

Conveyancing Ordinance Amendment.

No. XVI.

CONVEYANCING
ORDINANCE
AMENDMENT.

AN ACT to amend "*The Conveyancing Ordinance*," No. 10 of Session II., of the Legislative Council of New Zealand. [27th October, 1860.]

Preamble.

WHEREAS by an Ordinance passed by the Governor of New Zealand, with the advice and consent of the Legislative Council thereof, Session II., No. 10, intituled "*An Ordinance to facilitate the Transfer of Real Property, and to simplify the Law relating thereto*," it is enacted by section one that "Every deed shall be signed by the conveying parties, and shall also be attested by two witnesses; the place of abode of the witnesses, their calling or business, shall be stated; but no particular form of words shall be requisite for the attestation:" And whereas the mode of attestation required by the said section has been found inconvenient in practice:

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

Short Title.

1. The Short Title of this Act shall be "*The Conveyancing Ordinance Amendment Act, 1860.*"

Construction of
"Mortgagee" and
"Mortgagor."

2. In the construction of this Act the term "Mortgagee" shall extend to and include the executors, administrators, and assigns of the original mortgagee; and the term "Mortgagor" shall extend to and include the heirs, executors, administrators, and assigns of the original mortgagor, unless there be something in the subject or context repugnant to such constructions.

Recited section
repealed.

3. The said recited section one of Ordinance No. 10, Session II., is hereby repealed.

Signature and
attestation of deeds.
Deeds executed
before passing hereof.

4. Every deed shall be attested by at least one witness.

5. Every deed executed before the passing hereof, attested as by this Act required, shall from the execution thereof be deemed as valid and effectual as if the same had been attested as prescribed in the said Ordinance by the said section thereof hereby repealed.

Mortgagee with
power of sale by
auction may apply
to Registrar of
Supreme Court to
conduct sale of
mortgaged premises.

6. And whereas it is injurious to the interests of both mortgagors and mortgagees that mortgagees are prohibited from being purchasers of the mortgaged property at sales by auction under the powers of sale vested in mortgagees: Be it therefore enacted that it shall be lawful for any present or future mortgagee, having a power of sale by auction, to apply to the Registrar or Deputy Registrar of the Supreme Court who shall be resident nearest to the land or hereditaments to be sold, to conduct the sale of the whole or any part of the land and hereditaments comprised in the mortgage.

Registrar shall take
proper steps
accordingly.

7. The said Registrar or Deputy Registrar shall fix a convenient time (being within three months of the application) and a convenient place for the sale, shall approve of proper conditions of sale, shall employ an auctioneer, and shall do all other necessary acts for effectuating the sale.

Mortgagee may
become purchaser.

8. It shall be lawful for the mortgagee to be a bidder at any such sale by auction conducted by any Registrar or Deputy Registrar as aforesaid, and to become the purchaser of the land and hereditaments or any part thereof.

Conveyance may be
made by Registrar to
mortgagee.

9. In the event of the mortgagee being declared the purchaser, the Registrar or Deputy Registrar who shall have conducted the sale shall, on behalf of the mortgagor and in his name, execute such deed or instrument for conveying or causing the same to be conveyed

as.

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as would in the case of an ordinary sale be required to be executed by the mortgagor, and which deed or instrument shall be as valid and effectual as a conveyance or transfer of the same land and hereditaments would have been if made by the mortgagee to a competent *bonâ fide* purchaser.

10. On any sale conducted by the Registrar or Deputy Registrar as aforesaid, he shall be entitled as remuneration for his trouble, on the completion of the purchase, to a percentage on and to be paid out of the purchase money after the rate, where the purchase money does not exceed two hundred pounds, of one per cent., and where the purchase money exceeds that sum, of one per cent. on two hundred pounds, and one-half per cent. on the remainder of the purchase money.

Remuneration to Registrar.

11. And whereas delay frequently takes place after the sale of Crown lands before the grants of the same are issued to the purchasers thereof, and between the times of such sales and the dates of such grants conveyances and other dispositions of the said land are made: And whereas, to prevent loss and inconvenience to grantees and persons claiming through them, it is expedient to vest the legal estate in manner hereinafter mentioned: Be it therefore enacted that all deeds heretofore or hereafter to be executed by grantees of Crown lands, their heirs and assigns, after the purchases of such lands have been or shall be made, but before the date of the Crown Grants by which the same have been or shall be subsequently granted, shall (for the purpose of completing the titles of parties to such deeds but for no other purpose) be deemed to have the same force and effect as though the Crown Grants respectively in which such lands are comprised had been or shall be executed immediately upon the payment of the purchase money for the same.

Effect of deeds executed before issue of Crown Grants.

12. It shall be lawful for the Secretary for Crown Lands to indorse on any such grant the day of the payment of the purchase money for the same, and for the purposes of this Act the day so indorsed shall be deemed to be the day of payment.

When legal estate to vest.

13. And whereas doubts have arisen as to the authority for the appointment of certain persons who have heretofore acted as Commissioners for taking Acknowledgments of Married Women, under the Act of the Imperial Parliament passed in the Session held in the third and fourth years of the reign of His late Majesty King William the Fourth, intituled "*An Act for the Abolition of Fines and Recoveries, and for the substitution of more simple modes of Assurance*," and as to the validity of acts done by them under the said Act, and it is expedient to remove such doubts and to make provision for the future taking of acknowledgments by married women of deeds executed by them: Be it further enacted that all acts and things done by any person so acting as Commissioner as aforesaid, purporting to be done by the authority of or in pursuance of the said Act of the Imperial Parliament, shall be deemed as good and valid and effectual as though the person having done the same had been duly appointed.

Acknowledgments of married women taken under Fines and Recoveries Act to be valid.

14. All the acts powers and duties with respect to the appointment of persons to be Commissioners for taking the acknowledgments by married women of deeds executed by them under the said Act to be done by or given to or imposed upon the Chief Justice of Her Majesty's Court of Common Pleas at Westminster, or by to or upon any Judge of the said Court, may be done exercised and performed by any Judge of the Supreme Court of New Zealand within his judicial district, as fully and effectually to all intents and purposes as such acts powers and duties may be done exercised and performed in England by the Chief Justice and other Judges of the said Common Pleas or any of them.

Judges of Supreme Court may appoint Commissioners.

15. Every Commissioner appointed under or by virtue of the foregoing

Powers and duties of Commissioners.

Supreme Court.

foregoing provisions of this Act may do exercise and perform all the acts powers and duties which may be done exercised and performed by a Commissioner appointed for a like purpose in England by the Chief Justice or other Judge of the said Court of Common Pleas.
