

359

[CONFIDENTIAL.]

(Rough Draft for Consideration Only.)

No. , 1915.

A BILL

To amend the law with respect to titles to land and the transfer of land; to amend the Real Property Act, 1900, the Conveyancing and Law of Property Act, 1898, the Public Works and Closer Settlement Funds Act, 1906, and other Acts; to validate certain acts of the Deputy Registrar of Deeds; to enable bodies corporate to hold property in joint tenancy; and for other purposes.

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:—

Preliminary.

1. This Act may be cited as the "Real Property and Conveyancing (Amendment) Act, 1915." Short title.

Amendments of Real Property Act.

2. Subsection one of section fourteen of the Real Property Act, 1900, is repealed, and the following subsection substituted therefor:— New subsection (1) of s. 14 of Real Property Act.

(1) Land not subject to the provisions of this Act may be brought under its provisions.

3. Subsection one of section seventeen of the said Act is amended by inserting after "applicant" the words "for such period as he considers sufficient." Amendment of s. 17 (1).

4. Section nineteen of the said Act is amended by adding the following proviso:—"Provided that the Registrar-General may, in his discretion, notwithstanding that certain persons are not parties to the application, or that the evidence of title set forth by the applicant is imperfect, take the steps in the last preceding section provided, and may bring the land under the provisions of this Act; but in such case he may, notwithstanding section one hundred and nineteen, require payment to him of such special fee as he considers adequate in addition to that provided in the Nineteenth Schedule." Amendment of s. 19.

5. (1) Section eighty-eight of the said Act is amended as follows:— Amendment of s. 88.

(a) Omit "in any form heretofore in use for the like purpose" insert the words "of attorney under seal."

(b) Omit all words following "Registrar-General" and add the following:—"A separate register of such powers of attorney shall be kept by the Registrar-General, and whenever any such power

power of attorney is produced for filing as aforesaid the Registrar-General shall enter in such register a memorandum of the particulars of such power of attorney and the date and hour when it was so produced."

(2) Section eighty-nine of the said Act is amended Amendment of s. 89. by adding thereto the following proviso:—"Provided that where a power of attorney, as to which a memorandum has under the last preceding section been entered in the separate register of powers of attorney, is revoked, the particulars above mentioned shall, instead of being entered in the register-book, be entered in the separate register of powers of attorney, together with the date and hour on which the entry was made."

6. Subsection three of section ninety-four of the said Act is repealed, and the following is substituted therefor:— New subsection (3) of s. 94.

(3) The Registrar-General may if he thinks fit, upon production of such other evidence of the death as appears to him sufficient, dispense with the said certificate of death.

7. Subsection five of section ninety-four of the said Act is amended by omitting "and the examiners," and Amendment of subsection (5) of s. 94. by inserting the word "been" after the word "have."

8. (1) Subsection one of section ninety-five of the said Act is repealed, and the following substituted therefor:— New subsection (1) of s. 95.

(1) The Registrar-General may—

- (a) reject such application altogether; or
- (b) cause notice thereof by advertisement, or the serving or posting of notices to be given as he thinks fit; or
- (c) dispense with the giving of any such notice.

(2) Subsection two of the same section is amended Amendment of subsection (2). by omitting "not less than one month from the date of the advertisement in the Gazette."

(3) Subsection six of the same section is repealed. Repeal of subsection (6).

9. (1) Section one hundred and twenty-one of the said Act is amended as follows:— Provisions as to costs of proceedings under ss. 121, 122, and 123.

- (a) In subsection one omit the words "at his own costs."
- (b)

(b) In subsection three omit the words " and all expenses attendant upon any such proceedings shall be borne and paid by the applicant or other person preferring such complaint, unless the judge or court shall certify that there were no probable grounds for such refusal or direction as aforesaid."

(2) Section one hundred and twenty-two of the said Act is amended by omitting subsection four. Amendment of s. 122.

(3) The following new section is inserted next after section one hundred and twenty-three of the said Act :— New s. 123.

123A. Upon any summons or proceeding under the three last preceding sections the court may make such order as to the costs and expenses of and attendant upon such summons or proceeding as it deems just, and all costs and expenses to be paid by the Registrar-General under such order shall be paid out of the closer settlement fund.

10. Section one hundred and twenty-seven of the said Act is repealed, and the following is inserted in its place :— New s. 127.

127. Any person sustaining loss or damage by the registration of any other person as proprietor of land or any estate or interest therein, or sustaining any loss or damage exclusively by any error, omission, or misdescription in any certificate of title, or any entry or memorial in the register-book, and who by the provisions of this Act is barred from bringing an action of ejectment or other action for the recovery of such land, estate, or interest, and any person sustaining loss or damage exclusively through any negligent act, negligent omission, or negligent mistake of the Registrar-General, or any of his officers or clerks in the execution of their respective duties under the provisions of this Act, may in any case in which the remedy by action for the recovery of damages as hereinbefore provided is inapplicable bring an action against the Registrar-General as nominal defendant for recovery of damages. Action for damages against Registrar-General.

Amendment

Amendment of Public Works and Closer Settlement Funds Act.

11. Subsection two of section six of the Public Works and Closer Settlement Funds Act, 1906, is amended as follows:—

- (a) After "1900" insert "or any Act amending it."
(b) At end of subsection add "and so far as such fund is insufficient to meet any such claim, shall be paid out of the Consolidated Revenue Fund."

Amendment of s. 6 (2) of Public Works and Closer Settlement Funds Act, 1906.

Validation of certain acts.

12. (1) Where before the commencement of this Act, and acting or purporting to act for or on behalf of or with the sanction of the Registrar-General, and for the purpose of exercising any power conferred, or performing any duty imposed on the Registrar-General by or under any Statute, a Deputy Registrar of Deeds has done any acts or things, such acts or things shall be deemed to have been and to be as valid as if done by the Registrar-General.

Validation of acts of Deputy Registrar of Deeds.

(2) Subsection three of section twenty-six of the Conveyancing and Law of Property Act, 1898, is amended by inserting after "the Registrar-General or his deputy or" the words "a Deputy Registrar of Deeds or"

Amendment of s. 26 (3) of Conveyancing and Law of Property Act.

Roads included in certificates of title.

13. Where, before the commencement of this Act, a road or part thereof bounding land the subject of a Crown grant, or reserved in a Crown grant, and lying within the county of Cumberland, has been included within the boundaries of the land described in any certificate of title, and has not been specifically excepted from such certificate of title by express exception or notification mentioning such road, such certificate of title shall, so far as regards such road, or part thereof, be deemed for all purposes to have been properly issued, and to include the area of such road or part thereof.

Where roads are included in certificate of title.

This section shall bind the Crown.

Powers

Powers of bodies corporate.

364

14. (1) A body corporate shall be capable of acquiring and holding any real or personal property in joint tenancy in the same manner as if it were an individual, and where a body corporate and an individual, or two or more bodies corporate are now or shall hereafter become entitled to any such property under circumstances, or by virtue of any instrument which would, if the body corporate had been an individual, have created a joint tenancy, they shall be entitled to the property as joint tenants :

Body corporate may hold property jointly with an individual or corporation.

Provided that the acquisition and holding of property by a body corporate in joint tenancy shall be subject to the like conditions and restrictions as attach to the acquisition and holding of property by a body corporate in severalty.

(2) Where a body corporate is joint tenant of any property, then on its dissolution the property shall devolve on the other joint tenant.
