



ANNO QUINQUAGESIMO TERTIO ET QUINQUAGESIMO QUARTO

# VICTORIÆ REGINÆ.

A.D. 1890.

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## No. 486.

An Act to Amend the "Public Trustee Act, 1880," and to facilitate the sub-division of Land, and for other purposes.

[Assented to, December 23rd, 1890.]

**W**HEREAS it is desirable to amend the "Public Trustee Act, 1880," and to facilitate the sub-division of land: Be it therefore Enacted by the Governor of the Province of South Australia, by and with the advice and consent of the Legislative Council and House of Assembly of the said province, in this present Parliament assembled, as follows:

Preamble.

1. A Judge of the Supreme Court may, upon being satisfied by affidavit that it is beneficial or expedient so to do, order—

Judge may dispense or postpone operation of clause 7, "Public Trustee Act."

- i. That any administrator or proposed administrator shall not be bound by clause 7 of the "Public Trustee Act, 1880":
- ii. That any administrator or proposed administrator shall not be bound by clause 7 of the said Act until after a certain date to be mentioned in the order:
- iii. That letters of administration may be issued without any administration bond being given where the estate is under five hundred pounds in value:
- iv. That the administrator may expend the expectant share or any part thereof of any infant child of the deceased (not exceeding Fifty Pounds) in the maintenance and education of such child.

Any such order may be obtained *ex parte*, on the application of the administrator or person entitled to obtain letters of administration.

*Public Trustee Act Amendment Act.—1890.*

Bondsmen to be discharged.

2. The making of any such order shall, if the Judge shall so direct, have the effect of discharging all parties to the bond (if any) given to the Public Trustee, upon the granting of letters of administration, from further responsibility.

Order may be set aside.

3. The Public Trustee or any person interested may issue a summons requiring any administrator to appear before a Judge, to show cause why any such order should not be set aside, and the Judge may set aside such order, or vary the same, or make such other order as seems to him best.

Summons may be taken out to free land from encumbrance.

4. The owner of or any person interested either beneficially or as a trustee in any land which is charged or encumbered with or liable to secure any pecuniary liability, may, by summons in Chambers before a Judge of the Supreme Court, call upon the person in whose favor the charge has been made or the encumbrance exists to show cause why such land should not be declared free.

Judge may make order contingent on bonds being deposited.

5. Upon being satisfied that no injustice will be done, the Judge before whom such summons is heard may make an order declaring such land free from all charges or encumbrances, contingent upon the Public Trustee certifying to him that Bonds or Treasury Bills of the Province of South Australia, sufficient in amount to secure such charge or encumbrance, have been deposited with him, the Public Trustee.

Order made absolute.

6. Upon receipt of such certificate the Judge shall indorse on such order that it has become absolute.

Order to be registered.

7. The Registrar-General shall, upon an application in writing, register such absolute order on any land grant or certificate of title affected thereby, and the land comprised therein shall thereupon be freed from the charge or encumbrance; and upon the absolute order being registered in the General Registry Office, all land charged or encumbered which is not under the provisions of the Real Property Act, shall be freed from the charge or encumbrance.

Rights of persons entitled to benefit of encumbrance.

8. The person in whose favor the charge was made or the encumbrance existed, shall have the same rights and remedies on or against the Bonds or Treasury Bills so deposited as he had against the land.

Summons, how served.

9. If the person on whom it is proposed to serve a summons is not *sui juris*, or is absent from the province, or if for any other reason it is difficult to serve such person, a Judge may, upon an *ex parte* application, supported by affidavit, make an order directing on whom and in what manner a summons may be served; and any summons served in pursuance of such order shall be deemed to have been properly served.

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