

*As to branch of trust to see Supplement 1878. 5.6-11.*



ANNO TRICESIMO

# VICTORIÆ REGINÆ.

A.D. 1866-7.

## No. 14.

*An Act to declare, amend, and consolidate the Law relating to the limitation of Suits and Actions.*

[Assented to, 11th January, 1867.]

**W**HEREAS it is expedient to declare, amend, and consolidate Preamble.  
the Law relating to the period within which actions or suits may be brought, to recover land, money, or chattels—Be it therefore Enacted by the Governor-in-Chief of the Province of South Australia, with the advice and consent of the Legislative Council and House of Assembly of the said Province, in this present Parliament assembled, as follows:

1. From and after the first day of January, one thousand eight hundred and sixty-seven, "An Act to amend the Law relating to the limitation of Actions and Suits;" being Act No. 13 of 1861, shall be and is hereby repealed, save so far as such Act repeals any Acts or Ordinances of the Legislature of the said Province: Provided that all actions which have been commenced before the passing hereof, shall be hereafter continued, carried on, and concluded, and the rights, estates, and interests of all persons parties to such actions shall be determined, settled, and decided as if this Act had not been passed. Repeal of Act 13, 1861.

2. The words and expressions hereinafter mentioned, which in their ordinary signification have a more confined or different meaning, shall, except where the nature of the provision or the context of this Act shall exclude such construction, be interpreted as follows:—The word "land" shall extend to messuages and all other corporeal hereditaments whatsoever, and also to any estate or interest in any land or messuages; "rent" shall extend to all services and suits for which a distress may be made, and to all annuities Interpretation of terms.

2 K

*Should meaning of land or interest in corporeal with trustee of Act 13, see S. 45 of that Act*  
14 AC 441  
10 AC 14  
24 C 8233

*The Statute of 32 & 33 Vict. c. 27, s. 1, has inserted other words upon the words "or payable out of the land" which occurred also in Sec 3 of No. 13 of 1861. Limitation of Suits and Actions Act.—1866-7.*

or periodical sums of money charged upon any land; "person" shall include any number of persons, any body politic, corporate, or collegiate, and a class of creditors; "person through whom another person claims" shall mean any person by, through, or under, or by the act of whom the person so claiming became entitled to the estate or interest claimed as heir, issue in tail, tenant in dower, successor, special or general occupant, executor, administrator, legatee, husband, assignee, appointee devisee, or otherwise; where the singular or plural is used the other shall be implied; [where the word "action," or "suit" is used, the other shall be implied; and either of the said words shall mean any other proceeding either at law or in equity.]

*Vote in S.I. of 32 & 33 Vict. c. 27.*

Divisions of Act.

3. This Act shall be divided into six parts relating to the following subjects:—

PART I.—To the period within which proceedings to recover land may be taken:

PART II.—Fixing the period of accrual of the cause of action concerning land or rent in certain cases:

PART III.—To various cases which may arise concerning land or rent:

PART IV.—To actions founded on speciality:

PART V.—To action founded on simple contract:

PART VI.—To persons under disability:

PART I.—Period within which proceedings to recover land may be taken:

4. No person shall make an entry or distress, or bring an action to recover any land or rent but within twenty years next after the time at which the right to make such entry or distress, or to bring such action shall have first accrued to him, or to some person through whom he claims.

PART II.—Fixing the period of accrual of the cause of action concerning land and rent in certain cases:

5. The right to make an entry or distress, or bring an action to recover any land or rent, shall be deemed to have first accrued at such time as hereinafter mentioned (that is to say):

6. When the person claiming any 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:

7. When

*Statute directed to transfer the title of Act to cases of 1861.*

*20 sections made 437*

No land or rent to be recovered but within twenty years after the right of action accrued to the claimant, or some person whose estate he claims. 3 & 4 Will. IV., cap. 27, sec. 2.

*Rent: see further S. 36*

When the right shall be deemed to have accrued. 3 & 4 Will. IV., cap. 27, sec. 3.

*made 437*

In the case of claimant having been in possession and discontinued possession. 3 & 4 Will. IV., cap. 27, sec. 3.

*See S. 45 (F) No. 536*

*22-2-20*

*rent does not include rents on leases: Statute of 15-3 discontinuance: 23-4-3 re-194, note 9.*

*Limitation of Suits and Actions Act.—1866-7.*

7. When the person claiming any 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 :

In the case of person in possession having died.  
3 & 4 Will. IV., cap. 27, sec. 3.

*See sec 457*  
*J. H. 586/9*

8. When the person claiming any 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 the case of alienation.

3 & 4 Will. IV., cap. 27, sec. 3.

9. 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 accrued at the time at which such estate or interest became an estate or interest in possession :

In the case of future estate.

3 & 4 Will. IV., cap. 27, sec. 3.

10. When the person claiming any 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 at the time such forfeiture was incurred, or such condition was broken :

Forfeiture, or breach of condition.

3 & 4 Will. IV., cap. 27, sec. 3.

11. When any right to make an entry or distress, or to bring an action to recover any land or rent by reason of any forfeiture or breach of condition, shall have first accrued in respect of any estate or interest in reversion or remainder, and the land or rent shall not have been recovered by virtue of such right, the right to make an entry or distress, or bring an action to recover such land or rent, shall be deemed to have first accrued in respect of such estate or interest at the time when the same shall have become an estate or interest in possession, as if no such forfeiture or breach of condition had happened.

Where advantage of forfeiture is not taken by remainder-man, he shall have new right when his estate comes into possession.

3 & 4 Will. IV., cap. 27, sec. 3.

12. When any person shall be entitled to or claim under any mortgage of land, then such right shall be deemed to have first accrued at the time of the last payment of any part of the principal money or interest secured by such mortgage, although more than twenty years may have elapsed since the time at which the right to make such entry or distress or bring such action, shall have first accrued.

In the case of a mortgage.

7 Will. IV., and Vic. I., cap. 28, sec. 1.

*Code 4*  
*911*

13. In

*Scott v Union 3 & 4 Will 397*  
*March 97, 86: 2 Q' 97, 143*

Limitation of Suits and Actions Act.—1866-7.

Reversioner to have a new right.

3 and 4 William IV., cap. 27, sec. 5.

13. In respect of an estate or interest in reversion, the right shall be deemed to have first accrued at the time such estate or interest 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 rents shall have been received, notwithstanding the person claiming such lands, 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 of the receipts and profits of such land or in the receipt of such rent.

An administrator to claim as if he had obtained the estate without interval after the death of the deceased. 3 and 4 William IV., cap. 27, sec. 6.

14. An administrator shall be deemed to claim any estate or interest in any land or estate, as if there had been no interval between the death of the deceased person and the grant of the letters of administration.

In the case of a tenant at will, the right shall be deemed to have accrued at the end of one year. 3 and 4 William IV., cap. 27, sec. 7.

15. When any person shall have been in possession or receipt of the profits of any land or in receipt of any rent, as tenant at will, the right of the person entitled subject thereto, or of the person through whom he claims, shall be deemed to have first accrued at the determination of such tenancy, or at the expiration of one year next after the commencement of such tenancy, at which time such tenancy shall be deemed to have determined: Provided that no mortgagor or *cestuique trust*, shall be deemed a tenant at will within the meaning of this clause to his mortgagee or trustee.

No person after a tenancy from year to year to have any right but from the end of the first year or last payment of rent. 3 and 4 William IV., cap. 27, sec. 8.

16. When any person shall be in receipt of the profits of any land, or in receipt of any rent as tenant from year to year, or other period, without any lease in writing, the right of the person entitled, subject thereto, or the person through whom the claim shall be deemed to have first accrued, at the determination of the first of such years or other period, or at the last time any rent shall have been received, which shall first happen.

Where lease amounting to Twenty Shillings, reserved by a lease in writing, shall have been wrongfully secured, when right to accrue. 3 and 4 William IV., cap. 27, sec. 9.

17. When any person shall be in possession or in receipt of the rents and profits of any land, or in receipt of any rent, by virtue of a lease in writing, by which a rent amounting to the yearly sum of Twenty Shillings or upwards shall be reserved, and the rent reserved by such lease shall have been received by some person wrongfully claiming to be entitled to such land or rent in reversion immediately expectant on the determination of such lease, and no payment in respect of the rent reserved by such lease shall afterwards have been made to the person rightfully entitled thereto, the right of the person entitled to such land or rent subject to such lease, or of the person through whom the claim shall be deemed to have first accrued at the time at which the rent so reserved was first so received by the person wrongfully claiming as aforesaid; and no such right shall be deemed to have first accrued upon the determination of such lease to the person rightfully entitled.

*Mr. Ac 193  
560-673  
Ac 197, 514  
#2  
k38*

*3 Mr. W 397*

*Limitation of Suits and Actions Act.—1866-7.*

## PART III.—Cases which may arise concerning land or rent:

18. No person shall be deemed to have been in possession of any land merely by reason of having made an entry thereon.

*Rent reserved*  
3. 36  
A mere entry not to be possession.

*Sec 10 of English Act*  
A 193, 559.

19. No continual or other claim upon or near any land shall preserve any right of making an entry or distress, or bringing an action.

No right to be preserved by continual claim.

20. When any one or more of several persons entitled to any land or rent as coparceners, joint tenants, or tenants in common shall have been in possession or receipt of the entirety, or more than his or their individual shares of such land or the profits thereof, or of such rent for his or their own benefit, or for the benefit of any persons other than the persons entitled to the shares of the same land or rent, such possession or receipt shall not be deemed the possession or receipt by such last-mentioned persons.

Possession of one coparcener not to be possession of the other,  
3 & 4 Will. IV., cap. 27, sec. 12.

21. When a younger brother or other relation of the person entitled as heir to the possession, or receipt of the profits of any land, or the receipt of any rent shall enter into the possession or receipt thereof, such possession or receipt shall not be deemed the possession or receipt of only the person entitled as heir.

Possession of a younger brother not to be deemed possession of the heir,  
3 & 4 Will. IV., cap. 27, sec. 13.

22. When any acknowledgment of the title of the person entitled to any land or rent shall have been given to him or his agent in writing, signed by the person in possession, or in receipt of the profits of such land, or in receipt of such rent, then such possession or receipt of or by the person by whom such acknowledgment shall have been given shall be deemed to have been the possession or receipt of or by the person to whom or to whose agent such acknowledgment shall have been given at the time of giving the same, and the right of such last-mentioned person, or any person claiming through him, to make an entry or distress, or by an action to recover such land or rent shall be deemed to have first accrued at and not before the time at which such acknowledgment or the last of such acknowledgments, if more than one, was given.

Acknowledgment in writing given to the person entitled, or to his agent, to be equivalent to possession of receipt or rent,  
3 & 4 Will. IV., cap. 27, sec. 14.

23. When the right of any person to make an entry or distress, or bring an action to recover any land or rent to which he may have been entitled for an estate or interest in possession shall have been barred by the determination of the period hereinbefore limited which shall be applicable to such case, and such person shall at any time during the said period have been entitled to any other estate, interest, right, or possibility in reversion, remainder, or otherwise, in or to the same land or rent, no entry, distress, or action shall be made or brought by such person, or any person claiming through him to recover such land or rent in respect of such other estate, interest, right, or possibility, unless in the mean time such land or rent shall have been recovered by some person

When the right to an estate in possession is barred, the right of the same person entitled to future estates shall also be barred,  
3 & 4 Will. IV., cap. 27, sec. 20.

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entitled to an estate, interest, or right, which shall have been limited, or taken effect after or in defeasance of such estate or interest in their possession.

When tenant in tail is barred, remainder-man whom he might have barred shall not recover, 3 & 4 Will. IV., cap. 27, sec. 21.

24. When the right of a tenant in tail of any land or rent to make an entry or distress, or to bring an action to recover the same shall have been barred by reason of the same not having been made or brought within the period hereinbefore limited, which shall be applicable in such case, no such entry, distress, or action shall be made or brought by any person claiming any estate, interest, or right which such tenant in tail might lawfully have barred.

Possession adverse to a tenant in tail shall serve one against a remainder-man whom he might have barred, 3 & 4 Will. IV., cap. 27, sec. 22.

25. Where a tenant in tail of any land or rent entitled to recover the same shall have died before the expiration of the period hereinbefore limited, which shall be applicable in such case for making an entry or distress, or bringing an action to recover such land or rent, no person claiming any estate, interest, or right, which such tenant in tail might lawfully have barred, shall make an entry or distress, or bring an action to recover such land or rent, but within the period during which, if such tenant in tail had so long continued to live, he might have made such entry or distress, or brought such action.

26. When any land or rent shall be vested in a trustee upon any express trust, the right of the *cestuique trust*, or any person claiming through him to bring a suit against the trustee, or any person claiming through him to recover such land or rent shall be deemed to have first accrued according to the meaning of this Act, and not before the time at which such land or rent shall have been conveyed to a purchaser for a valuable consideration, and shall then be deemed to have accrued only as against such purchaser, and any person claiming through him.

In the cases of express trust the right shall not be deemed to have accrued until a conveyance to a purchaser, 3 & 4 Will. IV., cap. 27, sec. 25.

27. In every case of a concealed fraud, the right of any person to bring a suit in equity for the recovery of any land or rent of which he or any person through whom he claims, may have been deprived by such fraud shall be deemed to have first accrued at and not before the time at which such fraud shall, or with reasonable diligence might have been first known or discovered: Provided that nothing in this clause contained shall enable any owner of lands or rents to have a suit in equity for the recovery of such lands or rents on account of fraud against any *bonâ fide* purchaser for valuable consideration who has not assisted in the commission of such fraud, and who at the time that he made the purchase did not know and had no reason to believe that any such fraud had been committed.

In cases of fraud no time shall run while the fraud remains concealed, 3 & 4 Will. IV., cap. 27, sec. 26.

Saving the jurisdiction of equity on the ground of acquiescence, or otherwise. 3 & 4 Will. IV., c. 27.

28. Nothing in this Act contained shall be deemed to interfere with any rule or jurisdiction of Courts of Equity, in refusing relief on the ground of acquiescence or otherwise to any person whose right to bring a suit may not be barred by virtue of his Act.

29. When

Handwritten notes on the left margin: '860V', '193, select', 'at' seems to have been omitted', 'we're def. 142, 6 (15)', 'deeds this sec. 11', 're-said at 1022 (65)', 'concealed', 'see Higgins v Innes 24 Beav', 'Lane v L & Co'.

Handwritten note: 'they are ss. 23 & 24 of the Act omitted'

Vertical handwritten note on the right margin: 'see Higgins v Innes'

*Limitation of Suits and Actions Act.—1866-7.*

29. When a mortgagee shall have obtained the possession or receipt of the profits of any land, or the receipt of any rent, comprised in his mortgage, the mortgagor or any person claiming through him shall not bring a suit to redeem the mortgage, but within twenty years next after the time at which the mortgagee obtained such possession or receipt, unless in the meantime an acknowledgment of the title of the mortgagor or of his right of redemption shall have been given to the mortgagor or some person claiming his estate, or to the agent of such mortgagor, or person in writing signed by the mortgagee or the person claiming through him; and in such case no such suit shall be brought but within twenty years next after the time at which such acknowledgment, or the last of such acknowledgments if more than one, was given; and when there shall be more than one mortgagor, or if more than one person claiming through the mortgagor or mortgagors, such acknowledgment if given to any of such mortgagors or persons, or his or their agent, shall be as effectual as if the same had been given to all such mortgagors or persons; but where there shall be more than one mortgagee, or more than one person claiming the estate or interest of the mortgagee or mortgagees, such acknowledgment signed by one or more of such mortgagees or persons, shall be effectual only as against the party or parties signing as aforesaid, and the person or persons claiming any part of the mortgage money, or land, or rent, by, from, or under him or them, and any person or persons entitled to any estate or estates, interest or interests to take effect after or in defeasance of his or their estate or estates, interest or interests, and shall not operate to give to the mortgagor or mortgagors a right to redeem the mortgage as against the person or persons entitled to any other undivided or divided part of the money, or land, or rent; and where such of the mortgagees, or persons aforesaid, as shall have given such acknowledgment shall be entitled to a divided part of the land or rent comprised in the mortgage, or some estate or interest therein, and not to any ascertained part of the mortgaged money, the mortgagor or mortgagors shall be entitled to redeem the same divided part of the land or rent on payment, with interest, of the part of the mortgage money which shall bear the same proportion to the whole of the mortgage money as the value of such divided part of the land or rent shall bear to the value of the whole of the land or rent comprised in the mortgage.

Mortgagor to be barred at the end of twenty years from the time when the mortgagee took possession, or from the last written acknowledgment.

*dec 31*  
*Est. to mortgagor*  
*and 931*

3 & 4 Will. IV.,  
cap. 27.

30. At the determination of the period limited by this Act to any person for making an entry, or distress, or bringing any action, the right and title of such person to the land or rent for the recovery whereof such entry, distress, or action respectively might have been made or brought within such period, shall be extinguished.

At the end of the period of limitation the right of the party out of possession to be extinguished.

31. The receipt of the rent payable by any tenant from year to year or other lessee, shall as against such lessee or any person claiming under him (but subject to the lease), be deemed to

Receipt of rent to be deemed receipt of profits.

*X Stat direct & transfer to title. 4th case; 64.*



X "a present to receive annuity de anno in annum as to each successive payment: *how long for 15-18, by 271*  
122 Sed quare: see *At Shrove, 1893*  
30° VICTORIÆ, No. 14.

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be the receipt of the profits of the land for the purposes of this Act.

No descent, warranty, &c., to bar a right of entry.  
3 & 4 Will. IV., cap. 27.

32. No descent, cast, discontinuance, or warranty which may happen or be made shall toll or defeat any right of entry or action for the recovery of land.

Money charged upon and legacies to be deemed satisfied at the end of twenty years, if there shall be no interest paid or acknowledgment in writing in the meantime.

33. No action or other proceeding shall be brought to recover any sum of money secured by any mortgage, judgment, or lien, or otherwise charged upon any land or rent, at law or in equity, or any legacy, but within twenty years next after a present right to receive the same shall have accrued to some person capable of giving a discharge for a 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 twenty years after such payment or acknowledgment, or the last of such payments or acknowledgments, if more than one was given.

No arrears of dower to be recovered for more than six years.

34. No arrears of dower, nor any damages on account of such arrears, shall be renewed or obtained by any action or suit for a longer period than six years next before the commencement of such action or suit.

PART IV.—Actions founded on speciality:

Limitation of action on speciality.  
3 & 4 Will. IV., cap. 42, secs. 3 & 5.

35. All actions for rent reserved by any lease, all actions of covenant or debt upon any bond or other speciality, and or upon any judgment or recognizance shall be commenced and sued within twenty years next after the cause of action accrued, or the recovery of such judgment, and not after: Provided that if any acknowledgment shall have been made either by writing signed by the party liable by virtue of such indenture, speciality, or recognizance, or judgment, or his agent, or by part payment, or part satisfaction of any principal or interest being then due thereon, it shall be lawful for the person or persons entitled to such actions to bring his or their action for the money remaining unpaid, and so acknowledged to be due, within twenty years after such acknowledgment by writing, or part payment, or part satisfaction as aforesaid.

PART V.—Actions founded on simple contract:

All actions on simple contract, &c., and for trespass on the case, six years.

36. All actions grounded upon any binding or contract, express or implied, without speciality, or upon any award where the action is not by speciality, and all actions of account, or for not accounting, and upon the case, and all actions or other proceedings to recover any arrears of rent, or of interest in respect of any sum of money charged upon any land or rent, or in respect of any legacy, or any damages in respect of any such arrears of rent or interest, and all actions for

21 James I., cap. 16, sec. 3; 19 & 20 Vict., cap. 97, sec. 9; 4 & 5 Ann., cap. 16, sec. 17; 3 & 4 Will. IV., cap. 42, sec. 1.

*nothing brought under this act.*  
*190*  
*1ch 03, 398*  
*1ch 03, 100, 18x*  
*17x 132*

*190*  
*1ch 03, 398*

*25 11 1892*  
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*5. 40, 100, 132*

*see 9*  
*12 9*  
*17 9*

seamen's



*Limitation of Suits and Actions Act.—1866-7.*

seamen's wages; and for money levied on a *feri facias*, and for an escape; and all actions for direct injuries to real and personal property; actions for taking away, detention, or conversion of property, goods and chattels; actions for libel, malicious prosecution, and arrest, and seduction, and actions for other causes which would be brought in the form of actions called trespass on the case, save as hereinafter excepted, shall be commenced and sued within six years next after the cause of such action or suit, but not after.

oc 39

No 212 of 184,  
S. 83:632 of 1864

37. All actions for assault, trespass, menace, battery, wounding, and imprisonment, shall be commenced and sued within three years next after the cause of such action, but not after.

For assault, &amp;c., three years.

oc 39

38. All actions for words, and for penalties, damages, or sums of money given to any party, by any statute now or hereafter to be in force, shall be commenced and sued within two years next after the words spoken, or the cause of such action, but not after.

For slander two years.

in mind of man given oc 39

39. In any of the actions mentioned in clauses 36, 37, and 38 hereof, a plaintiff shall be entitled to try his action at any time within six months next after the cause thereof, and in no case shall a plaintiff on such action be nonsuit or defeated by reason of his action not being brought in due time in case he shall have commenced such action within six months from the cause thereof, any law, usage, or statute to the contrary in any way notwithstanding.

Actions within six months.

Do not understand this.

40. If in any of the said actions judgment be given for the plaintiff and the same be reversed by error and a verdict pass or upon judgment by default a verdict pass for the plaintiff, and upon matter alleged in arrest of judgment the judgment be given against the plaintiff that he take nothing by the plaint, writ, or bill, in all such cases the party, plaintiff, his executors, or administrators, as the case may require, may commence a new action or suit from time to time within a year next after such judgment reversed, or such judgment given against the plaintiff, and not after.

Limitation after judgment arrested or reversed.

3 and 4 Will. IV., cap. 42, sec. 4.

41. If any person or persons against whom there is or may be any of the hereinbefore mentioned causes of action, or any one or more of such persons be absent from the said Province, then such person who is or shall be entitled to such action shall be at liberty to bring such actions against such person after his or their return within the said Province, within such times as are respectively limited for the bringing of such actions by this Act: Provided, that where there shall be two or more joint debtors, the person or persons who shall be entitled to such action, shall not be entitled to any time within which to commence and sue any such action or suit against one or more of such joint debtors who shall not be absent from the said Province at the time such cause of action accrued by reason only that one or more of such joint debtors was or were, at the time such cause of action accrued, absent from the said Province; and such person so entitled as aforesaid shall not be barred from commencing

When one or more joint debtors absent from the Province period of limitation not to run in favor of person or persons so absent.

4 and 5 Anne, cap. 16. sec. 19. 19 and 20 Vic., cap. 97, sec. 4.



*Limitation of Suits and Actions Act.—1866-7.*

47. If at the time at which the right of any person to make an entry, or distress, or bring any of the actions hereinafter mentioned, shall have first accrued, 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 respective periods of limitation hereinbefore fixed shall have expired, make an entry, or distress, or bring an action, within such times as are hereinbefore respectively limited, after his coming to, or being of full age, discovered of sane memory or death, whichever shall first happen.

Persons under disability to be allowed the respective periods fixed for making any entry or distress, or bringing an action after the determination of the disability. 21 James I., cap 11. 3 & 4 Will. IV., cap 27.

48. No entry, distress, or action to recover any land or rent shall be made or brought by any person who at the time at which his right to make an entry or distress, or bring an action to recover any land or rent shall have first accrued shall be under any such disabilities, or by any person claiming through him; but within forty years next after the time at which such right shall have first accrued through the person under disability at such time, or the persons claiming through him may have remained under one or more of such disabilities during the whole of such forty years.

No action shall be brought beyond forty years after the right of action accrued. 3 & 4 Will. IV., cap. 27, sec. 17.

*see sect*

*to 386*  
*1866, 386*

49. No person shall be entitled to any further time beyond the respective periods fixed by this Act within which to make an entry or distress, or bring any action by reason only that such person was at the time such right to make an entry or distress to bring such action accrued, absent from the said Province, or imprisoned.

Period of limitation not be extended by imprisonment or absence of person entitled to action. 19 & 20 Vic., cap. 97.

50. This Act may be cited as "The Limitation of Suits and Actions Act, 1866."

Short title of Act.

In the name and on behalf of the Queen, I hereby assent to this Act.

D. DALY, Governor.