

B I L L

An Act, ~~to consolidate and amend the Acts~~
respecting Real Property in the Province of Alberta.

(Assented to

Preamble.

His Majesty by and with the advice and consent
of the Legislative Assembly of the Province of Alberta
enacts as follows

Short
title

1. This Act may be cited as "The Land Titles Act."

Interpre-
tation. "Land

2. (a) The expression "land" means lands, messuages,
tenements, and hereditaments, corporeal and incorporeal,
of every nature and description, and every estate or
interest therein, and whether such estate or interest
is legal or equitable, together with all paths,
passages, ways, watercourses, liberties, privileges,
easements, mines, minerals, and quarries appertaining
thereto, and all trees and timber thereon and there-
under lying or being, unless any such are specially
excepted.

"Owner".

3. (b) The expression "owner" means any person or
body corporate entitled to any freehold or other
estate or interest in land, at law or in equity, in
possession, in futurity or expectancy.

"transfer"

(c) The expression "transfer" means the passing of
any estate or interest in land under this Act, whether
for valuable consideration or otherwise.

transferror"

(d) The expression "transferror" means the person
whom any interest or estate in land is transferred, whether
for value or otherwise, and the expression "transferee"
means the person to whom any interest or estate in land
is transferred whether for value or otherwise.

- "Mortgage." (e) The expression "mortgage" means any charge on land, created merely for securing a debt or a loan.
- " Mortgagee" (f) The expression "mortgagee" means the owner of a mortgage; and the expression "mortgagor" means the owner or transferee of land, or of any estate or interest in land pledged as security for a debt or a loan.
- "Encumbrance" (g) The expression "encumbrance" means any charge on land created or effected for any purpose whatever, inclusive of mortgage, mechanics' liens, when authorized by statute or ordinance, and executions against lands, unless expressly distinguished.
- Encumbrancer" (h) The expression "encumbrancer" means the owner of any land or of any estate or interest in land subject to any encumbrance; and the expression "encumbrancee" means the owner of an encumbrance.
- "Lunatic" (i) The expression "lunatic" means any person found by any competent tribunal or commission de lunatico inquirendo, to be a lunatic.
- Person of unsound mind (j) The expression "person of unsound mind" means any person not an infant, who not having been found to be a lunatic, has been found on like inquiry to be incapable, from infirmity of mind, of managing his own affairs.
- Instrument (k) The expression "instrument" means any grant, certificate of title, conveyance, assurance, deed, map, plan, will, probate or exemplification of will, letters of administration, or an exemplification thereof, mortgage or encumbrance, or any other document in writing relating to or affecting the transfer^{of} or other dealing with land or evidencing title thereto.
- Register" (l) The expression "register" means the register of titles to land kept in accordance with this Act.
- "Registration" (m) The expression "registration" means, (1), the bringing of lands under the provisions of this Act;

- "Filing" and (2) the entering upon the certificate of title of a memorandum authorized by this Act, of any document; and "filing" means the entering in the day book of any instrument.
- Memorandum" (n) The expression "memorandum" means the endorsement upon the certificate of title and on the duplicate copy thereof, of the particulars of any instrument presented for registration.
- Certificate of title (o) "Certificate of title" means the certificate (Form E) granted by the Registrar and entered and kept in the register; "duplicate" or "duplicate certificate" means the duplicate, delivered or issued to the person entitled thereto, of the certificate of title in the register.
- "Duplicate"
- "Registrar" (p) The expression "registrar" means a registrar of titles, or any deputy registrar or inspector of titles when acting as registrar.
- "Territories" (q) The expression "Territories" means the North West Territories, the district of Keewatin and all other territories of Canada.
- "Court". (r) The expression "court" means any court authorized to adjudicate in the Province in civil matters in which the title to real estate is in question.
- "Court of Appeal". (s) The expression "Court of Appeal" means the Court of Appeal herein constituted.
- "Judge" (t) The expression "Judge" means an official authorized in the Province, to adjudicate in civil matters in which the title to real estate is in question.
- "Transmission." (u) The expression "transmission" applies to change of ownership consequent upon death, lunacy, sale under execution, order of court, or other act of law, sale for arrears of taxes or upon any settlement or any legal succession in case of intestacy.

"Grant"	(v) The expression "grant" means any grant of Crown land, whether in fee or for years, and whether direct from His Majesty or pursuant to the provisions of any statute.
"Endorsed" "Endorsement"	(w) The expressions "endorsed", and "endorsement" apply to anything written upon any instrument or upon any paper attached thereto by the registrar.
"Possession"	(x) The expression "possession" when applied to persons claiming title to land. means also alternatively the reception of the rents and profits thereof.
"Affidavit"	(y) The expression "affidavit" includes an affirmation when made by a person entitled to affirm.
Land Registration Districts North Alberta	3. For the purposes of this Act there shall be in the province two land registration districts, respectively known and described as follows:- (1) "North Alberta Land Registration District", being composed of all that portion of the Province of Alberta which lies to the north of the ninth (9th) correction line;
South Alberta	(2) "South Alberta Land Registration District" being composed of all that portion of the Province of Alberta which lies to the south of the ninth (9th) correction line.
Provision for further registra- tion districts.	4. The Lieutenant Governor in Council may, from time to time by proclamation, as the settlement of the country and the exigencies of the public service require, constitute any other portion of the province a land registration district, and declare by what local name the same shall be known and designated, and may also change the boundaries of existing districts.
Construction etc of registration offices.	5. The Lieutenant Governor in Council may provide in each registration district at the public expense, and may thereafter maintain, in a proper state of repair,

a building of stone or brick, or partly of brick and partly of stone, to serve as the office of the registrar, and as the place of deposit and preservation of registers, and other record books, certificates, instruments and documents connected with the registration of titles ; and may fit up the said office with such fire-proof safes and other secure places as are necessary.

Land Titles
offices.

6. In each registration district at such place as the Lieutenant Governor in Council determines there shall be an office to be called "the land titles office".

Inspector of
land titles
offices.

7. The Lieutenant Governor in Council may from time to time, appoint an inspector of land titles offices whose duties shall be, under instructions from the Attorney General, to inspect the books and records of the several land titles offices, and to perform such other duties as ^{he} may be directed by the Attorney General to perform; and the said inspector may, in the discretion of the Attorney General, be directed to perform any duty which any registrar is empowered by this Act to perform; but no persons shall be appointed inspector of land titles offices unless he is when appointed a barrister, solicitor or advocate of at least three years standing of one of the provinces of Canada.

Registrars
and their
assistants.

8. The business of each land titles office shall be conducted by an officer to be called "the registrar" appointed by the Lieutenant Governor in Council, with such assistants and clerks as are necessary and as the Lieutenant Governor in Council from time to time appoints.

(2) Every registrar now acting in the Province under the provisions of the Act of the Parliament of Canada known as the Land Titles Act, 1894, or hereafter to be appointed shall hold office during pleasure; but hereafter no person shall be appointed registrar unless he is a barrister, solicitor or advocate of at least three years' standing of one of the provinces of Canada.

Their
appointment

Qualification

9. Whenever occasion requires the Lieutenant Governor in Council may, from time to time, appoint a deputy registrar to assist a registrar under instructions from the latter; and such deputy registrar may perform in the event of the illness or absence from office of the registrar all the duties required by this Act to be done by the registrar; and in case of the death, resignation or removal from office of the registrar, the deputy registrar shall do and perform all the duties of a registrar under this Act until another registrar is appointed.

Deputy
Registrars.

Duties.

2. No person shall be appointed a deputy registrar unless he is a barrister, solicitor or advocate of one of the provinces of Canada.

10. The inspector of land titles offices, the registrars, deputy registrars, and other necessary officers shall be attached to the Attorney General's Department, and be under the control of the Attorney General and their salaries, and such incidental expenses of carrying on this Act as are sanctioned by this Act or by the Lieutenant Governor in Council shall be paid out of moneys provided by the Legislative Assembly for that purpose.

Qualification.

These func-
tionaries at-
tached to
Attorney
General's
Department.

Salaries
etc

Oath of
Office.

11. The inspector of land titles office and every registrar and deputy registrar, before he enters upon the execution of his office shall take, before some judge or stipendiary magistrate in the Province, the oath of office in the form "A" in the schedule to this Act.

Security to
be furnished.

12. Before the inspector of land titles offices, or any registrar or deputy registrar is sworn into office he shall furnish to His Majesty security in a penal sum of not less than one thousand dollars for the true and faithful performance by the said inspector of land titles offices registrar or deputy registrar, of his duty in respect of all things directed to be done by or required of the said inspector of land titles offices, registrar, or deputy registrar, respectively, by this Act or any law in that behalf; and the said security shall, in the discretion of the Attorney General, be either a joint and several bond of the inspector of land titles offices, registrar or deputy registrar, as the case may be, and of two sureties, or a guarantee bond of a guarantee company duly approved by the Lieutenant Governor in Council.

(2) Such bond or guarantee shall be in duplicate and shall be subject to the approval of the Lieutenant Governor in Council.

Form of bond.

13. When the security to be so furnished is the joint and several bond of the inspector of land titles offices, registrar or deputy registrar, as the case may be, and two sureties, the same shall be executed under the hands and seals of the obligors in the form "B" in the schedule to this Act, and the sureties shall justify under oath in the form "C" in the said schedule; and the execution of the said bond shall be duly verified by the affidavit of a subscribing witness in the form "D" in the said schedule; and with the affidavits appended, shall then

Oath of
sureties.

Deposit of bond. be forthwith transmitted to the Provincial Secretary to be filed in his office.

Further security may be required.

14. The inspector of land titles offices, and any registrar or deputy registrar shall, when required, by the Attorney General, furnish such further or other security as is deemed expedient.

Seal of Office.

15. Each registrar shall have a seal of office, approved by the Lieutenant Governor in Council, with which he shall seal all certificates of title, and he shall stamp all instruments which are presented to him for registration, showing the day, hour and minute of receiving the same.

Administration of oaths respecting titles to land.

16. The inspector of land titles offices, or any registrar or deputy registrar within the district to which he is appointed may administer any oath or take any affirmation or declaration in lieu of an oath respecting titles to land, from any one entitled by law to affirm or declare.

Copies and abstracts of instruments.

17. Every registrar shall, when required, furnish under seal exemplifications, copies and abstracts of any instruments affecting lands which are deposited, filed or registered in his office, and every such exemplification or certified copy shall be received as evidence in the same manner and with the same effect as if the original was produced.

Officers and clerks not to be agents

18. Neither the inspector of land titles offices, nor any registrar, deputy registrar or clerk in any land titles office shall, directly or indirectly act as the agent of any person investing money and taking securities on land within any registration district, nor shall

Nor carry on any other business at their office.

the inspector of land titles offices, nor any registrar, deputy registrar or clerk advise, for any fee or reward or otherwise, upon titles to land, nor practise as a conveyancer, nor shall he carry on or transact within the land titles office, any business or occupation whatever,

other than his duties as such inspector, registrar, deputy registrar or clerk.

Office days
and hours.

19. Every land titles office shall be kept open on all days (except Sundays and legal holidays) between the hours of ten o'clock in the forenoon and four o'clock in the afternoon, except on Saturdays when the said offices shall be closed at one o'clock in the afternoon, during which times, either the registrar or his deputy registrar shall be in attendance.

Keeping of
"day-book."

20. The registrar shall keep a book or books which shall be called the "day-book," and in which shall be entered by a short description every instrument relating to lands for which a certificate of title has issued or been applied for which is given in for registration, with the day hour and minute of its so being given in; and for purposes of priority between mortgagees, transferees and others, the time so entered shall be taken as the time of registration; and the registrar, in entering memoranda upon the certificate of title embodied in the register and in endorsing a memorandum upon the duplicate shall take the time from the day-book as the time of registration.

Registration
only on
production
of a certifi-
cate of title.

(2) Unless required so to do by order of a court or a judge, the registrar shall not receive or enter in the day-book any instrument, until the duplicate certificate of title for the lands affected is produced to him so as to enable him to enter the proper memorandum on such duplicate certificate, except executions against lands, caveats, mechanics' liens, transfers by a sheriff or municipal officer, or by order of a Court or a Judge, transfers on sales of lands for taxes, maps or plans which do not require to be registered, or certificates or orders of a court or a judge, and except a mortgage or other incumbrance created by any person.

Exceptions.

person, rightfully in possession of land prior to the issue of the grant from the Crown, or prior to the issue of transfer from the Hudson's Bay Company, or from any company entitled to a grant of such lands from the Crown or to which letters patent from the Crown for such mortgaged lands have already issued, if there is produced to and left with the registrar, with the mortgage an affidavit made by the mortgagor, in the form AA in the schedule to this Act, and also, in the case of lands, mortgaged prior to the issue of transfer from the Hudson's Bay Company, or other company as aforesaid, a certificate from the land commissioner or other proper officer, of such company, that the purchase price of such mortgaged lands has been paid, and that the applicant is entitled to a transfer in fee simple therefor from such company.

Keeping of
"register".

21. The registrar shall also keep a book or books, which shall be called "the register" and shall enter therein all certificates of title; and each certificate of title, which shall be in the form "E", shall constitute a separate folio of such book, and the registrar shall record therein the particulars of all instruments, dealings and other matters by this Act required to be registered or entered in the register and affecting the land included in such certificate of title.

When
registration
shall be
deemed to be
effected.

22. Every grant shall be deemed and taken to be registered under the provisions and for the purposes of this Act so soon as the same has been marked by the registrar with the folio and volume on and in which it is embodied in the register, and every other instrument shall be deemed to be registered as soon as a memorandum of it has been entered in the register upon the folio constituted by the existing grant or certificate of title of such land.

Priority
of regis-
tered in-
struments.

23. Instruments registered in respect of or affecting the same land shall be entitled to priority the one over the other according to the time of registration and not according to the date of execution; and the registrar, upon registration thereof, shall retain the same in his office, and so soon as registered, every instrument shall become operative according to the tenor and intent thereof, and shall thereupon create, transfer, surrender, charge or discharge, as the case may be, the land or the estate or interest therein mentioned in the instrument.

Operation of
registered
instruments.

Details to
be stated
in memoran-
dum.

24. Every memorandum entered in the register shall state the nature of the instrument to which such memorandum relates, the day, the hour and the minute of its registration, and the names of the parties thereto, and shall refer by number or symbol to such instrument, and shall be signed by the registrar.

Memorandum
to be made
on duplicate
also

25. Whenever a memorandum has been entered in the register the registrar shall make a like memorandum upon the duplicate when the same is presented to him for the purpose, and the register shall sign and seal such memorandum, which shall be received in all courts of law as conclusive evidence of its contents and that the instrument of which it is a memorandum has been duly registered under the provisions of this Act.

Registration
of grants
made by
letters
patent.

Certificate
of title.

26. Whenever any land is granted in the Province by the Crown, the letters patent therefor, ~~when issued,~~ ~~shall be~~ forwarded from the office whence the same are issued to the registrar of the registration district in which the land so granted is situated, ~~and~~ the registrar shall retain the letters patent in his office; and a certificate of title, as provided by this Act, with any necessary qualification, shall be granted to the patentee.

What fees and charges may be demanded on delivery of certificate.

7.) Where a person has obtained a patent under a homestead or under a homestead and pre-emption entry or under half-breed land scrip or military county land scrip in accordance with the Act of Parliament of Canada known as The Dominion Lands Act, and amendments thereto, a duplicate of such certificate of title shall be issued to such party free of all fees and charges by this Act provided to be paid and in the case of other patentees such duplicate certificate of title shall be issued upon the payment of such fees as are fixed or may from time to time be fixed by the Lieutenant Governor in Council

(3) The notification to the Hudson's Bay Company by the Minister of the Interior under the provisions of The Dominion Lands Act of the survey and confirmation of the survey of any township or part of a township shall be accepted by a registrar as equivalent to, and dealt with by him in all respects in the same manner as if the said notification were letters patent to and in favour of the said company granting to the said company, in fee simple, the sections or portions of sections, to which they are entitled in such townships or parts of townships under the provisions of The Dominion Lands Act.

Hudson's Bay Company lands.

Official notification to the company equivalent to letters patent.

~~To be in duplicate. Exception.~~

~~(4.) Such notifications, except any notification which issued prior to the twenty second day of May, one thousand eight hundred and eighty eight, and which may be registered by the Company with the registrar of the district within which the land affected thereby is situated, shall be issued in duplicate, one to be sent to the said company, and one to the registrar of the district.~~

(5) A notification to the registrar from the Minister of the Interior that the land described therein has been granted to the Canadian Pacific Railway Company, or to any other railway company entitled to Dominion lands under the authority of an Act of Parliament, shall be accepted by the registrar and

Official
notifications
to certain
railway com-
panies to be
dealt with as
if letters
patent.

with by him in all respects as if the same were letters
patent in favour of such company. ~~The notification shall
state the nature of the grant and shall specify any
mines, minerals easements, or rights which are excepted
from the grant.~~

Registration
of estate for
life or for
more than three
years.

6. The owner or any estate, leased or demised to
him, or to the person from whom he claims a title, for
a life, or for lives, or for a term of more than three
years, in any land for which the grant from the Crown
has been registered, may apply to have his title regist-
ered, and to have a certificate of title issued to him,
therefor under the provisions of this Act.

Notification
by the Govern-
ment of the
Province to
be equivalent
to letters
patent.

~~A Notification in form BB in the schedule to this
Act or to a like effect received by the Registrar from
the Minister of Public Works of the abandonment by the
Crown of any roads or road allowances or trails which
now are or which may hereafter be in the Crown in the
right of the Province, shall have the same effect as
patent issued by the Crown to the person in such
notification mentioned as transferee and shall be so
treated by the registrar.~~

Registration
of title to
land already
granted.

~~and shall specify any mines, minerals, easements or
rights which are excepted from the grant.~~

27. The owner of any estate or interest in any land
whether legal or equitable, letters patent for which
issued from the Crown before the first day of January,
one thousand eight hundred and eight-seven, or which
otherwise had prior to that date passed from the Crown,
may apply to have his title registered under the
provisions of this Act.

(2) If at the time of the grant of the certificate
of title, there are no registered encumbrances or convey-

Registration
of title

ances affecting such land, the certificate may be granted to the patentee upon payment of such fees as are fixed in that behalf by tariff made from time to time by the Lieutenant Governor in Council, but no fees shall be payable therefor under the provisions of section one hundred and ~~fifteen~~^{seventeen} of this Act.

Fees.

Application
for registra-
tion form,

28. The application therefor shall be made in writing in the Form "F" in the schedule to this Act, to the registrar of the registration district in which the land is situated; shall be verified by the affidavit, in the form "G" in the schedule to this Act, of the applicant, or some one on his behalf, and shall be accompanied by,-

Documents to
be produced.

- (a) All deeds in possession of the applicant, if any
- (b) A certificate showing all registrations affecting the title, down to the time when such application is filed, with copies of any registered documents the original whereof he is unable to produce;
- (c) A certificate from the sheriff showing that there is no execution in his hands against the applicant's lands;

Cases in
which documents
need not be
produced.

(2) But in no case shall it be necessary for any applicant to produce copies of any documents under the foregoing provisions of this section if the originals of such documents are of record at the time when the application is made, in the office of the registrar to whom the application is made; provided that it shall not be necessary for the Hudson's Bay Company, in the case of any lands the title to which has passed to that Company before the first day of January one thousand eight hundred and eighty seven, either by notification made under the provisions of subclause seven of clause twenty two of The Dominion Lands Act,

Proviso;
Hudson's Bay
Company lands.

or by letters patent issued thereunder prior to that date to produce to the registrar any of the certificates mentioned in this section, if the application is accompanied by an affidavit, to be made by any officer of the Company approved by the Attorney General, in the form "H" in the schedule to this Act.

Delivery of certificate of title when applicant is the original grantee.

29. Upon the filing of such application, if the applicant is the original grantee of the Crown of the land, and no deed, transfer, mortgage or other encumbrance or instrument or caveat affecting the title thereto appears to have been recorded; or if not the original grantee, all the original title deeds are produced, and no person other than the applicant is in actual possession of the land, and no caveat has been registered, the registrar, if he entertains no doubt as to the title of the applicant, shall grant a certificate of title as hereinafter provided.

Discharge of mortgage or encumbrance.

2. \ If there is any mortgage or encumbrance against the land at the date of the said application, the filing with the registrar of the original mortgage or the instrument creating the encumbrance, or a copy of such mortgage or instrument, having endorsed thereon or attached thereto a receipt for the payment of the amount thereby secured signed by the mortgagee or encumbrancee, attested by an affidavit of the witness, shall operate as a discharge of the security created by such mortgage or encumbrance.

Form of receipt.

3. Such receipt may be in form "I" in the schedule to this Act.

4. If any person other than the applicant is admitted or appears to be interested in the land, then if such interest is by virtue of a mortgage, encum-

Conditions
requisite
for delivery
of certificate
of title, if
any other
person than the
applicant is
interested.

encumbrance lease , or charge created by any other instrument and the instrument is at the time of the application of record in the office of the registrar to whom the application is made, or, if not of record, the instrument is produced to the registrar, and if the applicant desires to have his title registered, subject to the interest of such other person, the registrar, if he entertains no doubt as to the extent and nature of such interest, or of the title of the applicant, may register the title and grant a certificate of title and issue a duplicate certificate of title subject to such interest.

When the
interested
party con-
sents.

5. In any case where the person who is admitted or appears to be interested in land is a consenting party to an application, the registrar may, if he entertains no doubt as to the title of the applicant, grant a certificate of title, subject to the terms of the consent, provided that the consent shall be in writing signed by the consenting party in presence of a witness, and attested in the manner provided for by this Act.

Other cases
to be referred
to Judge.

10. In all cases other than those provided for in the last preceding section, the registrar shall forthwith, having given the applicant a certificate of the filing of his application, transmit the application, with all evidence supplied, to the judge to be dealt with as hereinafter mentioned.

Judge to
examine doc-
uments and hear
the parties.

31. The judge shall examine, without delay, all titles which are submitted to him, and for such purpose shall when necessary, hear all persons interested, or claiming to be interested, and shall hear and consider the claims as against the applicant, of any person who is in possession of the land; and he shall have and exercise all the powers for compelling the

Judges powers. the attendance of persons and the production of documents, which usually appertain to courts of civil justice and the judges thereof in civil actions brought therein.

Filing of adverse claims. 32. Any person having an adverse claim or a claim not recognized in the application for registration may, at any time before the judge has approved of the applicant's title, file with the registrar a short statement of his claim, verified by affidavit, and shall serve a copy thereof on the applicant, or his advocate or his agent.

Their examination. 33. If any adverse claim is filed, the judge shall proceed to examine into and adjudicate thereon, and no certificate of title shall be granted until such adverse claim has been disposed of.

Judge may direct publication of notice of application. 34. In any case before him, the judge may direct that notice of the application be published in some newspaper or newspapers in such form and for such period as the judge thinks expedient, and no order for registration shall be granted by him until after the expiration of at least four weeks from the first publication of the notice, if he has directed the same to be published.

Delay.

Registration to be ordered if title sufficient. 35. The Judge, if satisfied with the applicant's title, shall thereupon make an order directing the registrar, after the expiration of four weeks from the date thereof, unless in the meantime the order is appealed from, to register the same.

Duplicate to be delivered to owner. 36. After registration of a title, the registrar upon application by the owner or his duly authorized agent shall make out, sign, officially seal and deliver to him a duplicate of the certificate of title in the register on which shall be entered all ~~memoranda~~

memoranda endorsed on or attached to the certificate of title.

Certificate of every subsequent transfer.

37. Upon every transfer of land mentioned in a certificate of title, the certificate of title to be granted shall be granted by the registrar and a duplicate shall be issued to the transferee on application.

Owner or mortgagee to give post office address to registrar.

38. Every owner or mortgagee of any land for which a certificate of title has been granted shall deliver to the registrar a memorandum in writing of some post office address within the Province to which it shall be sufficient to mail all notices that under this Act are required to be sent to an owner or mortgagee; and every owner or mortgagee shall from time to time in like manner, notify the registrar of any change in his address; and every owner shall, if required by the registrar so to do, before the delivery of any duplicate sign, a receipt therefor in his own handwriting or otherwise furnish the registrar with his signature, so as to prevent personation as far as possible; Provided, that the registrar may proceed without such memorandum of address.

Proviso.

How entry of certificates are to be made in the register.

39. Every certificate of title shall be made on a separate folio of the register, and upon every transfer of ownership the certificate of title of the transferor and the duplicate thereof shall be cancelled, and the certificate of title of the transferee shall thereupon be entered upon a new folio in the register: and the registrar shall note upon the folio of the title of the transferor the number of the folio of the transferee's title, and upon that of the transferee the number of the folio of the transferor, so that reference can be readily made from one to the other as occasion requires.

~~Effect of Registration.~~

Effect of Registration.

40. In every instrument transferring, encumbering, or charging any land for which a certificate of title has been granted, there shall be implied the following covenant by the transferror or encumbrancer, that is to say : That the transferror or encumbrancer will do such acts and execute such instruments as, in accordance with the provisions of this Act, are necessary to give effect to all covenants, conditions and purposes expressly set forth in such instrument, or by this Act declared to be implied against such person in instruments of a like nature.

Covenants implied in instruments relating to and.

41. After a certificate of title has been granted for any land, no instrument, until registered under this Act, shall be effectual to pass any estate or interest in any land (except a leasehold interest for three years or for a less period), or 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 therein shall pass, or, as the case may be, the land shall become liable as security in manner and subject to the covenants, conditions and contingencies set forth and specified in such instrument, or by this Act declared to be implied in instruments of a like nature.

Effect of registration.

Land affected only be obligations notified on certificate.

42. The owner of land for which a certificate of title has been granted, shall hold the same subject (in addition to the incidents implied by virtue of this Act) to such encumbrances, liens, estates or interests, as are notified on the folio of the register which constitutes the certificate of title, absolutely free from all other encumbrances,

liens estates or interests whatsoever, except in case of fraud wherein he has participated or colluded, and except the estate or interest of an owner claiming the same land under a prior certificate of title granted under the provisions of this Act.

Exceptions.

(2) Such priority shall, in favour of any person in possession of land, be computed with reference to the grant or earliest certificate of title under which he or any person through whom he derives title, has held such possession.

Computation of priority.

45. The land mentioned in any certificate of title granted under this Act, shall by implication, and without any special mention therein, unless the contrary is expressly declared, be subject to :-

Implied conditions.

Reservations (a) Any subsisting reservations or exceptions contained in the original grant of the land from the Crown :

Municipal taxes, etc

(b) All unpaid taxes;

(c) Any public highway or right of way or other public easement, howsoever created upon, over or in respect of the land;

Public easements.

Leases under three years.

(d) Any subsisting lease or agreement for a lease for a period not exceeding three years, where there is actual occupation of the land under the same;

Registered decrees etc.

(e) Any decrees, orders or executions against or affecting the interest of the owner in the land, which have been registered and maintained in force against the owner;

Right of expropriation.

(f) Any right of expropriation which may, by statute or ordinance, be vested in any person, body corporate, or His Majesty.

(g) Any right of way or other easement granted or acquired under the provisions of ~~the Act of the Parliament of Canada, known as "The North-west~~

~~Irrigation Act.~~

Certificate
to be con-
clusive ev-
idence of
title.

44. Every certificate of title granted under this Act shall (except in case of fraud wherein the owner has participated or colluded), so long as the same remains in force and uncanceled under this Act, be conclusive evidence in all courts as against His Majesty and all persons whomsoever, that the person named therein is entitled to the land included in the same, for the estate or interest therein specified, subject to the exceptions and reservations mentioned in the next pre-

Exceptions.

ceding section, except so far as regards any portion of land, by wrong description of boundaries or parcels, included in such certificate of title, and except as against any person claiming under a prior certificate of title granted under this Act in respect of the same

Holders of
prior certifi-
cate.

land; and for the purpose of this section that person shall be deemed to claim under a prior certificate of title who is holder of, or whose claim is derived directly or indirectly from the person who was the holder of the earliest certificate of title granted, notwithstanding that such certificate of title has been surrendered and a new certificate of title has been granted upon any transfer or other instrument.

Omission to
send notice.

45. A purchaser, mortgagee or encumbrancee for valuable consideration shall not be affected by the omission to send any notice by this Act directed to be given or by the nonreceipt thereof.

Instruments
to be effect-
ual must be
in conformity
with this Act

46. After the certificate of title for any land has been granted no instrument shall be effectual to pass any interest therein or to render the land liable as security for the payment of money as against any bona fide transferee of the land under this Act, unless such instrument is executed in accordance with the provisions of this Act; and is duly registered thereunder; and the registrar shall have power ~~to~~

to decide whether any instrument which is presented to him for registration is substantially in conformity with the proper form in the schedule to this Act, or not, and to reject any instrument which he may decide to be unfit for registration.

47. No memorandum or entry shall be made upon a certificate of title or upon the duplicate thereof of No trusts any notice of trusts, whether expressed, implied or to be reg- constructive; but the registrar shall treat any instru- istered. ment containing any such notice as if there was no trust; and the trustee or trustees therein named shall be deemed to be the absolute and beneficial owners of the land for the purposes of this Act.

Transfers,

Form of transfer. 48. When land, for which a certificate of title has been granted, is intended to be transferred, or any right of way or other easement is intended to be created or transferred, the owner may execute a transfer in the form "J" in the schedule to this Act, which transfer shall, for description of the land intended to be dealt with, refer to the certificate of title of the land, or shall give such description as is sufficient to identify the same, and shall contain an accurate statement of the estate, interest or easement intended to be transferred or created, and a memorandum of each lease, mortgage and other encumbrance to which the land is subject.

Tenor of transfer.

49. Whenever any easement or any incorporeal right in or over any land for which a certificate of title has been granted is created for the purpose of being annexed to or used and enjoyed together with other land for which a certificate of title has also been granted, the registrar shall make a memorandum of the instrument

creating

Easements to be mentioned on the certificate. such easement or incorporeal right upon the folio of the register which constitutes the existing certificate of title of such other land and upon the duplicate thereof.

Delivery and total or partial cancellation of certificate.

50. If a transfer purports to transfer the transferor's interest in the whole or part of the land mentioned in any certificate of title, the transferor shall deliver up the duplicate certificate of title of the land, and the registrar shall make a memorandum thereon, and upon the certificate of title in the register cancelling the same, either wholly or partially, according as the transfer purports to transfer the whole or part only of the interest of the transferor in the said land, and setting forth the particulars of the transfer.

Issue of new certificate.

51. The registrar, upon cancelling any certificate of title either wholly or partially, pursuant to any transfer, shall grant to the transferee a certificate of title of the land, mentioned in the transfer and issue to the trans-

Registrar to retain cancelled certificate

feree a duplicate thereof; and the registrar shall retain every transfer and cancelled duplicate certificate of title; but in the case of a partially cancelled certificate

Partially cancelled certificates.

of title, the registrar shall return the duplicate to the transferor after the memorandum partially cancelling the same has been made thereon and upon the certificate of title in the register; or may, whenever required thereto, by the owner of an unsold portion of land, in any partially cancelled certificate of title, or where such a course appears to the registrar more expedient, grant to such owner a certificate of title for such portion of which he is the owner, upon the delivery of the partially cancelled duplicate certificate of title to the registrar, to be cancelled and retained.

52. In every instrument transferring land, for which a certificate of title has been granted, subject to mortgage or encumbrance, there shall be implied the following ~~coven~~

Covenants covenant by the transferee, that is to say : That the
to be implied transferee will pay the principal money, interest, annuity
in trans- or rent charge secured by the mortgage or encumbrance,
fers. after the rate and at the time specified in the instrument
creating the same , and will indemnify and keep harmless
the transferror from and against the principal sum or other
moneys secured by such instrument, and from and against the
liability in respect of any of the covenants therein con-
tained or under this Act implied, on the part of the trans-
ferror.

Plans of 53. The registrar may require the owner of any land
land. within his registration district desiring to transfer or
otherwise to deal with the same under the provisions of
this Act, to furnish the registrar with a map or plan of
the land, having the several measurements marked thereon,

Scales of certified by a Dominion land surveyor, and prepared upon
plans. one of the following scales

For area (a) If the land proposed to be transferred or dealt
less than with is of less area than one acre, then the map or plan
one acre. shall be on a scale not less than one inch to two chains:

From 1 to 5 (b) If the land is of greater area than five acres,
acres. but not exceeding five acres, then the map or plan shall
be on a scale not less than one inch to five chains;

From 5 to (c) If the land is of greater area than five acres,
80 acres. but not exceeding eighty acres, then the map or plan shall
be on a scale not less than one inch to ten chains;

Attestation (d) The owner shall sign the plan and attest the
accuracy of the same in the manner hereinafter provided
for the attestation of all instruments :

3. If the owner neglects or refuses to comply with
the requirements aforesaid, the registrar shall not pro-
ceed with the registration of the transfer or dealing until
the requirements are complied with:

Refusal
of owner
to com-
ply.

Subsequent subdivisions.

4. Subsequent subdivisions of the same land may be delineated upon a duplicate of the map or plan of the same so furnished, if such map is upon a sufficient scale, in accordance with the provisions herein contained; and the correctness of the delineation of each such subdivision shall be attested in the manner prescribed for the attestation of an original map :

Plan to show whole of subdivisions.

5. Where parts of different legal subdivisions are included in the same transfer, the map shall represent the whole of the legal subdivisions, and shall indicate the location of the land to be transferred: Provided always, that this shall not be necessary in the case of lots in a city, town or village, the plan of which has been registered.

6. Any plan which has been prepared in accordance with the provisions of the Acts of the Parliament of Canada known as The Railway Act ~~or of The North West Irrigation Act,~~ or of any other Act of the Parliament of Canada, and which has been lodged or filed with the registrar under or in accordance with the said provisions, shall be dealt with and recognized by him, in so far as it is capable of being dealt with and recognized, as if it had been prepared and filed or registered under and in accordance with the provisions of this Act.

Registration of Indian lands.

7. Any map or plan attested by the signature of the Superintendent General of Indian Affairs or his deputy, and certified by a Dominion Land Surveyor to be a true copy of a plan of survey lodged or filed in the Department of Indian Affairs, of lands described as "Indian lands" in the Act of the Parliament of Canada known as "The Indian Act," shall be dealt with and recognized in accordance with the provisions of this section by the registrar of the district in which the said lands are situated when the said map or plan has been lodged or

or filed with him , notwithstanding that The Indian Act does not expressly authorize the said map or plan to be so lodged or filed.

Leases.

54. When any land for which a certificate of title has been granted is intended to be leased or demised for a life or lives, or for a term of more than three years, the owner shall execute a lease in the form "K" in the schedule to this Act, and every such instrument shall, for description of the land intended to be dealt with, refer to the certificate of title of the land, or shall give such other description as is necessary to

Form of lease for more than 3 years.

Stipulation of identify the land; and a right for the lessee to purchase right to purchase. the land therein described may be stipulated in the

Obligation of lessor in such case. instrument; and in case the lessee pays the purchase money stipulated, and otherwise observes his covenants expressed and implied in the instrument, the lessor shall be bound to execute a transfer to such lessee of the land, and to perform all necessary Acts by this Act prescribed for the purpose of transferring the land to the purchaser;

Proviso, as to lease of mortgaged land. Provided always that no lease of mortgaged or encumbered land shall be valid and binding against the mortgagee or encumbrancee, unless the mortgagee or encumbrancee has consented to the lease prior to the same being registered , or subsequently adopts the same.

Covenants implied in lease. 55. In every lease, unless a contrary intention appears therein, there shall be implied the following covenants by the lessee, that is to say-/:

Payment of rent and taxes. (a) That he will pay the rent thereby reserved at the times therein mentioned, and all rates and taxes which may be payable in respect of the demised land during the continuance of the lease;

(b) That he will, at all times during the continuance of the lease, keep and at the termination thereof, yield up the demised land in good and ~~tenantable~~.

Maintenance
and repairs.

tenantable repair, accidents and damage to buildings from fire, storm and tempest or other casualty, and reasonable wear and tear excepted.

Implied
powers of
lessor.

56. In every lease, unless a different intention appears therein, there shall also be implied the following powers in the lessor, that is to say :-

Entry and
view.

(a) That he may, by himself or his agents, enter upon the demised lands and view the state of repair thereof, and may serve upon the lessee, or leave at his last or usual place of abode, or upon the demised land, a notice in writing of any defect, requiring him within a reasonable time, to be therein mentioned, to repair the same, in so far as the tenant is bound to do so;

Re-entry in
default of
payment of
rent etc.

(b) That in case the rent or any part thereof is in arrear for the space of two calendar months, or in case default is made in the fulfilment of any covenant, whether expressed or implied in such lease, on the part of the lessee, and is continued for the space of two calendar months, or in case the repairs required by such notice, as aforesaid, are not completed within the time therein specified, the lessor may enter upon and take possession of the demised land.

Registrar's
duty in
case of
re-entry.

57. In any such case, the registrar, upon proof to his satisfaction of lawful re-entry and recovery of possession by a lessor, or his transferee by a legal proceeding, shall make a memorandum of the same upon the certificate of title, and upon the duplicate thereof, when presented to him for that purpose, and the estate of the lessee in such land shall thereupon determine, but without releasing the lessee from his liability, in respect of the breach of any covenant in the lease, expressed or implied, and the registrar shall cancel the lease, if delivered up to him for that purpose.

Cancell-
ation of
lease.

Covenants
implied
in lease
under this
Act.

58. Whenever, in any lease made under this Act, the forms of words in column one of the form "L" in the schedule to this Act, and distinguished by any number therein, are used, the lease shall be taken to have the same effect, and be construed as if there had been inserted therein the form of words contained in column two of the said form and distinguished by the same number; and every such form shall be deemed a covenant by the covenantor with the covenantee and his transferees, binding the former and his heirs, executors, administrators and transferees; but it shall not be necessary in any such lease to insert any such number; and there may be introduced into or annexed to any of the forms in the first column any expressed exceptions from the same, or expressed qualifications thereof respectively, and the like exceptions or qualifications shall be taken to be made from or in corresponding forms in the second column.

Forms may
be modified.

Case of
surrender
effected
otherwise
than by operation of law.

Registrar's
duty in
such case.

Effect of
memorandum

Proviso;
as to mortgagee.

59. Whenever any lease or demise which is required to be registered by this Act is intended to be surrendered and the surrender thereof is effected otherwise than through the operation of a surrender in law, upon the production of the surrender in the form "M" in the schedule to this Act, to the registrar, he shall make a memorandum of the surrender upon the certificate of title in the register, and upon the duplicate certificate; and when the memorandum has been so made, the estate or interest of the lessee in the land shall vest in the lessor or in the person in whom, having regard to intervening circumstances, if any, the land would have vested if the lease had never been executed; Provided, that no lease subject to mortgage or encumbrance shall be surrendered without the consent of the mortgagee or encumbrancee.

Mortgages and Encumbrances.

Form of
mortgage

60. Whenever any land, for which a certificate of title has been granted, is intended to be charged ~~or~~ made security in favour of any mortgagee, the mortgagor shall execute a mortgage in the form "N" in the schedule to this Act, or to the like effect; and whenever any such land is intended to be charged with or made security for the payment of an annuity, rent, charge or sum of money, in favour of any encumbrancee, the encumbrancer shall execute an encumbrance in the form "O" in the schedule to this Act, or to the like effect; and every such instrument shall contain an ~~accurate~~

Form of
Encumbrance

Statement
necessary.

accurate statement of the estate or interest intended to be mortgaged or encumbered, and shall, for description of the land intended to be dealt with, refer to the certificate of title on which the estate or interest is held, or shall give such other description as is necessary to identify the land, together with all mortgages or encumbrances affecting the same, if any; and a memorandum of the mortgage or encumbrance shall be made upon the certificate of title in the register and upon the duplicate certificate.

Memorandum
to be made on
certificate.

Registration
of charges
created before
issue of grant.

2. Provided that there may be filed in the office of the registrar any mortgage or other encumbrance created by any person rightfully in possession of land prior to the issue of the grant from the Crown or prior to the issue of the transfer from the Hudson's Bay Company or from any company entitled to a grant of such lands from the Crown or to which letters patent from the Crown for such mortgaged lands have already issued, if there is produced to and left with the registrar with the mortgage an affidavit made by the mortgagor in the form ^{"P"}~~in~~ in the schedule to this Act, and also, in the case of lands mortgaged prior to the issue of transfer from the Hudson's Bay Company or other company as aforesaid, a certificate from the land commissioner or other proper officer of the company that the purchase price of such mortgaged lands has been paid and that the mortgagor is entitled to a transfer in fee simple therefor from such company; and the registrar shall, on registering the grant of lands so mortgaged, enter in the register and endorse upon the duplicate certificate of title, before issuing it, a memorandum of the mortgage or encumbrance; and when so entered the mortgage or encumbrance shall be as valid as if made subsequent to the issue of the grant, or to the issue of the transfer

from the Hudson's Bay Company or from any company entitled to a grant of such lands from the Crown or to which letters patent from the Crown for such lands may have issued, as the case may be; and if more than one mortgage or encumbrance are filed they shall be registered in the order of time in which they have been filed in the said office.

Registration prohibited of transfers contrary to

3. Provided, however, that nothing in this Act contained shall entitle a settler who is entered for a homestead or homestead and pre-emption under the provisions contained in The Dominion Lands Act, to mortgage the land entered for by him therefor or until he has been recommended for patent by the local agent and has received a certificate of recommendation in accordance with the provisions of the said Act; it being hereby declared that notwithstanding anything contained in this Act such mortgage is in the nature of the assignment or transfer which is prohibited by section 42 of the said Act; and for the purpose of preventing the acceptance and registration of any such mortgage, the registrar is hereby empowered to refuse to register any mortgage for land for which the patent is not of record in the Land Titles Office, unless the applicant for the registration of such mortgage first satisfies the registrar that he is entitled to execute such mortgage, by an affidavit, in the form ^{"P"}~~A~~ in the schedule to this Act, and to be filed by the registrar with the mortgage if the latter is accepted and filed or registered by him.

Registrar may require affidavit

61. A mortgage or encumbrance under this Act shall have effect as security, but shall not operate as a transfer of the land thereby charged.

Proceedings to foreclose redeem, etc.

62. Proceedings to enforce payment of moneys secured by mortgage or encumbrance, or to enforce the observance of the covenants, agreements, stipulations or conditions

contained in any mortgage or encumbrance, or for the sale of the lands mortgaged or encumbered, or to foreclose the estate, interest or claim of any person in or upon the land mortgaged or encumbered, as also proceedings to redeem or discharge any land from any such mortgage or encumbrance, shall be had and taken in the Supreme Court of the North-West Territories or any Court hereafter constituted exercising within the province the jurisdiction powers and authority at the date of the passing of this Act exercised therein by the Supreme Court of the North-West Territories, under the practice and procedure of the said court.

Registration
of discharge
of land.

63. Upon the production of any mortgage or encumbrance having endorsed thereon or attached thereto a receipt or acknowledgment in the form "I" in the schedule to this Act, signed by the mortgagee or encumbrancee, and proved by the affidavit of an attesting witness, discharging the whole or any part of the land comprised in such instrument from the whole or any part of the principal sum or annuity secured thereby, or upon proof being made to the satisfaction of a judge of the payment of all or part of the moneys due on any mortgage or encumbrance, and the production to the registrar of a certificate signed by the judge to that effect, the registrar shall thereupon make an entry on the certificate of title noting that such mortgage or encumbrance is discharged, wholly or partially, or that part of the land is discharged, as aforesaid, as the case requires; and upon such entry being so made, the land, or the estate or interest in the land or the portion of the land mentioned or referred to in such endorsement as aforesaid, shall cease to be subject to or liable for such principal sum or annuity, or, as the case may be, for the part thereof mentioned in such entry as discharged.

Entry by
registrar.

Its effect.

Extinction of
an annuity,
etc.

Proof.

Cancellation.

Order for pay-
ment into a
chartered
bank in case
of absence,
etc., of mort-
gagee.

Cessation of
the interest.

Memorandum
by registrar.

64. Upon proof of the death of the annuitant, or of the occurrence of the event or circumstance upon which, in accordance with the provisions of any encumbrance, the annuity or sum of money thereby secured ceases to be payable, and upon proof that all arrears of the said annuity and interest or money have been paid, satisfied, or discharged, the registrar shall, upon the order of a judge, make a memorandum upon the certificate of title in the register, that such annuity or sum of money is satisfied and discharged, and shall cancel such instrument, and upon such memorandum being made the land shall cease to be subject to or liable for such annuity or sum of money, and the registrar shall, in any or either such case as aforesaid, endorse on the duplicate certificate of title a similar memorandum whenever such duplicate certificate of title is presented to him for that purpose.

65. If any mortgagor becomes entitled to pay off the mortgage money, and the registered mortgagee is absent from the province and there is no person authorized by registered power of attorney to give a receipt to the mortgagor for the mortgage money after the date appointed for the redemption of any mortgage, the judge, on application to him and proof of the facts and of the amount due for principal and interest upon the mortgage, may direct the payment ~~in~~ to a chartered bank having a branch or agency in the district, or, if not in the district, in the province, of the mortgage money, with all arrears of interest then due thereon, to the credit of the mortgagee or other person entitled thereto; and thereupon the interest upon the mortgage shall cease to run or accrue.

2. The registrar shall, upon presentation of the judge's order and of the receipt of the manager or agent of the bank

for the amount of the said mortgage money and interest, make a memorandum upon the certificate of title in the register discharging such mortgage, stating the day, hour and minute on which such memorandum is made.

Effect.

3. Such memorandum shall be a valid discharge of the mortgage.

Notice of mortgagee.

4. The registrar shall, when such order and receipt are presented to him, send a notice of the fact to the mortgagee by letter addressed by mail to his last known place of abode.

Endorsements by registrar.

5. The registrar shall endorse on the duplicate certificate of title and also on the mortgage whenever those instruments are produced to him, the several particulars to be endorsed upon each of such instruments respectively.

Payment to be full discharge.

6. After payment as aforesaid of any mortgage money and interest, the mortgagee entitled thereto shall not recover any further sum in respect of such mortgage than the amount so paid.

Form, registration and priority of transfers of mortgage.

66. Mortgages, encumbrances and leases of land for which a certificate of title has been granted may be transferred by a transfer executed in the form "^R2" in the schedule to this Act, and the transfer shall be registered in the same manner as mortgages, encumbrances and leases are registered; and transferees shall have priority according to the time of registration.

Partial transfer of sum secured.

2. Any mortgagee may transfer a part of the sum secured by the mortgage by a transfer executed in the form "^R2" in the schedule to this Act, and the part so transferred shall continue to be secured by the mortgage, and may be given priority over the remaining part, or may be deferred, or may continue to rank equally with it under the security of the original mortgage, as stated in the transfer; and the registrar shall enter on the certificate of title

a memorandum of the amount of the mortgage so transferred, the name of the transferee, and how the sum so transferred is to rank, and shall notify the mortgagor of the facts.

Effect of
registration
of transfer.

67. Upon the registration of a transfer of any mortgage encumbrance or lease, 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.

Rights of
transferee.

68. ~~By~~ virtue of every such transfer the right to sue upon any mortgage or other instrument, and to recover any debt, sum of money, annuity or damage thereunder, and all interest at the time of such transfer in any such debt, sum of money, annuity or damages, shall be transferred so as to vest the same in law in the transferee thereof:

Proviso: as
to trusts.

Provided always, that nothing herein contained shall prevent the court from giving effect to any trusts affecting the said debt, sum of money, annuity or damages, in case the said transferee shall hold the same as trustee for any other person.

Implied cov-
enants as to
repairs and
entry.

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

Covenants
implied in
mortgages
passed under
this Act.

70. Whenever, in a mortgage made under this Act, the form of words in column one of the form "A" in the said schedule to this Act, and distinguished by any number therein are used, such mortgage shall be taken to have the same effect, and be construed as if there had been inserted therein the form of words contained in column two of the said form and distinguished by the same number; and every such form shall be deemed a covenant by the covenantor with the covenantee and his transferees, binding the former and his heirs, executors, administrators and transferees; but it shall not be necessary in any such mortgage to insert any such number; and there may be introduced into or annexed to any of the forms in the first column any expressed exceptions from the same or expressed qualifications thereof respectively, and the like exceptions or qualifications shall be taken to be made from or in the corresponding forms in the second column.

~~COPY "A".~~

71. In every case where land is subject to a mortgage or incumbrance signed by the owner, the duplicate certificate of title shall be deposited with the registrar who shall retain the same on behalf of all persons interested in the land mentioned in such certificate. The registrar shall if desired, furnish to the owner of such mortgage or incumbrance a certificate of charge; and before any dealing with or discharge of said mortgage or incumbrance is registered, except in the case provided for by section 65 of this Act, said certificate of charge shall be delivered up to the registrar to be cancelled.

Provided, however, that the registrar may dispense with such production upon satisfactory evidence being produced of the loss or destruction of any such certificate.

Form of
power of
attorney.

72. The owner of any land may authorize and appoint any person to act for him or on his behalf with respect to the transfer or other dealing with such land or with any part thereof, in accordance with the provisions of this Act, by executing a power of attorney in the form ~~in~~ in the schedule to this Act, or as near thereto as circumstances permit, or in any form heretofore in use for the like purpose in which the land is not specifically mentioned and described, but is mentioned and referred to in general terms, any of

Registration. which forms of power of attorney the registrar shall register; and if the land referred to in any form of power of attorney is specifically and properly described, the registrar shall make a memorandum upon the certificate of title and upon the duplicate certificate of the particulars therein contained

Owner's
power sus-
pended until
revocation.

and of the time of its registration; and until such power of attorney in which the land referred to is so specifically described is revoked in the manner provided by the next following section, the right of the owner to transfer or to otherwise deal with the land shall be suspended:

Proviso.

Provided that the execution or registration of a general power of attorney shall not in any way affect the right of the owner to transfer or otherwise deal with his land.

Form of
revocation.

73. Any such power of attorney may be revoked by a revocation in the form "A" in the schedule to this Act; and the registrar shall not give effect to any transfer or other instrument, signed pursuant to such power of attorney after the registration of a revocation of such power, unless under any registration abstract outstanding at the time.

Transmission
of land of
deceased
owner.

74. Whenever the owner of any land, for which a certificate has been granted, dies, such land shall, subject to the provisions of this Act, vest in the personal

Mode of
registration.

representative of the deceased owner, who shall, before dealing with such land, make application, in writing, to the registrar to be registered as owner, and shall produce to the registrar the probate of the will of the deceased owner, or letters of administration, or the order of the court authorizing him to administer the estate of the deceased owner, or a duly certified copy of the said probate, letters of administration or order, as the case may be; and thereupon the registrar shall enter a memorandum thereof upon the certificate of title; and for the purposes of this Act the probate of a will granted by the proper court of any province of the Dominion of Canada, ~~or of the United Kingdom of Canada,~~ or of the United Kingdom of Great Britain and Ireland, or an exemplification thereof, shall be sufficient.

Probate.

If certificate
has not been
granted.

2. If the certificate of title for the land has not been granted to the deceased owner the personal representatives before being entitled to be registered under this section shall bring the land under this Act in the ordinary way.

Executor or
administrator
to be deemed
owner.

3. Upon such memorandum being made, the executor or administrator, as the case may be, shall be deemed to be the owner of the land; and the registrar shall note the fact of the registration by a memorandum under his hand on the probate of the will, letters of administration, order or other instrument as aforesaid.

From what
time.

4. The title of the executor or administrator to the land shall relate back and take effect as from the date of the death of the deceased owner.

Delivery of
new certifi-
cate.

5. The duplicate certificate of the title issued to the deceased owner at the time of the making of the application shall be delivered up to be cancelled or be proved to have been lost or destroyed, and the registrar

shall grant to the executor or administrator as such a new certificate of title, and issue to him a duplicate certificate.

Mortgage,
etc., trans-
mitted by
will or intest-
acy.

75. Whenever any mortgage, encumbrance or lease affecting land, for which a certificate of title has been granted, is transmitted in consequence of the will or intestacy of the owner thereof, the probate of the will of the deceased owner, or letters of administration, or the order of the court authorizing a person as aforesaid to administer the estate of the deceased owner, or an office copy of the said probate, letters of administration, or order, as the case may be, accompanied by an application in writing from the executor or administrator, or such other person as aforesaid, claiming to be registered as owner in respect of such estate or interest, shall be produced to the registrar, who shall thereupon make a memorandum upon the certificate of title and upon the duplicate thereof of the date of the will and of the probate, or of the letters of administration, or order of the court as aforesaid, the date, hour and minute of the production of the same to him, with such other particulars as he deems necessary.

Mode of regis-
tration.

Memorandum
to be made.

Effect of
registration.

2. Upon such memorandum being made, the executor, or administrator, or such other person, as the case may be, shall be deemed to be the owner of the mortgage, encumbrance or lease; and the registrar shall note the fact of the registration by memorandum under his hand on the letters of administration, probate or order as aforesaid.

Land subject
to trusts, how
held.

76. Any person registered in place of a deceased owner, shall hold the land in respect of which he is registered upon the trusts and for the purposes to which the same is applicable by this Act or by law, and subject

to any trusts and equities upon which the deceased owner held the same; but, for the purpose of any registered dealings with such land, he shall be deemed to be the absolute and beneficial owner thereof.

Court may
change
trustees.

2. Any person beneficially interested in any such land, may apply to a court or judge having jurisdiction, to have the same taken out of the hands of the trustee having charge by law of such land, and transferred to some other person or persons; and the court or judge, upon reasonable cause being shown, shall name some suitable person or persons as owner of the land; and upon the person or persons so named accepting the ownership and giving approved security for the due fulfilment of the trusts, the court or a judge may order the registrar to cancel the certificate of title to the trustee, and to grant a new certificate of title to the person or persons so named.

Security to
be given
by them.

Cancellation
of old cert-
ificate;
delivery
of new one.

3. The registrar, upon the production of the order, shall cancel the certificate of title to the trustee after making thereon and upon the duplicate thereof a memorandum of the appointment by order of the court or judge of such person or persons as owners, and shall grant a new certificate of title to such new trustee and issue to him a duplicate certificate of title.

EXECUTIONS.

Duties of
sheriff in
case of
seizure of
land.

77. The sheriff, or other duly qualified officer, after the delivery to him of any execution or other writ affecting land, if a copy of such writ has not already been delivered or transmitted to the registrar, shall, on payment to him of fifty cents by the execution creditor named therein, provided the said writ is in force, forthwith deliver or transmit by registered letter to the

registrar a copy of the writ and of all endorsements thereon certified under his hand and seal of office, if any; and no land shall be bound by any such writ until the receipt by the registrar for the registration district in which such land is situated, of a copy thereof, either prior to this Act, under the law then in force or subsequent hereto; but from and after the receipt by him of such copy no certificate of title shall be granted, and no transfer, mortgage, encumbrance, lease or other instrument executed by the execution debtor of such land shall be effectual except subject to the rights of the execution creditor under the writ while the same is legally in force; and the registrar on granting a certificate of title and on registering any transfer, mortgage or other instrument executed by the execution debtor affecting such land, shall by memoranda upon the certificate of title in the register and on the duplicate issued by him express that such certificate, transfer, mortgage, or other instrument is subject to such rights.

Proviso:
renewal of
writs.

Provided that every writ shall cease to bind or affect land at the expiration of two years from the date of the receipt thereof by the registrar of the district in which the land is situated, unless before the expiration of such period of two years a renewal of such writ is filed with the registrar in the same manner as the original is required to be filed with him.

Register to
be kept of
sheriff's
writs.

2. The registrar shall keep a book in convenient form in which shall be entered according to the dates when respectively received a record of all copies of writs received by him from the sheriff or other officer as aforesaid whether so received prior to this Act or subsequent thereto; and such book shall be kept indexed, showing, in alphabetical order, the names of the persons whose lands are affected

by such writs with the day and hour and minute of such receipt.

Satisfaction
of writ, etc.

78. Upon the satisfaction or withdrawal from his hands of any writ, the sheriff or other duly qualified officer shall forthwith transmit to the registrar a certificate under his official seal, if any, to that effect, and upon the production and delivery to the registrar of such a certificate, or of a judge's order, showing the expiration, satisfaction or withdrawal of the writ as against the whole or any portion of the land so bound, the registrar shall make a memorandum upon the certificate of title to that effect if the land has been brought under the provisions of this Act, and, if not, upon or opposite to the entry of the writ in the book to be kept under the provisions of the next preceding section; and thenceforth such land or portion of land shall be deemed to be absolutely released and discharged from the writ.

Memorandum
to be made
on certifi-
cate or in
book of
writs.

Discharge of
land.

SHERIFF'S SALES.

Confirmation
of sheriff's
sale by court.

79. No sale by a sheriff or other officer as aforesaid, under process of law, of any land, for which a certificate of title has been granted, shall be of any effect until the same has been confirmed by the court or a judge; but when any such land is sold under process of law, the registrar, upon the production to him of the transfer of the same in the form "A" in the schedule to this Act, with proof of the due execution thereof, and with an order of the confirmation of such sale endorsed upon the transfer or attached thereto, shall, after the expiration of four weeks after receiving the same, register the transfer, cancel the existing certificate of title wholly, or in part if less than the whole of the land comprised therein be sold, grant a certificate of title to the transferee, and issue to him

Registrar's
duties.

Issue of
new certi-
ficate.

Unless stayed
by the court.

a duplicate certificate in the prescribed form, unless such registration is in the meantime stayed by the order of the court or judge, and in such case the registration shall not be made except according to the order and direction of the said court or judge.

Registration
of transfer of
land sold by
sheriff.

80. A transfer of such land so sold under process of law or for arrear of taxes as hereinafter provided shall be registered within a period of two months of the date of the order of confirmation, unless in the meantime this period be extended by order filed with the registrar of the court or a judge; and shall cease to be valid as against the owner of the land so sold, and any person or persons claiming by, from or through him, if not registered within that period, or within the time fixed by such order.

Application
for confirm-
ation of sale.

81. The application for confirmation of a sale of such land so made under any process of law, may be made by the sheriff or other officer making the sale, or by any person interested in the sale, on notice to the owner, unless the judge to whom the application is made, dispenses with such notice; and if the sale is confirmed the costs of confirmation shall be borne and paid out of the purchase money, or as the judge directs; but in case the sale is not confirmed, the purchase money paid by him shall be refunded to the purchaser; and the judge may make such order as to the costs of all parties to the sale and of the application for its confirmation as he thinks just.

Costs

If sale is
not confirmed

SALE FOR TAXES.

Transfer of
land sold for
taxes.

82. When any land for which a certificate of title has been granted, is sold for taxes, the purchaser may at any time after the sale lodge a caveat against the

transfer of the land; and upon the completion of the time allowed by law for redemption, and upon the production of the transfer of the land in the prescribed form for tax-sales in the form "V" in the schedule to this Act with proof of the due execution thereof by the proper officer, and a judge's order confirming such sale, the procedure for obtaining which shall be the same as hereinbefore provided in case of a sheriff's sale, the registrar shall, after the expiration of four weeks from the delivery to him of the transfer and judge's order of confirmation, register the transferee as absolute owner of the land so sold, and shall cancel the certificate of title in whole or in part, as the case requires, grant a new certificate of title to the transferee, and shall issue to the purchaser a duplicate certificate, unless the registration has in the meantime been stopped by order of a judge.

Registration
in conse-
quence of mar-
riage of a
female owner.

83. Upon production to the registrar of a duplicate certificate of title issued to a female, accompanied with a statement in writing of her marriage subsequent to the issue thereof giving the date of such marriage, the place where solemnized, and her husband's full name with his residence and occupation, verified by oath or affirmation and the production of a certificate of the marriage by the person who solemnized the same, and such further evidence as the registrar may require, and on an application to the registrar to grant a new certificate of title, he shall file the same and at once cancel the existing certificate of title, as also the duplicate, and shall make a memorandum of each of the facts; and the registrar shall thereupon grant a new certificate of title to the applicant owner in her newly acquired surname in which her husband's full name, residence and occupation shall be given and

shall issue to her a duplicate certificate.

~~COPY "B"~~

84. Any person claiming to be interested under any will, settlement or trust deed, or any instrument or transfer or transmission or under an unregistered instrument, or under an execution where the execution creditor seeks to affect land in which the execution debtor is interested beneficiary but the title to which is registered in the name of some other person or otherwise howsoever in any land, mortgage or incumbrance, may cause to be filed on his behalf with the Registrar a caveat in form _____ in the schedule to this Act against the registration of any person as transferee or owner of, or of any instrument affecting such estate or interest, unless such instrument be expressed to be subject to the claim of the caveator.

85. Every caveat filed with the registrar shall _____ state the name and addition of the person by whom, or on whose behalf the same is filed and except in the case of a caveat filed by the registrar as hereinafter provided shall be signed by the caveator, his attorney or agent, and shall state some address or place within the Province at which notices and proceedings relating to such caveat or the subject matter thereof may be served, and the nature of the interest claimed, and shall be supported by an affidavit that in the belief of the deponent the person by whom, or on whose behalf, the caveat is filed has a good and valid claim in respect of the land, mortgage or incumbrance intended to be affected by the same, and that the caveat is not filed for the purpose of delaying or embarrassing the applicant, or owner, or

any person claiming through him, which affidavit or declaration may be in the form¹ in schedule

86. Upon the receipt of a caveat the registrar shall enter the same in the day book, and shall make a memorandum thereof upon the certificate of title of the land affected by such caveat, and shall forthwith send a notice of the caveat and of the interest claimed thereunder through the post office or otherwise to the person against whose title the caveat has been lodged; but in the case of a caveat before registration of title under this Act, the registrar shall on receipt thereof enter the same in a book to be kept by him in which shall be entered all instruments affecting land as to which no title has yet issued.

87. So long as any caveat remains in force the registrar shall not register an instrument purporting to affect the land, mortgage or incumbrance in respect to which such caveat is lodged, unless such instrument be expressed to be subject to the claim of the caveator.

88. The caveator may, by notice in writing to the registrar, withdraw his caveat at any time, and the registrar shall forthwith give notice, in writing, of such withdrawal by mail or otherwise to the caveatee.

89. Except in the case of a caveat lodged by the registrar, as hereinafter provided, every caveat lodged against any land, mortgage or incumbrance, shall be deemed to have lapsed after the expiration of sixty days after notice¹ either served as process is usually served or sent by registered mail in the form ~~in~~ⁱⁿ schedule,

to this Act or to like effect at or to the address stated in the caveat has been given to the caveator to take

proceedings in court on his caveat, unless before the expiration of the said period of sixty days the caveator takes proceedings in court by originating summons subject to the provisions of The Judicature Ordinance of the North-West Territories, or otherwise, to substantiate the title, estate, interest or lien claimed by his caveat and a Judge's order in such proceedings has been filed with the registrar continuing such caveat.

Provided that the court or judge may upon an ex parte application shorten the said period of sixty days to such period as he shall specify in such order, and a copy of such order shall be served or mailed with the notice in this section referred to.

90. At any time before the expiration of the time limited for proceeding upon a caveat upon application to be made by way of summons to a Judge, the Judge for sufficient cause shewn, and subject to such conditions as may seem proper, may extend the time for proceeding upon such caveat for a further period to be specified in the order made upon such application.

91. In the case of a caveat filed, except a caveat filed by the registrar, as hereinafter provided, the applicant or owner may at any time apply to the court or a judge by originating summons, subject to the provisions of the Judicature Ordinance of the North-West Territories calling upon the caveator to show cause why such caveat should not be discharged; and upon the hearing of such application the said court or judge may make such order in the premises and as to costs as to such court or judge may seem just.

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92. In any proceedings in respect of a caveat the court or judge may order that the caveator give such undertaking or security as such court or judge may consider sufficient to indemnify every person against any damage that may be sustained by reason of any disposition of the property being delayed, or to answer the costs of the caveatee, and may direct the registrar to delay registering any dealing with the land, mortgage or incumbrance during such time as the order of such court or judge provides, or may direct the caveator to take further proceedings by action or otherwise upon his caveat, or may make such other order as may be just.

93. In any proceedings taken in consequence of the filing of a caveat if it be made to appear to the court or judge that the caveator, or person on whose behalf the caveat has been filed by the registrar, as hereinafter provided, claims an interest in the land, mortgage or incumbrance by virtue of any contract in writing for the sale and purchase of such land, mortgage or incumbrance, signed by the vendor thereof, or by his lawfully authorized agent, or by an assignment of such contract, duly attested in the manner provided for in sections *107 and 108* of this Act, and that there has been no default under the terms of such contract, then the court or judge may, and unless it otherwise appears to be a case in which the caveat should be removed, shall refuse to order the removal of such caveat.

94. Any person, other than the registrar, filing or continuing any caveat without reasonable cause, shall be liable to make compensation to any person who may have sustained damage thereby; and such

compensation may be recovered by action if the caveator have withdrawn such caveat and no proceedings have been taken by the caveator or caveatee ~~as~~ herein provided, but if such proceedings have been taken then such compensation shall be decided by the court, or Judge, in such proceedings whether the caveat have been withdrawn or not.

95. After a caveat shall have lapsed or been withdrawn or discharged, it shall not be lawful, except as herein mentioned, for the same person or for any one on his behalf to lodge a further caveat; but nothing herein contained shall prejudice the right of the registrar to enter any caveat under the powers vested in him by this Act; and a Judge may, if he thinks proper, upon application made to him for that purpose and upon such terms as to costs or otherwise as he may consider just, order that a new caveat be filed, and such order shall fix a time within which the caveator must proceed upon such caveat.

96. In the case of a caveat filed by the Registrar as hereinafter provided the applicant, or owner, may apply to the court or a Judge by originating ~~summons~~ as provided for by the Judicature Ordinance of the North-West Territories to be served upon the person on whose behalf such caveat has been filed for an order that such caveat be withdrawn or discharged; and in case such person on whose behalf such caveat has been filed is an infant, lunatic or person of unsound mind, without guardian or committee such court or judge may by an ex-parte order direct that such summons be served on the official guardian, or some other person to be named therein. ~~and~~ may impose upon the applicant such

terms as to the costs of such guardian or other person appointed by such order as may seem just; and upon such application such court or judge may make such order in the premises, either dismissing such application, discharging or withdrawing such caveat, or directing any of the parties to commence proceedings by action or otherwise as to the said court or judge may seem just and proper.

97. Registration by way of caveat, whether by the Registrar or by any caveator, shall have the same effect as to priority as the registration of any instrument under this Act, and the Registrar may in his discretion allow the withdrawal of such caveat at any time and the registration in lieu thereof, of the instrument under which the person on whose behalf such caveat was lodged claims his title or interest, provided such instrument is an instrument that may be registered under this Act; and, if the withdrawal of such caveat and the registration of such instrument is simultaneous, the same priority shall be preserved to all rights under the instrument as the same rights were entitled to under the caveat.

98. Any person claiming an interest in any land, mortgage or incumbrance, may in lieu of, or after filing a caveat, proceed by way of action to enforce his claim.

99. Upon the withdrawal, lapse or removal of any caveat, or upon the making of any order by the court or judge in connection therewith, a memorandum of such withdrawal, lapse, removal or order, as the case may be, shall be made by the Registrar upon the certificate of title, and upon the duplicate certificate thereof.

100. The Court or a Judge may, on application of the Registrar on behalf of any person who is under the disability of infancy, lunacy, unsoundness of mind or absence from the Province prohibit the dealing with any land, mortgage or incumbrance in interest therein or the dealing with any land in any case in which it appears to him that an error has been made by misdescription of such land or otherwise in any certificate of title or other instrument or for the prevention of any other improper dealing.

101. Any contract in writing for the sale and purchase of any land, mortgage or incumbrance, shall notwithstanding anything to the contrary therein contained, be assignable, and any assignment of any such contract shall operate according to its terms to transfer to the assignee therein mentioned all the right, title and interest of the assignor both at law and in equity subject to the conditions and stipulations in such assignment contained.

Provided however, that nothing herein contained shall affect any rights at law or in **equity** of the original vendor, or owner of the land, mortgage or incumbrance until notice, in writing, of such assignment has been either sent to him by registered mail, or served upon him in the way process is usually served; and—

The notice mentioned in section 3 hereof shall be deemed to be such notice.

(2) This section shall apply to written agreements, or contracts, in writing, for the sale and purchase of any land, mortgage or incumbrance entered into before, as well as after, the passing of this Act.

ATTESTATION OF INSTRUMENTS.

Attestation
within the
province.

102. Every instrument executed within the limits of the province, ~~other than plans registered under the provisions of section~~ ~~hereof, and the notifications~~ referred to in section ²⁶ ~~hereof~~, instruments under the seal of any corporation, caveats, orders of a court or judge, executions, or certificates of any judicial proceedings, attested as such, requiring to be registered under this Act, shall be witnessed by one person who shall sign his name to the instrument as a witness, and who shall appear before the inspector of land titles offices or the registrar or deputy registrar of the registration district in which the land is situated, or before a judge, stipendiary magistrate, notary public, commissioner for taking affidavits, or a justice of the peace in or for the province, and make an affidavit in the form "S" in the schedule to this Act.

Witness.

Form of
affidavit.

Attestation
outside the
province.

103. Every instrument, executed without the limits of the province, other than ~~grants from the Crown~~ Orders in Council, instruments under the seal of any corporation, or caveats required to be registered under the provisions of this Act, shall be witnessed by one person who shall sign his name to the instrument as a witness, and who shall appear before one of the following persons; and make an affidavit in the said form

Witness.

Form.

In Canada.

(a) If made in any province of Canada, before a judge of any court of record, any commissioner authorized to take affidavits in such province for use in any court of record in the province, or before any notary public under his official seal; or

In Great
Britain or
Ireland.

(b) If made in Great Britain or Ireland, before a judge of the Supreme Court of Judicature in England or Ireland, or of the Court of Sessions or of the Judiciary Court in Scotland, or a judge of any of the county courts within his county, or the mayor of any city or incorporated town under the common seal of such city or town, or before any commissioner in Great Britain or Ireland, authorized to take affidavits therein, for use in any court of record in the province, or a notary public under his official seal; or

In British
colonies.

(c) If made in any British colony or possession out of Canada, before a judge of any court of record, the mayor of any city or incorporated town under the common seal of such city or town, or notary public under his official seal; or

In a foreign
country.

(d) If made in any foreign country, before the mayor of any city or incorporated town, under the common seal of any such city or town, or before the British consul, vice-consul or consular agent residing therein, or before any judge of any court of record or a notary public under his official seal.

REMEDIAL PROCEEDING.

Ejectment.

Protection
against eject-
ment.

Exceptions.

104. No action of ejectment or other action for the recovery of any land for which a certificate of title has been granted shall lie or be sustained against the owner, under this Act in respect thereof, except in any of the following cases, that is to say:-

Mortgagor in
default.

(a) The case of a mortgagee as against a mortgagor in default;

Encumbrancer
in default.

(b). The case of an encumbrancee as against an encumbrancer in default;

Lessee in
default.

(c). The case of a lessor as against a lessee in default;

Fraud.

(d). The case of a person deprived of any land by fraud as against the owner of such land through fraud, or as against a person deriving, otherwise than as a transferee bona fide for value, from or through such owner through fraud;

Misdescription.

(e). 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 owner of such other land;

Double regis-
tration.

(f). The case of an owner claiming under an instrument of title prior in date of registration under this Act, in any case in which two or more grants, or two or more certificates of title, or a grant and certificate of title, are registered under this Act in respect to the same land.

In other cases
certificate ab-
solute bar to
action.

2. In any case, other than as aforesaid, the production of the certificate of title or a certified copy thereof shall be an absolute bar and estoppel to any such action against the person named in such certificate of title as owner or lessee of the land therein described.

Indemnification
of person dep-
rived of land
by fraud, etc.

105. After a certificate of title has been granted therefor any person deprived of any land, in consequence of fraud, or by the registration of any other person as owner of such land, or in consequence of any fraud, error, omission, or misdescription in any certificate

Action of
damages.

of title or in any memorandum thereon or upon the duplicate thereof, may, in any case in which the land has been included in two or more grants from the Crown, bring and prosecute an action at law for the recovery of damages against such person as a judge appoints, and in any other case against the person^{upon} whose application the erroneous registration was made, or who acquired title to the land in question through such fraud, error, omission, or

Proviso: except in case of fraud, etc., defendant not liable for damages.

misdescription: Provided always, that except in the case of fraud or error occasioned by any omission, misrepresentation, or misdescription in the application of such person to be registered as owner of such land, or in any instrument executed by him, such person shall, upon a transfer of such land bona fide for value, ~~cease to be~~ liable for the payment of any damages which, but for the transfer, might have been recovered from him under the provisions hereinbefore contained, and such damages, with costs, may, in such last mentioned case, be recovered out of the assurance fund hereinafter provided for, by action against the registrar as nominal defendant.

Protection of
bona fide purchasers or
mortgagees.

106. Nothing in this Act contained shall be so interpreted as to leave subject to action for recovery of damages as aforesaid, or to action of ejectment, or to deprivation of land in respect to which he is registered as owner, any purchaser or mortgagee bona fide for valuable consideration of land under this Act, on the plea that his transferrer or mortgagor has been registered as owner through fraud or error, or has derived from or through a person registered as owner through fraud or error, except in the case of misdescription, as mentioned in section one hundred and ~~four~~.

Exception.

Action against registrar as nominal defendant in certain cases.

107. If the person against whom the action for damages is directed to be brought as aforesaid, is dead, or cannot be found within the province, ~~an~~ action for damages may be brought against the registrar as nominal defendant, for the purpose of recovering the amount of the said damages and costs against the said assurance fund; and in any such case, if final judgment is recovered and also in any case in which damages are awarded in any action as aforesaid, and the sheriff makes a return of a nulla bona, or certifies that any portion thereof, with costs awarded, cannot be recovered from such person, the Provincial Treasurer upon receipt of a certificate of the judge before whom the said action was tried, shall pay the amount of such damages and costs as are awarded, or the unrecovered balance thereof as the case may be, and shall charge the same to the account of the said assurance fund.

Recovery of damages from assurance fund.

Action of damages against registrar as nominal defendant, for loss through omissions, etc. of officers.

108. Any person sustaining loss or damage through any omission, mistake or misfeasance of the inspector of land titles offices, or a registrar, or any of his officers or clerks, in the execution of their respective duties under the provisions of this Act, and any person deprived of any land, by the registration of any other person as owner thereof, or by any error, omission or misdescription in any certificate of title, or in any memorandum upon the same or upon the duplicate certificate thereof, and who, by the provisions of this Act, is barred from bringing an action of ejectment or other action for the recovery of the land, may, in any case in which remedy by action for recovery of damages, hereinbefore provided, is barred, bring an action against the registrar as nominal defendant, for recovery of damages; and if the plaintiff recovers final judgment

Recovery of
damages from
assurance
fund.

Proviso:
Notice to be
given to
Attorney
General and
to registrar.

When costs
are given to
nominal de-
fendant.

Prescription
of action
against regis-
trar or assur-
ance fund.

Proviso:
Case of
disability.

against such nominal defendant, the judge before whom such action is tried shall certify to the fact of such judgment and the amount of the damages and costs recovered, and the Provincial Treasurer shall pay the amount thereof out of the assurance fund aforesaid to the person entitled on production of an exemplification or certified copy of the judgment rendered: Provided always, that notice in writing of every such action, and the cause thereof, shall be served upon the Attorney General, and also upon the registrar, at least three calendar months before the commencement of such action.

109. If in any such action, judgment is given in favour of the nominal defendant, or the plaintiff discontinues or becomes non-suited, the plaintiff shall be liable to pay the full costs of defending the action; and the same, when taxed, shall be levied in the name of the nominal defendant, by the like process of execution as in ordinary civil cases.

110. No action for recovery of damages sustained through deprivation of land, shall lie or be sustained against the registrar, or against the assurance fund aforesaid, unless the same is commenced within the period of six years from the date of such deprivation: Provided nevertheless, that any person under the disability of infancy, lunacy or unsoundness of mind, may bring the action within six years from the date on which the disability ceased; and the plaintiff in the action within six years from the date on which such disability ceased, and the plaintiff in any such action at whatever time it is brought, and the plaintiff in any action for the recovery

of land, shall be non-suited in any case in which it appears to the satisfaction of the judge before whom such action is tried, that the plaintiff or the person through or under whom he claims title had notice by personal service, or otherwise was aware of such delay and wilfully or collusively omitted to lodge a caveat or allowed the caveat to lapse.

Case of neglect to lodge caveat.

Recovery of money paid out of assurance fund.

Proof of debt.

If debtor is not in the province.

Judgment by default.

And to be final.

Execution.

111. Whenever any amount has been paid out of the said assurance fund on account of any person, the amount may be recovered from him, or if dead, from the estate of such person, by action against his personal representatives, in the name of the registrar; and a certificate signed by the Provincial Treasurer of the payment out of the said assurance fund, shall be sufficient proof of such debt; and whenever any amount has been paid out of the assurance fund aforesaid on account of any person who has absconded, or who cannot be found within the province, and has left any real or personal estate within the same, a judge, upon the application of the registrar and upon the production of a certificate signed by the Provincial Treasurer that the amount has been paid in satisfaction of a judgment against the registrar as nominal defendant, and proof of service of the writ in any of the modes provided by the ordinary procedure in the province, may allow the registrar to sign judgment against such person forthwith for the amount so paid out of the said assurance fund, together with the costs of the application; and such judgment shall be final, subject only to the right to have such judgment opened up, as may be provided in relation to ordinary procedure in the province, in cases of judgment by default; and the

judgment shall be signed in like manner as a final judgment by default ~~by default~~ in an adverse suit, and execution may issue immediately; and if the person has not left real or personal estate within the province sufficient to satisfy the amount for which execution has issued as aforesaid, the registrar may recover such amount, or the unrecovered balance thereof, by information against such person at any time thereafter in the Supreme Court of the North-West Territories or such other Court as may hereafter be constituted exercising within the province the jurisdiction, powers and authority at the date of the passing of this Act exercised therein by the Supreme Court of the North West Territories, at the suit of the Attorney General.

Appeal to
judge from
acts of
registrar.

112. If any person is dissatisfied with any act, omission, refusal, decision, direction or order of a registrar, such person may require the registrar to set forth, in writing under his hand, the grounds of such act, omission, refusal, decision, direction or order, and such person may then apply to the judge by petition, setting forth the grounds of his dissatisfaction; and the judge, having caused the registrar to be served with a copy of the petition, shall have jurisdiction to hear the said petition, and to make such order in the premises, and as to the costs of the parties appearing upon the petition as the circumstances of the case require.

Judge's
powers.

Costs.

Registrar may
refer ques-
tions to judge
for decision.

113. Whenever a question arises with regard to the performance of any duty, or the exercise of any function by this Act conferred or imposed upon a registrar, or whenever in the exercise of any duty of a registrar, a question arises as to the true construction or legal validity or effect of any instrument, or as to the persons

entitled, or as to the extent or nature of the estate, right or interest, power or authority of any person or class of persons, or as to the mode in which any entry or memorandum ought to be made in the day-book, or register, or upon any certificate of title or duplicate thereof, or as to any doubtful or uncertain right or interest stated, or claimed to be dealt with by the registrar, he may refer the same in the form "X" in the schedule to this Act, to the judge, who may allow any of the parties interested to appear before him and summon any other of such persons to appear and show cause, either personally or by counsel, attorney-at-law or advocate, in relation thereto; and the judge, having regard to the persons appearing before him, whether summoned or not, shall decide the question, or direct any proceedings to be instituted for that purpose, and direct the particular form of entry or memorandum to be made as under the circumstances appears to be just.

Form.

Judge's powers.

In case of error, fraud, etc the registrar may demand delivery of the duplicate certificate of title, etc.

114. If it appears to the satisfaction of a registrar that any duplicate certificate or other instrument has been issued in error, or contains any misdescription of land, or boundaries, or that any entry, memorandum or endorsement has been made in error or omitted from any duplicate certificate, or other instrument, or that any such duplicate certificate, instrument, entry, memorandum or endorsement has been fraudulently or wrongfully obtained, or that any such duplicate certificate or instrument is fraudulently or wrongfully retained, or if under any of the provisions of this Act the registrar requires a duplicate certificate for the purpose of making any memorandum thereon, or for the purpose of wholly or partially cancelling the same, he may, by written

Form.

demand, in the form "~~A~~" in the schedule to this Act, to be served upon such person or to be mailed to his last known post office address within the province, require the person to whom such duplicate 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, corrected or completed, as the

Intervention
of judge in
such case.

case requires; and in case such person refuses or neglects to comply with such requisition, or cannot be found, the registrar may apply to a judge to issue a summons for such person to appear before him and show cause why such duplicate certificate or other instrument should not be delivered up to be cancelled, corrected or completed as aforesaid, and if such person, when served personally or in the mode directed in such summons with the summons, neglects or refuses to attend before the judge at the time therein

Warrant of
arrest.

appointed, the judge may issue a warrant authorizing and directing the person so summoned to be apprehended and brought before the said judge for examination.

Examination
by judge.

115. Upon the appearance before a judge of any person summoned or brought up by virtue of a warrant as aforesaid, the judge may examine such person upon oath, and in case it appears right so to do, may order such person to deliver up the ^{duplicate} certificate or other instrument as aforesaid; and upon refusal or neglect by such person to deliver up the same, pursuant to the order, or to be put under oath, or to be examined, or to answer any question touching the matter after being sworn, may commit such person to the nearest common jail for any period not exceeding six months, unless the duplicate certificate or other instrument is sooner delivered up or sufficient explanation is made why the same cannot be

When judge
may order
imprison-
ment.

Cancellation
or correction
of instrument
by judge's
order.

done, and in such case, or in case such person has absconded so that summons cannot be served upon him as hereinbefore directed, or in case a period of three months from the time of mailing the said demand to such person has elapsed before the duplicate certificate or other instrument has been returned to the registrar, the judge may direct the registrar to cancel or correct or complete the duplicate certificate or other instrument in his possession, or any memorandum thereon relating to the land, and to substitute and issue if necessary a duplicate certificate or other instrument or make such memorandum as the circumstances of the case require, and the registrar shall obey such order.

Other powers
of judge.

116. In any proceeding respecting land or in respect of any transaction or contract relating thereto, or in respect of any instrument, caveat, memorandum or entry affecting land, the judge, by decree or order, may direct the registrar to cancel, correct, substitute, or issue any duplicate certificate, or make any memorandum or entry thereon or on the certificate of title, and otherwise to do every act necessary to give effect to the decree or order.

ASSURANCE FUND AND FEES.

Fees payable
in advance.

117. Before the registrar shall perform any duty to be by him performed under any of the provisions of this Act he shall, except as herein otherwise provided, demand and receive the proper fee or fees therefor as fixed and settled by tariff made from time to time by the ^{Lieutenant} Governor in Council; and demand and receive for the assurance fund upon the registration of every grant of encumbered land, and upon every absolute transfer of land after the issue

Amount ex-
igible for
assurance
fund.

of the first certificate of title therefor, where the land was not encumbered at the time of registering the grant, one-fifth of one per cent of the value of the land transferred if such value amounts to or is less than five thousand dollars, and one-tenth of one per cent on the additional value, when such value exceeds five thousand dollars; and upon every subsequent transfer he shall demand and receive upon the increase of value since the granting of the last certificate of title one-fifth of one per cent if the increase is not more than five thousand dollars, and one-tenth of one percent on any excess over such five thousand dollars:

Valuation
of land,

2. The value shall be ascertained by the oath or affirmation of the applicant, owner or person acquiring such land, or of such other person as the registrar believes to be acquainted with the value of the land, and whose oath or affirmation the registrar is willing to accept; and if the registrar is not satisfied as to the correctness of the value so sworn to or affirmed, he may require such applicant owner or person acquiring the land to produce a certificate of the value, under the hand of a sworn valuator appointed by a judge, which certificate shall be received as conclusive evidence of the value for the purpose aforesaid.

Accounting
for moneys
received.

118. Each registrar shall keep a correct account of all sums of money received by him in accordance with the provisions of this Act, and shall pay the same to the Provincial Treasurer, at such times and in such manner as are directed by the Lieutenant Governor in Council.

~~(COPY C)~~.

119. The Government of the Province may accept and receive from the Government of Canada or from the Governor in Council of Canada such portion of the Assurance Fund formed under the Act of the Parliament of Canada known as The Territories Real Property Act and continued as the Assurance Fund by the Act of the Parliament of Canada known as The Land Titles Act 1894 as the said Government of Canada or ~~Lieutenant~~ Governor in Council of Canada may assign, transfer or pay over to the Government of the Province and for the purpose of carrying the provisions of this section into effect the Lieutenant Governor in Council may by order provide for the adjusting of all questions arising between the Government of the Province and the Government of Canada in connection with the assignment, transfer or payment over of such portion of the said Assurance Fund as afore said including the giving or executing on behalf of the Province all such claims or contracts of indemnity or otherwise as may be found necessary or expedient.

120.

The Assurance Fund herein provided for shall be formed by the Provincial Treasurer from the amounts paid to and received by him for that purpose by and from the Registrars as hereinbefore provided and by investing the same together with all interest and profits accrued thereon from time to time in securities approved of by the Lieutenant Governor in Council.

Cases when
assurance fund
is not
liable for
damages.

121. The assurance fund shall not, under any circumstances, be liable for compensation for any loss, damage or deprivation occasioned by the breach by any owner of any trust, whether expressed, implied or constructive; nor in any case in which the same land

Exceptions.

Amount of
liability.

Registrar may
in certain
cases substitute
one certificate
for several.

has been included in two or more grants from the Crown; nor shall the assurance fund be liable in any case in which loss, damage or deprivation has been occasioned by any land being included in the same certificate of title with other land, through misdescription of the boundaries or parcels of any land, unless, in the case last aforesaid, it is proved that the person liable for compensation and damages is dead, or has absconded from the province, or has been adjudged insolvent, or the sheriff has certified that he is not able to realize the full amount and costs awarded in any action for such compensation; and the said fund shall be liable for such amounts only as the sheriff fails to recover from the person liable as aforesaid.

122. Upon the application of an owner of several parcels of land held under separate certificates of title, or under one certificate of title, and the delivery up of the duplicate certificates therefor to him, the registrar may cancel the existing certificate or certificates of title granted, as also the duplicate certificates so delivered up, and grant to the owner a single certificate of title for all the parcels of land, or several certificates of title each applying to one or more of the parcels, in accordance with the application; upon which certificates of title respectively shall be entered a memorandum of each and every encumbrance, lien, charge, mortgage or other instrument affecting such parcel or parcels of land, setting forth the occasion of the cancellation and referring to the certificate of title so granted; and thereupon the registrar shall issue to the applicant one or more duplicate certificates as the case requires.

Case when the duplicate certificate of title is lost or destroyed.

123. Upon production to the registrar of satisfactory proof by statutory declaration by the person to whom a duplicate certificate has been issued or by some one having knowledge of the facts, of the accidental loss or destruction of the duplicate certificate so issued, the registrar, having, in the newspaper published nearest to the land described in the register, or if more newspapers than one are published in the same locality then in one of such newspapers, and in a conspicuous place in the land titles office, for four weeks, published a notice of his intention to do so, may, having entered in the register the facts as proven, issue a fresh duplicate certificate in lieu of the one so lost or destroyed, noting upon the same why it is so issued.

Registrar may dispense with notice.

Provided that the publication of such notice is... a newspaper, as above provided, or of any notice, may be dispensed.

In case of subdivision of land into town lots, owner must deposit plan.

124. Any owner subdividing land, for which a certificate of title has been granted, and laying the same out as a town-plot, for the purpose of selling the same in allotments, shall deposit with the registrar a map in duplicate of such town-plot, which map shall be on a scale of not less than one inch to four chains, and shall show the number of the section, township and range, or the number of the river lot, or the name of the district, or reservation, as the case may be, in which the land lies, also the number of the meridian west of which

What plan must show.

the said range, river lot, district or reservation is situated, as well as all boundary lines of the section or sections, river lot, district or reservation, within the limits of the land shown on the said map, and shall also exhibit distinctly all roads, streets, passages, thoroughfares, squares or reservations appropriated or set apart for public use, with the courses and widths thereof, respectively, the length and width of all lots, and the courses of all division lines between the respective lots within the same; and the lots shall be marked with distinct numbers or symbols; and the map shall further show the courses of all streams or waters within the limits of the land included in the map; and every such map shall be signed by the owner or his agent, and certified in the form "X" in the schedule to this Act by a Dominion land surveyor, whose respective signatures shall be duly witnessed and attested in the manner hereinbefore provided for the attestation of instruments to be registered under this Act, one duplicate of such map shall forthwith be transmitted by the registrar to the Department of Public Works.

Attestation
of plan.

Form.

Plans and
surveys, and
the correc-
tion thereof.

2. In no case shall any plan of survey, although filed and registered, be binding on the person so filing or registering the same, or upon any other person, unless a sale, mortgage, encumbrance or lease has been made according to such plan or survey; and in all cases cancellation in whole or in part, or

amendments or alterations of any such plan or survey may be ordered to be made, at the instance of the person filing or registering the same or of any person deriving title through him of any land shown on such plan or survey, by a judge, if on application for the purpose duly made, and upon hearing all parties concerned, it be thought fit and just so to order, and upon such terms and conditions as to costs and otherwise as may be deemed expedient.

Provided that the provisions of this section shall apply to any plan which was formerly filed or registered in the land titles office for any registration district in the North-West Territories now within the province of Alberta, whether a certificate or certificates of title have been granted or not for the lands shown on such plan, or for any part of such lands.

~~COPY "B". (2).~~

~~ROAD ALLOWANCES.~~

125. The Lieutenant Governor in Council may cause to be surveyed and marked on the ground by a Dominion Lands Surveyor, in accordance with the system of Dominion Lands Survey obtaining in the locality, such new roads as are from time to time deemed necessary to aid in the development of any locality which cannot be conveniently served by existing road allowances or other public highways. ~~such new roads to be sixty-six feet in width.~~ or roads, shewn thereon to have been surveyed as aforesaid, so far as the land within their limits are not Dominion Lands, shall vest in the Crown in the right of the Province subject to the right of any person who has acquired an interest in such lands to compensation for such interest.

127. The provisions of the Public Works Act with regard to the allowance of compensation for lands required for public works and the provisions as to procedure in the said Act contained with regard thereto shall obtain in all applications for compensation made under this Act.

128. Whenever the plan of the survey in paragraph 1 hereof mentioned is forwarded to the Registrar of the proper Land Titles Office, by the Public Works Department, pursuant to the provisions of Section 7 the Registrar shall call in the duplicate Certificates of Title for all patented lands affected thereby in the manner set forth in Section ~~112~~ of this Act, but if the registered owner refuses or neglects to return the duplicate Certificate of Title within thirty days after the demand has been mailed to him the Registrar shall proceed to file ~~and register~~ the plan and shall cancel the area required for the road as shewn on such plan from the original Certificates in his office and from the duplicates that may have been or may otherwise be returned to him and shall issue a Certificate of Title for the road to His Majesty in the right of the Province and forward the duplicate thereof to the Minister of Public Works.

129. If a Certificate of Title has not been issued for any lands affected by a road, as shewn by the plan, which has been forwarded to the Registrar by the Public Works Department pursuant to the provisions of this Act, the Registrar shall cancel the area required for the road as shewn on such plan from the Certificates of Title as they are issued and from the duplicates before they are delivered to the owners, and shall issue new Certificates

of Title for the area so cancelled, as provided in the preceding section hereof, unless the grant for the land is issued subject to the road shewn on the plan.

130. Where in any plan filed under the provisions of section 126 hereof or heretofore filed by the Department of Public Works of the North West Territories or of the Province it is made to appear to the satisfaction of the registrar that manifest, technical or other error has intervened, the registrar may permit such plan to be withdrawn and a correct plan substituted therefor; and the provisions of sections 126 to 129 both inclusive hereof shall apply to such corrected or substituted plan upon the same being filed;

Provided however, that where a certificate or certificates of title to the land shown upon the plan, which it is desired to withdraw, has or have been issued to the Crown no such plan shall be withdrawn until such certificate or certificates shall have been returned to the registrar who shall cancel the same and issue another certificate or other certificates of title in the place and stead thereof to His Majesty in the right of the Province for the land shown upon corrected or substituted plan; and the effect of said cancellation and reissue (and the effect of said withdrawal and substitution in cases in which no certificate of title has been issued to the Crown of the lands shown upon the plan so withdrawn) shall be to revest in the person or persons from whom such lands may have been divested by the plan that is so withdrawn or in his or their heirs, executors, administrators or assigns, such part of ^{the} lands so divested as is not shown

upon the corrected plan so substituted, and the registrar shall so notify such person or persons and shall cancel the cancellation if any, made by him upon the original certificate of title in his office and upon the duplicate thereof when it is returned to him, and shall cancel out of the original certificate and duplicate, the area shown upon the corrected and substituted plan so filed.

Implied covenants may be negatived or modified.

Their effect.

They bind the parties severally, not jointly.

Owner must in certain cases allow beneficiary, etc., to use his name.

131. Every covenant and power declared to be implied in any instrument by virtue of this Act may be negatived or modified by express declaration in the instrument; and in any action for a supposed breach of any such covenant, the covenant alleged to be broken may be set forth, and it shall be lawful to allege that the party against whom the action is brought did so covenant, precisely in the same manner as if the covenant had been expressed in words in the transfer or other instrument, any law or practice to the contrary notwithstanding; and every such implied covenant shall have the same force and effect and be enforced in the same manner as if it had been set out at length in the transfer or other instrument; and when any transfer or other instrument in accordance with this Act, is executed by more parties than one, such covenants as are by this Act to be implied in instruments of a like nature shall be construed to be several and not to bind the parties jointly.

132. The owner of any land, for which a certificate of title has been granted, or of any lease, mortgage or charge affecting the same, shall, on application of any beneficiary or person interested therein, be bound to allow his name to be used by such beneficiary or person

in any action, suit or proceeding, which it may be necessary or proper to bring or institute in the name of such owner, concerning such land, lease, mortgage or charge, or for the protection or benefit of the title vested in such owner, or of the interest of any such beneficiary or person; but nevertheless such owner shall, in any case, be entitled to be indemnified in like manner as, if being a trustee, he would, before the passing of this Act, have been entitled to be indemnified in a similar case of his name being used in any such action, suit or proceeding by his cestui que trust.

But shall then
be indemnified.

Guardian or
committee
may act for
person under
disability.

133. Whenever any person, who, if not under disability might have made any application, given any consent, done any act, or been party to any proceeding under this Act, is a minor, idiot or lunatic, the guardian or committee of the estate, respectively, of such a person may make such application, give such consent, do such act, and be party to such proceeding as such person if free from disability might have made, given, done and been party to, and shall otherwise represent such person for the purposes of this Act; and whenever there is no guardian or committee of the estate of any such person aforesaid being infant, idiot or lunatic, or whenever any person, the committee of whose estate if he were idiot, or lunatic, would be authorized to act for and represent such person under this Act, is of unsound mind and incapable of managing his affairs, but has not been found an idiot or lunatic under inquisition, a court or a judge may appoint a guardian of such person for the purpose of any proceedings under this Act, and from time to time change such guardian. And whenever the court or a judge sees fit, it or he may appoint a person to act as the next friend of a married woman for the purpose of any proceeding under this Act, and from time to time remove or change such next friend.

If no guardian,
etc. the court
may appoint one
and remove
him.

Next friend of
married woman.

How purchase,
etc., for valu-
able consider-
ation may be
proved in an
action.

134. Whenever in any action, suit, or other proceeding affecting land, for which a certificate of title has been granted, it becomes necessary to determine the fact whether the transferee, mortgagee, encumbrancee, or lessee is a purchaser or transferee, mortgagee, encumbrancee, or lessee, for valuable consideration or not, any person who is a party to the action, suit or other proceeding, may give in evidence any transfer, mortgage, encumbrance, lease or other instrument affecting the land in dispute, although the same is not referred to in the certificate of title or has been cancelled by the registrar.

Person deal-
ing with regis-
tered owner is
not bound to
inquire into
the circum-
stances, etc., of
acquisition by
owner.

135. Except in the case of fraud, no person, contracting or dealing with, or taking or proposing to take, a transfer, mortgage, encumbrance or lease, from the owner of any land, for which a certificate of title has been granted, shall be bound or concerned to inquire into or ascertain the circumstances in, or the consideration for which, the owner or any previous owner of the land is or was registered, or to see to the application of the purchase money or of any part thereof, nor shall he be affected by notice direct, implied or constructive, of any trust or unregistered interest in the land, any rule of law or equity to the contrary notwithstanding; and the knowledge that any trust or unregistered interest is in existence, shall not of itself be imputed as fraud.

136. In any suit for specific performance brought by an owner of any land, for which a certificate of title

Effect of duplicate certificate of title as evidence in suit by the owner for specific performance.

has been granted, against a person who has contracted to purchase the land, not having notice of any fraud, or other circumstances which according to this Act, would affect the right of the transferror, the duplicate certificate of title of the owner shall be evidence that the owner has a good and valid title to the land, for the estate or interest therein, mentioned or described.

Trustees and joint owners.

137. Upon the transfer of any land, for which a certificate of title has been granted, to two or more persons as joint owners, to be held by them as trustees, it shall be lawful for the transferror to insert in the transfer or other instrument the words "no survivorship"; and the registrar shall, in such case, include such words in the duplicate certificate issued to such joint owners pursuant to the transfer and in the certificate of title; and any two or more persons so registered as joint owners of any land held by them as trustees, may, by writing under their hand, authorize the registrar to enter the words "no survivorship" upon the duplicate certificate and also upon the certificate of title; and after such entry has been made and signed by the registrar in either such case as aforesaid, it shall not be lawful for any less number of joint owners than the number so entered to transfer or otherwise deal with the land, without obtaining the sanction of the court or of a judge, by an order on motion or petition.

Insertion of words "no survivorship" in transfers, etc.

Effect of these words.

Order of court.

Notice of
said order.

Powers of
court after
notice given.

Memorandum
to be made.

Effect.

Jurisdiction of
courts in cases
of fraud, etc.

Lieutenant
Governor in
Council to
furnish books,
etc., and make
regulations.

138. Before making any order as aforesaid, the court or judge shall, if it seem requisite, cause notice of intention so to do to be properly advertised, and in such case appoint a period of time within which any person interested may show cause why the order should not be made; and thereupon the said court or judge may order the transfer of the land to any new owner or owners, solely or jointly with or in the place of any existing owner or owners, or may make such order in the premises as the court or a judge thinks just, for the protection of the persons beneficially interested in the land or in the proceeds thereof; and upon such being deposited with the registrar, he shall make a memorandum thereof upon the certificate of title and upon the duplicate certificate when the same is produced to him; and upon such memorandum being made, the person or persons named in the order shall be the owner or owners of the land.

139. Nothing contained in ~~this~~^{the} Act shall take away or affect the jurisdiction of any competent court on the ground of actual fraud, or over contracts for the sale or other disposition of land for which a certificate of title has been granted.

140. The Lieutenant Governor in Council shall, from time to time, provide the necessary books, forms, and other office requisites, and shall make such rules and regulations as are necessary to carry out the provisions of this Act; and shall also make such rules and regulations as to him appear necessary for giving effect to this Act, in cases unprovided for, according to its true intent and purpose.

Proceedings
not to abate
in case of
death, etc.,

141. Proceedings under this Act shall not abate or be suspended by any death, transmission or change of interest, but in any such event a judge may make such order for carrying on, discontinuing or suspending the proceedings, upon the application of any person interested, as under the circumstances he thinks just, and may for such purpose require the production of such evidence, and such notices to be given, as he thinks necessary.

Judge's
powers in
such case.

Defects of
form not to
invalidate
proceedings

142. No petition, order, affidavit, certificate registration or other proceeding under this Act shall be invalid by reason of any informality or technical irregularity therein, or of any mistake not affecting the substantial justice of the proceedings.

Affidavits, be-
fore whom to
be made

2. Affidavits for use in applications to register title, or in any matter other than the execution of instruments, may be made before any person authorized to take affidavits for use in the Supreme Court of the North-West Territories, or any Court hereafter constituted exercising within the province the jurisdiction powers and authority at the date of the passing of this Act exercised therein by the Supreme Court of the North West Territories; and in all matters before a judge or the court where proof is required the same may be taken by affidavit sworn as aforesaid or by viva voce evidence as may be ordered by the judge or court.

Proof, how to
be taken.

Affidavits,
practice to be
observed.

3. Affidavits shall be subject to the practice at the date of the passing of this Act governing affidavits in the Supreme Court of the North West Territories.

Protection of
officers, etc.

143. The inspector of land titles offices shall not, nor shall any registrar, deputy registrar, or any person acting under authority of a registrar, be ~~liable~~ to any action or proceeding for or in respect of any act bona fide done or omitted to be done in the exercise or supposed exercise of the powers given by this Act, or any order or general rule made in pursuance of this Act.

Notice to be
given to inter-
ested parties
in certain
cases.

144. Whenever any matter is, under this Act, submitted to a judge by a registrar or by any other person or authority and the judge deems it advisable that parties interested should be notified of the time and place when and where a hearing of the matter so submitted should be held, and no special provisions are made therefor in this Act, or if there are any such special provisions and the judge shall be of opinion that the notice required thereby to be given is not sufficient, he may direct notice of such time and place to be given and he ~~may~~^{may} direct that such notice be served personally upon such persons as he may direct or be left at their usual place of abode, or he may direct that such notice shall be posted at such place or places and for such periods as he may name, or he may direct that such notice be published in such newspaper or newspapers as he may designate and for such time as he may direct, and he may direct that such notice may be given in any one or more or in all the methods above specified.

When the in-
terested par-
ties are absent.

2. Whenever this Act directs that persons interested shall be heard or shall receive notice and such parties are not within the jurisdiction or cannot be

Mode of
service.

found so as to be personally served, the judge may direct that any party without the jurisdiction may be served personally, or in either case may direct substitutional services within or without the jurisdiction to be made in such manner as he may direct or he may direct that publication of notice in such manner as he may direct may be sufficient service.

Proof of age,
of contracting
party.

145. The registrar shall, in all cases of transfers mortgages, encumbrances or leases, be entitled to require satisfactory evidence that the person making such instruments is of full age of twenty-one years.

Proof of matters
of inquiry by
judge.

146. Whenever by virtue of this Act a judge is required or authorized to hold an inquiry, proof of the matters relevant to the inquiry may be made before him by affidavit, which may be sworn before any judge of any court, notary public, justice of the peace or commissioner for taking affidavits, having authority or jurisdiction within the place where the oath is administered.

Proviso:
powers of
judge in such
cases.

Provided always that the judge may, whenever he deems it expedient so to do, require the personal attendance of any person before him to testify as to the matters of any such inquiry or that any deponent to any affidavit shall attend in person before him to be cross-examined upon his affidavit.

Powers of judge
to compel
appearance to
testify.

2. Whenever the judge so requires any person or deponent to appear before him in person he may issue a summons under his hand and seal requiring such person or deponent to appear before him at a time and place to be specified to testify as to what he may know concerning the matters in question, or to be cross-

examined as the case may be; and if such person or deponent fails to attend at the time and place specified, upon due proof under oath that such person or deponent has been duly served with the said summons and that proper conduct money has been paid or tendered to him, (which conduct money shall be according to the tariff of fees provided for the attendance of witnesses at trials in civil causes in the Supreme Court of the North-West Territories or any Court hereafter constituted exercising within the province the jurisdiction, powers and authority at the date of the passing of this Act exercised therein by the Supreme Court of the North-West Territories) ~~and any law in force in the province~~ The judge may issue his warrant directed to the sheriff of any judicial district, directing him to apprehend such person or deponent and bring him before the said judge for examination and to keep him in his custody until he is so examined; and such sheriff shall obey the said warrant according to the tenor thereof. And the sheriff shall be entitled to the same fees for executing such warrant as he would be entitled to for executing a process issued out of such Court.

Duty of
sheriff.

Sheriff's
fees.

Costs of
inquiry.

Recovery of
costs.

3. The costs incidental to any such inquiry shall be in the discretion of the judge, and shall be taxed by the clerk of the court in the district in which the inquiry was held as nearly as may be according to the tariff provided for civil causes in the said court; and judgment shall be signed in such court for such costs in favour of the party to whom they are awarded by the judge, and execution may be issued for the recovery thereof out of the said court as upon an

ordinary judgment therein.

Security for
costs by
non-resident.

4. Whenever any proceeding is taken under this Act, whether by motion or summons, or by the filing with or the delivery to the registrar of a caveat, mechanics' lien, or copy of an execution against lands, or other such proceeding, and any party to such proceeding, or the person in whose behalf or against whose interest such caveat lien or execution has been so filed or delivered is not a resident in the North-West Territories, a judge may, upon the application of a party to such proceeding or interested therein, or affected by such caveat, lien or execution, grant an order requiring such non-resident to give security for the costs of the applicant of such order in prosecuting or resisting such proceedings, or in removing or maintaining such caveat, lien or execution; and it may be a term of such order that in default such proceeding may be deemed granted or dismissed, or such caveat, lien or execution may be deemed removed or maintained; and such order may also provide for a stay of proceedings. The practice and procedure for obtaining such order and giving such security shall be as nearly as may be the same as upon an application for security for costs in civil causes in the said Supreme Court, and the judge may direct payment of the costs incident to such application or order to be taxed and recovered as is provided in the case of the costs mentioned in subsection 3 of this section.

APPEAL.

Appeal from
judge's
decision.

147. An appeal shall lie by the inspector of land titles offices, a registrar, or person directly interested therein, from any order or decision of a judge made or given under the provisions of this Act to the Supreme Court of the North-West Territories sitting in banc, or to any Court sitting in banc hereafter constituted exercising within the province the jurisdiction, powers and authority at the date of the passing of this Act exercised therein by the Supreme Court of the North-West Territories within the prescribed time, in the same manner and with the same incidents in and with which judgments and orders of that court by a single judge may be appealed from; and the practice and proceedings relating to appeals in the said court including costs and payment thereof and the enforcement of judgments on appeal, shall, adapted to the circumstances apply.

Judge may re-
fer matters to
court in banc.

148. If, in any matter before a judge under this Act, the judge considers proper, he may refer the same to the court in banc, and such court may either dispose of the matter or refer it back to the judge with such direction as the court in banc may think fit,

Payment of
costs.

149. The court or judge may order costs to be paid by or to any person party to any proceeding under this Act, regard being had to the following provisions:-

Responsibility
for costs.

That any applicant under this Act is liable prima facie to pay all costs, charges and expenses incurred by or in consequence of his application, except in a case where parties object whose rights are sufficiently secured without their appearance, or when any costs, charges or expenses are incurred unnecessarily or improperly.

Enforcement
of orders of
court.

150. Any order of the court or a judge may be enforced in the same manner and by the same officials and process as orders are usually enforced by the procedure and practice of the Supreme Court of the North-West Territories, or of any court hereafter constituted exercising within the province the jurisdiction, powers and authority at the date of the passing of this Act exercised therein by the Supreme Court of the North-West Territories and shall be obeyed by every registrar and acting registrar when directed to him.

Tariff of
costs.

151. The said court sitting as the Court of Appeal may, by order of court, provide (and from time to time change) a tariff of costs payable and for all services and proceedings under this Act; but, unless and until so provided for, the tariff of costs relating to actions at the date of the passing of this Act

of the Supreme Court of the North-West Territories where the title to lands is in question shall apply, adapted to the circumstances.

Definitions.

152. The "land titles office" shall, in so far as railways and the expropriation of lands by the Government of Canada are concerned, represent the "office of the registrar of deeds" and "the registrar" and the "registrar of deeds" under the Acts of the Parliament of Canada known as The Railway Act, and The Expropriation Act; and the said Acts respectively shall, as applied to the province, be read as if the land titles office and registrar under this Act were enacted therein in lieu of the registry office of deeds, and the registrar of deeds.

Lieutenant
Governor
in Council
may vary forms,
or in certain
cases prescribe
new ones.

153. The Lieutenant Governor in Council may from time to time, whenever it is necessary so to do, add to or otherwise vary any of the forms in the schedule to this Act, or may cause to be adopted any other form or forms which he considers applicable to any special case or class of cases for which a form has not been provided in the schedule to this Act.

154. All officers, persons, bodies politic or corporate acting under the provisions of any law or regulation heretofore in force in the province with relation to titles to real property shall continue to act as if appointed under this Act until others are appointed in their stead; and all proceedings taken under such former law or regulation shall be taken up and continued under this Act when not inconsistent therewith, and all penalties and for-

feitures may be recovered and all proceedings had in relation to matters which have happened before the coming into force of this Act in the same manner as if the said former law or regulation was still in force, pursuing the provisions as far as they can be adapted of this Act ~~former~~ law or regulation.

(2). All orders, regulations and rules made under any such former law shall continue good and valid in so far as they are not inconsistent with this Act until they are annulled or others made in their stead.

155. Nothing in this Act contained shall effect any act done or any right or right of action existing, accruing, accrued or established or any proceedings commenced in a civil cause ~~before~~ the coming into force of this Act; and all rights, estates and interests existing in any person under or by virtue of any former law in force in the province relating to titles to real property shall be and are hereby preserved so far but so far only as they are consistent with the provisions of this Act,

156. This Act shall come into force upon the proclamation thereof by the Lieutenant Governor, ~~in~~
~~Council.~~

SCHEDULE.

FORM A.

FORM OF INSPECTOR'S, REGISTRAR'S AND DEPUTY REGISTRAR'S
OATH OF OFFICE.

Province of Alberta) I (name and describe deponent)
District of) having been appointed to the office
) of inspector of land titles office
To Wit:) (or registrar or deputy registrar)
)

in and for the (name of registration district, &c.)
do swear (or affirm as the case may be) that I will
well, truly and faithfully perform and execute all
duties required of me, relating to the said office,
so long as I continue therein, and that I have not given,
directly or indirectly, nor authorized any person
to give, any money, gratuity or reward whatsoever
for procuring the said office for me.

sworn before me at the)
of) (Signature of inspector,
in the of) registrar or deputy
the) registrar.)
day of A.D. 19 .)

FORM B. (*sec. 13*)

FORM OF BOND OF INSPECTOR, REGISTRAR AND DEPUTY
REGISTRAR.

Province of Alberta) Know all men by these
District of) presents that I (insert name and
) addition of the principal), of the
To Wit:) of ,

in the Province of Alberta of the Dominion of Canada,
hereinafter called "the principal", and we (insert
names and additions of the sureties) of the
of , in the of
and , of the
of , in the

hereinafter called "the sureties," are respectively held and firmly bound unto our Sovereign Lord, the King, his heirs and successors, in the respective penal sums following, that is to say: "the principal" in the sum of _____ dollars of lawful money of Canada, and each of "the sureties in a sum of _____ dollars of like lawful money, to be paid to our said Sovereign Lord, the King, his heirs and successors; for which said respective payments, well and faithfully to be made, we jointly and severally, each for the other, bind ourselves and our respective heirs, executors and administrators, firmly by these presents, sealed with our respective seals.

Dated this _____ day of _____
in the year of our Lord one thousand nine hundred and _____
and in the _____ year of His Majesty's
reign.

Whereas "the principal," having been appointed to the office or employment of _____ is required by law to give security to the Crown for the due performance of the duties appertaining thereto; and "the sureties" have consented to become his sureties for such his performance of the said duties; and this bond is given in pursuance of The Land Titles Act.

Now the condition of this obligation is, that if "the principal" faithfully discharges the duties of the said office and duly accounts for all moneys and property which may come into his custody by virtue of the said office, this obligation shall be void, otherwise the same shall remain in full force and effect.

Signed, sealed and delivered in)
the presence of) (Signatures and Seals.)
)
)

FORM C.

AFFIDAVIT OF JUSTIFICATION BY A SURETY.

Province of Alberta) I, , one of the
District of) sureties in the above (or
) within) named bond or obligation
) named make oath (or affirm, as the
To Wit:) case may be) and say as follows:-

1. I am seized and possessed to my own use of real
(or real and personal) estate, in the
of in Canada, of the actual value of
dollars, over and above all charges upon
or encumbrances affecting the same.

2. My post office address is as follows: (insert it.)

Sworn before me at the)
of in the)
of) (Signature.)
this day of)
A.D. 19 .)

FORM D.

AFFIDAVIT OF ATTESTATION OF BOND.

Province of Alberta) I,
District of) of the of , in
) the of ,
To Wit:)

make oath and say, that I was personally present, and
did see (one of, or as the case may be) the
obligors in the above (or within) bond or obligation
named, duly execute the said instrument by signing,
sealing, and, as (his act and deed or their respective
acts and deeds, as the case may be), delivering the same;
and that I am a subscribing witness to such execution

The title of A.B. is subject to a lease,dated the day
 ,made by A.B. to Y.Z., for the term of
years.

When the transfer is absolute, say :

This certificate of title is cancelled and a new certificate
of title No _____, issued this _____ day of _____ A.D. 19 ____.

(Signature).

FORM F.

APPLICATION TO BRING LAND UNDER THE OPERATION OF
'THE LAND TITLES ACT'.

To the registrar of registration district:

I(insert name and addition), hereby apply to have the land hereinafter described brought under the operation of 'The Land Titles Act' And I declare:-

1. That I am the owner(or agent for _____, the owner) of an estate in fee-simple in possession(or of an estate of freehold in possession for my life, or otherwise as the case may require) in all that piece of land, being(here describe the land).

2. That such land, including all buildings and other improvements thereon, is of the value of dollars, and no more.

3. That there are no documents or evidences of title affecting such land in my possession, or under my control, other than those included in the schedule hereto.

4. That I am not aware of any mortgage or encumbrance affecting the said land, or that any other person has any estate or interest therein at law or in equity, in possession, remainder, reversion or expectancy(if there be any add: other than as follows and set the same forth).

5. That the said land is now occupied (if unoccupied, prefix un to occupied; if occupied, add by whom, and state the name and addition of the occupant

Sworn before me at the)
of , in the)
of this)
day of A.D.19 :) (Signature.)

FORM I.

RECEIPT OR ACKNOWLEDGEMENT OF PAYMENT OF MORTGAGE
OR OTHER ENCUMBRANCE.

I, C.D., the mortgagee(encumbrancee or assignee
as the case may be) do acknowledge to have re-
ceived all the moneys due or to become due
under the within written mortgage(or encumbrance,
as the case may be) and that the same is wholly
discharged.

In witness whereof I have hereunto subscribed
my name this day of , 19 .

Signed by the above named C.D.,)
in the presence of } (Signature.)

FORM J.

TRANSFER. (see. 48.)

I, A.B., being registered owner of an estate(state
the nature of estate), subject, however, to such
encumbrances, liens and interests as are notified
by memorandum underwritten(or endorsed hereon),
in all that certain tract of land containing
 acres, more or less, and being(part of)
section, township , range , in the
 (or as the case may be), (here state rights
of way, privileges, easements, if any, intended to
be conveyed along with the land and if the land
dealt with contains all included in the original
grant refer thereto for descriptions of parcels
and diagrams; otherwise set forth the boundaries
and accompany the description by a diagram), do
hereby, in consideration of the sum of

dollars paid to me by E.F., the receipt of which
sum I hereby acknowledge, transfer to the said
E.F., all my estate and interest in the said
piece of land. (When a lesser estate describe
such lesser estate.)

In witness whereof, I have hereunto subscribed
my name this day of , 19 .

Signed by said A.B., in the)
presence of) (Signature.)

FORM K.

LEASE.

I, A.B., being registered as owner, subject,
however, to such mortgages and encumbrances as
are notified by memorandum underwritten (or endor-
sed hereon), of that piece of land (describe it),
part of , section
township , range , (or as the
case may be), containing acres, more or
less (here state rights of way, privileges, easements,
if any, intended to be conveyed along with the
land, and if the land dealt with contains all
included in the Original grant or certificate of
title or lease, refer thereto for description
and diagram, otherwise set forth the boundaries
by metes and bounds) do hereby lease to E.F., of
(here insert description), all the said land, to
be held by him, the said E.F. as tenant, for the
space of years, from (here state the date
and term), at the yearly rental of dollars,
payable (here insert terms of payment of rent),
subject to the covenants and powers implied (also

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

Dated this day of

Signed by the above-named A.B.,)
 as lessor, and E.F., as lessee,) (Signature of lessor)
 in presence of) (Signature of lessee)

(Here insert memorandum of mortgages and encumbrances.)

FORM L. (Sec. 56.)

SHORT COVENANTS IN LEASE.

COLUMN ONE.

1. Will not, without leave,
assign or sublet. .

2. Will fence.

3. Will cultivate.

COLUMN TWO.

1. The covenantor, his executors, administrators, or transferees, will not, during the said term, transfer assign or sublet the land and premises hereby leased, or any part thereof, or otherwise by any act or deed procure the said land and premises, or any part thereof, to be transferred or sublet, without the consent in writing of the lessor or his transferees first had and obtained.

2. The comenantor, his executors, administrators, or transferees, will during the continuance of the said term, erect and put upon the boundaries of the said land, or on those boundaries on which no substantial fence now exists, a good and substantial fence.

3. The covenantor, his executors, administrators, or transferees, will, at all times during the said term, cultivate, use and manage in a proper husbandlike manner, all such parts or the land as are now or shall hereafter.

4. The covenantor, his executors, administrators, or transferees, will not cut down, fell, injure or destroy any living timber or timberlike tree standing and being upon the said land, without the consent in writing of the said lessor or his transferees.

5. The covenantor, his executors, administrators, or transferees, will not, at any time during the said term, use, exercise, or carry on, or permit or suffer to be used, exercised or carried on, in or upon the said premises, or any part thereof, any noxious, noisome or offensive art, trade, business, occupation or calling; and no act, matter or thing whatsoever shall, at any time during the said term, be done in or upon the said premises, or any part thereof, which shall or may be or grow to the annoyance, nuisance, grievance, damage or any disturbance of the occupiers or owners of the adjoining lands and properties.

In consideration of _____ dollars to me paid
by (lessee or his assigns) (as the case may be)
I do hereby surrender and yield up from the day of
the date hereof _____ unto
the lease(describe the lease fully) and the term
therein created.

Dated the _____ day of _____ A.D. 19____

Signed by the above named _____)
in the presence of _____)
_____)
_____)

I, A.B., being registered as owner of an estate (here

state nature of interest), subject, however, to such encumbrances, liens and interests as are notified by memorandum underwritten(or endorsed hereon) of that piece of land(description), part of _____ section _____ township _____, range _____, (or as the case may be) containing _____ acres, be the same more or less (here state rights of way, privileges, easements, if any, intended to be conveyed along with the land, and if the land dealt with contains all included in the original grants, refer thereto for description of parcels and diagrams; otherwise set forth the boundaries and accompany the description by a diagram), in consideration of the sum of _____ dollars lent to me by E.F., (here insert description), the receipt of which sum I do hereby acknowledge, covenant with the said E.F.:-

Firstly. That I will pay to him, the said E.F., the ^{above} sum of _____ dollars, on the _____ day of _____

Secondly. That I will pay interest on the said sum
at the rate or _____ on the dollar, in the year,
by equal payments on the _____ day of _____
and on the _____ day of _____ in every year.

Thirdly. (Here set forth special covenants, if any.)

And for the better securing of the said E.F. the repayment, in manner aforesaid, of the principal sum and interest, I hereby mortgage to the said E.F. my estate and interest, in the land above described.

In witness whereof, I have hereunto signed my name
this day of 19 .

Signed by the above named)
A.B. As mortgagor, in) (Signature of mortgagor.)
presence of)
)
)
)

(Insert memorandum of mortgages and encumbrances)

(For form of transfer or mortgage, see form P.)

I, A.B., being registered as owner of an estate (state nature of estate), subject, however, to such mortgages and encumbrances as are notified by memorandum underwritten (or endorsed hereon), of that piece of land of (description) part of _____ section _____ township _____, range _____, (or as the case may be) containing _____ acres, more or less (here state rights of way, privileges, easements, if any, intended to be conveyed along with the land, and if the land dealt with contains all included in the original grant or certificate of title, refer thereto for description of parcels and diagrams, otherwise set forth the boundaries and accompany the description by a diagram), and desiring to render the said land available for the purpose of securing to and for the benefit of C.D., of (description) the (sum of money, annuity or rent charge) hereinafter mentioned; do hereby encumber the said land for the benefit of the said C.D., with the (sum, annuity or rent charge) of _____, to be paid at the times and in the manner following, that is to say: (here state the times appointed for the payment of the sum, annuity or rent charge intended to be secured, the interest, if any, and the events in which such sum, annuity or rent charge shall become and cease to be payable, also any special covenants or powers, and any modification of the powers or remedies given to an encumbrance by this Act):

And subject as aforesaid, the said C.D. shall be entitled to all powers and remedies given to an encumbrancee by The Land Titles Act.

Signed by the above named _____)
of _____, in presence _____) (Signature of encumbrancer.)

(Insert memorandum of mortgages and encumbrances.)

FORM P.

AFFIDAVIT TO BE FILED WITH A MORTGAGE OR ENCUMBRANCE.

I, (name of mortgagor or encumbrancer, as the case may
be) of the _____ of _____ of _____

make oath and say:-

1. I am the mortgagor (or encumbrancer, as the case may be.) named in the hereunto annexed instrument, bearing date the _____ and made in favour of _____ against (describe the lands mortgaged or encumbered.)

2. The grant from the Crown of the said land has not yet been issued, but I claim to be the party rightfully in possession of the said land and to be entitled to create the said mortgage(or encumbrance) and that particulars of my possession and title to the said land are as follows:-(here must be given such information as will satisfy the registrar as to the mortgagor's or encumbrancer's right to create the mortgage or encumbrance.) and, in the case of such mortgagor or encumbrancer of land entered for by him as a homestead or pre-emption under the provisions in that behalf contained in The Dominion Lands Act, that he has been recommended for patent and received his certificate or recommendation in accordance with the said provisions.)

Sworn before me
this day
of

FORM ~~20~~.

TRANSFER OF MORTGAGE, ENCUMBRANCE, OR LEASE.

I, C.D., the mortgagee, (encumbrancee or lessee, as the case may be), in consideration of _____ dollar
s this day paid to me by X.Y., of _____,
the receipt of which sum I do hereby acknowledge,
hereby transfer to him the mortgage (encumbrance or
lease, as the case may be, describe the instrument
fully), together with all my rights, powers, title,
and ~~interest~~ therein.

In witness whereof, I have hereunto subscribed
my name this _____ day of _____
19 .

Signed by the said)	
)	
in presence)	C.D., <u>Transferor.</u>
)	X.Y., <u>Transferee.</u>
of)	

FORM ~~21~~.

TRANSFER OF PART OF MORTGAGE OR ENCUMBRANCE.

I, C.D., the mortgagee (or encumbrancee, or as the case may be), in consideration of _____ dollars
this day paid to me by X.Y., of _____, the
receipt of which sum I do hereby acknowledge, hereby
transfer to him _____ dollars or the
mortgage (or encumbrance, as the case may be, describe
the instrument fully), together with all my rights,
powers, title, and interest therein, and the sum so
transferred shall be preferred (or deferred or rank
equally, as the case may be) to the remaining sum
secured by the mortgage (or encumbrance).

In witness whereof, I have hereunto subscribed

my name this day of ,19 .

signed by the said)
in presence) C.D., Transferror.
of) Accepted, X.Y., Transferee.

3. And that on default the (mortgagee) shall have quiet possession of the land.

3. And also, that from and after default shall happen to be made of or in the payment of the said sum of money, in the said above covenant mentioned, or the interest thereof, or any part thereof, or of or in the doing, observing, performing, fulfilling or keeping of some one or more of the covenants in this mortgage particularly set forth, contrary to the true intent and meaning of these presents, then and in every such case, it shall and may be lawful to and for the said mortgagee, his heirs, executors, administrators, and assigns, peaceably and quietly to enter into, have, hold, use, occupy, possess, and enjoy the aforesaid lands, tenements, hereditaments and premises, hereby conveyed or mentioned, or intended so to be, with their appurtenances, without the let, suit, hindrance, interruption or denial of him the said mortgagor, his heirs, or assigns, or any other person or persons whomsoever.

4. Free from all encumbrances.

4. And that free and clear and freely and clearly acquitted, exonerated and discharged of and from all arrears of taxes and assessments whatsoever due or payable upon or in respect of the said lands, tenements, hereditaments and premises, or any part thereof, and of and from all former conveyances, mortgages, rights, annuities, debts, judgments, executions and recognizances, and of and from all manner of other charges or encumbrances whatsoever.

5. Will execute such further assurances of the land as may be requisite.

5. And also, that from and after default shall happen to be made of or in the payment of the said sum of money in the said covenant mentioned, or the interest thereof, or any part of such money or interest or of or in the doing, observing, performing, fulfilling or keeping of some one or more of the covenants in this mortgage particularly set forth, contrary to the true intent and meaning of these presents and of the said covenants then and in every such case the said mortgagor, his heirs and assigns, and all and every other person or persons, ~~whosoever~~ having, or lawfully claiming, or who shall or may have or lawfully claim any estate, right, title, interest or

trust of, in, to or out of the lands, tenements, hereditaments, and premises hereby mortgaged, or mentioned, or intended so to be, with the appurtenances or any part thereof, by, from, under or in trust for him the said mortgagor, shall and will, from time to time, and at all times thereafter, at the proper costs and charges of the said mortgagee, his heirs, executors, administrators and assigns make, do, suffer and execute, or cause or procure to be made, done, suffered and executed, all and every such further and other reasonable act or acts, deed or deeds, devises, conveyances and assurances in the law for the further, better and more perfectly and absolutely conveying the said lands, tenements, hereditaments and premises, with the appurtenances under the said mortgagee, his heirs, executors, administrators and assigns, as by the said mortgagee, his heirs, executors or his or their counsel learned in the law, shall or may be lawfully and reasonably advised, advised or required, so as no person who shall be required to make or execute such assurances shall be compelled, for the making or executing thereof, to go or travel from his usual place of abode.

6. Has done no act to encumber the land.

6. And also that the said mortgagor hath not at any time heretofore made, done, committed, executed or wilfully or knowingly suffered any act, deed, matter or thing whatsoever, whereby or by means whereof, the said lands, tenements, hereditaments and premises hereby mortgaged or mentioned or intended so to be, or any part or parcel, thereof, are, is or shall or may be in any wise impeached, charged, affected or encumbered in title, estate, or otherwise howsoever.

FORM 2 T.

POWER OF ATTORNEY.

I, A.B., being registered owner of an estate (here state nature of the estate or interest), subject, however, to such encumbrances, liens and interests as are notified by memorandum underwritten (or endorsed hereon), (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 or title or lease

Signed by the above named)
A.B. in the presence of) (Signature.)

FORM XV.

TRANSFER OF LAND UNDER PROCESS OF LAW.

I, _____, of _____, the
person appointed to execute the process hereinafter
mentioned, in pursuance of a writ dated the
day of _____, one thousand ~~nine~~ hun-
dred and _____, and issued out _____ (insert
name of court), a court of competent jurisdiction, in an
action wherein _____ is the plaintiff, and
_____ the defendant, which said
is registered as the owner of the land hereinafter
described, subject to the mortgages and encumbrances
notified hereunder, do hereby, in consideration of the
sum of _____ paid to me, as _____ afore-
said, by E.F. (insert addition) TRANSFER to the said
E.F. all that piece of land (here insert a sufficient
description of the land, and refer to the debtor's cer-
tificate of title or grant).

Dated the _____ day of _____
one thousand nine hundred and _____

Signed by the above named)
_____, in presence) (Signature with official seal.)
of _____)

Mortgages and encumbrances referred to. (State them)

Or

FORM

TRANSFER OF LAND ON SALE FOR TAXES.

I, _____, of _____, by virtue
of authority vested in me to sell lands for arrears of
taxes by _____ do hereby in considera-
tion of the sum of _____ paid to me by E.F.
(insert addition) TRANSFER to the said E.F. all that piece
of land being (here insert a sufficient description of
the land, and refer to the certificate of title.)

Dated the _____ day of _____
one thousand nine hundred and _____

Signed by the above named)
_____, in presence) (Signature with official seal.)
of)

Or

FORM

TRANSFER OF LEASE, MORTGAGE, OR ENCUMBRANCE UNDER
PROCESS OF LAW.

I, _____, of _____ the
person appointed to execute the writ hereinafter mentioned
(or otherwise, as the case may be), in pursuance of a
writ or rieri facias, tested the _____ day of _____
one thousand nine hundred and _____
and issued out of (insert name of court) a court of
competent jurisdiction, in an action wherein
is the plaintiff and _____ the defendant,
which said _____ is registered as the
owner of a lease (mortgage or encumbrance, as the case may
be) numbered _____ of (or upon) the land
hereinafter described, subject to the mortgages or en-
cumbrances notified hereunder, do hereby, in consideration
of the sum of _____ paid to me as

aforesaid, by E.F. (insert addition) TRANSFER to the said E.F. the lease (mortgage or encumbrance) granted by

to and in favour of

, dated the day of

to, in and over(here describe the land according to the description in the lease, mortgage or encumbrance, and refer to the registered instrument).

Dated the day of , one
thousand nine hundred and

Signed by the above named)
 ,in presence)
 of) (Signature with official seal.)

Or

FORM

TRANSFER OF LAND UNDER DECREE OR ORDER OF A COURT OF
COMPETENT JURISDICTION.

I(insert name), in pursuance of a decree(or order)
of(insert name of court), a court of competent jurisdic-
tion, dated the day of one
thousand nine hundred and ,and entered
in the register,vol. , fol.
hereby TRANSFER to E.F.(insert addition), subject to
the mortgages and encumbrances notified hereunder,all
that piece of land being(here insert a sufficient descrip-
tion of the land and refer to the certificatâ of title or
grant.)

Dated the day of , one
thousand nine hundred and

[illegible]

FORM

CAVEAT FORBIDDING REGISTRATION.

To the Registrar for

Take notice that I(insert name and addition)
claim(specify the estate or interest claimed)
in(describe land and refer to certificate of
title), standing in the register in the name
of _____; and I forbid the
registration of any person as transferee or
owner of, or of any instrument affecting the
said estate or interest, unless such instrument
be expressed to be subject to my claim. I
appoint _____ as the place at which
notices and proceedings relating hereto may be
served.

Dated this _____ day of _____, 19____

FORM X. (sec. 85.)

AFFIDAVIT IN SUPPORT OF CAVEAT.

I, A.B., make oath and say (or solemnly declare) as follows:

- (1) I am the within-named caveator.
- (2) I believe that I have a good and valid claim upon the said land (mortgage or incumbrance), and I say that this caveat is not being filed for the purpose of delaying or embarrassing any person interested in or proposing to deal therewith.

Sworn before me, &c.

FORM Y. (sec. 89.)

NOTICE TO CAVEATOR TO TAKE PROCEEDINGS ON CAVEAT.

Take notice that the caveat lodged by you in the Land Titles Office for the district of _____ on the _____ day of _____ 19____, forbidding the registration of any person as transferee or owner of or of any instrument affecting the estate or interest claimed in your caveat in respect of (describe land and refer to certificate of title) unless such instrument be expressed to be subject to your claim, will cease to have any effect after the expiration of sixty days (or such shorter time as the judge may order) next ensuing the date at which this notice is served, or sent to you by registered mail, unless in the meantime you take proceedings in court on your caveat. This notice is given pursuant to

Section 89 of The Land Titles Act.

Dated at the day of
19 .

To(the caveator)	(Signature of
	of person
at(address stated in the caveat)	giving the notice)

FORM ~~X~~

AFFIDAVIT OF ATTESTATION OF AN INSTRUMENT

I, (A.B.), of _____, in the
make oath and say:-

1. I was personally present and did see
named in the (within or annexed) instrument, who is
personally known to me to be the person named therein,
duly sign and execute the same for the purposes
named therein;

2. That the same was executed at the
in the _____, and that I am the
subscribing witness thereto;

3. That I _____ know the said
and he is in my belief of the full age of twenty-one
years.

Sworn before me, at _____, in _____	} (Signature.)
the _____, this _____	
day of _____ A.D. 19____	

FORM ~~A~~ A A.

REFERENCE BY REGISTRAR TO THE JUDGE.

(Place and date.)

In the matter of the registration of transfer
(or as the case may be) A.B. to C.D.

The registrar, under section
or The Land Titles Act hereby refers the following
matter to the judge, to wit: (Here state briefly the
difficulty which has arisen.)

The parties interested, so far as the registrar
knows or has been informed, are: (Here give the names.)

(Signature.)

(Official seal.)

Registrar.

FORM ~~A~~ B B.

DEMAND TO RETURN CERTIFICATE OF TITLE.

To (name of owner or whoever is custodian of certificate):

You are hereby required to forward to the land
titles office, certificate of title, No.
in favour of (insert owner's name) for (description of land)
as the same is required by me pursuant to the provisions
of The Land Titles Act for the purpose (purpose for
which certificate is required and whether or not by
direction of a judge).

Your attention is called to the provisions of
sections of the said Act, and the penalty
therein provided for neglect or refusal to comply with
this demand.

A.B.,

Registrar ,

District.

FORM ~~44~~ 66.

I, _____ Dominion land surveyor, do
solemnly declare that this plan accurately shows the
manner in which the land included therein has been
surveyed and subdivided by me, and that the said plan
is prepared in accordance with the provisions of The
Land Titles Act.

Dated at _____ 19 .

Signed in the presence of)
)
)

A.B.

Dominion land surveyor.

FORM ~~44~~ P.

AFFIDAVIT TO BE FILED WITH A MORTGAGE OR ENCUMBRANCE.

I, (name of mortgagor or encumbrancer, as the case may
be) of the _____ of _____ of _____

make oath and say:-

1. I am the mortgagor (or encumbrancer, as the
case may be,) named in the hereunto annexed instrument,
bearing date the _____ and made in
favour of _____ against (describe the lands
mortgaged or encumbered.)

2. The grant from the Crown of the said land
has not yet been issued, but I claim to be the party
rightfully in possession of the said land and to be
entitled to create the said mortgage (or encumbrance)
and that particulars of my possession and title to the
said land are as follows:- (here must be given such
information as will satisfy the registrar as to the

mortgagor's or encumbrancer's right to create the
mortgage or encumbrance, and, in the case of such
mortgagor or encumbrancer of land entered for by him
as a homestead or pre-emption under the provisions
in that behalf contained in The Dominion Lands Act,
that he has been recommended for patent and received
his certificate or recommendation in accordance with
the said provisions.)

Sworn before me

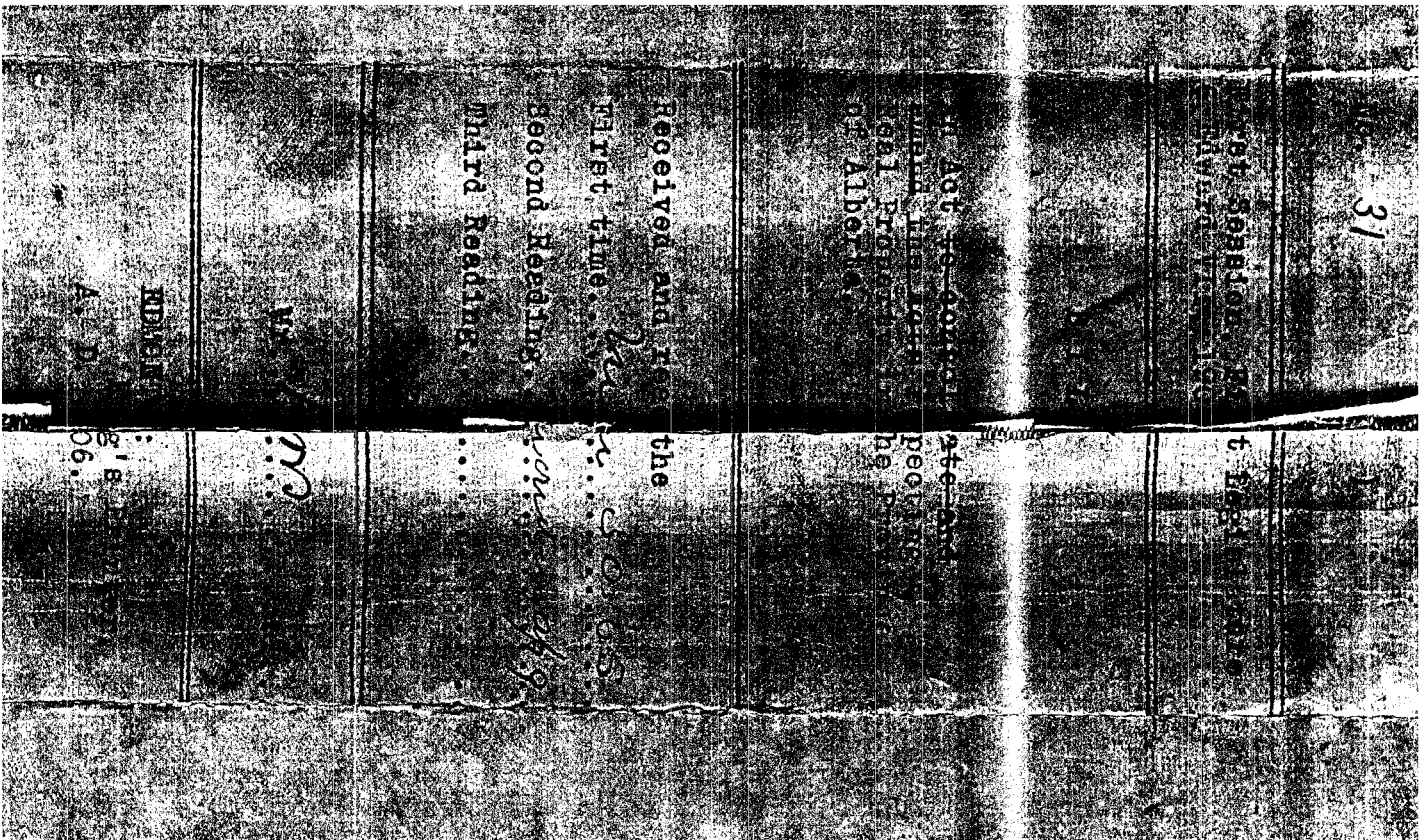
this

day

of

~~FORM BB.~~

~~Notice is hereby given under the provisions of~~
Section 26, — of The Land Titles Act of the
abandonment by the Crown of all and singular
certain parcel or tract of land and premises



Title: 1906 (1st, 1st) Bill 31, An Act respecting Real Property in the Province of Alberta