



TRINIDAD AND TOBAGO.

*Amended by Ord # 41/47*

No. 20—1945.

[L.S.]

I ASSENT,

A. B. WRIGHT,  
*Acting Governor.*

3rd August, 1945.

AN ORDINANCE relating to the Registration of Titles to Land.

[On Proclamation.]

Commence-  
ment.

**E**NACTED by the Governor of Trinidad and Tobago with the Enactment. advice and consent of the Legislative Council thereof.

1. This Ordinance may be cited as the Real Property Ordinance, 1945, and shall come into force on a date to be fixed by the Governor by proclamation. Short title

Interpre-  
tation.

2. (1) In this Ordinance—

- “applicant” means the person applying for a certificate of title ;
- “caveator” means the person lodging a caveat with the Registrar General ;
- “charge” includes any charge on land created for the purpose of securing the payment of an annuity or sum of money ;
- “Court” means the Supreme Court ;
- “encumbrance” includes all prior estates, interests, rights, claims and demands which can or may be had, made or set up in or upon or in respect of the land ;
- “encumbrancer” means the person in whose favour an encumbrance subsists ;
- “endorsement” on any instrument, includes any writing which, owing to want of space on the back of such instrument, has been written on a paper attached thereto, and “endorsed” has a corresponding meaning ;
- “grant” means any Crown grant of land ;
- “grant” and “certificate of title” respectively include the duplicate grant or certificate of title ;
- “incapable person” includes any married woman who is under the law for the time being in force under any legal incapacity so far as she is under such incapacity, an infant, an insane person, a person of unsound mind, and any other person who is under any legal incapacity so far as he is under such incapacity ;
- “insane person” means any person who shall have been found to be insane upon enquiry by the Court, or upon a commission of enquiry, issuing out of any Court of competent jurisdiction, in the nature of a writ *de lunatico inquirendo* ;
- “instrument” means any grant, certificate of title, conveyance, assurance, deed, map, plan, will, probate, letters of administration, or exemplification of will, or any other document in writing relating to the transfer or other dealing with land or evidencing title thereto ;
- “Judge” means a Judge of the Court ;

- “land” means land, messuages, tenements, and hereditaments, corporeal and incorporeal, of every kind and description, or any estate or interest therein, together with all paths, passages, ways, watercourses, liberties, privileges, easements, plantations, gardens, mines, minerals, and quarries, and all trees and timber thereon or thereunder lying or being, unless any such are specially excepted ;
- “memorial” means the endorsement on a grant or certificate of title and on the duplicate thereof of the particulars of any instrument registered under the provisions of this Ordinance ;
- “mortgage” means any charge on land for securing a debt ;
- “mortgagee” means the person in whose favour land stands charged to secure a debt ;
- “mortgagor” means the proprietor of land or of any estate or interest in land mortgaged ;
- “person of unsound mind” means any person, not an infant, who, having not been found on enquiry to be an “insane person” shall be incapable from infirmity of mind to manage his own affairs ;
- “personal representative” means executor or administrator, and includes the Administrator General ;
- “proprietor” means any person seised or possessed of any freehold or other estate or interest in land, whose name appears or is entered as the proprietor thereof in the Register Book, in possession or in futurity or expectancy ;
- “registered” means registered under this Ordinance, and “registration” has a corresponding meaning ;
- “Registrar General” means the Registrar General of the Colony, and includes every Deputy Registrar General ;
- “transfer” includes transfer without valuable consideration ;
- “transmission” means the acquisition of title to any estate or interest in land consequent on the death, will, intestacy, bankruptcy or insolvency of a proprietor.

(2) In any certificate of title or instrument issued or registered by the Registrar General under this Ordinance, and intended to create, charge, or transfer an estate in fee, the proper words of succession or inheritance shall be implied.

## PART I.

## PRELIMINARY.

3. The Judges shall deal with all applications for bringing land under the provisions of this Ordinance, and for other the purposes hereinafter declared.

Judges to deal with applications.

Subject to such rules as may from time to time be in force and relating to such applications, all such applications may be heard and determined by any Judge in Chambers.

4. The department of the Registrar General shall be the department authorised to carry into execution the provisions of this Ordinance, and the Registrar General and the other officers and clerks of the said department shall perform all the duties of their respective offices under this Ordinance.

Registrar General's Department.

5. The Governor may appoint one or more persons, being barristers or solicitors, to be, in addition to the Registrar General, Examiners of Title, hereinafter called "Examiners," to advise and assist in carrying out the provisions of this Ordinance.

Examiners of Title.

6. The Registrar General may exercise the following powers—

Powers of Registrar General.

Production of documents.

- (a) he may require the applicant or other person making or concurring in any application to have any land brought under the provisions of this Ordinance, or the proprietor or mortgagee or any other person interested in any land under the provisions of this Ordinance in respect to which any transfer, lease, mortgage, encumbrance, or other dealing or any release from any mortgage or encumbrance, is about to be transacted, or in respect of which any transmission or other matter is about to be registered under this Ordinance, to produce any instrument affecting such land or the title thereto in his possession or custody or within his control, and to furnish him with the dates and protocol numbers of deeds and other instruments affecting such land or the title thereto, and may require any person having any such instrument in his possession or custody or within his control and power, to produce such instrument for the purpose required;

- (b) he may require any such applicant, proprietor, mortgagee, or other person as aforesaid to appear and give any explanation respecting such land or the instruments affecting the title thereto; and if, upon requisition in writing made by the Registrar General, such applicant proprietor, mortgagee, or other person refuses or wilfully neglects to produce any such instrument, or to allow the same to be inspected, or wilfully refuses or neglects to give any explanation which he is hereinbefore required to give, or knowingly misleads or deceives any person hereinbefore authorised to demand any such explanation, he shall, for each such offence, be liable, on summary conviction, to a fine of four hundred and eighty dollars; and the Registrar General, if the instrument or information so withheld appears to him material, shall not be bound to proceed with the bringing of such land under the provisions of this Ordinance, or with the registration of such transfer or other dealing, as the case may be;
- (c) he may administer oaths, or may take a statutory declaration in lieu of administering an oath;
- (d) he may, upon such evidence as shall appear to him sufficient in that behalf, correct errors in grants or certificates of title or in any plan thereto annexed, or in the Register Book or any plan therein included, or in entries made therein respectively, and may supply entries omitted to be made under the provisions of this Ordinance: Provided that in the correction of any such error, he shall not erase or render illegible the original words or lines, and shall affix the date on which such correction was made or entry supplied, with his initials, and every grant or certificate of title so corrected, and every 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 entry made in the Register Book prior to the actual time of correcting the error or supplying the omitted entry: Provided also, that he shall not correct any error which is not in his opinion a clerical error without the order of a Judge to be obtained by the party requiring such correction;

Appearance  
of parties.

Oaths.

Correction  
of errors.

Caveat.

(e) he may enter a caveat on behalf of any incapable person, or any person absent from the Colony, or any person whom he may believe to be so incapable or absent, or on behalf of His Majesty, to prohibit the transfer of or dealing with any land belonging or supposed to belong to any such person, and also to prohibit the transfer of or dealing with any land either by the proprietor or generally, in any case in which it shall appear to him that an error has been made by misdescription of such land or otherwise in any grant or certificate of title or other instrument, or that such land has been forfeited under the Lands and Buildings Taxes Ordinance, or for the prevention of any fraud or improper dealing ;

Ch. 33. No. 2.

Other powers.

(f) he may exercise all powers necessary or incidental to the proper exercise of any power vested in him.

## PART II.

### BRINGING LAND UNDER THE ORDINANCE.

Unalienated land.

7. All Crown lands, and all lands set apart for public purposes remaining unalienated from the Crown, shall, when granted in fee simple or in fee tail, be subject to the provisions of this Ordinance. The grants of such land shall be in duplicate, and every such grant, in addition to proper words of description, shall contain a map of the land thereby granted on the prescribed scale, and shall be delivered to the Registrar General, who shall, subject to the provisions of this Ordinance, register the same in manner hereinafter directed.

Alienated land.

8. Land alienated from the Crown in fee simple or in fee tail (whether such land shall constitute the whole or only part of the land included in any grant), and all other lands within the Colony, except those dealt with in the last preceding section, may, if not already under the provisions of this Ordinance, be brought thereunder in the following manner ; that is to say, the Registrar General shall receive application in Form A of the First Schedule, if made by any of the following persons, and subject to the provisions of the next succeeding section—

Form A.  
1st Schedule.

(a) by any person claiming to be the person in whom the fee simple in possession, or the fee tail, either at law or in equity, or a general power of appointing by deed such fee simple in possession, is vested :  
Provided that wherever trustees seised in fee

simple have no express power to sell the land which they may seek to bring under the provisions of this Ordinance, the person claiming to be beneficially entitled for the first life estate or other greater estate than a life estate in the said land shall join in or otherwise consent to such application: Provided also, that if by the instrument creating the trust, or conferring the power of sale, the consent of any person to a sale is necessary, such person shall consent to the application;

- (b) by any person claiming a life estate in possession or a leasehold for a life or lives, or having a term of not less than twenty-one years then current: Provided that, except in the case of an application by a lessee as regards the concurrence of his lessor, all persons claiming to be beneficially entitled in reversion or remainder shall join in such application.

9. No application under the last preceding section shall be received from any person claiming to be entitled jointly with another or others to any land or to be entitled to an undivided share of any land, unless such other person or persons jointly entitled to such land or entitled to the remaining undivided share or shares therein, shall join in such application and apply to have the entirety of such land brought under the provisions of this Ordinance; nor from the mortgagor of any land, unless the mortgagee shall join in such application; nor from the mortgagee of any land, except as aforesaid or when exercising a power of sale contained in the mortgage deed, or any statutory power of sale, and the certificate of title is to be issued in the name of the purchaser; nor for any land subject to the lien of any judgment creditor, unless such creditor shall consent to such application: Provided that the father, or, if the father be dead, the mother or other guardian, of any infant, or the committee or guardian of any insane person or person of unsound mind, may make such application in the name of such incapable person: Provided also, that no application shall be entertained in respect of any land which is in adverse occupation. Exceptions.

10. Every applicant shall, when making his application, deposit with the Registrar General all instruments or copies of instruments in his possession, or under his control, constituting or in any way affecting his title, and shall furnish Application.

a schedule of such instruments, and also, if required, an abstract of his title, and shall in his application state the nature of his estate or interest and of every estate or interest held therein by any other person whether at law or in equity, in possession or in futurity or expectancy, and 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 state the names and addresses of the occupants and proprietors of all lands contiguous to the land in respect of which the application is made so far as known to him, and that the schedule so furnished includes all instruments of title to such land in his possession, or under his control, or of which he has knowledge, and shall make and subscribe a statutory declaration as to the truth of such statement, and such applicant may, if he think fit, in his application require the Registrar General, at the expense of such applicant, to cause personal notice of his application to be served upon any person whose name and address shall for that purpose be therein stated.

Map.

11. Every application shall be accompanied by a map of the land therein referred to, prepared and certified in accordance with the prescribed provisions.

Case of  
original  
grantee.

12. Upon the receipt of such application by the Registrar General, the title of the applicant shall be examined and reported upon by the Registrar General or an Examiner, and the case shall thereupon be referred to a Judge for his consideration, and if it shall appear to the Judge that the applicant is the original grantee from the Crown of the land in respect to which application is made, and that no sale, mortgage, or other encumbrance or transaction affecting the title of such land has at any time been registered in the Colony, and that such applicant has not required notice of his application to be served personally upon any person, then and in such case it shall be lawful for the Judge to direct the Registrar General to bring such lands under the provisions of this Ordinance forthwith, by issuing to the applicant, or to such person as he or the person applying in his behalf may by writing under his hand direct, a certificate of title for the same as hereinafter described.

Examiner's  
report  
privileged.

13. Any report made by the Registrar General or an Examiner to a Judge shall be privileged, and shall not be liable to inspection or production.

14. Where the applicant is not the original grantee from the Crown, if it shall appear to the satisfaction of a Judge that the land in respect to which application has been made is held by the applicant for the estate or interest described in such application free from mortgage, encumbrance, or other beneficial interest affecting the title thereto, or, if any such mortgage, encumbrance, or interest remain unsatisfied, that the parties interested therein are also parties to such application, and that the said land is not in adverse occupation, and that the applicant has not required notice of his application to be served personally on any person, then and in such case the Judge shall direct the Registrar General to cause notice of such application to be advertised at the expense of the applicant, three times at least in one daily newspaper published in the Colony at such dates as he shall direct, and shall further limit and appoint a time, not less than fourteen days nor more than twelve months from the date of the first of such advertisements in the daily newspaper, upon or after the expiration of which the Registrar General shall, if the directions so given as aforesaid have been complied with, and unless he shall in the interval have received a caveat forbidding him so to do, proceed to bring such land under the provisions of this Ordinance.

Case of  
perfect title.

15. If it shall appear to the satisfaction of a Judge that any parties interested in any unsatisfied mortgage or encumbrance affecting the title to such land, or beneficially interested therein, are not parties to such application, or that the evidence of title set forth by the applicant is imperfect, or that the applicant has required notice of his application to be served personally upon any person, then and in such case it shall be lawful for the Judge to reject such application altogether, or to refuse to make any final order thereon until the applicant shall have complied with such conditions as he shall think fit to impose, and in such case to refer such application back to the Registrar General or at his discretion to direct the Registrar General to cause notice of such application to be served in accordance with such requirement upon all persons who shall appear to him to have any interest in the land which is the subject of such application, and to be advertised three times at least in one daily newspaper published in the Colony, and in such newspapers published elsewhere as to such Judge may seem fit; and the Judge shall specify the number of times, and at what intervals, such advertisements shall be published in each or any of such papers and shall also limit and appoint a time, not less than one month nor more than two years from the date of the first of such advertisements in the daily newspaper, upon or after the expiration of which it shall be lawful for the Registrar General

Case of  
imperfect  
title.

to bring such land under the provisions of this Ordinance, unless he shall in the interval have received a caveat forbidding him to do so, and may amend or vary any order previously made: Provided that the Registrar General may, after settling such advertisements as shall have been directed, require the applicant to procure their due publication, and he shall not bring the land comprised in the application under this Ordinance until satisfied that such advertisements have been duly published.

Notice in  
the Index  
of Deeds.

**16.** When any land is brought under this Ordinance in pursuance of an order made under either of the two last preceding sections, the Registrar General shall make an entry in the Index of Deeds under the names of the persons on whose application such order was made, and such entry shall, for all purposes for which the registration of a deed is notice, be deemed to be notice that the land has been brought under the provisions of this Ordinance.

Notice of  
application.

**17.** The Registrar General shall, under such direction as aforesaid, or under any order of the Court, cause notice to be published, in such manner as by such direction or order may be prescribed, that application has been made for bringing the land therein referred to under the provisions of this Ordinance, and shall also cause a copy of such notice to be posted in a conspicuous place in his office and in such other places as he may deem necessary, and shall forward, by registered letter through the Post Office, a copy of such notice addressed to the persons, if any, whom a Judge shall have directed to be served with such notice, and to the persons, if any, stated in the declaration by the applicant to be in occupation of such land or to be occupiers or proprietors of land contiguous thereto, so far as his knowledge of the addresses of such persons may enable him, and in case such applicant shall have required any such notice to be personally served upon any person named in his application, then and in such case the Registrar General shall cause a copy of such notice to be so served upon such person.

Possessory  
title.

Form B.

**18.** On any application to bring land under this Ordinance on a title claimed by possession, the applicant shall post on the land the subject of the application, or at such place as the Registrar General or a Judge shall direct, a notice in Form B of the First Schedule, either accurately describing or necessarily including the land claimed by possession, and shall keep the same so posted for not less than twenty-one days prior to the day limited for entry of caveats; and the Registrar General may refuse to issue the certificate of title until it has been proved to his satisfaction that the requirements of this section have been complied with.

19. If, within the time limited in such direction or under any order of the Court, no notice forwarded by registered letter aforesaid shall 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 to do so, and in any case in which personal notice may be required as aforesaid, or in which any notice may have been given otherwise than by registered letter, if he shall have received proof to his satisfaction that such notice has been served or delivered, the Registrar General shall, pursuant to such direction of the Judge, bring the land described in such application under the provisions of this Ordinance by making the proper entry in the Register Book, and, on proper application, issuing to the applicant or to such person as he or the person applying in his behalf may by any writing under his hand direct, the duplicate certificate of title for the same as hereinafter described.

Bringing land  
under the  
Ordinance.

20. Whenever, prior to the issue of the certificate of title, any letter containing any notice shall be returned to the Registrar General by the Postmaster General, or he shall become aware that any notice has failed to be duly delivered, a Judge may, on a summons taken out by the applicant or by the Registrar General, give such directions in the matter as he may deem fit.

Failure of  
notice.

21. All notices under this Ordinance, not required to be personally served, sent by registered letter shall be deemed to have been duly served if they shall have been directed to and delivered at the last known place of address of the person required to be served and a receipt therefor shall have been taken, and in such a case such person shall for all purposes be deemed to have received such notice.

Notice by  
registered  
letter.

22. Any person having or claiming an interest in any land so advertised as aforesaid, or the duly registered attorney of any such person, may, within the time by any direction of a Judge for that purpose limited, lodge a caveat with the Registrar General in Form C of the First Schedule, forbidding the bringing of such land under the provisions of this Ordinance, and every such caveat shall particularise the estate, interest, lien or charge claimed by the person lodging the same, and the person lodging such caveat shall, if required by the Registrar General, deliver a full and complete abstract of his title.

Caveat.

Form C.

23. The Registrar General, upon receipt of any such caveat within the time limited as aforesaid, shall notify the same to the applicant, and shall suspend further action in the matter, and the lands in respect of which such caveat may

Effect of  
caveat.

have been lodged shall not be brought under the provisions of this Ordinance until such caveat shall have been withdrawn, or shall have lapsed from any of the causes hereinafter provided, or until a decision shall have been obtained from the Court or Judge having jurisdiction in the matter.

Lapse of caveat.

24. After the expiration of one month from the receipt thereof, every such caveat shall be deemed to have lapsed, unless the person by whom or on whose behalf the same was lodged shall, within that time, have taken proceedings in any court of competent jurisdiction to establish his title to the estate, interest, lien, or charge therein specified, and shall have 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 therein referred to under the provisions of this Ordinance: Provided that if in such proceedings such person shall prove that he is in possession of such land, nothing in this Ordinance contained shall enable the applicant to recover possession thereof, or to have such land brought under this Ordinance, without previously establishing his own title thereto.

Withdrawal of application.

25. Any applicant may withdraw his application at any time prior to the issuing of the certificate of title, and the Registrar General shall in such case, upon request in writing signed by such applicant, return to him or to the person, if any, appearing from such application to be entitled to the possession of such instruments and copies of instruments, the abstract and all instruments and copies of instruments of title deposited by such applicant for the purpose of supporting his application: Provided that in such case, if a caveator shall have been put to expense, without sufficient cause, by reason of such application, he shall be entitled to receive from the applicant such compensation as a Judge on a summons in Chambers, shall deem just and order.

Cancellation of instrument of title.

26. Upon issuing a certificate of title bringing land under the provisions of this Ordinance, the Registrar General shall stamp as cancelled every instrument of title deposited by the applicant when making his application: Provided that if any such instrument shall relate to or include any property, whether personal or real, other than the land included in such certificate of title, then the Registrar General shall endorse thereon a memorandum cancelling the same in so far only as relates to the land included in such certificate of title, and shall return such instrument to such applicant;

otherwise he shall retain the same in his office, and no person shall be entitled to the production of such instrument so stamped, except upon the written order of the applicant, or of some person claiming through or under him, or upon the order of a Judge.

27. In case an applicant, or the person to whom an applicant may have directed a certificate of title to be issued, shall have died or become an insane person in the interval between the date of his application and the date appointed for the certificate of title to issue in accordance with the provisions hereinbefore contained, the certificate of title shall, unless a new order shall have been made by a Judge in the matter, be issued in the name of the applicant, or in the name of the person to whom he may have directed it to be issued, as the case may require, and such land shall devolve in like manner as if the certificate of title had been issued prior to the death or insanity of such applicant or person so named by him.

Death or  
insanity of  
applicant

28. Whenever any notice is required by this Ordinance, or by any order made under this Ordinance by a Judge, to be given to any incapable person, or any person having the same or similar interests and who cannot conveniently be served, it shall be lawful for a Judge to direct that such notice be served on any person as the guardian, committee, trustee, or representative of any other person, and in such case any notice served on such guardian, committee, trustee, or representative shall be as binding on such person as if he had been under no disability, and had been personally served therewith.

Notice to  
incapable  
persons.

29. Upon the first bringing of land under the provisions of this Ordinance, whether by the alienation thereof from the Crown, or consequent upon the application of the applicant as hereinbefore provided, and also upon the registration of the title to an estate of freehold in possession in land under the provisions of this Ordinance derived through the will or intestacy of a previous proprietor or under any settlement, there shall be paid to the Registrar General the sum specified in the Fourth Schedule, and in case of land brought under the provisions of this Ordinance by alienation from the Crown, the price paid for such land shall be deemed and taken to be the value thereof for the purpose of levying such sum, and in all other cases as aforesaid such value shall be ascertained by a statutory declaration of the applicant or person deriving title to such land by transmission: Provided that if the

Assurance  
Fund.

4th Schedule.

Registrar General shall not be satisfied as to the correctness of the value so declared, it shall be lawful for him to require such applicant, or person deriving title to such land, to produce a certificate of such value under the hand of a valuer approved by the Registrar General, which certificate shall be received as conclusive evidence of such value for the purpose aforesaid.

Appropriation.

**30.** All sums of money so received shall be paid to the Accountant General and carried by him to an account to be called the Land Assurance Fund, and such sums, together with all interest and profits which may have accrued thereon, shall be invested from time to time by the Accountant General in such manner as the Governor shall direct, and shall constitute an Assurance Fund for the purposes hereinafter provided.

### PART III.

#### REGISTRATION.

Register Book.

**31.** The Registrar General shall keep a book to be called the "Register Book," and shall bind up therein the originals of all grants and of all certificates of title, and each grant and certificate of title shall constitute a separate leaf or leaves of such book, and the Registrar General shall record therein the particulars of all instruments, dealings and other matters by this Ordinance required to be registered or entered in the Register Book affecting the land included in each such grant or certificate of title distinct and apart.

Certificate of title. Form D.

**32.** Every certificate of title shall be in duplicate in Form D of the First Schedule, and shall set forth the nature of the estate in respect to which it is issued, and the Registrar General shall note thereon, in such manner as to preserve their priority, the particulars of all unsatisfied mortgages or other encumbrances, and of any dower, lease, or rent charge to which the land may be subject, and also easements or other rights to which the land may be proved or admitted to be subject, and if such certificate of title be issued to an infant or other incapable person he shall state the age of such infant or the nature of the disability so far as known to him, and shall cause the original of each certificate of title to be bound up in the Register Book, and deliver the duplicate thereof to the proprietor entitled to the land described therein.

Map on certificate of title.

**33.** Every original grant or certificate of title bound in the Register Book shall have drawn on or attached to it a map of the land therein comprised, which map shall be provided by or at the expense of the applicant; and every certificate

of title subsequently issued shall either have drawn on it or attached to it a map of the land therein comprised, and provided in like manner, or shall refer to a map in which such land is delineated and which is already contained in the Register Book.

**34.** Every map, plan or diagram required for the purposes of this Ordinance shall be prepared and furnished in the manner specially provided for the purpose by the Land Surveyors Ordinance and by rules made thereunder. Rules as to maps. Ch. 27. No. 2.

**35.** The person named in any certificate of title as the proprietor of an estate of freehold in the land therein described shall be held, both at law and in equity, to be seised of the reversion expectant upon the term of any lease that may be noted by memorial thereon, and to have all powers, rights and remedies to which such a reversioner is by law entitled, and shall be subject to all the covenants and conditions in such lease expressed or implied and to be performed and observed by or on the part of the lessor. Land subject to lease.

**36.** Before bringing under the provisions of this Ordinance an estate in fee simple or in fee tail in any land, in respect to which a certificate of title has been issued for any leasehold estate or interest, the Registrar General may close the leaf of the Register Book constituted by the certificate of title of such leasehold, and carry forward, upon the certificate of title issued in respect of such estate in fee simple or in fee tail, memorials of such leasehold estate or interest, and of all mortgages or other interests affecting the same then registered and still current; and the memorials of all future dealings with such leasehold estate or interest hereinafter directed to be registered shall be entered upon the leaf of the Register Book constituted by the certificate of title representing the fee simple or the fee tail. Registration of reversion on lease already registered.

**37.** Every certificate of title duly authenticated under the hand and seal of the Registrar General shall be received, both at law and in equity, as evidence of the particulars therein set forth, and of their being entered in the Register Book, and shall, except as hereinafter excepted, be conclusive evidence that the person named in such certificate of title, or in any entry thereon, is seised of or possessed of or entitled to such land for the estate or interest therein specified, and that the property comprised in such certificate of title has been duly brought under the provisions of this Ordinance; and no certificate of title shall be impeached or defeasible Effect of certificate of title.

on the ground of want of notice or of insufficient notice of the application to bring the land therein described under the provisions of this Ordinance, or on account of any error, omission, or informality in such application or in the proceedings pursuant thereto by the Judge or by the Registrar General.

Registration  
of grants and  
certificates  
of title and  
other  
documents.

**38.** Every grant and certificate of title shall be deemed and taken to be registered under the provisions and for the purposes of this Ordinance so soon as the same shall have been marked by the Registrar General with the page and volume as embodied in the Register Book, and every memorandum of transfer or other instrument purporting to transfer or in any way to affect land under the provisions of this Ordinance shall be deemed to be so registered so soon as a memorial thereof as hereinafter described shall have been entered in the Register Book upon the leaf constituted by the grant or certificate of title of such land, and the person named in any grant, certificate of title, or other instrument so registered as the proprietor of or having any estate or interest shall be deemed to be the proprietor thereof.

Instruments  
for registration  
to be prepared  
by barrister or  
conveyancer.

**39.** No instrument of transfer or mortgage, or whereby any encumbrance is created or mortgage is transferred, discharged, or released, and no caveat, shall be registered by the Registrar General under the provisions of this Ordinance unless it bears the signature of some barrister or of some solicitor and conveyancer as having prepared such instrument: Provided that the provisions of this section shall not apply to an instrument or caveat the execution whereof took place wholly out of the Colony.

Instruments—  
Priority of.

**40.** Every instrument presented for registration shall be registered in the order of time in which the same is produced for that purpose; and instruments registered in respect to or affecting the same estate or interest shall, notwithstanding any express, implied, or constructive notice, be entitled in priority the one over the other according to the date of registration and not according to the date of each instrument itself, and the Registrar General, upon registration thereof, shall on demand deliver the duplicate grant or certificate of title with the necessary endorsements thereon to the person entitled thereto; and so soon as registered, every instrument drawn in any of the several forms provided in the First Schedule, or in any form which for the same purpose may be authorised in conformity with the provisions of this Ordinance, shall for the purposes of this Ordinance be deemed and taken to be embodied in the Register Book as part thereof.

41. In every instrument creating or transferring any estate or interest in land under the provisions of this Ordinance there shall be implied the following covenant by the party creating or transferring such estate or interest; that is to say, that he will do such acts and execute such instruments as, in accordance with the provisions of this Ordinance, may be necessary to give effect to all covenants, conditions, and purposes expressly set forth in such instrument or by this Ordinance declared to be implied against such party in instruments of a like nature. Covenant implied.

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

43. Whenever a memorial of any instrument has been entered in the Register Book, the Registrar General shall, except in the case of a transfer or other dealing effected or evidenced only by endorsement upon any grant, certificate of title, or other instrument as hereinafter provided, record the like memorial on the duplicate grant, certificate of title, or other instrument evidencing title to the estate or interest intended to be dealt with or in any way affected, whether already in his possession or delivered to him along with the instrument for registration, unless the Registrar General shall, as hereinafter provided, dispense with the production of the same, and the Registrar General shall endorse on every instrument so registered a certificate of the date and hour on which the said memorial was entered in the Register Book, and shall authenticate each such certificate by signing his name thereto, and such certificate shall be received, both at law and in equity, as conclusive evidence that such instrument has been duly registered. Effect of certificate of memorial.

44. No instrument, until registered in manner herein provided, shall be effectual to pass any estate or interest in any land under the provisions of this Ordinance or to render such land liable to any mortgage charge or encumbrance; but upon the registration of any instrument in manner herein provided, the estate or interest specified in such instrument shall pass or, as the case may be, the land shall become liable, in manner and subject to the covenants, conditions, and contingencies set forth and specified in such instrument or by this Ordinance declared to be implied in instruments of Effect of registration of instruments.

a like nature, and should two or more instruments executed by the same proprietor, and purporting to transfer or encumber the same estate or interest in any land, be at the same time presented to the Registrar General for registration and endorsement, he may either register and endorse that instrument which is presented by the person producing the grant or certificate of title, or may refuse to register either instrument until an order determining the relative rights of the several claimants shall have been made by the Court or a Judge.

Conclusive-  
ness of  
registration.

45. Notwithstanding the existence in any other person of any estate or interest, whether derived by grant from the Crown or otherwise, which but for this Ordinance might be held to be paramount or to have priority, the proprietor of land or of any estate or interest in land under the provisions of this Ordinance shall, except in case of fraud, hold the same subject to such mortgages, encumbrances, estates, or interests as may be notified on the leaf of the Register Book constituted by the grant or certificate of title of such land; but absolutely free from all other encumbrances, liens, estates, or interests whatsoever, except the estate or interest of a proprietor claiming the same land under a prior grant or certificate of title registered under the provisions of this Ordinance, and any rights subsisting under any adverse possession of such land; and also, when the possession is not adverse, the rights or any tenant of such land holding under a tenancy for any term not exceeding three years, and except as regards the omission or misdescription of any right of way or other easement created in or existing upon such land, and except so far as regards any portion of land that may, by wrong description of parcels or of boundaries, be included in the grant, certificate of title, lease, or other instrument evidencing the title of such proprietor, not being a purchaser or mortgagee thereof for value, or deriving title from or through a purchaser or mortgagee thereof for value.

Saving rights  
of Crown.

46. Notwithstanding anything in this Ordinance contained, the land which shall be included in any certificate of title or registered instrument shall be deemed to be subject to the reservations, exceptions, conditions, and powers, if any, contained in the grant by which the said land was originally granted by the Crown pursuant to the regulations in force at the time respecting the sale and disposal of the waste lands of the Crown in the Colony, and subject to any resumptions which may have been made of the said land or any part thereof in pursuance of such reservations of right as aforesaid, and

to any taking of the said land or any part thereof that may have been effected pursuant to the provisions of any Ordinance authorising His Majesty to take the same, and subject also to any public rights of way, and to any unpaid public land charge, rates, taxes, and assessments, and estate and succession duty, notwithstanding the same respectively may not be specially notified as encumbrances on such certificate of title or instrument.

47. (1) In the case of land of any proprietor registered under this Ordinance— Land resumed or acquired by Crown.

- (a) which is resumed by the Crown under the powers contained in a grant ; or
- (b) which is partly so resumed and partly acquired by gift, purchase, or otherwise, or taken under the provisions of the Land Acquisition Ordinance No. 14 of 1941. by the Crown ; or
- (c) which is wholly acquired by gift, purchase, or otherwise, or taken under the provisions of the Land Acquisition Ordinance by the Crown,

the Sub-Intendant shall forward to the Registrar General the particulars of such resumption, acquisition, or taking, together with a plan in duplicate showing the extent of such resumption, acquisition or taking.

(2) Land resumed under the provisions of the preceding subsection shall be coloured pink on such plan, and land acquired or taken under such subsection shall be coloured brown thereon.

(3) The amount of land so resumed, acquired, or taken shall be endorsed on the original grant or certificate of title, and there shall be a reference in such endorsement to the volume and folio of a book to be called the " Register of Resumption plans " in which one of the two plans referred to in this section shall be bound.

(4) The Registrar General shall attach the other of such plans to the duplicate grant or certificate of title, as the case may be, and return the same to the person entitled thereto.

48. (1) The Registrar General shall not register under this Ordinance any instrument purporting to transfer or otherwise deal with or affect any estate or interest in land under the provisions of this Ordinance except in the manner in this Ordinance provided, nor unless such instrument be in accordance with the provisions of this Ordinance : Provided that for the purposes of this section a warrant of forfeiture under the Lands and Buildings Taxes Ordinance shall not Ch. 33, No. 2, be deemed to be such an instrument as aforesaid. Uniformity of instruments and registration.

Incorporation  
of the provi-  
sions of certain  
registered  
deeds.

(2) An instrument under this Ordinance and a deed registered in the Register of Deeds which together carry into effect any sale, gift, settlement, partition, mortgage or lease of, or other dealing with land, whereof one portion is and another portion is not under the provisions of this Ordinance, shall be read and construed together, and such instrument may incorporate by reference any of the provisions of such deed: Provided that no provisions contained in such deed shall be deemed to affect any purchaser from a proprietor with notice of any trust affecting land under this Ordinance: Provided further that on the registration of such instrument the Registrar General shall be furnished with the registered number of such deed.

(3) The preceding subsection applies to all instruments therein mentioned and registered after the 1st of January, 1896

#### PART IV

#### TITLE BY POSSESSION OF LAND, REMOVAL OF ABANDONED EASEMENTS.

Application  
for vesting  
order by  
person  
claiming title  
by possession.

49. A person who claims that he has acquired title by possession of land under the provisions of this Ordinance may apply by summons for an order vesting the land in him for an estate in fee simple or other estate claimed. The summons shall be served on every person appearing in the Register Book to have any estate or interest in the land or in any encumbrance notified on the grant or certificate of title thereto or such of them as can be found.

Affidavit.

50. Every such summons shall be supported by one or more affidavits deposing to the facts and matters referred to in Form E of the First Schedule.

Form E.

Copy to  
be posted.

51. The applicant shall also cause a copy of the summons and affidavit to be posted in a conspicuous place on the land and to be kept so posted for not less than fourteen days prior to the hearing of the application.

Directions  
by a Judge.

52. At the hearing of the application a Judge shall give directions as to any other persons to be served with the summons or notice thereof, as to the mode of service, as to the advertisements to be inserted in one or more daily newspapers published in the Colony, as to the preparation of any plans which he may consider necessary, and as to

any other relevant matters, and he shall appoint a date not less than fourteen days nor more than twelve months from the date of such hearing at or after the expiration of which he may, unless some person shall have intervened, grant the application altogether or in part.

**53.** At any time prior to granting an application a Judge may in his discretion, notwithstanding any direction previously given as to the application, dismiss the same altogether or in part if the applicant fails to comply to his satisfaction with any direction given within such time as to him seems reasonable. Power to dismiss application.

**54.** A person claiming any estate or interest in the land in respect of which any such application is made may before the granting thereof intervene by entering an appearance to the proceedings and filing an affidavit setting out the particulars of his claim. Intervention.

**55.** Subject as aforesaid, after the expiration of the time appointed, and after giving to the applicant and all other parties to the proceedings an opportunity of being heard, a Judge, if satisfied that the applicant has acquired a title by possession to the land, may make an order vesting the land in the applicant (or person entitled thereto) for an estate in fee simple, or other estate acquired by the applicant, free from all encumbrances appearing by the Register Book to affect the existing title which have been determined or extinguished by such possession and free from any easement notified as an encumbrance which has been proved to the satisfaction of the Judge to have been abandoned or extinguished. Power to make vesting order.

**56.** Where a vesting order is made the Judge may direct the Registrar General— Consequential directions.

(a) to cancel any instrument, entry or memorial in the Register Book altogether or to such extent as is necessary to give effect to such vesting order; or

(b) to issue and register in manner provided by section 32 a new certificate of title for an estate in fee simple or other estate acquired in the land comprised in such vesting order free from all such encumbrances as aforesaid and the Registrar General shall comply with such directions;

and thereupon the person named therein shall become the proprietor of the said land.

Contribution  
to Assurance  
Fund.

57. Upon granting the application the Judge may, if he shall think fit, grant the same conditioned upon the applicant paying to the Assurance Fund, or furnishing in manner hereinafter provided a bond to the satisfaction of the Registrar General for the payment to the Assurance Fund of such sum of money as the Judge certifies to be in his judgment a proper indemnity by reason of the imperfect nature of the evidence of title or as against any uncertain or doubtful claim or demand incident to or which may arise upon the title or any risk to which the Assurance Fund may be exposed by the granting of the application. A bond furnished under this section shall provide for the payment to the Registrar General for the account of the Assurance Fund of such an amount, not exceeding the sum certified by the Judge in manner aforesaid, as may, within a period to be fixed by the Judge, have to be paid out of the Assurance Fund for damages and costs by reason of the granting of the application.

Duties of  
Registrar  
General as to  
cancellation.

58. In cancelling any grant, certificate of title or instrument or any memorial or entry in the Register Book in pursuance of the direction in that behalf the Registrar General shall endorse thereon a memorandum stating the circumstances and authority under which the cancellation is made.

Removal of  
easement or  
other  
encumbrance

59. (1) A proprietor may apply by summons for an order for the removal from a grant or certificate of title of any easement notified thereon as an encumbrance which he claims has been abandoned or extinguished and of any other encumbrance notified thereon which he claims has been discharged or extinguished.

(2) Such summons shall be supported by an affidavit deposing to all facts relevant to the application.

(3) At the hearing of the application a Judge shall give such of the directions provided by section 52 as he may deem necessary.

(4) A party claiming any estate or interest in the land may intervene as provided by section 54.

(5) A Judge on being satisfied that the said easement or other encumbrance has been abandoned or discharged or extinguished may make an order directing the removal from the grant or certificate of title of such easement or other encumbrance which shall thereupon be deemed to be extinguished.

**60.** (1) If a vesting order or an order for the removal of an easement or other encumbrance is made by a Judge under this Part of this Ordinance and affects the right, estate or interest of the proprietor of land included in any grant or certificate of title in respect of any registered easement or other encumbrance appearing thereon the Judge shall direct the Registrar General to cancel such easement or other encumbrance to the extent to which it has been extinguished upon the original of such grant or certificate of title and also upon the duplicate grant or certificate of title when brought to him for that purpose or when the same is produced for the purpose of any dealing with the land comprised therein.

Easement  
or other  
encumbrance  
extinguished  
to be  
cancelled.

(2) The Registrar General may call in the duplicate of any such grant or certificate of title for the purpose of any such cancellation and may detain the duplicate until such cancellation is effected, and refuse to register any dealing with the land or any estate or interest therein until the duplicate has been so brought in.

**61.** Any certificate of title, entry, removal of encumbrance or cancellation in the Register Book procured or made by fraud shall be void as against all parties or privies to the fraud.

Certificate of  
entry void  
for fraud.

## PART V.

### TRANSFERS AND OTHER DEALINGS.

**62.** When land under the provisions of this Ordinance, or any estate or interest in such land, is intended to be granted or transferred, or any right of way or other easement is intended to be created or transferred, the proprietor may execute a memorandum (hereinafter called a memorandum of transfer) in Form F or Form G of the First Schedule, which memorandum shall, for description of the land intended to be dealt with, refer to the grant or certificate of title of such land, or shall give such description as may be sufficient to identify the same, and shall contain an accurate statement of the estate, interest, or easement intended to be granted, transferred, or created, and a note of all leases, mortgages, and other encumbrances to which the same may be subject.

Memorandum  
of transfer.

Forms F  
and G.

**63.** A memorial of such memorandum of transfer shall, unless the grant or certificate of title thereto in the Register Book be wholly cancelled, be endorsed on such grant or certificate of title.

Endorsement.

Memorial of  
easement.

64. A memorial of any transfer or lease creating any easement over or upon or affecting any land under the provisions of this Ordinance may be entered upon the leaf of the Register Book constituted by the grant or certificate of title of such land in addition to any other entry concerning such instrument required by this Ordinance.

Cancellation  
of exhausted  
certificate  
of title.

65. If the memorandum of transfer purports to transfer an estate of freehold in the whole or in part of the land mentioned in any grant or certificate of title or any easement thereover, the transferor shall deliver up the grant or certificate of title of the said land, and the Registrar General shall, after registering the transfer, enter on such grant or certificate of title a memorandum cancelling the same either wholly or partially according as the memorandum of transfer purports to transfer the whole or part only of the land mentioned in such grant or certificate of title, or the whole or part only of the estate of the transferor therein, referring to such easement, and setting forth the particulars of the transfer.

Disposal of  
cancelled  
certificate.

66. Any wholly cancelled grant or certificate of title shall be retained by the Registrar General. Any partially cancelled grant or certificate of title shall be returned endorsed as aforesaid to the transferor, unless such transferor shall require a new certificate of title for the untransferred portion; and the Registrar General shall, subject to the provisions hereinafter contained, make out to the transferee a certificate of title to the land mentioned in such transfer, as hereinafter mentioned.

Transfer of  
leaseholds.

67. On a transfer of leasehold property for the whole of the interest of the transferor in the whole of the land comprised in the grant or certificate of title relating thereto, such grant or certificate of title, and the corresponding entry in the Register Book, shall not be cancelled, but shall be endorsed with a memorial of such transfer, and shall be delivered to the transferee. If a part only of the transferor's interest in such land, or his interest in a part only of such land, be transferred, or if an easement thereon be created, such dealings shall be evidenced by memorials endorsed on the proper certificates of title, so far as possible in the manner directed in the case of freehold property, and the Registrar General shall have all the powers necessary for or incidental to the purpose.

68. If a transfer purports to transfer the whole of the land mentioned in any grant or certificate of title, and for the whole of the transferor's estate or interest therein, the Registrar General may, except when a tenancy in common is thereby created or determined, instead of cancelling such grant or certificate of title as hereinbefore provided, enter in the Register Book and on the grant or certificate of title a memorandum of such transfer, and deliver the duplicate grant or certificate of title to the transferee; and every grant or certificate of title with such memorandum shall be as effectual for the purpose of evidencing title and for all other purposes as if the old grant or certificate of title had been cancelled and a new certificate of title had been issued to the transferee in his own name, and such process in lieu of cancellation may be repeated upon every transfer of the whole of the land.

Transfer by  
endorsement.

69. The Registrar General, upon cancelling any grant or certificate of title either wholly or partially pursuant to any transfer, shall make out to the transferee a certificate of title to the land mentioned in such memorandum of transfer, and every such certificate of title shall refer to the original grant of such land, and to the memorandum or other instrument of transfer, and the Registrar General shall retain every such memorandum of transfer and cancelled or partially cancelled grant or certificate of title, and whenever so required by the proprietor of an unsold portion or residue of land included in any such partially cancelled grant or certificate of title, or by a registered transferee of such portion or of any part thereof, shall, on payment of the prescribed fee, make out to such proprietor or transferee a certificate of title of such portion or for any part thereof of which he is the proprietor or transferee.

Certificate of  
title on  
transfer.

70. In every instrument transferring land under the provisions of this Ordinance subject to mortgage or encumbrance there shall be implied the following covenant by the transferee with the transferor; that is to say, that such transferee will pay the interest or annuity or rent charge secured by such mortgage or encumbrance after the rate and at the times specified in the instrument creating the same, and will indemnify and keep harmless the transferor from and against the principal sum secured by such instrument, and from and against all liability in respect of any of the covenants therein contained or by this Ordinance implied on the part of the transferor.

Implied  
covenant  
on transfer.

Rights and liabilities of transferee.

71. Upon the registration of any transfer the estate or interest of the transferor thereby transferred together with all rights, powers, and privileges, touching or concerning such estate or interest, shall pass to the transferee, and such transferee shall thereupon become subject to all the conditions and liabilities touching or concerning the estate or interest transferred to which the transferor, as proprietor of such estate or interest, was subject immediately prior to such transfer.

Rights of transferee of debt, &c.

72. By virtue of every such transfer, the right to sue upon any memorandum of mortgage or charge or other instrument, and to recover any debt, sum of money, annuity, or damages thereunder (notwithstanding the same may be deemed or held to constitute a thing in action), and all interest on any such debt, sum of money, annuity, or damages, shall be transferred so as to vest the same, both at law and in equity, in the transferee thereof: Provided that nothing herein contained shall prevent a court of equity from giving effect to any trusts affecting the same debt, sum of money, annuity, or damages in case the transferee shall hold the same as a trustee for any other person.

Transfer to wife or husband or to oneself jointly with another.  
Creation and execution of powers; limitation of estates.

73. The proprietor of any land may transfer the same or any part thereof to a wife or husband, or to himself jointly with any other person or persons, or may create or execute any powers of appointment, or limit any estates whether by remainder or otherwise without limiting any use or executing any reassignment, and upon the registration of such transfer or instrument the said land shall be held according to the intent and meaning appearing on such instrument and thereby expressed.

Joint tenant.

74. Two or more persons who may be registered as joint proprietors of an estate or interest in land under the provisions of this Ordinance shall be deemed to be entitled to the same as joint tenants: Provided that joint tenants may receive separate certificates of title, or, on a request in writing signed by each of such joint tenants, may receive a joint certificate of title.

Tenants in common.

75. Where two or more persons are entitled as tenants in common to undivided shares of or in any land, such persons may receive one certificate of title for the entirety or separate certificates of title for the undivided shares therein respectively.

76. On the death of a person registered as joint proprietor with another, or when the life estate in respect of which any certificate of title has been issued has determined, and the estate next registered in remainder or reversion has become vested in possession, or when the person to whom such certificate of title has been issued has become entitled to the said land for an estate in fee simple in possession, the Registrar General may, upon the application of the person entitled, and proof to his satisfaction of any such occurrence as aforesaid, register such person as proprietor of such estate or interest.

Registration on survival or vesting of estate in possession.

77. A married woman, being a proprietor of land, shall be deemed to be entitled thereto for her sole benefit, and for the purposes of this Ordinance a married woman may deal with land under this Ordinance, and may execute and sign all instruments, and do all personal acts, without the concurrence of her husband as effectually as if she were a *feme sole*.

Married women.

78. Where land registered under the provisions of this Ordinance is sold by an officer in the public service under the provisions of any Ordinance or by any Public Authority under the provisions of the Rates and Charges Recovery Ordinance, such officer or the Chairman of such Authority, as the case may be, shall, unless a mode of transfer is otherwise provided for, execute a transfer to the purchaser of the land sold, and such transfer shall be expressed to be made by such officer or chairman in his official or public capacity and by virtue of the Ordinance empowering and authorising him as aforesaid.

Lands sold under authority of an Ordinance. Ch. 33. No. 8.

79. Upon the transfer by a mortgagor to a mortgagee of the mortgagor's equity of redemption, or by a lessor to a lessee of the lessor's reversion expectant on the term created by the lease, no merger of the estates and interests of the mortgagor and mortgagee or lessor and lessee respectively shall take effect until a request in Form H of the First Schedule to endorse a memorial of merger on the relevant grant or certificate of title signed by the mortgagee or lessee as the case may be is lodged with the Registrar General.

Merger.

Form H.

## PART VI.

### LEASES AND SUB-LEASES.

80. (1) When any land under the provisions of this Ordinance is intended to be leased for a life or lives, or for any term of years exceeding three years, the proprietor shall, and if any such land is intended to be leased for a period of less than three years the proprietor may, with the consent of the intending lessee, execute a memorandum of lease in Form I of the First Schedule, and every such instrument shall,

Memorandum of lease.

Form I.

for description of the land intended to be dealt with, refer to the grant or certificate of title of the land, or shall give such other description as may be necessary to identify such land : Provided that a right for or covenant by the lessee to purchase the land therein described may be provided in such instrument, and in such case if the lessee shall pay the purchase money stipulated, and otherwise observe his covenants expressed and implied in such instrument, the lessor shall be bound to execute a memorandum of transfer to such lessee of the said land. Save as provided by the Conveyancing and Law of Property Ordinance, no lease of mortgaged or encumbered land shall be valid and binding against the mortgagee or encumbrancer, unless such mortgagee or encumbrancer shall have consented to such lease prior to the same being registered and a note of such consent shall have been entered in the Register Book.

Ch. 27. No. 12.

Sub-lease.

(2) When any land under the provisions of this Ordinance is intended to be sub-leased the proprietor of the lease of such land, subject to any provisions in his lease affecting his right so to do, with the consent of the intending sub-lessee shall, if the term of the sub-lease exceeds three years and with the like consent may, if the term of the sub-lease does not exceed three years, execute a sub-lease in Form J in the First Schedule ; but no sub-lease of any land subject to a mortgage or encumbrance upon the lease of the land comprised in the sub-lease shall be valid or binding against a mortgagee or encumbrancer of the lease unless he has consented in writing to such sub-lease prior to the same being registered.

Form J.

Registration of lease and sub-lease.

81. On presentation of any memorandum of lease or sub-lease drawn, executed, and attested in accordance with the provisions of this Ordinance, the Registrar General shall register the same ; and no lease or sub-lease, unless registered, shall be valid against any registered transferee, mortgagee, encumbrancer, or lessee.

Endorsement of memorial of lease and sub-lease.

82. When such lease or sub-lease is presented for registration, a memorial thereof shall be endorsed, as an encumbrance, on the grant or certificate of title and on the proper page in the Register Book.

Surrender or determination of lease and sub-lease.

83. Whenever any lease or sub-lease which is registered is surrendered or determined in any manner whatsoever the Registrar General, upon proof to his satisfaction by affidavit or otherwise of such surrender or determination, shall enter in the Register Book a memorandum recording the date of such surrender or determination, and shall likewise

endorse upon the duplicate grant or certificate of title when produced to him a memorandum recording the fact of such entry having been made in the Register Book; and upon such entry and endorsement having been so made, the estate or interest of the lessee or sub-lessee in such land shall revert in the lessor or sub-lessor or in the person in whom, having regard to intervening circumstances, if any, the said land would have vested if no such lease or sub-lease had ever been executed:

Provided that no lease or sub-lease subject to mortgage or encumbrance shall be so surrendered or determined without the consent of the mortgagee or encumbrancer.

**84.** In addition to all other covenants which may be implied in accordance with the provisions of this Ordinance and unless a contrary intention shall therein be expressed:

Covenants implied in lease and sub-lease.

(1) In every memorandum of lease there shall be implied the following covenants by the lessee—

(a) that he will pay the rent thereby reserved at the times mentioned, and all rates and taxes which may be payable in respect of the leased property, during the continuance of the lease;

(b) that he will, at all times during the continuance of the lease, keep, and at the determination thereof yield up, the leased property in good and tenantable repair, accidents and damage from fire, storm, and tempest, and reasonable wear and tear, excepted.

(2) In every sub-lease there shall be implied the following covenants by the sub-lessor—that he will during the terms thereby granted pay the rent reserved by and perform and observe the covenants contained in the original lease and on his part to be paid, performed and observed.

**85.** Unless a contrary intention shall therein be expressed in every memorandum of lease and sub-lease there shall also be implied the following powers in the lessor or sub-lessor—

Powers of lessor and sub-lessor.

(a) that he may, by himself or his agents, twice in every year during the term, at a reasonable time of day, upon giving the lessee or sub-lessee two days' previous notice, enter upon the leased property and view the state of repair thereof, and may serve upon the lessee or sub-lessee, or leave at

his last or usual place of abode in the Colony, or on the leased property, a notice in writing of any defect, requiring him within a reasonable time to be therein prescribed to repair the same; and

- (b) that in case the rent or any part thereof shall be in arrear for the space of one month, or in case default shall be made in the fulfilment of any covenant whether expressed or implied in such lease or sub-lease on the part of the lessee or sub-lessee and shall be continued for the space of one month, or in case the repairs required by such notice as aforesaid shall not have been completed within the time therein specified, it shall be lawful for such lessor or sub-lessor to re-enter upon and take possession of such leased property.

Determination  
of lease and  
sub-lease.

**86.** In any such case the Registrar General, upon proof to his satisfaction of lawful re-entry and recovery of possession by a lessor or sub-lessor, shall note the same by entry in the Register Book, and the estate of the lessee or sub-lessee in such land shall thereupon determine, but without releasing him from his liability in respect of the breach of any covenant in such lease or sub-lease expressed or implied.

## PART VII.

### MORTGAGES AND ENCUMBRANCES.

Memorandum  
of mortgages  
and encum-  
brances.  
Form K.

**87.** (1) The proprietor of any land under the provisions of this Ordinance may mortgage the same by executing a memorandum of mortgage thereof in Form K of the First Schedule, and may charge the same with the payment of a sum of money, annuity or rent charge by signing a memorandum of charge thereof in Form L of the said Schedule.

Form L.

Sub-mortgage.

(2) A mortgagee may create a charge of his interest in a mortgage by executing a memorandum of sub-mortgage in Form M of the First Schedule, and the person in whose favour such charge is created shall be deemed the transferee of such interest, and shall have all rights and powers as such, including the right to recover the principal and interest secured by such mortgage, subject to the provisions and conditions expressed in the instrument creating the charge or implied therein.

Form M.

88. Subject to the provisions in this Ordinance contained every mortgagee and encumbrancer under this Ordinance shall, when his mortgage or charge is registered, have all the rights and powers, and be subject to all the limitations and provisions, which he would have enjoyed or been subject to under the law for the time being in force, if the land comprised in the mortgage had not been subject to this Ordinance, and he were a mortgagee or encumbrancer under an instrument purporting to convey the legal estate and duly executed, attested, and registered, and containing in addition to all implied provisions and conditions, all the special covenants, provisions, and conditions contained in the instrument of mortgage or charge registered under this Ordinance as aforesaid.

Powers of mortgagees and charges.

89. As between different mortgages, charges and encumbrances, priorities shall be determined by the relative priority in time of the entries relating thereto in the Register Book.

Priority.

90. No transfer by a mortgagee on a sale under any statutory power of sale shall be registered, unless the instrument of transfer shall refer to the power under which it is made, and if such transfer be made in professed exercise of the power of sale conferred by the Conveyancing and Law of Property Ordinance, it shall be lawful for the Registrar General, unless he see reason to the contrary, to register such transfer without evidence that such power has been duly and properly exercised; and the Registrar General shall make a corresponding entry on the duplicate grant or certificate of title when produced to him.

Transfer under statutory power of sale.

Ch. 27. No. 12.

91. On the registration of a final order for foreclosure, the Registrar General may issue a certificate of title to the mortgagee, and may call in the certificate of title of the mortgagor for complete or partial cancellation, as the case may be. After the issue of such certificate of title, such foreclosure may not be re-opened as against any subsequent transferee, mortgagee, or encumbrancer.

Foreclosure.

92. In any memorandum of lease or sub-lease or mortgage, the following forms of words shall, unless inconsistent with the context, respectively imply the following covenants—

Implied covenants in leases or sub-leases or mortgages. Fire Insurance.

- (a) "will insure" shall imply as follows:—"That the lessee or mortgagor will insure, and so long as the principal money and interest secured by mortgage shall remain unpaid, or the term expressed in the said mortgage or lease shall not have expired, will keep insured, in the name of such mortgagee

or lessor in some insurance company or association to be approved by such mortgagee or lessor against loss or damage by fire to the full amounts specified in such instrument, or if no amount be specified then to their full value, all buildings, tenements, or premises, erected on such lands which shall be of a nature or kind capable of being insured against loss or damage by fire, and that the mortgagor or lessee will, at the request of the mortgagee or lessor, hand over to and deposit with him the policy of every such insurance, and produce to him the receipts for the annual or other premiums payable on account thereof, and also that all moneys to be received under or by virtue of any such insurance shall, at the option of the mortgagee, be applied either in or towards satisfaction of the moneys secured by the mortgage, or in making good the loss or damage in respect of which the money is received: Provided that if default shall be made in the observance or performance of the covenant last above mentioned, it shall be lawful for the mortgagee or lessor, without prejudice nevertheless to and concurrently with the powers granted him by his memorandum of mortgage or lease or by this Ordinance provided, to insure such building, and the costs and charges of such insurance shall, until such mortgage be redeemed, or such lease shall have expired, be a charge upon the said land recoverable in like manner as rent or interest in arrear; ”

Shop.

(b) “ that the lessee will not use the said premises as a shop ” shall imply as follows :—“ And also that the said lessee will not convert, use, or occupy the said land and premises mentioned in such lease 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 land and 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 said lessor ; ”

Offensive trade.

(c) “ will not carry on an offensive trade ” shall imply as follows :—“ And also that no noxious, noisome or offensive art, trade, business, occupation, or calling shall at any time during the said term be done in or upon the said land and 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 premises ; ”

- (d) “ will not without leave assign or sublet ” shall <sup>Assign or sublet.</sup> imply as follows :— “ And also that the said lessee shall not nor will, during the term of such lease, assign, transfer, demise, or sublet, or otherwise by any act or deed procure the land or premises therein mentioned or any of them or any part thereof to be assigned, transferred, demised, or sublet, unto any person whomsoever without the consent in writing of the said lessor first had and obtained ; ”
- (e) “ will not cut timber ” shall <sup>Timber.</sup> imply as follows :— “ And also that the said lessee shall not cut down, fell, injure, or destroy any growing or living timber or timberlike trees standing and being upon the said land and premises above mentioned, without the consent in writing of the said lessor. ”

**93.** Upon production of a memorandum executed by the mortgagee, sub-mortgagee or annuitant or his transferees, and attested in manner provided by this Ordinance, discharging the land from the whole or part of the moneys or annuity secured, or discharging any part of the land from the whole or part of such moneys or annuity, the Registrar General shall make an entry in the Register Book stating the time at which it was made, that such mortgage, sub-mortgage or charge is discharged wholly or partially, or that part of the land is discharged as aforesaid, as the case may be; and upon such entry being made the land or portion of land described in such memorandum shall cease to be subject to or liable for such moneys or annuity, or for the part thereof mentioned in such entry as discharged; and the Registrar General shall make a corresponding entry on the duplicate grant or certificate of title when produced to him. <sup>Discharge of mortgage or encumbrance.</sup>

**94.** Upon proof to the satisfaction of the Registrar General of the death of the annuitant, or of the occurrence of the event or circumstance upon which, in accordance with the provisions of any registered instrument, any charge or annuity thereby secured shall cease to be payable, and upon proof to the like satisfaction that all arrears of the charge or annuity <sup>Determination of encumbrance.</sup>

and all costs occasioned by non-payment thereof have been paid or satisfied, the Registrar General shall make an entry in the Register Book that such charge or annuity is satisfied, and upon such entry being made the land shall cease to be subject to or liable for such charge or annuity, and the Registrar General shall make the proper entry on the duplicate grant or certificate of title when produced to him.

Mortgagee to produce grant for registration of subsequent instrument.

**95.** When any instrument subsequent to a mortgage is made by the proprietor of any land, and such proprietor or the person entitled to the benefit of such subsequent instrument desires the registration of such subsequent instrument, the mortgagee, should he hold the duplicate grant or certificate of title which comprises the land in such subsequent instrument, shall, upon being requested so to do by the proprietor of the land or the person entitled to the benefit of such subsequent instrument, but at the cost of the person making such request, produce such duplicate grant or certificate of title to the Registrar General so that such subsequent instrument may be registered.

Foreclosure or sale under power.

**96.** When any land has been brought under or shall be brought under this Ordinance subject to any mortgage, and the mortgagee or any person claiming under him shall apply for a certificate of title to the land foreclosed or purchased, the mortgage shall be deemed to have conferred upon the mortgagee or the purchaser under the power of sale contained in the mortgage the right to be registered as proprietor of the same estate or interest in the land as that in respect of which the mortgage was registered, and no caveat which might have been or which was lodged against the original application shall be lodged or renewed in respect of the same estate or interest against the application of the mortgagee or any person claiming under him.

Discharge of mortgage in cases of death, insanity or absence of mortgagee.

**97.** In case the registered mortgagee shall be dead or become an insane person or be absent from the Colony, and there be no person authorised to give a receipt to the mortgagor for the mortgage money at or after the date appointed for the redemption of any mortgage, it shall be lawful for the Accountant General 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, and the Registrar General shall, upon the production of the receipt of the Accountant General for the amount of the said mortgage money and interest, make an entry in the Register Book discharging such mortgage,

and stating the date and hour on which such entry is made, and such entry shall be a valid discharge for such mortgage, and shall have the same force and effect as is hereinbefore given to a like entry when made upon production of the memorandum referred to in section 93; and the Registrar General shall endorse on the grant or certificate of title whenever brought to him for that purpose, the several particulars hereinbefore directed to be endorsed upon such instrument.

**98.** Dower or its extinction may be registered in like <sup>Dower.</sup> manner and on payment of like fees as encumbrances, but dower shall not be deemed to be an encumbrance.

## PART VIII.

### POWERS OF ATTORNEY.

**99.** The proprietor of any land under the provisions of <sup>Appointment of attorney.</sup> this Ordinance may, whether or not he be a trustee, or personal representative, authorise and appoint any person to act for him or on his behalf in respect to the transfer of or other dealing with such land in accordance with the provisions of this Ordinance, by a power of attorney in <sup>Form N.</sup> Form N of the First Schedule or by a deed under the provisions of the Conveyancing and Law of Property Ordinance. If in <sup>Ch. 27. No. 12,</sup> Form N such power of attorney when executed and attested in manner prescribed by this Ordinance shall be filed in the office of the Registrar General who shall, on payment of the prescribed fee, enter in the Register Book a memorial of the particulars of such power of attorney, and the date and the hour when it is filed. If by deed such power of attorney shall be registered under the provisions of the Registration of Deeds Ordinance and the Registrar General shall, upon <sup>Ch. 28. No. 2,</sup> payment of the prescribed fee and upon being furnished with a request in writing indicating the page or pages of the Register Book referring to the lands sought to be dealt with under and the registered number of such power of attorney, enter in the Register Book a memorial of the particulars of such power of attorney. No power of attorney shall be deemed to authorise any dealing with land under this Ordinance until a memorial has been entered as aforesaid.

**100.** (1) The proprietor of any land in respect of which a <sup>Revocation of power of attorney.</sup> power of attorney in Form N has been executed by him may, for the purpose of revoking such power, execute an instrument in <sup>Form O.</sup> Form O of the First Schedule, and the Registrar General shall, when such instrument duly executed and

attested in manner prescribed by this Ordinance is presented to him for the purpose, and on payment of the prescribed fee, enter the particulars thereof in the Register Book, and record thereon the date and hour on which such entry was made, and shall file the same in his office, and after the date of such entry the Registrar General shall not give effect to any memorandum of transfer or other instrument executed pursuant to such power of attorney.

Ch. 27. No. 12 (2) The powers vested in an attorney by a deed under the provisions of the Conveyancing and Law of Property Ordinance, may be revoked in manner provided by that Ordinance and after notice in writing of such revocation is given to the Registrar General he shall not give effect to any memorandum of transfer or other instrument executed pursuant to such power of attorney.

## PART IX.

### JUDGMENTS, LIS PENDENS, EXECUTION AND FORFEITURE.

Judgments  
and *lis*  
*pendens*.  
Ch. 6. No. 2.

101. When any memorandum of judgment under the Remedies of Creditors Ordinance or of *lis pendens* shall have been registered as against any person, the Registrar General upon request in writing and payment of the prescribed fee shall endorse a caveat on each page of the Register Book relating to land of which such person is the proprietor, and upon the endorsement of such caveat, the charge, if any, therein referred to shall remain in force for three years, unless such caveat shall be previously withdrawn or removed by order of a Judge: Provided that on re-registration of such memorandum of judgment or *lis pendens*, such caveat shall upon request in writing and payment of the prescribed fee also be renewed: Provided also, that when any such caveat as aforesaid shall be entered in the Register Book, the Registrar General shall make the corresponding entry on the duplicate grant or certificate of title when produced to him, and he may require any such grant or certificate of title to be delivered up to him for such purpose.

Execution.

102. Whenever any land or any estate or interest in land under the provisions of this Ordinance shall be seized or sold by the Marshal or the Registrar or bailiff of any court under any writ, or shall be sold under any direction, decree, or order of the Court or a Judge, or of any other competent court, the Registrar General, on being served with an office copy of the writ, direction, decree, or order, as the case may be, shall enter in the Register Book, and also upon the instrument evidencing title to the said estate or interest, if

produced for that purpose, the date of the said writ, direction, decree, or order, and the date and hour of its production, and thereupon the Registrar of the Court, or other officer duly authorised in that behalf, shall execute such instruments and do such acts and things as, under the provisions of this Ordinance, may be necessary or proper to transfer or otherwise deal with the land, estate, or interest in accordance with such writ, direction, decree, or order as aforesaid, and on the production of the proper instruments and payment of the prescribed fees, the Registrar General shall duly register such transfer or other dealing: Provided that, subject to the provisions hereinbefore contained respecting memoranda of judgments, no writ, direction, decree, or order shall bind or affect any land under the provisions of this Ordinance until such entry as aforesaid has been made in the Register Book, nor before such entry shall any sale or transfer by the Registrar or other officer be valid as against a purchaser or mortgagee, notwithstanding that such writ may have been actually in the hands of the Marshal, Registrar, or bailiff at the time of any purchase or mortgage, or notwithstanding such purchaser or mortgagee may have had actual or constructive notice of the issue of such writ; and upon production to the Registrar General of sufficient evidence of the satisfaction of any writ so entered as aforesaid, he shall enter in the Register Book a memorandum to that effect, and such writ shall be deemed to be satisfied accordingly, and every such writ shall be deemed to have lapsed unless the same shall be executed and put in force within three months from the day on which it was entered in the Register Book as aforesaid.

**103.** The Registrar General shall, on receiving from the Sub-Intendant of Crown Lands a warrant of forfeiture, or a duplicate or certified copy thereof, of any land under this Ordinance, containing the proper reference to the entry in the Register Book relating to such land, enter a memorandum of such forfeiture in the Register Book, and shall cancel the grant or certificate of title contained in the Register Book, so far as it relates to the land, estate, or interest forfeited, and may require the proprietor to deliver up, for similar cancellation as herein provided, the duplicate grant or certificate of title:

Forfeiture  
and change  
of ownership.

Provided that—

- (a) the Registrar General shall furnish to the officers having charge of the assessment rolls—
  - (i) a list of all the land within their respective districts which are subject to the provisions of this Ordinance, giving in each case the proper description of such land,

the name of the proprietor, and the number of the volume and page in the Register Book relating thereto; and

(ii) similar particulars to the officer in whose district for purposes of assessment any land is situated whenever any person is entered in the Register Book as the proprietor of such land;

(b) every officer having charge of the assessment rolls of any district shall set opposite to every entry therein relating to land under the provisions of this Ordinance, the number of the volume and page of the Register Book relating thereto;

Ch. 33, No. 2

(c) notwithstanding anything contained in the Lands and Buildings Taxes Ordinance, no land under the provisions of this Ordinance shall be deemed to be forfeited unless the warrants of forfeiture relating thereto shall contain the proper reference to the entry in the Register Book relating thereto, or until such cancellation in the Register Book as is hereinbefore directed shall have been made;

(d) any acquittance given by the Sub-Intendant of Crown Lands under the said Lands and Buildings Taxes Ordinance shall, if it relates to any land under this Ordinance, be notified by him to the Registrar General, with the proper reference in each case to the entry relating thereto in the Register Book; and the Registrar General shall, on receipt of such notification, make a memorandum of such acquittance, and the reverting of the land thereby affected, in the Register Book, and also on the duplicate grant or certificate of title if delivered to him for the purpose; and such cancellation as aforesaid shall thereupon be deemed to be annulled.

Regrants.

Ch. 33, No. 6.

**104.** All regrants under the Lands and Buildings Taxes Ordinance, and all conveyances under the Casual Revenue Ordinance, relating to land under the provisions of this Ordinance, may be noted in the Register Book, and any such regrant or conveyance which relates only to land under this Ordinance may be registered in the Register Book instead of in the Register of Deeds; and it shall be the duty of the Sub-Intendant of Crown Lands to note on every such regrant or conveyance the proper reference to the entry in the Register Book relating to the land comprised therein, if such reference shall have been brought to his knowledge.

## PART X.

## TRANSMISSION ON BANKRUPTCY, INSOLVENCY AND INSANITY.

**105.** Upon the bankruptcy or insolvency of a proprietor, mortgagee, or encumbrancer, of any land, estate or interest under the provisions of this Ordinance, the trustee or liquidator of such bankrupt or insolvent shall be entitled to be registered in respect of the same, and the Registrar General, upon receipt of an office copy of the certificate of his appointment, accompanied by an application in writing under his hand to be so registered in respect of any land, estate, or interest of such bankrupt or insolvent therein specified and described, shall enter in the Register Book, upon the leaf constituted by the grant or certificate of title of such land, and on the duplicate grant or certificate of title, a note of the appointment of such trustee or liquidator, and upon such entry being made, such trustee or liquidator shall be deemed and taken to be the proprietor, mortgagee, or encumbrancer, as the case may be, of the estate or interest of such bankrupt or insolvent in such land, and shall hold the same subject to the equities to which the bankrupt or insolvent held the same; but for the purpose of any dealings with such land, estate, or interest under the provisions of this Ordinance, such trustee or liquidator shall be deemed to be the absolute proprietor, mortgagee, or encumbrancer thereof.

Registration of trustee in bankruptcy or liquidator.

**106.** Subject to the provisions of the Bankruptcy Ordinance, the Companies Ordinance and of this Ordinance, a trustee in bankruptcy or a liquidator may disclaim any land or interest therein which is subject to this Ordinance, and the Registrar General, on receiving such disclaimer in writing, duly signed and properly referring to the land or interest in question, and an office copy of the certificate of his appointment, may make an entry relating thereto in the Register Book, and the person entitled to any land or interest therein under this Ordinance on the determination of the estate or interest of the bankrupt or insolvent or the persons claiming under him or it may thereupon apply to be registered in respect thereof: Provided that if the property disclaimed shall be a lease subject to mortgage, the mortgagee shall be entitled to be registered as proprietor of such lease, and no other applicant shall be registered as proprietor thereof except with such mortgagee's consent or by the order of the Court or a Judge.

Disclaimer of onerous property.  
Ch. 6, No. 6.  
Ch. 31, No. 1.

**107.** The committee of an insane person may be registered as the proprietor of any estate or interest in any land of which the person is the proprietor on payment of the prescribed fee and on furnishing the Registrar General with such evidence as he may require.

Registration of committee of insane person.

## PART XI.

## TRANSMISSION ON DEATH.

Devolution of land: Power of personal representatives to deal with land.

**108.** (1) Where land is vested in a proprietor for any term or estate beyond his life without a right in any other person to take by survivorship or in remainder or reversion, it shall, on his death, notwithstanding any testamentary disposition, devolve to and become vested in his personal representatives as if it were a chattel real vesting in them, and such personal representatives shall alone be recognised by the Registrar General as having any right in respect of the land, and any registered disposition by them shall have the same effect as if they were the proprietors of the land.

Power of appointment.

(2) This section shall apply to any land over which a person executes by will a general power of appointment as if it were land vested in him.

Right of personal representatives to be registered as proprietors.

(3) Personal representatives may be registered as proprietors of such land as aforesaid on payment of the prescribed fee and on furnishing the Registrar General with a request in writing setting forth the registered number of the probate of the will or the letters of administration of the estate of such deceased proprietor together with such further evidence as the Registrar General may require.

Administrator-General may be registered as proprietor in certain cases.

(4) It shall be lawful for the Registrar General to register the Administrator General as proprietor of any land or of any estate or interest therein forming part of any estate under nine hundred and sixty dollars in value, of which he shall have taken possession under the powers conferred on him by the Administration of Estates Ordinance, without the production of probate or letters of administration.

Ch. 8, No. 1.

Personal representatives to hold as trustees for beneficiaries.

**109.** (1) Subject to the powers, rights, duties, and liabilities hereinafter mentioned, the personal representatives of a deceased person shall hold the land as trustees for the persons by law beneficially entitled thereto, and those persons shall have the same power of requiring a transfer thereof as they have of requiring a transfer of personal estate.

(2) All enactments and rules of law relating to the effect of probate or letters of administration as respects chattels real, and as respects the dealings with chattels real before probate or administration, and as respects the costs of administration and other matters in relation to the administration of personal estate, and the powers, rights, duties, and liabilities of personal representatives in respect of personal estate, shall apply to land under this Ordinance, so far as

the same are applicable, as if that land were a chattel real vesting in them or him, save that it shall not be lawful for some or only one of several joint personal representatives, without the authority of the Court or a Judge, to transfer, lease, mortgage, or encumber such land.

**110.** No land under this Ordinance shall be liable to any charge created by the will of a deceased proprietor until a memorandum of such charge shall have been made by the Registrar General in the Register Book. No such memorandum shall be entered in the Register Book until application has been made on that behalf, and the prescribed fee paid, and such evidence as the Registrar General may require has been furnished that the land would, if not under the Ordinance, have been bound by such charge. Charges created by will to be registered.

**111.** Nothing in this Ordinance contained shall alter or affect the order in which real and personal assets respectively are now applicable in or towards the payment of funeral and testamentary expenses, debts, or legacies. Order of Administration of assets.

**112.** At any time after the death of the proprietor of any land under this Ordinance, his personal representatives may assent to any devise contained in his will, or may transfer the land to any person entitled thereto as next of kin, devisee, or otherwise, and may make the assent or transfer either subject to a charge for the payment of any money which the personal representatives are liable to pay, or without any such charge; and on such assent or transfer, subject to a charge for all moneys, if any, which the personal representatives are liable to pay, all liabilities of the personal representatives in respect of the land shall cease, except as to any acts done or contracts entered into by them before such assent or transfer. Assent to devise.

**113.** At any time after the expiration of one year from the death of the proprietor of any land under this Ordinance, if his personal representatives have failed on the request of the person entitled to the land to transfer the land to that person, the Judge may, if he think fit, on the application of that person, and after notice to the personal representatives, order that the person so entitled be registered as proprietor of the land, either solely or jointly with the personal representatives, and that the duplicate grant or certificate of title be delivered up for cancellation or for the proper endorsement. Order for registration of beneficiary.

Fee on transfer by personal representatives.

**114.** Where the personal representatives of a deceased person are registered as proprietors of land on his death, a fee shall not be chargeable by the Registrar General on any transfer of the land by them unless the transfer is for valuable consideration.

Registration of assent. Form P.

**115.** The production of an assent by the personal representatives in Form P of the First Schedule, duly executed and attested in manner prescribed by this Ordinance, shall authorise the Registrar General to register the person named in the assent as proprietor of the land. Such assent shall be retained by the Registrar General and registered: Provided that if such personal representatives are not registered as proprietors of the land intended to be disposed of, the Registrar General may refuse to register such persons as so entitled under the will of the deceased proprietor, until probate or letters of administration to his estate or an office copy thereof, and any other evidence which he may require, have been supplied.

Registration of personal representative in respect of mortgage, encumbrance or lease.

**116.** Whenever any mortgage, encumbrance or lease affecting land under the provisions of this Ordinance shall be transmitted in consequence of the will or intestacy of the proprietor thereof, the personal representatives of such proprietor shall be registered as proprietors of such mortgage, encumbrance or lease on payment of the prescribed fee and on furnishing the Registrar General with a request in writing stating the registered number of the probate of the will or letters of administration of the estate of such deceased proprietor together with such further evidence as the Registrar General may require.

Estate and succession duties.

**117.** Nothing in this Ordinance shall exempt land from estate and succession duties.

## PART XII.

### TRUSTS.

No entry of trusts in Register Book.

**118.** The Registrar General shall not make any entry in the Register Book of any notice of trusts, whether expressed, implied, or constructive, but trusts may be declared by any instrument or deed, which instrument or deed may include as well land under the provisions of this Ordinance as land which is not under the provisions thereof: Provided that the description of the several parcels of land contained in such instrument or deed shall sufficiently distinguish the land which is under the provisions of this Ordinance from

the land which is not under the provisions thereof; and such instrument may be registered in the Register of Deeds in accordance with the laws relating thereto, but such registration shall not be deemed to affect any purchaser from a proprietor with notice of any trust affecting land under this Ordinance.

**119.** If the proprietor of any land be a trustee, and the person beneficially entitled thereto would, if the land were not under this Ordinance, be entitled to require that the legal estate be vested in him, such beneficiary may take out a summons or commence an action to compel the proprietor to transfer the said land, and on the hearing of such summons or action an order may be made directing the Registrar General, on payment of the proper fee, to register such beneficiary as proprietor, and to issue to him a certificate of title.

Proceedings  
by bene-  
ficiary for  
registration.

**120.** Upon the transfer of any land, estate, or interest under the provisions of this Ordinance to two or more persons as joint proprietors, it shall be lawful for the transferor to insert in the memorandum of transfer or other instrument 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 as hereinbefore directed, and shall also enter the said words upon any certificate of title issued to such joint proprietors pursuant to such memorandum of transfer; and any two or more persons registered as joint proprietors of any land, estate, or interest under the provisions of this Ordinance, may, by writing under their hand authorise the Registrar General to enter the words "no survivorship" upon the grant or certificate of title, and also upon the duplicate grant or certificate of title, and after such entry has been made and signed by the Registrar General, in either such case as aforesaid 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 land, estate, or interest without the direction of the Court or a Judge.

"No  
survivorship"

**121.** Before making any such order as aforesaid, the Court or a Judge shall, if it seem requisite, cause notice of intention to do so to be advertised three times at least in one daily newspaper published in the Colony, and shall appoint a period of time within which it shall be lawful for any person interested to show cause why such order should not be issued, and

Order for  
transfer  
"where no  
survivorship."

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

Vesting orders.

**122.** Whenever the Court or a Judge shall, under any power in that behalf conferred by any Ordinance for the time being in force, make any order respecting land under the provisions of this Ordinance which would, if such land had not been subject to such provisions, have had the effect of vesting the legal estate or some interest in such land in any person without any conveyance or transfer, the Registrar General may, on the delivery of an office copy of such order, and payment of the prescribed fees, duly register such order, and note the same on the duplicate grant or certificate of title when produced, and shall register such person as the proprietor of such land for the proper estate, or entitled to such interest therein, without the production of any instrument of transfer: Provided that, until such order has been registered in the Register Book, it shall have no effect as against a purchaser or mortgagee from the proprietor.

Trustee must lend his name to beneficiary.

**123.** Whenever a proprietor entitled to or interested in land as a trustee would be entitled to bring or defend any action in his own name for recovering the possession of or enforcing a security on land under the provisions of this Ordinance, such person shall be bound to allow his name to be used as a plaintiff or defendant in such action by any beneficiary or other person claiming an estate or interest in the said land or security who would, if the said land had not been subject to the provisions of this Ordinance, have been entitled to bring such action either in his own name or that of the trustee: Provided that the person entitled or interested as such trustee shall in every such case be entitled to be indemnified in like manner as a trustee would, if this Ordinance had not been passed, have been entitled to be indemnified in a similar case of his name being used in any such action or proceeding by his *cestui que trust*.

**124.** When proprietors of land are trustees of a friendly society the Registrar General shall on an application by their successors in title endorse the applicants as proprietors on production of a certificate from the Registrar of Friendly Societies that the land in question is the property of the friendly society and that the applicants are the trustees of that society

Change in trustees of friendly societies.

### PART XIII

#### CAVEATS AGAINST DEALINGS WITH LAND UNDER THE ORDINANCE.

**125.** Any beneficiary or other person claiming any estate or interest in land under the provisions of this Ordinance or in any lease, mortgage, encumbrance, or settlement under any unregistered instrument or by devolution of law or otherwise, or the Registrar General, may lodge a caveat with the Registrar General in Form Q of the First Schedule or as near thereto as circumstances permit, forbidding the registration of any person as transferee or proprietor of and of any instrument affecting such estate or interest, either absolutely or until after notice of the intended registration or dealing is given to the caveator, or unless such instrument is expressed to be subject to the claim of the caveator as is required in such caveat, or unless the caveator consent in writing thereto. Every such caveat shall state the name and address of the person by whom or on whose behalf the same is lodged, and shall contain a sufficient description to identify the land and the estate or interest therein claimed by the caveator or by the person on whose behalf the caveat is lodged, and, except in case of caveats lodged by order of the court, or by the Registrar General as hereinbefore provided, shall be signed by the caveator or by his solicitor, counsel or duly registered attorney. The person lodging such caveat shall, if required by the Registrar General, support the same by a statutory declaration, stating the nature of the title under which the claim is made. Every notice relating to such caveat or to any proceedings in respect thereof, if served at the address mentioned in such caveat or at the address of the solicitor, counsel or attorney who may have signed the same, shall be deemed to be duly served and every such caveat may be withdrawn by the caveator or his solicitor, counsel or attorney.

Caveats by beneficiaries and others.

Form Q.

**126.** Upon the receipt of such caveat the Registrar General shall notify the same to the person against whose application to be registered as proprietor, or, as the case may be, to the proprietor against whose title to deal with the estate or interest such caveat has been lodged; and such applicant

Procedure on caveat.

or proprietor or any person claiming under any transfer or other instrument signed by the proprietor may, if he thinks fit, take out a summons to compel the caveator or the person on whose behalf such caveat has been lodged to show cause why such caveat should not be removed; and it shall be lawful for the Court or Judge to make such order either *ex parte* or otherwise, as to the Court or Judge may seem fit; and, except in the case of a caveat lodged by or on behalf of a beneficiary claiming under any will or settlement or by the Registrar General for the protection of incapable persons or the prevention of fraud, every such caveat lodged against a proprietor shall, unless an order to the contrary shall have been made by the Court or a Judge, be deemed to have lapsed upon the expiration of fourteen days after notice given to the caveator that such proprietor has applied for the registration of a transfer or other dealing with such land, estate or interest; but if before the expiration of such period of fourteen days or such further period as is specified in any order made under this section the caveator or his solicitor, counsel or attorney appears before the Court or a Judge and gives such undertaking or security or lodges such sum in court as the Court or a Judge considers sufficient to indemnify every person against any damage that may be sustained by reason of any disposition of the proprietor being delayed, then and in such case the Court or a Judge may direct the Registrar General to delay registering any dealing with the land, lease, mortgage or encumbrance for a further period to be specified in such order, or may make such order, and in either case such order as to costs, as is just.

No dealings  
while caveat  
in force.

**127.** So long as any caveat remains in force prohibiting any registration or dealing, the Registrar General shall not, except in accordance with some provision of such caveat or with the consent in writing of the caveator or his solicitor, counsel or attorney, enter in the Register Book any change in the proprietorship of or any transfer or other instrument purporting to transfer or otherwise deal with or affect the estate or interest in respect of which such caveat is lodged.

Frivolous  
caveat.

**128.** Any person lodging any caveat with the Registrar General without reasonable cause shall be liable to make to any person who may have sustained damage thereby such compensation as may be just, and such compensation shall be recoverable in an action at law by the person who has sustained damage from the person who lodged the caveat.

129. Where a caveat has been lodged by or on behalf of a beneficiary claiming under a will or settlement and a change in the proprietorship of or a transfer or other dealing with or affecting the land, estate or interest in respect of which the caveat was lodged is presented for registration, the same may notwithstanding the provisions of section 127 be registered without the caveat being withdrawn and without determining the operation of the caveat, provided the Registrar General is of opinion that such change of proprietorship or such transfer or other dealing is authorised by the will or settlement and the caveator either consents in writing to the registration or does not lodge a written protest against such registration within fourteen days after being served with notice as such caveator.

A caveat on behalf of a beneficiary under a will or settlement need not be removed to admit registration of a dealing authorised by the will or settlement.

#### PART XIV.

#### INSTRUMENTS—THEIR EXECUTION, CORRECTION, SUBSTITUTION, Loss, &c.

130. (1) Every instrument executed after the commencement of this Ordinance by the proprietor, mortgagee, encumbrancer, or other person having any estate or interest in any land under this Ordinance shall be executed and attested as follows:—

Mode of execution and effect of instrument.

- (a) when a party executes the same in the Colony the instrument must be executed in the presence of one witness at least not being a party thereto and of a qualified functionary, and the signing thereof must be attested by one such witness at least subscribing his name with the addition of his place of abode or business and his profession, occupation, or condition in life and by the qualified functionary subscribing his name with the addition of his qualification under this section;
- (b) when a party executes the same out of the Colony the instrument must be executed in the presence of one witness at least not being a party thereto, and the signing thereof must be attested by one such witness at least subscribing his name with the addition of his place of abode or business and his profession, occupation or condition in life; and
- (c) when a company or corporation executes the same, the instrument may be executed and attested in manner prescribed by Ordinance or the common law.

(2) A qualified functionary shall not subscribe an instrument under this section unless it bears the signature of some barrister or conveyancer as having prepared such instrument.

(3) Every instrument so executed shall when registered have the force and effect of a deed made by the parties signing the same.

(4) The expression "qualified functionary" means a Judge, a Justice, a barrister, a conveyancer or the Registrar of the Supreme Court.

Attestation of instruments in the Colony.

**131.** In all cases in which any instrument referred to in section 130 is executed by any person within the Colony the affidavit or solemn declaration proving such execution may be made before a Judge, or the Registrar General or a Commissioner of Affidavits. The affidavit or declaration may be in Form R in the First Schedule and may be endorsed upon, or written at the foot or in the margin of, the instrument or may be separate and refer to the instrument as an exhibit.

Form R.

Attestation of instruments out of the Colony.

**132.** In all cases in which any instrument referred to in section 130 shall have been executed out of the Colony the affidavit or solemn declaration of the witness proving such execution may be made and the making of the same may be certified in the like manner to that prescribed for deeds executed out of the Colony by section 10 of the Registration of Deeds Ordinance.

Ch. 28, No. 2.

Execution of instrument by marksman.

**133.** The Registrar General may refuse to register any instrument executed by a person signing his name in foreign characters, or by making his mark, unless the same bears upon it a certificate by a barrister or conveyancer, or by a Justice, or by a duly licensed interpreter, that he has explained or caused to be explained the true purport of such instrument to such person so signing as aforesaid, and that he is satisfied that such person understands the same.

Consolidation and sub-division of certificates of title.

**134.** (1) Upon the application of any proprietor of land held under separate grants or certificates of title, or under one grant or certificate of title, and upon the delivering up of such grant or grants, certificate or certificates of title, it shall be lawful for the Registrar General to issue to such proprietor a single certificate of title for the whole of such land, or several certificates of title, each containing a portion of such land, in accordance with such application, and as

far as the same may be done consistently with any regulations for the time being in force respecting the parcels of land that may be included in one certificate of title; and upon issuing any such certificate of title the Registrar General shall cancel the grant or previous certificate of title of such land so delivered up, and shall endorse thereon a memorandum setting forth the occasion of such cancellation, and referring to the certificate of title so issued.

(2) It shall be lawful for the Registrar General to issue to the proprietor of any mines, minerals or quarries in or underlying land (hereinafter in this section called "surface land") held under the provisions of this Ordinance a certificate of title of such mines, minerals or quarries. In issuing such certificate of title it shall be lawful for the Registrar General to dispense with the production of the duplicate grant or certificate of title of the surface land. A memorandum of the issue of such certificate of title shall be endorsed on the grant or certificate of title of the surface land and on the duplicate grant or certificate of title of the same; and if the production of the duplicate has been dispensed with such memorandum shall be endorsed on such duplicate when it shall next be produced to the Registrar General.

Certificate of title of mines, minerals and quarries.

(3) Whenever any estate or interest in any mines, minerals or quarries in or underlying any land held under the provisions of this Ordinance is transferred apart from the surface land the Registrar General may refuse to register such transfer except application be made to him for the issue of a separate certificate of title in respect of such estate or interest in such mines, minerals or quarries as aforesaid. A memorandum of the issue of such certificate of title shall be endorsed on the grant or certificate of title of the surface land and on the duplicate grant or certificate of title of the same.

New certificate of title on transfer of mines, minerals and quarries.

(4) It shall be lawful for the Registrar General to issue a certificate of title to the proprietor of any lease under which there shall be a term of not less than twenty-one years unexpired, and such certificate of title shall refer to the reversion expectant upon the term of such lease. The Registrar General shall from time to time enter on such certificate of title memorials of all mortgages, sub-leases, dealings or other interests affecting or relating to the leasehold estate or interest created by such lease.

Certificate of title to leaseholds.

The Registrar General may dispense with duplicate grants, &c., in certain cases.

**135.** The Registrar General may dispense with the production of any duplicate grant, certificate of title or instrument for the purpose of entering thereon any memorial by this Ordinance required. In every such case upon the registration of the dealing the Registrar General shall notify in the memorial in the Register Book that no entry of such memorial has been made on the duplicate and such dealing shall thereupon be as valid and effectual as if such memorial had been entered thereon. The Registrar General may dispense with the production of the duplicate grant or certificate of title required to be delivered up prior to the registration of a devisee or other person on the transmission of an estate of freehold: Provided always that before registering such dealing or transmission the Registrar General shall require proof by statutory declaration that the duplicate is not deposited or held as security or lien, and shall give at least fourteen days' notice of his intention to register such dealing in at least one daily newspaper published in the Colony.

Provision in case of lost grant or certificate of title.

**136.** In the event of the duplicate grant or certificate of title being lost or destroyed application may be made to the Registrar General for the issue of a new certificate of title, and the Registrar General may, on proof by statutory declaration to his satisfaction of the loss or destruction of the duplicate grant or certificate of title, cancel the grant or certificate of title for the land then comprised in the grant or certificate of title the duplicate whereof has been lost or destroyed and issue a new certificate of title for such land: Provided that the Registrar General before issuing such new certificate of title shall give at least fourteen days' notice of his intention so to do in at least one daily newspaper published in the Colony.

Variation of instruments.

**137.** The provisions of any transfer, lease, sub-lease, mortgage, sub-mortgage or encumbrance registered under this Ordinance may be varied by a memorandum of variation in Form S of the First Schedule or in such other form as may be approved by the Registrar General duly executed by the necessary parties and registered under this Ordinance.

Form S.

Correction of errors.

**138.** In case it shall appear to the satisfaction of the Registrar General that any grant, certificate of title or other instrument has been issued in error, or contains any misdescription of land or of boundaries made in error, or that any entry or endorsement has been made in error, on any grant, certificate of title, or other instrument, or that any such grant, certificate of title, instrument, entry, or endorsement has been fraudulently or wrongfully obtained, or that

any such grant, certificate of title, or instrument is fraudulently or wrongfully retained, he may require the person to whom such grant, certificate of title, 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.

**139.** In any case in which the Registrar General is entitled to require the delivery up to him of any instrument for cancellation, correction, or endorsement, he or any person interested may take out a summons against the party alleged to have been in possession of such instrument to show cause why such instrument should not be delivered up for such purpose, and if such person when served with such summons shall not appear at the time therein appointed, it shall be lawful for the Judge to issue a warrant authorising and directing the person so summoned to be apprehended and brought before a Judge for examination.

Procedure to compel delivery up of instruments.

**140.** Upon the appearance before the Court or Judge of any person summoned or brought up by virtue of a warrant as aforesaid, it shall be lawful to examine such person upon oath, and, in case the same shall seem proper, to order such person to deliver up such instrument as aforesaid, and, upon refusal or neglect by such person to deliver up the same pursuant to such order, to commit such person to prison and, in such case or in case such person shall have absconded, so that summons cannot be served upon him as hereinbefore directed, the Registrar General shall, if the circumstances of the case require it, issue to the proprietor of the land such certificate of title or other instrument as is herein provided to be issued in the case of any grant or certificate of title being lost, mislaid, or destroyed, and shall enter in the Register Book notice of the issuing of the certificate of title or other instrument, and the circumstances under which the same was issued, and such other particulars as he may deem necessary.

Failure to deliver up instrument.

## PART XV.

### INDEFEASIBILITY OF TITLE AND REMEDIES OF PERSONS INJURED.

**141.** Except in the case of fraud, no person contracting or dealing with or taking or proposing to take a transfer from the proprietor of any estate or interest shall be required or in any manner concerned to enquire or ascertain the circumstances under, or the consideration for which, such proprietor or any previous proprietor of the estate or interest

Transfers and other dealings good notwithstanding notice of trust or unregistered interest.

in question is or was registered, or to see to the application of the purchase money or of any part thereof, or shall be affected by notice, direct or constructive, of any trust or unregistered interest, any rule of law or equity to the contrary notwithstanding, and the knowledge that any such trust or unregistered interest is in existence shall not of itself be imputed as fraud.

Certificate of title conclusive as to matters therein stated.

**142.** Any grant or certificate of title registered under the provisions of this Ordinance, so long and so far as it remains uncanceled in the Register Book, and so far as no discrepancy is shown to exist between it and the duplicate thereof, shall be conclusive evidence of the matters thereon stated, or thereon endorsed by the Registrar General, except as in this Ordinance provided.

No action against proprietor for ejectment or recovery of land.

**143.** No action of ejectment or other action for the recovery of any land shall lie or be sustained against the person registered as proprietor thereof under the provisions of this Ordinance, except in any of the following cases—

Exceptions.

- (a) the case of a mortgagee or an annuitant or a lessor as against a mortgagor or a grantor or a lessee in default ;
- (b) the case of a person deprived of any land by fraud, as against the person registered as proprietor of such land through fraud, or as against a person deriving, otherwise than as a transferee *bona fide* for value, from or through a person so registered through fraud ;
- (c) the case of a person deprived of or claiming any land included in any grant or certificate of title of other land by misdescription of such other land or of its boundaries, as against the proprietor of such other land not being a transferee thereof *bona fide* for value ;
- (d) the case of a proprietor claiming under the instrument of title prior in date of registration under the provisions of this Ordinance, where two or more grants or two or more certificates of title, or a grant and a certificate of title, may be registered under the provisions of this Ordinance in respect of the same land :

And in any case other than as aforesaid, the production of the original grant, certificate of title, or other instrument shall be held, both at law and in equity, to be an absolute bar and estoppel to any such action against the person named

in such instrument as the proprietor of the land therein described, any rule of law or equity to the contrary notwithstanding: Provided that nothing herein contained shall prevent a plaintiff from obtaining in an action judgment for specific performance of a contract for the sale or lease of land under this Ordinance, nor prevent a beneficiary entitled to call for a transfer from a trustee from obtaining a decree for such transfer or such vesting order as hereinbefore mentioned.

**144.** Whenever an action shall be brought against a proprietor or person holding a grant or certificate of title in either of the two cases excepted in the last preceding section at paragraphs (c) and (d), if the defendant or any person through whom he claims shall have made improvements on the land since obtaining a grant or certificate of title thereto, then, whether he admit or deny the plaintiff's title, he may plead the fact of such improvements being made, and may set a value thereon and also on the land as distinct therefrom, and give evidence thereof at the trial, and if judgment be given for the plaintiff, or his title be admitted, the Court or a Judge may, if he thinks the justice of the case so requires, assess the value of the alleged improvements, and may also separately assess the value which the land would have possessed if the said improvements had not been made. And no writ of possession shall issue in such case unless the plaintiff shall first pay into court, for the use of the defendant, the value of the improvements so assessed, deducting only the costs, if any, to which he shall be entitled in the action; and if the plaintiff shall fail to make such payment within three months after judgment, the amount to which he is entitled shall thereafter be limited to the sum separately assessed as the value of the land together with costs of suit; and the defendant shall, upon satisfaction thereof, be entitled to retain the land and improvements, and in either case the Registrar General shall be entitled, under the power hereinbefore conferred, to require to be delivered up any grant or certificate of title which shall be held by the party whose right to the land shall have determined: Provided that in every case in which the defendant shall be entitled to indemnity from the Assurance Fund, the Registrar General shall be made a co-defendant, and may defend the action either severally or jointly or may leave the defence wholly to his co-defendant, as he shall see fit; and in no case shall the Assurance Fund be liable to the principal defendant for any greater damages than he shall actually sustain as the result of such action, after using all reasonable diligence in the defence thereof.

Compensation  
for improve-  
ments.

Damages for  
ejectment.

145. Any person deprived of land under paragraphs (b), (c), and (d) of section 143 may bring an action at law against the person upon whose application such land was brought under the provisions of this Ordinance by fraud or misdescription, or such erroneous registration was made, or who acquired title to the estate or interest in question through such fraud, error, or misdescription: Provided always, that in every case in which the fraud, error, or misdescription shall occur upon a transfer made for value, the person making the transfer and receiving the value shall be regarded as the person upon whose application the grant or certificate of title was issued to the transferee: Provided further that, except in the case of fraud or error occasioned by any omission, misrepresentation, or misdescription in the application of such person to bring such land under the provisions of this Ordinance or to be registered as proprietor of such land, estate, or interest, 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 damages which but for such transfer might have been recovered from him under the provisions hereinbefore contained; and in such last mentioned case, and also in case the person against whom such action for damages is directed to be brought as aforesaid shall be dead, or shall have been adjudged bankrupt, or become insolvent, or cannot be found within the jurisdiction, then and in any such case such damages with costs of action may be recovered from the Assurance Fund by action against the Registrar General as nominal defendant: Provided further that in estimating such damages the value of all buildings and other improvements erected or made subsequently to the deprivation shall be excluded.

Saving for  
purchasers  
for value.

146. Nothing in this Ordinance contained shall be so interpreted as to leave subject to action for recovery of damages as aforesaid, or to action for recovery of land, or to deprivation of the estate or interest in respect to which he is registered as proprietor, any purchaser or mortgagee *bona fide* for valuable consideration of land under the provisions of this Ordinance, on the plea that his vendor or mortgagor may have been registered as proprietor or procured the registration of such transfer to such purchaser or mortgagee through fraud or error, or may have derived title from or through a person registered as proprietor through fraud or error, and this whether such fraud or error shall consist in wrong description of the boundaries or of the parcels of land, or otherwise howsoever.

147. Upon making any order affecting the estate or interest of any proprietor of land registered under the provisions of this Ordinance it shall be lawful for the Court or a Judge, in any case in which such proceeding is not herein expressly barred, to direct the Registrar General to cancel any certificate of title or instrument or any entry or memorial in the Register Book relating to such land, estate or interest, and to substitute such certificate of title or entry or to make such other entry as the circumstances of the case require; and the Registrar General shall give effect to such order.

Power of Court to direct cancellation or making of entries, &c.

148. 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 Ordinance, or by the registration of any other person as proprietor of such land, or by any error, omission, or misdescription in any certificate of title, or any entry or memorial in the Register Book, and who, by the provisions of this Ordinance, is barred from bringing action for the recovery of such land, estate, or interest, may, in any case in which the remedy by action for recovery of damages as hereinbefore provided is inapplicable, bring an action for recovery of damages against the Registrar General as nominal defendant.

Damages for error of Registrar General, &c.

149. If in any such action the plaintiff recover final judgment, then the Court or Judge before whom such action may be tried shall certify the fact of such judgment and the amount of damages and costs recovered, and the amount of such damages and costs shall be paid to the person recovering the same, and shall be charged to the account of the Assurance Fund; and in case the balance to the credit of the Assurance Fund shall be inadequate to defray the amount specified, such sum as may be necessary for that purpose shall be paid out of the general revenue of the Colony, and the amount so advanced shall be repaid from the Assurance Fund as the same may thereafter accrue.

Payment of damages.

150. (1) No action for recovery of damages sustained through deprivation of land, or of any estate or interest in land as hereinbefore described, shall lie or be sustained against the Registrar General, or against the person upon whose application such land was brought under the provisions of this Ordinance, or against the person who applied to be registered as proprietor in respect to such land, or against the person certifying any instrument as aforesaid, unless

Limitation of actions.

such action shall be commenced within the period of six years from the date of such deprivation: Provided that any person being under the disability of infancy, or unsoundness of mind may bring such action within six years from the date on which such disability shall have ceased: Provided further, that in no case shall any such action be brought after twenty-seven years shall have elapsed from the accrual of such right of action.

(2) The plaintiff in any such action, or in an action for the recovery of land, shall be nonsuited in any case in which the deprivation complained of may have been occasioned through the bringing of land under the provisions of this Ordinance, if it shall be made to appear to the satisfaction of the Court before which such action shall be tried that such plaintiff, or the persons through or under whom he claims title, had notice by personal service or otherwise or was aware that application had been made to bring such land under the provisions of this Ordinance, and had wilfully, collusively, or negligently omitted to lodge a caveat forbidding the same, or allowed such caveat to lapse.

Recovery of amount paid from estate of deceased, bankrupt or insolvent.

**151.** Whenever any amount has been paid out of the Assurance Fund on account of any person who may 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, and whenever such amount has been paid on account of a person who shall have been adjudged bankrupt or become insolvent, the amount so paid shall be considered to be a debt due from the estate of such bankrupt or insolvent, and a certificate signed by the Accountant General certifying the fact of such payment and delivered to the Official Receiver shall be sufficient proof of such debt; and whenever any amount has been so paid on account of any person who may have absconded, or who cannot be found within the jurisdiction of the court, and may have left any real or personal estate within the Colony, it shall be lawful for the Court or a Judge, upon the application of the Registrar General, and upon the production of a certificate signed by the Accountant General certifying that the amount has been paid in satisfaction of a judgment against the Crown, to allow the Registrar General to sign judgment against such person forthwith for the amount so paid, together with the costs of the application, and such judgment shall be final and signed in like manner as a final judgment by confession or default in an adverse suit, and execution may issue immediately; and if such person shall not have left real or personal estate within the Colony sufficient to satisfy the

amount for which execution may have been issued as aforesaid, it shall be lawful for the Registrar General to recover such amount, or the unrecovered balance thereof, by action against such person at any time thereafter when he may be found within the jurisdiction of the court.

**152.** Neither the Crown nor the Assurance Fund shall under any circumstances be liable for compensation for any loss, damage, or deprivation occasioned by the breach by a proprietor of any trust whether express, implied, or constructive, nor in any case in which the same land may have been included in two or more grants from the Crown; nor in any case in which such loss or deprivation has been occasioned by any land being included in the same certificate of title with other land through misdescription of boundaries or parcels of any land, unless, in the case last aforesaid, it shall be proved that the person liable for compensation and damages is dead or has absconded or has been adjudged bankrupt or become insolvent, or the Marshal shall certify that such person is unable to pay the full amount awarded in any action for recovery of such compensation and damages.

No compensation for loss from breach of trust, nor from misdescription, except in certain cases.

**153.** The Registrar General shall not in his personal capacity 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 under this Ordinance.

Saving of Registrar General from personal liability.

## PART XVI.

### OFFENCES.

**154.** If any person fraudulently procures, assists in fraudulently procuring, or is privy to the fraudulent procurement of, any grant, certificate of title 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, or 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, or 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 Ordinance, or in respect of which any dealing or transmission is proposed to be registered or

Frauds.

recorded, such person shall be guilty of a misdemeanour, and shall be liable to a fine of two thousand four hundred dollars, or to imprisonment for three years; and any grant, certificate of title, entry, erasure, or alteration so procured or made by fraud shall be void as regards all persons who may be parties or privy to such fraud.

Saving of  
civil  
remedies.

**155.** No proceeding or conviction for any act hereby declared to be a misdemeanour, shall affect any remedy which any person aggrieved or injured by such act may be entitled to at law or in equity against the person who has committed such act or against his estate.

Prosecutions.

**156.** All offences against the provisions of this Ordinance may be prosecuted in the name of the Registrar General before any court in the Colony having jurisdiction for the punishment of offences of the like nature.

Recovery of  
moneys due  
under  
Ordinance.  
Ch. 5. No. 1.

**157.** Except as otherwise herein provided all sums of money declared to be due or owing under the provisions of this Ordinance may be recovered in the manner provided in the Crown Suits Ordinance.

## PART XVII.

### MISCELLANEOUS.

Fees.

**158.** (1) The Registrar General is authorised to charge such fees for the various matters to be done or permitted under this Ordinance as shall be prescribed from time to time by the Governor, and, until any such fees shall be so prescribed, and subject thereto, may charge, for the matters and things mentioned in the Second Schedule, the several fees prescribed therefor respectively in the said Schedule. Such fees shall not be in lieu of the cost of any advertisements directed or proper to be published by or under this Ordinance, which shall be paid in each case by the applicant.

2nd Schedule

Searches  
and copies.

(2) Any person may, at the prescribed times, on payment of the prescribed fees, and subject to the prescribed conditions, search the Register Book, and obtain copies of any entry therein.

Registrar  
General  
subject to  
directions  
of Judge.

**159.** Subject to the prescribed rules, the Court or a Judge may direct the Registrar General to do, or abstain from doing, all such acts as such Registrar General is authorised to do or to abstain from doing under this Ordinance.

**160.** (1) In the conduct of actions and other matters under this Ordinance, the same rules of procedure and practice shall apply, and there shall be the same rights of appeal as are in force or exist for the time being in respect of ordinary actions in the court in which such actions may be tried: Provided that the Chief Justice, with the concurrence of a Puisne Judge, shall have power to make rules for regulating procedure and proceedings under this Ordinance, and until such rules shall have been made, and so far as no such rules shall extend, the rules contained in Part I of the Third Schedule shall be deemed to have been made and to be in force.

Rules as to  
procedure  
and practice.

3rd Schedule.

(2) The Chief Justice, with the concurrence of a Puisne Judge, shall have power to frame a table of fees which may be charged by barristers and solicitors for professional work in respect of the matters specified in Part II of the Third Schedule, and such fees shall be chargeable so soon as they have been approved of by the Governor and the Legislative Council: Provided that until varied or revoked the fees chargeable shall be those prescribed in Part II of the Third Schedule.

Professional  
charges.

**161.** The Registrar General may, by the direction of the Court or a Judge, abstain from making any particular entry or cancellation in the Register Book pending an appeal.

Stay pending  
appeal.

**162.** The Registrar General may, subject to any rules made by the Judges under the powers in that behalf hereinbefore contained, make such alterations in the several forms of instruments prescribed in the First Schedule and settle such additional forms as he may deem requisite; and the forms for the time being in force may be modified or altered in expression to suit the circumstances of every case; and any variation from such forms respectively in any respect, not being a matter of substance, shall not affect their validity or regularity: Provided that the Registrar General may refuse to accept any instrument of whose substantial conformity with the proper form he is not satisfied.

Alteration  
of forms.

**163.** The Real Property Ordinance is hereby repealed without prejudice to anything done or suffered thereunder, or any validation, right, privilege, obligation, or liability made, acquired, accrued, or incurred thereunder.

Repeal of  
Ch. 27. No. 11.

## SCHEDULES.

## FIRST SCHEDULE.

(Section 8).

FORM A.

I, A. B., of \_\_\_\_\_ do solemnly and sincerely declare as follows :  
 that I am (or on behalf of X. Y., that he is) seised of an estate of (here state  
 whether of inheritance or of a life estate or leasehold for life or lives or term  
 of years and whether held in trust) in all that piece of land situate 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, country \_\_\_\_\_ section, or reserve) originally granted to  
 \_\_\_\_\_ by grant under the hand and seal of  
 \_\_\_\_\_ formerly Governor of the Colony.

Dated, &amp;c.

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 in the said land at law or in equity in possession or in expectancy other,  
 than is set forth as follows that is to say (here state particulars of mortgages  
 encumbrances, dower, lease, or other interest to which the land may be subject),  
 and I further declare that there is no person in possession or occupation of the  
 said land adversely to my estate or interest therein and that the said land is  
 now (here state the name and description of occupier or that the land is occupied)  
 and that (here state the names and addresses of both owners and occupiers of  
 lands contiguous thereto), and that there are no deeds or instruments of title  
 affecting such land in my possession or under my control or to my knowledge  
 registered in the office of the Registrar General, other than those enumerated  
 in the Schedule hereto or at the foot hereof, and I make this declaration con-  
 scientiously believing the same to be true and according to the Statutory  
 Declarations Ordinance, and I am aware that if there is any statement in this  
 declaration which is false in fact, or which I know or believe to be false or do  
 not believe to be true, I am liable to fine and imprisonment.

Dated, &amp;c.

Signature of A. B.

Made and subscribed by the above-named

this \_\_\_\_\_ day of

19 \_\_\_\_\_, in the presence of me

{ Registrar General (or  
 Deputy Registrar  
 General, or Justice of  
 the Peace or other  
 (qualified official).

I, A. B., the above declarant do hereby apply to have the piece of land  
 described in the above declaration brought under the provisions of the Real  
 Property Ordinance.

Dated, &amp;c.

Witness to signature, C. D.

## FORM B.

(Section 18).

**Notice.**

Application has been made to bring the land hereunder described under the Real Property Ordinance, on a title claimed by possession (insert if applicable as to part).

The number of the application is \_\_\_\_\_

Date of application to the Registrar General \_\_\_\_\_

Name, address, and occupation of applicant \_\_\_\_\_

Land applied for \_\_\_\_\_ (Here insert description, the same as in advertisement.)

Dated, &c. \_\_\_\_\_

(Signature or copy of signature of applicant or his agent).

(Section 22).

## FORM C.

**Caveat under Section 22.**

Take notice that I, \_\_\_\_\_ of \_\_\_\_\_, claiming estate or interest (here state the nature of the estate or interest claimed and the ground on which such claim is founded) in land described as (here state

particulars of description from declaration of applicant) in notice dated the

day of \_\_\_\_\_ 19 \_\_\_\_\_, advertising the same as land in respect of which claim has been made to have the same brought under the provisions of the Real Property Ordinance, do hereby forbid the bringing of the said land under the provisions of the said Ordinance.

And I appoint \_\_\_\_\_ as the place at which notices relating hereto may be served.

Dated, &c. \_\_\_\_\_

Signed in my presence this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_

To the Registrar General.

(Section 32).

## FORM D.

**REAL PROPERTY ORDINANCE.****Certificate of Title.**

A. B., of \_\_\_\_\_ (here insert description, and, if certificate be issued pursuant to any transfer, reference to memorandum of transfer) is now seised of an estate (here state nature of estate) subject nevertheless to such mortgages or encumbrances as are notified by memorial underwritten or endorsed hereon, in that piece of land situated in the (Ward, District, or Town) of \_\_\_\_\_ (here insert sufficient description to identify the land referring to map or diagram).

In witness whereof, I have hereunto signed my name and affixed my seal this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_

*Registrar General  
or Deputy Registrar General.*

(Section 50).

FORM E.

**Affidavit or statutory declaration in support of a claim to title by possession.***(Heading as in the action).*

I, A. B., of \_\_\_\_\_ make oath and say that (or do solemnly and sincerely declare as follows) :—

1. Set forth the name, address, and occupation of the applicant.
2. Set forth the acreage, situation, boundaries and description of the land affected by the proceedings and the reference to the grant or certificate of title relating to such land.
3. Set forth particulars of the possession on which the claim is based—
  - (a) the date on and circumstances in which the possession commenced.
  - (b) the name of the person by whom the possession was commenced.
  - (c) the duration of his possession and the nature thereof.
  - (d) the subsequent history and nature of the possession up to the time of lodging the application; and
  - (e) the names of the persons who have paid the taxes and annex the tax receipts if any.
4. State that there are no documents or evidence of title affecting such land in the possession or under the control of the applicant other than those included in the Schedule hereto.
5. State that there are no mortgages or encumbrances registered on the above mentioned title save and except the following :—(set out short particulars and state whether these mortgages or encumbrances have been extinguished or ceased to affect the land, and, if so, how).
6. State that, save as aforesaid, the applicant is not aware of any mortgage or encumbrance affecting the said land or that any person other than himself has any estate or interest therein (if there be any add) save and except (and set out same).
7. State that the names and addresses so far as known to the applicant of the occupants of all lands contiguous to the said land are as follows :—
8. State that the names and addresses so far as known to the applicant of the owners of all lands contiguous to the said land are as follows :—
9. State that the present value of the land including all improvements therein is (\$ \_\_\_\_\_ ) and no more.

Dated, &amp;c.

(Sworn, &amp;c., or I make this declaration, &amp;c.)

(Section 62).

FORM F.

**Transfer of land.**

I, A. B., being registered as the proprietor of an estate (here state nature of the estate or interest) subject however to such mortgages and encumbrances as are notified by memorial underwritten or endorsed hereon, in all that piece of land situated in the (Ward, District, or Town) of \_\_\_\_\_ containing (here state area) be the same a little more or less, delineated and with the abuttals and boundaries thereof shown in the plan drawn on (or annexed to) (here state the volume and page of the Register Book on which the plan, if any, appears) (here state rights of way, privileges or easements, if any, intended to be transferred, and here insert description of lands) in consideration of the sum of \$ \_\_\_\_\_ paid to me by E. F., the receipt of which sum I hereby acknowledge (or other consideration, if any) do hereby transfer to the said E. F. all my estate (or a lesser estate or interest, describing such lesser estate) in the said piece of land.

In witness whereof I have hereunto signed my name this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_

Signed on the day above named by the said A. B., in the presence of \_\_\_\_\_

*(Signatures of Witnesses).*

(Section 62.)

FORM G.

**Transfer of a lease, sub-lease, mortgage or charge.**

I, A. B., being registered as the proprietor of a lease (or sub-lease or mortgage or charge as the case may be) No. \_\_\_\_\_ dated the \_\_\_\_\_ day of 19 \_\_\_\_\_, subject however to such mortgages and encumbrances as are notified by memorial underwritten or endorsed hereon of (or upon) all that piece of land situate in the (Ward, District or Town) of \_\_\_\_\_ containing (here set out area) be the same a little more or less delineated and with the abuttals and boundaries thereof shown in the plan (drawn on or annexed to) (here set out volume and page of the Register Book on which the plan, if any, appears and the boundaries) in consideration of the sum of \$ \_\_\_\_\_ paid to me by C. D., the receipt of which sum I hereby acknowledge, do hereby transfer to the said C. D. all my estate and interest as such proprietor in the said land, and I, C. D., do hereby accept the said transfer (here set forth special covenants and conditions, if any.)

In witness, &c.

Signed on the day above named A. B. and C. D.

*(Signatures of Witnesses).*

(Section 79).

FORM H.

**Request to endorse a memorial of merger.**

To the Registrar General:

I, A. B., being registered as proprietor of (here state the volume and page of the Register Book on which the plan, if any, appears and description of land) and also being registered as proprietor of the mortgage (or lease) of the said land No. \_\_\_\_\_ dated the \_\_\_\_\_ day of 19 \_\_\_\_\_, Do HEREBY request you to endorse a memorial of merger on the said grant (or certificate of title) To the intent that my interest as mortgagee (or lessee) under the said mortgage (or lease) may be merged in my interest as proprietor and extinguished.

Dated, &c.

Signed by the above named A. B. in the presence of:

*(Signatures of Witnesses).*

(Section 80 (1))

FORM I.

**Lease.**

I, A. B. being registered as proprietor of an estate (here state nature of the estate or interest) subject however, to such mortgages and encumbrances as are notified by memorial underwritten or endorsed hereon, in that piece of land situated in the (Ward, District, or Town) of \_\_\_\_\_ containing (here state area) be the same a little more or less, delineated and with the abutments and boundaries thereof shown in the plan drawn on (or annexed to) (here state the volume and page of the Register Book on which the plan, if any, appears) (here state rights of way, privileges, or easements, if any, intended to be leased, and here insert description of land) do hereby lease to E. F. of (here insert description) all the said land to be held by him the said E. F. as tenant for the space of \_\_\_\_\_ years at the yearly rental of \$ \_\_\_\_\_ payable (here insert terms of payment of rent) subject to the following covenants, conditions, and restrictions (here set forth all special covenants, conditions and restrictions, if any by lessor and lessee).

Dated &amp;c.

Signed by the above named A. B. as lessor and by the above named E. F. as lessee this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_ in presence of ;

*(Signatures of witnesses).*

(Section 80 (2)).

FORM J.

**Sub-lease.**

I, A. B., being registered as proprietor of a lease No. \_\_\_\_\_ dated the \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_ subject however to such mortgages and encumbrances as are notified by memorial underwritten or endorsed hereon of all that piece of land situate in the (Ward, District or Town) of \_\_\_\_\_ containing (here state area) be the same a little more or less, delineated and with the abutments and boundaries thereof shown in the plan drawn on (or annexed to) (here state the volume and page of the Register Book on which the plan, if any, appears and the description of the land and any rights of way, privileges or easements intended to be sub-leased) Do HEREBY Sub-lease to C. D. of (here insert description) all the said land (or if a portion only here state the specific portion thereof which is intended to be sub-leased setting forth the boundaries and description of the same and the reference to the plan thereof, if any,) to be held by him the said C. D. for the term of (insert term of sub-lease) at the yearly rental of \_\_\_\_\_ Dollars payable (here insert terms of payment of rent) subject to the following covenants, conditions and restrictions (here set forth all special covenants, conditions and restrictions, if any, by the sub-lessor and sub-lessee.)

Dated, &amp;c.

Signed by the above named A. B. as sub-lessor and by the above named C. D. as sub-lessee this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_ in the presence of ;

*(Signatures of witnesses).*

(Section 87 (1).)

FORM K.

**Mortgage.**

I, A. B., being registered as proprietor of an estate (here state nature of the estate or interest) subject, however, to such mortgages and encumbrances as are notified by memorial underwritten or endorsed hereon, in that piece of land situated in the (Ward, District, or Town) of \_\_\_\_\_ containing (here state area) be the same a little more or less, delineated and with the abuttals and boundaries thereof shown in the plan drawn on (or annexed to) (here state the volume and page of the Register Book on which the plan, if any, appears and description of land).

In consideration of the sum of \$ \_\_\_\_\_ this day lent to me by E. F. of (here insert description) the receipt of which sum I hereby acknowledge; Do hereby covenant with the said E. F. that I will pay to him the said E. F. the above sum of \$ \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_

Secondly, that I will pay interest on the said sum at the rate of \_\_\_\_\_ per centum per annum by equal payments on the \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_ in every year.

Thirdly, (here set forth special covenants and conditions, if any,) and for the better securing to the said E. F. the repayment in manner aforesaid of the said principal sum and interest, I hereby mortgage to the said E. F. all my estate and interest, in the said land above described.

In witness, &c.

Signed by the above-named A. B. in the presence of :

*(Signatures of witnesses.)*

(Section 87 (1).)

FORM L.

**Charge.**

I, A. B., being registered as proprietor of an estate (here state nature of the estate or interest) subject, however, to such mortgages and encumbrances as are notified by memorial underwritten or endorsed hereon, in that piece of land situated in the (Ward, District, or Town) of \_\_\_\_\_ containing (here state area) be the same a little more or less, delineated and with the abuttals and boundaries thereof shown in the plan drawn on (or annexed to) (here state the volume and page of the Register Book on which the plan, if any, appears) (here also state rights of way, privileges, or easements, if any, appertaining, and here insert description of land).

And desiring to render the said land available for the purpose of securing to and for the benefit of C. D. the (sum of money, annuity, or rent charge) herein-after mentioned, I do hereby charge the said land 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 received, the interest, if any, and the rents on which such sum, annuity, or rent charge shall become and cease to be payable, also any special covenant or power or any modification of the powers or remedies given to an encumbrancer by the Real Property Ordinance,) and subject as aforesaid, the said C. D. shall be entitled to all powers and remedies given to an encumbrancer by the Real Property Ordinance.

In witness, &c.

Signed by the above-named A. B. in the presence of :

*(Signatures of witnesses.)*

(Section 87 (2).)

FORM M.

**Sub-mortgage.**

I, A. B., being registered as mortgagee under memorandum of mortgage No. \_\_\_\_\_ dated the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_, subject however to such mortgages and encumbrances as are notified by memorial underwritten or endorsed hereon, of all that piece of land situate in the (Ward, District, or Town) of \_\_\_\_\_ containing (here state area) be the same a little more or less, delineated and with the abuttals and boundaries thereof shown in the plan drawn on (or annexed to) (here state the volume and page of the Register Book on which the plan, if any, appears and description of lands) in consideration of the sum of \_\_\_\_\_ Dollars this day lent to me by E. F. of (here insert description) the receipt of which sum I hereby acknowledge, Do hereby covenant with the said E. F.

First that I will pay to him the said E. F. the above sum of \_\_\_\_\_ Dollars on the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_.

Secondly that I will pay interest on the said sum at the rate of \_\_\_\_\_ per centum per annum by equal payments on the \_\_\_\_\_ day of \_\_\_\_\_ and the \_\_\_\_\_ day of \_\_\_\_\_ in every year.

Thirdly (here set out special covenants and conditions, if any).

And for the better securing to the said E. F. the repayment in manner aforesaid of the said principal sum of \_\_\_\_\_ Dollars and interest, I do hereby charge all my estate and interest in the said mortgage for the benefit of the said E. F.

And subject as aforesaid the said E. F. shall be entitled to all the rights, powers and remedies given by the Real Property Ordinance to a transferee of my estate and interest in the said mortgage including the right to recover the principal and interest due and to become due thereunder and secured thereby.

In witness, &c.

Signed by the above-named A. B. in the presence of :

(Signatures of witnesses.)

(Section 99.)

FORM N.

**Power of Attorney.**

I, A. B., being registered as proprietor of an estate (here state nature of the estate or interest) subject however to such mortgages and encumbrances as are notified by memorial underwritten or endorsed hereon, in (here refer to schedule for description and contents of the several parcels of land intended to be affected, which schedule must contain reference to the existing certificate of title, or land grant or lease of such parcel) do hereby appoint C. D. Attorney on my behalf to (here state the nature and extent of the powers intended to be conferred as whether to sell, lease, or mortgage) the lands in the said schedule described, and to execute all such instruments and do all such acts, matters, and things as may be necessary for carrying out the powers hereby given, and for the recovery of all rents and sums of money that may become or are now due or owing to me in respect of the said lands, and for the enforcement of all contracts, covenants, or conditions binding upon any lessee or occupier of the said lands, or upon any other person in respect of the same, and for taking and maintaining possession of the said lands and for protecting the same from waste, damage, or trespass.

In witness, &c.

Signed by the above-named A. B. in the presence of :

(Signatures of witnesses.)

(Schedule referred to.)

(Section 100.)

FORM O.

**Revocation.**

I, A. B. of \_\_\_\_\_, being seised of an estate (here state the nature of the estate) all that piece of land (here describe land referring to the existing grant, certificate of title, or other instrument of title) hereby revoke the power of attorney given by me to \_\_\_\_\_ dated the day of \_\_\_\_\_ 19\_\_\_\_.

In witness, &c.

Signed by the above-named A. B. in the presence of :

*(Signatures of witnesses.)*

(Section 115.)

FORM P.

**Assent.**

We \_\_\_\_\_ and \_\_\_\_\_ being { the executors of the }  
 will of \_\_\_\_\_ }  
 the estate of }  
 land at \_\_\_\_\_ }  
 at page \_\_\_\_\_ of volume \_\_\_\_\_ of the Register Book, who  
 died on the \_\_\_\_\_ day of \_\_\_\_\_  
 and whose said will was proved by us or in respect of whose  
 estate letters of administration were granted to us on the \_\_\_\_\_ day  
 of \_\_\_\_\_ hereby assent to the registration of  
 as proprietor of such land.

In witness, &c.

Signed by the above-named in the presence of :

*(Signatures of witnesses.)*

(Section 125.)

FORM Q.

**Caveat forbidding registration of any change in proprietorship or any dealing with estate or interest.**

To the Registrar General :

TAKE NOTICE that I (insert name and address) claim (specify the estate or interest claimed and the grounds on which such claim is founded) in (here describe land referring to the volume and folio in the Register Book relating thereto) standing in the name of \_\_\_\_\_

And I forbid the registration of any person as transferee or proprietor of, and of any instrument affecting, the said estate or interest absolutely, or unless such instrument be expressed to be subject to my claim, or unless I consent in writing thereto, or until this caveat be by me or by the order of the Court or a Judge withdrawn, or until after the expiration of fourteen days from the date of service of notice of any intended registration or registered dealing be given to me at the following address :—(here state address for service).

Dated, &c.

*(Signature of the caveator or his counsel, solicitor or duly registered attorney.)*

(Section 131.)

FORM R.

**Affidavit of attesting witness.**

I (A. B.), of \_\_\_\_\_ make oath and say (or do solemnly affirm and declare) that I was personally present on the day of \_\_\_\_\_ 19\_\_\_\_, at (place) and did then and there see C. D. one of the parties (or C. D. and G. H. \_\_\_\_\_ parties) to the within written instrument (or to the instrument now produced and shown to me and marked) purporting to be a memorandum of \_\_\_\_\_ and made by (or between) (name the parties to the instrument) sign the same; and that the signature (or signatures \_\_\_\_\_) thereto subscribed is (or are) of the proper handwriting of the said C. D. (or C. D. and G. H.) and that the signatures "A. B." and "I. J." to the said instrument subscribed as of the witnesses to the execution of the same by the said C. D. (or C. D. and G. H.) are of the proper handwriting of me this deponent (or declarant) and of I. J. (insert names in full).

Sworn (or declared) at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_

19\_\_\_\_

Before me,

E. F.

*Commissioner of Affidavit.*  
(or as the case may be.)

Where the instrument is made as an exhibit a memorandum of identity must be endorsed upon or written at the foot or in the margin of such instrument which memorandum may be as follows:—

This is the instrument marked \_\_\_\_\_ referred to in the affidavit (or solemn declaration) of A. B. sworn (or declared) before me this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_

*Commissioner of Affidavit.*  
(or as the case may be.)

(Section 137.)

FORM S.

**Variation.**

WHEREAS by memorandum of lease (or sub-lease, mortgage or charge as the case may be) No. \_\_\_\_\_ dated the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_ all that piece of land situate in the (Ward, District, or Town) of \_\_\_\_\_

containing (here state area) be the same a little more or less delineated and with the abutments and boundaries thereof shown on the plan drawn on (or annexed to) (here state the volume and page of the Register Book on which the plan, if any, appears and description of lands) was leased (sub-leased, mortgaged or charged) to \_\_\_\_\_

AND WHEREAS A. B. of \_\_\_\_\_ is now registered as lessor (sub-lessor, mortgagor or chargor) and C. D. of \_\_\_\_\_ is now registered as lessee (sub-lessee, mortgagee or chargee) under the said memorandum of lease (sub-lease, mortgage or charge) AND WHEREAS it has been agreed between the said A. B. and the said C. D. that the provisions of the said lease (sub-lease, mortgage or charge) shall be varied in manner herein-after appearing.

NOW THEREFORE I, A. B., being registered as lessor (sub-lessor, mortgagor or chargor) and I, C. D., being registered as lessee (sub-lessee, mortgagee or chargee) of the said land hereby agree :

1. that the provisions of the said memorandum of lease (sub-lease, mortgage or charge) No. \_\_\_\_\_ shall be varied in manner hereinafter appearing. (Here set out the original clauses appearing in the memorandum above referred to and state the manner in which such provisions are to be varied.)
2. that as varied in manner aforesaid the said memorandum of lease (sub-lease, mortgage or charge) and every clause thereof shall continue of full effect and binding on us.

In witness, &c.

Signed by the above-named A. B. and C. D. in the presence of :

(Signatures of witnesses.)

(Section 158 (1).)

SECOND SCHEDULE.

For application to bring land under the provisions of this Ordinance, or to be registered in respect to an estate of freehold of a deceased proprietor :—

	\$	c.
When the applicant is the original grantee and the land has never been sold, mortgaged, encumbered or made the subject of settlement ... ..	1	20
When the title is of any other description and the value exceeds \$2,400 ... ..	12	00
When the title is of any other description and the value exceeds \$1,920 and does not exceed \$2,400 ... ..	9	60
When the title is of any other description and the value exceeds \$1,440 and does not exceed \$1,920 ... ..	7	20
When the title is of any other description and the value exceeds \$960 and does not exceed \$1,440 ... ..	4	80
When the title is of any other description and the value does not exceed \$960 ... ..	2	40
When the title is of any other description and the value does not exceed \$480 ... ..	1	20
For every Certificate of Title ... ..	4	80

For registering a memorandum of transfer, mortgage, or encumbrance, or the transfer or discharge of a mortgage—

Where the consideration money expressed to be paid or secured— does not exceed \$480 ... ..	60
exceeds \$480 but does not exceed \$960 ... ..	1 20
exceeds \$960 but does not exceed \$2,400 ... ..	1 80
exceeds \$2,400 but does not exceed \$3,600 ... ..	2 40
exceeds \$3,600 but does not exceed \$4,800 ... ..	4 80
exceeds \$4,800 ... ..	9 60

For registering a lease or agreement for a lease, or the transfer or surrender of a lease,

Where the rent reserved— does not exceed \$48 per annum ... ..	2 40
exceeds \$48 but does not exceed \$480 per annum ... ..	4 80
exceeds \$480 per annum ... ..	9 60

For registering proprietor of an estate or interest derived by settlement or transmission (including the transmission of a legal estate from a trustee to a beneficiary otherwise than by transfer and the vesting by an order of the legal estate in a trustee) ... ..

4	80
---	----

	\$	c
For registering in the Register Book a power of attorney	...	2 40
For registering revocation thereof	... ..	2 40
For noting caveat	... ..	1 20
For cancelling or withdrawing of caveat and service of notice to caveator or caveatee	... ..	60
For the search of a single Index Book	... ..	24
For a single volume of the Register Book	... ..	48
For every general search of the Indexes, for each day	... ..	1 20
For registering an order or decree or memorandum of judgment or <i>lis pendens</i>	... ..	1 20
For taking declaration in the case of lost grant or other instrument or where production of duplicate is dispensed with	... ..	2 40
For taking affidavit or statutory declaration	... ..	48
On issuing a certificate of title, in addition to the fee of \$4.80, for each parcel of land included after the first	... ..	48
For each volume of instruments examined	... ..	24
For looking up the original of a caveat or other request	... ..	24
When any instrument purports to deal with land included in more than one grant or certificate of title, for each endorsement after the first	... ..	48
For the registration of every instrument purporting to be a gift	... ..	2 40
For every registration of the death of a joint proprietor or mortgagee	... ..	2 40
For every entry in the Register Book not otherwise provided for	... ..	1 20
For every 120 words of a copy of any entry in the Register Book	... ..	24
For every certificate of the Registrar General	... ..	1 20

(Section 160 (1).)

## THIRD SCHEDULE.

## Part I.

1. All summonses under this Ordinance shall issue from the Registry of the Supreme Court in accordance with the rules for the time being in force relating thereto and on the hearing thereof such evidence shall be furnished as may be required by the Judge.

2. All such summonses if not taken out by the Registrar General shall be served on him.

3. The Registrar General or any proprietor or other person interested in any land under this Ordinance or in respect of which an application has been made to bring the same under this Ordinance may take out a summons to direct the Registrar General to do or abstain from doing any thing under this Ordinance in respect of such land or for the removal of a caveat, or generally for directions in any matter thereunder. The costs of such summons shall, unless otherwise directed and unless made by the Registrar General, be borne by the party taking it out.

4. All summonses taken out by the Registrar General shall be issued free.

5. All references and reports forwarded by the Registrar General under this Ordinance to a Judge, in any matter which has not already been before a Judge, shall be addressed to "The Judge in Chambers" unless otherwise directed.

6. No order made by a Judge upon an application under this Ordinance which has been reported on by the Registrar General or an Examiner, shall be acted upon by the Registrar General until notice has been given, or a letter directed to the applicant or his solicitor has been posted, purporting to give notice to the applicant or his solicitor that an order has been made in the matter and seven days have elapsed from the giving of such notice or the posting of such letter.

If the applicant shall, within such period of seven days, give notice to the Registrar General of his intention to do so, he may at any time within twenty-one days from the giving of such notice or the posting of such letter as aforesaid by the Registrar General take out a summons for the variation of such order.

(Section 160 (2).)

**Part II.**

No persons other than barristers and solicitors of the Court shall be entitled to charge any remuneration for professional work (except as surveyor) under this Ordinance. Barristers and solicitors shall be entitled to charge the following fees which shall be in lieu and place of all other professional costs and shall cover all correspondence, meetings, attendances, drawing and filling up schedules and all manner of costs, viz. :—

(a) TRANSFERS AND MORTGAGES OF LAND.

	\$	c.
Where the consideration does not exceed \$250	...	7 00
Between \$250 and \$500	...	15 00
"    500    "    1,500	...	25 00
"    1,500    "    2,500	...	30 00
"    2,500    "    3,500	...	40 00
"    3,500    "    5,000	...	50 00
"    5,000    "    10,000	...	60 00
"    10,000    "    12,000	...	70 00

and \$10.00 for every succeeding \$5,000 or part thereof.

(b) MORTGAGES. See (a) above.

(c) ENCUMBRANCES (other than leases). Same scale as (a) taking ten years of the annual sum chargeable on estate as value.

(d) TRANSFERS OF MORTGAGES OR ENCUMBRANCES. Same scale as (a) based on consideration for a transfer.

(e) CAVEATS. Preparing, and entering, withdrawing or removing 5 00

(f) DISCHARGES. Where principal sum secured or charged  
 does not exceed \$1,500 ... 5 00  
 exceeds \$1,500 but does not exceed \$5,000 ... 10 00  
 exceeds \$5,000 ... 15 00

(g) ASSENTS. Where the value of the estate does not exceed  
 \$1,000 ... 5 00  
 exceeds \$1,000 and does not exceed \$10,000 ... 10 00  
 exceeds \$10,000 ... 25 00

(h) Revising any of the above instruments. One-third of the fee allowed: Provided that the minimum fee shall be the sum of \$5.00

(Section 29.)

FOURTH SCHEDULE.

\$ c.

Contribution to Assurance Fund upon first bringing land under this Ordinance, and upon the registration of an estate of freehold in possession, derived by settlement, will, or intestacy, on every \$480 ... .. 01

*Ord 41/47*

*44.80*

Passed in Council this thirteenth day of July, in the year of Our Lord one thousand nine hundred and forty-five.

W. J. BOOS,  
*Clerk of the Council.*