

the other, according to the date at which each instrument is recorded in the record book, and not according to the date of each instrument. 36 V., c. 128, s. 40.

**36.** A mortgagee shall not, by reason of his mortgage, be deemed to be the owner of a ship, nor shall the mortgagor be deemed to have ceased to be owner of such mortgaged ship, except in so far as is necessary for making such ship available as security for the mortgage debt. 36 V., c. 128, s. 41.

Mortgagee not to be deemed owner.

**37.** Every mortgagee may absolutely dispose of the ship in respect of which he is recorded as such mortgagee and give effectual receipts for the purchase money; but if there are more persons than one recorded as mortgagees of the same ship, no second or subsequent mortgagee shall, except under the order of a court capable of taking cognizance of such matter, sell such ship without the concurrence of every prior mortgagee; and every bill of sale, when duly executed, shall be produced to the proper registrar of shipping, who shall enter the particulars thereof in the record book, and shall indorse on the bill of sale the fact of such entry having been made, with the date and hour thereof; and all bills of sale shall be entered in the record book in the order of their production to the registrar of shipping. 36 V., c. 128, s. 42.

Mortgagee to have power of sale.

**38.** A recorded mortgage of any ship may be transferred to any person; and the instrument creating such transfer shall be in the form C in the third schedule hereto; and on the production of such instrument the registrar of shipping shall enter in the record book the name of the transferee as mortgagee of the ship therein mentioned, and shall, by memorandum under his hand, record on the instrument of transfer that the same has been recorded by him, stating the date and hour of such record. 36 V., c. 128, s. 44.

Transfer of mortgages.

**39.** If the interest of any mortgagee in any ship recorded under this Act becomes transmitted in consequence of death or insolvency, or in consequence of the marriage of any female mortgagee, or by any lawful means other than by a transfer according to the provisions of this Act, such transmission shall be authenticated by a declaration of the person to whom such interest has been transmitted, made in the form D in the third schedule hereto, and containing a statement describing the manner in which and the party to whom such property has been transmitted; and such declaration shall be made and subscribed in the presence of the registrar of shipping at the port at which such ship has been recorded under this Act, if the declarant resides at or within five miles of the custom house of the port, but if beyond that distance, in the presence of any registrar of shipping, collector of customs or justice of the peace. 36 V., c. 128, s. 45.

Transmission of interest of mortgagee by death, insolvency or marriage.