period at which it was amended by the Statute 8 Victoria ch. 27, which authorises Justices of the Peace, Notaries, and Commissioners appointed to receive affidavits, to administer the oath required by the Ordinance.

Sec. XII. It prescribes the manner of attesting or making oath to Memorials made without the hypothecary district in which the immoveable property is situate respecting which an entry is desired to be made, as well as to those made in Great Britain, or Ireland or in Foreign parts. As to these last, we are at a loss to discover why the author has made them figure in the Ordinance. To what does this provision amount in regard to them? To make it evident that the Memorial has been made by the person named in this Memorial? But how are we to assure ourselves of the authenticity of the Deed or Instrument in writing on which this Memorial is founded? It does not say one word about the matter. What purpose can this entry serve, since by the common law of the country, Deeds, Contracts and Judgments made or rendered without the limits of Lower Canada cannot give to those in whose favour they have been made or pronounced, any hypothecary right whatever upon immoveable property situated in this country, a right which the formality of the entry required by the Ordinance could not procure for them? This clause is taken from the Statute of Upper Canada cited above.

Sec. XIV. Prescribing the registration of wills within a given time. Extracted from the same Statute of Upper Canada.

Sec. XVI. This section limits the privilege of entry for arrears of *interest* to two years. Does it include under the word *interest* arrears of constituted rent (*rente constituée*), of life annuities, of ground rent (*rente foncière*), of alimony? The text declares "that "no creditor shall be entitled, by reason of any regis- "tered memorial of a mortgage, hypothec or privilege, "to a preference or priority before others, for more "than two years arrears of interest on the debt or ca- "pital sum." In the common law of the country, we understand by interest the annual product, according to a tariff fixed by law of all capital which can be demanded at the will of the creditor or at a period agreed upon. It seems that the arrears of *rente constituée*, life annuity, alimony cannot be comprehended under the word *interest*. This provision seems to be taken from the Article 2151 of the Civil Code, which, in decreeing that "the *creditor* inscribed for a capital producing interest or *arrearage*," does not remove the difficulty which the provision of the Ordinance in this regard creates. Moreover, the Legislature of the country seems to have given to this section of the Ordinance the interpretation which we give to it, in amending this section by the Statute 7 Victoria chap. 22, sec. X, which declares that the arrears of *rente constituée*, of life annuity, of ground rent and alimony, shall not be considered as comprised under the word *interest* employed in the XVIth section of the Ordinance.

We think that it would be more just and more uniform to grant also to creditors of *interest* the privilege of being preferred by reason of the entry of their claims for five years, to count from the date of the contract establishing these claims. By this means they would be on a footing of equality with the creditors of *rentes constituées* and others of whom the Statute speaks.

Sec. XVIII. This section nullifies entries made within the ten days preceding the insolvency or bankruptcy of the debtor. It omits, nevertheless, to say when and how a debtor shall be reputed or considered to be a bankrupt. The Statute 7 Victoria chap. 10, has supplied this omission.

We think it right to introduce here what Mr. Troplong says in the preface to the treatise on *privileges and hypothecs*, upon the 2146 Article of the Code. "This Article" says he "forbids the entry of hypo- "thecs within ten days of the insolvency, although "the cause of the hypothecs be anterior; this, accord- "to our view, is a revolting injustice. Here, in "truth, all idea of fraud, of collusion, ought to be "banished. The source of the hypothec is pure. Why "then should we forbid its completion?.....Would we "place ourselves in the true position and equitably re- "concile the rights of the mass with the rights of pre- "ference acquired by third parties? It would be neces- "sary to take as a guide the declaration of 1702, and "limit ourselves to removing their hypothecary effect "from stipulated obligations and judgments rendered "during the ten days of the insolvency becoming pub- "licly known."

Sec. XXI. enacts that, from the day on which the Ordinance shall have force and effect, husbands, tutors and curators register *without delay* a summary of all the hypothecs and charges to which their properties are subject in favour of married women, minors and interdicts. Is this provision to be understood as applying only to hypothecs posterior to the 31st December 1841, or to those created before that date? We have seen above that the 4th clause, which enacts generally the registration of certain hypothecs created before this period, does not speak of hypothecs of the nature of those mentioned in the XXIst section. The terms of the XXIst clause seem to refer to a *future* period, for it speaks of hypothecs to which immoveable properties *shall be* subject, and not to which they *are* subject. It follows, then, from this that contracts of marriage, acts of tutorship and curatorship done before the 31st Decembre 1841, are not required to be registered by the very terms of the Ordinance. So much again for the publicity of hypothecs introduced by this law.

Sec. XXII. This section, in default of the registration of Acts of tutorship and curatorship, holds responsible not only the Tutors, subrogate Tutors and Curators, but even *the relations and friends who shall have taken part in the assembly, and council of relations* required in such cases. This enactment of revolting injustice has naturally had the effect of rendering the holding of these *assemblies* very difficult. It has been borrowed, we believe, from the Neapolitan Code, or from some other Code derived from it. It is not necessary for us to undertake to demonstrate all the injustice and iniquity which it contains.

Sec. XXIV. It ordains the dismissal of every action founded on a Contract of Marriage, an Act of Tutorship or Curatorship which has not been registered. Surely, here is a singular idea, the punishing by the loss of their rights, married women, minors and interdicts on account of the negligence or bad faith of those whose duty it is to see to the registration of these rights. The Ordinance, it is true, renders responsible the husbands, tutors, subrogate tutors, curators, parents and friends for any damages that shall result from this negligence. But if, as almost always happens, these persons possess no property, or, which may occur, that their properties are encumbered with mortgages beyond or equal to their value, where will be the recourse of those whom the author of the Ordinance deprives so