

Hon. Mr. MacGregor.

LAW AMENDMENT.

ANALYSIS.

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A BILL INTITULED

AN ACT to make certain Amendments in the Law.

Title.

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

1. The Short Title of this Act is "The Law Amendment Act, 1899." Short Title.
2. Any acknowledgment in writing by a creditor, or by any person authorised by him in that behalf, of the receipt of a part of his debt in satisfaction of the whole debt shall operate as a discharge of the debt, any rule of law notwithstanding. ~~The fact that any such acknowledgement is not signed by the creditor or such agent as aforesaid shall not derogate from the effect thereof.~~ Discharge of debt by acceptance of part in satisfaction.
3. A judgment against one or more of several persons jointly liable shall not operate as a bar or defence to an action or other proceeding against those of such persons against whom judgment has not been recovered, except to the extent to which the judgment has been satisfied, any rule of law notwithstanding. Judgment against one of several persons jointly liable not a bar to action against others.
4. When a contract is proposed between parties at a distance, the acceptance of the proposal is *shall be* deemed null and void when the revocation of the acceptance has been communicated to the proposer before the acceptance, or at the same time with it. Revocation of acceptance of proposal for a contract.
5. An executor or administrator is *shall not be* personally liable on any covenant entered into by the testator or intestate as a lessee of land, any rule of law notwithstanding. Executor not personally liable for covenants in lease.

Trustees relieved from personal liability in certain cases.

6. If it appears to the Court that a trustee is or may be personally liable for any breach of trust (whether the transaction alleged to be a breach of trust occurred before or after the passing of this Act), but has acted honestly and reasonably, and ought fairly to be excused for the breach of trust, and for omitting to obtain the direction of the Court in the matter in which he committed such breach, then the Court may relieve the trustee either wholly or partly from personal liability for the same. In this section "trustee" includes "executor" and "administrator." 5

Liability of trustees registered as holders of shares.

7. Notwithstanding anything contained in any Act or in any memorandum of association or articles of association, or rules, regulations, or by-laws of any company registered or constituted under or pursuant to any Act of Parliament, any trustee or executor of any deceased person who was registered, or was equitably entitled to be registered, as the holder of a share in any such company may, with the consent of the company or the directors thereof, and, ~~in the latter case where the deceased was equitably entitled as aforesaid, then~~ with the consent also of the registered holder, become registered as such trustee, executor, or administrator, and such trustee, executor, or administrator if so registered shall, in respect of such share, be subject to such and the same liabilities and no more as he would have been subjected to if such share had remained or been in the name of such deceased person. 10 15 20

Limitation of actions for wrongs.

8. Every enactment in which any longer period than one year is fixed as the period of limitation for an action or other proceeding in respect of a civil wrong, other than a proceeding which raises any question as to the title to real estate, shall be construed as if, instead of that longer period, the period of one year had been fixed therein; and all enactments referring to any such enactment shall be construed accordingly: 25 30

Provided that, if the wrong is not discovered at the time when it was committed, the period of limitation shall run from the time when the wrong might with reasonable diligence have been discovered, in like manner as if the wrong had been then committed: Provided that this shall not extend the time for bringing any action commenced after the passing of this Act for any longer period than would have been applicable if this Act had not passed. This section shall apply *extend* to an action founded on contract, where the action is brought in respect of a wrongful act, neglect, or default which might have been made the subject of an action founded on tort. 35 40

Damage for breach of promise of marriage.

9. In an action for damages for breach of promise of marriage, not more than five hundred pounds shall be recoverable as damages for the breach, except where the plaintiff, being a woman, proves to the satisfaction of the Court or the jury (where there is a jury) that the plaintiff has been seduced by the defendant. 45

Jurisdiction as to costs in administration suits.

10. In any action or other proceeding for the administration of any estate, commenced after the passing of this Act, no Court or Judge shall have jurisdiction to order or allow payment of costs out of the estate to the party responsible for the commencement or continuance of such action, unless the Court or Judge shall first certify that there was some necessity for the action being commenced or continued, and only to the extent to which such continuance was necessary. 50

11. No will of which probate has been granted, or in respect of which letters of administration, with will annexed, have been granted, shall be declared or adjudicated to be invalid on the ground of the want of testamentary capacity in the testator, or *undue influence*, in any action or other legal proceeding commenced after the expiration of ~~twelve~~ *six* years from the date of the granting of such probate or letters of administration.

Limitation of time within which wills may be impeached.

## VOLUNTARY CONVEYANCES.

12. (1.) Subject, as hereinafter mentioned, no voluntary conveyance of any lands, tenements, or hereditaments, whether made before or after the passing of this Act, if in fact made *bonâ fide* and without any fraudulent intent, shall hereafter be deemed fraudulent or covinous within the meaning of the Act Twenty-seven Elizabeth, Chapter Four, by reason of any subsequent purchase for value, or be defeated under any of the provisions of the said Act of *Elizabeth* by a conveyance made upon any such purchase, any rule of law notwithstanding.

Voluntary conveyances, if *bonâ fide*, not to be voided under 27 Elizabeth, c. 4.

(2.) ~~The~~ *This* section ~~does~~ *shall* not apply in any case in which the author of a voluntary conveyance of any lands, tenements, or hereditaments has subsequently, but before the passing of this Act, disposed of or dealt with the same lands, tenements, or hereditaments to or in favour of a purchaser for value.

Saving transactions completed before passing of Act.

(3.) The expression "conveyance" *shall* include every mode of disposition mentioned or referred to in the said Act of Elizabeth.

Definition of "conveyance."

*New clauses.*

13. (1.) When in any action or other proceeding relating to land it appears to the Court that the defendant or any predecessor in title has, in the erection of a building upon any land adjoining the land in question, encroached upon such last-mentioned land, and it does not appear to the Court that such encroachment was intentional or arose from gross negligence, then the Court, instead of ordering the defendant to give up possession of the piece of land so encroached upon, or to pay damages, or instead of granting an injunction, may give the defendant the right of retaining possession of the piece of land so built upon, subject to the payment of such sum or sums of money, and to such other conditions, as to the Court shall appear just.

Supreme Court empowered to grant special relief in cases of encroachment.

(2.) The jurisdiction conferred upon the Court by the preceding subsection hereof shall extend to and may be exercised by any Court constituted under the provisions of "The Magistrates' Court Act, 1893": Provided that a defendant intending to invoke the powers hereby given to such last-mentioned Court shall give notice of such intention to the plaintiff before the hearing, and the plaintiff shall thereupon be entitled, as of right, to have the action removed into the Supreme Court, or to appeal to the Supreme Court against any such order purporting to be made by the Magistrate's Court under this section.

Jurisdiction of Magistrate's Court.

14. Notwithstanding any condition or declaration contained in any policy of insurance against fire, or in any application for such insurance, statements contained in any such application shall not be deemed to be warranties, but material statements contained therein shall be deemed to be representations.

Statements in proposals for fire insurance not to be deemed warranties.

Schedules.

## SCHEDULES.

## FIRST SCHEDULE.

## APPLICATION FOR THE APPOINTMENT OF SCRUTINEERS.

To the Returning Officer of the \_\_\_\_\_ Licensing District.

WE, the undersigned ten electors of the above-named district, do hereby declare,—

1. That we are all electors on the electoral roll of the said district.
2. That we are all in favour of the carrying of the following proposal at the licensing poll to be held in the said district, on the \_\_\_\_\_ day of \_\_\_\_\_, that is to say,—

That the number of licenses existing in the district continue.

[Or]

That the number of licenses existing in the district be reduced.

[Or]

That no licenses be granted in the district.

*The applicants are to strike out the proposal or proposals which they do not support.*

3. That we are desirous of appointing scrutineers to act at the said poll on behalf of ourselves and the other electors of the said district who support the said proposal, and that the undersigned shall be authorized to sign such appointment on our behalf.

Dated at \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_.

Signature in full.	Number on Electoral Roll.	Address.	Occupation.

Signed and declared by the above-named [*Here insert names of applicants*] in the presence of—

A.B.,

Returning Officer [Justice of the Peace, or Solicitor].

## SECOND SCHEDULE.

## PETITION FOR INQUIRY.

WE, the undersigned electors of the district of \_\_\_\_\_, hereby declare that we verily believe that at the licensing poll holden in the said district on the \_\_\_\_\_ day of \_\_\_\_\_, the votes were wrongly counted and that the Returning Officer's official declaration of the said poll is incorrect upon the following grounds: [*Here state the grounds*].

And we pray that inquiry may be made into the said poll, under the provisions of "The Local Option Poll Scrutineers Act, 1899," and that the said declaration may be corrected.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_.

Signature in full.	Number on Electoral Roll.	Address.	Occupation.

Signed and declared by the above-named [*Here insert names of petitioners*] in the presence of—

A.B.,

Justice of the Peace [or Solicitor].