



1845.

No. 15.

By His Excellency George Grey, Esquire, Governor and Commander-in-Chief of Her Majesty's Province of South Australia and its Dependencies, and Vice-Admiral of the same, by and with the advice and consent of the Legislative Council.

An Ordinance to render effectual Conveyances by Married Women, and to declare the effect of certain Deeds in relation to Dower.

WHEREAS it is expedient to provide a simple mode of Preamble.
assurance whereby the right and title of married women to dower and other their estates and interests in land may be conveyed and assured:

Be it therefore Enacted, by His Excellency the Governor of South Conveyances by married woman to be made by deed in manner after mentioned.
Australia, with the advice and consent of the Legislative Council thereof, That from and after the passing of this Ordinance conveyances and assurances by any married woman of any estate, right, title, or interest of, in, to, or out of any lands, tenements, or hereditaments in this Province, shall and may be made by any deed to be executed and acknowledged by her in the manner after mentioned.

II. And be it Enacted, That every deed to be executed by a Deed executed by a married woman to be acknowledged by her before a Judge, Master, or Commissioner.
married woman for the purpose of disposing of, releasing, surrendering, or extinguishing any estate, right, title or interest in any lands, tenements, or hereditaments, in this Province, shall, upon her executing the same, or afterwards, be produced and acknowledged by her as her act and deed before one of the persons aftermentioned, that is to say, if such deed shall be executed in South Australia, before a Judge of the Supreme Court or the Master thereof, or before one of the Commissioners to be respectively
appointed

appointed as hereinafter mentioned, provided such Commissioner be not a party to such instrument, nor the attorney or solicitor, nor the clerk of the attorney or solicitor employed to prepare the same; or if made and executed within any of Her Majesty's dominions out of this Province, shall be acknowledged before a Judge of the Country or Colony where such deed is made and executed, or before any Mayor or other Chief Magistrate of the city, borough, or town where or near to which the person making such acknowledgment shall reside: Provided that every such Judge, Master, Commissioner, Mayor, or Chief Magistrate as aforesaid, before he or they shall receive the acknowledgment by any married woman of any deed by which any disposition, release, surrender, or extinguishment shall be made by her under this Ordinance, shall examine her apart from her husband touching her knowledge of such deed, and shall ascertain whether she freely and voluntarily consents thereto; and unless she freely and voluntarily consent to such deed, shall not permit her to acknowledge the same; and in such case the deed shall, so far as relates to the execution thereof by such married woman, be void.

The Judge, &c, before receiving such acknowledgment, to examine her apart from her husband.

The deed of a married woman to take effect from the time of acknowledgment.

III. And be it further Enacted, That every deed so acknowledged by a married woman shall, so far as regards the disposition, release, surrender, or extinguishment thereby made by her of any estate, right, title, or interest in, to, or out of any land, tenement, or hereditament comprised in such deed, take effect from the time of its being so acknowledged; and being so acknowledged, shall be as effectual for the disposition, release, surrender, or extinguishment of such estate, right, title, or interest in, to, or out of any lands, tenements, or hereditaments in this Province as any fine or recovery suffered or levied by any married woman would have been for the like purpose in England before the passing of the Act made in the Parliament held in the third and fourth years of the reign of His late Majesty King William the Fourth, intituled "An Act for the abolition of Fines and Recoveries, and for the substitution of more simple modes of Assurance."

When a married woman shall acknowledge a deed, the person taking the acknowledgment to sign a memorandum to the effect of form in Schedule A.

IV. And be it Enacted, That when a married woman shall acknowledge any such deed as aforesaid, the Judge, Master, or other person taking such acknowledgment shall sign a memorandum to be endorsed on or written at the foot or in the margin of such deed, which memorandum shall be to the effect of the form contained in Schedule A to this Act annexed: Provided always, that in every case where such acknowledgment as aforesaid may be made before a Judge, or Mayor, or other Chief Magistrate out of this Province, such acknowledgment shall be certified under the hand and seal of such Judge, Mayor, or other Chief Magistrate: Provided also, that the name, or the name and seal, as the case may be, affixed to any certificate of acknowledgment as the hand, or the hand and seal of the person before whom the acknowledgment was made, shall be deemed and taken so to be for all intents and purposes until the contrary thereof shall be shown.

V. And

V. And be it further Enacted, That when and so soon as it shall seem expedient to the Judge or Judges of the Supreme Court, or the Governor for the time being shall direct, that Commissioners should be appointed for taking acknowledgments by married women residing at a distance from Adelaide, of the deeds to be executed by them within the Province as aforesaid, the Judge or Judges of the Supreme Court shall from time to time appoint such proper persons as he or they shall think fit to be Commissioners for taking such acknowledgments; and the appointment of any such Commissioner shall from time to time be notified in the *Government Gazette*; and such Commissioners shall be removable by the Judge or Judges of the Supreme Court on just cause shown for such removal; and a list of the names of such Commissioners for the time being, and of their places of residence, shall from time to time be made out and kept in the office of the Supreme Court by the person acting as Chief Clerk thereof; and such Clerk shall deliver a copy signed by him, of such list to any person applying for the same: Provided always and be it Enacted, That it shall be lawful for the Governor for the time being, at any time and from time to time, by notice in the *Government Gazette*, to nominate any Justice of the Peace to be a Commissioner for taking acknowledgments under this Ordinance; and such person being so nominated, and being a Justice of the Peace, shall have the same powers and duties as any other Commissioner under this Ordinance.

Perpetual Commissioners may be appointed.

VI. And be it further Enacted, That when, by reason of ill-health, or any other sufficient cause, any married woman shall be prevented from making the acknowledgment required by this Ordinance before a Judge, or the Master, or any of the Commissioners to be appointed as aforesaid, it shall be lawful for the Supreme Court, or any Judge thereof, to issue a commission specially authorizing the persons therein named, or any one of them, to take the acknowledgment by any married woman to be therein named, of any such deed as aforesaid: Provided always, that every such commission shall be executed within a time to be therein expressed, and shall be annexed to the deed to which the same relates; and the execution thereof shall be certified by the Commissioner executing the same on the back or foot thereof, according to a form to be annexed to such commission.

Special Commissioners may be appointed.

VII. And whereas divers deeds whereunto married women have been parties for the purpose of conveying, releasing, extinguishing, or surrendering their right of dower or some other estate, right, or interest in the lands, tenements, or hereditaments mentioned in such deeds, have been heretofore executed and acknowledged before the Judge for the time being of the Supreme Court of this Province, by such married women, after such examination of them apart from their respective husbands as is hereinbefore directed to be hereafter made, upon which deeds respectively a memorandum hath been endorsed and signed by such Judge according to the effect of the form prescribed to be

For confirming deeds heretofore executed or acknowledged by married women.

used

used in the like cases by the Act of Parliament passed in the fourth year of the reign of His late Majesty King William the Fourth, intituled "An Act for the abolition of Fines and Recoveries, and for the substitution of more simple modes of Assurance:" and whereas doubts may arise whether the said Act can be deemed applicable to this Province: And it is deemed proper that such deeds and acknowledgments should be confirmed—Be it therefore Enacted, That every deed which hath been heretofore executed by a married woman for the purpose of conveying, releasing, surrendering, or extinguishing her right of dower, or any other estate, right, or interest, in the lands therein mentioned, and acknowledged by her as her act and deed before such Judge, such acknowledgment being certified by a memorandum endorsed or written on some part of such deed, and signed by the Judge in manner aforesaid, shall be deemed as valid and sufficient for such purpose as if such deed had been executed, and such acknowledgment thereof had been made after the passing of this Ordinance, and that the production of the deed, with such memorandum endorsed thereon signed as aforesaid, shall in all cases be deemed and taken to be sufficient evidence that such acknowledgment was duly made: Provided that nothing herein contained shall extend to any dower, estate, right, title, or interest respecting the right to which any claim hath been made or any action or suit may have been commenced before the passing of this Ordinance.

Fees and charges to be taken.

VIII. And be it Enacted, That the fees and charges to be paid for and in respect of the proceedings, matters, and things required to be done by virtue of this Ordinance, shall be such as are set forth in the Schedule marked B to this Ordinance annexed, which fees and charges (except such as are therein directed to be paid to any Commissioner, not being a Justice of the Peace) shall be accounted for and paid by the person receiving the same to the Colonial Treasurer, for the use of Her Majesty, Her heirs, and successors, to be applied for the public uses of the Province and for the support of the Government thereof: Provided always, and be it Enacted, That nothing in this Ordinance contained shall be construed so as to alter or affect the Ordinance No. 8, passed in the fifth year of Her Majesty's reign, intituled "An Act to provide for the Registration of Deeds, Wills, Judgments, Conveyances, and other instruments;" nor the Ordinance No. 12, passed in the sixth year of Her Majesty's reign, for amending the said Ordinance.

Deeds containing declarations barring dower, since establishment of this Province, to have same force and effect as conveyances to uses to bar dower.

IX. And whereas divers deeds conveying land and hereditaments have been executed since the establishment of this Province, in which deeds a declaration has been made by the purchaser that his widow shall not be entitled to dower out of such land; and many deeds may hereafter be made with the like declaration therein: And whereas doubts have been expressed as to the effect of such declarations in respect of the dower of women who have been married before the first day of January, one thousand eight hundred and thirty-four: Be it therefore Enacted, That such a
 declaration

declaration by a purchaser made in any deed heretofore executed, or to be made in any deed hereafter to be executed, shall have the same force and effect in barring the right of dower of the widow of the person making such declaration, as if the land or hereditaments mentioned in such deed had been conveyed to uses to bar dower.

G. GREY,
Governor and Commander-in-Chief.

*Passed the Legislative Council this twenty-
fifth day of July, one thousand eight
hundred and forty-five.*

W. L. O'HALLORAN,
Clerk of Council.

SCHEDULE A, ABOVE REFERRED TO.

I CERTIFY that this Deed was this day produced before me, the undersigned (A.B.), Judge (or Master) of the Supreme Court of South Australia, or C.D., a Commissioner duly authorized in pursuance of an Ordinance of the Governor, with the advice and consent of the Legislative Council of South Australia in that behalf, for taking acknowledgments of married women, or E.F., the Commissioner named in the Commission hereunto annexed, or G.H., Judge, Mayor, or Chief Magistrate of _____), and was acknowledged by _____ the wife of _____ therein named, being personally present before me, and being of full age and competent understanding, to be her act and deed; previous to which acknowledgment, the said _____ being examined by me separately and apart from her husband, touching knowledge of the contents of the said deed, and her consent thereto, declared that she fully understood the nature and effect thereof, and that the same was freely and voluntarily executed by her.

As Witness my hand this _____ day of _____

A.B., Judge, &c.

Or if made out of the Province, say—

As Witness my hand and seal this _____ day of _____

B.

Schedule of Fees to be taken under the foregoing Ordinance.

	£ s. d.
To each Commissioner, not being a Justice of the Peace, for taking the acknowledgment of every married woman, when not required to go further than a mile from his residence	0 13 4
When required to go more than one mile, but not exceeding three miles	1 1 0
When the distance shall exceed three miles, besides his reasonable travelling expenses	2 2 0
To the Clerk of the Supreme Court for preparing every Special Commission, including 5s. for the Fiat	0 15 0