

PRIVATE ACT

To repeal Ordinance 7 of 1836 (Cape), to provide for the issue of a new deed of grant free from certain conditions in the original deed of grant in respect of a certain piece of land situate at the mouth of the Breede River, Port Beaufort, in the district of Swellendam, and to cancel the said original deed of grant, all instruments of title derived therefrom, and the general plan of the said land.

Preamble.

WHEREAS under an original deed of grant dated the thirty-first day of January, 1831, there was granted

“ in freehold unto Ewan Christian, Joseph Barry and Francis Collison as trustees for the management of a mercantile warehouse for themselves and subscribers thereto a piece of land situated at the mouth of the Breede River, Port Beaufort, in the district of Swellendam, for the purpose of maintaining thereupon a warehouse, of such description as may be considered necessary for the accommodation and interest of the said subscribers, measuring one thousand four hundred and nineteen morgen, and extending East to vacant land towards the sea, West to land towards the place Rhenosterfontein, South to the Broad River, and North to land towards the Loan place Vondeling, as will appear by the diagram framed by the surveyor and transmitted to Government by the late Landdrost of Swellendam on the 26th June, 1827, on the following conditions:—

“ That the right of access over this ground to Port Beaufort and to the subscription store and to any public passage which is or may hereafter be established over the Breede River as well as of unyoking cattle on such unoccupied land as shall be fixed upon for that purpose shall be secured to the public; that the part adjoining the river in front of the said store shall neither be cultivated nor built upon; and with full power to them or to the trustees to be from time to time chosen by the subscribers to the said grant to possess said piece of land for the above purpose, and such further purposes as to a majority of a meeting of subscribers, to be called for the purpose by public advertisement, may appear to be most for the general interest; and for the greater security and convenience of the several shareholders to authorize and direct the trustees to grant a certificate to each holder of a share, which certificate will be transferable by endorsement; and the property in the said land as also a share of the said buildings and the remaining unappropriated land thereby vested in the endorsee, provided such endorsement be first registered in the office of the Registrar of Deeds, and that the usual duties of transfer be previously paid thereon. The land granted being further subject to such duties and regulations as are either already or may in future be established with regard to such land ”:

AND WHEREAS an Ordinance No. 7 of 1836 (Cape) was passed for the purpose of explaining and extending the powers of the trustees appointed for the management of a mercantile establishment at Port Beaufort:

AND WHEREAS under the powers of the said Ordinance a portion of the said land was duly subdivided into erven and a general plan of the said land and such sub-division was framed by a land surveyor and filed in the office of the Registrar of Deeds at Cape Town and the trustees duly issued to each subscriber a certificate in respect of the erf allotted to him and of his respective interest as a shareholder:

AND WHEREAS Alfred John Barry has lawfully become and is the duly registered owner of all the said certificates and is now the sole successor in title of the original grantees and subscribers :

AND WHEREAS for many years there has ceased to be a mercantile establishment and there is no further need therefor, and there are now no trustees, subscribers or shareholders other than the said Alfred John Barry, and the purpose for which the said grant was made has for many years ceased to exist, and there is now no need for the provisions of the said Ordinance :

AND WHEREAS the said Alfred John Barry and his predecessors in title have for many years far exceeding the period of prescription openly, peaceably and of right occupied and used the said land free from all conditions and restrictions save and except the public right of access over the said land to Port Beaufort and to any public passage which is or may hereafter be established over the Breede River and such duties and regulations as are either already or may in future be established with regard thereto :

AND WHEREAS all the said land, property and interests are now vested in Alfred John Barry solely :

AND WHEREAS it is expedient that the said Alfred John Barry should have title of the said land free from the terms and conditions of the original deed of grant hereinbefore referred to and the provisions of the said Ordinance save and except the public right of access and the right of outspan for draught animals on such unoccupied land as shall be fixed upon for that purpose and such duties and regulations as are either already or may hereafter be established with regard to such land, and the right of the Governor-General to resume any portion of the said land for public purposes, subject to the payment of compensation which failing agreement shall be fixed by arbitration, and that the said Ordinance should be repealed and that the said mercantile establishment shall be deemed to be dissolved :

BE IT THEREFORE ENACTED by the King's Most Excellent Majesty, the Senate and the House of Assembly of the Union of South Africa, as follows :—

1. Ordinance 7 of 1836 (Cape) is hereby repealed.

2. (1) The Governor-General may in respect of the piece of land described in the original deed of grant referred to in the preamble to this Act, issue in freehold to Alfred John Barry a new deed of grant which shall be subject only to the following conditions :—

- (a) Any right of access over the said land to Port Beaufort and to the adjoining land on the East known as White Sands and to any public passage, which is or may hereafter be established over the Breede River, as well as of the right of outspan for draught animals on such unoccupied land as shall be fixed for that purpose shall be secured to the public ; and
- (b) the said land shall be further subject to such duties and regulations as are either already or may in future be established in regard thereto ;
- (c) the Governor-General may resume any portion of the said land for public purposes, subject however to the payment of compensation which, failing agreement, shall be determined by arbitration in terms of the law relating to the settlement of disputes by arbitration for the time being in force in the province of the Cape of Good Hope.

(2) Upon the issue of such new deed of grant the mercantile establishment at Port Beaufort referred to in the preamble shall be deemed to be dissolved and the said original deed of grant and all subsequent instruments of title derived therefrom shall be deemed to be cancelled and the Registrar of Deeds and the Surveyor-General at Cape Town may cancel upon the application of the said Alfred John Barry or his executors the general plan of the said land filed in the Deeds Registry at Cape Town and the said Registrar of Deeds shall make all such entries in his records as may be necessary to give effect to the purposes of this Act.

3. This Act may be cited as the Port Beaufort Grant Amendment (Private) Act, 1928.

Repeal of law.

Issue of new and cancellation of original deed of grant.

Short title.