

894

[AS REPORTED FROM THE COMMITTEE OF THE WHOLE COUNCIL, 25TH AUGUST, 1901.]

Hon. Mr. Bolt.

LAW AMENDMENT.

ANALYSIS.

<p>Title.</p> <p>1. Short Title.</p> <p>2. Discharge of debt by acceptance of part in satisfaction</p> <p>3. Judgment against one of several persons jointly liable not a bar to action against others.</p> <p>4. Revocation of acceptance of proposal for a contract.</p> <p>5. Executor not personally liable for covenants in lease.</p> <p>6. Liability of trustees registered as holders of shares.</p>	<p>7. Limitation of time within which wills may be impeached.</p> <p>8. (1.) Supreme Court empowered to grant special relief in cases of encroachment. (2.) Jurisdiction of Magistrate's Court.</p> <p style="text-align: center;">VOLUNTARY CONVEYANCES.</p> <p>9. (1.) Voluntary conveyances, if <i>bonâ fide</i>, not to be voided under 27 Elizabeth, c. 4. (2.) Saving transactions completed before passing of Act. (3.) Definition of "conveyance."</p> <p>10. The Court may relieve in certain cases.</p>
--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

A BILL INTITULED

AN ACT to make certain Amendments in the Law.

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, 1901." Short Title.
2. Any acknowledgment in writing by a creditor, or by any person authorised by him in writing 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. 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 any 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 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 shall not be personally liable on any covenant entered into by a testator or intestate as a lessee of land, any rule of law notwithstanding. Executor not personally liable for covenants in lease.
6. 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 directors thereof, and, Liability of trustees registered as holders of shares.

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 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. 5

Limitation of time within which wills may be impeached.

7. 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 six years from the date of the granting of such probate or letters of administration. 10

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

8. (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. 20 25

Jurisdiction of Magistrate's Court.

(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 District Courts Act, 1858," or "The Magistrates' Courts Act, 1893": Provided that a defendant intending to invoke the powers hereby given to such Courts shall give notice of such intention to the other party 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 District or Magistrate's Court under this section. Any order made under this section shall thereupon be transmitted by the Court to the District Land Registrar, or Registrar of Deeds, as the case may be, for registration. 30 35

#### VOLUNTARY CONVEYANCES.

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

9. (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 *bona 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. 40 45

Saving transactions completed before passing of Act.

(2.) This section 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. 50 55

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

Definition of  
"conveyance."

5 10. The Supreme Court may on motion grant relief against the forfeiture of any agreement for a tenancy, or for a renewal or extension of a tenancy, of land for breach of any covenant or condition where the person claiming relief is in possession of the land, or the rents and profits thereof, under any deed or writing containing any absolute or conditional right to such renewal or extension, and such relief may be granted in like manner and upon the like conditions as in the case of relief against a forfeiture of any lease or of any right to purchase.

The Court may  
relieve in  
certain cases.