The image shows the front cover of an old book. The cover is decorated with marbled paper featuring a pattern of irregular, interconnected shapes in shades of blue, yellow, and brown. The spine of the book is made of a plain, light brown material. A small, white, rectangular label is affixed to the spine, containing the following text:

KE
72
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5-3
Bill A-



Canada. Laws, Statutes, etc.

233

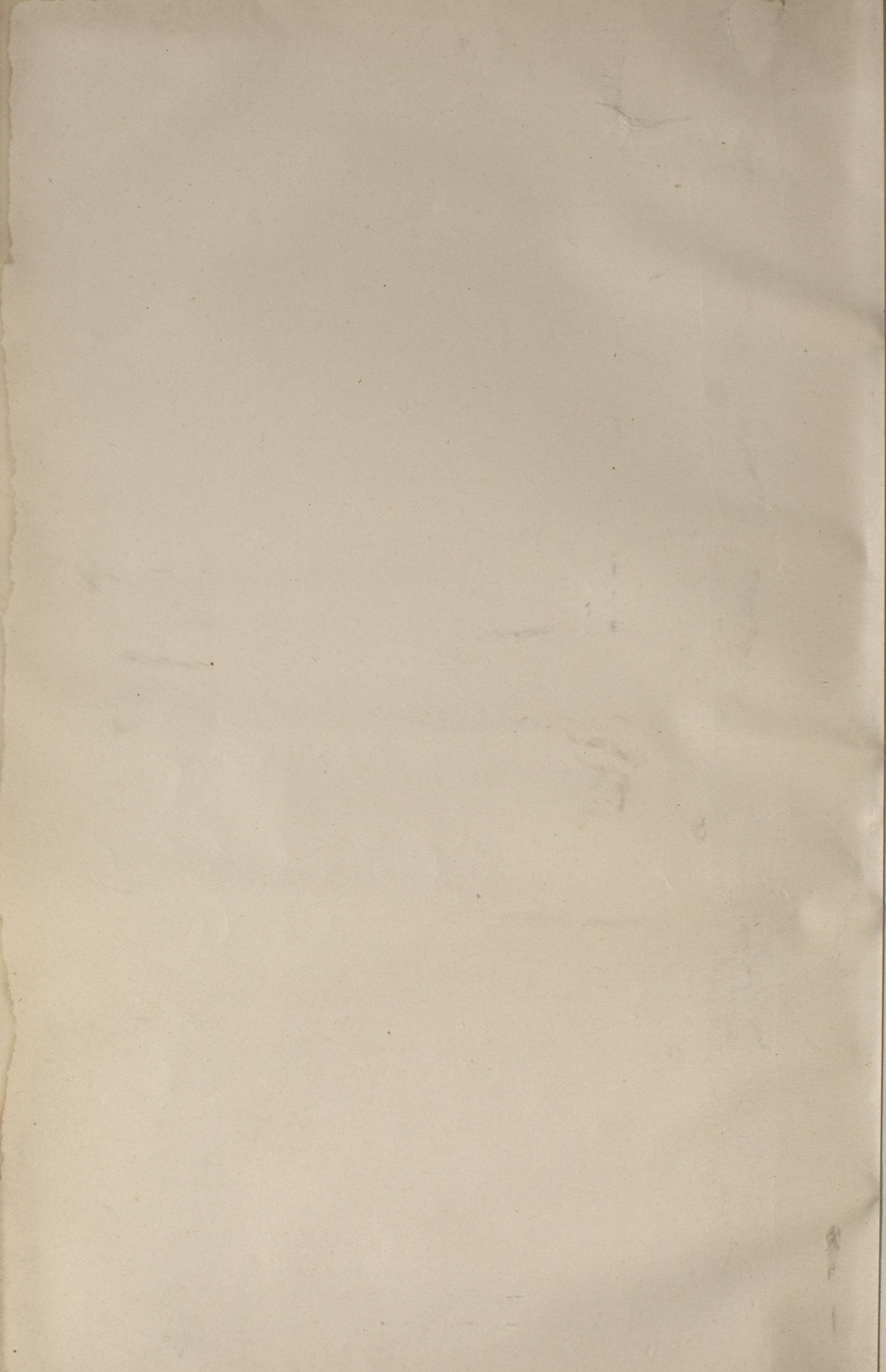
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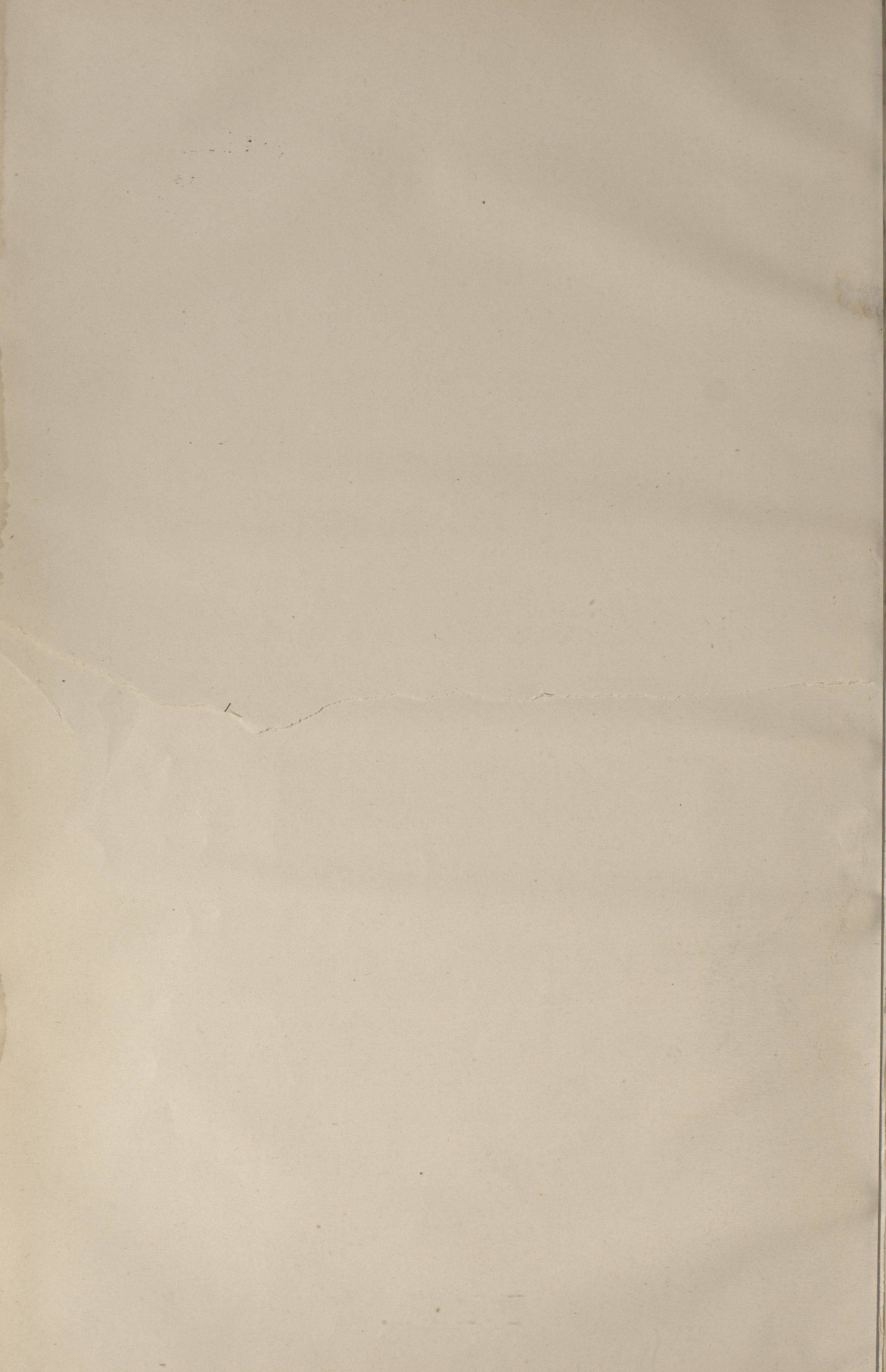
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1885 C36

5-3

Bill A-







BILL.

An Act respecting Real Property in the North-West Territories.

[NOTE.—The words and clauses in italics are printed to make the measure intelligible. They will be stricken out on the Third Reading, and will be offered for acceptance of the House of Commons when the Bill is in Committee in that House.]

WHEREAS it is expedient to give certainty to the title to **Preamble.**
estates in land in the North-West Territories and to facilitate the proof thereof, and also to render dealings with land more simple and less expensive: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, declares and enacts as follows:—

SHORT TITLE.

1. This Act may be cited as “The North-West Territories **Short title.**
Real Property Act.”

COMMENCEMENT.

10 **2.** This Act shall commence and take effect from and after **Commence-**
the day of , A.D. 188 . **ment of Act.**

INTERPRETATION.

3. In this Act, and in all instruments purporting to be **Interpretation**
made or executed thereunder, unless the context otherwise **of expressions**
requires:— **used in Act.**

15 The expression “Land” means and includes land, **Land.**
messuages, tenements and hereditaments, corporeal and in-
corporeal, of every kind and description, whatever may be
the estate or interest therein, together with all paths,
passages, ways, water-courses, liberties, privileges, easements,
20 mines, minerals and quarries appertaining thereto, and all
trees and timber, thereon and thereunder lying or being,
unless any such are specially excepted;

The expression “Owner” means and includes any person **Owner.**
or body corporate entitled to any freehold or other estate or
25 interest in land, at law or in equity, in possession, in
futurity or expectancy;

The expression “Transfer” means and includes the passing **Transfer.**
of any estate or interest in land under this Act, whether for
valuable consideration or otherwise;

- Mortgage.** The expression "Mortgage" means and includes any charge on land created merely for securing a debt ;
- Mortgagee.** The expression "Mortgagee" means and includes the owner of a mortgage ;
- Mortgagor.** The expression "Mortgagor" means and includes the owner of land, or of any estate or interest in land pledged as security for a debt ; 5
- Encumbrance.** The expression "Encumbrance" means and includes any charge in land created for any purpose whatever, inclusive of mortgage, unless expressly distinguished ; 10
- Encumbrancer.** The expression "Encumbrancer" means and includes the owner of any land or of any estate or interest in land subject to any encumbrance ;
- Encumbrancee.** The expression "Encumbrancee" means and includes the owner of an encumbrance ; 15
- Lunatic.** The expression "Lunatic" means and includes any person found by any competent tribunal or commission, *de lunatico inquirendo*, to be a lunatic ;
- Person of unsound mind.** The expression "Person of unsound mind" means and includes 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 ; 20
- Instrument.** The expression "Instrument" means and includes any grant, certificate of title, conveyance, assurance, deed, map, plan, will, probate or exemplification of will, or any other document in writing relating to the transfer or other dealing with land or evidencing title thereto ; 25
- Register.** The expression "Register" means and includes the register of titles to land to be kept in accordance with this Act ; 30
- Registrar.** The expression "Registrar" means and includes any person appointed under this Act as registrar of titles ;
- Territories.** The expression "Territories" means and includes the North-West Territories ; 35
- Court.** The expression "Court" means and includes any court authorized to adjudicate in the Territories in civil matters in which the title to real estate is in question ;
- Court of Appeal.** The expression "Court of Appeal" means and includes the Court of Appeal herein constituted ; 40
- Judge.** The expression "Judge" means and includes any official authorized in the said Territories to adjudicate in civil matters in which the title to real estate is in question ;

The expression "Transmission" applies to change of ownership consequent upon lunacy, levy under execution, order of court or other act of law, or in virtue of any settlement or any legal succession in case of intestacy ;

- 5 The expression "Grant" means and includes any grant of Crown land, whether in fee or for years, and whether direct from Her Majesty or pursuant to the provisions of any statute ;

The expression "Indorsed" means and includes anything written upon any instrument or other document or in the margin thereof, or at the foot thereof ;

The expression "Possession," when applied to persons claiming title to land, signifies also alternatively the reception of the rents and profits thereof.

DESCENT, CONVEYANCE &C. OF REAL PROPERTY.

4. From and after the commencement of this Act, all lands in the Territories shall be subject to the provisions hereof.

All land in Territories subject to Act.

5. All lands in the Territories, which, by the common law, are regarded as real estate, shall be held to be chattels real, and shall go to the executor or administrator of any person or persons dying seized or possessed thereof, as other personal estate now passes to the personal representatives.

All lands to be chattels real and go to executor, etc., of deceased.

6. Hereafter no words of limitation shall be necessary in any conveyance of any land in order to convey all or any title therein, but every deed or instrument conveying land shall operate as an absolute conveyance of all such right and title as the grantor has therein at the time of its execution, unless a contrary intention be expressed in such conveyance ; but nothing herein contained shall preclude any conveyance from operating by way of estoppel ; and hereafter the introduction of any words of limitation into any conveyance or devise of any land, shall have the like force and meaning, as the same words of limitation would have if used by way of limitation of any personal estate, and no other.

Effect of conveyance : words of limitation not required.

7. No devise shall be valid or effectual as against the personal representative of the testator, until the land affected thereby is conveyed to the devisee thereof, by the personal representative of the deviser, saving and excepting such devises as are made by the testator to his personal representative, either in his representative capacity or for his own use.

Devisee to take from personal representative.

8. No widow whose husband dies on or after the day of the commencement of this Act shall be entitled to dower in the real property of her deceased husband, but shall have the same right in such real property as if it were personal property.

Dower abolished.

Tenancy by
curtesy
abolished.

9. No husband whose wife dies on or after the day of the commencement of this Act shall be entitled to any estate by the curtesy in the real property of his deceased wife, but shall have the same right therein as a wife has in the personal property of her deceased husband.

5

Where land
conveyed to
a man and his
wife grantees
tenants in
common
unless other-
wise express-
ed in convey-
ance.

10. Whenever land is conveyed to a man and his wife, the grantees shall take according to the tenor of the deed, and they shall not take by entireties unless it is so expressed in the conveyance or transfer.

Conveyances
by husband to
wife or vice
versa.

11. A man may make a valid conveyance or transfer of his real estate to his wife, and a woman may make a valid conveyance or transfer of her real estate to her husband, without, in either case, the intervention of a trustee.

Estate tail
abolished :
fee simple
substituted.

12. Any grant, devise or limitation, which heretofore would have created an estate tail, shall be construed to carry an estate in fee simple, or the greatest estate the grantor or devisor had in the land granted or conveyed, and no estate in fee simple shall be changed into any limited fee or fee-tail, but the land, whatever form of words is used in any instrument of transfer or transmission or dealing shall be and remain an absolute estate in the owner for the time being.

Married
woman to be
as if feme sole.

13. A married woman shall, in respect of land, have all the rights and be subject to all the liabilities of a *feme sole*, and may alienate and, by will or otherwise, deal with land as if she were unmarried.

REGISTRATION DISTRICTS.

Registration
districts :
Assiniboia,
Alberta, East
Saskatche-
wan, West
Saskatche-
wan.

14. The provisional districts of Assiniboia and Alberta, as defined by an order of the Queen's Privy Council for Canada, dated the eighth day of May, one thousand eight hundred and eighty-two, shall, for the purposes of this Act, be land registration districts, to be known respectively as the Assiniboia Land Registration District and the Alberta Land Registration District, and that portion of the provisional district of Saskatchewan lying eastward of the third principal meridian shall be a land registration district, to be known as the "East Saskatchewan Land Registration District;" and that portion of the said Saskatchewan provisional district lying westward of the said meridian shall also be a registration district, to be known as the "West Saskatchewan Land Registration District."

40

Provision for
further regis-
tration dis-
tricts.

15. The 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 Territories a land registration district, and declare by what local name the same shall be known and designated.

45

Registration
offices, etc.,
to provided at

16. As soon after the passing of this Act as practicable, and whenever, at any subsequent period, a new registration district

is established, the Governor in Council may provide in each registration district, at the public expense, and thereafter maintain in a proper state of repair, a building of stone or brick, to serve as the office of the registrar, and as the place of deposit and preservation of the registers, duplicates, instruments and documents connected with the registration of titles, and shall fit up the said office with such fire-proof safes and other secure places as are necessary.

17. In each such registration district, at such place as the Governor in Council determines, there shall be an office, to be called the "Land Titles Office;" and the business of such office shall be conducted by an officer to be called the registrar, appointed by the Governor in Council, with such assistants and clerks as are necessary, and as the Governor in Council, from time to time, appoints.

Land titles office, and appointment of registrars, assistants and clerks by Governor in Council.

18. The Governor in Council may, from time to time, appoint a deputy to any of the registrars aforesaid, to act in case of the death, illness or absence from his office of the registrar to whom he is deputy, and every deputy, during the time he so acts, shall have all the powers and privileges, and perform all the duties and be subject to all the responsibilities of the officer to whom he is deputy.

Deputy registrars.

19. Every registrar of deeds appointed and acting in the Territories, or when this Act comes into force, shall be *ex-officio* a registrar under this Act, and shall hold office during pleasure; but thereafter, no person shall be appointed a registrar unless he is a barrister or advocate, of at least three years standing in one of the Provinces of Canada.

Existing registrars of deeds *ex-officio* registrars: future appointees to be barristers or advocates.

20. The salaries of registrars, deputy registrars, and other necessary officers, and such incidental expenses of carrying this Act into effect as are sanctioned by the Governor in Council, shall be paid out of moneys provided by Parliament for that purpose.

Salaries.

21. Every registrar and deputy registrar, before he enters upon the execution of his office, shall take, before some judge or stipendiary magistrate in the Territories, the oath of office in the form A in the schedule to this Act.

Oath of office.

22. Before any registrar appointed under this Act is sworn into office, he, and two or more sufficient sureties, shall enter into a joint and several bond in duplicate under their hands and seals to Her Majesty, in a penal sum to be fixed at not less than _____, for the true and faithful performance by the said registrar or his deputy of his duty in respect of all things directed to be done by or required of him by this Act or any law in that behalf, and said bond shall be in the form B in the said schedule, or to the like effect, and shall be subject to the approval of the Governor in Council.

Registrars' bond.

Condition.

23. The sureties in such bond and duplicate shall justify under oath (form C), and the execution by the registrar and

Sureties to justify.

Custody of bonds. his sureties shall be verified by affidavit of a subscribing witness (form D), taken before a justice of the peace, and one of such duplicates, with the affidavits appended, shall be forthwith transmitted to the Secretary of State, to be filed in his office, and the other shall be filed in the office of the Lieutenant-Governor of the Territories. 5

New bonds when required. **24.** The registrar shall, when required by the Secretary of State, execute a new bond in the form and to the effect provided in Section twenty-two of this Act, or furnish such other security as is deemed expedient. 10

Seals of office. **25.** Each registrar shall have a seal of office, approved by the Governor in Council, with which he shall seal all certificates of title and stamp all instruments which are presented to him for registration.

Copies of documents in registrar's office to be evidence. **26.** Each registrar shall, when required, and upon the payment of the legal fees, furnish, attested by the seal of his office, exemplifications, copies and abstracts of any uncancelled instrument affecting land, which is deposited, filed, kept or registered in his office, and every such exemplification or certified copy shall be received as evidence in every court in Canada, in the same manner and with the same effect as if the original was produced. 15 20

Registrars, etc., not to act as agents, etc. **27.** No registrar, deputy registrar or clerk in any land titles office under this Act shall, directly or indirectly, act as the agent of any person investing money and taking securities on real estate within his registration district, nor shall such registrar, deputy registrar, or clerk, advise, for any fee or reward, or otherwise, upon titles of land, nor practice as a conveyancer, nor shall he carry on or transact, within the registry office, any business or occupation whatever, other than his duties as such registrar, deputy or clerk. 25 30

Nor carry on other business in office.

Indemnity of registrars, etc., for acts *bonâ fide* under this Act. **28.** The registrar shall not, nor shall any deputy registrar or any person acting under authority of the registrar, be liable to any action or proceeding for or in respect of any act *bonâ 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. 35

Office. Days and hours. **29.** The land titles office shall be kept open on all days except Sundays and legal holidays, between the hours of ten in the forenoon and four in the afternoon, during which time either the registrar or his deputy shall be in attendance, and except within the said hours no registration shall be effected. 40

REGISTRATION.

Form of instruments for registration. **30.** The registrar shall not register any instrument purporting to transfer, or otherwise to deal with or affect any land under the provisions of this Act, except in the manner herein provided, nor unless such instrument is in accordance with the provisions hereof; but any instrument sub- 45

stantially in conformity with the forms in the schedule to this Act, or an instrument of like nature, shall be sufficient: Provided, that the registrar shall have power to reject any instrument appearing to be unfit for registration. Proviso.

5 **31.** The registrar shall not make any entry in the register of any notice of trusts, whether expressed, implied or constructive, but a duplicate or certified copy of any instrument containing trusts in connection with lands therein described may be deposited in the office of the registrar for safe
10 custody and reference, but shall not be registered. No notice of trust to be entered on register.

32. The registrar may require the owner of any land within his registration district desiring to transfer or otherwise to deal with the same under the provisions of this Act, to deposit with the registrar a map or plan of such land, with
15 the several measurements marked thereon, certified by a licensed surveyor, and upon one of the following scales:— Registrar may require plan of land dealt with. According to scales.

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

(b.) If such land, or the portion thereof proposed to be transferred or dealt with is of greater area than one acre, but not exceeding five acres, then such map or plan shall be on a scale not less than one inch to five
25 chains. Over one and not more than five.

(c.) If such land, or the portion thereof proposed to be transferred or dealt with, is of greater area than five acres, but not exceeding eighty acres, then such map or plan shall be on a scale not less than one inch to ten chains.
30 Over five but not more than eight.

(d.) If such land, or the portion thereof proposed to be transferred or dealt with, is of greater area than eighty acres, then such map or plan shall be on a scale of one inch to twenty chains Exceeding eighty.

35 (e.) And such owner shall sign the said plan and declare the accuracy of the same before the registrar or a justice of the peace: Attesting plan

(f.) And if such proprietor neglects or refuses to comply with such requirements as aforesaid, it shall not be incumbent on
40 the registrar to proceed with the registration of such transfer or dealing: Provided always, that subsequent sub-divisions of the same land may be delineated upon a duplicate of the map or plan of the same so deposited, if such map is upon a sufficient scale, in accordance with the provisions herein
45 contained; and the correctness of the delineation of each such sub-division shall be acknowledged in the manner prescribed for the case of the deposit of an original map; If owner does not comply. Proviso: as to subsequent divisions.

(g.) Where parts of different legal sub-divisions are included in the same transfer, the map shall represent the As to parts of legal sub-divisions.

whole of such legal sub-divisions, and shall indicate the location of the lands 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.

- 33.** The registrar may administer any oath or take any affirmation or declaration in lieu of an oath from any one entitled by law to affirm or declare. 5
- 34.** The registrar shall keep a book or books, which shall be called "the register," and shall bind up therein duplicates of all certificates of titles to be issued as hereinafter provided for; and each certificate of title 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 under each certificate of 10 title.
- 35.** The registrar shall also keep a book or books which shall be called "the day-book," and in which shall be entered by a short description every instrument which is given in for registration, with the day, hour 20 and minute of filing; and for purpose of priority between mortgagees, transferees and others, the time of filing shall be taken as the time of registration. The registrar, in entering memorials upon the grants and certificates of titles embodied in the register, and in endorsing a memorial 25 upon an instrument to be issued, shall take the time from the day-book as the time of registration.
- 36.** 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 30 the folio and volume on and in which it is embodied in the register; and every transfer and other instrument purporting to transfer, or in any way to affect land under the provisions of this Act, shall be deemed to be so registered as soon as a memorial thereof, as hereinafter de- 35 scribed, has been entered in the register upon the folio constituted by the existing grant or certificate of title of such land.
- 37.** Except as hereinafter otherwise provided, every instrument presented for registration shall, unless a Crown 40 grant, be attested by a witness, and shall be registered in the order of time in which the same is presented for that purpose; and instruments registered in respect of or affecting the same estate or interest shall, notwithstanding any express, implied or constructive notice, be entitled in priority 45 the one over the other, according to the time of registration and not according to the date of each instrument itself; and the registrar, upon registration thereof, shall file the same in his office; and so soon as registered, every instrument, in conformity with the provisions of this Act, shall, for the 50 purposes of this Act, be deemed and taken to be embodied in the register as part and parcel thereof, and such instru-

Registrar may administer oaths.

The register.

How kept.

The day-book: its form and use.

Registration of grants.

And of transfers and other instruments.

Instruments for registration; how to be attested.

Order of registry.

Effect of registration.

ment, when so constructively embodied and stamped with the seal of the registrar, shall thereupon create, transfer, surrender or discharge, as the case may be, the estate or interest therein mentioned in the lands mentioned in the
5 said instrument.

38. Every memorial entered in the register shall state the nature of the instrument to which it relates, the day, hour, and minute of the presentation of such instrument for registration, and the names of the parties thereto, and shall refer
10 by number or symbol to such instrument, and shall be signed by the registrar.

Particulars required in memorials.

39. Whenever a memorial of any instrument has been entered in the register, the registrar shall, except in the case of transfer or other dealing endorsed upon any certificate or other instrument as herein provided, record the
15 like memorial on the duplicate certificate, or other instrument evidencing title to the land intended to be dealt with or in any way affected; and the registrar shall endorse on every instrument so registered a certificate of the day and hour at
20 which the said instrument was presented to be registered, and shall authenticate each such certificate by signing his name and affixing his seal thereto, and such certificate shall be received in all courts of law as conclusive evidence that such instrument has been duly registered.

Memorials to be recorded on duplicate of grant, etc.

Certificate of time of registration.

Evidence of.

40. Whenever, in the Territories, any land is granted 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 lands so granted are situated, and the registrar shall retain the letters
25 patent in his office and bind the same.

Registration; how effected.

Letters patent after Act in force.

41. The owner of any estate, or interest in any land, whether legal or equitable, letters patent for which have already issued from the Crown, may apply to have his title registered under the provisions of this Act.

Owners of estates, etc., already patented.

42. The application therefor shall be made, in writing, in the form E in the said schedule, to the registrar of the registration district in which the lands are situated, and shall be verified by the affidavit of the applicant, or some one on his behalf, accompanied by—
35

Application; how made.

- 40 1. All deeds in possession of the applicant, if any;
2. A certificate showing all registrations affecting the title, down to the time such application is filed, with copies of any registered documents, the originals or duplicates whereof he is unable to produce.

43. Upon the filing of such application, if the applicant is the original grantee of the Crown of the land, and no deed, mortgage or other encumbrance, or instrument, or caveat affecting the title appears to have been registered; or, if not such original grantee, all the original title deeds
45

If applicant original grantee of Crown, no encumbrance, etc., affecting, and title clear.

are produced and the applicant is in actual occupation of the land in question, or (the lands being wild) in constructive possession by paying taxes, and no caveat has been registered, and if, in every case where any other person is admitted to be interested in the land, whether as mortgagee, or otherwise, such person is a consenting party to such application: the registrar, if he entertains no doubt as to the title of the applicant, shall, on payment of the fees prescribed, register the said land under this Act. 5

The registrar to register land.

44. If, upon the application being made as aforesaid, it appears that any person other than the applicant is interested in the said lands, whether as mortgagee or otherwise, who is not a party to the application, or in case a caveat has been registered against the said land, or the registrar entertains any doubt as to the title of the applicant, he shall forthwith, having given the applicant a certificate of the filing of such application, transmit the application, with all evidence supplied, to the judge, to be dealt with as hereinafter mentioned. 15

If title not clear, registrar to transmit application to the judge.

45. The judge shall examine, without delay, all titles which are submitted to him, and for such purpose, shall hear all persons interested, or claiming to be, and shall have and exercise all the powers for compelling the attendance of persons and the production of documents, as usually appertain to courts of civil justice and the judges thereof in civil actions brought therein. 25

Judge to examine titles submitted.

Powers of judge.

46. 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 solicitor or agent. 30

Adverse claims.

47. 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. 35

Judge to examine.

48. 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 such notice. 40

Judge may direct publication.

49. The judge, if satisfied with the applicant's title, shall thereupon grant to the applicant an order directing the registrar, after the expiration of four weeks from the date thereof, unless in the meantime such order is appealed from, to register the same and issue to him a certificate of title under this Act, which order, together with all documents and proofs submitted in the case, shall be transmitted to and retained by the registrar in his custody. 50

Applicant's title found satisfactory, judge to order certificate of title by registrar after four weeks, unless order appealed from.

50. After registration, on application by the person entitled thereto, and payment of the prescribed fees, a certificate of title shall be granted by the registrar in the form F in the said schedule, signed by him, and sealed with the seal of his office, and a copy thereof shall be preserved by the registrar in his office, in the register; and the registrar shall endorse upon the certificate of title a memorial of every mortgage, encumbrance, lease, rent, charge, term of years, or other dealing affecting the land, and such memorial shall be endorsed upon the duplicate in the possession of the owner, as well as upon the duplicate which is in the register.

After registration applicant to receive certificate of title from the registrar.

Duty of registrar.

51. Upon any subsequent transfer of the land mentioned in any such certificate, the certificate of title to be issued to the transferee shall be issued by the registrar of the registration district where the land is situate, in the prescribed form.

Certificate on subsequent transfer.

52. Every registered owner of any land or interest therein shall deliver to the registrar a memorandum in writing of some post office address within the Territories, to which it shall be sufficient to mail all notices that, under this Act, are required to be sent to such registered owner; and every registered owner or transferee of any registered interest shall, if required by the registrar so to do, before the delivery of any certificate of title, 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.

Registered owner to give his P.O. address and a receipt for certificate.

53. Every registration of ownership shall be made on a separate folio of the register, and upon any transfer of ownership the register of the transferor's title shall be cancelled, and the title of the transferee shall thereupon be entered upon a new folio; and the registrar shall note upon the register of the title of the transferor the number of the register of the transferee's title, and upon that of the transferee the number of the register of the transferor, so that reference can be readily made from one to the other, as occasion requires.

Every registration on separate folium, and to be properly numbered.

EFFECT OF REGISTRATION.

54. In every instrument charging, creating or transferring any estate or interest in land under the provisions of this Act, there shall be implied the following covenant by the person charging, creating or transferring such estate or interest, that is to say: That he will do such acts and execute such instruments as in accordance with the provisions of this 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.

Certain covenants to be implied in instruments creating or transferring estate in lands.

55. 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

No instrument valid until registered, except leasehold for three years or less.

Effect of registration. money; but upon the registration of any instrument in manner hereinbefore prescribed, the estate or interest specified in such instrument shall pass, or, as the case may be, the land shall become liable as security, in 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; and if two or more instruments executed by the same owner, and purporting to transfer or encumber the same estate or interest in any land, are presented at the same time to the registrar for registration and endorsement, he shall register and endorse that instrument under which that person claims property, who presents to him the certificate of title of such land for that purpose.

Registered owner, title to be subject to encumbrances noted in register, etc., but free from all others; except as provided. **56.** The registered owner of land or of any estate or interest in land under the provisions of this Act, shall hold the same subject (in addition to the incidents implied by virtue of this Act) to such incumbrances, liens, estates or interests, as are notified on the folio of the register constituted by the certificate of title to such land, absolutely free from all other incumbrances, lien, estates, or interests whatsoever, except in case of fraud wherein he has participated or colluded and except the estates or interests of all persons entitled to or interested in any portion of land that is, by wrong description of parcels or of boundaries, erroneously included in the certificate of title, lease, or other instrument evidencing the title of such registered owner not being a purchaser or mortgagee thereof for value or deriving from or through a purchaser or mortgagee for value, and except the estate or interest of an owner claiming the same land under a prior certificate of title registered under the provisions of this Act, and which priority shall, in favor 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, notwithstanding the surrender of such certificate, in exchange for a new certificate upon any transfer or dealing.

Title of registered owner to be subject to certain implied qualifications. **57.** The land mentioned in any certificate of title granted under this Act, shall, by implication, and without any special mention in the certificate of title, unless the contrary is expressly declared, be subject to:

- (a.) Any subsisting reservations contained in the original grant of said land from the Crown;
- (b.) Any municipal charges, rates or assessments for the year current at the date of such certificate, or which are thereafter imposed on the said land, or which have theretofore been imposed for local improvements and which are not then due and payable;
- (c.) Any subsisting right of way or other easement, howsoever created upon, over or in respect of said land;

- (d.) Any subsisting lease or agreement for a lease for a period not exceeding three years, where there is actual occupation of said land under the same ;
- 5 (e.) Any decrees, orders or executions against or affecting the interest of the registered owner—in such land, which may be registered and maintained in force against such registered owner whilst he so continues the registered owner ;
- 10 (f.) All public highways embraced in the description of the lands included in any certificate shall be deemed to be excluded from the certificate ;
- (g.) And any right of appropriation which may by statute be vested in any person or body corporate.

15 **58.** Every certificate of title granted under this Act shall (except in case of fraud, wherein the registered owner has participated or colluded), so long as the same remains in force and uncanceled under this Act, be conclusive evidence at law and in equity as against Her Majesty and all persons whomsoever, that the person
20 named in such certificate is entitled to the land included in such certificate, for the estate or interest therein specified, subject to the exceptions and reservations mentioned in section fifty-seven, except as far as regards any portion of land that may by wrong description of boundaries or parcels be in-
25 cluded in such certificate when the holder of such certificate is neither a purchaser or mortgagagee for value, nor the transferee of a purchaser or mortgagagee for value, and except as against any person claiming under any prior certificate of title granted under this Act in respect of the same land, and,
30 for the purpose of this section, that person shall be deemed to claim under a prior certificate who is holder of, or whose claim is derived directly or indirectly from the person who was the holder of the earliest certificate granted, notwithstanding such certificate has been surrendered and a
35 new certificate granted upon any transfer or dealing.

Certificate to be conclusive evidence of title.

Exception.

59. A purchaser 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 non-receipt thereof.

As to omission of notices.

40 **60.** After the registration of the title to any land under the provisions of this Act, no instrument shall be effectual to pass any interest therein or to render such land liable as security for the payment of money as against any *bonâ fide* transferee of the said land under this Act, unless such instrument is executed in accordance with this Act, and
45 is duly registered thereunder.

Instruments must be executed according to this Act to be valid.

TRANSFERS.

61. When land under the provisions of this Act, or any portion of such land, is intended to be transferred, or any right-of-way or other easement is intended to be created or

Memorandum to be made and what it must contain.

transferred, the registered owner may execute a memorandum of transfer in the form G in the said schedule, which memorandum shall, for description of the land intended to be dealt with, refer to the grant or certificate of title of such land, or shall give such description as is sufficient 5 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 all leases, mortgages and other encumbrances to which the same are subject; and such transfer, if it be endorsed on the instru- 10 ment evidencing the title of the transferrer, need not be executed in duplicate.

When easement is to be enjoyed with other land.

62. Whenever any easement or any incorporeal right in or over any land under the provisions of this Act, is created for the purpose of being annexed to or used and enjoyed 15 together with other land under the provisions of this Act, the registrar shall also enter a memorial of the instrument creating such easement or incorporeal right upon the folio of the register book, constituted by the existing certificate of title of such other land. 20

If the transfer is of the whole or part of the land mentioned in the transfer.

63. If the memorandum of transfer purports to transfer the transferrer's interest in the whole or part of the land mentioned in any grant or certificate of title, the transferrer shall deliver up the certificate of title of the said land, and the registrar shall, on payment of the prescribed fees, enter in 25 the register and on the duplicate certificate of title, a memorandum cancelling the same, either wholly or partially, according as the memorandum of transfer purports to transfer the whole or part only of the interest of the transferrer in the land mentioned in such certificate of title, and 30 setting forth the particulars of the transfer.

Duty of registrar cancelling certificate.

64. The registrar, upon cancelling any certificate of title, either wholly or partially, pursuant to any such transfer, and receiving the prescribed fees, shall make out to the transferee a certificate of title to the land mentioned in 35 such memorandum of transfer, and every such certificate of title shall refer, if practicable, to the original grant of such land and to the instrument of transfer, and the registrar shall retain every memorandum of transfer and cancelled or partially cancelled certificate of title, and in 40 the case of a partially cancelled certificate of title, shall return the duplicate to the grantee after the memorandum partially cancelling the same has been entered thereupon, or may, whenever required thereto by the owner of an unsold portion of land included in any such partially cancelled 45 grant or certificate of title, or by a registered transferee of such portion, or of any part thereof, or where such a course appears more expedient, make out to such owner or transferee a certificate of title for such portion or any part thereof, of which he is the owner or transferee, upon the 50 delivery of the partially cancelled certificate of title to the registrar, to be cancelled and retained.

65. In every instrument transferring an estate or interest in land under the provisions of this Act, subject to mortgage or encumbrance, there shall be implied the following covenant by the transferee, that is to say : That such transferee will pay the interest, annuity or rent charge secured by such mortgage or encumbrance, after the rate and at the time specified in the instrument creating the same, and will indemnify and keep harmless the transferrer from and against the principal sum or other moneys, secured by such instrument, and from and against all liability in respect of any of the covenants therein contained or under this Act implied, on the part of the transferrer.

Implied covenants by transferee of estate or interest subject to encumbrance

LEASES.

66. When any land under the provisions of this Act is intended to be leased or demised for a life or lives, or for a term of three or more years, the owner [shall execute a lease in the form H in the said schedule, 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 identify such land ; and a right for the lessee to purchase the land therein described may be stipulated in such instrument ; and in case the lessee pays the purchase money stipulated, and otherwise observes his covenants expressed and implied in such instrument, the lessor shall be bound to execute a memorandum of transfer to such lessee of the said land, and to perform all necessary acts, by this Act prescribed, for the purpose of transferring the land to the purchaser : Provided always, that no lease of mortgaged or encumbered land shall be valid and binding against the mortgagee or encumbrancee, unless such mortgagee or encumbrancee has consented to such lease prior to the same being registered.

Form of lease for three years or more.

Right to purchase by lessee.

Obligation of lessor.

Proviso : as to land encumbered.

67. In every memorandum of lease, unless a contrary intention appears therein, there shall be implied the following covenants by the lessee, that is to say :

Covenants implied against lessee.

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

Payment of rent.

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

To keep in repair.

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

Powers in favor of lessor.

1. That he may, by himself or his agents, enter upon the demised property and view the state of repair thereof, and may serve upon the lessee, or leave at his last or usual place

To inspect premises.

of abode, or upon the demised premises, a notice in writing of any defect, requiring him within a reasonable time, to be therein, mentioned, to repair the same ;

To re-enter on default, etc.

2. 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, such lessor may enter upon and take possession of such demised premises.

Duty of registrar in case of re-entry.

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

Conditions implied in lease or mortgage under Act.

70. Whenever, in any lease or mortgage made under this Act, the forms of words in column one of the form I in the said schedule, and distinguished by any number therein, are used, such lease or 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 same 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. There may be introduced into or annexed to any of the forms in the first column, any expressed exceptions from 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.

Case of surrender effected otherwise than by operation of law.

71. 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, there shall be endorsed upon such lease or counterpart thereof the word "surrendered," with the date of such surrender, and such endorsement shall be signed by the lessee and the lessor as evidence of the acceptance thereof, and shall be attested by a witness, and the registrar shall enter in the register a memorial recording the date of such surrender, and shall likewise endorse upon the lease a memorandum recording the fact of such entry having been so made in the register ; and upon such entry having been so made, the estate or interest of the lessee in such land shall vest in the lessor or in the person in whom, having regard to intervening circumstances, if any, the said land would have vested if no such lease had ever been executed ; and

production of such lease or counterpart bearing such endorsed memorandum shall be sufficient evidence that such lease has been so surrendered: Provided, that no lease subject to mortgage or encumbrance shall be surrendered without the
5 consent of the mortgagee or encumbrancee.

MORTGAGES AND ENCUMBRANCES.

72. Whenever any land or estate, or interest in land, sub-
ject to the provisions of this Act, is intended to be charged or
made security in favor of any mortgagee, the mortgagor shall
execute a memorandum of mortgage in form J in the said
10 schedule, 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 favor of
any encumbrancee, the encumbrancer shall execute a mem-
orandum of encumbrance in form K in the said schedule, or
15 to the like effect: and every such instrument shall contain an
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 such estate or interest is held, or shall give
20 such other description as is necessary to identify such
land, together with all mortgages or encumbrances affecting
the same, if any.

Forms of
mortgages
and encum-
brances.

Estate or
interest
claimed must
be stated.

73. Mortgage and encumbrance under this Act shall
have effect as security, but shall not operate as a transfer
25 of the land thereby charged; and if default is made
in payment of the principal sum, interest, annuity or rent
charge, or any part thereof thereby secured, or in the
observance of any covenant expressed in any memorandum
of mortgage or encumbrance registered under this Act,
30 or that is herein declared to be implied in such instru-
ment, and such default is continued for the space
of one calendar month, or for such longer period of time
as is expressly limited for that purpose in such instrument,
the mortgagee or encumbrancee may give to the mortgagor
35 or encumbrancer notice in writing to pay, within a time to
be specified in such notice, the money then due or owing on
such mortgage or encumbrance, or to observe the covenants
therein expressed or implied, as the case may be, and that
all competent rights and powers will be resorted to
40 unless such default be remedied, or where the mortgagor or
encumbrancer cannot be found, may give such notice in
that behalf to the mortgagor or encumbrancer in such
manner as the judge, on summary application *ex parte*,
directs.

Mortgage,
etc., not to be
a transfer.

Notice in case
of default by
mortgagor to
pay money
secured, etc.

45 74. After such default in payment or in the observance
of covenants continuing for the further space of one calendar
month from the service of such notice, or for such period as to
the judge seems meet, such mortgagee or encumbrancee
is hereby authorized and empowered to sell the land so
50 mortgaged or encumbered, or any part thereof, and all the
estate or interest therein of the mortgagor or encumbrancer,
and either altogether or in lots, by public auction or by

Power to
mortgagee to
sell, etc.

private contract, or by both such modes of sale, and subject to such conditions as he thinks fit, and to buy in and re-sell the same, without being liable for any losses occasioned thereby, and to make and execute all such instruments as are necessary for effecting the sale thereof; and all such sales, contracts, matters and things hereby authorized shall be as valid and effectual as if the mortgagor or encumbrancer had made, done or executed the same; and the receipt or receipts in writing of the mortgagee or encumbrancee shall be a sufficient discharge to the purchaser of such land, estate, or interest, or of any portion thereof, for so much of his purchase-money as is thereby expressed to be received; and no such purchaser shall be answerable for the loss, mis-application or non-application, or be obliged to see to the application of the purchase-money by him paid, nor shall he be concerned to inquire as to the fact of any default or notice having been made or given as aforesaid; and the purchase-money to arise from the sale of any such land, estate, or interest, shall be applied: first, in payment of the expenses occasioned by such sale; secondly, in payment of the moneys which are then due or owing to the mortgagee or encumbrancee; thirdly, in payment of subsequent mortgages or encumbrances, if any, in the order of their priority; and the surplus, if any, shall be paid to the mortgagor or encumbrancer, as the case may be.

Receipts of mortgagee valid.

Purchaser not bound to see to application of purchase money.

Application of purchase money.

Registration to vest estate in purchaser.

Mortgagee may apply to judge for order of foreclosure after offer for sale.

Certificate of auctioneer employed to sell.

75. Upon the registration of any memorandum or instrument of transfer executed by a mortgagee or encumbrancee, for the purpose of such sale, as aforesaid, the estate or interest of the mortgagor or encumbrancer therein described as conveyed, shall pass to and vest in the purchaser, freed and discharged from all liability on account of such mortgage or encumbrance or of any mortgage or encumbrance registered subsequent thereto; and the purchaser shall be entitled to receive a certificate for the same.

76. When default for six calendar months, has been made in the payment of the interest or principal sum secured by memorandum of mortgage, a registered mortgagee may make application in writing to the judge for an order for foreclosure; and such application shall state that such default has been made as aforesaid, and that the land, estate or interest mortgaged has been offered for sale at public auction after proper notice given to the mortgagor, as in this Act provided, and that the amount of the highest bid at such sale was not sufficient to satisfy the money secured by such mortgage, together with the expenses occasioned by such sale, and that notice in writing of the intention of such mortgagee to make such application has been given to the mortgagor, either personally or by leaving the same with an adult at his usual or last known place of abode, and such application shall be accompanied by a certificate of the licensed auctioneer by whom such land was put up for sale, and by such other proof of the matters stated by the application as the judge requires; and the statements made in such application shall be verified by the oath of the applicant.

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77. Upon receiving such application the judge shall cause notice to be published once in each of three successive weeks in a newspaper likely to give the best notice, offering such land for sale, and shall in such case limit and appoint a time, not less than one month from the date of the last advertisement of such notice in such paper, upon or after which the judge may issue to such applicant an order for foreclosure, unless, in the interval, a sufficient amount has been realized by the sale of such land to satisfy the principal and interest moneys due; and all expenses occasioned by such sale and proceedings; and every such order for foreclosure, under the hand of the judge and entered in the register, shall have the effect of vesting in the mortgagee all the estate and interest of the mortgagor in the land mentioned in such order, free from all right and equity of redemption on the part of the mortgagor or of any person claiming through or under him.

Notice by judge offering land for sale.

Order for foreclosure.

Entry of order and its effect.

78. Upon the production of any memorandum of mortgage or encumbrance, having thereon an endorsement signed by the mortgagee or encumbrancee, and proved by the affidavit of an attesting witness, discharging the land from the whole or part of the principal sum or annuity secured, or discharging any part of the land comprised in such instrument from the whole of such principal sum or annuity, or upon proof being made to the satisfaction of the judge of the payment of all moneys due on any mortgage or encumbrance, the judge may direct the registrar to make, and the registrar shall thereupon make an entry in the register, 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, 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 noted in such entry as discharged.

Discharge of mortgage, etc.

Entry by registrar.

Effect of entry.

79. 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 memorandum of 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 the judge, make an entry in the register book, noting that such annuity or sum of money is satisfied and discharged, and shall cancel such instrument; and upon such entry 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 grant, certificate of title, or other instrument evidencing the title of the mortgagor or encumbrancer to the land mortgaged or encumbered, a memorandum of the date on which such entry as aforesaid was made by him in the register book, whenever such grant, certificate of title or other instrument is presented to him for that purpose.

Death of annuitant or cessation of encumbrance.

Entry.

Its effect.

Registrar's duty.

Payment into chartered bank allowed if no person in Territories to receive the money on order of judge.

Registration of discharge.

Proviso.

Transfer of mortgages, etc.

Effect of registration of transfers.

80. If any mortgagor becomes entitled to pay off the mortgage money, and the registered mortgagee is absent from the Territories 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 such mortgage, may direct the payment into a chartered bank having a branch or agency in the district, or, if not in the district, in the Territories, of such 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 such mortgage shall cease to run or accrue, and the registrar shall, upon presentation of the judge's order and of the receipt of the manager or agent of such bank for the amount of the said mortgage money and interest, make an entry in the register discharging such mortgage, stating the day and hour on which such entry is made, and such entry shall be a valid discharge of such mortgage and shall have the same force and effect as is hereinbefore given to a like entry when made upon production of the memorandum of mortgage with the receipt of the mortgagee; and the registrar shall endorse on the certificate of title, or other instrument as aforesaid, and also on the memorandum of mortgage, whenever those instruments are brought to him for that purpose, the several particulars hereinbefore directed to be endorsed upon each of such instruments respectively: Provided, that 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.

81. Mortgages, encumbrances and leases may be transferred by a transfer executed in the form L in the said schedule, and the transfer shall be registered in the manner hereinbefore set forth, and transferees shall have priority according to the date and time of registration. And any mortgagee may transfer a part of the sum secured by the mortgage by a transfer executed in the form M in the said schedule, 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 instrument of 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.

82. Upon the registration of any transfer of any mortgage, encumbrance or lease, the estate or interest of the transferee, 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.

83. 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 (notwithstanding the same may be deemed or held to constitute a chose in action), 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: Provided always, that nothing herein contained shall prevent any court of competent jurisdiction 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.

Rights of transferee.

84. In every memorandum of 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 such mortgage is redeemed, be at liberty, with or without surveyors or others, to enter into or upon such land to view and inspect the state of repair of such buildings or improvements.

Implied covenant to repair by mortgagor.

POWERS OF ATTORNEY.

85. The registered proprietor of any land, estate or interest, may authorize and appoint any person to act for him or on his behalf in respect of the transfer or other dealing with such land, estate, or interest in accordance with the provisions of this Act, by executing a power of attorney in any form heretofore in use for the like purpose, or in form N in the said schedule, or as near thereto as circumstances permit, and a duplicate or attested copy thereof shall be deposited with the registrar, who shall enter in the register a memorandum of the particulars therein contained and the date and hour and minute it is deposited with him.

To be in form N of schedule.

Registration.

86. Any such power of attorney may be revoked by a revocation order in the form O in the said schedule, and after the registration of any revocation of a power the registrar shall not give effect to any transfer or other instrument signed pursuant to such power unless under any registration abstract outstanding at the time.

Revocation; how effected.

[REGISTRATION ABSTRACT.

87. The registrar, upon the application of any registered owner of land subject to this Act, shall grant to such owner a registration abstract in the form P in the said schedule, enabling him to transfer or otherwise deal with his land at any place without the Territories, and shall, at the same time, enter in the register a memorandum recording the issue of such registration abstract, and shall endorse on the certificate of title or other instrument evidencing the title of such applicant owner, a like memorandum; and after the issuing of such registration abstract no transfer or other deal-

Registrar to grant abstract to enable owner to deal with land when out of Territories.

ing in any way affecting the land in respect of which such registration abstract is issued shall be entered in the register until such abstract has been surrendered to the registrar to be cancelled, or the loss or destruction of such abstract has been proven to his satisfaction, and the time 5 therein limited for its production has expired.

Mode of dealing with land under abstract.

88. Whenever any dealing is intended to be transacted after any such registration abstract has been issued, a transfer or other instrument, as the case requires, prepared in duplicate in the form herein appointed, 10 shall be produced to some one of the persons hereinafter appointed as persons before whom the execution of instruments without the limits of the territories may be proven, and upon a memorial of such instrument being entered upon the registration abstract and authenticated by the signature 15 of such authorized person as aforesaid, in manner herein directed for the entry of memorials in the register, such instrument shall be held to be registered, and such transfer or other dealing shall be as valid and binding as if the same had been entered in the register by the registrar; and 20 whenever a memorial of any instrument which has not been endorsed upon the instrument evidencing the title to the estate or interest intended to be dealt with, has been entered upon the registration abstract, such authorized person as aforesaid shall record a like memorial on the duplicate certi- 25 ficate of title, lease, or other instrument evidencing title, as aforesaid, and the certificate of registration endorsed on the instrument of which the memorial has been so entered and signed by such authorized person and sealed with his seal of office shall be received in all courts in Canada as 30 conclusive evidence that such instrument has been duly registered.

Entry on abstract.

Certificate and its effect.

Duty of registrar on delivery of abstract having dealings entered on it.

89. Upon the delivery of any registration abstract to the registrar, he shall record in the register, in such manner as to preserve their priority, the particulars of every transfer or 35 other dealing, recorded therein, and shall file in his office duplicates of every memorandum of transfer or other instrument executed thereunder, for that purpose delivered to him, and shall cancel such abstract and note the fact of such cancellation in the book, and if the whole interest of the transferrer 40 in such land or in any part thereof is transferred, the certificate of title shall be delivered up to the registrar, who shall thereupon proceed, as is hereinbefore directed in the case of an absolute transfer.

Provision in case abstract lost, etc.

90. Upon proof at any time to the satisfaction of the 45 registrar that any registration abstract is lost, or so obliterated as to be useless, and that the rights and powers thereby given have never been exercised, and that the time limited by such abstract for exercising the rights thereby conferred has expired, then, upon proof of the several matters and 50 things, if any, that have been done thereunder, it shall be lawful for the registrar, as circumstances require, either to issue a new registration abstract, or to direct such entries to be made in the register, or such other matter or thing to

be done, as might have been made or done if no such loss or obliteration had taken place.

TRANSMISSION.

- 91.** Whenever the owner of any land dies leaving a will, such land shall, subject to the provisions of this Act, vest in the personal representative of the deceased owner, who shall, before dealing with such lands, 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 an office copy of the said probate, letters of administration or order, as the case may be, and thereupon the registrar shall enter in the register a memorial 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, the date of the death of such owner, when the same can be ascertained, with such other particulars as he deems necessary; and upon such entry being made, the executor or administrator as the case may be, shall be deemed to be the owner of such lands, and the registrar shall note the fact of such registration by memorandum under his hand on the probate of the will, letters of administration, order, or other instrument as aforesaid: Provided always, that the title of the executor or administrator to such land shall relate back and take effect as from the date of the death of the deceased owner: Provided also, that the duplicate certificate of title granted to the deceased owner shall be delivered up to be cancelled, and the registrar shall issue to the executor or administrator a fresh certificate of title, stating therein the fact that the new registered owner is the executor or administrator.
- 92.** Whenever any mortgage, encumbrance or lease affecting land registered under this Act 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, 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 enter in the register and on the instrument evidencing title to the mortgage, encumbrance or lease transmitted, the date of the will and of the probate, or of the letters of administration, or order of the court as aforesaid, the date and hour of the production of the same to him, the date of the death of such owner, when the same can be ascertained, with such other particulars as he deems necessary; and upon such entry being made, the executor, or administrator, or such other person, as the case may be, shall be deemed to be the owner of such mortgage, encumbrance, or lease, and the registrar shall note the fact

Land of deceased owner to vest in personal representative, and to be registered as owner.

How registered.

Duty of registrar.

Proviso.

Proviso.

Mortgage, etc., transmitted by will or intestacy.

Registration of personal representative as owner.

How effected.

Effect thereof.

of such registration by memorandum under his hand on the letters of administration, probate, or order as aforesaid.

If lands of deceased are subject to trusts.

Proviso: as to persons beneficially interested.

Duty of sheriff, etc., receiving process against land.

Sheriff's memorandum to operate as a caveat.

Satisfaction of writ to be entered on register.

Sheriff's sale to require confirmation by a judge.

93. 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 owner thereof: 5
 Provided always, that any person beneficially interested 10
 in any such lands or any estate or interest therein, 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 property, 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 lands, or the estate or interest in question as the case may be; and upon the person or persons named accepting the ownership and giving approved security for the due fulfilment of the trusts, the court or judge 20
 may order the registrar to cancel the certificate to the trustee, and to grant a new certificate to the person or persons so named; and the registrar, upon the production of such order, shall cancel the certificate to the trustee, and shall enter in the register a memorandum of the appointment by order 25
 of the court or judge of such person or persons as owner in trust, and a certificate of title shall be issued to him or them.

94. Every sheriff, or other officer charged with the execution thereof, shall, after this Act is in force and thereafter, 30
 after the delivery to him of any writ or other process affecting land, or lien, mortgage or encumbrance, or other interest therein, deliver a copy thereof, certified under his hand, together with a memorandum in writing of the lands intended to be charged thereby, to the registrar 35
 within whose district such lands are situate; and no land shall be bound by any such writ or other process, until such copy and memorandum have been so delivered; and from and after the delivery of a copy of any such writ or other process and memorandum to the registrar the same 40
 shall operate as a caveat against the transfer by the owner of the land mentioned in such memorandum, or of any interest he has therein, and no transfer shall be made by him of such land or interest therein except subject to such writ or other process. 45

95. Upon production and delivery to the registrar of a certificate by the sheriff under his seal of office or other officer, of the satisfaction of or withdrawal from his hands of any such writ or process as aforesaid, he shall enter a memorandum to that effect on the register, and from thence- 50
 forth such writ or process shall be deemed to be satisfied.

96. No sale by a sheriff or other officer as aforesaid, under process of law, of any land, shall be of any effect until the

same has been confirmed by a judge; and upon the production to the registrar of a duly executed transfer of any land so sold, if an order of confirmation of such sale is endorsed on such transfer, the purchaser at such sale shall be entitled to be registered as the owner of the interest purchased by him at such sale, and to a certificate of title to the same.

97. The application for the confirmation of a sale made under any process of law, may be made by the sheriff or other officer making such sale, or any person interested in such sale, on notice to the owner, unless the judge, to whom such 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 such 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.

The application for such sale, and how made.

98. When any land is sold under process of law, the registrar shall, upon the production to him of the transfer of the same in the form Q in the said schedule with proof of the due execution thereof, and the order of confirmation of such sale, cause a notice to be mailed to the proper post office address of the person whose interest in such lands has been sold, and after the expiration of four weeks from the mailing of such notice shall register the purchaser as the owner of the interest in the said lands so sold, and shall issue to him a certificate in the prescribed form and do all other things necessary for the registration of the vendee as registered owner of the interest in the lands purchased by him, unless such registration is in the meantime stayed by the order of some court having jurisdiction, or of any judge thereof, and in such case the registration shall not be made nor the certificate issued, except according to the order and direction of such court or judge.

Notice of intended registration of sheriff's sale.

Registration.

Certificate of registrar.

99. The registrar, upon the production of the register or other sufficient proof of the marriage of a female owner of any land, estate or interest, accompanied by a statement in writing, signed by her, shall enter on the register and also upon the certificate of title or other instrument evidencing the title of such female owner, when produced to him for that purpose, the name and description of her husband, the date of the marriage and where solemnized, and the date and hour of the production to him of the register or other sufficient evidence of such marriage; and the registrar, upon application to that effect, and surrender of the existing certificate of title, shall comply with such application, and perform such acts as, in accordance with the provisions of this Act, are necessary for the purpose of giving effect thereto.

On proof of marriage of female owner, husband's name to be entered by registrar.

Surrender of existing certificate, and issue of new one on application.

CAVEATS.

Who may lodge caveat, and for what purpose.

100. Any person claiming to be interested under any will, settlement or trust deed, or any instrument of transfer or transmission, or under any unregistered instrument, or otherwise howsoever, in any land, may lodge a caveat with the registrar to the effect that no disposition of such land be made either absolutely, or in such manner and to such extent only as in such caveat is expressed, or until notice has been served on the caveator, or unless the instrument of disposition be expressed to be subject to the claim of the caveator, as claimed in such caveat, or to any lawful conditions expressed therein ;

Form.

(a.) A caveat may be in the form R in the said schedule, and shall be verified by the oath of the caveator or his agent, and shall contain an address within the registration district at which notices may be served ;

Registrar's duty on receipt.

(b.) Upon the receipt of a caveat, the registrar shall make a memorandum thereon of the date, hour, and minute of the receipt thereof, and shall enter a memorandum thereof in the register and shall forthwith send a notice of such caveat through the post office or otherwise to the person against whose title such caveat has been lodged ;

Effect of caveat while in force.

(c.) So long as any caveat remains in force the registrar shall not enter in the register any memorandum of transfer or other instrument purporting to transfer or otherwise deal with or affect the land in respect to which such caveat is lodged ;

Proceedings for setting it aside.

(d.) The owner or other person claiming the land may, by summons, call upon the caveator to attend before a court of competent jurisdiction or a judge thereof, to show cause why the said caveat should not be withdrawn, and the said court or judge may, upon proof that such last-mentioned person has been summoned, and upon such evidence as the court or judge requires, make such order in the premises either *ex-parte* or otherwise as to the said court or judge seem fit.

To lapse in one month unless proceedings taken.

(e.) After the expiration of one month from the receipt thereof, such caveat shall lapse, unless, within that time, proceedings in a court of competent jurisdiction have been taken to establish the caveator's title to the estate or interest specified in the caveat, and an injunction or order has been granted, restraining the registrar from issuing a certificate of title or otherwise dealing with the said land.

Power to withdraw caveat.

(f.) The caveator may, by notice in writing to the registrar, withdraw his caveat at any time, but notwithstanding such withdrawal the court or judge may order the payment by the caveator of the costs of the caveatee incurred prior to such withdrawal ;

Entry of withdrawal, etc.

(g.) An entry shall be made by the registrar in the register of the withdrawal, lapse, or removal of any caveat or of any

order made by the court in connection therewith; and after such withdrawal, lapse, or removal, it shall not be lawful for the same person or for any one on his behalf to lodge a further caveat in relation to the same matter;

- 5 (h.) Any person lodging or continuing any caveat wrong-
fully and without reasonable cause, shall be liable to
make compensation to any person who has sus-
tained damage thereby, and such compensation may be
recovered by proceedings at law if the caveator has
10 withdrawn such caveat, and no proceedings have been
taken by the caveatee as herein provided, but if proceedings
have been taken by the caveatee, then such compensation
shall be determined by the court or judge acting in the same
proceedings;
- 15 (j) The judge, on application for that purpose, on behalf
of any person who is under the disability of infancy,
lunacy, unsoundness of mind or absence from the Territories,
may, by order directed to the registrar, prohibit the transfer
or dealing with any land belonging to any such person, and
20 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 or improper
dealing.

Liability of
person wrong-
fully entering
caveat.

Power of
judge to pro-
hibit transfe-
of land.

ATTESTATION OF INSTRUMENTS.

- 25 **101** Powers of attorney and instruments requiring to be
registered under this Act, other than grants from the Crown,
orders in council, instruments under the seal of any corpora-
tion, orders of a court or a judge, or certificates of any judicial
proceedings, attested as such, shall be witnessed by one person
30 who shall attest the instrument in the usual legal form of
attestation; and the witness so attesting the instrument
shall appear before the registrar, deputy registrar or a
stipendiary magistrate, or notary public or a justice of the
peace in or for the said Territories, and make an affidavit in
35 the form S in the said schedule.

How to be
witnessed.

Oath of wit-
ness.

- 102.** Instruments requiring to be registered under the
provisions of this Act, executed without the limits of the
Territories, shall be witnessed by some person who can write,
and who shall make an affidavit in the form S in the said
40 schedule before one of the following persons:—

As to instru-
ments execut-
ed out of Ter-
ritories.

1. 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 Territories, or before any notary public under his official
45 seal; or
2. If made in the United Kingdom, 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 Canada.

In United
Kingdom.

In a British colony.

3. 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.

4. If made in a foreign country, before the mayor of any city or town, certified 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. 5

EJECTMENT—ASSURANCE FUND, &C.

Registered owner protected against ejectment except:

103. No action of ejectment or other action for the recovery of any land shall lie or be sustained against the registered owner, under this Act, for the estate or interest in respect to which he is so registered, except in any of the following cases: that is to say,— 10

Mortgagor in default;

(a) The case of a mortgagee as against a mortgagor in default; 15

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 person registered as owner of such land through fraud, or as against a person deriving otherwise than as a transferee *bonâ fide* for value, from or through a person registered through fraud; 20

Wrong boundaries;

(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 registered owner of such other land, not being a transferee of such other land or deriving from or through a transferee thereof *bonâ fide* for value; 25 30

Double registration;

(f) The case of a registered 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 a certificate of title, are registered under this Act in respect to the same land; 35

As to other cases.

(g.) And in any case, other than as aforesaid, the production of the certificate of title shall be an absolute bar and estoppel to any such action against the person named in such instrument as seized of, or as registered owner or lessee of the land therein described. 40

Compensation of party deprived of land by fraud, error, etc.

104. Any person deprived of land or of any estate or interest in land in consequence of fraud, or by the registration of any other person as owner of such land, estate, or interest, or in consequence of any fraud, error, omission or misdescription in any certificate of title or in 45

any entry or memorial in the register, may, in any case in which such lands have 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 the judge appoints, and in any other case against the person upon whose application such erroneous registration was made, or who acquired title to the estate or interest in question through such fraud, error, omission, or 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, estate or interest, or in any instrument executed by him, such person shall, upon a transfer of such land *bonâ fide* for value, cease to be liable for the payment of any damages which, but for such transfer, might have been recovered from him under the provisions hereinbefore contained, and such damages, with costs of action, may, in such last-mentioned case, be recovered out of the land assurance fund, by action against the registrar as nominal defendant.

Proviso: such person not to be liable in damages.

Recovery thereof from assurance fund.

105. 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 the estate, or interest, in respect to which he is registered as owner, any purchaser or mortgagee *bonâ fide* for valuable consideration of land under this Act, on the plea that his vendor 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, and this whether such fraud or error consists in wrong description of the boundaries or of the parcels of any land, or otherwise howsoever.

Purchasers and mortgagees protected in such case.

106. The land assurance fund shall be formed by the Receiver-General by deducting from the gross fees returned and paid into him by the registrars twenty per cent. of the fees so received for the purposes of this Act, and investing the same, together with all interest and profits accrued thereon from time to time, in Canadian Government securities.

Assurance fund; how formed.

107. If the person against whom such action for damages is directed to be brought as aforesaid, is dead, or cannot be found within the Territories, 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 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 *nulla bona*, or certifies that any portion thereof, with costs awarded, cannot be recovered from such person, the Minister of Finance and Receiver-General, upon receipt of a certificate of the court before which 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 charge the same to the account of the assurance fund hereinbefore named.

If registered owner dead, action against registrar as nominal defendant.

Action for damages may in certain cases be brought against registrar as nominal defendant.

Payment out of assurance fund

Proviso: notice of action.

When nominal defendant shall have costs.

No action after a certain time.

Proviso: in case of disability.

As to persons having notice and neglecting to file caveats.

Recovery of amount paid out of assurance fund.

108. Any person sustaining loss or damage through any omission, mistake or misfeasance of the 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 or of any estate or interest in land, by the registration of any other person as owner of such land, or by any error, omission or misdescription in any certificate of title, or in any entry or memorial in the register, and who, by the provisions of this Act, is barred from bringing an action of ejectment or other action for the recovery of such land, estate or interest, may, in any case in which the remedy by action for recovery of damages, as hereinbefore provided, is barred, bring an action against the registrar as nominal defendant, for recovery of damages; and if the plaintiff recovers final judgment against such nominal defendant, the court or judge before whom such action is tried, shall certify to the fact of such judgment, and the amount of such damages and costs recovered, and the Minister of Finance and Receiver-General shall pay the amount thereof 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 of the cause thereof, shall be served upon the Attorney-General of Canada, and also upon the registrar, one calendar month at least before the commencement of such action.

109. If, in any such action, judgment is given in favor of the nominal defendant, or the plaintiff discontinues or becomes non-suited, the plaintiff shall be liable to pay the full costs of defending such 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, or of any estate or interest in land, as hereinbefore described, shall lie or be sustained against the registrar, or against the assurance fund, 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 such action within six years from the date on which such disability ceases; and the plaintiff in any such 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 such 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 forbidding the same, or allowed such caveat to lapse.

111. Whenever any amount has been paid out of the assurance fund on account of any person, such 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 Minister of Finance and Receiver-General of such payment out of the assurance fund, shall be sufficient proof of such debt ; and whenever any amount has been paid out of the assurance fund on account of any person who has absconded, or who cannot be found within the Territories, and may have left any real or personal estate within the same, the judge, upon the application of the registrar, and upon the production of a certificate signed by the Minister of Finance and Receiver-General that the amount has been paid in satisfaction of a judgment against the registrar as nominal defendant, may allow the registrar to sign judgment against such person forthwith for the amount so paid out of the assurance fund, together with the costs of the application ; and such judgment shall be final, and shall be signed in like manner as a final judgment by default in an adverse suit, and execution may issue immediately ; and if such person has not left real or personal estate within the Territories 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 Exchequer Court of Canada at the suit of the Attorney-General of Canada.

If party liable is out of Territories.

If he has not left property to satisfy the claim.

112. *The assurance fund shall not, under any circumstances, be liable for compensation for any loss, damage or deprivation occasioned by the breach by a registered owner of any trust, whether express, implied or constructive ; nor in any case in which the same land has been included in two or more grants from the Crown ; nor shall the assurance fund be liable in any case in which such loss or deprivation has been occasioned by any land being included in the same certificate of title with other land, through misdescription of 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 Territories, 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.*

Assurance fund not liable in certain cases.

REMEDIAL PROCEEDINGS.

113. If any person is dissatisfied with any act, omission, refusal, decision, direction or order of the registrar, such person may require the registrar to set forth, in writing under his hand, the grounds of such act, omission, refusal, direction, decision, 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 such petition, shall have jurisdiction to hear the said petition, and to make such order in the premises as the circumstances of the case require, and as to the costs of the parties appearing upon such petition.

Appeal by a person dissatisfied with act or omission of registrar.

Registrar may refer doubtful points to judge.

114. Whenever question arises with regard to the performance of any duty, or the exercise of any function by this Act conferred or imposed upon the registrar, or whenever, in the exercise of any duty of the registrar, 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 ought to be made on the register or certificate of title, 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 T in the said schedule to the judge, who may allow any of the parties interested to appear before him and summon any others of such persons to appear and show cause, either personally or by counsel or attorney, 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 such particular form of entry to be made on the register or certificate of title as under the circumstances appears to be just.

Proceedings before judge.

Power of registrar in case of fraud or error.

115. If it appears to the satisfaction of the registrar that any grant, certificate of title, or other instrument has been issued in error, or contains any misdescription of land, or boundaries, or that any entry or endorsement has been made in error on any grant, certificate of title or other instrument, or that any such grant, certificate, instrument, entry or endorsement has been fraudulently or wrongfully obtained, or that any such grant, certificate, or instrument, is fraudulently or wrongfully retained, he may, by written demand, require the person to whom such grant, certificate or instrument has been so issued, or by whom it has been so obtained or is retained, to deliver up the same, for the purpose of being cancelled or corrected, as the case requires, and in case such person refuses or neglects to comply with such requisition, or cannot be found, the registrar may apply to the court or judge to issue a summons for such person to appear before him and show cause why such grant, certificate or other instrument should not be delivered up to be cancelled or corrected as aforesaid, and if such person, when served with such summons, neglects or refuses to attend before such court or judge at the time therein appointed, the court or judge may issue a warrant authorizing and directing the person so summoned to be apprehended and brought before said court or judge for examination.

Interference by judge.

Examination of persons before judge.

116. Upon the appearance, before the court or judge, of any person summoned or brought up by virtue of a warrant as aforesaid, such court or judge may examine such person upon oath, and in case it appears right so to do, may order such person to deliver up such grant, certificate of title or other instrument as aforesaid; and upon refusal or neglect by such person to deliver up the same, pursuant to such 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 gaol

for any period not exceeding six months, unless such grant, certificate of title, or other instrument is sooner delivered up, or sufficient explanation is made why the same cannot be done, and in such case, or in case such person has absconded so that summons cannot be served upon him as hereinbefore directed, such court or judge may direct the registrar to cancel or correct any certificate of title or other instrument, or any entry or memorial in the register relating to such land, and to substitute and issue such certificate of title or other instrument or make such entry as the circumstances of the case may require, and the registrar shall obey such order.

Cancellation by order of judge, and duty of registrar.

117. In any proceeding respecting land or in respect of any transaction or contract relating thereto, or in respect of any instrument, caveat, memorial, or other entry affecting land, the court or judge, by decree or order, may direct the registrar to cancel, correct, substitute or issue any certificate of title, or make any memorial or entry in the register, and otherwise to do every such act or make every such entry necessary to give effect to such decree or order.

Further powers of direction by court or judge.

GENERAL PROVISIONS.

118. Upon the application of any owner of lands held under separate certificates of title, or under one certificate of title, and the delivering up of such certificate or certificates of title, the registrar may issue to such proprietor a single certificate of title for the whole of such land, or several certificates, each containing a portion of such lands, in accordance with such application and as far as the same may be done consistently with any regulation for the time being in force respecting the parcels of land that may be included in one certificate of title; and upon issuing any such certificate of title, the registrar shall enter on the new certificate of title all the memorials to which the piece of land is at the time subject, and shall cancel the previous certificate of title of such land so delivered up, and shall endorse thereupon a memorandum, setting forth the occasion of such cancellation and referring to the certificate of title so issued.

Register may cancel separate certificates to same person and issue one certificate for whole land.

119. In the event of a certificate of title of land being lost or destroyed, the owner of such land, together with other persons, if any, having knowledge of the circumstances, may make a declaration, stating the facts of the case, the names and descriptions of the registered owners, and the particulars of all mortgages, encumbrances, and other matters affecting such land and the title thereto, to the best of declarant's knowledge and belief, and the registrar, if satisfied of the truth of such declaration and the *bona fides* of the application, may issue to the owner of such land a provisional certificate of title of such land, which provisional certificate shall contain an exact copy of the original certificate of title bound up in the register, and of every memorandum and endorsement thereon, and shall also contain a statement why such provisional certificate is issued; and the registrar shall, at the same time, enter in the register

Provision in case of loss or destruction of certificate.

Provisional certificate.

Entry in register.

notice of the issuing of such provisional certificate and the date thereof, and why it was issued; and such provisional certificate shall be available for all purposes and uses for which the grant or certificate of title so lost or destroyed would have been available, and as valid, to all intents, as such lost certificate: Provided always, that the registrar, before issuing such provisional certificate, shall give at least thirty days' notice of his intention so to do, in some newspaper published in the registration district, or if there be no such newspaper, then by posting such notice upon the door of the registry office, or in some public place.

Proviso:
notice of regis-
trar.

Owner sub-
dividing land
to file map.

How certified.

Implied cov-
enants may be
negatived or
modified.

Effect of such
covenants.

Owner to
allow use of
his name in
certain cases.

But entitled to
indemnity.

120. Any owner sub-dividing land for the purpose of selling the same in allotments, as a town plot, shall deposit with the registrar a map of such town plot, which map shall exhibit distinctly all roads, streets, passages, thoroughfares, squares, or reserves, appropriated or set apart for public use, and also all allotments into which the said land is divided, and such allotments shall be marked with distinct numbers and symbols; and every such map shall be signed by the owner or his agent, and certified as accurate by a Dominion land surveyor before the registrar or a justice of the peace.

121. 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, or endorsed therein; 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 such action is brought did so covenant, precisely in the same manner as if such covenant had been expressed in words in such memorandum of 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 such instrument; and where any memorandum of 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.

122. The owner of any land or of any lease, mortgage or charge, shall, on the 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*.

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

How purchaser for valuable consideration, shall be ascertained.

124. Any mortgage or other encumbrance created by any party rightfully in possession of land prior to the issue of the grant, may be filed in the office of the registrar, who shall, on registering such grant, enter in the register and endorse upon the certificate of the title before issuing the same to the applicant owner thereof a memorandum of such mortgage or encumbrance, and when so entered and endorsed, the said mortgage or encumbrance shall be as valid as if made subsequent to the issue of the grant; 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 office.

Encumbrance prior to grant may be filed with registrar.

125. Except in the case of fraud, no person contracting or dealing with, or taking or proposing to take a transfer from the registered owner of any registered estate or interest, shall be bound or concerned to inquire into or ascertain the circumstances in, or the consideration for which such registered owner, or any previous registered owner of the estate or interest in question is or was registered, or to see to the application of the purchase money or of any part thereof, nor shall he be affected by notice, direct, implied or constructive, of any trust or unregistered interest, 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.

Purchaser from registered owner not affected by notice.

126. In any suit for specific performance brought by a registered owner of any land under this Act, against a person who has contracted to purchase such land, not having notice of any fraud or other circumstances which, according to this Act, would affect the right of the vendor, the certificate of title of such registered owner shall be held conclusive evidence that such registered owner has a good and valid title to the land, for the estate or interest therein mentioned or described, and shall entitle such registered owner to a decree for the specific performance of such contract.

Registered owner suing for specific performance of contract to purchase entitled to proceed.

127. Upon the transfer of any land, estate or interest under the provisions of this Act, to two or more persons as joint owners, to be held by them as trustees, it shall be lawful for the transferee to insert in the memorandum of transfer or other instrument the words "no survivorship;"

Insertion of words "no survivorship."

and the registrar, shall in such case, include such words in the memorial of such instrument, to be entered by him in the register as hereinbefore directed; and shall also enter the said words upon any certificate of title issued to such joint owners pursuant to such memorandum of transfer; and any two or more persons registered as joint owners of any land, estate or interest, under this Act, held by them as trustees, may, by writing under their hand, authorize the registrar to enter the words "no survivorship" upon the certificate of title or other instrument evidencing their title to such estate or interest, and also upon the duplicate of such instrument in the register or filed in his office; 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 proprietors than the number then registered to transfer or otherwise deal with the said land, estate or interest, without obtaining the sanction of a court or a judge thereof, by an order on motion or petition.

Who may authorize insertion.

Effect of such entry.

Notice before effect is given to order of court or judge.

Deposit of order and entry thereof.

Jurisdiction of courts in cases of fraud.

As to exceptions of mines, etc., in grants.

Governor in Council to provide books, forms, rules, etc.

Governor in Council to establish fees.

128. Before making any such order as aforesaid, the court or judge shall, if it seems 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 such order should not be made; and thereupon the said court or judge may order the transfer of such land, estate or interest 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 thinks just, for the protection of the persons beneficially interested in such land, estate or interest, or in the proceeds thereof; and upon such order being deposited with the registrar, he shall make such entry, and upon such entry being made, the person or persons named in such order shall be registered as owner or owners of such land, estate or interest.

129. Nothing contained in this 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, or over equitable interest therein.

130. Whenever, in any grant or instrument under this Act, any mines or minerals are excepted from the grant or transfer, the registrar, on issuing a certificate of title, shall therein insert the words so used in the grant or instrument.

131. *The Governor in Council may, from time to time, provide the necessary books and forms, provide any additional forms he deems necessary, and make such rules and regulations as are necessary to carry into effect the provisions of this Act, and 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.*

132. *All fees payable under this Act or in connection therewith shall be settled by tariff made by the Governor in Council.*

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133. The registrar shall demand and receive the several fees so settled, and perform the duties for which fees are specified in this Act on payment thereof. Fees to be paid registrar.

134. The 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 Minister of Finance and Receiver-General, at such times and in such manner as are directed by the Governor in Council. To keep account of fees and pay to Receiver-General.

135. Proceedings under this Act shall not abate or be suspended by any death, transmission or change of interest; but in any such event the 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. In case of death, pending proceedings not to abate.

136. 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. Petition, etc., not invalid for informality.

APPEAL.

137. Any person feeling aggrieved by any judgment or decision of the court or judge may appeal to the Court of Appeal, and for the purposes of this Act the several stipendiary magistrates of the Territories sitting together are hereby constituted the Court of Appeal; and a majority of such stipendiary magistrates shall form a quorum. Such Court of Appeal shall be presided over by the senior stipendiary magistrate present, and shall sit at least once in each year at the seat of government of the Territories for the purpose of hearing appeals from orders, judgments and decisions of the court or a judge under this Act, and such court shall have power, by rules and orders, to regulate the sittings of the court, the practice and proceedings on appeal and before it, including costs and payment thereof, and the enforcement of judgments of such court, and such judgment shall be certified by the presiding judge, and shall be final in all cases. Stipendiary magistrates to be Court of Appeal.

PENALTIES.

138. Every person who wilfully makes any false statement or declaration in any dealing in land under this Act, or suppresses or conceals, or assists or joins in, or is privy to the suppressing, withholding or concealing from the registrar, court or judge, or either of them, any material document, fact or matter of information, or wilfully makes any false declaration required under the authority or made in pursuance of this Act, or who fraudulently procures or is privy to the fraudulent procurement of any certificate of title or instrument, or of any entry in the register, or knowingly misleads or deceives the court, the judge, the registrar or any person hereinbefore

authorized to require explanation or information in respect to any land or the title to any land under this Act, or in respect to which any dealing or transmission is proposed to be registered, or is a party to or privy to any fraudulent act whatever in any matter connected with the working of this Act, shall, on conviction before a judge or stipendiary magistrate, without a jury, be liable to a penalty not exceeding five hundred dollars or to imprisonment with or without hard labor, for any period not exceeding two years. 5

REPEAL OF FORMER ACTS.

139. Sections twenty-three to forty-one, inclusive ; forty-10
 three to forty-six, inclusive ; and sixty-three to seventy,
 inclusive, of the Act forty-three Victoria, chapter twenty-five,
 and section one, forty-seven Victoria, chapter twenty-three,
 together with all laws, statutes, acts, ordinances, rules, regu-
 lations and practice whatever, relating to freehold and other 15
 interests in land in the Territories, so far as the same are in-
 consistent with the provisions of this Act, are hereby re-
 pealed, except as to matters done, or pending thereunder, or
 retained in operation by express provision in this Act.

SCHEDULE.

FORM A.

(Section 21.)

FORM OF REGISTRAR'S OATH OF OFFICE.

Territories of Canada.

District of } I (name and describe deponent), having been
 To Wit : } appointed to the office of registrar in and for
 (or 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 procur-
 ing the said office for me.

Sworn before me at , the day of A.D. 18
 A B. J. P, in and for the said District.
 Signature of Registrar.

FORM B.

(Section 22.)

FORM OF BOND OF REGISTRAR.

Territories of Canada, } Know all men by these presents
 District of } that we of
 To Wit : } the of , in the
 Canada, } , in the territories of the Dominion of
 (hereinafter called "the principal")

and (insert names and additions of principal and sureties) of
 the of in the of
 in the aforesaid
 and of
 the of
 (hereinafter called "the sureties"), are respectively held and
 firmly bound unto our Sovereign Lady the Queen, her 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 Lady the Queen, her heirs and suc-
 cessors; for which said respective payments, well and faith-
 fully to be made, we severally,—and not jointly, or each for
 the other,—bind ourselves, and our respective heirs, execu-
 tors and administrators, firmly by these presents, sealed
 with our respective seals

Dated this day of
 in the year of our Lord one thousand eight hundred and
 and in the year of Her Majesty's
 reign.

Whereas "the principal," having been appointed to the
 office of 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 (insert the
 title of this Act.)

Now the condition of this obligation is, that if "the prin-
 cipal" 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.

Signed, sealed and delivered in }
 the presence of }

Signatures and Seals.

FORM C.

(Section 23.)

AFFIDAVIT OF JUSTIFICATION BY A SURETY.

Territories of Canada, } I, one of the
 of } sureties in the foregoing bond
 To WIT. } named, make oath (or affirm, as the
 } 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 _____
 this _____
 day of _____ A.D. one thousand _____
 eight hundred and *eighty*
 _____, a J. P. for the said _____

FORM D.

(Section 23.)

AFFIDAVIT OF ATTESTATION.

Territories of Canada,) I,
 of _____ of the _____ of _____ in the
 To WIT. _____ of _____

on the _____ of _____ make oath and say that I was personally present, and did see *(as the case may be)* of the obligors in the above bond or writing obligatory, named, duly execute the said instrument by signing, sealing, and, as *(his or their respective acts and deeds, as the case may be)*, delivering the same ; and that I am subscribing witness to such execution.

Sworn before me, at the _____ of _____
 in the _____ of _____
 this _____ day of _____ A.D. 18 _____
 _____, a J. P. for the said _____

A separate affidavit in this form will be made by a witness to the execution by each obligor, if the same person does not witness the execution by all of them.

FORM E.

(Section 42.)

APPLICATION TO BRING LAND UNDER THE OPERATION OF
 "THE NORTH-WEST TERRITORIES REAL PROPERTY 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 North-West Territories Real Property 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 hath any estate or interest thereon 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 and the nature of his occupancy.*)

6. That the names and addresses, so far as known to me, of the occupants of all lands contiguous to the said land, are as follows:—

7. That the names and addresses, so far as known to me, of the owners of all lands contiguous to the said land, are as follows:—

(*If the certificate of title is not to issue to the applicant, add:* And I direct the certificate of title to be issued in the name of (*insert name and addition.*))

Dated this _____ day of _____, 18 .

Made and subscribed at _____ }
in the presence of _____ . }

SCHEDULE OF DOCUMENTS REFERRED TO.

AFFIDAVIT.

Territories of Canada,) I,
of _____,) of
To WIT.) make oath and say—

1. I am the applicant named in the application hereto annexed.

2. That the several statements contained in the said application are true, to the best of my knowledge and belief.

Sworn before me at the _____ of _____ }
in the _____ of _____ this _____ }
day of _____, A.D. 18 . }

a J. P. for the said _____ . }

FORM F.

(Section 50.)

CERTIFICATE OF OWNERSHIP.

CANADA—NORTH-WEST TERRITORIES,
REGISTRATION DISTRICT.REGISTRA-
TION DISTRICT.

This is to certify that A.B., of _____ is now the owner of an estate (*describe the estate*) of _____, and in (*describe the property*), subject to the encumbrances, liens and interests as are notified by memorial underwritten or endorsed hereon, or which may hereafter be recorded in the register of title, and subject to the exceptions and qualifications mentioned in the fifty-third section of the "*North-West Territories Real Property Act.*"

In witness whereof I have hereunto subscribed my name and affixed my seal this _____ day of _____, A.D. 18 ____.

(Signature.)

If the title is possessory, say:

The title of A. B. is subject to the claims (if any) which can be enforced to the said land by reason of any defect in the title of (*name of the first registered owner.*)

And if subject to a mortgage, say :

The title of A. B. is subject to mortgage, dated the _____ day of _____, made by A. B. to W. B., to secure \$3,000 and interest at the rate of 8 per cent. per annum from the 17th day of July 1877, payable as therein mentioned. (*If mortgage is discharged, say*): Discharged by certificate No. B. 1502.

(Signed.)

And if subject to a lease, say :

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

When the transfer is absolute, say :

This declaration is cancelled and a new declaration of title issued.

FORM G.

(Section 61.)

TRANSFER.

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 under-

written (or endorsed hereon), in all that certain tract of land containing _____ acres, more or less, and being _____ section, township _____, range _____, in the _____ (or district, 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 description of parcels and diagrams; otherwise set forth the boundaries and accompany it by a diagram*), do hereby, in consideration of the sum of \$ _____, 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, then describe such lesser estate.*)

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

(Signature.)

Signed on the day above named, }
by said A. B., in the presence }
of G. A. }

FORM H.

(Section 66.)

LEASE.

I, A. B., being registered as owner, subject, however, to such mortgages and encumbrances as are notified by memorandum underwritten (or endorsed hereon), of that piece of land (*describe it*), part of _____, section _____, township _____, range _____, 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 lands, 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 \$ _____, payable (*here insert terms of payment of rent*), subject to the covenants and powers implied (*also set forth any special covenants or modifications of implied covenants.*)

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

(Signature of Lessor.)

(Signature of Lessee.)

Dated this _____ day of _____

Signed by above-named A. B., as lessor, and E. F., as lessee, this _____ day of _____, 188 _____, in presence of X. Y.

(*Here insert memorandum of mortgages and encumbrances.*)

FORM I.

(Section 70.)

STATUTORY COVENANTS.

COLUMN ONE.

COLUMN TWO.

- | | |
|--|--|
| <p>1. Will not, without leave, assign or sublet.</p> | <p>1. The covenantor, his executors, administrators, or transferees, will not, during the said term, transfer, assign, or sublet the premises hereby leased, or any part thereof, or otherwise by any act or deed procure the said 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.</p> |
| <p>2. Will fence.</p> | <p>2. The covenantor, 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.</p> |
| <p>3. Will cultivate.</p> | <p>3. The covenantor, his executors, administrators, or transferees, will, at all times during the said term, cultivate, use and manage in a proper husband-like manner, all such parts of the land as are now or shall hereafter, with the consent in writing of the said lessor or his transferees, be broken up or converted into tillage, and will not impoverish or waste the same.</p> |
| <p>4. Will not cut timber.</p> | <p>4. The covenantor, his executors and administrators, or transferees, will not cut down, fell, injure or destroy any living timber or timber-like tree standing and being upon the said land, without the consent in writing of the said lessor or his transferees.</p> |
| <p>9. Will not carry on offensive trade.</p> | <p>9. 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 occupier or owners of the adjoining lands and properties.</p> |

FORM J

(Section 72.)

MEMORANDUM OF MORTGAGE.

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 under

written (or endorsed hereon), of that piece of land (*description*) part of section , township , range , 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 does contain all included in the original grants, refer thereto for description of parcels and diagrams, otherwise set forth the boundaries and accompany it by a diagram*), in consideration of the sum of \$ lent to me by E. F., of (*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 \$, on the day of

Secondly. That I will pay interest on the said sum at the rate of by the \$ 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 to 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

Signed by the above named
A. B. as mortgagor this }
day of in pre- } (*Signature of Mortgagor.*)
sence of G. H.

(*Insert memorandum of mortgages and encumbrances.*)

For form of transfer of mortgage, see Form L.

FORM K.

(*Section 72.*)

MEMORANDUM OF ENCUMBRANCE.

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 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 it 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 raised and paid at the times and in the manner following, that is to say: *(here state the times appointed for the payment of the sum, annuity or rent charge intended to be secured, the interest, if any, and the events on which such sum, annuity or rent charge shall become and cease to be payable, also any special covenants or powers, and any modification of the powers or remedies given to an encumbrancee 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 North-West Territories Real Property Act."

In witness whereof I have hereunto
signed my name this _____ }
day of _____, in presence } *(Signature of encum-*
of _____ } *brancer.)*

(Insert memorandum of mortgages and encumbrances.)

FORM L.

(Section 81.)

(Endorse memorandum of mortgage or encumbrance.)

TRANSFER OF MORTGAGE, ENCUMBRANCE, OR LEASE BY ENDORSEMENT.

I, the within mentioned C.D., in consideration of \$ _____ this day paid to me by X. Y., of _____, the receipt of which sum I do hereby acknowledge, hereby transfer to him the mortgage (encumbrance or lease, as the case may be) within written, together with all my rights, powers, title, and interest therein.

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

C. D., *Transferor.*

Accepted, X. Y., *Transferee.*

FORM M.

(Section 81.)

TRANSFER OF PART OF MORTGAGE OR ENCUMBRANCE BY ENDORSEMENT.

I, the within mentioned C. D. in consideration of \$ _____ this day paid to me by X. Y., of _____, the receipt of which sum I do hereby acknowledge, hereby transfer to him \$ _____ of the mortgage (or encumbrance, as the case may

be) within written, 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. :

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

C. D., *Transferror.*
Accepted, X. Y., *Transferree.*

FORM N.

(Section 85.)

POWER OF ATTORNEY.

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

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

Signed by the above named }
A. B. this day of }
in the presence of X. Y. }

FORM O.

(Section 86.)

REVOCATION OF POWER.

I, A. B., of , hereby revoke the power of attorney,
given by me to , dated the day of

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

(*Signature of Constituent.*)

FORM P.

(Section 87.)

REGISTRATION OF ABSTRACT.

(Here insert copy of Grant or Certificate of Title.)

Pursuant to the provisions of *(insert title of this Act)*, this registration abstract is issued for the purpose of enabling registered owner of the land described in the above written grant or certificate of title, to deal with the above described land at places without the limits of the said *Territories*, and shall continue in force from the date hereof until the day of , unless the same be sooner surrendered to me for cancellation.

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

Signed and sealed on the day of } [L.S.] *(Signature),*
in presence of X.Y. } Registrar.

FORM Q 1.

(Section 98.)

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 day of one thousand eight 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 the land hereinafter described, subject to the mortgages and encumbrances 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. all that piece of land *(here insert a sufficient description of the land, and refer to the debtor's certificate of title or grant.)*

Dated the day of one thousand eight hundred and

*(Signature of Officer.)*Mortgages and encumbrances referred to. *(State them)*

FORM Q 2.

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 of *feri facias*, tested the

day of one thousand eight 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 encumbrances notified hereunder, do hereby, in consideration of the sum of paid to me, as sheriff aforesaid, by E. F. (*insert addition*) TRANSFER to the said E. F. the lease (mortgage or encumbrance granted by) to and in favor 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 eight hundred and
 (Signature of Officer.)
 Mortgages and encumbrances referred to. (*State them.*)

FORM Q 3.

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 jurisdiction, dated the day of one thousand eight 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 description of the land and refer to the certificate of title or grant*).

Dated the day of one thousand eight hundred and
 (Signature of Transferror.)

Mortgages and encumbrances referred to. (*State them.*)

FORM Q 4.

TRANSFER OF LEASE, MORTGAGE OR ENCUMBRANCE, 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 jurisdiction, dated the day of one thousand eight hundred and , and entered in the register, vol. fol. , hereby TRANSFER to E. F. (*insert addition*), subject to the mortgages and encumbrances notified here-

under, lease (or mortgage or encumbrance, as the case may be) granted by _____ in favor of _____ (of or upon) all that piece of land (here insert description of the land according to the description in the lease, mortgage, or encumbrance, and refer to the registered instrument.)

Dated the _____ day of _____, one thousand eight hundred and _____

Signature of Transferrer.

Mortgages and encumbrances referred to. (State them.)

FORM R.

(Section 100.)

FROM OF CAVEAT FORBIDDING REGISTRATION OR DEALING WITH LANDS.

To the Registrar-General (or registrar of _____ district):

Take notice that I, A. B., of (insert description), claiming (here state the nature of the estate or interest claimed, and the grounds upon which such claim is founded) in (here describe land and refer to grant or certificate of title), forbid the registration of any memorandum of transfer or other instrument until this caveat be withdrawn by the caveator or by the order of a court of competent jurisdiction, or a judge thereof, or unless such dealing be subject to the claim of the caveator, or until after the lapse of twenty-one days from the date of the service of notice by the caveator at the following address: (Insert it.)

Signature of Caveator or his Agent.

Dated this _____ day of _____, 18 _____.

I, the above named A. B. (or C. D.) of (residence and description), agent for the above A. B., make oath (or affirm, as the case may be) and say, that the allegations in the above caveat are true in substance and in fact (and if no personal knowledge, add), as I have been informed and verily believe.

Sworn, &c.

FORM S.

(Section 102.)

AFFIDAVIT OF ATTESTATION OF AN INSTRUMENT EXECUTED OUT OF THE TERRITORIES.

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, duly sign and execute the same for the purposes named therein ;

2. That the same was executed on the day of the date thereof, at the _____, in the _____, and that I am the subscribing witness thereto ;

3. That I, _____, know the said

Sworn before me at _____, in the _____ }
of _____, this _____ day }
A.D. 18 _____

FORM T.

(Section 114.)

REFERENCE BY REGISTRAR TO A JUDGE.

(Date)

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

The registrar, under section one hundred and fourteen of "The North-West Territories Real Property Act," hereby humbly refers the following matter to the court, 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.

[L.S.]

Registrar of Titles.

3rd Session, 5th Parliament, 48 Victoria, 1885.

A

BILL.

An Act respecting Real Property in the
North-West Territories.

Received and read a first time, Friday, 30th
January.

Second reading, Friday, 6th February, 1885.

The Honorable
SIR ALEXANDER CAMPBELL.

OTTAWA:

PRINTED BY MACLEAN, ROGER & Co.,
1885.

An Act respecting Real Property in the North-West Territories

Clause.		Clause.	
	<i>Title and Preliminaries.</i>		
1	Short title of Act.	27	Registrars, &c., not to act as agents.
2	Commencement of Act.	28	Non-liability of registrars, &c., for acts <i>bonâ fide</i> done or omitted.
3	Interpretation clause.	29	Office days and hours.
	<i>Descent, Conveyance, &c., of Real Property.</i>		<i>Registration.</i>
4	All land in Territories subject to Act.	30	Form of instruments for registration.
5	All lands to be chattels real and go to executor, &c., of deceased	31	Notices of trusts not to be registered.
6	Effect of conveyance: words of limitation not required.	32	Maps and plans.
7	Devisee to take from personal representative	33	Oaths, &c.
8	Dower abolished.	34	The register, how kept.
9	Tenancy by courtesy abolished.	35	The day book, its form and use.
10	Man and wife, if grantees, to be tenants in common.	36	Registration of grants, transfers, &c.
11	Conveyances by husband to wife and <i>vice versa</i> .	37	Attestation of instruments to be registered.
12	Estates tail abolished: fee simple substituted.	do	Order of registry. Effect of registration.
13	Married woman to be as if <i>feme sole</i> .	38	Particulars required in memorial.
	<i>Registration Districts.</i>	39	Memorials to be recorded on duplicate of grant, &c.
14	Registration districts defined.	do	Time of registration to be certified
15	Provision for further registration districts.	do	Effect of certificate as evidence.
16	Registration offices, &c., to be provided at public expense.	40	Letters Patent. Where registration of, is to be effected.
17	Land titles office. Registrars and clerks, appointment of	41	Letters patent already issued.
18	Deputy registrars.	42	Mode of application for registration.
19	Existing registrars of deeds <i>ex-officio</i> registrars: future appointees to be barristers or advocates.	43	Conditions upon which registration may be made at once. <small>ENACTED</small>
20	Salaries and expenses.	44	If title not clear, registrar to send application to judge.
21	Registrar's oath of office.	45	Duties and powers of judge in such case.
22	Registrar's bond.	46	Adverse claims, when and how to be filed.
23	Sureties to justify. Custody of bonds.	47	Judge to examine adverse claims.
24	New bonds.	48	Notice of adverse claims.
25	Seals of office.	49	If applicant's title is found satisfactory by judge, proceedings and delays, &c.
26	Copies of documents in registrar's office to be evidence.	50	Certificate of title, when and how to be granted, and endorsements to be made thereon.
		51	Certificate on subsequent transfer.
		52	P.O. address and signature of owner to be furnished.

Clause.		Clause.	
	<i>Effect of Registration.</i>		
53	Registration, how made in book.	79	Death of annuitant or cessation of encumbrance.
54	Implied covenants.	80	How payment is made if there be no person in the Territories authorized to receive the money.
55	Instrument not valid till registered.	81	Transfer of mortgages, &c.
do	Effect of registration of instrument.	82	Effect of registration of transfers.
do	Provision for instruments presented together.	83	Rights of transferee.
56	Title to be subject to registered encumbrances, but free from all others; except as provided.	84	Implied covenant to repair by mortgagor.
57	Implied qualifications of registered title.		<i>Powers of Attorney.</i>
58	When certificate is conclusive evidence of title.	85	Form of Power of Attorney.
59	Purchasers, &c., for valuable consideration not affected by want of notice.	do	Duplicate to be registered.
60	Instruments not valid unless executed and registered according to this Act.	86	Revocation, how effected.
	<i>Transfers.</i>		<i>Registration Abstract.</i>
61	Memorandum of transfer, form and contents.	87	Registrar to grant abstract to enable owner to deal with land when out of Territories.
62	Easements to be registered.	88	Mode of dealing with land under abstract.
63	Cancellation of certificate according to extent of transfer.	89	Registration of dealings recorded in abstract.
64	Duty of registrar cancelling certificate.	90	Provision for loss or obliteration of abstract.
65	Implied covenants by transferee.		<i>Transmission.</i>
	<i>Leases.</i>	91	Land of deceased testator to vest in personal representative. Proceedings thereafter.
66	Form of lease for three years or more. Obligations of lessor.	92	Registration of mortgages, &c., transmitted by will, &c.
67	Implied covenants by lessee.	93	Trusts in respect of lands of deceased owner.
68	Implied powers of lessor.	94	Duty of sheriff, &c., receiving process against land.
69	Duty of registrar in case of re-entry.	do	Sheriff's memorandum to operate as a caveat.
70	Conditions implied in lease or mortgage.	95	Satisfaction of writ to be entered on register.
71	Surrender effected otherwise than by operation of law.	96	Sheriff's sale to be confirmed by a judge.
	<i>Mortgages and Encumbrance.</i>	97	Application for confirmation, how made.
72	Forms of mortgages and encumbrances.	98	Notice of registration of sheriff's sale, registration and certificate.
73	Mortgage and encumbrance not to operate as transfer.	99	On proof of marriage of female owner, husband's name to be registered.
73	Notice in case of default by mortgagor.	do	New certificate in such case.
74	Power of mortgagee to sell, &c.		<i>Caveats.</i>
75	Registration to vest estate in purchaser.	100	When, by whom, and how caveats may be lodged. Effect of, and proceedings upon caveats. Registration of caveats.
76	Application to judge for order of foreclosure, how made.	do	Liability of person wrongfully entering caveats.
77	Notice of, issue of, entry of and effect of order of foreclosure.		
78	Discharge of mortgage, how made and registered.		

Clause		Clause	
100	Power of Judge to prohibit transfer, &c., of land belonging to infant, lunatic or absentee. <i>Attestation of Instruments.</i>	119	Provision in case of loss or destruction of certificate.
101	Instruments how witnessed and attested.	120	Owner sub-dividing land to file map. Certification thereof.
102	As to instruments executed out of the Territories. <i>Ejectment—Assurance Fund, &c.</i>	121	Implied covenants may be negatived or modified.
103	Registered owner protected against ejectment, except in the cases specified.	do	Effect of such covenants.
104	Compensation of person deprived of land by fraud, error, &c.	122	Owner's name may be used in certain cases.
105	Protection of purchasers and mortgagees <i>bonâ fide</i> for valuable consideration.	123	How purchaser for valuable consideration is ascertained.
106	Land assurance fund, how formed.	124	Encumbrance prior to grant may be filed.
107	Registrar to be sued as nominal defendant, if registered owner is dead, and payment to be made out of assurance fund.	125	Purchaser from registered owner not affected by notice.
108	Action for damages against registrar as nominal defendant in certain cases of mistake, &c.	126	Suits for specific performance. Certificate of registered owner to be conclusive evidence of title.
109	Costs of nominal defendant.	127	Insertion of the words "no survivorship."
110	Prescription of such actions.	128	Notice before effect is given to order of Court or Judge.
111	Recovery of amount paid out of assurance fund.	129	Jurisdiction of courts in case of fraud not affected.
112	Non-liability of Assurance Fund in certain cases. <i>Remedial Proceedings.</i>	130	Exception of mines or minerals from grant or transfer to be inserted in certificate of title.
113	Appeal by a person dissatisfied with act or omission of registrar.	131	Governor-in-Council to provide books, forms, &c., and to make rules, &c.
114	Registrar may refer doubtful points to judge.	132	Governor in Council to settle tariff of fees.
115	Power of registrar in case of fraud or error.	133	Registrar to demand fees, and to perform duties on payment.
116	Examination of persons before judge.	134	Registrar to account for fees and to pay them to Receiver-General.
do	Cancellation by order of judge.	135	Proceedings not to abate in case of death.
117	Further powers of direction by court or judge. <i>General Provisions.</i>	136	Proceedings not to be invalid for unsubstantial informalities.
118	Separate certificates may be cancelled and be replaced by one certificate for whole land.		<i>Appeal.</i>
		137	Court of appeal established. Sitings and powers thereof.
			<i>Penalties.</i>
		138	Punishment for making false statements, concealing facts, &c.
			<i>Repeal of Former Acts.</i>
		139	Certain Acts, laws, &c., repealed.

An Act respecting Real Property in the North-West Territories.

NOTE.—The following Table indicates the source of each clause of this Bill.

The references in the second column thereof are as follows :—

S.A.—Statute of South Australia, 24 and 25 Victoria, 1861. No. 22, “*Real Property Act of 1861.*”

S.A., 1878.—Statute of South Australia, 41 and 42 Victoria, 1878. No. 128, “*Real Property Act Amendment Act of 1878.*”

N.S.W.—Statute of New South Wales, 26 Victoria, 1862. No. 9, “*Real Property Act.*”

N.F.—Statutes of Newfoundland.

Imp. Act.—Imperial Act, 38 and 39 Victoria, 1875. Cap. 87, “*The Land Transfer Act, 1875.*”

Man.—Statutes of Manitoba.

Q. B., U. C.—Upper Canada Law Reports, Queen’s Bench Series.

McCarthy.—The Bill (No. 16) introduced by Mr. McCarthy, M.P., in the House of Commons during the Session of 1884.

New.—Clause draughted for the present Bill.

TABLE indicating the Source of each Clause of the Bill intituled “An Act respecting Real Property in the North-West Territories ”

Clause.	Source.	Clause	Source.
1	New.	17	McCarthy, 5 and 6.
2	do	18	New.
3	McCarthy, 4.	19	McCarthy, 13.
4	New.	20	New.
5	N.F., Title VIII., chap 35.	21	McCarthy, 15.
6	McCarthy, 28.	22	do 18.
7	do 29.	23	do 17.
8	do 30.	24	do 18.
9	Man.	25	do 19.
10	Shaver’s case, 31 Q.B., U.C., 603.	26	do 20.
11	S.A., 85.	27	do 24.
12	28	do 25.
13	McCarthy, 156.	29	New.
14	New.	30	S.A., 41.
15	do	31	do 66.
16	McCarthy, 21.	32	do 103; McCarthy, 55.

Clause.	Source.	Clause.	Source.
33	McCarthy, 55 (4).	87	S.A., 70.
34	S.A., 31.	88	do 71.
35	McCarthy, 39.	89	do 72.
36	S.A., 34.	90	do 73.
37	do 35.	91	McCarthy, 109.
38	do 37.	92	S.A., 78.
39	do 38.	93	N.S.W., 80.
40	McCarthy, 36.	94	McCarthy, 115.
41	do 49.	95	do 116.
42	do 50, 51.	96	do 117.
43	do 62.	97	do 118.
44	do 65, 66, 67.	98	do 119.
45	Compare McCarthy, 129.	99	S.A., 77.
46	McCarthy, 64.	100	S.A., 81, 82, 83 84 and S.A. (1878) 42
47	do 65.	101	McCarthy, 122.
48	do 63.	102	do 123.
49	Compare McCarthy, 6, 125, 128.	103	S.A., 124.
50	McCarthy, 66, 55 (8).	104	do 125.
51	do 69.	105	do 126.
52	do 70.	106	do 29; McCarthy, 142.
53	do 71.	107	do 127.
54	S.A., 36.	108	do 128.
55	do 39.	109	do 129.
56	do 33, 40; N.S.W., 33, 40.	110	do 130.
57	McCarthy, 72.	111	do 131.
58	S.A., 33, 40; N.S.W., 33, 40.	112	do 132.
59	Imperial Act, s. 92.	113	McCarthy, 124.
60	McCarthy, 75.	114	do 125.
61	S.A., 42.	115	S.A., 135.
62	do 43.	116	do 136.
63	do 44.	117	McCarthy, 128.
64	do 45.	118	S.A., 98.
65	do 46.	119	do 99.
66	do 47.	120	do 102 and S.A. (1878) 61.
67	do 49.	121	do 89.
68	do 50.	122	do 113.
69	do 51.	123	McCarthy, 152.
70	McCarthy, 87.	124	S.A., 100.
71	S.A., 48.	125	do 114.
72	do 52.	126	do 115.
73	do 53.	127	do 67.
74	do 54.	128	do 68.
75	do 55.	129	McCarthy, 131, 149.
76	do 121.	130	do 150.
77	do 122.	131	do 153.
78	do 59.	132	do 58.
79	do 60.	133	do 55 (12)
80	do 61.	134	do 55 (13).
81	do 63.	135	do 56.
82	N.S.W., 47.	136	do 57.
83	S.A., 64.	137	Compare McCarthy, 129.
84	do 62.	138	McCarthy, 164.
85	do 69.	139	New.
86	do 74.		

3rd Session, 5th Parliament, 48 Victoria, 1885.

A

BILL.

An Act respecting Real Property in the
North-West Territories.

Index and Table of Clauses.

OTTAWA:

PRINTED BY M^CLEAN, ROGER & CO.

1885.

BILL.

An Act for the Relief of Charles Smith.

WHEREAS, Charles Smith, of the village of Campbellford, Preamble.
in the County of Northumberland, and Province of
Ontario, miller, hath, by his petition, humbly set forth,
that on the eighth day of February, in the year of our Lord
5 one thousand eight hundred and seventy-six, he was law-
fully married to Mahala Mevilda Zufelt, of the township of
Ameliasburg, in the County of Prince Edward, in the said
Province, in accordance with the rites and ceremonies of
10 the Methodist Church of Canada, under the authority of
license; that the said Charles Smith and the said Mahala
Mavilda Zufelt lived and cohabited together as husband and
wife, from the date of said marriage up to the early part of
the month of August of the said year, one thousand eight
hundred and seventy-six; that the said Mahala Mevilda
15 Zufelt, although the lawful wife of the said Charles Smith,
did commit adultery at various times with one Charles
Parkin, at the city of St. Catharines, in the said Province
during the month of August, in the year of our Lord one
thousand eight hundred and eighty, and in the succeeding
20 months of the said year did live in adultery with said
Charles Parkin, at said place, and did commit adultery also
at the township of Laxton, in the county of Victoria, in said
Province, where the said Mahala Mevilda Zufelt and the
said Charles Parkin have resided and cohabited as man and
25 wife since the year of our Lord one thousand eight hundred
and eighty-one; that the said Charles Smith first made dis-
covery of the said adultery committed by his said wife, at
St. Catharines, as aforesaid, on or about the month of
August, in the year of our Lord one thousand eight hundred
30 and eighty, and of the adultery committed by his said wife
at the township of Laxton, as aforesaid, about the month of
December, in the year of our Lord one thousand eight hun-
dred and eighty-two; that the said Charles Smith has, since
the discovery of the said adultery so committed as aforesaid,
35 refused to cohabit with his said wife, and has since lived
apart from her; that the said Charles Smith hath, subse-
quent to the discovery of the said adultery, brought an
action for criminal conversation in the Common Pleas Divi-
sion of Her Majesty's High Court of Justice for Ontario,
40 against the said Charles Parkin, and recovered a verdict in
the said action against the said Charles Parkin, for one
hundred and ninety-six dollars and thirteen cents, and
entered judgment thereon, and the said Charles Smith
hath exhausted every lawful means for the recovery of the
45 amount of the said judgment and costs, without effect; that

the said Charles Smith is desirous of having the said marriage dissolved, annulled, and put an end to, so that he may be free from the same and may contract matrimony with any other person or persons with whom it would have been lawful for him to contract matrimony if they, the said Charles Smith and the said Mahala Mevilda Zufelt, had not intermarried; And whereas it is expedient that the prayer of the said petition should be granted; Therefore, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

His marriage annulled.

1. The said marriage between the said Charles Smith and the said Mahala Melvilda Zufelt is and shall henceforth be null and void to all intents and purposes whatsoever.

He may marry again.

2. It shall be lawful for the said Charles Smith, at any time hereafter, to contract matrimony and to marry with any other woman with whom he might lawfully marry in case the said marriage had not been solemnized between him and the said Mahala Mevilda Zufelt.

His rights and his children's rights in such case.

3. In case of the said Charles Smith again contracting matrimony with any person or persons with whom it would be lawful for him to contract matrimony, if they, the said Charles Smith and and Mahala Mevilda Zufelt, had not intermarried, and having any issue born to him, the said issue so born, shall be, and are hereby declared to be, to all intents and purposes, legitimate, and the rights of them, the said issue, and each of them, and of their respective heirs, as respects their and each of their capacity to inherit, have, hold, enjoy and transmit all and all manner of property, real or personal, of what nature or kind soever, from any person or persons whomsoever, shall be and remain the same as they would have been, to all intents and purposes whatsoever, if the marriage between the said Charles Smith and Mahala Mevilda Zufelt had not taken place.

B I L L .

An Act for the Relief of Amanda Esther Davis.

WHEREAS, Amanda Esther Davis, of the city of Montreal, in the Province of Quebec, hath, by her petition, humbly set forth: that on the eighth day of June, one thousand eight hundred and eighty-one, at the city of Montreal, in the Province of Quebec, she was lawfully married to Joseph DeSola, then of the said city of Montreal, merchant, but now residing at Boston, in the State of Massachusetts, one of the United States of America; that the said Amanda Esther Davis and the said Joseph DeSola lived and cohabited together, from the date of such marriage, as husband and wife, up to about the nineteenth day of January, one thousand eight hundred and eighty-three; that during the said period the said Joseph DeSola neglected to provide for the support of the said Amanda Esther Davis, and was guilty of great cruelty to her, by repeatedly striking her with his fists, and by kicking her; that the said Amanda Esther Davis, about the middle of October, one thousand eight hundred and eighty-one, she being then pregnant by her husband, the said Joseph DeSola, owing to the aforesaid acts and cruelty and to bodily injuries received from and inflicted by him, the said Joseph DeSola, miscarried, and thereby the said Amanda Esther Davis suffered great pain and injury, and her life became and was in great danger, and the said Amanda Esther Davis was confined to her bed from the said cause, and did not recover from her illness thereby caused for four months; that the said Amanda Esther Davis was, by contract of marriage, entered into at Montreal on the sixth day of June, one thousand eight hundred and eighty-one, before Maitre de M. Marler, notary public, duly separated, as to property, from the said Joseph DeSola, according to the laws of the Province of Quebec, and by said marriage contract the said Amanda Esther Davis was to have the sole right, charge and administration of all her property and effects, moveable and immoveable; that the said Joseph DeSola, at divers times since the said marriage, and during his cohabitation with the said Amanda Esther Davis, stole and made away with divers effects and wearing apparel belonging to the said Amanda Esther Davis, comprising jewellery, clothes and furniture, which the said Amanda Esther Davis had received from her parents, brothers and other relatives, as wedding gifts, and the said Joseph DeSola sold and pawned the same for his own use and benefit, and, moreover, made away with divers large sums of money belonging to the said Amanda Esther Davis, to wit, to over two thousand five hundred dollars, by the

said Amanda Esther Davis received from her parents and her brothers, for her sole use and benefit; that the said Joseph DeSola was guilty of adultery with divers women, at divers times and places, from almost immediately after the date of his marriage to the said Amanda Esther Davis, 5 and more particularly with one Janet McDonald, in the month of December, one thousand eight hundred and eighty-one, at a house of prostitution in the said city of Montreal, and likewise with the said Janet McDonald at other places in the said city of Montreal, in and during the summer of 10 one thousand eight hundred and eighty-two, and the winter subsequent thereto; that owing to the acts of cruelty and debauchery of the said Joseph DeSola, and his neglect and refusal to supply the said Amanda Esther Davis with the necessaries of life, the said Amanda Esther Davis was 15 obliged, on or about the nineteenth day of January, one thousand eight hundred and eighty three, to return to the house of her father, Samuel Davis, of the city of Montreal, cigar manufacturer, where she has ever since resided; that on or about the fifteenth day of February, one thousand 20 eight hundred and eighty-three, the said Joseph DeSola absconded from and left the said city of Montreal and the Dominion of Canada, and went to the United States of America, and has, since that time, as the said Amanda Esther Davis has been informed, and verily believes, resided 25 in the said city of Boston and vicinity; that the said Joseph DeSola has contributed nothing whatever to the support of the said Amanda Esther Davis since he left the said city of Montreal, but has been leading, in the said city of Boston and vicinity, a disreputable and dissipated life, living, in 30 great part, in a brothel kept by one Linda Bryant, at number thirty-eight Dover street, in the said city of Boston; that the said Joseph DeSola, in the months of September and October last past, resided in the said house, kept by the said Linda Bryant, and was the paramour of the said Linda 35 Bryant, with whom he committed adultery on divers occasions during the said months, and previous and subsequent thereto; that there has been no issue of the marriage of the said Amanda Esther Davis and the said Joseph DeSola; that on the twenty-fifth day of June, one thousand eight 40 hundred and eighty-three, upon being made aware of the adultery and conduct of said Joseph DeSola previous thereto, the said Amanda Esther Davis instituted an action for separation, from bed and board, from the said Joseph DeSola, before Her Majesty's Superior Court for Lower 45 Canada, sitting in and for the district of Montreal, said action bearing, amongst the records of the said court, the number one thousand two hundred and fifty one; that the declaration upon which the said action was based, alleged and set out the said acts of cruelty, desertion and adultery, com- 50 mitted previous to the institution of the said action, and, upon proof of the facts so alleged, judgment was rendered by the said the Honorable Superior Court, on the twenty-second day of September, one thousand eight hundred and eighty-three, adjudging that the said Amanda Esther Davis 55 should be and remain, from the said day, duly separated from the said Joseph DeSola, her husband, as to bed and

board, *de corps et d'habitation*, and that she should be no longer obliged to live with the said Joseph DeSola, and prohibiting the said Joseph DeSola from cohabiting with or disturbing the said Amanda Esther Davis in any manner
 5 whatsoever, and condemning the said Joseph DeSola to pay the costs of the said action; that there has been no collusion between the said Amanda Esther Davis and the said Joseph DeSola, with reference to the present proceedings; and
 10 whereas the said Amanda Esther Davis has prayed that the said marriage between her and the said Joseph DeSola be dissolved, annulled, set aside and put an end to, so that she may be freed from the same, and be enabled to contract matrimony with any other person with whom it would have been lawful for her to contract matrimony if they, the said
 15 Joseph DeSola and the said Amanda Esther Davis, had not inter-married :

And whereas it is proper and expedient that the prayer of the said petition should be granted : Therefore, Her Majesty, by and with the advice and consent of the Senate and
 20 House of Commons of Canada, enacts as follows :—

1. The marriage between the said Amanda Esther Davis and Joseph DeSola, her husband, entered into and celebrated at the city of Montreal on the eighth day of June, one thousand eight hundred and eighty-one, is hereby dissolved, and
 25 shall be, henceforth, null and void to all intents and purposes whatsoever. Her marriage annulled.

2. It shall be lawful for the said Amanda Esther Davis, at any time hereafter, to marry with any other man with whom she might lawfully marry, in case the said first
 30 mentioned marriage had not been solemnized. She may marry again.

3. In the event of the said Amanda Esther Davis hereafter marrying, she and the man with whom she so marries, and the issue, if any, of such marriage, shall have and possess the same rights in every respect as if the first mentioned
 35 marriage had never been solemnized. Her rights and her children's rights in such case.

3rd Session, 5th Parliament, 48 Victoria, 1885.

C

BILL.

An Act for the Relief of Amanda Esther
Davis.

Received and read a first time, Thursday,
5th February.

Second reading, Friday, 20th February, 1885.

The Honorable Mr. OGILVIE.

OTTAWA:

PRINTED BY MACLEAN, ROGER & Co.,
1885.

BILL.

An Act for the relief of George Louis Emil Hatzfeld.

WHEREAS George Louis Emil Hatzfeld, of the city of Preamble.
Hamilton, in the Province of Ontario, accountant, has
by his petition humbly set forth that on the seventh day of
August, in the year of Our Lord one thousand eight hundred
5 and sixty-nine, he was married to Anna Maria Hatzfeld,
formerly Anna Maria Freyseng; that on the tenth day of
May, in the year of Our Lord one thousand eight hundred
and seventy-three, the said Anna Maria Hatzfeld deserted
her said husband and went to New York, and afterwards to
10 Germany, and now resides in the city of Toronto, and has
not since the said tenth day of May, in the year of Our
Lord one thousand eight hundred and seventy-three, resided
with the said George Louis Emil Hatzfeld; that shortly
after the said Anna Maria Hatzfeld deserted him as afore-
15 said, he, the said George Louis Emil Hatzfeld, discovered, as
the fact was, that the said Anna Maria Hatzfeld had been
leading an irregular life and had been committing adultery
with one Robert Klostermann, between the first day of
September, in the year of Our Lord one thousand eight
20 hundred and seventy-one, and the said tenth day of May, in
the year of Our Lord one thousand eight hundred and
seventy-three; and whereas the said George Louis Emil
Hatzfeld has prayed that he may be divorced *a vinculo*
matrimonii from his said wife; and whereas the said George
25 Louis Emil Hatzfeld has made proof of the facts above re-
cited, and it is expedient that the prayer of the said
petitioner should be granted: Therefore Her Majesty, by and
with the advice and consent of the Senate and House of
Commons of Canada, enacts as follows:—

- 30 **1.** The said marriage between the said George Louis Emil Hatzfeld and the said Anna Maria Hatzfeld, his wife, shall His marriage annulled. from henceforth be null and void; and the same is hereby declared, adjudged and enacted to be null and void to all intents and purposes whatsoever.
- 35 **2.** It shall be lawful for the said George Emil Hatzfeld He may marry again. hereafter to contract matrimony with any other woman whom he might lawfully marry in case the said marriage had not been solemnized.

3rd Session, 5th Parliament, 48 Victoria, 1885.

D

BILL

An Act for the relief of George Louis
Emil Hatzefeld.

Received and read a first time, Wednesday,
11th February, 1885.

Second reading, Thursday, 26th February,
1885.

Honorable
Mr. KAULBACH.

OTTAWA:

PRINTED BY MACLEAY, ROGER & Co.,
1885.

B I L L .

An Act for the Relief of Fairy Emily Jane Terry.

WHEREAS, Fairy Emily Jane Terry, of the City of Ottawa, Preamble.
in the County of Carleton, and Province of Ontario,
wife of Charles Hunter Terry, hath, by her petition, humbly
set forth, that on the twelfth day of September, one thousand
5 eight hundred and seventy-seven, she was lawfully married
to the said Charles Hunter Terry, at the said City of Ottawa,
according to the rites and ceremonies of the Church of Eng-
land; that the said marriage was by license; that one child
was born of the said marriage, which died on or about the
10 eighteenth day of December, one thousand eight hundred
and seventy-eight; that the said Fairy Emily Jane Terry
and Charles Hunter Terry lived and cohabited together, as
husband and wife, from the date of such marriage up to
about the month of April, one thousand eight hundred and
15 eighty-three; that during the period of such cohabitation,
the said Charles Hunter Terry became excessively addicted
to the use of intoxicating liquor, and neglected and cruelly
used and abused the said Fairy Emily Jane Terry; that in
or about the said month of April, the said Fairy Emily Jane
20 Terry, being ill and weak in body from the cruel treatment
of the said Charles Hunter Terry, went to England for the
benefit of her health; that the said Charles Hunter Terry,
during the absence of the said Fairy Emily Jane Terry, and
after her return, did commit adultery with one Mrs. H. H.
25 Loomis, at various times, between the month of May, one
thousand eight hundred and eighty-three, and the month of
May, one thousand eight hundred and eighty-four, at vari-
ous places in the City of Ottawa and in the County of
Carleton, adjacent to the said City of Ottawa; and that the
30 said Charles Hunter Terry, during the said time, was living
and cohabiting with the said Mrs. H. H. Loomis in open and
continuous adultery; that the said Fairy Emily Jane Terry
made the discovery of the said adultery when she returned
from England, about the month of October, one thousand
35 eight hundred and eighty-three; that the said Fairy Emily
Jane Terry commenced an action of alimony in the High
Court of Justice, in the Province of Ontario, against the said
Charles Hunter Terry, and afterwards obtained an order for
interim alimony in that action, and that the said Charles
40 Hunter Terry made payments of alimony under the said
order, until about the month of May, one thousand eight
hundred and eighty-four, when the said Charles Hunter
Terry left Canada and deserted the said Fairy Emily Jane
Terry, and the said Charles Hunter Terry has not made any
45 payment of alimony since the said date, nor has he since, in

any manner, aided in or contributed to the maintenance or support of the said Fairy Emily Jane Terry ; that the said Fairy Emily Jane Terry has, since the discovery of the said adultery so committed by the said Charles Hunter Terry, as aforesaid, refused to cohabit with her said husband, and has since lived apart from him ; and that the said Fairy Emily Jane Terry is desirous of having the said marriage dissolved, annulled and put an end to, so that she may be free from the same and may be enabled to contract matrimony with any other person or persons with whom it would have been lawful for her to contract matrimony if they, the said Fairy Emily Jane Terry and Charles Hunter Terry, had not intermarried : And whereas, it is expedient that the prayer of the said petitioner should be granted : Therefore, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :—

Her marriage annulled.

1. The said marriage between the said Fairy Emily Jane Terry and the said Charles Hunter Terry, her husband, is hereby dissolved, and shall be, henceforth, null and void to all intents and purposes whatsoever.

She may marry again.

2. It shall be lawful for the said Fairy Emily Jane Terry, at any time hereafter, to contract matrimony and to marry with any other man with whom she might lawfully marry in case the said marriage had not been solemnized.

The rights of herself, husband and children in such case.

3. In case of the said Fairy Emily Jane Terry again contracting matrimony with any person with whom it would have been lawful for her to contract matrimony if they, the said Fairy Emily Jane Terry and Charles Hunter Terry, had not intermarried, and having any issue born of her to such person, the said issue shall be and are hereby declared to be, to all intents and purposes, legitimate, and the rights of them, the said issue, and each of them, and of their respective heirs, as respects their and each of their capacity to inherit, have, hold, enjoy and transmit all and all manner of property, real and personal, of what nature or kind soever, from any person or persons whomsoever, shall be and remain the same as they would have been, to all intents and purposes, whatsoever, if the said marriage between the said Fairy Emily Jane Terry and Charles Hunter Terry had not taken place.

40

3rd Session, 5th Parliament, 48 Victoria

E

BILL

An Act for the Relief of Fairy Jane Terry.

Received and read a first time, We 11th February, 1885.

Second Reading, Thursday, 26th February, 1885.

The Honorable

Mr. I

OTTAWA:

PRINTED BY MACLEAN, ROGER & CO. 1885.

BILL.

An Act further to amend an Act intituled, "An Act respecting offences against the person."

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

Preamble.

The fiftieth section of the Act passed in the thirty-second and thirty-third years of Her Majesty's reign, chaptered twenty, intituled: "*An Act respecting offences against the person*," is hereby repealed, and the following section is enacted in lieu thereof:—

32-33 V., c. 20, s. 50 repealed and new section substituted.

10 "50. Every one who, by false pretenses, false representations, or other fraudulent means,—

"(a) Procures any woman or girl, under the age of twenty-one years, to have illicit carnal connection with any man other than the procurer; or

Procuring defilement of girl under age.

15 "(b) Inveigles or entices any such woman or girl to a house of ill-fame or assignation, for the purpose of illicit intercourse or prostitution, or who knowingly conceals any such woman or girl in such house;

Enticing girl under age to bawdy house, &c.

"Is guilty of a misdemeanor, and is liable to two years' imprisonment."

3rd Session, 5th Parliament, 48 Victoria, 1885.

F

BILL.

An Act further to amend an Act intituled, "An Act respecting offences against the person."

Received and read first time, Thursday, 12th February, 1885.

Second reading, Monday, 16th February, 1885.

The Honorable
Sir ALEXANDER CAMPBELL.

OTTAWA:

PRINTED BY McLEAN, ROGER & Co.

1885.

B I L L .

An Act for the Relief of Alice Elvira Evans.

WHEREAS, Alice Elvira Evans, *née* Johnson, now of the Preamble.
city of Toronto, in the Province of Ontario, dress-
maker, wife of Owen Norton Evans, formerly of the city of
Hamilton, but now of the town of Owen Sound, in the said
5 Province of Ontario, upholsterer, hath, by her petition,
humbly set forth, that on the sixteenth day of March, in the
year of Our Lord one thousand eight hundred and seventy-
four, she was lawfully married to the said Owen Norton
Evans ; that they lived and cohabited together, as husband
10 and wife, until about the sixteenth day of October, one thou-
sand eight hundred and seventy-five ; that there was born
of the said marriage one child, William Stewart Evans, now
living ; that on or about the sixteenth day of October, one
thousand eight hundred and seventy-five, aforesaid, owing
15 to the said Owen Norton Evans living in adultery with
several women, and having contracted an infamous disease,
which he communicated to the said Alice Elvira Evans, it
became impossible for the said Alice Elvira Evans to con-
tinue to live with the said Owen Norton Evans as his wife ;
20 that in or about and for several months subsequent to the
month of May, one thousand eight hundred and seventy-
seven, the said Owen Norton Evans formed an intimacy and
committed adultery with a certain person named in the said
petition, which said person so named, as aforesaid, bore
25 a child to the said Owen Norton Evans ; that since the
eighteenth day of June, one thousand eight hundred and
eighty-one, the said Owen Norton Evans has lived and is
still living in open adultery with another person, also named
in the said petition, with whom he pretends to have con-
30 tracted a marriage, and who has since borne him two
children ; that the said Owen Norton Evans has never con-
tributed anything towards the maintenance and support of
the said Alice Elvira Evans or her said child, either before
or since the said separation ; that the said Owen Norton
35 Evans has, by his conduct, dissolved the bond of matrimony
on his part : And whereas the said Alice Elvira Evans has
humbly prayed that the said marriage may be dissolved, so
as to enable her to marry again ; that she may have the
custody of her said child, William Stewart Evans, the issue
40 of her marriage with the said Owen Norton Evans, and that
such further relief may be afforded her as may be deemed
fit : And whereas the said Alice Elvira Evans has proved
the allegations of her said petition and has established the
acts of adultery above mentioned, and it is expedient that
45 the prayer of the said petition should be granted : There-

fore, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :—

Her marriage annulled. 1. The said marriage between the said Alice Elvira Evans and Owen Norton Evans, her said husband, is hereby dissolved, and is and shall be, henceforth, null and void, to all intents and purposes whatsoever. 5

She may marry again. 2. The said Alice Elvira Evans may, at any time hereafter, marry any man whom she might lawfully marry, in case the said marriage with Owen Norton Evans had not been solemnized. 10

She is to have the custody of her son. 3. The said Alice Elvira Evans shall have the custody of her said child, William Stewart Evans, the issue of her marriage with the said Owen Norton Evans.

Her rights and her children's rights if she marries again. 4. In case of the said Alice Elvira Evans hereafter marrying any man whom it would have been lawful for her to marry, if she and the said Owen Norton Evans had not intermarried, and of there being any issue born to her of such subsequent marriage, the said issue so born shall be and the same are hereby declared to be, to all intents and purposes, legitimate, and the rights of them, the said issue, and each of them, and of their respective heirs, as respects their and each of their capacity to inherit, have, hold and enjoy, and transmit all and all manner of property, real or personal, of what nature or kind soever from any person or persons whomsoever, shall be and remain the same as they would have been, to all intents and purposes whatsoever, if the marriage between the said Alice Elvira Evans and Owen Norton Evans had not taken place. 15 20 25

3rd Session, 5th Parliament, 48 Vic

G

BILL.

An Act for the Relief of Alice Evans.

Received and read first time, Thursday, February, 1885.

Second reading, Friday, 27th February

The Honorable Mr. G

OTTAWA:

PRINTED BY MACLEAN, ROGER

1885.

BILL.

An Act for the relief of George Branford Cox.

- W**HEREAS George Branford Cox, of the town of Goderich, in the County of Huron, and Province of Ontario, in the Dominion of Canada, gentleman, hath, by his petition, humbly set forth that, on the fourteenth day of July, in the year of Our Lord one thousand eight hundred and seventy-five, he was lawfully married to Emily Cox; that they lived and cohabited together as husband and wife up to about the tenth day of October, in the year of Our Lord one thousand eight hundred and seventy-eight, when the said Emily Cox refused to live with the said George Branford Cox; that the said Emily Cox afterwards, to wit, in the year of Our Lord one thousand eight hundred and eighty-two, went to the United States of America, and there lived in a state of adultery with a certain person named in the evidence; that the said George Branford Cox discovered that she had been leading an irregular life; that the said Emily Cox has ever since continued to live apart from the said George Branford Cox, and that the said Emily Cox has, by her conduct, dissolved the bonds of matrimony on her part; and whereas the said George Branford Cox has humbly prayed that the said marriage may be dissolved so as to enable him to marry again, and that such further relief may be afforded him as may be deemed fit; and, whereas the said George Branford Cox has proved the allegations of his said petition, and has established the adultery above mentioned, and it is expedient that the prayer of the said petitioner should be granted: Therefore, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—
- 30 **1.** The said marriage between the said George Branford Cox and Emily Cox, his said wife, is hereby dissolved, and is and shall be henceforth null and void to all intents and purposes whatsoever. His marriage annulled.
- 35 **2.** The said George Branford Cox may at any time hereafter marry any woman whom he might lawfully marry in case the said marriage with Emily Cox had not been solemnized. He may marry again.
- 40 **3.** In case of the said George Branford Cox hereafter marrying any woman whom it would have been lawful for him to marry, if the said George Branford Cox and Emily Cox had not intermarried, and of there being any issue born to him of such subsequent marriage, the said issue so born, His rights and his children's rights in such case.

shall be and are hereby declared to be, to all intents and purposes, legitimate, and the rights of them, the said issue, and each of them, and of their respective heirs as respects their and each of their capacity to inherit, have, hold and enjoy, and transmit all and all manner of property real or personal, of what nature or kind soever, from any person or persons whomsoever, shall be and remain the same as they would have been to all intents and purposes whatsoever, if the marriage between the said George Branford Cox and Emily Cox had not taken place.

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10

3rd Session, 5th Parliament, 48 Victoria, 1885.

H

BILL

An Act for the relief of George Branford Cox.

Received and read a first time, Wednesday,
25th February, 1885.

Second Reading, Thursday, 12th March, 1885.

Honorable Mr. READ.

OTTAWA:

PRINTED BY MACLEAN, ROGER & CO.

1885.

BILL.

An Act to amend "An Act to incorporate the Sisters of Charity of the North-West Territories."

WHEREAS the Sisters of Charity of the North-West Territories, incorporated by the Act of the Parliament of Canada, passed in the forty-fifth year of Her Majesty's reign, chaptered one hundred and twenty-seven, intituled: "An Act to incorporate the Sisters of Charity of the North-West Territories," have, by their petition, represented that the said Act contains provisions which cannot be carried out, principally because of the great distances separating most of the establishments of their sisterhood in the vast region of the North-West Territories; and whereas they have therefore, by their said petition, prayed for certain amendments to the Act incorporating them, and it is expedient to grant their prayer: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. The seventh section of the said Act is hereby repealed, and the following is substituted therefor:—

Preamble.
45 Vic., c. 127.
Section 7 repealed and new one substituted.

"7. The business of the corporation shall be managed, in each district in the North-West Territories, by a committee, composed of not less than three nor more than six members of the corporation, to be selected from among the sisters of the district, in accordance with the by-laws and regulations of the corporation; and each such committee of management shall elect from among the members composing it a superior, a treasurer and a secretary."

Business to be managed by district committees.

2. The eighth section of the said Act is hereby repealed, and the following is substituted therefor:—

Section 8 repealed and new one substituted.

"8. Each committee of management may appoint, from time to time, attorneys and administrators of the property of the corporation, for the transaction of the business of such committee within the district, and may remove such attorneys or administrators."

Appointment of attorneys, &c.

3. The tenth section of the said Act is hereby repealed, and the following is substituted therefor:—

Section 10 repealed and new one substituted.

"10. Deeds signed by the superior and by one other member of the committee of management of the district, and sealed with the corporate seal of the corporation, shall alone

What deeds are binding.

be binding upon the corporation, and none other shall be held to be deeds of the corporation."

Section 11
repealed and
new one
substituted.

How moneys
may be paid
and
recovered.

4. The eleventh section of the said Act is hereby repealed, and the following is substituted therefor:—

"11. All sums of money payable to the corporation in any one district shall be paid to the treasurer of the committee of management for that district, or to any person duly authorized to act in the name of such treasurer, and in default of payment, may be recovered in an action brought in the name of the corporation in any court of competent jurisdiction." 5 10

Correction of
title in French
version.

5. In the French version of the said Act, the words "Sœurs de Charité," wherever they occur, shall be replaced by the words "Sœurs de la Charité," and hereafter the corporation shall be styled, in French, "Les Sœurs de la Charité des Territoires du Nord.Ouest." 15

3rd Session, 5th Parliament, 48 Victoria, 1885.

I

BILL

An Act to amend the Act to incorporate the Sisters of Charity of the North-West Territories.

Received and read a first time, Tuesday,
3rd March, 1885.

Second reading, Wednesday, 11th March,
1885.

The Honorable
Mr. LACOSTE.

OTTAWA:

PRINTED BY MACLEAN, ROGER & Co.

1885.

BILL.

An Act to comprise in one Act a limitation of the Share and Loan Capital of the Hamilton Provident and Loan Society.

WHEREAS, the Hamilton Provident and Loan Society is a Preamble.
corporation duly chartered by the laws of the Province of Ontario, and empowered by the Parliament of Canada to borrow money by way of debentures and to receive money deposits as a savings bank, subject to restrictions imposed, that such debentures and money deposits shall be of certain amounts, proportionate to the subscribed fixed and permanent share capital of the Society: And whereas the Society desire to have the share capital of the Society limited in amount; and further desire that the extent of their powers of borrowing and of receiving money deposits, as determined by general Acts, should be made to appear in the same Act which limits the amount of their share capital: and the said Society, by their petition, have shown that the declaring and setting forth in one Act of the said matters will aid and benefit their operations: And whereas the said Society have further shown that, on the first day of January, in the year of Our Lord one thousand eight hundred and eighty-five, the fixed and permanent share capital of the Society consisted of fifteen thousand shares of one hundred dollars each, whereof one thousand shares, amounting to one million dollars, have been fully paid up: and the further sum of one hundred thousand dollars, or twenty per cent., has been paid up on five thousand shares, the other part of said share capital specially subscribed under the provisions of the Statute of Canada, passed in the forty-first year of Her Majesty's reign, chaptered twenty-two, the remaining unpaid eighty per cent. of the said shares so subscribed being liable to calls to full payment thereof, and when paid will not be liable to be withdrawn from the share capital of the Society: And whereas the Society have further shown that, on the date last mentioned, the loan powers of the Society had been exercised as follows: By way of money deposits, nine hundred and forty-two thousand nine hundred and sixty-six dollars; by way of debentures, seven hundred and fourteen thousand nine hundred and sixty-three dollars: And whereas it is expedient to grant the prayer of the said petition: Therefore, Her Majesty, by and with the advice and consent of the Senate and House of Commons, enacts as follows:—

Fixed share capital.

Share capital under 41 V., c. 22.

Loan powers exercised.

I. This Act may be cited as "*The Hamilton Provident and Loan Society's Share and Loan Capital Act of 1885.*" Short title.

Limitation of share capital. 2. The share capital stock of the Society is hereby limited to one million five hundred thousand dollars, beyond which the Society shall not have power to increase the share capital.

Loan capital. 3. The loan capital of the Society shall be the amount of money deposits and the amount of money borrowed by the issue of debentures or by the creation of debenture stock, subject to the limits in the next section set forth. 5

Limitation of money deposits and debentures by 47 V., c. 40, s. 1. 4. The aggregate amount of money deposits, together with the amount of the debentures and debenture stock issued, or to be issued, and remaining unpaid, may be equal to, but shall not at any time exceed double the aggregate amount of the paid-up, unimpaired, fixed and permanent share capital of the Society not liable to be withdrawn therefrom, together with a further sum, which may be equal to, but shall not exceed the amount remaining unpaid on the subscribed, fixed and permanent share capital, upon which not less than twenty per cent. has been paid. 10 15

Limitation of total liabilities and money deposits, 47 V., c. 40, s. 1. 5. In no case shall the total liabilities of the Society to the public, at any time, exceed the sum of three million dollars, nor shall they, at any time, exceed the amount of principal remaining unpaid on the mortgages at such time held by the Society: Provided that in estimating the limitation of said liabilities, the amount of all loans or advances made by the Society to their shareholders upon the security of their stock shall be deducted therefrom: Provided, further, that the amount held by the Society on money deposits shall not, at any time, exceed the amount of the paid-up and unimpaired capital of the Society. 20 25

Debentures may be issued 37 V., c. 50, s. 6. 6. The Board of Directors may issue debentures of the Society for such sums not being less than one hundred dollars each, and in such currency as they deem advisable, and payable in the Dominion of Canada or elsewhere, not less than one year from the issue thereof, subject to the limitation hereinbefore mentioned; and such debentures may be in the form of schedule A to this Act, or to the like effect. 30 35

Form.

Debenture stock may be issued. 7. The directors may also issue "debenture stock," which shall be treated and considered as a part of the regular debenture debts of the Society, in such amounts and manner, on such terms and bearing such rate of interest as the directors, from time to time, think proper and convenient, but subject to the limitations hereinbefore provided; so that the loan capital received as money deposits or borrowed or raised under one class of security or the other, as by this and the last preceding section provided, shall not, in the whole, exceed the aggregate amounts limited by sections four and five of this Act as the authorized amount of the loan capital of the Society. 40 45

Limitation.

And shall be registered. 8. The debenture stock, aforesaid, shall be entered by the Society in a register to be kept for that purpose, wherein they shall set forth the names and addresses of the several 50

persons and corporations, from time to time, entitled thereto, with the respective amounts of said stock to which they are respectively entitled; and the register shall be accessible for inspection and perusal, at all reasonable times, to every
5 holder of debenture stock.

9. The Society shall deliver to every holder aforesaid a certificate stating the amount of debenture stock held by him and the rate of interest payable thereon, but no other rights or privileges shall be conferred upon holders of debenture stock, in respect thereof, than are held or enjoyed by
10 holders of debentures of the Society.

Holder entitled to certificate, but to no greater rights than holders of debentures.

10. All transfers of the debenture stock of the Society shall be registered at the office of the Society in Hamilton, Ontario, and not elsewhere, but said transfers may be left with such
15 agent or agents in Great Britain as the Society appoints for that purpose, for transmission to the Society's office in Hamilton for registration.

Transfers, how registered.

11. The holders of the debentures of the Society may, with the consent of the directors, at any time, exchange such
20 debentures for debenture stock.

Debentures may be exchanged for debenture stock.

SCHEDULE A.

The Hamilton Provident and Loan Society, Debenture No. . Transferable \$.

Under the authority of an Act of the Parliament of Canada, Victoria, chapter , the President and Directors of the Hamilton Provident and Loan Society promise to pay to , or bearer, the sum of , on the day of , A.D. , at the Treasurer's office here, with interest at the rate of per cent. per annum, to be paid half-yearly, on presentation of the proper coupon for the same, as hereunto annexed, say on the day of and the day of in each year, at the office of the Treasurer here (or their agents in .)

Dated at Hamilton, the day of , A.D.

For the President and Directors of the Hamilton Provident and Loan Society.

A. B.

C. D.,
Secretary.

3rd Session, 5th Parliament, 48 Victoria, 1885.

J

BILL.

An Act to comprise in one Act a limitation of the Share and Loan Capital of the Hamilton Provident and Loan Society.

Received and read first time, Wednesday, 4th February, 1885.

Second reading, Monday, 9th February, 1885.

The Honorable Mr. TURNER.

OTTAWA:

PRINTED BY MAULMAN, ROGER & Co.,
1885.

BILL.

An Act respecting Explosive Substances.

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada enacts as follows :—

Preamble.

1. This Act may be cited as "The Explosive Substances Act." 46 V., Imp., c. 3., s. 1.

2. In this Act, unless the context otherwise requires,—

Interpretation.

(a) The expression "Attorney General" means the Attorney General of the Province of Canada in which any proceedings are taken under this Act, and with respect to the North-West Territories and the District of Keewatin the Attorney General of Canada.

Attorney General.

(b) The expression "Explosive Substance" includes any materials for making any explosive substance: also any apparatus, machine, implement, or materials used, or intended to be used, or adapted for causing, or aiding in causing, any explosion in or with any explosive substance; also any part of any such apparatus, machine, or implement. 46 V., Imp., c. 3, s. 9.

Explosive substance.

3. Every person who unlawfully and maliciously causes by any explosive substance an explosion of a nature likely to endanger life or to cause serious injury to property is, whether any injury to person or property is actually caused or not, guilty of felony, and liable to imprisonment for life. 46 V., Imp., c. 3, s. 2.

Maliciously causing explosions likely to endanger life or to injure property.

4. Every person who unlawfully and maliciously—

Maliciously doing acts, or conspiring to cause such explosions.

(a) Does any act with intent to cause by an explosive substance, or conspires to cause by an explosive substance, an explosion of a nature likely to endanger life, or to cause serious injury to property; or

(b) Makes or has in his possession or under his control any explosive substance with intent by means thereof to endanger life, or to cause serious injury to property or to enable any other person by means thereof to endanger life or to cause serious injury to property,

Maliciously making or having explosive substances with intent to endanger life or to injure property.

Is, whether any explosion takes place or not, and whether any injury to person or property is actually caused or not, guilty of felony, and liable to fourteen years' imprisonment. 46 V., Imp., c. 3, s. 3.

Making or having explosives without reasonable and lawful clause.

Burden of proof on accused.

Accused and his wife, or *vice versa*, may be witnesses, if he thinks fit.

Attorney General's consent for proceedings beyond the information.

Same Act may be laid as a different offence in different counts of indictment. Prosecutor not obliged to elect.

Venue, &c.

Attorney General may order inquiry. Jurisdiction of a Justice of the Peace under such order.

32-33 V., c. 30, ss. 25, et. seq., applicable to witnesses in cases under this Act.

Witness may not refuse to answer on ground of self

5. Every person who makes or knowingly has in his possession or under his control any explosive substance under such circumstances as to give rise to a reasonable suspicion that he is not making it or does not have it in his possession or under his control for a lawful object, is, unless he can show that he made it or had it in his possession or under his control for a lawful object, guilty of felony, and liable to seven years' imprisonment. 5

2. In any proceeding against any person for any offence under this section such person and his wife, or her husband, as the case may be, may, if such person thinks fit, be called, sworn, examined, and cross-examined as an ordinary witness in the case. 46 V., Imp., c. 3, s. 4. 10

3. If any person is charged before a justice of the peace with any offence under this section, no further proceeding shall be taken against such person without the consent of the Attorney General, except such as the justice thinks necessary by remand or otherwise, to secure the safe custody of such person. 46 V., Imp., c. 3, s. 7 (1). 15

6. The same criminal act may be charged in different counts of an indictment as constituting different offences under this Act, and upon the trial of any such indictment the prosecutor shall not be put to his election as to the count on which he must proceed. 46 V., Imp., c. 3, s. 7 (2). 20

7. Every person accused of any offence under this Act may be dealt with, indicted, tried and punished in the district, county or place in which the offence is committed or in which he is apprehended, or is in custody. 25

8. If the Attorney General has reasonable ground to believe that any offence under this Act has been committed, he may order an inquiry, and thereupon any justice of the peace for the district, county or place in which the offence was committed or is suspected to have been committed, who is authorized in that behalf by the Attorney General, may, although no person is charged before him with the commission of such crime, examine on oath concerning such crime any witness appearing before him, and may take the deposition of such witness, and, if he sees cause, may bind such witness by recognizance to appear and give evidence at the next court of competent jurisdiction, or when called upon within three months from the date of such recognizance; and the law relating to the compelling of the attendance of a witness before a justice of the peace, and to a witness attending before a justice of the peace and required to give evidence concerning the matter of an information or complaint, shall apply to compelling the attendance of a witness for examination, and to a witness attending under this section. 30 35 40 45

2. A witness examined under this section shall not be excused from answering any question on the ground that the answer thereto may criminate, or tend to criminate, him. 50

self; but any statement made by any person in answer to any question put to him on any examination under this section shall not, except in the case of an indictment or other criminal proceeding for perjury, be admissible in evidence against him in any proceeding, civil or criminal.

crimination, but his answer admissible against him only in charge of perjury.

3. A justice of the peace who conducts the examination under this section, of a person concerning any offence, shall not take part in the committing for trial of such person for such offence. 46 V., Imp., c. 3, s. 6, (1) (2) and (3).

Examining Justice not to commit for trial.

9. Whenever any person is bound by recognizance to give evidence before a justice of the peace, or any criminal court, in respect of any offence under this Act, any justice of the peace, if he sees fit, upon information being made in writing and on oath, that such person is about to abscond, or has absconded, may issue his warrant for the arrest of such person, and if such person is arrested any justice of the peace, upon being satisfied that the ends of justice would otherwise be defeated, may commit such person to prison until the time at which he is bound by such recognizance to give evidence, unless in the meantime he produces sufficient sureties: Provided that any person so arrested shall be entitled on demand to receive a copy of the information upon which the warrant for his arrest was issued. 46 V., Imp; c. 3, s. 6, ss. 4.

Arrest and commitment of absconding witnesses.

Such witness to have copy of information against him.

10. Any justice of the peace for any district, county or place, in which any explosive substance is suspected to be made, kept or carried for any unlawful object, may, upon reasonable cause assigned upon oath by any person, issue a warrant under his hand and seal for searching any house, mill, magazine, storehouse, warehouse, shop, cellar, yard, wharf or other place, or any carriage, wagon, cart, ship, boat or vessel, in which the same is suspected to be made, kept or carried for such object. 32, 33 V., c. 20, s. 67, *part*, and c. 22, s. 63, *part*.

Search warrants.

11. Every person acting in the execution of any such warrant may seize any explosive substance which he has good cause to suspect is intended to be used for any unlawful object, and shall, with all convenient speed, after the seizure, remove the same to such proper place as he thinks fit, and detain the same until ordered by a judge of a superior court to restore it to the person who claims the same. 32-33 V., c. 20, s. 67 *part*, and c. 22, s. 63 *part*.

Seizure under search warrant.

Proceeding on such seizure.

12. Any explosive substance seized under the provisions of this Act, shall, in the event of the person in whose possession the same is found, or of the owner thereof, being convicted of any offence under this Act, be forfeited; and the same shall be destroyed or sold under the direction of the court before which such person is convicted, and, in the case of sale, the proceeds arising therefrom shall be paid to the Minister of Finance and Receiver General, for the public uses of Canada. 32-33 V., c. 20, s. 68, and c. 22, s. 65.

Disposal of explosives seized under this Act.

Person searching or seizing liable for wilful neglect only.

13. The person who so searches or seizes shall not be liable to any suit for detaining such explosive substance, or for any loss or damage which happens thereto, without the wilful act or neglect of himself or of the person whom he intrusts with the keeping thereof. 32-33 V., c. 22, s. 64.

5

Offender against this Act not exempt from punishment for other offences.

14. This Act shall not exempt any person from any indictment or proceeding for any offence which is punishable at common law, or by any other Act; but no person shall be twice punished for the same criminal act. 46 V., Imp., c. 3, s. 7, ss. 4.

10

Imprisonment may be for any shorter term than that prescribed.

15. Every person who is liable under this Act to imprisonment for life or for any term of years, may be sentenced to imprisonment for any shorter term.

Repeal 32-33 V., c. 20, ss. 66, 67, 68. 32-33 V., c. 22 ss. 62, 63, 64, 65.

16. The sixty-sixth, sixty-seventh, and sixty-eighth sections of the Act passed in the Session of Parliament held in 15 the thirty-second and thirty-third years of Her Majesty's reign intituled "An Act respecting offences against the person," and the sixty-second, sixty-third, sixty-fourth and sixty-fifth sections of the Act passed in the said Session intituled "An Act respecting malicious injuries to property," 20 are hereby repealed.

3rd Session, 5th Parliament, 48 Vict

K

BILL

An Act respecting Explosive Su

Received and read a first time,
5th March, 1885.

Second reading, Monday, 9th Marc

The Honorable
Sir ALEX. CAM

OTTAWA:

PRINTED BY MACLEAN, ROGER
1885.

BILL.

An Act to make further provision respecting Summary Proceedings before Justices and other Magistrates.

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. In this Act the expression "justice" or "justice of the peace" includes any two or more justices of the peace, and also a police magistrate and a stipendiary magistrate, and any person having the power and authority of two or more justices of the peace Interpretation.
"Justice."
2. No conviction or order made by any justice of the peace, and no warrant for enforcing the same, shall be held invalid for any irregularity, informality or insufficiency therein; Provided, that the court or judge before which or whom the question is raised is, upon perusal of the depositions, or by affidavit, satisfied that an offence has been committed over which such justice has jurisdiction, and that the punishment imposed is not in excess of that which might have been lawfully imposed for the said offence; and any statement which, under this Act or otherwise, would be sufficient if contained in a conviction, shall also be sufficient if contained in a warrant. Convictions, orders and warrants not to be invalid for informalities.
3. The following matters shall be held to be within the provisions of the next preceding section:— Matters coming within preceding section.
- (a.) The statement of the adjudication, or of any other matter or thing, in the past tense instead of in the present; Statements.
- 25 (b.) The punishment imposed being less than the punishment by law assigned to the offence stated in the conviction or order, or to the offence which appears by the depositions to have been committed; Punishments.
- (c.) The omission to negative circumstances, the existence of which would make the act complained of lawful, whether such circumstances are stated by way of exception or otherwise in the section under which the offence is laid, or are stated in another section; but nothing herein contained shall be construed to restrict the generality of the wording of the next preceding section. Omissions to negative exceptions and provisos.
- 35
4. No information, summons, conviction, order or other proceeding shall be held to charge two offences, or shall be held to be uncertain on account of its stating the offence to Offence may be laid conjunctively or disjunctively.

Example. have been committed in different modes, or in respect of one or other of several articles, either conjunctively or disjunctively; for example, in charging an offence under the twenty-sixth section of the Act passed in the Session held in the thirty-second and thirty-third year of Her Majesty's reign, intituled: "*An Act respecting Malicious Injuries to Property*," it may be alleged that "the defendant unlawfully and maliciously did cut, break, root up and otherwise destroy or damage a tree, sapling or shrub;" and it shall not be necessary to define more particularly the nature of the act done, or to state whether such act was done in respect of a tree, or a sapling, or a shrub. 5 10

Protection of justices by order of court quashing conviction. 5. If an application is made to quash a conviction or order made by a justice of the peace, the court or judge to which or whom the application is made may, as a condition of quashing the same, if the court or judge thinks fit so to do, provide that no action shall be brought against the justice of the peace who made the conviction, or against any officer acting under any warrant issued to enforce such conviction or order. 15 20

Recognizance to be given for prosecution of *certiorari*. 6. No motion to quash any conviction order or other proceeding by or before a justice of the peace, and brought before any court by *certiorari*, shall be entertained unless the defendant is shown to have entered into a recognizance with sufficient sureties, before a justice or justices of the county or place within which such conviction or order has been made, or before a judge of a superior court, in the sum of two hundred dollars, with a condition to prosecute the same at his own costs and charges, with effect, without any wilful or affected delay, and to pay the person in whose favor the conviction, order or other proceeding is confirmed, his full costs and charges to be taxed according to the course of the court where such conviction, order or proceeding is confirmed. 25 30

No *certiorari* where appeal is taken. 7. No writ of *certiorari* shall be allowed to remove any conviction or order had or made before any justice of the peace if the defendant has appealed from such conviction or order to any court to which an appeal from such conviction or order is authorized by law, or shall be allowed to remove any conviction or order made upon such appeal. 35 40

On application to quash, court shall allow evidence of Act being in force by proclamation. 8. Whenever any provision of a statute is in force in Canada, or is in force in any locality, by virtue of a proclamation or order of the Governor General in Council, and upon an application to quash a conviction, order or other proceeding, or to discharge a defendant, the objection is taken that evidence of such proclamation or order was not given, the court or judge shall allow evidence of the issue of such proclamation or the making of such order to be supplied by affidavit in answer to the application. 45

Procedendo not necessary to return proceedings not quashed. 9. If a motion or rule to quash a conviction, order or other proceeding is refused or discharged, it shall not be necessary to issue a writ of *procedendo*, but the order of the 50

court refusing or discharging the application shall be a sufficient authority for the registrar or other officer of the court to return the conviction, order and proceedings to the court or justice from which or whom they were removed, 5 and for proceedings to be taken thereon for the enforcement thereof, as if a *procedendo* had issued.

3rd Session, 5th Parliament, 48 Victoria, 1885.

L

BILL

An Act to make further provision respecting Summary Proceedings before Justices and other Magistrates.

Received and read a first time, Monday,
16th March, 1885.

Second reading, Thursday, 19th March,
1885.

The Honorable
Mr. GOWAN.

OTTAWA:

PRINTED BY MACLEAN, ROGER & Co.
1885.

BILL.

An Act respecting proof of entries in Books of Account
kept by Officers of the Crown.

HER Majesty, by and with the advice and consent of the Senate and House of Commons, enacts as follows :—

1 A copy of any entry in any book of account kept by any officer of the Crown shall, in all courts established by the Parliament of Canada and in all legal proceedings civil and criminal over which the Parliament of Canada has legislative authority, be received as *primâ-facie* evidence of such entry and of the matters, transactions and accounts therein recorded if it is proved :—

Copies to be
primâ facie
evidence of
contents of
entries.

10 (a.) By the oath or affidavit of an officer of the Crown that such book was at the time of the making of the entry one of the ordinary books kept by such officer and that the entry was made in the usual and ordinary course of business, and that such book is in the custody or control of such officer ;
15 and

If oath is
made as to
certain
matters.

(b.) By the oath or affidavit of any person who has examined the copy with the original entry that such copy is a true copy thereof.

And as to
verification
of the copy.

3rd Session, 5th Parliament, 48 Victoria, 1885.

M

BILL

An Act respecting proof of entries in
Books of Account kept by officers of
the Crown.

Received and read a first time, Thursday,
19th March, 1885.

Second reading, Monday, 23rd March, 1885.

The Honorable
Sir ALEX CAMPBELL.

OTTAWA:

PRINTED BY MACLEAN, ROGER & Co.

1885.

BILL.

An Act further to amend “ An Act respecting Insolvent Banks, Insurance Companies, Loan Companies, Building Societies and Trading Corporations.”

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:— Preamble.

1. Section sixty of the Act passed in the forty-fifth year of Her Majesty's reign, chaptered twenty-three, and entitled “ *An Act respecting Insolvent Banks, Insurance Companies, Loan Companies, Building Societies and Trading Corporations,*” is hereby amended by the addition of the following sub-section:— Sec. 60 of 45 V, c. 23, amended.

3. Clerks and other persons in the employ of the company, in or about its business or trade, shall be collocated in the dividend sheet by special privilege over other creditors, for any arrears of salary or wages due and unpaid to them at the time of the making of the winding-up order, not exceeding three months of such arrears, and also for such salary or wages, for a period not exceeding two months of the unexpired portion of the then current year of service, during which period they shall be bound to perform under the direction of the liquidator, any work or duty connected with the affairs of the company, which the company might have directed them to perform under their respective engagements; and for any other claim they shall rank as ordinary creditors. As to privileged claims of clerks, etc., of insolvent companies.

2. This Act shall apply to cases in which winding-up proceedings are pending, where the final dividends have not been declared; and such privileged claims shall be entitled to rank upon any portion of an estate in the hands of the liquidator at the time of the passing of this Act. To what cases this Act shall apply.

3rd Session, 5th Parliament, 48 Victoria, 1885.

N

BILL.

An Act to further amend " An Act respecting Insolvent Banks, Insurance Companies, Loan Companies, Building Societies and Trading Corporations."

Received and read a first time, Thursday,
26th March, 1885.

Second reading, Friday, 27th March, 1885.

The Honourable
Mr. SCOTT.

OTTAWA:

PRINTED BY MACLEAN, ROGER & Co.,
1885.

BILL.

An Act further to amend "An Act for the better Preservation of the Peace in the vicinity of Public Works," and the Acts in amendment thereof.

HER Majesty by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. In this Act, and in the Acts hereby amended, unless the context otherwise requires,—

Interpretation.

(a.) The expression "intoxicating liquor" means and includes any alcoholic, spirituous, vinous, fermented or other intoxicating liquor, or any mixed liquor, a part of which is spirituous or vinous, fermented or otherwise intoxicating ;

"Intoxicating liquor."

(b.) The expression "public work" means and includes any railway, canal, road, bridge or other work of any kind, and any mining operation constructed or carried on by the Government of Canada, or of any Province of Canada, or by any municipal corporation, or by any incorporated company, or by private enterprise.

"Public work."

2. The first section of the Act passed in the Session of Parliament held in the thirty-second and thirty-third years of Her Majesty's reign, chaptered twenty-four, intituled "*An Act for the better Preservation of the Peace in the vicinity of Public Works,*" as amended by the first section of an Act passed in the thirty-third year of Her Majesty's reign, chaptered twenty-eight, intituled: "*An Act to amend an Act for the better Preservation of the Peace in the vicinity of Public Works,*" and by the Act passed in the thirty-eighth year of Her Majesty's reign, chaptered thirty-eight, intituled: "*An Act to amend the Acts for the better Preservation of the Peace in the vicinity of Public Works,*" is hereby repealed, and the following section is substituted therefor:—

32-33 V., c. 24, s. 1, as amended by 33 V., c. 28 and 38 V., c. 38 repealed and new section substituted.

1. The Governor in Council may, as often as occasion requires, declare, by proclamation, that upon and after a day therein named, this Act, or any section or sections thereof, shall be in force in any place or places in Canada in such proclamation designated, within the limits or in the vicinity whereof any public work is in course of construction, or in such places as are in the vicinity of any public work, within which he deems it necessary that this Act, or any section or sections thereof, should be in force,

Proclamation may be issued declaring this Act or any sections thereof to be in force in at any designated place.

“and this Act or and such section or sections thereof shall,
 “upon and after the day named in such proclamation, take
 “effect within the places designated therein :

May be re-
 voked and
 again renew-
 ed.

“ 2. The Governor in Council may, in like manner, from 5
 “time to time, declare this Act, or any section or sections
 “thereof, to be no longer in force in any such place or
 “places—and may again, from time to time, declare this
 “Act, or any section or sections thereof, to be in force
 “therein : 10

To have no
 effect in
 cities.

“ 3. But no such proclamation shall have effect within the
 “limits of any city :

To be judici-
 ally noticed.

“ 4. All courts and magistrates shall take judicial notice of
 “every such proclamation.”

Certain sec-
 tions of 32-33
 V., c. 24 re-
 pealed and
 new ones sub-
 stituted.

“ 3. The eleventh, twelfth, thirteenth, fourteenth, fifteenth 15
 and sixteenth sections of the Act first herein mentioned are
 hereby repealed, and the following sections are substituted
 therefor :—

Sale of liquor
 prohibited.

“ 11. Upon and after the day named in such proclamation,
 “and during such period as such proclamation remains in 20
 “force, no person shall, at any place within the limits spe-
 “cified in such proclamation, sell, barter or, directly or indi-
 “rectly, for any matter, thing, profit or reward, exchange,
 “supply or dispose of, any intoxicating liquor ; nor expose,
 “keep or have in possession any intoxicating liquor intended 25
 “to be dealt with in any such way :

Possession of
 liquors for
 sale prohibi-
 ted.

Proviso.

“ 2. But this section shall not extend to any person selling
 “intoxicating liquor by wholesale, and not retailing the
 “same, if such person is a licensed distiller or brewer.”

Penalty for
 contraven-
 tion.

“ 12. Everyone who, by himself, his clerk, servant, agent 30
 “or other person, violates any of the provisions of the next
 “preceding section, is guilty of an offence against this Act,
 “and, on a first conviction, shall be liable to a penalty of
 “forty dollars and costs, and, in default of payment, to
 “imprisonment for a term not exceeding three months ; and 35
 “on every subsequent conviction of a violation of the
 “provisions of the next preceding section, he shall be liable
 “to the said penalty, and the said imprisonment in default
 “of payment, and also to further imprisonment for a term
 “not exceeding six months.” 40

Agent to be
 liable to same
 penalty as
 principal.

“ 13. Every clerk, servant, agent or other person who,
 “being in the employment of, or on the premises of another
 “person, violates or assists in violating any of the provisions
 “of the eleventh section of this Act, for the person in whose
 “employment or on whose premises he is, shall be equally 45
 “guilty with the principal offender, and shall be liable to
 “the penalties mentioned in the next preceding section.”

Search for
 and seizure of
 liquor, on

“ 14. If any person makes oath or affirmation before any
 “commissioner or justice of the peace, that he has reason to

- “believe, and does believe, that any intoxicating liquor,
 “with respect to which a violation of the provisions of the
 “eleventh section of this Act has been committed
 “or is intended to be committed, is, within the
 5 “limits specified in any proclamation by which this Act has
 “been proclaimed to be in force, on board of any steamboat,
 “vessel, boat, canoe, raft, or other craft, or in or about any
 “building or premises, or in any carriage, vehicle or other
 “conveyance, or at any place, the commissioner or justice of
 “the peace shall issue a search-warrant to any sheriff, police
 “officer, constable or bailiff, who shall forthwith proceed to
 10 “search the steamboat, vessel, boat, canoe, raft, other craft,
 “building, premises, carriage, vehicle, conveyance or place
 “described in such search-warrant; and if any intoxicating
 “liquor is found therein or thereon the person executing
 “such search-warrant shall seize the intoxicating liquor
 “and the barrels, casks, jars, bottles or other packages in
 15 “which it is contained and shall keep it and them secure
 “until final action is had thereon :
- information
and warrant.
- Seized liquor
to be securely
kept.
- “2. But no dwelling house in which, or in part of which,
 “or on the premises whereof, a shop or bar is not kept, shall
 “be searched, unless the said informant also makes oath or
 20 “affirmation that some offence in violation of the provisions
 “of the eleventh section of this Act has been committed
 “therein or therefrom within one month next preceding the
 “time of making his said information for a search-warrant :
- Proviso
where there
is no shop or
bar.
- “3. The owner, keeper or person in possession of the
 25 “intoxicating liquor so seized, if he is known to the
 “officer seizing the same, shall be summoned forthwith
 “by the commissioner or justice of the peace
 “who issued the search-warrant to appear before such com-
 “missioner or justice of the peace; and if he fails so to
 “appear, or if it appears to the satisfaction of such commis-
 30 “sioner or justice of the peace that a violation of the pro-
 “visions of the eleventh section of this Act has been com-
 “mitted or is intended to be committed with respect to such
 “intoxicating liquor, it shall be declared forfeited, with any
 “package in which it is contained, and shall be destroyed
 35 “by authority of the written order to that effect of such
 “commissioner or justice, and in his presence or in the pres-
 “ence of some person appointed by him to witness the
 “destruction thereof—and the commissioner or justice, or
 “the person so appointed by him, and the officer by whom
 40 “the said intoxicating liquor has been destroyed, shall jointly
 “attest, in writing upon the back of the said order, the fact
 “that it has been destroyed :
- Owner to be
summoned.
- Liquor to be
forfeited and
destroyed.
- Attestation of
destruction.
- “4. The owner, keeper or person in possession of any
 45 “intoxicating liquor seized and forfeited under the provisions
 “of this section, may be convicted of an offence against the
 “eleventh section of this Act without any further informa-
 “tion laid or trial had, and shall be liable to the penalties
 “mentioned in the twelfth section of this Act.”
- Owner, keep-
er or person
in possession
may be con-
victed at
once.
- 50 “15. If the owner, keeper or possessor of intoxicating
 “liquor seized under the next preceding section is unknown
- If owner is
unknown.

Seizure to be advertised before liquor is destroyed.

“ to the officer seizing the same, it shall not be condemned and destroyed until the fact of such seizure, with the number and description of the packages, as near as may be, has been advertised, for two weeks by posting up a written or a printed notice and description thereof in at least three public places of the place where it was seized :

When liquor may be delivered to owner.

“ 2. And if it is proved within such two weeks, to the satisfaction of the commissioner or justice by whose authority such intoxicating liquor was seized, that with respect to such intoxicating liquor no violation of the provisions of the eleventh section of this Act has been committed nor is intended to be committed, it shall not be destroyed, but shall be delivered to the owner, who shall give his receipt therefor in writing upon the back of the search-warrant, which shall be returned to the commissioner or justice who issued the same ; but if after such advertisement as aforesaid, it appears to such commissioner or justice that a violation of the provisions of the eleventh section of this Act has been committed or is intended to be committed, then such intoxicating liquor, with any package in which it is contained, shall be forfeited and destroyed, according to the provisions of the next preceding section.”

Forfeiture and destruction in other cases.

Money paid or consideration given for liquor sold contrary to Act, cannot be recovered.

“ 16. Any payment or compensation, whether in money or securities for money, labor or property of any kind, for intoxicating liquor sold, bartered, exchanged, supplied or disposed of, contrary to the provisions of the eleventh section of this Act, shall be held to have been criminally received without consideration, and against law, equity and good conscience, and the amount or value thereof may be recovered from the receiver by the party making, paying or furnishing the same ; and all sales, transfers, conveyances, liens and securities of every kind, which either in whole or in part have been made or given for or on account of intoxicating liquor sold, bartered, exchanged, supplied or disposed of contrary to the provisions of the eleventh section of this Act, shall be null against all persons, and no right shall be acquired thereby ; and no action of any kind shall be maintained, either in whole or in part, for or on account of intoxicating liquor sold, bartered, exchanged, supplied or disposed of, contrary to the provisions of the eleventh section of this Act.”

No action to be for or on account of such liquor.

Evidence of precise description of liquor not necessary, nor of personal knowledge of sale, &c.

4. In any prosecution under this Act or the Acts hereby amended, for any offence with respect to intoxicating liquor, it shall not be necessary that any witness should depose directly to the precise description of the liquor with respect to which the offence has been committed, or to the precise consideration therefor, or to the fact of the offence having been committed with his participation or to his own personal and certain knowledge, but the commissioner or justice of the peace trying the case, so soon as it appears to him that the circumstances in evidence sufficiently establish the offence complained of, shall put the defendant on his defence, and in default of such evidence being rebutted, shall convict the defendant accordingly.

5. On the trial of any proceeding, matter or question under this Act, or under the Acts hereby amended, the person opposing or defending, and the wife or husband of such person, shall be competent and compellable to give evidence. Defendant and his consort competent witnesses.

5 6. This Act shall be in force in every place in which "The Act for the better Preservation of the Peace in the vicinity of Public Works" is in force, or in which those sections of that Act which are hereby amended are in force. Act to be in force where ever present Act is in force.

3rd Session, 5th Parliament, 48 Victoria, 1885.

O

BILL.

An Act further to amend "An Act for the better Preservation of the Peace in the vicinity of Public Works," and the Acts in amendment thereof.

Received and read first time, Monday, 13th April, 1885.

Second reading, Thursday, 16th April, 1885.

The Honourable
Sir ALEXANDER CAMPBELL.

OTTAWA:

PRINTED BY MACLEAN, ROGER & Co.
1885.

BILL.

An Act to amend an Act respecting "The Central Prison
for the Province of Ontario."

HER Majesty, by and with the advice and consent of Preamble.
the Senate and House of Commons of Canada, enacts
as follows:—

1. The fifth section of an Act passed in the thirty-sixth 36 V., c. 69,
5 year of Her Majesty's reign, chaptered sixty-nine, intituled: s. 5 repealed,
"*An Act respecting the Central Prison for the Province of* and new sec-
Ontario," is hereby repealed, and the following section enact- tion substi-
ed in lieu thereof:— tuted.

5. The Lieutenant Governor may, from time to time, by Transfer of
10 "warrant signed by the Provincial Secretary, or by such prisoners
"other officer as is authorized by the Lieutenant Governor from central
"in that behalf, direct the removal of any offender from the prison to re-
"central prison to the Ontario reformatory for boys, or from formatory or
"the central prison to the common gaol of the county in gaol, &c.
15 "which he was sentenced, or to any other gaol, or from the
"said reformatory to the said central prison."

3rd Session, 5th Parliament, 48 Victoria, 1885.

P

BILL.

An Act to amend an Act respecting
"The Central Prison for the Province
of Ontario."

Received and read first time, Monday, 13th
April, 1885.

Second reading, Thursday, 16th April, 1885.

The Honourable
SIR ALEXANDER CAMPBELL.

OTTAWA:

PRINTED BY MACLEAN, ROGER & Co.,
1885

BILL.

An Act further to amend "The Consolidated Railway Act, 1879."

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:— Preamble.

1. Section sixty of "*The Consolidated Railway Act, 1879*," and its sub-sections, and the amendments thereto, shall apply to all railways subject to the legislative authority of the Parliament of Canada except Government railways. 42 V., c. 9, s. 60, to apply to all railways except Government railways.
2. If any arrangement or agreement exists or is made between the companies owning any two railways conterminous or connected with each other, for the carriage or interchange of through traffic over or between such railways, and either of the companies owning one of such railways fails to carry out the terms and conditions of such agreement or arrangement, according to the true intent and meaning thereof; or if either of such companies fails or refuses to carry out or allow to be carried out any details necessarily incident to the effective working of the traffic upon such terms or conditions, the company aggrieved may apply to the Railway Committee for relief, by petition stating the facts and circumstances complained of, such petition having been first duly communicated to the company complained of, and thereupon the Railway Committee may hear the said companies and their witnesses, and receive such documents and testimony as may be placed before it on the subject of the complaint, and may make such order in the case as it may deem fit, either rejecting the complaint, or making such order therein as shall be required to compel the performance of the conditions of the arrangement or agreement the violation of which is complained of, and of all details necessarily incident to the effectual working of the traffic according to the intent and spirit of such terms and conditions, and may enforce such order, if necessary, by the stoppage of the trains of the offending company until such order is obeyed. And if either of such companies, or any officer, servant or agent of either neglects or refuses to obey such order, such company or such officer, servant or agent personally shall, for each such neglect or refusal, incur a penalty for each offence, not exceeding one hundred dollars for each day on which the offence is continued after such order is made known to such company, and its officers and servants, as provided by sections fifty-four and sixty-four of the said Act; which penalty may be recovered, with costs, Provision for enforcing agreements between railway companies.

On complaint railway committee may make suitable order and enforce it by stoppage of trains.

Penalty for disobeying such order.

How order to
be served.

Penalty not
to preclude
recovery of
damages.

2 V., c. 9, s.
15, ss. 2 re-
pealed and
new sub-sec-
tion substi-
tuted as to
level cross-
ings.

in a summary manner, before any court having jurisdiction to the amount in civil cases, by the railway company or any other party aggrieved by such neglect or refusal, and to and for the use and benefit of the company, or party so aggrieved, as the case may be, on the production in such court of a copy of the order of the Railway Committee, attested by a certificate purporting to be signed by the secretary of the committee, and proof of the service of a copy of such order so attested on the company, officer, servant or person complained of, and on the allegation of the company or party complainant, that the said order was not obeyed in the manner and within the time thereby prescribed, unless the company or party complained of proves to the satisfaction of the court that such order was obeyed according to the tenor thereof: And the recovery of such penalty shall not prevent or affect the recovery of the actual damages sustained by the company or party complainant, by reason of such disobedience, in any suit for the same, on like proof of the order and of disobedience thereof by the company or party complained of, and proof of such damages.

2. Sub-section two, of section fifteen of the said Act is hereby repealed, and the following substituted therefor:

2. In constructing and maintaining a highway across the railway at rail level, the approaches to the railway shall be so constructed that the descent or ascent, as the case may be, shall not be greater than one foot in twenty feet; and the rail shall in no case rise above or sink below the surface of the road, as so constructed, more than one inch.

3rd Session, 6th Parliament, 48 Victoria, 1885.

Q

BILL.

An Act further to amend "The Consolidated Railway Act, 1879."

Received and read first time, Tuesday, 21st April, 1885.

Second reading, Thursday, 23rd April, 1885.

The Honorable
Sir ALEXANDER CAMPBELL.

OTTAWA:

PRINTED BY MACLEAN, ROGER & Co.

1885.

BILL.

An Act to make further provision respecting Pawn-
brokers.

HER Majesty, by and with the advice and consent of the Preamble.
Senate and House of Commons of Canada, enacts as
follows:—

1. Every pawnbroker who charges, in respect to any Penalty for
5 goods pawned, any higher rate than is authorized by law, excessive
shall, on summary conviction, be liable to a penalty not charges.
exceeding fifty dollars.

3rd Session, 5th Parliament, 48 Victoria, 1885.

R

BILL.

An Act to make further provision re-
specting Pawnbrokers.

Read first time, Wednesday, 22nd April, 1885.

Second reading, Monday, 27th April, 1885.

Hon. Mr. GOWAN.

OTTAWA:

PRINTED BY McLEAN, ROGER & Co.

1885.

BILL.

An Act to amend "An Act respecting Offences against the Person.

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:— Preamble.

1. Section twenty-five of the Act passed in the Session held in the thirty-second and thirty-third years of Her Majesty's reign, intituled: "*An Act respecting Offences against the Person*," is hereby amended by adding thereto the words following: "and in any prosecution of any person under this section, for refusing or neglecting to provide necessary food, clothing or lodging for his wife or child, his wife shall be competent and compellable to give evidence as a witness, either for or against her husband." 32-33 V, c. 20, s. 25, amended.
Wife to be witness against husband.

3rd Session, 5th Parliament, 48 Victoria, 1885.

S

BILL.

An Act to amend "An Act respecting
Offences against the Person."

Read first time, Wednesday, 22nd April, 1885.

Second reading, Monday, 27th April, 1885.

HON. MR. GOWAN.

OTTAWA:

PRINTED BY MACLEMAN, ROSS & Co.

1885.

BILL.

An Act respecting the North-West Mounted Police Force.

HER Majesty, by and with the advice and consent of the Preamble.
Senate and House of Commons of Canada, enacts as
follows:—

1. Whenever any officer or member of the North-West Police to be
5 Mounted Police Force is serving with the Militia as a Military Force, by order of the Governor in Council, every such subject to
officer and member of the Police force shall be subject to Militia Act
when serving
with Militia.
10 "The Consolidated Militia Act of 1883," and any Act in
amendment thereof, in the same manner and to the same
extent as the Active Militia are subject thereto.

3rd Session, 5th Parliament, 48 Victoria, 1885.

T

BILL.

An Act respecting the North-West
Mounted Police Force.

Read first time, Thursday, 30th April, 1885.

Second reading, Monday, 4th May, 1885.

The Honorable
SIR ALEXANDER CAMPBELL.

OTTAWA:

PRINTED BY MACLEAN, ROGER & Co.
1885.

BILL.

An Act respecting Canned Goods.

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows :--

1. In this Act the expression "package" means every tin, Interpretation.
5 can or package in which articles or goods are put up for sale "Package."
and which are closed by being hermetically sealed.
- 2 Except in the case of goods packed previously to the Name and
10 passing of this Act, every package of canned goods sold or address to be
thousand eight hundred and eighty-six, shall have attached stamped on
thereto or imprinted thereon a label or stamp, setting forth packages.
in legible characters the name and address of the person,
firm or company by whom the same was packed, or of the
dealer who sells the same or offers it for sale.
- 15 2. Every such package containing goods prepared from Dried goods.
products which have been dried previously to being so
prepared, shall, in addition, be labelled or stamped with the
word "soaked."
3. Every person who sells or offers for sale any such goods Penalty for
20 in violation of any provision of this section shall, for a first violation.
offence, incur a penalty of *two dollars* for each such package,
and for a subsequent offence a penalty not exceeding *twenty
dollars* and not less than *four dollars*, for each such package
in respect of which any such provision has been violated.
- 25 . 3. The Governor in Council may declare certain sized Standard size
packages to be the standard size; and after the publication of packages.
in the *Canada Gazette* of the Order in Council establishing
such standard size, every person who places on any package
containing goods or articles, in respect of which such
30 standard size has been so established, and which package
does not correspond with the standard size, any label, stamp
or mark, purporting to specify the quantity or weight of the
contents or the size of the package, shall incur a penalty of
twenty-five cents for each package in respect of which the
35 provisions of this section have been violated.
4. Every person who places on any package any label, Penalty for
brand or mark which falsely represents the quantity or misrepresent-
weight of the contents of such package, shall incur a penalty of tion of con-
of *two dollars* for each package on which the quantity tents.

or weight is so falsely represented : Provided always, that a variation of one-half ounce in each pound shall not be deemed a violation of the provisions of this section.

And of date when packed.

5. Every person who places on any package any label, brand or mark which falsely represents the date when the article or goods contained therein were originally packed, shall incur a penalty of *two dollars* for each package on which such date is falsely represented. 5

Certain goods exempted.

6. The foregoing provisions of this Act shall not apply to such foreign goods of a description not put up in Canada as are excepted from the operation of this Act by the Governor in Council. 10

Repeal ; 47 V., c. 36, s. 4.

7. Section four of the Act passed in the forty-seventh year of Her Majesty's reign and chaptered thirty-six is hereby repealed. 15

3rd Session, 5th Parliament, 48 Victoria, 1885.

U

BILL.

An Act respecting Canned Goods.

Received and read first time, Thursday, 7th May, 1885.

Second reading, Friday, 8th May, 1885.

The Honourable
Sir ALEXANDER CAMPBELL.

OTTAWA:

PRINTED BY MACLEAN, ROGER & CO.

1885.

BILL.

An Act respecting the administration of justice, and other matters, in the North-West Territories.

[NOTE.—*The clauses in italics are printed to make the measure intelligible. They will be stricken out on the Third Reading, and will be offered for acceptance of the House of Commons when the Bill is in Committee in that House.*]

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. Section nine of "*The North-West Territories Act, 1880,*" 43 V., c. 25, s. 9, amended.
5 is hereby amended by striking out the words "or (b) impose any fine or penalty exceeding one hundred dollars."

2. The tenth section of the said Act is hereby amended by striking out the words "When and so soon as any system of taxation shall be adopted in any district or portion of the North-West Territories," and this amendment shall relate back and be deemed to have taken effect from and after the day of the passing of the said Act. *Ibid.* S. 10, amended. Retroactive.

3. The nineteenth section of the said Act is hereby amended by adding thereto the words "or he may, in the manner aforesaid, erect such electoral district into two electoral districts, each of which shall be entitled to elect a member." *Ibid.* S. 19, amended.

4. *The seventy-fourth section of the said Act is hereby amended by substituting the word "four" for the word "three," in the fourth line thereof.* *Ibid.* S. 74, amended.

5. The seventy-sixth section of the said Act is hereby amended by adding to the fifth sub-section thereof the following words: "but in any such case the accused may, with his own consent, be tried by a stipendiary magistrate, in a summary way, and without the intervention of a jury." *Ibid.* S. 76, amended.

6. The eighty-eighth section of the said Act, as amended by the sixth section of the Act forty-seventh Victoria, chapter twenty-three, is hereby further amended by inserting after the words "new trial," in the ninth line, the words "and to make such order as to costs as appears just." *Ibid.* S. 88, further amended.

7. The ninth section of the Act forty-seventh Victoria, chapter twenty-three, is hereby repealed, and the following section substituted therefor:—

Appeal from
Justices of
the Peace.

"9. The court of appeal from convictions and orders of justices of the peace in the North-West Territories shall be a stipendiary magistrate sitting without a jury, and the clerk of the peace or other proper officer mentioned in the Act passed in the session of Parliament held in the thirty-second and thirty-third years of Her Majesty's reign, chaptered thirty-one, intituled: '*An Act respecting the duties of Justices of the Peace out of Sessions in relation to summary convictions and orders*,' or in any Act in amendment thereof, shall, in the said Territories, mean the clerk of the district court of the district or division within which such conviction takes place or order is made."

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43 V., c. 25,
schedule
amended.

8. The schedule to "*The North-West Territories Act, 1880*," is hereby amended by striking out the words "and so much of this Act (or of any Act amending it) as gives any appeal from any conviction adjudged or made under it."

15

Powers of
stipendiary
magistrate.

9. Whenever, under any Act in force in the North-West Territories, any power or authority is to be exercised, or anything is to be done by a judge of a court, such power or authority shall, in the Territories, be exercised or such thing shall be done by a stipendiary magistrate.

20

Custody of
lunatics.

10. Whenever, under any law or ordinance in force in the North-West Territories, any insane person is kept in custody until the pleasure of the Lieutenant-Governor is known, or until such person is discharged by law, the Lieutenant-Governor may cause such person to be removed to and confined in any asylum or place of confinement from time to time designated for that purpose by the Governor in Council, and the superintendent or warden of such asylum or place of confinement shall receive such person and detain him therein until the pleasure of the Lieutenant-Governor is known, or until such person is discharged by law.

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Recapture of
lunatics who
escape from
confinement.

11. If any insane person confined, in such asylum or place of confinement under this Act, escapes therefrom, any of the officers or servants thereof, or any other person or persons, at the request of such officers or servants, or any of them, may, within forty-eight hours after such escape, if no warrant has been issued, and within one month after such escape, if a warrant in the form given in the schedule to this Act has been issued by the superintendent or warden of such asylum or place of confinement in that behalf, retake such escaped person and return him thereto; and he shall remain in custody therein under the authority by virtue of which he was detained prior to such escape.

35

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Certain trans-
fers of luna-
tics of luna-
tics ratified.

12. Any transfer which may have been made before the passing of this Act, of insane persons coming from the North-West Territories or from the District of Keewatin, and who had been theretofore confined in the Manitoba Penitentiary, from that institution to the Selkirk Lunatic Asylum, in the Province of Manitoba, or to any temporary lunatic asylum in the said Province, is hereby ratified and confirmed; and should any such persons be confined in

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a temporary lunatic asylum at the time of the passing of this Act, the Lieutenant-Governor of the Province of Manitoba is hereby authorized to cause their removal to the said Selkirk Lunatic Asylum; and the superintendent of
 5 the said asylum or the superintendent of such temporary lunatic asylum, as the case may be, shall detain any such persons committed to his keeping until the pleasure of the Lieutenant-Governor is known, or until such persons are discharged by law.

10 **13.** *The Minister of the Interior may, subject to the approval of the Governor in Council, make such arrangements with the Lieutenant-Governor of Manitoba as seem reasonable, as to the compensation to be made by Canada to that Province for the care and maintenance of persons detained in the said asylum,*
 15 *or in such temporary asylum as aforesaid.*

Manitoba to be indemnified for care of lunatics from N. W. T.

14. Every person who, in the North-West Territories,—

(a.) Without the permission in writing of the Lieutenant-Governor, or of a commissioner appointed by him to give such permission, has in his possession or sells, exchanges,
 20 trades, barter or gives to, or with any person, any improved arm or ammunition; or

Supplying arms and ammunition without a permit.

(b) Having such permission, sells, exchanges, trades, barter or gives any such arm or ammunition to any person not lawfully authorized to possess the same,

Or to unauthorized persons.

25 Shall, on summary conviction before a stipendiary magistrate or two justices of the peace, be liable to a fine not exceeding two hundred dollars, or to imprisonment for any term not exceeding six months, or to both.

An offence. Penalty.

2. In this section,—

30 (a.) The expression "improved arm" means and includes all arms except smooth bore shot guns;

Interpretation.
"Improved arm."

(b.) The expression "ammunition" means fixed ammunition or ball cartridge.

"Ammunition."

35 3. All arms and ammunition which are in the possession of any person, or which are sold, exchanged, traded, bartered or given to or with any person in violation of this section, shall be forfeited to the Crown, and may be seized by any constable or other peace officer; and any justice of the peace may issue a search warrant to search for and seize the same,
 40 as in the case of stolen goods.

Search for and seizure of arms and ammunition sold contrary to this section.

4. The Governor in Council may, from time to time, make regulations respecting,—

Regulations by Governor in Council.

(a.) The granting of permission to sell, exchange, trade, barter, give or possess arms or ammunition;

Permits for arms, &c.

45 (b.) The fees to be taken in respect thereof;

Fees.

(c.) The returns to be made respecting permissions granted; and

Returns.

Disposition. (d.) The disposition to be made of forfeited arms and ammunition.

Proviso. 5. The provisions of this section respecting the possession of arms and ammunition shall not apply to any officer or man of Her Majesty's Forces, of the Militia Force, or of the North-West Mounted Police Force. 5

Section may be proclaimed in force at any place in N. W. T. 6. The Governor in Council may, from time to time, declare by proclamation that upon and after a day therein named this section shall be in force in the North-West Territories, or in any place or places therein in such proclamation designated, and upon and after such day but not before, the provisions hereof shall take effect and be in force accordingly. 10

And proclamation may be revoked. 7. The Governor in Council may, in like manner, from time to time, declare this section to be no longer in force in any such place or places, and may again, from time to time, declare it to be in force therein. 15

To be judicially noticed. 8. All courts judges and magistrates shall take judicial notice of any such proclamation.

42 V., c. 38, repealed. 15. The Act passed in the forty-second year of Her Majesty's reign, chaptered thirty-eight, and intituled: "*An Act respecting the safe keeping of Dangerous Lunatics in the North West Territories,*" is hereby repealed. 20

SCHEDULE.

Warrant to retake escaped patient—Selkirk Lunatic Asylum (or as the case may be).

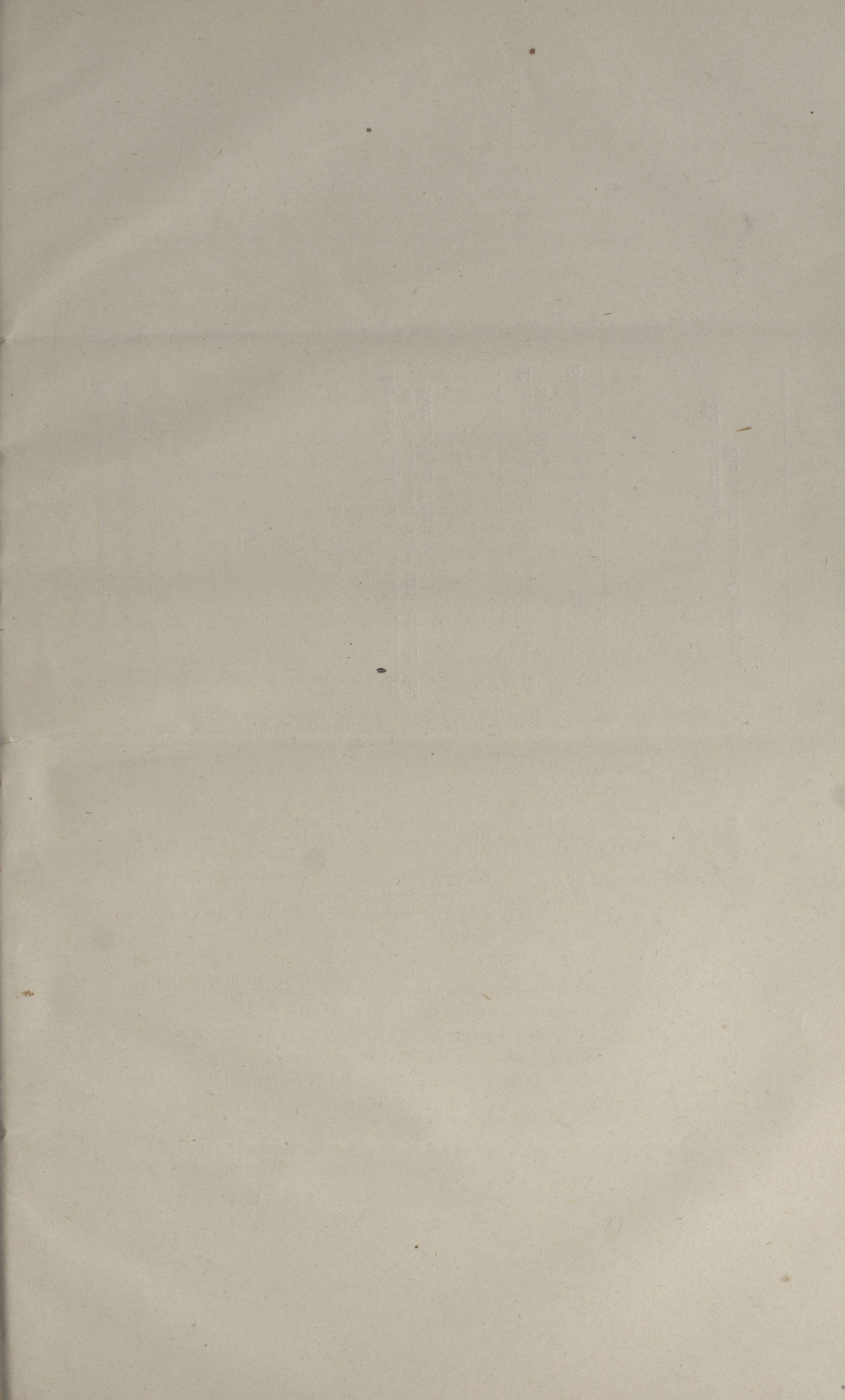
To _____ and all or any of the peace officers in the county (or as the case may be) of _____

Whereas, on the _____ day of _____ last past, being within one month from the date hereof, A. B., an insane person confined in the Selkirk Lunatic Asylum (or as the case may be), of which I, _____ am superintendent (or warden), did escape from the said asylum (or as the case may be):

These are therefore to authorize and command you, or any of you, the said constables or peace officers, in Her Majesty's name, at any time within one month from the date of the said escape, to retake the said A. B., and safely convey him to this asylum (or as the case may be) and deliver him into my charge

Given under my hand and seal this _____ day of _____ in the year _____ at, _____ in the county aforesaid.

Signature. [L.S.]
Superintendent.



3rd Session, 5th Parliament, 43 Victoria, 1885.

V

BILL.

An Act respecting the administration
of justice, and other matters, in the
North-West Territories.

Received and read first time, Friday, 8th
May, 1885.

Second reading, Friday, 22nd May, 1885.

The Honorable
Sir ALEXANDER CAMPBELL.

OTTAWA:

PRINTED BY MAOLMAN, ROGERS & Co.,

1885.

BILL.

An Act respecting the Adulteration of Food, Drugs and Agricultural Fertilizers.

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

SHORT TITLE.

1. This Act may be cited as "*The Adulteration Act.*" Short title.

INTERPRETATION.

- 5 2. In this Act, unless the context otherwise requires:— Interpreta-
tion.
- (a.) The expression "food" includes every article used for food or drink by man or by cattle; "Food."
- (b.) The expression "drug" includes all medicines for internal or external use for man or for cattle; "Drug."
- 10 (c.) The expression "agricultural fertilizer" means and includes every substance imported, manufactured, prepared or disposed of for fertilizing or manuring purposes, which is sold at more than ten dollars per ton and which contains phosphoric acid, or ammonia or its equivalent of nitrogen; "Agricultur-
al fertilizer."
- 15 (d.) The expression "officer" means any officer of Inland Revenue, or any person authorized under this Act or "*The Fertilizers Act, 1885,*" to procure samples of articles of food, drugs or agricultural fertilizers and to submit them for analysis; "Officer."
- 20 (e.) Food shall be deemed to be "adulterated" within the meaning of this Act,— Adulterated
food.
- (1) If any substance has been mixed with it, so as to reduce or lower or injuriously affect its quality or strength;
- 25 (2) If any inferior or cheaper substance has been substituted, wholly or in part, for the article;
- (3) If any valuable constituent of the article has been wholly or in part abstracted;
- 30 (4) If it is an imitation of, or is sold under the name of, another article;

- (5) If it consists wholly or in part of a diseased or decomposed or putrid or rotten animal or vegetable substance, whether manufactured or not; or in the case of milk or butter, if it is the produce of a diseased animal, or of an animal fed upon unwholesome food; 5
- (6) If it contains any added poisonous ingredient, or any ingredient which may render such an article injurious to the health of a person consuming it;

Adulterated
drugs.

(f.) Every drug shall be deemed to be "adulterated" 10
within the meaning of this Act,—

- (1) If, when sold, or offered or exposed for sale, under or by a name recognized in the British or United States Pharmacopœia, it differs from the standard of strength, quality or purity laid down 15
therein;
- (2) If, when sold, or offered or exposed for sale, under or by a name not recognized in the British or United State Pharmacopœia, but which is found in some other generally recognized pharmaco- 20
pœia or other standard work on *materia medica*, it differs from the standard of strength, quality or purity laid down in such work;
- (3) If its strength or purity falls below the professed standard under which it is sold or offered or 25
exposed for sale;

Exceptions.

(g.) Provided, that the foregoing definitions as to the adulteration of food and drugs shall not apply,—

Addition of
non-injurious
matter.

- (1) When any matter or ingredient not injurious to health has been added to the food or drug because 30
the same is required for the production or preparation thereof as an article of commerce, in a state fit for carriage or consumption, and not fraudulently to increase the bulk, weight or measure of the food or drug, or to conceal the 35
inferior quality thereof, if such articles are distinctly labelled as a mixture, in conspicuous characters, forming an inseparable part of the general label, which shall also bear the name and address of the manufacturer; 40

Patented
articles.

- (2) When the food or drug is a proprietary medicine, or is the subject of a patent in force, and is supplied in the state required by the specification of the patent;

Unavoidable
mixture.

- (3) When the food or drug is unavoidably mixed with 45
some extraneous matter in the process of collection or preparation;

(4) When any articles of food not injurious to the health of the person consuming the same are mixed together and sold or offered for sale as a compound, if such articles are distinctly labelled as a mixture, in conspicuous characters, forming an inseparable part of the general label, which shall also bear the name and address of the manufacturer ;

(h.) Every agricultural fertilizer shall be deemed to be "adulterated" within the meaning of this Act, if, when sold, offered or exposed for sale, the chemical analysis thereof shows a deficiency of more than one per cent. of any of the chemical substances, the percentages whereof are required to be specified in the certificate by "The Fertilizers Act, 1885" required to be affixed to each barrel, box, sack or package containing the same, or, if the agricultural fertilizer is in bulk, to be produced to the inspector ; or if it contains less than the minimum per centage of such substances required by the said Act to be contained in such fertilizer.

ANALYSIS.

3. The Governor in Council may appoint one or more persons possessing competent medical, chemical and microscopical knowledge as analysts of food, drugs and agricultural fertilizers purchased, sold, or exposed or offered for sale within such territorial limits as are assigned to each of them respectively, and may also select from among the aforesaid analysts so appointed, or may appoint, in addition thereto, a chief analyst, who shall be attached to the staff of the Department of Inland Revenue at Ottawa.

4. *The Governor in Council may cause such remuneration to be paid to such chief analyst and to such analysts as he deems proper, and such remuneration, whether by fees or salary, or partly in one way and partly in the other, may be paid to them out of any sums voted by Parliament for the purposes of this Act.*

5. The officers of Inland Revenue, the inspectors and deputy inspectors of weights and measures, and the inspectors and deputy inspectors acting under "The General Inspection Act, 1874," or any of them, shall, when required so to do by any regulation made in that behalf by the Minister of Inland Revenue, procure and submit samples of food, drugs or agricultural fertilizers suspected to be adulterated, to be analyzed by the analysts appointed under this Act.

6. The council of any city, town, county or village may appoint one or more inspectors of food, drugs and agricultural fertilizers ; and such inspectors shall, for the purposes of this Act, have all the powers by this Act vested in officers of Inland Revenue ; and any such inspector may require any public analyst to analyze any samples of food, drugs or agricultural fertilizers collected by him, if such samples have been collected in accordance with the requirements of this Act ;

- Analysis.** 2. The said analyst shall, upon tender of the fees fixed for the analysis of such class of articles by the Governor in Council, forthwith analyze the same, and give the inspector a certificate of such analysis :
- Inspector may prosecute.** 3. Such inspector may prosecute any person manufacturing, selling, or offering or exposing for sale within the city, county, town or village for which he is appointed inspector, any article of food, drug or agricultural fertilizer which has been certified by any public analyst to have been adulterated within the meaning of this Act : 5 10
- Application of penalties.** 4. Notwithstanding any other provision of this Act in respect to the disposition of penalties, all penalties imposed and recovered at the suit of any such inspector shall be paid into the revenue of the city, county, town or village by which such inspector was appointed, and may be distributed 15 in such manner as the council of such city, county, town or village by by-law directs.
- How samples may be obtained.** 7. Any officer may procure samples of food, drugs or agricultural fertilizers which have not been declared exempt from the provisions of this Act, from any person who has 20 such articles in his possession for the purpose of sale, or who sells or exposes the same for sale ; and he may procure such samples either by purchasing the same or by requiring the person in whose possession they are to show him and allow him to inspect all such articles in his possession, and the 25 place or places in which such articles are stored, and to give him samples of such articles on payment or tender of the value of such samples.
- Penalty for refusing to deliver sample, &c.** 8. If the person who has such articles in his possession, or his agent or servant, refuses or fails to admit the officer, 30 or refuses or omits to show all or any of the said articles in his possession, or the place in which any such articles are stored, or to permit the officer to inspect the same, or to give any samples thereof, or to furnish the officer with such light or assistance as he requires, when required so to do in pur- 35 suance of this Act, he shall be liable to the same penalty as if he knowingly sold or exposed for sale adulterated articles knowing them to be adulterated.
- Duty of officer on obtaining sample.** 9. The officer purchasing any article with the intention of submitting the same to be analysed, shall, after the pur- 40 chase has been completed, forthwith notify the seller or his agent selling the article, of his intention to have the same analysed by the public analyst, and shall, except in specific cases, respecting which provision is made by Order of the Governor in Council, divide the article into three parts, to 45 be then and there separated, and each part to be marked and sealed up or fastened up, as its nature permits, and shall deliver one of the parts to the seller or his agent, if required by him so to do :
- Division of sample.**
- Transmission of parts for analysis.** 2. He shall transmit another of such parts to the Minister 50 of Inland Revenue for submission to the chief analyst in case

of appeal, and shall submit the remaining part to the analyst for the district within which the samples were taken, unless otherwise directed by the Minister of Inland Revenue.

10. The person from whom any sample is obtained under
 5 this Act may require the officer obtaining it to annex to the vessel or package containing the part of the sample which he is hereby required to transmit to the Minister of Inland Revenue the name and address of such person, and to secure, with a seal or seals belonging to him, the vessel or package
 10 containing such part of the sample, and the address annexed thereto, in such manner that the vessel or package cannot be opened or the name and address taken off without breaking such seals; and the certificate of the chief analyst shall state the name and address of the person from whom the said
 15 sample was obtained, that the vessel or package was not open, and that the seals securing to the vessel or package the name and address of such person, were not broken until such time as he opened the vessel or package for the purpose of making his analysis; and in such case no certificate shall
 20 be receivable in evidence, unless there is contained therein such statement as above, or a statement to the like effect.

Seller may require seal to be affixed.

Certificate in such case.

11. When the officer has, by either of the means aforesaid, procured samples of the articles to be analyzed, he shall cause the same to be analyzed by one of the analysts appointed
 25 under this Act, and if it appears to the analyst that the sample is adulterated within the meaning of this Act, he shall certify such fact, stating in such certificate, in the case of an article of food or a drug, whether such adulteration is of a nature injurious to the health of the person consuming
 30 the same; and the certificate so given shall be received as evidence in any proceedings taken against any person in pursuance of this Act, subject to the right of any person against whom proceedings are taken to require the attendance of the analyst, for the purpose of cross-examination.

Proceedings for analysis.

Certificate sample is adulterated.

12. If the vendor of the article respecting which such
 35 certificate is given, deems himself aggrieved thereby, he may, within forty-eight hours of the receipt of the first notification of the intention of the officer or other purchaser to take proceedings against him, whether such notification
 40 is given by the purchaser or by the ordinary process of law, notify the said officer or purchaser in writing that he intends to appeal from the decision of the analyst to the judgment of the chief analyst: and in such case the officer or purchaser shall transmit such notification to the chief analyst, and the
 45 chief analyst shall, with all convenient speed, analyze the part of the sample transmitted to the Minister of Inland Revenue for that purpose, and shall report thereon to the said Minister; and the decision of such chief analyst, if concurred in by the said Minister, shall be final.

Appeal to chief analyst.

13. Every analyst appointed under this Act shall report
 50 quarterly to the Minister of Inland Revenue the number of articles of food, drugs and agricultural fertilisers, analyzed by him under this Act during the preceding quarter, and shall

Report for Parliament.

specify the nature and kind of adulterations detected in such articles of food, drugs and agricultural fertilisers; and all such reports, or a synopsis of them, shall be printed and laid before Parliament as an appendix to the annual report of the said Minister.

5

ADULTERATION.

No adulterated article to be sold.

14. No person shall manufacture, expose or offer for sale, or sell any food, drug or agricultural fertiliser, which is adulterated within the meaning of this Act.

What shall be deemed adulterated milk.

15. If milk is sold, or offered or exposed for sale, after any valuable constituent of the article has been abstracted therefrom, or if water has been added thereto, or if it is the product of a diseased animal or of an animal fed upon unwholesome food, it shall be deemed to have been adulterated in a manner injurious to health, and such sale, offer or exposure for sale, shall render the vendor liable to the penalty hereinafter provided in respect to the sale of adulterated food; except that skimmed milk may be sold as such if contained in cans bearing upon their exterior, within twelve inches of the tops of such vessels, the word "skimmed" in letters of not less than two inches in length, and served in measures also similarly marked; but any person supplying such skimmed milk, unless such quality of milk has been asked for by the purchaser, shall not be entitled to plead the provisions of this section as a defence to or in extenuation of any violation of this Act:

As to skimmed milk.

No water to be added.

2. Nothing in this section shall be interpreted to permit or warrant the admixture of water with milk, or any other process than the removal of cream by skimming.

What shall be deemed adulterated vinegar.

16. Vinegar sold, or offered or exposed for sale, shall be deemed to be adulterated in a manner injurious to health if any mineral acid has been added thereto, or if it contains any soluble salt having copper or lead as a base thereof—whether such salt or mineral acid is added, either during the process of manufacture or subsequently.

And adulterated liquors.

17. Alcoholic, fermented or other potable liquors sold, or offered or exposed for sale, shall be deemed to have been adulterated in a manner injurious to health if they are found to contain any of the articles mentioned in the schedule to this Act, or any article hereafter added to such schedule by the Governor in Council.

Certain articles may be exempted, &c.

18. The Governor in Council may, from time to time, declare certain articles or preparations exempt from the provisions of this Act, and may add to the schedule to this Act any article or ingredient, the addition of which is by him deemed necessary in the public interest; and every Order in Council in that behalf shall be published in the *Canada Gazette*, and shall take effect at the expiration of thirty days from the date of such publication.

19. The Minister of Inland Revenue shall, from time to time, cause to be prepared and published, lists of the articles, mixtures or compounds declared exempt from the provisions of this Act, in accordance with the next preceding section, and shall also, from time to time, fix the limits of variability permissible in any article of food or drug, or compound, the standard of which is not established by any such pharmacopœia or standard work, as is hereinbefore mentioned; and the departmental orders fixing the same shall be published in the *Canada Gazette*, and shall take effect at the expiration of thirty days after the publication thereof.

Lists to be prepared and published.

Limit of variability.

20. Whenever any article of food, any drug, or any agricultural fertilizer is reported by any analyst as being adulterated within the meaning of this Act, the Minister of Inland Revenue may, if he thinks fit, order such article, and all other articles of the same nature which belong to the same person, and which are found in the same place at the same time, to be seized by any officer of Customs or Inland Revenue, and detained by him until an analysis of samples of the whole is made by the chief analyst.

Detention of articles until sample is analysed.

21. If the chief analyst reports to the Minister of Inland Revenue that the whole or any part of such articles are adulterated, the Minister may declare such articles, or so much thereof as the chief analyst reports as being adulterated, to be forfeited to the Crown; and such articles shall thereupon be disposed of as the Minister directs.

Confiscation of adulterated articles.

PENALTIES.

22. Every person who wilfully adulterates any article of food or any drug, or orders any other person so to do, shall,—

30 (a.) If such adulteration is, within the meaning of this Act, deemed to be injurious to health, for the first offence incur a penalty not exceeding fifty dollars and not less than ten dollars, and costs, and for each subsequent offence, a penalty not exceeding two hundred dollars and not less than fifty dollars, and costs;

Penalty for adulterating food or drug.

40 (b) If such adulteration is, within the meaning of this Act, deemed not to be injurious to health, incur a penalty not exceeding thirty dollars, and costs, and for each subsequent offence a penalty not exceeding one hundred dollars and not less than fifty dollars, and costs.

23. Every person who, by himself or his agent, sells, offers for sale, or exposes for sale, any article of food or any drug, which is adulterated within the meaning of this Act, shall,—

Penalty for selling adulterated article.

45 (a.) If such adulteration is, within the meaning of this Act, deemed to be injurious to health, for a first offence incur a penalty not exceeding fifty dollars, and costs, and for each subsequent offence a penalty not exceeding two hundred dollars and not less than fifty dollars, and costs;

(b.) If such adulteration is, within the meaning of this Act, deemed not to be injurious to health, incur for each such offence a penalty not exceeding fifty dollars and not less than five dollars, and costs :

Proviso.

2. Provided, that if the person accused proves to the court before which the case is tried that he did not know of the article being adulterated, and shows that he could not, with reasonable diligence, have obtained that knowledge, he shall be subject only to pay the costs attending such prosecution. 5 10

Penalty on compounder having certain articles in possession.

24. Every compounder, or dealer in, and every manufacturer of intoxicating liquors, who has in his possession or in any part of the premises occupied by him as such, any adulterated liquor, knowing it to be adulterated, or any deleterious ingredient specified in the schedule hereto, or added to such schedule by the Governor in Council, for the possession of which he is unable to account to the satisfaction of the court before which the case is tried, shall be deemed knowingly to have exposed for sale adulterated food, and shall incur for the first offence a penalty not exceeding one hundred dollars, and for each subsequent offence a penalty not exceeding four hundred dollars. 15 20

Penalty for attaching false label.

25. Every person who knowingly attaches to any article of food, or any drug, any label which falsely describes the article sold, or offered or exposed for sale, shall incur a penalty not exceeding fifty dollars and not less than five dollars, with costs. 25

Application of penalties.

26. Every penalty imposed and recovered under this Act shall, except as herein otherwise provided, be paid over to the Minister of Finance and Receiver General, and shall form part of the Consolidated Revenue Fund of Canada. 30

GENERAL PROVISIONS.

Any person may submit article for analysis.

27. Nothing herein contained shall be held to preclude any person from submitting any sample of food, drug or agricultural fertilizer for analysis to any public analyst, or from prosecuting the vendor thereof, if such article is found to be adulterated, but the burden of proof of sale, and of the fact that the sample was not tampered with after purchase, shall be upon the person so submitting the same : 35

Duty of analyst in such case.

2. Any public analyst shall analyze such sample on payment of the fee prescribed in respect of such article or class of article by the Governor in Council. 40

As to expenses of analysis

28. Any expenses incurred in analyzing any food, drug, or agricultural fertilizer, in pursuance of this Act, shall, if the person from whom the sample is taken is convicted of having in his possession, selling, offering or exposing for sale, adulterated food, drugs, or agricultural fertilizers, in violation of this Act, be deemed to be a portion of the costs of the proceedings against him, and shall be paid by him 45

accordingly; and in all other cases such expenses shall be paid as part of the expenses of the officer, or by the person who procured the sample, as the case may be.

29. The Governor in Council may, from time to time, Regulations may be made.
 5 make such regulations as to him seem necessary for carrying the provisions of this Act into effect.

30. The provisions of "*The Consolidated Inland Revenue Act, 1883,*" whether enacted with special reference to any particular business or trade, or with general reference to the Inland Revenue Act to apply.
 10 collection of the revenue, or the prevention, detection or punishment of fraud or neglect in relation thereto, shall extend, apply and be construed and shall have effect with reference to this Act, as if they had been enacted with special reference to the matters and things herein provided for:

2. Every penalty imposed under this Act may be enforced Enforcement of penalties may be under the said Act.
 15 and dealt with as if imposed under the said Act, and every compounder, and the apparatus used by him, and the place in which his business is carried on, and the articles made or compounded by him, or used in compounding any such
 20 article, shall be "subject to excise" under the said Act.

31. The Act passed in the forty-seventh year of Her Majesty's reign, and chaptered thirty-four is hereby repealed, Repeal; 47 V., c. 34.
 and this Act is substituted therefor: Provided always, that As to effect of repeal.
 25 hereby repealed shall remain in force until revoked or altered by competent authority; and all things lawfully done and all rights acquired under the said Act, shall remain valid and may be enforced, and all offences committed or liabilities incurred under it, may be prosecuted, punished or enforced,
 30 and all proceedings and things lawfully commenced under it, may be continued and completed, under the said Act or under corresponding provisions of this Act—which shall not be construed as a new law, but as a continuation of the said repealed Act—subject to the amendments and new pro-
 35 visions hereby made and incorporated therewith.

32. This Act shall come into force upon the first day of Commencement of Act.
 July, one thousand eight hundred and eighty-five.

SCHEDULE.

Cocculus indicus, chloride of sodium (otherwise common salt), copperas, opium, cayenne pepper, picric acid, Indian hemp, strychnine, tobacco, darnel seed, extract of logwood, salts of zinc, copper or lead, alum, methyl alcohol and its derivatives, amyl alcohol, and any extract or compound of any of the above ingredients.

3rd Session, 5th Parliament, 48 Victoria, 1885.

W

BILL.

An Act respecting the Adulteration of
Food, Drugs and Agricultural Ferti-
lizers.

Received and read first time, Friday, 8th
May, 1885.

Second reading, Friday, 22nd May, 1885.

The Honourable
Sir ALEXANDER CAMPBELL.

OTTAWA:

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1885.

