

[CONFIDENTIAL.]

(Rough Draft for Consideration Only.)

No. , 1926.

A BILL

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

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

1. This Act may be cited as the "Conveyancing Short title. (Amendment) Act, 1926."

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

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

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

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

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

Provided that—

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

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

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

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

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

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

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

Retrospective operation.