



*See Sect 15 of Royal Instructions
dated 22 July 1858*

*15- "The Grants of all lands
be purchased as aforesaid
shall after payment of
the fees hereof be affixed
to the Purchases under the
Public Seal of our S^c Colony
with all possible speed"*

*And similar Provisions Enacted
of same date as to opening
Grants in the Queen's name*

ANNO VICESIMO SECUNDO

By 556. P. 2. C. 76. & 131/14/27. 259.

VICTORIÆ REGINÆ.

A.D. 1858.

No. 19.

An Act to remove doubts affecting the validity of certain Land Grants, and to facilitate the issuing of Land Grants, and to regulate the payment of fees thereon.

[Assented to, 24th December, 1858.]

WHEREAS questions have arisen as to the validity of certain Land Grants, by reason of the great seal of the Province not having been affixed thereto: And whereas, by an Ordinance, No. 3 of 1846, to regulate fees on instruments passing under the public seal of the Province, and certain other instruments, it was amongst other things enacted, that it should be lawful for the Colonial Treasurer to take and receive for and in respect of every deed of grant, and other conveyance passed under the public seal of the Province, or under the Governor's seal, the sum of One Pound sterling, to be appropriated to Her Majesty, Her Heirs, and Successors, for the public uses of the Province and the support of the Government thereof: And whereas, by a certain other Act, No. 3 of 1856, intituled, "An Act to reduce the amount of Fees payable on the Registration of Land Grants," it was enacted, that it shall be lawful for the Treasurer to demand and receive from the purchaser of any waste lands of the Crown that should thereafter be sold, the sum of Five Shillings for each and every Land Grant of such land, instead of the sum of One Pound, to be paid at the time of completing the purchase thereof: And whereas, by a certain other Act, No. 3 of the twenty-first year of the reign of Her present Majesty Queen Victoria, intituled "An Act to simplify the laws relating to the transfer and encumbrance of Freehold and other interests in Land," it was amongst other things enacted, that, upon the first bringing of any land under the operation of the said Act, there shall be paid to

*Has the "doubts" affect
the Validity?*

*Left to its operation
Preamble. Enacted
14th July 1859
but taking effect
from 27th Aug 1858
the 1st day of the Sept*

the Registrar-General the sum of One Farthing in the Pound sterling on the value of such land, to constitute an assurance fund: And whereas it is expedient that all fees and sums of money to be hereafter charged and payable upon Land Grants should be paid at one and the same time, and to the same person: And whereas, by a certain Act, No. 5 of the twenty-first Victoria, intituled "An Act for regulating the sale and other disposal of the Waste Lands belonging to the Crown in South Australia," the Governor is authorized and required, in the name and on behalf of Her Majesty, to convey and alienate in fee-simple, or for any lesser estate or interest to the purchaser or purchasers thereof, any waste lands of the Crown in the said Province, which conveyances and alienations shall be made in such forms as shall from time to time be deemed expedient by the Governor, with the advice and consent of the Executive Council, and shall be sealed with the public seal of the said Province: And whereas it is expedient to provide for the validity of such conveyances and alienations as shall hereafter be made, in any form so approved as aforesaid, without the signature of the Governor, and without the great seal of the Province being affixed thereto, and to expedite and facilitate the issuing of Land Grants—Be it therefore Enacted, by the Governor-in-Chief of the Province of South Australia, with the advice and consent of the Legislative Council and House of Assembly of the said Province, in the present Parliament assembled, as follows—

C. Sh. 2.
How of making the money
of the
rep.
not Grants
to Gov. in Chief

Gov. Phys. Law
the Governor
may to Grants by
the first day of the
of the and takes effect from
that day or other day being
specified—
payable to Treasurer
at time of purchase.
This includes the apor-
ment of any? / If not the
under the real of the
amendment act of
that act takes effect
from 1st June 1859 and
when the takes effect first?
Grants effectual, if
stamped and signed
by the Treasurer and
Registrar-General.
See Part 1. 1859.
Grants made by the Governor
if they are not signed
by him?
of the Governor signs
the grant the great Seal
must be attached to it
if that is what?
dispensed with!!
not "Grant" or "Alienation"
of a grant signed by Gov.
cannot be a grant if the
owner or devisee the Crown title
the Gov. authority?
exempt from payment of
fees on grants?
Can be done
that authority or
the Governor

1. Every Land Grant which shall have been signed by the Governor and by the Treasurer shall be deemed to be valid, to all intents, notwithstanding that the seal of the said Province may not have been attached thereto.

2. All fees and sums of money payable upon Land Grants under and by virtue of the several above-recited Acts, or such other fees or sums of money as by any Act may be imposed as payable upon the registration or issue of Land Grants, or for the assurance of title to lands included in such Land Grants, shall be paid to the Treasurer at the time of completing the purchase of the lands included in such Grants.

3. Grants, conveyances, and alienations of any waste lands of the Crown within the said Province, made by the Governor, in such form as shall from time to time be deemed expedient by the Governor, with the advice and consent of the Executive Council, if signed by the Treasurer and the Registrar-General, and stamped with such stamp as may for that purpose be authorized by the Governor, with such advice and consent as aforesaid, shall, without the signature of the Governor, and without the great seal of the said Province being affixed thereto, be valid and effectual in law to transfer to and vest in possession in any such purchaser or purchasers, any such land as aforesaid, for any such estate or interest as by any such conveyance as aforesaid shall be granted to him, her, or them, and the sum of One Pound heretofore chargeable in respect of the great seal of the Province being attached to such grants, conveyances,

Extract from Report of the Committee on the subject of the
Act No. 19, intituled "An Act to remove doubts affecting the validity of certain Land

Grants, and to facilitate the issuing of Land Grants, and to regulate the payment of fees thereon," is included in general schedule of Acts, left without comment to their operation, by the Right Honorable the Secretary of State's Despatch, No. 11, dated the 24th May, 1859.

No Appropriation Clause by Clearance.

No Commencement Clause. Imp. taken off from 17th Dec 1859.

*24 Dec 1859
"first day of Spring"
"17th Dec 1859"
Stamp only!*

or alienations, shall, after the passing of this Act, be chargeable and paid to the Treasurer, at the time aforesaid, on account of affixing thereto the stamp so to be authorized as aforesaid.

4. In referring to this Act, it shall be sufficient to make use of the Short title. expression, "The Land Grants Act."

His Excellency Sir Richard Graves MacDonnell, C.B., to the Right Hon. Sir E. B. Lytton, Bart., M.P., Her Majesty's Principal Secretary of State for the Colonies.

No. 292. Government House, Adelaide, 20th January, 1859.

Sir—I have the honor to transmit herewith two Acts, to which I gave the Queen's assent, on the 24th ultimo, intituled respectively "An Act to establish the validity of certain registrations under the Act No. 23 of 1855-6;" and "An Act to remove doubts affecting the validity of certain Land Grants, and to facilitate the issuing of Land Grants, and to regulate the payment of fees thereon."

No. 16, 1858. Enclosures 1 and 2.

No. 19, 1858. Enclosures 3 and 4.

2. The former Act merely confirms the validity of certain duplicate Land Grants which had been registered, but did not bear the signature of the Governor. It had not been considered, by the Law Officers, necessary to sign those duplicates, and, accordingly, they were left unsigned by me; but so much uneasiness was felt by purchasers of land on the subject, that the enclosed Act was passed to set all doubts at rest.

3. Not merely were these doubts occasioned through want of the Governor's signature to duplicates, but there were further doubts felt by myself as to the validity of most of the recent Grants; as they were merely stamped with a copy of the public seal of the Province; a method safer and more convenient than affixing the impression of the seal itself with a wafer, because the latter was liable to be lost.

4. As further legislation was felt necessary in reference to this point, I was induced to consider whether the period had not arrived for facilitating the issue of Land Grants, a matter of serious importance to the public. Much land is purchased in this Colony by farmers and settlers, who, from time to time, save sufficient to pay a portion of the purchase money of an adjoining Section, and obtain the remainder on security of the Land Grant itself. The necessity for the Grant bearing the Governor's actual signature occasioned the transmission of each Grant from the office of the Treasurer, after receipt of the purchase money, to the office of the Chief Secretary, whence it was sent to the Governor's office, and thence returned to the Chief Secretary, by whom it was transmitted to the Surveyor-General.

5. Numerous and, on the whole, well-founded complaints reached me, from time to time, of the hardship and inconvenience occasioned to the most deserving purchasers of land, by the above unnecessarily tedious and circuitous progress of each Land Grant through the various Public Offices; and I saw no remedy so effectual as dispensing with the actual signature of the Governor; whose frequent absence, moreover, in various parts of the Province was, under the old system, an aggravation of the inconvenience felt by purchasers. As from 1,000 to 2,000 Land Grants are issued each year, you will easily perceive that the matter was one of considerable importance to the public; and I am not aware of any reason for allowing an inconvenience to continue, unless it be accompanied with some counterbalancing advantage.

A wide Margin!

6. I should not, perhaps, have so readily consented to, or rather have myself suggested a plan for dispensing with the Governor's signature, if the old system had still prevailed, of regarding the Waste Lands of the Crown as being entirely Imperial property, so much so as to be withdrawn from the control of the Local Legislature. Under that system, there might perhaps have existed some apparent reason for requiring the actual signature of the Queen's representative to an instrument, which alienated, not merely a legal, but a beneficial interest of the Crown in the land of this Province.

*My dear Lytton
I have enclosed
the Acts
I have signed
to the
Governor's
office
I have also
sent
the
Regulations
I have
drafted
25th Feb 1859*

7. I considered, however, that the 18th and 19th Vic., cap. 56, which repealed the old Imperial Waste Lands Act of these Colonies, and which by its 5th section entirely gives over to this Colony the regulations and control of all sales and the disposal of the waste lands of the Crown here, had thereby so altered the old system as to deprive of meaning and weight, as well arguments as prejudices, in favor of requiring the Governor's signature to land grants, at the cost of frequent inconvenience to the public.

8. The Act now transmitted gives a power of at least substituting a simple and speedy mode of assurance for one which formerly caused much delay; and I this day in Executive Council suggested to my Ministry the propriety of at once exercising it, and accordingly I this day sanctioned a new form of land grant under the enclosed Act, to be issued after the 13th of February.

20th Jan 1859. Enclosure 5.

9. As this step, however expedient, may seem to involve a partial abandonment of a prerogative (though the Governor in Council can at any time resume it), and as, moreover, I am not at this moment aware of the exact practice followed as to the issue of land grants in the other Colonies, I have felt it my duty to explain fully the course which I have pursued in reference to the measure, and my motives in connection therewith.

I have, &c.,

RICHARD GRAVES MACDONNELL,

Governor.

*See Governor's message...
The 11th Dec 1859*

In the Government Gazette of Oct 2^o 1862
amongst the Regulations there published for the
establishment of a Regular & uniform System of
conducting the public business of the Province
by his Excellency's Command, in the following

"Grants Conveyances & allocations of
Waste Lands of the Crown are to be made
the hand of the Governor in Chief except
where his Special Commissions to this effect
in accordance with the provisions of Act No 19
of 1858 shall first have been obtained"

Form of Grant under S. 3. of the
Grants Act - Act No 1864 -

Chief Secretary's Office, Adelaide, March 17, 1859.

NOTICE is hereby given, that under and by virtue
of the powers conferred by "The Land Grants
Act," His Excellency the Governor-in-Chief, with the
advice and consent of the Executive Council, hath
deemed expedient and approved the form of grant of
the Waste Lands of the Crown within the Province of
South Australia hereinafter given, and hath also, with
the like advice and consent, authorized a stamp, being a
copy of the Great Seal of the Province of South Aus-
tralia, to be used for the purpose of stamping all grants
of the aforesaid Waste Lands of the Crown, and that
grants in the said form, signed by the Treasurer and
Registrar-General, and stamped with the said stamp,
will, without the signature of the Governor, be valid
and effectual for granting such Waste Lands as aforesaid.

By command,

WM. YOUNGHUSBAND,
Chief Secretary.

got this act in
the Council papers
no 63. 1861 -

?

(L.S.) SOUTH AUSTRALIA.
Land Grant.

Know all men by these presents, that Sir Richard Graves MacDonnell,
Knight, Companion of the Most Honorable Order of the Bath, Captain-
General and Governor-in-Chief of the Province of South Australia, in
consideration of the sum of _____ sterling to the Treasurer, on behalf
of Her Majesty, paid by _____ doth this _____ day of _____ in the
year of our Lord one thousand eight hundred and _____ hereby, in the
name and on behalf of Her Majesty, grant unto the said _____ all
Section of land, containing _____ acres, be the same a little more or
less, and numbered _____ and delineated in the public maps deposited
in the Survey Office, at Adelaide, and in the plan in the margin hereof,
together with all timber, minerals, and appurtenances; to hold unto the
said _____ heirs and assigns for ever.

Stamped with a copy of the Great Seal of the said Province, which
stamp hath been duly authorized for that purpose by the said Sir Richard
Graves MacDonnell, according to the provisions contained in the Land
Grants Act As witness the hands of the Treasurer and Registrar-
General the day and year aforesaid.

Treasurer.
Registrar-General.

I acknowledge to have received from the above-mentioned _____ the
before-mentioned sum of _____
Witness -

This grant is from the Act of 1864
not upon the face of it purport to
be made under the Act of 1864
I am therefore of the Act of 1864
I should hope it would contain any Act
The Council are no longer to be
of the Council or any thing to
validate it - It should have
stated his right to the land
are numbered - This will
be made by the Treasurer -

As the Governor does not sign
the grant it cannot be
grant made by him under
S. 3. of the Act of 1864
I am therefore of the Act of 1864
I should hope it would contain any Act
The Council are no longer to be
of the Council or any thing to
validate it - It should have
stated his right to the land
are numbered - This will
be made by the Treasurer -

as the grant purports to be made
in the name and on behalf of her
Majesty that can only be done
in conformity with the provisions
of the Act of 1864 and not by
which he signs his authority
to use her Majesty's name or
do any act in her behalf.

*This is done it may be to show
that the grant is being given
in conformity with the
date of the Act of 1864
that they were not

*Does this mean that the
signature of the Treasurer & Registrar-
General is only to be given if the
grant is made by the Treasurer