



ANNO SECUNDO

## GULIELMI IV. REGIS.

NO. VI.

An Act to provide for the Registration of Deeds, Wills, Judgments, and Conveyances affecting real property.

(March 6th, 1832.)

**W**HEREAS, it is expedient to prevent secret and fraudulent Conveyances in this Colony, and to provide means whereby the title of real property may be easily traced and ascertained: Be it therefore enacted, by His Excellency the Governor of Western Australia and its Dependencies, with the advice of the Legislative Council, that from and after the passing of this Act, there shall be established at Perth in the said Colony, a Public Office for the Registration of Deeds, Conveyances, and other Instruments, Wills, and Judgments, in manner hereinafter mentioned: and that a fit and proper person shall be appointed Registrar thereof, by His Excellency the said Governor, by Warrant under his Hand and the Public Seal of the said Colony: And that from and after the establishment of such Office all Conveyances, and other Deeds, Wills, and Devises, and other Instruments in writing now or hereafter to be made or executed, and all Judgments hereafter to be obtained (by which Conveyances, Deeds, and other Instruments in writing, Wills, and Judgments, any Lands, Tenements, or Hereditaments in Western Australia, or its Dependencies, now are, or shall, or may hereafter be affected) may be entered and registered in the said Office in the manner hereinafter directed.

Preamble.

Establishment of a Registry Office.

Registrar appointed by the Governor.

Instruments affecting Land may be Registered.

II. AND be it further enacted, that all such Judgments, Deeds, Conveyances, or Instruments in writing obtained, made, or executed respectively, after the passing of this Act, and Registered in pursuance of

Priority according to Registration.

of

of this Act, shall have Priority, one over the other, according to the Priority of their respective dates of Registration; and that all such Judgments, Deeds, Conveyances, or Instruments in writing as last aforesaid, and all future Devises which shall not be Registered in pursuance of this Act, shall (as against any subsequent bonâ fide Purchaser or Mortgagee of the same Lands, Tenements, or Hereditaments for valuable consideration) be absolutely null and void to all intents and purposes; provided that nothing herein contained shall extend to bonâ fide Leases at Rack Rent for any Term not exceeding Fourteen Years.

To be Registered within a certain time.

III. AND be it further enacted, that all Judgments, Deeds, Wills, Conveyances, or Instruments in writing hereafter obtained, made, or executed, which shall be duly Registered within the respective times next mentioned; (that is to say) all Deeds, Conveyances, and other Instruments in writing, (except Wills,) which (if executed in Western Australia or its Dependencies) shall be Registered within one Month, or which (if Executed in any other place) shall be Registered within Eight Months, after the time of execution thereof respectively; and all Wills, which (if the Devisor die in Western Australia, or its Dependencies) shall be Registered within One Month, or which (if the Devisor die in any other place) shall be Registered within Twelve Months, after the decease of every Devisor respectively; and all future Judgments which shall be Registered within One Month after the entry or recording thereof, shall severally be in like manner entitled to Priority, and shall take effect respectively by relation to the date thereof only, in the same manner as if this Act had never been made.

Mode of Registration.

IV. AND be it further enacted, that the Registration intended by this Act shall be made in manner following; (that is to say) a Memorial containing the particulars hereinafter specified, shall be delivered into the said Registrar's Office, signed (in case of Deeds, Conveyances, or other Instruments in writing, except Wills,) by some or one of the parties to the original Deed or Instrument, or if such parties be dead, or absent from the Colony, then by one or more of the witnesses to such Deed or Instrument; (and in case of Wills and Devises) signed by some or one of the Devises, or his or her Guardians or Trustees; and (in case of Judgment) signed by the Plaintiff, or Plaintiffs, and every such memorial shall be verified by the oath of some competent person, that the same contains a just and true account of the several particulars therein set forth; which oath shall be taken before the Commissioner of the Civil Court of the said Colony, or before any Justice of the Peace of the said Colony.

Particulars for the Memorial to contain.

V. AND be it further enacted, that every memorial of any Judgment shall contain the following particulars, (that is to say) the names and additions of the Plaintiffs and Defendants respectively, the sums thereby recovered or secured, the time of entry or recording of the same, and the sum of money bonâ fide due thereon; and every memorial of any Deed or Conveyance, Will, or other Instrument, shall con-

tain and set forth the Date of such Deed, Conveyance, Will, or other Instrument; and the particular nature and object thereof, the names and additions of all the parties to such Deed, Conveyance, or Instrument, and of the Devisor, and Devisee, or Devisees, of such Will, and the names and additions of all the witnesses thereto, and shall especially particularize and express the Lands, Tenements, and Hereditaments affected, or intended to be affected by such Deed, Conveyance, Will, or Instrument, and the proper and ordinary, or accustomed names, of the Districts, Towns, or Places where the same shall be situated, and (except in cases of Wills) the pecuniary or other consideration for the same, in the Form or to the effect of the Form, numbered 1, in the Schedule hereunto annexed: Provided always, that when there shall be more writings than one, for perfecting the same Conveyance, Devise, or Security, affecting the same Lands, Tenements, and Hereditaments, all such writings shall be stated in one and the same Memorial, in which it shall be sufficient to particularize such Lands, Tenements, and Hereditaments only once.

VI. AND be it further enacted, that on delivery of any such memorial as aforesaid, the said Registrar shall number the same according to the order of time, in which it shall have been so delivered, and shall give a receipt for the same, in which receipt shall be specified the certain day, and time of day when such memorial shall have been so delivered, and the proper number thereof in the said Registry Office; and he shall also in like manner immediately indorse on the back of such memorial, a certificate containing the day, and time of day, when the same was so delivered, and the name and place of abode of the person verifying the same, and shall sign the said certificate when so indorsed; and such certificate shall be taken and allowed as evidence of the Registration, and time of Registration of every such Judgment, Deed, Will, Devise, Conveyance, or other Instrument, whereof such Memorial shall be so made.

Memorial to be numbered by the Registrar and a receipt given.

VII. AND be it further enacted, that every such Memorial, shall as soon after receipt thereof as practicable, be carefully Registered by the Registrar in regular succession as received, according to its proper number, in a particular book to be kept by him for that purpose, and shall afterwards be deposited by him in some secure place in his Office, and there kept for future reference when required; and he shall also keep an alphabetical index of the Districts, Towns, and Places, mentioned in every such Memorial, and also a like index or indexes, of the names of the several parties to Conveyances, and other Deeds and Instruments, and of Devisors and Devisees in Wills, and of the Plaintiff and Defendant in case of Judgments, with accurate references in all such indexes respectively, to the number and page of Registry of the Memorial to which any entry in such index or indexes shall relate, which said book of Registry, and index or indexes shall be open at convenient times in the said Office, to the inspection of persons desirous of searching the same.

The Memorial to be registered as soon as possible in a proper book.

Registrar to keep an Alphabetical index.

Registry book to be open for inspection.

Certificate of satisfaction on  
Mortgages and Judgments,

VIII. AND be it further enacted, that in case of Mortgages and Judgments Registered in pursuance of this Act; if at any time afterwards such verified certificate as hereinafter next mentioned, shall be brought to the said Registrar, signed by the respective Mortgagor and Mortgagees, or Plaintiffs and Defendants, or their Agents respectively, and attested by two credible witnesses, whereby it shall appear that the whole of the monies due on any such Mortgage or Judgment have been fully paid, or that such Mortgage or Judgment is otherwise satisfied, then the said Registrar shall make a short entry or memorandum thereof on the Memorial, and on the margent of the Registry of such Mortgage or Judgment, and shall afterwards carefully Register the same Certificate in one of the Register Books of his Office; and the said Registrar shall also make an entry thereof in his alphabetical index or indexes, referring accurately to the page of Registry of such Certificate.

Form of the certificate of  
satisfaction.

IX. AND be it further enacted, that every such certificate shall contain the following particulars; (that is to say) in case of Judgments, the names and additions of the Plaintiffs and Defendants, the time of entering up, or recording the same, the sum or sums thereby recovered, the date or dates of payment, or other satisfaction of the amount bonâ fide due thereon; and in case of Mortgages, the names and additions of the original parties, the date of the instrument, the sum thereby secured, and the time or times of payment, or other satisfaction thereof; and every such certificate shall be verified by the oath of some competent person, that the same contains a just and true account of the several particulars therein set forth, which oath shall be made and taken before the Commissioner of the said Civil Court, or before any Justice of the Peace of the said Colony, who is hereby respectively authorised to administer the same; and on the back of such verified certificate, the Registrar shall immediately indorse the date when the same was received by him, and the name and place of abode of the person verifying the same; and the said certificate shall, after being so indorsed and entered as aforesaid, be safely kept in his Office for future reference when required.

Deposit of Deeds, Wills, &c

X. AND be it further enacted, that it shall be lawful for any person or persons whatsoever, to deposit in the said Registrar Office for safe custody, any Conveyance, 'Deed, Power of' Attorney, or Instrument in writing whatsoever, or his or her last will and Testament; of which Deeds, Wills, Conveyances, or other Instruments, the said Registrar shall (first giving a receipt for the same), immediately make an entry or entries, in a book to be kept for that purpose, to which book he shall keep an accurate alphabetical Index, having reference therein, as well as to the name of Testator, or parties to each Deed, or Instrument, as to the person or persons depositing the same; and the said Registrar shall carefully and securely keep all such Deeds, Wills, or other Instruments in his said Office, until required by the party or parties depositing the same, to deliver them back again: Provided, that every such Will or Testament, shall be inclosed within a cover or

Wills enclosed under seal of  
testator or testatrix.

envelope, sealed with the seal of the Testator or Testatrix, whose name shall be indorsed by the Registrar on such envelope or cover; and every such Will shall remain in the said Office, until the decease of the Testator or Testatrix (unless he or she shall previously require the same to be delivered back), and upon the death of the Testator or Testatrix, the said Registrar shall (after examining such Will) deliver the same to the Executor first named therein, or to such other person as the said Civil Court shall, upon petition, order.

To whom Will delivered on death of testator or testatrix.

XI. AND be it further enacted, that if the said Registrar, or any other person employed in the said Registrar Office, shall wilfully neglect or omit to number, register, or enter, in manner hereinbefore directed, any Memorial, or Certificate delivered into the said Office he shall for every such offence forfeit, and be liable to pay to His Majesty his Heirs, and Successors, the penalty or sum of One Hundred Pounds, and be further liable in damages to the party injured, to the extent of the loss or injury sustained; and if the said Registrar, or any Clerk or person whatsoever, shall wilfully Destroy, Embezzle, Secrete, Forge Counterfeit, Raze, Deface, or alter any Memorial, or any part thereof, or any Indorsement made thereon, or any entry or Registry thereof, in any book in the said Office, with intent to Defraud, or Injure any person or persons; such Registrar, Clerk, or Person so offending, shall be guilty of Felony, and being thereof duly convicted, shall be liable to be transported beyond seas, for any term not less than seven years, and not exceeding fourteen years.

Penalty on Registrar or Subordinate Officer wilfully neglecting their duty.

Wilful destruction, forging, alteration of any registered Instrument, how punishable

XII. And be it further enacted, that the several Fees, or Sums of money mentioned in the list numbered 2 in the said Schedule, (and no higher or other Fees) shall be demanded and paid by, and to the said Registrar, for and in respect of the several matters and things to be by him performed and done, under or by virtue of this Act.

Fees to be taken by the Registrar.

JAMES STIRLING,  
GOVERNOR AND COMMANDER-IN-CHIEF.

Passed the Legislative Council  
This 6th day of March, 1832,  
M. J. CURRIE,  
Clerk to the Council.

SCHEDULE REFERRED TO BY THE ANNEXED ACT.

Schedule No. 1.

- 1 Date of Will or Instrument.
- 2 Nature and object thereof.

A. D. 1832.

2nd Gulielmi IV.

No. 6.

- 3 Names and Additions of the Parties, or Devisors, or Devisees.
- 4 Names and Additions of the Witnesses thereto.
- 5 Description of the Land, or Property conveyed in, or affected  
by the Deed or Will.
- 6 Name of the District, or Place where situate.
- 7 Consideration, and to whom, and how paid.
- 8 Any other particulars that the case may require.

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Schedule No. 2,

	s	d
1 For receiving each Memorial or verified Certificate	2	6
2 For giving a receipt for, and afterwards entering and Registering the same	7	6
3 For receiving every Will	5	0
4 For receiving every Deed or other Instrument	5	0
5 For every search	2	6
6 For every Copy, or other particular of any Memorial or Certificate	7	6