

An Act to amend the Laws regulating the registration of hypothecs in Lower Canada.

WHEREAS it is expedient to amend the Laws regulating the registration of hypothecs in Lower Canada; Therefore Her Majesty, &c., declares and enacts as follows : Preamble.

I. All real or moveable estate, under whatever tenure it may be held, which has been or hereafter shall be sold or otherwise departed with by any married man, shall, by the renunciation of his wife, she being of age and acting under his authority, be freed from her dower, legal or customary, conventional or stipulated, as well as from all legal, conventional or judicial hypothecs which she might have on the said property. The wife may release her dower, legal or conventional, on property sold by the husband.

II. If with the view of giving security for a loan or for any other cause whatever, the husband is only desirous of engaging, charging or hypothecating real property subject to his wife's legal or conventional dower or hypothecs, it shall be lawful for his wife, being of age and being thereto authorized by her husband, in lieu of releasing her dower and hypothecs on such property, to grant a priority of claim and of hypothec to the creditor under the obligation or engagement of her husband. Instead of renouncing she may grant priority to her husband's creditor.

III. The said renunciations or priorities of hypothec may be made and granted by the wife in the deed of conveyance or constitution of hypothec itself, or by any other subsequent authentic Acte. By what Actes this may be done.

IV. Such renunciation shall have the effect of completely extinguishing, in respect of the property alienated, the legal or conventional dower of the wife and children, and the legal, conventional or judicial hypothecs of such wife; and the priority of hypothec or claim so granted as aforesaid by the wife in favor of a third person shall give to the latter or to his assigns the right of being paid or indemnified out of the immoveables hypothecated or engaged in his favor before the wife or her children shall enforce their said rights of dower and hypothec upon the same property. Effect of the renunciation, and of the grant of priority.

V. No hypothec shall result upon the other property of the husband as indemnification or compensation for the said release or priority of hypothec given or granted by the wife, without prejudice, however, to the personal recourse which she may have against her husband or his heirs. No hypothec to result on the other property of the husband, &c.

VI. The thirty-fifth section of the registry ordinance, fourth Victoria, chapter thirty, the fourth section of the Act eighth Victoria, chapter twenty-seven, and the ninth section of the Act sixteenth Victoria, chapter two hundred and six, shall be and they are hereby repealed. Inconsistent enactments repealed.

VII. This Act shall apply to Lower Canada only.

Act limited to L. C.