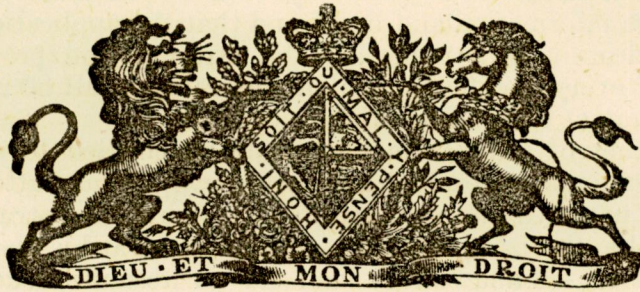


This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

Legislative Assembly Chamber,  
Sydney, 24 July, 1877. }

F. W. WEBB,  
Acting Clerk of Legislative Assembly.

## New South Wales.



ANNO QUADRAGESIMO PRIMO

# VICTORIÆ REGINÆ.

\*\*\*\*\*

No. .

An Act to further amend the "Real Property Act."

**W**HEREAS it is expedient to extend the operation of the Real Preamble.  
Property Act to simplify references to the Supreme Court on  
doubtful questions of title in certain cases—and in other respects to  
amend the said Act Be it therefore enacted by the Queen's Most  
5 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 the same as follows:—

1. This Act shall take effect from the passing thereof and may Commencement short  
be cited as the "Real Property Act further Amendment Act of 1877" title &c.  
10 and shall be read with the Real Property Act twenty-sixth Victoria  
number nine as amended by the Act thirty-sixth Victoria number  
seven and hereinafter termed the principal Act.

2. The following provisions as to applications and nominations As to applications to  
shall take effect viz:—In addition to the persons entitled under the bring land under Act.  
15 thirteenth section of the principal Act to apply to bring land as defined  
by

*Real Property Act further Amendment.*

by the said section under the provisions of that Act applications for that purpose shall subject to the provisions of the said Act be received by the Registrar General from—

5 (1.) Persons who have the power of appointing or disposing of the fee simple absolutely Provided that the consent of the husband of a married woman to an application by her shall not be requisite where the land the subject of the application stands settled or limited to her separate use for an estate in fee or where such land is subject to her general power of appointment by deed for such an estate and in the event of 10 the said land being brought under the said Act such application shall be deemed both at law and in equity to be an exercise of such power.

15 (2.) The attorney of any corporation having the power to hold or dispose of land in fee simple constituted as such by a power of attorney under the common seal of the corporation and authorizing such attorney to apply Provided that such application shall be made for and on behalf of the corporation of which he is the attorney and that the 20 requisite declaration be made by him to the best of his knowledge information and belief and that the application be subscribed in his own name as such attorney and provided also that every certificate or such application shall be issued in the name of such corporation.

25 (3.) The attorney of any person who would be entitled to apply in his own name if resident in the Colony if such attorney shall be or have been constituted such by an instrument under seal authorizing the donee of the power at his absolute discretion to sell and convey land for an absolute estate in fee simple and to give effectual discharges to purchasers 30 Provided that in all cases the requisite evidence of non-revocation of such power of attorney by the donor's death or otherwise shall be furnished and that no nomination of a person other than the donor of the said power to receive the certificate of title except for valuable consideration shall be 35 entertained on such application.

(4.) In the case of land contracted to be purchased the vendor shall consent to or join in the application of the purchaser except in cases where the whole of the purchase money has 40 been paid to the vendor or his authorized attorney or agent.

3. Notwithstanding any expression to the contrary in the principal Act no person shall be entitled to apply to be registered as a proprietor of land where the land the subject of application is at the date thereof in the possession of some person whose possession is 45 adverse to or in derogation of applicant's title. Application not to be entertained where land is in adverse possession &c.

4. Any applicant or his nominee may apply to a Judge of the Supreme Court in Chambers for an order requiring any specified person or persons having in his or their possession or custody any deeds instruments or evidences of title relating to or affecting the land the 50 subject of such application to produce at the Land Titles Office on a day to be named in such order there to be left for the perusal of the Examiners of Titles upon such terms and subject to such conditions as to the Judge may seem fit. Judge may order production of deeds &c.

5. In addition to the persons empowered by the seventy-ninth section of the principal Act to apply to be registered as proprietors by 55 transmission on the death of a deceased registered proprietor it shall be lawful for any person having a power of disposition over the fee simple Applications to be registered by transmission.

*Real Property Act further Amendment.*

simple of any land belonging to a deceased registered proprietor to make the application authorized by the said seventy-ninth section And every such application shall be proceeded with in the manner indicated by the said seventy-ninth and the eightieth sections of the  
 5 said Act Provided that in any application to be registered proprietor by transmission whether under this section or the said seventy-ninth section of the said Act the Commissioners of Titles may if advised by the Examiners of Titles dispense with the publication of all or any of the notices directed to be published by the said eightieth  
 10 section and the Registrar General shall unless he shall have received a caveat forbidding him so to do register the applicant as proprietor at the expiration of such time being one month or less than one month as the said Commissioners shall direct and the said Commissioners may direct any caveat to be entered by the Registrar General for the pro-  
 15 tection of the interests of other persons (if any) as may appear to the Examiners to be interested in such land.

6. Where any caveat shall hereafter be lodged forbidding the bringing of any land under the provision of the principal Act and notice of proceedings having been taken by the Caveator under the twenty-  
 20 third section of the said Act shall have been given to the Registrar General as therein directed if such proceedings shall not within six months after the date of writ or commencement of such proceedings have been continued to such a stage as to have resulted in a decision judgment or order by the Court it shall be lawful for the Registrar  
 25 General by direction of the Commissioners on giving one calendar month's notice to the caveator or to the solicitor whose name appears on the caveat of his intention to proceed or if neither of such courses be practicable then on posting or exhibiting on the said land such notice for a period of thirty days to proceed with the application not-  
 30 withstanding the provisions of the twenty-second section of the said Act and to bring the land the subject thereof and of the said caveat under the said Act unless in the meantime an order or injunction restraining the Registrar General from further proceeding with the said application shall have been served on him.

7. In any case where the declared value of land sought to be  
 35 brought under the provisions of the principal Act does not exceed one thousand pounds it shall be lawful for the applicant or any person nominated by him to receive a certificate of title wheresoever an objection or objections to the title disclosed by the application or in course of the  
 40 investigation thereof shall have been made by the Examiners charged therewith to state a case for the opinion of a Judge of the Supreme Court And to such case there shall be annexed such observations as the Examiners may think proper to make And the said Judge may either direct the case to be referred to the full Court for further decision  
 45 or give his opinion on the points submitted the costs in any case to be borne by the applicant And the opinion of the said Judge shall be binding upon the Examiners and Commissioners but shall not affect the claim of any person against the assurance fund under the principal Act or the right of such applicant or his nominee to proceed under the one  
 50 hundred and seventh section of the principal Act.

8. No title to land adverse to or in derogation of the title of the registered proprietor shall be acquired by any length of possession by virtue of any statute of limitations relating to real estate nor shall the title of any such registered proprietor be extinguished by the operation  
 55 of any such statute And the enactment contained in this section shall be deemed to be declaratory of the principal Act but shall not affect any proceeding had or commenced before the commencement of this Act.

*Real Property Act further Amendment.*

9. Where any declaration of trust in relation to land under the provisions of the principal Act shall be lodged under the sixty-sixth section of the said Act it shall be the duty of the Registrar General forthwith to enter a caveat forbidding the registration of any instrument not  
 5 in accordance with the trusts and provisions therein declared and contained so far as concerns the land affected by such declaration and thereupon the words "Caveat Number " (the proper number being filled in) shall be stamped or written upon the folium of the register comprising the land referred to in such declaration of trust Provided  
 10 that such caveat may be removed by the Court or Judge on application of the same persons and in the same manner as provided by the eighty-second section of the said principal Act.

Provision for caveats or declarations of trust.

10. In any case where it shall appear to the satisfaction of the Commissioners on the application of any registered proprietor that any  
 15 road street or lane or portion of a road street or lane delineated on the plan appended to his certificate of title (not being a road street or lane of which the soil is vested in the Crown) has by reason of non-use for the space of twenty years or from any other cause ceased to be of any general or local utility or convenience that all registered proprietors of  
 20 contiguous lands have consented in writing to the cancellation from such certificate of such road street or lane or portion thereof it shall be lawful for the Registrar General by direction of the Commissioners to cause a notification of the application of such registered proprietor to be inserted in the *Government Gazette* and in some newspaper published  
 25 or circulating in the locality and if no objection to such application by any person claiming an interest in or easement over such road shall be lodged within three months from the date of such notification then the Registrar General may by such direction as aforesaid notify on such certificate that the said road street or lane or any portion thereof has  
 30 been cancelled therefrom And such notification of cancellation shall have the effect of extinguishing any public or private easement over such road street or lane and of vesting the soil thereof in such person or persons as in the opinion of the Examiners of Titles shall be entitled to such contiguous lands according to his or their respective estates or  
 35 interests therein.

Provision for cancellation of unnecessary roads &c. from certificates of title.

11. No writ of execution issued after the passing of this Act shall bind any land under the provisions of the principal Act nor shall any transfer on a sale of such land under such writ of execution be registered unless an office copy of such writ shall be served on the  
 40 Registrar General within six months from the teste date of such writ or date of any renewal thereof for the purpose of making the entries described in the ninety-second section of the said Act But the provisions contained in this section shall not affect otherwise than as herein enacted the provisions of the said ninety-second section.

As to writs of *Fi. fa.*