



ANNO DECIMO

VICTORIÆ REGINÆ,

No. 3.

*By His Excellency SIR JOHN EARDLEY EARDLEY-WILMOT,
Baronet, Lieutenant-Governor of the Island of Van Diemen's
Land and its Dependencies, with the Advice of the Legislative
Council.*

AN ACT to amend the Law of Real Property.

WHEREAS an Act was passed in the Session of Parliament holden in the eighth and ninth years of the reign of Her present Majesty intituled *An Act to amend the Law of Real Property*—AND WHEREAS it is expedient in order to preserve uniformity of law regarding Real Estate that the provisions of the said recited Act so far as the same are applicable should be introduced into this Colony in manner hereinafter mentioned—**BE IT THEREFORE ENACTED** by His Excellency SIR JOHN EARDLEY EARDLEY-WILMOT Baronet Lieutenant-Governor of the Island of Van Diemen's Land and its Dependencies by and with the advice of the Legislative Council as follows that is to say—

PREAMBLE.

8 & 9 Vict. c. 106.

I. THAT after the first day of January one thousand eight hundred and forty-seven all corporeal tenements and hereditaments shall as regards the conveyance of the immediate freehold thereof be deemed to lie in grant as well as in livery.

The immediate freehold of corporeal tenements to lie in grant as well as in livery.

II. THAT a feoffment made after the said first day of January one thousand eight hundred and forty-seven shall be void at law unless evidenced by deed and that a partition and an exchange of any

Feoffments partitions exchanges leases assignments and surrenders

(subject to certain exceptions) to be by deed.

tenements or hereditaments and a lease required by law to be in writing of any tenements or hereditaments and an assignment of a chattel interest in any tenements or hereditaments and a surrender in writing of an interest in any tenements or hereditaments and not being an interest which might by law have been created without writing made after the said first day of January one thousand eight hundred and forty-seven shall also be void at law unless made by deed.

Feoffments not to operate by wrong nor exchanges or partitions to imply any condition or give and grant any covenant.

III. THAT a feoffment made after the said first day of January one thousand eight hundred and forty-seven shall not have any tortuous operation and that an exchange or a partition of any tenements or hereditaments made by deed executed after the said first day of January one thousand eight hundred and forty-seven shall not imply any condition in law and that the word "give" or the word "grant" in a deed executed after the same day shall not imply any covenant in law in respect of any tenements or hereditaments except as far as the word "give" or the word "grant" may by force of any Act of Parliament imply a covenant.

Strangers may take immediately under an indenture and a deed purporting to be an indenture shall take effect as such.

IV. THAT under an indenture executed after the said first day of January one thousand eight hundred and forty-seven an immediate estate or interest in any tenements or hereditaments and the benefit of a condition or covenant respecting any tenements or hereditaments may be taken although the taker thereof be not named a party to the said indenture also that a deed executed after the said first day of January one thousand eight hundred and forty-seven purporting to be an indenture shall have the effect of an indenture although not actually indented.

Contingent and other like interests and rights of entry made alienable by deed saving estates tail.

V. THAT after the said first day of January one thousand eight hundred and forty-seven a contingent an executory and a future interest and a possibility coupled with an interest in any tenements or hereditaments of any tenure whether the object of the gift or limitation of such interest or possibility be or be not ascertained also a right of entry whether immediate or future and whether vested or contingent into or upon any tenements or hereditaments of any tenure may be disposed of by deed but that no such disposition shall by force only of this Act defeat or enlarge an estate tail and that every such disposition by a married woman shall be made conformably to the provisions relative to dispositions by married women of an Act or Ordinance of this Island passed in the fourth year of the reign of His late Majesty King William the Fourth intituled *An Act to render Conveyances by Married Women effectual without Fine or Recovery*.

Married women may disclaim estates or interests by deed.

VI. THAT after the first day of January one thousand eight hundred and forty-seven an estate or interest in any tenements or hereditaments of any tenure may be disclaimed by a married woman by deed and that every such disclaimer shall be made conformably to the provisions of the said recited Act or Ordinance in the last section mentioned.

Contingent remainders protected against the premature failure of a preceding estate.

VII. THAT a contingent remainder existing at any time after the first day of January one thousand eight hundred and forty-seven shall be and if created before the passing of this Act shall be deemed to have been capable of taking effect notwithstanding the determination by forfeiture surrender or merger of any preceding estate of freehold in the same manner in all respects as if such determination had not happened.

VIII. THAT when the reversion expectant on a lease made either before or after the passing of this Act of any tenements or hereditaments of any tenure shall after the said first day of January one thousand eight hundred and forty-seven be surrendered or merge the estate which shall for the time being confer as against the tenant under the same lease the next vested right to the same tenements or hereditaments shall to the extent and for the purpose of preserving such incidents to and obligations on the same reversion as but for the surrender or merger thereof would have subsisted be deemed the reversion expectant on the same lease.

When the reversion on a lease is gone the next estate to be deemed the reversion.

E. EARDLEY-WILMOT.

Passed the Legislative Council, this sixth day of July, one thousand eight hundred and forty-six,

ADAM TURNBULL, *Clerk of the Council.*

