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1st Session, 7th Parliament, 25 Victoria, 1862.

BILL.

An Act supplementary to the Act chaptered eighty-nine, of the Consolidated Statutes for Upper Canada, respecting the Registration of Deeds.

Received and Read, first time, Wednesday,
30th April, 1862.

Second Reading, Thursday, 1st May, 1862.

Mr. WALSH.

QUEBEC.

PRINTED FOR THE CONTRACTORS BY HUNTER,
ROSE & LEMIEUX, ST. URSULE STREET.

An Act supplementary to the Act chaptered eighty-nine of the Consolidated Statutes for Upper Canada.

WHEREAS it is desirable and expedient to amend the Registry Laws of Upper Canada; Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

Preamble.

- 5 **1.** Whenever a Registrar or Deputy Registrar of a County, City, Junior County, or Riding of a County or Counties in Upper Canada, shall execute or have executed a certificate of registry on a deed or instrument, will or probate, registered or which shall hereafter be registered through memorial of the same, in pursuance of the Registry Laws of Upper Canada, and in such endorsed certificate mention or have mentioned the certain day, hour and time on which such memorial is entered and registered, expressing also in what book and number the same is entered, such certificate, signed by such Registrar or Deputy Registrar, shall be taken and allowed as evidence of such respective registries in all Courts in Upper Canada, as fully as if all the particulars mentioned in section thirty, chapter eighty-nine, of the Consolidated Statutes for Upper Canada, had been mentioned and expressed in such certificate of registry.
- 10 **2.** When any deed, conveyance or assurance, power of attorney or sealed instrument, for registration whereof provision has been or shall be made by the Registry Laws of Upper Canada, whereby any land, tenements, hereditaments or immovable estate in any County, City, Junior County, or Riding of a County or Counties therein, shall be conveyed, charged or affected in Law or Equity, shall be produced in duplicate parts to the Registrar or Deputy Registrar of the same for registration, both of which duplicate parts being the original thereof, and of the same figures, date and words, and each of the said duplicate parts being executed by all who executed or joined in the execution of the other of such duplicate parts, and attested by the same witnesses thereto, with their addition, degree, occupation or places of abode subjoined to the names of such witnesses, and one of which witnesses by affidavit on oath, endorsed upon or appended to one of the said duplicate instruments, and made before such Registrar or Deputy Registrar or other person authorized to take the proof of deeds and memorials for registry, (who are hereby respectively authorized to take the proof of the due execution of such duplicate instruments), and shall prove or have proved the due execution of the said deed, conveyance, assurance, power of attorney or instrument, and that the same was executed in duplicate, and where and by whom the same was so executed; and upon such proof being made, or other authentication adduced of such instruments, as is authorized in that respect in cases of registering through memorials, such Registrar or Deputy Registrar, having collated the said instruments, and such instruments being found to be true transcripts, each of the other of them, shall transcribe one of the said

Certain particulars in Registrar's certificate to be sufficient.

Mode and effect of registering instruments executed in duplicate and duly proved.

duplicates at length in the register book, which transcription of one of such duplicates shall be as effectual as the entering in such book of both of such duplicates, and be the registering of such deed, conveyance, assurance, power of attorney or instrument, in duplicate.

Certificate of registry and entry in the margin of Register Book.

3. Every such Registrar or Deputy Registrar who shall make such entry as is mentioned in the preceding section of this Act, shall execute a certificate of registry, and sign the same on each and every of such duplicate instruments so registered, and in the margin of such entry by transcription in the registry book, and therein mention the certain day, hour and time on which the said deed, conveyance, assurance, power of attorney or instrument is registered in duplicate, expressing also in what book and number the same is entered, which certificate shall be allowed as evidence of such respective registries in all Courts in Upper Canada. 5

Registrar to keep one duplicate; either duplicate to be evidence.

4. Every Registrar shall keep and preserve, amongst the records of his office, one of the said duplicate original instruments, so entered and registered as duplicates, having such affidavit or authentication on or appended thereto, and produce the same in any Court of Record when thereto lawfully required, and each and either of such duplicate instruments, certified by such Registrar or Deputy Registrar as registered in duplicate, shall be, and be allowed, and taken to be the original registered deed, conveyance, assurance, power of attorney or instrument, as may be in all Courts whatsoever. 15 20

Registry by duplicate to have the same effect as registry by transcription.

5. The registering by transcription, in pursuance of the foregoing sections of this Act, of any such deed, conveyance, assurance, power of attorney or instrument, shall be and be taken and adjudged to be, of the same validity in law, and shall have the same force and effect upon the estate affected thereby, in relation to subsequent or other deeds and instruments, and to all intents and purposes, as if a memorial thereof had been entered and registered, pursuant to the Registry Laws of Upper Canada, and be subject to the payment of the like fees, with respect to proof of execution, number of words contained in such transcription, searches, abstracts, and copies from the office, as is allowed in case of memorials, also to payment of cents for collating instruments, and cents for each such certificate of registry endorsed under the provisions of this Act; anything in the said registry laws contained to the contrary notwithstanding. 25 30 35

Fees.

Order of registering instruments in duplicate.

6. Each Registrar shall refer in his office calendar to the number of every deed and instrument so registered in duplicate, and to the land, tenements or hereditaments in any township, parish or municipality mentioned in the same, and enter in the indices of the register book the names of the parties thereto, and shall so enter and register the said deeds and instruments so required to be registered by transcription, as hereinbefore is provided, in the same order that he is required to enter and register by law, memorials of other deeds and instruments, wills and probates, not registered through duplicates, that is, as they shall respectively come to his hand: Provided, nevertheless, when deeds and instruments, executed, proved or authenticated, and produced as duplicates, shall not materially differ from being true transcripts of each other, but shall contain whatever is or shall be required by the Registry Laws of Upper Canada, to constitute one of them a memorial of the other of the said instruments, in such case the Registrar, in his discretion, may enter one of the said instruments, having the said proof of execution or authentication on or appended thereto, as a memorial, 40 45 50

Provide: when the instruments offered as duplicates differ but not materially.

which shall constitute the same the registered memorial of the other of such instruments, and shall certify the other of the said instruments as registered through memorial accordingly; and such entry and registry made in pursuance of this proviso, shall be, and be deemed and taken
5 to be and to have been, registration through memorial, not through duplicate original instruments, and have the same effect in law and equity, as registration through memorial, under the registry laws aforesaid.