

Act No. 37, 1901.

An Act to consolidate certain enactments relating to conveyances, assignments, and titles to lands. [1st November, 1901.]

CONVEYANCING AND
LAW OF PROPERTY
(SUPPLEMENTAL).

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 and Law of Property (Supplemental) Act, 1901," and shall be read with the Conveyancing and Law of Property Act, 1898, and is divided into Parts, as follows:—

PART I.—*Preliminary.*

PART II.—*Married women's reversionary interests in personalty.*

PART III.—*Dower.*

PART IV.—*Illusory appointments.*

PART I.

Preliminary.

2. The Acts in the First Schedule to this Act are, to the extent therein expressed, hereby repealed.

Repeal.
First Schedule.

3. Section three of the Conveyancing and Law of Property Act, 1898, shall be read as if there had been added at the end thereof, at the date when the said Act was passed, a proviso in the words following:— "Provided that this section shall not prejudice the title of any person in possession of the land on the thirtieth day of June, one thousand eight hundred and fifty-eight, and claiming under such vendor."

Correction to s. 3 of
No. 17 of 1898.

4. Subsection sixty-eight (1) (a) of the Conveyancing and Law of Property Act, 1898, shall be read as if at the date when the said Act was passed the words "to the possession or" had been inserted between the word "wife" and the word "to" in the said subsection.

Correction to s. 68.

5. Section one hundred and eight of the Conveyancing and Law of Property Act, 1898, shall be read as if at the date when the said Act was passed the words "into Court" had not been inserted between the word "payment" and the word "shall," both in subsection (4) and the proviso thereto.

Correction to s. 108.

*Repealed by
Conveyancing Act 1909*

Conveyancing and Law of Property (Supplemental).

PART II.

Married women's reversionary interests in personalty.

Married women may dispose of reversionary interest in personal estate.
39 Vic. No. 25, s. 1.

6. (1) Every married woman may, by acknowledged deed,—

- (a) dispose of every future or reversionary interest, whether vested or contingent, of such married woman or her husband in her right in any personal estate whatsoever to which she is entitled under any instrument (except such a settlement as hereinafter mentioned);
- (b) release or extinguish any power which may be vested in or limited or reserved to her in regard to any such personal estate

as fully and effectually as she could if she were a femme sole; and may also by acknowledged deed

- (c) release her right or equity to a settlement out of any personal estate to which she or her husband in her right may be entitled in possession under any such instrument as aforesaid.

(2) No such disposition, release, or extinguishment shall be valid unless the husband concur in the deed by which the same is effected.

(3) Nothing herein contained shall extend to any reversionary interest to which a married woman becomes entitled by virtue of any deed, will, or instrument by which she is restrained from alienating or affecting the same.

7. Every deed to be executed by a married woman for any of the purposes of this Act shall be acknowledged by her and be otherwise perfected in the manner in and by the Conveyancing and Law of Property Act, 1898, prescribed for the acknowledgment and perfecting of deeds disposing of interests of married women in land.

8. The powers of disposition given to a married woman by this Part of this Act shall not interfere with any power which independently of this Part of this Act may be vested in or limited or reserved to her so as to prevent her from exercising such power in any case except so far as by any disposition made by her under this Part of this Act she may be prevented from so doing in consequence of such power having been suspended or extinguished by such disposition.

9. The powers of disposition given to a married woman by this Part of this Act shall not enable her to dispose of any interest in personal estate settled upon her by any settlement or agreement for a settlement made on the occasion of her marriage.

*Repealed by
Conveyancing Act*

How deeds to be acknowledged.
Ibid. s. 2.

Powers given not to interfere with other powers.
Ibid. s. 3.

Marriage settlement not to be interfered with.
Ibid. s. 4.

Conveyancing and Law of Property (Supplemental).

PART III.

Dower.

10. The enactments in the Second Schedule to this Act are, save as hereinafter mentioned, repealed to the extent expressed in the said Schedule: Statutes relating to dower repealed except as to estates tail.

Provided that such repeal shall not extend to deprive any woman of any right of dower or in the nature of dower which she had at the passing of this Act in the estate or effects of her deceased husband nor to any contingent or vested right of dower which, if the said enactments mentioned in the Second Schedule had remained in full force and effect, a woman would now have or would hereafter acquire in the legal or equitable estates tail of her husband, and, notwithstanding such repeal, such rights shall remain in or accrue to her and may be enforced in the same manner, and shall be subject to the like conditions in all respects as if this Part of this Act had not been passed. Second Schedule.

*Repealed by
Conveyancing
Act 1919.*

PART IV.

Illusory appointments.

11. No appointment hereafter made in exercise of any power or authority to appoint any property, real or personal, amongst several objects, shall be invalid or impeached in equity on the ground that an unsubstantial illusory or nominal share only is thereby appointed to or left unappointed to devolve upon anyone or more of the objects of such power, but every such appointment shall be valid and effectual in equity, as well as at law, notwithstanding that anyone or more of the objects shall not thereunder, or in default of such appointment, take more than an unsubstantial illusory or nominal share of the property subjected to such power. Illusory appointment valid in equity. 11 Geo. IV and Wm. IV, c. 46, s. 1.

12. Nothing in this Part of this Act shall prejudice or affect any provision in any deed, will, or other instrument creating any such power as aforesaid, which declares the amount of the share or shares from which no object of the power shall be excluded. Deed declaring amount of share. Ibid. s. 2.

13. Nothing in this Part of this Act shall be deemed at law or in equity to give any other validity, force, or effect to any appointment than such appointment would have had if a substantial share of the property affected by the power had been thereby appointed to or left unappointed to devolve upon any object of the power. Ibid. s. 3.

Conveyancing and Law of Property (Supplemental).

PART V.

Powers of attorney.

14. (1) Whenever the person who has executed or hereafter executes any power of attorney (whether within New South Wales or not) has declared or declares therein that such power shall continue in force until notice of his death or of the revocation of such power has been received by the attorneys named therein, then and in every such case, such power shall operate accordingly, and every act done, performed, or submitted to by the said attorneys, within the scope of the powers and authority conferred upon them after such death or revocation as aforesaid, and before notice thereof has been received, and on or after the twenty-sixth day of September one thousand eight hundred and fifty-three, shall be as effectual in all respects as if such death or revocation had not happened or been made.

(2) A solemn declaration made by any such attorney that he has not received any notice of the revocation of such power of attorney by death or otherwise shall, if made immediately before or after executing any such conveyance or other instrument as aforesaid, or doing, performing, or submitting to any such act as aforesaid, be taken to be conclusive proof of such non-revocation at the time of such execution in favour of any person who, bona fide and for valuable consideration and without notice to himself of any such revocation, has accepted any such conveyance or other instrument from or dealt with such attorney in the name of his principal.

Conveyances, &c.,
under certain powers
of attorney executed
after death or
revocation and before
notice thereof to be
valid.

17 Vic. No. 22, s. 1.

Proof of non-
revocation.

*Repealed
by Con-
veyancing
Act 1919*

*See sec.
160 of
Conveyancing
Act 1919*

SCHEDULES.

FIRST SCHEDULE.

Number of Act.	Title of Act.	Extent of repeal.
5 Wm. IV No. 8	An Act for adopting certain Imperial Acts of Parliament.	So much as adopted the Imperial Act, 11 Geo. IV and 1 Wm. IV, c. 46.
17 Vic. No. 22	An Act to give greater effect to powers of attorney.	The whole Act.
39 Vic. No. 25	An Act to enable married women to dispose of reversionary interests in personal estate.	The whole Act.

SECOND

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Reformatory and Industrial Schools.

SECOND SCHEDULE.

Number of Act.	Title of Act.	Extent of repeal.
7 Wm. IV No. 8	An Act for adopting certain Imperial Acts of Parliament.	So much as adopted the Imperial Act, 3 and 4 Wm. IV, c. 105.
14 Vic. No. 27	An Act to amend the law of dower...	... The whole Act.
22 Vic. No. 1 ...	Titles to Land Act of 1858 Section 22.
