



ANNO OCTAVO.

# Georgii IV. Regis.

No. 5.

*By His Excellency Colonel GEORGE ARTHUR, Lieutenant Governor of the Island of Van Diemen's Land and its Dependencies, by and with the Advice of the Legislative Council.*

*[An Act to provide for the Registration of Deeds, Wills, Judgments, and Conveyances effecting real Property.]*

**WHEREAS**, it is expedient to prevent secret and fraudulent Conveyances in this Island, and to provide means whereby the title of real property may be more certainly known.

I. Be it therefore, and it is hereby enacted, by His Excellency the said Lieutenant Governor, by and with the Advice of the Legislative Council, that from and after the first day of November now next ensuing, there shall be established at Hobart Town, in the said Island, a Public Office for the Registration of Conveyances, deeds and other Instruments, wills and judgments; in manner hereinafter mentioned; such office to be held and executed by a fit and proper person, as registrar, and that from and after the establishment of such office, all conveyances and other deeds, wills and devises, and other instruments in writing now or hereafter to be made or executed, and all judgments now subsisting and unsatisfied, or hereafter to be obtained, (by which conveyances, deeds and other instruments, wills and judgments, any lands, tenements or hereditaments in Van Diemen's Land or its Dependencies, now are, or are intended to be, or shall, or may hereafter be affected), may be entered and registered in the said office, in the manner hereinafter respectively directed.

II. And be it further enacted, that all such conveyances, deeds, and other instruments in writing as aforesaid, which shall from and after the passing of this Act be made or executed, and all judgments which shall hereafter be obtained, which said conveyances, deeds, and other instruments, and judgments shall be so registered in conformity with the provisions of this Act, shall be entitled to and be allowed and have priority over other conveyances, deeds, and other instruments in writing, which shall be made or executed after the passing

of this Act, and over judgments which shall be hereafter obtained, affecting or intending to affect the same lands, tenements and hereditaments, according to the priority of the time of such registration thereof, and all such conveyances and other deeds and instruments in writing, and judgments as last aforesaid, and all future devises which shall not be registered in conformity with the provisions of this Act, shall (as against any subsequent *bona fide* purchaser or mortgagee of the same lands, tenements, and hereditaments, for valuable consideration) be, and be adjudged absolutely null and void to all intents and purposes whatsoever:—Provided, that nothing hereinbefore contained shall extend to, or affect, *bona fide* leases at rack rent, for any term not exceeding fourteen years.

III. Provided always, and be it further enacted, that all judgments hereafter to be obtained, and all conveyances, deeds, wills and other instruments hereafter to be made or executed, which shall be duly registered within the respective times next mentioned (that is to say) all conveyances and other deeds and instruments, (except wills) which (if executed in Van Diemen's Land or its Dependencies) shall be registered within one month, or which (if executed in New South Wales or its Dependencies) shall be registered within three months, or which (if executed in any other place) shall be registered within twelve months after the time of the execution thereof respectively, and all wills which (if the devisor die in Van Diemen's Land or its Dependencies) shall be registered within one month, or which (if the devisor die in New South Wales or its Dependencies) shall be registered within three months, or which (if the devisor die in any other place) shall be registered within twelve months after the decease of every devisor respectively, and all future judgments which shall be registered within one month after the time of the signing or recording thereof, shall severally be, in like manner, entitled to priority, and shall take effect respectively, by relation to the date thereof only, and have and be allowed the same force and effect in all respects, as the same would have or be entitled to, in case this act had never been made, any thing hereinbefore contained to the contrary notwithstanding.

IV. And be it further enacted, that the registration of all judgments, deeds, conveyances, wills, and devises, and other instruments in writing, affecting or intending to affect any lands, tenements or hereditaments in Van Diemen's Land or its Dependencies, shall be made in the manner next mentioned, (that is to say) a Memorial thereof shall be written on parchment and delivered into the said office, so to be established, signed (in case of deeds, conveyances and other instruments, except wills) by some or one of the parties to the original deed or instrument, or, (if dead or absent from the colony) then by one or more of the witnesses to such deed or instrument; and (in case of wills and devises) signed by some or one of the devisees, or his, or her or their guardians or trustees; and (in case of judgments) signed by the plaintiffs or plaintiff, or his, her, or their authorised agent, and every such memorial shall be verified by the oath of some competent person, that the same contains a just and true account of the several particulars therein set forth, which oath shall be made and taken before any Judge or Mas-

ter in Chancery, or before the Registrar of Deeds so to be appointed, who is hereby authorised and empowered to administer the same:

V. And be it further enacted, that every memorial of any judgment, shall contain the following particulars, (that is to say) the names and additions of the plaintiffs and defendants respectively; the sums thereby recovered or secured; the time of the signing or entering up of the same, and the sum of money bona fide due thereon; and every memorial of any deed or conveyance, will, or other instrument shall contain and set forth, the date of such deed, conveyance, will, or other instrument, and the particular nature and object thereof, the names and additions of all the parties to such deed, conveyance, or instrument, and of the deviser and devisee or devisees of such will, and the names and additions of all the witnesses thereto, and shall especially particularise and express the lands, tenements and hereditaments, affected or intended to be affected by such deed, conveyance, will, or instrument, and the proper and ordinary or accustomed names of the Districts, towns or places where the same lands, tenements or hereditaments shall be situate, and (except in cases of wills) the pecuniary or other consideration for the same, and to whom, and how paid, in the form or to the effect of the form set forth in the schedule hereto annexed, marked A.—Provided always, that where there shall be more writings than one, for perfecting the same conveyance, devise or security, affecting the same lands, tenements and hereditaments, all such writings shall be stated in one and the same memorial, in which memorial it shall be sufficient to particularise such lands, tenements, and hereditaments once only.

VI. And be it further enacted, that upon the delivery of any such memorial so verified as aforesaid, the same shall be numbered according to the order of time in which it shall have been so delivered, and the said registrar so to be appointed shall give a receipt for the same, in which receipt shall be specified the certain day and time of day when the memorial shall have been so delivered into his office, and the proper number thereof in the said office, and he shall also in like manner, immediately endorse on the back of such memorial, a certificate containing the said day and time of day, when the same was so delivered, and the name and place of abode of the person verifying the same, and shall sign the certificate when so endorsed, and such certificate shall be taken and allowed, as evidence of the registration and time of registration of every such judgment, conveyance, deed, will, devise and instrument whereof such memorial shall be so made.

VII. And be it further enacted, that every such memorial shall, as soon after the receipt thereof as practicable, be carefully registered by the registrar in regular succession, as received according to its proper number, in a particular book, to be kept by him for that purpose, and shall afterwards be deposited by him in some secure place in his office, and there kept for future reference when required: And he shall also keep an alphabetical index of the Districts, towns and places mentioned in every such memorial; and also a like index or indexes of the names of the several parties to conveyances and other deeds and instruments, and of devisors and devisees in wills, and of the plaintiffs and defendants in case of judgments, with accu-

rate references in all such indexes, respectively to the number and page of registry of the memorial to which any entry in such Index or Indexes shall relate, which said book of registry and index or indexes shall be open at convenient times, in the said office, to the inspection of persons desirous of searching the same.

VIII. And be it further enacted, that in case of mortgages and judgments registered in pursuance of this Act, if at any time afterwards, such verified certificate as is hereinafter next mentioned, shall be brought to the said registrar, signed by the respective mortgagors or mortgagees, or plaintiffs and defendants, or their agents respectively, and attested by two credible witnesses, whereby it shall appear, that the whole of the monies due on any such mortgage or judgment have been fully paid, or that such mortgage or judgment is otherwise satisfied, then the said registrar shall make a short entry or memorandum thereof on the memorial and in the margin of the registry, of such mortgage or judgment, and shall afterwards carefully register the same certificate in one of the Registrar Books of his Office, and the said Registrar shall also make an entry thereof in his Alphabetical Index or Indexes, referring accurately to the page of registry of such certificate.

IX. And be it further enacted, that every such certificate shall contain the following particulars (that is to say) in case of judgments, the names and additions of the plaintiffs and defendants, the time of the entering up or signing thereof, the sum or sums thereby recovered, and the date or dates of payment, or other satisfaction of the amount *bona fide* due thereon, and in case of mortgages, the names and additions of the original parties, the date of the instrument, the sum thereby secured, and the time or times of payment, or other satisfaction thereof, and every such certificate shall be verified by the oath of some competent person, that the same contains a just and true account of the several particulars therein set forth, which oath shall be made and taken before any Judge or Master in Chancery or before the said Registrar, who is hereby authorised to administer the same, and on the back of such verified certificate, the Registrar shall immediately endorse the date when the same was received by him, and the name and place of abode of the person verifying the same, and the said certificate shall, after being so endorsed and entered as aforesaid, be safely kept in his Office, for future reference when required.

X. And be it further enacted, that it shall be lawful for any person or persons whatsoever, to deposit in the said Register Office for safe custody, any conveyance, deed, power of attorney or instrument in writing whatsoever, or his, or her last will and testament, of which deeds, conveyances, wills or other instruments, the said Registrar shall (first giving a receipt for the same) immediately make an entry or entries, in a book to be kept for that purpose, to which book he shall keep an accurate Alphabetical Index, having reference therein, as well to the name of the testator or parties to each such deed or instrument, as to the person or persons depositing the same:—And the said Registrar shall carefully and securely keep all such deeds, wills or other instruments in his said Office, until required by the party or parties so depositing the same, to deliver them back again:—Provided that every such will and testament shall be enclosed within a cover or en-

velope, sealed with the seal of the testator or testatrix, whose name shall be endorsed by the Registrar on such envelope or cover, and every such will shall remain in the said office until the decease of the testator or testatrix, (unless he or she shall previously require the same to be delivered back) and upon the death of the testator or testatrix, the said Registrar shall (after examining such will) deliver the same to the executor first named therein, or to such other person as the Chief Justice of the Supreme Court shall upon petition order.

XI. And be it further enacted, that if the said Registrar, or any Clerk or person employed in the said Register Office, shall wilfully neglect or omit to number, register or enter in manner hereinbefore directed, any memorial or certificate delivered into the said Office, he shall for every such offence forfeit and be liable to pay to His Majesty, his heirs and successors, the penalty or sum of One Hundred Pounds, and be further liable in damages to the party injured, to the extent of the loss or injury sustained. And if the said Registrar, or any Clerk or Person whatsoever, shall wilfully destroy, embezzle, or secrete, forge, counterfeit, raze, deface or alter any memorial, or any part thereof, or any endorsement made thereon, or any entry or registry thereof, in any Book in the said Office, with intent to defraud or injure any person or persons, such Registrar, Clerk or person so offending, shall be (and be deemed to be) guilty of felony, and being thereof duly convicted, shall suffer death without benefit of Clergy.

XII. And be it further enacted, that the several fees or sums of money, mentioned and appointed in and by the Schedule hereunto annexed, marked B. shall be demanded by and paid to the said Registrar, for and in respect of the several matters and things to be by him performed and done under or by virtue of this Act, and no higher or other fees; of all which said fees which shall be received by him, a true and regular account shall be kept by him in his said Office, and the same having been first sworn to by him as true, before some Justice of the Peace, shall be by him produced and delivered to the Auditor of Civil Accounts, at the end of every quarter in every year.

“GEORGE ARTHUR.”

*Passed the Council, this Twenty-  
second day of September, 1827.*

JOHN MONTAGU,  
*Clerk of the Council.*

SCHEDULE A.

1. Date of Will or instument.
2. Nature and object thereof.
3. Names and Additions of the parties, or Devisors and Devisees.
4. Names and Additions of the Witnesses thereto.
5. Description of the Lands or Property conveyed in or affected by the Deed or Will.

- 6. Name of the District or Place where situate.
- 7. Consideration, and to whom and how paid.
- 8. Any other particulars that the case may require.

**SCHEDULE B.**

SCHEDULE or Table of Fees to be taken in the Register Office.

	£	s.	d.
1. For receiving each Memorial or verified Certificate,	0	2	6
2. For giving a Receipt for, and afterwards entering and Registering the same,	0	7	6
3. For receiving every Will,	0	5	0
4. For receiving every Deed or other Instrument,	0	5	0
5. For each Search,	0	2	6
6. For Copy, or other particulars of any Memorial or Certificate,	0	7	6