

No. XLV.

An Act to abolish the office of Registrar General
and to make further provision for the Registration
of Deeds and other Instruments.

[12th October, 1849.]

DEEDS
REGISTRATION.

WHEREAS by an Act of the Governor and Legislative Council Preamble,
of New South Wales passed in the seventh year of the reign
of Her present Majesty intituled "An Act to consolidate and amend ⁷ Vie. No. 16
"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" a public office called the Office of
the Registrar General was established for the registration of wills
and devises deeds conveyances and other assurances affecting real
property 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 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 And by the said Act it was enacted that certain
duties therein mentioned relating to such office and thereby in that
behalf provided should be performed and executed by a person to be
appointed as therein mentioned who should be Registrar General of the
Colony of New South Wales which said duties accordingly have been
and now are performed and executed by a person so appointed And
whereas it is expedient that the said office of Registrar General should
be abolished and that the duties authorized and directed by the said
Act to be performed and executed by such Registrar General shall
after the commencement of this Act be performed and executed in the
manner and by the means hereinafter provided Be it therefore enacted <sup>Office of Registrar
General abolished</sup> by His Excellency the Governor of New South Wales with the advice
and consent of the Legislative Council thereof That from and after
the

Deeds Registration.

the thirty-first day of December next the said office of Registrar General shall cease and all the duties which now are or ought to be and which by the said recited Act or any other Act or Acts are authorized and directed to be performed and executed by the said Registrar General shall thenceforth be performed and executed by the several persons and in manner hereinafter mentioned.

and the duties
thereof to be per-
formed by the Pro-
thonotary and Chief
Clerk of the Supreme
Court.

2. And be it enacted That the officers of the Supreme Court for executing the duties heretofore by the said recited Act or any other Act or Acts done and performed by the said Registrar General shall be the Prothonotary and Registrar of the said Supreme Court for the time being as the Principal and the Chief or Principal Clerk of the said Supreme Court for the time being as the Secondary Officer for the purposes herein mentioned and that the said Prothonotary and Registrar of the said Supreme Court and also the said Chief Clerk shall and each of them shall have full power and authority to do execute and perform all such lawful acts deeds matters and things as the said Registrar General might have done or caused to be done in case this Act had not been made and passed and that all such acts deeds matters and things so to be done performed or caused to be done or performed by the said Prothonotary and Registrar of the said Supreme Court or by the said Chief or Principal Clerk thereof as the case may be shall be valid and effectual to all intents and purposes whatsoever for the discharge and due execution of all and singular the duty or duties imposed by the said recited Act or by any other Act or Acts upon the said Registrar General or his deputy and for that purpose to make and sign all proper and necessary documents to effectuate and make perfect all deeds memorials and other papers and writings as are required by the said recited Act or any other Act or Acts to be made signed and done.

Declaration to be
made by Prothono-
tary &c.

3. And be it enacted That before the said Prothonotary and Registrar and the said Chief or Principal Clerk shall enter upon the execution of the said duties they shall respectively take before the Chief Justice or one of the Judges of the said Supreme Court the following declaration that is to say—

“ I A. B. do solemnly declare that I will truly and faithfully execute and perform the office and duties that are required and directed by an Act of the Governor and Legislative Council of New South Wales passed in the thirteenth year of Her Majesty’s Reign intituled ‘ *An Act to abolish the Office of Registrar General and to make further provision for the Registration of Deeds and other Instruments* ’ and I make this solemn declaration by virtue of the provisions of the said Act.

“ A. B.”

“ Declared before me this
“ day of &c.”

Transfer of records.

4. And be it enacted That on the first day of January next the said Registrar General shall deliver to the said Officers of the Supreme Court hereinbefore mentioned and described an inventory of all grants acts wills deeds conveyances enrolments records memorials registrations charters certificates registers liens on wool mortgages of stock and other instruments of what nature or kind soever which by virtue of the said recited Act or any other Act or Acts were and have been placed and kept in the office of the said Registrar General or in his care and custody or which have been from time to time registered recorded or deposited in his said office 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 a duplicate of such inventory shall

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shall be retained by the said Registrar General and the said Registrar General shall at the same time deliver all and singular the records instruments and matters aforesaid together with all books and indexes relating thereto to the said officers of the said Supreme Court who shall thereupon sign upon the duplicate of inventory retained by the Registrar General an acknowledgment of the receipt of the said several instruments documents and matters which acknowledgment shall be a complete acquittance to him in respect of the charge of the same respectively and the said officers of the said Supreme Court shall thereupon and thenceforth have the custody and charge thereof and shall deposit and retain the same in the office of the said Supreme Court 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 General's Office and this Act had not been passed.

5. And be it enacted That after the commencement of this Act Subsequent registrations and proceedings to be in Prothonotary's Office. all deposits enrolments records and registrations whatsoever and all oaths and acknowledgments proceedings matters and things which but for the passing of this Act might or ought to have been or by the said recited Act or any other Act or Acts are required to have been made done taken had or performed by or in the office of or before the said Registrar General may and shall thenceforth be made done taken had or performed by or in the office of or before the said officer or officers hereinbefore mentioned and described or either of them in the same manner and form as allowed or required by the said recited Act or any other Act or Acts and all such last mentioned deposits enrolments records and registrations oaths acknowledgments proceedings matters and things shall be in all respects as valid and have the same effect respectively to all intents and purposes as if the same had been made done had taken or performed by or in the office of or before the said Registrar General and this Act had not been passed.

6. And be it enacted That the same fees which by the said Same fees on registration. recited Act or any other Act or Acts are directed to be demanded and taken by the said Registrar General shall from and after the commencement of this Act be demanded and taken by the said officer or officers or other the person discharging as hereinafter mentioned the duties imposed upon him by this Act and which fees shall be dealt with and disposed of in the manner prescribed by the said recited Act or any other Act or Acts.

7. And be it enacted That if the said Prothonotary and Registrar or the said Chief Clerk or any other clerk in the said office upon whom the duty shall devolve shall wilfully or negligently omit to number register or enter or to have numbered registered or entered in manner by the said recited Act or any other Act or Acts directed any deed memorial or certificate delivered into the said office the person so offending shall forfeit and pay the same penalty and be liable to the same extent as the said Registrar General would under the said recited Act or any other Act or Acts have forfeited and paid and been liable to in the event of a similar wilful or neglectful omission by him or others as in the said recited Act or any other Act or Acts mentioned.

8. And whereas doubts have arisen under the said recited Act as to the powers of Commissioners of the said Supreme Court to receive and take the acknowledgments of married women and others Be it therefore (for the purpose of removing such doubts) enacted That it shall be lawful for any Commissioner of the said Supreme Court for taking affidavits to receive and take the acknowledgment of any person under the said Act anything in the said Act to the contrary notwithstanding

Vagrancy.

standing. Provided always that the party making any such acknowledgment shall be actually resident at the least five miles from the City of Sydney.

Commencement of
Act.

9. And be it enacted That this Act and all and singular the matters and things herein contained shall come into force and operation upon from and after the first day of January which will be in the year of our Lord one thousand eight hundred and fifty and not before.
