AN ACT

To amend the Land Registry Act, 1860.

WHEREAS it is necessary to amend the Land Registry Act 1860: Be it therefore enacted by the Governor on Her Majesty's behalf by and with the advice and consent of the Legislative Council and House of Assembly of Vancouver Island and its Dependencies as follows:

1. It shall be lawful for His Excellency the Governor to appoint from time to time as occasion shall require during the absence of the Registrar General or other incapacity to act, a fit and proper person to perform the duties of Deputy Registrar, and all the acts of such Deputy Registrar shall have the like force and effect as if done by the Registrar General, and the Deputy Registrar shall receive such remuneration as the Governor shall think fit.

Power to appoint a Deputy Registrar.

2. Every person claiming any other or less Estate than the absolute fee or any equitable interest whatever in Real Estate (other than a Leasehold interest in possession for a term not exceeding one year) whereof the title to the absolute fee has not been registered may on proof of a *prima facie* title thereto register a charge in like manner as is prescribed in section Ten of the said Act.

Registration of charges against unregistered real estate.

3. No equitable Mortage or Lien created simply by a deposit of Title Deeds shall be deemed to entitle the person interested to registration under this Act.

An equitable deposit not to be registered.

4. Whenever any person shall have paid in full for Land pre-empted under any Land Proclamation now or hereafter in force he may on receiving a certificate of such payment from the Surveyor General, apply to have the same registered as an absolute fee in like manner as prescribed in section 8 of the said Act.

Registration of land pre-empted.

5. The Surveyor General may give a certificate of payment of all or any of the instalments due on Land as mentioned in clauses 16 and 17 of the Land Registry Act 1860 and in this clause in the form marked W in the Schedule to this Act.

Certificate by the Surveyor General of payment of instalments.

6. Clause Eighteen in said Act is hereby repealed and in lieu thereof be it enacted that the Registrar shall upon the Registration of any absolute fee issue a certificate of Title to the person who shall have effected registration in the form marked G in the first Schedule to this Act and shall fill up a Memorandum thereof and retain the same in his office: and if any Certificate of Title shall be lost or destroyed, the Registrar General may, upon being satisfied by affidavit of the applicant or of some other person, of the truth thereof, issue a fresh certificate in lieu of that so lost or destroyed, expressing on the face thereof that it is a duplicate, but no such fresh certificate shall be of any avail against any person who may have already derived title under the original certificate. In every case, so far as practicable, where a transfer is registered of a portion of the land comprised in or referred to in the Certificate of Title, an endorsement of such transfer shall be made thereon.

Form of Certificate of Title; and power to issue Duplicate thereof.

7. Every such Certificate of Title shall be received as evidence in all Courts of Justice of the particulars therein set forth.

Certificate of Title to be evidence.

8. Upon the expiration of five years from the time when Registration of an absolute fee was first effected, the registered owner shall be entitled to receive a Certificate of Title in the form marked "T" in the said first schedule, a duplicate of which shall be retained by the Registrar, and such Certificate of Title shall be conclusive evidence in all Courts of Justice that the owner therein named is the absolute owner of an indefeasible fee simple in the real estate therein referred to, and such real estate may be transferred by an endorsement on such certificate, in the form marked "U" in the said schedule or similar thereto, and the Registrar upon the receipt of the former Certificate of Title may grant registration of the absolute fee to such transfer in the form marked "B" in the said schedule, and issue a

Form of Certificate of indefeasible Title and effect thereof.

new certificate to such tranferee, and when necessary a new certificate or certificates to the transferee or transferors, in manner aforesaid. And upon such registration the transfer shall confer upon the person to whom the same is made an absolute and indefeasible title in fee simple in the Land transferred, subject however to the rights existing against any such estate by virtue of any charge or issue appearing on the Register at the time of such transfer, and also to any unregistered leasehold interest in possession for a term not exceeding one year as aforesaid.

Time when application made.

9. The time at which the application for Registration shall be deemed to have been made shall be the time when the application paper is filled up and signed by the applicant and the Title Deeds handed in to the Registrar.

Deeds produced for evidence of Title to be endorsed.

10. Whenever any deed or instrument is produced for the proving the Title of any applicant for registration, the Registrar is hereby required so far as may be possible, to endorse on such deed or instrument a memorandum of the interest of the said applicant in the Land comprised in such Deed or instrument.

Notice in case of "issue" filed.

11. Within one week after any "issue" has been filed the Registrar shall give notice in writing to the registered owner of the property, in respect of which the same has been so filed.

Date of cancellation of charge.

12. In every case of cancellation of a charge, notice of contest or issue, the interest against which such charge, notice of contest or issue shall have been registered or filed shall be deemed to be discharged from the date of the satisfaction or discharge of the same and not from the date of entry thereof.

Proof of execution of instruments made in foreign parts.

13. Every Deed or instrument executed out of the Colony and required to be produced before the Registrar must be accompanied by a certificate of execution from a British Consul or Notary Public and British Consul, or from such other judicial authority as the case may admit or require.

Maps to be deposited.

14. When any person applies for registration of a portion of an entire Lot or section of Land, he shall, if so required by the Registrar, deposit a map thereof properly authenticated or append the same to the instrument conveying the said Land, and reference to such map shall be made by the Registrar and entered by him in the Parcels Book and such map shall be drawn in a scale, in the case of Land situated in any District, of not less than four chains to an inch, and in the case of Land situated in any town in a scale of not less than four inches to a mile.

Official maps to be deposited.

15. The Surveyor General of the Colony shall as soon as conveniently may be, and from time to time deposit in the Land Registry office, when requested so to do by the Registrar, copies af all official maps in his custody duly authenticated by his signature.

Acknowledgement &c. to be made before the Registrar.

16. All acknowledgments, affidavits, oaths, and declarations necessary for the puposes of this Act may be taken by and made before the Registrar.

Power to Registrar to refer cases to the Court.

17. Whenever, in the opinion of the Registrar from any special circumstances in the case, it is desirable that an application for Registration shall be decided by the Court, or that a declaration of Title in the first instance should be made under any Act which may be passed in the present session, it shall be lawful for him to refer such matter to the Court and to decline the registration thereof until an order for such Registration or a Declaration of Title has been obtained, as the case may require.

Application for registration may be made by agents.

18. Applications for Registration may be made by the Agent of any person entitled to be placed on the Register, provided that the Registrar be satisfied that such Agent is duly authorised to make such application.

19. The Court may, upon the application by petition of any person interested in real estate, although the same be not registered, issue an order or caveat inhibiting any dealing with or registration of such real estate and annex thereto any terms and conditions it may think fit, and generally to make such order as the justice of the case may require. **Caveat &c.**

20. All orders made under the 59th section of the Land Registry Act, 1860, may be registered as charges, and all orders made under the 19th section of this Act may be registered as supplementary charges. **May be registered as charges.**

21. The Registrar shall keep a list, arranged under appropriate headings, as to Towns and Districts, of all Lands registered. **List of land registered to be kept.**

22. The per centage to be paid on the Registration of an absolute fee shall be according to the market value of the property at the time of application for Registration. **Percentage on value of land.**

23. The forms in the Land Registry Act, 1860, marked A, B, C, D, E, F, G, I, K, L, and M, respectively, shall, as soon as conveniently may be, discontinued and those marked A, B, C, D, E, F, G, I, K, L, and M, respectively, in the 1st schedule to this Act annexed, may be used in lieu thereof. **Forms to be used.**

24. In lieu of the fees as mentioned in the second schedule to the Land Registry Act, 1860, the fees mentioned in the 2nd schedule, hereto, shall be charged and paid. **Fees.**

25. If the Deeds constituting a Title have been registered, and they are allowed to remain in the office for one month thereafter or upwards, the same shall be charged as if they had been deposited.

26. It should be the duty of the Registrar when requested and upon payment of the proper fees to record in a book or books to be kept for that purpose and to be called respectively "The absolute Fees Record" "The charges Record" and "The supplemental charges Record" all instruments in any manner affecting the Title to Real Estate or to any interest thereunder which has or may have been already duly registered by correctly transcribing or copying the same together with any endorsement thereon or certificate attached thereto word for word letter for letter figure for figure sign for sign and erasure for erasure. **Documents may be copied in the office and official copies made.**

27. References to such record shall be made in the Register Books of the Title to which such instruments relate. **References to be made to such copies.**

28. The record of any such instrument as aforesaid or any copy of the same duly certified by the Registrar may in the absence of the original and if produced by a party not having the control of the original, be read in evidence in all Courts of Law and Equity without further proof, but the production of such copy shall not preclude the Registrar from requiring the production of the original document in those cases when such production may be deemed necessary for the purpose of registering any Title thereunder. **Official copies may be received in evidence.**

29. All Taxes and assessments imposed or to be imposed by any act of the Legislature upon real estate or the owners thereof may be registered as charges against such real estate upon application made by the Treasurer for the time being of Vancouver Island on and after the expiration of sixty days from the time when such taxes and assessment shall have become due and payable to the Government, and the Registrar General is hereby aunhorised and required to register such charges upon the application of the Treasurer aforesaid without further proof. **Real Estate Tax may be registered as a charge.**

30. The Registrar General is hereby authorised and required to cancel any such charge, upon receipt of a certificate of satisfaction signed by the Treasurer, and upon payment of the usual fee for cancellation, by the applicant. **Cancellation of such charge.**

Priority.

31. All such charges shall have priority over every other charge against the real estate affected thereby nowithstanding the same may have been already registered under the Land and Registry Act 1860.

Short Title of Act.

32. This Act may be cited as the "Land Registry Amendment Act 1864."

FIRST SCHEDULE.

FORM "A."

No.

I, A. B., declare that I am the legal owner, in my own right, in fee simple, in possession of the real estate hereunder described, and I claim to be registered accordingly.

DESCRIPTION OF REAL ESTATE.

Town or District.	Lot or Section.	Admeasurement or Acreage.

LIST OF INSTRUMENTS.

Date.	Parties.	Character of Deed.

And I, declare that to the best of my knowledge the value of my said interest is Dollars.

(A. B.)

FORM "B."

No.	Name of Applicant.	Parcels. Short Description	Absolute Fees. Parcels Book.	Date of Application	Date of Registrat'n.	List of Instruments	Charge, Issue, etc., If any.

FORM "C."

No.	Folio of Absolute Fees Book.	Town or District.	Section or Lot.	Admeasurement, or Acreage.	Further Description

FORM "D."

No.

I, A. B., declare that I am entitled to a the real estate hereunder described, and I claim registration of a charge accordingly.

DESCRIPTION OF REAL ESTATE.

(The Absolute Fee is registered at Folio vol. of the Absolute Fees Book, in the name of .)

Town or District.	Lot or Section.	Admeasurement or Acreage.

LIST OF INSTRUMENTS.

Date.	Parties.	Character of Deed.

And I, A. B., declare that to the best of my knowledge, the value of my said interest is dollars.

(A. B.)

FORM "E."

No.	Folio of Absolute Fees Book.	Owner of Charge.	Parcels, Short Description	Charge, Parcels Book.	Date of Application	Date of Registrat'n.	Nature of.	List of Instruments	Charge, Issue, Contest, etc. (if any.)

FORM "F."

No.	Folio of Charge (or Supplemental Charge) Book.	Town or District.	Lot or Section.	Admeasurement, or Acreage.	Further Description

FORM "G."

CERTIFICATE OF TITLE.

No. 186

Certificate of Title.. No. ..... Name..... Absolute Fees Book. Property	Name of Owner.	Absolute Fees Book.	Date of Registration.	Parcels, Short Description
(A. B.) Regs't. Genl..				

LIST OF INSTRUMENTS.

(A. B.)
Registrar General.

FORM "I."

I, A. B., take issue on the Registration effected by of the land known as in the Absolute Fees Book, Vol. Folio .

(A. B.)

FORM "K."

No. , Registered the day of 186 , in Book , Vol. , Folio . (A. B.)
Registrar General.

FORM "L."

I, A. B., file this notice of Contest against an Issue filed by C. B., in respect of that piece of land registered in the Book, Vol. , Folio . (A. B.)

FORM "T."

CERTIFICATE OF INDEFEASIBLE TITLE.

This is to certify that A. B. is absolutely and indefeasibly entitled in fee simple to that piece of land known as , and more particularly described in Absolute Fees Parcels Book, Vol. , Folio , subject, however, to

In witness whereof, I have hereunto set my Hand and Seal of Office, this day of 186 . (C. D.)
Registrar General.

FORM "U."

I, A. B., of , do hereby, in consideration of Dollars, paid to me, transfer and convey the land in this Certificate referred to, to C. D., his heirs and assigns, for ever.

Executed in presence of D. E. E. F. } (A. B.)

FORM "W."

I hereby certify that Instalment due in respect of Section has been paid, and that there remains a balance of unpaid. (A. B.)
Surveyor General.

SECOND SCHEDULE.

FEES.

Inspection of any Title on the Register	$0 50
Application for Registration	50
Registration, if any Absolute Fee	1
And one-fifth of one per cent. on the value of the real estate where such value does not exceed $5,000, with one-tenth of one per cent. above that value	
Registration of any charge	1
And one-tenth of one per cent. on the value of the interest covered by the charge	
Every Certificate of Title or Search	50
Filing any Issue	2
Filing any Contest	50
Sealing any Document	25
Cancellation of any Issue, etc	1
Filing any Document other than an Issue	50
Every Notice	50
Every Deposit of Map or Title Deed	5
For every transcript or record of any Deed or Instrument, as provided for in Section of this Act, per folio of one hundred words	25
For making certified copies of any Deed or Instrument of Record, per folio of one hundred words	25