

WESTERN AUSTRALIA

ANNO NONODECIMO

VICTORIÆ REGINÆ

No. 3

An Ordinance for declaring valid certain Instruments and Transactions affecting Titles to Lands in Western Australia, and for amending the Ordinance 2 William IV., No. 7. *[Assented to 9th June, 1856.]*

WHEREAS in the second year of the reign of His late Majesty King William IV., an Ordinance was passed entitled 'An Act to facilitate and simplify the Transfer of Real Property,' in which the mode of executing out of the said Colony deeds and conveyances affecting land in the said Colony was provided; and whereas, through ignorance or inadvertence, divers such deeds and conveyances intended to be duly executed in accordance with the provisions of the said recited Ordinance have not been so executed, and whereas doubts have been suggested as to the validity of such informal execution and it is expedient to remove such doubts: Be it therefore enacted by His Excellency the Governor of Western Australia and its Dependencies, by and with the advice and consent of the Legislative Council thereof:—

Preamble

1. That any deed or conveyance affecting any hereditaments situate within the said Colony or its Dependencies which shall have been made or executed on or before the first day of January next by any person or persons whomsoever out of the said Colony and which shall purport to have been executed or acknowledged by the parties thereto or proved by any subscribing witness thereto before any Judge, Magistrate, Mayor, Justice of the Peace or Commissioner for taking acknowledgments of deeds of married women in the United Kingdom of England and

Certain instruments affecting land made valid

Transfer of Real Property

Ireland or in any British Dependency, or before any British Ambassador, Envoy, Consul or Vice-Consul, or Consular Agent, Notary Public or the Judge of any Court of Law in any foreign dominions, shall be deemed and taken to be acknowledged or proved respectively in as valid and effectual a manner as if the same had been acknowledged or proved in the manner provided by the said recited Ordinance, although no colonial or corporate, public or common seal, or other seal of office be attached thereto.

Enrolment of
grants made
evidence

2. And whereas many original deeds of grant from the Crown of lands in this Colony have been lost or mislaid by the grantees and others, and in many instances from absence of professional aid on sub-divisions of such land, evidence of such original deeds of grant has not been secured, and titles to such land are consequently imperfect: Be it therefore further enacted that the original enrolment of any deed of grant from the Crown kept in a book in the Registrar of Deeds' office or an office copy thereof, shall be received in all Courts of Justice in the said Colony as evidence of the contents of the original deed of grant whereof such enrolment purports to be a true copy.

Unstamped
instruments
affecting land
executed out of
the Colony before
1st January,
1856, made valid

3. And whereas doubts have arisen as to whether unstamped deeds affecting land in this Colony, executed in England or elsewhere out of the Colony in places where stamps are required upon instruments affecting land, can be received as evidence in any Court of Justice in the said Colony; and whereas through inadvertence many deeds affecting land in this Colony executed out of the said Colony are unstamped: Be it therefore further enacted that any deed, conveyance, power-of-attorney or other instrument affecting land in this Colony, which shall have been executed out of the said Colony on or before the first day of January last past, shall be received as evidence in any and every Court of Law in the said Colony, although no stamp shall be affixed thereto or thereon.

Repeal of
section 7

4. That section 7 of the said recited Ordinance shall be and the same is hereby repealed.

Deeds, &c., exe-
cuted out of the
Colony to be
available if
executed before a
Judge or Justice
of the Peace of
such Colony

5. That all deeds and conveyances affecting any hereditaments situate within the said Colony, which, if executed within the said Colony, would, by the provisions of the said recited Ordinance, require to be executed in the presence of a Judge, Commissioner or Justice of the Peace of the said Colony, and which, after the passing of this Ordinance, shall be executed out of the said Colony and acknowledged by any party thereto, thereby passing or transferring any estate or interest, or proved by any subscribing witness thereto, before any Judge, Mayor or Justice of the Peace in the British dominions, or before any British Ambassador, Consul, Vice-Consul or Consular-Agent or Notary Public, or the Judge of any Court of Law in any foreign dominions, and certified under the hand and seal of the person before whom the same shall be so acknowledged or proved, shall be as good and effectual in the law as if the same had been respectively executed before a Judge, Commissioner or Justice of the Peace of the said Colony according to the provisions of the said Ordinance.

A. E. KENNEDY,
GOVERNOR AND COMMANDER-IN-CHIEF.