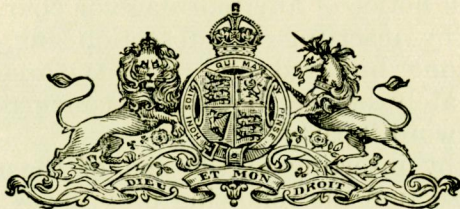


New South Wales.



ANNO DUODEVICESIMO

GEORGI V REGIS.

Act No. 56, 1927.

An Act to amend sections one hundred and sixty-four and one hundred and seventy-three of the Conveyancing Act, 1919, in certain respects. [Assented to, 13th December, 1927.]

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 "Conveyancing Short title. (Amendment) Act, 1927."

2.

Conveyancing (Amendment).

amendment of
Act No. 6, 1919.
Sec. 164.

2. (1) The Conveyancing Act, 1919, is amended—

(a) by inserting the following subsection next after subsection one of section one hundred and sixty-four :—

(1A) Omission to search in any register or list kept or filed pursuant to the Companies (Registration of Securities) Act, 1918, or the Companies Act, 1899, or any present or future Act amending those Acts, or either of them, shall not of itself affect a purchaser of land with notice of any mortgage or charge;

ec. 173 (1).

(b) (i) by inserting in subsection one of section one hundred and seventy-three immediately before the word "concurrence" the word "party";

(ii) by inserting at the end of the same subsection the following proviso :—

Provided that—

(a) an order made or purporting to be made in pursuance of the Settled Estates Act, 1886, or Part IV of the Conveyancing and Law of Property Act, 1898, shall not by this section be validated as against any estate or interest claimed otherwise than under or through the settlement in relation to which the order was made; and

(b) an order made in a suit for partition shall not by this section be validated as against any estate or interest which is not an undivided share or an estate or interest in an undivided share of the entire estate or interest which the order purports to affect; and

(c) an order made in a suit for foreclosure or otherwise at the suit of a mortgagee as such shall not by this section be validated as against any estate or interest not claimed
under

Conveyancing (Amendment).

under or through the person by whose act or default the mortgage in relation to which the order was made was created, or as against any estate or interest having priority to such mortgage; and

- (d) an order in any other case shall not by this section be validated against a person not a party to, and not apart from this section, otherwise bound by the proceedings in which the order was made, if the effect of the order or of anything done in pursuance of the order or the combined effect of the order and anything done in pursuance of the order, but for this proviso, would be to deprive such person of an estate or interest and prevent him from receiving the whole or any part of the proceeds of any transaction carried out in pursuance of the order; and
- (e) in any case an order to the extent to which it expressly excludes any person from its operation shall not by this section be validated against that person.

(2) This Act shall take effect as if it had come into operation on the first day of July, one thousand nine hundred and twenty, except that it shall not affect the rights of any party to any proceeding at law or in equity concluded before or pending at the passing of this Act. Retrospective operation.

By Authority :

ALFRED JAMES KENT, Government Printer, Sydney, 1927.

CHAPTER 10

The first part of the chapter discusses the importance of the...

(1) The first part of the chapter discusses the importance of the...

The second part of the chapter discusses the importance of the...

The third part of the chapter discusses the importance of the...

The fourth part of the chapter discusses the importance of the...

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The sixth part of the chapter discusses the importance of the...

The seventh part of the chapter discusses the importance of the...

I Certify that this PUBLIC BILL, which originated in the LEGISLATIVE COUNCIL, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

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

Legislative Council Chamber,
Sydney, 12th December, 1927.

New South Wales.



ANNO DUODEVICESIMO

GEORGII V REGIS.

Act No. 56, 1927.

An Act to amend sections one hundred and sixty-four and one hundred and seventy-three of the Conveyancing Act, 1919, in certain respects. [Assented to, 13th December, 1927.]

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 "Conveyancing (Amendment) Act, 1927."

2.

Conveyancing (Amendment).

Amendment of
Act No. 6, 1919.
Sec. 164.

2. (1) The Conveyancing Act, 1919, is amended—

(a) by inserting the following subsection next after subsection one of section one hundred and sixty-four :—

(1A) Omission to search in any register or list kept or filed pursuant to the Companies (Registration of Securities) Act, 1918, or the Companies Act, 1899, or any present or future Act amending those Acts, or either of them, shall not of itself affect a purchaser of land with notice of any mortgage or charge;

Sec. 173 (1).

(b) (i) by inserting in subsection one of section one hundred and seventy-three immediately before the word "concurrence" the word "party";

(ii) by inserting at the end of the same subsection the following proviso :—

Provided that—

(a) an order made or purporting to be made in pursuance of the Settled Estates Act, 1886, or Part IV of the Conveyancing and Law of Property Act, 1898, shall not by this section be validated as against any estate or interest claimed otherwise than under or through the settlement in relation to which the order was made; and

(b) an order made in a suit for partition shall not by this section be validated as against any estate or interest which is not an undivided share or an estate or interest in an undivided share of the entire estate or interest which the order purports to affect; and

(c) an order made in a suit for foreclosure or otherwise at the suit of a mortgagee as such shall not by this section be validated as against any estate or interest not claimed under

Conveyancing (Amendment).

- under or through the person by whose act or default the mortgage in relation to which the order was made was created, or as against any estate or interest having priority to such mortgage; and
- (d) an order in any other case shall not by this section be validated against a person not a party to, and not apart from this section, otherwise bound by the proceedings in which the order was made, if the effect of the order or of anything done in pursuance of the order or the combined effect of the order and anything done in pursuance of the order, but for this proviso, would be to deprive such person of an estate or interest and prevent him from receiving the whole or any part of the proceeds of any transaction carried out in pursuance of the order; and
- (e) in any case an order to the extent to which it expressly excludes any person from its operation shall not by this section be validated against that person.

(2) This Act shall take effect as if it had come into operation on the first day of July, one thousand nine hundred and twenty, except that it shall not affect the rights of any party to any proceeding at law or in equity concluded before or pending at the passing of this Act. Retrospective operation.

In the name and on behalf of His Majesty I assent to this Act.

D. R. S. DE CHAIR,
Governor.

*Government House,
Sydney, 13th December, 1927.*

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Conveyancing (Amendment) Bill, 1927.

EXPLANATORY NOTE.

THE proposed amendment of section 164 of the Conveyancing Act, 1919, is proposed owing to doubts having arisen as to whether a purchaser of land ought reasonably to search in the register kept by the Registrar of Joint Stock Companies, or by companies under sections 3 (2) and 11 of the Companies (Registration of Securities) Act, 1918. This doubt the amendment is intended to determine.

The view is held that the holder of any security over land of the company, if he wishes to protect it from subsequent dealings by the company registered under the Registration of Deeds Act, should register his security under that Act. Usually such securities are effected by the issue of a debenture or debentures. Although a debenture creating a charge is not itself suitable for registration under the Registration of Deeds Act, it may be, and very often is, protected by a covering deed, which can, of course, be registered.

The proposed amendment of section 173 is designed to restore, as far as possible, the usefulness of the section, which the judgment of the High Court in *Templeton v. Leviathan, &c., Company*, 30 C.L.R. 35, has had the effect of practically destroying for conveyancing purposes.

Section 173, if literally construed, might possibly cause hardship, and the judgments of the English courts have placed some limitations upon it. None, however, have gone so far as the *Leviathan* case appears to have done.

The object of the section was to make Orders of Court conclusive in favour of purchasers without notice and to cover any irregularity of procedure. Since the judgment referred to it has been necessary to revert to the practice, obtaining prior to the passing of the Conveyancing Act, of examining the proceedings in which Orders have been made, for the purpose of ascertaining that all necessary persons are bound. Reversion to the old practice in the investigation of titles applied to be brought under the Real Property Act has involved a large amount of work and consequent expense which, apparently, it was the intention of the Legislature to abolish.

The scheme of the suggested amendment is to deal separately with each case which can be separately provided for, thus covering the more common Orders, and to provide generally for the residue. The operation of the section will still be limited to the extent necessary to prevent it resulting in hardship. The amendment proposed provides adequate safeguards without destroying the beneficial effect of the section.

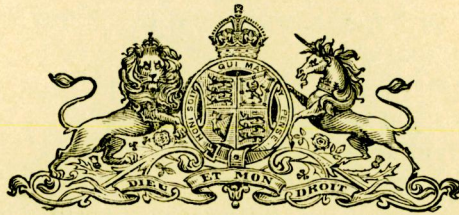
The amendments are made retrospective to the commencement of the Conveyancing Act, 1919, with the usual saving as to completed and pending litigation.

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, 23rd November, 1927.*

New South Wales.



ANNO DUODEVICESIMO

GEORGI V REGIS.

Act No. , 1927.

An Act to amend sections one hundred and sixty-four and one hundred and seventy-three of the Conveyancing Act, 1919, in certain respects.

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 "Conveyancing (Amendment) Act, 1927."

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2.

Conveyancing (Amendment).

2. (1) The Conveyancing Act, 1919, is amended— Amendment of Act No. 6, 1919.

(a) by inserting the following subsection next Sec. 164.
after subsection one of section one hundred
and sixty-four :—

5 (1A) Omission to search in any register or
list kept or filed pursuant to the Companies
(Registration of Securities) Act, 1918, or the
Companies Act, 1899, or any present or future
Act amending those Acts, or either of them,
10 shall not of itself affect a purchaser of land
with notice of any mortgage or charge;

(b) (i) by inserting in subsection one of section Sec. 173 (1).
one hundred and seventy-three immedi-
ately before the word " concurrence " the
word " party " ;

15 (ii) by inserting at the end of the same sub-
section the following proviso :—

Provided that—

20 (a) an order made or purporting to be
made in pursuance of the Settled
Estates Act, 1886, or Part IV of
the Conveyancing and Law of
Property Act, 1898, shall not by
25 this section be validated as against
any estate or interest claimed
otherwise than under or through
the settlement in relation to which
the order was made; and

30 (b) an order made in a suit for partition
shall not by this section be validated
as against any estate or interest
which is not an undivided share or
an estate or interest in an undivided
share of the entire estate or interest
35 which the order purports to affect;
and

40 (c) an order made in a suit for fore-
closure or otherwise at the suit of
a mortgagee as such shall not by
this section be validated as against
any estate or interest not claimed
under

Conveyancing (Amendment).

under or through the person by whose act or default the mortgage in relation to which the order was made was created, or as against any estate or interest having priority to such mortgage; and

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(d) an order in any other case shall not by this section be validated against a person not a party to, and not apart from this section, otherwise bound by the proceedings in which the order was made, if the effect of the order or of anything done in pursuance of the order or the combined effect of the order and anything done in pursuance of the order, but for this proviso, would be to deprive such person of an estate or interest and prevent him from receiving the whole or any part of the proceeds of any transaction carried out in pursuance of the order; and

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(e) in any case an order to the extent to which it expressly excludes any person from its operation shall not by this section be validated against that person.

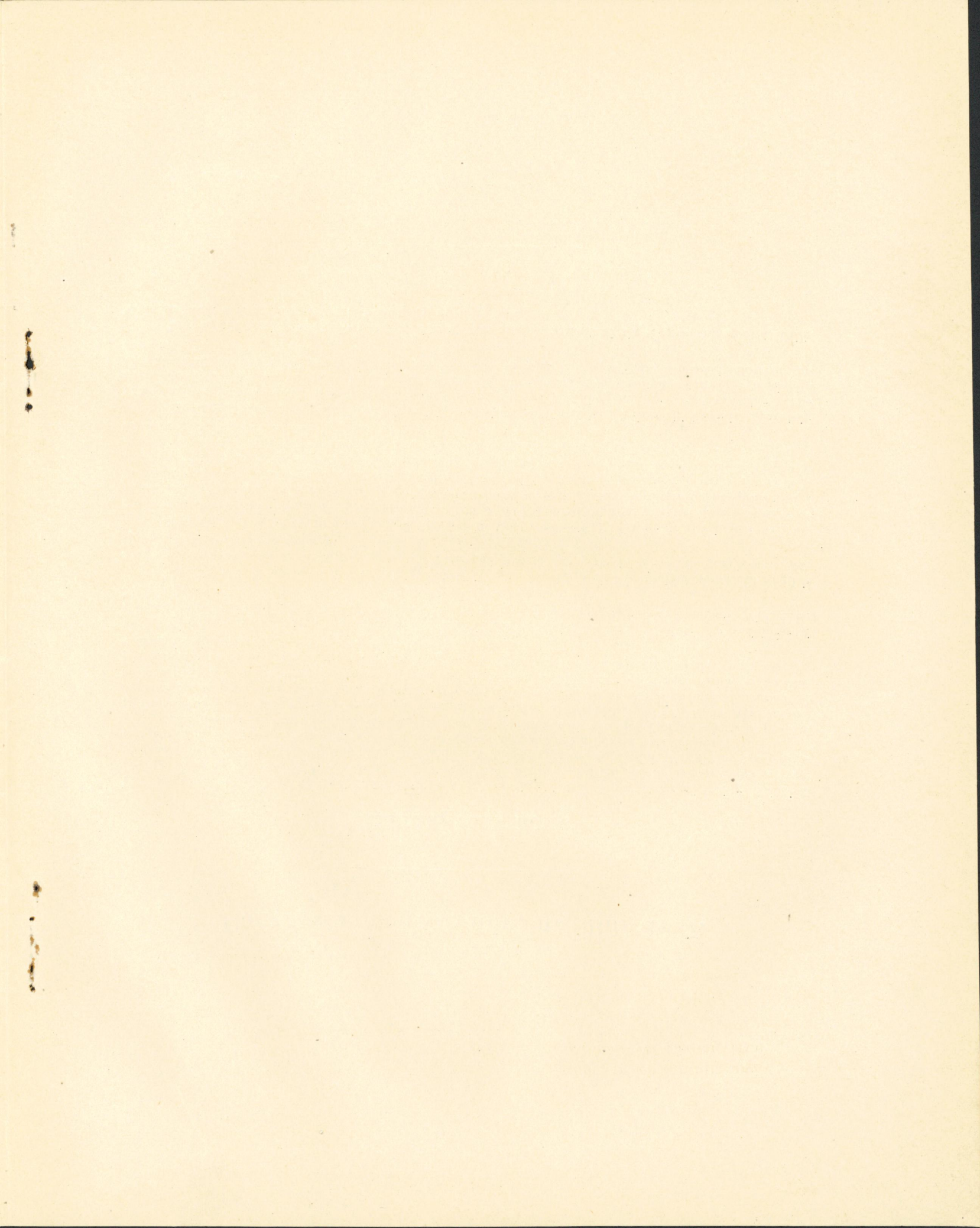
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(2) This Act shall take effect as if it had come into operation on the first day of July, one thousand nine hundred and twenty, except that it shall not affect the rights of any party to any proceeding at law or in equity concluded before or pending at the passing of this Act.

Retrospective operation.

Faint, vertically oriented text, possibly bleed-through from the reverse side of the page. The characters are difficult to discern but appear to include:

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1927.

Legislative Council.

Conveyancing (Amendment) Bill, 1927.

EXPLANATORY NOTE.

THE proposed amendment of section 164 of the Conveyancing Act, 1919, is proposed owing to doubts having arisen as to whether a purchaser of land ought reasonably to search in the register kept by the Registrar of Joint Stock Companies, or by companies under sections 3 (2) and 11 of the Companies (Registration of Securities) Act, 1918. This doubt the amendment is intended to determine.

The view is held that the holder of any security over land of the company, if he wishes to protect it from subsequent dealings by the company registered under the Registration of Deeds Act, should register his security under that Act. Usually such securities are effected by the issue of a debenture or debentures. Although a debenture creating a charge is not itself suitable for registration under the Registration of Deeds Act, it may be, and very often is, protected by a covering deed, which can, of course, be registered.

The proposed amendment of section 173 is designed to restore, as far as possible, the usefulness of the section, which the judgment of the High Court in *Templeton v. Leviathan, &c., Company*, 30 C.L.R. 35, has had the effect of practically destroying for conveyancing purposes.

Section 173, if literally construed, might possibly cause hardship, and the judgments of the English courts have placed some limitations upon it. None, however, have gone so far as the *Leviathan* case appears to have done.

The object of the section was to make Orders of Court conclusive in favour of purchasers without notice and to cover any irregularity of procedure. Since the judgment referred to it has been necessary to revert to the practice, obtaining prior to the passing of the Conveyancing Act, of examining the proceedings in which Orders have been made, for the purpose of ascertaining that all necessary persons are bound. Reversion to the old practice in the investigation of titles applied to be brought under the Real Property Act has involved a large amount of work and consequent expense which, apparently, it was the intention of the Legislature to abolish.

The scheme of the suggested amendment is to deal separately with each case which can be separately provided for, thus covering the more common Orders, and to provide generally for the residue. The operation of the section will still be limited to the extent necessary to prevent it resulting in hardship. The amendment proposed provides adequate safeguards without destroying the beneficial effect of the section.

The amendments are made retrospective to the commencement of the Conveyancing Act, 1919, with the usual saving as to completed and pending litigation.

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Legislative Council.

No. , 1927.

A BILL

To amend sections one hundred and sixty-four and one hundred and seventy-three of the Conveyancing Act, 1919, in certain respects.

[MR. BOYCE;— 17 November, 1927.]

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 "Conveyancing (Amendment) Act, 1927." Short title.

48849

c 1—

2.

Amendment of
Act No. 6, 1919.
Sec. 164.

2. (1) The Conveyancing Act, 1919, is amended—

(a) by inserting the following subsection next after subsection one of section one hundred and sixty-four :—

(1A) Omission to search in any register or list kept or filed pursuant to the Companies (Registration of Securities) Act, 1918, or the Companies Act, 1899, or any present or future Act amending those Acts, or either of them, shall not of itself affect a purchaser of land with notice of any mortgage or charge;

Sec. 17 (1)

(b) (i) by inserting in subsection one of section one hundred and seventy-three immediately before the word " concurrence " the word " party " ;

(ii) by inserting at the end of the same subsection the following proviso :—

Provided that—

(a) an order made or purporting to be made in pursuance of the Settled Estates Act, 1886, or Part IV of the Conveyancing and Law of Property Act, 1898, shall not by this section be validated as against any estate or interest claimed otherwise than under or through the settlement in relation to which the order was made; and

(b) an order made in a suit for partition shall not by this section be validated as against any estate or interest which is not an undivided share or an estate or interest in an undivided share of the entire estate or interest which the order purports to affect; and

(c) an order made in a suit for foreclosure or otherwise at the suit of a mortgagee as such shall not by this section be validated as against any estate or interest not claimed under

5 under or through the person by whose act or default the mortgage in relation to which the order was made was created, or as against any estate or interest having priority to such mortgage; and

10 (d) an order in any other case shall not by this section be validated against a person not a party to, and not apart from this section, otherwise bound by the proceedings in which the order was made, if the effect of the order or of anything done in pursuance of the order or the combined effect of the order and anything done in pursuance of the order, but for this proviso, would be to deprive such person of an estate or interest and prevent him from receiving the whole or any part of the proceeds of any transaction carried out in pursuance of the order; and

20 (e) in any case an order to the extent to which it expressly excludes any person from its operation shall not by this section be validated against that person.

25 (2) This Act shall take effect as if it had come into operation on the first day of July, one thousand nine hundred and twenty, except that it shall not affect the rights of any party to any proceeding at law or in equity concluded before or pending at the passing of this Act. Retrospective operation.

under or through the person by
whom it is made; and the
in which it is made; and
which was made or is made
by or for the person by
whom it is made; and

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(b) in any other case shall not
be deemed to be made
by or for the person by
whom it is made, unless
it is made or is made
by or for the person by
whom it is made; and
the person by whom it is
made or is made, or
the person for whom it
is made or is made,
is a person who is
entitled to the
benefit of the
provisions of this
Act; and

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(c) in any other case shall not
be deemed to be made
by or for the person by
whom it is made, unless
it is made or is made
by or for the person by
whom it is made; and

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the person by whom it is made
or is made, or the person
for whom it is made or is
made, is a person who is
entitled to the benefit of
the provisions of this Act;
and

