matter or context otherwise indicates or requires, such proceedings shall be deemed to be included in the word "action." 20

Fraud.
Ibid. s. 26.

(2) (a) In every case of a concealed fraud the right of any person to institute proceedings in equity, in respect of any claim of which he or any person through whom he claims has been deprived by such fraud, shall be deemed to have first accrued at the time at which such fraud has, or with reasonable diligence might have, been first known or discovered. 30

(b) Nothing in this subsection shall enable the owner of any land or rent to institute proceedings in equity for the recovery of such land or rent or for setting aside any conveyance of such land or rent on account of fraud against any bona fide purchaser for valuable consideration without notice of such fraud. 35

Saving the
jurisdiction
of equity in
the case of
acquiescence,
&c.
Ibid. s. 27.

(3) Nothing in this Act shall be deemed to interfere with any rule or jurisdiction of the Supreme Court in its equitable jurisdiction in refusing relief on the ground of acquiescence or otherwise to any person whose right to institute proceedings may not be barred by virtue of this Act. 40 (5)

- (4) Nothing in this Act shall affect the operation of any Statute in which—
- (a) the operation of this Act or any of the enactments hereby repealed is expressly excluded; or
- 5 (b) the time is expressly limited for bringing any action or proceeding the right to which is given by such Statute.
6. (1) After the commencement of this Act, the following actions and proceedings shall be commenced
- 10 within the respective times and limitations hereinafter expressed and not after—
- (a) actions of covenant or debt upon any speciality; Covenant, &c. 5 Vic. No. 9, s. 39. 3 & 4 Wm. IV, c. 42, s. 3.
- 15 (b) actions of debt or scire facias upon any recognizance; Recognizance. Ibid. s. 9.
- (c) actions or proceedings to recover any sum of money secured by any mortgage, judgment, or lien, or otherwise charged upon or payable out of any land or rent at law or in equity, excluding the actions mentioned in paragraph
- 20 (i) of this subsection; Money charged, &c. 3 & 4 Wm. IV, c. 27, s. 40. 37 & 38 Vic., c. 57, s. 8.
- (d) actions to recover from the executor or administrator with the will annexed any legacy; Legacy. 3 & 4 Wm. IV, c. 27, s. 40. 37 & 38 Vic., c. 57, s. 8.
- 25 (e) actions to recover from the executor or administrator any share of the real or personal estate as to which any person dies intestate; Share on intestacy. 26 Vic. No. 12, s. 36.
- within twelve years;
- (f) actions of trespass for injuries to the person, or to land or personal property (except those in section seven of this Act specially mentioned);
- 30 (g) actions of detinue, trover, replevin, and on the case other than actions for slander; Trespass. 21 Jac. I, c. 16, s. 3. Detinue, &c. Ibid. s. 3.
- (h) actions of account or for not accounting, including suits for such accounts as concern
- 35 the trade of merchandise between merchant and merchant, their factors or servants, where such actions are not founded upon any speciality; Account. Ibid. s. 3. 19 & 20 Vic., c. 97, s. 9.
- (i) actions of debt grounded upon any lending or contract without speciality; Simple contract, &c. 21 Jac. I, c. 16, s. 3.
- 40 (j)

- Award. (j) actions of debt upon any award where the submission is not by specialty or for money levied under any writ of fieri facias; 5
- 5 Vic. No. 9, s. 39.
- Arrears of rent or interest. (k) actions for arrears of rent or arrears of interest in respect of any money charged upon or payable out of any land or rent, or for damages in respect of such arrears of rent or interest, where such rent or interest is not payable under any specialty; 5
- 3 & 4 Wm. IV, c. 27, s. 42.
- Ibid.* ss. 41, 42. (l) actions to recover any arrears of dower or any arrears of interest in respect of any legacy, or damages in respect of such arrears of dower or interest; 10
- Distress for rent. (m) distress for arrears of rent, whether such rent is payable under specialty or not; 15
- Ibid.* s. 42. within six years;
- Assault, &c. (n) actions of assault, menace, battery, wounding, and imprisonment;
- 21 Jac. 1, c. 16, s. 3.
- Penalties, &c. (o) actions for penalties, damages, or sums of money given to the party grieved by any law now or hereafter to be in force; 20
- 5 Vic. No. 9, s. 39.
- Slander. (p) actions for slander; within one year;
- 21 Jac. 1, c. 16, s. 3.
- Acknowledgment and part payment. next after the cause of action or right of distress has accrued, or (except in the case of paragraphs (f), (g), (n), (o), and (p) next after a written acknowledgment has been given to the person entitled thereto, or his agent, signed by the party liable, or his agent, or (except as aforesaid) next after part payment or satisfaction on account of the principal or interest due. 25
- 3 & 4 Wm. IV, c. 27, ss. 40, 42.
- 4 Wm. IV, No. 17 (adopting 9 Geo. IV, c. 14, s. 1).
- 5 Vic. No. 9, s. 1.
- 19 & 20 Vic., c. 97, s. 13. 30
- Endorsements of payment. (2) No endorsement or memorandum of any payment written or made upon any promissory note, bill of exchange, or other writing by or on behalf of the party to whom such payment is made shall be deemed sufficient proof of such payment, so as to take the case out of the operation of this Act. 35
- 9 Geo. IV, c. 14, s. 3.
- Accounts. (3) No claim in respect of any matter arising more than six years before the commencement of any action for account or for not accounting as aforesaid shall be enforceable by action by reason only of some other matter of claim comprised in the same account having arisen within six years before the commencement of such action. 40
- 19 & 20 Vic., c. 97, s. 9. (4)

(4) Where any prior mortgagee or encumbrancer has been in possession of any land or in receipt of the profits thereof within one year next before an action is brought by any person entitled to a subsequent mortgage or other encumbrance on the same land, the person entitled to such subsequent mortgage or encumbrance may recover the arrears of interest which have become due during the whole time that such prior mortgagee or encumbrancer was in such possession or receipt as aforesaid although such time has exceeded the term of six years hereinbefore mentioned.

Arrears of
rent or
interest.
3 & 4 Wm.
IV, c 27,
s. 42.

(5) If any of the said actions commenced within the time and limitation expressed therefor:—

21 Jac. I,
c. 16, s. 4.

- (a) the plaintiff be nonsuited; or
- (b) a verdict pass for the plaintiff, and upon matter alleged in arrest of judgment, the judgment be given against the plaintiff that he take nothing by his plaint, writ, or claim; or
- (c) the plaintiff or the defendant dies,

the plaintiff, his executors, or administrators, as the case requires, may commence a new action or proceeding within a year after the nonsuit, or after the judgment given against the plaintiff, or after the grant of probate or letters of administration to the executors or administrators of the plaintiff or defendant, as the case may be, notwithstanding that the time and limitation expressed for commencing the action or proceeding may have then elapsed.

7. (1) In any action brought in respect of any trespass to land where the plaintiff's title to or possession of such land is not disputed by the defendant in his defence, the plaintiff shall not recover any damages for any act of trespass committed more than twelve months before such action is commenced.

Trespass to
land.
47 Vic. No. 7,
s. 2.

(2) Nothing in this section contained shall apply to any plaintiff who at the time when such act of trespass was committed was beyond the seas or under legal disability.

8. (1) If any person entitled to any such action, as is in section six hereof mentioned, is at the time the cause of action accrues or such acknowledgment, part payment, or satisfaction as aforesaid is made—

Disabilities.
Plaintiffs.
21 Jac. I, c. 16,
s. 7.
5 Vic. No. 9,
ss. 40, 41.
19 & 20 Vic.,
c. 9, s. 10.

(a) an infant; or

(b)

(b) a person of unsound mind, then the time heretofore limited for bringing such action shall commence when such person is of full age, or has otherwise ceased to be under disability.

Disabilities.

Defendants.

4 & 5 Anne,

c. 16, s. 19.

5 Vic. No. 9,

ss. 40, 41.

Acknowledg-
ment may be
pleaded in
reply.

Ibid. s. 41.

Period of limita-
tion not to be
extended against
all joint debtors
by reason of
some being
beyond the seas.
19 & 20 Vic., c.
97, s. 11.

Co-contrac-
tors, co-
executors, &c.
9 Geo. IV,
c. 14, s. 1.
19 & 20 Vic.,
c. 97, ss. 13,
14.

(2) If any person liable to any such action as aforesaid is beyond the seas at the time the cause of action accrues, or such acknowledgment, part payment, or satisfaction is made, then the time heretofore limited for bringing such action shall commence when such person returns from beyond the seas. 5 10

9. In answer to a plea of this Act the plaintiff in any such action or proceeding may reply such acknowledgment or part payment, and that such action or proceeding was brought within such time as aforesaid.

10. (1) Where such cause of action with respect to which the period of limitation is fixed by this Act lies against two or more joint debtors, the person entitled to the same shall not be entitled to any time within which to bring any such action against any of such joint debtors who is not beyond the seas at the time such cause of action accrues by reason only that some other of such joint debtors is at the time such cause of action accrues beyond the seas. 15 20

(2) Such person so entitled as aforesaid shall not be barred from bringing any action against the joint debtor who is beyond the seas at the time the cause of action accrues, after his return from beyond the seas, by reason only that judgment has already been recovered against any one of such joint debtors who was not beyond the seas at the time aforesaid. 25 30

11. (1) Where there are two or more co-contractors or co-debtors, whether liable jointly only or jointly and severally, or two or more executors or administrators of any contractor or debtor, no such co-contractor or co-debtor, executor, or administrator shall lose the benefit of this Act so as to be chargeable in respect or by reason only of any written acknowledgment made and signed by any other of them, or his agent duly authorised in that behalf, or in respect or by reason only of part payment or satisfaction made by any other of such co-contractors, co-debtors, executors, or administrators. 35 40

(2)

(2) In actions commenced against two or more such co-contractors, co-debtors, executors, or administrators, if it appears at the trial or otherwise that the plaintiff, though barred by this Act as to one or more of
5 such co-contractors, co-debtors, executors, or administrators, is nevertheless entitled to recover against any other of the defendants by virtue of a new acknowledgment or otherwise, judgment may be given and costs allowed for the plaintiff as to such defendants against
10 whom he may recover, and for the other defendants against the plaintiff.

12. The foregoing provisions of this Act shall so far as applicable be deemed to apply to the case of any debt or simple contract alleged by way of set off on the part
15 of any defendant either by plea, notice, or otherwise.

Set off.
9 Geo. IV,
c. 14, s. 4.

13. (1) Actions of trespass or on the case may be maintained by executors or administrators for any injury to the real or personal estate of their testator or intestate committed in his lifetime and for which the testator or
20 intestate himself might have maintained the like actions.

Actions by
executors, &c.
5 Vic. No. 9,
s. 30.

(2) Such actions shall be brought within one year after the death of such testator or intestate, and shall be maintained only in respect of an injury committed within six months before such death.

To be brought
within one year
of death for in-
jury to real es-
tate committed
within six
months of death.

(3) The damages recovered in such actions shall form part of the deceased's personal estate.

Damages part of
personal estate.

14. (1) Actions of trespass or on the case may be maintained against executors or administrators for any wrong committed by their testator or intestate to another
30 in respect of his property, real or personal.

Actions
against execu-
tors, &c.
5 Vic. No. 9,
s. 30.

(2) Every such action shall be brought within six months after such executors or administrators have taken on themselves the administration of the estate of the deceased, and shall be maintained only in respect of
35 an injury committed within six months before his death.

(3) The damages recovered in any such action shall be payable in like order of administration as the deceased's debts.

15. (1) After the commencement of this Act no person claiming any land or rent shall make an entry, or distress, or bring an action to recover the same but within twenty years next after the time at which the right to make such entry or distress or to bring such
40 action first accrued to him.

No land or rent
to be recovered
but within
twenty years
after the right
of action accrued
to the claimant
or some person
whose estate he
claims.

(2)
3 & 4 Wm. IV,
c. 27, s. 2.
37 & 38 Vic.,
c. 57, s. 1.

Interpretation,
3 & 4 Wm. IV,
c. 27, s. 1.

(2) In all the succeeding sections of this Act, unless the context or subject-matter otherwise indicates or requires—

- (a) the expression “such right” shall mean the right to make an entry, or distress, or bring an action to recover any land or rent; 5
- (b) the expression “enforce such right” shall mean make an entry, or distress, or bring an action to recover such land or rent;
- (c) a reference to a person entitled to or claiming any land or rent shall include any person by, through, under, or by the act of whom he became entitled to the estate, interest, or right claimed. 10

Mortgaged
land.
26 Vic. No. 13,
s. 24.
37 & 38 Vic.,
c. 57, s. 9.

16. Notwithstanding anything contained in this Act any person claiming under any mortgage of land may make an entry or bring an action to recover such land at any time within twenty years next after the last payment of any part of the principal money or interest secured by such mortgage although more than twenty years may have elapsed since the time at which such right first accrued. 15 20

When right
deemed to have
accrued.
3 & 4 Wm. IV,
c. 27, s. 3.

17. In the construction of this Act such right shall, subject to the provisions of sections eighteen and nineteen hereof, be deemed to have first accrued at such times as are hereinafter mentioned respectively—

Estates in
possession;

- (a) when the person claiming such land or rent has in respect of the estate or interest claimed been in possession or receipt of the profits of such land or in receipt of such rent, and has while entitled thereto been dispossessed or has discontinued such possession or receipt, then at the time of such dispossession or discontinuance of possession or at the last time at which any such profits or rent were or was so received; 30 35

on dispossession;

on abatement
or death;

- (b) when the person claiming such land or rent claims the estate or interest of some deceased person who has continued in such possession or receipt in respect of the same estate or interest until 40

until the time of his death, and has been the last person entitled to such estate or interest who has been in such possession or receipt, then at the time of such death ;

- 5 (c) when the person claiming such land or rent on alienation ;
claims in respect of an estate or interest in possession granted, appointed, or otherwise assured by any instrument (other than a will) to him by a person being in respect of the same estate or interest in the possession or receipt of the profits of the land or in the receipt of the rent, and no person entitled under such instrument has been in such possession or receipt,
10 then at the time at which the person claiming as aforesaid became entitled to such possession or receipt by virtue of such instrument ;
- 15 (d) when the estate or interest claimed has been future estates ;
an estate or interest in reversion or remainder or other future estate or interest, and no person has obtained the possession or receipt of the profits of such land or the receipt of such rent in respect of such estate or interest,
20 then at the time at which such estate or interest became an estate or interest in possession ;
- 25 (e) when the person claiming such land or rent forfeiture or breach.
has become entitled by reason of any forfeiture or breach of condition,
30 then at the time at which such forfeiture was incurred or such condition broken.

18. When such right by reason of any forfeiture or breach of condition has first accrued in respect of any estate or interest in reversion or remainder, and the land or rent has not been recovered by virtue of such right, such right shall be deemed to have first accrued in respect of such estate or interest at the time when the same has become an estate or interest in possession as if no such forfeiture or breach of condition had happened.

19. Where advantage of forfeiture is not taken by remainder, man he shall have a new right when his estate comes into possession.
3 & 4
Wm. IV,
c. 27, s. 4.

Reversioner
to have a new
right.
3 & 4
Wm. IV,
c. 27, s. 5.
37 & 38 Vic.,
c. 57, s. 2.

19. (1) Such right shall be deemed to have first accrued in respect of an estate or interest in reversion or remainder or other future estate or interest at the time at which the same has become an estate or interest in possession by the determination of any estate in respect of which such land has been held or the profits thereof or such rent has been received, notwithstanding the person claiming such land or rent may at any time previously to the creation of the estate which has determined have been in possession or receipt of the profits of such land or in receipt of such rent. 5

(2) (a) If the person last entitled to any particular estate on which any future estate or interest was expectant was not in the possession or receipt of the profits of such land, or in receipt of such rent, at the time when his interest determined, no such entry or distress shall be made, and no such action shall be brought by any person becoming entitled in possession to a future estate or interest, but within twenty years next after the time when such right first accrued to the person whose interest has so determined, or within ten years next after the time when the estate of the person becoming entitled in possession became vested in possession, whichever of these two periods is the longer; 20

(b) and if such right of any person has been barred under this Act no person afterwards claiming to be entitled to the same land or rent in respect of any subsequent estate or interest under any deed, will, or settlement, executed or taking effect after the time when such right first accrued to the owner of the particular estate whose interest has so determined as aforesaid, shall enforce such right. 25 30

Executor and
administrator to
claim as though
no interval
between the
death and grant
of probate or
administration.
Sec 3 & 4
Wm. IV, c. 27,
s. 6.

20. For the purposes of this Act an executor or administrator claiming the estate or interest of a testator or intestate shall be deemed to claim as if the grant of probate or administration, as the case may be, had been made at the date of the death of the testator or intestate. 35

Claim of
tenant at will
or for years.
Ibid. ss. 7, 8.

21. (1) When any person is in possession or in receipt of the profits of any land or in receipt of any rent as tenant at will or tenant from year to year or other 40

other period without a lease in writing, such right of the person entitled subject to such tenancy shall be deemed to have first accrued—

5 (a) in the case of a tenant at will, at the determination of such tenancy, or at the expiration of one year next after the commencement of such tenancy, at which time such tenancy shall be deemed to have determined; and

10 (b) in the case of a tenant from year to year or other period without lease in writing, at the determination of the first of such years or other periods, or at the last time when any rent payable in respect of such tenancy has been received (which last happens).

15 (2) No mortgagor or cestui que trust shall be deemed to be a tenant at will within the meaning of this section to his mortgagee or trustee.

22. When any person is in possession or in receipt of the profits of any land or in receipt of any rent by virtue of a lease in writing by which a rent amounting to the yearly sum of twenty shillings or upwards is reserved, and the rent reserved by such lease has been received by some person wrongfully claiming to be entitled to such land or rent in reversion immediately expectant on the determination of such lease, and no payment in respect of the rent reserved by such lease has afterwards been made to the person rightfully entitled thereto, the right of the person entitled to such land or rent subject to such lease or of the person through whom he claims to make an entry or distress or to bring an action after the determination of such lease shall be deemed to have first accrued to the person rightfully entitled at the time at which the rent reserved by such lease was first so received by the person wrongfully claiming as aforesaid, and not upon the determination of such lease.

Accrual of right at time of first receipt of rent and not on determination of lease.

See 3 & 4 Wm. IV. c. 27, s. 9.

23. No person shall be deemed to have been in possession of any land within the meaning of this Act merely by reason of having made an entry thereon.

Mere entry not to be deemed possession. *Ibid.* 9.

Possession of one co-parcener, &c., not to be possession of the others.
3 & 4 Wm. IV, c. 27, s. 12.

24. When one of several persons entitled to any land or rent as co-parceners, joint-tenants, or tenants-in-common has been in possession or receipt of the entirety or more than his undivided share of such land or of the profits thereof or of such rent for his own benefit or for the benefit of any person other than the persons entitled to the other shares, his possession or receipt shall not be deemed to have been the possession or receipt of or by such last-mentioned persons. 5

Acknowledgment in writing given to person entitled equivalent to possession.
Ibid. s. 14.

25. When any acknowledgment of the title of the person entitled to any land or rent has been given in writing to him or his agent, signed by the person in possession or in receipt of the profits of such land or in receipt of such rent, then such possession or receipt of or by the person by whom such acknowledgment has been given shall be deemed, according to the meaning of this Act, to have been the possession or receipt of or by the person to whom or to whose agent such acknowledgment has been given at the time of giving the same, and such right of such last-mentioned person or any person claiming through him shall be deemed to have first accrued at the time at which such acknowledgment or the last of such acknowledgments, if more than one, was given. 10 15 20

Persons under disability, &c., allowed ten years from the termination of the disability, &c.
Ibid. s. 16.
37 & 38 Vic., c. 57, ss. 3, 4.

26. (1) If at the time at which such right of any person first accrues as aforesaid such person is— 25
(a) an infant; or
(b) a person of unsound mind;
then such person or the person claiming through him may, notwithstanding the period of twenty years or ten years (as the case may be) hereinbefore limited has expired, enforce such right at any time within ten years next after the time at which the person to whom such right first accrued has ceased to be under any such disability, or died (which has first happened). 30

Period after right accrues not to exceed thirty years.
Ibid. s. 17.
Ibid. s. 5.

(2) Nothing in this section shall extend the time within which any such person may enforce such right beyond thirty years from the time at which such right first accrued. 35

No further time allowed for a succession of disabilities.
Ibid. s. 18.
Ibid. s. 9.

27. When any person is under any of the disabilities hereinbefore mentioned at the time at which such right first accrues to him, and dies without having ceased to be 40 be

be under any such disability, no time to enforce such right, beyond the period of twelve years next after such right first accrued, or six years next after the death of such person, shall be allowed by reason of any disability
5 of any other person.

28. When such right of any person in respect of any land or rent to which he has been entitled for an estate or interest in possession, has been barred by the determination of the period hereinbefore limited
10 applicable to his case, and such person has at any time during such period been entitled to any other estate, interest, right, or possibility in reversion, remainder, or otherwise in or to the same land or rent, such person, or any person claiming through him, shall
15 not enforce such right in respect of such other estate, interest, right, or possibility, unless in the meantime such land or rent has been recovered by some person entitled to an estate, interest, or right which has been limited or taken effect after or in defeasance of such
20 estate or interest in possession.

When right to estate in possession barred, right of same person to future estates also barred.
3 & 4 Wm. IV, c. 27, s. 20.

29. When such right of a tenant-in-tail has been barred under the provisions of this Act, such bar shall also extend to such right of any person claiming any estate, interest, or right which such tenant-in-tail might law-
25 fully have barred.

Where tenant-in-tail barred, remainder man not to recover.
Ibid. s. 21.

30. When a tenant-in-tail of any land or rent entitled to recover the same has died before the expiration of the period hereinbefore limited within which to enforce such right, no person claiming any
30 estate, interest, or right which such tenant-in-tail might lawfully have barred shall enforce such right, but within the period during which if such tenant-in-tail had so long continued to live he might have enforced such right.

Possession adverse to tenant-in-tail to run on against remaindermen.
Ibid. s. 22.

31. When a tenant-in-tail of any land or rent has made an assurance thereof which does not operate to bar the estates to take effect after or in defeasance of his estate tail, and any person by virtue of such assurance at or subsequently to the time of the execution thereof
40 is in possession or receipt of the profits of such land or in receipt of such rent, and the same person or any other

Where there has been possession under an assurance by tenant-in-tail which does not bar the remainders they shall be

barred at the end of twenty years after the time when the assurance if then executed would have barred them.
3 & 4 Wm. IV, c. 27, s. 23.
37 & 38 Vic., c. 57, s. 6.

other person whatsoever (other than some person entitled to such possession or receipt in respect of an estate which has taken effect after or in defeasance of the estate tail) continues to be in such possession or receipt for the period of twenty years next after the commencement of the time at which such assurance if it had then been executed by such tenant-in-tail or the person who would have been entitled to his estate tail if such assurance had not been executed would without the consent of any other person have operated to bar such estates as aforesaid then at the expiration of such period of twenty years such assurance shall be and be deemed to have been effectual as against any person claiming any estate, interest, or right to take effect after or in defeasance of such estate tail.

Express trust.
3 & 4 Wm. IV, c. 27, s. 25.

32. When any land or rent is vested in a trustee upon an express trust the right of the cestui que trust or any person claiming through him to bring a suit against the trustee or any person claiming through him to recover the same shall be deemed to have first accrued according to the meaning of this Act at the time at which such land or rent has been conveyed to a purchaser for valuable consideration and shall then be deemed to have accrued only against such purchaser and any person claiming through him.

Mortgagor to be barred at the end of twenty years from the time when the mortgagee took possession, or from the last written acknowledgment.

Ibid. s. 28.
37 & 38 Vic, c. 57, s. 7.

33. (1) When a mortgagee has obtained the possession or receipt of the profits of any land or the receipt of any rent comprised in his mortgage the mortgagor or any person claiming through him shall not, subject to the provisions hereinafter contained, bring a suit to redeem the mortgage, but within twenty years next after the time at which the mortgagee obtained such possession or receipt.

(2) If in the meantime a written acknowledgment of the mortgagor's title or right of redemption has been given to the mortgagor or some person claiming his estate, or to the agent of such mortgagor or person signed by the mortgagee, or the person claiming through him, no such suit shall be brought, but within twenty years next after the time at which such acknowledgment, or the last of such acknowledgments, if more than one was given.

(3)

(3) When there is more than one mortgagor or more than one person claiming through the mortgagor such acknowledgment, if given to any such mortgagors, or persons, or his or their agent, shall be as effectual as if
5 the same had been given to all such mortgagors or persons.

(4) Where there is more than one mortgagee or more than one person claiming the estate or interest of the mortgagee such acknowledgment signed by one of
10 such mortgagees or persons shall be effectual only as against the party signing as aforesaid and the persons claiming any part of the mortgage money or land or rent by from or under him and any person entitled to any estate
15 estate or interest and shall not operate to give to the mortgagor a right to redeem the mortgage as against the person or persons entitled to any other undivided or divided part of the money or land or rent.

(5) Where such of the mortgagees or persons
20 aforesaid, by whom such acknowledgment has been given, are entitled to a divided part of the land or rent comprised in the mortgage or some estate or interest therein and not to any ascertained part of the mortgage money, the mortgagor shall be entitled to redeem the
25 same divided part of the land or rent on payment with interest of the part of the mortgage money which bears the same proportion to the whole of the mortgage money as the value of such divided part of the land or rent bears to the value of the whole of the land or rent
30 comprised in the mortgage.

34. The right and title of any person to the land or rent for the recovery whereof such entry, distress, or action respectively might have been made or brought, shall be extinguished at the determination of the period
35 limited by this Act within which to enforce such right.

Extinguishment of right of party out of possession.
3 & 4 Wm. IV, c. 27, s. 34.

35. The receipt of the rent payable by any tenant from year to year or other lessee shall as against such lessee or any person claiming under him (but subject to the lease) be deemed for the purpose of this Act to be
40 the receipt of the profits of the land.

Receipt of rent to be deemed receipt of profits.
Ibid. s. 35.

36. Nothing in this Act shall affect the provisions of the Real Property Act, 1900.

Not to affect Real Property Act, 1900.

SCHEDULE.

Reference to Act.	Title or short title.	Extent of repeal.
21 Jac. I, c. 16	An Act for limitation of actions, &c.	Sections 3 and 7 so far as they apply to New South Wales. 5
4 & 5 Anne, c. 16.	An Act for the amendment of the law and the better advancement of justice.	So much of section 19 as applies to New South Wales and does not apply to suits or actions for seamen's wages. 10
4 Wm. IV, No. 17.	An Act for adopting and applying a certain Act of Parliament for rendering a written memorandum necessary to the validity of certain promises and engagements.	So far as it adopts sections 1, 3, and 4 of 9 Geo. IV, c. 14. 15
8 Wm. IV, No. 3.	An Act for adopting a certain Act of Parliament passed in the third and fourth years of the reign of His present Majesty King William the Fourth, and applying the same in the administration of justice in New South Wales in like manner as other laws of England are applied therein.	The whole. 20
5 Vic. No. 9 ...	An Act for the further amendment of the law and for the better advancement of justice.*	Sections 30, 39, 40, 41. 25
26 Vic. No. 12.	An Act to amend the Law of Property and further to relieve Trustees.	Sections 24, 36, and 71 (being the unrepealed sections). 30
47 Vic. No. 7...	Limitation of Actions for Trespass Act of 1884.	The unrepealed portion. 35

Legislative Council.

No. , 1917.

A BILL

To consolidate and amend the law with regard to the limitation of actions and suits.

[MR. GARLAND;—8 August, 1917.]

(Amendments made in Committee of the Whole House.)

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the "Statute of Limitations, 1917," and shall commence and come into operation on the first day of January, one thousand nine hundred and eighteen. Short title.

2. This Act shall not affect any proceedings pending at the commencement of this Act, or any proceedings commenced or taken within one year after the commencement of this Act. Saving clause.

3949

C 9—

3.

NOTE.—The words *omitted* are ruled through, and the words *inserted* are underlined.

Repeal
Schedule.

3. The several enactments mentioned in the Schedule to this Act, to the extent therein expressed, are hereby repealed; but such repeal shall not be held to revive any principle, doctrine, or presumption of law, or any form of action which were by such enactments expressly abolished. 5

Interpreta-
tion.

4. In the interpretation of this Act, unless the subject-matter or context otherwise indicates or requires,—

Rent.

3 & 4 Wm.
IV, c. 27, s. 2.

(a) "rent" shall extend to all services and suits for which a distress may be made, and to all 10 annuities and periodical sums of money charged upon or payable out of any land;

Beyond the
seas.

(b) no part of the Commonwealth of Australia shall be deemed to be beyond the seas within the meaning of this Act in any case to which 15 section eleven of the Service and Execution of Process Act, 1901-1912, applies, but in any other case every place outside New South Wales shall be deemed to be beyond the seas within the meaning of this Act. 20

(c) "Person of unsound mind" includes an insane person or patient, or incapable person within the meaning of the Lunacy Act, 1898.

Proceedings
in equity
included.

Ibid. s. 24.

5. (1) The provisions of this Act shall apply to 25 judicial proceedings in all courts, and in the interpretation of this Act, unless the subject-matter or context otherwise indicates or requires, such proceedings shall be deemed to be included in the word "action."

Fraud.

Ibid. s. 26.

(2) (a) In every case of a concealed fraud the right of any person to institute proceedings in equity, in 30 respect of any claim of which he or any person through whom he claims has been deprived by such fraud, shall be deemed to have first accrued at the time at which such fraud has, or with reasonable diligence might have, been first known or discovered. 35

(b) Nothing in this subsection shall enable the owner of any land or rent to institute proceedings in equity for the recovery of such land or rent or for setting aside any conveyance of such land or rent on account of fraud against any bona fide purchaser for 40 valuable consideration without notice of such fraud.

(3)

(3) Nothing in this Act shall be deemed to interfere with any rule or jurisdiction of the Supreme Court in its equitable jurisdiction in refusing relief on the ground of acquiescence or otherwise to any person whose right to institute proceedings may not be barred by virtue of this Act.

Saving the jurisdiction of equity in the case of acquiescence, &c.
Ibid. s. 27.

(4) Nothing in this Act shall limit the time within which cestuis que trustent may enforce their rights against trustees in the Supreme Court of New South Wales in its equitable jurisdiction.

Not to affect rights of cestuis que trustent as to time.

(4) (5) Nothing in this Act shall affect the operation of any Statute in which—
(a) the operation of this Act or any of the enactments hereby repealed is expressly excluded; or
(b) the time is expressly limited for bringing any action or proceeding the right to which is given by such Statute.

Not to affect special statutory exceptions.
9 Vic. No. 9, s. 39.

6. (1) After the commencement of this Act, the following actions and proceedings shall be commenced within the respective times and limitations hereinafter expressed and not after—

(a) ~~actions of covenant or debt upon any specialty;~~
(b) ~~actions of debtor scire facias upon any recognizance;~~

(e) (a) actions or proceedings at law or in equity, to recover any sum of money secured by any mortgage, judgment, or lien, or otherwise charged upon or payable out of any land or rent at law or in equity, ~~excluding the actions mentioned in paragraph (i) of this subsection;~~ including the actions mentioned in paragraph (d) of this subsection but excluding the actions mentioned in paragraphs (c) and (k) of this section;

Money charged, &c.
3 & 4 Wm. IV, c. 27, s. 40.
37 & 38 Vic., c. 57, s. 8.

(d) (b) actions to recover from the executor or administrator with the will annexed any legacy;

Legacy.
3 & 4 Wm. IV, c. 27, s. 40.
37 & 38 Vic., c. 57, s. 8.

(c) (c) actions to recover from the executor or administrator any share of the real or personal estate as to which any person dies intestate;

Share on intestacy.
26 Vic. No. 12, s. 36.

within ~~twelve~~ twenty years;

(a) (d) actions of covenant or debt upon any specialty;

Covenant, &c.
5 Vic. No. 9, s. 39.
3 & 4 Wm. IV, s. 42, s. 3.

(b) (e)

Recognizance. <i>Ibid.</i> s. 9.	(h) <u>(e) actions of debt or scire facias upon any recognizance ;</u> <u>within twelve years ;</u>	
Trespass. 21 Jac. I, c. 16, s. 3.	(f) actions of trespass for injuries to the person, or to land or personal property (except those in section seven of this Act specially mentioned) ;	5
Detinue, &c. <i>Ibid.</i> s. 3.	(g) actions of detinue, trover, replevin, trespass <u>and on the case other than actions for slander ;</u>	
Account. <i>Ibid.</i> s. 3. 19 & 20 Vic., c. 97, s. 9.	(h) actions of account or for not accounting, and upon the case, including suits for such accounts as concern the trade of merchandise between merchant and merchant, their factors or servants, where such actions are not founded upon any specialty ;	10
Simple contract, &c. 21 Jac. I, c. 16, s. 3.	(i) actions of debt grounded upon any lending or contract without specialty ;	15
Award. 5 Vic. No. 9, s. 39.	(j) actions of debt upon any award where the submission is not by specialty or for money levied under any writ of fieri facias ;	
Arrears of rent or interest. 3 & 4 Wm. IV, c. 27, s. 42.	(k) actions for arrears of rent or arrears of interest in respect of any money charged upon or payable out of any land or rent, or for damages in respect of such arrears of rent or interest, where such rent or interest is not payable under any specialty ;	20 25
<i>Ibid.</i> ss. 41, 42.	(l) actions to recover any arrears of dower or any arrears of interest in respect of any legacy, or damages in respect of such arrears of dower or interest ;	
Distress for rent. <i>Ibid.</i> s. 42.	(m) distress for arrears of rent, whether such rent is payable under specialty or not ; <u>within six years ;</u>	30
Assault, &c. 21 Jac. I, c. 16, s. 3.	(n) actions of assault, menace, battery, wounding, and imprisonment ; <u>within four years ;</u>	35
Penalties, &c. 5 Vic. No. 9, s. 39.	(o) actions for penalties, damages, or sums of money given to the party grieved by any law now or hereafter to be in force ;	
Slander. 21 Jac. I, c. 16, s. 3.	(p) actions for slander ; <u>within two <u>one</u> year-s ;</u>	40

next after the cause of action or right of distress has accrued, or (except in the case of paragraphs (f), (g), (n), (o), and (p) next after a written acknowledgment has been given to the person entitled thereto, or his agent, signed by the party liable, or his agent, or (except as aforesaid) next after part payment or satisfaction on account of the principal or interest due.

Acknowledgment and part payment.
3 & 4 Wm. IV. c. 27, ss. 40, 42.
4 Wm. IV, No. 17 (adopting 9 Geo. IV, c. 14, s. 1).
5 Vic. No. 3, s. 1.
19 & 20 Vic., c. 97, s. 13.

(2) No endorsement or memorandum of any payment written or made upon any promissory note, bill of exchange, or other writing by or on behalf of the party to whom such payment is made shall be deemed sufficient proof of such payment, so as to take the case out of the operation of this Act.

Endorsements of payment.
9 Geo. IV, c. 14, s. 3.

(3) No claim in respect of any matter arising more than six years before the commencement of any action or suit for account or for not accounting as aforesaid shall be enforceable by action by reason only of some other matter of claim comprised in the same account having arisen within six years before the commencement of such action.

Accounts.
19 & 20 Vic., c. 97, s. 9.

(4) Where any prior mortgagee or encumbrancer has been in possession of any land or in receipt of the profits thereof within one year next before an action is brought by any person entitled to a subsequent mortgage or other encumbrance on the same land, the person entitled to such subsequent mortgage or encumbrance may recover the arrears of interest which have become due during the whole time that such prior mortgagee or encumbrancer was in such possession or receipt as aforesaid although such time has exceeded the term of six years hereinbefore mentioned.

Arrears of rent or interest.
3 & 4 Wm. IV, c. 27, s. 42.

(5) If in any of the said actions judgment be given for the plaintiff, and the same be reversed by error or a verdict pass for the plaintiff, and upon matter alleged in arrest of judgment the judgment be given against the plaintiff that he take nothing by his plaint, writ, or claim, the plaintiff, his executors or administrators, as the case requires, may commence a new action or proceeding within a year after such judgment reversed or such judgment given against the plaintiff, and not after commenced within the time and limitation expressed therefor:—

21 Jac. 1, c. 16, s. 4.

- (a) the plaintiff be nonsuited; or
- (b) a verdict pass for the plaintiff, and upon matter alleged in arrest of judgment, the judgment be given against the plaintiff that he take nothing by his plaint, writ, or claim; or
- (c)

45

(c) the plaintiff or the defendant dies,
the plaintiff, his executors, or administrators, as the case
requires, may commence a new action or proceeding
within a year after the nonsuit, or after the judgment
given against the plaintiff, or after the grant of probate
or letters of administration to the executors or adminis-
trators of the plaintiff or defendant, as the case may be,
notwithstanding that the time and limitation expressed
for commencing the action or proceeding may have
then elapsed.

Trespass to
land.
47 Vic. No. 7,
s. 2.

7. (1) In any action brought in respect of any
 trespass to land where the plaintiff's title to or possession
 of such land is not disputed by the defendant in his
 defence, the plaintiff shall not recover any damages for
 any act of trespass committed more than twelve months
 before such action is commenced.

(2) Nothing in this section contained shall apply
 to any plaintiff who at the time when such act of
 trespass was committed was beyond the seas or under
 legal disability.

Disabilities.
Plaintiffs.
21 Jac. I. c. 16,
s. 7.
5 Vic. No. 9,
ss. 40, 41.
19 & 20 Vic.,
c. 9, s. 10.

8. (1) If any person entitled to any such action, as is
 in section six hereof mentioned, is at the time the cause
 of action accrues or such acknowledgment, part pay-
 ment, or satisfaction as aforesaid is made—

(a) an infant; or

(b) a person of unsound mind,

then the time hereinbefore limited for bringing such
 action shall commence when such person is of full age,
 or has otherwise ceased to be under disability.

Disabilities.
Defendants.
4 & 5 Anne,
c. 16, s. 19.
5 Vic. No. 9,
ss. 40, 41.

(2) If any person liable to any such action as
 aforesaid is beyond the seas at the time the cause of
 action accrues, or such acknowledgment, part payment,
 or satisfaction is made, then the time hereinbefore
 limited for bringing such action shall commence when
 such person returns from beyond the seas.

Acknowledg-
ment may be
pleaded in
reply.
Ibid., s. 41.

9. In answer to a plea of this Act the plaintiff in any
 such action or proceeding may reply such acknowledg-
 ment or part payment, and that such action or proced-
 ing was brought within such time as aforesaid.

10.

10. (1) Where such cause of action with respect to which the period of limitation is fixed by this Act lies against two or more joint debtors, the person entitled to the same shall not be entitled to any time within 5 which to bring any such action against any of such joint debtors who is not beyond the seas at the time such cause of action accrues by reason only that some other of such joint debtors is at the time such cause of action accrues beyond the seas.

Period of limitation not to be extended against all joint debtors by reason of some being beyond the seas. 19 & 20 Vic., c. 97, s. 11.

10 (2) Such person so entitled as aforesaid shall not be barred from bringing any action against the joint debtor who is beyond the seas at the time the cause of action accrues, after his return from beyond the seas, by reason only that judgment has already been recovered 15 against any one of such joint debtors who was not beyond the seas at the time aforesaid.

11. (1) Where there are two or more co-contractors or co-debtors, whether liable jointly only or jointly and severally, or two or more executors or administrators 20 of any contractor or debtor, no such co-contractor or co-debtor, executor, or administrator shall lose the benefit of this Act so as to be chargeable in respect or by reason only of any written acknowledgment made and signed by any other of them, or his agent duly 25 authorised in that behalf, or in respect or by reason only of part payment or satisfaction made by any other of such co-contractors, co-debtors, executors, or administrators.

Co-contractors, co-executors, &c. 9 Geo. IV, c. 14, s. 1. 19 & 20 Vic., c. 97, ss. 13, 14.

(2) In actions commenced against two or more such co-contractors, co-debtors, executors, or adminis- 30 trators, if it appears at the trial or otherwise that the plaintiff, though barred by this Act as to one or more of such co-contractors, co-debtors, executors, or adminis- trators, is nevertheless entitled to recover against any 35 other of the defendants by virtue of a new acknowledgment or otherwise, judgment may be given and costs allowed for the plaintiff as to such defendants against whom he may recover, and for the other defendants against the plaintiff.

12. The foregoing provisions of this Act shall so far 40 as applicable be deemed to apply to the case of any debt or simple contract alleged by way of set off on the part of any defendant either by plea, notice, or otherwise.

Set off. 9 Geo. IV, c. 14, s. 4.

13.

Actions by
executors, &c.
5 Vic. No. 9,
s. 30.

13. (1) Actions of trespass or on the case may be maintained by executors or administrators for any injury to the real or personal estate of their testator or intestate committed in his lifetime and for which the testator or intestate himself might have maintained the like actions. 5

To be brought
within one year
of death for in-
jury to real es-
tate committed
within six
months of death.

(2) Such actions shall be brought within one year after the death of such testator or intestate, and shall be maintained only in respect of an injury committed within six months before such death.

Damages part of
personal estate.

(3) The damages recovered in such actions shall form part of the deceased's personal estate. 10

Actions
against execu-
tors, &c.
5 Vic. No. 9,
s. 30.

14. (1) Actions of trespass or on the case may be maintained against executors or administrators for any wrong committed by their testator or intestate to another in respect of his property, real or personal. 15

(2) Every such action shall be brought within six months after such executors or administrators have taken on themselves the administration of the estate of the deceased, and shall be maintained only in respect of an injury committed within six months before his death. 20

(3) The damages recovered in any such action shall be payable in like order of administration as the deceased's debts.

No land or rent
to be recovered
but within
twenty years
after the right
of action accrued
to the claimant
or some person
whose estate he
claims.

15. (1) After the commencement of this Act no person claiming any land or rent shall make an entry, or distress, or bring an action to recover the same but within ~~twelve~~ twenty years next after the time at which the right to make such entry or distress or to bring such action first accrued to him. 25

3 & 4 Wm. IV,
c. 27, s. 2.
37 & 38 Vic.,
c. 57, s. 1.

Interpretation.
3 & 4 Wm. IV,
c. 27, s. 1.

(2) In all the succeeding sections of this Act, unless the context or subject-matter otherwise indicates or requires—

- (a) the expression "such right" shall mean the right to make an entry, or distress, or bring an action to recover any land or rent;
- (b) the expression "enforce such right" shall mean make an entry, or distress, or bring an action to recover such land or rent;
- (c) a reference to a person entitled to or claiming any land or rent shall include any person by, through, under, or by the act of whom he became entitled to the estate, interest, or right claimed. 40

16. Notwithstanding anything contained in this Act any person claiming under any mortgage of land may make an entry or bring an action to recover such land at any time within ~~twelve~~ twenty years next after the last
 5 payment of any part of the principal money or interest secured by such mortgage although more than ~~twelve~~ twenty years may have elapsed since the time at which such right first accrued.

Mortgaged land.
 26 Vic. No 13, s. 24.
 37 & 38 Vic., c. 57, s. 9.

17. In the construction of this Act such right shall,
 10 subject to the provisions of sections eighteen and nineteen hereof, be deemed to have first accrued at such times as are hereinafter mentioned respectively—

When right deemed to have accrued.
 3 & 4 Wm. IV, c. 27, s. 3.

(a) when the person claiming such land or rent
 15 has in respect of the estate or interest claimed been in possession or receipt of the profits of such land or in receipt of such rent, and has while entitled thereto been dispossessed or has discontinued such possession or receipt,

Estates in possession;
 on dispossession;

20 then at the time of such dispossession or discontinuance of possession or at the last time at which any such profits or rent were or was so received;

(b) when the person claiming such land or rent
 25 claims the estate or interest of some deceased person who has continued in such possession or receipt in respect of the same estate or interest until the time of his death, and has been the last person entitled to such estate or interest who has been in such possession or receipt,

on abatement or death;

30 then at the time of such death;

(c) when the person claiming such land or rent
 35 claims in respect of an estate or interest in possession granted, appointed, or otherwise assured by any instrument (other than a will) to him by a person being in respect of the same estate or interest in the possession or receipt of the profits of the land or in the receipt of the rent, and no person entitled under such instrument has been in such
 40 possession or receipt,

on alienation

then

then at the time at which the person claiming as aforesaid became entitled to such possession or receipt by virtue of such instrument;

future estates ;

- (d) when the estate or interest claimed has been 5
an estate or interest in reversion or remainder or other future estate or interest, and no person has obtained the possession or receipt of the profits of such land or the receipt of such rent in respect of such estate or interest, 10

then at the time at which such estate or interest became an estate or interest in possession ;

forfeiture or breach.

- (e) when the person claiming such land or rent has become entitled by reason of any forfeiture 15
or breach of condition,

then at the time at which such forfeiture was incurred or such condition broken.

Where advantage of forfeiture is not taken by remainderman he shall have a new right when his estate comes into possession.
3 & 4 Wm. IV, c. 27, s. 4.

Reversioner to have a new right.

3 & 4 Wm. IV, c. 27, s. 5.
37 & 38 Vic., c. 57, s. 2.

18. When such right by reason of any forfeiture or breach of condition has first accrued in respect of any 20
estate or interest in reversion or remainder, and the land or rent has not been recovered by virtue of such right, such right shall be deemed to have first accrued in respect of such estate or interest at the time when the same has become an estate or interest in possession as if 25
no such forfeiture or breach of condition had happened.

19. (1) Such right shall be deemed to have first accrued in respect of an estate or interest in reversion or remainder or other future estate or interest at the time at which the same has become an estate or interest 30
in possession by the determination of any estate in respect of which such land has been held or the profits thereof or such rent has been received, notwithstanding the person claiming such land or rent may at any time previously to the creation of the estate which has 35
determined have been in possession or receipt of the profits of such land or in receipt of such rent.

(2) (a) If the person last entitled to any particular estate on which any future estate or interest was expectant was not in the possession or receipt of the 40
profits

profits of such land, or in receipt of such rent, at the time when his interest determined, no such entry or distress shall be made, and no such action shall be brought by any person becoming entitled in possession to
 5 a future estate or interest, but within ~~twelve~~ twenty years next after the time when such right first accrued to the person whose interest has so determined, or within ~~six~~ ten years next after the time when the estate of the person becoming entitled in possession became vested in possession,
 10 whichever of these two periods is the longer;

(b) and if such right of any person has been barred under this Act no person afterwards claiming to be entitled to the same land or rent in respect of any subsequent estate or interest under any deed, will, or
 15 settlement, executed or taking effect after the time when such right first accrued to the owner of the particular estate whose interest has so determined as aforesaid, shall enforce such right.

20. For the purposes of this Act an executor or
 20 administrator claiming the estate or interest of a testator or intestate shall be deemed to claim as if the grant of probate or administration, as the case may be, had been made at the date of the death of the testator or intestate.

Executor and administrator to claim as though no interval between the death and grant of probate or administration. See 3 & 4 Wm. IV, c. 27, s. 6.

21. (1) When any person is in possession or in
 25 receipt of the profits of any land or in receipt of any rent as tenant at will or tenant from year to year or other period without a lease in writing, such right of the person entitled subject to such tenancy shall be deemed to have first accrued—

Claim of tenant at will or for years.

Ibid. ss. 7, 8.

30 (a) in the case of a tenant at will, at the determination of such tenancy, or at the expiration of one year next after the commencement of such tenancy, at which time such tenancy shall be deemed to have determined; and

35 (b) in the case of a tenant from year to year or other period without lease in writing, at the determination of the first of such years or other periods, or at the last time when any rent payable in respect of such tenancy has been
 40 received (which last happens).

(2)

(2) No mortgagor or cestui que trust shall be deemed to be a tenant at will within the meaning of this section to his mortgagee or trustee.

Accrual of right at time of first receipt of rent and not on determination of lease.
See 3 & 4 Wm. IV, c. 27, s. 9.

22. When any person is in possession or in receipt of the profits of any land or in receipt of any rent by virtue of a lease in writing by which a rent amounting to the yearly sum of twenty shillings or upwards is reserved, and the rent reserved by such lease has been received by some person wrongfully claiming to be entitled to such land or rent in reversion immediately expectant on the determination of such lease, and no payment in respect of the rent reserved by such lease has afterwards been made to the person rightfully entitled thereto, the right of the person entitled to such land or rent subject to such lease or of the person through whom he claims to make an entry or distress or to bring an action after the determination of such lease shall be deemed to have first accrued to the person rightfully entitled at the time at which the rent reserved by such lease was first so received by the person wrongfully claiming as aforesaid, and not upon the determination of such lease. 5

Mere entry not to be deemed possession.
Ibid. s. 10.

23. No person shall be deemed to have been in possession of any land within the meaning of this Act merely by reason of having made an entry thereon. 25

Possession of one co-parcener, &c., not to be possession of the others.
3 & 4 Wm. IV, c. 27, s. 12.

24. When one of several persons entitled to any land or rent as co-parceners, joint-tenants, or tenants-in-common has been in possession or receipt of the entirety or more than his undivided share of such land or of the profits thereof or of such rent for his own benefit or for the benefit of any person other than the persons entitled to the other shares, his possession or receipt shall not be deemed to have been the possession or receipt of or by such last-mentioned persons. 30

Acknowledgment in writing given to person entitled equivalent to possession.
Ibid. s. 14.

25. When any acknowledgment of the title of the person entitled to any land or rent has been given in writing to him or his agent, signed by the person in possession or in receipt of the profits of such land or in receipt of such rent, then such possession or receipt of or by the person by whom such acknowledgment has been given shall be deemed, according to the meaning of this Act 35 40

Act

Act, to have been the possession or receipt of or by the person to whom or to whose agent such acknowledgment has been given at the time of giving the same, and such right of such last-mentioned person or any person claiming through him shall be deemed to have first accrued at the time at which such acknowledgment or the last of such acknowledgments, if more than one, was given.

26. (1) If at the time at which such right of any person first accrues as aforesaid such person is—

- 10 (a) an infant; or
- (b) a person of unsound mind;

then such person or the person claiming through him may, notwithstanding the period of ~~twelve~~ twenty years or ~~six ten~~ years (as the case may be) hereinbefore limited 15 has expired, enforce such right at any time within six ten years next after the time at which the person to whom such right first accrued has ceased to be under any such disability, or died (which has first happened).

(2) Nothing in this section shall extend the 20 time within which any such person may enforce such right beyond thirty years from the time at which such right first accrued.

27. When any person is under any of the disabilities hereinbefore mentioned at the time at which such right 25 first accrues to him, and dies without having ceased to be under any such disability, no time to enforce such right, beyond the period of ~~twelve~~ twenty years next after such right first accrued, or ~~six ten~~ years next after the death of such person, shall be allowed by reason of 30 any disability of any other person.

28. When such right of any person in respect of any land or rent to which he has been entitled for an estate or interest in possession, has been barred by the determination of the period hereinbefore limited 35 applicable to his case, and such person has at any time during such period been entitled to any other estate, interest, right, or possibility in reversion, remainder, or otherwise in or to the same land or rent, such person, or any person claiming through him, shall 40 not enforce such right in respect of such other estate, interest, right, or possibility, unless in the meantime such

Persons under disability, &c., allowed ten years from the termination of the disability, &c. *Ibid.* s. 16. 37 & 38 Vic., c. 57, ss. 3, 4.

Period after right accrues not to exceed thirty years. *Ibid.* s. 17. *Ibid.* s. 5. No further time allowed for a succession of disabilities. *Ibid.* s. 18. *Ibid.* s. 9.

When right to estate in possession barred, right of same person to future estates also barred. 3 & 4 Wm. IV, c. 27, s. 20.

such land or rent has been recovered by some person entitled to an estate, interest, or right which has been limited or taken effect after or in defeasance of such estate or interest in possession.

Where tenant-in-tail barred, remainder man not to recover. *Ibid.* s. 21.

29. When such right of a tenant-in-tail has been 5
barred under the provisions of this Act, such bar shall also extend to such right of any person claiming any estate, interest, or right which such tenant-in-tail might lawfully have barred.

Possession adverse to tenant-in-tail to run on against remaindermen. *Ibid.* s. 22.

30. When a tenant-in-tail of any land or rent 10
entitled to recover the same has died before the expiration of the period hereinbefore limited within which to enforce such right, no person claiming any estate, interest, or right which such tenant-in-tail might lawfully have barred shall enforce such right, but within 15
the period during which if such tenant-in-tail had so long continued to live he might have enforced such right.

Where there has been possession under an assurance by tenant-in-tail which does not bar the remainders they shall be barred at the end of twenty years after the time when the assurance if then executed would have barred them. 3 & 4 Wm. IV, c. 27, s. 23. 37 & 38 Vic., c. 57, s. 6.

31. When a tenant-in-tail of any land or rent has made an assurance thereof which does not operate to bar 20
the estates to take effect after or in defeasance of his estate tail, and any person by virtue of such assurance at or subsequently to the time of the execution thereof is in possession or receipt of the profits of such land or in receipt of such rent, and the same person or any 25
other person whatsoever (other than some person entitled to such possession or receipt in respect of an estate which has taken effect after or in defeasance of the estate tail) continues to be in such possession or receipt for the period of ~~twelve~~ twenty years next after the 30
commencement of the time at which such assurance if it had then been executed by such tenant-in-tail or the person who would have been entitled to his estate tail if such assurance had not been executed would without the consent of any other person have operated to bar 35
such estates as aforesaid then at the expiration of such period of ~~twelve~~ twenty years such assurance shall be and be deemed to have been effectual as against any person claiming any estate, interest, or right to take effect after or in defeasance of such estate tail. 40

32. When any land or rent is vested in a trustee upon an express trust the right of the cestui que trust or any person claiming through him to bring a suit against the trustee or any person claiming through him to recover the same shall be deemed to have first accrued according to the meaning of this Act at the time at which such land or rent has been conveyed to a purchaser for valuable consideration and shall then be deemed to have accrued only against such purchaser and any person claiming through him.

Express trust.
3 & 4 Wm. IV,
c. 27, s. 25.

33. (1) When a mortgagee has obtained the possession or receipt of the profits of any land or the receipt of any rent comprised in his mortgage the mortgagor or any person claiming through him shall not, subject to the provisions hereinafter contained, bring a suit to redeem the mortgage, but within ~~twelve~~ twenty years next after the time at which the mortgagee obtained such possession or receipt.

Mortgagor to be barred at the end of twenty years from the time when the mortgagee took possession, or from the last written acknowledgment.

(2) If in the meantime a written acknowledgment of the mortgagor's title or right of redemption has been given to the mortgagor or some person claiming his estate, or to the agent of such mortgagor or person signed by the mortgagee, or the person claiming through him, no such suit shall be brought, but within ~~twelve~~ twenty years next after the time at which such acknowledgment, or the last of such acknowledgments, if more than one was given.

Ibid. s. 28.
37 & 38 Vic,
c. 57, s. 7.

(3) When there is more than one mortgagor or more than one person claiming through the mortgagor such acknowledgment, if given to any such mortgagors, or persons, or his or their agent, shall be as effectual as if the same had been given to all such mortgagors or persons.

(4) Where there is more than one mortgagee or more than one person claiming the estate or interest of the mortgagee such acknowledgment signed by one of such mortgagees or persons shall be effectual only as against the party signing as aforesaid and the persons claiming any part of the mortgage money or land or rent by from or under him and any person entitled to any estate or interest to take effect after or in defeasance of his estate or interest and shall not operate to give to the mortgagor

mortgagor a right to redeem the mortgage as against the person or persons entitled to any other undivided or divided part of the money or land or rent.

(5) Where such of the mortgagees or persons aforesaid, by whom such acknowledgment has been given, are entitled to a divided part of the land or rent comprised in the mortgage or some estate or interest therein and not to any ascertained part of the mortgage money, the mortgagor shall be entitled to redeem the same divided part of the land or rent on payment with interest of the part of the mortgage money which bears the same proportion to the whole of the mortgage money as the value of such divided part of the land or rent bears to the value of the whole of the land or rent comprised in the mortgage.

Extinguishment of right of party out of possession. 3 & 4 Wm. IV, c. 27, s. 34.

Receipt of rent to be deemed receipt of profits.

Ibid. s. 35.

Not to affect Real Property Act, 1900.

34. The right and title of any person to the land or rent for the recovery whereof such entry, distress, or action respectively might have been made or brought, shall be extinguished at the determination of the period limited by this Act within which to enforce such right.

35. The receipt of the rent payable by any tenant from year to year or other lessee shall as against such lessee or any person claiming under him (but subject to the lease) be deemed for the purpose of this Act to be the receipt of the profits of the land.

36. Nothing in this Act shall affect the provisions of the Real Property Act, 1900.

SCHEDULE.

Reference to Act.	Title or short title.	Extent of repeal.
21 Jac. I, c. 16 5	An Act for limitation of actions, &c.	Sections 3, 4, and 7 so far as they apply to New South Wales.
4 & 5 Anne, c. 16. 10	An Act for the amendment of the law and the better advancement of justice.	So much of section 19 as applies to New South Wales and does not apply to suits or actions for seamen's wages.
15 4 Wm. IV, No. 17. 20	An Act for adopting and applying a certain Act of Parliament for rendering a written memorandum necessary to the validity of certain promises and engagements.	So far as it adopts sections 1, 3, and 4 of 9 Geo. IV, c. 14.
8 Wm. IV, No. 3. 25	An Act for adopting a certain Act of Parliament passed in the third and fourth years of the reign of His present Majesty King William the Fourth, and applying the same in the administration of justice in New South Wales in like manner as other laws of England are applied therein.	The whole.
5 Vic. No. 9 ... 30	An Act for the further amendment of the law and for the better advancement of justice.	Sections 30, 39, 40, 41.
26 Vic. No. 12. 35	An Act to amend the Law of Property and further to relieve Trustees.	Sections 24, 36, and 71 (being the unrepealed sections).
47 Vic. No. 7...	Limitation of Actions for Trespass Act of 1884.	The unrepealed portion.

DATE	DESCRIPTION	AMOUNT
1917 JAN 1	Balance forward	100.00
1917 JAN 15	Interest on loan	5.00
1917 JAN 30	Interest on loan	5.00
1917 FEB 15	Interest on loan	5.00
1917 FEB 28	Interest on loan	5.00
1917 MAR 15	Interest on loan	5.00
1917 MAR 31	Interest on loan	5.00
1917 APR 15	Interest on loan	5.00
1917 APR 30	Interest on loan	5.00
1917 MAY 15	Interest on loan	5.00
1917 MAY 31	Interest on loan	5.00
1917 JUN 15	Interest on loan	5.00
1917 JUN 30	Interest on loan	5.00
1917 JUL 15	Interest on loan	5.00
1917 JUL 31	Interest on loan	5.00
1917 AUG 15	Interest on loan	5.00
1917 AUG 31	Interest on loan	5.00
1917 SEP 15	Interest on loan	5.00
1917 SEP 30	Interest on loan	5.00
1917 OCT 15	Interest on loan	5.00
1917 OCT 31	Interest on loan	5.00
1917 NOV 15	Interest on loan	5.00
1917 NOV 30	Interest on loan	5.00
1917 DEC 15	Interest on loan	5.00
1917 DEC 31	Interest on loan	5.00

TOTAL

1917

Legislative Council.

No. , 1917.

A BILL

To consolidate and amend the law with regard to the limitation of actions and suits.

[MR. GARLAND;—8 *August*, 1917.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the "Statute of Limitations, 1917," and shall commence and come into operation on the day of

2. This Act shall not affect any proceedings pending at the commencement of this Act, or any proceedings commenced or taken within one year after the commencement of this Act.

Repeal
Schedule.

3. The several enactments mentioned in the Schedule to this Act, to the extent therein expressed, are hereby repealed; but such repeal shall not be held to revive any principle, doctrine, or presumption of law, or any form of action which were by such enactments expressly abolished. 5

Interpreta-
tion.

4. In the interpretation of this Act, unless the subject-matter or context otherwise indicates or requires,—

Rent.
3 & 4 Wm.
IV, c. 27, s. 2.

(a) "rent" shall extend to all services and suits for which a distress may be made, and to all annuities and periodical sums of money charged upon or payable out of any land; 10

Beyond the
seas.

(b) no part of the Commonwealth of Australia shall be deemed to be beyond the seas within the meaning of this Act. 15

(c) "Person of unsound mind" includes an insane person or patient, or incapable person within the meaning of the Lunacy Act, 1898.

Proceedings
in equity
included.
Ibid. s. 24.

5. (1) The provisions of this Act shall apply to judicial proceedings in all courts, and in the interpretation of this Act, unless the subject-matter or context otherwise indicates or requires, such proceedings shall be deemed to be included in the word "action." 20

Fraud.
Ibid. s. 26.

(2) (a) In every case of a concealed fraud the right of any person to institute proceedings in equity, in respect of any claim of which he or any person through whom he claims has been deprived by such fraud, shall be deemed to have first accrued at the time at which such fraud has, or with reasonable diligence might have, been first known or discovered. 25

(b) Nothing in this subsection shall enable the owner of any land or rent to institute proceedings in equity for the recovery of such land or rent or for setting aside any conveyance of such land or rent on account of fraud against any bona fide purchaser for valuable consideration without notice of such fraud. 30

Saving the
jurisdiction
of equity in
the case of
acquiescence,
&c.
Ibid. s. 27.

(3) Nothing in this Act shall be deemed to interfere with any rule or jurisdiction of the Supreme Court in its equitable jurisdiction in refusing relief on the ground of acquiescence or otherwise to any person whose right to institute proceedings may not be barred by virtue of this Act. 40

(5)

- (4) Nothing in this Act shall affect the operation of any Statute in which—
- (a) the operation of this Act or any of the enactments hereby repealed is expressly excluded; or
- (b) the time is expressly limited for bringing any action or proceeding the right to which is given by such Statute.
6. (1) After the commencement of this Act, the following actions and proceedings shall be commenced within the respective times and limitations hereinafter expressed and not after—
- (a) actions of covenant or debt upon any speciality; Covenant, &c. 5 Vic. No. 9, s. 39. 3 & 4 Wm. IV, c. 42, s. 3.
- (b) actions of debt or scire facias upon any recognizance; Recognizance. Ibid. s. 9.
- (c) actions or proceedings to recover any sum of money secured by any mortgage, judgment, or lien, or otherwise charged upon or payable out of any land or rent at law or in equity, excluding the actions mentioned in paragraph (i) of this subsection; Money charged, &c. 3 & 4 Wm. IV, c. 27, s. 40. 37 & 38 Vic., c. 57, s. 8.
- (d) actions to recover from the executor or administrator with the will annexed any legacy; Legacy. 3 & 4 Wm. IV, c. 27, s. 40. 37 & 38 Vic., c. 57, s. 8.
- (e) actions to recover from the executor or administrator any share of the real or personal estate as to which any person dies intestate; Share on intestacy. 26 Vic. No. 12, s. 36.
- within twelve years;
- (f) actions of trespass for injuries to the person, or to land or personal property (except those in section seven of this Act specially mentioned); Trespass. 21 Jac. I, c. 16, s. 3.
- (g) actions of detinue, trover, replevin, trespass on the case other than actions for slander; Detinue, &c. Ibid. s. 3.
- (h) actions of account or for not accounting, and upon the case, including suits for such accounts as concern the trade of merchandise between merchant and merchant, their factors or servants, where such actions are not founded upon any speciality; Account. Ibid. s. 3. 19 & 20 Vic., c. 97, s. 9.
- (i) actions of debt grounded upon any lending or contract without speciality; Simple contract, &c. 21 Jac. I, c. 16, s. 3.
- (j)

Not to affect special statutory exceptions.

9 Vic. No. 9, s. 39.

Covenant, &c. 5 Vic. No. 9, s. 39. 3 & 4 Wm. IV, c. 42, s. 3.

Recognizance. Ibid. s. 9.

Money charged, &c. 3 & 4 Wm. IV, c. 27, s. 40. 37 & 38 Vic., c. 57, s. 8.

Legacy. 3 & 4 Wm. IV, c. 27, s. 40. 37 & 38 Vic., c. 57, s. 8.

Share on intestacy. 26 Vic. No. 12, s. 36.

Trespass. 21 Jac. I, c. 16, s. 3.

Detinue, &c. Ibid. s. 3.

Account. Ibid. s. 3. 19 & 20 Vic., c. 97, s. 9.

Simple contract, &c. 21 Jac. I, c. 16, s. 3.

- Award. (j) actions of debt upon any award where the submission is not by specialty or for money levied under any writ of fieri facias;
- 5 Vic. No. 9, s. 39.
- Arrears of rent or interest. (k) actions for arrears of rent or arrears of interest in respect of any money charged upon or payable out of any land or rent, or for damages in respect of such arrears of rent or interest, where such rent or interest is not payable under any specialty; 5
- 3 & 4 Wm. IV, c. 27, s. 42.
- Ibid.* ss. 41, 42. (l) actions to recover any arrears of dower or any arrears of interest in respect of any legacy, or damages in respect of such arrears of dower or interest; 10
- Distress for rent. (m) distress for arrears of rent, whether such rent is payable under specialty or not; 15
- Ibid.* s. 42. within six years;
- Assault, &c. (n) actions of assault, menace, battery, wounding, and imprisonment; within four years;
- 21 Jac. 1, c. 16, s. 3.
- Penalties, &c. (o) actions for penalties, damages, or sums of money given to the party grieved by any law now or hereafter to be in force; 20
- 5 Vic. No. 9, s. 39.
- Slander. (p) actions for slander; within two years;
- 21 Jac. 1, c. 16, s. 3.
- Acknowledgment and part payment. next after the cause of action or right of distress has accrued, or (except in the case of paragraphs (f), (g), (n), (o), and (p) next after a written acknowledgment has been given to the person entitled thereto, or his agent, signed by the party liable, or his agent, or (except as aforesaid) next after part payment or satisfaction on account of the principal or interest due. 25
- 3 & 4 Wm. IV, c. 27, ss. 40, 42.
- 4 Wm. IV, No. 17 (adopting 9 Geo. IV, c. 14, s. 1).
- 5 Vic. No. 9, s. 1.
- 19 & 20 Vic., c. 97, s. 13.
- Endorsements of payment. (2) No endorsement or memorandum of any payment written or made upon any promissory note, bill of exchange, or other writing by or on behalf of the party to whom such payment is made shall be deemed sufficient proof of such payment, so as to take the case out of the operation of this Act. 35
- 9 Geo. IV, c. 14, s. 3.
- Accounts. (3) No claim in respect of any matter arising more than six years before the commencement of any action or suit for account or for not accounting as aforesaid shall be enforceable by action by reason only of 40
- 19 & 20 Vic., c. 97, s. 9.

of some other matter of claim comprised in the same account having arisen within six years before the commencement of such action.

(4) Where any prior mortgagee or encumbrancer ^{Arrears of rent or interest.} has been in possession of any land or in receipt of the profits thereof within one year next before an action ^{3 & 4 Wm. IV, c. 27, s. 42.} is brought by any person entitled to a subsequent mortgage or other encumbrance on the same land, the person entitled to such subsequent mortgage or encumbrance may recover the arrears of interest which have become due during the whole time that such prior mortgagee or encumbrancer was in such possession or receipt as aforesaid although such time has exceeded the term of six years hereinbefore mentioned.

(5) If in any of the said actions judgment be ^{21 Jac. I, c. 16, s. 4.} given for the plaintiff, and the same be reversed by error or a verdict pass for the plaintiff, and upon matter alleged in arrest of judgment the judgment be given against the plaintiff that he take nothing by his plaint, writ, or claim, the plaintiff, his executors or administrators, as the case requires, may commence a new action or proceeding within a year after such judgment reversed or such judgment given against the plaintiff, and not after.

7. (1) In any action brought in respect of any ^{Trespass to land.} trespass to land where the plaintiff's title to or possession of such land is not disputed by the defendant in his ^{47 Vic. No. 7, s. 2.} defence, the plaintiff shall not recover any damages for any act of trespass committed more than twelve months before such action is commenced.

(2) Nothing in this section contained shall apply to any plaintiff who at the time when such act of trespass was committed was beyond the seas or under legal disability.

8. (1) If any person entitled to any such action, as is ^{Disabilities. Plaintiffs.} in section six hereof mentioned, is at the time the cause of action accrues or such acknowledgment, part payment, or satisfaction as aforesaid is made—

(a) an infant; or

(b) a person of unsound mind,

^{21 Jac. I, c. 16, s. 7.}
^{5 Vic. No. 9, ss. 40, 41.}
^{19 & 20 Vic, c. 9, s. 10.}

then

then the time hereinbefore limited for bringing such action shall commence when such person is of full age, or has otherwise ceased to be under disability.

Disabilities.

Defendants.

4 & 5 Anne,
c. 16, s. 19.

5 Vic. No. 9,
ss. 40, 41.

(2) If any person liable to any such action as aforesaid is beyond the seas at the time the cause of action accrues, or such acknowledgment, part payment, or satisfaction is made, then the time hereinbefore limited for bringing such action shall commence when such person returns from beyond the seas. 5

Acknowledgment may be pleaded in reply.

Ibid. s. 41.

9. In answer to a plea of this Act the plaintiff in any such action or proceeding may reply such acknowledgment or part payment, and that such action or proceeding was brought within such time as aforesaid. 10

Period of limitation not to be extended against all joint debtors by reason of some being beyond the seas.
19 & 20 Vic., c. 97, s. 11.

10. (1) Where such cause of action with respect to which the period of limitation is fixed by this Act lies against two or more joint debtors, the person entitled to the same shall not be entitled to any time within which to bring any such action against any of such joint debtors who is not beyond the seas at the time such cause of action accrues by reason only that some other of such joint debtors is at the time such cause of action accrues beyond the seas. 15

(2) Such person so entitled as aforesaid shall not be barred from bringing any action against the joint debtor who is beyond the seas at the time the cause of action accrues, after his return from beyond the seas, by reason only that judgment has already been recovered against any one of such joint debtors who was not beyond the seas at the time aforesaid. 20

Co-contractors, co-executors, &c.
9 Geo. IV,
c. 14, s. 1.
19 & 20 Vic.,
c. 97, ss. 13,
14.

11. (1) Where there are two or more co-contractors or co-debtors, whether liable jointly only or jointly and severally, or two or more executors or administrators of any contractor or debtor, no such co-contractor or co-debtor, executor, or administrator shall lose the benefit of this Act so as to be chargeable in respect or by reason only of any written acknowledgment made and signed by any other of them, or his agent duly authorised in that behalf, or in respect or by reason only of part payment or satisfaction made by any other of such co-contractors, co-debtors, executors, or administrators. 30

(2)

(2) In actions commenced against two or more such co-contractors, co-debtors, executors, or administrators, if it appears at the trial or otherwise that the plaintiff, though barred by this Act as to one or more of
 5 such co-contractors, co-debtors, executors, or administrators, is nevertheless entitled to recover against any other of the defendants by virtue of a new acknowledgment or otherwise, judgment may be given and costs allowed for the plaintiff as to such defendants against
 10 whom he may recover, and for the other defendants against the plaintiff.

12. The foregoing provisions of this Act shall so far as applicable be deemed to apply to the case of any debt or simple contract alleged by way of set off on the part
 15 of any defendant either by plea, notice, or otherwise.

Set off.
 9 Geo. IV,
 c. 14, s. 4.

13. (1) Actions of trespass or on the case may be maintained by executors or administrators for any injury
 to the real or personal estate of their testator or intestate committed in his lifetime and for which the testator or
 20 intestate himself might have maintained the like actions.

Actions by
 executors, &c.
 5 Vic. No. 9,
 s. 30.

(2) Such actions shall be brought within one year after the death of such testator or intestate, and shall be maintained only in respect of an injury committed within six months before such death.

To be brought
 within one year
 of death for injury to real estate committed within six months of death.

(3) The damages recovered in such actions shall form part of the deceased's personal estate.

Damages part of
 personal estate.

14. (1) Actions of trespass or on the case may be maintained against executors or administrators for any wrong committed by their testator or intestate to another
 30 in respect of his property, real or personal.

Actions
 against executors, &c.
 5 Vic. No. 9,
 s. 30.

(2) Every such action shall be brought within six months after such executors or administrators have taken on themselves the administration of the estate of the deceased, and shall be maintained only in respect of
 35 an injury committed within six months before his death.

(3) The damages recovered in any such action shall be payable in like order of administration as the deceased's debts.

15. (1) After the commencement of this Act no person claiming any land or rent shall make an entry, or distress, or bring an action to recover the same but within twelve years next after the time at which the right to make such entry or distress or to bring such
 40 action first accrued to him.

No land or rent to be recovered but within twenty years after the right of action accrued to the claimant or some person whose estate he claims.

(2)

3 & 4 Wm. IV,
 c. 27, s. 2.
 27 & 28 Vic.,
 c. 57, s. 1.

Interpretation.
3 & 4 Wm. IV,
c. 27, s. 1.

(2) In all the succeeding sections of this Act, unless the context or subject-matter otherwise indicates or requires—

- (a) the expression “such right” shall mean the right to make an entry, or distress, or bring an action to recover any land or rent;
- (b) the expression “enforce such right” shall mean make an entry, or distress, or bring an action to recover such land or rent;
- (c) a reference to a person entitled to or claiming any land or rent shall include any person by, through, under, or by the act of whom he became entitled to the estate, interest, or right claimed.

Mortgaged
land.
26 Vic. No. 12,
s. 24.
37 & 38 Vic.,
c. 57, s. 9.

16. Notwithstanding anything contained in this Act any person claiming under any mortgage of land may make an entry or bring an action to recover such land at any time within twelve years next after the last payment of any part of the principal money or interest secured by such mortgage although more than twelve years may have elapsed since the time at which such right first accrued.

When right
deemed to have
accrued.
3 & 4 Wm. IV,
c. 27, s. 3.

17. In the construction of this Act such right shall, subject to the provisions of sections eighteen and nineteen hereof, be deemed to have first accrued at such times as are hereinafter mentioned respectively—

Estates in
possession;

- (a) when the person claiming such land or rent has in respect of the estate or interest claimed been in possession or receipt of the profits of such land or in receipt of such rent, and has while entitled thereto been dispossessed or has discontinued such possession or receipt, then at the time of such dispossession or discontinuance of possession or at the last time at which any such profits or rent were or was so received;

on abatement
or death;

- (b) when the person claiming such land or rent claims the estate or interest of some deceased person who has continued in such possession or receipt in respect of the same estate or interest until

until the time of his death, and has been the last person entitled to such estate or interest who has been in such possession or receipt, then at the time of such death ;

5 (c) when the person claiming such land or rent ^{on alienation ;} claims in respect of an estate or interest in possession granted, appointed, or otherwise assured by any instrument (other than a will) to him by a person being in respect of the same estate or interest in the possession or receipt of the profits of the land or in the receipt of the rent, and no person entitled under such instrument has been in such possession or receipt, then at the time at which the person claiming as aforesaid became entitled to such possession or receipt by virtue of such instrument ;

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15 (d) when the estate or interest claimed has been ^{future estates ;} an estate or interest in reversion or remainder or other future estate or interest, and no person has obtained the possession or receipt of the profits of such land or the receipt of such rent in respect of such estate or interest, then at the time at which such estate or interest became an estate or interest in possession ;

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25 (e) when the person claiming such land or rent ^{forfeiture or breach.} has become entitled by reason of any forfeiture or breach of condition, then at the time at which such forfeiture was incurred or such condition broken.

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35 **18.** When such right by reason of any forfeiture or breach of condition has first accrued in respect of any estate or interest in reversion or remainder, and the land or rent has not been recovered by virtue of such right, such right shall be deemed to have first accrued in respect of such estate or interest at the time when the same has become an estate or interest in possession as if no such forfeiture or breach of condition had happened.

19. ^{Where advantage of forfeiture is not taken by remainderman he shall have a new right when his estate comes into possession.} Wm. IV, c. 27, s. 4.

Reversioner
to have a new
right.

3 & 4

Wm. IV,
c. 27, s. 5.
37 & 38 Vic.,
c. 57, s. 2.

19. (1) Such right shall be deemed to have first accrued in respect of an estate or interest in reversion or remainder or other future estate or interest at the time at which the same has become an estate or interest in possession by the determination of any estate in respect of which such land has been held or the profits thereof or such rent has been received, notwithstanding the person claiming such land or rent may at any time previously to the creation of the estate which has determined have been in possession or receipt of the profits of such land or in receipt of such rent.

(2) (a) If the person last entitled to any particular estate on which any future estate or interest was expectant was not in the possession or receipt of the profits of such land, or in receipt of such rent, at the time when his interest determined, no such entry or distress shall be made, and no such action shall be brought by any person becoming entitled in possession to a future estate or interest, but within twelve years next after the time when such right first accrued to the person whose interest has so determined, or within six years next after the time when the estate of the person becoming entitled in possession became vested in possession, whichever of these two periods is the longer;

(b) and if such right of any person has been barred under this Act no person afterwards claiming to be entitled to the same land or rent in respect of any subsequent estate or interest under any deed, will, or settlement, executed or taking effect after the time when such right first accrued to the owner of the particular estate whose interest has so determined as aforesaid, shall enforce such right.

Executor and
administrator to
claim as though
no interval
between the
death and grant
of probate or
administration.
See 3 & 4
Wm. IV, c. 27,
s. 6.

20. For the purposes of this Act an executor or administrator claiming the estate or interest of a testator or intestate shall be deemed to claim as if the grant of probate or administration, as the case may be, had been made at the date of the death of the testator or intestate.

Claim of
tenant at will
or for years.
Ibid. ss. 7, 8.

21. (1) When any person is in possession or in receipt of the profits of any land or in receipt of any rent as tenant at will or tenant from year to year or other

other period without a lease in writing, such right of the person entitled subject to such tenancy shall be deemed to have first accrued—

5 (a) in the case of a tenant at will, at the determination of such tenancy, or at the expiration of one year next after the commencement of such tenancy, at which time such tenancy shall be deemed to have determined; and

10 (b) in the case of a tenant from year to year or other period without lease in writing, at the determination of the first of such years or other periods, or at the last time when any rent payable in respect of such tenancy has been received (which last happens).

15 (2) No mortgagor or cestui que trust shall be deemed to be a tenant at will within the meaning of this section to his mortgagee or trustee.

20 **22.** When any person is in possession or in receipt of the profits of any land or in receipt of any rent by virtue of a lease in writing by which a rent amounting to the yearly sum of twenty shillings or upwards is reserved, and the rent reserved by such lease has been received by some person wrongfully claiming to be entitled to such land or rent in reversion immediately expectant on the determination of such lease, and no payment in respect of the rent reserved by such lease has afterwards been made to the person rightfully entitled thereto, the right of the person entitled to such land or rent subject to such lease or of the person through whom he claims to make an entry or distress or to bring an action after the determination of such lease shall be deemed to have first accrued to the person rightfully entitled at the time at which the rent reserved by such lease was first so received by the person wrongfully claiming as aforesaid, and not upon the determination of such lease.

Accrual of right at time of first receipt of rent and not on determination of lease.

See 3 & 4 Wm. IV, c. 27, s. 9.

35 **23.** No person shall be deemed to have been in possession of any land within the meaning of this Act merely by reason of having made an entry thereon.

Mere entry not to be deemed possession. *Ibid.* s. 10.

24.

Possession of one co-parcener, &c., not to be possession of the others.
3 & 4 Wm. IV, c. 27, s. 12.

24. When one of several persons entitled to any land or rent as co-parceners, joint-tenants, or tenants-in-common has been in possession or receipt of the entirety or more than his undivided share of such land or of the profits thereof or of such rent for his own benefit or for the benefit of any person other than the persons entitled to the other shares, his possession or receipt shall not be deemed to have been the possession or receipt of or by such last-mentioned persons. 5

Acknowledgment in writing given to person entitled equivalent to possession.
Ibid. s. 14.

25. When any acknowledgment of the title of the person entitled to any land or rent has been given in writing to him or his agent, signed by the person in possession or in receipt of the profits of such land or in receipt of such rent, then such possession or receipt of or by the person by whom such acknowledgment has been given shall be deemed, according to the meaning of this Act, to have been the possession or receipt of or by the person to whom or to whose agent such acknowledgment has been given at the time of giving the same, and such right of such last-mentioned person or any person claiming through him shall be deemed to have first accrued at the time at which such acknowledgment or the last of such acknowledgments, if more than one, was given. 10 15 20

Persons under disability, &c., allowed ten years from the termination of the disability, &c.
Ibid. s. 16.
37 & 38 Vic., c. 57, ss. 3, 4.

26. (1) If at the time at which such right of any person first accrues as aforesaid such person is— 25
(a) an infant; or
(b) a person of unsound mind;
then such person or the person claiming through him may, notwithstanding the period of twelve years or six years (as the case may be) hereinbefore limited has expired, enforce such right at any time within six years next after the time at which the person to whom such right first accrued has ceased to be under any such disability, or died (which has first happened). 30

Period after right accrues not to exceed thirty years.
Ibid. s. 17.
Ibid. s. 5.

(2) Nothing in this section shall extend the time within which any such person may enforce such right beyond thirty years from the time at which such right first accrued. 35

No further time allowed for a succession of disabilities.
Ibid. s. 18.
Ibid. s. 9.

26. When any person is under any of the disabilities hereinbefore mentioned at the time at which such right first accrues to him, and dies without having ceased to be 40 be

be under any such disability, no time to enforce such right, beyond the period of twelve years next after such right first accrued, or six years next after the death of such person, shall be allowed by reason of any disability of any other person.

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28. When such right of any person in respect of any land or rent to which he has been entitled for an estate or interest in possession, has been barred by the determination of the period hereinbefore limited applicable to his case, and such person has at any time during such period been entitled to any other estate, interest, right, or possibility in reversion, remainder, or otherwise in or to the same land or rent, such person, or any person claiming through him, shall not enforce such right in respect of such other estate, interest, right, or possibility, unless in the meantime such land or rent has been recovered by some person entitled to an estate, interest, or right which has been limited or taken effect after or in defeasance of such estate or interest in possession.

When right to estate in possession barred, right of same person to future estates also barred.
3 & 4 Wm. IV, c. 27, s. 20.

29. When such right of a tenant-in-tail has been barred under the provisions of this Act, such bar shall also extend to such right of any person claiming any estate, interest, or right which such tenant-in-tail might lawfully have barred.

Where tenant-in-tail barred, remainder man not to recover.
Ibid. s. 21.

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30. When a tenant-in-tail of any land or rent entitled to recover the same has died before the expiration of the period hereinbefore limited within which to enforce such right, no person claiming any estate, interest, or right which such tenant-in-tail might lawfully have barred shall enforce such right, but within the period during which if such tenant-in-tail had so long continued to live he might have enforced such right.

Possession adverse to tenant-in-tail to run on against remaindermen.
Ibid. s. 22.

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31. When a tenant-in-tail of any land or rent has made an assurance thereof which does not operate to bar the estates to take effect after or in defeasance of his estate tail, and any person by virtue of such assurance at or subsequently to the time of the execution thereof is in possession or receipt of the profits of such land or in receipt of such rent, and the same person or any other

Where there has been possession under an assurance by tenant-in-tail which does not bar the remainders they shall be

barred at the
end of twenty
years after
the time when
the assurance
if then
executed
would have
barred them.
3 & 4 Wm. IV,
c. 27, s. 23.
37 & 38 Vic.,
c. 57, s. 6.

other person whatsoever (other than some person
entitled to such possession or receipt in respect of an
estate which has taken effect after or in defeasance of
the estate tail) continues to be in such possession or
receipt for the period of twelve years next after the 5
commencement of the time at which such assurance if
it had then been executed by such tenant-in-tail or the
person who would have been entitled to his estate tail if
such assurance had not been executed would without
the consent of any other person have operated to bar 10
such estates as aforesaid then at the expiration of such
period of twelve years such assurance shall be and be
deemed to have been effectual as against any person
claiming any estate, interest, or right to take effect after
or in defeasance of such estate tail. 15

Express trust.
3 & 4 Wm IV,
c. 27, s. 25.

32. When any land or rent is vested in a trustee
upon an express trust the right of the cestui que trust
or any person claiming through him to bring a suit
against the trustee or any person claiming through him
to recover the same shall be deemed to have first 20
accrued according to the meaning of this Act at the
time at which such land or rent has been conveyed to a
purchaser for valuable consideration and shall then be
deemed to have accrued only against such purchaser
and any person claiming through him. 25

Mortgagor to
be barred at
the end of
twelve years
from the time
when the
mortgagee
took posses-
sion, or from
the last
written
acknowledg-
ment.

Ibid. s. 28.
37 & 38 Vic,
c. 57, s. 7.

33. (1) When a mortgagee has obtained the posses-
sion or receipt of the profits of any land or the receipt
of any rent comprised in his mortgage the mortgagor or
any person claiming through him shall not, subject to
the provisions hereinafter contained, bring a suit to 30
redeem the mortgage, but within twelve years next after
the time at which the mortgagee obtained such posses-
sion or receipt.

(2) If in the meantime a written acknowledgment
of the mortgagor's title or right of redemption has been 35
given to the mortgagor or some person claiming his estate,
or to the agent of such mortgagor or person signed by the
mortgagee, or the person claiming through him, no such
suit shall be brought, but within twelve years next after
the time at which such acknowledgment, or the last of 40
such acknowledgments, if more than one was given.

(3)

(3) When there is more than one mortgagor or more than one person claiming through the mortgagor such acknowledgment, if given to any such mortgagors, or persons, or his or their agent, shall be as effectual as if
5 the same had been given to all such mortgagors or persons.

(4) Where there is more than one mortgagee or more than one person claiming the estate or interest of the mortgagee such acknowledgment signed by one of
10 such mortgagees or persons shall be effectual only as against the party signing as aforesaid and the persons claiming any part of the mortgage money or land or rent by from or under him and any person entitled to any estate
15 estate or interest to take effect after or in defeasance of his mortgage a right to redeem the mortgage as against the person or persons entitled to any other undivided or divided part of the money or land or rent.

(5) Where such of the mortgagees or persons
20 aforesaid, by whom such acknowledgment has been given, are entitled to a divided part of the land or rent comprised in the mortgage or some estate or interest therein and not to any ascertained part of the mortgage
25 money, the mortgagor shall be entitled to redeem the same divided part of the land or rent on payment with interest of the part of the mortgage money which bears the same proportion to the whole of the mortgage money as the value of such divided part of the land or rent bears to the value of the whole of the land or rent
30 comprised in the mortgage.

34. The right and title of any person to the land or rent for the recovery whereof such entry, distress, or action respectively might have been made or brought, shall be extinguished at the determination of the period
35 limited by this Act within which to enforce such right.

Extinguish-
ment of right
of party out
of possession.
3 & 4 Wm. IV,
c. 27, s. 34.

35. The receipt of the rent payable by any tenant from year to year or other lessee shall as against such lessee or any person claiming under him (but subject to the lease) be deemed for the purpose of this Act to be
40 the receipt of the profits of the land.

Receipt of
rent to be
deemed
receipt of
profits.
Ibid. s. 35.

SCHEDULE.

Reference to Act.	Title or short title.	Extent of repeal.
21 Jac. I, c. 16	An Act for limitation of actions, &c.	Sections 3 and 7 so far as they apply to New South Wales. 5
4 & 5 Anne, c. 16.	An Act for the amendment of the law and the better advancement of justice.	So much of section 19 as applies to New South Wales and does not apply to suits or actions for seamen's wages. 10
4 Wm. IV, No. 17.	An Act for adopting and applying a certain Act of Parliament for rendering a written memorandum necessary to the validity of certain promises and engagements.	So far as it adopts sections 1, 3, and 4 of 9 Geo. IV, c. 14. 15
8 Wm. IV, No. 3.	An Act for adopting a certain Act of Parliament passed in the third and fourth years of the reign of His present Majesty King William the Fourth, and applying the same in the administration of justice in New South Wales in like manner as other laws of England are applied therein.	The whole. 20
5 Vic. No. 9 ...	An Act for the further amendment of the law and for the better advancement of justice.	25
26 Vic. No. 12.	An Act to amend the Law of Property and further to relieve Trustees.	Sections 30, 39, 40, 41. 30
47 Vic. No. 7...	Limitation of Actions for Trespass Act of 1884.	Sections 24, 36, and 71 (being the unrepealed sections). 35
		The unrepealed portion. 30