ANNO VICESIMO QUARTO ET VICESIMO QUINTO

VICTORIÆ REGINÆ.

A.D. 1861.

Private Act.

An Act to enlarge the powers of the “Australian Trust Company.”

[Assented to, 30th August, 1861.]

WHEREAS by Charter or Letters Patent under the Great Seal of Great Britain, bearing date at Westminster the sixth day of October, in the fourth year of the reign of Her Majesty Queen Victoria, Her said Majesty did grant that the persons therein named, and others, and their successors, should be one body politic and corporate, in deed and in name, by the name of “The Australian Trust Company; and by the said Charter or Letters Patent it was declared that the said Company was established for the purpose of lending and advancing money upon the security of lands situate in Her Majesty’s Colonies or Settlements in Australia, and for the other purposes thereinafter specified; and by the said Charter or Letters Patent Her said Majesty did grant unto the said Company and their successors, that it should be lawful for the said Company, for the purposes aforesaid, to take, hold, sell, and dispose of all such lands, tenements, and hereditaments, in any of Her said Majesty’s Colonies or settlements aforesaid, as might be conveyed to the said Company, or any trustee or trustees for them, by way of mortgage, or on any trusts, for sale or otherwise, in the way of security for advances; and to purchase and hold other lands, tenements, and hereditaments in any of Her said Majesty’s Colonies, and also in Great Britain and Ireland, so that such lands, tenements, and hereditaments so purchased as last aforesaid, in any of Her said Majesty’s Colonies, were not altogether of more than the value of One Thousand Pounds per annum at the time of purchase; and also, that such lands, tenements, and hereditaments in Great Britain and Ireland,
so to be purchased, were not altogether of more than the value of One Thousand Pounds per annum at the time of purchase; and that the said Company might do all other acts and things in relation to the premises, in all respects as beneficially as any other body politic or corporate, or any subject of the realm was by law entitled to do; and, by the said Charter or Letters Patent Her Majesty did will and declare that the said Company should not take any conveyance of land to such Company, or to its trustees, of any lands, tenements, and hereditaments, in any of Her Majesty’s said Colonies or Settlements, except by way of mortgage, or upon trusts for sale or otherwise, bona fide, by way of security for money advanced; and that if in default of payment of the money which should be so secured, or the interest thereof, or otherwise, in due course of law, the said Company, its trustees or agents, should enter into possession or receipt of the rents and profits of any such lands, tenements, and hereditaments, and should not, within one year after such entry into possession or receipt, have sold and disposed of, or transferred the same; then, and in such case, such Company, or its trustees, should, with all convenient speed, after being thereunto required by writing under the hand of Her Majesty’s Governor or Lieutenant-Governor of the Colony or Settlement where such lands, tenements, and hereditaments, should be situate, or of any one of Her Majesty’s Principal Secretaries of State, proceed to make sale thereof, or agree for the transfer thereof, and sell and convey, or transfer and assure the same accordingly: And, whereas, it has happened, and may from time to time again happen, that the same causes which disable the borrowers of money from the said Company on mortgage, from paying the principal or interest due on such mortgages, also temporarily depreciate the market value of the mortgaged property, and make it impossible to sell the same at the fair average value thereof, or to effect a transfer of the security, and it is therefore expedient that the said Company should be authorized to continue in the possession or receipt of the rents and profits of any mortgaged property, after having lawfully entered into such possession or receipt, during such time as they might think fit, without being bound to sell or transfer the same within the time mentioned in the said Charter or Letters Patent, and to foreclose their mortgages, or to purchase the equity of redemption, or otherwise to compound or agree with the mortgagors, or other persons interested in the property mortgaged, upon terms whereby the said Company would become the purchasers of the property mortgaged, or some part thereof—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. In all cases where the said Company has already taken or shall take to the Company, or to its trustees, any conveyance of any lands, tenements, or hereditaments, within the said Province, by way of mortgage, or upon trust for sale or otherwise bona fide, by way of security for money advanced; and the said Company,
pany, or its trustees, in default of payment of the money which has been or shall have been so secured, or the interest thereof, or otherwise, in due course of law, has entered or shall enter into possession, or receipt of the rents and profits of such lands, tenements, or hereditaments, or any part thereof, it shall be lawful for the said Company, or its trustees, on behalf of the Company, to retain such possession or receipt, or to let or otherwise deal with such lands, tenements, and hereditaments, and to hold the said lands, tenements, and hereditaments, unsold and untransferred until such time as the said Company shall deem it expedient to sell or transfer the same, anything in the above recited Charter or Letters Patent contained, and any requisition made or to be made by the Governor or Lieutenant-Governor of the said Province, or by any of Her Majesty's Principal Secretaries of State to the contrary, notwithstanding: And further, that it shall be lawful for the said Company, or the trustees of the Company, on behalf of the Company, to foreclose the equity of redemption of any lands or other property mortgaged to the Company or their trustees, as aforesaid; and to contract or agree with the owner or owners of the equity of redemption, or other person or persons interested in the lands or other property mortgaged or assured, as aforesaid, for the purchase thereof, or any part thereof, and to take and accept to the said Company, or to trustees for the said Company, absolute conveyances of all or any part of the said lands or other property, and hold the lands and other property foreclosed or purchased, and to sell and dispose of, or otherwise deal with the same and every part thereof, anything in the above recited Charter or Letters Patent contained to the contrary, notwithstanding.

2. All conveyances and other deeds which shall be executed by any person or persons, as the attorney or attorneys of the said Company, in accordance with the terms or true intent and meaning of any general or special power of attorney, or authority already given, or to be hereafter given, under the common seal of the said Company, shall be deemed as valid and effectual in law, and to all intents and purposes as if the same conveyances or deeds had been duly executed, and passed under the common seal of the said Company.

3. Every copy of the Charter or Letters Patent of the said Company, and other record in the custody of the Master of the Rolls in England, certified as a true and authentic copy of the original Charter or Letters Patent or record by the deputy, or one of the assistant record keepers of public records in England, and sealed and stamped with a stamp or seal, purporting to be the stamp or seal of the said record office, shall be received as evidence in all Courts of Justice, and before all legal tribunals within the said Province, without any further or other proof thereof, in every case in which the original Charter or Letters Patent or record could have been received there as evidence.

4. Nothing
4. Nothing in this Act contained shall be deemed to affect or apply to any right, title, or interest of Her Majesty, Her Heirs, or Successors, or of any body or bodies politic or corporate, or of any person or persons, other than and except such bodies politic or corporate, and persons as are mentioned in this Act, and those claiming by, from, or under them respectively.

5. A copy of this Act, purporting to be printed by the Government Printer, shall be admitted as evidence thereof by all Judges, Justices, and others.

6. This Act shall take effect from the thirtieth day of September, 1861.

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

RICHARD GRAVES MACDONNELL,
Governor.

Government House, Adelaide,
30th August, 1861.