

No. XVI.

An Act to consolidate and amend the Laws relating to the Registration of Deeds and other Instruments in that part of the Colony of New South Wales not comprehending the District of Port Phillip. [20th December, 1843.]

DEEDS
REGISTRATION.

WHEREAS it is expedient to consolidate and amend the Laws now in force for regulating the registration of wills and devises deeds conveyances and other instruments affecting real property situate within that part of the Colony of New South Wales not comprehended within the limits of the District of Port Phillip and for the registration of Acts of the Colonial Legislature charters of incorporation memorials of public companies and other instruments in writing of and relating to other property situate within the said part of the said Colony and for the registration of certain marriages births baptisms and burials which may occur or take place within the said part of the said Colony and to establish a general Registry Office independent of and unconnected with the Supreme Court of New South Wales and whereas for these purposes it is expedient that certain Laws or Ordinances passed by the Governor and Council of New South Wales should be repealed Be it therefore enacted by His Excellency the Governor of New South Wales with the advice and consent of the Legislative Council thereof That a certain Act or Ordinance of the Governor and Council of New South Wales passed in the sixth year of the reign of His late Majesty King George the Fourth intituled “ *An Act for registering Deeds and Conveyances in New South Wales and for other purposes* ” and an Act or Ordinance passed in the fifth year of the reign of Her present Majesty intituled “ *An Act to amend the Act for the registration of Deeds and to provide for the establishment of a separate Registry for Sydney and Port Phillip respectively* ” shall from and after the day on which this Act shall commence and take effect be and the same are hereby repealed except in so far as the same affect or relate to that part of the Colony of New South Wales situate within the limits of the District of Port Phillip Provided that nothing herein contained shall affect the operation of any matter or thing already done or commenced under the said recited Act.

Preamble.

⁶ Geo. IV. No. 22 and
⁵ Victoria No. 21 to
be repealed except
as respects Port
Phillip.

2. And be it enacted That this Act shall commence and take effect on and from the first day of January one thousand eight hundred and forty-four.

Commencement of
Act.

3. And be it enacted That a public office to be called the Office of the Registrar General shall be established and kept in the City of Sydney for the registration of wills and devises deeds conveyances and other assurances affecting real property situate within that part of the Colony of New South Wales not comprehended within the limits of the District of Port Phillip and for the registration of the Acts of the Colonial

Office for the re-
gistration of deeds
&c. to be established
at Sydney.

Colonial

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Colonial Legislature charters of incorporation memorials of public companies and other instruments in writing of and relating to property situate within the said part of the said Colony and for the registration of certain marriages births baptisms and burials which may occur or take place within the said part of the said Colony and the said office shall be kept open for the transaction of the business thereof for not less than six hours beginning at the hour of ten in the forenoon on all days throughout the year Sunday Christmas Day and Good Friday excepted.

Her Majesty or the Governor to appoint person to be Registrar General.

4. And be it enacted That it shall be lawful for Her Majesty Her Heirs and Successors or for the Governor of the Colony of New South Wales for the time being subject to the approbation of Her Majesty from time to time to appoint a person to be Registrar General of the said Colony with power to perform and execute certain duties heretofore performed and executed by the Registrar of the Supreme Court of New South Wales and also such other duties as may by this Act be in that behalf provided and such person at any time to remove and to appoint another in his stead.

Oath to be taken by the Registrar General.

5. And be it enacted That every such Registrar General shall before he enter upon the execution of the said office take before the Chief Justice or any of the Judges of the said Supreme Court the following oath viz.—

“ I A B do swear that I will truly and faithfully execute and
 “ perform the office and duties that are required and directed
 “ by an Act of the Governor of New South Wales with the
 “ advice and consent of the Legislative Council thereof passed
 “ in the seventh year of the reign of Her Majesty Queen
 “ Victoria intituled ‘ *An Act to consolidate and amend the*
 “ ‘ *Laws relating to the registration of Deeds and other In-*
 “ ‘ *struments in that part of the Colony of New South Wales*
 “ ‘ *not comprehending the District of Port Phillip.* ’ ”

Registrar General in case of sickness or absence to appoint with the approbation of the Governor a person to perform the duties.

6. And be it enacted That in the event of the said Registrar General being unable from sickness or otherwise to attend and perform the duties of his said office or in the event of the said Registrar General being absent from Sydney upon necessary business such absence being with the permission of the Governor of the said Colony for the time being it shall be lawful for the Registrar General with the approval of the said Governor as aforesaid to appoint some fit and proper person to act in his stead and to sign in his name all such memorials or other papers as require his signature and to do and perform all and every such other acts and deeds as appertain to and constitute the duties of such Registrar General Provided nevertheless that the said Registrar General and his sureties shall be liable and answerable for the laches neglect or misconduct of such deputy in the same manner as such Registrar General and his sureties would be liable in case such acts or laches or misconduct had been done or suffered by the Registrar General himself.

Proviso that Registrar General shall be answerable for laches.

Transfer of records &c. from office of Registrar of Supreme Court to the office of the Registrar General.

7. And be it enacted That as soon as conveniently may be after this Act shall have come into operation the Registrar of the Supreme Court and the Registrar General appointed under this Act shall (under direction of the Judges or one of them) make an inventory in duplicate of all Crown grants and enrolments thereof and of all deeds conveyances and other instruments in writing affecting any lands or hereditaments in this Colony and memorials and registrations thereof respectively and matters relating thereto and of all Acts of the Governor and Legislative Council which were required by statutes passed in the fourth and ninth years respectively of the reign of His late Majesty King George the Fourth to be enrolled in the Supreme Court of the said Colony and were for that purpose deposited in the office

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office of the Registrar of the Supreme Court and of all charters of incorporation co-partnership deeds memorials of public companies and certificates and registers of births or baptisms marriages and burials and of all other instruments of what nature soever at any time required by any law in force in this Colony to be registered recorded or deposited in the office of the said Registrar and which shall then remain or be therein and shall not relate exclusively to the business of the Supreme Court or any suit or proceeding in such Court in which said inventory shall be specified particularly the years or volumes or numbers of each class of the said several instruments or documents respectively and whether the same appear to be complete or defective and after the making of such inventory (of which each duplicate shall be signed by one of the said parties and delivered to and kept by the other of them) the said Registrar shall on the application at his office of the said Registrar General deliver (on a day to be appointed by the said Judges or one of them as soon as possible there-after) all and singular the records instruments and matters aforesaid together with all books and indexes relating thereto to the said Registrar General who shall thereupon sign upon the duplicate of inventory retained by the Registrar of the Supreme Court an acknowledgment of the receipt of the said several instruments documents and matters and such acknowledgment and inventory shall remain thereafter in the office of the said Registrar and shall be a full and complete acquittance to him in respect to the charge of the same respectively and the said Registrar General shall thereupon and thenceforth have the custody and charge thereof and shall deposit and retain the same in his office accordingly and the same records memorials instruments and matters shall continue to have the same force and effect respectively to all intents as they respectively would have had if they had remained in the Registrar's Office of the Supreme Court and this Act had not been passed.

8. And be it enacted That from the day on which this Act shall commence all grants by Her Majesty and Her Successors of lands or other hereditaments in this Colony made or to be made under the Great Seal of the Colony and which shall not have been then already enrolled in the Supreme Court shall be recorded by entry at full length in the office of the Registrar General in some book or books there kept for that purpose and being so recorded shall for all purposes be of the like force and effect as if the same had been duly enrolled and entered of record in the said Supreme Court and also all wills hereafter to be made affecting any lands or hereditaments in this Colony (not within the District of Port Phillip) or so much of any such will as shall relate thereto shall or may be registered in the office of the said Registrar General by the devisee or other party claiming title to or any other right or interest to or in such lands or hereditaments under such will in the same manner and form as by this Act is directed with respect to the registration of deeds and all deeds conveyances agreements and other instruments affecting any lands or hereditaments in New South Wales (not within the said district) and all certificates and registers of births or baptisms marriages and burials and all agreements or mortgages respecting any lien on wool or charge on or interest in sheep or other cattle and all charters of incorporation deeds of co-partnership memorials of companies and other instruments in writing which said several deeds instruments documents or matters or any of them at the time of the passing of this Act were or are required by any law in force within this Colony to be enrolled recorded registered or deposited respectively by or with the Registrar of the Supreme Court or in his office (and which at the time of the commencement of this Act shall

Subsequent registra-
tion in Registrar
General's Office.

not

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not have been so enrolled recorded registered or deposited) shall instead thereof be enrolled recorded registered or deposited (as the case may require) by or in the office of the said Registrar General and such last-mentioned enrolment recording registration or deposit shall have in all respects the same effect respectively to all intents and purposes as if the same had been performed by or had taken place in the office of the Registrar of the said Supreme Court and this Act had not been passed.

Acts of Council to be enrolled in the office of Registrar General.

9. And be it enacted That all Acts passed by the Governor of New South Wales with the advice and consent of the Legislative Council thereof during the present Session of the said Council shall be transmitted to and enrolled and recorded in the office of the Registrar General at Sydney and all Acts to be at any time hereafter passed by the said Governor and Council shall within ten days from the day on which the same shall become law be transmitted enrolled and recorded in like manner.

Wills deeds conveyances &c. to be registered in the office of the Registrar General.

10. And be it enacted That from and after the day on which this Act shall commence and take effect all wills and devises affecting real estates made or to be made and published or full copies of such wills certified by the oath of one credible person taken before a Judge of the Supreme Court of New South Wales or before the Registrar General or his deputy or before any Commissioner appointed by the said Court for taking affidavits and not residing within ten miles of Sydney and all agreements in writing deeds conveyances and other instruments except leases for less than three years affecting real property situate in that part of the Colony of New South Wales not comprehended within the limits of the District of Port Phillip and all agreements in writing giving a preferable lien on wool and memorials of mortgages of sheep cattle or horses made and executed under an Act of Council passed in the present Session of the Legislative Council of this Colony intituled "*An Act to give a preferable Lien on Wool from season to season and to make Mortgages of Sheep Cattle and Horses valid without delivery to the Mortgagee*" and all charters of incorporation memorials of public companies and other instruments in writing of and relating to the property situate within the said part of the said Colony which may require registration and all certificates and registers of certain marriages births baptisms and burials which may occur or take place within the said part of the said Colony which either by law or practice have heretofore been enrolled or registered in the office of the Registrar of the Supreme Court shall or may after the passing of this Act be enrolled or registered in the office of the Registrar General.

7 Victoria No. 3.

Deeds to take effect according to priority of registration.

11. And be it enacted That all deeds and other instruments (wills excepted) affecting any lands or hereditaments or any other property in the said part of the Colony of New South Wales which shall be executed or made *boná fide* or for valuable consideration and which shall be duly registered under the provisions of this Act shall have and take priority not according to their respective dates but according to the priority of the registration thereof only.

Representative of party if dead or agent of an absent party may sign memorial in his name.

12. And be it enacted That when any party to any instrument required to be registered shall be dead or absent from the Colony at the time when the registration thereof shall be required to be made it shall and may be competent for the lawful representative or attorney of such party upon application to one of the Judges of the Supreme Court at Sydney and upon proof to the satisfaction of such Judge of the fact of the death or absence of such party and upon the order of such Judge to sign the attested copy or memorial of such instrument in the name and on the behalf of the party to such instrument and such signing shall be as valid and effectual to all intents and purposes as if such attested

copy

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copy or memorial had been signed by the original party or parties thereto.

13. And whereas from the imperfect manner in which the limitations contained in deeds and conveyances relating to real estates are generally set forth and described in the memorials or extracts of the same as heretofore filed it is expedient that full copies written upon vellum or parchment of all deeds conveyances and other assurances affecting real estates should be registered and filed in the office of the Registrar General instead of the memorials or extracts heretofore required. Be it therefore enacted That from and after the day on which this Act shall commence and take effect an examined copy at full length signed by some or one of the parties to the original deed or instrument and certified by the oath of one credible person such oath having been taken before a Judge or before the Registrar General or his deputy or before any Commissioner appointed by the said Court for taking affidavits and not residing within ten miles of Sydney of every deed conveyance and other instrument affecting or relating to real estates situate within that part of the Colony of New South Wales not comprehended within the limits of the District of Port Phillip shall be filed in the office of the Registrar General of the said Colony at Sydney in lieu of the memorial or extract heretofore filed and every such certified copy as aforesaid and also every certified copy of any such will as aforesaid shall or lawfully may be received and given as secondary evidence in any suit or proceeding.

Full copies upon parchment of all deeds &c. affecting real estate to be certified on oath and filed in the office of Registrar General instead of memorial as heretofore.

14. And be it enacted That upon the delivery into the Registrar General's Office of any such certified copy or memorial as aforesaid and the verification of the same the Registrar General or his deputy shall grant and sign a receipt for such copy or memorial in which shall be specified the certain day and hour on which the same shall have been delivered into the said office and the name and place of abode of the witnesses or witness attesting or verifying the same and the number of such verified copy or memorial according as the same shall be numbered in the said office and such receipt shall be endorsed or written on the original instrument to which such certified copy or memorial shall relate and shall also be entered on such certified copy or memorial and the time so endorsed shall be held deemed and taken to be the time of the registration of every such deed conveyance or other instrument in writing whereof such certified copy or memorial shall have been made as aforesaid and every such certified copy or memorial so delivered into the said office shall be numbered successively according to the order of time in which the same shall have been delivered and shall immediately be registered according to such number and order of time in a book or books to be provided and kept for such purpose in the said office and every such book shall be open at all convenient times to the inspection of all such persons as may be desirous of searching the same.

Receipts to be granted by Registrar General.

15. And be it enacted That from and after the day on which this Act shall commence and take effect every such certified copy as aforesaid of any deed conveyance or other instrument affecting real estates and also every such memorial of any mortgage on sheep cattle or horses which shall be required to be registered in the office of the said Registrar General shall be written or printed or partly written and partly printed upon good vellum or parchment of the size of eighteen inches in length by twelve inches in breadth having an entirely clear margin or border without writing or printing on either side of the breadth of two inches along the whole length of every such certified copy as aforesaid of any deed conveyance or other instrument and of every such memorial as aforesaid and no such certified copy or memorial as aforesaid written or printed otherwise than in accordance with

Size of parchment for certified copies of deeds and memorials.

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with the preceding directions or having therein any erasures or interlineations shall from and after the day on which this Act shall commence and take effect be received by the said Registrar General into his office unless such erasure or interlineation shall be noticed in the margin opposite thereto by the signature or initials of the person certifying on oath to the truth and correctness of such copy or memorial.

Recital of Proclamation of the Governor dated 6th March 1819 as to barring right of married women to dower.

16. And whereas fines with proclamations could not be conveniently levied nor common recoveries suffered in this Colony and whereas by a certain Proclamation of the Governor of New South Wales bearing date the sixth day of March in the year of our Lord one thousand eight hundred and nineteen certain regulations were made for barring the right and title of married women to dower and other her estates of freehold and whereas it is expedient that the said proclamation so far as respects the alienation of any such right and title *bonâ fide* made in conformity therewith should be confirmed and that the want of fines and recoveries should be effectually supplied by making other conveyances attended with the particular forms hereinafter mentioned equivalent thereto Be it therefore enacted That every deed conveyance or other instrument in writing made and executed by any married woman of and concerning any lands tenements or hereditaments situated in New South Wales and acknowledged in the form and manner appointed and directed by the said proclamation shall be and be taken to be valid and effectual to pass and convey all the right title and interest of such married woman to and in all such lands tenements or hereditaments intended to be alienated and conveyed by such deed or other instrument and further that any deed or deeds in due form of law made and executed by any party or parties from whom any estate right title or interest in any lands tenements or hereditaments situated in New South Wales is or may be intended to be passed and acknowledged by such party or parties in the manner hereinafter mentioned that is to say if such deed or deeds shall be made and executed in New South Wales and shall be acknowledged before one of the Judges of the Supreme Court of New South Wales or before the Registrar General appointed under this Act or his deputy or before any Commissioner of the Supreme Court appointed under this Act such Commissioner not being a party to such instrument nor having been employed to prepare the same or if made and executed in Van Diemen's Land or in New Zealand or in South Australia or in Western Australia or in the District of Port Phillip shall be acknowledged before a Judge of such Colony or District respectively or if made and executed in Great Britain or Ireland shall be acknowledged before any Mayor or other Chief Magistrate of the city borough or town corporate where or near to which the person or persons making such acknowledgment shall reside such deed or deeds so acknowledged shall be as valid and effectual in the law to pass all the estate right title interest and claim of the respective parties to such deed or deeds in or to all and every such lands tenements or hereditaments as aforesaid in such deed or deeds mentioned and intended to be conveyed and to transfer and convey the same to the grantee or grantees bargainee or bargainees or other person or persons in such deed or deeds mentioned their heirs and assigns for ever according to the several estates and interests in and by such deed or deeds conveyed and limited as if a fine or fines with proclamations had been levied or a common recovery or recoveries had been suffered of such lands tenements or hereditaments or as if such lands tenements or hereditaments intended to be conveyed had been conveyed by the firmest and most regular deeds conveyances and instruments Provided always that in case any married woman may be a party to any such deed or deeds as last aforesaid

Every deed &c. executed by any married woman under said proclamation to be held valid.

Deeds made and executed in due form of law acknowledged before a Judge of the Supreme Court of N. S. Wales or Van Diemen's Land &c. or if made in Great Britain or Ireland before a Mayor or other Chief Magistrate shall be valid.

Course to be pursued as to married women who may be parties to such deeds.

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aforesaid such married woman shall be at the time of the execution thereof of the full age of twenty-one years and shall be examined privately and apart from her husband by the Judge or other person before whom such acknowledgment shall be made as aforesaid and shall confess that she did execute the same freely voluntarily and without the fear menace or coercion of her husband Provided also that every such acknowledgment and confession as aforesaid shall be certified under the common seal of such city borough or town corporate or seal of office of the Judge or other person before whom the same shall be made as aforesaid and such certificate shall be endorsed or affixed to such deed or deeds as last aforesaid and shall be in the form or to the effect of the form set forth in the Schedule to this Act annexed marked A and shall be deemed and taken as sufficient proof of every such acknowledgment or confession as aforesaid.

17. And be it enacted That it shall be lawful for the Judges of the Supreme Court of New South Wales or any of them by a commission under their or his hand and seal to authorize and empower certain fit and proper persons to take and receive the acknowledgment of such party or parties as aforesaid or the confession of any married woman as to her voluntary execution thereof in manner as aforesaid and the same shall be certified under the hand and seal of such person and endorsed or written upon or affixed to such deed or deeds as hereinbefore directed and shall be of like force and effect as if such acknowledgment or confession had been made before any Judge of the said Court.

Judges may appoint persons to receive acknowledgments.

18. And be it enacted That the original instrument to which any such acknowledgment or certified copy or memorial as aforesaid relates shall be produced to the Judge or Registrar General or other person before whom the same shall be made or verified as aforesaid and in case such instrument shall appear to have been executed by any party unable to write then such Judge or Registrar General or other person shall refuse to complete such acknowledgment or certified copy or memorial by certifying the same unless the execution by such party shall be attested by some Justice of the Peace or barrister or attorney or notary public other than the party by whom such instrument shall have been prepared whose attestation shall contain a certificate that the contents of such instrument were previously explained to the party so unable to write and that the nature and effect thereof were at the time of such attestation to the best of the belief of such Justice or barrister or attorney or notary public understood by such party.

Original instrument to be produced course to be taken if any marksman thereto.

19. And be it enacted That there shall be paid in respect of the several matters mentioned in this Act and in the Schedule hereunto annexed marked B and also for and upon the enrolment of every grant of the Crown hereafter made and issued the sums or fees respectively set forth in the said Schedule which respective sums or fees shall be demanded and taken by the Registrar General at Sydney or by his deputy or other person who may be appointed to discharge the duties of Registrar upon receipt by him of any such certified copy as aforesaid or memorial or grant from the Crown for the purpose of registration or enrolment as the case may be and a true and regular account of all such fees shall be kept in the said Registrar General's Office and shall be accounted for and paid over by the Registrar General to the Public Treasury Provided always that the sums or fees hereby made payable on the enrolment of any grant from the Crown shall not be paid to such Registrar General Deputy Registrar or other person as aforesaid but to the Colonial Treasurer in Sydney or to such other officer as may be appointed by His Excellency the Governor to deliver such grant upon the delivery of the same to such grantee or to his representatives or assigns and all such fees or sums so paid shall

Fees to be paid on registration.

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be accounted for and applied in the same manner as other public monies coming into the hands of the said Colonial Treasurer are required to be accounted for and applied.

Fees to Commissioner.

20. And be it enacted That in addition to the fees made payable by the said Schedule marked B it shall be lawful for every Commissioner appointed under this Act except at Sydney to demand and have for his own use for the taking and certifying by him as aforesaid of every such acknowledgment under this Act the sum of five shillings and for the taking of every such verification of any such certified copy or memorial as aforesaid the sum of two shillings and sixpence.

No judgment recovered to bind lands unless execution lodged with the Sheriff.

21. And be it enacted and declared That no judgment in any action at law recovered or to be recovered shall bind or affect or be deemed to have bound or affected any lands or hereditaments in the said Colony Provided always that every writ of execution or any such judgment against the lands or hereditaments of the person against whom such judgment shall be obtained when delivered to the Sheriff of the said Colony or to the Sheriff of any district thereof as the case may be shall affect and be deemed to have bound such lands from the time of such delivery thereof in like manner as any writ of *fiery facias* now binds goods and chattels.

Term instrument.

22. And be it enacted That the term instrument hereinbefore used shall for the several purposes of this Act be construed to include not only conveyances and other deeds but also all instruments in writing whatsoever whereby real or leasehold estates or stock shall be affected or shall be intended so to be.

As to official seals.

23. And be it enacted That in all cases where an acknowledgment is required to be certified under an official seal the seal actually affixed to any such acknowledgment or to any certificate thereof shall for the purposes of this Act be taken to be the official seal of the officer taking or certifying the same and no evidence to prove the contrary shall be admissible in any case either at Law or in Equity.

Facilitating production of certified copy in evidence.

24. And be it enacted That in every case where the production of any such certified copy as aforesaid or of any memorial shall be required for the purposes of evidence under this Act the same shall or may be produced either by the said Registrar General or Deputy Registrar or any clerk in the office of such Registrar appointed by him for that purpose.

Effect of registration in the last mentioned cases as to deeds of feoffment.

25. And be it enacted That with respect to every deed of feoffment hereafter executed of which any such certified copy as aforesaid shall be duly deposited in the office of the Registrar General in manner aforesaid such copy shall operate as and be for all purposes equivalent to livery of seisin as to the lands and hereditaments comprised in and intended to be conveyed by such deed of feoffment the same in all respects as if there had been livery of seisin actually made and given of the same lands and hereditaments in the most valid and effectual form and manner.

Recital of lease evidence of its execution.

26. And be it enacted That every deed or instrument of release executed after the passing of this Act shall be as effectual as if the releasing parties who shall have executed the same had also executed a lease or bargain and sale for a year for giving effect to such release although no such lease or bargain and sale shall have been executed and that the recital or mention of a lease or bargain and sale in a release executed before the passing of this Act shall be conclusive evidence of the execution of such lease or bargain and sale.

False oaths made punishable.

27. And be it enacted That if any person shall at any time wilfully forswear himself or state anything contrary to the truth in any oath taken under the authority of this Act he shall be deemed guilty of perjury and shall suffer such punishments as are or may be provided by law for that crime.

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28. And be it enacted That if the said Registrar General or any Deputy Registrar or any clerk or person employed in the said Registrar's Office shall wilfully or negligently omit to number register or enter or to have numbered registered or entered in manner hereinbefore directed any deed memorial or certificate delivered into the said office he the said Registrar General shall for every such offence forfeit and be liable to pay to Her Majesty Her Heirs and Successors the penalty of one hundred pounds and be further liable in damages to the party injured to the extent of the loss or injury sustained and if the said Registrar General or Deputy Registrar or any clerk or person whatsoever shall destroy embezzle or secrete forge counterfeit raze deface or alter any deed or memorial or any part thereof or any endorsement made thereon or any entry or registry thereof in any book in the said office with intent to defraud or injure any person or persons such Registrar clerk or person so offending shall be deemed guilty of felony and being duly convicted thereof shall be transported for life.

Registrar or clerk neglecting duty in numbering or registering any memorial Registrar to pay a penalty of £100.

Registrar or clerk or person destroying &c. any memorial guilty of felony.

29. And be it enacted That it shall be the duty of the said Registrar General and of his deputy for the time being from time to time to make and prescribe the form and size of copies of deeds and memorials and other instruments to be registered in his office so as to facilitate reference to them and render their preservation secure and to make proper indexes to all registrations that (as far as may be) information may readily be obtained by parties interested therein as to all incumbrances and liens or instruments affecting or intended to affect real estate in the Colony.

Registrar to cause proper indexes to be made and kept.

30. And whereas it is convenient that office copies of the deeds and memorials registered or to be registered in the said Registry Office should under certain limitations be received in evidence Be it enacted That in all proceedings before any Court of Justice for all purposes whatsoever an office copy of any deed or memorial registered or to be registered in the said office shall upon such office copy being proved in like manner as an office copy of any other record be received and taken as evidence of the contents of the deed or memorial of which it purports to be an office copy without the production of the original copy of deed or memorial Provided always that the party producing the same or his attorney shall before producing the same give reasonable notice in writing thereof to the adverse party.

Office copies to be taken as evidence in certain cases.

31. And be it enacted That it shall be lawful for any person residing in New South Wales to deposit in the office of the Registrar General of the said Colony his or her last will and testament under an envelope or cover sealed with the seal of such person and the same shall be endorsed with such person's name and shall remain in the said office in the custody of the said Registrar General until the decease of the testator (unless previously required to be given up by such testator) and upon the death of such person the Registrar General shall examine the same and deliver it to the executor first named therein or other person lawfully entitled thereto or in case of doubt to such person or persons as the Chief Justice or any Judge of the said Court shall upon summary application order and direct.

Wills under envelope and seal may be deposited in the office of the Registrar General.

32. And be it enacted That the limits of the District of Port Phillip shall for the purposes of this Act comprise all such parts of the Territory of New South Wales as now are or shall at any time hereafter be comprised in the limits within which the Resident Judge of the said district now hath or may hereafter have jurisdiction.

Limits of Port Phillip defined.

33. And be it enacted and declared That anything required to be done under this Act not specially declared to be applicable to that part of the Colony of New South Wales situate within the limits of

To what part of New South Wales this Act shall be applicable.

the

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the District of Port Phillip shall be held to be applicable only to that part of the said Colony not comprehended within such limits.

Transcript of existing memorials to be transmitted to Port Phillip.

34. And be it enacted That the Registrar General at Sydney shall as soon as conveniently may be after the passing of this Act except in the cases excepted in the said recited Act passed in the fifth year of the reign of Her present Majesty make out and transmit to the Deputy Registrar of the Supreme Court at Melbourne a transcript certified under his hand of all memorials of instruments affecting land within the District of Port Phillip which were deposited for registration in the office of the Registrar of the Supreme Court at Sydney and which under the provisions of this Act may or shall have been transferred to the office of the said Registrar General and all such transcripts shall be received by the Deputy Registrar or other person discharging the duties of Registrar at Melbourne and be by him entered and preserved and shall be of the same force and effect to all intents and purposes as the original memorials at Sydney.

Registries under 5 William IV. No. 2

35. And whereas by an Act of the Governor and Council of New South Wales made and passed in the fifth year of the reign of His late Majesty King William the Fourth intituled "*An Act to remove doubts as to the validity of certain Marriages had and solemnized within the Colony of New South Wales and to regulate the registration of certain Marriages Baptisms and Burials*" and whereas by a certain other Act of the said Governor and Council passed in the third year of the reign of Her present Majesty intituled "*An Act for better ensuring the registration of Marriages Baptisms and Burials*" and whereas by a certain other Act of the said Governor and Council passed in the fourth year of the reign of Her said Majesty intituled "*An Act to remove doubts as to the validity of certain Marriages had and solemnized within the Colony of New South Wales by Ministers of the Congregational or Independent and Baptist Denominations and to regulate the registration of certain Marriages Births or Baptisms and Burials*" it is enacted that the certificates of the marriages births baptisms and burials mentioned in the said several Acts are to be transmitted to the Registrar of the Supreme Court of New South Wales for the purpose of having such certificates preserved and enrolled in the manner and at the times in such several Acts mentioned and directed and whereas it is intended that the said several certificates shall from and after the day on which this Act shall commence and take effect be transmitted to the Registrar General at Sydney to be registered in his office and not in the office of the Registrar of the Supreme Court of New South Wales Be it enacted That from and after the day on which this Act shall commence and take effect the certificates or registers of all marriages births baptisms and burials by the said recited Acts required to be transmitted to and registered in the office of the Registrar of the Supreme Court of New South Wales shall be transmitted to and registered in the office of the Registrar General at Sydney with the exception of such marriages births baptisms and burials as shall occur within the limits of the District of Port Phillip and in all cases occurring within the said District of Port Phillip such certificates or registers of marriages births baptisms and burials shall be transmitted to the Deputy Registrar of the said district.

3 Victoria No 23 and

4 Victoria No. 14 transferred to Registrar General's Office.

Deeds Registration.

SCHEDULES REFERRED TO.

A.

THIS is to certify that A. B. the wife of the within named W. B. came before me A. B. a Judge of the Supreme Court of New South Wales—(or before me C. D. Registrar General of the Colony of New South Wales)—(or before me E. F. a Commissioner appointed by the Supreme Court of New South Wales for taking affidavits not resident within ten miles of Sydney and not being the person employed to prepare the within deed nor being a party thereto) and she being by me examined apart from her said husband acknowledged that the within instrument was executed by her and that she was acquainted with and understood the nature and effect thereof and she declared that she had executed the same freely and voluntarily without menace force or coercion either on the part of her husband or any other person. Witness my hand and seal at the day of 184 .

C. D. (L.S.)

Judge Registrar or Commissioner as the case may be.

N.B.—Where the acknowledgment is not by a married woman it will extend only to the fact of execution and that the party knew the nature and effect of the instrument and the above form must be altered accordingly and where the acknowledgment is taken before a Judge the Registrar or a Commissioner the above form must be adapted accordingly.

B.

Table of Fees to be taken under this Act.

	s.	d.
1. For receiving every will or certified copy or memorial of any deed for registration including verifying the same and endorsement of receipt on original deed	7	6
2. For every acknowledgment before whomsoever made and whether already made or to be thereafter made	10	0
3. For the enrolment of every grant of land hereafter issued under the Seal of this Colony where the quantity granted shall not exceed 50 acres	5	0
4. For ditto where the quantity shall be over 50 but under 300 acres	7	6
5. For ditto where the quantity shall exceed 300 acres	10	0
6. For every search of copy of any deed or of any memorial of any deed or will of one property	2	6
7. For every search for any copy of any grant of land	2	6
8. For every examined copy of memorial or of any deed not exceeding six folios	5	0
9. For every folio of 90 words exceeding six folios	0	8
10. For every extract from any memorial will or other writing per folio	0	8
11. For receiving and noting every will deposited for safe custody	5	0
12. For every examined copy of deed of public company or charter of incorporation per folio... ..	0	8
13. For every search for will	1	0
14. For every search for copy of deed of settlement of public company or charter of incorporation	1	0
15. For every search for certificates of marriages births or baptisms or burials	1	0
16. For every copy of such certificate... ..	1	0