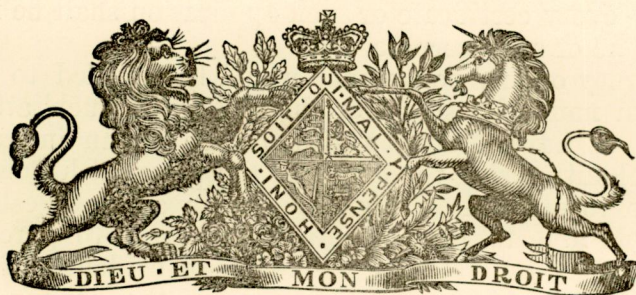


*This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.*

*Legislative Assembly Chamber,  
Sydney, 13 March, 1878.* }

STEPHEN W. JONES,  
*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 <sup>Preamble.</sup> 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 Legislative 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 <sup>Commencement short</sup> be cited as the "Real Property Act further Amendment Act of 1877" <sup>title &c.</sup>  
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 <sup>As to applications to</sup> shall take effect viz:—In addition to the persons entitled under the <sup>bring land under Act.</sup>  
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 30 fee simple and to give effectual discharges to purchasers 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.
3. 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 40 or his authorized attorney or agent. When vendor to join in application.
4. 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 45 date thereof in the possession of some person whose possession is adverse to or in derogation of applicant's title. Application not to be entertained where land is in adverse possession &c.
5. 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 50 instruments or evidences of title relating to or affecting the land the 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.
6. In addition to the persons empowered by the seventy-ninth 55 section of the principal Act to apply to be registered as proprietors by 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 of any land belonging to a deceased registered proprietor to make the application authorized by the said seventy-ninth section Applications to be registered by transmission.
- And



*Real Property Act further Amendment.*

And every such application shall be proceeded with in the manner indicated by the said seventy-ninth and the eightieth sections of the 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 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 protection of the interests of other persons (if any) as may appear to the Examiners to be interested in such land.

7. In any application to be registered as proprietor under the provisions of the seventy-ninth section of the principal Act it shall be competent for though not compulsory on the Commissioners if so advised by the Examiners of Titles to dispense with a certificate of the death of the deceased registered proprietor on production of such other good and sufficient evidence of his death as the Examiners of Titles shall think sufficient and in any such application it shall be unnecessary for the applicant to state the nature of or set forth any estate or interest held by any other person or persons at law or in equity arising or supposed to arise out of matters anterior to the date of the instrument in respect of which he applies to be registered unless such estate or interest shall have been disclosed by or referred to in some instrument or declaration of trust deposited under the said Act or shall have been protected by caveat entered pursuant to the provisions of the said Act and the Registrar General Examiners and Commissioners shall not except in the cases before mentioned be concerned in or take notice of any such anterior estates or interests as aforesaid and such application may be made and verified either by and on the oath of the applicant or in case of his absence from the Colony of New South Wales by his agent duly constituted by a general power of attorney.

Dispensation of certificates of death in certain cases in transmission applications and of statement of certain estates and interests.

8. Upon the registration of any person claiming any estate of freehold in the land of a deceased proprietor under sections seventy-nine and eighty of the principal Act it shall not be necessary for such first-mentioned person to take out a certificate of title in his own name where the transmission is of the whole of the land comprised in the grant or certificate of title surrendered and for the whole of the estate of the deceased registered proprietor but he may receive the grant or certificate of such registered proprietor with a memorial of the transmission endorsed thereon provided that the Registrar General whenever in his opinion any grant or certificate of title shall be incapable of containing with convenience any further endorsements may compel the last proprietor applying for registration to receive a certificate of title in his own name.

Registration on transmission by endorsement.

9. 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-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 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

As to caveats.



*Real Property Act further Amendment.*

notice for a period of thirty days to proceed with the application notwithstanding 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.

10. In any case where the declared value of land sought to be 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 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 their decision 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 hundred and seventh section of the principal Act.

Special case.

11. 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 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.

Statutes of limitations not to affect land under Act.

12. 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 in accordance with the trusts and provisions therein declared 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 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.

13. 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 a true copy of such writ shall be served on the 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.*

14. Nothing in the sixty-sixth or any other section of the principal Act shall be deemed to prevent or to have prevented the registration of any Crown grant issued or to be issued at any time from and after the first day of January one thousand eight hundred and sixty-three by reason of the fact that a trust or trusts may have been or may be declared in such grant.

Grants to be registered although trusts declared.



REAL PROPERTY ACT FURTHER AMENDMENT BILL.

---

*SCHEDULE of the Amendments referred to in Message of 2nd May, 1878.*

---

- Page 1, clause 1, line 11. *After* "nine" *omit* "hereinafter termed the principal Act"  
" " lines 12 and 13. *Omit* "and hereinafter termed the principal Act"  
" " 2, lines 14 and 15. *Omit* "The following provisions as to applications  
and nominations shall take effect viz."  
Page 2, clause 2, lines 15 and 16. *Omit* "by a power of attorney"  
" " lines 17 and 18. *Omit* "such" *insert* "the"  
" " line 23. *Omit* "or" *insert* "on"  
" " line 28. *Omit* "the donee of the power" *insert* "him"  
" " line 32. *Omit* "such" *insert* "the"  
" " line 32. *Omit* "of attorney"  
" " line 32. *Omit* "donor's" *insert* "grantor's"  
" " line 33. *After* "furnished" *omit* remainder of Clause.  
" clause 4. *Omit* clause 4, *insert* new clause 4.  
Page 3, clause 5, lines 10 and 11. *Omit* "any applicant or his nominee may apply to a  
"Judge of the Supreme Court in Chambers for" *insert* "any Judge of the  
"Supreme Court may on the application of any person seeking to bring  
"land under the principal Act make"  
" clause 5, line 13. *Omit* "or persons"  
" " line 14. *Omit* "or their"  
" " line 14. *Omit* "custody" *insert* "under his control"  
" " lines 15 and 16. *Omit* "the subject of such application"  
" " line 16. *After* "produce" *insert* "the same"  
" " line 19. *After* "to" *insert* "costs and otherwise as to"  
" " 6, line 25. *Omit* "authorized by the said seventy-ninth section"  
" " line 30. *Omit* "of the said Act"  
" " line 30. *After* "if" *insert* "so"  
" " line 35. *Omit* "being one month or less" *insert* "not being more"  
" " line 38. *Before* "other" *insert* "such"  
" " 7, lines 44 and 45. *Omit* "good and sufficient"  
Page 4, " 9, line 15. *Add* "s" to "provision"  
" " 10. *Omit* clause 10, *insert* new clause 10.  
Page 5, " 13, line 26. *After* "Act" *omit* remainder of clause.







*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, 13 March, 1878. }*

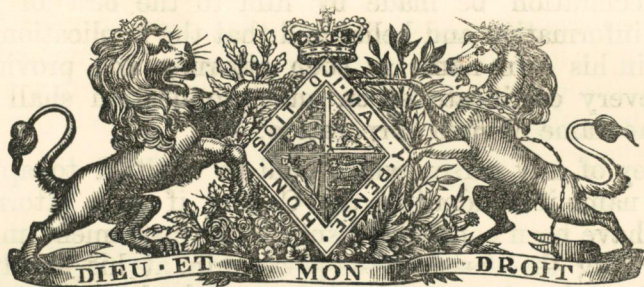
STEPHEN W. JONES,  
*Clerk of Legislative Assembly.*

*The LEGISLATIVE COUNCIL has this day agreed to this Bill with Amendments.*

*Legislative Council Chamber,  
Sydney, 2nd May, 1878. }*

JOHN J. CALVERT,  
*Clerk of the Parliaments.*

## 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 hereinafter termed the principal Act as amended by the  
Act thirty-sixth Victoria number seven and hereinafter termed the  
principal Act.
- 15 ~~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.  
thirteenth section of the principal Act to apply to bring land as defined  
by
- 18—A

NOTE.—The words to be omitted are ruled through; those to be inserted are printed in black letter.



*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~~ the 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~~ on 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~~ him at his absolute discretion to sell and convey land for an absolute estate in 30 fee simple and to give effectual discharges to purchasers Provided that in all cases the requisite evidence of non-revocation of ~~such the power of attorney~~ by the donor's grantor'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.

3. 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 40 where the whole of the purchase money has been paid to the vendor or his authorized attorney or agent. When vendor to join in application.

4. 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. Where any caveat against an application to bring land under the principal Act shall have been lodged in pursuance of the twenty-first section by any person (hereinafter called the caveator) claiming such land or a portion thereof or an interest therein adversely to the 50 applicant it shall not be necessary for such caveator to take proceedings in any Court to establish such claim but the applicant may state a case for the opinion and direction of the Supreme Court upon the matter and the caveator may apply to the said Court for an order on the Registrar General as provided by the twenty-third section to restrain him from 55 proceeding until the further order of the Court And the Court may make such an order and may in its discretion direct the caveator to lodge in the Court on or before a certain day a case on his own behalf stating whether he claims in his own right or under another person together

To amend ss. 21 and 23 of principal Act.



*Real Property Act further Amendment.*

together with such other particulars if any as the Court shall think fit to order and the Court shall thereupon direct an issue or issues to be tried by a jury as to any fact or facts or should no fact be in contest may decide the matter upon the case stated and for the purposes aforesaid may make all such orders as the Court shall think fit and the decision of the Court finally upon the matter shall be conclusive on the parties and on the Registrar General and Commissioners And the costs of every proceeding under this section shall be borne by the party finally unsuccessful.

- 10 5. Any applicant or his nominee may apply to a Judge of the Supreme Court in Chambers for **Any Judge of the Supreme Court may** on the application of any person seeking to bring land under the principal Act make an order requiring any specified person or persons having in his or their possession or custody under his control any deeds  
 15 instruments or evidences of title relating to or affecting the land the subject of such application to produce the same 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 costs and otherwise as to the Judge may seem fit.
- 20 6. In addition to the persons empowered by the seventy-ninth section of the principal Act to apply to be registered as proprietors by 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 of any land belonging to a deceased registered proprietor to  
 25 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 said Act Provided that in any application to be registered proprietor by transmission whether under this section or the said seventy-  
 30 ninth section of the said Act the Commissioners of Titles may if so 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 section and the Registrar General shall unless he shall have received a caveat forbidding him so to do register the applicant as proprietor at  
 35 the expiration of such time being one month or less not being more 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 protection of the interests of such other persons (if any) as may appear to the Examiners to be interested in such land.
- 40 7. In any application to be registered as proprietor under the provisions of the seventy-ninth section of the principal Act it shall be competent for though not compulsory on the Commissioners if so advised by the Examiners of Titles to dispense with a certificate of the death of the deceased registered proprietor on production of such other good and  
 45 sufficient evidence of his death as the Examiners of Titles shall think sufficient and in any such application it shall be unnecessary for the applicant to state the nature of or set forth any estate or interest held by any other person or persons at law or in equity arising or supposed to arise out of matters anterior to the date of the instrument in  
 50 respect of which he applies to be registered unless such estate or interest shall have been disclosed by or referred to in some instrument or declaration of trust deposited under the said Act or shall have been protected by caveat entered pursuant to the provisions of the said Act and the Registrar General Examiners and Commissioners shall not  
 55 except in the cases before mentioned be concerned in or take notice of any such anterior estates or interests as aforesaid and such application may be made and verified either by and on the oath of the applicant or in case of his absence from the Colony of New South Wales by his agent duly constituted by a general power of attorney.

Judge may order production of deeds &c.

Applications to be registered by transmission.

Dispensation of certificates of death in certain cases in transmission applications and of statement of certain estates and interest



*Real Property Act further Amendment.*

8. Upon the registration of any person claiming any estate of freehold in the land of a deceased proprietor under sections seventy-nine and eighty of the principal Act it shall not be necessary for such first-mentioned person to take out a certificate of title in his own name where the transmission is of the whole of the land comprised in the grant or certificate of title surrendered and for the whole of the estate of the deceased registered proprietor but he may receive the grant or certificate of such registered proprietor with a memorial of the transmission endorsed thereon provided that the Registrar General whenever in his opinion any grant or certificate of title shall be incapable of containing with convenience any further endorsements may compel the last proprietor applying for registration to receive a certificate of title in his own name.

Registration on transmission by endorsement.

9. Where any caveat shall hereafter be lodged forbidding the bringing of any land under the provisions of the principal Act and notice of proceedings having been taken by the Caveator under the twenty-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 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 notwithstanding 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.

As to caveats.

10. In any case where the declared value of land sought to be 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 where soever an objection or objections to the title disclosed by the application or in course of the 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 their decision 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 hundred and seventh section of the principal Act.

Special case.

10. If any objection to the title of land sought to be brought under the provisions of the Principal Act is made by the Examiners which the applicant shall deem to be not well founded he may state a case for the decision of the Supreme Court which decision 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 the applicant to proceed under the one hundred and seventh section of that Act Provided always that to every such case there shall be annexed such observations as the Examiners may think proper to make Provided also that the costs of obtaining such decision shall in each case be borne by the applicant.

Special case.



*Real Property Act further Amendment.*

11. No title to land adverse to or in derogation 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 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.

Statutes of limitations not to affect land under Act.

12. 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 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 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 caveat or declarations of trust.

13. 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 a true copy of such writ shall be served on the 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.*

14. Nothing in the sixty-sixth or any other section of the principal Act shall be deemed to prevent or to have prevented the registration of any Crown grant issued or to be issued at any time from and after the first day of January one thousand eight hundred and sixty-three by reason of the fact that a trust or trusts may have been or may be declared in such grant.

Grants to be registered although trusts declared.



Act for the better regulation of the courts of law

17. To give effect to the provisions of the Act of the 2nd year of the said Queen Victoria, relating to the better regulation of the courts of law, it is enacted that the provisions of the said Act shall have effect as if they were contained in this Act.

18. It is enacted that the provisions of the Act of the 2nd year of the said Queen Victoria, relating to the better regulation of the courts of law, shall have effect as if they were contained in this Act.

19. It is enacted that the provisions of the Act of the 2nd year of the said Queen Victoria, relating to the better regulation of the courts of law, shall have effect as if they were contained in this Act.

20. It is enacted that the provisions of the Act of the 2nd year of the said Queen Victoria, relating to the better regulation of the courts of law, shall have effect as if they were contained in this Act.

21. It is enacted that the provisions of the Act of the 2nd year of the said Queen Victoria, relating to the better regulation of the courts of law, shall have effect as if they were contained in this Act.

22. It is enacted that the provisions of the Act of the 2nd year of the said Queen Victoria, relating to the better regulation of the courts of law, shall have effect as if they were contained in this Act.

23. It is enacted that the provisions of the Act of the 2nd year of the said Queen Victoria, relating to the better regulation of the courts of law, shall have effect as if they were contained in this Act.

24. It is enacted that the provisions of the Act of the 2nd year of the said Queen Victoria, relating to the better regulation of the courts of law, shall have effect as if they were contained in this Act.

25. It is enacted that the provisions of the Act of the 2nd year of the said Queen Victoria, relating to the better regulation of the courts of law, shall have effect as if they were contained in this Act.

26. It is enacted that the provisions of the Act of the 2nd year of the said Queen Victoria, relating to the better regulation of the courts of law, shall have effect as if they were contained in this Act.

27. It is enacted that the provisions of the Act of the 2nd year of the said Queen Victoria, relating to the better regulation of the courts of law, shall have effect as if they were contained in this Act.

28. It is enacted that the provisions of the Act of the 2nd year of the said Queen Victoria, relating to the better regulation of the courts of law, shall have effect as if they were contained in this Act.

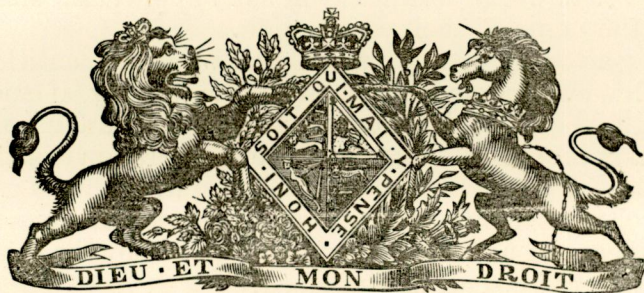
29. It is enacted that the provisions of the Act of the 2nd year of the said Queen Victoria, relating to the better regulation of the courts of law, shall have effect as if they were contained in this Act.

30. It is enacted that the provisions of the Act of the 2nd year of the said Queen Victoria, relating to the better regulation of the courts of law, shall have effect as if they were contained in this Act.

[10]



New South Wales.



ANNO QUADRAGESIMO PRIMO

VICTORIÆ REGINÆ.

\*\*\*\*\*

No. XVIII.

An Act to further amend the "Real Property Act."  
[Assented to, 9th May, 1878.]

WHEREAS it is expedient to extend the operation of the Real <sup>Preamble.</sup> 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 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 shall take effect from the passing thereof and may <sup>Commencement short</sup> be cited as the "Real Property Act further Amendment Act of 1877" <sup>title &c.</sup> and shall be read with the Real Property Act twenty-sixth Victoria number nine hereinafter termed the principal Act as amended by the Act thirty-sixth Victoria number seven.

2. In addition to the persons entitled under the thirteenth section <sup>As to applications to</sup> of the principal Act to apply to bring land as defined by the said <sup>bring land under Act.</sup> 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—

- (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



*Real Property Act further Amendment.*

fee or where such land is subject to her general power of appointment by deed for such an estate and in the event of 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.

(2.) The attorney of any corporation having the power to hold or dispose of land in fee simple constituted as such under the common seal of the corporation and authorizing such attorney to apply Provided that the application shall be made for and on behalf of the corporation of which he is the attorney and that the 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 on such application shall be issued in the name of such corporation.

(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 him at his absolute discretion to sell and convey land for an absolute estate in fee simple and to give effectual discharges to purchasers Provided that in all cases the requisite evidence of non-revocation of the power by the grantor's death or otherwise shall be furnished.

When vendor to join  
in application.

3. 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 been paid to the vendor or his authorized attorney or agent.

To amend ss. 21 and  
23 of principal Act.

4. Where any caveat against an application to bring land under the principal Act shall have been lodged in pursuance of the twenty-first section by any person (hereinafter called the caveator) claiming such land or a portion thereof or an interest therein adversely to the applicant it shall not be necessary for such caveator to take proceedings in any Court to establish such claim but the applicant may state a case for the opinion and direction of the Supreme Court upon the matter and the caveator may apply to the said Court for an order on the Registrar General as provided by the twenty-third section to restrain him from proceeding until the further order of the Court And the Court may make such an order and may in its discretion direct the caveator to lodge in the Court on or before a certain day a case on his own behalf stating whether he claims in his own right or under another person together with such other particulars if any as the Court shall think fit to order and the Court shall thereupon direct an issue or issues to be tried by a jury as to any fact or facts or should no fact be in contest may decide the matter upon the case stated and for the purposes aforesaid may make all such orders as the Court shall think fit and the decision of the Court finally upon the matter shall be conclusive on the parties and on the Registrar General and Commissioners And the costs of every proceeding under this section shall be borne by the party finally unsuccessful.

Judge may order  
production of deeds  
&c.

5. Any Judge of the Supreme Court may on the application of any person seeking to bring land under the principal Act make an order requiring any specified person having in his possession or under his control any deeds instruments or evidences of title relating to or affecting the land to produce the same 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 costs and otherwise as to the Judge may seem fit.

Applications to be  
registered by trans-  
mission.

6. In addition to the persons empowered by the seventy-ninth section of the principal Act to apply to be registered as proprietors by transmission



*Real Property Act further Amendment.*

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 of any land belonging to a deceased registered proprietor to make the application. And every such application shall be proceeded with in the manner indicated by the said seventy-ninth and the eightieth sections of the said Act. Provided that in any application to be registered proprietor by transmission whether under this section or the said seventy-ninth section the Commissioners of Titles may if so 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 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 not being more 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 protection of the interests of such other persons (if any) as may appear to the Examiners to be interested in such land.

7. In any application to be registered as proprietor under the provisions of the seventy-ninth section of the principal Act it shall be competent for though not compulsory on the Commissioners if so advised by the Examiners of Titles to dispense with a certificate of the death of the deceased registered proprietor on production of such other evidence of his death as the Examiners of Titles shall think sufficient and in any such application it shall be unnecessary for the applicant to state the nature of or set forth any estate or interest held by any other person or persons at law or in equity arising or supposed to arise out of matters anterior to the date of the instrument in respect of which he applies to be registered unless such estate or interest shall have been disclosed by or referred to in some instrument or declaration of trust deposited under the said Act or shall have been protected by caveat entered pursuant to the provisions of the said Act and the Registrar General Examiners and Commissioners shall not except in the cases before mentioned be concerned in or take notice of any such anterior estates or interests as aforesaid and such application may be made and verified either by and on the oath of the applicant or in case of his absence from the Colony of New South Wales by his agent duly constituted by a general power of attorney.

Dispensation of certificates of death in certain cases in transmission applications and of statement of certain estates and interests.

8. Upon the registration of any person claiming any estate of freehold in the land of a deceased proprietor under sections seventy-nine and eighty of the principal Act it shall not be necessary for such first-mentioned person to take out a certificate of title in his own name where the transmission is of the whole of the land comprised in the grant or certificate of title surrendered and for the whole of the estate of the deceased registered proprietor but he may receive the grant or certificate of such registered proprietor with a memorial of the transmission endorsed thereon provided that the Registrar General whenever in his opinion any grant or certificate of title shall be incapable of containing with convenience any further endorsements may compel the last proprietor applying for registration to receive a certificate of title in his own name.

Registration on transmission by endorsement.

9. Where any caveat shall hereafter be lodged forbidding the bringing of any land under the provisions of the principal Act and notice of proceedings having been taken by the Caveator under the twenty-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 General by direction of the Commissioners on giving one calendar month's

As to caveats.



*Real Property Act further Amendment.*

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 notwithstanding 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.

Special case.

10. If any objection to the title of land sought to be brought under the provisions of the Principal Act is made by the Examiners which the applicant shall deem to be not well founded he may state a case for the decision of the Supreme Court which decision 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 the applicant to proceed under the one hundred and seventh section of that Act. Provided always that to every such case there shall be annexed such observations as the Examiners may think proper to make. Provided also that the costs of obtaining such decision shall in each case be borne by the applicant.

Statutes of limitations not to affect land under Act.

11. 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 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.

Provision for caveats or declarations of trust.

12. 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 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 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.

As to writs of *Fi. fa.*

13. 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 a true copy of such writ shall be served on the 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.

Grants to be registered although trusts declared.

14. Nothing in the sixty-sixth or any other section of the principal Act shall be deemed to prevent or to have prevented the registration of any Crown grant issued or to be issued at any time from and after the first day of January one thousand eight hundred and sixty-three by reason of the fact that a trust or trusts may have been or may be declared in such grant.