



WESTERN AUSTRALIA.

ANNO QUADRAGESIMO QUARTO

VICTORIÆ REGINÆ.

No. XXIII.

AN ACT to facilitate Mortgages to Benefit Building Societies under "The Transfer of Land Act, 1874," and to enlarge the provisions of the said Act.

[Reserved, 7th September, 1880.]

[Royal Assent Proclaimed, 2nd May, 1881.]

WHEREAS the form of mortgage under "The Transfer of Land Act, 1874," is inapplicable to mortgages to Benefit Building Societies, and it is expedient to encourage such Societies and facilitate the Mortgage of Real Property to the trustees thereof; And whereas it is deemed expedient to enlarge the provisions of the said Act: Be it therefore enacted by His Excellency the Governor of Western Australia and its Dependencies, by and with the advice and consent of the Legislative Council thereof, as follows:—

1 THE proprietor of any land under the operation of "The Transfer of Land Act, 1874," may mortgage the same to the trustees

Proprietor may mortgage to Building Societies.

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trustees or trustee of any Benefit Building Society, by signing a mortgage thereof in the form in the First Schedule to this Act.

Person claiming title under the Statute of Limitations may apply to be registered.

2 ANY person claiming to have acquired under or by virtue of any statute of limitations an estate in fee simple in possession in land under the operation of "The Transfer of Land Act, 1874," may make application in the form in the Second Schedule hereto, to be registered as proprietor thereof, and shall furnish such evidence as the Commissioner may deem necessary to prove his title. Such application shall also state the value of the land.

Application to be referred to Commissioner.

3 SUCH application, with the papers, shall be submitted to the Commissioner, who may either reject such application altogether or direct notice thereof to be published once at least in a newspaper published in the City of Perth, or circulating in the neighborhood of the land, and to be served on any persons named by him, and such further publicity to be given as he shall think fit; and the Commissioner shall in such notice appoint a time not less than fourteen days nor more than twelve calendar months from such notice or from the advertisement or the first of such advertisements (if more than one) on or after the expiration of which the Registrar shall, unless a caveat shall be lodged forbidding the same, register such applicant as the proprietor of such land, by endorsing on the registered certificate, in the register book, the particulars of the title under which such applicant claims, and registering in his name a certificate of title to the land. Upon such registry being effected the applicant shall become the transferee of such land, and be deemed to be the proprietor thereof.

Contribution to the Assurance Fund.

4 UPON every registration as aforesaid, there shall be paid to the Registrar, in aid of the Assurance Fund, a sum not exceeding a halfpenny in the pound sterling of the value of the land, and such value shall be ascertained by the declaration of the applicant. If the Registrar shall not be satisfied of the correctness of the value so declared he may require such applicant to produce a certificate of such value under the hand of a valuer appointed under "The Transfer of Land Act, 1874," which certificate shall be received as conclusive evidence of such value.

Duty of one per cent. to be paid.

5 THERE shall further be payable to the Registrar a duty at the rate of One pound for every One hundred pounds of the value of such land, and at the like rate when the value of such land shall be less than One hundred pounds.

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6 THIS Act and "The Transfer of Land Act, 1874," shall be read together as one Act, and this Act may be cited separately as "The Transfer of Land Act, 1874, Amendment Act, 1880."

Act to be read with "Transfer of Land Act, 1874."
Short Title.

I reserve this Bill for the signification of Her Majesty's pleasure thereon.

WILLIAM C. F. ROBINSON, Governor.

SCHEDULES.

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SCHEDULES.

First Schedule.

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Memorandum of Mortgage under "The Transfer of Land Act, 1874, Amendment Act, 1880."

I, A.B., (*insert addition*) being the holder of _____ shares of £ _____ each in (*insert name of Society*), and being registered as the proprietor of an estate (*here state nature of estate*) subject to such encumbrances, liens, and interests as are notified by memoranda (if any) endorsed hereon, in all that (*insert description of the land according to the certificate, or, if the land mortgaged be part only of the land comprised in the existing certificate, state the fact and set forth in links or feet the boundaries and refer to a map*) in consideration (*here set forth the consideration*) do hereby covenant with the present and future trustees of the said Society that I will pay to the said Society, or the person appointed to receive the same, all repayments, subscriptions, fines, interest, and other payments (and the costs and expenses attending the recovery of the same) which shall become due according to the rules of the said Society in respect of the said share (*or shares*), and also that I will observe all the rules and regulations of the said Society until with the consent of the present or future trustees of the said Society I shall pay off such balance as according to the rules and regulations of the said Society may be owing to the said Society in respect of the said share (*or shares*) with all arrears of subscriptions, repayments, fines, and other payments hereby covenanted to be paid to the said Society. (*Here set out any special covenants.*) And for the better securing to the present and future trustees of the said Society the payment of such subscriptions, repayments, fines, interest, and other payments as aforesaid, I hereby mortgage to the present and future trustees of the said Society all my estate and interest in the said lands before described; and I empower the present and future trustees of the said Society to sell the estate and interest hereby pledged to them as security whenever I shall make default for the space of three calendar months in payment of the said subscriptions, repayments, fines, interest, or other payments to become due in respect of the said share (*or shares*) according to the rules and regulations of the said Society without serving me with any written demand for payment of such moneys pursuant to the provisions contained in "The Transfer of Land Act, 1874," or complying with the other requirements and provisions of the said Act in reference to the power of sale conferred on mortgagees claiming under any mortgage. And I do hereby further covenant with the present and future trustees of the said Society that they may, from time to time, under the power of distress conferred on a mortgagee by "The Transfer of Land Act, 1874," recover and reimburse themselves all such repayments, subscriptions, fines, and other moneys as aforesaid, and all costs, damages, and expenses

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expenses which they or the said Society may sustain or be put to by reason of any breach of the provisions of this security or of the said rules and regulations of the said Society. And save as hereinbefore mentioned I hereby confirm unto the present and future trustees of the said Society all powers and remedies given by a mortgage under "The Transfer of Land Act, 1874."

In witness whereof I have hereunto signed my name this _____ day
of 188_____ .

A.B. Mortgageor.

} Mortgagees.

Signed by the beforenamed A.B, as mortgageor,
this _____ day of _____ 188_____, in
the presence of _____ }

Signed by the beforenamed _____
as mortgagees the _____ day of _____
188_____, in the presence of _____ }

Second Schedule.

WESTERN AUSTRALIA.

Application to be registered as Proprietor under "The Transfer of Land Act, 1874, Amendment Act, 1880."

To the Registrar of Titles.

I (*insert name and addition*) do hereby apply to be registered as proprietor of all that (*insert description of land according to the existing certificate, or, if part only of the land certificated be applied for, state the fact and set forth in links or feet the boundaries, and refer to a map.*) I claim to have acquired an estate in fee simple in possession in such land under the circumstances and on the grounds following:—(*Here set forth the circumstances and grounds of claim.*)

And I declare

1. That such land, including all buildings and other improvements thereon, is of the value of _____ pounds and no more.
2. That there are no documents or evidences of title affecting such land in my possession or control, other than those included in the Schedule hereto.

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3. That the said land is occupied (*if unoccupied prefix un to occupied; if occupied, add by whom, and state the name and addition of the occupant, and the nature and period of his occupancy.*)
4. 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:—
5. 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:—

Dated this day of 188 .

Made and subscribed at }
in the presence of }

(The applicant if within the Colony is to sign before the Registrar, or a Notary Public, or Justice of the Peace; if abroad, before a Notary Public, Consul, or Justice of the Peace.)

SCHEDULE OF DOCUMENTS REFERRED TO.