

(65)

BILL.

An Act to amend and explain the Ordinance concerning the Registration of Hypothecs in Lower Canada.

WHEREAS the Ordinance of the Special Council of the heretofore Province of Lower Canada, passed in the fourth year of Her Majesty's Reign, intituled, "*An Ordinance to prescribe and regulate the Registration of Titles to Lands, Tenements and Hereditaments, real or immoveable*" Preamble. Ord. 4 Vict. c. 30.
5 "*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,*" and the several Acts of the Legislature of Canada amending the
10 said Ordinance do not contain any enactments with respect to the cancelling of registrations having no foundation in law, or based upon deeds conferring no legal title, privilege or hypothec on real or immoveable property, or based upon deeds invalid, irregular, extinguished, acquitted, and paid, or when the rights of privilege or hypothec have been removed by legal proceedings, and whereas the absence of an enactment of this nature,
15 involves heavy and serious disadvantages; Be it therefore enacted, &c.,

That whenever a creditor or person claiming to be so, shall have registered in conformity with the formalities required by the Ordinance and Acts above mentioned, against the property of the debtor or person claimed to be so, any right privilege or hypothec whatsoever, which he shall claim to
20 possess against the property of such debtor, and the deed upon which the right privilege or hypothec shall be based, shall not be founded in law, or shall not legally confer any right or privilege, or hypothec upon immoveable property, or shall be irregular, invalid, extinguished, acquitted and paid, or such right of privilege or hypothec shall have
25 been removed by legal proceedings, and such creditor, having been duly required thereto by such debtor, shall refuse to consent to the cancelling of the registration by him of such claim against the property of such debtor, the latter may thereupon by action brought before any competent Court of Civil Jurisdiction in the District in which
30 the real property or any part thereof charged with such right, privilege or hypothec by virtue of the said registration, shall be situate, demand that the claim so registered be according to the circumstances of the case, either declared null and to confer in law no right, privilege or hypothec on the property of the plaintiff, or null, irregular, unfounded in law, extinguished,
35 acquitted and paid, or removed by legal proceedings, and that the registration of the said deeds and any entry relating thereto, made in the office of the Registrar of the County in which such real property affected by such registration shall be situated, be cancelled in the registers of the said Registrar, and upon satisfactory proof of the allegations contained in the declar-
40 ation, the Court shall grant the prayer of the plaintiff with costs against the defendant as well those incurred in the action as in effecting such can-

An Action may be brought for the cancelling of any entry in the Books of the Registrar which ought to be cancelled, and to the cancelling of which the Defendant has refused to assent.