

CHAPTER 160.
REAL PROPERTY.

AN ORDINANCE RELATING TO THE REGISTRATION OF TITLES TO LAND.

Ordinances
No. 60,
,, 49 of 1908,
,, 19 of 1913,
,, 3 of 1914,
,, 35 of 1916,
,, 29 of 1925,
s. 6.

DIVISION OF ORDINANCE.

	SHORT TITLE AND INTERPRETATION	Sections 1 and 2.
Part I.—PRELIMINARY	... ..	,, 3 to 6.
Part II.—BRINGING LAND UNDER THE ORDINANCE	... ..	,, 7 ,, 30.
Part III.—REGISTRATION	... ..	,, 31 ,, 50.
Part IV.—TRANSFERS AND OTHER DEALINGS	... ..	,, 51 ,, 67.
Part V.—LEASES	... ..	,, 68 ,, 74.
Part VI.—MORTGAGES AND ENCUMBRANCES	... ..	,, 75 ,, 87.
Part VII.—POWERS OF ATTORNEY AND REGISTRATION ABSTRACT	... ..	,, 88 ,, 92.
Part VIII.—JUDGMENTS, LITES PENDENTES, EXECUTION, AND FORFEITURE	... ..	,, 93 ,, 96.
Part IX.—TRANSMISSION ON BANKRUPTCY AND LUNACY	... ..	,, 97 ,, 99.
Part X.—TRANSMISSION ON DEATH	... ..	,, 100 ,, 111.
Part XI.—TRUSTS	... ..	,, 112 ,, 117.
Part XII.—CAVEATS AGAINST DEALINGS WITH LAND UNDER THE ORDINANCE	... ..	,, 118 ,, 121.
Part XIII.—INSTRUMENTS—THEIR EXECUTION, CORRECTION, SUBSTITUTION, LOSS, ETC.	... ..	,, 122 ,, 132.
Part XIV.—INDEFEASIBILITY OF TITLE AND REMEDIES OF PERSONS INJURED...	... ..	,, 133 ,, 145.
Part XV.—OFFENCES	... ..	,, 146 ,, 148.
Part XVI.—GENERAL	... ..	,, 149 ,, 154.

[1st January, 1896.]

1. This Ordinance may be cited as the Real Property Short title, Ordinance.

Interpre-
tation.

2. In this Ordinance, and in all instruments purporting to be made or executed thereunder—

“ Applicant ” means the person applying for a certificate of title;

“ Caveator ” means the person lodging a caveat with the Registrar-General;

“ Consular Officer ” means Consul-General, Consul, Vice-Consul, and Consular Agent, and any person for the time being discharging the duties of Consul-General, Consul, Vice-Consul, and Consular Agent;

“ Court ” means the Supreme Court;

“ Encumbrance ” means any charge on land created for the purpose of securing the payment of an annuity or sum of money, and any matter not a transfer of which a memorandum has been endorsed as such, or an entry made in the Register Book;

“ 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 bound up in the Register Book;

“ 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, infant, lunatic, and person of unsound mind, and any other person who is under any legal incapacity so far as he is under such incapacity;

“ Instrument ” means any grant, certificate of title, conveyance, assurance, deed, map, plan, will, probate, 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;
- “ Lunatic ” means any person who shall have been found to be a lunatic 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*;
- “ Memorial ” means an endorsement on a grant or certificate of title relating to a registered instrument;
- “ Mortgage ” means any pledge of land for securing a debt;
- “ Mortgagee ” means the person in whose favour land stands pledged to secure a debt;
- “ Mortgagor ” means the proprietor of land or of any estate or interest in land mortgaged;
- “ Personal representative ” means executor or administrator, and includes the administrator of intestate estates, and an administrator *de bonis non*;
- “ Person of unsound mind ” means any person, not an infant, who, not having been found to be a lunatic, shall be incapable from infirmity of mind to manage his own affairs;
- “ Proprietor ” means any person seized or possessed of any freehold or other estate or interest in land, at law or in equity, 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, except as hereinafter mentioned, every Deputy Registrar-General;

“ Surveyor ” means a person qualified under this Ordinance or any rules made thereunder to act as a surveyor ;

“ Transfer ” includes transfer without valuable consideration ;

“ Transmission ” means the passing of title to or interest in land consequent on the death, will, intestacy, bankruptcy, or marriage of a proprietor.

In any certificate 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.

Judges to deal with applications.

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

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

Registrar-General's department.

4. The department of the Registrar-General shall be the department authorized to carry into execution the provisions of this Ordinance, except as hereinafter otherwise provided, 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.

Examiners of Title.

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. (*Added by 29 of 1925, s. 6.*)

Powers of Registrar.

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

Production of documents.

(1) He may require the proprietor 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 or registration abstract granted under this Ordinance, to produce any grant, certificate of title, conveyance, deed, mortgage, lease, will, or other 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 be endorsed or cancelled, to produce such instrument for the purpose required.

- (2) He may require any such 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 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 authorized to demand any such explanation, he shall, for each such offence, incur a penalty not exceeding one hundred pounds; 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, or with the issuing of such registration abstract, as the case may be.

Appearance
of parties.

- Oaths. (3) He may administer oaths, or may take a statutory declaration in lieu of administering an oath.
- Correction of errors. (4) 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 there-to 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 always, 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 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.
- Caveat. (5) 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 or dealing with any land belonging or supposed to belong to any such person, and also to prohibit the transfer or dealing with any land either by the registered 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 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.
- Cap. 204.
- Other powers. (6) 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.

7. All Crown lands, and all lands set apart for public purposes remaining unalienated from the Crown, shall, when alienated in fee, 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. Unalienated
land.

8. Land alienated from the Crown in fee (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 to this Ordinance, if made by any of the following persons, and subject to the provisions of the next succeeding section:— Alienated
land.

- (1) By any person claiming to be the person in whom the fee simple in possession, 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 operation 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;
- (2) 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-five 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.

Exceptions.

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 the person or persons jointly entitled to such land or entitled to the remaining undivided share or shares therein, shall join in such application, and, in the last mentioned case, shall 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 or execution creditor, unless such creditor shall consent to such application; nor from a married woman, unless her husband shall join in such application, or unless such application be in respect of her separate property or in respect of property her title to which has accrued under the Married Women's Property Ordinance: 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 lunatic 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.

Cap. 53.

Application.

10. Every such 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, in the case of a leasehold, a duplicate or certified copy of the lease, and of any other instrument or copy under which the applicant claims title, and shall furnish 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 declaration 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.

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

12. Upon the receipt of such application by the Registrar-General, the title of the applicant shall be examined and reported upon by the 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 proprietor 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 proprietor, 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. Case of original grantee.

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

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 Case of perfect title.

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, once in the *Royal Gazette*, and three times at least in one 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 calendar months from the date of the advertisement in the *Royal Gazette*, 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
imperfect
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 newspaper published in the Colony, and in such newspapers published elsewhere as to such Judge may seem fit, and to be published in the *Royal Gazette*; 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 calendar month nor

more than two years from the date of the first of such advertisements in the *Royal Gazette*, upon or after the expiration of which it shall be lawful for the Registrar-General 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.

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 in
the index
of deeds.

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 proprietor 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.

Notice of
application.

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

Possessory
title.

place as the Registrar-General or a Judge shall direct, a notice in Form B of the First Schedule to this Ordinance, 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 until it has been proved to his satisfaction that the requirements of this section have been complied with.

Bringing
land under
the Ordin-
ance.

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 proprietor or to such person as he or the person applying in his behalf may by any writing under his hand direct, a certificate of title for the same as hereinafter described.

Failure of
notice.

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.

Notice by
registered
letter.

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.

Caveat.

22. Any person having or claiming an interest in any land so advertised as aforesaid, or the attorney or agent 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 to this Ordinance, 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.

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 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.

Effect of
caveat.

24. After the expiration of one calendar 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 :

Lapse of
caveat.

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.

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

Withdrawal
of applica-
tion.

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 instru-
ment 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 proprietor when making his application, and in the case of a leasehold shall endorse upon the lease so deposited a memorandum stating that such lease has been brought under the provisions of this Ordinance, and shall certify such memorandum under his hand and seal, and shall return such lease to the applicant, annexing thereto the certificate of title as aforesaid, and shall file in his office the duplicate or certified copy of such lease hereinbefore directed to be furnished by such applicant: 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 proprietor; 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 proprietor, or of some person claiming through or under him, or upon the order of a Judge.

Death of
applicant.

27. In case an applicant proprietor, or the person to whom an applicant proprietor may have directed a certificate of title to be issued, shall have died 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 proprietor, 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 of such applicant proprietor or person so named by him.

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 persons having the same or similar interests and who cannot conveniently all be served, it shall be lawful for a Judge to direct that such notice be served on any person or persons as the guardian or guardians, committee or committees, trustee or trustees, or representative or representatives of any other person or persons, and in such case any notice served on such guardian or guardians, committee or committees, trustee or trustees, or representative or representatives shall be as binding on such person or persons as if such person or persons 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 in fee from the Crown, or consequent upon the application of the proprietor 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 to this Ordinance, and in case of land brought under the provisions of this Ordinance by alienation in fee 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 the oath or solemn affirmation of the applicant proprietor or person deriving such land by transmission: Provided always, that if the Registrar-General shall not be satisfied as to the correctness of the value so declared or sworn to, it shall be lawful for him to require such applicant proprietor, or person deriving such land, to produce a certificate of such value under the hand of a sworn valuator or surveyor, which certificate shall be received as conclusive evidence of such value for the purpose aforesaid.

Assurance
Fund.

30. All sums of money so received shall be paid to the Treasurer and carried by him to an account to be called the Land Assurance Fund, and such sums, together with all interests and profits which may have accrued thereon,

Appropriation.

shall be invested from time to time by the Treasurer 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 duplicates 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.

32. Every certificate of title shall be in duplicate in Form D. of the First Schedule to this Ordinance, and shall set forth the nature of the estate of freehold 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 one original of each certificate of title to be bound up in the Register Book, and deliver the other 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 required to be prepared or furnished under this Ordinance shall be prepared by such persons, in such manner, after such survey, and subject to such provisions, and maps shall be furnished on such occasions (in addition to those mentioned in this Ordinance), as shall be prescribed in any rules in that behalf which shall be made from time to time by the Governor and published in the *Royal Gazette*.

Rules as to maps.

35. The person named in any certificate of title as entitled to the land therein described shall be held, both at law and in equity, to be seised of the reversion expectant upon any lease that may be noted by memorial thereon, and to have all powers, rights and remedies to which a reversioner is by law entitled, and shall be subject to all covenants and conditions in such lease expressed or implied and to be performed 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 shall close the leaf of the Register Book constituted by the certificate of title of such leasehold, and shall carry forward, upon the certificate of title issued in respect of such estate in fee, 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.

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 on the ground of

Effect of certificate of title.

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.

Saving as to omission of seal in certain cases.

44. Notwithstanding anything contained in the Real Property Ordinance, 1889, no such certificate heretofore endorsed as aforesaid on any instrument so registered as aforesaid shall be deemed not to be conclusive evidence that such instrument has been duly registered by reason only that the seal of the Registrar-General has not been affixed thereto; and no instrument shall be held to have been ineffectual to pass any estate or interest in any land under the provisions of the said Ordinance, or to render such land liable as security for the payment of money, by reason only that such seal has not been affixed to any such endorsed certificate as aforesaid.

Effect of registration of instruments.

45. No instrument, until registered in manner hereinbefore prescribed, shall be effectual to pass any estate or interest in any land under the provisions of this Ordinance or to render such land liable as security for the payment of money; but upon the registration of any instrument in manner hereinbefore prescribed, the estate or interest specified in such instrument shall pass or, as the case may be, the land shall become liable as security, in the 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 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 under which the person claims property who shall present to him the grant or certificate of title of such land for that purpose, 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.

46. 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 registered proprietor of land or of any estate or interest in land under the provisions of this Ordinance shall 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 certificate of title or under a prior grant registered under the provisions of this Ordinance, and except as regards the omission or misdescription of any right of way or other easement created in or existing upon any 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 registered proprietor, not being a purchaser or mortgagee thereof for value, or deriving from or through a purchaser or mortgagee thereof for value.

Conclusive-
ness of
registration.

47. 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 deed 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 resumptons 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 authorizing His Majesty or any person on behalf of 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 succession duty, notwithstanding the same respectively may not be specially notified as encumbrances on such certificate or instrument.

Saving
rights of
Crown.

Cancellation
of exhausted
certificate
of title.

54. 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.

55. Any wholly cancelled grant or certificate shall be retained by the Registrar-General. Any partially cancelled grant or certificate 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.

56. 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 relating thereto, such grant or certificate, 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 thereof 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.

Transfer by
endorsement.

57. 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 cancelled, 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 such grant or certificate of title to the transferee; and every grant or certificate 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 had been cancelled and a new certificate 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; but when, in the opinion of the Registrar-General, any grant or certificate cannot, for want of space or other cause, conveniently bear any further endorsement, he may require cancellation and the issue of a new certificate.

58. 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 required thereto 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.

59. 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; 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.

Liability of transferee.

60. Upon the registration of any transfer, the estate or interest of the transferor as set forth in such instrument, with all rights, powers, and privileges thereto belonging or appertaining, shall pass to the transferee, and such transferee shall thereupon become subject to and liable for all and every the same requirements and liabilities to which he would have been subject and liable if named in such instrument originally as proprietor, mortgagee, encumbrancer, or lessee, as the case may be, of such land, estate, or interest.

Rights of transferee.

61. By virtue of every such transfer, the right to sue upon any memorandum of mortgage 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 chose 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 always, 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.

62. The registered 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 tenants.

63. 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.

64. 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 for the entirety or separate certificates for the undivided shares therein respectively.

Tenants in common.

65. 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.

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

Married women.

67. 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 authorizing him as aforesaid.
(Added by 3 of 1914, s. 4.)

Lands sold under authority of an Ordinance.

Cap. 287.

PART V.

LEASES.

Memorandum
of lease.

68. When any land under the provisions of this Ordinance is intended to be leased or demised 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 G of the First Schedule to this Ordinance, and every such instrument shall, 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 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.

Cap. 162.

Registration
of lease.

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

Endorse-
ment of
memorial of
lease.

70. When such lease is presented for registration, a memorial thereof shall be endorsed, as an encumbrance, on the certificate of title and on the proper page in the Register Book: Provided that any registered lease may be extended in manner hereinafter mentioned.

Surrender of
lease.

71. Whenever any lease or demise which is registered is intended to be surrendered, and the surrender thereof is effected otherwise than through the operation of a surrender in law, or than under the provisions of any law

for the time being in force in the Colony relating to bankrupt estates, there shall be endorsed upon such lease or on the counterpart thereof the word "Surrendered," with the date of such surrender, and such endorsement shall be signed by the lessee and by the lessor as evidence of the acceptance thereof, and shall be attested by a witness, and the Registrar-General thereupon shall enter in the Register Book a memorandum recording the date of such surrender, and shall likewise endorse upon the lease a memorandum recording the fact of such entry having been made in the Register Book, and upon such entry having been so made in the Register Book the estate or interest of the lessee in such land shall revert in the lessor or in the person in whom, having regard to intervening circumstances, if any, the said land would have vested if no such lease had ever been executed, and the production of such lease or counterpart bearing such endorsement and memorandum shall be sufficient evidence that such lease has been so surrendered: Provided that no lease subject to mortgage or encumbrance shall be so surrendered without the consent of the mortgagee or encumbrancer.

72. 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, in every memorandum of lease there shall be implied the following covenants by the lessee, that is to say:—

Covenants implied in lease.

- (1) 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 demised property, during the continuance of the lease;
- (2) That he will, at all times during the continuance of the said lease, keep, and at the determination thereof yield up, the demised property in good and tenantable repair, accidents and damage from fire, storm, and tempest, and reasonable wear and tear, excepted.

73. Unless a contrary intention shall therein be expressed, in every memorandum of lease there shall also be implied the following powers in the lessor, that is to say:—

Powers of lessor.

- (1) That he may, by himself or his agents, twice in every year during the term, at a reasonable time

of the day, upon giving the lessee two days' previous notice, enter upon the demised property and view the state of repair thereof, and may serve upon the lessee, or leave at his last or usual place of abode in the Colony, or on the demised property, a notice in writing of any defect, requiring him within a reasonable time to be therein prescribed to repair the same;

- (2) That in case the rent or any part thereof shall be in arrear for the space of six calendar months, or in case default shall be made in the fulfilment of any covenant whether expressed or implied in such lease on the part of the lessee and shall be continued for the space of six calendar months, 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 to re-enter upon and take possession of such demised premises.

Determina-
tion of lease.

74. In any such case the Registrar-General, upon proof to his satisfaction of lawful re-entry and recovery of possession by a lessor, shall note the same by entry in the Register Book, and the estate of the 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 expressed or implied, and the Registrar-General shall cancel such lease if delivered up to him for that purpose.

PART VI.

MORTGAGES AND ENCUMBRANCES.

Memoran-
dum of
mortgages
and encum-
brances.

75. The proprietor of any land under the operation of this Ordinance may mortgage the same by signing a memorandum of mortgage thereof in Form H of the First Schedule to this Ordinance, and may charge the same with the payment of an annuity by signing a memorandum of charge thereof in Form I of the said Schedule.

Powers of
mortgagees
and encum-
brancers.

76. Subject to the provisions in this Ordinance contained, every mortgagee or encumbrancer under this Ordinance shall, when his mortgage or encumbrance 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 encumbrance registered under this Ordinance as aforesaid.

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

78. 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 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. Transfer under statutory power of sale.
Cap. 162.

79. 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, such foreclosure may not be re-opened as against any subsequent transferee, mortgagee, or encumbrancer. Foreclosure.

80. In any memorandum of lease or mortgage, the following forms of words shall, unless inconsistent with the context, respectively imply the following covenants, that is to say:— Implied covenants in leases or mortgages.

- (1) The words "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 public insurance Fire Insurance.

office 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.

- (2) The words " 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 hereditaments 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 hereditaments 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.

- (3) The words " 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 hereditaments 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 hereditaments; ”

- (4) The words “ Will not without leave assign or sublet ” shall 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 lands 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; ” *Assign or sublet.*
- (5) The words “ Will not cut timber ” shall imply as follows :—“ And also that the said lessee shall not cut down, fell, injure, or destroy any growing or living timber or timber-like trees standing and being upon the said hereditaments and premises above mentioned, without the consent in writing of the said lessor.” *Timber.*

81. Upon production of a memorandum signed by the mortgagee or annuitant or his transferees, and attested by a witness to the satisfaction of the Registrar-General, 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 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 for that purpose.

Discharge of mortgage or encumbrance.

Mortgages
and encum-
brances prior
to Real
Property
Ordinance,
1889.

82. When land shall have been brought under the operation of the Real Property Ordinance, 1889, or of this Ordinance, and a certificate of title shall have been issued subject to a mortgage or other encumbrance made or created before the issuing of such original certificate, such mortgage or other encumbrance may be discharged in like manner as if it were a mortgage or other encumbrance prescribed by and registered under this Ordinance, and the mortgagee, encumbrancer, or other person claiming under such mortgage or encumbrance, may exercise the same rights and remedies as if the mortgage or other encumbrance had been made and registered in the form and manner prescribed by this Ordinance.

Determina-
tion of
encum-
brance.

83. Upon proof to the satisfaction of a Judge 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 and all costs occasioned by non-payment thereof have been paid or satisfied, he shall direct the Registrar-General to 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.

Registration
of subsequent
mortgages
and encum-
brances.

84. When any instrument subsequent to a first 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 first mortgagee, should he hold the duplicate 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 certificate of title to the Registrar-General so that such subsequent instrument may be registered.

Foreclosure
or sale under
power.

85. 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.

86. In case the registered mortgagee shall be absent from the Colony, and there be no person authorized 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 Treasurer to receive such mortgage money, with all arrears of interest then due thereon, in trust for the mortgagee or other person entitled thereto, and thereupon the interest upon such mortgage shall cease to run or accrue, and the Registrar-General shall, upon the receipt of the Treasurer 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 of mortgage with the receipt or discharge of the mortgagee; and the Registrar-General shall endorse on the grant, certificate of title, or other instrument as aforesaid, and also on the memorandum of mortgage, whenever those instruments shall be brought to him for that purpose. the several particulars hereinbefore directed to be endorsed upon each of such instruments respectively.

Discharge of mortgage in absence of mortgagee.

87. Dower or its extinction may be registered in like manner and on payment of like fees as encumbrances, but dower shall not be deemed to be an encumbrance.

Dower.

PART VII.

POWERS OF ATTORNEY AND REGISTRATION ABSTRACT.

88. The registered proprietor of any land, estate, or interest under the provisions of this Ordinance may, whether he be a trustee or not, authorize and appoint any

Appointment of attorney

person to act for him or on his behalf in respect to the transfer or other dealing with such land, estate, or interest in accordance with the provisions of this Ordinance, by executing a power in any form heretofore in use for the like purpose, or in Form K of the First Schedule to this Ordinance, and such power of attorney shall either be registered in the Register of Deeds, or a duplicate or certified copy thereof 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 therein contained, and the date and hour when it was registered or filed: Provided that the Registrar-General shall not be bound to enter any such memorial of any power of attorney drawn otherwise than in the said form in the said Schedule, unless he be requested in writing so to do, and unless the proper reference to the page or pages in the Register Book referring to the lands, the dealing with which is authorized by such power, be furnished to him: Provided also, that no power of attorney shall be deemed to authorize any dealing under this Ordinance until such memorandum has been entered as aforesaid.

Revocation
of power of
attorney.

89. The registered proprietor of any land in respect of which a power of attorney has been executed may, for the purpose of revoking such power, execute an instrument in Form L of the First Schedule to this Ordinance, or in any form heretofore in use for the like purpose, and the Registrar-General shall, when such instrument duly executed and attested is presented to him for the purpose, and on payment of the prescribed fee, except however in any case where a registration abstract is outstanding, 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.

Registration
abstract.

90. The Registrar-General, upon the application of any registered proprietor, and payment of the prescribed fee, shall grant to such proprietor a document in Form M of the First Schedule to this Ordinance (hereinafter called a "registration abstract"), enabling him to transfer or otherwise deal with his estate or interest in such land at

any place without the limits of the Colony, and shall at the same time enter in the Register Book a memorandum recording the issue of such registration abstract, and shall endorse a like memorandum on the grant, certificate of title, or other instrument evidencing the title of such applicant proprietor when the same shall have been delivered to him for the purpose; and from and after the issuing of any such registration abstract, no transfer or other dealing in any way affecting the estate or interest in respect of which such registration abstract is issued shall be entered in the Register Book, until such abstract shall have been surrendered to the Registrar-General to be cancelled, or the loss or destruction of such abstract proved to his satisfaction.

91. Whenever any transfer or other dealing is intended to be transacted under any such registration abstract, a memorandum of transfer or such other instrument as the case may require shall be prepared in duplicate in form hereinbefore appointed, and shall be produced to some one of the persons before whom the execution of instruments may, in accordance with the provisions of this Ordinance, be proved; and upon memorial of such instrument being entered upon the registration abstract, and authenticated by the signature of such authorized person as aforesaid, in manner hereinbefore directed for the entry of memorials in the Register Book, such instrument shall be held to be registered, and such transfer or other dealing shall be as valid and binding to all intents as if the same had been entered in the Register Book by the Registrar-General, and whenever a memorial of any instrument which has not been endorsed upon the instrument evidencing title to the estate or interest intended to be dealt with has been entered upon the registration abstract, such authorized person as aforesaid shall record the like memorial on the duplicate grant, certificate of title, lease, or other instrument evidencing title as aforesaid, and the certificate of registration endorsed on the instrument of which the memorial has been so entered, and signed by such authorized person and sealed with his seal, shall be received as conclusive evidence that such instrument has been duly registered.

Dealings
under regis-
tration
abstract.

92. Upon the delivery of any registration abstract to the Registrar-General he shall record in the Register Book, in such manner as to preserve their priority, the particulars of every transfer or other dealing recorded thereon, and

Registration
of such
dealings, and
cancellation
of abstract.

shall file in his office duplicates of every memorandum of transfer or other instrument executed thereunder which may for that purpose be delivered to him, and shall cancel such abstract, and note the fact of such cancellation in the Register Book; and if a freehold estate in such land or in any part thereof be transferred, the grant or certificate of title shall be delivered up to the Registrar-General, who shall thereupon proceed as is hereinbefore directed for the case of the transfer of an estate of freehold. Upon proof at any time to the satisfaction of the Registrar-General that any registration abstract is lost, or so obliterated as to be useless, and that the powers thereby given have never been exercised, or if they have been exercised, then upon proof of the several matters and things that have been done thereunder, it shall be lawful for the Registrar-General, as circumstances may require, either to issue a new registration abstract, or to make such entries in the Register Book or to do such acts as might have been made or done if no such loss or obliteration had taken place.

PART VIII.

JUDGMENTS, LITES PENDENTES, EXECUTION AND FORFEITURE.

Judgments
and *Lites*
pendentes.
Cap. 43.

93. 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 shall endorse a caveat on each page of the Register Book relating to land of which such person is the registered 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 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 certificate of title when produced to him, and he may require any such certificate of title to be delivered up to him for such purpose.

Execution.

94. 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 authorized 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 always 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 calendar months from the day on which it was entered in the Register Book as aforesaid.

95. 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

Forfeiture.

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 registered proprietor to deliver up, for similar cancellation as herein provided, the duplicate grant or certificate of title:

Provided—(1) That the Registrar-General shall furnish to the officers having charge of the assessment rolls a list of all the lands and hereditaments 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 registered proprietor, and the number of the volume and page in the Register Book relating thereto; and in like manner shall furnish 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;

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

(3) That, notwithstanding anything contained in the Lands and Buildings Taxes Ordinance, no land under the operation 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;

(4) That 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

Cap 204.

Cap. 204.

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.

96. All regrants under the Lands and Buildings Taxes Ordinance, and all conveyances under the Casual Revenue Ordinance, relating to lands under the operation 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.

Regrants.

Cap. 204.

Cap. 209.

PART IX.

TRANSMISSION ON BANKRUPTCY AND LUNACY.

97. Upon the bankruptcy of the registered proprietor, mortgagee, or encumbrancer, of any land, estate, or interest under the provisions of this Ordinance, the trustee of such bankrupt 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 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, a note of the appointment of such trustee, and upon such entry being made, such trustee shall be deemed and taken to be the registered proprietor, mortgagee, or encumbrancer, as the case may be, of the estate or interest of such bankrupt in such land, and shall hold the same subject to the equities subject to which the bankrupt held the same; but for the purpose of any dealings with such land, estate, or interest under the provisions of this Ordinance, such trustee shall be deemed to be the absolute proprietor, mortgagee, or encumbrancer thereof.

Registration
of trustee in
bankruptcy.

Disclaimer
of onerous
property.
Cap. 52.

98. Subject to the provisions of the Bankruptcy Ordinance and of this Ordinance, a trustee in bankruptcy 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 the persons claiming under him may thereupon apply to be registered in respect thereof: Provided that if the property disclaimed shall be a lease subject to a 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 a Judge.

Registration
of committee
of lunatic.

99. The committee of a lunatic so found by inquisition may be registered as the proprietor of any estate or interest in any land of which the lunatic is the registered proprietor on payment of the prescribed fee and on furnishing the Registrar-General with such evidence as he may require. (*Added by 3 of 1914, s. 3.*)

PART X.

TRANSMISSION ON DEATH.

Power to deal
with land to
rest with
personal
representa-
tive.

100. On the death of a sole registered proprietor or of the survivor of several registered proprietors of land, the personal representative or representatives of the sole proprietor or survivor shall alone be recognised by the Registrar-General as having any right in respect of the land, and any registered disposition by him or them shall have the same effect as if he or they were the registered proprietors of the land:

Provided that they may be registered as proprietors of such land on payment of the prescribed fee and on furnishing the Registrar-General with such evidence as he may require:

Provided also, that it shall be lawful for the Registrar-General to register the Administrator-General as proprietor of any land forming part of any estate under two hundred pounds in value, of which he shall have taken possession under the powers conferred on him by the Administration of Property Ordinance, without the production of probate or letters of administration. (*Added by 35 of 1916, s. 3.*)

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

Cap. 60.

101. Notwithstanding the provisions of the last preceding section, where land of which a person is registered as limited proprietor passes to another person on the determination of the estate of that proprietor, the person to whom the land so passes may be entered in the register as proprietor of the land, and the Registrar-General, on his application or on that of the trustees of the settlement, if any, and on production of such evidence as he may require, and, in case the fee simple in the land shall not have been already brought under the provisions of this Ordinance in accordance with the provisions of Part II hereof, shall register him as proprietor accordingly.

Limited proprietors.

102. (1) On the death of the sole registered proprietor of any land, it shall, notwithstanding any testamentary disposition, devolve to and become vested in his personal representative or representatives from time to time as if it were a chattel real vesting in them or him.

Land to vest in personal representatives.

(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.

(3) Probate and letters of administration may be granted in respect of land only, although there is no personal estate.

103. (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.

Personal representatives to hold as trustees for beneficiaries.

(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 one only of several joint personal representatives, without the authority of the Court or a Judge, to sell, transfer, mortgage, or encumber such land.

Charges
created by
will to be
registered.

104. No land under this Ordinance shall be liable to any charge created by the will of a deceased registered 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.

Order of
administra-
tion of assets.

105. 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.

Assent to
devise.

106. At any time after the death of the owner 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 heir, 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.

Order for
registration
of beneficiary.

107. At any time after the expiration of one year from the death of the owner of any land under this Ordinance, if his personal representatives have failed on the request of the person entitled to the land to convey 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.

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

Fee on transfer by personal representative.

109. The production of an assent by the personal representatives in Form N of the First Schedule to this Ordinance, duly signed, and having such signature proved in like manner as in the case of a transfer, shall authorize 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 until the will of the deceased proprietor, or the letters of administration to his estate or an office copy thereof, and any other evidence which he may require, have been supplied.

Registration of assent.

110. 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 registered proprietor thereof, probate or an office copy of the will of the deceased proprietor, or letters of administration, or the order of the Court authorizing the administrator of intestate estates to administer the personal estate of the deceased proprietor of such estate or interest, as the case may be, accompanied by an application in writing from the personal representative claiming to be registered as proprietor in respect of such estate or interest, shall be produced to the Registrar-General, who shall thereupon enter in the Register Book, and on the lease or other instrument evidencing title to the estate or interest transmitted, the date of the will, and of the probate or of the letters of administration or order of the Court as aforesaid, the date and hour of the production of the same to him, the

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

date of the death of such proprietor, when the same can be ascertained, with such other particulars as he may deem necessary; and upon such entry being made the personal representative shall be deemed to be the registered proprietor, or proprietor of such mortgage, encumbrance, or lease; and the Registrar-General shall note the fact of such registration on the letters of administration, probate, or other instrument.

Probate,
legacy, and
succession
duty.

111. Nothing in this Ordinance shall render real estate liable to probate duty or legacy duty or exempt real estate from succession duty.

PART XI.

TRUSTS.

No entry of
trusts in
Register
Book.

112. 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 registered proprietor with notice of any trust affecting land under this Ordinance.

Proceedings
by benefi-
ciary for
registration.

113. If the registered 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 registered 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.

114. Upon the transfer of any land, estate, or interest under the provisions of this Ordinance to two or more persons as joint proprietors to be held by them as trustees, 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 held by them as trustees, may, by writing under their hand, authorize the Registrar-General to enter the words "no survivorship" upon the grant, certificate of title, or other instrument evidencing their title to such estate or interest, and also upon the duplicate of such instrument in the Register Book or filed in his office, 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."

115. 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 once in the *Royal Gazette* and three times at least in one 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 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.

Order for transfer where "no survivorship."

Vesting
orders.

116. 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 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 registered proprietor.

Trustee must
lend his
name to
beneficiary.

117. Whenever a registered 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, nevertheless, 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 and the Real Property Ordinance, 1889, 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*.

PART XII.

CAVEATS AGAINST DEALINGS WITH LAND UNDER THE ORDINANCE.

Caveats by
settlers or
beneficiaries.

118. Any settlor of land under the provisions of this Ordinance, transferring such land to be held by the transferee as trustee, or any beneficiary or other persons claiming estate or interest in such land under any instrument not

registered under this Ordinance, or by devolution in law or otherwise, or the Registrar-General, may, by caveat, in Form O of the First Schedule to this Ordinance, forbid the registration of any instrument affecting such land, estate, or interest, either absolutely or until after notice of the intended dealing given to the caveator as may be required and enjoined in such caveat; and 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, known agent, or attorney; and 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 office of the solicitor, known agent, 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.

119. 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 registered proprietor against whose title to deal with land under the provisions of this Ordinance, such caveat has been lodged, and such applicant proprietor or registered proprietor may, if he think 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 in the premises, either *ex parte* or otherwise, as to the Court or Judge may seem fit; and, except in the case of a caveat lodged by a settlor, or 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 for the prevention of fraud as hereinbefore prescribed, every such caveat lodged against a registered 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 registered

Procedure on
caveat.

proprietor has applied for the registration of any transfer or other dealing with such land, estate, or interest.

No dealings
while caveat
in force.

120. So long as any caveat shall remain in force prohibiting the transfer or other dealing with land, the Registrar-General shall not enter in the Register Book any memorandum of transfer or other instrument purporting to transfer or otherwise deal with or affect the land, estate, or interest in respect of which such caveat may be lodged.

Frivolous
caveat.

121. 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.

PART XIII.

INSTRUMENTS—THEIR EXECUTION, CORRECTION, SUBSTITUTION, LOSS, ETC.

Mode of
execution and
effect of
instrument.

122. Every instrument signed by the registered proprietor, mortgagee, encumbrancer, or other person having any estate or interest in any land under this Ordinance, and attested by one witness at least whose occupation or other description and address or place of residence shall be specified with reasonable certainty, shall be deemed to be duly executed within the meaning of this Ordinance; and every instrument so executed shall when registered have the force and effect of a deed made by the parties signing the same. (*Added by 49 of 1908, s. 2.*)

Execution by
corporations.

123. A corporation, for the purpose of transferring or otherwise dealing with land under the provisions of this Ordinance, in lieu of signing the proper instrument for such purpose prescribed, may affix thereto the common seal of such corporation, with a certificate that such seal was affixed by the proper officer and verified by his signature.

Attestation of
instruments.

124. Instruments executed pursuant to the provisions of this Ordinance, if attested by one witness, shall be held to be duly attested; and the execution thereof may be proved,

if the parties executing the same be resident within the Colony, before the Registrar-General or before a Notary Public, Justice, or a Commissioner for Affidavits, and if the said parties be resident in the United Kingdom, then before the Mayor or other chief officer of any corporation, or before a Notary Public or before a Judge of any Court of Record or a Commissioner for Affidavits, and if the said parties be resident in any British Possession, then before the Registrar-General or Recorder or Titles of such possession, or before any Judge or Notary Public, or before the Governor, Government Resident, or Colonial Secretary thereof, and if the said parties be resident at any foreign place, then before the British Chargé d'Affaires, Consular Officer, or Notary Public resident at such place.

125. The execution of any such instrument may be proved before any such person as aforesaid by the oath or statutory declaration of a witness attesting the signing thereof :

Proof of execution.

Provided that 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. (*Substituted by 35 of 1916, s. 2.*)

126. The Registrar-General or Notary Public or other person before whom such witness shall prove such signature as aforesaid, shall endorse upon such instrument a certificate in Form P of the First Schedule to this Ordinance. (*Substituted by 49 of 1908, s. 5.*)

Certificate by Registrar-General, etc.

127. Upon the application of any registered proprietor of land held under separate grants or certificates of title, or under one grant or certificate, 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, each containing a por-

Consolidation and subdivision of certificates of title.

tion 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 thereupon a memorandum setting forth the occasion of such cancellation, and referring to the certificate of title so issued.

Loss of
certificate of
title, and
issue of
provisional
certificate.

128. In the event of the grant or certificate of title of land under the provisions of this Ordinance being lost, mislaid, or destroyed, the proprietor of such land, together with other persons, if any, having knowledge of the circumstances, may make a declaration before the Registrar-General, or before any of the persons hereinbefore appointed as persons before whom the execution of instruments may be proved, stating the facts of the case, the names and descriptions of the registered proprietors, and the particulars of all mortgages, encumbrances, or other matters affecting such land and the title thereto to the best of the declarant's knowledge and belief, and the Registrar-General, if satisfied as to the truth of such declaration and the *bonâ fides* of the transaction, may, on the order of a Judge, to be obtained by the applicant on a summons, issue to such applicant a provisional certificate of title of such land, which provisional certificate shall contain an exact copy of the original grant or certificate of title bound up in the Register Book and every memorandum and endorsement thereon, and shall also contain a statement of the circumstances under which such provisional certificate is issued; and the Registrar-General shall at the same time enter in the Register Book notice of the issuing of such provisional certificate and the date thereof, and the circumstances under which it was issued, and such provisional certificate shall be available for all purposes and uses for which the grant or certificate of title so lost or mislaid would have been available, and as valid to all intents as such lost grant or certificate: Provided always, that the Registrar-General, before issuing such provisional certificate, shall, at the cost of the applicant, give at least fourteen days' notice of his intention so to do in the *Royal Gazette* and in at least one newspaper published in the Colony.

129. The Registrar-General may, by the direction of a Judge, dispense with the production of any grant, certificate of title, lease, or other instrument for the purpose of entering the memorial by this Ordinance required to be entered upon the transfer or other dealing with land under the provisions of this Ordinance; and upon the registration of such transfer or other dealing the Registrar-General shall notify in the Register Book that no entry of such memorial has been made on the duplicate grant or other instrument; and such transfer or other dealing shall thereupon be as valid and effectual as if such memorial had been so entered, and the Registrar-General may, by the like direction, dispense with the production of the grant or certificate of title hereinbefore required to be surrendered prior to the registration of a personal representative upon the transmission of an estate of freehold: Provided always, that before the registration of such transfer, transmission, or other dealing, the transferor or other party dealing or deriving title shall make an affidavit or statutory declaration that such grant or instrument has not been deposited as security for any loan, and the Registrar-General shall, at the cost of the applicant, give at least fourteen days' notice of his intention to register such dealing in the *Royal Gazette* and in at least one newspaper published in the Colony.

Production of certificate of title or other instrument dispensed with.

130. In case it shall appear to the satisfaction of the Registrar-General that any 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, instrument, entry, or endorsement has been fraudulently or wrongfully obtained, or that any such grant, certificate, or instrument is fraudulently or wrongfully retained, he may require the person to whom such grant, certificate, or instrument has been so issued, or by whom it has been so obtained or is retained, to deliver up the same for the purpose of being cancelled or corrected as the case may require.

Correction of errors.

131. 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

Procedure to compel delivery up of instruments.

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 authorizing and directing the person so summoned to be apprehended and brought before a Judge for examination.

Failure to
deliver up
instrument.

132. 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.

PART XIV.

INDEFEASIBILITY OF TITLE AND REMEDIES OF PERSONS INJURED.

Transfers and
other dealings
good not-
withstanding
notice of
trust or
unregistered
interest.

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

134. 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 in the Register Book, shall be conclusive evidence of the matters thereon stated, or thereon endorsed by the Registrar-General, except as in this Ordinance provided.

Certificate of title conclusive as to matters therein stated.

135. No 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, that is to say:—

No action against registered proprietor for recovery of land.

- (1) The case of a lessor as against a lessee in default;
- (2) 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 *bonâ fide* for value, from or through a person so registered through fraud;
- (3) 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 registered proprietor of such other land not being a transferee thereof *bonâ fide* for value;
- (4) The case of a registered 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.

Exceptions.

And in any case other than as aforesaid, the production of the registered grant, certificate of title, or lease 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 seised of or as registered proprietor or lessee 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.

Compensation
for improve-
ments.

136. Whenever an action shall be brought against a registered proprietor or person holding a grant or certificate of title in either of the two cases excepted in the last preceding section and therein numbered (3) and (4), if the defendant or any person through whom he claims shall have made improvements on the land since obtaining a 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 a verdict be found for the plaintiff, or his title be admitted, the jury or the Judge, as the case may be, shall assess the value of the alleged improvements, and shall 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 calendar months after verdict, the judgment 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 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.

Damages for
ejectment.

137. Any person deprived of land under paragraphs (2), (3), and (4) of section 135 of this Ordinance 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 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 *bonâ 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 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.

138. 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 *bonâ 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 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.

Saving for
purchasers
for value.

139. Upon the recovery of any land, estate, or interest by any proceeding at law or in equity from the person registered as proprietor thereof, it shall be lawful for the

Cancellation
of certificate
on recovery
of land.

Court or Judge, in any case in which such proceeding is not hereinbefore expressly barred, to direct the Registrar-General to cancel any certificate of title or other instrument or any entry or memorial in the Register Book relating to such land, and to substitute such certificate of title or entry as the circumstances of the case may require, and the Registrar-General shall give effect to such order.

Damages for error of Registrar-General, etc.

140. 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.

Payment of damages.

141. 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.

Limitation of actions.

142. (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 such action shall be commenced within the period of

six years from the date of such deprivation: Provided, nevertheless, that any person being under the disability of coverture, infancy, or unsoundness of mind may bring such action within six years from the date on which such disability shall have ceased: Provided, nevertheless, 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.

143. 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, the amount so paid shall be considered to be a debt due from the estate of such bankrupt, and a certificate signed by the Treasurer certifying the fact of such payment and delivered to the Registrar in Bankruptcy 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 Treasurer 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

Recovery of amount paid from estate of deceased or bankrupt.

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.

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

144. The Crown or the Assurance Fund shall not under any circumstances be liable for compensation for any loss, damage, or deprivation occasioned by the breach by a registered 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 be liable 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 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.

Saving of Registrar-General from personal liability.

145. The Registrar-General shall not individually, nor shall any person acting under his authority, be liable to any action, suit, or proceeding for or in respect of any act or matter *bonâ fide* done or omitted to be done under this Ordinance.

PART XV.

OFFENCES.

Frauds.

146. If any person fraudulently procures, assists in fraudulently procuring, or is privy to the fraudulent procurement of, any 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 authorized 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 recorded, such person shall be guilty of a misdemeanor, and shall be liable to a penalty not exceeding five hundred pounds, or may, at the discretion of the Court before whom the case may be tried, be imprisoned for any period not exceeding three years; and any 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.

147. No proceeding or conviction for any act hereby declared to be a misdemeanor 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.

Saving of
civil
remedies.

148. Except as hereinbefore otherwise provided, all offences against the provisions of this Ordinance may be prosecuted, and all penalties or sums of money imposed or declared to be due or owing by or under the provisions of the same may be sued for and recovered, in the name of the Attorney-General, before any Court in the Colony having jurisdiction for the punishment of offences of the like nature, or for the recovery of penalties or sums of money of the like amount.

Prosecutions.

PART XVI.

GENERAL.

149. The Registrar-General is authorized 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 to this Ordinance, 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.

Fees.

Accounts.

150. The Registrar-General shall keep a correct account of all such sums of money as shall be received by him in accordance with the provisions of this Ordinance, and shall pay the same to the Treasurer at such times, and shall render accounts of the same to such persons and in such manner, as may be directed in any regulations that may for that purpose be prescribed by the Governor.

Registrar-General subject to directions of Judge.

151. Subject to the prescribed rules, a Judge may direct the Registrar-General to do, or abstain from doing, all such acts as such Registrar is authorized to do or to abstain from doing under this Ordinance.

Procedure and practice.

152. 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 the Third Schedule to this Ordinance shall be deemed to have been made and to be in force.

Rules.

Stay pending appeal.

153. 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.

Alteration of forms.

154. The Registrar-General may, subject to the approval of the Governor and 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 to this Ordinance 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.

FIRST SCHEDULE.

FORM A.

(Section 8.)

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 Island.

Dated the _____ day of _____

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 lands adversely to my estate or interest therein and that the said land is now (*here state 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 conscientiously 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 at _____ this _____ day of _____, 19 _____

Signature of A.B.

Made and subscribed by the above-named _____ this _____ day of _____ 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 at _____ this _____ day of _____, 19 _____

Witness to signature, C.D.

FORM B.

NOTICE.

(Section 18.)

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 this _____ day of _____, 19 _____

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

FORM C.

(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 lands described as (*here state particulars of description from declaration of applicant*) in notice dated the _____ day of _____ 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.

(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 seized 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
[L.S.]

Registrar-General
or Deputy Registrar-General.

(Section 51.)

FORM E.

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 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 conveyed, 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, 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 subscribed my name this
day of

Signed on the day above named by the said
A.B., in the presence of
(*Signature of Witness.*)

(Section 51.)

FORM F.

I, the within-mentioned C.D., in consideration of £ this day paid to me by X.Y., of , the receipt of which sum I do hereby acknowledge, hereby transfer to him the estate or interest in respect to which I am registered proprietor as set forth and described in the within instrument together with all my rights, powers, estate, and interest therein.

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

Signed by the above-mentioned }

C.D. in the presence of
(*Signature of witness.*)

(Section 68.)

FORM G.

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 conveyed and here insert description of land*] do hereby lease to E.F. of (*here insert description*) all the said lands 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, if any.*)

I, E.F., of (*here insert description*) do hereby accept this lease of the above-described lands, to be held by me as tenant and subject to the conditions, restrictions, and covenants above set forth.

Dated this day of

FORM H.

(Section 75.)

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, and easements, if any, appertaining, and here insert 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; I 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

Secondly, that I will pay interest on the said sum at the rate of £ by the £100 in the year by equal payments on the day of in every year.

Thirdly, (*here set forth special covenants, 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 whereof I have hereto signed my name this day of

Signed by the above-named A.B. }
in presence of }
(*Signature of witness.*)

FORM I.

(Section 75.)

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 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*) hereinafter mentioned, I do hereby encumber 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 whereof I have hereunto signed my name this day of

Signed by the above-named A. B. }
in the presence of }
(*Signature of Witness.*)

FORM K.

(Section 88.)

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.

(Section 89.)

FORM L.

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, or other instrument of title*) hereby revoke the power of attorney given by me to _____ dated the _____ day of _____. In witness whereof I _____ have hereunto subscribed my name this day of _____ in the presence of A.B. of _____

(Section 90.)

FORM M.

REAL PROPERTY ORDINANCE.

REGISTRATION ABSTRACT.

(*Here insert copy of grant or certificate with endorsements, if any.*)

Pursuant to an Ordinance entitled the Real Property Ordinance, this registration abstract is issued for the purpose of enabling the registered proprietor to deal with the above-described land at places without the limits of the Colony of Trinidad and Tobago and shall continue in force from the date hereof until the _____ day of _____ or until the same be surrendered to me for cancellation.

In witness whereof I have hereunto signed my name and affixed my seal this day of _____

Signed and sealed the _____ day of _____, 19____
 Registrar-General,
 [or Deputy Registrar-General.]
 in the presence of X.Y.

(Section 109.)

FORM N.

REAL PROPERTY ORDINANCE.

We _____ and _____
 being { the executors of the will of _____ } deceased, the
 { or the administrators of the estate of _____ }
 registered proprietor of land at _____, described in the certificate of title
 registered 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 adminis- }
 { tration were granted to us _____ }
 on the _____ day of _____ hereby assent to the registration of _____ as
 proprietor of such land.

(Signed.)

(Section 118.)

FORM O.

To the Registrar-General.
 Take notice that I _____, claiming estate or interest (*here state the nature of the estate or interest claimed and the grounds on which such claim is founded*) in (*here describe land referring to the volume and page in the Register Book relating thereto*) forbid the registration of any memorandum of transfer or instrument affecting the said land until this caveat be by me or by the order of the Court or a Judge withdrawn, or until after the lapse of twenty-one days from the date of the service of notice of such intended registration at the following address :—(*Here state address for service.*)

Dated this _____ day of _____, 19____

(Section 126.)

FORM P. (a)

Appeared before me at the _____ on the _____ day of _____, 19____, C.D. of _____ a person known to me and of good repute attesting witness to this instrument and made oath and said (or did solemnly and sincerely affirm and declare) that the signature to the same as of the witness to the execution of the said instrument was in his true and proper handwriting and further that A.B. the party executing the same was personally known to him the said C.D. and that the signature of the said instrument is in the handwriting of the said A.B.

Signature of Registrar, Justice of
 the Peace, or Notary, as the case
 may be.

SECOND SCHEDULE. (a)

(Section 149.)

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:—

	£	s.	d.
When the applicant is the original grantee and the land has never been sold, mortgaged, encumbered, or made the subject of settlement	0	5	0
When the title is of any other description and the value exceeds £500	2	10	0
When the title is of any other description and the value exceeds £400 and does not exceed £500	2	0	0
When the title is of any other description and the value exceeds £300 and does not exceed £400	1	10	0
When the title is of any other description and the value exceeds £200 and does not exceed £300	1	0	0
When the title is of any other description and the value does not exceed £200	0	10	0
When the title is of any other description and the value does not exceed £100	0	5	0
For every Certificate of Title	1	0	0
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 £100	0	2	6
exceeds £100 but does not exceed £200	0	5	0
exceeds £200 but does not exceed £500	0	7	6
exceeds £500 but does not exceed £750	0	10	0
exceeds £750 but does not exceed £1,000	1	0	0
exceeds £1,000	2	0	0
For registering a lease or agreement for a lease, or the transfer or surrender of a lease, where the rent reserved—			
does not exceed £10 per annum	0	10	0
exceeds £10 but does not exceed £100 per annum	1	0	0
exceeds £100 per annum	2	0	0
For registering proprietor of any 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)	1	0	0
For registering in the Register Book a power of attorney	0	10	0
For registering revocation thereof	0	10	0
For every registration abstract	1	0	0
For cancelling registration abstract	0	5	0
For noting caveat	0	5	0
For cancelling or withdrawing of caveat and service of notice to caveator or caveatee	0	2	6
For the search of a single Index Book	0	1	0
For a single volume of the Register Book	0	2	0
For every general search of the Indexes, for each day	0	5	0
For registering an order or decree or memorandum of judgment or <i>lis pendens</i> ...	0	5	0
For taking declaration in the case of lost grant or other instrument or where production of duplicate is dispensed with	0	10	0
For taking affidavit or statutory declaration	0	2	0
On issuing a certificate of title, in addition to the fee of £1, for each parcel of land included after the first	0	2	0
For each volume of instruments examined	0	1	0
For looking up the original of a caveat or other request	0	1	0
When any instrument purports to deal with land included in more than one grant or certificate, for each endorsement after the first	0	2	0
For the registration of every instrument purporting to be a gift	0	10	0
For every registration of the death of a joint proprietor or mortgagee	0	10	0
For every entry in the Register Book not otherwise provided for	0	5	0

(a) As amended by scales of fees prescribed by the Governor on 31st May, 1920, and 30th October, 1922.

(Section 152.)

THIRD SCHEDULE.

1. All summonses under this Ordinance shall issue from the Registry of the Supreme Court in accordance with the regulations 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 registered 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 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.

7. 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:—

	£	s.	d.
(a) Fee on obtaining first and all other certificates of title where value of land does not exceed £50	1 1 0
Between £ 50 and £ 100	2 2 0
" 100 " 300	3 3 0
" 300 " 500	5 5 0
" 500 " 750	6 6 0
" 750 " 1,000	7 7 0
Above £1,000, £7 7 0 for first £1,000 and £1 1 0 for every succeeding £1,000 or part thereof.			

(b) TRANSFERS OF LAND:—The same fee as under (a).

(c) TRANSMISSIONS.—Taking out certificate of title subsequent to probate of will or to intestate estate:

	£	s.	d.
Where property is less than £100 in value	1 1 0
Between £100 and £ 250	2 2 0
" 250 " 1,000	3 3 0
Above £1,000	5 5 0

(d) MORTGAGES.—A fee at the rate of £1 1 0 for the first £100 of amount of loan, and for every succeeding £100 or part thereof, 10/-.

(e) ENCUMBRANCES.—Same scale as mortgages, taking 10 years of the annual sum chargeable on estate as value.

(f) TRANSFERS and DISCHARGES of mortgages.

For transfers same as for mortgages; for a discharge... .. £1 1 0

(g) CAVEATS.—Entering, withdrawing, or removing... .. 1 1 0

FOURTH SCHEDULE.

(Section 29.)

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, in the pound sterling £0 0 0 $\frac{1}{2}$