

STATUTORY LAND CHARGES REGISTRATION AMENDMENT BILL.

EXPLANATORY MEMORANDUM.

CLAUSE 5 of the Statutory Land Charges Registration Bill, as introduced in 1928, was an adaptation of section 13 of the Land Charges Act, 1925 (Imperial). In the Imperial Act it is quite clear that a land charge to which the Act applies can be prejudiced only by a *subsequent* transaction that is registered before the registration of the charge, and in this respect the provisions of the 1928 Bill conformed to the Imperial Act.

Section 5 of the Statutory Land Charges Registration Act, 1928, was substituted for the original clause 5 referred to above, and at least one public authority has been advised that the effect of the section referred to is to render charges void against prior as well as against subsequent purchases. This reading reduces the Act to an absurdity, and it is not admitted that it is correct. It is considered desirable, however, to remove every possible doubt that can interfere with public undertakings, and the purpose of clause 2 of the present Bill is to affirm the intention of the Act that any land charge can be prejudicially affected only if it remains unregistered until a subsequent transaction is registered in respect of the same land.

Clause 3 of the present Bill reinstates, with slight modifications, clause 9 of the Bill of 1928, which was deleted in the course of the passage of that Bill through Parliament. Its sole purpose is to avoid a possible conflict of law. Certain charges are by statute created *first* charges; with respect to certain other classes of charges the Courts have held that by their very nature they are *first* charges. Clause 3 preserves this priority notwithstanding that by the Land Transfer Act and the Deeds Registration Act instruments registered in respect of the same interest in land are entitled to priority according to their respective dates of registration.

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Hon. Mr. Ransom.

STATUTORY LAND CHARGES REGISTRATION AMENDMENT.

ANALYSIS.

<p>Title. 1. Short Title.</p>	<p>2. Charges to which the principal Act is applicable not affected by prior purchases. 3. Priority of charges registered under principal Act.</p>
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A BILL INTITLED

AN ACT to amend the Statutory Land Charges Registration Act, 1928. 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 Statutory Land Charges Registration Amendment Act, 1930, and shall be read together with and deemed part of the Statutory Land Charges Registration Act, 1928 (hereinafter referred to as the principal Act). Short Title.

2. Section five of the principal Act is hereby amended as from the passing of that Act by inserting, after the words "any deed, contract, or instrument" in subsection one, the words "which, being executed after the creation of the charge, is". Charges to which the principal Act is applicable not affected by prior purchases.

3. (1) Except as provided in the *next succeeding* subsection, the order of priority of charges registered in accordance with the provisions of the principal Act in relation to other mortgages, encumbrances, charges, or interests shall be determined in accordance with the provisions of the Deeds Registration Act, 1908, or the Land Transfer Act, 1915, as the case may require. Priority of charges registered under principal Act.

(2) Where any charge registered before or after the passing of this Act in accordance with the principal Act is entitled, by virtue of any Act or otherwise howsoever, to priority over any other mortgage, encumbrance, charge, or interest then, notwithstanding anything to the contrary in the Deeds Registration Act, 1908, or the Land Transfer Act, 1915, such priority shall not be affected by reason of the registration of the charge under the principal Act :

Provided that if before registration such charge becomes void against a subsequent purchaser in accordance with the provisions of section five of the principal Act, it shall thereupon lose its priority over all mortgages, encumbrances, charges, and interests (if any) that have priority over the interest of such subsequent purchaser.