

VII. And whereas, by the 28th Section of the above recited Ordinance, it is amongst other things ordained and enacted, That from and after the day on which the said Ordinance shall come into force, no general hypothec shall be stipulated in, or constituted by, or result from any deed, contract or obligation in writing whatsoever, to be thereafter made and entered into, and that no conventional hypothec, charge or incumbrance on lands, tenements or hereditaments, real or immoveable estates, should from and after the day last aforesaid be constituted or acquired in or by virtue of any deed, contract or obligation in writing, which should be executed or made after the said day, before a Notary or witnesses, or before Notaries, or before any Court of Justice or Judge, or otherwise howsoever, unless the sum of money intended to be secured by such hypothec charge or incumbrance should be, in the same deed, contract or obligation in writing, or the acknowledgment thereof, specified, and that no such hypothec, as last aforesaid should be constituted or acquired for any other purpose than for securing the payment of a sum or sums of money specially mentioned as aforesaid: Be it enacted, that the said section shall not be construed to apply, and shall not apply to donations made *inter vivos* subject to life rents, payable in kind and appreciable in money, or to any description of charges and obligations appreciable in money, and that the registration of such deeds executed in the form prescribed by the laws in force in this Province, and as hereinbefore mentioned, shall preserve to persons interested therein all hypothecary claims and rights of *bailleur de fonds*, to the extent of the sum equivalent to the life rents and other charges and obligations appreciable in money, specified and stipulated in the said donations, in the same manner as if the said life rents and other charges and obligations were estimated in money, by and in the said deeds of donation, at the amount of the estimated value in money of the said life rents and other charges and obligations.

Recital

Sect. 28 of the said ordinance not to apply to donations *inter vivos* subject to life rents, &c.

VIII. And whereas no provision is made by the Ordinance aforesaid, with respect to the punishment of persons hypothecating, or who shall hereafter hypothecate immoveable property or rights, representing themselves to be proprietors thereof, or pretending to be such proprietors, or to possess claims thereto, and great inconveniences and frauds have resulted therefrom which have hitherto remained unpunished: Be it therefore enacted, That whoever shall hypothecate any real property or properties, of which he shall not be the proprietor, and to which he shall have no legal title, shall be guilty of misdemeanor, and being duly convicted thereof shall be liable to be imprisoned for a period not exceeding twelve calendar months, and to the payment of such fine and penalty not exceeding £500 current money of this Province, as the Court before which such conviction shall take place, shall think proper to adjudge, and the proof of the ownership of the real property or claim shall rest with the person who shall as aforesaid have pretended to hypothecate the same.

Punishment of persons hypothecating property to which they have no claim.