



ANNO TRICESIMO SEPTIMO ET TRICESIMO OCTAVO

# VICTORIÆ REGINÆ.

A.D. 1874.

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## No. 16.

*An Act to Regulate the Alienation and other Disposal of the Real Estate of Suburban and Country Institutes, and for other purposes.*

[ Assented to, 6th November, 1874. ]

**W**HEREAS Suburban and Country Institutes have been Preamble. established pursuant to the "South Australian Institute Act, 1863," in various parts of the Province of South Australia for the promotion of useful knowledge and rational mental recreation amongst the inhabitants of the said Province: And many of such Institutes, for the purpose of more effectually realizing the objects for which they were established, have acquired real estate in the said Province: And whereas the Parliament of South Australia, from time to time has voted, and may yet vote sums or a sum of money to the said Suburban and Country Institutes, and divers of the said Suburban and Country Institutes have from time to time expended their several sums of money so voted, or a portion or portions thereof respectively, in the improvement of their said real estate: And whereas it is desirable to prevent the real estate of such Suburban and Country Institutes being diverted from the object for which the same was originally acquired, and from being improvidently dealt with, and to give to such Institutes certain other rights and privileges with respect to their personal property, and for other purposes—Be it therefore Enacted by the Governor of the Province of South Australia, with the advice and consent of the Legislative Council and House of Assembly of the said Province, in this present Parliament assembled, as follows:

1. All Institutes established as aforesaid, except the South Australian Institute, shall be, and be deemed to be, for the purposes of this Act, Suburban or Country Institutes. Definition of Suburban and Country Institutes.
2. All

*The Suburban and Country Institutes Act.—1874.***Membership.**

2. All persons of respectable character above the age of fifteen shall be competent to become members of a Country or Suburban Institute on payment of the subscription and entrance fee, and no person shall be elected or admitted a member of any such Institute by ballot, nor shall any such person be rejected from membership by such means, but the executive members of any such Institute may refuse to admit any unfit person as member: Provided, that any person so refused shall have a right of appeal for such refusal to a general meeting of the members of the Institute, who may reverse such refusal.

**Such Institutes to furnish returns.**

3. The person or persons in whom the real estate of any Suburban or Country Institute shall now be vested as the trustee or trustees thereof shall, within three calendar months after the passing of this Act, and the person or persons in whom the real estate of any Suburban or Country Institutes shall hereafter be vested as such trustee or trustees, shall within three calendar months from the vesting of such real estate, and thereafter, in the month of January in each year, make out and deliver to the Chief Secretary of the said Province, or such other Responsible Minister as the Governor in Council may appoint, a return containing the particulars set forth in the form in the First Schedule hereto; and every person in whom such real estate shall be so vested, who shall not make out and deliver, or cause to be made out and delivered, the return aforesaid within the time aforesaid, or shall make out and deliver a false return, shall, for every day that such return shall not have been so made out and delivered, forfeit and pay a penalty of not more than Five Pounds, nor less than Two Pounds; and shall, for making out such false return, forfeit and pay a penalty of not more than Fifty Pounds, nor less than Five Pounds.

**Institutes the trustees whereof shall not have furnished returns to be disentitled to grant.**

4. Until the returns mentioned in the last preceding section shall have been duly furnished, every Suburban or Country Institute, the real estate whereof shall be vested in any person or persons as the trustee or trustees of such Institute, or the real estate whereof shall be vested in any such Institute as a body politic or corporate, or the real estate whereof shall not be vested in either of the ways aforesaid, shall be disqualified and debarred from receiving any grant of moneys, or any part of any grant of moneys, voted by the Parliament of South Australia, to which respectively, but for this Act, such Institute might have been or become entitled.

**Mortgagees and encumbrances of Institute realty not to sell or foreclose till after three months' notice to Chief Secretary.**

5. Any person or persons, body or bodies politic or corporate, having, before the passing of this Act, any legal or equitable mortgage, encumbrance, or lien of any sort, description, or kind upon or over the real estate of any Suburban or Country Institute, shall not sell such real estate or any part thereof, or foreclose any such mortgage or encumbrance, or enforce such lien without first giving to the Chief Secretary of the said Province, or such other Responsible Minister as the Governor in Council may appoint, three calendar months' notice in writing, setting forth the nature of the mortgage, encumbrance,

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encumbrance, or lien, the intention to sell, foreclose, or enforce, as the case may be, and the amount of principal and interest claimed to be due on the date of such notice.

6. The Chief Secretary, or such other Responsible Minister as the Governor in Council may appoint, may, in his discretion, out of any share of any grant of moneys, or out of any special grant respectively as aforesaid (to which the Suburban or Country Institute, the sale or foreclosure of the real estate whereof he shall have received the notice in the last preceding section mentioned, may be entitled), pay off, satisfy, and discharge the moneys by such notice claimed to be due thereon.

Chief Secretary may pay off encumbrance.

7. In case the Chief Secretary, or such other Responsible Minister as the Governor in Council may appoint, shall not exercise the power by the last preceding section vested in him, within the said period of three months, the person or persons, body or bodies politic or corporate giving the notice aforesaid, may, at the expiration of the said period of three months, sell or foreclose, as if this Act had not been passed.

Mortgagees may sell, &c., if Chief Secretary do not redeem.

8. It shall not be lawful for any person or persons in whom the real estate of any Suburban or Country Institute shall be vested as the trustee or trustees thereof, nor for any incorporated Suburban or Country Institute, to sell, lease, alien, mortgage, or encumber in any manner whatsoever, any real estate whereof any such trustee or trustees, or incorporated Suburban or Country Institute may be seized or possessed, without the consent in writing of the Chief Secretary, or such other Responsible Minister as the Governor in Council may appoint, shall have been first had and obtained, and shall have been endorsed upon every conveyance, assurance, memorandum of transfer, lease, memorandum of lease, mortgage, memorandum of mortgage, or encumbrance or other assurance or charge whatsoever, and every conveyance, assurance, memorandum of transfer, lease, memorandum of lease, mortgage, memorandum of mortgage, or encumbrance, or other assurance or charge whatsoever, made or executed without such consent in writing as aforesaid, shall be absolutely void to all intents and purposes.

Prohibition against any dealing with Institute real estate without consent of Chief Secretary.

9. From and after the passing of this Act no Suburban or Country Institute, nor any member or members, or officers thereof, nor any person or persons whomsoever, shall be authorized, empowered, or able to incorporate any such Institute under any statute or law now in force in the said Province.

Prohibition against incorporation.

10. The members of a Country or Suburban Institute may from time to time, at a general meeting of such members duly convened by public notice of the object of such meeting, appoint or elect proper persons to be trustees of any such Institute; and such trustees shall continue to be trustees for such period, and with such powers and duties as may be prescribed by any rules or regulations which for the time being may regulate the affairs of such Institute.

Appointment of trustees.

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Effects of Institute to be vested in the trustees for the time being, who may bring and defend actions, &c.

11. All real and heritable property, moneys, goods, chattels, and effects whatever, and all titles, securities for money, or other obligatory instruments and evidences or muniments, and all other effects whatever, and all rights or claims belonging to or had by any such Suburban or Country Institutes, shall be vested in the trustees of such Institute for the time being, for the use and benefit of such Institute, and after the death, resignation, or removal of any trustee or trustees, shall, from and after the filing of the memorial in the next section mentioned, vest in the succeeding trustee or trustees, for the same estate and interest as the former trustee or trustees had therein, and subject to the same trusts, without any assignment or conveyance whatever, and shall also, for all purposes of action or suit, as well criminal as civil, in law or in equity, in anywise touching or concerning the same, be deemed and be taken to be, and shall in every such proceeding (where necessary) be stated to be, the property of the person or persons appointed to the office of trustee or trustees of such Institute for the time being, in his or their proper name or names, without further description, and such person or persons shall, and he or they is and are hereby respectively authorized to bring or defend, or cause to be brought or defended, any action, suit, or prosecution, criminal as well as civil, in law or in equity, touching or concerning the property, right, or claim aforesaid, of, or belonging to, or had by such Institute; and such person or persons so appointed may in all cases concerning the property, right, or claim aforesaid, of such Institute, sue and be sued, plead and be impleaded, in his or their proper name or names, as the trustee or trustees of the said Institute, without other description; and no such suit, action, or prosecution, shall be discontinued or abate by the death of such person or persons, or his or their resignation or removal from the office of trustee or trustees; but the same shall and may be proceeded in by the continuing or succeeding trustee or trustees, in the proper name of the person or persons commencing the same, any law, usage, or custom to the contrary notwithstanding; and such succeeding trustee or trustees shall receive or pay like costs as if the action or suit had been commenced in his or their name, for the benefit of, or to be reimbursed from, the funds of such Institute.

Memorials of names of trustees to be recorded on oath in Supreme Court.

12. A memorial of the names of the person or persons in whom the real or personal estate of any Suburban or Country Institute shall be vested as trustee or trustees thereof, in the form or to the effect for that purpose set forth in the Second Schedule hereto, signed by the trustees of such Institute and verified on oath, shall be recorded in the Supreme Court of South Australia within thirty days after the election or appointment of such trustee or trustees, and when and as often as any trustee or trustees of such Institute shall be newly-elected or appointed, a memorial of the name of such newly-elected or appointed trustee or trustees, in the same form, or to the same effect as the above-mentioned memorial, signed by such newly-elected or appointed trustee or trustees, as the case may be, and by the continuing trustees of such Institute, and verified as aforesaid, shall in like manner be recorded in the said Supreme Court within

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within thirty days next after such trustee or trustees shall be so elected or appointed, and the said memorial may be recorded after thirty days on payment of a fine of Ten Shillings, and after six months on payment of a fine of Five Pounds.

13. Until a memorial of the name of the trustees for the time being be recorded in the manner hereinbefore directed, no action, suit, or other proceeding shall be brought by any such Suburban or Country Institute or by the trustees thereof under the authority of this Act.

Until such record made no action to be brought.

14. Every Suburban and Country Institute shall, at such time and in such form and manner, and to such persons as shall be from time to time appointed by the Chief Secretary, or such other Responsible Minister as the Governor in Council may appoint, furnish all such just and true accounts, reports, statistical tables, and statements as shall be required to elucidate the state and proceedings of such Institute and the manner in which the purposes of such Institute and the provisions of this Act have been carried into effect.

Institute to furnish accounts and reports when required by Government.

15. Every Suburban and Country Institute which fails (either by default of its officers or otherwise) to comply with the provisions of this Act, or any of them, shall not be entitled to participate in any general grant or to receive any special grant of moneys which may be made by the Parliament of the said Province until such Institute shall have complied with the provisions aforesaid.

Institutes not complying with this Act not to be entitled to grant until compliance.

16. All rules and regulations hereafter to be made, or alterations of rules now in force, by any Suburban or Country Institute, or by the members thereof, shall have no force or effect until after the same shall have been approved by the Chief Secretary, or such other Responsible Minister as the Governor in Council may appoint, and a notification of such approval has appeared in the *Government Gazette*.

Institute rules to be of no effect until approved and gazetted by Chief Secretary.

17. All penalties for any offence against this Act may be recovered in a summary way before any Special Magistrate or two Justices of the Peace, under the provisions of an Ordinance No. 6 of 1850, intituled "To facilitate the performance of the duties of Justices of the Peace out of Session with respect to summary convictions and orders," or of any Act hereafter to be in force relating to the duties of Justices of the Peace with respect to summary convictions and orders; and all convictions and orders may be enforced as in the said Ordinance is mentioned.

Penalties, how recovered.

18. Informations may be laid for any offence against this Act at the instance of any person.

Who may lay information.

19. One moiety of every penalty recovered for any offence against this Act shall be paid to the complainant or informant, and the other to the Treasurer for the public use of the said Province.

Appropriation of penalties.

20. There

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Appeal.

20. There shall be an appeal from any order or conviction of any Special Magistrate or Justices under this Act, or from any order dismissing any information or for the payment of costs or otherwise, which appeal shall be to the Local Court of Adelaide of Full Jurisdiction only, and the proceedings on such appeal shall be conducted in a manner appointed by the said Ordinance No. 6 of 1850 for appeals to Local Courts; but such Local Court of Adelaide aforesaid may make such order as to the payment of the costs of appeal as it shall think fit, although such costs may exceed Ten Pounds.

Dissolution of Institute, and disposal of property.

21. The Institute shall not be dissolved, nor shall its property be alienated or disposed of, unless with the consent of three-fourths of such of the members as shall be present at a public meeting, which shall be convened by notice signed by not less than one-sixth of the existing members, and published one month before the day of meeting in the following manner, viz.:—By posting the same in some conspicuous place in the reading-room or library of the Institute, by forwarding a copy to the Board of Governors of the South Australian Institute, and by advertisement in one or more newspapers published in South Australia; nor shall the property be alienated, nor the funds arising from its sale be disposed of, except to such institutions connected with education as the members so assembled shall think fit and the said Board of Governors shall approve of; neither shall any dividend, gift, division, nor bonus in money be made unto or between any of the members of the Institute. The said Board of Governors shall also be entitled to the possession of the property, and to become trustees thereof in case of the Institute falling into decay, or the property being endangered or dispersed, by reason of non-subscription by the members or otherwise.

Short title.

22. This Act may be cited for all purposes as “The Suburban and Country Institutes Act, 1874.”

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

A. MUSGRAVE, Governor.

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THE FIRST SCHEDULE REFERRED TO.

Name of Institute.	Locality where situated.	Names, addresses, and occupations of the trustees or trustee, as defined by this Act.	Description of real estate, stating number or distinguishing mark of allotment, acre, or section, and name of Hundred and County, or Town where situated, also area.	Description of building or erections thereon.	Encumbrance.
					[State nature of encumbrance, and the amount thereof; or if none, state the fact.]

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THE SECOND SCHEDULE REFERRED TO.

Memorial of the name of [Trustee or Trustees, *as the case may be*] of the Institute, pursuant to an Act intituled "The Suburban and Country Institutes Act, 1874."

Names of Trustee or Trustees, <i>as the case may be.</i>	Address.	Occupation.

*(Signatures of Trustees)*

\_\_\_\_\_ A.B. )  
 \_\_\_\_\_ C.D. ) Trustee or Trustees,  
 \_\_\_\_\_ E.F. ) *as the case may be.*  
 \_\_\_\_\_ G.H. )

L.M., maketh oath and saith, that he was present and did see the foregoing memorial signed by the above-named Trustee or Trustees respectively, *as the case may be*, whose names appear thereto.

L.M.

Sworn this \_\_\_\_\_ day of }  
 , A.D. 187 . }