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VICTORIÆ REGINÆ.

A.D. 1886.

No. 380.

The Real Property Act, 1886.

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An Act to consolidate and amend the "Real Property Act, 1861," the "Real Property Act Amendment Act, 1878," and the "Rights-of-Way Act, 1881," and for other purposes.

[Assented to, November 17th, 1886.]

WHEREAS it is expedient to consolidate and amend the "Real Property Act of 1861," the "Real Property Act Amendment Act of 1878," and the "Rights-of-Way Act, 1881": Be it therefore Enacted by the Governor 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. This Act may be cited for all purposes as "The Real Property Act, 1886."

Division of Act into parts.

2. This Act is divided into twenty-one parts, as follows:—

Part I.—Introductory, sections 3 to 9.

Part II.—Objects of the Act, sections 10 and 11.

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### Part IV
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### Part XX
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### Part XXI
- Miscellaneous, sections 241 to 276.

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### PART I

**INTRODUCTORY.**

3. In the construction and for the purposes of this Act, and in all instruments made or purporting to be made thereunder, the following terms shall, so far as not inconsistent with the context or subject, and except when such context or subject or the other provisions hereof require a different construction, have the respective meanings hereby assigned to them, that is to say—

"Assurance Fund" shall mean the public revenue of the province to the extent of the balance for the time being, constituted by the present amount of the Assurance Fund formed under the Real Property Acts, or any of them, and by the amount of all sums received under sections 201, 218, or 219 of this Act, after deducting all payments hereafter made by the Treasurer under Part XVIII hereof, together with interest on the said balance after the rate of Four Pounds per centum per annum:

"Caveatee" shall mean any person against whose application for any...
any purpose a caveat has been lodged, and shall include the registered proprietor of any land in respect of which a caveat has been lodged:

"Caveator" shall mean any person lodging a caveat:

"Certificate" shall mean a certificate of title issued under any of the Real Property Acts, or any grant from the Crown issued after the passing of the "Real Property Act" No. 15 of 1857-58, and shall extend to and include all plans and entries thereon:

"Chief Secretary" shall mean the Chief Secretary of the province:

"Court" shall mean the Supreme Court of the province, or any Judge thereof:

"Dealing" shall mean any instrument or matter, whereby any land or the title to any land can be affected, or dealt with:

"Document of title" shall mean and include every document evidencing or relating to the title to any land not under the provisions of any of the Real Property Acts:

"Dominant land" shall mean any land having a right-of-way or other easement appurtenant thereto or annexed to the ownership thereof:

"Encumbrancee" shall mean the registered proprietor of an encumbrance:

"Encumbrancer" shall mean the registered proprietor of land subject to an encumbrance:

"Instrument" shall mean and include every document capable of registration under the provisions of any of the Real Property Acts, or in respect of which any entry is by any of the Real Property Acts directed, required, or permitted to be made in the Register Book:

"Instrument of title" shall mean and include every instrument evidencing or relating to the title to any land under the provisions of any of the Real Property Acts:

"Land" shall extend to and include all tenements and hereditaments corporeal and incorporeal of every kind and description, and every estate and interest in land:

"Lessee" shall mean the registered proprietor of a lease:

"Lessor" shall mean the registered proprietor of land subject to a Lease:

"Lunatic" shall mean any person who shall have been found to be a lunatic upon inquiry by the Court, or upon a commission of inquiry or an inquisition issuing out of the Court in the nature of a writ de lunatico inquiringo:

"Mortgagee" shall mean the registered proprietor of a mortgage:

"Mortgagor" shall mean the registered proprietor of land subject to a mortgage:

"Persons
The Real Property Act.—1886.

"Person of unsound mind" shall mean any person not an infant, who, not having been found to be a lunatic, shall be incapable, from infirmity of mind, of managing his own affairs:

"Proprietor" shall mean any person seized or possessed of, or entitled to land:

"Registered proprietor" shall mean any person appearing by the Register Book, or by any registered instrument of title to be the proprietor of any land.

"Servient land" shall mean land subject to any easement:

"Statutory assignment" shall mean any deed assigning a debtor's estate for the benefit of his creditors, executed under or in pursuance of Division vi. of "The Insolvent Act, 1860," or any other Act:

"The Real Property Acts" shall mean the "Real Property Act" (No. 15 of 1857-8), "The Real Property Law Amendment Act" (No. 16 of 1858), the "Real Property Act of 1860" (No. 11 of 1860), the "Real Property Act of 1861" (No. 22 of 1861), the "Real Property Act Amendment Act of 1878" (No. 128 of 1878), the "Rights-of-Way Act, 1881" (No. 223 of 1881), and this Act:

"Transmission" shall mean the passing of title to land in any manner other than by transfer:

The description of any person as proprietor, transferor, transferee, mortgagor, mortgagee, caveator, caveatee, encumbrancer, encumbrancee, lessor, lessee, or trustee, or as seized of, having, or taking any estate or interest in land shall be deemed to extend to and include the heirs, executors, administrators, and assigns of such person.

4. The following Acts or parts of Acts are hereby repealed:—

<table>
<thead>
<tr>
<th>Number.</th>
<th>Title.</th>
<th>Extent of Repeal.</th>
</tr>
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<tbody>
<tr>
<td>225 of 1881.</td>
<td>Act to amend &quot;The Probate and Succession Duty Act, 1876.&quot;</td>
<td>The following words at the end of section 3, sub-sections 2 and 3: &quot;The estate being exempt under clause 2 of this Act.&quot;</td>
</tr>
</tbody>
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5. Such repeal shall not affect any appointment, regulation, instrument, fund, act, matter, or thing lawfully made, done, or executed,
executed or in existence under the authority of the said Acts or any or either of them; nor prevent prosecution or punishment for any offence committed or act done in violation of the provisions of the said Acts or any or either of them; or interfere with the recovery of any penalty or of any forfeiture incurred under the said Acts or any or either of them; or with the enforcement, vindication, or recovery of any estate, right, title, trust, covenant, contract, or interest preserved, acquired, accruing, existing, or entered into under the provisions of the said Acts or any or either of them; nor shall such repeal affect or in any way interfere with any act or thing, prosecution or punishment, enforcement, vindication, or recovery saved or protection given by the said repealed Acts; and all applications, actions, suits, proceedings, instruments, registrations, and other acts, matters, and things made, commenced, pending, signed, entered, or done under the said repealed Acts or any or either of them before the passing of this Act, may be proceeded with, prosecuted, completed, and acted on in the same manner and shall be as valid and effectual as if this Act had not been passed.

6. No law, so far as inconsistent with this Act, shall apply to land subject to the provisions of this Act, nor shall any future law, so far as inconsistent with this Act, so apply unless it shall be expressly enacted that it shall so apply "notwithstanding the provisions of 'The Real Property Act, 1886.'"

7. All land subject to the provisions of any of the Real Property Acts, shall, on and from the day upon which this Act shall come into operation, and all land hereafter brought under the provisions of any of the Real Property Acts, pursuant to any application commenced at the time of this Act coming into operation, shall from the time of the issuing of the certificate for such land, be held subject to the provisions of this Act.

8. No land once subject to the provisions of this Act shall ever be withdrawn therefrom.

9. This Act shall come into operation on the first of January, one thousand eight hundred and eighty-seven.

PART II.

OBJECTS OF THIS ACT.

10. The objects of this Act are to simplify the title to land, and to facilitate dealing therewith, and to secure indefeasibility of title to all registered proprietors, except in certain cases specified in this Act.

11. This Act shall always be construed in such manner as shall best give effect to the objects hereinbefore declared.
PART III.

THE LANDS TITLES REGISTRATION OFFICE.

12. The Lands Titles Registration Office shall be continued at Adelaide for the purposes of this Act.

13. The department of the Registrar-General shall carry out the provisions of this Act, and shall consist of a Registrar-General, and such Solicitor and Deputy Registrars and other officers and clerks as may be found necessary. The present Registrar-General, Solicitor, Deputy Registrars, and other officers and clerks of the said department shall perform all the duties of their respective offices under this Act.

14. Every Registrar-General, Deputy Registrar, and Solicitor may be removed by the Governor for neglect of duty, want of skill, untrustworthiness, or incapacity; and it shall be lawful for the Governor to remove any other officer or any clerk of the said department at pleasure, and to fill up any vacancy occurring in the department.

15. The Governor may appoint and at pleasure remove an Acting Solicitor who shall while holding such appointment perform all the duties of a Solicitor of the department.

16. The Governor, as occasion may require, may appoint an Acting Registrar-General, and in the event of the suspension, absence, or incapacity of the Registrar-General, the Acting Registrar shall, in his stead, exercise and execute all the powers and duties of the Registrar, and the Registrar-General shall not have power to act during such time as the Acting Registrar shall be lawfully acting. Unless or until an Acting Registrar-General be appointed, the senior Deputy Registrar for the time being shall ex officio be Acting Registrar-General.

17. The Acting Registrar-General shall act from such time as he shall receive from the Attorney-General a notice that the Registrar-General has been suspended, or that the Registrar-General is about to absent himself or has absented himself, or is incapacitated from performing his duties; and such Acting Registrar-General shall cease to act from such time as he shall receive from the Attorney-General a certificate under his hand to the effect that the Registrar-General resumes his duties.

18. Whenever, by any law for the time being in force in the said province, anything is appointed or authorised to be done by the Registrar-General, the same may be lawfully done by any Deputy Registrar-General.

19. It shall not be lawful for any person whilst holding the office of Solicitor under this Act to engage in private practice as a barrister, attorney, solicitor, or licensed land broker, but this prohibition shall not apply to any Acting Solicitor.

20. The
20. The following declaration shall be made before a Judge by every Registrar-General, Deputy Registrar-General, and Acting Registrar-General who may hereafter be appointed, before entering upon the execution of his office—

I, A. B., do solemnly and sincerely declare that I will faithfully, and to the best of my ability, pursuant to “The Real Property Act, 1886,” execute and perform the office and duties of Registrar-General [or Deputy Registrar-General, or Acting Registrar-General, as the case may be] for the Province of South Australia.

21. The Registrar-General shall have and use a seal of office bearing the impression of the Royal Arms of England, and having inscribed in the margin thereof the words “Registrar-General South Australia;” and every instrument bearing the imprint of such seal, and purporting to be signed or issued by the Registrar-General, or by one of his deputies or by the Acting Registrar-General, shall be received in evidence, and shall be deemed to be signed or issued by or under the direction of the Registrar-General, or Acting Registrar-General, without further proof, unless the contrary be shown.

22. The Registrar-General may demand and receive such fees in respect of the several matters provided for in this Act as shall from time to time be appointed by the Governor, not in any case exceeding the several fees specified in the First Schedule hereto, and until the Governor shall otherwise appoint, shall demand and receive in respect of such matters the several fees specified in the said Schedule.

23. The Registrar-General shall keep a correct account of all sums of money received by him in accordance with the provisions of this Act, and shall pay the same into the public Treasury of the province at such times, and shall render accounts of the same to such persons, and in such manner as may be directed by any regulations that may for that purpose be in force, or from time to time prescribed by the Governor, and shall address to the Treasurer requisitions to pay moneys received by him or by the Treasurer, in trust or otherwise, on account of absent mortgagees or other persons entitled, in accordance with the provisions of this Act, which requisitions, when proved and audited in manner directed by any such regulations, and accompanied by a warrant for payment of the same under the hand of the Governor, countersigned by the Chief Secretary, the Treasurer shall be bound to obey; and all fines and fees received under the provisions of this Act shall (subject to the provisions hereinafter contained respecting the Assurance Fund) be carried to account by the Treasurer as general revenue.

24. The Registrar-General shall not individually, nor shall any person acting under his authority, be liable to any action, suit, or proceeding for or in respect of any act or matter bona fide done, or omitted to be done, in the exercise or supposed exercise of the powers of this Act.
PART IV.

THE BRINGING OF LAND UNDER THE ACT.

25. For the purpose of bringing land under the provisions of this Act, it shall be regarded as divided into two classes, as follows:—

1. Land hereafter alienated in fee from the Crown:

2. Land heretofore alienated in fee from the Crown.

26. As to land hereafter alienated in fee from the Crown, the same shall, immediately on alienation, be subject to the provisions of this Act.

27. As to land heretofore alienated from the Crown in fee but not under the provisions of any of the Real Property Acts (whether such land shall constitute the entire or only part of the land included in any land grant), the same may be brought under the provisions of this Act in the following manner, that is to say—The Registrar-General shall receive applications in the form of the Second Schedule hereto, or in a form to the like effect, if made by any of the following persons, that is to say—

By any person claiming to be the person in whom the fee simple is vested either at law or in equity: Provided that wherever trustees, seized in fee simple, have no power to sell the land which they may seek to bring under the provisions of this Act, the persons claiming or appearing to be beneficially entitled to the said land shall consent to such application:

By any person having power to appoint or dispose of the fee simple, at law or in equity, in cases where the Registrar-General shall be satisfied that the application is made for the purpose of carrying such power into effect:

By any person claiming a life estate, not being a leasehold for a life or lives: Provided that all persons claiming or appearing to be beneficially entitled in reversion or remainder shall join in or consent to such application:

The father, or if the father be dead, the mother or other guardian of any infant, or the committee or guardian of any lunatic or person of unsound mind, may make or consent to such application in the name or on behalf of such infant, lunatic, or person of unsound mind; and any person holding a power of attorney authorising the sale of a freehold estate in any land may make the application in respect of such land in the name or on behalf of the proprietor, unless such power shall expressly prohibit his so doing.

28. No such application shall be received from any person claiming to be entitled to an undivided share of any land unless the persons who shall appear to be entitled to the other undivided shares shall join in the application with a view to bringing the entirety under
PART IV.

under the provisions of this Act; nor from the mortgagor of any land unless the mortgagee shall consent to such application; nor from the mortgagee of any land except in the exercise of or for the purpose of giving effect to a sale under a power of sale contained in the mortgage deed; nor from a married woman unless her husband shall consent to such application, or unless the land be her separate property or held for her separate use.

29. Every applicant shall, when making his application, surrender to the Registrar-General all documents of title in his possession or under his control relating to or in any way affecting the land, and shall furnish a schedule of such documents, and also, if required, an abstract of his title, and shall, in his application, state the nature of his estate or interest in the land, and of every estate or interest therein held by any other person, whether at law or in equity, in possession, reversion, remainder, or expectancy, and give full particulars of every right-of-way or other easement affecting the land of which he is aware, or has had notice, or which he knows to be claimed by any other person, and shall state whether the land be occupied or unoccupied, and if occupied, the name and description of the occupant, and the nature of his occupancy, and whether such occupancy be adverse or otherwise; and shall, when practicable, state the names and addresses of the occupants and proprietors of all lands contiguous to the land in respect of which application is made so far as known to him, and that the schedule so furnished includes all documents of title relating to such land in his possession or under his control, and may, in his application, require the Registrar-General, at the expense of the applicant, to cause personal notice of the application to be served upon any person whose name and address shall for that purpose be therein stated, and shall give an address within the city of Adelaide to which notices in respect of such application may be sent.

30. The statements made in the application shall be verified by the declaration of the applicant or the person acting in his name or on his behalf.

31. Upon receipt of the application the Registrar-General shall cause the title of the applicant to be examined and reported upon by the Solicitor of the department.

32. For the purposes of all applications, the titles of applicants shall be divided into three classes as follows:

Class 1. When the applicant is the original grantee from the Crown, and the land has been granted on or subsequently to the first day of March, one thousand eight hundred and forty-two, and no transaction affecting the title has at any time been registered, and the applicant has not required notice of his application to be served personally upon any person:

Class
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Class II. When, although the title does not belong to the first class, the land is held by the applicant for the estate or interest described in the application free from mortgage, encumbrance, or other beneficial interest affecting the title thereto, or if any such mortgage, encumbrance, or interest exists the parties interested therein join in or consent to the application, and the applicant has not required notice of his application to be served personally upon any person:

Class III. When any person beneficially interested in the land otherwise than as lessee, or any person interested in any mortgage or encumbrance affecting the title, is not a party joining in or consenting to the application, or the title or evidence of title set forth by the applicant is imperfect, or the applicant has required notice of his application to be served personally upon any person:

If it shall appear to the Registrar-General that the title of the applicant belongs to the first class he shall bring such land under the provisions of this Act forthwith.

33. If it shall appear to the satisfaction of the Registrar-General that the title of the applicant belongs to the second class, he shall cause notice of the application to be published four times in the Government Gazette; and shall further limit and appoint a time, not less than one month nor more than twelve months from the date of the first publication in the Government Gazette, upon or after the expiration of which he shall, unless he shall in the interval have received a caveat forbidding him so to do, bring the land under the provisions of this Act.

34. If it shall appear to the satisfaction of the Registrar-General that the title of the applicant belongs to the third class, it shall be lawful for him to reject such application altogether, or in his discretion to cause notice of the application to be served upon all persons other than the applicant, who shall appear to have any interest in the land which is the subject of the application and to be published in the Government Gazette, and in such manner as he may direct; and to limit and appoint a time, in his discretion, or as the Court may prescribe, not less than two months nor more than twelve months from the date of the first of such publications in the Government Gazette, upon or after the expiration of which it shall be lawful for the Registrar-General to bring the land under the provisions of this Act, unless he shall in the interval have received a caveat forbidding him so to do.

35. The Registrar-General shall cause notice to be published in such manner as aforesaid, or in such other manner as may be prescribed by any order of the Court, that application has been made for bringing the land therein referred to under the provisions of this Act, and shall also cause a copy of such notice to be posted in a conspicuous place in his office, and in such other places
PART IV.

Second and third classes brought under the Act.

36. If within the time limited and appointed as aforesaid by the Registrar-General, or under any order of the Court, any notice forwarded by registered letter as aforesaid, shall not be returned to him by the Postmaster-General, and if within the time so limited he shall not have received a caveat, as hereinafter described, forbidding him so to do—and in any case in which personal notice may be required as aforesaid, if he shall have received proof to his satisfaction that such notice has been served, the Registrar-General shall bring the land described in the application under the provisions of this Act.

37. The Registrar-General shall bring land under the provisions of this Act by issuing a certificate for the same to the applicant, or to such person as he or the person applying in his name or on his behalf may by any writing under his hand direct.

38. The Registrar-General, whenever he shall be made aware that any notice required by any applicant to be served personally has failed to be, or cannot be so served, shall notify the same to such applicant, who, if he think fit, may, by writing under his hand, withdraw such requirement, and the Registrar-General thereupon or in case any notice shall be returned to him by the Postmaster-General, may reject the application altogether, or bring the land therein described under the provisions of this Act forthwith, or after such further interval, notification, or advertisement as he may deem fit.

39. Any person having or claiming an estate or interest in any land sought to be brought under the provisions of this Act, or the attorney or agent of any such person, may, within the time by the Registrar-General or under any order of the Court for that purpose limited, lodge a caveat with the Registrar-General, in the form of the Third Schedule hereto, forbidding the bringing of such land under the provisions of this Act. Every such caveat shall state the nature of the estate or interest claimed by the person lodging the same, and the grounds on which such claim is founded, and no caveat shall be received unless some address within the city of Adelaide shall be given therein at which notices and proceedings relating to the caveat may be served.

40. The
40. The Registrar-General shall, upon receipt of any such caveat within the time limited as aforesaid, give notice thereof to the applicant proprietor, and shall suspend further action in the matter, and the land in respect of which such caveat shall have been lodged shall not be brought under the provisions of this Act until such caveat shall have been withdrawn, or shall have lapsed from any of the causes hereinafter provided, or until a decision therein shall have been obtained from the Court having jurisdiction in the matter.

41. Any applicant may withdraw his application at any time prior to the issuing of the certificate, and the Registrar-General shall in such case, upon request in writing signed by the applicant, return to him, or to the person, if any, notified in the application as having a lien thereon, all documents of title deposited in support of the application.

42. Upon issuing a certificate bringing land under the provisions of this Act, the Registrar-General shall indorse a memorandum on every document of title deposited by the applicant in support of his application, stating that the lands described in such certificate have been brought under the Real Property Act. If any such document of title shall relate to or include any property, whether personal or real, other than the land included in the certificate, the Registrar-General shall return such document to the applicant, but otherwise shall retain the same in his office; and no person shall be entitled to the production of any document so retained, except upon the written order of the applicant or of some person claiming through or under him, or upon the order of the Court.

43. In case an applicant, or the person to whom he or the person applying in his name or on his behalf, may have directed a certificate to be issued, shall die in the interval between the date of the application and the date on which the certificate shall be issued, the certificate shall be issued in the name of the applicant, or in the name of the person to whom it shall have been so directed to be issued as the case may require, and the land shall devolve in like manner as if the certificate had been issued prior to the death of the applicant or of such person.

44. Whenever a caveat shall have been lodged with the Registrar-General forbidding land to be brought under the provisions of this Act, the like proceedings as are hereinafter provided for the removal of caveats, in the case of land already under the provisions of this Act, shall be open to the caveatee for removal of the caveat, and for the recovery of costs and damages from the caveator, in case the caveat shall have been lodged by the caveator wrongfully and without reasonable cause.

45. Every such caveat shall be deemed to have lapsed, after the expiration of one month from the receipt thereof by the Registrar-General, unless the person by whom or on whose behalf the same

was
was lodged shall, within that time, have taken proceedings in the Court to establish his title to the estate or interest claimed by him, and given written notice thereof to the Registrar-General, or shall have obtained from the Court an order or injunction restraining the Registrar-General from bringing the land under the provisions of this Act. No such lapsed caveat shall, except by leave of the Court, be renewed by or on behalf of the same person in respect of the same estate or interest.

46. The reversion expectant upon a lease shall not be deemed to have been extinguished in consequence of the land comprised in such lease having been brought under the provisions of this Act, and the registered proprietor of any land which is subject to a lease granted prior to the first certificate being issued in respect of such land, shall be held in all Courts to be seized of the reversion expectant upon such lease, and to have all the powers, rights, and remedies to which a reversioner is by law entitled, and shall be subject to all covenants and conditions in such lease expressed or implied to be performed on the part of the lessor.

**PART V.**

**THE REGISTER BOOK.**

47. The Registrar-General shall continue to keep the book called the Register Book, containing the records of the title to all land under this Act.

48. Every certificate shall be in duplicate, and the Registrar-General shall bind up in the Register Book one part of every certificate, hereinafter called the original, and shall deliver the other, hereinafter called the duplicate, to the registered proprietor of the land.

49. Each original certificate shall constitute a separate folium of the Register-Book, and the Registrar-General shall record thereon distinctly and separately all memorials affecting the land included in each certificate.

50. Every certificate shall be deemed to be registered so soon as the same shall have been marked by the Registrar-General with its volume and folium in the Register Book; and every other instrument shall be deemed to be so registered, so soon as a memorial thereof shall have been entered upon the original existing certificate.

51. Every memorial entered in the Register Book shall be signed by the Registrar-General, and shall state the nature of the instrument to which it relates, the day and hour of the production of the instrument for registration, and the names of the parties thereto, and shall refer by number or symbol to such instrument.

52. Whenever a memorial of any instrument has been entered in the Register Book, the Registrar-General shall indorse on the instrument
ment registered a memorandum of the date and hour on which the
memorial was entered in the Register Book, and shall authenticate
such memorandum by signing his name and affixing his seal
thereto; and such memorandum shall be received in all Courts as
conclusive evidence that the instrument has been duly registered.

53. The Registrar-General, on entering any memorial in the
Register Book, shall, except in case of a transfer or other dealing
indorsed upon a lease, mortgage, or encumbrance, as hereinafter
provided, record the like memorial on the duplicate certificate, or
other instrument evidencing title to the land intended to be dealt
with, or in any way affected, unless he shall, as hereinafter pro-
vided, dispense with the production of the same, or unless such
production is rendered unnecessary by the provisions of this Act.

54. The Registrar-General shall not, except as herein other-
wise provided, register any instrument purporting to transfer or
otherwise deal with or affect any estate or interest in land under
the provisions of this Act except in the manner herein provided, nor
unless such instrument be in accordance with the provisions hereof.

55. Any instrument presented for registration may be single
or in duplicate, or if a lease may be in duplicate or triplicate.

56. Every instrument presented for registration shall be attested
by a witness, and shall be registered in the order of time in
which the same is produced for that purpose; and instruments
registered in respect of or affecting the same estate or interest shall,
notwithstanding any express, implied, or constructive notice, be
entitled to priority, the one over the other, according to the date
of registration, and not according to the date of the instrument
itself; and the Registrar-General, upon registration thereof, shall
file such instrument (if single) in his office, and if in duplicate or
triplicate, shall file one original in his office, and shall deliver the
other or others to the person or persons entitled thereto.

57. Every instrument shall, when registered, be deemed part of the
Register Book, and shall have the effect of and be deemed and taken
to be a deed duly executed by the parties who have signed the same.

58. Should two or more instruments executed by the same
proprietor, and purporting to affect the same estate or interest, be
at the same time presented to the Registrar-General for registration,
he shall register and indorse that instrument which shall be pre-
sented by the person producing to him the duplicate certificate or
other instrument evidencing title to such estate or interest.

59. In case any person, who either before or after his death
shall be registered as proprietor of any land, shall die after signing
any instrument affecting such land, and before registration thereof,
the registration of such instrument may nevertheless be proceeded
with in accordance with this Act, and shall be valid notwith-
standing such death.

60. In
60. In case it shall appear to the satisfaction of the Registrar-General that any certificate or other instrument has been issued in error, or contains any misdescription of land or of boundaries, or that any entry or indorsement has been made in error on any certificate or other instrument, or that any certificate, instrument, entry, or indorsement has been fraudulently or wrongfully obtained, or that any certificate or instrument is fraudulently or wrongfully retained, he may summon the person to whom such certificate or instrument has been so issued, or by whom it has been so obtained or is retained, to deliver up the same for the purpose of being cancelled or corrected, as the case may require.

61. In case such person shall refuse or neglect to comply with such summons, the Registrar-General may apply to the Court to issue a summons for such person to appear before the Court and show cause why such certificate or other instrument should not be delivered up to be cancelled or corrected; and if such person, when served with such summons, shall neglect or refuse to attend before such Court at the time therein appointed, it shall be lawful for such Court to issue a warrant authorising and directing the person so summoned to be apprehended, and brought before the Court for examination.

62. Upon the appearance before the Court of any person summoned or brought up by virtue of a warrant as aforesaid, it shall be lawful for the Court to examine such person upon oath, and to order him to deliver up such certificate or other instrument, and, upon refusal or neglect by such person to deliver up the same pursuant to such order, to commit him to gaol for any period not exceeding six months, unless such certificate or instrument shall be sooner delivered up.

63. In such case, or in case a summons by the Registrar-General or a Judge cannot be served upon such person as hereinbefore directed, the Court may direct the Registrar-General to cancel or correct any certificate or other instrument, or any entry or memorial in the Register Book relating to such land, and to substitute and issue such certificate or other instrument, or make such entry as the circumstances of the case may require, and the Registrar-General shall give effect to such order.

64. In any proceeding in the Court respecting any land, or any transaction, contract, or application relating thereto, or any instrument, caveat, memorial, or other entry affecting any such land, it shall be lawful for the Court to direct the Registrar-General to cancel, correct, record, substitute, issue, or make any certificate, or any memorial or entry in the Register Book, or otherwise to do such acts and make such entries as may be necessary to give effect to any judgment, decree, or order of such Court given or made in such proceeding, and the Registrar-General shall obey every such direction.

65. Any
65. Any person shall, upon payment of the fee for that purpose specified in the First Schedule hereto, have access to the Register Book, and to all instruments filed and deposited in the Lands Titles Office for the purpose of inspection during the hours and upon the days appointed for search.

66. Whenever there shall be any conflict, difference, or variation between the contents of or the entries or memorials on any original certificate, and the contents of or the entries or memorials on the duplicate of such certificate, or whenever any entries or memorials shall appear on such first-mentioned certificate, which shall not appear on such duplicate, the original certificate shall prevail.

PART VI.

THE TITLE OF REGISTERED PROPRIETORS.

67. No instrument shall be effectual to pass any land or to render any land liable as security for the payment of money, but upon the registration of any instrument in manner herein prescribed, the estate or interest specified in such instrument shall pass, or, as the case may be, the land shall become liable as security in manner and subject to the covenants, conditions, and contingencies set forth and specified in such instrument or by this Act declared to be implied in instruments of a like nature.

68. The person named in or appearing by any certificate or other registered instrument as seized of or taking any estate or interest in land shall be the registered proprietor thereof.

69. The title of every registered proprietor of land shall, subject to such encumbrances, liens, estates, or interests as may be notified on the original certificate of such land, be absolute and indefeasible, subject only to the following qualifications:

1. In the case of fraud, in which case any person defrauded shall have all rights and remedies that he would have had if the land were not under the provisions of this Act: Provided that nothing included in this sub-section shall affect the title of a registered proprietor who has taken bonâ fide for valuable consideration, or of any person bonâ fide claiming through or under him:

2. In the case of a certificate or other instrument of title obtained by forgery or by means of an insufficient power of attorney or from a person under some legal disability, in which case the certificate or other instrument of title shall be void: Provided that the title of a registered proprietor who has taken bonâ fide for valuable consideration shall not be affected by reason that a certificate or other instrument of title was obtained by any person through whom he claims title from a person under disability, or by any of the means aforesaid:

III. Where
PART VI.

Erroneous inclusion of land.

III. Where any portion of land has been erroneously included, by wrong description of parcels or boundaries, in the certificate or other instrument evidencing the title of the registered proprietor: In which case the rights of the person who but for such error would be entitled to such land shall prevail, except as against a registered proprietor taking such land bonâ fide for valuable consideration, or any person bonâ fide claiming through or under him:

Omission of easement.

IV. Where a right-of-way or other easement not barred or avoided by the provisions of the "Rights-of-way Act, 1881," or of this Act, has been omitted or misdescribed in any certificate, or other instrument of title: In which case such right-of-way or other easement shall prevail, but subject to the provisions of the said "Rights-of-way Act, 1881," and of this Act:

Several certificates for the same land.

V. Where two or more certificates shall be registered under any of the Real Property Acts in respect of the same land: In which case the title originally first in date of registration shall prevail:

Certificate to be void if any person is in possession, and rightfully entitled adversely to the first registered proprietor.

VI. Any certificate issued upon the first bringing of land under the provisions of any of the Real Property Acts, and every certificate issued in respect of the said land, or any part thereof, to any person claiming or deriving title under or through the first registered proprietor, shall be void, as against the title of any person adversely in actual occupation of, and rightfully entitled to, such land, or any part thereof, at the time when such land was so brought under the provisions of the said Acts, and continuing in such occupation at the time of any subsequent certificate being issued in respect of the said land:

Wife's title to prevail.

VII. Where a husband shall have been wrongfully registered as co-proprietor of land belonging to his wife for her separate use or as her separate property, in which case the title of the wife shall prevail except as against a registered proprietor taking such land bonâ fide for valuable consideration, or any person bonâ fide claiming through or under him:

A lease or letting for not more than a year.

VIII. Where at the time when the proprietor becomes registered a tenant shall be in actual possession of the land under an unregistered lease or an agreement for a lease or for letting for a term not exceeding one year: In which case the title of the tenant under such lease or agreement shall prevail:

Non-payment of succession duty.

IX. Where the succession duty payable in respect of the land has not been paid, and the certificate in sub-section 5 of section 3 of Act No. 225 of 1881 has not been obtained: In which case any charge by law imposed on the land in respect of such duty shall remain in force:
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70. In all other cases the title of the registered proprietor of land shall prevail, notwithstanding the existence in Her Majesty, Her heirs, or successors, or in any person of any estate or interest whatever whether derived by grant from the Crown or otherwise, which but for this Act might be held paramount or to have priority; and notwithstanding any want of notice or insufficient notice of any application, or any error, omission, or informality in any application or proceedings.

71. Nothing in the two preceding sections contained shall be construed so as to affect any of the following rights or powers, that is to say—

1. The power of the Sheriff to sell the land of a judgment debtor under a writ of fieri facias or other writ of execution:

2. The power of the Court to order the sale of land:

3. The right of the Official Receiver or of any trustee to land transmitted on the insolvency or statutory assignment of the registered proprietor:

4. The rights of a person with whom the registered proprietor shall have made a contract for the sale of land or for any other dealing therewith:

5. The rights of a cestui que trust where the registered proprietor is a trustee, whether the trust shall be express, implied, or constructive:

6. The right of promoters of an undertaking to vest land in themselves by deed-poll pursuant to the "Lands Clauses Consolidation Act," or any Act amending the same:

Provided that no unregistered estate, interest, power, right, contract, or trust shall prevail against the title of a registered proprietor taking bonâ fide for valuable consideration, or of any person bonâ fide claiming through or under him.

72. Knowledge of the existence of any unregistered estate, interest, contract, or trust shall not of itself be evidence of want of bonâ fides so as to affect the title of any registered proprietor.

PART VII.

CERTIFICATES OF TITLE.

73. The registered proprietor of an estate of freehold in land, other than a leasehold for a life or lives, shall be entitled to receive a certificate for the same, which certificate shall be in the form in the Fourth Schedule hereto, or in a form to the like effect, and shall set forth the nature of the estate in respect of which it is issued.

74. Two
74. Two or more persons registered as joint proprietors of an estate or interest in land shall be deemed to be entitled to the same as joint tenants; and in all cases where two or more persons are entitled as tenants in common to an estate of freehold in any land, such persons may receive one certificate for the entirety, describing them as tenants in common, or each may receive a separate certificate for his undivided share.

75. The proprietor of an estate of freehold in remainder or reversion in land, for a life estate in which a certificate has already been issued, may have his estate registered on the certificate issued for the life estate, or may receive a separate certificate for his estate, which shall refer to the certificate of the particular estate.

76. Every certificate, or other instrument of title issued to or made in favor of a corporation, aggregate or sole, shall be deemed to extend to and include the successors of such corporation, and every such certificate or instrument of title issued to or made in favor of any person shall be deemed to extend to and include the legal representatives of such person.

77. The Registrar-General shall record on every certificate issued by him, and in such manner as to preserve their respective priorities, memorials of all subsisting mortgages, leases, and encumbrances, and of any dower or rent charge to which the land may be subject; and if such certificate be issued to a minor or to a person otherwise under disability, he shall record thereon the age of such minor or the nature of the disability, so far as known to him.

78. Upon the application of any registered proprietor holding land under one or more certificates, and the delivering up of such instruments of title, it shall be lawful for the Registrar-General to issue to such proprietor one certificate for the whole of such land, or several certificates each comprising portion of such land, in accordance with such application; and upon issuing any such new certificate the Registrar-General shall cancel the duplicates delivered up, and the originals, and shall indorse thereon a memorandum, setting forth the occasion of such cancellation, and referring to the new certificate issued in lieu thereof.

79. In the event of any duplicate certificate being lost, mislaid, or destroyed, any person having knowledge of the circumstances, may make a declaration before any of the persons before whom the execution of instruments under this Act may be proved, stating the facts, and the particulars of all mortgages, encumbrances, or other matters affecting the land and the title thereto, to the best of the declarant's knowledge and belief. The Registrar-General, if satisfied as to the truth of such declaration, and the bona fides of the transaction, may, upon giving at least fourteen days' notice in the Government Gazette of his intention so to do, issue to the registered proprietor a certificate to such land, which certificate
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certificate shall be an exact copy of the original certificate, and of
every memorandum and indorsement thereon, and shall state why
such certificate is issued; and the Registrar-General shall at the same
time enter in the Register Book notice of the issuing of such certifi-
cate, and the date thereof, and the reason why it was issued, and
such certificate shall be available for all purposes and uses for which
the certificate lost, mislaid, or destroyed, would have been available,
and shall be equally valid therewith.

80. Every certificate shall be issued under the hand and seal of
the Registrar-General, and the original or the duplicate thereof shall
be received in all Courts as evidence of the particulars therein set
forth and of their being entered in the Register Book, and shall
(except in any of the cases herein otherwise provided) be conclusive
evidence that the person named in such certificate, or in any entry
thereon, as seized of or as taking an estate or interest in the land
therein described, is seized of or entitled to such estate or interest,
and that the land described in such certificate is under the provisions
of this Act.

PART VIII.

EASEMENTS.

81. Any certificate hereafter issued may contain a statement
therein or entry thereon to the effect that the land therein described
has appurtenant thereto any easement, or that the person therein
named is entitled to any easement in gross, or that the land therein
described is subject to any right or rights-of-way or other easement.

82. Every such statement or entry shall fully set forth a true
and accurate description of the easement, or, if the instrument
creating the same be enrolled or deposited in the General Registry
Office, or deposited in the Lands Titles Registration Office, shall
refer to such instrument: Provided that, in the case of any
easement, the certificate shall also contain a plan of the land over
which such easement extends, or, if a plan showing the extent of
such easement shall have been deposited in the General Registry
Office, or the Lands Titles Registration Office, shall refer to such plan.

83. The registered proprietor of land brought under the pro-
visions of the "Real Property Act of 1861" after the passing of the
"Rights-of-Way Act 1881" or of land hereafter brought under the
provisions of this Act shall be deemed to hold the land comprised in
the certificate of such land subject to such rights-of-way only as are
mentioned and set forth in such certificate.

84. No easement hereafter created by express grant or transfer
over or in respect of any servient land under the provisions of this
Act shall be binding on any registered proprietor subsequently
taking
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PART VIII.

Land to be held free of rights-of-way.

Public rights-of-way, &c., not within this Act.

Certificates heretofore issued conclusive evidence of way therein described.

Not to apply to right-of-way subject to pending litigation, or a right to which has been concluded adversely.

Rights-of-way created hereafter to be entered upon certificates of owners of both dominant and servient land.

Short form of describing right-of-way.

Fifth Schedule.

Proprietor may deposit plan showing rights-of-way.

85. The registered proprietor of any land shall, as from the eighteenth day of November, one thousand eight hundred and eighty-six, hold the same freed and discharged from all rights-of-way existing on or before that date, and not entered upon the original certificate of such land in pursuance of an application made on or before such date under the "Rights-of-Way Act, 1881."

86. Rights-of-way or other easements now or hereafter acquired or enjoyed by the public, in, over, along, or across any servient land shall not be deemed to be rights-of-way or easements within the meaning of this part of this Act, or in respect of which applications may be made or caveats entered, and nothing herein contained shall derogate from any such rights or easements, or be deemed to confer on the registered proprietor of any such servient land a right to interfere with or obstruct the public use of any way or other easement so acquired or enjoyed as aforesaid.

87. Every certificate issued before the eighteenth day of November, one thousand eight hundred and eighty-one, containing therein a statement to the effect that the registered proprietor is seized of the land therein described, subject to or together with any right-of-way therein described or delineated, or together with any easement therein described, shall be deemed to operate as a grant or reservation, as the case may be, of such right-of-way or other easement, and such certificate shall, except in the case of fraud, be received in all Courts as conclusive evidence of the existence of such right-of-way or other easement: Provided that this section shall not apply to any right-of-way or other easement, the title to which is now the subject of pending litigation in any Court of Law, or to any right-of-way or other easement, the right to which has been concluded in any Court adversely to such right-of-way or easement.

88. Whenever any right-of-way or other easement appurtenant to land under the provisions of this Act over land also under its provisions shall hereafter be granted or created, the Registrar-General shall enter the memorial of the instrument granting or creating such right-of-way or easement upon the original certificates of the dominant and servient lands respectively, and also upon the duplicates of such certificates.

89. The words "together with a free and unrestricted right-of-way" in any instrument shall be deemed to imply the words set forth in the Fifth Schedule hereto so far as they shall be applicable as fully and effectually as if set out at length in such instrument.

90. Any registered proprietor of any land may deposit with the Registrar-General a plan of sub-division of the said land, showing the
the rights-of-way intended to be created by such proprietor over such land, and every subsequent registered proprietor of the said land, or any part thereof, shall be entitled to a right-of-way over all the rights-of-way shown in such plan, unless otherwise declared in his certificate.

PART IX.
CROWN LEASES.

91. For the purpose of this part of this Act, every lease or agreement for sale of Crown lands hereafter granted, or made by or on behalf of the Crown, shall be deemed a Crown lease.

92. Every person now holding any Crown lands under any lease or agreement for sale granted or made by or on behalf of the Crown may, subject to the approval of the Commissioner, surrender his lease or agreement for a Crown lease of the land remaining, subject to such lease or agreement upon all the same terms as shall have been applicable to such land prior to the surrender, but so that every person having any estate or interest in the surrendered land shall concur in the surrender.

93. Every Crown lease shall be in triplicate, and after being duly executed shall be forwarded to the Registrar-General, who shall bind one copy in a book to be called the Register of Crown Leases, and shall return one copy to the Commissioner of Crown Lands and forward the other to the tenant entitled thereto. The Registrar-General shall mark on each part of every Crown lease, a copy whereof shall be bound in the Register of Crown Leases, the volume and folio as appearing in the Register Book of Crown Leases, and such Crown lease shall thereupon be deemed to be registered, and may be transferred, mortgaged, and dealt with for all the purposes of this Act in like manner as if it had been granted by a registered proprietor and registered in the Register Book in the ordinary way, excepting only that any entries which ordinarily would require to be made in the Register Book shall be made in the Register of Crown Leases, and on the folio constituted by the Crown lease.

94. The Registrar-General, upon receipt of notice from the Commissioner of Crown Lands that any Crown lease has been lawfully forfeited or determined in whole or in part, shall make an entry to that effect in the Register of Crown Leases, and such forfeiture or determination, shall thereupon have effect.

95. Nothing herein contained or hereby implied shall be construed to give any greater effect or different construction to any Crown lease registered pursuant to this part of this Act than would have been given to it if this Act had not been passed, nor shall any right or remedy, which the Crown would otherwise have possessed, be in any way prejudiced or altered. The Commissioner of Crown Lands may, from
PART IX.

Transfers.

Sixth Schedule.

Transferee of land subject to mortgage or encumbrance, to indemnify transferor.

On registration of transfer grant or certificate to be cancelled.

Unless whole of land transferred.

Fresh certificate to be issued to purchaser.

PART X.

TRANSFERS.

96. When any land is intended to be transferred, or any right-of-way or other easement is intended to be created or transferred, the registered proprietor shall execute a transfer in the form of the Sixth Schedule hereto, which transfer shall, for the description of the land intended to be dealt with, refer to the certificate of such land, or shall give such description as may be sufficient to identify the same, and shall contain or have indorsed thereon a memorandum of all leases, mortgages, and encumbrances to which the land shall be subject, and an accurate statement of the estate or interest, intended to be transferred or created.

97. In every instrument purporting to transfer land mortgaged or encumbered there shall be implied the following covenant by the transferee with the transferor, and so long as such transferee shall remain the registered proprietor, with the mortgagee or encumbrancer, that is to say—That the transferee will pay the principal, interest, and other moneys secured by such mortgage or encumbrance, after the rate and at the time or times specified therein, and will indemnify and keep harmless the transferor from and against such principal, interest, and other moneys, and from and against all liability in respect of any of the covenants contained in such mortgage or encumbrance or by this Act implied on the part of the transferor.

98. When a transfer purporting to transfer any estate of freehold is presented for registration, the duplicate certificate shall (except as herein otherwise provided) be delivered to the Registrar-General; and the Registrar-General shall, upon registering the transfer, enter on the original certificate and also on the duplicate certificate (if delivered to him) a memorandum cancelling the same, either wholly or partially, according as the transfer purports to transfer the whole or part only of the land comprised in such certificate.

99. In case the whole of the land comprised in any certificate is transferred, such certificate need not be cancelled, but upon the transfer being registered and a memorial thereof entered on the duplicate certificate, the Registrar-General may deliver such duplicate to the transferee or other person entitled thereto.

100. The Registrar-General shall, upon cancelling any certificate, whether wholly or partially, pursuant to any transfer, issue to the transferee a certificate of the land mentioned in the transfer, and
every such certificate shall refer to the transfer; and the Registrar-General shall retain every such cancelled or partially cancelled certificate, and shall, whenever required by the proprietor of any portion or balance of land included in any such partially cancelled certificate, issue to such proprietor a certificate for the portion or balance of which he is proprietor.

101. Any registered proprietor subdividing land for the purpose of selling the same in allotments shall deposit with the Registrar-General a map or plan, in duplicate, of such subdivision. Such map or plan shall exhibit, distinctly delineated, all roads, streets, passages, thoroughfares, squares, or reserves appropriated or set apart for public use; and also all allotments into which the said land may be divided, marked with distinct numbers or symbols; and every such map or plan shall be signed by the registered proprietor, or his attorney, and shall be accompanied by a declaration by a licensed surveyor that he has personally surveyed such land, and that such map or plan is a correct delineation of the subdivision thereof.

102. Whenever the Court or a Judge, under the powers conferred by "The District Councils Act, 1876," or "The Municipal Corporations Act, 1880," or any Act or Acts amending the same, or any other Act, shall have made an order for the sale of any land under the provisions of this Act, the Registrar-General shall, upon being served with a copy of the order, mark thereon the time of such service, and shall enter a memorial thereof in the Register Book, which shall operate as a caveat against alienation other than in pursuance of such order while the same remains in force.

103. Upon the production to him of a transfer of the land, duly executed in pursuance of any such order, the Registrar-General shall (without requiring the production of the duplicate certificate) register such transfer, and enter on the original certificate a memorandum cancelling the same, either wholly or partially, as the case may require, and shall issue to the transferee a certificate of the land comprised in such transfer, free from all encumbrances, charges, exceptions, qualifications, and conditions whatsoever other than those mentioned in the transfer.

104. In any such case, if only a portion of the land comprised in any certificate has been sold, and the whole of the arrears of rates, interest, and costs appear to be satisfied by the sale of the land transferred, a statement to that effect shall be appended to the transfer, signed by the Master or other officer of the Court acting in that behalf; and thereupon the Registrar-General shall make an entry on the partially cancelled certificate in the Register Book, discharging the memorial of the order entered thereon.

105. No execution issued prior to or after the passing of this Act shall bind, charge, or affect any land, but the Registrar-General shall,
shall, on being served with a copy of any writ of _fieri facias_ or other writ or warrant of execution against land, or of any decree or order (other than an order for sale for non-payment of rates) affecting land issued out of or made by the Court, or any Court of Insolvency or other Court of competent jurisdiction, accompanied by a statement signed by any party interested, or by his attorney, solicitor, or agent, specifying the land sought to be affected thereby, mark upon such copy the time of such service, and shall enter a memorial of such writ, warrant, decree, or order on the original certificate, which shall operate as a caveat against alienation other than in pursuance of such writ, warrant, decree, or order, while the same remains in force.

106. Until such service and entry no sale or transfer under any such decree, order, writ, or warrant shall be valid as against a purchaser for valuable consideration, notwithstanding the purchaser had actual or constructive notice of such decree, order, writ, or warrant.

107. After any land so specified as aforesaid shall have been sold under any writ, warrant, decree, or order, the Registrar-General, on receiving a transfer thereof in such one of the forms of the Seventh Schedule hereto as shall be applicable, shall, subject to the provisions hereinafter contained, register such transfer by making an entry thereof in the Register Book, and on such entry being made the purchaser shall be deemed the transferee and registered proprietor of the land so sold; and every sale under any such writ, warrant, decree, or order shall take priority over and be effectual as against any other dealing affecting such land, entered into or transacted after the service of the writ, warrant, decree, or order, and the entry thereof on the original certificate.

108. The Registrar-General may register a transfer under any decree or order, or under any writ or warrant of execution of a Court, as hereinbefore mentioned, without requiring the production of the duplicate certificate, or other instrument of title.

109. The Registrar-General shall, upon production to him of sufficient evidence of the satisfaction of any such decree, order, writ, or warrant as aforesaid, cause an entry of such satisfaction to be made in the Register Book, and on such entry such writ, warrant, decree, or order shall be deemed to be satisfied.

110. Every decree, order, writ, or warrant of execution shall cease to bind, charge, or affect any land, unless a transfer upon a sale under such writ, warrant, decree, or order shall be presented for registration within six months from the day on which the copy was served, or within such extended time as the Court shall order.

111. The registered proprietor of any estate or interest in land may, by any of the forms of transfer provided by this Act, modified...
as may be necessary, transfer such estate or interest, or any part thereof, to the wife or husband of such registered proprietor, or to such registered proprietor, and any other person or persons, as joint tenants or tenants in common, and may limit any estates by remainder or otherwise, without limiting any use, or executing any re-assignment; and upon the registration of any such transfer the estate or interest thereby dealt with or transferred shall vest in the transferee or transferees, according to the intent and meaning appearing in and expressed by such instrument.

112. Upon the production of the receipt of the Treasurer in full satisfaction of the purchase-money of any land alienated in fee from the Crown, together with a transfer, mortgage, lease, or other instrument, duly executed by the purchaser from the Crown of such land, the Registrar-General shall indorse upon such receipt and sign and stamp with his seal such memorial as he is required to enter in the Register Book upon the registration of any dealing of a like nature with land in respect of which a certificate has been registered, and so on from time to time with respect to any other dealing before the registration of the grant of the said land, and every such instrument shall thereupon be held to be duly registered, and the Registrar-General shall file such receipt and such instrument in his office; and, upon the registration of the grant of such land, the Registrar-General shall enter thereon a memorial of such dealing, and shall indorse such instrument with the memorandum of registration as prescribed on the registration of instruments generally.

113. Every deed-poll by virtue of which any land under the provisions of this Act or of any of the Real Property Acts, shall have been, or shall hereafter be, vested in the promoters of an undertaking as provided by the "Lands Clauses Consolidation Act," or any amendment thereof, shall have the same effect as a transfer executed by the registered proprietor of the land comprised in such deed-poll.

114. The Registrar-General shall, upon any such deed-poll being lodged with him by the promoters of the undertaking, register the same upon the original certificate in like manner as transfers are registered, and shall require the registered proprietor, or any depositee, mortgagee, encumbrancee, or other person having the custody or control of the same, to deliver up the duplicate certificate for the purpose of having an entry of the deed-poll made thereon; and the Registrar-General shall, after such registration, cancel the original certificate, and when produced to him, the duplicate thereof, and shall issue a certificate of the land comprised in the deed-poll to the promoters of the undertaking, and a new certificate for the balance of the land comprised in the certificate to the proprietor thereof: Provided that all expenses of and incidental to obtaining such certificates shall be borne by the promoters of the undertaking.

115. Nothing
PART X.
Not to lessen effect of deed-poll heretofore or hereafter executed.

PART XI.

LEASES AND SURRENDERS.

116. When any land is intended to be leased for a life or lives, or for any term of years exceeding one year, the registered proprietor shall, or for any less term may, execute a lease in the form of the Eighth Schedule hereto.

117. Every such lease shall, for description of the land intended to be dealt with, refer to the certificate of the land, or shall give such other description as may be necessary to identify the land, and a right for or covenant by the lessee to purchase the land therein described may be stipulated in such lease, and shall be binding.

118. No lease of mortgaged or encumbered land shall be valid and binding against any mortgagee or encumbrancee of the land unless such mortgagee or encumbrancee shall have consented in writing to such lease prior to the same being registered.

119. Every registered dealing with land shall be subject to any prior unregistered lease or any agreement for lease or for letting for a term not exceeding one year to a tenant in actual possession thereunder: Provided that no right or covenant to purchase the freehold contained in any such unregistered lease or agreement, nor any right or covenant for renewal of such lease or agreement shall be valid as against any subsequent purchaser of the reversion, lessee, mortgagee, or encumbrancee unless such lease or agreement be registered or protected by caveat.

120. Whenever any registered lease is intended to be surrendered, and the surrender thereof is effected otherwise than by operation of law, or as hereinafter provided on insolvency or statutory assignment, there shall be indorsed upon such lease, or on the duplicate thereof, the word "Surrendered," with the date of such surrender, and such indorsement shall be signed by the lessee and by the lessor, and shall be attested by a witness, and the Registrar-General shall thereupon enter in the Register Book a memorial recording the date of such surrender, and shall likewise indorse upon the lease a memorandum recording the fact of such entry having been so made in the Register Book.

121. Where a lessee shall have delivered to the lessor, or his agent, the duplicate of the lease, accompanied by some writing signed by the
the lessee evidencing his intention to give up possession of the land comprised in such lease, the Registrar-General may, upon application by the lessor, and production of such evidence as he may require that the lessee has abandoned the occupation of the land comprised in the lease, make an entry in the Register Book of the surrender of such lease, and also indorse on the lease a memorandum recording the fact of such entry having been so made in the Register Book.

122. Upon every entry made in the Register Book, in pursuance of either of the two preceding sections, the estate or interest of the lessee in the land shall vest in the lessor, and production of the lease or duplicate bearing such indorsement or memorandum shall be sufficient evidence that the lease has been so surrendered.

123. No lease mortgaged or encumbered, or of land mortgaged or encumbered, prior or subsequently to the registration of such lease, shall be so surrendered without the consent thereto in writing of the mortgagee or encumbrancer, and every surrender of a lease, whether by operation of law, by act of parties, or pursuant to the provisions hereinafter contained on insolvency or statutory assignment, shall be subject to any registered under-lease, or to any unregistered under-lease, or agreement for under-lease or under-letting for a term not exceeding one year to a tenant in actual possession thereunder.

124. In every lease there shall be implied the following covenants by the lessee with the lessor, that is to say—

(1) That he will pay the rent thereby reserved at the times therein mentioned, and all rates and taxes which may be payable in respect of the demised property, during the continuance of the lease:

(2) That he will keep and yield up the demised property in good and tenantable repair, reasonable wear and tear excepted.

125. In every lease there shall also be implied the following powers in the lessor, that is to say—

(1) Power to distrain according to law:

(2) That he may, by himself or his agents, at all reasonable times, enter upon the demised property, and view the state of repair thereof, and may serve upon the lessee, or leave at his last or usual place of abode in the province, or upon the demised property, a notice in writing of any defect, requiring him within a reasonable time, to be therein prescribed, to repair the same:

(3) That in case the rent, or any part thereof, shall be in arrear for the space of three months, although no demand shall have been made thereof, or in case default shall be made in the fulfilment of any covenant, whether expressed
PART XI.

Registrar-General to note particulars of re-entry in Register Book.

Lease may be registered although time for payment of succession duty has not arrived.

PART XII.

MORTGAGES, ENCUMBRANCES, AND DISCHARGES.

128. Whenever any land is intended to be charged or made security in favor of any person the registered proprietor shall execute a mortgage in the form of the Ninth Schedule hereto; and whenever any land is intended to be charged with, or made security for, the payment of an annuity, rent-charge, or sum of money, in favor of any person, the registered proprietor shall execute an encumbrance in the form of the Tenth Schedule hereto.

129. Every such instrument shall, for description of the land intended to be dealt with, refer to the certificate of the land, or shall give such other description as may be necessary to identify the same, and shall contain an accurate statement of the estate or interest intended to be mortgaged or encumbered, and shall also contain or have indorsed thereon a memorandum of all leases, mortgages, and encumbrances (if any) affecting such land.

130. In every mortgage and encumbrance there shall be implied a covenant by the mortgagor or encumbrancer with the mortgagee or encumbrancer that he will repair and keep in repair all buildings and other improvements erected and made upon the mortgaged or encumbered land, and that the mortgagee or encumbrancer may, at all convenient times, until the mortgage or encumbrance be redeemed, be at liberty, with or without surveyors or others, to enter
enter into and upon such land to view and inspect the state of repair of such buildings and improvements.

131. In case the money secured by any mortgage or encumbrance shall be due, and the mortgagor or encumbranee shall require payment of the same, it shall be lawful for any other mortgagor or encumbranee of the same land to tender and pay to the mortgagor or encumbranee requiring such payment, the money due upon his security, and the mortgagor or encumbranee making such payment shall be entitled to a transfer of the estate and interest of the mortgagor or encumbranee requiring such payment.

132. Every mortgage and encumbrance under this Act shall have effect as a security, but shall not operate as a transfer of the land thereby charged, and in case default be made in the payment of the principal sum, interest, annuity, or rent-charge, or any part thereof thereby secured, or in the observance of any covenant therein expressed or implied, and such default be continued for the space of one month, or for such other period of time as may therein for that purpose be expressly limited, the mortgagor or encumbranee may give to the mortgagor or encumbrancer notice in writing to pay the money then due or owing on such mortgage or encumbrance, or to observe the covenants therein expressed or implied, as the case may be, and that sale will be effected if such default be continued, or may leave such notice on the mortgaged or encumbered land, or at the usual or last known place of abode in South Australia of the mortgagor or encumbrancer.

133. If such default be continued for the further space of one month from the date of such notice, or for such other period as may in such instrument be for that purpose limited, the mortgagor or encumbranee is hereby authorised and empowered to sell the land so mortgaged or encumbered, or any part thereof, and all the estate and interest therein of the mortgagor or encumbrancer, and either altogether or in lots, by public auction or by private contract, or by both such modes of sale, and subject to such conditions as he may think fit, and to buy in and resell the same without being liable for any loss occasioned hereby, and to make and execute all such instruments as shall be necessary for carrying the sale thereof into effect.

134. All sales contracts, matters, and things, authorised by the last preceding section shall be as valid and effectual as if the mortgagor or encumbrancer had made, done, or executed the same, and the receipt or receipts in writing of the mortgagee or encumbranee shall be a sufficient discharge to the purchaser of the land, or any portion thereof, for so much of his purchase-money as may be thereby expressed to be received; and no such purchaser shall be answerable for the loss, misapplication, or non-application, or be obliged to see to the application of the purchase-money by him paid; nor shall he be concerned to inquire as to the fact of any default, or notice having been made or given, as aforesaid.

135. The
PART XII.

Appropriation of proceeds.

Registrar-General to give effect to sale by mortgagees or encumbrancees.

135. The purchase-money to arise from the sale of any such land, shall be applied: First — In payment of the expenses occasioned by such sale: Secondly — In payment of the moneys which may then be due or owing to the mortgagee or encumbrancee: Thirdly — In payment of subsequent mortgages or encumbrances, if any, in the order of their priority; and the surplus, if any, shall be paid to the mortgagor or encumbrancer, as the case may be.

136. Upon the registration of any transfer executed by a mortgagor or encumbrancee, for the purpose of giving effect to any such sale as aforesaid, the estate or interest of the mortgagor or encumbrancer therein described as transferred, shall pass to and vest in the transferee, freed and discharged from all liability on account of such mortgage or encumbrance, or of any mortgage or encumbrance registered subsequent thereto, and the transferee shall be deemed the registered proprietor of the said estate or interest.

137. The mortgagee or encumbrancee, upon default in payment of the principal sum, interest, annuity, or rent-charge, or any part thereof, may enter into possession of the mortgaged or encumbered land and receive the rents and profits thereof, or may distrain upon the occupier or tenant of the land under the power hereinafter contained, or may from time to time let the said land for any term not exceeding one year, or may bring an action for recovery of the land either before or after entering into the receipt of the rents and profits, or making any distress as aforesaid, and either before or after any sale of the land shall be effected under the power of sale given or implied in his mortgage or encumbrance.

138. Besides his remedy against the mortgagor or encumbrancer, every mortgagee or encumbrancee shall be entitled after the principal sum, interest, annuity, or rent-charge shall have been in arrear for twenty-one days, and after seven days shall have elapsed from the date of application for the payment thereof to the occupier or tenant, to enter upon the mortgaged or encumbered land, and distrain upon the goods and chattels of such occupier or tenant for such arrears to an amount not exceeding the rent then due from such occupier or tenant to the mortgagor or encumbrancer, and to dispose of the goods and chattels so distrained upon in like manner as landlords may do in ordinary distresses for rent, and out of the proceeds to retain the moneys distrained for, and all costs and expenses occasioned by such distress and sale; and any amount paid by the occupier or tenant to the mortgagee or encumbrancee, or realised by distress as aforesaid, shall be deemed pro tanto a satisfaction of the said rent.

139. Any mortgagee or encumbrancee of leasehold land, or any person claiming any such land as a purchaser or otherwise from or under such mortgagee or encumbrancee, shall, after entering into possession of the land, or receiving the rents and profits thereof, during
during such possession, or receipt, and to the extent of any rents and profits which may be received by him, become and be subject and liable to the lessor of the land, or the person for the time being entitled to the lessor’s estate or interest therein, or entitled to receive the rent reserved to such lessor to the same extent as the lessee was subject and liable prior to such mortgagee, encumbrancee, or other person entering into the possession of the land, or the rents or profits thereof.

140. When default has been made for six months in the payment of the principal or interest secured by any mortgage, the mortgagee may make application, in writing, to the Registrar-General for an order for foreclosure. Such application shall state that such default has been made as aforesaid, and that the land mortgaged has been offered for sale at public auction by a licensed auctioneer, after notice given to the mortgagor, as in this Act or by the mortgage provided; that the amount of the highest bid at such sale was not sufficient to satisfy the money secured by such mortgage, together with the expenses occasioned by the attempted sale; and that notice in writing of the intention of the mortgagee to make such application has been served on the mortgagor, by being given to him or by being left on the mortgaged land, or by the same being sent through the post office by a registered letter directed to him at his address appearing in the Register Book; and also that a like notice of such intention has been served on every person appearing by the Register Book to have any estate or interest in the mortgaged land, subsequently to such mortgage, by being given to him or sent through the post office by a registered letter directed to him at his address appearing in the Register Book; and such application shall be accompanied by a certificate of the licensed auctioneer by whom such land was put up for sale, and such other proof of the matters stated by the applicant as the Registrar-General may require; and the statements made in such application shall be verified by declaration.

141. The Registrar-General shall cause notice to be published for four consecutive weeks in the Government Gazette, offering the land for sale; and shall in such case limit and appoint a time, not less than one month from the date of the first publication in such Gazette, upon or after which the Registrar-General may issue to the applicant an order for foreclosure, unless in the interval a sufficient amount has been realised by the sale of the land to satisfy the principal and interest moneys due, and all expenses occasioned by the attempted sale and by the proceedings for foreclosure.

142. Every such order for foreclosure shall be under the hand of the Registrar-General, and be entered in the Register Book, and shall when so entered have the effect of vesting in the mortgagee all the estate and interest of the mortgagor in the land mentioned in such order, free from all right and equity of redemption on the part of the mortgagor, or of any person claiming through or under him subsequently
PART XII.

Discharge of mortgages and encumbrances.

143. Upon the production of any duplicate mortgage or encumbrance, together with a receipt or memorandum, signed by the mortgagee or encumbrancee, or by one or more of the mortgagees or encumbrancees where the mortgage or encumbrance shall be held on a joint account, and attested by a witness, discharging the land, or any part thereof, from the whole or part of the moneys or annuity secured, the Registrar-General shall make an entry in the Register Book, and on the mortgage or encumbrance, noting that such mortgage or encumbrance is discharged wholly or partially, or that part of the land is wholly or partially discharged as aforesaid, as the case may require, and upon such entry being so made in the Register Book, the land, or the said part thereof, shall cease to be subject to or liable for the said moneys, or annuity, or the part thereof noted in such entry as discharged, as the case may be; and the Registrar-General shall make a similar entry on the duplicate certificate, or other instrument of title when produced to him for that purpose.

Discharge subsequent to partial discharge.

144. After a mortgage or encumbrance shall have been partially discharged pursuant to a receipt or memorandum indorsed thereon, any subsequent partial discharge shall be by a separate instrument.

Entry of satisfaction of annuity.

145. Upon the proof of the death of the annuitant, or of the occurrence of the event or circumstance upon which, in accordance with the provisions of any encumbrance, the annuity or sum of money thereby secured shall cease to be payable; and that all arrears of the said annuity or money have been paid, satisfied, or discharged, the Registrar-General shall make an entry in the Register Book, and on the encumbrance, noting that such annuity or sum of money is satisfied and discharged, and shall cancel the encumbrance; and upon such entry being made in the Register Book, the land comprised in the encumbrance shall cease to be subject to or liable for such annuity or sum of money; and the Registrar-General shall make a similar entry on the duplicate certificate, or other instrument of title of the encumbered land, and also on the duplicate encumbrance, when respectively produced to him for that purpose.

Mortgage money may be paid to Treasurer if mortgagee be absent from the colony.

146. In case any mortgagee shall be absent from the province, and there be no person in the province authorised to give a receipt to the mortgagor for the mortgage money at or after the date appointed for the redemption of the mortgage, it shall be lawful for the Treasurer to receive such mortgage money, with all arrears of interest then due thereon, in trust for the mortgagee or other person entitled thereto, and thereupon the interest upon such mortgage shall cease to run or accrue.

147. The Registrar-General shall, upon production of the receipt of the Treasurer for the amount of the said mortgage money and interest, make
make an entry in the Register Book, and on the mortgage in his office, discharging the mortgage, and stating the day and hour on which such entry is made, and such entry shall be a valid discharge of such mortgage, and shall have the same effect as the registration of a discharge signed by the mortgagee; and the Registrar-General shall make a similar indorsement on the duplicate certificate, or other instrument of title, and also on the duplicate mortgage whenever the same shall be respectively produced to him for that purpose.

148. Where any mortgagor shall deliver to the Registrar-General the duplicate of his mortgage, and shall prove to the satisfaction of the Registrar-General that all principal money and interest due in respect of the mortgage has been paid to the person entitled to receive the same, and that such person is dead, or absent from the province, the Registrar-General may, notwithstanding the duplicate mortgage shall not contain any discharge of the mortgage debt, make an entry in the Register Book and on the duplicate mortgage, discharging the mortgage, which entry shall have the same effect as the registration of a discharge of the mortgage signed by the mortgagee.

149. An equitable mortgage of land may be created by deposit of the certificate or other instrument of title, and such deposit shall have the same effect as a deposit by way of equitable mortgage of the title deeds of land not under the provisions of this Act.

150. A registered mortgage, lease, or encumbrance may be transferred to any person by a transfer as aforesaid, or by an instrument in the form of the Eleventh Schedule hereto, which instrument may be indorsed upon the duplicate mortgage, lease, or encumbrance, but only one such transfer shall be made by indorsement.

151. Upon such transfer or other instrument being registered, the estate or interest of the transferor, as set forth in the instrument transferred, with all rights, powers, and privileges thereto belonging or appertaining, including the right to sue upon and recover in his own name any debt, sum of money, annuity, or damages, under such transferred instrument, shall pass to the transferee, and such transferee shall, while he remains the registered proprietor of such estate or interest, be subject to and liable for all and every the same requirements and liabilities to which he would have been subject and liable if named in the transferred instrument originally as mortgagee, lessee, or encumbrance.

152. In every transfer of a lease there shall be implied a covenant by the transferee with the transferor, thenceforth to pay the rent by the lease reserved, and to perform and observe all the covenants in the lease contained, or by this Act declared to be implied therein on the part of the lessee to be performed and observed, and to indemnify and keep harmless the transferor against all actions, claims, and expenses in respect of the non-payment of such rent, or the breach or non-observance of such covenants or any of them.
PART XIII.

EXTENSIONS.

153. Any mortgage, encumbrance, or lease may be extended at any time by indorsing thereon the word "extended," which indorsement shall be signed by the respective parties to such mortgage, encumbrance, or lease, or their transferees, and attested.

154. Such indorsement shall, when registered, have the effect of an extension for one year of the term limited by the mortgage, encumbrance, or lease, or by any previous extension, subject to the same terms and conditions, but words may be added extending the term for any other period and varying or altering the said terms and conditions; and every such extension shall have the same effect as if expressed in the original instrument, and the Registrar-General shall, upon production thereof to him, enter a memorial of such extension on the original certificate and on the original instrument filed in his office: Provided that no extension of a lease of land mortgaged or encumbered shall be binding upon the mortgagee or encumbrancee unless he shall have consented thereto in writing: Provided also that no extension of any mortgage of land subject to subsequent mortgage or mortgages shall be binding upon the other mortgagor or mortgagees, unless such other mortgagee or mortgagees shall have consented thereto in writing.

PART XIV.

POWERS OF ATTORNEY.

155. Any person may before, as well as after, becoming the registered proprietor of any land under the provisions of this Act, by power of attorney, authorise any person to act for him, in making applications to bring any land under the provisions of this Act, and to execute all or any instruments that may be necessary for giving effect to any dealing with any land, and for that purpose may, if he think fit, use the form in the Thirteenth Schedule hereto.

156. A duplicate or an attested copy of such power of attorney shall be deposited with the Registrar-General, who shall compare the same with the original, and shall file such duplicate or attested copy in his office, and note thereon the date and hour of its deposit with him, and shall, whenever registering any dealing under such power of attorney, enter on the original certificate of the land dealt with a note of the deposit of such duplicate or copy.

157. The grantor of any such power of attorney may revoke the same by executing an instrument in the form of the Fourteenth Schedule hereto; and the Registrar-General shall, except in any case where a registration abstract is outstanding, enter a note of such revocation.
revocation, when produced to him, and the day and hour of its production, on the duplicate or copy of the power of attorney filed in his office; and from and after the date of such entry the Registrar-General shall not give effect to any application or other instrument executed pursuant to such power of attorney.

158. All powers of attorney heretofore given containing powers to make and execute any of the applications and instruments above enumerated, shall be as valid and may be acted upon and revoked in the same manner as if given under this Act.

159. The Registrar-General shall, upon proof to his satisfaction of the death of any grantor of a power of attorney, make an entry of such death upon the duplicate or copy of the power of attorney filed in his office.

160. All instruments executed under any power of attorney before the entry of the revocation thereof, or of the death of the grantor as hereinbefore provided, shall be valid notwithstanding such revocation or death.

PART XV.

TRUSTS AND TRANSMISSIONS.

161. Whenever any grant from the Crown shall contain the particulars of any trust for public purposes, every certificate issued in respect of the same land, or any part thereof, while such trusts subsist and affect such land, shall contain the like particulars of trust as were contained in the original grant.

162. The Registrar-General shall not, except as aforesaid, make any entry in the Register Book of the particulars of any trust, nor shall any instrument be registered under this Act, which declares or contains trusts relating to land under the provisions of this Act, but any such instrument, or a duplicate or attested copy thereof, may be deposited with the Registrar-General for safe custody and reference, and such instrument may be deposited in the General Registry Office pursuant to Act No. 22 of 1858, or any other Act relating to the deposit of deeds in the Registry Office, and may include as well land under the provisions of this Act, as land which is not under the provisions hereof: Provided that nothing herein contained shall prevent the registration of any instrument which would otherwise be valid in which a reference may be made to the instrument so deposited as aforesaid; nor shall such reference operate as notice of the particulars of the trusts declared or contained in the deposited instrument, but in the absence of caveat the registered proprietor shall, for the purpose of sale, mortgage, or contract for valuable consideration be deemed to be the absolute proprietor of such land freed from the said trusts.

163. Upon the transfer of any estate or interest in land, to two or three persons, as tenants in joint tenancy, without limitation of their respective shares, a certificate of these words shall be deposited in the Register Office: Provided, that the certificate shall be produced in the Register Office before the instrument is registered, and no such instrument is valid unless the certificate is so produced.
or more persons, as joint proprietors, intended to be held by them as
trustees, it shall be lawful for the transferor or transferees to insert
in the transfer the words "no survivorship"; and the Registrar-
General shall in such case include such words in the memorial of such
instrument to be entered by him in the Register Book; and shall also
enter the same words in some conspicuous place upon any certificate
issued to such joint proprietors, pursuant to such transfer.

164. Any two or more persons registered as joint proprietors of
any estate, or interest in land held by them as trustees, may, by writing
under their hands, authorise the Registrar-General to enter the words
"no survivorship" upon the original certificate, or other instrument
of title, evidencing their title to such estate or interest, in the
Register Book, or filed in his office, and also upon the duplicate
of such instrument.

165. After any such entry as in the last two sections mentioned
has been made and signed by the Registrar-General in the Register
Book, it shall not be lawful for any less number of joint proprietors
than the number then registered to transfer or otherwise deal with
the said estate, or interest, without obtaining an order of the Court:
Provided that, if it be intended not to apply the said restriction
until the trustees registered as such proprietors be reduced below a
certain specified number, words indicative of such intention may be
entered in like manner, and in that case the power of disposition by
survivors shall continue until the number be so reduced.

166. The Court may, before making any such order as aforesaid,
direct notice of the intention to apply for such order to be given,
either by public advertisement or otherwise, and may appoint a
period within which any person interested may show cause why such
order should not be made.

167. The Court may in such order give directions for the transfer
of such estate, or interest, to any new proprietor or proprietors,
solely or jointly, with, or in the place of, any existing proprietor
or proprietors, or may make such order in the premises as may be
just for the protection of the persons beneficially interested in such
estate, or interest, or in the proceeds thereof; and upon any such
order being deposited with the Registrar-General, he shall make such
entries and perform such acts as in accordance with the provisions
of this Act may be necessary for the purpose of giving effect to such
order.

168. Nothing hereinbefore contained shall prevent the surviving
or remaining trustee or trustees from exercising all the powers and
duties of the trust other than in regard to transfers and dealings
under this Act, nor from so transferring the land as to give effect to
any valid appointment of a new trustee or new trustees. And so
far as shall be necessary to ascertain the sufficiency of any such
appointment, it shall be lawful for the Registrar-General to refer to
the
the provisions of any instrument relating to the trust, notwithstanding the same be not registered.

169. Any person who shall, without his consent, have been registered as proprietor of any estate or interest in land, or to whom any such estate or interest shall have been transferred, bequeathed, or devised, may execute a deed or other instrument of disclaimer of such estate or interest; and if such person shall have been registered as proprietor, the Registrar-General shall, upon production of such deed or other instrument of disclaimer, cancel, alter, or correct the Register Book, certificate or other instrument of title, or make such other entry in the Register Book, and upon the certificate or other instrument of title, as shall give effect to such disclaimer: Provided that no person so disclaiming shall be released from any trust or other liability in case he shall have acted in the trust, or by his own act incurred such liability.

170. Upon the registered proprietor of any estate or interest in land becoming insolvent or making a statutory assignment, the Official Receiver (if no trustee has been appointed) or the trustee of such insolvent or assignor shall be entitled to be registered as proprietor of such estate or interest.

171. The Registrar-General shall in any such case, upon being furnished with evidence of the insolvency and the non-appointment of a trustee, or of the appointment of or assignment to the trustee, accompanied by an application in writing, under the hand of the Official Receiver or trustee, to be registered as proprietor of the estate or interest to be therein specified and described, shall enter in the Register Book a memorandum notifying the insolvency or the appointment of or assignment to the trustee, as the case may require, and upon such entry being made the Official Receiver or trustee shall be the registered proprietor of the estate or interest of the insolvent or assignor in such land.

172. If any such statutory assignment shall afterwards be declared fraudulent and void by the Court of Insolvency, and the assignor shall thereupon be adjudged insolvent, the Registrar-General shall, upon being furnished with evidence thereof, and of the appointment or non-appointment of a trustee under such insolvency, enter in the Register Book a memorandum notifying the same, and thereupon the Official Receiver, or the trustee under such insolvency, as the case may be, shall be the registered proprietor of the estate and interest of the insolvent and of the trustee under such assignment in the land.

173. In any case where the registered proprietor of a lease has heretofore, or shall hereafter, become insolvent, or has heretofore made or shall hereafter make, a statutory assignment—

1. If such lease be not mortgaged or encumbered under the provisions of this Act, the Registrar-General shall, upon the application
application in writing of the lessor, accompanied by a statement in writing, signed by the Official Receiver or the trustee under such insolvency or assignment, certifying his refusal to accept such lease, enter in the Register Book a note of such refusal, and such entry shall operate as a surrender of such lease:

II. If such lease be mortgaged or encumbered, the Registrar-General shall, upon the application in writing of any mortgagee or encumbrancee, accompanied by a statement in writing signed by the Official Receiver, or the trustee under such insolvency or assignment, certifying his refusal to accept such lease, or by proof that the Official Receiver or trustee has neglected or refused to certify such refusal or to become registered as proprietor of such lease within one month after being thereunto required by notice in writing given to him by the mortgagee or encumbrancee, enter in the Register Book a note of such refusal or neglect, and such entry shall operate as a foreclosure, and the estate or interest of the insolvent or assignor in such lease shall thereupon vest in such mortgagee or encumbrancee, free from all other charges subsequent to his mortgage or encumbrance, and such mortgagee or encumbrancee shall thereupon be deemed to be the registered proprietor of such estate or interest, and shall, while he remains such registered proprietor, be subject to and liable for the same requirements and liabilities to which he would have been subject and liable if named in the lease originally as lessee:

III. No such entry shall be made unless it be proved to the satisfaction of the Registrar-General that the applicant mortgagee, or encumbrancee, has given fourteen days' notice in writing of his intended application to every subsequent mortgagee or encumbrancee of the lease, or has obtained his written consent; and any such subsequent mortgagee or encumbrancee shall be entitled to pay to the applicant mortgagee or encumbrancee the amount due to him under his mortgage or encumbrance, with costs, at any time before foreclosure, and shall thereupon be entitled to a transfer from him of such mortgage or encumbrance:

IV. If the Official Receiver or the trustee under the insolvency or assignment shall certify his refusal to accept the lease, or shall neglect or refuse to become registered as proprietor of the lease, within one month after having been thereunto required by notice in writing given to him by the lessor, and the mortgagees or encumbrancees (if any) of the lease shall neglect or refuse to have an entry operating as a foreclosure made in the Register Book under the provision in that behalf hereinbefore contained within the period of two months after having been thereunto required by notice in writing given to them by the lessor, the Registrar-General shall, upon the application in writing...
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writing of the lessor, and, upon proof of such certificate or such neglect or refusal as aforesaid, enter in the Register Book a note of such neglect or refusal, and every such entry shall operate as a surrender of such lease.

174. Under the preceding provisions as regards a lessee becoming insolvent or making a statutory assignment, no entry of surrender or foreclosure respectively shall prejudice any cause of action in respect of any breach or non-observance of any covenants in such lease, encumbrance, or mortgage respectively contained or implied which shall have accrued previously to such lessee becoming insolvent or making a statutory assignment.

175. On the death of the registered proprietor of any estate or interest in land, his estate or interest shall be transmitted to his executor or administrator, or to the Public Trustee in any case where the Court shall make an order authorising the Public Trustee to administer the estate of the deceased registered proprietor.

176. The executor, administrator, or Public Trustee shall, before dealing with such estate or interest, make application in writing to the Registrar-General to be registered as proprietor, and shall produce to the Registrar-General the duplicate certificate, or other instrument of title, and the probate or letters of administration, or the order of the Court authorising the Public Trustee to administer the estate of the deceased registered proprietor, or an office copy of the probate, letters of administration, or order, as the case may be.

177. The Registrar-General shall thereupon enter in the Register Book, and on such duplicate, a memorial of the date of the will and of the probate, letters of administration, or order of the Court, as aforesaid, the date and hour of the production of the same to him, and the date of the death of such registered proprietor, when the same can be ascertained, with such other particulars as he may deem necessary.

178. Upon such entry being made in the Register Book, the executor, administrator, or Public Trustee, as the case may be, shall be the registered proprietor of such estate or interest, and his title shall relate back to and take effect from the date of the death of the deceased registered proprietor.

179. Where probate or letters of administration shall be granted to more persons than one, all of them for the time being shall concur in every instrument relating to the real estate of the deceased registered proprietor.

180. Any person registered in place of a deceased registered proprietor, or as Official Receiver, or as trustee of a registered proprietor becoming insolvent or making a statutory assignment, shall hold
hold the land in respect of which he is so registered upon the trusts, and for the purposes for which the same is applicable by law; but shall, for the purpose of any dealing with such land, be deemed to be the absolute proprietor thereof.

181. Whenever an executor, or administrator, or the Public Trustee, is registered as proprietor of any land, and shall refuse, or, after tender of a transfer, unnecessarily delay to transfer such land to the devisee, next of kin, heir-at-law, or other person entitled thereto, the person claiming to be entitled to the land may, by motion or summons before the Court, apply for an order that the executor, administrator, or Public Trustee shall transfer the said land to him.

182. The Court may either refuse such application, with or without costs, to be paid by the applicant, or may make an order for the transfer, and may direct the transferor personally to pay all the costs of such application and any damages the person aggrieved may have sustained, or may order such costs to be paid out of the estate of the deceased registered proprietor, or in such other manner as the Court may think proper.

183. The Court may, on any such application, decide on questions relating to the title of any person party to the application or proceeding, and generally may decide any question that it may be necessary or expedient to decide for the purpose of ordering the land to be transferred, or may direct an action to be brought or an issue to be tried in which the rights of the parties may be decided, or any question of law settled.

184. Whenever any registered proprietor of land under the provisions of this Act shall appear to the Court to be a trustee of such land within the intent and meaning of "The Trustee Act, 1855," or otherwise, and any order shall be made by the Court vesting such land in any other person, the Registrar-General shall, on being served with an office copy of such order, enter in the Register Book and on the duplicate certificate, or other instrument of title to the land, the date of the order, the date and hour of its production to him, and the name, residence, and description of the person in whom the order shall purport to vest the said land; and, upon such entry in the Register Book, such person shall be the registered proprietor of the land; and unless and until such entry in the Register Book shall be made, the order shall have no effect or operation in transferring or otherwise vesting the land.

185. Every trustee who shall be registered as proprietor of any land, shall, on being indemnified, be bound to allow his name to be used by any beneficiary, or person claiming an estate or interest in the land, as plaintiff or defendant in any action for recovery of possession of the land or any part thereof. And, in case there shall be
be any dispute as to the sufficiency of any indemnity, the same shall be decided by the Master of the Court.

186. No person contracting or dealing with, or taking or proposing to take a transfer or other instrument from the registered proprietor of any estate or interest in land, shall be required, or in any manner concerned to inquire into or ascertain the circumstances under, or the consideration for, which such registered proprietor or any previous registered proprietor of such estate or interest is or was registered, or to see to the application of the purchase-money, nor be affected by notice direct or constructive of any trust or unregistered interest, any law or equity to the contrary notwithstanding.

187. The last preceding section shall not protect any person who has acted fraudulently or been a party to fraud, but the contracting, or dealing, or taking, or proposing to take a transfer or other instrument as aforesaid, with actual knowledge of any trust, charge, or unregistered instrument, shall not of itself be imputed as fraud.

188. Upon the death of any person registered together with any other person as joint proprietor of any estate or interest in land, or when the life estate in respect of which any certificate has been issued has determined, and the registered estate next in remainder or reversion has become vested in possession, or the person to whom such certificate for a life estate has been issued has become entitled to the land for an estate in fee-simple in possession, the Registrar-General shall, upon the application of the person entitled, and upon proof to his satisfaction of any such occurrence as aforesaid, make an entry thereof in the Register Book, and thereupon such person shall be the registered proprietor of the estate or interest to which he is entitled, as if the same had been transferred to him.

189. The Registrar-General, upon the production of an official certificate, or other sufficient proof of the marriage of a female registered proprietor, shall enter on the Register Book and also upon the duplicate certificate, or other instrument evidencing her title, when produced to him for that purpose, the name and description of her husband, the date and place of the marriage, and the time of making such entry.

190. The husband of any female registered proprietor shall, unless she holds the land estate or interest for her separate use, or the same is her separate property, be entitled to be registered as co-proprietor in right of his wife; and the Registrar-General shall, upon application to that effect, and upon production of the duplicate certificate, or other instrument of title, comply with such application; and upon the husband being so registered, he shall be seized of and entitled to the same estate and interest in the said land as he would have been had such lands not been under the provisions of this Act, and until such registration the wife shall, for the purpose of this Act, be deemed to be the sole proprietor for her separate use.

PART
PART XVI.

CAVEATS.

191. Any settlor of land or beneficiary claiming under a will or settlement, or any person claiming to be interested at law or in equity, whether under an agreement, or under an unregistered instrument, or otherwise howsoever in any land, may lodge a caveat with the Registrar-General forbidding the registration of any dealing with such land, either absolutely or unless such dealing shall be expressed to be subject to the claim of the caveator, or to any conditions conformable to law expressed therein:

1. A caveat may be in the form or to the effect of the Twelfth Schedule hereto, and shall be under the hand and verified by the declaration of the caveator or his agent, and shall contain an address within the city of Adelaide to which notices may be sent or at which proceedings may be served:

2. Upon the receipt of a caveat the Registrar-General shall make a memorandum thereon of the date and hour of the receipt thereof, and shall enter a memorandum thereof in the Register Book, and shall forthwith send a notice of such caveat through the post office to the person against whose title such caveat shall have been lodged, directed to his address appearing in the Register Book:

3. So long as any caveat shall remain in force the Registrar-General shall not, contrary to the requirements thereof, register any dealing with the land in respect of which such caveat shall have been lodged:

4. The registered proprietor or any other person claiming estate or interest in the land may, by summons, call upon any caveator, including the Registrar-General, to attend before the Court to show cause why the caveat should not be removed; and the Court may, upon proof that the caveator has been summoned, and upon such evidence as the Court may require, make such order in the premises, either ex parte or otherwise, as shall seem just:

5. The caveatee may, except when the caveat is lodged by a settlor, or by a beneficiary under a will or settlement, or by the Registrar-General under Part xx. of this Act, make application in writing to the Registrar-General to remove the caveat, and shall in such application give an address in Adelaide to which notices or proceedings relating to the caveat may be sent, and the Registrar-General shall thereupon give twenty-one days' notice in writing to the caveator, requiring that the caveat be withdrawn:

6. The Registrar-General shall, after the lapse of twenty-one days from the posting of such notice to the address mentioned in the caveat, or of such extended time as may be
be ordered by the Court, remove the caveat from the Register Book by entering therein a memorandum that the same is discharged:

vii. The caveator may apply to the Court, by motion or summons, for an order to extend the time beyond the twenty-one days mentioned in such notice, and notice of such motion or such summons may be served at the address given in the application of the caveatee; and the Court may, upon proof of the service of such notice of motion or summons, and upon such evidence as the Court may require, make such order in the premises, either ex parte or otherwise, as shall seem just:

viii. Any caveator may, by notice in writing to the Registrar-General, withdraw his caveat at any time; but the Court may, notwithstanding such withdrawal, order payment by the caveator to the caveatee or other person interested of any costs incurred by the caveatee prior to the receipt by him of notice in writing of the withdrawal of the caveat:

ix. An entry shall be made by the Registrar-General in the Register Book of any order made by the Court relating to any caveat, or of the withdrawal, lapse, or removal of any caveat:

x. Any caveator other than the Registrar-General who shall have lodged or refused or neglected to withdraw any caveat wrongfully and without reasonable cause, shall be liable to make compensation to any person who may have sustained damage thereby, and such compensation may be recovered by action: Provided that, if proceedings shall have been taken in the Court by the caveatee or other person interested, the amount of such compensation may be assessed by the Court acting in the same proceedings; or the Court may direct an action to be brought to ascertain and recover such amount:

xi. It shall not be lawful for any caveator other than the Registrar-General, or for any one acting on behalf of such caveator, to lodge a further caveat relating to the same matter without the leave of the Court:

xii. Where any caveat lodged by the Registrar-General shall be removed by the Court, such Court may order the costs sustained by the person at whose instance such caveat was removed to be paid out of the estate on behalf of which such caveat was entered.

PART XVII.

EJECTMENT.

192. Any of the following persons, in the following sections called Summons to give up possession.

PART XVI.

Caveator may apply to Court for order to extend time.

May withdraw caveat.

Court may order payment of costs.

Entry to be made

Registrar-General to enter order of Court.

Caveator, except Registrar-General, liable to make compensation.

Not to lodge further caveat without leave.
PART XVII.

called "the claimant," may cause any person in possession of land under the provisions of this Act to be summoned to appear before a Judge in chambers to show cause why the person summoned should not give up possession to the claimant—

1. The registered proprietor of a freehold estate in possession:

2. Any registered mortgagee or encumbrancee where the person in possession is a mortgagor or encumbrancer in default, or a person claiming under such mortgagor or encumbrancer:

3. Any lessor with power to re-enter where the rent is in arrear for three months, whether there be or be not sufficient distress found on the premises to countervail such rent, and whether or not any previous demand shall have been made for the rent:

4. Any lessor where a legal notice to quit has been given, or the lease become forfeited, or the term of the lease has expired.

193. The summons shall contain a description of the land, and shall require the person summoned to appear at the Judge's chambers on a day not earlier than sixteen days after the service of the summons, and thereupon, or so soon thereafter as a Judge shall be in attendance, the same shall come on to be heard. The summons shall be served in the same manner as a writ of summons in an action for the recovery of possession of land in the Supreme Court.

194. If, on the hearing of the summons, the person summoned do not appear, then upon proof of the service of the summons, and of the claimant's title, or on the production of a consent to an order by the person summoned, the Judge may order immediate possession to be given to the claimant.

195. If the person summoned shall appear, the Judge shall hear the summons, and may make such order thereon and impose such terms as he may think fit: Provided that in the case of a lessor against a lessee, if the lessee before or at the hearing pay or tender all rent due, and all costs incurred by the lessor, the Judge may dismiss the summons.

196. The dismissal of any such summons shall not prejudice the right of the claimant to take any other proceedings against the person summoned to which he may be entitled:

197. Every order for possession under this part of this Act shall have the effect of, and may be enforced in, the same manner as a judgment in the Court for the recovery of possession of land.

198. Any claimant having obtained an order for possession under the provisions hereof, shall be entitled to enter and take possession of
of the land mentioned in the order, without issuing a writ of habere facias if there shall be no person in actual possession of the land, or if the person in possession shall voluntarily give up possession to the claimant.

199. Nothing hereinbefore contained shall repeal, affect, or abridge, any remedies to which a claimant is otherwise entitled.

200. Local Courts of Full Jurisdiction shall have jurisdiction to try actions of ejectment in respect of land under the provisions of this Act, and other actions in respect of such land in the same manner as though the words "The Real Property Act, 1886," were substituted for the words "The Real Property Act, 1860," in the "Local Court Act, 1861," or in any Act amending or repealing the same.

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**PART XVIII.**

THE ASSURANCE FUND.

201. Upon the first bringing of land under the provisions of this Act, consequent upon the application of the owner as hereinbefore provided, and also upon the registration of the title to an estate of freehold in land derived through transmission in consequence of the death of a registered proprietor, there shall be paid to the Registrar-General the sum specified in that behalf in the First Schedule hereto, and the value of the land shall be ascertained by the declaration of the applicant: Provided that the Registrar-General may, if he shall not be satisfied as to the correctness of the value so declared, require the applicant to produce a certificate of such value under the hand of a sworn valuator, which certificate shall be received as conclusive evidence of the value for the purpose aforesaid.

202. All sums of money received as aforesaid shall be paid to the Treasurer, for the public uses of the said province.

203. Any person deprived of land in consequence of fraud, or through the bringing of such land under the provisions of this Act, or of any Act hereby repealed, or by the registration of any other person as proprietor of such land, or in consequence of any error, omission, or misdescription in any certificate, or in any entry or memorial in the Register Book, may bring and prosecute an action at law for the recovery of compensation against the person upon whose application such land was brought under the provisions of this Act, or of any Act hereby repealed, or such erroneous registration was made, or who acquired title to the land through such fraud, error, omission, or misdescription.

204. Except
PART XVIII.
Exoneration of proprietor after transfer for value, except in certain cases.

204. Except in the case of fraud, or of error occasioned by any omission, misrepresentation, or misdescription in the application of such person to bring the land under the provisions of this Act, or of any of the Acts hereby repealed, or to be registered as proprietor of such land, or in any instrument executed by him, such person shall, upon a transfer of such land, bona fide for value, cease to be liable for the payment of any compensation which but for such transfer might have been recovered from him under the provisions herein contained.

205. In any such case of cesser of liability, and also in any case where the person against whom such action for compensation is permitted to be brought as aforesaid shall be dead, or shall have been adjudged insolvent or made a statutory assignment, or cannot be found within the jurisdiction of the Court, it shall be lawful to take proceedings against the Registrar-General, as nominal defendant, as hereinafter provided, for the purpose of recovering the amount of compensation and costs from the Assurance Fund.

206. In any case where compensation shall be awarded against any person other than the Registrar-General, and the Sheriff or bailiff shall make a return of nulla bona, or of no effects, or shall certify that the full amount awarded with costs, cannot be recovered, the Treasurer, upon receipt of a certificate under the hand of the Master or Clerk of the Court before which the action was tried, of the amount remaining unsatisfied, and of a warrant under the hand of the Governor, countersigned by the Chief Secretary, shall pay the amount of such compensation and costs or the unsatisfied balance thereof, as the case may be, and charge the same to the account of the Assurance Fund.

207. Nothing in this Act contained shall leave subject to action for recovery of compensation as aforesaid, or to action for recovery in respect of which he is registered as proprietor, any transferee, mortgagee, encumbrancer, or lessee, bona fide for valuable consideration of land on the ground that the proprietor, through or under whom he claims, or any previous proprietor has been registered as proprietor through fraud or error, whether such fraud or error shall consist in wrong description of boundaries, or parcels, or otherwise howsoever.

208. Any person sustaining loss or damage through any omission, mistake, or misfeasance of the Registrar-General, or any of his officers or clerks in the execution of their respective duties under the provisions of this Act, or of any Act hereby repealed, and any person deprived of any land through the bringing of the same under the provisions of this Act, or of any Act hereby repealed, or by the registration of any other person as proprietor of such land, or by any error, omission, or misdescription in any certificate, or in any entry or memorial in the Register Book, and who by the provisions
provisions of this Act is barred from bringing an action for the recovery of such land, may, in any case in which the remedy by action for recovery of compensation as hereinbefore provided is barred, or inapplicable, institute proceedings against the Registrar-General, as nominal defendant, for recovery of compensation as hereinafter provided, but notice in writing of the intention to institute such proceedings, and of the cause thereof, shall be served upon the Attorney-General and upon the Registrar-General one month at least before the commencement of such proceedings.

209. In estimating the compensation for any deprivation or loss under this part of this Act, the value of all buildings and other improvements erected or made subsequently to such deprivation or loss, and with notice thereof, shall be excluded.

210. Any person sustaining loss or damage in any case in which he shall be entitled to institute proceedings to recover compensation against the Registrar-General as nominal defendant, may, before commencing such proceedings, make application in writing to the Registrar-General, for compensation, and such application shall be supported by affidavit or declaration. If the Registrar-General admits the claim, or any part thereof, and certifies accordingly, the Governor may, if he shall think fit, issue a warrant to the Treasurer for payment of the amount so certified out of the Assurance Fund.

211. The Assurance Fund shall not under any circumstances be liable for compensation for loss, damage, or deprivation occasioned by any breach by a registered proprietor of any trust, whether express, implied, or constructive, or by the improper exercise of any power of sale expressed or implied in any mortgage or encumbrance.

212. The Assurance Fund shall not be liable for compensation for loss, damage, or deprivation occasioned by any land being included in the same certificate with other land, through misdescription of boundaries or parcels, unless it shall appear that no person is liable or that the person liable for compensation is dead, or cannot be found within the jurisdiction of the Court, or has been adjudged insolvent, or has made a statutory assignment, or the Sheriff or bailiff shall certify that such person is unable to pay the full amount and costs awarded in any action for recovery of such compensation; and in the last-mentioned case the said fund shall be liable for such amount only as the Sheriff or bailiff shall fail to recover from such person.

213. All proceedings against the Registrar-General as nominal defendant, for the purpose of obtaining compensation from the Assurance Fund, shall be instituted and carried on in the following manner:—

1. The claimant shall apply to the Court upon affidavit for a rule or summons calling upon the Registrar-General,
as nominal defendant, to show cause why compensation should not be paid out of the Assurance Fund to the claimant; and the Court may grant a rule or summons accordingly, and such rule or summons shall be returnable not less than seven days after service thereof on the Registrar-General:

11. The Registrar-General may show cause against such rule or summons, and the Court may thereupon, or if no cause be shown, upon proof of service of the rule or summons, make absolute or discharge the same, or make such order as the circumstances shall require, with or without costs; or may, if satisfied that other persons should be represented on the rule or summons, require such persons to be served with notice thereof, and for that purpose adjourn the consideration of the rule or summons:

111. The Court may direct any question of fact to be tried before the said Court, and either with or without a jury, and for that purpose may direct an issue to be tried wherein the claimant shall be plaintiff, and the Registrar-General and such person or persons (if any) as the Court shall direct, shall be defendant or defendants, and the Court shall direct when and where the trial of such issue shall take place; and may adjourn the further consideration of the rule or summons until after the trial of the issue.

1V. The Court may also direct the parties to the proceedings or issue to produce on oath all deeds, books, papers, and writings in their custody or power, before the Court or the Master, on a day to be named by the Court, and each party shall have liberty to inspect the same, and take copies thereof, at his own expense; and such of them as either party shall give notice to have produced at the trial shall be produced accordingly:

v. The issue (if any) may be in the following form, or in such other form as the Court shall approve:

In the Supreme Court.

The day of in the year of our Lord, 18

Whereas A. B. affirms, and C. D. denies [here state the questions of fact to be tried] and it has been ordered by His Honor Mr. Justice according to "The Real Property Act, 1886," that the said questions shall be tried by a Jury: Therefore let the same be tried accordingly.

And in case the parties differ upon the questions of fact to be tried, the Court may either settle the same or refer them to the Master:

vi. After
The Real Property Act,—1886.

vi. After the trial of the issue the Court may, upon further consideration of the rule or summons, make such order, either with or without costs, as the circumstances shall require:

vii. Every order of the Court on such rule or summons shall have the effect of a judgment of the Court in an action:

viii. The Treasurer shall, on the production of any such order directing payment of compensation with or without costs out of the Assurance Fund, pay the same accordingly.

214. Any person deprived of any land in consequence of any such land having been included in two or more grants from the Crown, may commence and prosecute proceedings for the recovery of damages against such person as the Governor may appoint as nominal defendant, in manner provided for by Act No. 6 of 1853, or by any other Act for enforcing pecuniary claims against Her Majesty, Her heirs and successors, and in every such case the Assurance Fund shall not be liable for compensation.

215. No application to the Registrar-General nor action or proceeding for compensation for or by reason of any deprivation, loss, or damage occasioned or sustained as aforesaid, shall be made, brought, or taken, except within the period of twenty years from the time when the right to make such application or bring or take such action or proceeding first accrued.

216. If it shall appear to the satisfaction of the Court by which or before whom such action or proceeding shall be adjudicated upon that the plaintiff or claimant or the person through or under whom he claims or derives title, had actual notice of the fact occasioning the deprivation, loss, or damage complained of, and wilfully or negligently omitted to lodge a caveat, or allowed a caveat to lapse, or otherwise neglected to protect himself against such deprivation, loss, or damage, judgment shall be given against the plaintiff or claimant in such action or proceeding.

217. Any amount paid out of the Assurance Fund in consequence of any person being dead, or having been adjudged insolvent, or having made a statutory assignment, or in consequence of its not being possible to find any person within the jurisdiction of the Court, shall be deemed to have been paid on account of such person.

218. Whenever any amount has been paid out of the Assurance Fund on account of any person who shall be dead, such amount may be recovered from the estate of such person by action against his personal representatives, in the name of the Registrar-General. Whenever any such amount has been so paid on account of a person who shall have been adjudged insolvent, or made a statutory assignment, such amount shall be considered to be a debt provable upon
PART XVIII.

Judgment may be entered by Registrar-General for amount paid on account of absent persons.

219. Whenever any amount has been paid out of the Assurance Fund on account of any person who cannot be found within the jurisdiction of the Court, the Court may, upon the application of the Registrar-General, and upon production of a certificate signed by the Treasurer certifying that the amount has been paid in satisfaction of an order on proceedings taken against the Registrar-General as nominal defendant, allow the Registrar-General to sign judgment against such person forthwith for the amount so paid out of the Assurance Fund, together with the costs of the application; and such judgment shall be final, and shall have the effect of a final judgment in an ordinary action, and execution thereon may issue immediately.

PART XIX.

SPECIAL POWERS AND DUTIES OF REGISTRAR-GENERAL.

220. The Registrar-General may exercise the following powers, that is to say—

(1) He may summon the proprietor or other person making application to have any land brought under the provisions of this Act, or the proprietor, or mortgagee, or any other person interested in any land in respect of which any instrument, transmission, or other dealing is about to be registered, issued, or transacted, to produce any document of title, instrument of title, or other instrument in his possession or under his control affecting such land, or the title thereto, and to appear and give any explanation or information respecting such land, and the documents and instruments of title relating thereto, and may examine any such person in respect thereof; and the Registrar-General, if the document, instrument, explanation, or information required by him be withheld, and the same appear to him material, shall not be bound to proceed with the bringing of such land under the provisions of this Act, or with the registration or issuing of such instrument, transmission, or dealing, as the case may be:

(2) He may administer oaths, or, in lieu of administering an oath, may require any person examined by him to make and subscribe a declaration of the truth of the statements made by him in his examination:

(3) He shall, whenever the production of any duplicate certificate, or other instrument of title is required, for the purpose of entering or making on the same any memorial or
or entry by this Act directed to be entered or made thereon, or for the purpose of cancelling or correcting the same under the provisions of this Act, summon any proprietor, mortgagee, encumbrancee, or other person having the possession, custody, or control thereof, to produce the same for such purpose, and such proprietor, mortgagee, encumbrancee, or other person shall thereupon produce the same on payment of a sum of One Pound: Provided that he may, at his discretion, before so summoning any person, require evidence that such person has neglected or refused to produce such duplicate instrument on being requested so to do, and on being offered a reasonable sum for his expenses of production:

(4) He shall, upon such evidence as shall appear to him sufficient in that behalf, correct errors in certificates, or in the Register Book, or in entries made therein respectively, and supply omitted entries: Provided that, in the correction of any such error, he shall not erase or render illegible the original words, and shall affix the date on which such correction was made or entry supplied, and his initials. Every certificate, or entry so corrected or supplied shall have the like validity and effect as if such error had not been made or such entry omitted, except as regards any instrument which may have been registered previously to the actual time of correcting the error or supplying the omitted entry:

(5) He may, on behalf of Her Majesty, Her heirs or successors, or for the prevention of any fraud or improper dealing, or in any case in which it shall appear to him that an error has been made by misdescription or otherwise in any instrument, or for the protection of any person absent from the province, or under the disability of infancy, coverture, lunacy, or unsoundness of mind, enter caveats forbidding the registration of any instrument, transmission, or dealing affecting any land:

(6) He shall, where a caveat is entered to protect a sum of money, upon payment of such sum to him, withdraw such caveat:

(7) He may, with the consent of the Governor, from time to time, make such alterations in the several forms of instruments prescribed in the Schedules hereto as he may deem requisite; and every form of instrument so altered shall be published in the Government Gazette, and may thereafter be used in lieu of, and shall have the same effect as, the corresponding form prescribed by this Act, and shall be deemed an authorised form:

(8) He may require any person applying to bring land under the provisions of this Act, or any registered proprietor desiring to transfer or otherwise to deal with the land or any portion of the land comprised in his certificate, or other
other instrument of title, to deposit with him a map or plan of such land, verified by the declaration of a Licensed Surveyor; and if such person or proprietor shall neglect or refuse to comply with such requirement, it shall not be incumbent on the Registrar-General to proceed with the bringing of such land under the provisions of this Act, or with the registration of such transfer or dealing:

(9) He may dispense with the production of any duplicate instrument upon which any memorial of a transfer or other dealing is by this Act required or authorised to be entered or made; and upon the registration in any such case of a transfer or other dealing the Registrar-General shall notify in the memorial in the Register Book that no such entry has been made on the duplicate instrument; and such transfer or other dealing shall thereupon be as valid and effectual as if the duplicate instrument had been produced and such memorial or entry had been entered or made thereon: Provided that, before dispensing with the production of any such duplicate instrument, and before registering such transfer or other dealing, the Registrar-General shall, except in the case of a transmission, require the transferor or other party dealing to make a declaration that the duplicate instrument has not been deposited as security for any loan, and is not subject to any lien other than appears in the Register Book, and shall give at least fourteen days' notice of his intention to register such transfer or dealing in the Government Gazette, and in at least one newspaper published in the city of Adelaide.

221. If, upon the application of any proprietor to have land brought under the provisions of this Act, or to have any dealing or transmission registered or recorded, or to have any instrument or foreclosure order issued, or to have any act or duty done or performed which by this Act is prescribed to be done or performed by the Registrar-General, the Registrar-General shall refuse so to do, or, if such proprietor shall be dissatisfied with the direction upon his application given by the Registrar-General such proprietor may require the Registrar-General to set forth, in writing under his hand, the grounds of his refusal, or the grounds upon which such direction was given, and such proprietor may, if he think fit, at his own cost, summon the Registrar-General to appear before the Court to substantiate and uphold the grounds of his refusal or of such direction as aforesaid.

Hearing of summons.

222. Such summons shall be issued under the hand of a Judge, and shall be served upon the Registrar-General six clear days at least before the day appointed for hearing; and upon such hearing, the Registrar-General, or his counsel, shall open and have the right of reply, and the Court may, if any question of fact be involved, direct an issue to be tried to decide such question, and may make such
such order in the premises as the circumstances of the case may require, and the Registrar-General shall obey such order. All expenses of and incidental to any such proceedings shall be borne and paid by the person instituting the same, unless the Court shall certify that there were no reasonable grounds for such refusal or direction as aforesaid.

223. The Registrar-General may, whenever any question shall arise with regard to the performance or exercise of any of the duties by this Act conferred or imposed upon him, state a case for the opinion of the Court, and it shall be lawful for the Court to give judgment thereon, and such judgment shall be binding upon the Registrar-General.

PART XX.

PROCEDURE AND PENALTIES.

224. In the conduct of actions and other proceedings in the Court, provided for under the Act, there shall be the same rights of appeal, and the same rules of procedure and practice shall apply as are in force or exist for the time being in respect of actions and other proceedings of a similar nature in such Court, except as the same are varied or altered by the rules and regulations contained in the Twenty-first Schedule hereto: Provided that the Judges of the said Court shall have power, from time to time, to make other rules and orders for regulating proceedings in such Court under this Act, and, from time to time, to rescind, alter, or vary such rules and orders.

225. The Judges of the said Court shall have power from time to time to fix and regulate the fees payable upon all proceedings before the Court under this Act; and until the Judges shall otherwise order, the fees shall be according to those payable in respect of proceedings of a similar nature in the said Court.

226. Any summons issued by the Registrar-General under the authority of this Act may be in the form of the Twenty-second Schedule hereto.

227. If any person shall refuse or neglect to obey or comply with the requirements of any such summons the Registrar-General may apply to a Judge for a summons calling upon such person to show cause why he should not obey or comply with the same, and any Judge may, on the hearing of such summons, make such order in the premises as he shall think fit, and unless the Judge shall on such hearing certify that such refusal or neglect was reasonable, such person shall forfeit and pay a penalty, to be enforced by the said Judge, not exceeding One Hundred Pounds.

228. Any declaration under this Act may be made before the Registrar.
229. If any person is guilty of the following offences, or any of them (that is to say)—

(i.) Forges or procures to be forged or assists in forging or fraudulently affixes procures to be affixed or assists in affixing the seal of the Registrar-General, or an impression or part of an impression of such seal to any instrument:

(ii.) Forges or procures to be forged or assists in forging the name, signature, or handwriting of the Registrar-General or of any officer in any case where such officer is by this Act expressly or impliedly authorised to affix his signature:

(iii.) Stamps, or procures to be stamped, or assists in stamping, any document with any forged seal purporting to be the seal of the Registrar-General:

(iv.) Forges or procures to be forged or assists in forging the name, signature, or handwriting of any person whomsoever, to any instrument which is by this Act, or in pursuance of any power contained in this Act, expressly or impliedly authorised to be signed by such person:

(v.) Uses, with an intention to defraud any person whomsoever, any document upon which any impression or part of the impression of any seal of the Registrar-General has been forged, or fraudulently affixed, knowing the same to have been forged or fraudulently affixed, or any document the signature to which has been forged, knowing the same to have been forged:

Such person shall be guilty of felony.

230. If any person wilfully makes a false oath or declaration concerning any instrument, dealing, matter or procedure, under or in pursuance of this Act, such person shall be guilty of perjury.

231. Any person convictied of felony or perjury under this Act shall be liable to imprisonment for any term not exceeding fourteen years, and to be kept to hard labor and solitary confinement for any part of such term.

232. Any person who shall falsely or negligently certify to the correctness of any application or instrument under this Act, shall incur therefor a penalty not exceeding Fifty Pounds; but such penalty shall not prevent any person sustaining loss or damage in consequence of error or mistake in any such application or instrument from recovering damages against the person who shall have certified the same.

233. If
233. If any person is guilty of any of the following offences, that is to say—

(i.) Wilfully and fraudulently makes any false statement in any application to bring land under the provisions of this Act, or in any application to be registered as proprietor, whether in possession, reversion, remainder, or otherwise on a transmission, or in any other application to be registered under this Act as proprietor of any land, or any estate or interest in any land:

(ii.) Wilfully and fraudulently suppresses, withholds, or conceals, or assists, or joins in, or is privy to the suppressing, withholding, or concealing from the Registrar-General, the Acting Registrar-General, or any Deputy Registrar-General any material document, fact, or matter of information:

(iii.) Wilfully and fraudulently gives false evidence, or makes a false statement in his examination before the Registrar-General, the Acting Registrar-General, or any Deputy Registrar-General:

(iv.) Fraudulently procures or makes, or assists in fraudulently procuring or making, or is privy to the fraudulent procurement or making of any certificate or other instrument or of any entry in the Register Book, or of any erasure or alteration in any entry in the Register Book, or in any instrument or form issued by the Registrar-General:

(v.) Fraudulently uses, assists in fraudulently using, or is privy to the fraudulent using of any form purporting to be issued or sanctioned by the Registrar-General:

(vi.) Knowingly misleads or deceives any person hereinbefore authorised to demand explanation or information in respect of any land, or the title to any land, which is the subject of any application to bring the same under the provisions of this Act, or in respect of which any instrument or dealing is proposed to be registered or recorded:

Such person shall be guilty of a misdemeanor, and shall incur a penalty not exceeding Five Hundred Pounds, or may, at the discretion of the Court before which the case may be tried, be imprisoned with or without hard labor for any period not exceeding three years.

234. Any certificate, instrument, entry, erasure, or alteration procured, or made by fraud as in the last preceding section mentioned shall, whether there shall be a conviction under such section or not, be void as regards all parties or privies to such fraud.

235. All penalties for any offence against this Act, or any Act hereby repealed, not made punishable, in the first instance, by imprisonment, or, in the discretion of the Court, by fine or imprisonment, may be recovered before a Special Magistrate or two Justices of
of the Peace in a summary way on an information at the instance of any person.

236. All proceedings for recovery of penalties under this Act may be conducted as appointed by, and shall be regulated under, Ordinance No. 6 of 1850, and “The Justices Procedure Amendment Act, 1883-4.”

237. In every case of the imposition of a pecuniary penalty under this Act, and of default in immediate payment thereof, the Special Magistrate or Justices of the Peace imposing such penalty, may commit the person making default to any gaol in the province for any time not exceeding six months, such imprisonment to cease on payment of the penalty, and of the costs of such proceedings as may have been taken for the recovery thereof; but this section shall not affect any remedy under the said Ordinance No. 6 of 1850, or under “The Justices Procedure Amendment Act, 1883-4.”

238. There shall be an appeal from any conviction by any Special Magistrate or Justices under this Act, or any Act hereby repealed, or from any order dismissing any information thereunder, which appeal shall be to the Local Court of Adelaide of Full Jurisdiction only, and the proceedings on such appeal shall be conducted in manner appointed by the said Ordinance No. 6 of 1850 for appeals to Local Courts; and the Local Court of Adelaide aforesaid may make such order as to payment of costs of appeal as the Court shall think fit, although such costs may exceed Ten Pounds.

239. The Local Court of Adelaide may, upon the hearing of any appeal under the last preceding section, state one or more special case or cases for the opinion of the Supreme Court, and the Supreme Court shall hear and decide such special case or cases according to the practice of the Supreme Court on special cases, and the Supreme Court shall make such order as to the costs of any such special case as to the said Court shall appear just, and any one or more Justices or the Local Court of Adelaide shall make an order or adjudication in respect of the matters referred to the Supreme Court in conformity with the certificate of the said Supreme Court, which order of the Justices of the Peace or Local Court may be enforced in manner provided by this Act for the enforcement of orders of Justices of the Peace, and, save as herein provided, no order or proceeding of Justices or of any Local Court, made under the authority of this Act, shall be appealed against or removed by certiorari or otherwise into the Supreme Court: Provided that nothing herein contained shall affect the provisions of “The Justices Procedure Amendment Act, 1883-4.”

240. No proceeding or conviction for any act hereby declared to be a felony or a misdemeanor shall affect any remedy which any person aggrieved or injured by such act may be entitled to against the person who has committed such act, or against his estate.
241. Every map or plan required to be deposited as herein
before provided shall be in accordance with the following rules as

242. Every certificate of title for land brought under the pro-
visions of this Act after the passing hereof, shall have a diagram
drawn in the margin of such certificate, showing the measurements
of the land contained therein, such plan to be supplied by the
Surveyor-General when practicable without involving any cost to
the Government, or shall refer to a plan deposited in the Lands
Titles Office showing such measurements.

243. No person shall be deemed a licensed surveyor for the pur-
poses of this Act, unless specially licensed for such purposes by the
Surveyor-General.

244. Where any person who (if not under disability) might have
made any application, given any consent, done any act, or been
party to any proceeding under this Act, is an infant, idiot, or lunatic,
the guardian or committee of the estate of such person may make
such applications, give such consent, do such acts, and be party
to such proceedings as such person himself, if free from disability,
might have made, given, done, or been party to, and shall otherwise
represent such person for the purposes of this Act.

245. In any case where there is no guardian or committee of
the estate of any such infant, idiot, or lunatic, or where any person
entitled to any estate or interest in land is a person of unsound
mind, the Court may appoint a guardian or committee for the
purposes of this Act, and from time to time may change such
guardian or committee. The Court may also appoint a person to
act as next friend of a married woman for the purpose of any
proceedings under this Act, and may from time to time remove
or change such next friend.

246. Every instrument signed by a registered proprietor, or by
any person claiming through or under a registered proprietor, pur-
porting to pass an estate or interest in land for the registration of
which
which estate or interest provision is made in this Act shall, until
registered, be deemed to confer upon the person intended to take
under such instrument, or any person claiming through or under
him, a right or claim to the registration of such estate or interest.
The Registrar-General, upon application for such registration by
any person other than the person immediately claiming from a
registered proprietor, may reject the same altogether or may register
the applicant as proprietor of the estate or interest, either forthwith
or at the expiration of some defined period of time, and may direct
such other entries to be made in the Register Book, and such ad-
vertisements to be published, as he may deem necessary.

247. The Registrar-General may, in the event of great loss or
inconvenience being likely to arise, register any document signed
by a registered proprietor, or by any person claiming through or
under a registered proprietor, notwithstanding that such document
be not in any of the forms prescribed by this Act, nor otherwise in
accordance with the provisions hereof: Provided that such docu-
ment purports to create an estate or interest in land for the registra-
tion of which estate or interest provision is made in this Act, and
would in equity, apart from the provisions of this Act, be regarded
as vesting such estate or interest in the person intended to take
under such document. The Registrar-General, upon application
for such registration, may reject the same altogether, or may pro-
cceed as directed in the last preceding section.

248. On registering any such applicant, as mentioned in the two
last preceding sections, the Registrar-General shall, so far as possible,
enter the like memorial of every document or instrument produced
by the applicant in the same manner as if such document or
instrument had been presented for registration in its proper order
of time, and the duplicate certificate, or other instrument of title
shall be delivered up, and the like memorials or other entries made
thereon: Provided that no such registration shall be made if it
would interfere with the right of any person claiming under any
instrument previously registered under this Act.

249. Nothing contained in this Act shall affect the jurisdiction
of the Courts of law and equity in cases of actual fraud or over
contracts or agreements for the sale or other disposition of land
or over equities generally. And the intention of this Act is
that, notwithstanding the provisions herein contained for preventing
the particulars of any trusts from being entered in the Register
Book, and without prejudice to the powers of disposition or other
powers conferred by this Act on proprietors of land, all contracts and
other rights arising from unregistered transactions may be enforced
against such proprietors in respect of their estate and interest therein,
in the same manner as such contracts or rights may be enforced
against proprietors in respect of land not under the provisions of
this Act: Provided that no unregistered estate, interest, contract,
or agreement shall prevail against the title of any bona fide sub-
sequent
sequent transferee, mortgagee, lessee, or encumbrance, for valuable consideration, duly registered under this Act.

250. No *lis pendens* affecting lands under the provisions of this Act shall hereafter be registered.

251. No person shall acquire any right or title to land under the provisions of this Act by any length of adverse possession, nor shall the right of the registered proprietor to recover possession of any such land be barred by any length of adverse possession.

252. So often as any new street or road shall become vested in any Corporation or District Council by any means other than in pursuance of an order for opening the same, the Corporation or Council affected shall immediately furnish the Registrar-General with a map or plan showing particulars of the new street or road so having become vested as aforesaid.

253. Whenever an order for opening a new road or closing an old road, or for the exchange of any water or other reserve, through or affecting land under the provisions of this Act shall have been duly confirmed, the Surveyor-General shall forthwith after such confirmation forward to the Registrar-General particulars of the date of such confirmation, and of the width, length, bearings, and measurements of such road, or of the exact dimensions and position of such reserve, and of the land taken in exchange.

254. The Registrar-General shall make reference to the particulars so furnished to him as aforesaid on any plan deposited in his office which is affected thereby, and shall also make an entry on the certificate in the Register Book, and alter the plan in the margin thereof in accordance with such survey maps, plans, or particulars, and require the registered proprietor, or any mortgagee or encumbrancer, who may hold the same, to deliver up the duplicate certificate for the purpose of being cancelled or corrected, as the case may require.

255. Whenever any married woman shall make, or join in, any application to bring land under the provisions of this Act, to which she is not entitled for her separate use or as her separate property, or whenever any married woman whose husband shall be registered as co-proprietor with her, shall make, or join in, any dealing under this Act, by means of which her estate or interest in land may be alienated or diminished, it shall be necessary and sufficient, in order to give effect thereto, that she be separately examined apart from her husband, and declare that she fully understands the nature and effect of such application or dealing, and that the same was freely and voluntarily executed by her.

256. Such acknowledgment shall be made before and certified under the hand of some person authorised by either of the Acts, 1-380.
No. 15 of 1845, or No. 23 of 1872, to take acknowledgments of the deeds therein mentioned, or before and under the hand of the Registrar-General. And the certificate of such acknowledgement may be in the form of the Fifteenth Schedule hereto, or to the like effect.

Registration of woman as entitled to land for her separate use or as her separate property.

257. Any certificate or other instrument evidencing the title of any woman to land may contain a statement to the effect that she is seized of or entitled to or takes such land for her separate use, or as her separate property, and, upon registration of such certificate or other instrument, she shall be deemed the registered proprietor of the land for her separate use or as her separate property accordingly; and any married woman so registered, unless restrained from alienation, shall, for the purposes of this Act, be deemed a femme sole.

Reference to Real Property Acts.

258. Where, in any Act now in force, reference is made to the Real Property Acts, or any of them, such reference shall be deemed to extend to this Act.

General powers of Court not affected.

259. Any special jurisdiction by this Act given to the Court shall not prejudice or take away the ordinary jurisdiction of the Court.

Valuable consideration may be proved by prior instruments.

260. Whenever in any action, suit, or other proceeding, affecting the title to any land, it shall become necessary to determine the fact whether any person is a purchaser, transferee, mortgagee, encumbrancee, or lessee, for valuable consideration or not, any party to such action, suit, or other proceeding, may give in evidence any transfer, mortgage, encumbrance, lease, or other instrument affecting the title to such land, although the same may not be referred to in the certificate or may have been cancelled by the Registrar-General.

General covenants to be implied in instruments.

261. In every instrument charging, creating, or transferring any estate or interest in land, there shall be implied the following covenant by the party charging, creating, or transferring such estate or interest, with the party in whose favor such estate or interest is charged or created, or to whom the same is transferred, and his executors, administrators, and transferees, that is to say—that he, the covenanted party, will do such acts and execute such instruments as in accordance with the provisions of this Act may be necessary to give effect to all covenants, conditions, and purposes expressly set forth in such instrument, or by this Act declared to be implied against such party in instruments of a like nature.

Implied powers and covenants may be modified or negatived.

262. Every covenant and power by this Act implied in any instrument may be negatived or modified by express declaration contained in or indorsed on the instrument.
263. In any action for a breach of any such covenant, it shall be lawful to allege that the party against whom such action is brought did covenant precisely in the same manner as if such implied covenant, with or without modification, as the case may be, had been expressed in words in such instrument, any law or practice to the contrary notwithstanding; and every such implied covenant shall have the same force and effect and be enforced in the same manner as if it had been set out at length in such instrument.

264. Where any covenants are by this Act implied against two or more persons, such implied covenants shall be construed to be joint and several.

265. Where in any mortgage or encumbrance the short form of covenant given in the Sixteenth Schedule hereto and numbered 1, or where in any lease any of the other short forms of covenant given in such Schedule shall be used, the covenant set opposite such short form in the said Schedule shall be implied in such mortgage, encumbrance, or lease as fully and effectually as if set out at length therein: Provided that the parties to any such instrument may by express words add to or modify any such short form, in which case the same shall imply the covenant as set out at length, with the addition or modification so expressed.

266. Whenever, in any application or instrument under this Act, the following words shall be used "Except and always reserved to all coals, seams of coal, mines, minerals, and quarries, but paying reasonable compensation to ," they shall be taken to have the same effect, and be construed as if the form of words contained in the Seventeenth Schedule hereto had been inserted therein; and the Registrar-General, on issuing a certificate, shall insert the words so used in the application or instrument, and the same shall be as binding and effectual as if he had inserted therein the words at length contained in the said Seventeenth Schedule.

267. Instruments under this Act shall be attested by one witness who, if the person executing the instrument be personally known to such witness, may be—

If the instrument be executed within the limits of South Australia: the Registrar-General, any Deputy Registrar-General, or a Notary Public, Justice of the Peace, or Commissioner for taking Affidavits in the Supreme Court:

If executed within the United Kingdom of Great Britain and Ireland: the Mayor or other Chief Officer of any City or Corporation, or a Notary Public, or any Commissioner for taking Affidavits:

If executed in any British possession: the Officer administering the Government of, or a Judge of any Court of Record in, such possession, or a Notary Public or any Commissioner for taking Affidavits:

And
The Real Property Act.—1886.

And, if executed at any foreign place: any British Consular officer (which expression shall include Consul-General, Consul, and Vice-Consul, and any person for the time being discharging the duties of any of those offices):

Eighteenth Schedule.

And in such case the execution of the instrument shall be verified by such witness indorsing thereon a certificate in the form of the Eighteenth Schedule hereto.

Attestation, how proved in other cases.

268. Such witness, whether the instrument be executed within or without the limits of South Australia, may also be any other person, but in such case the execution of the instrument shall be proved before one of the officers or persons specified in the last preceding section by the witness acknowledging his signature to the instrument, and declaring that the party executing the same was personally known to him, that the signature thereto is in the handwriting of such party, and that such party did freely and voluntarily sign the same, and was at that time of sound mind, and such officer or other authorised person shall thereupon indorse on the instrument a certificate in the form of the Nineteenth Schedule hereto.

Nineteenth Schedule.

269. The Registrar-General may, in any case where he is satisfied of the due execution of an instrument, or in any special case, dispense with the proof of execution hereinbefore required.

Execution of instrument by Corporation.

270. A Corporation may execute instruments under the provisions of this Act by affixing thereto its common seal, and such execution shall be equivalent to signature.

Registrar-General may license land brokers.

271. The Registrar-General may, with the sanction of the Governor, license fit and proper persons to be land brokers for transacting business under the provisions of this Act, and may, with the like sanction, prescribe the charges recoverable by solicitors and brokers for such business, by any scale not exceeding the charges specified in the Twentieth Schedule hereto, and may, upon proof to his satisfaction of the malfeasance or incapacity of any such licensed broker, and with the sanction aforesaid, or upon non-payment of the annual fee hereinafter mentioned, revoke such broker’s licence, and may for every such licence charge and receive the fee of Five Pounds annually.

Twentieth Schedule.

272. Before granting any such licence the Registrar-General shall receive a bond from the person to whom the same is to be issued in the sum of Five Hundred Pounds, with two sureties, each in the sum of Two Hundred and Fifty Pounds, conditioned that such person shall duly and faithfully act in the capacity of a licensed land broker in accordance with the provisions of this Act, and such person shall make the following declaration before the Registrar-General—

I, A. B., do solemnly and sincerely declare that I will faithfully, and to the best of my ability, execute and perform all such business
273. The Registrar-General shall not receive any application for bringing land under the provisions of this Act, or any instrument purporting to deal with or affect land, unless there shall be indorsed thereon a certificate that the same is correct for the purposes of this Act, signed by the applicant or party claiming under or in respect of such instrument, or by a solicitor, or licensed land broker.

274. No person other than a solicitor or licensed land broker shall be entitled to sue for or receive any fees, costs, or charges for work done in reference to applications, transfers, or other dealings relating to land, nor to any right of set-off in respect of any such fees, costs, or charges, nor to any lien or right to retain any deed, paper, or writing which shall have come into his possession in reference to any such work.

275. Whenever a form in any Schedule hereto is directed to be used, such direction shall apply equally to any form to the like effect or for a similar purpose authorised in conformity with the provisions of this Act; and any variation from such forms, not being in matter of substance, shall not affect their validity or regularity; but they may be used with such alterations as the character of the parties or the circumstances of the case may render necessary.

276. Where by this Act notice is required to be given to or served on any person, and no special provision is made as to the mode of giving or serving such notice, it shall be sufficient if the same is posted in a registered letter directed to such person at his usual or last known place of abode in South Australia, or at his address as appearing in the Register Book or as given in any application or caveat; and such notice shall be deemed to have been served at the time when the same would in the ordinary course of the post be delivered or reach the post town or office to which or nearest to which such notice is directed: Provided that the Registrar-General may, in any special case, cause or authorise such notice to be given by advertisement in the Government Gazette and in such newspapers as he shall think fit.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

WM. C. F. ROBINSON, Governor.
**SCHEDULES REFERRED TO.**

**THE FIRST SCHEDULE.**

*Fees Payable for the performance of the several acts, matters, and things herein specified.*

**Secs. 22, 65, 201.**

For bringing land under the provisions of this Act, over and above the cost of advertisements—

<table>
<thead>
<tr>
<th>Description</th>
<th>£</th>
<th>s</th>
<th>d</th>
</tr>
</thead>
<tbody>
<tr>
<td>When the title consists of a land grant, dated on or subsequent to the 1st March, 1842, and none of the land included therein has been dealt with</td>
<td>0</td>
<td>2</td>
<td>0</td>
</tr>
<tr>
<td>When the title is of any other description, and the value exceeds £300</td>
<td>1</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Ditto ditto ditto exceeds £200, and does not exceed £300</td>
<td>0</td>
<td>15</td>
<td>0</td>
</tr>
<tr>
<td>Ditto ditto ditto exceeds £100, and does not exceed £200</td>
<td>0</td>
<td>10</td>
<td>0</td>
</tr>
<tr>
<td>Ditto ditto ditto when the value does not exceed £100</td>
<td>0</td>
<td>5</td>
<td>0</td>
</tr>
</tbody>
</table>

Contribution to the Assurance Fund upon first bringing land under the provisions of this Act, and upon the transmission of an estate of freehold, consequent upon the death of a registered proprietor—

<table>
<thead>
<tr>
<th>Description</th>
<th>£</th>
<th>s</th>
<th>d</th>
</tr>
</thead>
<tbody>
<tr>
<td>In the pound sterling</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
</tbody>
</table>

**Other fees—**

- For every application, in writing, to bring land under this Act—for each title .......................... 0 5 0
- For every certificate .................................................................................................................. 1 0 0
- Registering memorandum of transfer, mortgage, encumbrance, or lease ........................................ 0 10 0
- Registering transfer, discharge, or extension of mortgage or of encumbrance, or the transfer, surrender, or extension of a lease ......................................................... 0 5 0
- Registering proprietor of any estate or interest derived by settlement or transmission ........................................... 0 10 0
- On the deposit of a duplicate or attested copy of a power of attorney ...................................... 0 10 0
- Noting power of attorney in Register Book (each time) ..................................................................... 0 2 0
- Listing revocation of power of attorney .............................................................................................. 0 5 0
- For every registration abstract ........................................................................................................... 1 0 0
- For cancelling registration abstract .................................................................................................... 0 5 0
- On the lodging of any caveat .................................................................................................................. 0 10 0
- On removal or withdrawal of caveat, and for every notice to caveat or caveatist ............................... 0 5 0
- Issuing order for foreclosure ................................................................................................................... 1 0 0
- For every search, including inspection of plans and registered instruments ........................................ 0 2 0
- For every map or plan deposited and for every alteration therein ...................................................... 0 5 0
- On the deposit of every instrument declaratory of trusts .................................................................... 0 10 0
- For registering recovery of possession of land, or re-entry by lessor ................................................ 0 10 0
- For registering vesting of lease in mortgagee, consequent on refusal of Official Receiver or trustee to accept the same ........................................................................................................ 0 10 0
- For entering notice of marriage or death ............................................................................................... 0 10 0
- For entering notice of or satisfaction of decree, writ, or order of any Court ..................................... 0 10 0
- For taking acknowledgment of married woman ...................................................................................... 0 5 0
- For taking any declaration or affidavit .................................................................................................. 0 1 0
- For the exhibition or return of any deposited instrument, or for exhibiting or returning deeds surrendered by applicant proprietor ............................................................... 0 2 6
- For certified copy, up to five folios of seventy-two words ................................................................. 0 5 0
- For every folio or part folio after first five .................................................................................... 0 0 8
- For every instrument drawn on parchment ............................................................................................ 0 2 0
- When any instrument purports to deal with land included in more than one grant or certificate, for each registration memorial after the first ......................................................... 0 2 0
- For every entry in the Register Book not otherwise provided for ..................................................... 0 5 0
- For every diagram on a grant or certificate after first two .................................................................. 0 1 6
- For every folio or part of a folio in grant or certificate after the first four folios .............................. 0 2 0
- For every inspection of documents lodged by person claiming right-of-way or other easement .......... 0 2 0
- For every notice not otherwise provided for ........................................................................................ 0 5 0
- For registering every instrument not otherwise provided for ............................................................ 0 10 0
The Real Property Act.—1886.

THE SECOND SCHEDULE.

Application to bring Land under the provisions of "The Real Property Act, 1886."

I, A. B., of [here insert residence and description] do declare that I am [or that C. D. of (here insert residence and description)] is] seized of an estate of freehold [here state the nature of the estate of freehold] in all that piece of land situated in [here state the situation] containing [here state the area] be the same a little more or less [exclusive of roads intersecting the same, if any] with [here state rights-of-way and other privileges or easements appertaining, and set forth a sufficient description to identify the land] which piece of land is of the value of £ and no more, and is [the town allotment or country section, or is part of the town allotment, or country section] originally granted to

, by land grant under the hand and seal of , formerly Governor [or Resident Commissioner] of the Province of South Australia, dated the day of , numbered in the plan of the [district, township, or country] of , as delineated on the public maps of the province, deposited in the Survey Office, Adelaide: And I do further declare that I am not aware of any mortgage, encumbrance, or claim affecting the said land, or that any person hath any claim, estate, or interest on or in the said land, at law or in equity, in possession, reversion remainder or expectancy, or that any person has, or claims any right-of-way or other easement affecting the said land other than is set forth and stated as follows, that is to say—[here state particulars of mortgages, encumbrances, dower, or other interest to which the land may be subject, and of all rights-of-way and other easements which any other person is entitled to or claims]: And I further declare that there is no person in possession or occupation of the said lands adversely to my estate or interest [or the estate or interest of the said C. D. therein] and [that the said land is now in the occupation of, here state names and descriptions of occupants, or that the said land is now unoccupied], and that the names and addresses of the owners and occupiers of the lands contiguous thereto, are [here state the names and addresses of owners and occupiers of lands contiguous thereto, or to me unknown] and that there are no documents or instruments of title affecting the land above described in my possession or under my control, [or in the possession or under the control of the said C. D.] other than those enumerated in the Schedule hereto, and I do hereby [or if so, on behalf of the said C. D.] apply to have the land above described brought under the provisions of "The Real Property Act, 1886," and I make this solemn declaration conscientiously believing the same to be true, and appoint [here insert address within the City of Adelaide] as the address to which notices in respect of this application may be sent.

Dated at , this day of , 18 .

Made and subscribed by the above-named [Signature.]

in the presence of [Signature.]

To the Registrar-General.

I, A. B., the above declarant, hereby request you to issue the certificate of title for the land described in the above declaration in the name of

Witness to signature—

[Signature.]

The Schedule referred to.

[Here set out a list of all documents and instruments of title.]

THE THIRD SCHEDULE.

Caveat forbidding Lands to be brought under "The Real Property Act, 1886."

To the Registrar-General.

Take notice that I, A. B., of [here insert residence and description] claiming [here state the nature of the estate or interest claimed, and the ground on which such claim is founded] in the land described as [here state particulars of description from application] and mentioned in notice dated the day of , as land in respect of which an
an application has been made to have the same brought under the provisions of
"The Real Property Act, 1886," do hereby forbid the bringing of the said land
under the provisions of the said Act; and I appoint [here insert address within the
City of Adelaide] as the place at which notices and proceedings relating hereto may
be served.

Dated this day of , 18 .

[Signature.]

THE FOURTH SCHEDULE.

Register Book, vol. , folio

Sec. 73.

[If the Certificate is issued pursuant to a Transfer or other dealing, refer to it here.]

A. B., of [here insert residence and occupation or other description], is the proprie-
tor of an estate [here describe the estate of freehold] subject nevertheless to such
encumbrances, liens, and interests as are notified by memorial underwritten or
indorsed hereon in [here insert sufficient description to identify the land, and refer to
map or plan in margin of or indorsed on certificate and to the public map deposited in
the office of the Surveyor-General. The map or plan in the certificate shall, when
necessary and wherever practicable, show the distance from the nearest street, road,
or corner of a section].

In witness whereof I have hereunto signed my name and affixed my seal, this
day of 18 .

Signed the day of } [Signature of Registrar-General.] (L.S.)

18 , in the presence of }

Registrar-General.

THE FIFTH SCHEDULE.

Sec. 89.

Right-of-Way.

Together with full and free right and liberty to and for the proprietor or proprie-
tors for the time being taking or deriving title under or through this instrument, so
long as he or they shall remain such proprietors, and to and for his and their tenants,
servants, agents, workmen, and visitors, to pass and repass for all purposes, and either
with or without horses or other animals, carts, or other carriages.

THE SIXTH SCHEDULE.

Sec. 96.

Memorandum of Transfer.

I, A. B., [here insert residence and description] being registered as the proprietor
of an estate [here state the nature of the estate or interest, and if not an estate of free-
hold, refer to the instrument of title creating the same], subject, however, to such
encumbrances, liens, and interests as are notified by memorandum underwritten or
indorsed hereon in [here insert sufficient description to identify the land intended to be
transferred, and (or) over which any right-of-way or other easement is intended to be
created or transferred, and refer to the existing grant or certificate of the land, and
state whether the land intended to be dealt with is the whole or part only of that com-
prised in the grant certificate or other instrument of title, and if part only set forth the
boundaries in chains, links, or feet, and refer to the plan delineated in the margin of
or annexed to the transfer, or to a deposited plan showing such boundaries] in con-
sideration of [here set forth the consideration, and from whom it moves: if a money
consideration say: in consideration of the sum of £ paid to me by C. D., of [here
insert residence and description], the receipt of which sum I hereby acknowledge: if
any other consideration set out the same, and from whom it moves], do hereby transfer
The Real Property Act.—1886.

[or if an easement is created say grant] to the said C. D. [or to C. D., of here insert residence and description] all my estate and interest [or if the transfer is by a mortgage or encumbrance exercising power of sale, say, all the estate and interest of (the mortgagor’s or encumbrancer’s name) or if the transfer is of a less estate or of an easement, describe same] in [or over, or as the case may be] the said land above described. [If the easement is appurtenant say together with and describe the easement.]

In witness whereof I have hereunto subscribed my name this day of 18.

[Signature.]

---

THE SEVENTH SCHEDULE.

Form of Transfer of Land upon Sale under Writ of Fieri Facias, or under a Warrant of Execution.

I, [insert name], as [insert title of officer executing transfer] the person appointed to execute the writ or warrant hereinafter mentioned, in pursuance of a writ of fieri facias, tested the day of one thousand eight hundred and and issued out of the Supreme [or as the case may be] Court in an action wherein A. B. is plaintiff and C. D. is defendant, which said A. B. [or C. D.] is registered as the proprietor of an estate [here state nature of the estate] in the land hereinafter described, subject to the encumbrances, liens, and interests notified by memorandum, underwritten, or indorsed hereon, in consideration of the sum of £ paid to me by E. F. [insert residence and description] do hereby transfer to the said E. F. all the estate and interest of the said A. B. [or C. D.] in all that piece of land [here insert description of the land, and refer to the debtor’s grant or certificate].

Dated the day of one thousand eight hundred and
[Sheriff’s or other officer’s signature.]

---

Form of Transfer of Lease, Mortgage, or Encumbrance upon Sale, under Writ of Fieri Facias, or under a Warrant of Execution.

I, [insert name], as [insert title of officer executing transfer], the person appointed to execute the writ or warrant hereinafter mentioned, in pursuance of a writ of fieri facias, tested the day of one thousand eight hundred and and, and issued out of the Supreme [or as the case may be] Court in an action wherein A. B. is plaintiff and C. D. is defendant, which said A. B. [or C. D.] is registered as the proprietor of a lease [or mortgage, or encumbrance, as the case may be] numbered of [or upon] the land hereinafter described, subject to the encumbrances, liens, and interests notified by memorandum underwritten, or indorsed hereon, in consideration of the sum of £ paid to me by E. F. [insert residence and description], do hereby transfer to the said E. F. all the estate and interest of the said A. B. [or C. D.] in all that piece of land [here describe the land according to the description in the lease, mortgage, or encumbrance, or in general terms by reference to the registered instrument].

Dated the day of one thousand eight hundred and
[Sheriff’s or other officer’s signature.]

---

Form of Transfer of Land under Decree or Order of Supreme Court.

I, [insert name], in pursuance of a decree or order of the Supreme Court, dated the day of one thousand eight hundred and entered in the Register Book, Vol., folio hereby transfer to E. F. [insert residence and description], subject to the encumbrances, liens and interests notified written or indorsed hereon, all the estate and interest of C. D. of [here state residence and description] in all that piece of land being [here insert
THE REAL PROPERTY ACT.—1886.

insert description of the land, and refer to the grant or certificate], in respect of which the said C. D. is registered as the proprietor of an estate [here state the nature of the estate].

Dated the day of one thousand eight hundred and [Signature.]

Form of Transfer of Lease, Mortgage, or Encumbrance under Decree or Order of Supreme Court.

Sec. 107.

I, [insert name], in pursuance of a decree or order of the Supreme Court, dated the day of , one thousand eight hundred and entered in the Register Book, Vol. folio hereby transfer to E. F. [insert residence and description], subject to the encumbrances, liens, and interests notified by memorandum underwritten or indorsed hereon, all the estate and interest of C. D., of [here state residence and description] who is registered as the proprietor of a lease [or mortgage, or encumbrance, as the case may be], numbered of [or upon] the land hereinafter described in all that piece of land [here describe land, according to the description in the lease, mortgage, or encumbrance, or in general terms by reference to the registered instrument].

Dated the day of , one thousand eight hundred and [Signature.]

THE EIGHTH SCHEDULE.

Memorandum of Lease.

Sec. 116.

I, A. B., of [here insert residence and description] being registered as the proprietor of an estate [here state the nature of the estate or interest, and if not an estate of freehold refer to the instrument of title creating the same], subject, however, to such encumbrances, liens, and interests as are notified by memorandum underwritten or indorsed hereon, in [here insert sufficient description to identify the land and follow the other directions given in the form of a transfer in the Seventh Schedule hereto so far as the same are applicable] do hereby lease to C. D. of [here insert residence and description] all the said lands [if so, together with, here describe the easements if any] to be held by him the said C. D., as lessee for the space of years from the day of 18 , at the yearly rental of £ , payable [here insert terms of payment of rent] subject to the following covenants, conditions, and restrictions [here set forth special covenants, if any].

I, the above-named C. D., do hereby accept this Lease of the above-described lands [if so, and easements] to be held by me as lessee, and subject to the conditions, restrictions, and covenants above set forth.

Dated this day of 18 [Signature.]

THE NINTH SCHEDULE.

Memorandum of Mortgage.

Section 129.

I, A. B., of [here insert residence and description] being registered as the proprietor of an estate [here state nature of the estate or interest, and if not an estate of freehold refer to the instrument of title creating the same], subject, however, to such encumbrances, liens, and interests as are notified by memorandum underwritten or indorsed hereon, in [here insert sufficient description to identify the land and follow the other directions given in the form of a transfer in the Sixth Schedule hereto so far as the same are applicable].

In consideration of the sum of £ , this day lent to me by C. D., of [here insert residence and description], the receipt of which sum I hereby acknowledge, do hereby covenant with the said C. D., that I will pay to him, the said C. D., the
the above sum of £100 on the day of 18 .

Secondly, that I will pay interest on the said sum of £100 at the rate of £100 by the year, by equal payments on the , in every year. Thirdly [here set forth special covenants, if any]. And for the better securing to the said C. D. the repayment in manner aforesaid of the said principal sum and interest, I hereby mortgage to the said C. D., all my estate and interest in the said land [if so, and easements] above described.

In witness whereof I have hereto signed my name this day of 18 .

[Signature.]

THE TENTH SCHEDULE.

Memorandum of Encumbrance for securing a sum of Money.

I, A. B., of [here insert residence and description] being registered as the proprietor of an estate [here state nature of the estate or interest, and if not an estate of freehold refer to the instrument of title creating the same] subject, however, to such encumbrances, liens, and interests as are notified by memorandum underwritten or inscribed hereon, in [here insert sufficient description to identify the land and follow the other directions given in the form of a transfer in the Sixth Schedule hereto so far as the same are applicable].

And desiring to render the said land [if so, and easements] available for the purpose of securing to and for the benefit of C. D. the [sum of money, annuity, or rent charge] hereinafter mentioned, do hereby encumber the said land [if so, and easements] for the benefit of the said C. D. with the [sum, annuity, or rent charge] of £ , to be raised and paid at the times and in the manner following, that is to say—[here state the times appointed for the payment of the sum, annuity, or rent charge intended to be secured, the interest, if any, and the events on which such sum, annuity, or rent charge shall become and cease to be payable, also any special covenants or powers and any modification of the powers or remedies given to an encumbrancer by "The Real Property Act, 1886"]. And subject as aforesaid the said C. D. shall be entitled to all powers and remedies given to an encumbrancer by "The Real Property Act, 1886."

In witness whereof I have hereunto signed my name this day of 18 .

[Signature.]

THE ELEVENTH SCHEDULE.

Transfer of Mortgage, Lease, or Encumbrance, to be indorsed on original Mortgage, Encumbrance, or Lease.

Transferred to C. D., of [here insert residence and description], in consideration of £ . Receipt acknowledged. [Signature.]

[If transfer of lease add Accepted, C.D., transferee.]

THE TWELFTH SCHEDULE.

Caveat forbidding Registration, of dealing with Estate or Interest.

To the Registrar-General of South Australia.

Take notice that I, A. B., of [residence and description], claiming [here state the nature of the interest claimed, and the grounds upon which such claim is founded] in [describe land, and refer to grant or certificate] forbid the registration of any dealing
The Real Property Act.—1886.

dealing with the estate or interest of C. D. in the said land [if so unless such dealing shall be expressed to be subject to my claim]. Address for service of notices and proceedings: [Here insert an address within the City of Adelaide].

Dated this day of 18.

A. B. [or A. B., by his agent, E. F.]

I, the above-named A. B. [or E. F., of (residence and description), agent for the above-named A. B.], make oath and say [or declare] that the allegations in the above Caveat are true in substance and in fact [if no personal knowledge add, as I have been informed and verily believe].

Sworn [or declared] by the said A. B. [or E. F.] at this day of 18.

Before me.

THE THIRTEENTH SCHEDULE.
Power of Attorney.

Section 155.

I, A. B., of [here insert residence and description], do hereby appoint C. D. of [here insert residence and description], as my attorney, and authorise him to act for me in making applications to bring any land, estate, or interest [or if it is only intended to give power to bring any particular land under the provisions of this Act, describe same] of which I am, or shall hereafter be, seized or possessed under the provisions of "The Real Property Act. 1886," and to execute all or any instruments that may be necessary for giving effect to any dealing with any land, estate, or interest of which I am or may be the registered proprietor [or if it is intended to limit the power to particular land or to particular dealings, shortly describe the same]. In witness whereof I have hereunto set my hand this day of 18.

[Signature.]

THE FOURTEENTH SCHEDULE
Revocation of Power of Attorney.

Section 167.

I, A. B., of [here insert residence and description], do hereby revoke the power of attorney, dated the day of 18, given by me to C. D., of [here insert residence and description].

Dated this day of 18.

[Signature.]

THE FIFTEENTH SCHEDULE.
Certificate of Acknowledgment of Married Woman.

Section 256.

I certify that this [or the within] instrument was this day produced before me, and was acknowledged by , the wife of , therein named, being personally present before me, and being of full age and competent understanding, to be her act and instrument; previous to which acknowledgment the said being examined by me separately and apart from her husband touching her knowledge of the contents of the said instrument, and her consent thereto, declared that she fully understood the nature and effect thereof, and that the same was freely and voluntarily executed by her.

As witness my hand this day of 18.

[Signature.]
THE SIXTEENTH SCHEDULE.

Short Forms of Covenants and their Interpretation.

1. The mortgagor or encumbrancer will insure:

   The mortgagor or encumbrancer will insure, and during the continuance of this mortgage keep insured, against loss or damage by fire, in the name of the mortgagee or encumbrancee, in some public insurance office to be approved by the mortgagee or encumbrancee, to the amount of their full value, all buildings and erections which shall for the time being be erected on the mortgaged land, and shall be of a nature or kind capable of being so insured, and will when required by the mortgagee or encumbrancee deposit with him the policy of every such insurance, and within seven days after each premium shall become payable the receipt for such premium, and if default shall be made in the observance or performance of this covenant, it shall be lawful for the mortgagee or encumbrancee, without prejudice, nevertheless to and concurrently with the powers granted him by this mortgage and by "The Real Property Act, 1886," to insure such buildings and erections, and the costs of such insurance shall be a debt from the mortgagor or encumbrancer to the mortgagee or encumbrancee, and shall be added to the principal moneys hereby secured, and shall, during the continuance of this mortgage, be a charge upon the mortgaged land, and bear interest at the same rate as the said principal moneys, and all moneys which shall be received by virtue of any such insurance as aforesaid, shall, at the option of the mortgagee or encumbrancee, be laid out in making good the loss or damage in respect of which the same shall be received or be applied by the mortgagee or encumbrancee in or towards satisfaction of the moneys hereby secured.

2. The lessee will insure:

   The lessee will insure, and during the continuance of this lease keep insured, against loss or damage by fire, in the joint names of the lessor and the lessee, in some public insurance office to be approved by the lessor, to the amount of their full value, all buildings and erections which shall for the time being be erected on the land hereby leased, and shall be of a nature or kind capable of being so insured, and will, when required by the lessor, deposit with him the policy of every such insurance, and within seven days after each premium shall become due the receipt for such premium, and on any breach or non-observance of this covenant the lessor may, without prejudice to and concurrently with the other powers granted to him by this lease and "The Real Property Act, 1886," so insure such buildings and erections, and the costs of effecting such insurance shall be added to the rent hereby reserved, and shall be a charge upon the said leased land, and recoverable by action or distress in the same manner as the said rent is recoverable. All moneys which shall be received under or by virtue of any such insurance as aforesaid shall be laid out and expended in making good the loss or damage in respect of which the same shall be received.

3. The lessee will paint outside every alternate year:

   The lessee will, in every alternate year during the currency of this lease, paint all the outside woodwork and ironwork belonging to the premises hereby leased, with two coats of proper oil colors, in a workmanlike manner.

4. The
4. The lessee will paint and paper inside every third year: The lessee will, in every third year during the currency of this lease, paint the inside wood, iron, and other work belonging to the premises hereby leased, and now or usually painted, with two coats of proper oil colors, in a workmanlike manner, and also re-paper, with paper of the quality now used, such parts of the said premises as are now papered, and also wash, stop, whiten, or color such parts of the said premises as are now washed, stopped, whitened, or colored respectively.

5. The lessee will fence: The lessee will, during the continuance of this lease, erect and put up a good, and substantial fence on the boundaries of the said leased land upon which no substantial fence now exists.

6. The lessee will cultivate: The lessee will, during the continuance of this lease, cultivate, use, and manage all such parts of the land hereby leased as are or shall be broken up or converted into tillage in a proper and husbandmanlike manner, and will not impoverish or waste the same.

7. The lessee will not use the premises as a shop: The lessee will not convert, use, or occupy the premises hereby leased, or any part thereof, into or as a shop, warehouse, or other place for carrying on any trade or business whatsoever, or permit or suffer the said premises, or any part thereof, to be used for any such purpose or otherwise than as a private dwelling-house, without the consent in writing of the lessor.

8. The lessee will not carry on offensive trades: The lessee will not, during the continuance of this lease use, exercise, or carry on, or permit or suffer to be used, exercised, or carried on, upon the premises hereby leased, or any part thereof, any noxious, noisome, or offensive art, trade, business, occupation, or calling, or do, permit, or suffer any act, matter, or thing whatsoever upon the said premises, or any part thereof, which shall or may be or grow to the annoyance, nuisance, grievance, damage, or disturbance of the occupiers or owners of the adjoining lands and hereditaments or any of them.

9. The lessee will not without leave assign or sublet: The lessee will not assign, transfer, demise, sublet, or set over, or otherwise by any act or deed procure the leased land, or any part thereof, to be assigned, transferred, demised, sublet, or set over unto any person whomsoever, without the consent in writing of the lessor first had and obtained.

10. The lessee will not cut timber: The lessee will not cut down, fell, injure, or destroy any growing or living timber or timber-like trees standing or being upon the leased land, without the consent in writing of the lessor.

11. The lessee will carry on the business of a publican, and conduct the same in an orderly manner; will apply for renewal of licence, and will facilitate transfer of licence: The lessee will at all times, during the continuance of this lease, use, exercise and carry on in and upon the leased premises the trade or business of a licensed victualler or publican, and retailer of spirits, wines, ales, beer, and porter, and keep open and use the messuage, tenement, or inn, and buildings upon the leased land as for an inn or public-house for the reception, accommodation, and entertainment of travellers, guests, and other persons resorting thereto or frequenting the same, and manage and conduct such trade or business in a quiet and orderly manner, and will not do, or commit, or permit, or suffer to be done or committed, any act, matter, or thing whatsoever whereby or by means whereof any licence shall or may be forfeited or become void, or liable to be taken away, suppressed, or suspended in any manner howsoever; and also will from time to time during the continuance of this lease, at the proper times for that purpose, apply for and
and endeavour to obtain, at his own expense, all such licences as are or may be necessary for carrying on the said trade or business of a licensed victualler or publican in and upon the said leased premises, and keeping the said messuage, tenement, or inn open as and for an inn or public-house as aforesaid: and also will at, or if necessary before, the expiration or other sooner determination of this lease, sign and give such notice or notices for renewal or transfer of any licence as may be requisite or as may be desired by the lessor, and allow such notice or notices for renewal or transfer of any licence as may be required by law to be affixed to the said messuage, tenement, or inn, to be thereto affixed and remain so affixed during such time or times as shall be necessary or expedient in that behalf, and generally will do all such further acts, matters, and things as shall be necessary to enable the lessor, or any person authorised by him, to obtain the renewal of any licence, or any new licence, or the transfer of any licence then existing and in force.

THE SEVENTEENTH SCHEDULE.

Except and always reserved to his heirs, executors, administrators, and assigns, all coals, seams of coal, mines, minerals, and quarries of stone and slate which now are, or at any time hereafter may be found in, upon, or under the said land and premises, with full liberty of ingress, egress, and regress, at all times, to and for the said lands and premises, and every or any part thereof, and full right there to view, survey, dig for, work, store, carry away, sell, and dispose of the said coals, mines, minerals, and quarries of stone and slate; and also for the purposes aforesaid, to erect steam-engines and other machinery, with the buildings necessary thereto, and to sink pits, make wagon-ways, and use all other inventions and means for draining, sinking, storing, leading, carrying away, selling and disposing of such coals, mines, minerals, stone, and slate, doing or suffering to be done as little damage as possible in the exercise of the said liberties and rights, and paying and allowing to his heirs, executors, administrators, and assigns, a reasonable compensation for damage to the surface of the said land, or any buildings or fences thereon.

THE EIGHTEENTH SCHEDULE.

Certificate of Registrar-General, Justice of the Peace, &c., before whom instrument may have been executed by the parties thereto.

Appeared before me at the day of A. B., of [here insert residence and description], the party executing the within instrument, being a person well known to me, and did freely and voluntarily sign the same.

(Signed) Registrar-General, J.P., &c.

THE NINETEENTH SCHEDULE.

Certificate of Registrar-General, Justice of the Peace, &c., taking declaration of attesting witness.

Appeared before me at the day of 18 C. D., of [here insert name, residence, and description of attesting witness], a person known to me and of good repute, attesting witness to this instrument, and acknowledged his signature to the same; and did further declare that A. B., the party executing the same, was personally known to him the said C. D., that the signature to the said instrument is in the handwriting of the said A. B., and that the said A. B. did freely and voluntarily sign the same, and was at that time of sound mind.

(Signed) Registrar-General, J.P., &c.
THE TWENTIETH SCHEDULE.

Scale of Charges for Solicitors and Brokers.

<table>
<thead>
<tr>
<th>Description</th>
<th>£</th>
<th>s</th>
<th>d</th>
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<tbody>
<tr>
<td>For application to bring land under Act.</td>
<td>1</td>
<td>0</td>
<td>0</td>
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<tr>
<td>Where the title has not remained in the original grantee, an extra charge</td>
<td></td>
<td></td>
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<td>may be made in proportion to the trouble, such cases being more in the</td>
<td></td>
<td></td>
<td></td>
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<td>nature of conveying.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>For entering caveats (exclusive of professional charges incident to litigation pending)</td>
<td>1</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>For a memorandum of transfer</td>
<td>1</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>For a mortgage or encumbrance</td>
<td>1</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>For a memorandum of lease if in duplicate</td>
<td>1</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>For a memorandum of lease if in triplicate</td>
<td>1</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>For a discharge or transfer of mortgage</td>
<td>0</td>
<td>10</td>
<td>0</td>
</tr>
<tr>
<td>For a transfer or surrender of lease</td>
<td>0</td>
<td>10</td>
<td>0</td>
</tr>
<tr>
<td>For a power of attorney</td>
<td>1</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Where implied covenants or powers are modified, or any covenants, not being such for which short forms are given, are introduced in any instrument, extra</td>
<td>0</td>
<td>10</td>
<td>0</td>
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</table>

No charges shall be made other than the above, unless by special agreement, and such charges shall be deemed to include all letters and attendances necessary for preparing any instrument and obtaining the signatures and declarations thereto, and also all attendances in registering any instrument and searching the title thereof.

THE TWENTY-FIRST SCHEDULE.


1. The caveator may bring an action for the purpose of establishing his claim, or may for such purpose take proceedings by way of petition to the Supreme Court. Such petition shall be filed, and shall contain, as concisely as may be, a statement of the material facts on which the petitioner relies, such statement to be divided into paragraphs, numbered consecutively, each paragraph containing, as nearly as may be, a separate and distinct allegation, and shall state specifically what estate, interest, or charge the petitioner claims; and the Master of the said Court shall, upon the receipt of such petition, appoint a time for hearing the same.

2. The petitioner shall cause a copy of such petition, with notice of the time appointed for hearing, to be served seven days at least before the time appointed for the hearing of the said petition, on the caveatee, or at the address given in his application.

3. On the day of hearing, the caveatee is personally, or by counsel, to show cause, and if necessary by affidavit, why the prayer of such petition should not be granted.

4. If the caveatee shall not appear on the day appointed for the hearing, the Court may, upon due proof of the service of such petition, make such order, in the absence of the caveatee, either for the establishment of the rights of the caveator, or as the nature and circumstances of the case may require, as to such Court may seem meet.

5. On the hearing of the petition, and upon reading the affidavits, if any, filed in support thereof, and any documents produced to the Court, and hearing what may be alleged on behalf of the caveatee and caveator, the Court may, if it shall think fit, make an order establishing the right of the caveator, or directing any inquiries to be made or other proceedings taken for the purpose of ascertaining the rights of the parties, and for that purpose may adjourn the hearing and order the petition to be served on any other persons the Court may consider necessary, and every person so served shall attend at the adjourned hearing of the petition; or the Court may dismiss the petition.

6. The Court may, if it shall think fit, direct any question of fact brought before it to be decided before a Judge thereof; and for that purpose may direct an issue to be tried, wherein the caveator shall be plaintiff and the caveatee shall be defendant; and the said Court shall direct when and where the trial of such issue shall take place; and the Court may also direct the parties to produce all deeds, books, papers, and writings in their custody or power, on oath before the Master, on a day to be named by the Court, and each party shall have liberty to inspect the same, and take

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<th>Description</th>
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<tr>
<td>Question of fact may be referred to a jury.</td>
<td></td>
</tr>
<tr>
<td>Parties to produce deeds, &amp;c.</td>
<td></td>
</tr>
</tbody>
</table>
The Real Property Act.—1886.

Copies thereof, at his own expense; and such of them as either party shall give notice to have produced at the trial, shall be produced accordingly, and the issue may be in the form following, viz.:—

In the Supreme Court.
The day of in the year of our Lord, 18
SOUTH AUSTRALIA 
Whereas A. B. affirms and C. D. denies [here state the questions of fact to be tried] and it has been ordered by His Honor Mr. Justice
that the said questions shall be tried by a jury: Therefore let the same be tried accordingly.

And in case the parties differ upon the questions to be tried, the Court may either settle the same or refer them to the Master.

7. If the Court shall find that the caveator is entitled to all or some of the relief claimed by him, the order of the Court shall declare what is the estate, interest, lien, or claim to which the caveator is entitled, and the Court may make such order as the circumstances may require, and shall have power to afford the caveator the same relief as in an ordinary action.

8. Every order of the Court made under these Rules shall have the same effect as a judgment or order of the Court given or made in an action; and the Registrar-General shall make such entries in the Register Book, and do such things as may be necessary to give effect to the order of the Court.

9. If, at the hearing of such petition, it shall appear to the Court that, for the purposes of justice, it is necessary or expedient that an action should be brought, the Court may order such action to be brought accordingly, subject to such terms as to costs or otherwise as may be thought proper.

10. In all proceedings in the Court, either by the caveator or caveatee, the Court may make such order as to the costs of the proceedings in the Court and incidental to filing the caveat, as to the said Court shall seem fit.

11. The Court or a Judge may, without prejudice to the exercise of any other power of the Court, upon the application of any person interested in any land, make an order restraining for a time, or until the occurrence of an event to be named in such order, or generally until further order, the execution or registration of any dealing with land, and may impose any terms and conditions upon making such order.

12. The Court may discharge any such order, with or without costs, and generally act in the premises in such manner as the justice of the case requires; and the Registrar-General, without being made a party to the proceedings, upon being served with any order, or a copy thereof, shall obey the same.

THE TWENTY-SECOND SCHEDULE.

Summons by Registrar-General.

In the matter of "The Real Property Act, 1886."
A. B. [here insert addition] is hereby summoned to appear before me at the Lands Titles Office, on the day of , one thousand eight hundred and , at of the clock in the [fore or after] noon, then and there [here insert purpose of summons and describe the documents or instruments (if any) required to be produced].

Given under my hand and seal the day of , one thousand eight hundred and , Registrar-General. (L.S.)

Section 228.

Adelaide: By authority, E. SPILLER, Government Printer, North-terrace.

L—380.