

The Land Titles Act

being

Chapter 108 of *The Revised Statutes of Saskatchewan, 1953*
(effective February 1, 1954).

FOR HISTORICAL REFERENCE ONLY

NOTE:

This consolidation is not official. Amendments have been incorporated for convenience of reference and the original statutes and regulations should be consulted for all purposes of interpretation and application of the law. In order to preserve the integrity of the original statutes and regulations, errors that may have appeared are reproduced in this consolidation.

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CHAPTER 108

An Act respecting Land and the Title Thereto

SHORT TITLE

Short title

- 1 This Act may be cited as *The Land Titles Act*.

INTERPRETATION

Interpretation

- 2 In this Act:

“certificate of title”

- 1 “**certificate of title**” means the certificate (form A) granted by the registrar and entered and kept in the register;

“court”

- 2 “**court**” means Her Majesty’s Court of Queen’s Bench for Saskatchewan;

“duplicate certificate”

- 3 “**duplicate**” or “**duplicate certificate**” means the duplicate of the certificate of title in the register, delivered or issued to the person entitled thereto;

“filing”

- 4 “**filing**” means entering an instrument in the day book;

“grant”

- 5 “**grant**” means a grant of Crown land in fee whether direct from Her Majesty or pursuant to the provisions of a statute;

“encumbrance”

- 6 “**encumbrance**” means a charge on land created or effected for any purpose, inclusive of mortgages, mechanics’ liens and executions against lands;

“endorsement”

- 7 “**endorsement**” means anything written by the registrar upon an instrument or upon a paper attached thereto, and “**endorsed**” means so written;

“instrument”

- 8 “**instrument**” means a grant, certificate of title, conveyance, assurance, deed, map, plan, will, probate or exemplification thereof, letters of administration or an exemplification thereof, mortgage or any other document in writing relating to or affecting the transfer of or other dealing with land or evidencing title thereto;

“judge”

- 9 “**judge**” means a judge of the Court of Queen’s Bench, the master in chambers or local master in chambers;

“land”

- 10 “**land**” or “**lands**” means lands, messuages, tenements and hereditaments, corporeal and incorporeal, of every nature and description, and every estate or interest therein, whether such estate or interest is legal or equitable, together with paths, passages, ways, watercourses, liberties, privileges and easements appertaining thereto, and trees and timber thereon, and mines, minerals and quarries thereon or thereunder lying or being, unless any such are specially excepted;

“lease” “lessee”

11 **“lease”** includes a sub-lease, and **“lessee”** has a corresponding meaning;

“lunatic”

12 **“lunatic”** means a person found by a competent tribunal to be a lunatic;

“mortgage”

13 **“mortgage”** means a charge on land created for securing payment of money, and includes a hypothecation of such charge and a charge created for securing payment of an annuity, rent charge or sum of money other than a debt or loan;

“mortgagee” “mortgagor”

14 **“mortgagee”** means the owner of a mortgage, and **“mortgagor”** means the owner or transferee of land or of an estate or interest in land mortgaged;

“owner”

15 **“owner”** means a person or body corporate entitled to a freehold or other estate or interest in land, at law or in equity, in possession, in futurity or expectancy;

“possession”

16 **“possession”** when spoken of persons claiming title to land includes the receipt of the rents and profits thereof;

“registrar”

17 **“registrar”** means a registrar of land titles or a deputy registrar or the Master of Titles or deputy master when acting as registrar;

“registration”

18 **“registration”** means:

- (a) bringing lands under the provisions of this Act;
- (b) entering upon the certificate of title a memorandum authorized by this Act, of any document;

“transfer”

19 **“transfer”** means the instrument by which one person conveys to another an estate or interest in land under this Act and includes a grant from the Crown;

“transmission”

20 **“transmission”** means the passing of the title to land in any manner other than by transfer from the registered owner.

R.S.S. 1940, c.98, s.2; 1951, c.34, s.2; R.S.S. 1953, c.108, s.2.

PART I

Organization of System

REGISTRATION DISTRICTS

Ten districts

3 For the purpose of this Act there shall be in Saskatchewan ten land registration districts with boundaries as set forth in the first schedule hereto.

R.S.S. 1940, c.98, s.3; R.S.S. 1953, c.108, s.3.

New districts

4 The Lieutenant Governor in Council may by proclamation, as the settlement of the country and the exigencies of the public service require, constitute any portion of Saskatchewan a land registration district and declare by what name the same shall be known and designated and may also change the names and boundaries of existing districts.

R.S.S. 1940, c.98, s.4; R.S.S. 1953, c.108, s.4.

Land titles offices

5(1) In each registration district at such place as the Lieutenant Governor in Council determines there shall be an office called the "Land Titles Office".

(2) The Lieutenant Governor in Council may provide in each registration district at the public expense, and may thereafter maintain in a proper state of repair, the necessary building to serve as a land titles office.

R.S.S. 1940, c.98, s.5; R.S.S. 1953, c.108, s.5.

Power to close or alter districts

6 The Lieutenant Governor in Council may close, in whole or in part, any registration district, or add to one district territory taken from another, and may direct that the books, records and instruments in the possession of the registrar of the closed district or affecting land in the part transferred shall be deposited with the registrar of the district to which the land to which they relate has been added, at such times and in such manner as may be deemed expedient.

R.S.S. 1940, c.98, s.6; R.S.S. 1953, c.108, s.6.

Provisional registration in new districts

7 Until the actual establishment of an office in a new registration district, all registrations made in the offices of the district or districts from which the territory comprising such new district was set apart shall be and are hereby declared always to have been as valid as if made in such new district when fully established.

R.S.S. 1940, c.98, s.7; R.S.S. 1953, c.108, s.7.

OFFICIALS

Master of Titles

8 There may be appointed a Master of Titles who shall inspect the books and records of the several land titles offices, and perform such other duties as may be assigned to him by this Act or by the Attorney General; and the said master may be required to perform any duty which a registrar is by this Act empowered to perform.

R.S.S. 1940, c.98, s.8; R.S.S. 1953, c.108, s.8.

Deputy Master of Titles

9(1) There may also be appointed a Deputy Master of Titles to assist the Master of Titles under instructions from him.

(2) Such deputy may, in the event of the illness or absence from office of the Master of Titles, perform all the duties of the master.

(3) In case of the death, resignation or removal from office of the Master of Titles, the deputy may perform all the duties of that official until another Master of Titles is appointed.

R.S.S. 1940, c.98, s.9; R.S.S. 1953, c.108, s.9.

Qualification

10 No person shall be appointed Master or Deputy Master of Titles unless he is when appointed a barrister and solicitor of at least three years' standing of the Province of Saskatchewan.

R.S.S. 1940, c.98, s.10; R.S.S. 1953, c.108, s.10.

Chief surveyor

11(1) There may be appointed a chief surveyor of land titles offices, with such assistants as the business of the offices may require.

(2) No person shall be appointed chief surveyor unless he is a Saskatchewan land surveyor.

(3) The chief surveyor shall perform such duties in connection with plans and surveys and descriptions of land as may be prescribed by this Act or the regulations, or as he may be required to perform by the Master of Titles.

(4) Neither the chief surveyor nor anyone employed in the chief surveyor's department of the land titles offices shall practise his profession as a surveyor.

R.S.S. 1940, c.98, s.11; 1949, c.34, s.2; R.S.S. 1953, c.108, s.11.

Deputy chief surveyor

12(1) There may also be appointed a deputy chief surveyor to assist the chief surveyor under instructions from him.

(2) Such deputy may, in the event of the illness or absence from office of the chief surveyor, perform all the duties of the latter.

(3) In case of the death, resignation or removal from office of the chief surveyor, the deputy may perform all the duties of that official until another chief surveyor is appointed.

R.S.S. 1940, c.98, s.12; R.S.S. 1953, c.108, s.12.

Registrar

13(1) The business of each land titles office shall be conducted by an officer called the registrar, with such other employees as are necessary and as may be appointed.

(2) No person shall be appointed a registrar unless he is a barrister and solicitor of the Province of Saskatchewan or unless he has been employed as a deputy registrar in a land titles office in Saskatchewan for a period of at least three years, or unless he has been continuously employed in a land titles office in Saskatchewan for a period of at least fifteen years inclusive of war service if any.

R.S.S. 1940, c.98, s.13; 1945, c.30, s.2; R.S.S. 1953, c.108, s.13.

Deputy registrar

14(1) When occasion requires, one or more deputy registrars may be appointed to assist a registrar under instructions from him.

(2) The deputy registrar may, in the event of the illness or absence from office of the registrar, perform all the duties of the registrar.

(3) In case of the death, resignation or removal from office of the registrar, the deputy registrar shall do and perform all the duties of a registrar under this Act until another registrar is appointed.

R.S.S. 1940, c.98, s.14; R.S.S. 1953, c.108, s.14.

Qualification

15 No person shall be appointed a deputy registrar unless he is a barrister and solicitor of the Province of Saskatchewan, or unless he has been employed for a period of at least three years in a land titles office in Saskatchewan.

R.S.S. 1940, c.98, s.15; R.S.S. 1953, c.108, s.15.

Officials attached to Attorney General's Department

16 The Master of Titles, Deputy Master of Titles, chief surveyor, deputy chief surveyor, registrars, deputy registrars and other necessary employees shall be attached to the Department of the Attorney General and be under his control, and their salaries and such incidental expenses of carrying out the provisions of this Act as are sanctioned by this Act, or by the Lieutenant Governor in Council, shall be paid out of moneys appropriated by the Legislature for the purpose.

R.S.S. 1940, c.98, s.16; R.S.S. 1953, c.108, s.16.

Officials not to act in certain private capacities

17 Neither the Master of Titles, the Deputy Master of Titles, the chief surveyor, the deputy chief surveyor, any registrar or deputy registrar nor any official, clerk or other employee in the office of the chief surveyor or in a land titles office shall:

- (a) directly or indirectly act as the agent of any person investing money and taking securities on land within Saskatchewan;
- (b) advise for fee or reward or otherwise than in an official capacity upon titles to land;
- (c) practise as a barrister, solicitor or conveyancer; or
- (d) carry on or transact within the land titles office any business or occupation whatever other than his official duties therein.

R.S.S. 1940, c.98, s.17; R.S.S. 1953, c.108, s.17.

Officials not liable for *bona fide* act

18 No Master of Titles, Deputy Master of Titles, chief surveyor, deputy chief surveyor, registrar, deputy registrar or person acting under authority of a registrar, shall be liable to an action or proceeding for or in respect of any act *bona fide* done or omitted to be done in the exercise or supposed exercise of the powers given by this Act, or by any order or general rule made in pursuance thereof, except as hereinafter provided.

R.S.S. 1940, c.98, s.18; R.S.S. 1953, c.108, s.18.

Seals of office

19(1) The Master of Titles, chief surveyor and each registrar shall have a seal of office approved by the Lieutenant Governor in Council.

(2) The registrar shall seal all certificates of title.

R.S.S. 1940, c.98, s.19; R.S.S. 1953, c.108, s.19.

Administration of oaths

20 In matters respecting the title to land the Master of Titles, the Deputy Master of Titles or any registrar or deputy registrar within the district to which he is appointed may administer any oath or take any affirmation or declaration in lieu of an oath from anyone entitled by law to affirm or declare.

R.S.S. 1940, c.98, s.20; R.S.S. 1953, c.108, s.20.

Sealed copies and abstracts

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

R.S.S. 1940, c.98, s.21; R.S.S. 1953, c.108, s.21.

Office days and hours

22(1) Subject to subsection (2), every land titles office, except in the Arcola, Moosomin and Yorkton land registration districts, shall be opened on all days except Sundays and legal holidays at ten o'clock in the forenoon and kept open until four o'clock, except on Saturdays when it shall be closed at twelve o'clock noon.

(2) Where a municipality in which a land titles office is situated adopts any other time than mountain standard time for regulating business hours within the municipality, the times mentioned in subsection (1) shall, so long as the bylaw is in force, be deemed to be local time.

R.S.S. 1940, c.98, s.22; 1946, c.24, s.2; R.S.S. 1953, c.108, s.22.

Exceptions

23 The land titles offices in Arcola, Moosomin and Yorkton land registration districts shall be opened on all days except Sundays and legal holidays at nine o'clock in the forenoon and kept open until three o'clock in the afternoon except on Saturdays when they shall be closed at eleven o'clock in the forenoon.

R.S.S. 1940, c.98, s.23; 1946, c.24, s.3, R.S.S. 1953, c.108, s.23.

Closing on certain Saturdays and on Boxing Day

24(1) Notwithstanding sections 22 and 23, the Lieutenant Governor in Council may order that all land titles offices be closed on Saturdays during the whole or any specified portion of the year.

(2) All land titles offices shall be closed on Boxing Day, being the day after Christmas Day, and when Boxing Day falls on a Sunday or Monday the offices shall be closed on the following day.

(3) Where in this Act the time limited for the doing of any thing expires or falls on a day on which the land titles offices are closed pursuant to this section the time so limited shall be extended to and the thing may be done on the day first following which is not a holiday and not a day on which the offices are closed.

1951, c.34, s.3; R.S.S. 1953, c.108, s.24.

Receiving book

25 The registrar shall keep a book to be called the “receiving book” in which he shall enter a record of all instruments received by him.

R.S.S. 1940, c.98, s.24; R.S.S. 1953, c.108, s.25.

Stamping, examination and entry or rejection of instruments

26(1) The registrar shall stamp all instruments received by him for filing or registration showing the day, hour and minute of receiving the same and shall immediately enter a record of the same in the receiving book.

(2) The said instruments shall then be examined and, if found to be complete and in proper form and fit for filing or registration, shall be entered in the day book as provided by section 26 as of the day, hour and minute shown in the receiving book. If the instruments are found not to be complete and in proper form or appear to be unfit for filing or registration, the registrar shall reject and return same.

R.S.S. 1940, c.98, s.25; R.S.S. 1953, c.108, s.26.

Day book

27(1) The registrar shall keep a book to be called the “day book”, in which every instrument relating to lands which has been found by the registrar to be complete and in proper form, shall be entered by a short description, with the day, hour and minute of its receipt by him.

(2) For purposes of priority between mortgagees, transferees and others the time so entered shall be taken as the time of registration.

R.S.S. 1940, c.98, s.26; R.S.S. 1953, c.108, s.27.

Time taken from day book

28 The registrar, in endorsing memoranda upon the certificate of title embodied in the register and in entering memoranda upon the duplicate, shall take the time from the day book as the time of registration.

R.S.S. 1940, c.98, s.27; R.S.S. 1953, c.108, s.28.

Register

29(1) The registrar shall also keep a book to be called the “register” and shall enter therein all certificates of title and shall record therein the particulars of all instruments, dealings and other matters by this Act required to be registered or entered in the register and affecting the land included in such certificate of title.

(2) Each certificate of title shall constitute a separate folio of such book.

(3) The registrar shall retain in his office every instrument filed or registered.

R.S.S. 1940, c.98, s.28; R.S.S. 1953, c.108, s.29.

General register

30 The registrar shall also keep a book to be called the “general register” in which he shall enter in alphabetical order, under the name of the grantor, every instrument, except executions, entered in the day book relating to lands in which the land affected thereby is not specifically described, with the date of execution thereof, the names of the parties thereto and the day, hour and minute of its receipt by him.

R.S.S. 1940, c.98, s.29; R.S.S. 1953, c.108, s.30.

Execution register

31 The registrar shall also keep a book to be called the “execution register” in which he shall enter in alphabetical order, under the name of the execution debtor every writ of execution and renewal thereof received and entered in the day book with the date and amount thereof, the parties thereto and the day, hour and minute of its receipt by him, the name of the judicial district to whose sheriff the writ is directed, and any other particulars required by this Act.

R.S.S. 1940, c.98, s.30; R.S.S. 1953, c.108, s.31.

Office supplies

32 The Attorney General shall provide all books, forms and other office requisites necessary for use under the provisions of this Act.

R.S.S. 1940, c.98, s.31; R.S.S. 1953, c.108, s.32.

PART II

Registration and its Effect

APPLICATIONS TO BRING UNDER THE ACT

Application for registration

33(1) The owner of an estate or interest, whether legal or equitable, in any land letters patent for which issued from the Crown before the first day of January, 1887, or which had otherwise prior to that date passed from the Crown, may by himself or his duly authorized agent or attorney apply to have his estate or interest, or the whole title to the land, registered under this Act.

(2) The registrar may, in his discretion, refuse to entertain such application unless all persons interested in the land, other than the applicant, are consenting parties thereto.

(3) If, at the time of the grant of the certificate of title, there are no filed or registered instruments affecting the land, the certificate may be granted upon the payment of such fees as are fixed in that behalf by tariff made by the Lieutenant Governor in Council, but no fees shall be payable therefor under the provisions of this Act relating to the assurance fund.

R.S.S. 1940, c.98, s.32; R.S.S. 1953, c.108, s.33.

Form of and documents accompanying application

34(1) The application shall be made in writing to the registrar of the registration district in which the land is situated (form B), and shall be verified by affidavit of the applicant or some one on his behalf (form C).

- (2) The application shall be accompanied by:
- (a) all deeds, if any, in possession of the applicant;
 - (b) a certificate showing all instruments affecting the title in the land titles office down to the time when the application is filed, with copies of any documents in the said office the originals whereof the applicant is unable to produce.
- (3) It shall not be necessary for an applicant to produce copies of a document the original whereof is, at the time of the application, of record in the office of the registrar to whom the application is made.
- (4) Where the title to land embraced in an application passed to the Hudson's Bay Company before the first day of January, 1887, either by notification under the *Dominion Lands Act* or by letters patent issued thereunder, and where the application is accompanied by an affidavit of an officer of the company approved by the Attorney General (form D), it need not be accompanied by such notification or letters patent.

R.S.S. 1940, c.98, s.33; R.S.S. 1953, c.108, s.34.

Grant of certificate

35 Upon the filing of such application:

- (a) if the applicant is the original grantee from the Crown, and no instrument affecting the title to the land is of record in the land titles office; or
- (b) if the applicant is not the original grantee but all the original titles deeds are produced and no person other than the applicant is in actual possession of the land and no caveat has been filed;

the registrar, upon being satisfied as to the title of the applicant, shall grant a certificate of title as hereinafter provided.

R.S.S. 1940, c.98, s.34; R.S.S. 1953, c.108, s.35.

Discharge of mortgage

36 If there is any mortgage against the land at the date of such application, the filing with the registrar of the original mortgage or a copy thereof, having endorsed thereon or attached thereto a discharge signed by the mortgagee, accompanied by the affidavit of an attesting witness, shall operate as a discharge of the security created by such mortgage.

R.S.S. 1940, c.98, s.35; R.S.S. 1953, c.108, s.36.

Issue of title subject to interest of third party

37 If any person other than the applicant appears, by admission or otherwise, to be interested in the land, and the applicant desires to have his title registered subject to the interest of such other person, and such interest arises by virtue of a mortgage, lease or charge created by any other instrument, and such instrument is at the time of the application of record in the office of the registrar to whom application is made or is then produced to him, the registrar may, if satisfied as to the extent and nature of the interest or title of the applicant, register the title and grant a certificate of title and issue a duplicate certificate subject to such interest.

R.S.S. 1940, c.98, s.36; R.S.S. 1953, c.108, s.37.

Where interested party consents

38 Where the person who so appears to be interested is a consenting party to the application, and his consent is in writing signed by him in the presence of a witness, and attested in the manner required by this Act for the attestation of instruments not under seal, the registrar may, if satisfied as to the title of the applicant, grant a certificate of title subject to the terms of the consent.

R.S.S. 1940, c.98, s.37; R.S.S. 1953, c.108, s.38.

Other cases referred to master

39 In all cases other than those provided for in sections 35, 36, 37 and 38, the registrar shall forthwith, on giving the applicant a certificate of the filing of his application, transmit the application with all evidence supplied to the Master of Titles to be dealt with as hereinafter mentioned.

R.S.S. 1940, c.98, s.38; R.S.S. 1953, c.108, s.39.

Master to examine documents and hear parties

40 The Master of Titles shall examine without delay all titles so submitted, and for such purpose shall when necessary hear all persons interested or claiming to be interested, and shall hear and consider the claims as against the applicant of any person who is in possession of the land; and he shall have and exercise all the powers of a judge for compelling the attendance of witnesses and the production of documents.

R.S.S. 1940, c.98, s.39; R.S.S. 1953, c.108, s.40.

Adverse claims: notice in case of

41(1) If the Master of Titles finds that some person other than the applicant has, or appears to have, some right or claim to or against the land in question, he may of his own motion issue a notice, and cause such person to be served with a copy thereof, to the effect that a certificate of title will issue pursuant to the application unless the person appearing to have such right or claim files and serves, within the time limited by the notice, an adverse claim in accordance with section 42.

(2) The Master of Titles shall by such notice allow a reasonable time for such filing and service, and he may extend the same from time to time as he may deem expedient.

R.S.S. 1940, c.98, s.40; R.S.S. 1953, c.108, s.41.

Filing of

42 Any person having an adverse claim or a claim not recognized in the application for registration may, at any time before the Master of Titles has approved the applicant's title, file with the Master of Titles a short statement of his claim verified by affidavit and in such case he shall serve a copy thereof on the applicant, his solicitor or agent.

R.S.S. 1940, c.98, s.41; R.S.S. 1953, c.108, s.42.

Examination of

43 If an adverse claim is filed, the Master of Titles shall examine into and adjudicate thereon, and no certificate of title shall be granted until the claim has been disposed of.

R.S.S. 1940, c.98, s.42; R.S.S. 1953, c.108, s.43.

Publication of notice

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

R.S.S. 1940, c.98, s.43; R.S.S. 1953, c.108, s.44.

Order for registration of title

45 The Master of Titles, if satisfied with the applicant's title, shall make an order directing the registrar, after the expiration of four weeks from the date thereof unless in the meantime the order is appealed from, to register the same.

R.S.S. 1940, c.98, s.44; R.S.S. 1953, c.108, s.45.

Delivery of duplicate to owner

46 After the registration of a title, the registrar shall make out, sign, officially seal and deliver to the owner or his duly authorized agent a duplicate of the certificate of title in the register, on which shall be entered all memoranda endorsed on the certificate of title.

R.S.S. 1940, c.98, s.45; R.S.S. 1953, c.108, s.46.

Withdrawal of application

47(1) An applicant may, upon such terms as to the registrar or Master of Titles seem proper, withdraw his application as to the whole or any part of the land comprised therein, at any time prior to the issue of the certificate of title.

(2) In case of such withdrawal, if a caveator has been put to expense without sufficient cause by reason of the application, the caveator shall receive such compensation as the Master of Titles may allow.

R.S.S. 1940, c.98, s.46; R.S.S. 1953, c.108, s.47.

REGISTRATION

Crown grants retained by registrar

48(1) When land in Saskatchewan is granted by the Crown, the grant, when received by the registrar of the registration district in which the land so granted is situated, shall be retained by him, and a certificate of title shall be granted.

(2) Upon payment of such fees and charges as may be prescribed by the Lieutenant Governor in Council, the registrar shall issue to the grantee a duplicate certificate of title on which shall be entered all memoranda endorsed on the certificate of title, with any necessary qualifications.

(3) The fees and charges payable upon the issue of a duplicate certificate of title to a person who has obtained a patent under a homestead entry in accordance with the *Dominion Lands Act* shall be such as are fixed by the Lieutenant Governor in Council.

R.S.S. 1940, c.98, s.47; 1949, c.34, s.3; R.S.S. 1953, c.108, s.48.

Cancellation of homesteads, etc.**49(1)** When:

(a) there are instruments filed in a land titles office which encumber or affect the title or interest of any person who has obtained entry for or any disposition of lands under the *Dominion Lands Act*, or *The Provincial Lands Act*, or the regulations thereunder, or who has obtained a soldier grant under the provisions of the *Soldier Settlement Act*; and

(b) the registrar of land titles for the registration district in which the land is situated receives a written notice purporting to be signed by the Minister of Natural Resources or the Minister of Agriculture or any officer specially designated by either of them for the purpose, notifying the registrar that the entry or the disposition or the soldier grant has been cancelled or that the term granted by any such disposition has expired;

the registrar shall file the notice without fee and shall cancel all instruments encumbering or affecting the title or interest of the entrant or the holder of the disposition or of the soldier grant which might otherwise appear upon the title of a patentee or grantee with respect to the land in question, except instruments creating a charge or lien in favour of the Crown in right of the Dominion or of the province.

(2) When, subsequently to the receipt of a notice of cancellation, the registrar receives a notice purporting to be signed by one of the officials mentioned in subsection (1), that the cancellation has been annulled and the entrant reinstated, the registrar shall file the said notice without fee and restore the instruments which had been cancelled under the provisions of subsection (1), and such instruments shall thereupon be of the same force and effect as if no cancellation had taken place.

R.S.S. 1940, c.98, s.48; 1949, c.34, s.4; 1950, c.7, s.31; R.S.S. 1953, c.108, s.49.

Cancellation of instruments affecting title of province**50(1)** When:

(a) there are instruments filed in the land titles office which encumber or affect the title or interest of any person who has entered into an agreement for the purchase of land from Her Majesty in right of Saskatchewan; and

(b) the registrar of land titles for the registration district in which the land is situated receives a written notice purporting to be signed by the deputy minister of any department of the Government of Saskatchewan, notifying him of the facts and stating that, the agreement of sale having been cancelled, such person has no interest in the land;

the registrar shall file the notice without fee and shall cancel all instruments encumbering or affecting the interest of such person in the land.

(2) When, subsequently to the receipt of a notice of cancellation, the registrar receives a notice, purporting to be signed by such deputy minister, that the cancellation has been annulled, the registrar shall file the said notice without fee and restore the instruments which had been cancelled under the provisions of subsection (1), and such instruments shall thereupon be of the same force and effect as if no cancellation had taken place.

R.S.S. 1940, c.98, s.49; 1949, c.34, s.5; R.S.S. 1953, c.108, s.50.

Hudson's Bay Company lands

51 A notification to the Hudson's Bay Company by the Minister of Natural Resources of the survey and confirmation of the survey of any township, or part of a township, shall be accepted by a registrar as equivalent to, and be dealt with by him in all respects in the same manner as if the said notification were, a transfer to and in favour of the said company granting to it the sections or portions of sections to which it is entitled in such townships or parts of townships under the Agreement between the Government of the Dominion of Canada and the Government of the Province of Saskatchewan, dated the twentieth day of March, 1930, and ratified by chapter 87 of the Statutes of Saskatchewan, 1930.

R.S.S. 1940, c.98, s.50; R.S.S. 1953, c.108, s.51.

Railway company lands

52 A notification to the registrar from the Minister of Natural Resources that land described therein has been granted to the Canadian Pacific Railway Company, or to any railway company entitled to provincial lands under the authority of an Act of Parliament or of the Legislature of Saskatchewan, shall be accepted by the registrar and dealt with by him in all respects as if the same were a transfer in favour of such company.

R.S.S. 1940, c.98, s.51; R.S.S. 1953, c.108, s.52

When registration deemed effected

53(1) Every grant shall be deemed to be registered under the provisions of this Act when it has been marked by the registrar with the folio and volume on and in which it is or is to be embodied in the register.

(2) Every other instrument shall be deemed to be registered when a memorandum of it has been entered in the register upon the folio constituting the existing certificate of title.

R.S.S. 1940, c.98, s.52; R.S.S. 1953, c.108, s.53

Duplicate certificate of title produced

54 Unless required to do so by order of the court or a judge or the Master of Titles, and except as provided in section 55, the registrar shall not enter an instrument in the day book until the duplicate certificate of title for the lands affected is produced to him, so as to enable him to enter the proper memorandum on such duplicate.

R.S.S. 1940, c.98, s.53; R.S.S. 1953, c.108, s.54.

Duplicate certificate of title not produced

55 A duplicate certificate of title for the lands affected need not be produced in the case of:

(a) executions against lands, caveats, mechanics' liens, assignments for the general benefit of creditors, transfers by a sheriff or by order of a court or a judge;

(b) applications for title by tax sale purchasers or their assigns under *The Arrears of Taxes Act*, chapter 146 of *The Revised Statutes of Saskatchewan, 1940*, tax liens under *The Tax Enforcement Act*, applications by municipalities for title under the last mentioned Act, proceedings to obtain title under section 29 of *The Mineral Taxation Act*, maps or plans which do not require to be registered, or certificates or orders of a court or a judge or the Master of Titles, or certificates of *lis pendens* under the seal of the court and the hand of the clerk or the registrar or local registrar thereof;

- (c) a mortgage created by any person rightfully in possession of land prior to the issue of the grant from the Crown or prior to the issue of transfer from the Hudson's Bay Company or from any company entitled to a grant of such lands from the Crown, or to which letters patent from the Crown for such mortgaged lands have already issued but for which no certificate of title has been issued, if there is produced to and left with the registrar with the mortgage an affidavit made by the mortgagor (form E); and also in the case of lands mortgaged prior to the issue of transfer from the Hudson's Bay Company or other company as aforesaid, a certificate from the land commissioner or other proper officer of such company that the purchase price of such mortgaged lands has been paid and that the applicant is entitled to a transfer thereof in fee simple from such company;
- (d) a certificate of cancellation of a disposition of provincial lands under section 69 of *The Provincial Lands Act*;
- (e) a certificate filed under section 38 of *The Water Rights Act*;
- (f) a plan under section 103;
- (g) a plan registered pursuant to *The Community Planning Act*;
- (h) an assignment, mortgage, charge or discharge of an easement registered pursuant to *The Public Utilities Easements Act*.

R.S.S. 1940, c.98, s.54; 1945, c.30, s.3; 1949, c.34, s.6; 1950, c.27, s.2; R.S.S. 1953, c.108, s.55.

Cancellation of certificate and duplicate upon transfer

56(1) Upon every transfer of ownership, the certificate of title of the transferor and the duplicate thereof shall be cancelled in respect of the land transferred and the certificate of title of the transferee shall thereupon be entered upon a new folio in the register.

(2) The registrar shall note upon the folio of the title of the transferor the number of the folio of the transferee's title and upon that of the transferee the number of the folio of the transferor so that reference can be readily made from one to the other.

(3) There shall not be included in a certificate of title lands in more than one township.

(4) In no case shall a certificate of title issue for more than one hundred lots or for lots in more than one subdivision or for unsubdivided lands which are not contiguous or which contain more than 640 acres:

Provided that lands shall be deemed contiguous that are part of the same section, or are separated only by a highway, railway right of way or private road.

R.S.S. 1940, c.98, s.55; R.S.S. 1953, c.108, s.56

Disposition of undivided fractional interest in minerals

57 The registrar may refuse to accept for registration any instrument transferring, encumbering, charging or otherwise disposing of an undivided fractional interest in a parcel of land containing mines and minerals, or any mineral, which is less than an undivided one-twentieth of the whole interest in mines or minerals, or in any mineral, contained in that parcel of land.

1950, c.27, s.3; R.S.S. 1953, c.108, s.57.

Memorandum

58(1) Every memorandum entered in the register shall state the nature of the instrument to which it relates, the day, hour and minute of its registration, and the names of the parties thereto, and shall refer by number or symbol to such instrument.

(2) When a memorandum has been entered in the register, the registrar shall make a like memorandum upon the duplicate when the same is presented to him for the purpose, and shall sign and seal such memorandum.

(3) Such memorandum shall be received in all courts of law as conclusive evidence of its contents and that the instrument of which it is a memorandum has been duly registered under the provisions of this Act.

R.S.S. 1940, c.98, s.56; R.S.S. 1953, c.108, s.58.

Registration of instruments belonging to other systems

59 Where an instrument in accordance with the forms in use or sufficient to pass an estate or interest in land under a system of land registration other than that created by this Act, deals with land outside Saskatchewan and also with land in Saskatchewan, the Master of Titles may, in his discretion, direct the registrar to register it under this Act against land in such instrument specifically described, and, when so registered, it shall have the same effect as to the operative parts thereof as an instrument of a like nature under this Act, and shall by implication be held to contain all such covenants as are implied in such an instrument.

R.S.S. 1940, c.98, s.57; R.S.S. 1953, c.108, s.59.

Registration of certified copies

60 The registrar may accept and register, in lieu of the original, a document purporting to be a copy of a document of record in any land titles office in the province certified to be a true copy under the hand and seal of the registrar.

R.S.S. 1940, c.98, s.58; R.S.S. 1953, c.108, s.60.

ATTESTATION OF INSTRUMENTS**Within Saskatchewan**

61(1) Every instrument executed within Saskatchewan, except instruments under the seal of a corporation, caveats, mechanics' liens, orders of a court or judge, the Master of Titles or registrar, documents issued by officials of the Crown under statutory authority, executions or certificates of judicial proceedings attested as such, applications to bring land under the operation of the Act, applications for transmission, applications for tax title, requests to send notice to execution creditors, certificates under section 19 of *The Creditors' Relief Act* and assignments or receiving orders under the *Bankruptcy Act (Canada)* required to be registered or filed under this Act, shall be witnessed by one person who shall sign his name to the instrument as a witness and who shall appear before the Master of Titles, or the registrar or deputy registrar of the registration district in which the land is situated, or before a judge, notary public, commissioner for oaths or justice of the peace in and for Saskatchewan, and make an affidavit (form F).

(2) Notwithstanding anything contained in subsection (1), all documents purporting to be issued by a board of review established in Saskatchewan under *The Farmers' Creditors Arrangement Act, 1934, (Canada)* or by the Provincial Mediation Board or by any member or members of either board and required to be registered or filed in a land titles office, shall be witnessed by one person who shall sign his name as a witness, but no further or other formality shall be required as a condition of the acceptance of such documents for registration or filing.

R.S.S. 1940, c.98, s.59; 1943, c.19, s.3; R.S.S. 1953, c.108, s.61.

Outside Saskatchewan

62(1) Every instrument executed outside Saskatchewan, except grants from the Crown, orders in council, instruments under the seal of a corporation, caveats or mechanics' liens, applications to bring land under the operation of the Act, applications for transmission, applications for tax title, requests to send notice to execution creditors and assignments or receiving orders under the *Bankruptcy Act (Canada)* required to be registered or filed under this Act, shall be witnessed by one person who shall sign his name to the instrument as a witness and who shall appear and make an affidavit (form F) before one of the following persons:

In Canada

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

In the North-West Territories

(b) if made in the North-West Territories, before a stipendiary magistrate, a member of the Royal Canadian Mounted Police Force, a commissioner authorized to take affidavits in the said Territories for use in any court of record in Saskatchewan, or before a notary public under his official seal; or

In the Yukon Territory

(c) if made in the Yukon Territory, before a judge of the Territorial Court, a police magistrate, a member of the Royal Canadian Mounted Police Force, a commissioner authorized to take affidavits in the said Territory for use in any court of record in Saskatchewan, or before a notary public under his official seal; or

In Great Britain or Ireland

(d) if made in Great Britain or Ireland, before a judge of the Supreme Court of Judicature in England or of the Court of Session or of the Justiciary Court in Scotland, or of the Supreme Court of Judicature in Northern Ireland or of the High Court in the Irish Free State or Eire, or a judge of any of the county courts within his county, or the mayor of a city or incorporated town under the common seal of such city or town, or before a commissioner in Great Britain or Ireland authorized to administer oaths and take affidavits therein for use in any court of law in Saskatchewan, or a notary public under his official seal; or

In British colonies

(e) if made in any British dominion, colony or possession outside Canada, before a judge of a court of record, the mayor of a city or incorporated town under the common seal of such city or town or before a commissioner authorized to administer oaths and take affidavits for use in any court of law in Saskatchewan, or a notary public under his official seal; or

In foreign countries

(f) if made in any foreign country, before the mayor of a city or incorporated town under the common seal of such city or town, or before a judge of a court of record, or a notary public under his official seal, or before a commissioner for oaths without Saskatchewan.

(2) Notwithstanding anything contained in subsection (1), an affidavit required under that subsection may be made before one of the following persons:

(a) officers of any of Her Majesty's diplomatic or consular services exercising their functions in any foreign country, including ambassadors, envoys, ministers, charges d'affaires, counsellors, secretaries, attaches, consuls-general, consuls, vice-consuls, pro-consuls, consular agents, acting consuls-general, acting consuls, acting vice-consuls and acting consular agents;

(b) officers of the Canadian diplomatic, consular and representative services exercising their functions in any foreign country, or in any part of Her Majesty's dominions outside Canada, including, in addition to the diplomatic and consular officers mentioned in clause (a), high commissioners, permanent delegates, acting high commissioners, acting permanent delegates, counsellors and secretaries;

(c) Canadian Government Trade Commissioners and Assistant Canadian Government Trade Commissioners exercising their functions in any foreign country or in any part of Her Majesty's dominions outside Canada;

(d) the Agent-General representing the Government of Saskatchewan in the United Kingdom and Europe.

For the purposes of clauses (b) and (c) "dominions" includes kingdom, empire, republic, commonwealth, state, province, territory, colony, possession and protectorate heretofore or now existing or hereafter constituted.

R.S.S. 1940, c.98, s.60; 1943, c.19, s.4; 1947, c.37, s.2; R.S.S. 1953, c.108, s.62.

Execution by members of permanent forces

63 Notwithstanding anything contained herein, the registrar may register any instrument purporting to be executed by a member of Her Majesty's permanent naval, military or air forces if the affidavit of attestation purports to be sworn before a commissioned officer holding the rank of lieutenant in the naval forces or captain in the military forces or flight lieutenant in the air forces or a higher rank in any of the said forces, and if the officer has stated after his signature his rank and the company, battalion, regiment, corps or other unit to which he is attached.

1950, c.27, s.4; R.S.S. 1953, c.108, s.63.

Power of court or judge where proof of execution defective

64 Notwithstanding the requirements of sections 61, 62 and 63, if the proof of execution of any instrument is defective the court or a judge, upon being satisfied of the due execution of the instrument, may direct the registrar to register or file the instrument, as the case may require.

1942, c.20, s.3; R.S.S. 1953, c.108, s.64.

EFFECT OF REGISTRATION

Unregistered instrument ineffectual transfer

65(1) After a certificate of title has been granted no instrument shall until registered pass any estate or interest in the land therein comprised, except a leasehold interest not exceeding three years where there is actual occupation of the land under the same, or render such land liable as security for the payment of money except as against the person making the same.

(2) Every instrument shall become operative according to the tenor and intent thereof when registered and shall thereupon create, transfer, surrender, charge or discharge, as the case may be, the land, estate or interest therein mentioned.

R.S.S. 1940, c.98, s.61; R.S.S. 1953, c.108, s.65.

Land affected by obligations endorsed on certificate

66 The owner of land for which a certificate of title has been granted shall hold the same subject, in addition to the incidents implied by virtue of this Act, to such encumbrances, liens, estates or interests as are endorsed on the folio of the register which constitutes the certificate of title, absolutely free from all other encumbrances, liens, estates or interests whatever, except in case of fraud wherein he has participated or colluded and except the estate or interest of an owner claiming the same land under a prior certificate of title, as mentioned in section 200.

R.S.S. 1940, c.98, s.62; R.S.S. 1953, c.108, s.66.

Implied conditions

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

- (a) any subsisting reservations or exceptions contained in the original grant of the land from the Crown;
- (b) all unpaid taxes, the rights of purchasers at tax sales under *The Arrears of Taxes Act*, chapter 146 of *The Revised Statutes of Saskatchewan, 1940*, and the rights of municipalities under *The Tax Enforcement Act*;

- (c) any public highway or right of way or other public easement howsoever created upon, over or in respect of the land;
- (d) any subsisting lease or agreement for a lease for a period not exceeding three years where there is actual occupation of the land under the same;
- (e) any decrees, orders or executions against or affecting the interest of the owner in the land which have been filed and maintained in force against the owner;
- (f) any right of expropriation which may by statute or ordinance be vested in any person, body corporate or Her Majesty;
- (g) any right of way or other easement granted or acquired under the *Irrigation Act (Canada)* chapter 104 of the *Revised Statutes of Canada, 1927*, or any former *Irrigation Act* of Canada, or *The Water Rights Act*;
- (h) the provisions of section 68;
- (i) liens in favour of Her Majesty for advances of seed grain, fodder or other goods by way of relief;
- (j) the reservation of any minerals which become vested in Her Majesty pursuant to any *Mineral Taxation Act*, and the rights of Her Majesty with respect to such minerals.

R.S.S. 1940, c.98, s.63; 1945, c.30, s.4; R.S.S.
1953, c.108, s.67.

Adverse possession

68(1) Every certificate of title shall be void as against the title of any person adversely in actual occupation of and rightly entitled to the land at the time when such land was brought under this Act.

(2) After land has been brought under this Act no right, title or interest adverse to or in derogation of the title or of the right to possession of the registered owner shall be acquired, or be held to have been acquired since the nineteenth day of December, 1913, by the possession of another, and the right of the registered owner to make an entry or to bring an action or suit to recover the land of which he is such registered owner shall not be held to be or to have been impaired or affected by any such possession since the said date.

R.S.S. 1940, c.98, s.64; R.S.S. 1953, c.108, s.68.

Rights not acquired by prescription

69 No right to the access and use of light or any other easement, right in gross or profit *a prendre* shall be acquired by any person by prescription and no such right shall be deemed to have been so acquired prior to the coming into force of this Act.

R.S.S. 1940, c.98, s.65; R.S.S. 1953, c.108, s.69.

No trusts registered

70(1) No memorandum or entry shall be made upon a certificate of title, or upon the duplicate thereof, of any notice of trusts whether express, implied or constructive.

(2) The registrar shall treat any instrument containing any such notice as if there was no trust, and the trustees therein named shall be deemed to be the absolute and beneficial owners of the land for the purposes of this Act.

R.S.S. 1940, c.98, s.66; R.S.S. 1953, c.108, s.70.

Priority of registered instruments

71 Instruments registered in respect of or affecting the same land shall be entitled to priority, the one over the other, according to the time of registration and not according to the date of execution.

R.S.S. 1940, c.98, s.67; R.S.S. 1953, c.108, s.71.

Covenants implied in instruments

72(1) In every instrument transferring or mortgaging land for which a certificate of title has been granted there shall be implied the following covenant by the transferor or mortgagor, 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 therein against such person.

(2) Except as provided in any other Act, in every instrument transferring land for which a certificate of title has been granted subject to mortgage there shall be implied a covenant by the transferee with the transferor that the transferee will pay the principal money, interest, annuity or rent charge secured by the mortgage at the rate and at the time specified in the instrument creating the same, and will indemnify and keep harmless the transferor from and against the principal sum or other moneys secured by such instrument and from and against the liability in respect of any of the covenants therein contained or under this Act implied on the part of the transferor.

R.S.S. 1940, c.98, s.68; R.S.S. 1953, c.108, s.72.

Effect of implied covenant

73(1) 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.

(2) Every such implied covenant shall have the same force and effect, and be enforced in the same manner, as if it had been set out at length in the transfer or other instrument.

(3) When a 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.

R.S.S. 1940, c.98, s.69; R.S.S. 1953, c.108, s.73.

PART III

Dealing with Certificate of Title

CORRECTION OF CERTIFICATE

Correction of errors

74(1) If it appears to the registrar that:

- (a) a certificate of title or other instrument has been issued in error or contains a misdescription; or
- (b) an entry or endorsement has been made in error on a certificate of title or other instrument, or wrongfully obtained;

he may, whether such certificate or instrument is in his custody, or has been produced to him under a summons, so far as practicable without prejudicing rights obtained in good faith for value, cancel or correct any error in such certificate of title or other instrument, or in any entry made thereon, or in any memorial, certificate, exemplification or copy of any instrument made in or issued from the land titles office, and may supply entries omitted to be made.

(2) In the correction of any such error the registrar shall not erase or render illegible the original words, and he shall mark the date upon which the correction was made or entry supplied.

(3) Every certificate of title so corrected, and every entry so corrected or supplied, shall have the like validity and effect as if such error had not been made or such entry omitted.

R.S.S. 1940, c.98, s.70; R.S.S. 1953, c.108, s.74.

CANCELLATION OF CERTIFICATE OF TITLE

Consolidation of certificates of title

75(1) Upon the application of an owner of several parcels of land held under separate certificates of title or under one certificate of title, or such owner's solicitor, and upon the delivery up of the duplicate or duplicates thereof, the registrar may cancel the existing certificate or certificates of title granted as also the duplicate or duplicates so delivered up, and may grant to the owner a single certificate of title for all the parcels of land, or several certificates of title each applying to one or more of the parcels, in accordance with the application.

(2) If the registered owner of a parcel or parcels of land contained in an existing certificate or certificates of title acquires by conveyance from the Crown another parcel of land adjacent thereto and if one or more of the boundaries of any of the parcels is not clearly defined upon a plan registered, filed or deposited in the land titles office for the district in which the parcels are situated, and if:

- (a) the only access to one or more of such parcels shown by the records of the land titles office is through or across another of such parcels; or
- (b) in the opinion of the registrar the inclusion of such parcels in one certificate of title is desirable for the clear and accurate definition of the boundaries thereof;

the registrar may, before the instrument or conveyance is registered, demand a consolidation of titles and for such purpose may require the delivery up by the owner of the duplicate certificate or certificates of title of the parcel or parcels registered in his name, and may grant to him a single certificate of title for all the parcels contained in the consolidation and cancel the existing certificate or certificates of title and the duplicates thereof. The certificate of title so granted shall be issued free of charge.

(3) Upon the certificate or certificates of title cancelled under subsection (1) or subsection (2), shall be endorsed a memorandum setting forth the occasion of the cancellation and referring to the certificate or certificates of title newly granted.

(4) The registrar shall issue to the applicant one or more duplicate certificates as the case requires.

R.S.S. 1940, c.98, s.71; 1953, c.39, s.2; R.S.S. 1953, c.108, s.75.

Partially cancelled certificates of title

76(1) Subject to subsection (2), the registrar, in the case of a partially cancelled certificate of title, shall return the duplicate to the transferor after the memorandum partially cancelling the same has been made thereon and upon the certificate of title in the register.

(2) When required by the owner of an unsold portion of land included in a partially cancelled certificate of title, or where such a course appears to the registrar more expedient, he may grant to such owner a certificate of title for the portion of which he is the owner, upon delivery up of the partially cancelled duplicate certificate of title to be cancelled and retained.

R.S.S. 1940, c.98, s.72; R.S.S. 1953, c.108, s.76.

LOST OR DESTROYED CERTIFICATE OF TITLE

Issue of fresh certificate

77(1) Upon production to the registrar of satisfactory proof, by statutory declaration of the person to whom a duplicate certificate has been issued or some one having knowledge of the facts, of the accidental loss or destruction of such duplicate, the registrar may after having entered in the register the facts so proven issue a fresh duplicate in lieu of the one so lost or destroyed, noting upon the same why it is so issued.

(2) In the absence of satisfactory proof of the accidental loss or destruction of the duplicate, the registrar may, before issuing a fresh duplicate, require the applicant therefor to:

- (a) publish for two weeks in the newspaper published nearest to the land described in the register or if more newspapers than one are published in the same locality then in one of such newspapers, a notice signed by the registrar (form G) of his intention to issue such fresh certificate; and
- (b) post up such notice in a conspicuous place in the land titles office.

R.S.S. 1940, c.98, s.73; R.S.S. 1953, c.108, s.77.

COMPELLING DELIVERY OF CERTIFICATE

Power to demand delivery of duplicate certificate

78 If the registrar requires a duplicate certificate for the purpose of making a memorandum thereon, or for the purpose of wholly or partially cancelling the same, or if it appears to the satisfaction of the registrar that:

- (a) a duplicate certificate or other instrument has been issued in error, or contains a misdescription of lands or boundaries; or
- (b) any entry, memorandum or endorsement has been made in error or omitted from any duplicate certificate or other instrument; or
- (c) any such duplicate certificate, instrument, entry, memorandum or endorsement has been fraudulently or wrongfully obtained; or
- (d) any such duplicate certificate or instrument is fraudulently or wrongfully retained;

he may by written demand (form H), to be served upon such person or to be mailed to his last known post office address within Saskatchewan, require the person to whom such duplicate certificate or instrument has been so issued, or by whom it has been so obtained or is retained, to deliver up the same for the purpose of being cancelled, corrected, completed or delivered to the proper party, as the case requires.

R.S.S. 1940, c.98, s.74; R.S.S. 1953, c.108, s.78.

Procedure in case of non-compliance with demand

79(1) If such person refuses or neglects to comply with such demand or cannot be found, the registrar may apply to a judge to issue a summons for such person to appear before him and show cause why such duplicate certificate or other instrument should not be delivered up to be cancelled, corrected, completed or delivered to the proper party, as the case requires.

(2) If such person, when served with the summons personally or in the mode directed in such summons, neglects or refuses to attend before the judge at the time therein appointed, the judge may issue a warrant directing that the person so summoned be apprehended and brought before him for examination.

R.S.S. 1940, c.98, s.75; R.S.S. 1953, c.108, s.79.

Order for delivery or cancellation of instrument

80(1) Upon the appearance of the person summoned or brought up by virtue of a warrant, the judge may examine him upon oath and, if it appears right to do so, may order such person to deliver up the duplicate certificate or other instrument.

(2) Upon refusal or neglect by such person to deliver up the same pursuant to the order, or to be put under oath or to be examined or to answer any question touching the matter after being sworn, the judge may commit such person to the nearest common jail for any period not exceeding six months, unless the duplicate certificate or other instrument is sooner delivered up or sufficient explanation is made why the same cannot be done.

(3) In such case, or if such person has absconded so that a summons cannot be served upon him, or if a period of three months from the time of mailing to such person the demand referred to in section 78 has elapsed without the duplicate certificate or other instrument having been returned to the registrar, the judge may direct the registrar to cancel or correct or complete the certificate of title, duplicate certificate or other instrument in his possession or any memorandum thereon relating to the land, and to substitute and issue if necessary a duplicate certificate or other instrument or make such memorandum as the circumstances of the case require.

R.S.S. 1940, c.98, s.76; R.S.S. 1953, c.108, s.80.

POWERS OF JUDGE

Powers

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

R.S.S. 1940, c.98, s.77; R.S.S. 1953, c.108, s.81.

Power to make vesting order or to cancel or amend instrument, etc.

82 A judge of the Court of Queen's Bench may, upon such notice as he deems fit or, where in his opinion the circumstances warrant, without notice:

- (a) make a vesting order and may direct the registrar to cancel the certificate of title to the lands affected and to issue a new certificate of title and duplicate thereof in the name of the person in whom by the order the lands are vested;
- (b) direct the registrar to cancel any instrument or any memorandum or entry relating thereto or to amend any instrument in such manner as the judge deems necessary or proper.

1951, c.34, s.4; R.S.S. 1953, c.108, s.82.

PART IV

Instruments which may be Registered

TRANSFERS OF LAND

Form of transfer

83 When land for which a certificate of title has been granted is intended to be transferred, the owner shall execute a transfer (form I) which transfer may, for description of the land intended to be dealt with, refer to the certificate of title or give such description as is necessary to identify the land, and shall contain an accurate description of the land intended to be transferred.

R.S.S. 1940, c.98, s.78; 1949, c.34, s.7; R.S.S. 1953, c.108, s.83.

Effect of transfer

84(1) No words of limitation are necessary in a transfer of land in order to transfer all or any title therein, but every instrument transferring land shall operate as an absolute transfer of all such right and title as the transferor has in the land at the time of its execution, unless a contrary intention is expressed in the transfer.

(2) Nothing contained herein shall preclude any transfer from operating by way of estoppel.

R.S.S. 1940, c.98, s.79; R.S.S. 1953, c.108, s.84.

Transfer by Crown

85(1) Where a certificate of title is on the coming into force of this Act registered in the name of His Majesty the King or Her Majesty the Queen or is thereafter registered in the name of Her Majesty the Queen in the right and to the use of His or Her Province of Saskatchewan, and includes the mines and minerals which may be found to exist within, upon or under the land, no transfer by the Crown of such land shall include the mines, minerals or right to work the same, and the mines and minerals shall remain vested in the Crown.

(2) Subsection (1) does not affect the right of a Crown corporation to transfer or otherwise deal with the title to mines and minerals.

R.S.S. 1940, c.98, s.80; 1953, c.39, s.3; R.S.S. 1953, c.108, s.85.

Transfer by minister, department, board or commission

86(1) Where a certificate of title is on the coming into force of this Act or is thereafter registered in the name of a minister of the Crown or any department of the Government or any board or commission established by or under an Act of the Legislature, and includes mines and minerals which may be found to exist within, upon or under the land, no transfer of the land by such minister, department, board or commission shall include the mines, minerals or right to work the same and such minister, department, board or commission shall execute a transfer of the mines and minerals in favour of Her Majesty the Queen in right of Saskatchewan.

(2) Mines and minerals so transferred shall be disposed of only in accordance with the provisions of *The Mineral Resources Act*.

R.S.S. 1940, c.98, s.81; R.S.S. 1953, c.108, s.86.

Easements mentioned on the certificate

87(1) When an easement or incorporeal right, in or over any land for which a certificate of title has been granted, is created for the purpose of being annexed to or used and enjoyed together with other land for which a certificate of title has been granted, the registrar shall make a memorandum of the instrument creating such easement or incorporeal right upon the folios of the register which constitute the existing certificates of title of the dominant and servient tenements respectively and upon the duplicates thereof.

(2) Where land is subject to or has as appurtenant thereto or enjoyed therewith any rights, privileges or easements under a party wall agreement, such agreement may be registered and upon registration the rights, privileges or easements thereby granted or created and all covenants relating thereto shall be deemed to run with the land and any instrument registered under this Act shall, without mention thereof in such instrument be deemed to be subject to or carry with it all such rights, privileges, easements and covenants to the same extent as if such instrument were made subject to or contained an express assignment or acknowledgment of such party wall agreement and of all rights, privileges, easements and covenants thereunder.

R.S.S. 1940, c.98, s.82; R.S.S. 1953, c.108, s.87.

Intermediate aerodrome

88(1) The registered owner of a parcel of land may grant to the Minister of National Defence, for himself and the public the right to use a portion of such land as an intermediate aerodrome for aircraft, and upon registration of the agreement containing such grant the rights and privileges thereby created, and the covenants relating thereto, shall inure to the benefit of the minister and of the public, and shall run with the land and be binding upon the grantor, his heirs, executors, administrators and assigns.

(2) Rights acquired under subsection (1) may be released or discharged by an instrument executed by the minister, and upon registration of such instrument those rights shall cease.

R.S.S. 1940, c.98, s.83; R.S.S. 1953, c.108, s.88.

Discharge of easement

89 An easement or a party wall agreement, or a caveat based on an easement or party wall agreement, may be released or discharged by an instrument executed by the owners of lands having rights or privileges through or under such easement or party wall agreement, and by all persons appearing by the records of the land titles office to have any mortgage or lien upon or estate, right or interest in or to the lands subsequent to the easement or party wall agreement or caveat, and upon registration of such instrument the rights and privileges connected with the easement or the party wall agreement shall cease; provided that if it is made to appear to the Master of Titles that any such subsequently interested person required to execute the release or discharge cannot be found or is dead and has no legal representative the Master of Titles may make an order dispensing with execution by such person.

R.S.S. 1940, c.98, s.84; R.S.S. 1953, c.108, s.89.

Delivery of duplicate certificate for cancellation

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

R.S.S. 1940, c.98, s.85; R.S.S. 1953, c.108, s.90.

Issue of new certificate

91 Upon every transfer of the land mentioned in a certificate of title, a new certificate and duplicate thereof shall be granted by the registrar to the transferee.

R.S.S. 1940, c.98, s.86; R.S.S. 1953, c.108, s.91.

PLANS**Power of registrar to require plans**

92(1) Where the owner of any land or a person claiming any interest therein desires to transfer or to pass or acquire title thereto in any manner, or to encumber or otherwise affect the title thereto, the registrar of the land registration district in which the land is situated may, before permitting such dealing, require the owner or other person seeking to deal with the land, to have the land surveyed by a Saskatchewan land surveyor and to furnish him with a plan of such survey and one copy thereof, drawn in accordance with the regulations prescribed for land titles offices by the Master of Titles.

(2) The plan shall be signed by the owner, and certified by the surveyor (form J), and the signature of the owner shall be witnessed and attested in the manner provided by section 61, 62 or 63 for the attestation of instruments.

(3) If the owner neglects or refuses to comply with the requirements of this section, the registrar shall not proceed with the registration of the transfer or other instrument until such requirements are complied with.

R.S.S. 1940, c.98, s.87; R.S.S. 1953, c.108, s.92.

Subdivisions

93(1) An owner subdividing land for which a certificate of title has been granted, into blocks or lots, shall register a plan and produce to the registrar three copies thereof and a blue print thereof in accordance with the above named regulations.

(2) The registrar shall endorse on the plan a certificate showing its number and date of registration, and shall deliver one copy to the Department of Highways and Transportation and one copy to the chief surveyor of Land Titles Offices, retaining the plan in the land titles office and returning one copy to the owner. The blue print he shall forward to the clerk or secretary or secretary treasurer of the municipality in which the land lies or to the Minister of Municipal Affairs if the land lies in a local improvement district.

(3) The plan shall be marked "original" by the surveyor who makes and executes it.

(4) The plan shall clearly illustrate and represent the survey as made on the ground in accordance with *The Land Surveys Act*.

(5) Every such plan shall be certified (form J) by the surveyor who made the survey, and signed by every owner, or his agent thereunto duly authorized by a registered power of attorney, and each signature shall be witnessed and attested in the manner provided by section 61, 62 or 63 for the attestation of instruments to be registered under this Act.

(6) No plan of subdivision of mortgaged land shall be registered unless approved and signed by the mortgagee, whose signature shall be witnessed and attested in the manner provided by section 61, 62 or 63 for the attestation of instruments to be registered under the Act.

(7) No lots shall be sold, under agreement for sale or otherwise, according to a townsite or subdivision plan, until the plan has been registered in the land titles office for the registration district in which the land shown thereon is situated.

(8) Where land is surveyed and subdivided for the purpose of being sold or conveyed in lots by reference to a plan which has not been already registered, the person making the survey and subdivision shall within three months thereafter register the plan.

(9) In the case of refusal or neglect by the person making the subdivision, for two months after demand in writing for that purpose, to register the plan in accordance with the provisions of this Act, when required by any person interested therein or by the Master of Titles to do so, he is guilty of an offence and liable on summary conviction to a fine of \$20 for every calendar month which thereafter elapses without the plan being registered.

(10) A person who purchases any such lot or parcel of land without knowledge of the non-registration of the plan or of the necessity for registration of the same, or any person claiming under him, may at his option on acquiring such knowledge rescind the contract and recover back any money paid thereunder with lawful interest and any taxes or other expenses incurred by him in consequence of such purchase, and he shall have a lien on the land for all such moneys as against the vendor's interest but the vendor shall nevertheless be bound by the contract, deed or conveyance if the purchaser does not rescind the same.

(11) The registration in the land titles office of a plan of the subdivision of land in lots or blocks shall vest the title to all streets, lanes, parks or other reserves for public purposes, shown on such plan, in Her Majesty in right of Saskatchewan; and no change or alteration in the boundaries of any street, lane, park or public reserve shall be made without the consent of the Minister of Highways and Transportation having first been obtained.

(12) The right and title to all mines and minerals under such streets, lanes, parks or public reserves shall remain vested in the owner of such mines and minerals and his assigns:

Provided that there may be a resubdivision of the land or part of the land shown on any plan without the consent of the owner of the mines and minerals under the streets, lanes, parks and public reserves affected by such resubdivision, and in such case the said owner, in lieu of being the owner of mines and minerals theretofore vested in him within the resubdivided area, shall thereafter, upon order of the Master of Titles, become and be the owner of the mines and minerals under an area of the streets, lanes, parks and public reserves shown on the plan of resubdivision which shall, in the opinion of the Master of Titles, be substantially equivalent to the area of the streets, lanes, parks and public reserves shown on that part of the former plan covered by the plan of resubdivision. The said area shall be fixed and determined by the order of the Master of Titles, with or without notice to the said owner, and the decision of the Master of Titles shall be final;

Provided further that where the area in respect of which the said owner is to become the owner of mines and minerals pursuant to an order of the Master of Titles is substantially less than the area of the streets, lanes, parks and public reserves shown on that part of the former plan covered by the plan of resubdivision, the Master of Titles may nevertheless make the order upon a transfer being deposited with him for registration transferring into the name of the said owner the mines and minerals under an area shown on the plan of resubdivision, or under an area in the neighbourhood or vicinity of such resubdivision, sufficient to make up the deficiency.

(13) The provisions of subsections (1) to (12) shall operate retrospectively and apply to all plans of subdivisions whenever registered.

(14) No plan of subdivision of land shall be registered unless it has been approved by the chief surveyor of land titles offices.

(15) Plans shall be submitted to the registrar for registration within thirty days after approval by the chief surveyor.

(16) On the registration of a subdivision plan, the registrar shall cancel the existing certificate of title except as to mines and minerals and issue to the owner certificates of title to the property in blocks and lots as shown on the plan, excepting from each certificate of title so issued all mines and minerals.

R.S.S. 1940, c.98, s.88; 1945, c.30, s.5; 1946, c.24, s.4; 1950, c.27, s.5; 1951, c.34, s.5.; R.S.S. 1953, c.108, s.93.

Consolidating plan

94(1) Where a plan or plans of subdivision of land and other plans further subdividing any area shown on the original plan or plans have been registered the Master of Titles may by order cause to be prepared and registered a consolidating plan showing all subdivisions contained in the original plan or plans and all subsequent plans.

(2) If an order is issued under subsection (1) the Master of Titles may:

(a) order the inclusion in the consolidating plan of any or all parcels of land for which title has issued by metes and bounds description and which lie within the boundaries of the area to be incorporated in the consolidating plan, giving each parcel a letter or number;

(b) change the numbering or lettering of any lot, block or other parcel shown on any plan incorporated in the consolidating plan in order to ensure clarity and uniformity of numbering or lettering.

(3) The consolidating plan shall bear the approval of the Master of Titles and the chief surveyor of land titles offices.

(4) The Master of Titles shall cause to be inserted in two successive issues of *The Saskatchewan Gazette*:

(a) a digest of the reasons for ordering the preparation of the consolidating plan;

(b) a list of the plans and parcels to be incorporated in the consolidating plan;

(c) a notice of his intention to register the plan on the expiry of a specified period, and stating the effect of such registration.

(5) The Master of Titles shall consider any objection received within the said period to the registration of the plan and his decision with regard thereto shall be final.

(6) The registration of a consolidating plan shall have the same force and effect as the registration of a plan under section 93, and upon the registration of the consolidating plan all plans included therein shall be cancelled.

R.S.S. 1940, c.98, s.89; R.S.S. 1953, c.108, s.94.

Right of way

95(1) Railway corporations shall file with the registrar of the land registration district within which the lands are situated, a plan and one copy thereof showing the lands required for their right of way and station grounds, or for any other railway purpose if deemed necessary by the registrar, before a certificate of title is granted therefor; and such plan and copy shall be in accordance with the regulations prescribed for land titles offices by the Master of Titles.

(2) The plans shall clearly show that the surveys represented thereon have been made in all respects in accordance with *The Land Surveys Act*, and shall be certified by a Dominion land surveyor (form K) or by a Saskatchewan land surveyor (form J), according as the land dealt with is Dominion or patented land.

(3) When the location of the railway is through land which has been subdivided and of which a plan has been registered under section 93, the plan shall show distinctly the lines of all allotments taken in whole or in part for railway purposes, according to the registered plan.

(4) The area taken from each quarter section, river lot or parcel of land, as the case may be, shall be shown on the plan.

(5) Notwithstanding anything in this section the registrar may accept transfers of land for right of way and station grounds referring to any plan prepared prior to the first day of January, 1914, and signed by a Dominion land surveyor, or prepared before or subsequently to the said first day of January, 1914, and signed by a Saskatchewan land surveyor, filed in his office on or before the first day of January, 1915, pursuant to the *Railway Act (Canada)* or *The Saskatchewan Railway Act*, if in his opinion the lands to be transferred are clearly and sufficiently defined and the centre line properly tied into the land boundaries of the section or other parcel of land and all information and measurements necessary to locate the said lands upon the ground are shown upon the said plan.

(6) The provisions of subsections (1) to (5) apply, *mutatis mutandis*, to any person constructing an irrigation ditch or pipe line, water, gas or oil pipe line or any other transmission line, pipe or conduit for which a right of way is required, unless the registrar considers a description by metes and bounds of the land in respect of which the right of way is granted, sufficient, in which case he may accept for registration a grant or transfer of the right of way in such terms as he deems satisfactory.

R.S.S. 1940, c.98, s.90; R.S.S. 1953, c.108, s.95.

Water storage and irrigation projects

96(1) There may be filed with the registrar a plan of survey of lands required for or in connection with any water storage project or irrigation project constructed or to be constructed under or by virtue of the *Prairie Farm Rehabilitation Act (Canada)* and *The Water Rights Act* or either of the said Acts.

(2) The plan shall clearly show that the surveys represented thereon have been made in all respects in accordance with *The Land Surveys Act* and shall be certified by a Dominion land surveyor (form K) in the case of Dominion lands to which certificate of title has not been granted or by a Saskatchewan land surveyor (form J) in the case of all other lands.

(3) The plan shall, before being presented for filing, have endorsed thereon the approval of the Director of Lands of the Department of Agriculture, the Director of Surveys of the Department of Highways and Transportation and the chief engineer of the Water Rights Branch of the Department of Agriculture, and shall be in accordance with the regulations prescribed for land titles offices by the Master of Titles.

(4) Upon presentation for filing there shall be produced to the registrar the original plan and four copies thereof and a print thereof on linen and upon the filing of the plan the registrar shall deliver one copy to the Chief Surveyor of Land Titles Offices, one copy to the Director of Lands of the Department of Agriculture, one copy to the Director of Surveys of the Department of Highways and Transportation, one copy to the Director of Rehabilitation, *Prairie Farm Rehabilitation Act (Canada)*, and the print thereof on linen to the chief engineer of the Water Rights Branch of the Department of Agriculture.

(5) Upon the filing of the plan the registrar may accept transfers of land and other registrable documents referring to the plan.

(6) Any plan purporting to be for any of the purposes named in this section, and filed in any land titles office prior to the eighth day of April, 1941, shall be deemed to have been duly filed under this section.

1941, c.19, s.2; 1952, c.42, s.2; R.S.S. 1953,
c.108, s.96.

Indian lands

97(1) Any map or plan, other than a plan of subdivision into lots or blocks, attested by the signature of the Minister of Citizenship and Immigration or his deputy and certified by a Dominion land surveyor to be a true copy of a plan of survey lodged or filed in the Department of Citizenship and Immigration, of lands described as "Indian lands" in the *Indian Act (Canada)* shall be dealt with and recognized in accordance with the provisions of this Act by the registrar of the district in which the lands are situated when the map or plan has been lodged or filed with him notwithstanding that the *Indian Act (Canada)* does not expressly authorize the map or plan to be so lodged or filed.

(2) Any map or plan of subdivision of such lands into lots or blocks shall comply with the provisions of section 93.

R.S.S. 1940, c.98, s.91; R.S.S. 1953, c.108, s.97.

Plans filed under other Acts

98 Any plan which has been prepared in accordance with the provisions of an Act of the Parliament of Canada or of an Ordinance of the North-West Territories or of an Act of the Legislature of Saskatchewan, and which has been lodged or filed with the registrar under or in accordance with the provisions of any of the said Acts or Ordinances, shall be dealt with and recognized in so far as it is capable of being dealt with and recognized as if it had been prepared and filed or registered under and in accordance with the provisions of this Act.

R.S.S. 1940, c.98, s.92; R.S.S. 1953, c.108, s.98.

Style of plans

99(1) Subject to subsections (2) and (3), the registrar shall not accept a plan under this Act for registration or any other purpose of record, any part of which is stamped, printed, typewritten, stencilled, lithographed or engraved.

(2) Subsection (1) does not apply to roadway plans.

(3) The registrar may accept a plan notwithstanding that the title, legend, the form of the surveyor's certificate or the margin is printed if machine printed with metallic overprint ink.

1950, c.27, s.6; R.S.S. 1953, c.108, s.99.

Approval of plans

100(1) Every plan except roadway plans filed or registered under this Act shall bear the approval of the chief surveyor of land titles offices, and shall be presented for filing or registration within thirty days after the date of such approval:

Provided that a plan required to be filed under section 80 of *The Irrigation Districts Act* shall be presented for filing within thirty days after the date of the order mentioned in the said section.

(2) Upon filing or registering any plan, the registrar shall forward one copy thereof to the chief surveyor of land titles offices.

R.S.S. 1940, c.98, s.94; R.S.S. 1953, c.108, s.100.

Rectification of errors

101(1) Where in any plan heretofore or hereafter filed or registered there is an omission, clerical error or other defect, the Master of Titles may order the same to be corrected in such manner as to him may seem best, and the registrar shall thereupon:

(a) file the order and enter upon the plan filed or registered in his office and on all copies thereof produced to him a memorandum of such order;

(b) substitute the corrected plan, if any, for the plan previously filed or registered;

(c) perform such other acts or duties as may be required by such order.

(2) Upon such filing the corrected plan shall be deemed to be substituted for the original, and thereafter the original shall for all purposes be deemed to have been so amended or corrected from the time of its registration and the description in any instrument of land therein included shall be construed as if it referred to the corrected plan, but such amendment or correction by the Master of Titles shall not affect the rights of any person existing when the amendment or correction is made.

R.S.S. 1940, c.98, s.95; R.S.S. 1953, c.108, s.101.

Cancellation of registered plans

102 Upon the application of the person who registered a plan or of anyone deriving title through him to land included therein, and upon hearing all parties interested, the Master of Titles may order the cancellation in whole or in part, amendment or alteration of the plan, upon such terms and conditions as to costs and otherwise as he deems proper; and he may order the amendment or cancellation of certificates of title issued according to the original plan and the issue of new certificates according to the new or amended plan:

Provided that such cancellation may be made without the consent of the owner of the mines and minerals under the lots, blocks, streets, lanes, parks and public reserves shown on the plan or on the part thereof to be cancelled and with or without notice to such owner, as the Master of Titles in his discretion may see fit; and in such case the Master of Titles shall make an order vesting in the said owner, in lieu of the ownership of mines and minerals theretofore vested in him within the area of the plan or of the part thereof to be cancelled, the ownership of the mines and minerals under a substantially equivalent area of the land shown on the plan or on the part thereof to be cancelled. The said area shall be fixed and determined by the order of the Master of Titles, and the decision of the Master of Titles shall be final.

R.S.S. 1940, c.98, s.96; 1950, c.27, s.7; 1952, c.42, s.3; R.S.S. 1953, c.108, s.102.

PLAN OF ROADS**Registration and certificate of title**

103(1) When the plan of a public improvement is forwarded to the registrar of the proper land titles office pursuant to the provisions of *The Highways and Transportation Act*, the registrar shall proceed as follows:

- (a) upon receipt of the plan he shall file and register the same, and shall cancel the area required for the improvement as shown thereon from the certificates of title and from the duplicates that may have been or may thereafter be returned to him;
- (b) he shall grant a certificate of title for the area required for the improvement, free from all encumbrances, liens, estates or interests whatever, to Her Majesty in right of Saskatchewan, and shall issue to Her Majesty a duplicate of such certificate and forward the same to the Minister of Highways and Transportation;
- (c) he shall notify all persons appearing by the records of his office to have any interest in the land, at their addresses as given in those records, of the issue of the new certificate of title.

Mines and minerals excepted

(2) The right and title to all mines and minerals which may be found to exist under such land shall continue to be vested in the original owners of such mines and minerals and their assigns.

“Mines and minerals”

(3) In subsection (2) the expression “mines and minerals” does not include, and shall be deemed never to have included, rock, shale, gravel, sand, clay or other material used in the construction, maintenance or repair of a public improvement as defined in *The Highways and Transportation Act*.

Public water rights to vest in Crown

(4) The registration of the plan of survey of land required for public improvements or of the plan of survey of land required for a ditch, reservoir or other water right, when the applicant for such right is the Minister of Highways and Transportation, shall vest the land shown on such plan in Her Majesty in right of Saskatchewan, and such plan shall be dealt with in all respects by the registrar in the same manner as is provided in subsection (1) with respect to the plan of a public improvement.

R.S.S. 1940, c.98, s.97; R.S.S. 1953, c.108, s.103.

Procedure where certificate of title not granted

104 If a certificate of title has not been granted for any land affected by a road or trail as shown upon the plan forwarded to the registrar, the registrar shall issue to Her Majesty in right of Saskatchewan a certificate of title for the land affected by the road or trail according to such plan.

R.S.S. 1940, c.98, s.98; R.S.S. 1953, c.108, s.104.

Effect of notification to registrar that road closed

105(1) A notification to the registrar from the Minister of Highways and Transportation that land described in such notification, which is a part of a road allowance or surveyed road or trail vested in the Crown in right of the province, has been closed, shall operate as a transfer of the land from the Crown to the person named as transferee in such notification or in a transfer attached thereto, subject to existing registered encumbrances affecting the land of the transferee through or alongside which the closed part of the road allowance, surveyed road or trail passed, and shall be accepted by the registrar and be dealt with by him as such.

(2) The notification shall state the nature of the grant and shall specify any mines, minerals, easements or rights which are excepted therefrom.

(3) A notification to the registrar from the Minister of Highways and Transportation that the land shown on any plan of a road, drain or water right, for which a certificate of title in the name of His or Her Majesty in right of Saskatchewan has not been issued, has been abandoned, shall operate as a transfer from the Crown to the registered owner of the land through which the road, drain or water right to be abandoned passes, subject to existing registered encumbrances affecting the land, and shall be accepted as such by the registrar, and any memorandum which may have been made upon the original certificate of title to the land upon the filing of the plan shall be cancelled.

R.S.S. 1940, c.98, s.99; 1941, c.19, s.3; R.S.S. 1953, c.108, s.105.

Old plans under *The North-west Territories Act*

106 A copy of any plan made under the provisions of *The North-West Territories Act* duly certified by the Surveyor General of the Department of the Interior and by the Minister of Highways and Transportation for Saskatchewan, shall be accepted and dealt with by the registrar under the provisions of sections 103 to 105.

R.S.S. 1940, c.98, s.100; R.S.S. 1953, c.108, s.106.

LEASES

Form and registration

107(1) When land for which a certificate of title has been granted is intended to be leased or demised for a life or lives or for a term of more than three years, the owner shall execute a lease (form L) and such instrument shall for description of the land refer to the certificate of title or give such other description as will identify it.

(2) Upon registration of the lease, the registrar shall retain possession of the duplicate certificate of title on behalf of all persons interested in the land covered thereby, and shall if desired furnish, either to the lessor or lessee or to both, a certificate of the registration of the lease (form M).

(3) A right for the lessee to purchase the land therein described may be stipulated in the instrument.

(4) No lease of mortgaged land shall be valid as against the mortgagee unless he has consented in writing to the lease prior to registration or subsequently adopts the same.

R.S.S. 1940, c.98, s.101; R.S.S. 1953, c.108, s.107.

Implied covenants

108 In every lease unless a contrary intention appears therein there shall be implied covenants by the lessee:

(a) that he will pay the rent thereby reserved at the times therein mentioned;

(b) that he will at all times during the continuance of the lease keep and at the termination thereof yield up the demised land in good and tenantable repair, accidents and damage to buildings from fire, storm and tempest or other casualty and reasonable wear and tear excepted.

R.S.S. 1940, c.98, s.102; R.S.S. 1953, c.108, s.108.

Implied powers of lessor

109 In every lease, unless a contrary intention appears therein, there shall also be implied powers in the lessor:

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

(b) that if the rent reserved, or any part thereof, is in arrear for the space of two calendar months, although no formal demand therefor has been made, or if default is made in the performance of any covenant on the part of the lessee, whether express or implied, and such default is continued for two calendar months, or if the repairs required by such notice are not completed within the time therein specified, it shall be lawful for the lessor at any time thereafter, into and upon the demised premises or any part thereof in the name of the whole, to re-enter and the same to have again, repossess and enjoy as of his former estate;

(c) that if the lessee or any other person is convicted of keeping a disorderly house, within the meaning of the *Criminal Code*, on the demised premises, or any part thereof, it shall be lawful for the lessor at any time thereafter, into and upon the demised premises to re-enter and the same to have again, repossess and enjoy as of his former estate.

R.S.S. 1940, c.98, s.103; R.S.S. 1953, c.108, s.109.

Registrar's duty in case of re-entry

110(1) Upon proof to his satisfaction of lawful re-entry and recovery of possession of leased land by a lessor or his transferee, by a legal proceeding, the registrar shall make a memorandum of the same upon the certificate of title and upon the duplicate thereof when presented to him for the purpose, and the estate of the lessee in such land shall thereupon determine but without releasing the lessee from his liability in respect of the breach of any covenant theretofore committed.

(2) The registrar shall cancel the lease if delivered up to him for that purpose.

R.S.S. 1940, c.98, s.104; R.S.S. 1953, c.108, s.110.

Short form of covenants

111(1) When in a lease made under this Act any of the forms of words in column one of form N, and distinguished by any number therein, is used, the lease shall be taken to have the same effect and be construed as if there had been inserted therein the form of words contained in column two of the said form and distinguished by the same number:

Provided that it shall not be necessary in any such lease to insert any such number.

(2) Every such form shall be deemed a covenant binding upon the covenantor, his executors, administrators and assigns in favour of the covenantee and his executors, administrators and assigns.

(3) There may be introduced into or annexed to any of the forms in the first column any expressed exceptions from the same or expressed qualifications thereof respectively, and the like exceptions or qualifications shall be taken to be made from or in corresponding forms in the second column.

R.S.S. 1940, c.98, s.105; R.S.S. 1953, c.108, s.111.

Form and registration of surrender of lease

112(1) When a lease or demise which has been registered is intended to be surrendered, and the surrender is effected otherwise than by the operation of law, the registrar shall upon the production of a surrender (form O) make a memorandum thereof upon the certificate of title in the register and upon the duplicate:

Provided that no lease subject to mortgage shall be surrendered without the consent of the mortgagee.

(2) When the memorandum has been so made the estate or interest of the lessee shall vest in the lessor or other person entitled to the land on expiry or determination of the lease.

R.S.S. 1940, c.98, s.106; 1943, c.19, s.5; R.S.S. 1953, c.108, s.112.

Note.— For form of transfer of lease see section 130.

MORTGAGES

Forms

113(1) When land for which a certificate of title has been granted is intended to be made security for payment of a debt or loan, or security in respect of a future or contingent liability, the owner shall execute a mortgage in form P, or to the like effect; and, when such land is intended to be made security for payment of an annuity, rent charge or sum of money other than a debt, loan, future or contingent liability, the owner shall execute a mortgage in form Q or to the like effect.

(2) Every such instrument shall contain an accurate statement of the estate or interest intended to be mortgaged, and shall for description of the land refer to the certificate of title under which the estate or interest is held or give such other description as will identify it.

(3) When a mortgage is given as security against a future or contingent liability, it shall set forth by recital or otherwise the nature and extent of such liability and the conditions or contingencies upon which it is to accrue; and in such case form P may be further modified as the circumstances require.

R.S.S. 1940, c.98, s.107; R.S.S. 1953, c.108, s.113.

Mortgage to secure purchase price of chattels

114(1) A mortgage or any other instrument affecting land by way of charge, lien or encumbrance given to secure the payment of the whole or part of the purchase price of chattels and executed before the expiration of six months after the delivery to the purchaser of the said chattels or any of them, shall be absolutely null and void, notwithstanding anything contained in any Act to the contrary.

(2) Subsection (1) does not apply to instruments given to secure payment of the whole or part of the purchase price of goods, wares or merchandise or fixtures sold or to be sold either to a merchant, contractor or builder in the course of his business or to enable any person to enter into and carry on business as a retail merchant, contractor or builder.

(3) Subsection (1) does not apply to instruments heretofore or hereafter given to secure the whole or a part of the purchase price of the land charged when sold with chattels upon an entire consideration.

(4) If by fraud, inadvertence or otherwise, any such mortgage or other instrument or a caveat founded thereon is registered, such registration shall be absolutely null and void.

R.S.S. 1940, c.98, s.108; 1953, c.39, s.5; R.S.S. 1953, c.108, s.114.

Registration of charges prior to issue of grant

115(1) If the holder of a mortgage created by any person rightfully in possession of land prior to the issue of the grant from the Crown, or prior to the issue of a transfer from the Hudson's Bay Company or from any company entitled to a grant of such lands from the Crown, or to which letters patent from the Crown have already issued, produces to and leaves with the registrar the mortgage accompanied by an affidavit by the mortgagor (form E), and also, in the case of lands mortgaged prior to the issue of transfer from the Hudson's Bay Company or other company as aforesaid, a certificate from the land commissioner or other proper officer of the company that the purchase price of such lands has been paid and that the mortgagor is entitled to a transfer in fee simple therefor from such company, the registrar shall file the mortgage.

(2) The registrar shall, on registering the grant or transfer of lands so mortgaged, enter in the register and endorse upon the duplicate certificate of title when one is issued a memorandum of the mortgage.

(3) When so entered the mortgage shall be as valid as if made subsequent to the issue of the grant or to the issue of the transfer from the Hudson's Bay Company or from any company entitled to a grant of such lands from the Crown or to which letters patent from the Crown for such lands may have issued, as the case may be.

(4) Where a mortgage has been filed against a purchased homestead or pre-emption prior to the issue of the grant, and proof is furnished to the registrar by affidavit that the mortgage money has been applied in discharge of the price and interest of the purchased homestead or pre-emption, or in discharge of Crown liens or both, and that any balance of the mortgage moneys remaining has been applied in order of priority upon executions or other encumbrances filed before the mortgage, the mortgage shall take priority over such filed executions and encumbrances:

Provided that this subsection does not apply to any mortgage by the terms of which any part of the principal moneys secured are repayable in less than three years from the date of execution of the mortgage instrument.

R.S.S. 1940, c.98, s.109; R.S.S. 1953, c.108,
s.115.

Duplicate certificate deposited with registered mortgage

116 When a mortgage is registered under the provisions of this Act, the registrar shall retain possession of the duplicate certificate of title on behalf of all persons interested in the land covered by the mortgage; but he shall, if desired, furnish to the owner of the mortgage a certificate of charge which may be in form R.

R.S.S. 1940, c.98, s.110; R.S.S. 1953, c.108,
s.116.

Mortgage not to operate as transfer

117 A mortgage shall have effect as security but shall not operate as a transfer of the land thereby charged.

R.S.S. 1940, c.98, s.111; R.S.S. 1953, c.108,
s.117.

Registration of judgment for alimony

118(1) An order or judgment for alimony may be filed in any land titles office in Saskatchewan, and the filing shall, so long as the order or judgment remains in force, bind the estate and interest of every description which the defendant has in any lands in the land registration district where the filing is made, and operate thereon, in the same manner, and with the same effect, as the registration of a charge by the defendant of a life annuity on his lands.

(2) From and after the receipt by the registrar of such order or judgment, no certificate of title shall be granted and no transfer, mortgage, lease or other instrument executed by the defendant shall be effectual, except subject to the rights of the person entitled to alimony, while such order or judgment is legally in force.

(3) The registrar, on granting a certificate of title and on registering any transfer, mortgage or other instrument executed by the defendant affecting such land, shall by memorandum upon the certificate of title in the register and on the duplicate state that such certificate, transfer, mortgage or other instrument is subject to such rights.

(4) The charge created by such order or judgment may be discharged by the filing of a release or discharge in writing executed by the person entitled to the alimony, or of a judgment or order of the court setting aside the order or judgment, or by a certificate of a registrar or clerk of the court under the seal of the court that the order or judgment has been discharged or set aside.

(5) In this section “defendant” means the person against whom the order or judgment for alimony is made.

R.S.S. 1940, c.98, s.112; R.S.S. 1953, c.108,
s.118.

Implied covenants against mortgagor

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

R.S.S. 1940, c.98, s.113; R.S.S. 1953, c.108,
s.119.

Covenants implied in mortgages

120(1) When, in a mortgage made under this Act, any of the forms of words in column one of form S and distinguished by any number therein is used, such mortgage shall have the same effect and be construed as if there had been inserted therein the form of words contained in column two of the said form and distinguished by the same number; but it shall not be necessary in any such mortgage to insert such number.

(2) Every such form shall be deemed a covenant by the mortgagor with the mortgagee and his legal representatives or transferees binding the former and his executors, administrators and transferees; and there may be introduced into or annexed to any of the forms in the first column any expressed exceptions from the same or expressed qualifications thereof respectively, and the like exceptions or qualifications shall be taken to be made from or in the corresponding forms in the second column.

R.S.S. 1940, c.98, s.114; R.S.S. 1953, c.108,
s.120.

REMEDIES OF MORTGAGEES

Proceedings to foreclose, redeem, etc.

121 Proceedings to enforce payment of moneys secured by mortgage, or to enforce the observance of the covenants, agreements, stipulations or conditions contained in a mortgage, or for sale of the lands mortgaged or to foreclose any estate, interest or claim in or upon the lands mortgaged or to redeem or discharge land from a mortgage, may be had and taken in the Court of Queen's Bench, and the court may authorize the mortgagee to enter into possession of the lands and receive and take the rents, issues and profits thereof, and, whether in or out of possession, to lease the same or any part thereof, provided that any lease or leases so authorized shall not extend in all beyond a period of five years.

R.S.S. 1940, c.98, s.115; R.S.S. 1953, c.108, s.121.

Power to lease mortgaged lands

122(1) A mortgagor may agree in writing in the mortgage to become the tenant of the mortgagee, and, subject to subsection (2), a first mortgagee, or a second or subsequent mortgagee with the consent in writing of all prior mortgagees, may by instrument in writing lease the mortgaged land or any part thereof for a term not exceeding three years either:

- (a) to the mortgagor or to any other person residing thereon or in possession thereof; or
- (b) if the mortgage is in arrears and the mortgaged land or part thereof is unoccupied, to any person;

in any of which cases the relationship of landlord and tenant shall be validly constituted between the parties for all purposes and as against all persons.

(2) The mortgagee shall not enter into any lease or renewal of lease of the land or any part thereof with any person other than the owner without the consent in writing of the owner or The Provincial Mediation Board.

(3) The making of a lease or an agreement in writing under the provisions of this section shall not nor shall the receipt by the mortgagee of rent falling due thereunder constitute such mortgagee a mortgagee in possession.

(4) The determination by the mortgagee or by any assignee of the mortgagee of the tenancy created by any such agreement or instrument shall not entitle the mortgagee to possession of the mortgaged lands in any case in which the tenant has any other interest in the land.

(5) The provisions of subsection (4) apply *mutatis mutandis* to the determination by a vendor of land or by the assignee of any such vendor of any tenancy similarly created in any agreement of sale of land or in any instrument or agreement subsequent to and relevant to or dealing with any agreement for sale of land.

R.S.S. 1940, c.98, s.116; 1947, c.37, s.3; R.S.S. 1953, c.108, s.122.

Acceleration clause

123 Where a mortgage of land or an agreement for sale of land or any agreement regarding either of them whether heretofore or hereafter made contains a covenant or clause providing that, if default is made in the payment of money due thereunder or in the observance of a covenant contained therein, the payment of other portions of the principal money shall be accelerated, such covenant or clause shall not apply to any subsequent agreement as to due dates unless expressly so provided in the subsequent agreement.

R.S.S. 1940, c.98, s.117; R.S.S. 1953, c.108, s.123.

TRANSFERS AND DISCHARGES OF MORTGAGES AND RELEASES**Transfer in lieu of discharge**

124(1) When a mortgagor is entitled to redeem, he may require the mortgagee, instead of giving a discharge, to transfer the mortgage to a third party named by him (form T).

(2) When any person other than the mortgagor is interested in the land covered by a mortgage and is entitled to redeem he may require the mortgagee, instead of giving a discharge, to transfer the mortgage to him.

R.S.S. 1940, c.98, s.118; R.S.S. 1953, c.108, s.124.

Registration of discharge or judge's certificate

125(1) Upon production to the registrar of:

- (a) a memorandum of discharge, duly executed and attested, discharging the whole or part of a mortgage, or the whole or a part of the land therein comprised; or
- (b) a certificate signed by a judge that payment of the whole or a part of the moneys due under a mortgage has been proved to his satisfaction;

the registrar shall make an entry on the register that the mortgage is discharged wholly or in part, or that part of the land is discharged, as the case may be:

Provided that, where the mortgagee is deceased, such entry shall be made only upon production to the registrar of a certificate from the Provincial Treasurer that all succession duties payable to the province in respect of the mortgage have been paid unless, in the case of a judge's certificate, it is stated therein that it has been proved to the satisfaction of the judge giving it that the mortgage was satisfied prior to the death of the mortgagee.

(2) Upon such entry being made the land, or the estate or interest in the land, or the portion of the land mentioned or referred to therein shall cease to be liable for the principal sum or annuity, or for the part thereof mentioned in the entry as discharged, as the case may be.

R.S.S. 1940, c.98, s.119; 1945, c.30, s.6; R.S.S. 1953, c.108, s.125.

Discharge of annuity**126(1)** Upon:

- (a) proof of the death of the annuitant, or of the happening of the event upon which, by the terms of a mortgage in form Q, the annuity or money thereby secured ceases to be payable, and that all arrears of the annuity and interest or other money have been satisfied; or
- (b) production of a judge's order declaring or directing the discharge of the mortgage;

the registrar shall make a memorandum on the certificate of title and duplicate that the mortgage is discharged.

(2) Upon such memorandum being made, the land shall cease to be subject or liable for such annuity or sum of money.

R.S.S. 1940, c.98, s.120; R.S.S. 1953, c.108, s.126.

Judge's order in case of absent mortgagee

127 If a mortgagor becomes entitled to pay off the mortgage money and the registered mortgagee is absent from Saskatchewan and there is no person authorized by registered power of attorney to give a receipt to the mortgagor for the mortgage money, or if the registered mortgagee is deceased and has no legal representative a judge may, after the date appointed for redemption, on proof of the facts and of the amount due for principal and interest, direct payment into court of the mortgage moneys, including such interest as the judge may deem just; and the moneys so paid in shall, subject to the rules of court, be dealt with according to the orders of the court:

Provided that the mortgagor shall be entitled to payment of his costs of application for payment into court and provided further that, if the registered mortgagee is deceased and has no legal representative, no moneys shall be paid out of court unless it is proved that all succession duties payable to the province in respect of the mortgage have been paid.

R.S.S. 1940, c.98, s.121; R.S.S. 1953, c.108, s.127.

Notice to Provincial Treasurer where mortgagee deceased

128 Where the registered mortgagee is deceased, no application under section 127 shall be heard except upon due notice to the Provincial Treasurer, who may appear and require that, in lieu of payment of the moneys into court, they shall be paid over to him as security for the succession duties payable to the province in respect of the mortgage; and in such case the judge shall direct payment to the Provincial Treasurer accordingly.

R.S.S. 1940, c.98, s.122; 1945, c.30, s.7; R.S.S. 1953, c.108, s.128.

Registration of order and notice to mortgagee

129(1) The registrar shall, upon presentation of the judge's order and of the receipt of the proper officer or of the Provincial Treasurer for the amount of the said mortgage money or interest, make a memorandum thereof upon the certificate of title in the register describing such mortgage and stating the day, hour and minute on which the memorandum is made.

(2) Such memorandum shall be a valid discharge of the mortgage.

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

(4) After payment of the mortgage money and interest in accordance with section 127 or 128, the interest upon the mortgage shall cease to run or accrue, and the mortgagee entitled thereto shall not recover any further sum in respect of such mortgage than the amount so paid.

R.S.S. 1940, c.98, s.123; 1945, c.30, s.8; R.S.S. 1953, c.108, s.129.

Transfer of mortgages and leases

130(1) Mortgages and leases of land for which a certificate of title has been granted may be transferred by a transfer executed in form T.

(2) The transfer shall be registered in the same manner as mortgages and leases.

(3) Transfers shall have priority according to the time of registration.

R.S.S. 1940, c.98, s.124; R.S.S. 1953, c.108, s.130.

Charge on a mortgage

131 In case of a charge by a mortgagee of his interest in a mortgage, the person in whose favour the charge is created shall be deemed the transferee of such interest and shall have all rights and powers as such, subject to the provisions and conditions expressed in the instrument creating the charge or implied therein by virtue thereof.

R.S.S. 1940, c.98, s.125; R.S.S. 1953, c.108, s.131.

Transfer of part of sum secured and notification to mortgagor

132(1) A mortgagee may transfer a part of the sum secured by the mortgage by a transfer executed in form U, and the part so transferred shall continue to be secured by the mortgage and may by the transfer be given priority over the remaining part or be deferred or continue to rank equally with such part under the security of the original mortgage.

(2) The registrar shall enter on the certificate of title and duplicate a memorandum of the amount of the mortgage money so transferred, the name of the transferee and how such sum is to rank, and shall notify the mortgagor of the facts.

R.S.S. 1940, c.98, s.126; R.S.S. 1953, c.108, s.132.

Effect of registration of transfer

133(1) Upon the registration of a transfer of a mortgage or lease, the interest of the transferor as set forth in such instrument with all rights, powers and privileges thereto appertaining shall pass to the transferee; and the transferee shall thereupon become subject to the same liabilities as if named in the original instrument as mortgagee or lessee to the extent of the interest transferred.

(2) By virtue of every such transfer the right to sue upon the mortgage or lease and to recover the amount transferred or damages, and all the interest of the transferor in such amount or damages, shall vest in the transferee.

(3) Nothing contained herein shall prevent the court from giving effect to any trusts affecting such amount or damages, if the transferee holds the same as trustee for another person.

R.S.S. 1940, c.98, s.127; R.S.S. 1953, c.108, s.133.

Postponement of encumbrance or caveat

134 When a postponement of an encumbrance or of a caveat (form V) signed:

- (a) in the case of a mortgage, by the mortgagee or the transferee of the mortgage;
- (b) in the case of a mechanic's lien, by the lienholder ;
- (c) in the case of an execution, by the execution creditor; and
- (d) in the case of a caveat, by the caveator;

is produced to the registrar and filed, the registrar shall enter such postponement upon the certificate of title, and upon the duplicate where the original encumbrance has been entered on the duplicate, and thereupon the rights of the mortgagee or transferee of the mortgage, the lienholder, execution creditor or caveator shall be postponed to those arising out of the subsequent mortgage or mortgages or easement or easements specified, in the same manner and to the same extent as if the mortgage, mechanic's lien, execution or caveat had been registered immediately after the subsequent mortgage or mortgages or easement or easements whether such easement or easements are registered pursuant to this Act or *The Public Utilities Easements Act*.

R.S.S. 1940, c.98, s.128; 1950, c.27, s.8; R.S.S. 1953, c.108, s.134.

POWERS OF ATTORNEY

Forms

135(1) A person may authorize and appoint one or more persons to act for him or on his behalf with respect to the transfer of or any other dealing with land, or with any lease or mortgage of land of which he may at the time be or may subsequently, become the owner in accordance with the provisions of this Act, by executing a power of attorney in any form heretofore in use for the purpose in which the land or instrument is not specifically mentioned and described but is mentioned and referred to in general terms, any of which forms of power of attorney the registrar shall file or register as the circumstances of the case may require.

(2) If the land referred to in a power of attorney is specifically described, form W or a form to the like effect shall be used.

- (3) Upon registration of such specific power of attorney, the registrar shall make a memorandum upon the certificate of title and duplicate of the particulars therein contained and of the time of its registration.
- (4) Where the power given is to deal with a specified and registered lease or mortgage, form X or a form to the like effect shall be used.
- (5) Until such power of attorney in which the land or instrument referred to is specifically described is revoked by a revocation (form Y), the right of the owner to transfer or to otherwise deal with the land or instrument shall be suspended.
- (6) The filing of a general power of attorney shall not in any way affect the right of the owner to transfer or otherwise deal with his land, or with any lease or mortgage.

R.S.S. 1940, c.98, s.129; R.S.S. 1953, c.108, s.135.

Registration

136 The registrar is hereby empowered to recognize for the purpose for which it was executed, in so far as it concerns any land in his district belonging to the person who executed it, any power of attorney which is in the general form referred to in section 135, and which has heretofore been or is hereafter filed or registered in his office.

R.S.S. 1940, c.98, s.130; R.S.S. 1953, c.108, s.136.

Revocation

137(1) Any power of attorney, whether heretofore or hereafter given and whether filed, registered or unregistered, may be revoked by a revocation (form Y), provided that where the power of attorney has not been registered the revocation shall, in addition to the date of the power of attorney, contain sufficient details thereof to enable the registrar to identify it.

(2) After registration of a revocation of a power of attorney, the registrar shall not register any transfer or other instrument made by virtue of the provisions of such power, unless executed prior to such revocation.

R.S.S. 1940, c.98, s.131; 1949, c.34, s.9; R.S.S. 1953, c.108, s.137.

CAVEATS

Filing caveats

138 Any person claiming to be interested in land may file a caveat with the registrar to the effect that no registration of any transfer or other instrument affecting the land shall be made, and no certificate of title to the land granted, until the caveat has been withdrawn or has lapsed as provided by section 146, 147, 148 or 149, unless such instrument or certificate of title is expressed to be subject to the claim of the caveator as stated in the caveat.

R.S.S. 1940, c.98, s.132; R.S.S. 1953, c.108, s.138.

Exceptions

139 Except in the case of a caveat heretofore or hereafter registered by a municipality or by the Minister of Municipal Affairs on behalf of a local improvement district for the protection of an advance in respect of seed grain or supplies, no caveat may be registered which has annexed thereto or endorsed thereon, or which refers to or is founded upon, a writing or any part thereof within the meaning of *The Conditional Sales Act*, or any written order, contract or agreement for the purchase or delivery of chattels other than a contract for the sale of land with chattels upon an entire consideration.

R.S.S. 1940, c.98, s.133; R.S.S. 1953, c.108, s.139.

Certain contracts void

140(1) Every such writing and every such written order, contract or agreement for the purchase or delivery of chattels shall be, in so far as it affects or purports to affect land in Saskatchewan, null and void, notwithstanding anything contained in any Act to the contrary.

(2) If, by inadvertence, accident or the non-performance of duty on the part of the registrar or otherwise, a caveat is registered contrary to the provisions of section 139, the registration shall nevertheless be null and void.

R.S.S. 1940, c.98, s.134; R.S.S. 1953, c.108, s.140.

Power of registrar to file caveat

141 The registrar may file a caveat:

- (a) on behalf of Her Majesty or of any person under disability, to prohibit the transfer or dealing with any land belonging, or supposed to belong, to the Crown or such person; or
- (b) to prohibit the dealing with land in respect of which it appears to him that an error has been made in the certificate of title or any other instrument, or for the prevention of threatened or apprehended fraud or improper dealing.

R.S.S. 1940, c.98, s.135; R.S.S. 1953, c.108, s.141.

Form of caveat

142 A caveat shall be in form Z, shall be verified by the oath of the caveator or his agent and shall contain an address within Saskatchewan at which notices may be served.

R.S.S. 1940, c.98, s.136; R.S.S. 1953, c.108, s.142.

Registrar's duty upon receipt of caveat

143(1) Upon the receipt of a caveat the registrar shall enter the same in the day book and make a memorandum thereof upon the certificate of title of the land affected thereby, and shall forthwith send a notice of the caveat through the post office or otherwise to the person against whose title it has been registered.

(2) A caveat may be filed against land for which no transfer or grant from the Crown has issued, and in such case the registrar shall, on receipt of the caveat, enter the same in the day book, and endorse upon the certificate of title, when one is granted, a memorandum of the caveat.

R.S.S. 1940, c.98, s.137; R.S.S. 1953, c.108, s.143.

Power of caveator to file notice of change of address for service

144(1) Any caveator may, while the caveat remains in force, file or cause to be filed with the registrar a notice of change of his address for service in Saskatchewan as set forth in the caveat or in any previous notice of change of address for service.

(2) Upon receipt of a notice of change of address for service in writing (form AA) the registrar shall enter the same in the day book and endorse upon the certificate of title in the register a memorandum setting forth the new address for service in Saskatchewan.

1952, c.42, s.4; R.S.S. 1953, c.108, s.144.

Effect of caveat

145 While a caveat remains in force the registrar shall not enter in the register any memorandum of a transfer or other instrument purporting to transfer, encumber or otherwise deal with or affect the land with respect to which the caveat is registered, except subject to the claim of the caveator.

R.S.S. 1940, c.98, s.138; R.S.S. 1953, c.108, s.145.

Contestation of caveat

146 The owner or other person claiming an interest in such land may by summons call upon the caveator to attend before a judge to show cause why the caveat should not be withdrawn; and the judge may, upon proof that the caveator has been summoned and upon such evidence as he may require, make such order in the premises as to him seems meet.

R.S.S. 1940, c.98, s.139; R.S.S. 1953, c.108, s.146.

Duration of caveat

147(1) Subject to the provisions of section 146, a caveat shall continue in force until it is removed in the manner hereinafter set forth.

(2) Except in the case of caveats under *The Homesteads Act*, caveats filed by the registrar and caveats filed by a municipality or the Minister of Municipal Affairs in respect of advances of seed grain or supplies, or both, made by the municipality or the minister under statutory authority, the owner or other person claiming an interest in the land may require the registrar, by notice in writing (form BB), to notify the caveator, at his address for service as set forth in the caveat, or if a notice of change of address has been filed with the registrar then at his address for service as set forth in the last notice of change of address so filed, that the caveat shall lapse at the expiration of thirty days from the mailing of the notice by the registrar, unless in the meantime the caveator files with the registrar a judge's order providing for the caveat continuing beyond the said thirty days. The notice from the registrar shall be given by registered letter. If the caveator is a person to whom section 16 of *The Administrator of Estates of the Mentally Incompetent Act* applies, this subsection shall not apply until the expiry of thirty days after notice of intention to make a requisition thereunder to the registrar has been given to the Administrator of Estates of the Mentally Incompetent as required by the said section 16.

(3) If such order is not filed with the registrar within the time limited by the notice the caveat shall lapse. If such order is filed within the time limited, the caveat shall lapse at the expiration of the extended period named in the order unless a further order continuing the caveat is in the meantime filed with the registrar.

- (4) If the caveator is dead and has no legal representative, the notice may be given to the official administrator for the judicial district in which the land affected is situated and shall be accompanied by a fee of \$10, which sum shall be forwarded to the registrar by the applicant along with his requisition.
- (5) Instead of service upon the official administrator the registrar may, upon request, serve the notice upon the widow of the deceased or any named member of the family, or both.
- (6) In the alternative to proceeding under subsection (4) or (5), the owner or other person mentioned in subsection (1) may apply *ex parte* to a judge, who may, upon such evidence as he may require, make such order as to the giving of the notice as in the circumstances he deems just.
- (7) Where the notice is given pursuant to a judge's order a copy of the order shall accompany the notice.
- (8) Where a company has been struck off the register of joint stock companies and is dissolved, the notice may be served upon any person appearing by the register to have been at the time of dissolution president, secretary, treasurer or a director of the company.
- (9) If an interest in the land other than the interest of the caveator is protected by the caveat, the registrar may refuse to notify the caveator as required by this section, and in such case the removal of the caveat shall be subject only to the provisions of section 146 or 148.

R.S.S. 1940, c.98, s.140; 1946, c.24, s.5; 1952, c.42, s.5; R.S.S. 1953, c.108, s.147.

Application to judge respecting building restriction caveat

148 Any owner or other person claiming an interest in land against which a caveat has been registered for the protection of a building restriction affecting such land or the use thereof, howsoever created, may apply to a judge, who, after such notice and hearing as he may deem proper and upon such terms and conditions as he may fix, may vary, cancel or substitute in whole or in part such building restriction and discharge or vary the caveat.

1946, c.24, s.6; R.S.S. 1953, c.108, s.148.

Withdrawal of caveat

149 Subject to section 89, the caveator or his personal representative may, by notice in writing to the registrar, withdraw his caveat at any time; but, notwithstanding such withdrawal, the court or judge may order payment by the caveator of the costs of the caveatee incurred prior to such withdrawal.

R.S.S. 1940, c.98, s.141; 1949, c.34, s.10; R.S.S. 1953, c.108, s.149.

Memorandum of withdrawal

150(1) A memorandum shall be made by the registrar upon the certificate of title and upon the duplicate certificate of the withdrawal, lapse or removal of any caveat, or of any order made by the court or a judge in connection therewith.

(2) Subject to subsection (3), after such withdrawal, lapse or removal it shall not be lawful for the same person, or for any one on his behalf, to register a further caveat in relation to the same matter, unless by leave of a judge.

(3) Subsection (2) does not apply where a caveat has been withdrawn by the caveator prior to service of a summons under section 146, or to the mailing of a notice by the registrar under section 147.

R.S.S. 1940, c.98, s.142; R.S.S. 1953, c.108, s.150.

Compensation for caveat wrongfully filed

151(1) A person registering or continuing a caveat wrongfully and without reasonable cause shall make compensation to any person who has sustained damage thereby.

(2) Such compensation with costs may be recovered by proceedings at law, if the caveator has withdrawn his caveat and no proceedings have been taken by the caveatee as herein provided.

(3) If proceedings have been taken by the caveatee, the compensation and costs shall be determined by the court or judge acting in the same proceedings.

R.S.S. 1940, c.98, s.143; R.S.S. 1953, c.108, s.151.

LIS PENDENS

Vacating *lis pendens*

152 Where a certificate of *lis pendens* has been registered against land, a certificate of the local registrar for the judicial district in which the action was begun:

- (a) that such action has been discontinued; or
- (b) that, such action having proceeded to trial, judgment was given in favour of the defendant, that no appeal therefrom has been entered, and that the time limited for an appeal has expired;

may be registered, and when registered such certificate shall have the same effect as a judge's order vacating the *lis pendens*.

R.S.S. 1940, c.98, s.144; R.S.S. 1953, c.108, s.152.

PART V

Involuntary Transfer of Title

TRANSMISSION

Transmission of land upon decease of owner

153 When the owner of land for which a certificate of title has been granted dies, the land shall, subject to the provisions of this Act, vest in his personal representative.

R.S.S. 1940, c.98, s.145; R.S.S. 1953, c.108, s.153.

Procedure by person claiming title

154(1) When land or a mortgage or lease affecting land for which a certificate of title has been granted is to be transmitted in consequence of the death of the owner, the person claiming transmission shall:

- (a) apply in writing to be registered as owner;
- (b) produce to the registrar the probate of the will of the deceased owner, or letters of administration of his estate, or an order of court authorizing him to administer the same, or a certificate issued under section 89 of *The Surrogate Courts Act*, or a duly certified copy of such probate, letters of administration, order or certificate; and
- (c) file with the registrar a sworn or notarial copy thereof;

and the registrar shall thereupon make a memorandum upon the certificate of title and duplicate of the date of the will and of the probate, or of the letters of administration or order of court or certificate, the date, hour and minute of the production of the same to him, and of such other particulars as he deems necessary.

(2) For the purposes of this Act the production of the probate of a will or letters of administration granted by the proper court of any province or territory of Canada or of the United Kingdom of Great Britain and Northern Ireland or of the Irish Free State or Eire or of any British possession, or of any of the states of the United States of America, or confirmation or testament dative granted by the proper court in Scotland, or an exemplification or duly certified copy thereof, resealed under the direction of a judge of a surrogate court, and the filing with the registrar of a sworn copy or a notarial copy thereof, or the filing with the registrar of a document duly certified by a notary or a prothonotary of the Province of Quebec as a true copy of a will filed or enregistered with him and in his custody, resealed as aforesaid, shall be sufficient.

R.S.S. 1940, c.98, s.146; 1942, c.20, s.4; R.S.S. 1953, c.108, s.154.

Effect of memorandum

155(1) Upon such memorandum being made the executor or administrator shall be deemed to be owner of the land, mortgage or lease.

(2) The registrar shall note the fact of the registration by a memorandum under his hand on the probate of the will, letters of administration, order or other instrument.

R.S.S. 1940, c.98, s.147; R.S.S. 1953, c.108, s.155.

When title of executor, etc., takes effect

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

R.S.S. 1940, c.98, s.148; R.S.S. 1953, c.108, s.156.

Issue of new certificate

157 When land is transmitted the duplicate certificate of title issued to the deceased owner shall be delivered up to be cancelled or be proved to have been lost or destroyed, and the registrar shall grant to the executor or administrator as such a new certificate.

R.S.S. 1940, c.98, s.149; R.S.S. 1953, c.108, s.157.

Registration of discharge or transfer of mortgage by executor

158(1) A discharge or transfer of mortgage executed by an executor or administrator of the deceased owner may be registered without formal transmission on the production and filing of such documents as are declared by section 154 to be sufficient.

(2) Where the total value of the estate of a testator or intestate in Saskatchewan does not exceed \$500, a discharge or transfer of mortgage executed by the executor or administrator may be registered without formal transmission upon production of the original probate of the will or letters of administration granted by any of the courts mentioned in subsection (2) of section 154, or of a copy thereof duly certified by the proper officer of the court granting such probate or administration, and filing with the registrar:

- (a) a sworn copy of such original probate, letters of administration or certified copy;
- (b) a certificate from the Provincial Treasurer that all succession duties payable by the estate have been paid or secured; and
- (c) an affidavit or solemn declaration that the total value of the estate of the intestate or testator in Saskatchewan does not exceed \$500.

R.S.S. 1940, c.98, s.150; 1945, c.30, s.9; R.S.S. 1953, c.108, s.158.

Absolute title of executor or administrator

159 For the purpose of registered dealing the person to whom land of a deceased owner has been transmitted shall, subject to section 160, be considered the absolute owner thereof, but he shall nevertheless hold the land upon the trusts and subject to any equitable claims with which it was affected before transmission.

R.S.S. 1940, c.98, s.151; R.S.S. 1953, c.108, s.159.

Restrictions as to registration of instruments executed by executor or administrator

160(1) The registrar shall not register any transfer, mortgage or other instrument executed by an executor or administrator except an application for transmission or a caveat or a transfer or discharge of mortgage, unless:

- (a) a certificate of the Official Guardian made subsequent to the date of grant of letters probate or administration, or of resealing thereof, that he has satisfied himself that there are no infants interested in the estate of the deceased owner, has been filed with the registrar; or
- (b) the instrument to be registered is accompanied by the consent of the Official Guardian to the proposed dealing; or

- (c) the instrument is accompanied by an affidavit of the executor or administrator, or one of several executors or administrators, showing that the land was sold by contract of sale in writing entered into by the deceased owner in his lifetime or by the person from whom the deceased owner in his lifetime acquired his interest therein and remains subject to the contract of sale, and that the instrument is executed pursuant to such contract of sale; or
- (d) the instrument to be registered is accompanied by an order of a judge of a court of competent jurisdiction, authorizing the proposed dealing.
- (2) If land in which infants are interested is subject to a general trust for sale, the Official Guardian may give one written consent, referring to such trust and authorizing the executor or administrator to deal with all the lands comprised in the estate, and after such general consent has been filed in any land titles office the registrar shall register any transfer, mortgage or other instrument executed by the executor or administrator without requiring any further consent to be filed.

R.S.S. 1940, c.98, s.152; 1946, c.24, s.7; R.S.S. 1953, c.108, s.160.

Registration of transfer to or by executor or administrator

161 No transfer of land and no transfer of mortgage affecting land in the province to or by a person referred to or described therein as an executor or administrator of a deceased person shall be registered unless there is on file in the office of the registrar a certified copy or a sworn or notarial copy of the probate of the will of the deceased or letters of administration of his estate or of a certificate issued under section 89 of *The Surrogate Courts Act*. When a sworn or notarial copy is presented for filing the probate or letters of administration issued by the proper surrogate court of the province or the probate or letters of administration issued elsewhere and resealed in the province or the above mentioned certificate, or a certified copy of such probate or letters or certificate, shall be produced to the registrar:

Provided that this section does not apply where the registrar is satisfied by affidavit or otherwise that the deceased person at the time of his death had no fixed place of abode in Saskatchewan and had no property in Saskatchewan.

1942, c.20, s.5; 1946, c.24, s.8; R.S.S. 1953, c.108, s.161.

Transfer to railway company, etc., and certain easement agreements

162(1) The provisions of section 160 do not apply to a transfer to a company or municipal corporation of land or an interest therein required for the construction, maintenance or operation of a railway or a gas, oil or water pipe line, nor to an agreement granting to the Crown, a company or municipal corporation an easement upon, over, under or across land authorized by *The Public Utilities Easements Act*.

(2) Where the land is shown upon a plan, approved by the Board of Transport Commissioners for Canada where the transferee or grantee is a railway company or a gas or oil pipe line company, and the plan is registered, the registrar for the land registration district in which the land lies shall, subject to *The Public Utilities Easements Act*, register the transfer or agreement.

(3) In other cases the instrument shall be registered only when accompanied by an affidavit testifying that the deponent is the right of way or purchasing agent of the transferee or grantee and that the lands described in the instrument are required for the construction, maintenance or operation of a railway or a gas, oil or water pipe line or for the exercise of any of the rights and privileges arising under the agreement granting an easement, and when otherwise in conformity with the provisions of this Act.

1950, c.27, s.9; R.S.S. 1953, c.108, s.162.

Transmission in case of assignment for creditors

163(1) Upon an assignment being made for the general benefit of his creditors by the owner of land for which a certificate of title has been granted or by the owner of a mortgage, or upon the appointment of a trustee in bankruptcy of the property of any such owner, and upon an assignment, receiving order or caution being registered or filed in the land titles office, the trustee may apply to be registered as owner of the land or mortgage, and the registrar may, pursuant to the provisions of the *Bankruptcy Act (Canada)* transmit the land or mortgage to such trustee who shall thereupon become owner thereof.

(2) From and after the receipt by the registrar of the assignment, receiving order or caution, he shall not permit any dealings with the land or mortgage by the assignor or bankrupt, nor shall he register any transfer, mortgage, lease or other instrument made or executed by him affecting the same or any part thereof.

R.S.S. 1940, c.98, s.155; R.S.S. 1953, c.108, s.163.

Power of assignor or bankrupt to deal with exempted lands

164 If the assignor or bankrupt, after the filing of the assignment or receiving order, files with the registrar a claim in writing, signed in the presence of an attesting witness, that any of his land, describing it, is exempt from execution or seizure under legal process, and such claim is accompanied by a writing signed by the trustee satisfactory in form to the registrar, stating that the trustee agrees that the lands mentioned are exempt as claimed, or by the order of a judge declaring such lands so exempt, subsection (2) of section 163 shall not apply to such lands and the registrar shall permit the claimant to deal with them as if the assignment or receiving order had not been made.

R.S.S. 1940, c.98, s.156; R.S.S. 1953, c.108, s.164.

Transmission of interest under the *Bankruptcy Act*

165(1) A person claiming to be entitled to have vested in himself any land or mortgage or any interest therein, by virtue of the *Bankruptcy Act (Canada)*, may, where no provision is made elsewhere in this Act for transmission on the register, apply to the registrar for the transmission to himself of such land, mortgage or interest and for the grant to himself of a certificate of title or for such entry on the register as may be applicable to the facts.

(2) The registrar, if it appears to him that the applicant has produced reasonable evidence in fact and law in support of his application, shall forthwith transmit such application, with all the evidence furnished, to the Master of Titles.

(3) The Master of Titles shall thereupon deal with the same in all respects as if it were an application submitted to him under section 39, and he may direct the registrar to cancel any certificate of title and duplicate thereof, either with or without the production of the duplicate, and to grant a new certificate of title and issue a duplicate thereof and to make or cancel any memorandum or entry on any certificate of title and to do every act necessary to give effect to the estate or interest to which the applicant may be entitled.

R.S.S. 1940, c.98, s.157; R.S.S. 1953, c.108,
s.165.

Cancellation of entry of assignment

166(1) If an assignment for the general benefit of creditors, made under the provisions of chapter 25 of the statutes of 1906 or of chapter 142 of *The Revised Statutes of Saskatchewan, 1909*, as amended from time to time, has been filed in a land titles office, the registered owner or any other person claiming an interest in land subject to such assignment may by summons call upon the assignee to attend before the Master of Titles to show cause why the entry of the assignment should not be cancelled; and the Master of Titles may, upon proof that such assignee has been summoned, and upon such evidence as he may require, make such order as to him seems meet.

(2) The summons may be served upon the assignee personally or by publication or in such other manner as the Master of Titles may direct.

R.S.S. 1940, c.98, s.158; R.S.S. 1953, c.108,
s.166.

Cancellation of entry of assignment or receiving order

167(1) A registered owner of land, whose dealings therewith are made or proposed to be made subject by the registrar to an assignment or receiving order against the lands of some person of the same or a similar name, or the transferee of such registered owner, may notify the registrar in writing that the registered owner is not the assignor or bankrupt, and the registrar shall thereupon notify the assignee or trustee in bankruptcy at the office of his solicitor, as appearing by the copy of the assignment or receiving order filed, otherwise at his personal address as it there appears, that the assignment or receiving order shall not affect the land referred to in the notice after the expiration of twenty days from the date of mailing the notice unless in the meantime the assignee or trustee in bankruptcy files with the registrar a judge's order continuing the assignment or receiving order in effect, as against the land, beyond the said twenty days. The notice by the registrar shall be in form CC and shall be given by registered letter.

(2) If such order is not filed with the registrar within the time limited by the notice, the assignment or receiving order shall no longer affect the land described in the notice.

R.S.S. 1940, c.98, s.159; R.S.S. 1953, c.108,
s.167.

EXECUTIONS

Registration and renewal of writs

168(1) The sheriff or other duly qualified officer, after the delivery to him of a writ of execution then in force affecting land shall, if a copy of such writ has not already been delivered or transmitted to the registrar, and on payment to him by the execution creditor named therein of fifty cents together with the amount of the registrar's fee, forthwith deliver or transmit by registered letter to the registrar a copy of the writ and of all endorsements thereon, certified under his hand and seal of office, if any, together with such registration fee.

(2) Such writ shall from and only from the receipt of a certified copy thereof by the registrar for the land registration district in which the land affected thereby is situated bind and form a lien and charge on all the lands of which the debtor may be or become registered owner situated within the judicial district the sheriff of which transmits such copy, including lands declared by *The Exemptions Act* to be free from seizure by virtue of writs of execution, but subject, nevertheless, to such equities, charges or encumbrances as exist against the execution debtor in such land at the time of such receipt:

Provided that nothing contained herein shall be taken to authorize the sheriff to sell any lands declared by *The Exemptions Act* to be free from seizure by virtue of writs of execution.

(3) From and after the receipt by the registrar of such copy, no certificate of title shall be granted and no transfer, mortgage, lease or other instrument executed by the execution debtor of such land shall be effectual, except subject to the rights of the execution creditor under the writ while the same is legally in force.

(4) The registrar, on granting a certificate of title and on registering any transfer, mortgage or other instrument executed by the execution debtor affecting such land, shall by memorandum upon the certificate of title in the register and on the duplicate state that such certificate, transfer, mortgage or other instrument is subject to such rights.

(5) Every writ of execution issued upon a judgment or order dated on or after the first day of September, 1942, shall state the date of the judgment or order on which it is issued.

(6) Every such writ, a certified copy of which is received by the registrar, shall, at the expiration of ten years from the date shown by the certified copy to be the date of the judgment or order upon which the writ was issued, cease to bind or affect the land of the execution debtor in his district:

Provided that the period commencing on the twenty-seventh day of March, 1933, and ending on the first day of April, 1944, shall not be included in calculating the said period of ten years.

Note.— Subsection (1) of section 4 of chapter 19 of the statutes of 1941 repealed subsections (5) and (6) of section 160 of *The Land Titles Act*, chapter 98 of *The Revised Statutes of Saskatchewan, 1940*, but also provided that the said subsections (5) and (6) continue to apply with respect to writs of execution issued upon judgments or orders dated prior to the first day of September, 1942.

(7) A registered owner of land, whose dealings therewith are made or proposed to be made subject by the registrar to an execution against the lands of some person of the same or a similar name, or the transferee of such registered owner, may notify the registrar in writing that the registered owner is not the execution debtor, and the registrar shall thereupon notify the execution creditor at the office of his solicitor, as appearing by the copy of the writ of execution filed, otherwise at his personal address as it there appears, that the execution shall not affect the land referred to in the notice after the expiration of twenty days from the date of mailing the notice unless in the meantime the execution creditor files with the registrar a judge's order continuing the execution in effect as against the land beyond the said twenty days. The notice by the registrar shall be in form DD and shall be given by registered letter.

(8) If such order is not filed with the registrar within the time limited by the notice, the execution shall no longer affect the land described in the notice, and the registrar shall accordingly remove the memorandum of the execution from the certificate of title to the land.

(9) A sheriff, upon receiving notice of any change of solicitor in respect of an execution against land, shall forthwith notify the registrar of the land registration district in which the execution is filed and the registrar shall note the change upon the execution.

(10) In subsections (7), (8) and (9) "execution" includes a certificate under section 19 of *The Creditors' Relief Act*, "execution creditor" includes a claimant delivering such certificate to the sheriff and "execution debtor" includes a debtor named in such certificate. The notice by the registrar shall be in form DD with the necessary modifications.

R.S.S. 1940, c.98, s.160; 1941, c.19, s.4; 1942, c.20, s.6; 1943, c.19, s.6; R.S.S. 1953, c.108, s.168.

Registration of certificate of satisfaction or withdrawal

169(1) Upon the satisfaction or withdrawal from his hands of a writ, the sheriff or other duly qualified officer shall forthwith transmit to the registrar a certificate under his official seal, if any, to the effect that such writ has been satisfied or withdrawn.

(2) Upon the expiration of a writ of execution or upon the production and delivery to the registrar of such a certificate or of a judge's order showing the satisfaction or withdrawal of the writ as against the whole or any portion of the land so bound, the registrar shall make a memorandum upon the certificate of title of such expiration or to the effect so certified or shown, if a certificate of title has been granted for such land, and, whether a certificate of title has been granted or not, upon or opposite to the entry of the writ in the book to be kept under section 31.

(3) Thenceforth such land or portion of land shall be deemed to be absolutely released and discharged from the writ.

R.S.S. 1940, c.98, s.161; R.S.S. 1953, c.108, s.169.

Registration of certificate of satisfaction, etc.

170 Upon the production and delivery to the registrar of a certificate from the sheriff that a writ under which he has seized a registered mortgage has been satisfied, has lapsed or has been withdrawn, or of a judge's order showing the satisfaction or withdrawal of the writ, the registrar shall make a memorandum thereof in the register and thereupon the writ shall cease to affect the mortgage seized.

R.S.S. 1940, c.98, s.162; R.S.S. 1953, c.108, s.170.

Power of sheriff to furnish certificate of withdrawal

171 Where a mortgage has been seized by a sheriff and such seizure has been withdrawn, the sheriff, under whose hand notice of seizure has issued, may give a certificate directed to the registrar in whose office the notice of seizure is registered, to the effect that such seizure has been withdrawn, and such certificate shall be registered in the land titles office in the same manner as a discharge of mortgage.

R.S.S. 1940, c.98, s.163; R.S.S. 1953, c.108, s.171.

Sheriff's discharge of mortgage

172 When a mortgagor has paid to the sheriff the whole amount secured by the mortgage upon the date of such payment or any part thereof the sheriff may execute a memorandum of discharge, or partial discharge, of the mortgage; and the registrar shall, upon receipt of such memorandum, make an entry on the register that the mortgage is discharged wholly or in part.

R.S.S. 1940, c.98, s.164; R.S.S. 1953, c.108, s.172.

SHERIFF'S SALE**Confirmation by judge essential**

173(1) No sale by a sheriff or other officer, under process of law, of land for which a certificate of title has been granted, or of a lease or mortgage of such land, shall be of any effect until the same has been confirmed by the court or a judge.

Registration of transfer

(2) When such land, or a lease or mortgage of such land, is sold under process of law, the registrar, upon production to him of a transfer (form EE) with proof of the due execution thereof and with an order confirming the sale endorsed upon the transfer or attached thereto, shall, subject to the provisions of section 175, upon the expiration of four weeks after receiving the same unless such registration is in the meantime stayed by order of the court or a judge, register the transfer, and, in the case of a sale of land, cancel the existing certificate of title wholly, or in part if less than the whole of the land comprised therein is sold, grant a certificate of title to the transferee and issue to him a duplicate certificate of title.

(3) When the registration is stayed, it shall not be proceeded with until an order to that effect has been made by the court or a judge.

R.S.S. 1940, c.98, s.165; R.S.S. 1953, c.108, s.173.

Transfer of mortgage to execution creditor

174 A sheriff who, under a writ of execution against goods, has seized a mortgage belonging to the execution debtor, may transfer such mortgage to the execution creditor by instrument over his hand and official seal in form FF, if the execution creditor has agreed to accept it at the sum actually due on and secured by it as money collected.

R.S.S. 1940, c.98, s.166; R.S.S. 1953, c.108, s.174.

Time for registration limited

175(1) A transfer of land sold under process of law, or a transfer of a mortgage sold under process of law, shall not be registered after a period of two months from the date of the order of confirmation unless the period is extended by order of the court or a judge filed with the registrar.

(2) Such transfer, if not registered within that period or within the time fixed by such order, shall cease to be valid as against the owner of the land, or of the mortgage, so sold, and any person or persons claiming from, through or under him.

R.S.S. 1940, c.98, s.167; R.S.S. 1953, c.108, s.175.

Confirmation of sale

176(1) The application for confirmation of a sale of land or of a mortgage under process of law may be made by the sheriff or other officer making the sale, or by any person interested in the sale, on notice to the owner and to all persons subsequent in interest to the execution creditor, unless the judge to whom application is made dispenses with such notice.

(2) If the sale is confirmed the costs of confirmation shall be borne and paid out of the purchase money or as the judge directs.

(3) If the sale is not confirmed the purchase money paid by him shall be refunded to the purchaser, and the judge may make such order as to the costs of all parties to the sale and of the application for its confirmation as he thinks just.

R.S.S. 1940, c.98, s.168; R.S.S. 1953, c.108, s.176.

SALE FOR TAXES

Procedure under *The Arrears of Taxes Act*

177(1) Where land has been sold for taxes under *The Arrears of Taxes Act*, chapter 146 of *The Revised Statutes of Saskatchewan, 1940*, the tax purchaser or his assigns, when applying for title, shall furnish a tax sale certificate from the treasurer of the municipality.

(2) The registrar shall not inquire into any irregularities in a tax sale or in any of the proceedings relating thereto or in any of the proceedings prior to or connected with the assessment of the land, but he shall before registering the tax purchaser or his assigns as owner, satisfy himself that the sale was properly advertised and openly and fairly conducted.

(3) A certificate from the treasurer who conducted the sale, or from the treasurer for the time being of the municipality where he is authorized to give such certificate, that the sale was properly advertised and openly and fairly conducted, shall be accepted as *prima facie* evidence of the fact as stated.

(4) A certificate purporting to be under the seal of the municipality and the hand of such treasurer shall be received in evidence by the registrar without proof of the seal or of the signature or of the official character of the person appearing to have signed the same, and without any further proof.

(5) The registrar shall direct to be served upon all persons, other than the tax purchaser or his assigns, who appear by the records of the land titles office and by the last revised assessment roll of the municipality at the time of the filing of the application for title to be interested in the lands sold, a notice requiring them, within a time therein to be limited, to contest the claim of the tax purchaser or his assigns or to redeem the land.

(6) Such notice may be served on the registered owner or a first mortgagee by forwarding to him by registered mail a true copy thereof, and such service shall be deemed sufficient if a receipt from the postmaster for the letter containing such copy, and a post office receipt for such letter purporting to be signed by the person to be served, are produced as exhibits to the affidavit of service, which shall be in the following form:

AFFIDAVIT OF SERVICE

Canada:
Province of Saskatchewan,

To Wit:

In the matter of *The Land Titles Act*, and in the matter of _____

I, _____, of (*residence*) in the Province of Saskatchewan _____, make oath and say:

1. That I did on the _____ day of _____ 19 _____, serve _____, registered owner (*or first mortgagee*) of the above described land with a true copy of the notice hereunto annexed and marked exhibit A to this my affidavit (*or, as the case may be*) having enclosed such copy (*add along with the proper fee if the notice is served under subsection (2) of section 206*) in an envelope addressed to such owner (*or mortgagee*) at _____ in the province of _____, and posted the same by registered mail in the post office at _____.

2. Hereunto annexed and marked exhibit B is the receipt from the postmaster at _____ for such registered letter; and hereunto annexed and marked exhibit C is the receipt of the said owner (*or mortgagee*) for such registered letter.

Sworn before me at _____
_____ of _____
in the Province of Saskatchewan
this _____ day of
_____, 19_____.

*A Commissioner for Oaths, Notary Public
or Justice of the Peace.*

(7) Any document served under subsection (6) shall be deemed to have been served on the day of the date of the receipt which purports to be signed by the owner or mortgagee.

(8) Such notice may be served on any person other than the registered owner or first mortgagee by mailing it in a registered letter, postage prepaid, to the address of the person to be served as appearing by the records of the land titles office and by the last revised assessment roll of the municipality, but in that event the registrar shall not issue a certificate of title to the land until the expiration of six months from the date of mailing the notice, or of mailing the last notice if more than one person is so served:

Provided that, if the address of a person to be served is given differently in the assessment roll and in the records of the land titles office, notice shall be sent to him at each such address.

(9) Notwithstanding anything contained in subsections (6) and (8), service of the notice therein mentioned may be effected by personal service on the registered owner or first mortgagee or other person, provided that the costs allowed by the registrar for such service shall not exceed the costs which would have been allowed for service in accordance with subsection (6) or subsection (8), as the case may be.

(10) Where application is made for title to a lot or parcel of land which at the date of such application has an assessed value not exceeding \$1,000, subsections (6) and (7) do not apply but service may be made upon all parties in the manner provided by subsection (8) or subsection (9).

(11) In default of redemption before the registration of the applicant as owner all persons so served with notice shall, save as hereinafter mentioned, be forever estopped and debarred from setting up any claim to or respect of the land sold for taxes, and the registrar shall register the person entitled under such tax sale as owner. The land shall nevertheless remain subject to:

- (a) existing registered easements and party wall agreements and any caveat registered in respect of an easement or party wall agreement;
- (b) rights acquired under *The Public Utilities Easements Act*;
- (c) caveats registered in respect of rights of way or other easements granted or acquired under *The Irrigation Districts Act* or *The Water Rights Act* and certificates registered pursuant to section 38 of *The Water Rights Act*;
- (d) caveats registered by or on behalf of the Minister of Highways or Minister of Highways and Transportation;
- (e) caveats registered by or on behalf of a municipal corporation in connection with spur track rental agreements, easements or rights of way;
- (f) the rights, under section 73 of *The Arrears of Taxes Act*, chapter 146 of *The Revised Statutes of Saskatchewan, 1940*, or section 35 of *The Tax Enforcement Act*, of any person in actual occupation of the land; and
- (g) any subsequent sale for taxes or tax lien registered under *The Tax Enforcement Act* in respect of which the land has not been redeemed.

(12) Where notice under subsection (5) is served by registered letter, no more than one notice shall be enclosed in the same envelope.

Substitutional service

178 The registrar may in his discretion order that the notice mentioned in section 177, and notice of any subsequent proceedings, may be served substitutionally, and such substitutional service shall have the same effect as personal service of the notice or proceeding upon the person intended to be affected thereby.

R.S.S. 1940, c.98, s.170; R.S.S. 1953, c.108, s.178.

TAX ENFORCEMENT ACT**Procedure under *Tax Enforcement Act***

179(1) Upon receipt from a municipality of an application for title under *The Tax Enforcement Act*, the registrar shall direct to be served upon all persons, other than the municipality, who appear by the records of the land titles office and by the last revised assessment roll of the municipality at the time of the filing of the application for title to be interested in the land, a notice requiring them, within a time therein to be limited, to contest the claim of the municipality or to redeem the land; and the provisions of subsections (6), (7), (8), (9), (10) and (11) of section 177 and of section 178 shall apply *mutatis mutandis*.

(2) Where notice under subsection (1) is served by registered letter, no more than one notice shall be enclosed in the same envelope.

R.S.S. 1940, c.98, s.171; R.S.S. 1953, c.108, s.179.

MINERAL TAXATION ACT**Issue of title to Crown**

180 Upon receipt of the documents mentioned in subsection (1) of section 29 of *The Mineral Taxation Act*, the registrar shall issue to Her Majesty the Queen in right of Saskatchewan a certificate of title, free and clear of all endorsements, to the minerals within, upon or under the land described in the said documents.

1947, c.37, s.4; R.S.S. 1953, c.108, s.180.

PART VII**Court and Other Proceedings****REFERENCE TO MASTER OF TITLES****By person dissatisfied with act of registrar**

181(1) If any person is dissatisfied with an act, omission, refusal, decision, direction or order of a registrar, such person may require the registrar to set forth in writing under his hand the reasons for such act, omission, refusal, decision, direction or order, and may then apply to the Master of Titles by petition setting forth the grounds of his dissatisfaction.

(2) The Master of Titles may, upon receipt of the petition allow any of the parties interested to appear before him, and summon any other of such persons to appear and show cause, either personally or by solicitor, in relation thereto.

(3) The Master of Titles, having caused the registrar to be served with a copy of the petition, shall hear the petition and make such order in the premises and as to the costs of the parties appearing as the circumstances of the case require.

R.S.S. 1940, c.98, s.172; R.S.S. 1953, c.108, s.181.

By registrar

182(1) The registrar may, when a question arises:

- (a) with regard to the performance of a duty or the exercise of a function by this Act conferred or imposed upon him; or
- (b) as to the true construction or validity or effect of an instrument, or as to the person 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
- (c) as to the mode in which an entry or memorandum ought to be made in the day book or register, or upon a certificate of title or duplicate thereof; or
- (d) as to any doubtful or uncertain right or interest stated or claimed to be dealt with by a registrar;

refer the same in form GG to the Master of Titles.

(2) The Master of Titles may, upon the same being referred, allow any of the parties interested to appear before him, and summon any other such persons to appear and show cause either personally or by solicitor in relation thereto.

(3) The Master of Titles having regard to the persons appearing before him, whether summoned or not, shall decide the question or direct any proceedings to be instituted for that purpose, and direct the particular form of entry or memorandum to be made, as under the circumstances appears to be just.

R.S.S. 1940, c.98, s.173; R.S.S. 1953, c.108, s.182.

EJECTMENT

Protection against ejectment—exceptions

183(1) No action of ejectment or other action for the recovery of land for which a certificate of title has been granted shall lie against the owner under this Act, except in the case of:

- (a) a mortgagee, as against a mortgagor in default;
- (b) a lessor, as against a lessee in default;
- (c) a person deprived of land by fraud, as against the person who through such fraud has been registered as owner, or as against a person deriving title otherwise than as a transferee *bona fide* for value from or through such owner through fraud;
- (d) a person deprived of or claiming any land included in any grant or certificate of title of other land by misdescription of such other land or of its boundaries, as against the owner of such other land;

(e) an owner claiming under an instrument of title prior in date of registration, where two or more grants are registered, or two or more certificates of title issued, in respect of the same land;

(f) rights arising under any of the clauses of section 67.

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

R.S.S. 1940, c.98, s.174; R.S.S. 1953, c.108, s.183.

ACTIONS FOR DAMAGES

Against registrar

184 Any person sustaining loss or damage through an omission, mistake or misfeasance of the registrar or an official in his office in the execution of his duties, and any person deprived of any land or encumbrance or of an estate or interest therein through the bringing of the land under this Act, or by the registration of another person as owner of the land or encumbrance or by an error, omission or misdescription in a certificate of title, and who by the provisions of this Act is barred from bringing an action for the recovery of such land or encumbrance or estate or interest therein, may bring an action against the registrar of the district in which the land is situated for the recovery of damages.

R.S.S. 1940, c.98, s.175; R.S.S. 1953, c.108, s.184.

Defendants

185 If such action is for the recovery of loss or damage arising only through an omission, mistake or misfeasance of the registrar or such official, the registrar shall be the sole defendant; but, if it is brought for loss or damage arising only from the fraud or wrongful act of some person other than the registrar and his officials, or arising jointly through the fraud or wrongful act of such other person and the omission, mistake or misfeasance of the registrar or other official, then such action shall be brought against both the registrar and such other person.

R.S.S. 1940, c.98, s.176; R.S.S. 1953, c.108, s.185.

Judgment

186 In all such actions where there is a defendant other than the registrar and damages are recovered, if the court finds that a defendant other than the registrar is liable for the loss sustained, final judgment shall not be entered against the registrar until a judge of the court in which such action was brought has made an order declaring that the judgment is not and cannot be satisfied in whole or in part out of the goods or lands of such other defendant so found liable, and that the amount of the judgment in whole or as to such part thereof as remains unsatisfied, together with costs, should be a judgment against the registrar, and judgment may thereupon be entered against the registrar.

R.S.S. 1940, c.98, s.177; R.S.S. 1953, c.108, s.186.

Assignment to Provincial Treasurer

187 Upon payment of the amount of such judgment the Provincial Treasurer shall be entitled to an assignment thereof as against any other defendant liable as aforesaid.

R.S.S. 1940, c.98, s.178; R.S.S. 1953, c.108, s.187.

Notice of action

188(1) No action shall be brought against the registrar under sections 184 and 185 unless notice in writing of the intended action, and of the cause thereof, has been served upon the registrar and the Attorney General at least three months before the commencement of the action.

(2) Every such action shall be brought in the Court of Queen's Bench.

R.S.S. 1940, c.98, s.179; R.S.S. 1953, c.108, s.188.

Satisfaction of judgment

189 The Provincial Treasurer shall pay the amount of any judgment recovered against the registrar out of the assurance fund provided by this Act, and, if there is not a sufficient sum at the credit of the assurance fund to satisfy the judgment, the deficiency shall be chargeable to and payable out of the consolidated fund.

R.S.S. 1940, c.98, s.180; R.S.S. 1953, c.108, s.189.

Actions brought against registrar by name of office

190 All actions against the registrar shall be brought against him by his name of office, and shall not abate or be in any way affected by a vacancy occurring in the said office or by change of officer.

R.S.S. 1940, c.98, s.181; R.S.S. 1953, c.108, s.190.

Limitation of time of action

191(1) No action for recovery of damages under this Act lies against a registrar unless the same is commenced within a period of six years from the date when the plaintiff was deprived of the land or of his estate or interest therein.

(2) Any person who, at the time of such deprivation, is an infant, or person of unsound mind, may bring action within six years from the date on which the disability ceases.

R.S.S. 1940, c.98, s.182; R.S.S. 1953, c.108, s.191.

Payment of claims against assurance fund without action

192(1) The Provincial Treasurer may, without action brought, pay the amount of a claim against the assurance fund, when authorized to do so by the Attorney General on a report of the registrar of the district in which the land which is the subject of the claim is situated, setting forth the facts, and a certificate from the Master of Titles that in his opinion the claim is just and reasonable.

(2) In such case a reasonable sum to be determined by the Master of Titles may be allowed the claimant for costs.

R.S.S. 1940, c.98, s.183; R.S.S. 1953, c.108, s.192.

Action against registrar barred in certain cases

193 No action shall be brought against the registrar if the proposed plaintiff or the person through or under whom he claims was either served with notice, or not being served with notice, had knowledge, that the registrar was about to bring the land, in respect of which the claim arises, under the Act, or was about to do the act through which such proposed plaintiff claims to have been injured.

R.S.S. 1940, c.98, s.184; R.S.S. 1953, c.108, s.193.

Assurance fund not liable in certain cases

194 The assurance fund shall not under any circumstances be liable for compensation for loss, damage or deprivation:

- (a) occasioned by the owner's breach of any trust whether express, implied or constructive; or
- (b) in any case in which the same land has been included in two or more grants from the Crown; or
- (c) in any case in which loss, damage or deprivation has been occasioned by land being included in the same certificate of title with other land through misdescription of the boundaries or parcels, unless it is proved that the person liable for compensation and damages is dead or has absconded from the province or has been adjudged insolvent, or the sheriff has certified that he is not able to realize the full amount and costs awarded in an action for such compensation; or
- (d) by reason of the improper use of the seal of a corporation, or the want of capacity in a corporation to deal with the estate or interest involved or to execute or take the benefit of the instrument registered; or
- (e) by reason of the registration of an instrument executed by a person under legal disability, unless the fact of the disability was disclosed in the instrument.

R.S.S. 1940, c.98, s.185; R.S.S. 1953, c.108, s.194.

Action for damage by reason of error relating to mines and minerals

195(1) In any action against the registrar for any loss or damage sustained by reason of any error, omission or misdescription relating to mines and minerals in the register or in any abstract, certificate or certified copy of an instrument, issued by the registrar, the claimant shall be entitled to recover as liquidated damages the moneys actually paid out by him for such interest in mines and minerals and such further sum not exceeding \$5,000 for any present or prospective loss of profit, if any, sustained by him in his dealings with such mines and minerals.

(2) In the case of a disposition by sale, lease, assignment, agreement or other instrument executed on or after the first day of June, 1951, by which the person who purports to be the registered owner of an interest in mines and minerals disposes of all or any part of such interest, any party to the disposition and his successors and assigns may apply to the registrar for a mineral certificate as to ownership of the interest in mines and minerals.

(3) The registrar shall search and examine the register to ascertain the ownership of the interest in mines and minerals dealt with in the disposition and if he finds that at the date of the disposition the person purporting to dispose of the interest in mines and minerals was the correct registered owner of the said interest he shall issue a mineral certificate to that effect in form HH.

(4) Notwithstanding subsection (1), no person shall have an action against the registrar arising out of a disposition of an interest in mines and minerals executed on or after the first day of June, 1951, for any loss or damage sustained by reason of any error, omission or misdescription in the register or in any abstract, certificate or certified copy of an instrument, issued by the registrar, relating to the interest in mines and minerals, unless the registrar has issued the mineral certificate in respect of that disposition provided for in subsection (3).

(5) No disposition of mines and minerals executed on or after the first day of June, 1951, shall be registered except by way of caveat unless it is accompanied by the mineral certificate in respect of that disposition provided for in subsection (3).

(6) Notwithstanding subsection (5), a disposition of the surface of land including mines and minerals which is not accompanied by the mineral certificate may be registered, but in such case subsection (4) shall apply and no action shall lie against the registrar in respect of the interest in mines and minerals until the registrar has issued the mineral certificate.

1951, c.34, s.6; R.S.S. 1953, c.108, s.195.

Limitation of action for breach of warranty of title to mines and minerals

196 Except in case of fraud no person who has heretofore executed or hereafter executes a disposition by sale, lease, assignment, agreement or other instrument disposing of an interest in mines and minerals shall, notwithstanding anything contained in such instrument, be liable to an action for damages for breach of warranty of title to the mines and minerals or any of them or any other action for damages based on his inability to give title to such mines and minerals or any of them where his breach of warranty of title or his inability to give title is due to or contributed to by any error, omission or misdescription relating to mines and minerals in the register of the land titles office or in any abstract, certificate or certified copy of an instrument, issued by the registrar, or where such error, omission or misdescription induced him to execute such disposition by sale, lease, assignment, agreement or other instrument.

1951, c.34, s.6; R.S.S. 1953, c.108, s.196.

Costs to nominal defendant

197 If in an action against the registrar judgment is given against the plaintiff or the plaintiff discontinues or the action is dismissed, the plaintiff shall be liable to pay the costs of defending the action and the same when taxed shall be levied in the name of the nominal defendant by the like process of execution as in ordinary civil cases.

R.S.S. 1940, c.98, s.186; R.S.S. 1953, c.108, s.197.

EVIDENCE AND PROCEDURE

Allegation in action for breach of implied covenant

198 In an action for an alleged breach of an implied covenant, the covenant alleged to be broken may be set forth and it shall be lawful to allege, in the same manner as if the covenant had been expressed in words in the transfer or other instrument, any law or practice to the contrary notwithstanding, that the party against whom the action is brought did so covenant.

R.S.S. 1940, c.98, s.187; R.S.S. 1953, c.108, s.198.

Use of owner's name by beneficiary

199(1) The owner of land for which a certificate of title has been granted, or of a lease, mortgage or charge affecting the same, 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 the 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.

(2) Such owner shall in any case be entitled to be indemnified in like manner as, being a trustee, he would be entitled to be indemnified in case of his name being used in any such action, suit or proceeding by his *cestui que trust*.

R.S.S. 1940, c.98, s.188; R.S.S. 1953, c.108, s.199.

Certificate of title conclusive evidence of right to land; exceptions

200(1) Every certificate of title and duplicate certificate granted under this Act shall, except:

- (a) in case of fraud wherein the owner has participated or colluded; and
- (b) as against any person claiming under a prior certificate of title granted under this Act in respect to the same land; and
- (c) so far as regards any portion of the land by wrong description of boundaries or parcels included in such certificate of title;

be conclusive evidence, so long as the same remains in force and uncanceled, in all courts, as against Her Majesty and all persons whomsoever, that the person named therein is entitled to the land included in the same for the estate or interest therein specified, subject to the exceptions and reservations implied under the provisions of this Act.

(2) If more than one certificate of title has been granted in respect of any particular estate or interest in land, the person claiming under the prior certificate shall be entitled to such estate or interest; and that person shall be deemed to hold under a prior certificate who is the holder of, or whose claim is derived directly or indirectly from the person who was the holder of, the certificate first granted.

R.S.S. 1940, c.98, s.189; R.S.S. 1953, c.108, s.200.

Proceedings not to abate by death, etc.

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

R.S.S. 1940, c.98, s.190; R.S.S. 1953, c.108, s.201.

Death after execution of instrument

202(1) If any person dies after executing an instrument affecting land and before the registration thereof, such instrument may nevertheless be registered in accordance with this Act, and the registration will not be rendered invalid by reason of the death.

(2) The affidavit of execution of a transfer of land or a transfer of mortgage, executed by a person who is described in the instrument as being resident in Saskatchewan, may contain a statement of the date of execution of the instrument. Where the affidavit does not contain such statement, or where the affidavit does contain such statement and the transfer is not presented for registration within three months after the date of execution so stated, the instrument shall be accompanied by an affidavit of some person purporting to be sworn within thirty days prior to the presentation of the instrument for registration and stating that such person has made inquiries with respect to the facts sworn to by him and that to the best of his information and belief the transferor is alive or is deceased, as the case may be; and where such affidavit states that the transferor is deceased then the registrar shall immediately after registration forward to the Deputy Provincial Treasurer a statement containing the name of the transferor, a full description of the land or mortgage and the number of the certificate of title.

(3) The affidavit last mentioned in subsection (2) shall not be required in the case of an instrument which purports to have been executed prior to the first day of May, 1935. In the case of an instrument which purports to have been executed on or after that date the registrar may dispense with such affidavit if satisfied that reasonable inquiries have been made and that the person by whom the same were made has been unable to ascertain whether the transferor is alive or is deceased, and in such case the registrar shall forward to the Deputy Provincial Treasurer a notice setting forth the facts.

R.S.S. 1940, c.98, s.191; 1941, c.19, s.5; 1945, c.30, s.10; R.S.S. 1953, c.108, s.202.

True consideration to be sworn

203 A transfer of land or a transfer of mortgage, other than a transfer by a corporation or by the personal representative of a deceased person, shall be accompanied by an affidavit setting forth the true consideration for the transfer, and if it appears to the registrar, upon perusal of the affidavit, that the land or mortgage transferred was not actually and *bona fide* transferred for a consideration in money or money's worth equivalent to the value of the land or the mortgage transferred, he shall forthwith advise the Deputy Provincial Treasurer of the transfer.

R.S.S. 1940, c.98, s.192; 1945, c.30, s.11; R.S.S. 1953, c.108, s.203.

Evidence of purchase for valuable consideration

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

R.S.S. 1940, c.98, s.193; R.S.S. 1953, c.108, s.204.

Notice of reference to interested parties

205 When any matter is under this Act submitted to a judge or the Master of Titles, and the judge or the Master of Titles deems it advisable that parties interested should be notified of the time and place when and where a hearing of the matter so submitted will be held, and no special provisions are made therefor in this Act, or if there are any such special provisions and the judge or the Master of Titles is of opinion that the notice required thereby to be given is not sufficient, he may direct:

- (a) that notice of such time and place shall be given; and
- (b) that such notice shall be served upon such persons as he may direct, personally or by registered mail as he may direct, or left at their usual places of abode;
- (c) that such notice shall be posted at such place or places and for such periods as he may name; or
- (d) that such notice shall be published in such newspaper or newspapers as he may designate and for such time as he may direct; and
- (e) that such notice may be given in any one or more or in all the methods above specified.

R.S.S. 1940, c.98, s.194; R.S.S. 1953, c.108, s.205.

Service of notice out of the jurisdiction

206(1) When this Act directs that persons interested shall be heard or shall receive notice, and such parties are not within the province or cannot be found so as to be personally served, the judge or the Master of Titles or the registrar, having jurisdiction in the matter, may direct that any party outside the province may be served personally or may in either case direct substitutional service within or without the province in such manner as he deems expedient, or that publication of notice in such manner as he may direct shall be sufficient service.

(2) If any person required to be served is dead and such person has no legal representative, such notice may be served upon the official administrator for the judicial district in which the land affected is situated and shall be accompanied by a fee of \$10 or, where the notice relates to tax sale or tax enforcement proceedings or proceedings under *The Tax Arrears Consolidation Act*, chapter 147 of *The Revised Statutes of Saskatchewan, 1940*, or *The Tax Consolidation and Adjustment Act*, chapter 148 of *The Revised Statutes of Saskatchewan, 1940*, by a fee of \$5. Where the required fee has been paid under this subsection in respect of a notice relating to any tax sale or other proceedings, no further fee shall be payable in respect of any other notice relating to the same proceedings.

(3) Instead of service upon the official administrator the registrar may, upon request, direct that notice shall be served upon the widow of the deceased or any named member of the family, or both.

(4) Where a company has been struck off the register of joint stock companies and is dissolved, notice may be served upon any person appearing by the register to have been at the time of dissolution president, secretary, treasurer or a director of the company.

R.S.S. 1940, c.98, s.195; 1945, c.30, s.12; R.S.S. 1953, c.108, s.206.

Proof of matters of inquiry by affidavit

207 When by virtue of this Act a judge, the Master of Titles or the registrar, having jurisdiction in the matter, is required or authorized to hold an inquiry, proof of the matters relevant to the inquiry may be made before him by affidavit:

Provided that the judge, the Master of Titles or the registrar may, when he deems it expedient, require any person to attend personally before him to testify as to the matter of such inquiry, or may require the deponent to any affidavit so to attend to be cross-examined upon his affidavit.

R.S.S. 1940, c.98, s.196; R.S.S. 1953, c.108, s.207.

Procedure under an inquiry

208(1) When the judge or the Master of Titles or the registrar requires any person to appear before him in person, he may issue a summons under his hand requiring such person to appear before him at a time and place to be specified, to testify as to what he may know concerning the matters in question or to be cross-examined on his affidavit.

(2) If such person fails to attend at the time and place specified, the judge, Master of Titles or registrar, as the case may be, upon proof under oath that he has been duly served with the summons, and the proper conduct money according to the tariff of fees provided for the attendance of witnesses at trials in civil causes in the court and any law in force in Saskatchewan has been paid or tendered to him, may issue his warrant directed to the sheriff of any judicial district directing him to apprehend such person and bring him before the judge or the Master of Titles or the registrar, as the case may be, for examination and to keep him in his custody until he is so examined.

(3) The sheriff shall obey the warrant according to the tenor thereof, and shall be entitled to the same fees for executing the warrant as he would be entitled to for executing a process issued out of the court.

(4) The costs incidental to any such inquiry shall be in the discretion of the judge or the Master of Titles or the registrar, as the case may be, and shall be taxed by the local registrar of the court as nearly as may be according to the tariff provided for civil causes in the court.

(5) Judgment may be signed in such court for such costs in favour of the party to whom they are awarded by the judge or the Master of Titles or the registrar, as the case may be, and execution may be issued for the recovery thereof out of court as upon an ordinary judgment therein.

R.S.S. 1940, c.98, s.197; R.S.S. 1953, c.108, s.208.

Security for costs by non-resident

209(1) When any proceeding is taken under this Act whether by motion or summons or by the filing with or the delivery to the registrar of a caveat, mechanics' lien or copy of an execution against lands or other such proceeding, and any party to such proceeding or the person in whose behalf or against whose interest such caveat, lien or execution has been so filed or delivered is not resident in the province, a judge may, upon the application of a party to such proceeding or interested therein or affected by such caveat, lien or execution, grant an order requiring such non-resident to give security for the costs of the applicant in prosecuting or resisting such proceedings or in removing or maintaining such caveat, lien or execution.

(2) The order may provide that in default such proceeding may be deemed granted or dismissed or such caveat, lien or execution may be deemed removed or maintained.

(3) Such order may also provide for a stay of proceedings.

(4) The practice and procedure for obtaining such order and giving such security shall be as nearly as may be the same as upon an application for security for costs in civil causes in the court.

(5) The judge may order the taxed costs incident to such application or order to be recovered as is provided for costs in subsections (4) and (5) of section 208.

R.S.S. 1940, c.98, s.198; R.S.S. 1953, c.108,
s.209.

Order as to costs

210(1) The court or judge, the Master of Titles or the registrar, as the case may be, may order costs to be paid by or to any person or party to any proceeding under this Act.

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

R.S.S. 1940, c.98, s.199; R.S.S. 1953, c.108,
s.210.

Attendance or registrars as witnesses

211 When a registrar is required, by subpoena, summons or order, to attend at a point outside the city, town or village where his office is situated for examination as a witness, the party desiring to examine shall serve upon the Master of Titles, or forward to him in a registered letter addressed to him in his official character, a notice in writing giving the name of the court out of which the process issued, the style of cause and the time and place of the examination. Such notice shall be served upon or received by the Master of Titles at least seven clear days before the day fixed for the examination; otherwise the registrar shall not be bound to attend.

R.S.S. 1940, c.98, s.200; R.S.S. 1953, c.108,
s.211.

Production of documents in court

212(1) No subpoena for the production of an original record or of an original document from any land titles office shall be issued, but a judge or the Master of Titles may make an order for its production or transmission which shall be obeyed by the officer in whose custody it is.

(2) Except in special circumstances requiring or justifying the production of the original, no such order shall be made when the document may be proved by a certified copy. An officer required to produce a document shall be entitled to be paid ordinary witness fees.

R.S.S. 1940, c.98, s.201; R.S.S. 1953, c.108, s.212.

Enforcement of orders

213 Any order of the court or a judge or the Master of Titles may be enforced in the same manner and by the same officials and process as orders are usually enforced under the procedure and practice of the Court of Queen's Bench and shall be obeyed by every registrar when directed to him.

R.S.S. 1940, c.98, s.202; R.S.S. 1953, c.108, s.213.

Power to give effect to certain statutory proceedings

214 Where by any statute of Canada or Saskatchewan or by virtue of any proceedings thereunder any land or interest therein belonging to any person has become vested in any other person, and no other express authority exists for making the necessary entries, cancellations or issue of new instruments, the registrar shall make such entries, cancellations and issue of new instruments as he would have made if there had been a transfer of such land or interest from such first mentioned person to such other person.

1943, c.19, s.8; 1945, c.30, s.13; R.S.S. 1953, c.108, s.214.

Reference by judge to Court of Appeal

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

R.S.S. 1940, c.98, s.203; R.S.S. 1953, c.108, s.215.

AFFIDAVITS

Evidence by affidavit or *viva voce*

216 In all matters before the court or a judge, the Master of Titles or the registrar, evidence may be given by affidavit or by word of mouth, as may be ordered.

R.S.S. 1940, c.98, s.204; R.S.S. 1953, c.108, s.216.

Practice governing affidavits

217 Affidavits shall be subject to the practice governing affidavits in court.

R.S.S. 1940, c.98, s.205; R.S.S. 1953, c.108, s.217.

APPEAL

Appeal

218(1) An appeal shall lie by a registrar or person directly interested therein:

(a) from any order or decision of the master in chambers or a local master, sitting as a judge under this Act, to a judge of the Court of Queen's Bench in chambers, within the prescribed time and in the same manner and with the same incidents as an appeal lies from the master in chambers or a local master under the practice and procedure of the Court of Queen's Bench;

(b) from any order or decision of a judge of the Court of Queen's Bench or of the Master of Titles, made or given under this Act, to the Court of Appeal, within the prescribed time, in the same manner and with the same incidents in and with which judgments or orders by a single judge may be appealed from.

(2) The practice and proceedings relating to appeals in court, including costs and payment thereof, and the enforcement of judgments on appeal shall, as adapted to the circumstances, apply.

R.S.S. 1940, c.98, s.206; R.S.S. 1953, c.108, s.218.

Tariff of costs

219(1) The Court of Appeal or the Court of Queen's Bench, as the case may be, may by order provide and from time to time change a tariff of costs for all services and proceedings before the court or a judge under this Act.

(2) Unless and until so provided, the tariff of costs relating to actions in court where the title to land is in question applies as adapted to the circumstances.

R.S.S. 1940, c.98, s.207; R.S.S. 1953, c.108, s.219.

PART VIII

Miscellaneous Provisions

ASSURANCE FUND AND FEES

Assurance fund and fees

220(1) Before the registrar performs any duty under the provisions of this Act, he shall, except as herein otherwise provided, demand and receive the proper fees therefor as fixed by a tariff to be made by the Lieutenant Governor in Council. He shall also demand and receive for the assurance fund:

(a) upon the registration of every grant of land subject to any filed lien or charge; and

(b) where, at the time of registration of the grant, the land is not subject to any filed lien or charge, then upon the registration of the first transfer or transmission;

one-fifth of one per cent of the value of the land granted, transferred or transmitted, if such value amounts to or is less than \$5,000, and one-tenth of one per cent on the additional value when such value exceeds \$5,000.

(2) Notwithstanding anything contained in subsection (1) no assurance fund fees shall be payable on the registration of a transfer of a homestead from the Crown except where the land is subject to a mortgage, an execution or a mechanic's lien.

(3) Upon every subsequent transfer or transmission he shall demand and receive, upon the increase of value since the grant of the last certificate of title, one-fifth of one per cent if the increase is not more than \$5,000, and one-tenth of one per cent on any excess over such \$5,000.

(4) If the interest transferred is the ownership of minerals only, and if it is shown by affidavit that there has been no development thereof, the registrar shall demand and receive for the assurance fund the sum of one cent and a half in respect of every acre of land described in the transfer.

R.S.S. 1940, c.98, s.208; R.S.S. 1953, c.108, s.220.

How value of land ascertained

221(1) The value shall be ascertained by the oath or affirmation of the applicant, owner or person acquiring such land or of such other person as the registrar believes to be acquainted with its value and whose oath or affirmation he is willing to accept.

(2) If the registrar is not satisfied as to the correctness of the value so sworn to or affirmed, he may require such applicant, owner or person acquiring the land to produce a certificate of the value under the hand of a sworn valuator appointed by the registrar or a judge, which certificate shall be received as conclusive evidence of the value.

R.S.S. 1940, c.98, s.209; R.S.S. 1953, c.108, s.221.

Accounting for moneys received

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

R.S.S. 1940, c.98, s.210; R.S.S. 1953, c.108, s.222.

Investment of assurance fund

223(1) The assurance fund shall be held by the Provincial Treasurer as trust moneys, and may be invested in such securities as may be approved by the Lieutenant Governor in Council.

(2) The Provincial Treasurer shall credit the fund in each year with interest at such rate as may be directed by the Lieutenant Governor in Council.

(3) When the fund has reached the sum of \$75,000, any sum in excess of that amount may, by direction of the Lieutenant Governor in Council, be transferred to and form part of the consolidated fund.

R.S.S. 1940, c.98, s.211; R.S.S. 1953, c.108, s.223.

DEALINGS WITH REGISTERED OWNERS

Person dealing with registered owner protected

224(1) No person contracting or dealing with or taking or proposing to take a transfer, mortgage or lease from the owner of any land for which a certificate of title has been granted shall, except in case of fraud by such person, be bound or concerned to inquire into or ascertain the circumstances in or the consideration for which the owner or any previous owner of the land is or was registered or to see to the application of the purchase money or of any part thereof, nor shall he be affected by notice direct, implied or constructive of any trust or unregistered interest in the land, any rule of law or equity to the contrary notwithstanding.

(2) Knowledge on the part of any such person that any trust or unregistered interest is in existence shall not of itself be imputed as fraud.

R.S.S. 1940, c.98, s.212; R.S.S. 1953, c.108, s.224.

JOINT OWNERSHIP

Transfer to joint owners

225(1) Upon the transfer to two or more persons as joint owners of any land for which a certificate of title has been granted to be held by them as trustees, it shall be lawful for the transferor to insert in the transfer or other instrument the words “no survivorship”, and the registrar shall in such case include such words in the duplicate certificate issued to such joint owners pursuant to the transfer and in the certificate of title.

(2) Any two or more persons so registered as joint owners of any land held by them as trustees may, by writing under their hand, authorize the registrar to enter the words “no survivorship” upon the duplicate certificate and also upon the certificate of title.

(3) In either case, after such entry has been made and signed by the registrar it shall not be lawful for any less number of joint owners than the number so entered to transfer or otherwise deal with the land, without obtaining the sanction of the court or a judge by an order on motion or petition.

R.S.S. 1940, c.98, s.213; R.S.S. 1953, c.108, s.225.

Judge's order for transfer

226(1) Before making any order the court or judge shall, if deemed requisite, cause notice of the application to be properly advertised, and in such a case appoint a period of time within which any person interested may show cause why the order should not be made; and thereupon the court or judge may order the transfer of the land to any new owner or owners, solely or jointly, with or in the place of any existing owner or owners, or may make such order in the premises as seems just for the protection of the persons beneficially interested in the land or in the proceeds thereof.

(2) Upon receipt of such order the registrar shall file the same and make a memorandum thereof upon the certificate of title and upon the duplicate certificate; and thereupon the person or persons named in the order shall be the owner or owners of the land.

R.S.S. 1940, c.98, s.214; R.S.S. 1953, c.108, s.226.

TENANTS IN COMMON

Owners hold as tenants in common

227 When, by letters patent, transfer, conveyance, assurance or other assignment, land or an interest therein is granted, transferred, conveyed or assigned to two or more persons, other than executors or trustees, in fee simple or for any less estate legal or equitable, such persons shall take as tenants in common and not as joint tenants, unless an intention sufficiently appears on the face of the letters patent, transfer, conveyance, assurance or other assignment, that they shall take as joint tenants.

R.S.S. 1940, c.98, s.215; R.S.S. 1953, c.108, s.227.

Registration of surviving joint tenant as owner

228(1) Where any land, mortgage, encumbrance or lease registered under this Act is held in joint tenancy and one of the owners dies, the survivor or survivors may make application to the registrar to be registered as owner or owners thereof.

(2) The application shall be signed by the applicant or applicants and his or their signature or signatures shall be attested and the affidavit of the witness shall be completed as required by sections 61, 62 and 63.

(3) The application shall be accompanied by the consent of the Provincial Treasurer or a certificate from the Provincial Treasurer that all succession duty has been paid; and upon proof of the death and the identity of the deceased joint tenant being made to the satisfaction of the registrar, the registrar may cause such certificates of title to be issued and such memoranda to be made as are necessary to give effect to the application.

(4) No instrument signed by a surviving joint tenant or tenants shall be registered until an application has been made under this section.

(5) This section does not apply to executors, administrators or administrators with will annexed.

1946, c.24, s.9; R.S.S. 1953, c.108, s.228.

NO ESTATES TAIL

No estate tail

229 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 transfer, transmission or dealing, shall, except as hereinafter otherwise provided, be and remain an absolute estate in the owner for the time being.

R.S.S. 1940, c.98, s.216; R.S.S. 1953, c.108, s.229.

Limitations transfer absolute ownership

230 Any limitation, which heretofore would have created an estate tail, shall transfer the absolute ownership or the greatest estate that the transferor had in his land.

R.S.S. 1940, c.98, s.217; R.S.S. 1953, c.108, s.230.

MARRIED WOMEN

Transfer to man and wife

231 When land is transferred to a man and his wife the transferees shall take according to the tenor of the transfer, and they shall not take by entireties unless it is so expressed in the transfer.

R.S.S. 1940, c.98, s.218; R.S.S. 1953, c.108, s.231.

Transfer to wife

232 A man may make a valid transfer of land to his wife and a woman may make a valid transfer of land to her husband, without the intervention of a trustee.

R.S.S. 1940, c.98, s.219; R.S.S. 1953, c.108, s.232.

Change of name by marriage

233 Upon application by a married woman who before marriage became a party to an instrument or acquired an interest in land, accompanied by an affidavit of the applicant giving the date of her marriage, the place where solemnized, and her husband's full name, residence and occupation, the applicant may deal with the instrument or interest, and the registrar shall proceed, in the same manner as if the applicant had become a party to the instrument or had acquired the interest in her newly acquired name.

R.S.S. 1940, c.98, s.220; R.S.S. 1953, c.108, s.233.

INFANTS, IDIOTS AND LUNATICS

Powers of guardians of lunatics, etc.

234(1) When a person who, if not under disability, might have made any application, given any consent, done any act or been party to any proceeding under this Act is an infant, idiot or lunatic the guardian or guardians of his estate may when thereunto authorized by order of the court or a judge, make application, give such consent, do such act and be party to such proceeding with the same effect as such person might, if free from disability, have made, given, done and been party to and shall otherwise represent such person for the purposes of this Act.

(2) When there is no guardian of the estate of such infant, idiot or lunatic, or when any person, the guardian of whose estate if he were an idiot or lunatic would be authorized to act for and represent such person under this Act, is of unsound mind and incapable of managing his affairs but has not been found an idiot or lunatic under inquisition, the court or a judge may appoint one or more guardians of such person for the purpose of any proceedings under this Act, and may from time to time change such guardian or guardians.

R.S.S. 1940, c.98, s.221; R.S.S. 1953, c.108, s.234.

Prohibition of transfer of land of such persons

235 The judge, on application for that purpose on behalf of any person who is under the disability of infancy, lunacy or unsoundness of mind, may, by order directed to the registrar prohibit the transfer of or dealing with land belonging to such person.

R.S.S. 1940, c.98, s.222; R.S.S. 1953, c.108, s.235.

GENERAL

Jurisdiction of court in case of fraud

236 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 for which a certificate of title has been granted.

R.S.S. 1940, c.98, s.223; R.S.S. 1953, c.108, s.236.

Defects of form not to invalidate proceedings

237 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.

R.S.S. 1940, c.98, s.224; R.S.S. 1953, c.108, s.237.

Owner of mortgagee to give address and receipt to registrar

238(1) Every owner or mortgagee of land for which a certificate of title has been granted shall deliver to the registrar a memorandum in writing of a post office address within the province to which it shall be sufficient to mail all notices which under this Act are required to be sent to an owner or mortgagee:

Provided that the registrar may proceed without such memorandum of address.

(2) Every owner shall, if required by the registrar to do so, before the delivery of any duplicate, sign a receipt therefor or otherwise furnish the registrar with his signature.

(3) Every owner or mortgagee shall notify the registrar of any change in his post office address.

R.S.S. 1940, c.98, s.225; R.S.S. 1953, c.108, s.238.

Omission to send notice

239 A purchaser or mortgagee 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.

R.S.S. 1940, c.98, s.226; R.S.S. 1953, c.108, s.239.

Evidence of age

240 The registrar may require evidence that any person making a transfer, mortgage or lease is of the full age of twenty-one years.

R.S.S. 1940, c.98, s.227; R.S.S. 1953, c.108, s.240.

Extension of time

241 Where in this Act a time is limited for filing or registering any document or taking any proceeding, and through accident, mistake or inadvertence the time thus limited has been allowed to expire without such document being filed or registered or proceeding taken, a judge may nevertheless, upon such terms as may seem just, extend the time so limited; but such enlargement shall be subject to the rights of third persons accrued by reason of the failure or omission to file or register the document or take the proceeding within the time limited.

R.S.S. 1940, c.98, s.228; R.S.S. 1953, c.108, s.241.

Notice of registration of claims for mechanics' liens

242 Upon registration of a claim for a mechanic's lien under *The Mechanic's Lien Act*, the registrar shall forthwith send notice of such registration through the post office to the registered owner of the land against which the claim has been registered.

R.S.S. 1940, c.98, s.229; R.S.S. 1953, c.108, s.242.

Seal not necessary

243(1) Notwithstanding the provisions of any statute or any rule of law, any transfer, mortgage or lease of land registered under this Act may be duly made by an instrument not under seal, and if so made the instrument and every agreement, stipulation and condition therein shall be of the same force and effect for all purposes as if it were made under seal.

(2) Subsection (1) applies to all transfers, mortgages and leases whether heretofore or hereafter registered.

R.S.S. 1940, c.98, s.230; R.S.S. 1953, c.108, s.243.

Removal of restrictions

244 Where land has been granted by the Crown in right of Canada subject to restrictions upon its use and it is desired or intended that upon reconveyance to the Crown in right of Canada the land should be regranted free from such restrictions, the Lieutenant Governor in Council may by order consent on behalf of the province to such reconveyance.

R.S.S. 1940, c.98, s.231; R.S.S. 1953, c.108, s.244.

Certain references temporarily inapplicable

245 Notwithstanding anything contained herein, any reference in this Act to a notice, statement or advice to, a certificate from or receipt of, or a consent by the Provincial Treasurer or Deputy Provincial Treasurer shall, in the case of any death on or after the first day of April, 1947, be inapplicable while *The Succession Duty Act* is suspended in operation by *The Taxation Agreement Act* or by or under any other Act; and in such case the fact that the deceased died on or after the said date shall be proved by:

- (a) production to the registrar of letters probate of the will of the deceased or letters of administration of his estate or a certificate issued under section 89 of *The Surrogate Courts Act* or a duly certified copy of such probate, letters of administration or certificate; and

- (b) filing with the registrar a sworn or notarial copy thereof; and
- (c) filing with the registrar a declaration of identity;
- or
- (d) filing with the registrar a death certificate and a declaration of identity.

1949, c.34, s.11; R.S.S. 1953, c.108, s.245.

FORMS AND REGULATIONS

Forms

246 The forms referred to in this Act are the forms contained in the second schedule hereto.

R.S.S. 1940, c.98, s.232; R.S.S. 1953, c.108, s.246.

Variation in forms

247 The Lieutenant Governor in Council may when necessary add to or vary any of the forms in this Act or may cause to be adopted any other form or forms which he considers applicable to any special case or class of cases for which a form has not been provided.

R.S.S. 1940, c.98, s.233; R.S.S. 1953, c.108, s.247.

Regulations

248 The Lieutenant Governor in Council may, in cases not herein provided for, make such rules and regulations as he may deem necessary for giving effect to this Act and carrying out the provisions thereof according to its intent and meaning.

R.S.S. 1940, c.98, s.234; R.S.S. 1953, c.108, s.248.

Fees: general tariff

249 The Lieutenant Governor in Council may provide a tariff of fees to be charged by solicitors for services in connection with this Act, and the fees charged by solicitors for such services shall be according to such tariff.

R.S.S. 1940, c.98, s.235; R.S.S. 1953, c.108, s.249.

FIRST SCHEDULE

BOUNDARIES OF LAND REGISTRATION DISTRICTS

(Section 3)

1. THE REGINA LAND REGISTRATION DISTRICT

Composed of that part of the Province of Saskatchewan which is bounded as follows: Commencing at the intersection of the south boundary of the province with the dividing line between ranges ten and eleven west of the second meridian, thence northerly along the said dividing line between ranges ten and eleven to the north boundary of township twenty-six, thence westerly along the said north boundary of township twenty-six to the point where it is first intersected by the east shore of Last Mountain Lake, thence southerly along the said east shore of Last Mountain Lake to the point where it is last intersected by the dividing line between ranges twenty-three and twenty-four west of the second meridian, thence southerly along the said dividing line between ranges twenty-three and twenty-four to the south boundary of the province, thence easterly along the said south boundary to the point of commencement.

2. THE ARCOLA LAND REGISTRATION DISTRICT

Composed of that part of the Province of Saskatchewan which is bounded as follows: Commencing at the southeast corner of the province, thence northerly along the east boundary of the province to the north boundary of township eleven, thence westerly along the said north boundary of township eleven to the dividing line between ranges ten and eleven west of the second meridian, thence southerly along the said dividing line between ranges ten and eleven to the south boundary of the province, thence easterly along the said south boundary to the point of commencement.

3. THE PRINCE ALBERT LAND REGISTRATION DISTRICT

Composed of that part of the Province of Saskatchewan which is bounded as follows: Commencing at a point in the east boundary of the province, being the point of intersection of the same with the north boundary of township forty, thence northerly along the said east boundary of the province to the north boundary thereof, thence westerly along the said north boundary to the dividing line between ranges six and seven west of the third meridian, thence southerly along the said dividing line between ranges six and seven to the point where it is intersected by the right bank of the North Saskatchewan River, thence along the said right bank of the North Saskatchewan River upstream to the point where it is intersected by the north boundary of township forty, thence easterly along the said north boundary of township forty to the third meridian, thence northerly along the said meridian to the north boundary of township forty-one, thence easterly along the said north boundary of township forty-one to the dividing line between ranges sixteen and seventeen west of the second meridian, thence southerly along the said dividing line between ranges sixteen and seventeen to the north boundary of township forty, thence easterly along the said north boundary of township forty to the point of commencement.

4. THE HUMBOLDT LAND REGISTRATION DISTRICT

Composed of that part of the Province of Saskatchewan which is bounded as follows: Commencing at the intersection of the north boundary of township twenty-six with the dividing line between ranges ten and eleven west of the second meridian, thence northerly along the said dividing line between ranges ten and eleven to the north boundary of township thirty-two, thence easterly along the said north boundary of township thirty-two to the dividing line between ranges seven and eight west of the second meridian, thence northerly along the said dividing line between ranges seven and eight to the north boundary of township forty, thence westerly along the said north boundary of township forty to the dividing line between ranges sixteen and seventeen west of the second meridian, thence northerly along the said dividing line between ranges sixteen and seventeen to the north boundary of township forty-one, thence westerly along the said north boundary of township forty-one to the third meridian, thence southerly along the said meridian to the north boundary of township forty, thence westerly along the said north boundary of township forty to the dividing line between ranges one and two west of the third meridian, thence southerly along the said dividing line between ranges one and two to the north boundary of township thirty-five, thence easterly along the said north boundary of township thirty-five to the dividing line between ranges twenty-five and twenty-six west of the second meridian, thence southerly along the said dividing line between ranges twenty-five and twenty-six to the north boundary of township thirty-four, thence easterly along the said north boundary of township thirty-four to the dividing line between ranges twenty-three and twenty-four west of the second meridian, thence southerly along the said dividing line between ranges twenty-three and twenty-four to the north boundary of township twenty-six, thence easterly along the said north boundary of township twenty-six to the point of commencement.

5. THE MOOSE JAW LAND REGISTRATION DISTRICT

Composed of that part of the Province of Saskatchewan which is bounded as follows: Commencing at the intersection of the south boundary of the province with the dividing line between ranges twenty-three and twenty-four west of the second meridian, thence northerly along the said dividing line between ranges twenty-three and twenty-four to the point where it is first intersected by the east shore of Last Mountain Lake, thence northerly along the said east shore of Last Mountain Lake to the point where it is intersected by the north boundary of township twenty-six, thence westerly along the said north boundary of township twenty-six to the west boundary of the province, thence southerly along the said west boundary to the point where it is intersected by the left bank of the South Saskatchewan River, thence easterly and following along the said left bank of the South Saskatchewan River to the point where it is last intersected by the north boundary of township twenty-one, thence easterly along the said north boundary of township twenty-one to the dividing line between ranges five and six west of the third meridian, thence southerly along the said dividing line between ranges five and six to the south boundary of the province, thence easterly along the said south boundary to the point of commencement.

6. THE MOOSOMIN LAND REGISTRATION DISTRICT

Composed of that part of the Province of Saskatchewan which is bounded as follows: Commencing at a point in the east boundary of the province, being the point of intersection of the same with the north boundary of township eleven, thence northerly along the said east boundary to the north boundary of township twenty, thence westerly along the said north boundary of township twenty to the dividing line between ranges ten and eleven west of the second meridian, thence southerly along the said dividing line between ranges ten and eleven to the north boundary of township eleven, thence easterly along the said north boundary of township eleven to the point of commencement.

7. THE SASKATOON LAND REGISTRATION DISTRICT

Composed of that part of the Province of Saskatchewan which is bounded as follows: Commencing at the intersection of the north boundary of township twenty-six with the dividing line between ranges twenty-three and twenty-four west of the second meridian, thence northerly along the said dividing line between ranges twenty-three and twenty-four to the north boundary of township thirty-four, thence westerly along the said north boundary of township thirty-four to the dividing line between ranges twenty-five and twenty-six in township thirty-five west of the second meridian, thence northerly along the said dividing line between ranges twenty-five and twenty-six to the north boundary of township thirty-five, thence westerly along the said north boundary of township thirty-five to the dividing line between ranges one and two west of the third meridian, thence northerly along the said dividing line between ranges one and two to the north boundary of township forty, thence westerly along the said north boundary of township forty to the point where it is intersected by the right bank of the North Saskatchewan River, thence westerly and following the said right bank of the North Saskatchewan River to the point where it is last intersected by the north boundary of township forty, thence westerly along the said north boundary of township forty to the west boundary of the province, thence southerly along the said west boundary to the north boundary of township twenty-six, thence easterly along the said north boundary of township twenty-six to the point of commencement.

8. THE SWIFT CURRENT LAND REGISTRATION DISTRICT

Composed of that part of the Province of Saskatchewan which is bounded as follows: Commencing at the intersection of the south boundary of the province with the dividing line between ranges five and six west of the third meridian, thence northerly along the said dividing line between ranges five and six to the north boundary of township twenty-one, thence westerly along the said north boundary of township twenty-one to the point where it is intersected by the left bank of the South Saskatchewan River, thence westerly and following along the said left bank of the South Saskatchewan River to the point where it is intersected by the west boundary of the province, thence southerly along the said west boundary to the south boundary of the province, thence easterly along the said south boundary to the point of commencement.

9. THE BATTLEFORD LAND REGISTRATION DISTRICT

Composed of that part of the Province of Saskatchewan which is bounded as follows: Commencing at the point where the dividing line between ranges six and seven west of the third meridian is intersected by the right bank of the North Saskatchewan River, thence northerly along the said dividing line between ranges six and seven to the north boundary of the province, thence westerly along the said north boundary to the west boundary of the province, thence southerly along the said west boundary to the north boundary of township forty, thence easterly along the said north boundary of township forty to the point where it is intersected by the right bank of the North Saskatchewan River, thence along the said right bank of the North Saskatchewan River downstream to the point of commencement.

10. THE YORKTON LAND REGISTRATION DISTRICT

Composed of that part of the Province of Saskatchewan which is bounded as follows: Commencing at a point in the east boundary of the province, being the point of intersection of the same with the north boundary of township twenty, thence northerly along the said east boundary to the north boundary of township forty, thence westerly along the said north boundary of township forty to the dividing line between ranges seven and eight west of the second meridian, thence southerly along the said dividing line between ranges seven and eight to the north boundary of township thirty-two, thence westerly along the said north boundary of township thirty-two to the dividing line between ranges ten and eleven west of the second meridian, thence southerly along the said dividing line between ranges ten and eleven to the north boundary of township twenty, thence easterly along the said north boundary of township twenty to the point of commencement.

SECOND SCHEDULE

FORM A

CERTIFICATE OF TITLE

(Section 2, par. 1)

Province of Saskatchewan.

_____ Registration District.

This is to certify that (*insert name in full*) of (*insert address and occupation*) is now the owner of an estate (in fee simple) of and in (*describe the property*), subject to the encumbrances, liens and interests notified by memorandum underwritten or endorsed hereon, or which may hereafter be made in the register, or which attach by implication under *The Land Titles Act*.

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

.....[L.S.]

(And if subject to mortgage, say:)

The title of *A. B.* is subject to mortgage, dated the _____ day of _____, made by *A. B.* to *W. B.* to secure (*here state the amount secured, the rate of interest per cent per annum and the respective dates from which the principal and interest are secured*) payable as therein mentioned.

(If mortgage is discharged, say:)

The above mortgage No. _____, is discharged this _____ day of _____, 19 _____, (*here state the distinguishing letter or number of the register and the number of the folio therein*).

(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 _____ years.

(When the transfer is absolute, say:)

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

FORM C

(Section 34(1))

AFFIDAVIT OF APPLICANT

Province of Saskatchewan,

To Wit:

I, _____ of _____ make oath and say:

- 1. That I am the applicant named in the application hereunto 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 _____, 19 _____.

}
Signature.

FORM D

(Section 34(4))

AFFIDAVIT CONCERNING THE HUDSON'S BAY COMPANY'S LANDS

Province of Saskatchewan,

To Wit:

I, _____ of the _____ of _____ in the _____
of _____ make oath and say:

- 1. I am an officer of the Hudson's Bay Company entitled to make this affidavit by the authority and under the approval of the Attorney General;
- 2. Title to the lands mentioned in the accompanying application now produced and shown to me, and marked with the letter "A", passed to the said company by notification under the provisions of _____ of the *Dominion Lands Act* (or by letters patent issued on—*stating date, as the case may be*);
- 3. The said company is at the date of this affidavit absolutely entitled to the said lands in fee simple and has not encumbered the same in any way;
- 4. And the said lands are not subject to any execution and are not chargeable with any arrears of municipal taxes, rates or assessments.

Sworn before me at the _____
of _____ in the _____
of _____ this _____
day of _____, 19 _____.

}
Signature.

FOR HISTORICAL REFERENCE ONLY

FORM E

(Sections 55(c) and 115(1))

AFFIDAVIT TO BE FILED WITH A MORTGAGE

Province of Saskatchewan,

To Wit:

I, _____, of the _____ in the _____ make oath and say:

1. That I am the mortgagor named in the instrument bearing date the _____ and made in favour of _____ against (*describe the land mortgaged*):

2. (*In case of land mortgaged prior to the issue of transfer from a company entitled to or which has received a grant or transfer from the Crown*):

That I have paid the full purchase price for the said land and hold therefor the receipt of the _____ executed by their duly authorized agent at _____ and am entitled to transfer in fee simple from said _____;

or

2. (*If the transfer from the Crown has not yet issued*):

That the transfer from the Crown has not yet issued, but I am the person rightfully in possession of said land and entitled to create said mortgage under section 115 of *The Land Titles Act*, by virtue of the following title (*set out mortgagor's title*);

or

2. (*If the land mortgaged was entered for or sold under the Dominion Lands Act or The Provincial Lands Act*):

That the transfer from the Crown has not yet been issued, but I am the person rightfully in possession of said land and entitled to create said mortgage under section 115 of *The Land Titles Act*, and by virtue of the following title (*set out mortgagor's title*), and by virtue of a certificate, pursuant to regulations under *The Provincial Lands Act*, which I hold recommending the issue to me of transfer to the said land, which certificate is duly signed by an officer of the Department of Natural Resources.

Sworn before me at the _____
of _____ in the _____
of _____ this _____
day of _____, 19 _____.



.....

Signature.

FORM F

(Sections 61 and 62(1))

AFFIDAVIT OF ATTESTATION OF AN INSTRUMENT

Province of Saskatchewan,

To Wit:

I, *A. B.*, of (*insert address and occupation*) _____ make oath and say:

1. That I was personally present and did see _____ named in the within (*or annexed*) instrument, who is personally known to me to be the person named therein, duly sign and execute the same for the purposes named therein;
2. That the same was executed at the _____ in the _____, and that I am the subscribing witness thereto;
3. That I, _____ know the said _____ and he is in my belief of the full age of twenty-one years.

Sworn before me at _____
 _____ in the _____
 this _____
 day of _____, 19 _____.

}
Signature.

FORM G

LOST CERTIFICATE OF TITLE

(Section 77(2)(a))

To whom it may concern:

Notice is hereby given that, proof having been produced of the accidental loss of duplicate certificate of title No. _____ issued to *A. B.* on the _____ day of _____, 19 _____, (*here describe land*) in the Province of Saskatchewan, I intend, under and by virtue of the provisions of section _____ of *The Land Titles Act*, after the expiration of four weeks from the first publication of this advertisement, to issue a fresh duplicate certificate to the said *A. B.* in lieu of the one so alleged to have been lost.

Dated at the land titles office for the _____ land registration district at _____ this _____ day of _____, 19 _____.

.....
Registrar.

FOR HISTORICAL REFERENCE ONLY

FORM H

(Section 78)

DEMAND TO RETURN DUPLICATE CERTIFICATE OR TITLE

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

You are hereby required to forward to the land titles office at (name of town or city), Saskatchewan, duplicate certificate of title No. _____ in name of (insert owner's name) for (discription of land) as the same is required by me pursuant to the provisions of The Land Titles Act, for the purpose (purpose for which certificate is required).

Your attention is called to the provisions of sections 78, 79 and 80 of the said Act and the penalty therein provided for neglect or refusal to comply with this demand.

Dated at _____, Saskatchewan, this _____ day of _____, 19 ____.

.....
Registrar.

.....
Land Registration District.

FORM I

(Section 83)

TRANSFER

I, A. B., (insert name, address and occupation as in certificate of title), being registered owner of an estate in fee simple in that piece of land described as follows: (here insert description of land and state rights of ways, privileges, easements, if any, intended to be conveyed along with the land), do hereby in consideration of the sum of _____ dollars paid to me by E. F. the receipt of which sum I hereby acknowledge, transfer to (insert name, address and occupation) all my estate and interest in the said piece of land.

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

Signed by said A. B. in the presence of _____

.....

}
Signature.

FORM J

(Sections 92(2), 93(5) and 95(2))

SURVEYOR'S CERTIFICATE

I, (full name), Saskatchewan land surveyor, do hereby certify that the survey represented by this plan has been made by me in accordance with the provisions of *The Land Surveys Act*, that this survey was performed between the dates of _____ and _____, 19 _____, and that this plan is correct and true to the best of my knowledge and belief.

Dated at _____ in the province of _____ the _____ day of _____, 19 _____.

.....
Signature Saskatchewan Land Surveyor.

FORM K

(Section 95(2))

SURVEYOR'S CERTIFICATE

I, (full name), Dominion land surveyor, do hereby certify that this plan accurately shows the manner in which the land included therein has been surveyed and subdivided by me and that said plan is prepared in accordance with the provisions of *The Land Titles Act*.

Dated at _____ in the province of _____ the _____ day of _____, 19 _____.

.....
Signature Dominion Land Surveyor.

FOR HISTORICAL REFERENCE ONLY

FORM L

(Section 107(1))

LEASE

I, A. B. (insert name, address and occupation, as in certificate of title), being registered as owner of that piece of land described as follows: (here insert description of land and state rights of way, privileges, easements, if any, intended to be leased along with the land) do hereby lease to E. F., of (here insert description), all the said land to be held by him, the said E. F., as tenant, for the space of _____ years, from (here insert the date and term), at the yearly rental of _____ dollars, payable (here insert terms of payment of rent) subject to the covenants and powers implied (also 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 land, to be held by me as tenant, and subject to the conditions, restrictions and covenants above set forth.

Dated this _____ day of _____, 19 _____.

Signed by the above named A. B. as lessor and E. F. as lessee, in the presence of _____

Signature of lessee.
.....

}
Signature of lessor.
}

FORM M

(Section 107(2))

CERTIFICATE OF LEASE

_____ Land Registration District.

Lease No. _____ Certificate of Title No. _____

This is to certify that a lease made by _____ who was at the time of the registration of the said lease the registered owner of the land thereby demised to _____ of all the lands described in the said lease No. _____ for the term of _____ years from the _____ day of _____, 19 _____, at an annual rental of \$ _____ payable _____ was duly registered in the Land Titles Office for the _____ Land Registration District at _____ on the _____ day of _____ 19 _____, at _____ o'clock in the _____ noon.

Dated at the land titles office at _____ this _____ day of _____ 19 _____.

.....
Registrar.

FORM N

(Section 111(1))

SHORT COVENANTS IN LEASE

COLUMN ONE

- 1. Will pay taxes.
- 2. Will not without leave, assign or sublet
- 3. Will fence.
- 4. Will cultivate.
- 5. Will not cut timber.
- 6. Will not carry on offensive trade.

COLUMN TWO

- 1. That I, the said lessee, will pay all taxes, rates, duties and assessments whatsoever, whether municipal or provincial, now charged or hereafter to be charged upon the said demised premises, or upon the said lessor on account thereof, except municipal taxes for local improvements or works assessed upon the property benefited thereby.
- 2. That I, the said lessee, will not during the said term transfer, assign or sublet the land and premises hereby leased or any part thereof or otherwise by any act or deed procure the said land and premises or any part thereof to be transferred or sublet, without the consent in writing of the lessor first had and obtained.
- 3. That I, the said lessee, 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.
- 4. That I, the said lessee, will at all times during the said term cultivate, use and manage in a proper husbandlike manner all such parts of the land as are now or shall hereafter, with the consent in writing of the said lessor be broken up or converted into tillage and will not impoverish or waste the same.
- 5. That I, the said lessee, will not cut down, fell, injure or destroy any living timber or timberlike tree standing and being upon the said land without the consent in writing of the said lessor,
- 6. That I, the said lessee, 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 whatever 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 annoyance, nuisance, grievance, damage or any disturbance of the occupiers or owners of the adjoining lands and properties.

FORM O

(Section 112(1))

SURRENDER OF LEASE

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

Dated the _____ day of _____, 19 _____.

Signed by the above named
in the presence of

..... }
Signature.

FORM P

(Section 113(1) and (3))

MORTGAGE

I, A. B. (insert name, address and occupation of owner, as in certificate of title), being registered as owner of an estate (here state nature of interest) in that piece of land described as follows: (here insert description of land and state rights of way, privileges, easements, if any, intended to be mortgaged along with the land), in consideration of the sum of _____ dollars lent to me by E. F. (here insert description) the receipt of which sum I do hereby acknowledge, covenant with the said E. F.:

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

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

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

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

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

Signed by the above named A. B.
as mortgagor in the presence of }
Signature of Mortgagor.

(For form of transfer of mortgage see forms T and U.)

FORM Q

(Sections 113(1) and 126(1))

MORTGAGE

I, *A. B.* (*insert name, address and occupation of owner as in certificate of title*), being registered as owner of an estate (*state nature of estate*) in that piece of land described as follows: (*here insert description of land and state rights of way, privileges, easements, if any, intended to be mortgaged along with the land*), and desiring to render the said land available for the purpose of securing to and for the benefit of *C. D.* of (*address and occupation*) the (*sum of money, annuity or rent charge*) hereinafter mentioned, do hereby mortgage the said land for the benefit of the said *C. D.* for the (*sum, annuity or rent charge*) of _____ to be paid at the times and in the manner following, that is to say: (*here state the times appointed for the payment of the sum, annuity or rent charge intended to be secured, the interest, if any, and the events in which such sum, annuity or rent charge shall become and cease to be payable, also any special covenants or powers and any modifications of the powers or remedies given to a mortgagee by this Act*). And subject as aforesaid the said *C.D.* shall be entitled to all powers and remedies given to a mortgagee by *The Land Titles Act*.

Signed by the above named
in the presence of

.....



.....

Signature of Mortgagor.

FORM R

(Section 116)

CERTIFICATE OF CHARGE

_____ Land Registration District.

Mortgage No. _____ Cert. of Title No. _____

This is to certify that a mortgage made by _____ who was at the time of the registration of said mortgage the registered owner of the land thereby mortgaged for the sum of _____ dollars in favour of _____ affecting all the land described in said mortgage No. _____ was duly registered in the land titles office for the _____ land registration district at _____ on the _____ day of _____, 19_____, at _____ o'clock in the _____ noon and that no registered instruments affecting the said lands are entitled to priority over the said mortgage except the following, that is to say:

Dated at the land titles office at _____ this _____ day of _____, 19_____.

.....

Registrar.

FORM S

(Section 120(1))

SHORT COVENANTS IN MORTGAGE

COLUMN ONE	COLUMN TWO
1. Have a good title to the said land.	1. And also that at the time of the execution and delivery hereof I am and stand solely, rightfully and lawfully seized of a good, sure, perfect, absolute and indefeasible estate of inheritance in fee simple of and in the lands, tenements, hereditaments and all and singular other the premises hereinbefore described with their and every part of their appurtenances and of and in every part and parcel thereof without any manner of trusts, reservations, limitations, provisoes or conditions, except those contained in the original grant thereof from the Crown or any other matter or thing to alter, charge, change, encumber or defeat the same.
2. Have the right to mortgage the land.	2. And also that I now, have in myself good right, full power and lawful and absolute authority to mortgage the said lands, tenements, hereditaments and all and singular other the premises hereby mortgaged or hereinbefore mentioned or intended so to be with their and every of their appurtenances unto the said mortgagee, his heirs, executors, administrators and assigns in manner aforesaid and according to the true intent and meaning of these presents.
3. And that on default the mortgagee shall have quiet possession of the land.	3. And also that from and after default shall happen to be made of or in the payment of the said sum of money in the said above covenant mentioned or the interest thereof or any part thereof or of or in the doing, observing, performing, fulfilling or keeping of some one or more of the covenants in this mortgage particularly set forth contrary to the true intent and meaning of these presents and of the said covenant then and in every such case it shall and may be lawful to and for the said mortgagee, his heirs, executors, administrators and assigns peaceably and quietly to enter into, have, hold, use, occupy, possess and enjoy the aforesaid lands, tenements, hereditaments and premises hereby mortgaged or mentioned or intended so to be with their appurtenances without the let, suit, hindrance, interruption or denial of me, the said mortgagor, my heirs or assigns or any other person or persons whomsoever.

COLUMN ONE

4. Free from all encumbrances.

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

COLUMN TWO

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

5. And also that from and after default shall happen to be made of or in the payment of the said sum of money in the said covenant mentioned or the interest thereof or any part of such money or interest of or in the doing, observing performing, fulfilling or keeping of some one or more of the covenants in this mortgage particularly set forth, contrary to the true intent and meaning of these presents and of the said covenant, then and in every such case I, the said mortgagor, my heirs and assigns and all and every other person or persons whosoever having or lawfully claiming or who shall or may have or lawfully claim any estate, right, title, interest or trust of, in, to or out of the lands, tenements, hereditaments and premises hereby mortgaged or mentioned or intended so to be with the appurtenances on any part thereof by, from, under or in trust for me the said mortgagor shall and will from time to time and at all times thereafter at the proper costs and charges of the said mortgagee, his heirs, executors, administrators and assigns make, do, suffer and execute or cause or procure to be made, done, suffered and executed all and every such further and other reasonable act or acts, deed or deeds, devices, conveyances and assurances in the law for the further, better and more perfectly and absolutely transferring the said lands, tenements, hereditaments and premises with the appurtenances unto the said mortgagee, his heirs, executors, administrators and assigns as by the said mortgagee, his heirs, executors or his or their solicitor, shall or may be lawfully and reasonably devised, advised or required, so that no person who shall be required to make or execute such assurances shall be compelled for the making or executing thereof to go or travel from his usual place or abode.

COLUMN ONE

6. Have done no act to encumber the land.

COLUMN TWO

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

FORM T

(Sections 124(1) and 130(1))

TRANSFER OF MORTGAGE OR LEASE

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

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

Signed by the said _____
_____ in the
presence of

.....

}
C. D., Transferor.

FORM U

(Section 132(1))

TRANSFER OF PART OF MORTGAGE

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

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

Signed by the said _____
_____ in the
presence of

.....



.....

C. D., Transferor.

FORM V

(Section 134)

POSTPONEMENT OF REGISTRATION

Province of Saskatchewan.

To the Registrar of the _____ Registration District:

I _____, of _____ hereby agree to the postponement of my rights as mortgagee (*or as transferee of a mortgage or as lienholder, execution creditor or caveator*) in the following lands, namely: (*here describe the land mentioned in the mortgage to be postponed*) to the rights in and to the said land of the mortgagee in the following mortgage, namely: (*here describe the mortgage that is to be given priority*).

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

Signed by the above named
in the presence of _____

FORM W

(Section 135(2))

POWER OF ATTORNEY

I, A. B. (insert name, address and occupation as in the certificate of title) being registered owner of an estate (here state nature of the estate or interest), subject to such encumbrances, liens and interests as are notified by memorandum underwritten (or endorsed herein), (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 of each parcel) do hereby appoint C. D. (insert name in full, address and occupation) attorney on my behalf to (here state the nature and extent of the powers intended to be conferred, as to sell, transfer lease, mortgage, etc.) the land 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.

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

Signed by the above named
A. B., in the presence of

.....



.....

Signature.

FORM X

(Section 135(4))

POWER OF ATTORNEY

I, A. B. (insert name in full, address and occupation), being registered owner of a lease of (or mortgage upon) that parcel of land described as (describe the land or refer to schedule for description and contents of the several parcels of land intended to be affected, and also describe the lease or mortgage sufficiently to identify the registered instrument) do hereby appoint C. D. (insert name in full, address and occupation) attorney on my behalf to (here state the nature and extent of the powers intended to be conferred) the said lease (or mortgage), 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.

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

Signed by the above named
A. B., in the presence of

.....



.....

Signature.

FORM Y

(Sections 135(5) and 137(1))

REVOCATION OF POWER OF ATTORNEY

I, A. B. (insert name in full) of (insert address and occupation), hereby revoke the power of attorney given by me to _____, dated the _____ day of _____, 19 _____, and recorded in the land titles office at _____ for the _____ land registration district, on the _____ day of _____, 19 _____, as Number _____.

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

Signed by the above named A. B., in the presence of

.....

}
Signature.

FORM Z

(Section 142)

CAVEAT

To the Registrar _____ District.

Take notice that I, A. B. of (insert address and occupation) claiming (here state with particulars the nature of the estate or interest claimed and the grounds upon which such claim is founded) in (here describe land and refer to certificate of title) forbid the registration of any transfer or other instrument affecting such land or the granting of a certificate of title thereto except subject to the claim herein set forth.

My address in Saskatchewan is: _____

Dated this _____ day of _____, 19 _____.

.....
Signature of Caveator or his Agent.

I, the above named A. B. (or C. D., agent for the above A. B.) of (residence and description) make oath and say:

- 1. That the allegations in the above caveat are true in substance and in fact, to the best of my knowledge, information and belief;
- 2. That the claim mentioned in the above caveat is not to the best of my knowledge, information and belief founded upon a writing or a written order, contract or agreement for the purchase or delivery of any chattel or chattels within the prohibition contained in section 139 of The Land Titles Act.

Sworn before me at _____ in the _____ day of _____, 19 _____.

.....

}
Signature.

FOR HISTORICAL REFERENCE ONLY

FORM AA

(Section 144)

NOTICE OF CHANGE OF ADDRESS FOR SERVICE

To the Registrar of the _____ Registration District.

Take notice that I, *A. B.* of (*insert address and occupation*) hereby change my address for service as set forth in my caveat dated the _____ day of _____ 19 _____, and recorded in the land titles office at _____ for the _____ Land Registration District, on the _____ day of _____, 19 _____, as Number _____, to (*state name of caveator and new address for service in Saskatchewan*) which shall be my address for service.

Dated this _____ day of _____, 19 _____.

.....

Signature of Caveator.

FORM BB

(Section 147(2))

NOTICE TO CAVEATOR

_____ Land Titles Office,
_____ Saskatchewan.
_____ 19 _____.

To

SIR,—

Under the provisions of section 147 of *The Land Titles Act*, and upon the requisition of (*here give the name and address of person requiring notice to be sent*), I hereby notify you that the caveat filed by you on the _____ day of _____, 19 _____, against the following land, namely: _____

_____ shall lapse at the expiration of thirty days from the mailing of this notice unless within the said thirty days you file with me an order of the judge continuing said caveat beyond the said thirty days.

.....

Registrar.

LAND TITLES

c. 108

FORM CC

(Section 167(1))

NOTICE TO ASSIGNEE OR TRUSTEE IN BANKRUPTCY

Land Titles Office, Saskatchewan.

To _____

Under the provisions of section 167 of *The Land Titles Act*, I hereby notify you that the assignment (or receiving order) filed by you against the land of _____ shall at the expiration of twenty days from the mailing of this notice to you cease to affect the following land, namely _____ standing in the register in the name of _____ unless within the said twenty days you file with me an order of the judge continuing said assignment (or receiving order) in effect as against such land.

.....

Registrar.

FORM DD

(Section 168(7) and (10))

NOTICE TO EXECUTION CREDITOR

Land Titles Office, Saskatchewan.

To _____

Under the provisions of section 168 of *The Land Titles Act*, I hereby notify you that the execution filed by you against the lands of _____ shall at the expiration of twenty days from the mailing of this notice to you cease to affect the following land, namely _____ standing in the register in the name of _____ unless within the said twenty days you file with me an order of the judge continuing said execution in effect as against such land.

.....

Registrar.

FOR HISTORICAL REFERENCE ONLY

FORM EE

(Section 173(2))

TRANSFER OF LAND UNDER PROCESS OF LAW

I _____, of _____, the person appointed to execute the process hereinafter mentioned in pursuance of a writ dated the _____ day of _____, one thousand nine 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 other encumbrances notified hereunder, do hereby, in consideration of the sum of _____ paid to me, as _____ aforesaid, by *E. F.* (*insert address and occupation*) 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 nine hundred and _____

Signed by the above named
in the presence of _____

.....

}
Signature with official seal.

Mortgages and other encumbrances referred to (*state them*).

Or

FORM EE

(Section 173(2))

TRANSFER OF LEASE OR MORTGAGE 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 nine hundred and _____, and issued out of (*insert name of court*) a court of competent jurisdiction in an action wherein _____ is the plaintiff and _____ the defendant, which said _____ is registered as the owner of a lease (*or mortgage, as the case may be*) numbered _____ of (*or upon*) the land hereinafter described subject to the mortgages and other encumbrances notified hereunder, do hereby in consideration of the sum of _____ paid to me as _____ aforesaid by *E. F.*, (*insert address and occupation*) transfer to the said *E. F.* the lease (*or mortgage*) granted by _____ to and in favour of _____, dated the _____ day of _____, to, in and over (*here describe the land according to the description in the lease or mortgage and refer to the registered instrument*).

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

Signed by the above named
in the presence of _____



.....
Signature with official seal.

.....

Mortgages and other encumbrances referred to (*state them*).

Or

FORM EE

(Section 173(2))

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 nine hundred and _____, and entered in the register, vol. _____ fol. _____ hereby transfer to *E. F.* (*insert address and occupation*) subject to the mortgages and other 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 nine hundred and _____

Signed by the above named
in the presence of _____



.....
Signature with official seal.

.....

Mortgages and other encumbrances referred to (*state them*).

Or

FORM EE

(Section 173(2))

TRANSFER OF LEASE OR MORTGAGE 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 nine hundred and _____, and entered in the register, vol. _____ fol. _____, hereby transfer to E. F. (insert address and occupation) subject to the mortgages and other encumbrances notified hereunder, the lease (or mortgage, as the case may be) granted by _____ in favour of _____ of (or upon) all that piece of land (here insert description of the land according to the description in the lease or mortgage and refer to the registered instrument).

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

Signed by the above named in the presence of _____

}
Signature with official seal.

Mortgages and other encumbrances referred to (state them).

FORM FF

(Section 174)

TRANSFER OF MORTGAGE TO EXECUTION CREDITOR 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 *fieri facias*, tested the _____
day of _____, one thousand nine hundred and _____, and
issued out of (*insert name of court*) a court of competent jurisdiction in an action
wherein _____ is the plaintiff and _____ the defendant, which said
_____ is registered as the owner of a mortgage numbered _____
of (*or upon*) the land hereinafter described subject to the mortgages and other
encumbrances notified hereunder, do hereby transfer to the said _____
the mortgage granted by _____ to and in favour of _____, dated
the _____ day of _____, to, in and over (*here describe the land
according to the description in the mortgage and refer to the registered instrument*),
he the said _____ having as execution creditor agreed to accept the said
mortgage at the sum actually due on and secured by it as money collected.

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

Signed by the above named
in the presence of _____

}
Signature with official seal.

.....

Mortgages and other encumbrances referred to (*state them*).

FORM GG

(Section 182(1))

REFERENCE BY REGISTRAR TO THE MASTER OF TITLES

(*Place and Date*)

In the matter of *The Land Titles Act*.

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

The registrar under the provisions of *The Land Titles Act*, hereby refers the following
matter to the Master of Titles, 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.

.....
Registrar.

(*Official seal*)

FOR HISTORICAL REFERENCE ONLY

FORM HH

(Section 195(3))

MINERAL CERTIFICATE

I hereby certify that at the date of the disposition from _____ to _____ dated _____ 19 _____, the person purporting to dispose of the interest in mines and minerals, namely, _____ of _____ was the correct registered owner under Certificate of Title No. _____ of the interest in mines and minerals described in the said disposition and contained within, upon or under the following lands:

Dated this _____ day of _____, 19 _____.

.....
Registrar.

.....
Land Registration District.

FOR HISTORICAL REFERENCE ONLY