reason, as *a law to be studied in its incongruities and omissions much more than in its written provisions.*

We have spoken above of the mode of publicity adopted by this Ordinance, we have exposed its defects and inutility.

Another fault in this law, is its exceptional character. "In short," says Mr. Lafontaine, "this Ordi- "nance has all the inconveniences of exceptional "laws. Indeed, it does not promulgate a new hypo- "thecary system properly so called, it only modifies "the existing laws, and consequently we ought to "consider these laws as maintaining all their force, in "every case where they are not expressly repealed or "amended by new provisions clear and explicit. This "results from the very title and preamble of the Ordi- "nance." What seeks the Legislator ?.....

"To prevent fraudulent sales and secret hypothecs; "and he says: that by establishing a mode of publica- "tion by *registration*, by making *some alteration* "in the existing laws, he will remove the incon- "veniences to which he refers."

"In all this, there is nothing to show that he means "to abolish the old laws and establish a system alto- "gether new."

"Thus, without defining the hypothec, without "speaking at all of its character and its effects, of the property subject to it, he enters at once into the details "his project of registration for the publication of "hypothecs."

In fact, this law leaves untouched all the imperfections of a system already vicious, and renders it still more vicious by a partial modification of the system, creating serious difficulties, which our old hypothecary system did not present, bad as it was.

Does it introduce a new law, a new hypothecary system ? Such, doubtless, was not the intention of its author; but that is a strange law which goes on cutting and paring away right and left existing laws without method and without order.

By the preamble of this Ordinance, it is easy to see that the object of its author was to ameliorate our hypothecary system by the means of that which he calls *some alteration.* But where are these ameliorations to be found ? Is it by restoring, in its vigour, the law of Stellionat in the case only of sale, and leaving, in all other transactions, the door open to dishonesty and fraud ? Is it by rendering relations and friends responsible in default of the registration of Acts of guardianship and trusteeship, (*Actes de tutelle et curatelle*) Is it by abrogating the law of the country as regards voluntary dower, and leaving entire the customary dower still more injurious and harassing ? Is it by depriving the children of their claim of the customary dower, and by giving the wife the right to free from that dower by selling them, the immoveables which are subject to it, and by reserving in favour of the said children the property of the voluntary dower Is it by forgetting that the voluntary dower is not less than the customary dower subject to the inconveniences which, for such a long time past, have caused the ruin of so many purchasers, and become the subject of universal complaints ? Is it in the case of the alienation of the properties of wives under marital power by prescribing that examination at once ridiculous in itself, and injurious to the morals of the country, that a wife must undergo before the Judge of a Court that has never existed, to prove the free consent of the wife to this alienation ? Is it by preserving the general hypothec in favour of minors and interdicts on the property of their tutors and curators, and by refusing this right against other administrators, such as those of Fabriques, &c. ? Is it by granting to the married woman this general hypothec on the property of her husband for the restitution of her dowry, and the payment of every claim or demand that she may have against her husband in consequence of estates or inheritances fallen to her, or come to her in the way of donation during marriage, and in denying to her this right for the advantages stipulated by the husband in favour of the wife by the contract of marriage ? Is it, in fine, by amalgamating the provisions of some Statutes of Upper Canada with mutilated and scattered texts from the Civil Code of France, and in composing a legal hotchpotch (*pot-pourri*) which has been presented to the people of this country under the title of an Ordinance to *prescribe and regulate the registering of titles to lands, tenements and hereditaments, real or immoveable estates, and of charges and incumbrances on the same; and for the alteration and improvement of the law, in certain particulars, in relation to the alienation and hypothecation of real estates, and the rights and interest acquired therein.*

But let us examine more in detail the provisions of the Ordinance.

Sec. I. The author enters abruptly on the subject matter by enacting the registration of all Deeds, Contracts, Instruments in writing, &c. &c., which shall be passed, executed or made after the day on which the Ordinance shall come into force (31st December, 1841.) It would naturally seem fitting that he should have commenced by developing the principles on which the system he wishes to introduce is based, and by making it coordinate with the existing laws.

Sec. II. Repealed by the Statute 6 Victoria ch. 15, sec. 2.

Sec. IV. We have spoken of it above.

Sec. V. VI. VII. VIII. IX. Reproduced from the Statute of Upper Canada 35 Geo. 3. ch. 5.

Sec. X. This clause regulates the manner in which the Registrars ought to enter Memorials in their Registers. It exacts that the Memorial be presented and acknowledged by the party himself, or presented and sworn by one of the witnesses present at the drawing up or signing of the Memorial by the party. This acknowledgment or attestation to be made before the Registrar. This section is reproduced almost *verbatim* from the Statute of Upper Canada cited above. The author of the Ordinance, who now and then lays the Civil Code of France under contribution, has passed over in it the manner of presenting the *Bordereaux* adopted by this Code which, contenting itself with exacting that the *Bordereau* (Memorial) shall be presented by the party himself or by a third person to the keeper of Hypothecs (Registrar) is much more simple and much easier.

The mode prescribed by the Ordinance, obliges the party or one of the witnesses to present himself at the office, whatever be the distance from their domiciles to the office, to register a Memorial. This formality, as useless as it is expensive and inconvenient, was followed until the 29th March 1845, the