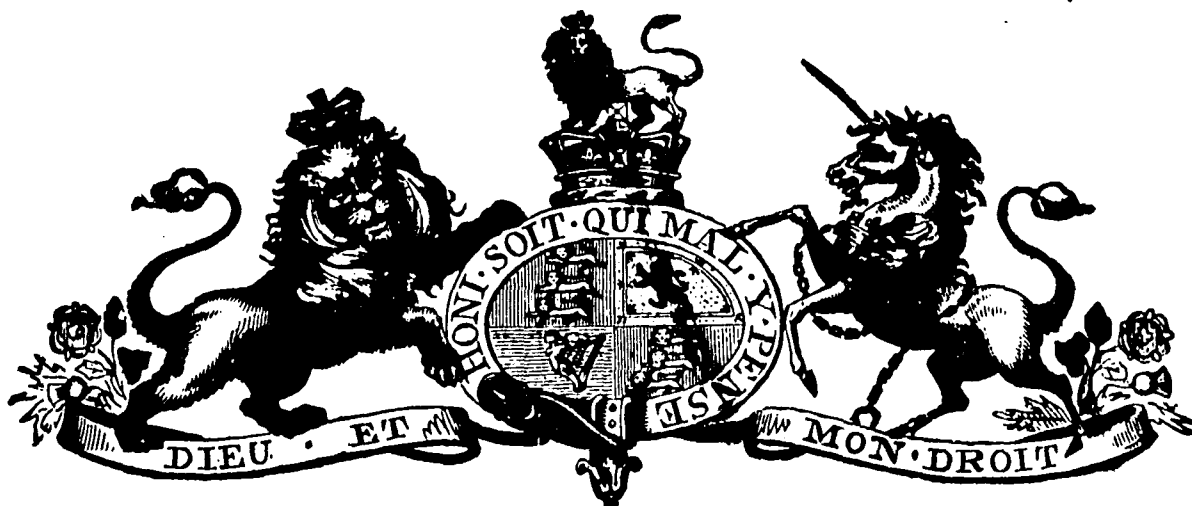


VICTORIA.



ANNO SEPTIMO

EDWARDI SEPTIMI REGIS.

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No. 2086.

An Act with respect to the Limitation of Actions relating to Real and other Property and for other purposes.

[24th September, 1907.]

BE it enacted by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and the Legislative Assembly of Victoria in this present Parliament assembled and by the authority of the same as follows (that is to say):—

1. This Act may be cited as the *Real Property Act* 1907.

Short title.

2. For section nineteen of the *Real Property Act* 1890 there shall be substituted the following section, namely:—

Amendment of section 19 of No. 1136.

19. In the construction of Part II. of the *Real Property Act* 1890 the right to make an entry or distress or bring an action to recover any land

When the right shall be deemed to have accrued.

land or rent shall be deemed to have first accrued at such time as hereinafter is mentioned (that is to say):—

In the case of an estate in possession.  
See 3 & 4 Will. IV. c. 27 s. 3.  
On dispossession.

When the person claiming such land or rent or some person through whom he claims shall in respect of the estate or interest claimed have been in possession or in receipt of the profits of such land or in receipt of such rent and shall while entitled thereto have been dispossessed or have discontinued such possession or receipt then such right shall be deemed to have first accrued at the time of such dispossession or discontinuance of possession or at the last time at which any such profits or rent were or was so received.

On abatement or death.

And when the person claiming such land or rent shall claim the estate or interest of some deceased person who shall have continued in such possession or receipt in respect of the same estate or interest until the time of his death and shall have been the last person entitled to such estate or interest who shall have been in such possession or receipt then such right shall be deemed to have first accrued at the time of such death.

On alienation.

And when the person claiming such land or rent shall claim in respect of an estate or interest in possession granted appointed or otherwise assured by any instrument (other than a will) to him or some person through whom he claims by a person being in respect of the same estate or interest in the possession or receipt of the profits of the land or in the receipt of the rent and no person entitled under such instrument shall have been in such possession or receipt then such right shall be deemed to have first accrued at the time at which the person claiming as aforesaid or the person through whom he claims became entitled to such possession or receipt by virtue of such instrument.

In case of future estates.

And when the estate or interest claimed shall have been an estate or interest in reversion or remainder or other future estate or interest and no person shall have obtained the possession or receipt of the profits of such land or the receipt of such rent in respect of such estate or interest then such right shall be deemed to have first accrued at the time at which such estate or interest became an estate or interest in possession.

In case of forfeiture or breach of condition.

And when the person claiming such land or rent or the person through whom he claims shall have become entitled by reason of any forfeiture or breach of condition then such right shall be deemed to have first accrued when such forfeiture was incurred or such condition was broken.

When right of entry shall be deemed to have accrued.

Act No. 873 ss. 1 and 2.

What person shall be deemed entitled to possession of land.

For the purposes of this section the right to make an entry or bring an action to recover any land has not and shall not be deemed to have first accrued to any person in any case (whether or not such person shall have been in possession or in receipt of the rents and profits of such land) until such land is in the actual possession of some person not entitled to such possession and any land not in the actual possession of any person shall be deemed to be in the possession of the

the person entitled to such possession ;[and for the purposes of this section a mortgagee of any land shall as from the commencement of the *Real Property Act* 1890 be and be deemed to have been the person entitled to such possession when and as often as default in payment of principal or interest shall have been made by the mortgagor.]

3. For section forty-nine of the *Real Property Act* 1890 there shall be substituted the following section, namely :—

Amendment of  
section 49 of No.  
1136.

49. No arrears of rent or of interest in respect of any sum of money whether charged upon or payable out of any land or rent or not so charged and whether payable under a covenant or otherwise or in respect of any legacy or any damages in respect of such arrears of rent or interest shall be recovered by any distress action or suit, but within six years next after the same respectively shall have become due or next after an acknowledgment of the same in writing shall have been given to the person entitled thereto or his agent signed by the person by whom the same was payable or his agent. Provided nevertheless that where any prior mortgagee or other incumbrancer shall have been in possession of any land or in receipt of the profits thereof within one year next before an action or suit shall be brought by any person entitled to a subsequent mortgage or other incumbrance on the same land, the person entitled to such subsequent mortgage or incumbrance may recover in such action or suit the arrears of interest which shall have become due during the whole time that such prior mortgagee or incumbrancer was in such possession or receipt as aforesaid, although such time may have exceeded the said term of six years.

No arrears of rent  
or interest to be  
recovered for more  
than six years.  
3 & 4 Will. IV.  
c. 27 s. 42.  
No. 1136 s. 49.

4. For section eighty-three of the *Supreme Court Act* 1890 there shall on the first day of January One thousand nine hundred and eight be substituted the following section, namely :—

Amendment of  
section 83 of No.  
1142.

83. All actions of covenant or debt upon any bond or other specialty except actions for arrears of rent or interest and all actions of debt or *scire facias* upon any recognisance, and all actions of debt upon any award where the submission is not by specialty or for money levied under any *fieri facias*, and all actions for penalties damages or sums given to the party grieved by any law now or hereafter to be in force in Victoria, shall be commenced and sued within the time and limitation hereinafter expressed but not afterwards (that is to say) :—The said actions of covenant or debt upon any bond or other specialty and actions of debt or *scire facias* upon recognisance within fifteen years after the cause of such actions, the said actions by the party grieved within two years after the cause of such actions and the said other actions within six years after the cause of such actions. Provided that nothing herein contained shall extend to any actions given by any Act or Statute where the time for bringing such action is or shall be thereby specially limited.

Limitation of  
certain actions of  
debt, &c.  
3 & 4 Will. IV.  
c. 42 s. 3.  
No. 1142 s. 83.

5. Notwithstanding

No title by adverse possession against the Crown.

(Geo. III. c. 16 ;  
7 Vict. St.: 569.)

A.G. N.S. W. v.  
Love, 1898, A.C.  
679.

Portion of a  
*cul-de-sac* may  
itself be a  
*cul-de-sac* within  
meaning of Act  
No. 1174 s. 6.

Owner of fee of  
portion of roadway  
and of abutting  
land may apply to  
bring roadway  
under *Transfer of  
Land Act* 1890 or  
for vesting order.

Tenant may remove  
buildings and  
fixtures erected by  
him.

5. Notwithstanding any law or statute now or heretofore in force in Victoria the right title or interest of the Crown to or in any land shall not be and shall be deemed not to have been in any way affected by reason of any possession of such land adverse to the Crown, whether such possession has or has not exceeded sixty years.

6. Where in the case of any private road street or passage which is itself a *cul-de-sac* and situate on land not Crown land any portion of such road street or passage is in relation to the remainder thereof of the nature of a *cul-de-sac* such portion shall for the purposes of the *Real Property Act* 1890 (No. 2) be deemed to be a *cul-de-sac* within the meaning of section six thereof whether or not such road street or passage has been dealt with under the provisions of the said Act relating to a *cul-de-sac*.

7. Where the owner or registered proprietor of the fee-simple of terminal portion of a *cul-de-sac* within the meaning and operation of section six of the *Real Property Act* 1890 (No. 2) is also the owner or registered proprietor of the fee-simple of all the land abutting on the closed end and sides of that terminal portion subject only to the then subsisting easements of right-of-way thereover, such portion shall of itself apart from the remainder of the *cul-de-sac* of which it is a portion be and be deemed a *cul-de-sac* within the meaning and operation of the said section whether or not the *cul-de-sac* of which it is a portion has been previously dealt with under the provisions of the said Act relating to a *cul-de-sac*; and such owner or registered proprietor shall be entitled to apply under section seven of the said Act to bring such portion under the *Transfer of Land Act* 1890 or for a vesting order when such portion is already under the Act; and in the discretion of the Commissioner of Titles shall be and be deemed entitled thereto subject to no easement of right-of-way and to have the Certificate of Title issued to or already held by him free or freed from all easements of right-of-way then subsisting.

8. If any tenant holding lands by virtue of any lease or agreement executed or made after the passing of this Act shall at his own cost and expense erect any building either detached or otherwise or erect or put in any building fence engine machinery or fixtures for any purpose whatever (which shall not have been erected or put in in pursuance of some obligation in that behalf), then, unless there is a provision to the contrary in the lease or agreement constituting the tenancy, all such buildings fences engines machinery or fixtures shall be the property of the tenant and shall be removable by him during his tenancy or during such further period of possession by him as he holds the premises but not afterwards; notwithstanding the same may consist of separate buildings or that the same or any part thereof may be built in or permanently fixed to the soil; so as the tenant making any such removal do not in any wise injure the land or buildings belonging to the landlord or otherwise do put the same in like plight and condition or in as good plight and condition as the same were in before the erection of anything so removed.

9. In

9. In section twenty of the *Conveyancing Act* 1904 after the word "enforce" there shall be inserted the words "or has enforced" and after the words "whole term of the lease" there shall be inserted the words "or any less term the property comprised in the lease."

Amendment of  
section 20 of  
No. 1953.

10. This Act shall apply in the case of all land whether it is or is not under the *Transfer of Land Act* 1890 or any Act amending the same.

Act applies to land  
whether under  
Transfer of Land  
Act or not.

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MELBOURNE:

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