An Act to remove doubts affecting the validity of certain Land Grants, and to facilitate the issuing of Land Grants, and to regulate the payment of fees thereon.

[Assented to, 24th December, 1858.]

WHEREAS questions have arisen as to the validity of certain Land Grants, by reason of the great seal of the Province not having been affixed thereto: And whereas, by an Ordinance, No. 3 of 1846, to regulate fees on instruments passing under the public seal of the Province, and certain other instruments, it was amongst other things enacted, that it should be lawful for the Colonial Treasurer to take and receive for and in respect of every deed of grant, and other conveyance passed under the public seal of the Province, or under the Governor's seal, the sum of One Pound sterling, to be appropriated to Her Majesty, Her Heirs, and Successors, for the public uses of the Province and the support of the Government thereof: And whereas, by a certain other Act, No. 3 of 1856, intituled, “An Act to reduce the amount of Fees payable on the Registration of Land Grants,” it was enacted, that it shall be lawful for the Treasurer to demand and receive from the purchaser of any waste lands of the Crown that should thereafter be sold, the sum of Five Shillings for each and every Land Grant of such land, instead of the sum of One Pound, to be paid at the time of completing the purchase thereof: And whereas, by a certain other Act, No. 3 of the twenty-first year of the reign of Her present Majesty Queen Victoria, intituled “An Act to simplify the laws relating to the transfer and encumbrance of Freehold and other interests in Land,” it was amongst other things enacted, that, upon the first bringing of any land under the operation of the said Act, there shall be paid to

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the Registrar-General the sum of One Farthing in the Pound sterling on the value of such land, to constitute an assurance fund: And whereas it is expedient that all fees and sums of money to be hereafter charged and payable upon Land Grants should be paid at one and the same time, and to the same person: And whereas, by a certain Act, No. 5 of the twenty-first Victoria, intitled "An Act for regulating the sale and other disposal of the Waste Lands belonging to the Crown in South Australia," the Governor is authorized and required, in the name and on behalf of Her Majesty, to convey and alienate in fee-simple, or for any lesser estate or interest to the purchaser or purchasers thereof, any waste lands of the Crown in the said Province, which conveyances and alienations shall be made in such forms as shall from time to time be deemed expedient by the Governor, with the advice and consent of the Executive Council, and shall be sealed with the public seal of the said Province: And whereas it is expedient to provide for the validity of such conveyances and alienations as shall hereafter be made, in any form so approved as aforesaid, without the signature of the Governor, and without the great seal of the Province being affixed thereto, and to expedite and facilitate the issuing of Land Grants—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 the present Parliament assembled, as follows—

1. Every Land Grant which shall have been signed by the Governor and by the Treasurer shall be deemed to be valid, to all intents, notwithstanding that the seal of the said Province may not have been attached thereto.

2. All fees and sums of money payable upon Land Grants under and by virtue of the several above-recited Acts, or such other fees or sums of money as by any Act may be imposed as payable upon the registration or issue of Land Grants, or for the assurance of title to lands included in such Land Grants, shall be paid to the Treasurer at the time of completing the purchase of the lands included in such Grants.

3. Grants, conveyances, and alienations of any waste lands of the Crown within the said Province, made by the Governor, in such form as shall from time to time be deemed expedient by the Governor, with the advice and consent of the Executive Council, if signed by the Treasurer and the Registrar-General, and stamped with such stamp as may for that purpose be authorized by the Governor, with such advice and consent as aforesaid, shall, without the signature of the Governor, and without the great seal of the said Province being affixed thereto, be valid and effectual in law to transfer to and vest in possession in any such purchaser or purchasers, any such land as aforesaid, for any such estate or interest as by any such conveyance aforesaid shall be granted to him, her, or them, and the sum of One Pound heretofore chargeable in respect of the great seal of the Province being attached to such grants, conveyances,
or alienations, shall, after the passing of this Act, be chargeable and paid to the Treasurer, at the time aforesaid, on account of affixing thereto the stamp, so to be authorized as aforesaid.

4. In referring to this Act, it shall be sufficient to make use of the expression, "The Land Grants Act."

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**His Excellency Sir Richard Graves MacDonnell, C.B., to the Right Hon. Sir E. B. Lytton, Bart., M.P., Her Majesty’s Principal Secretary of State for the Colonies.**


Sir—I have the honor to transmit herewith two Acts, to which I gave the Queen's assent, on the 24th ultimo, intituled respectively "An Act to establish the validity of certain registrations under the Act No. 23 of 1855-6," and "An Act to remove doubts affecting the validity of certain Land Grants, and to facilitate the issuing of Land Grants, and to regulate the payment of fees thereon."

2. The former Act merely confirms the validity of certain duplicate Land Grants which had been registered, but did not bear the signature of the Governor. It had not been considered, by the Law Officers, necessary to sign those duplicates, and, accordingly, they were left unsigned by me; but so much uneasiness was felt by purchasers of land on the subject, that the enclosed Act was passed to set all doubts at rest.

3. Not merely were these doubts occasioned through want of the Governor's signature to duplicates, but there were further doubts felt by myself as to the validity of most of the recent Grants; as they were merely stamped with a copy of the public seal of the Province; a method safer and more convenient than affixing the impression of the seal itself with a wafer, because the latter was liable to be lost.

4. As further legislation was felt necessary in reference to this point, I was induced to consider whether the period had not arrived for facilitating the issue of Land Grants, a matter of serious importance to the public. Much land is purchased in this Colony by farmers and settlers, who, from time to time, save sufficient to pay a portion of the purchase money of an adjoining Section, and obtain the remainder on security of the Land Grant itself. The necessity for the Grant bearing the Governor's actual signature occasioned the transmission of each Grant from the office of the Treasurer, after receipt of the purchase money, to the office of the Chief Secretary, whence it was sent to the Governor's office, and thence returned to the Chief Secretary, by whom it was transmitted to the Surveyor-General.

5. Numerous and, on the whole, well-founded complaints reached me, from time to time, of the hardships and inconvenience occasioned to the most deserving purchasers of land, by the above unnecessarily tedious and circuitous progress of each Land Grant through the various Public Offices; and I saw no remedy so effectual as dispensing with the actual signature of the Governor; whose frequent absence, moreover, in various parts of the Province was, under the old system, an aggravation of the inconvenience felt by purchasers. As from 1,000 to 2,000 Land Grants are issued each year, you will easily perceive that the matter was one of considerable importance to the public; and I am not aware of any reason for allowing an inconvenience to continue, unless it be accompanied with some counterbalancing advantage.

6. I should not, perhaps, have so readily consented to, or rather have myself suggested a plan for dispensing with the Governor's signature, if the old system had still prevailed, of regarding the Waste Lands of the Crown as being entirely Imperial property, so much so as to be withdrawn from the control of the Local Legislature. Under that system, there might perhaps have existed some apparent reason for requiring the actual signature of the Queen's representative to an instrument, which alienated, not merely a legal, but a beneficial interest of the Crown in the land of this Province.

7. I considered, however, that the 18th and 19th Vic., cap. 56, which repealed the old Imperial Waste Lands Act of these Colonies, and which by its 5th section entirely gives over to this Colony the regulations and control of all sales and the disposal of the waste lands of the Crown here, had thereby so altered the old system as to deprive of meaning and weight, as well arguments as prejudices, in favor of requiring the Governor's signature to land grants, at the cost of frequent inconvenience to the public.

8. The Act now transmitted gives a power of at least substituting a simple and speedy mode of assurance for one which formerly caused much delay; and I this day in Executive Council suggested to my Ministry the propriety of at once exercising it, and accordingly I this day sanctioned a new form of land grant under the enclosed Act, to be issued after the 18th of February.

9. As this step, however expedient, may seem to involve a partial abandonment of a prerogative (though the Governor in Council can at any time resume it), and as, moreover, I am not at this moment aware of the exact practice followed as to the issue of land grants in the other Colonies, I have felt it my duty to explain fully the course which I have pursued in reference to the measure, and my motives in connection therewith.

I have, &c.,

RICHARD GRAVES MACDONNELL,
Governor.
NOTICE is hereby given, that under and by virtue of the powers conferred by "The Land Grants Act," His Excellency the Governor-in-Chief, with the advice and consent of the Executive Council, hath deemed expedient and approved the form of grant of the Waste Lands of the Crown within the Province of South Australia hereinafter given, and hath also, with the like advice and consent, authorized a stamp, being a copy of the Great Seal of the Province of South Australia, to be used for the purpose of stamping all grants of the aforesaid Waste Lands of the Crown, and that grants in the said form, signed by the Treasurer and Registrar-General, and stamped with the said stamp, will, without the signature of the Governor, be valid and effectual for granting such Waste Lands as aforesaid.

By command,

W. YOUNGHUSBAND,
Chief Secretary.

South Australia.

Land Grant.

Know all men by these presents, that Sir Richard Graves MacDonnell, Knight, Companion of the Most Honorable Order of the Bath, Captain-General and Governor-in-Chief of the Province of South Australia, in consideration of the sum of $1,001,672, paid by the said Treasurer on behalf of Her Majesty, doth this day of the year one thousand eight hundred and sixty-nine, in the name and on behalf of Her Majesty, grant unto the said

[Full form of grant is not legible due to handwriting issues.

Witness—

[Signatures of witnesses are not legible due to handwriting issues.

By command,

W. YOUNGHUSBAND,
Chief Secretary.