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Mr. Mason.

PROPERTY LAW AMENDMENT.

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A BILL INTITULED

AN ACT to amend the Law relating to Property.

Title.

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

1. This Act may be cited as the Property Law Amendment Act, 1930, and shall be read together with and deemed part of the Property Law Act, 1908.

Short Title.

Struck out.

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PART I.
VENDORS AND PURCHASERS.

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2. In the completion of any contract of sale of land made after the coming into operation passing of this Act, and subject to any stipulation to the contrary in the contract, forty years shall be substituted as the period of commencement of title which a purchaser may require in place of sixty years, the present period of such commencement; nevertheless earlier title than forty years may be required in cases similar to those in which earlier title than sixty years may now be required.

Forty years substituted for sixty years as the root of title. 37 & 38 Vict., c. 78, s. 1

Struck out.

PART II.

LIMITATION OF ACTIONS AND SUITS RELATING TO REAL PROPERTY.

3. After the commencement of this Act no person shall make an entry or distress, or bring an action or suit, to recover any land or rent, but within twelve years next after the time at which the right to make such entry or distress, or to bring such action or suit, shall have first accrued to some person through whom he claims; or if such right shall not have accrued to any person through whom he claims, then within twelve years next after the time at which the right to make such entry or distress, or to bring such action or suit, shall have first accrued to the person making or bringing the same.

4. A right to make an entry or distress, or to bring an action or suit, to recover any land or rent, shall be deemed to have first accrued, in respect of an estate or interest in reversion or remainder, or other future estate or interest, at the time at which the same shall have become an estate or interest in possession, by the determination of any estate or estates in respect of which such land shall have been held, or the profits thereof or such rent shall have been received, notwithstanding the person claiming such land or rent, or some person through whom he claims, shall at any time previously to the creation of the estate or estates which shall have determined, have been in the possession, or receipt of the profits of such land, or in receipt of such rent: But if the person last entitled to any particular estate on which any future estate or interest was expectant shall not have been in the possession or receipt of the profits of such land, or in receipt of such rent, at the time when his interest determined, no such entry or distress shall be made, and no such action or suit shall be brought, by any person becoming entitled in possession to a future estate or interest, but within twelve years next after the time when the right to make an entry or distress, or to bring an action or suit, for the recovery of such land or rent, shall have first accrued to the person whose interest shall have so determined, or within six years next after the time when the estate of the person becoming entitled in possession shall have become vested in possession, whichever of those two periods shall be the longer; and if the right of any such person to make such entry or distress, or to bring any such action or suit, shall have been barred under this Act, no person afterwards claiming to be entitled to the same land or rent in respect of any subsequent estate or interest under any deed, will, or settlement, executed or taking effect after the time when a right to make an entry or distress, or to bring an action or suit, for the recovery of such land or rent, shall have first accrued to the owner of the particular estate whose interest shall have so determined as aforesaid, shall make any such entry or distress, or bring any such action or suit, to recover such land or rent.

5. If at the time at which the right of any person to make an entry or distress, or to bring an action or suit, to recover any land or rent, shall have first accrued as aforesaid, such person shall have been under any of the disabilities hereinafter mentioned, (that is to say,) infancy, coverture, idiotcy, lunacy, or unsoundness of mind, then such person, or the person claiming through him, may, notwithstanding the period of twelve years, or six years, (as the case may be,) hereinbefore limited shall have expired, make an entry or distress, or bring an action

No land or rent to be recovered but within twelve years after the right of action accrued.
37 & 38 Vict., c. 57, s. 1

Provision for case of future estates.
Ibid., s. 2

Time limited to six years when person entitled to the particular estate out of possession, &c.

In cases of infancy, coverture, or lunacy at the time when the right of action accrues, then six years to be allowed from the termination of the disability or previous death.
Ibid., s. 3

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or suit, to recover such land or rent, at any time within six years next after the time at which the person to whom such right shall first have accrued shall have ceased to be under any such disability, or shall have died (whichever of those two events shall have first happened):

Provided that the time within which any such entry may be made, or any such action or suit may be brought as aforesaid, in respect of any land or rent to which a married woman is or may have been entitled to have and to hold and to dispose of as her separate property under section seven or ten of the Married Women's Property Act, 1908, shall not in any case after the commencement of this Act be extended or enlarged by reason of the coverture of such married woman during all or any part of that time.

6. The time within which any such entry may be made, or any such action or suit may be brought as aforesaid, shall not in any case after the commencement of this Act be extended or enlarged by reason of the absence beyond seas during all or any part of that time of the person having the right to make such entry, or to bring such action or suit, or of any person through whom he claims.

7. (1) No entry, distress, action, or ~~suit~~ *other proceeding* shall be made or brought by any person who at the time at which his right to make any entry or distress, or to bring an action or ~~suit~~ *other proceeding* to recover any land or rent, shall have first accrued, shall be under any of the disabilities ~~hereinbefore~~ *mentioned in section sixteen of the Imperial Real Property Limitation Act, 1833 (3 & 4 Will IV, c. 27)*, or by any person claiming through him, but within thirty years next after the time at which such right shall have first accrued, although the person under disability at such time may have remained under one or more of such disabilities during the whole of such thirty years. or although the term of ~~six ten~~ years from the time at which he shall have ceased to be under any such disability, or have died, shall not have expired.

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(2) This section shall be read subject to the provisions of the Married Women's Property Act, 1908, and of the Land Transfer Act, 1915.

(3) Section seventeen of the Real Property Limitation Act, 1833, shall cease to have operation in New Zealand on the commencement of this section.

(4) This section shall come into force on the *first day of January*, nineteen hundred and thirty-three.

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8. When a tenant in tail of any land or rent shall have made an assurance thereof which shall not operate to bar the estate or estates to take effect after or in defeasance of his estate tail, and any person shall by virtue of such assurance at the time of the execution thereof, or at any time afterwards, be in possession or receipt of the profits of such land, or in the receipt of such rent, and the same person or any other person whosoever (other than some person entitled to such possession or receipt in respect of an estate which shall have taken effect after or in defeasance of the estate tail) shall continue or

No time to be allowed for absence beyond seas.
37 & 38 Vict.,
c. 57, s. 4

Thirty years utmost allowance for disabilities with respect to limitation of actions relating to real property.
Cf. 37 & 38 Vict.,
c. 57, s. 5

Commencement.

In case of possession under an assurance by a tenant in tail, which shall not bar the remainders, they shall be barred at the end of twelve years after that period at which the assurance, if then executed, would have barred them.
Ibid., s. 6

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be in such possession or receipt for the period of twelve years next after the commencement of the time at which such assurance, if it had then been executed by such tenant in tail, or the person who would have been entitled to his estate tail is such assurance had not been executed, would, without the consent of any other person, have operated to bar such estate or estates as aforesaid, then, at the expiration of such period of twelve years, such assurance shall be and be deemed to have been effectual as against any person claiming any estate, interest, or right to take effect after or in defeasance of such estate tail.

9. No action or suit or other proceeding shall be brought to recover any sum of money secured by any mortgage, judgment, or lien, or otherwise charged upon or payable out of any land or rent, at law or in equity, or any legacy, but within twelve years next after a present right to receive the same shall have accrued to some person capable of giving a discharge for or release of the same, unless in the meantime some part of the principal money, or some interest thereon, shall have been paid, or some acknowledgment of the right thereto shall have been given in writing signed by the person by whom the same shall be payable, or his agent, to the person entitled thereto, or his agent; and in such case no such action or suit or proceeding shall be brought but within twelve years after such payment or acknowledgment, or the last of such payments or acknowledgments, if more than one, was given.

10. From and after the commencement of this Act the provisions of the Act passed in the session of the third and fourth years of the reign of His late Majesty King William the Fourth, chapter twenty-seven, shall be construed together with this Act, and shall take effect as if the provisions hereinbefore contained were substituted in such Act for the provisions contained in the sections thereof numbered two, five, sixteen, seventeen, twenty-three, and forty respectively, and as if the term of six years had been mentioned, instead of the term of ten years, in the section of the said Act numbered eighteen, and the period of twelve years had been mentioned in the said section eighteen instead of the period twenty years; and the provisions of the Act passed in the session of the seventh year of the reign of His late Majesty King William the Fourth, and the first year of the reign of Her late Majesty Queen Victoria, chapter twenty-eight, shall be construed together with this Act, as if the period of twelve years had been therein mentioned instead of the period of twenty years.

11. After the commencement of this Act no action, suit, or other proceeding shall be brought to recover any sum of money or legacy charged upon or payable out of any land or rent, at law or in equity, and secured by an express trust, or to recover any arrears of rent or of interest in respect of any sum of money or legacy so charged or payable and so secured, or any damages in respect of such arrears, except within the time within which the same would be recoverable if there were not any such trust.

Money charged upon land and legacies to be deemed satisfied at the end of twelve years if no interest paid nor acknowledgment given in writing in the meantime.

Cf. 37 & 38 Vict., c. 57, s. 8

Act to be read with 3 & 4 W 4, c. 27.

Ibid., s. 9

7 W. 4, & 1 Vict., c. 28, to be read with this Act.

Time for recovering charges and arrears of interest not to be enlarged by express trusts for raising same.

37 & 38 Vict., c. 57, s. 10